

HENRY MCMASTER, CHAIR  
GOVERNOR

CURTIS M. LOFTIS, JR.  
STATE TREASURER

RICHARD ECKSTROM, CPA  
COMPTROLLER GENERAL



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

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

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:** Cedar Ridge Landscaping, LLC

**Case No.:** 2020-120

**Posting Date:** December 6, 2019

**Contracting Entity:** Spartanburg Community College

**Solicitation No.:** 5400018573

**Description:** Landscaping Services

### DIGEST

Protest of technical difficulties submitting bid is dismissed. Cedar Ridge Landscaping's (CRL) bid is included by reference. (Attachment1)

### 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.

---

<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	10/16/2019
Amendment 1 Issued	11/07/2019
Bid Opening	11/22/2019
Protest Received	11/22/2019

The State Fiscal Accountability Authority issued this Best Value Bid on behalf of Spartanburg Community College for landscaping services on October 16, 2019. Amendment 1 was issued on November 7, 2019, answering potential bidders' questions and extending the opening date until 11:00 AM, November 22, 2019. CRL protested at 11:22 AM, on November 22, 2019 that it was unable to upload its bid via the South Carolina Enterprise Information System (SCEIS).

## **ANALYSIS**

The Consolidated Procurement Code grants prospective bidders the right to protest a solicitation or amendment to a solicitation as follows:

A prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with a solicitation shall protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen days of the date of issuance of the Invitation For Bids Request for Proposals or other solicitation documents, whichever is applicable, or any amendment to it, if the amendment is at issue.

Section 11-35-4210(1)(a)

CRL is not alleging the solicitation or the amendment to the solicitation are violative of the Code. The Consolidated Procurement Code grants actual bidders the right to protest the award or intended award of a contract as follows:

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.

Section 11-35-4210(1)(b)

There has been no award as a result of this procurement and CRL is not protesting the award.

While CRL's protest was timely received as a protest of the amendment to the solicitation, it made no allegation of problems with the amendment and consequently cannot be a protest of the amendment. There has not been an award or intended award of a contract so CRL's protest cannot be a protest of an award.

CRL is protesting that it was unable to submit its bid through the SCEIS system prior to the bid submission deadline:

I am Protesting and Requesting an Extension due to an issue of SCEIS and the Vendor Portal not Uploading Our Bid Document for this Solicitation.  
I was not able to submit our bid for Solicitation 5400018573.  
I could not get it to Upload in the Vendor Portal of SCEIS.  
I tried for nearly an hour to no avail.  
The file size is 402 kb.  
I tried with a shorter file name several times. Simply CR.pdf, CR.docx, CR.odf and multiple other file names and types, in which none of them would upload successfully.  
Being that PDF is the standard format, I am quite frustrated and confused at the inability to Upload our Bid Document File.  
It is attached to this email.  
Due to an IT issue in SCEIS, specifically the systems inability to Upload our Bid File, I am Protesting that we be granted an extension for this Solicitation.

A review of the procurement file indicates that four other bidders were able to submit their bids prior to the bid submission deadline. Other than its obvious frustration, CRL offers no information that the problems it experienced were attributable to a problem with the SCEIS system, much less a systemic problem with SCEIS. *See, e.g., Matter of: American Material Handling, Inc.*, 1999 WL 95035 (Comp. Gen. 1999) (finding isolated computer submission error, not part of a deliberate effort to exclude protestor or because of lack of adequate procedures, not a valid basis for protest). CRL does not indicate that it solicited assistance from the SCEIS Help Desk or the procurement officer to resolve its issues.

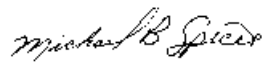
It is the protestant's burden to show that the problems it experienced came from a systemic failure on behalf of SCEIS or part of an improper effort to exclude the vendor from participation rather than from some other source such as a problem with its equipment or internet service. CRL failed to meet this burden.

Protest Decision, page 4  
Case No. 2020-120  
December 6, 2019

**DECISION**

For the reasons stated above, the protest of Cedar Ridge Landscaping, LLC is dismissed.

For the Materials Management Office



---

Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Cale Ledford](#)  
**To:** [Protest-MMO](#)  
**Subject:** [External] Solicitation 5400018573, Landscaping Services, SCC  
**Date:** Friday, November 22, 2019 11:22:18 AM  
**Attachments:** [BVB SCC Grounds Cedar Ridge.pdf](#)

---

Hi,

I am Protesting and Requesting an Extension due to an issue of SCEIS and the Vendor Portal not Uploading Our Bid Document for this Solicitation.

I was not able to submit our bid for Solicitation 5400018573.

I could not get it to Upload in the Vendor Portal of SCEIS.

I tried for nearly an hour to no avail.

The file size is 402 kb.

I tried with a shorter file name several times. Simply CR.pdf, CR.docx, CR.odf and multiple other file names and types, in which none of them would upload successfully.

Being that PDF is the standard format, I am quite frustrated and confused at the inability to Upload our Bid Document File.

It is attached to this email.

Due to an IT issue in SCEIS, specifically the systems inability to Upload our Bid File, I am Protesting that we be granted an extension for this Solicitation.

Thanks,

**Cale Ledford**  
**Operations Manager**  
(864) 357-8479



P.O. Box 1163  
Woodruff, SC 29388  
Cale@CedarRidgeLandscapingLLC.com  
[www.CedarRidgeLandscapingLLC.com](http://www.CedarRidgeLandscapingLLC.com)

## 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.**