

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

**BEFORE THE CHIEF PROCUREMENT OFFICER**

**DECISION**

In Re: Protest of Range Systems, Inc.

CASE NO.: 2015-104

Protest of Intent to Award to Advanced Products for Ballistic Rubber Blocks for the Adjutant Generals Office, Solicitation No. # 5400008185

POSTING DATE: August 14, 2014

MAILING DATE: August 14, 2014

The South Carolina Consolidated Procurement Code (the Code) grants the right to protest to any actual bidder who is aggrieved in connection with the intended award of a contract. S.C. Code Ann. § 11-35-4210(1)(b). This solicitation is for Ballistic Rubber Blocks for the Adjutant Generals Office. (AGO)

Range Systems, Inc. protests the award of a contract to Advanced Products [Attachment 1]

I would like to formally protest this award. In the solicitation, it calls out "Ballistic Rubber Blocks dimensions 36" x 12" x 9" NSN 9320-01-565-6452". Our company- Range Systems Inc., is the only source of this product when specifying this "NSN". I don't know how this other company "Advanced Products" is claiming that they provide this same product with our NSN. Before the solicitation, we had spoken to the end user and they have requested our product by specifying our NSN because of the performance, ballistic data, and manufacturing process, which makes our product unique.

The Chief Procurement Officer issues this ruling without a hearing.

**Findings of Fact**

|                                  |            |
|----------------------------------|------------|
| Invitation For Quotes Published: | 07/24/2014 |
| Deadline for Quotes:             | 08/11/2014 |
| Award Announced:                 | 08/13/2014 |
| Protest Received                 | 08/13/2014 |

**Discussion**

This solicitation was issued under Section 11-35-1550, Small Purchase and the award amount is \$37,652.00. Section 11-35-4210(1)(d) limits protests to contracts with a total potential value greater than \$50,000.

Section 11-35-4210(1)(d) 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.

## Determination

Protest of this award is not authorized under the South Carolina Consolidated Procurement Code. The Chief Procurement Officer lacks jurisdiction to address issues related to the protest of this award. Protest denied.

For the Information Technology Management Office



Michael B. Spicer  
Chief Procurement Officer

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Protest Appeal Notice (Revised June 2013)*

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.

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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>

**FILE BY CLOSE OF BUSINESS:** Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

**FILING FEE:** Pursuant to Proviso 108.1 of the 2014 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  
1105 Pendleton Street, Suite 202, Columbia, SC 29201**

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\_\_\_\_\_  
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: \_\_\_\_\_

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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.**

Attachment 1

From: Brandon Bernstein  
Sent: Wednesday, August 13, 2014 9:39:24 AM (UTC-05:00) Eastern Time (US & Canada)  
To: Protest-MMO  
Cc: [MorganSV@tag.scmd.state.sc.us](mailto:MorganSV@tag.scmd.state.sc.us); Brad Ross; Joe Bricko; Glenn Seeger  
Subject: RE: SC Award/Solicitation #5400008185

Chief Procurement Officer:

I would like to formally protest this award. In the solicitation, it calls out "Ballistic Rubber Blocks dimensions 36" x 12" x 9" NSN 9320-01-565-6452". Our company-Range Systems Inc., is the only source of this product when specifying this "NSN". I don't know how this other company "Advanced Products" is claiming that they provide this same product with our NSN. Before the solicitation, we had spoken to the end user and they have requested our product by specifying our NSN because of the performance, ballistic data, and manufacturing process, which makes our product unique.

Thank you for your attention to this, and we look forward to your response.

Brandon Bernstein  
Range Systems  
5121 Winnetka Avenue North, Suite 225  
New Hope. MN 55428  
Direct 763-398-5512  
Cell 612-747-7999  
[brandonb@range-systems.com](mailto:brandonb@range-systems.com)