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GRANT GILLESPIE  
EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.  
DIVISION DIRECTOR  
(803) 734-8018

MICHAEL B. SPICER  
INFORMATION TECHNOLOGY MANAGEMENT OFFICER  
(803) 737-0600  
FAX: (803) 737-0639

## Written Determination

**Matter of:** Cancellation of Award to CDW Government, LLC

**Case No.:** 2018-212

**Posting Date:** March 22, 2018

**Contracting Entity:** South Carolina Department of Health and Human Services

**Solicitation No.:** 5400015025

**Description:** ProofPoint Licenses & Maintenance

This matter is before the Chief Procurement Officer for Information Technology<sup>1</sup> (CPO) pursuant to a request from the South Carolina Department of Health and Human Services (HHS) [Ex. 1], under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code) and Regulation 19-445.2085(C), to cancel an award to CDW-Government, LLC (CDW) for ProofPoint Licenses & Maintenance due to an error by CDW in its bid submission discovered after award but prior to performance.

### BASIS FOR THE REQUEST

HHS issued Request for Quotation 5400015025 on February 7, 2018, for ProofPoint Licenses & Maintenance. The solicitation requested pricing for three line items. Four bids were received on February 21, 2018. CDW was determined to be the lowest responsive and responsible bidder and

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<sup>1</sup> The Materials Management Officer delegated the administrative review of this request to the Chief Procurement Officer for Information Technology.

a statement of award was posted to CDW on February 22, 2018. [Ex. 2] On February 28, 2018, CDW requested to withdraw its bid due to an error in entering its bid. [Ex. 3] A review of the bid tabulation indicates that CDW's bid is less than half the price of the next low bidder and less than a third of the price of the other two bidders. Regulation 19-445.2085(A) provides:

A bidder or offeror must submit in writing a request to either correct or withdraw a bid to the procurement officer. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause him substantial loss. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency, or the designee of either.

CDW has requested to withdraw its bid and the evidence indicates that clearly an error was made that would cause substantial loss. [Ex. 4] The request by CDW to withdraw its bid is granted.

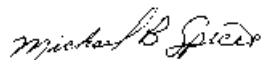
HHS requested cancellation of the award prior to performance in accordance with Regulation 19-445.2085(C)

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

(8) For other reasons, cancellation is clearly in the best interest of the State.

## **DETERMINATION**

For the reasons stated above, the award to CDW Government LLC is cancelled under Regulation 19-445.2085(C). HHS is directed to award the contract in accordance with the Code.



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Michael B. Spicer  
Chief Procurement Officer

## Exhibit 1

**From:** [Andrew Jackson](#)  
**To:** [Spicer, Michael](#)  
**Cc:** [John R Stevens, CPPB, CPM](#); [Mary L. Sims](#)  
**Subject:** Request Award Cancellation for SCDHHC Solicitation 5400015025  
**Date:** Friday, March 09, 2018 8:48:31 AM  
**Attachments:** [RE\\_PO\\_4600621282\\_is\\_ready\\_for\\_processing...Vendor please confirm this order is not duplicated...msg](#)  
[Award\\_5400015025.rtf](#)  
[Bid\\_tab\\_for\\_5400015025.docx](#)

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Dear Mr. Spicer,

I'm writing you as a Procurement Officer for the South Carolina Department of Health and Human Services. On February 22, 2018, SCDHHS published a Statement of Award to CDW-G (vendor 7000073078) for Solicitation No. 5400015025 - ProofPoint Licenses & Maintenance.

Following receipt of a purchase order on February 28, 2018, CDW-G cited an error and asked to withdraw its bid, writing, "We formally request to remove our bid. Along the lines somewhere, pricing from the OEM to CDW to the quote was miss-entered and the error caused the pricing quoted to be too low."

Although there was no Intent to Award period, since CDW-G identified its error immediately upon receipt of the purchase order, performance has not yet begun. In accordance with Section 11-35-1520 (7) and Regulation 19-445.2085 (C), I'm requesting your permission to cancel the award to CDW-G and corresponding Contract No. 4400018077. SCDHHS would like to re-award to the next lowest responsive and responsible bidder. Based on the email from CDW-G, SCDHHS believes that cancellation and re-award is clearly in the best interest of the State.

I have attached three documents to assist you with your determination, including

- Email from CDW-G
- Original Statement of Award
- Bid Tabulation

Thank you for your consideration of our request.

Sincerely,  
Andrew Jackson

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**Andrew Jackson**  
Procurement Manager I  
[Andrew.Jackson@scdhhs.gov](mailto:Andrew.Jackson@scdhhs.gov)



**Exhibit 2**

STATE OF SOUTH CAROLINA  
SCDHHS  
1801 MAIN STREET, SUITE 633  
COLUMBIA SC 29201

**Statement of Award**

Posting Date: February 22, 2018

**Solicitation:** 5400015025  
**Description:** ProofPoint License & Maintenance SCDHHS  
**Agency:** Department of Health & Human Services

The State awards the contract(s) noted below. This document is the final Statement of Award, effective 02/28/2018. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35- 4210]

PROTEST - CPO ADDRESS - ITMO: Any protest must be addressed to the Chief Procurement Officer, Information Technology Management Office, and submitted in writing

- (a) by email to protest-itmo@itmo.sc.gov ,
- (b) by post or delivery to 1201 Main Street, Suite 601, Columbia, SC 29201.

**Contract Number:** 4400018077  
**Awarded To:** CDW GOVERNMENT (7000073078)  
75 REMITTANCE DR STE 1515  
CHICAGO IL 60675-1515

**Total Potential Value:** \$ 18,832.35  
**Maximum Contract Period:** February 28, 2018 through February 27, 2019

<b>Item</b>	<b>Description</b>	<b>Unit Price</b>	<b>Total</b>
00001	PP-PST-EFD-INT-101	\$ 960.55	\$ 960.55
00002	PP-B-EmailFD-B-102	\$ 11,500.00	\$ 11,500.00
00003	PP-SUP-MD-12 Managed Support	\$ 6,371.80	\$ 6,371.80

**Procurement Officer**  
ANDREW JACKSON

## Exhibit 3

**From:** [Jason Leak](#)  
**To:** [Andrew Jackson](#)  
**Subject:** RE: PO 4600621282 is ready for processing...Vendor please confirm this order is not duplicated...  
**Date:** Wednesday, February 28, 2018 3:08:38 PM  
**Attachments:** [image001.png](#)

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Andrew,

We formally request to remove our bid. Along the lines somewhere, pricing from the OEM to CDW to the quote was miss-entered and the error caused the pricing quoted to be too low. We apologize for the inconvenience and we appreciate the opportunity to bid and look forward to future bids.

Thanks,

**Jason Leak**  
Account Representative | **CDW-G**  
2001 Edmund Halley Dr. | Reston, VA. 20191  
Phone: 703.262.8031 | Fax: 732.730.2693



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**From:** Andrew Jackson [mailto:[Andrew.Jackson@scdhhs.gov](mailto:Andrew.Jackson@scdhhs.gov)]  
**Sent:** Wednesday, February 28, 2018 9:46 AM  
**To:** Program Sales Opportunities <[PSO@cdwg.com](mailto:PSO@cdwg.com)>; Jason Leak <[jasolea@cdwg.com](mailto:jasolea@cdwg.com)>  
**Cc:** Dolly Wells <[WELLSD@scdhhs.gov](mailto:WELLSD@scdhhs.gov)>  
**Subject:** PO 4600621282 is ready for processing...Vendor please confirm this order is not duplicated...

PO 4600621282 is ready for processing...Vendor please confirm this order is not duplicated...

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**Andrew Jackson**  
*Procurement Manager I*  
[Andrew.Jackson@scdhhs.gov](mailto:Andrew.Jackson@scdhhs.gov)  
(803) 898-1441  
1801 Main Street  
Columbia, South Carolina - 29201  
[www.scdhhs.gov](http://www.scdhhs.gov)



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# Exhibit 4

Rfx Number	5400015025		SBS SECURITY	PCMG INC	CDW GOVERNMENT	ZONES INC
			5500056070	5500056228	5500056251	5500056264
<b>Header Data</b>						
Status			Submitted	Submitted	Submitted	Submitted
Version Number	1		1	1	1	1
Net value			44,132.40 USD	62,522.41 USD	18,832.35 USD	61,509.01 USD
Currency			USD	USD	USD	USD
PP-PST-EFD-INT-101						
Net price	1 EA		0 USD	969.79 USD	960.55 USD	946.88 USD
Unit of Measurement			EA	EA	EA	EA
Price Unit			1	1	1	1
Product ID						
Quantity	1 EA		1 EA	1 EA	1 EA	1 EA
Net value			0 USD	969.79 USD	960.55 USD	946.88 USD
PP-B-EmailFD-B-102						
Net price	1 EA		35,880.00 USD	49,993.35 USD	11,500.00 USD	49,237.50 USD
Unit of Measurement			EA	EA	EA	EA
Price Unit			1	1	1	1
Product ID						
Quantity	1 EA		1 EA	1 EA	1 EA	1 EA
Net value			35,880.00 USD	49,993.35 USD	11,500.00 USD	49,237.50 USD
PP-SUP-MD-12 Managed Support						
Net price	1 EA		8,252.40 USD	11,559.27 USD	6,371.80 USD	11,324.63 USD
Unit of Measurement			EA	EA	EA	EA
Price Unit			1	1	1	1
Product ID						
Quantity	1 EA		1 EA	1 EA	1 EA	1 EA
Net value			8,252.40 USD	11,559.27 USD	6,371.80 USD	11,324.63 USD

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Written Determinations Appeal Notice (Revised July 2017)*

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b), states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:  
(b) requests for review of other *written determinations*, decisions, *policies*, and *procedures* arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

(Emphasis added.) *See generally Protest of Three Rivers Solid Waste Authority by Chambers Development Co., Inc.*, Case Nos. 1996-4 & 1996-5, *Protest of Charleston County School District*, Case No. 1985-5, *Charleston County School Dist. v. Leatherman*, 295 S.C. 264, 368 S.E.2d 76 (Ct.App.1988).

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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**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

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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: \_\_\_\_\_

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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.**