

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

In Re: Contractual Dispute between
New Venue Technologies, Inc.
and the State of South Carolina

BEFORE THE CHIEF PROCUREMENT
OFFICER

Case No. 2014-206

By way of background, this matter is before the Chief Procurement Officer (CPO) pursuant to a contract controversy filed by New Venue Technologies, Inc. (referred to herein as “NVTI”) against the State of South Carolina (“State”). This request for resolution was filed under the provisions of §11-35-4230 of the South Carolina Consolidated Procurement Code and involves a contract for Software Acquisition Services. The CPO has scheduled a hearing to begin May 19, 2014.

Although the South Carolina Rules of Civil Procedure do not apply to this action, the CPO intends to establish certain pre-trial procedures similar to Rule 16, SCRCPP. After consulting with the parties, the CPO hereby enters the following abbreviated Scheduling Order:

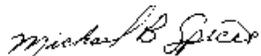
1. **Discovery/Exhibits** – Consistent with Rule 26, SCRCPP, the parties agree to a reasonable exchange of documents they propose to offer as exhibits by April 30, 2014.
2. **Record** – The parties agree to consult with one another and provide the CPO with two copies of a complete record of exhibits, consisting of documents and other materials necessary for a thorough understanding of the claims and defenses, by May 6, 2014. The State will be responsible for compiling the record of exhibits into a binder(s) and providing it to the CPO and the opposing party. The record should be organized chronologically, beginning with the oldest document first. At a minimum it should include:
 - a. Relevant contract documents, such as:
 - i. Solicitation/Request for Proposals
 - ii. Amendments
 - iii. NVTI’s Proposal(s)
 - iv. Specifications
 - v. Purchase Order(s)
 - vi. Change Requests and Change Orders
 - vii. Schedules
 - viii. Reports
 - ix. Invoices
 - b. Relevant memoranda, correspondence, and other records

To the extent required to develop the claims or defenses in the case, the record may include:

- a. Records, minutes and correspondence, and internal communications pertaining to the services performed or to be performed, and other obligations of the parties under their agreement.
 - b. Reports, summaries, correspondence, memos, and other documents pertaining to the services performed or to be performed, and other obligations of the parties under their agreement.
 - c. Documents generated as a result of or otherwise related to any investigation, evaluation, or inspection of the services performed or to be performed, and other obligations of the parties under their agreement.
3. **Objections to Record** – Should there be a disagreement regarding the admissibility of an exhibit, that exhibit should be included at the end of the Record submitted to the CPO on the above date and marked as such. By May 9, 2014, parties should file any objection they have regarding a disputed exhibit with the CPO and provide legal support for their objection.
 4. **NVTI's Pre-Trial Brief, including any Motions** – NVTI will file with the CPO and serve on the State a pre-trial brief in the format described below and any separate motions it wishes to make by May 9, 2014.
 5. **State's Pre-Trial Brief, including any Motions or Reply** – The State agrees to provide the CPO and the opposing party a pre-trial brief in the format described below, any motions it wishes to make, or any reply to any motions submitted by the NVTI, by May 15, 2014
 6. **Format of Pre-Trial Briefs** – Both pre-trial briefs should follow the format established by Rule 16(c), as much as practical. At a minimum, the pre-trial briefs shall:
 - a. Set forth a brief and concise statement of the factual basis of each claim or defense. The State may either stipulate the statement of facts provided by New Venue or submit its own statement of facts.
 - b. Provide a summary of the claims or defenses with statutory and/or case citations supporting the same. Generic references to the “general common, statutory or regulatory law” of the relevant jurisdiction are not adequate. Neither are lengthy discussions of commonly applied claims and defenses required. For most causes of action or defenses, a single citation to a single statute or case establishing the elements will suffice.
 - c. Identify any unusual questions of law concerning admission of evidence or procedure likely to arise in the hearing.
 - d. Identify by name the witnesses you expect to call and provide a summary of their anticipated testimony.

- e. Set forth in detail any damages you claim, including an explanation of how they are computed and the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered. The State should specify its position concerning damages.
 - f. Identify the specific portions of a written contract or other writing that is in controversy, with a statement as to the claimed construction thereof, and performance or nonperformance thereof, or obligation in connection therewith.
 - g. If you contend that any part of the agreement between the parties is oral, state its substance; and where there is a dispute concerning its terms, the controverted terms should be specified and the same issues covered as above mentioned as to written contracts.
 - h. Where the relief sought is not covered by (e) above or is in addition thereto, state the nature of the relief sought and the reason(s) such relief should or should not be granted.
 - i. Confirm that settlement negotiations were attempted before the party's deadline for the pre-trial brief and the status of settlement negotiations.
7. **Stipulations/State's Reply to Motion** - At the beginning of the hearing, parties should be prepared to provide the CPO with any additional stipulations regarding the statement of facts. In addition, NVTI shall also have an opportunity at that time to respond to any Motions made by the State in its pre-trial brief.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

Columbia, South Carolina

Dated February 19, 2014