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Protest Decision

Matter of: Cubicle Landscapes, Inc.

Case No.: 2018-153

Posting Date: May 7, 2018

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400013853

Description: Office Furniture Statewide Term Contract

DIGEST

Protest expressing disappointment over lack of award is denied. Cubicle Landscapes' (CL) letter of protest is included by reference. [Attachment 1]

AUTHORITY

The Chief Procurement Officer¹ (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on materials in the procurement file and applicable law and precedents.

¹ The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

BACKGROUND

Event	Date
Solicitation Issued	09/28/2017
Amendment One Issued	10/16/2017
Amendment Two Issued	10/26/2017
Intent to Award Issued	03/16/2018
Protest Received	03/19/2018

ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this Invitation for Bids (IFB) on September 28, 2017 to establish a state term contract for office furniture. Intents to Award were issued on March 16, 2018. CL protests:

I wanted to contact you as well to email to protest the Statewide Office Furniture Contract.

It is very disheartening to find out that we were temporarily awarded a contract for a few weeks and now the contract has only the large companies awarded.

I do understand it was on an emergency basis but why award this to a company that was not on state contract to pull it only a few weeks later.

I am a small business in Myrtle Beach, SC that invests in the local economy as well employs locals, new graduates from local Universities as well as offering internships to give them a better understanding of the real world. We work with government facilities across the country as well as Fortune 500 co.

I can not believe that South Carolina will not invest in a domestic company that has the ability to grow and employ more of its own residents than giving all that revenue to other companies outside of our state.

I have been working with Horry Georgetown on a project with our products. At this point I now know they will not even look at our products do to it not being on contract.

It is a lot more paper work for the end user to go through to even consider doing business with Cubicles Landscapes. We are extremely competitive as far a price point, we carry quick-ship and offer custom items.

I am inquiring about the additional information that was requested of Cubicle Landscapes on 2/15/18 was taken into consideration before the contract was cancelled and re-evaluated on 2/20/18.

When bidding we have comparable products to what was specified. I really would like to understand how this is decided so I know how to possibly obtain a contract with the state in the future.

I do hope I receive a reply to this email and hope to possibly be considered for this contract going forward for the next 5 years.

The South Carolina Consolidated Procurement Code authorizes the CPO to conduct an administrative review of the protest of any actual bidder, offeror, contractor, or subcontractor in accordance with Section 11-35-4210(2)(b) as follows:

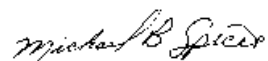
A protest pursuant to subsection (1)(b) must be in writing and must be received by the appropriate chief procurement officer within the time limits established by subsection (1)(b). At any time after filing a protest, but no later than fifteen days after the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code, a protestant may amend a protest that was first submitted within the time limits established by subsection (1)(b). A protest, including amendments, must set forth both the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided.

(emphasis added.) While it characterized its email as a protest, CL seeks only an explanation as to why it was not awarded a contract and expresses its disappointment at not receiving a contract award. CL alleges no violation of the Code, Regulations, or procurement process that could serve as the basis for a successful protest.

DECISION

For the reasons stated above, the protest of Cubicle Landscapes, Inc. is denied.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: skutchidesigns@gmail.com on behalf of [Jamie Ferraro](#)
To: [Protest-MMQ](#); [Gregg Stacy](#); [Bernita Platt](#); robert@cubiclelandscapes.com
Subject: Regarding Statewide Office Furniture Contract
Date: Monday, March 19, 2018 11:33:06 AM

Hi Stacy,

I wanted to contact you as well to email to protest the Statewide Office Furniture Contract. It is very disheartening to find out that we were temporarily awarded a contract for a few weeks and now the contract has only the large companies awarded. I do understand it was on an emergency basis but why award this to a company that was not on state contract to pull it only a few weeks later. I am a small business in Myrtle Beach, SC that invests in the local economy as well employs locals, new graduates from local Universities as well as offering internships to give them a better understanding of the real world. We work with government facilities across the country as well as Fortune 500 co. I can not believe that South Carolina will not invest in a domestic company that has the ability to grow and employ more of its own residents than giving all that revenue to other companies outside of our state.

I have been working with Horry Georgetown on a project with our products. At this point I now know they will not even look at our products do to it not being on contract. It is a lot more paper work for the end user to go through to even consider doing business with Cubicles Landscapes. We are extremely competitive as far a price point, we carry quick-ship and offer custom items.

I am inquiring about the additional information that was requested of Cubicle Landscapes on 2/15/18 was taken into consideration before the contract was cancelled and re-evaluated on 2/20/18. When bidding we have comparable products to what was specified. I really would like to understand how this is decided so I know how to possibly obtain a contract with the state in the future.

I do hope I receive a reply to this email and hope to possibly be considered for this contract going forward for the next 5 years.

Thank you,
Jamie Ferraro

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Jamie Ferraro
CubicleLandscapes
p: 877.323.(CUBE)2823 x.302
f: [843.353.0560](tel:843.353.0560)
e: jamie@cubiclelandscapes.com



STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2017)

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 111.1 of the 2016 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1205 Pendleton Street, Suite 367, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

1. What is your/your company's monthly income? _____

2. What are your/your company's monthly expenses? _____

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.