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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: Creative Custom Products

Case No.: 2020-118

Posting Date: December 2, 2019

Contracting Entity: Piedmont Technical College

Solicitation No.: SS-19005

Description: EM-140 G4FD Engine Performance Trainer

DIGEST

Protest of award below statutory threshold is dismissed. The protest letter of Creative Custom Products (CCP) is included by reference. (Attachment 1)

AUTHORITY

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

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

BACKGROUND

Piedmont Technical College (PTC) advertised its intention to award a sole source contract to ConsuLab- Georgia Educational Solutions on November 8, 2019 for an Engine Performance Trainer, which is a single “operating engine mounted on a mobile stand.” CCP filed its protest with the Chief Procurement Officer on November 14, 2019 alleging that its trainer is of equal or better quality and better value/pricing and requested PTC issue a competitive bid to meet its needs.

ANALYSIS

In PTC’s published sole source determination, PTC estimates that the total potential value of this transaction is \$16,750.00. (Attachment 2) Section 11-35-4210(1)(d) limits the right to protest to those procurements greater than \$50,000:

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.

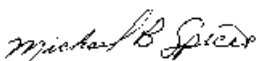
The statute limits the right to protest to awards greater than \$50,000 and this award is only for \$16,750. The CPO is only authorized to review protests as authorized by the Code. Consequently, the CPO lacks jurisdiction to review the merits of this protest.

In spite of this statutory limitation, PTC’s Automotive Academic Program Instructor did compare the ConsuLab and CCP’s products and found that they were not comparable. (Attachment 3)

DECISION

For the reasons stated above, the protest of Creative Custom Products is dismissed.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: Sam@Creative_Custom_Products
To: mckenna.b@ptc.edu
Cc: [itmo_protest](#)
Subject: [External] Solicitation SS-19005
Date: Thursday, November 14, 2019 3:41:31 PM
Attachments: [ETKia.pdf](#)

Hi Brian McKenna (864 941 8314) and Chief Procurement Officer

This Solicitation lists an Engine Performance Trainer to be sole sourced from a different supplier

Our company (Creative Custom Products www.ccpaz.com) has been doing such Engine Performance Trainers and other educational aids from a long period of time and believe our trainer is of equal or better quality and better value/pricing to any customer

As such we request competitive bidding for this trainer and will protest award as sole source


Our company comparable product is listed in the attachment

If any questions, please let us know

Thank you

Sam
Creative Custom Products
602 353 1112 (Off)
480 747 2579 (Cell)

Attachment 2

| | | | |
|---|--|--|--|
|  | Piedmont Technical College Notice of Intent to Sole Source | Sole Source # Date Issued Procurement Officer Phone E-Mail Address | SS-19005 11/08/2019 Brian K. McKenna (864) 941-8314 mckenna.b@ptc.edu |
|---|--|--|--|

Notice of Intent to Sole Source

Solicitation #: SS-19005

Posting Date: November 08, 2019

Based on the following determination, it is the intent of Piedmont Technical College (PTC) to proceed with the proposed procurement action described below pursuant to the authority of §11-35-1560 (A) of the SC Consolidated Procurement Code, in accordance with Regulation 19-445.2105 (B)(5).

PTC intends to negotiate and procure a Sole Source Procurement of an **EM-140 G4FD Engine Performance Trainer** from:

ConsuLab- Georgia Educational Solutions
6246 Rosecommon Drive
Norcross, GA 30092
(678) 488-4954
Mark Jones

The EM-140 G4FD Engine Performance Trainer is a fully operational engine mounted on a mobile stand. The EM-140 G4FD is required to meet the needs of local industry standards and aligns with our current inventory and curriculum. Georgia Educational Solutions is the sole authorized distributor of ConsuLab training aids in the States of Georgia, South Carolina, and Tennessee.

Estimated Value: \$ 16,750.00

Questions: Shall be addressed to the e-mail address of the Procurement Officer indicated above no later than 5:00 PM on November 15, 2019.

This notice will be posted in the South Carolina Business Opportunities (SCBO) for five business days as required by §11-35-1560 of the SC Consolidated Procurement Code.

PROTESTS (MAY 2019) If you are aggrieved in connection with the intended award of this contract, you may be entitled to protest, but only as provided in §11-35-4210. To protest an intended award of a contract pursuant to §11-35-1560, you shall (i) notify the chief procurement officer in writing of your intent to protest within five (5) business days of the date this intent to award is posted, and (ii) if the appropriate chief procurement officer has been timely notified of your intent to protest, you may submit your actual protest within fifteen days of the date this notice of intent to award is posted. Days are calculated as provided in §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. The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided.

Any protest or notice of intent to 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 or (b) by post or delivery to: 1201 Main Street, Suite 600, Columbia, SC 29201.

Unless otherwise suspended or cancelled, PTC will purchase these items. Contractor should not perform any work on or incur any costs associated with this notice prior to the receipt of a purchase order. PTC assumes no liability for any expenses incurred prior to issuance of a purchase order.

PIEDMONT TECHNICAL COLLEGE
Greenwood, SC

NOTICE OF INTENT TO SOLE SOURCE

**JUSTIFICATION FOR
SOLE SOURCE PROCUREMENT**

Based upon the following determination, the proposed procurement action described below is being procured pursuant to the authority of Section 11-35-1560 of the South Carolina Procurement Code and 19-445.2105 of the Rules and Regulations, 1976 South Carolina Code of Laws.

Piedmont Technical College proposes to negotiate and procure:

- (1) Consulab G4FD Hyundai/Kia 1.6L Gasoline Direct Injection Engine Bench Trainer

As a Sole Source procurement from:

- (2) Georgia Educational Solutions, LCC
6246 Rosecommon Drive, Norcross, Georgia 30092

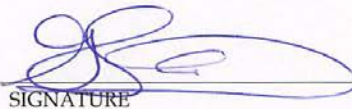
On the basis of:

- (3) Sole authorized distributor of Consulab training aids

Piedmont Technical College believes this is the only vendor capable of providing these products/services. This notice of Intent to Sole Source is to determine the availability of alternate vendors capable of providing the products/services outlined herein. Alternate vendors capable of providing these products/services must respond by email to Brian K. McKenna, Procurement Officer, at mckenna.b@ptc.edu

Gerald Sartin,
Automotive Program Director

REQUESTOR


SIGNATURE

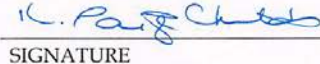
9/9/2019
DATE

HADI HAMID
SUPERVISOR/DEAN


SIGNATURE

9/10/2019
DATE

IL PAGE CHLOS
V.P. BUSINESS/FINANCE OR PRESIDENT


SIGNATURE

9/16/19
DATE

NOTES: (1) Enter description of goods or services to be procured.
(2) Enter name of sole source contractor.
(3) Enter the determination and basis for sole source procurement.

The Drug-free Work Place certification must be obtained for sole source procurements greater than \$50,000.



TRAINING AIDS

4210, rue Jean-Marchand, Québec QC Canada G2C 1Y6
Phone: 418-688-9057 / 800-567-0791 Fax: 418-843-3444
Email: info@consulab.com

Québec, 14 May 2018

Re: Sole authorized distributor
States of Georgia, South Carolina, and Tennessee

To whom it may concern:

Please be advised that Georgia Educational Solutions, LCC, ("GES"), located at 6246 Rosecommon Drive, Norcross, Georgia 30092, is the sole authorized distributor of ConsuLab training aids in the States of Georgia, South Carolina, and Tennessee.

Should you have any questions regarding this letter, please feel free to contact ConsuLab by email or telephone per the contact information below:

- Mr. Matt Dewey, Government Contacts & Freight Logistics
1 800 567-0791, extension 6025, mdewey@consulab.com
- Mr. David Dupont, Sales Director
1 800 567-0791, extension 6068, ddupont@consulab.com

Sincerely,
ConsuLab Educatech, Inc.

Matt Dewey
Government Contracts & Freight Logistics

cc: David Dupont, ConsuLab
Mark Jones, GES

Attachment 3

Brian McKenna

From: William King
Sent: Friday, November 15, 2019 8:21 AM
To: Gerald Sartin
Cc: Brian McKenna
Subject: RE: Sole Source Protest for Engine Trainer

Good Morning Gerald and Brian,

I have taken a few minutes to compare the two companies and have noticed some differences that would make the Consulab trainer a better option.

- The Consulab trainer is based on an engine that we use in class to train students on engine mechanical repairs, so there is the familiarity/continuity of them being identical engines
- The CCP trainer does appear to have the same basic setup as the Consulab trainer, with a few exceptions that I feel are important to our program:
 1. It is based on an engine of which we don't have any other units of
 2. The Consulab trainer can be expanded upon with an electronically programmable fault box, a huge advantage in creating faults for students to troubleshoot, without the risk of damaging existing sensors, connectors & other sensitive components.
 3. The CCP trainer does not have an ECM/PCM breakout box included for students to perform circuit testing without disconnecting/reconnecting the ECM/PCM and causing unnecessary wear on the terminals in these units.
 4. The CCP offerings are not equipped with GDI (gasoline Direct Injection), an extremely important part of an engine performance course and is the latest in fuel injection technology.

These are my observations based only on what I'm seeing when reviewing both websites side by side and comparing the CCP General Motors 3.8L engine to Consulabs EM-140 G4FD Hyundai/Kia 1.6L Gasoline Direct Injection Engine Trainer.

I hope this helps.

Regards,

Bill King

Automotive Academic Program Instructor
ASE Certified Master Automotive Technician
ASE Advanced Level Specialist I
ASE Maintenance and Light Repair Technician
Piedmont Technical College
Greenwood, SC 29646
864-941-8498
king.w@ptc.edu



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
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.