

HENRY MCMASTER, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES

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

JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE COMMITTEE

G. MURRELL SMITH, JR.
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

Protest Decision

Matter of: Triad Mechanical Contractors, Inc.

File No.: 2020-010

Posting Date: March 17, 2021

Contracting Entity: Medical University of South Carolina

Project No.: H51-50095

Description: Thurmond Gazes Research Building Humidifier Replacement

DIGEST

Protest alleging misapplication of the Contractor's Licensing Law in determining bidder responsibility is granted where the Contractor's Licensing Board (Board) interprets the law as allowing HL licensees to install boilers.

AUTHORITY

Per S.C. Code Ann. § 11-35-4210(4), the Chief Procurement Officer for Construction (CPOC) conducted an administrative review of a protest filed by Triad Mechanical Contractors, Inc (Triad). Triad's protest is attached as Exhibit A. This decision is based on materials in the procurement file, the stated position of the Board, and applicable law and precedents.

BACKGROUND

On January 23, 2020, the Medical University of South Carolina (MUSC) advertised for bids to replace the humidifier in the Thurmond Gazes Research Building (the Project). [Exhibit B] By the deadline for submitting bids, MUSC received three bids, including one from Triad. [Exhibit A] Triad submitted the low bid but, after consulting with the Contractors Licensing Board (Board), MUSC declared Triad to be a non-responsible bidder on the grounds that Triad lacked a General Contractors-Specialty Boiler (BL) license. [Exhibits C & D] On February 26, 2020, MUSC posted a Notice of Intent to Award a contract to McCarter Mechanical, Inc. (McCarter). [Exhibit A] On February 28, 2020, Triad filed a notice of intent to protest the intended award with the CPOC. On March 2, 2020, Triad filed its protest

with the CPOC arguing that its Mechanical Contractors – Heating (HT) was all that was necessary to bid and perform the work of the Project.¹

This is one of three protests by Triad raising the same issue. At the center is a Board interpretation of the licensing laws relative to boiler installation adopted at their April 19, 2018, meeting. The CPOC issued a decision on the first Triad protest denying the protest on the grounds that South Carolina State University had a rational basis to rely on the Contractors Licensing Board's (Board) interpretation of the Contractors Licensing Law.²

Subsequent to the CPOC's decision in the first Triad protest, Triad filed an action in Circuit Court naming the Department of Labor, Licensing and Regulation as a defendant and challenging the Board's interpretation of the licensing laws relative to whether or not an HT license holder could install boilers. The CPOC suspended administrative review of this protest until the matter before the Circuit Court was resolved.

The relevant portion of the minutes of the Board's April 19, 2018, meeting state:

- **"Boiler Safety Act"**

Mr. Tom Minor requested clarification from the board on whether boiler work can be done by an individual that holds a commercial heating license. Mr. Lowe, Board Administrator stated that individuals licensed prior to April 1, 1999 were given a IP classification that allowed them to do boiler work. Individuals licensed after April 1, 1999 are given a 2P classification and are not allowed to engage in any boiler work. Ron Spiker, Chief Boiler Inspector, addressed the board regarding the Boiler Safety Act.

Executive Session Motion (IN)

Mr. Richardson made a motion to go into executive session to seek legal advice. Mr. Lehman seconded the motion, which carried unanimously.

Executive Session Motion (OUT)

Mr. Caswell made a motion to come out of executive session. Mr. White seconded the motion, which carried unanimously.

Motion:

Mr. Richardson made a motion that the boiler license is required for an individual to engage in boiler work and that individuals with a heating license are not allowed to engage in boiler work. Mr. Lehman seconded the motion, which carried unanimously.

[Exhibit E] (highlighting added)

On October 22, 2020, the Contractor's licensing Board voted unanimously to withdraw its April 19, 2018 interpretation and to create a committee to study and make recommendations on the issue.
[Exhibit F]

¹ At the time of bidding, Triad lacked a BL license but did have a HT license.

² Triad appealed the CPOC's decision in the first protest to the Procurement Review Panel.

DISCUSSION

Triad asserts that MUSC “improperly determined that Triad was not a responsible” and asks the CPOC to rescind MUSC’s Notice of Intent to Award a contract to McCarter and award the contract to Triad. To support its argument that it was responsible, Triad asserts that the determination that Triad was not responsible, i.e. properly licensed was “arbitrary, capricious and constitutes a clear error of law.”

At the time of bidding, Triad had a Mechanical Contractors-Heating (HT) license but not a BL license. Therefore, the essence of Triad’s protest is that a contractor with an HT license may bid this project as a sole prime contractor. This position is contrary to the advice the Board staff gave MUSC when making its determination that Triad was not responsible. However, that advice was based on the April 19, 2018 interpretation by the Board, which the Board has now withdrawn. The Board staff has now advised the CPOC that “the Boards present position is that the mechanical contractor heating subclassification can install boilers.” [Exhibit G]

A determination of responsibility is required by S.C. Code Ann. § 11-35-1810, which states “[r]esponsibility of the bidder or offeror shall be ascertained for each contract let by the State...” A procurement officer’s determination of non-responsibility is final and conclusive unless it is “clearly erroneous, arbitrary, capricious, or contrary to law.” See S.C. Code Ann. § 11-35-2410(A). The Contractors Licensing Act mandates that a contractor must have the proper license at the time of bidding. SC Code Ann §§ 40-11-30 and 200. The South Carolina Procurement Review Panel has determined that possession of the proper contractor license, either by the bidder or one of the bidder’s listed subcontractors, is an issue of responsibility. Protest of Burkwood Construction Company, Inc., Case No. 1997-8; Protest of Roofco, Inc., Case No. 2000-14(I). If, at the time of bidding, Triad lacked the proper license (i.e. license classification and subclassification and license group) for performing the BL work on this project then Triad was not a responsible bidder.³

The protestant has the burden of proving upon the preponderance of the evidence that the MUSC’s determination of non-responsibility is “clearly erroneous, arbitrary, capricious, or contrary to law.” Protest of Brantley Construction Co., Inc., Case No. 1999-3. In other words, the MUSC’s determination about responsibility is a matter of discretion that cannot be overturned absent a showing by Triad that it is “clearly erroneous, arbitrary, capricious, or contrary to law.” See Protest of CollegeSource, Inc., Case No. 2008-4. Since agency decisions about responsibility are a matter of business judgment, Triad must demonstrate a lack of reasonable or rationale basis for the responsibility determination. See Protest of Value Options, et al., Case No. 2001-7.

The CPOC has noted on several occasions that, on a whole, the laws governing licensing of contractors are not clearly written. The language and grammar used in those laws create confusion concerning their proper application to construction projects. This confusion is most apparent when it comes to determining the scope of license classifications and subclassifications. Attorneys trained in statutory interpretation find divining the intent of the contractor licensing laws challenging. These same laws place on project owners and others without legal training the burden of properly interpreting them before considering a bid or making an award. Licensed contractors themselves are confused by

³ SC Code Ann § 40-11-200(B) precludes an owner or contractor from even considering the bid of an entity or individual that lacks the proper license subclassifications at the time of bidding.

application of the licensing laws as evidenced by the numerous protests the CPOC receives regarding licensing issues and the ubiquity of contractors or subcontractors bidding outside the scope of their license. Matters are confused even more by changing interpretations by the body charged with enforcing these licensing laws, the Board. This confusion is plain in this case.

Regarding both the BL and HT license subclassifications, S.C. Code Ann. §40-11-410 states:

The following license classifications are in effect:

(4) "General Contractors-Specialty" which includes work under these subclassifications:

(o) "Boiler installation" which includes those who are qualified to install, repair, and service boilers and boiler piping including the boiler auxiliary equipment, controls, and actuated machinery and dryer rolls. To qualify for this subclassification, a person must pass a technical examination administered by the board or must be the holder of the American Society of Mechanical Engineers (ASME) "S" stamp or hold the National Board of Boiler and Pressure Vessel Inspectors (NBBPVI) "R" stamp and meet the requirements for licensure according to this chapter.

(5) "Mechanical Contractors" which includes work under these subclassifications:

b) "Heating" which includes installation, replacement, alteration, and repair of heating equipment and systems in buildings which require the use of high or low pressure steam vapor or hot water including all piping, ducts, and mechanical equipment within, adjacent to, or connected with a building and the installation of necessary gas lines if any of this equipment is gas-fired.

From this language alone, the CPOC cannot decipher if only a BL can install a boiler or whether, as Triad argues, a contractor with an HT license can install a boiler as well. Nowhere does the HT license mention boilers nor does it say that the classification includes the installation of equipment that produces high or low-pressure steam. It only clearly includes the installation of equipment that requires the use of high or low-pressure steam. The scope of the phrase "heating equipment" is not clear either. Does it include only equipment that uses high or low-pressure steam to heat buildings or does it also include the boilers which produce that steam? Perhaps the best internal clue to the answers to these questions is the HT license inclusion of all piping which necessarily includes high pressure steam piping used in a heating system. If high pressure steam piping is included, why not high-pressure steam producing equipment, i.e. boilers?

To bolster its argument that the HT license includes boiler installation, Triad cites S.C. Reg. 29-10(A) which states:

Any mechanical contractor with a process piping classification that was licensed prior to April 1, 1999, may install boilers and engage in any activity involving boiler maintenance, repair, or inspection. Any mechanical contractor issued an initial license with a process piping classification on or after April 1, 1999, may not engage in any boiler work requiring a license unless he has a mechanical contractors heating classification.

Does this language mean that only an entity that has a license with both a process piping classification and HT classification can install boilers or does it simply acknowledge that any entity with a HT classification regardless of any other classification can install boilers? The language is not clear, but the latter is likely the better answer. That is the interpretation the Triad applies.

Triad also argues for its position based on historic practice. In this regard, Triad notes that it along with other contractors with only an HT classification have installed boilers for decades without LLR taking any disciplinary action. Though not dispositive, it is a persuasive argument that for an extended period the Board and LLR enforcement staff believed that the HT classification included boiler installation.

All of the forgoing illustrates the dilemma facing a project owner who knows nothing of the history of contractor licensing and practice in this State, knows nothing of the legislative history surrounding the laws governing contractor licensing, and knows nothing of the rules of statutory interpretation, but is charged with adhering to those laws in the award of contracts. It is likely that in the private sector these licensing issues rarely arise simply because there are no protest rights on private projects and a disappointed bidder raising the issue on a private project might not be invited to bid on future projects.⁴ However, these issues come up routinely on government projects.

Faced with the dilemma of complying with the licensing laws under the forgoing circumstances, state agencies and the staff of the Office of State Engineer do what MUSC did -- they reach out to the Agency charged with enforcing the contractor's licensing laws, the Board, for guidance. S.C. Code Ann. §§ 40-11-10 et seq. Board staff advised MUSC that a contractor lacking a BL license could not bid the Project, and MUSC proceeded accordingly. The Board has now reversed its position. This leaves MUSC and the CPOC with a dilemma: an intended contract award based on an earlier Board interpretation that MUSC would not have made under the latest interpretation. The CPOC has held in the past that it is reasonable and rational for agencies to rely on the Board's interpretation of the licensing laws when making a responsibility determination. Though the facts of this case call that position into question, the CPOC believes reliance on the interpretation of the body charged with enforcing the licensing laws is still the best approach. The alternative is for agency staff and OSE staff to attempt to properly interpret the poorly written licensing laws, something they are not equipped to do. We simply need to recognize that sometimes those best equipped to interpret a body of law may,

⁴ The CPOC has addressed numerous protests where a contractor was clearly bidding outside the scope of their license but argued they bid and performed that type work all the time in the private sector without issue.

Protest Decision, page 6
File No. 2020-010
March 17, 2021

with the best of intentions, get it wrong, especially when dealing with a statute that is so poorly written.⁵

DECISION

Based on the foregoing, Triad's HT license makes it a responsible bidder. Therefore, the protest is sustained, and this matter is remanded back to MUSC to proceed in accordance with the Consolidated Procurement Code.



John St. C. White, PE
Chief Procurement Officer for Construction

Columbia, South Carolina

⁵ In its pleadings, Triad engaged in hyperbole suggesting state employees had intentionally acted improperly and conspired to deprive Triad and all other similarly placed contractors of state work. This is far from the truth of the matter. OSE and the agencies involved were simply trying to follow the law as best they could.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised June 2019)

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>

FILING FEE: Pursuant to Proviso 111.1 of the 2019 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
1105 Pendleton Street, Suite 209, 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.



March 6, 2020

Via Email and Facsimile:

Chief Procurement Officer for Construction

Office of State Engineer

protest-ose@mmo.sc.gov

Facsimile: 803-737-0639

File Name: 2000107– Triad Mech (Protest of TG Humidifier Replacement 2020)

Solicitation No.: H51-50095

RE: Notice of Intent to Protest – award to McCarter Mechanical Inc /
determination that Triad Mechanical was non-responsible

NOTICE OF PROTEST OF TRIAD MECHANICAL CONTRACTORS, INC.

Dear Sir/Madame:

Please accept this letter as Triad mechanical Contractors, Inc.'s ("Triad") Notice of Intent to Protest the Notice of Intent to Award MUSC Thurmond Gazes Research Building Humidifier Replacement, H51-50095, which was posted on February 26, 2020.

Triad has standing to file this Protest as it is an aggrieved bidder on Solicitation H51-50095. Triad timely submitted a bid on bid day which was both responsive and responsible.

This Notice of Protest is timely filed because it is filed within fifteen (15) days of the posting date of the Notice of Intent to Award, said Notice being posted on February 26, 2020 and Triad previously filed a Notice of Intent to Protest within seven (7) days of the Notice of Intent to Award.

The basis for this Protest is that Triad submitted the lowest priced competitive sealed bid which was both responsive and responsible; and is therefore the proper awardee of the solicitation under the terms of the Invitation for Bids, the procurement code, and other prevailing law.

Even though Triad was the lowest bidder, the procuring agency improperly determined Triad was non-responsible on the basis that Triad does not possess the necessary contractor license. This was the agency's sole basis for not awarding the project. The procuring agency's determination that Triad did not have the necessary licenses to perform the work was arbitrary, capricious and constitutes a clear

{00022752 - 1}


error of law. Triad possesses all the licenses necessary to perform the work of this solicitation as defined by South Carolina statutes.

Upon information and belief, this decision was tortuously and unlawfully influenced by certain representatives of the SC Dept of LLR, who seek in enforce an unlawful policy in direct contradiction of the licensing statutes of the State of South Carolina.

Triad requests that the Chief Procurement Officer for Construction rescind the Notice of Intent to Award the project, designate Triad as a responsible bidder, and award the project to Triad as the lowest responsive and responsible bidder.

Should you have any questions, please feel free to contact me at 843-556-2958.

Sincerely,



Eric B. Laquiere, Esq.

Laquiere Law Firm

EBL

Cc: Phil Mauney (mauney@musc.edu)

Enclosures: Notice of Intent to Protest



February 28, 2020

Via Email and Facsimile:

Chief Procurement Officer for Construction

Office of State Engineer

protest-ose@mmo.sc.gov

Facsimile: 803-737-0639

File Name: 2000107– Triad Mech (Protest of TG Humidifier Replacement 2020)

Solicitation No.: H51-50095

RE: Notice of Intent to Protest – award to McCarter Mechanical Inc /
determination that Triad Mechanical was non-responsible

NOTICE OF INTENT TO PROTEST OF TRIAD MECHANICAL CONTRACTORS, INC.

Dear Sir/Madame:

Please accept this letter as Triad mechanical Contractors, Inc.'s ("Triad") Notice of Intent to Protest the Notice of Intent to Award MUSC Thurmond Gazes Research Building Humidifier Replacement, H51-50095, which was posted on February 26, 2020.

Triad has standing to file this Protest as it is an aggrieved bidder on Solicitation H51-50095. Triad timely submitted a bid on bid day which was both responsive and responsible.

This Notice of Intent to Protest is timely filed because it is filed within seven (7) days of the posting date of the Notice of Intent to Award; said Notice being posted on February 26, 2020.

The basis for this Protest is that Triad submitted the lowest priced competitive sealed bid which was both responsive and responsible; and is therefore the proper awardee of the solicitation under the terms of the Invitation for Bids, the procurement code, and other prevailing law.

Even though Triad was the lowest bidder, the procuring agency improperly determined Triad was non-responsible on the basis that Triad does not possess the necessary contractors license. This was the agency's sole basis for not awarding the project. The procuring agency's determination that Triad did not have the necessary licenses to perform the work was arbitrary, capricious and constitutes a clear error of law.

{00022642 - 1}

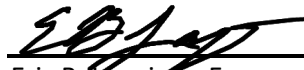
Upon information and belief, this decision was tortuously and unlawfully influenced by certain representatives of the SC Dept of LLR, who seek in enforce an unlawful policy in direct contradiction of the licensing statutes of the State of South Carolina.

Triad requests that the Chief Procurement Officer for Construction rescind the Notice of Intent to Award the project, designate Triad as a responsible bidder, and award the project to Triad as the lowest responsive and responsible bidder.

A more expansive protest will be filed within 15 days.

Should you have any questions, please feel free to contact me at 843-556-2958.

Sincerely,



Eric B. Laquiere, Esq.

Laquiere Law Firm

EBL

Cc: Phil Mauney (mauney@musc.edu)

Enclosures: Notice of Intent to Not Award; Bid Tabulation

SE-370

NOTICE OF INTENT TO AWARD

AGENCY: Medical University of South CarolinaPROJECT NAME: Thurmond Gazes Research Building Humidifier ReplacementPROJECT NUMBER: H51-50095POSTING DATE: 02/26/2020**TO ALL BIDDERS:**

Unless stayed by protest or canceled, the Agency intends to enter into a contract as noted below. The successful bid will be accepted and the contract formed by execution of the contract documents. All bid bonds remain in effect for the bid acceptance period as provided in Section 4 of the Bid Form, except as otherwise provided in the Instructions to Bidders.

NAME OF BIDDER: McCarter Mechanical Inc.DATE BIDS WERE OPENED: 02/13/20**BID INFORMATION:**

BASE BID AMOUNT:

\$ 479,876.00ALTERNATES: #1 ACCEPTED \$ _____#2 ACCEPTED \$ _____#3 ACCEPTED \$ _____

TOTAL AWARD (BASE BID AND ACCEPTED ALTERNATE(S)):

\$ 479,876.00**REMARKS** (explain any negotiations that resulted in a change in any Bid amounts): _____

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency for execution. Contractor should not perform any work prior to (1) delivering to the Agency both certificates of insurance and Performance and Payment Bonds meeting the requirements of the solicitation; and (2) receipt of the Agency's written Notice to Proceed. The State assumes no liability for any expenses incurred by the Contractor prior to issuance of a Notice to Proceed, other than the Contractor's non-reimbursable costs incurred in providing such bonds.

RIGHT TO PROTEST (SC Code § 11-35-4210)

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of this contract may be entitled to protest. To protest an award, you must (i) submit notice of your intent to protest within seven (7) business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided.

PROTEST - CPO ADDRESS - OSE: Any protest must be addressed to the Chief Procurement Officer for Construction, Office of State Engineer, and submitted in writing (a) by email to: protest-ose@mmo.sc.gov, or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the e-mail address from which you sent your protest.



(Agency Procurement Officer Signature)

Philip S. Mauney
Director of Engineering
(Print or Type Name)

INSTRUCTIONS TO THE AGENCY:

1. Post a copy of the SE-370 at the location specified by the Instructions to Bidders and announced at the Bid Opening.
2. Send the SE-370 and the final Bid Tabulation electronically to all Bidders and OSE the same day it is posted.

TABULATION OF BIDS	MEDICAL UNIVERSITY OF SOUTH CAROLINA
---------------------------	---

PROJECT: Thurmond Gazes Research Building Humidifier Replacement	DATE	02/13/2020
	TIME	10:00 a.m.
S.C. PROJECT NO. H51-50095-ML-A	OPENED BY	Robert Branson <i>Robert C. Branson</i>
PAGE 1 of 1	WITNESSED BY	Rebecca VanOsdol <i>Rebecca VanOsdol</i>

CONTRACTOR Triad Mechanical Contractors	BID BOND	✓	Non-Responsible Improper Licensing
	ADDENDUM	1	
	SUBCONTRACTORS		

BASE BID \$479,020.00

CONTRACTOR McCarter Mechanical Inc.	BID BOND	✓	
	ADDENDUM	1	
	SUBCONTRACTORS		

BASE BID \$479,876.00

CONTRACTOR C.R. Hipp Construction Inc.	BID BOND	✓	
	ADDENDUM	1	
	SUBCONTRACTORS		

BASE BID \$634,537.00

CONTRACTOR	BID BOND		
	ADDENDUM		
	SUBCONTRACTORS		

BASE BID

CONTRACTOR	BID BOND		
	ADDENDUM		
	SUBCONTRACTORS		

BASE BID

CONTRACTOR	BID BOND		
	ADDENDUM		
	SUBCONTRACTORS		

BASE BID

CONTRACTOR	BID BOND		
	ADDENDUM		
	SUBCONTRACTORS		

BASE BID



South Carolina Business Opportunities

Published by Division of Procurement Services - Delbert H. Singleton, Jr., Division Director

Ad Category: Construction

Ad Start Date: January 23, 2020

Agency/Owner: Medical University of South Carolina

Project Name: Thurmond Gazes Research Building Humidifier Replacement

Project Number: H51-50095

Construction Cost Range: \$600,000 - \$700,000

Project Location: Medical University of South Carolina, Charleston, South Carolina

Description of Project/Services:

Demolish (5) existing smaller clean steam generators and install (2) larger central clean steam generators with full redundancy. Scope includes piping connections, phasing requirements and other Work indicated in the Contract Documents. **Pre-bid meeting will be the only opportunity for a site visit.**

Bid/Submittal Due Date & Time: February 13, 2020 - 10:00am

Number of Bid/Submittal Copies: 1

Project Delivery Method: Design-Bid-Build

Agency Project Coordinator: Bob Branson

Email: bransonr@musc.edu

Telephone: 843-792-7502

Documents May Be Obtained From: <https://www.muscplans.com/>

Project Details: n/a

South Carolina Business Opportunities • Scott Hawkins11111, Editor • 1201 Main Street, Suite 600 • Columbia, SC 29201
803-737-0686 • scbo@mmo.sc.gov • <https://procurement.sc.gov>



Exhibit C

February 26, 2020

Project: H51-50095, Thurmond Gazes Research Building Humidifier Replacement

DETERMINATION OF RESPONSIBILITY

Bids were received for this project on 2-13-2020. Triad Mechanical Contractors was the apparent low bidder. During review of Triad's contractor licensing it was confirmed that Triad does not have a Boiler Installation (BL) license (statute section 40-11-410). Triad's mechanical license #2377 has Air Conditioning (AC), Heating (HT), and Plumbing (PB) classifications. RMF Engineering, the designer of record, confirmed with SCLLR that a BL license is required to install the humidifier (see attached email correspondence). RMF also confirmed with SCLLR that the purchase of the boiler equipment must be included under the boiler license classification when determining the total cost of the work (see attached email correspondence) and whether Triad can act as a sole prime contractor (statute section 40-11-340). RMF has determined that the BL scope of work is in excess of 51% of the total cost of the construction. In addition RMF determined that only 15% of the proposed work falls under mechanical license classifications possessed by Triad and another 10% would fall under a general contractor license (BL, IR) that Triad has. Triad is not properly licensed to perform the scope of work on this project and is non-responsible.

In addition MUSC reviewed two recent CPOC protest decisions related to this same topic. Those decisions (File no. 2020-002 and File no. 2020-003) support this determination of non-responsibility.

Philip S. Mauney
MUSC Director, Construction & Design

Exhibit D

From: Mauney, Philip S. <mauney@musc.edu>
Sent: Wednesday, February 19, 2020 10:42 AM
To: Michael Scruggs <michael.scruggs@rmf.com>
Cc: Branson, Robert C <bransonr@musc.edu>; Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>
Subject: RE: [External] RE: BL Licensing

Thanks!

From: Michael Scruggs <michael.scruggs@rmf.com>
Sent: Wednesday, February 19, 2020 10:37 AM
To: Mauney, Philip S. <mauney@musc.edu>
Cc: Branson, Robert C <bransonr@musc.edu>; Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>
Subject: RE: [External] RE: BL Licensing

CAUTION: External

Phil,

We would estimate Category 1 at 15% and Category 2 at 10% of the overall cost.

Thanks,

MICHAEL SCRUGGS, PE

RMF Engineering, Inc.

P: 843.971.9639 | D: 843.654.4364 | M: 843.683.6753

www.rmf.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

From: Mauney, Philip S. <mauney@musc.edu>
Sent: Wednesday, February 19, 2020 7:09 AM
To: Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>

Cc: Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: [EXTERNAL] RE: [External] RE: BL Licensing

This message originated from an EXTERNAL ADDRESS. Please use extra caution opening attachments or clicking links. Please call the sender if there are any questions of validity.

Given all the evidence, the correct thing to do is declare Triad non-responsible since they do not have a BL license. I intend to write a determination stating this. For further clarification, what percentage of work would RMF consider to fall under 1) the AC, HT, & PB mechanical license classifications and 2) the BD & IR general contractor license classifications.

Phil

From: Craig Buck <craig.buck@rmf.com>
Sent: Tuesday, February 18, 2020 3:25 PM
To: Lanning, Mark <MLanning@mmo.sc.gov>; Mauney, Philip S. <mauney@musc.edu>
Cc: Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: RE: [External] RE: BL Licensing

CAUTION: External

Thanks for the email (Mark) and the Protest Decisions (Phil).

As a follow-up to my email this morning, Ms. Rhonda Jackson with LLR responded and confirmed that the “work” referenced in statute section 40-11-340 is the TOTAL cost of the scope of work, including equipment cost.

Therefore when including the cost of the steam generators, RMF can say with certainty that at least 51% of the work falls under the “boiler installation” classification and the prime contractor will need a General Contractors - Specialty license subclassification of Boiler Installation (BL).

Craig Buck, PE, LEED AP

Principal

RMF Engineering, Inc.

P: 843.971.9639 | M: 843.259.1763

www.rmf.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

From: Lanning, Mark <MLanning@mmo.sc.gov>
Sent: Tuesday, February 18, 2020 3:11 PM
To: Mauney, Philip S. <mauney@musc.edu>; Craig Buck <craig.buck@rmf.com>
Cc: Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: [EXTERNAL] Re: [External] RE: BL Licensing

This message originated from an EXTERNAL ADDRESS. Please use extra caution opening attachments or clicking links. Please call the sender if there are any questions of validity.

All,

I have been watching this will interest. The latest appears to be that Triad is appealing John White's decision. During the process it has become apparent that Triad's primary objection is with LLR clarifying licensing laws via panel decisions. I believe Triad will be challenging LLR directly in that regard before furthering their protest with OSE. I suspect that they will continue to protest similar projects when they are the low bidder.

Thanks,
Mark

Mark Lanning, PE | Project Manager | Office of State Engineer
Division of Procurement Services | State Fiscal Accountability Authority
23B Ehrhardt St | Charleston, SC 29425 | Office: (843) 792-5111 | mlanning@mso.sc.gov

From: Mauney, Philip S. <mauney@musc.edu>
Sent: Tuesday, February 18, 2020 3:05 PM
To: Craig Buck <craig.buck@rmf.com>
Cc: Lanning, Mark <MLanning@mso.sc.gov>; Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: [External] RE: BL Licensing

And here's another for your reading pleasure.

From: Mauney, Philip S.
Sent: Tuesday, February 18, 2020 3:01 PM
To: Craig Buck <craig.buck@rmf.com>
Cc: Lanning, Mark <MLanning@mso.sc.gov>; Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: RE: BL Licensing

See attached.

From: Craig Buck <craig.buck@rmf.com>
Sent: Tuesday, February 18, 2020 6:08 AM
To: Mauney, Philip S. <mauney@musc.edu>
Cc: Lanning, Mark <MLanning@mso.sc.gov>; Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: RE: BL Licensing

CAUTION: External

Phil –

I wanted to provide an update as I know you are awaiting information from RMF.

On Friday we asked LLR to confirm whether or not you need BL license to purchase the equipment, as the license covers those who are qualified to “*install, repair, and service boilers and boiler piping including the boiler auxiliary equipment, controls, and actuated machinery and dryer rolls.*”

As the equipment is the bulk of the project cost and if a BL license is not required to purchase, with that cost removed from the scope of work (as measured by total cost of construction) the remaining percentage of work under the “boiler installation” license classification would fall below 50%.

We expect to have an answer today and will let you know ASAP.

Craig Buck, PE, LEED AP

Principal

RMF Engineering, Inc.

P: 843.971.9639 | M: 843.259.1763

www.rmfc.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

From: Mauney, Philip S. <mauney@musc.edu>

Sent: Friday, February 14, 2020 3:31 PM

To: Michael Scruggs <michael.scruggs@rmf.com>

Cc: Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>; Branson, Robert C <bransonr@musc.edu>

Subject: [EXTERNAL] RE: BL Licensing

This message originated from an EXTERNAL ADDRESS. Please use extra caution opening attachments or clicking links. Please call the sender if there are any questions of validity.

Attached is the section of SC Law that defines the qualifications to act as a sole prime contractor. What I need to hear from RMF with certainty is that at least 51% of the work falls under the “boiler installation” license classification. I want to make sure RMF will stand 100% behind their determination when we go to a protest or potentially court. I am almost 100% certain that Triad will protest.

Phil

From: Mauney, Philip S.

Sent: Friday, February 14, 2020 11:13 AM

To: Michael Scruggs <michael.scruggs@rmf.com>

Cc: Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>; Branson, Robert C

<bransonr@musc.edu>

Subject: RE: BL Licensing

I don't disagree with Mark Lanning. You need to reread my initial comment. Because I didn't know the scope of work, I asked you about the percentage of work requiring a BL license. If your answer had been less than 50%, then it would have still been possible for Triad's bid to be considered valid as long as 51% of the total work fell under their licenses. When you answered that the BL work was more than 50% that really ended the conversation. Triad is not properly licensed. You extended the conversation further, not me. Looks like a protest will be coming no matter how we proceed.

Phil

From: Michael Scruggs <michael.scruggs@rmf.com>

Sent: Friday, February 14, 2020 10:09 AM

To: Mauney, Philip S. <mauney@musc.edu>

Cc: Craig Buck <craig.buck@rmf.com>; Lanning, Mark <MLanning@mmo.sc.gov>; Branson, Robert C <bransonr@musc.edu>

Subject: RE: BL Licensing

CAUTION: External

Phil,

I spoke to Mark Lanning this morning about the intent of the subcontractors listing in the SE-330 form because Triad had also commented that BL was not listed. Mark's interpretation is that we are not obligated to list the prime contractor's required licenses and the section is only for specific subcontractors. I relayed this information to Bob and he asked me to keep you informed, as well.

Thanks,

MICHAEL SCRUGGS, PE

RMF Engineering, Inc.

P: 843.971.9639 | D: 843.654.4364 | M: 843.683.6753

www.rmf.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

From: Michael Scruggs

Sent: Friday, February 14, 2020 7:58 AM

To: Branson, Robert C <bransonr@musc.edu>; Mauney, Philip S. <mauney@musc.edu>

Cc: Craig Buck <craig.buck@rmf.com>

Subject: RE: BL Licensing

Bob and Phil,

See attached for the final cost estimate for the project. The BL scope of work is significantly more than 50% of the total project. I was not aware that the BL license was something MUSC would typically require a specific sub-contractor for because many mechanical contractors in the area hold it. I agree with Bob's question below – is Triad required to have the BL license themselves or is it incumbent on them to ensure that the work is done by a licensed contractor whether it's them or a sub?

I spoke to Triad late yesterday afternoon and they walked me through the history of this particular point of contention. They have at least one project currently in protest because they were not awarded in this exact situation. They disagree with the LLR on whether the BL license is ultimately required to do the work. I've also discussed the issue with LLR's chief boiler inspector, Ron Spiker, and he has made it clear that if the work is performed by someone without a BL license it would not pass an LLR inspection.

Thanks,

MICHAEL SCRUGGS, PE

RMF Engineering, Inc.

P: 843.971.9639 | D: 843.654.4364 | M: 843.683.6753

www.rmf.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

From: Branson, Robert C <bransonr@musc.edu>
Sent: Friday, February 14, 2020 7:45 AM
To: Mauney, Philip S. <mauney@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: [EXTERNAL] Re: BL Licensing

This message originated from an EXTERNAL ADDRESS. Please use extra caution opening attachments or clicking links. Please call the sender if there are any questions of validity.

Michael,
I'm not in the office today, please forward the cost estimate to Phil and me. Thanks. Bob.

From: Mauney, Philip S. <mauney@musc.edu>
Sent: Friday, February 14, 2020 7:30:42 AM
To: Branson, Robert C <bransonr@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: RE: BL Licensing

I'm not going to get into what-ifs. Where is the cost estimate?

From: Branson, Robert C <bransonr@musc.edu>
Sent: Friday, February 14, 2020 7:24 AM
To: Mauney, Philip S. <mauney@musc.edu>; Michael Scruggs <michael.scruggs@rmf.com>
Subject: Re: BL Licensing

What if the BL work is more than 50% of the construction cost estimate? Does the fact that we did not list a BL sub as a requirement not place that requirement directly on the prime contractor? And if that's the case, would Triad then be considered non-responsive?

Bob

From: Mauney, Philip S. <mauney@musc.edu>
Sent: Friday, February 14, 2020 6:59:10 AM
To: Michael Scruggs <michael.scruggs@rmf.com>
Cc: Branson, Robert C <bransonr@musc.edu>
Subject: RE: BL Licensing

Triad does not have a BL license but that is not really the question. The question is what percentage of the total work requires a BL license. The percentage is determined by your construction cost estimate. If the BL work is not over 50%, then the fact that you neglected to list "BL" as a required sub-contractor classification doesn't matter. Triad can hire anyone they want to do the BL work.

Phil

From: Branson, Robert C <bransonr@musc.edu>
Sent: Thursday, February 13, 2020 6:03 PM
To: Mauney, Philip S. <mauney@musc.edu>
Subject: Fw: BL Licensing

Fyi. May have an issue with the stb humidifier project. RMF working on it now. May want to hold off on NOI.

From: Michael Scruggs <michael.scruggs@rmf.com>
Sent: Thursday, February 13, 2020 4:28:19 PM
To: Andrew Landgrebe <alandgrebe@triadmc.com>; Ryan Laquiere <ryan@triadmc.com>
Cc: Branson, Robert C <bransonr@musc.edu>
Subject: BL Licensing

CAUTION: External

Andrew and Ryan,

As part of the addendum process for the STG DA Tank Replacement project, I confirmed with the LLR boiler inspector that a BL license would not be required for that scope of work. Prior to talking to LLR, I also ran my question by one of the OSE project managers and they let me know that this license may still be a point of contention or at least that it had been in the past. I did not issue any sort of clarification for the STG Humidifier Replacement project because a BL license was clearly necessary according to the state requirements. Can either of you confirm whether Triad has that BL license? If this issue has been resolved I apologize for raising it again but I want to ensure that we don't run into any issues with the inspector later in the project.

Thanks,

MICHAEL SCRUGGS, PE

RMF Engineering, Inc.

P: 843.971.9639 | D: 843.654.4364 | M: 843.683.6753

www.rmfc.com

[Facebook](#) [LinkedIn](#) [Twitter](#) [Instagram](#)

SOUTH CAROLINA CONTRACTOR'S LICENSING BOARD

Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina 29210
Board Minutes

Thursday, April 19, 2018

10:00 a.m.

Mr. Lady, Board Chair, announced that the meeting was held in accordance with §30-4-80 of the South Carolina Freedom of Information Act by notice mailed to all requesting persons, organizations, and news media. In addition, notice was posted on the bulletin boards at the main entrance of the Kingstree Building.

WELCOME AND CALL TO ORDER:

James Lady, Board Chair, stated that a quorum of board members was present and called the regular meeting of the South Carolina Contractor's Licensing Board to order at 10:00 a.m. Other Board members present for the meeting included: Scott Appleton, Daniel Lehman, Legrand Richardson, Jr., Lewis Caswell, Kimberly Lineberger, Frank Walker, and Charles White.

Staff members participating in the meeting included: Georgia Lewis (Advice Counsel), Roger Lowe (Board Administrator), Shakera Thomas (Program Assistant), Daniel Gourley (Office of Disciplinary Counsel), Todd Bond (OIE, Chief Investigator), Ron Spiker (Chief Boiler Inspector) and Shirley Dallas-Gerrald (Court Reporter).

APPROVAL OF AGENDA:

Motion:

Mr. Lehman made a motion to approve the April 19, 2018 agenda. Mr. Appleton seconded the motion, which carried unanimously.

Mr. Lady, Board Chair, stated amendments to the agenda. Items under new business were moved to after Chairman's remarks.

Motion:

Mr. Caswell made a motion to accept the amended agenda. Mr. Walker seconded the motion, which carried unanimously.

APPROVAL OF MINUTES:

Thursday, January 25, 2018

Motion:

Mr. Caswell made a motion to approve the January 25, 2018 minutes. Mr. Lehman seconded the motion, which carried unanimously.

APPROVAL OF ABSENT BOARD MEMBERS:

There were no absent members.

CHAIRMAN'S REMARKS:

Mr. James Lady

Mr. Lady announced that this was his first meeting as Board Chair.

NEW BUSINESS:

• **“North Carolina Electrical Reciprocity”**

Mr. Tim Norman of the North Carolina Board of Examiners for Electrical Contractors requested an updated reciprocal agreement with North Carolina be approved. It has been several years since the agreements have been updated and both Boards have had changes in their licensing procedures. Mr. Lowe, Board Administrator, stated that this agreement is long overdue and will be very convenient for licensed electrical contractors in both states. Georgia Lewis, Advice Counsel, stated that this agreement only waives the technical exam and not the business management & law exam that is required for all applicants.

Motion:

Mr. Walker made a motion to approve the updated reciprocal agreement with North Carolina.

Mr. Richardson seconded the motion, which carried unanimously.

• **“Boiler Safety Act”**

Mr. Tom Minor requested clarification from the board on whether boiler work can be done by an individual that holds a commercial heating license. Mr. Lowe, Board Administrator stated that individuals licensed prior to April 1, 1999 were given a 1P classification that allowed them to do boiler work. Individuals licensed after April 1, 1999 are given a 2P classification and are not allowed to engage in any boiler work. Ron Spiker, Chief Boiler Inspector, addressed the board regarding the Boiler Safety Act.

Executive Session Motion (IN)

Mr. Richardson made a motion to go into executive session to seek legal advice. Mr. Lehman seconded the motion, which carried unanimously.

Executive Session Motion (OUT)

Mr. Caswell made a motion to come out of executive session. Mr. White seconded the motion, which carried unanimously.

Motion:

Mr. Richardson made a motion that the boiler license is required for an individual to engage in boiler work and that individuals with a heating license are not allowed to engage in boiler work. Mr. Lehman seconded the motion, which carried unanimously.

• **“Construction Manager Requirement”**

AGENDA

South Carolina Contractor's Licensing Board

Board Meeting

October 22, 2020 at 10:00 a.m.

Via Video/Teleconference

Members of the public who wish to attend may do so by telephone or internet videoconference.

For login information, please email Zahid.Chinwalla@llr.sc.gov

1. **Call to Order**
2. **Statement of Public Notice**

Public notice of this meeting was properly posted at the Synergy Business Park, Kingstree Building and on the Agency's website, and provided to all requesting persons, organizations and news media in accordance with Section 30-4-80 of the South Carolina Freedom of Information Act. As a result of the COVID-19 public health emergency, this meeting is being conducted via teleconferencing with notice given to all parties of this teleconferencing platform.
3. **Approval of Agenda**
4. **Introduction of Board Members and Others**
5. **Approval of Excused Absences**
6. **Approval of Meeting Minutes – July 16, 2020**
7. **Board Chairman's Remarks – Daniel Lehman**
8. **Disciplinary Hearing – Failure to Comply with Final Order**
 - a. Case. No.: 2017-55
Respondent: Pipe Doctors (CLM 112368) and Christopher Gagne (CQM 25410 PQ)
9. **Final Order Hearing – Memorandum of Agreement**
 - a. Case No.: 2019-24
Respondent: Deep South (CLG 119791) and Gregory Smith (CQG 27521 PQ)
10. **Staff Reports**
 - a. Office of Disciplinary Counsel Report
 - b. Office of Investigations and Enforcement Report
 - c. Investigative Review Committee (IRC) Reports
 - d. Administrator's Report – Molly F. Price
11. **New Business**
 - a. Change in Reporting of Citation Cases: New OIE Board Report
 - b. Code of Ethics
12. **Old Business**
 - a. Residential Multipurpose Fire Sprinkler Systems (2018 SCRC P2904.1) Licensure Requirements
13. **Boiler Safety Act**
 - a. Executive Session for Legal Advice
 - b. Reconsider 2018 Interpretation and Approval of Boiler Safety Regulation Taskforce
14. **Application Hearings**
 - a. Fire Protection Service Corp., DBA Link Interactive/ Valerie Valenzuela (BFRE Initial Application)
 - b. Mundy Construction, Inc./ Tony O. Mundy, Jr. (CLG Renewal Application Hearing)
15. **Public Comments**
16. **Adjournment**

Date of Next Meeting – Thursday, January 21, 2021 10:00 A.M., Room 105, Kingstree Building

SOUTH CAROLINA CONTACTOR'S LICENSING BOARD

Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building,
Columbia, South Carolina 29210
Via/Video Teleconference
Board Minutes

Thursday, October 22, 2020

10:00 a.m.

She reminded the Board members that citations are public documents that are placed on the Board website.

Code of Ethics – Bob Horner

Mr. Horner led a discussion about all boards looking at the possibility of adding a Code of Ethics. There was a discussion about the Board's current Practice Act and whether or not the board members felt this profession needed to add any additional language. Mr. Lady and Mr. Appleton indicated that the contractual nature of this profession already sets a standard for ethics that supports the current Practice Act.

Motion:

Mr. Walker made the motion that the adoption of a code of ethics was not warranted at this time. The Practice Act carefully regulates contractors. Mr. Appleton seconded the motion, which carried unanimously.

OLD BUSINESS:

Residential Multipurpose Fire Sprinkler Systems (2018 SCRC P2904.1) Licensure Requirements

Mr. Stuart Weeks of the Fire Sprinkler Association expressed to the Board that he felt they had made the wrong interpretation about the licensure requirements as it pertains to code section P2904.1. Mr. John Williams expressed that he agreed with Mr. Weeks. Chief Ellis from State Fire gave detail on the code requirements for a P2904 system, and stated that technical expertise and a license as a Fire Sprinkler Contractor or Mechanical Contractor are required to install that system. He also clarified that the license should be issued by the Contractors Licensing Board, not the Residential Builders Commission.

Mr. Patrick Brown with the Building Official's Association of South Carolina commented that the inspectors of the local jurisdiction will have the authority and knowledge to inspect a system installed according to section P2904 of the International Residential Code.

Mr. Caswell indicated that he felt the Board correctly considered all elements of the requirements and does not feel the Board should change their decision. Mr. Walker agreed.

It was noted for the record that Ms. Lineberger left the meeting.

Motion:

Mr. Caswell made a motion that the Board stands by its previous interpretation and original decision from the July 16, 2020, meeting. Mr. Lady seconded the motion, which carried unanimously.

Mr. Williams spoke after the vote and voiced his concern on the impact this decision would have on Residential dwellings.

Boiler Safety Act

SOUTH CAROLINA CONTACTOR'S LICENSING BOARD

Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building,
Columbia, South Carolina 29210
Via/Video Teleconference
Board Minutes

Thursday, October 22, 2020

10:00 a.m.

Executive Session of Legal Advice

Motion:

Mr. Lady made a motion to go into Executive Session for legal advice and allow Ms. Price and staff to remain. Mr. Caswell seconded the motion, which carried unanimously.

Motion:

Mr. Lady made a motion to come out of the executive session. Mr. Richardson seconded the motion, which carried unanimously.

It was noted for the record that no votes or decisions were made during the executive session.

Reconsider 2018 Interpretation and Approval of Boiler Safety Regulation Taskforce

Motion:

Mr. Lady made a motion to withdraw the previous policy/interpretation regarding whether or not an HT classification can install boilers from the April 19, 2018 meeting, effective October 22, 2020. Mr. Richardson seconded the motion, which carried unanimously.

Motion:

Mr. Lady made a motion to appoint a task force to look into the issue further and nominated Mr. Richardson as Chair. He asked that Mr. Richardson be allowed to add any members he may find beneficial to the taskforce to look into the issue further and bring a recommendation back to the Board. Mr. Caswell seconded the motion, which carried unanimously.

Mr. Richardson accepted the chair position for the task force.

It was noted for the record that Mr. Lady left the meeting.

Application Hearings

Fire Protection Service Corporation. DBA Link Interactive/Valerie Valenzuela (BFRE Initial Application)

The initial BFRE application for Ms. Valenzuela could not be approved at staff level. Valerie Valenzuela was present and was not represented by legal counsel. All persons testifying were sworn in by the court reporter. Application hearings are recorded by a certified court reporter in the event a verbatim transcript is necessary.

Motion:

Mr. Richardson made a motion to approve the application. Mr. Walker seconded the motion, which carried unanimously.

Exhibit G

From: [Molly Price](#)
To: [White, John](#)
Subject: [External] RE: Mechanical Contractor-Heating and General Contractor Specialty-Boiler
Date: Monday, March 15, 2021 12:32:10 PM
Attachments: [image004.png](#)
[image001.png](#)

***** SCDLLR NOTICE *****

- **This email is from an external email address. Please use caution when deciding whether to open any attachments or when clicking links.**
- **Personally Identifiable Information (PII) should not be included in e-mail text or attachments. Do not save or transmit PII unencrypted.**

John,

Yes, the Board's present position is that the mechanical contractor heating subclassification can install boilers. The Board's task force will be responsible for recommending to the full Board any further clarification via regulation and will be prospective.

Thank you,

Molly F. Price, CBO, CPM
Board Administrator
S.C. Department of Labor, Licensing and Regulation
110 Centerview Drive, Columbia, S.C. 29210
Office: (803) 896-4675

Twitter: [@SCDLLR](#)
Facebook: [@SCLLR](#)
Website: www.llr.sc.gov



Making South Carolina a Safe Place to Work and Live

From: White, John <jswhite@mmo.sc.gov>
Sent: Thursday, March 11, 2021 4:07 PM
To: Molly Price <Molly.Price@llr.sc.gov>
Subject: Mechanical Contractor-Heating and General Contractor Specialty-Boiler

***** SCDLLR NOTICE *****

- **This email is from an external email address. Please use caution when deciding whether to open any attachments or when clicking links.**
- **Personally Identifiable Information (PII) should not be included in e-mail text or attachments. Do not save or transmit PII unencrypted.**

Molly,

Back in October the Board withdrew its “April 19, 2018 policy/interpretation regarding whether or not an HT classification can install boilers” and appointed “a task force to look into the issue further.” Because of the latter action, I want to be clear about the current status of the matter. Is it the Board’s position that a Mechanical Contractor-Heating can install boilers?

John



**John St. C. White | Materials Management Officer and State Engineer
Division of Procurement Services | SC State Fiscal Accountability Authority
1201 Main Street, Suite 600 | Columbia, SC 29201 | Office: (803) 737-0768 |**