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Protest Decision

Matter of: Capitol Consulting Strategies, LLC

Case No.: 2021-114

Posting Date: October 28, 2020

Contracting Entity: South Carolina First Steps

Solicitation No.: Request for Quotations

Description: First Steps Local Partnerships Strategic Planning

TDIGEST

Protest of no award is denied for lack of jurisdiction. The protest letter of Capitol Consulting Strategies, LLC (CCS) 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

Request for Quotations Issued	08/11/2020
No Award Determination Posted	09/17/2020
Protest Received	09/25/2020

The South Carolina First Steps (SCFS) issued this Request for Quotations on August 11, 2020 to acquire multiple consultants to provide two (2) separate one (1) hour live trainings and up to twenty hours of technical assistance to First Steps Local Partnerships to support them in completion of their FY21-23 Comprehensive Plans. Purchase Orders, each totaling \$5,500.00, were sent to six consulting companies on September 17, 2020. CCS was one of two offerors that were notified that they would not receive a contract on September 17, 2020. CCS protested that decision on September 25, 2020.

ANALYSIS

CCS protests

I am protesting the September 17th no award notification provided to my firm, Capitol Consulting Strategies, LLC (CCS) regarding our August 19th submission to SC First Steps to School Readiness' (SCFSSR) Request for Quote to provide strategic planning related services.

Section 11-35-4210 of the Consolidated Procurement Code grants any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract the right to request a review of the award by the Chief Procurement Officer. Section 11-35-4210(1)(d) limits a review by the CPO as follows:

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.

Six contracts were awarded as a result of this Request for Qualifications. The project's budget was \$46,000.00. [Memo dated Oct. 6, 2020, from Chelsea Richard to Tekethia Burrell]. Each contract was for \$5,500.00, totaling \$33,000.00. Consequently, the CPO lacks jurisdiction to review the merits of this protest.

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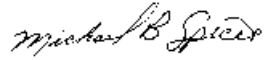
Case No. 2021-114

October 28, 2020

DECISION

For the reasons stated above, the protest of Capitol Consulting Strategies, LLC is denied.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1



Address: 1343 Garner Lane, Suite 202, Columbia, SC 29210

Phone: (803) 404-8367

Email: info@mycapitolconsulting.com

Website: <https://mycapitolconsulting.com>

September 25, 2020

Kimber Craig
Director of Procurement
South Carolina State Fiscal Accountability Authority
Procurement Services
1201 Main Street
Columbia, SC 29201

RE: Protest of SC First Steps to School Readiness Award

Ms. Craig:

I am protesting the September 17th no award notification provided to my firm, Capitol Consulting Strategies, LLC (CCS) regarding our August 19th submission to SC First Steps to School Readiness' (SCFSSR) Request for Quote to provide strategic planning related services. Accordingly, pursuant to Title 30, Chapter 4 of the South Carolina Code of Laws, the South Carolina Freedom of Information Act, I am requesting the following information:

- A copy of all bids received to include the winning bid;
- A copy of the bid assessment evaluation documentation to include any information which was used bid evaluators to score bids; and
- A copy of the award letter.

Consistent with Article 4 of the Consolidated Procurement Code, Regulation 19-445.2085(C), I am requesting the award be cancelled and either reawarded pursuant to item 1) "Inadequate or ambiguous specifications cited in the invitation", item 7) "Administrative error of the procuring agency discovered prior to performance" and item 8) "For other reasons, cancellation is in the best interest of the State." Below are additional details outlining the nature of my concern and request-

Inadequate or ambiguous specifications cited in the invitation

On July 15th, I received an electronic notification from Chelsea Richard, the Strategic Partnerships Manager as the procuring officer for SCFSSR, regarding a request for information regarding the strategic planning related services CCS could provide to SCFSSR's agencies with one-on-one consulting. Accordingly, July 22nd, we had a virtual meeting to review our initial presentation regarding our general capabilities related to strategic planning and marketing. During this conversation Ms. Richard indicated more information would be forthcoming regarding the scope, timeline and decision process, but indicated that the contract performance period would be from September 1- October 16th, as the strategic plans would be due by October 30th to SCFSSR state office. On July 29th, I followed-up via email to check the status of this and



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Inadequate or ambiguous specifications cited in the invitation (continued)

Ms. Richard indicated that internal discussions were required to define the logistics of the one-on-one strategic planning consultation endeavor to engage (a) vendor(s) to assist SCFSSR agencies with their strategic planning and related needs. Ms. Richard subsequently followed-up on August 11th with the issuance of a Request for Quote (RFQ) for these services. The RFQ lacked specificity and did not define what would deem a bidder responsive, scoring criteria, requisite qualifications, payment terms, logistics for the execution of the contract nor did it operationally define the scope of work. Subsequently, I sent Ms. Richard an e-mail to obtain additional information and clarity regarding requirements. During any of our correspondence, verbal or electronic, scoring guidelines, responsiveness, contract parameters were not provided nor discussed. We submitted our best effort to meet the RFQ requirements without this vital information. Enclosed is a copy of our submitted RFQ, for your reference.

Administrative error of the procuring agency

My primary concern regarding the administrative manner in which SC First Steps to School Readiness handled the procurement of the solicitation. Once I asked clarifying questions regarding the RFQ, an addendum should have been issued to the RFQ and my questions along with the corresponding answers to those questions of other offerors should have been posted and shared with all offerors in order to provide offerors with the best information and an equitable opportunity to submit a responsive proposal. This was not done. Additionally, only 8 calendar days were provided to submit a response, as the response to the RFQ was due August 19th. Moreover, once questions were asked by offerors, additional time should have been provided to respond.

Lastly, I expressed grave concern to Ms. Richard over if we or any other vendor were awarded the contract, having sufficient time to execute the requirements of the contract, given the short window to perform as the contract performance period was September 1st to October 16th. I followed-up on August 26th regarding the status of the decision of the contract and was informed that a potential decision would be made by September 1. As no decision had been made, I subsequently followed-up September 11th regarding the status of the contract and was told a decision would be made the early part of the next week. Ultimately, I received a no award notification on September 17th, 16 calendar days after the proposed start of the contract, leaving only 20 business days for the successful offeror to execute providing statewide one-on-one consulting to all SCFSSR agencies. To my knowledge, the performance period of the contract remained the same.



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Cancellation is in the best interest of the State

For the above enumerated reasons, cancellation and reissuance of the award is in the best interest of the State. A reissuance of the award would provide potential offerors adequate time to respond and submit a responsive bid in accordance to the details and specifications of the revised RFQ, providing the State the best opportunity to review and receive the most competitive bid consistent with its requirements.

Please remit the requested information electronically to krystal@mycapitolconsulting.com or via mail to PO BOX 8814, Columbia, SC 29202. Additional information and documentation may be provided upon request. Please advise regarding next steps.

Thank you for your attention and concern in this matter.

Sincerely,

Krystal Reid
Chief Strategist and CEO

Enclosure (1)

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.