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Protest Decision

Matter of: RMS North America, LLC

Case No.: 2018-205

Posting Date: November 14, 2017

Contracting Entity: SC Department of Parks, Recreation & Tourism

Solicitation No.: 5400014149

Description: SCSPS Central Reservation System

DIGEST

Request to accept late proposal is denied. RMS North America's (RMS) request is included by reference. [Attachment 1]

AUTHORITY

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

BACKGROUND

Key Events

Solicitation Issued	09/14/2017
Amendment 1 Issued	10/10/2017
Opening Date	11/01/2017
Protest Received	11/06/2017

ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this solicitation on behalf of the South Carolina Department of Parks, Recreation & Tourism for a central reservation system on September 9, 2017. Amendment 1 was issued on October 10, 2017, and established the deadline for receipt of proposals as 11:00 AM, November 1, 2017. The solicitation required the submission of one copy of the offeror's proposal online and one copy on a USB drive. RMS did not submit a copy of its proposal online or deliver a copy on a USB drive by the date and time set by Amendment One. RMS requests relief explaining that FedEx failed to deliver the USB version of its proposal by the date and time of their agreement. However, RMS does not explain its failure to submit a copy of its proposal online as required by the solicitation. Had RMS made an online submission of its proposal, the failed delivery of the USB copy could have been cured. Since neither the online or USB versions of RMS' proposal were received by the date and time set for bid opening, Regulation 19-444.2070(G) requires the rejection of RMS' late proposal:

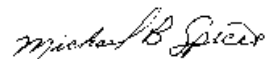
19-445.2070(G) Exceptions to Rejection Procedures.

Any bid received after the procurement officer of the governmental body or his designee has declared that the time set for bid opening has arrived, shall be rejected unless the bid had been delivered to the location specified in the solicitation or the governmental bodies' mail room which services that location prior to the bid opening.

DECISION

For the reasons stated above, the request of RMS North America, LLC is denied.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Todd Sabo](#)
To: [Spicer, Michael](#)
Subject: Appeal of Response Submission Deadline ,Solicitation No. 5400014149
Date: Monday, November 06, 2017 2:07:12 PM

Dear Mr. Spicer,

RMS - The Hospitality Cloud is submitting this appeal to request reconsideration for our response to Solicitation 5400014149, the SCSPS Central Reservation System for the SC Department of Parks, Recreation & Tourism.

RMS' formal response was complete and shipped prior to the deadline for submission of offer, which was November 1, 2017 at 11:00am Eastern Time. On Tuesday, October 31st, the USB submission was sent via FedEx First Overnight with guaranteed delivery of 11/01/2017 by 8:00am.

On the morning of November 1, 2017, upon confirmation of receipt by the Bid Room, it was brought to our attention that the package had not arrived, which led to a unsuccessful submission.

RMS understands the necessity for timely submissions and was thorough and prompt with response times however the failure in delivery was an unforeseen issue that was out of our control. Enclosed please find both the shipment service details as well as a formal letter directly from FedEx taking ownership of the delivery failure.

As the President of RMS, I have personally spent countless months, even years, working towards the opportunity to respond to such an important solicitation that RMS not only meets all of the requirements but exceeds them.

While I understand that failure to meet deadline submission is grounds for disqualification, we are hoping that you will reconsider RMS for this solicitation with the certainty that our solution is the best option for SCSPS.

Any additional consideration you can take for our request would be greatly appreciated.

Thank you for your time and consideration to our request.

Sincerely,

Todd Sabo



Todd Sabo
President

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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.