

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

**BEFORE THE CHIEF PROCUREMENT OFFICER**

**WRITTEN DETERMINATION**

**In Re:** Cancellation of Award to  
Suppression Systems, Inc.

CASE NO.: 2015-113

**Cancellation of Award Prior to  
Performance**

POSTING DATE: September 24, 2014

Solicitation No. 4899-8/28/14-9473-I  
Sprinkler System Repairs at the Medical  
University of South Carolina

MAILING DATE: September 24, 2014

This matter is before the Chief Procurement Officer for Information Technology<sup>1</sup> (CPO) pursuant to a request from the Medical University of South Carolina (MUSC) [Ex. 1] under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code), and Budget and Control Board Regulation 19-445.2085(C) to cancel an award to Suppression Systems, Inc. for Sprinkler System Repairs prior to performance due to an administrative error in determining the lowest responsive and responsible bidder.

**Basis for the Request**

The Medical University of South Carolina issued solicitation 4899-8/28/14-9473-I for a term contract for Sprinkler System Repairs on August 8, 2014. The solicitation included the following:

The purpose of this solicitation is to contract with a qualified offeror to provide sprinkler system repairs on an “as needed” basis for the Medical University of South Carolina (MUSC).

- (a) The Contractor shall furnish all labor, equipment, material and supervision to complete various campus wide Sprinkler System repairs shown by owner, in accordance with this Contract.

[Solicitation, Page 13]

**COMPLIANCE WITH LAWS (JAN 2006):** During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.

[Solicitation, page 21]

An award was issued on September 12, 2014 to Suppression Systems, Inc. [Ex 2] After award but prior to performance, MUSC determined that Suppression Systems did not have a valid license to perform sprinkler system maintenance and requested cancellation of the award prior to performance under Regulation 19-445.2085(C)(7), citing an administrative error in determining the lowest responsive and responsible bidder..

Chapter 10 of Title 40 is the “Fire Protection Sprinkler Systems Act.” It requires licensure as a “fire sprinkler contractor” for certain types of work, including “the planning, sale, installation, repair, alteration, addition,

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<sup>1</sup> The Interim Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

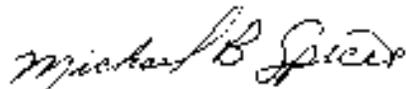
maintenance, or inspection of fire protection sprinkler systems or water spray systems,” S.C. Code Ann. § 40-10-20(7) (2011). Section 40-10-45 provides:

It is unlawful for a person to engage in the planning, sale, installation, repair, alteration, addition, maintenance, testing, or inspection of a fire sprinkler system, water based or wet pipe systems, or water foam systems in this State except in conformity with the provisions of this chapter.

This chapter has no threshold for its application. That is, it applies even if the value of the fire sprinkler work is nominal.

### **Determination**

The award to Suppression Systems, Inc. is cancelled under Regulation 19-445.2085(C) and the Medical University of South Carolina is directed to proceed in accordance with the Consolidated Procurement Code.



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**Michael B. Spicer**  
**Chief Procurement Officer for Information Technology**

## STATEMENT OF RIGHT TO ADMINISTRATIVE REVIEW

*Written Determination Appeal Notice (Revised June 2013)*

The South Carolina Procurement Code, in Section 11-35-4410, subsection (1)(b) states:

(1) Creation. There is hereby created the South Carolina Procurement Review Panel which shall be charged with the responsibility to review and determine de novo:

(b) requests for review of other written determinations, decisions, policies, and procedures arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the provisions of this code and the ensuing regulations; except that a matter which could have been brought before the chief procurement officers in a timely and appropriate manner pursuant to Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, must not be the subject of review under this paragraph. Requests for review pursuant to this paragraph must be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of the written determinations, decisions, policies, and procedures.

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Copies of the Panel's decisions and additional information regarding the protest process is available on the internet at the following web site: [www.procurementlaw.sc.gov](http://www.procurementlaw.sc.gov)

**FILE BY CLOSE OF BUSINESS:** Requests 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 2013 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 hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived.” 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.**

**Exhibit 1****From:** Cannon, Debra Ann [<mailto:cannonda@musc.edu>]**Sent:** Monday, September 15, 2014 1:11 PM**To:** White, John**Cc:** Holloway, Belinda F.; Stamp, Velma G.**Subject:** Request to cancel attached intent to award to Supression Systems**Importance:** High

Good Afternoon John,

I am requesting the cancelation of the attached intent to award to Suppression Systems for Sprinkler repairs for the Medical University of South Carolina.

Please see the attached determination as well as the solicitation backup.

Engineering and Facilities had initially approved the license that was provided. I did not know at the time that the classification did not cover sprinkler systems.

Their correct license lapsed on 7/31/14.

If you need any additional information please let me know.

Thanks,

Debbie Cannon

Debbie Cannon, CPPO, CPPB

Procurement Manager I

University Purchasing

MUSC

843-792-8965

843-792-3884(fax)

## Exhibit 2



University Purchasing Services  
19 Hagood Avenue, Suite 408

### Notice of Intent to Award Posting Date: September 12, 2014

**Solicitation** : IFB: 4899-8/28/14-9473-I  
**Issue Date** : August 8, 2014  
**Opening Date** : August 28, 2014  
**Description** : Term Contract for Sprinkler Repairs at the Medical University of South Carolina

**Agency** : Medical University of South Carolina

**Awarded To** : Suppression Systems Inc  
PO Box 60878  
7148 Cross County Road, Suite A-5  
North Charleston, SC 29419

The State intends to award contract(s) noted below. Unless otherwise suspended or canceled, this document becomes the final Statement of Award effective **08:00:00, September 23, 2014**. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with this code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35-4210]

PROTEST - CPO ADDRESS - MMO: Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing

- (a) by email to [protest-mmo@mmsc.gov](mailto:protest-mmo@mmsc.gov) ,
- (b) by facsimile at 803-737-0639 , or
- (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

**Contract Number:** 4899-8/28/14-9473-I  
**Total Five (5) Year Evaluated Amount:** \$175,000 (Estimated)  
**Evaluated Annual Total:** \$35,000  
**Initial Contract Period:** 9/23/14- 9/22/15  
**Maximum Contract Period:** 9/23/14- 9/22/19

**MUSC Purchasing Office**

**Buyer:** Debra Cannon, CPPO, CPPB