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Protest Decision

Matter of: CSC ServiceWorks

Case No.: 2021-116

Posting Date: October 28, 2020

Contracting Entity: South Carolina State University

Solicitation No.: 5400020196

Description: Laundry Vending Services

DIGEST

Protest alleging problems submitting a timely bid is dismissed. The protest letter of CSC Service Works (CSC) 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

Solicitation Issued:	08/07/2020
Amendment 1 Issued	09/08/2020
Amendment 2 Issued	09/16/2020
Bids Opened	10/02/2020
Protest Received	10/02/2020

The State Fiscal Accountability Authority (SFAA) issued Invitation for Bids number 5400020196 on August 7, 2020 on behalf of South Carolina State University for laundry vending services. Bids were opened at 11:00 AM on October 2, 2020. CSC filed a protest at 02:59 PM on October 2, 2020.

ANALYSIS

CSC protests

CSC ServiceWorks is writing to formally protest the bid opening/offer submission of solicitation #5400020196, Laundry Vending Services for South Carolina State University. CSC has attempted multiple times to upload and submit the offer for Laundry Vending Services, South Carolina State University, solicitation 5400020196 before the 11am deadline on 10/2/2020. The website through SCEIS, <http://www.procurement.sc.gov> would allow log in for Larissa Jaynes, however unable to upload to site. She then tried with the login for Kathy Marshall, which would not allow her in due to password outdated. She tried to change that password, however it would still not allow her into the website to upload the bid offer.

Larissa Jaynes called the help desk and after being on hold for several minutes, was answered and asked her name. She gave her name and was immediately disconnected. She left several messages with the Procurement office as well as Melissa Mimms. Kathy Marshall also left messages for the Procurement Office and Melissa Mimms. Melissa called Kathy back and stated that her hands were tied due to the Submit Offer By: date and time.

CSC ServiceWorks has worked with South Carolina State University for many years and would very much like to continue if our bid is deemed best for SCSU.

CSC will physically drop off the bid/offer in person before end of business today. We ask that this bid/offer be considered due to the technical difficulties with the procurement website.

While it is unfortunate that CSC tried but failed to upload an electronic bid, CSC has failed to allege a valid protest ground. This error could have been caused by the user, by CSC's computer

system, or by CSC's internet provider. And even if CSC could establish that the issue was caused by a malfunction at SCEIS, CSC would still fail to state a valid protest ground. "[E]ven with appropriate procedures in place, an agency may lose or misplace a bid or quotation, and the occasional loss of a bid or quotation—even if through the negligence of the agency—generally does not entitle the bidder or vendor to relief." *American Material Handling, Inc.*, B-281556 (Comp. Gen. 1999) (holding government's computer malfunction in accepting bid does not sustain a protest where the loss was isolated and not part of deliberate effort to exclude vendor or the result of agency's failure to have adequate procedures in place).

Further, to the extent CSC protests the solicitation, it is untimely; to the extent CSC protests an anticipated award, it is not ripe. Section 11-35-4210 authorizes the Chief Procurement Officer to review protests of a solicitation that are received within 15 days of the publication of the solicitation or amendment:

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

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. An Invitation for Bids or Requests for Proposals or other solicitation document, not including an amendment to it, is considered to have been issued on the date required notice of the issuance is given in accordance with this code.

(emphasis added)

The last amendment to the solicitation was published on September 16, 2020. The time allowed for a protest of the solicitation expired on October 1, 2020. The CPO is also authorized under Section 11-35-4210(1)(b) to review protests of an award that is received within 7 workdays of the publication of the award:

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) within 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.

Since no award has been published, the time for protesting an award has not arrived. Consequently, the CPO lacks jurisdiction to review the merits of CSC's protest at this time.

DECISION

For the reasons stated above, the protest of CSC ServiceWorks is dismissed.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Kathy Marshall](#)
To: [Protest-MMO](#)
Subject: [External] JFB Solicitation 5400020196
Date: Friday, October 2, 2020 2:59:07 PM
Attachments: [image001.png](#)
[signaturelooadjusted_4ebff0f0-3bf7-4bef-9f5d-1b01129f12bb.png](#)

To Chief Procurement Officer, Materials Management Office,

CSC ServiceWorks is writing to formally protest the bid opening/offer submission of solicitation #5400020196, Laundry Vending Services for South Carolina State University. CSC has attempted multiple times to upload and submit the offer for Laundry Vending Services, South Carolina State University, solicitation 5400020196 before the 11am deadline on 10/2/2020. The website through SCEIS, <http://www.procurement.sc.gov> would allow log in for Larissa Jaynes, however unable to upload to site. She then tried with the login for Kathy Marshall, which would not allow her in due to password outdated. She tried to change that password, however it would still not allow her into the website to upload the bid offer.

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CSC ServiceWorks has worked with South Carolina State University for many years and would very much like to continue if our bid is deemed best for SCSU.

CSC will physically drop off the bid/offer in person before end of business today. We ask that this bid/offer be considered due to the technical difficulties with the procurement website.

Thank you

Kathy

Kathy Marshall
Regional Manager
Academic Division



Your campus laundry solution.

(937) 477-0984
km.marshall@cscsw.com
www.cscsw.com

Kathy Marshall
Regional Manager-
Southeast

13315 Carowinds Blvd
Suite M, Charlotte, NC 28273
O: (937) 253-3171 Ext. 65212
M: (937) 477-0984

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.