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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

## Protest Decision

**Matter of:** Adpress, Inc.

**Case No.:** 2020-114

**Posting Date:** September 26, 2019

**Contracting Entity:** Patriots Point Naval & Maritime Museum

**Solicitation No.:** 5400018515

**Description:** Book Printing of "Oscar I Am"

### DIGEST

Protest of award less than \$50,000 is denied. The protest of Adpress is included by reference. (Attachment 1)

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> (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.

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

## BACKGROUND

Solicitation Issued	08/28/2019
Statement of Award Posted	09/10/2019
Protest Received	09/13/2019

The Patriots Point Naval & Maritime Museum (PP) issued this Invitation for Bids on August 28, 2019 for the printing of 64,000 *Oscar Adventures*, *Oscar I Am* books. PP posted an award to Data Reproductions Corporation in the amount of \$40,569 on September 10, 2019. Adpress protested that it had submitted the low bid of \$23,040.

## ANALYSIS

This protest appears to be the result of some confusion about what constitutes an item in the solicitation. The solicitation included the following statement:

**UNIT PRICES REQUIRED (JAN 2006)**

Unit price to be shown for each item. [02-2B170-1]

[Solicitation, Page 13]

The bidding schedule published in the solicitation asked for a Unit Price which would be multiplied by a Quantity of 1 to arrive at the total (Extended Price) bid price:

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
0001	1.000	each		
<b>Product Catg.:</b> 96616 - Continuous Form Printing				
<b>Item Description:</b> Continuous Form Printing				
<b>Internal Item Number:</b> 1				

[Solicitation, Page 24]

This award was to be based on the Extended Price, which was the price for printing 64,000 books. The Quantity listed in the bidding schedule was 1. With a Quantity of 1, the Unit Price was had to be the price for printing one unit of 64,000 books.

Adress understood the Unit Price to be the price to print one book. Adress bid "\$0.36 per 1 each." (Attachment 2) Adress' bid did not reflect the cost to print all 64,000 books. The procurement officer explains:

We've done this bid for a number of years now and this is the first time this issue has happened to us. I've never set up this solicitation by unit price, I've always set up the bid for vendors to put in the total amount of the bid. This is the vendor's first time bidding on one of our solicitations I believe so maybe he was unfamiliar with our bidding? When I brought up his bid and bid response all I saw was the \$0.36, the \$23,040 number was nowhere in the bid or response. If we had seen that number we would have considered him. He also had no documents or attachments to his bid. But even if we had seen \$23,040 anywhere, we would have concerns about the vendor doing the work up to our specifications because that number is much lower than anticipated.

The vendor I awarded had a clear bid total and had documentation attached.

Since Adress' bid stated that it was for 1 each, the procurement officer could have allowed the correction of the bid under Regulation 19-445.2085 B. which provides:

To maintain the integrity of the competitive sealed bidding system, a bidder shall not be permitted to correct a bid mistake after bid opening that would cause such bidder to have the low bid unless the mistake is clearly evident from examining the bid document; for example, extension of unit prices or errors in addition.

(emphasis added)

However, in this case both the awarded price of \$40,569 and Adress' extended bid price of \$23,040 are less than the \$50,000 threshold for protests provided for in Section 11-35-4210(1)(d):

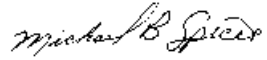
The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

Consequently, the CPO lacks jurisdiction to address the merits of this protest.

**DECISION**

For the reasons stated above, the protest of Adpress, Inc. is dismissed.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Adressinc](#)  
**To:** [Spicer, Michael](#)  
**Subject:** Re: [External] Fwd: Solicitation: 5400018515 SC Award: BOOK PRINTING OSCAR I AM  
**Date:** Friday, September 13, 2019 1:18:56 PM  
**Attachments:** [InvitationForBid.pdf](#)

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Hello Mike,

A protest is being submitted for Solicitation 540018515, Book Printing *Oscar I Am* Contract Number 4400022212 awarded to Data Reproductions Corporation (7000130831) Unit Price \$40,569.00.

"Target Value of Bid Invitation 30,000 (United States Dollar)", is indicated in Invitation For Bid, a copy is attached to this message. Awarded , "Total Potential Value: \$40,569.00 exceeds this target.

You are asked to consider Adpress, Inc. Bid Status 550006621 \$0.36 each, total value \$23,040.00. A SCBO document used to prepare our bid only requested an "EA each" required quantity. This RFx Response screen shot image is attached.

This information represents our best effort to comply with Section 11-35-4210. Would honor a request that Section 11-35-4210 (1)(d) not be applied to this decision?

Respectfully submitted,

Bill Meyer  
Adpress, Inc.  
135 East 54th Street, PHF  
New York, NY 10022-4539  
Office: 212-679-1710  
Fax: 212-532-9508  
Cell: 917-658-2511  
Email: [adpressinc@aol.com](mailto:adpressinc@aol.com)  
Website: [www.adpressinc.com](http://www.adpressinc.com)  
Global Marketing Support Services

-----Original Message-----

From: Spicer, Michael <[mspicer@mms.sc.gov](mailto:mspicer@mms.sc.gov)>  
To: Adressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)>  
Sent: Fri, Sep 13, 2019 11:40 am

Subject: Re: [External] Fwd: Solicitation: 5400018515 SC Award: BOOK PRINTING OSCAR I AM

I am the appropriate CPO.

Sent from my iPhone

On Sep 13, 2019, at 10:04 AM, Adpressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)> wrote:

Mike,

Thank you for your prompt reply.

Who is the appropriate Chief Procurement Officer for Solicitation 5400018515?

Bill Meyer  
Adpress, Inc.  
135 East 54th Street, PHF  
New York, NY 10022-4539  
Office: 212-679-1710  
Fax: 212-532-9508  
Cell: 917-658-2511  
Email: [adpressinc@aol.com](mailto:adpressinc@aol.com)  
Website: [www.adpressinc.com](http://www.adpressinc.com)  
Global Marketing Support Services

-----Original Message-----

From: Spicer, Michael <[m Spicer@mmo.sc.gov](mailto:m Spicer@mmo.sc.gov)>

To: Adpressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)>

Sent: Fri, Sep 13, 2019 9:42 am

Subject: Re: [External] Fwd: Solicitation: 5400018515 SC Award: BOOK PRINTING OSCAR I AM

Dear Sir,

This email exchange does not meet the requirements for a protest of an award. The Code requires the following:

Section 11-35-4210(2) Protest Procedure. (a) A protest pursuant to subsection (1) must be in writing, filed with the appropriate chief procurement officer, and set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. The protest must be received by the appropriate chief procurement officer within the time provided in

subsection (1).

Section 11-35-4210(1)(b) Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall notify the appropriate chief procurement officer in writing of its intent to protest within seven business days of the date that award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract and has timely notified the appropriate chief procurement officer of its intent to protest, may protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten fifteen days of the date award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code; except that a matter that could have been raised pursuant to subitem (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

You may also want to consider the following:

Section 11-35-4210(1)(d) The rights and remedies granted by subsection (1) and 30 Section 11-35-4410(1)(b) are not available for contracts with an31 actual or potential value of up to fifty thousand dollars.

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**From:** Adpressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)>  
**Sent:** Thursday, September 12, 2019 2:42 PM  
**To:** Spicer, Michael <[mospicer@mmo.sc.gov](mailto:mospicer@mmo.sc.gov)>  
**Subject:** [External] Fwd: Solicitation: 5400018515 SC Award: BOOK PRINTING OSCAR I AM

Hello Mike,

You are receiving an email sent to Nicholas Magar concerning Solicitation: 5400018515 SC Award: BOOK PRINTING OSCAR I AM. Can you confirm that it conforms to Consolidated Procurement Code Section 11-35-4210?

Regards,

Vendor Number: 7000269125  
Bill Meyer  
Adpress, Inc.  
135 East 54th Street, PHF  
New York, NY 10022-4539  
Office: 212-679-1710  
Fax: 212-532-9508  
Cell: 917-658-2511  
Email: [adpressinc@aol.com](mailto:adpressinc@aol.com)  
Website: [www.adpressinc.com](http://www.adpressinc.com)  
Global Marketing Support Services

-----Original Message-----  
From: Adpressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)>  
To: nmagar <[nmagar@patriotspoint.org](mailto:nmagar@patriotspoint.org)>  
Cc: kgrybowski <[kgrybowski@patriotspoint.org](mailto:kgrybowski@patriotspoint.org)>  
Sent: Tue, Sep 10, 2019 10:57 am  
Subject: Re: SC Award: BOOK PRINTING OSCAR I AM

Hello Nicholas,

Adpress, Inc. submitted a \$23,040.00 bid , \$0.36 each for 64, 000  
***Oscar I Am*** books. SFAA Procurement Services reports a  
\$40,569.00 winning bid from Data Reproduction Corporation. Were  
we disqualified for some reason?

Bill Meyer  
Adpress, Inc.  
135 East 54th Street, PHF  
New York, NY 10022-4539  
Office: 212-679-1710  
Fax: 212-532-9508  
Cell: 917-658-2511  
Email: [adpressinc@aol.com](mailto:adpressinc@aol.com)  
Website: [www.adpressinc.com](http://www.adpressinc.com)  
Global Marketing Support Services

-----Original Message-----  
From: nmagar <[nmagar@patriotspoint.org](mailto:nmagar@patriotspoint.org)>  
To: adpressinc <[adpressinc@aol.com](mailto:adpressinc@aol.com)>  
Sent: Tue, Sep 10, 2019 10:50 am



Subject: SC Award: BOOK PRINTING OSCAR I AM

The following Award has been posted by the State of South Carolina.  
The Award is available on the State Web site and can be accessed from the following  
address:

[https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?  
solicitationnumber=5400018515](https://webprod.cio.sc.gov/SCSolicitationWeb/contractSearch.do?solicitationnumber=5400018515)

Solicitation Number: 5400018515  
Description: BOOK PRINTING OSCAR I AM

Sincerely,  
NICHOLAS MAGAR  
South Carolina State Government

[nmagar@patriotspoint.org](mailto:nmagar@patriotspoint.org)



## 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.

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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>

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  
1205 Pendleton Street, Suite 367, Columbia, SC 29201**

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\_\_\_\_\_  
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: \_\_\_\_\_

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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.**