

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

**BEFORE THE CHIEF PROCUREMENT OFFICER**

**DECISION**

In Re: Protest of Blue Ox Medical  
Technologies, LLC

CASE NO. 2015-124

Protest of Intent to Award to GE  
Healthcare for Radiology Equipment for  
Orangeburg-Calhoun Technical College,  
Solicitation No. 5400008714

POSTING DATE: December 12, 2014

MAILING DATE: December 12, 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 was issued by the SC Technical College System on behalf of Orangeburg-Calhoun Technical College for Radiology Equipment. (TECH). Blue Ox Medical Technologies, LLC (Blue Ox) protests the intended award of a contract to GE Healthcare. (GE) [Attachment 1] The Chief Procurement Officer<sup>1</sup> issues this ruling without a hearing.

### **Findings of Fact**

Invitation For Bids Published:	11/03/2014
Amendment One Issued	11/14/2014
Intent to Award Posted:	12/02/2014
Protest Received	12/02/2014
Intent to Award Suspended	12/03/2014

### **Discussion**

This solicitation was an Invitation for Bids. Award is to be made to the responsible bidder submitting the lowest responsive bid.<sup>2</sup> Bidders were required to submit their bids online through the South Carolina

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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.

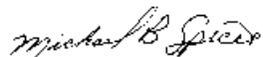
<sup>2</sup> Section 11-35-1520(10) Award. Unless there is a compelling reason to reject bids as prescribed by regulation of the board, notice of an award or an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements set forth in the invitation for bids must be given by posting the notice at a location specified in the invitation for bids.

Enterprise Information System (SCEIS), attach an electronic copy of their bids online through SCEIS, and submit a hardcopy of their bids to TECH before the designated closing date and time. The solicitation asked for a price for the equipment, removal and disposal of existing equipment, and optional extended warranty. GE's online bid showed an equipment cost of \$184,420.34, a cost of \$0.00 for the removal and disposal of existing equipment, and \$9,650 for the optional extended warranty for a total bid price of \$194,070.34. However, the copy of GE's bid attached to its online bid and the hardcopy indicated an equipment cost of \$141,383.34, a cost of \$0.00 for the removal and disposal of existing equipment, and \$9,650 for the optional extended warranty for a total bid price of \$151,033.34. Prior to award, GE assured the procurement officer that its bid was actually \$151,033.34 and the Intent to Award was issued for that amount. Subsequent to the protest of Blue Ox, GE has advised the procurement manager that the online bid of \$194,070.34 was its correct bid price. [Attachment 2] GE's bid is no longer the lowest responsive bid.

### **Determination**

For the reasons stated above, GE is not the lowest responsive and responsible bidder. The protest of Blue Ox Medical Technologies, LLC is granted. The procurement is remanded to the SC Technical College System for award in accordance with the South Carolina Consolidated Procurement Code.

For the Information Technology Management Office



Michael B. Spicer  
Chief Procurement Officer

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Protest Appeal Notice (Revised October 2014)*

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 209, Columbia, SC 29201**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

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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:** [Nick Morgan](#)  
**To:** [Protest-MMO](#)  
**Subject:** Bid Protest 5400008714  
**Date:** Tuesday, December 02, 2014 4:31:45 PM  
**Attachments:** [Bid Tabulation.xls](#)

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Dear Chief Procurement Officer,

In reviewing the attached bid tabulation sheet, it is apparent the hard copy bid submitted by GE has a mathematical error in it. The summation process in the online system versus the hard copy submittal should produce the the exact same numbers (as evident by our proposal). Ms. Livingston, in her review of the bids, inadvertently missed this discrepancy which defies logic since the numbers would have to be the same.

GE's online bid submittal of \$194,070 would be the correct bid since the mean of the 4 online bids submitted was \$210,106. A quick analysis of the numbers would intuitively alarm the reviewing members of GE's mistake at \$151,033. Again, since the scope of work for the the online bid and the hard copy was exactly the same, the numbers should be as well. Therefore, we are the low bidder for this solicitation.

Thank you for recognizing and correcting this mistake,

--

Nick Morgan | Operations & Logistics Manager



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7845 Colony Road  
Suite C4-327  
Charlotte, NC 28226  
828 508 2300 P  
704 973 0129 F  
[blueox1.com](http://blueox1.com)

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Blue Ox is passionate about helping you deliver world-class healthcare to your patients everyday. We specialize in diagnostic imaging, software and technical consumable products. We offer solutions that can improve your operating efficiencies and maximize your financial results so that you can focus on delivering outstanding patient care.

» For more information please visit us at [www.blueox1.com](http://www.blueox1.com).

## Attachment 2

**From:** [Livingston, Teresa](#)  
**To:** [Spicer, Mike](#)  
**Subject:** FW: Bid proposed by GE  
**Date:** Wednesday, December 10, 2014 4:48:03 PM  
**Attachments:** [Bid tab-1.xls](#)

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Per our conversation concerning GE Healthcare please see their response below. I have attached revised tab.



**Teresa Livingston**  
Procurement Manager  
803-896-5310(w) | 803-896-5310(f)  
[livingston@sctechsystem.edu](mailto:livingston@sctechsystem.edu)

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**From:** Gray, Sean (GE Healthcare) [<mailto:Sean.Gray@med.ge.com>]  
**Sent:** Tuesday, December 9, 2014 11:19 AM  
**To:** Livingston, Teresa  
**Subject:** RE: Bid proposed by GE

Theresa,

Per our conversation just now, please note that the total equipment cost for the GE equipment (solicitation number 5400008714) is \$184,420. This price includes the de-installation and removal of the current equipment, the installation of the new equipment, training, warranty, and freight.

I apologize for the confusion. Thank you for your assistance and please let me know if you need anything else.

**Sean Gray**  
GE Healthcare  
X-ray Product Sales Specialist

C 215 370 6991  
F 610 903 4833  
E [Sean.Gray@ge.com](mailto:Sean.Gray@ge.com)

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**From:** Gray, Sean (GE Healthcare)  
**Sent:** Wednesday, November 19, 2014 4:19 PM  
**To:** [LivingstonT@sctechsystem.edu](mailto:LivingstonT@sctechsystem.edu)  
**Subject:** Bid proposed by GE

Theresa,

I left you a VM. The attached bid is the only bid that was submitted by GE. Section VIII lists the breakdown of the equipment costs. I also talked to my invitation for bid specialist (Bethany Miles) and she said she had not spoken to you today. Give me a call when you can so we can clear up any confusion.

Thank you

**Sean Gray**

GE Healthcare

X-ray Product Sales Specialist

C 215 370 6991

F 610 903 4833

E [Sean.Gray@ge.com](mailto:Sean.Gray@ge.com)