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Protest Decision

Matter of: Protest of Metropolitan Life Insurance Company

Case No.: 2016-110

Posting Date: October 14, 2015

Contracting Entity: SC Public Employees Benefit Authority

Solicitation No.: PEBA0042015

Description: Provide Claims Administration Services for the Self-Funded State Dental Plan, and Accompanying Insurance for the State's Voluntary Supplemental Dental Product, Dental Plus

Appearances:

David B. Summer, Jr., and Amber L. Carter, of Parker Poe Adams & Bernstein, LLP, for Metropolitan Life Insurance Company

Henry P. Wall and E. Wade Mullins III, of Bruner, Powell, Wall & Mullins, LLC, for SC Public Employees Benefit Authority

Karl S. Bowers, Jr., for Blue Cross and Blue Shield of South Carolina

DIGEST

Under a solicitation requesting proposals to provide claim administration for the State's employee dental insurance, protest challenging evaluators' scoring as arbitrary and capricious, and alleging insufficient documentation of the basis for award is denied.

AUTHORITY

The Chief Procurement Officer¹ conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

DECISION

Metropolitan Life Insurance Company (MetLife) protests the SC Public Employees Benefit Authority's (PEBA's) posting of a Notice of Intent to Award of a contract to Blue Cross Blue Shield of South Carolina (BCBS), to provide claims administration services for the self-funded State Dental Plan, and accompanying insurance for the State's voluntary supplemental dental product, Dental Plus. MetLife's amended letter of protest is incorporated by reference.

[Attachment 1]

The CPO denies the protest.

Findings of Fact

Request for Proposal Issued:	06/24/2015
Amendment 1 Issued	07/20/2015
Amendment 2 Issued	07/24/2015
Bid Opening	08/12/2015
Intent to Award Posted:	09/11/2015
Initial Letter of Protest Received	09/21/2015
Amended Letter of Protest Received	09/30/2015

Background

This Request for Proposals was issued by PEBA on June 24, 2015, under a delegation from the Chief Procurement Officer. Proposals were received from MetLife and BCBS on August 12, 2015. An evaluation panel comprised of four members evaluated and scored the proposals. An Intent to Award to BCBS was posted on September 11, 2015. MetLife filed its initial letter of

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

protest on September 21, 2015 and amended its protest on September 28, 2015. PEBA motioned to dismiss the protest on October 2, 2015. BCBS filed a motion in support of PEBA's motion on October 8, 2015.

Discussion

MetLife's amended protest presents two primary issues of protest supported by secondary issues. The first issue of protest is that the evaluation panel's scores are arbitrary and capricious, thus any award to BCBS is clearly erroneous, arbitrary and capricious, and contrary to law. This issue of protest is supported by an allegation that the procurement officer appears to have provided pricing to the panel members prior to or contemporaneously with the panel's scoring of the Award Criteria 3 and 4, thereby biasing the panel and making the panels scores, unreliable, arbitrary and capricious. This allegation is supported in part by the fact that the scores for price appear on the evaluator's score sheets in the same hand as the scores for the other criteria. In the procurement officer's Affidavit (Attachment 2) Ms. Gillens attests the panel members were not provided with any pricing information or scoring related to the pricing information until they had completed and finalized their scoring. Ms. Gillens oversaw the scoring process and instructed the panel members to fill in the scoring blanks for Award Criteria 1 and 2 based on her calculation of the price scoring. There is no evidence to the contrary in the file and this issue of protest is denied.

MetLife also alleges that on the face of the evaluator score sheets, Evaluator #2's scoring appears to be arbitrary and capricious. Evaluator #2's scoring for MetLife on "Understanding and Approach" and "Background and Qualifications" is substantially lower than the scoring of the other evaluators and is not reflective of Metlife's proposal and qualifications. The solicitation listed four evaluation criteria in relative order of importance. As permitted by the Code, the weights for each criteria were not listed in the solicitation. The Dental Selection Plan in the procurement file indicates that weights were approved by the procurement officer on June 19, 2015. (Attachment 3)

VI. Evaluation Factors for the Proposals

Composite Monthly Dental Plus Plan Premium	32
Fixed Administrative Fee	28
Approach	21
Background and Qualifications	19

The evaluator score sheets indicate that at the time of scoring the weights for criteria 3 and 4 were 25 and 15 accordingly. There is nothing in the file to indicate why or when this change was made.

Composite Monthly Plan Premiums	0-32
Fixed Administration Fee	0-28
Approach and Understanding	0-25
Background and Qualifications	0-15

The CPO takes note that the scoring of these proposals was extremely close with BCBS receiving a total of 372.460points and MetLife receiving a total of 372.100 points. Except for evaluator 4, who scored both companies the same for criteria 4, all evaluators scored BCBS higher than MetLife.

		BCBS		MetLife
Evaluator 1				
Approach and Understanding	0-25	21.300		18.100
Background and Qualifications	0-15	13.500		12.000

Evaluator 2				
Approach and Understanding	0-25	25.000		18.000
Background and Qualifications	0-15	15.000		13.000

Evaluator 3				
Approach and Understanding	0-25	24.000		22.000
Background and Qualifications	0-15	14.500		14.000

Evaluator 4				
Approach and Understanding	0-25	24.000		20.000
Background and Qualifications	0-15	15.000		15.000

Evaluator's scores were within the same range of the other evaluators and there is no indication that those scores were arbitrary or capricious. This issue of protest is denied.

MetLife also notes that it appears that the evaluators in this case were given a Panel Score Sheet that consisted only of a single sheet on which each evaluator recorded the total number of points available in four categories. No instructions appear to have been given to evaluators, nor were any meetings held with the evaluators. The lack of any instructions or methodology to objectively and demonstratively link the points for "Understanding and Approach" and "Background and Qualifications" to meaningful evaluation criteria produced evaluation results that were unsupportable, inconsistent, arbitrary, and capricious. The procurement file indicates that the evaluators were provided and acknowledged the following forms:

Procurement Integrity Representation and Restrictions
Non-Disclosure Agreement – Procurement Information
Evaluation Panel – General Instructions

According to the procurement officer's Affidavit, the evaluation panel did meet to discuss the proposals and evaluation. While evidence of proper notification and minutes of this meeting are attached to the procurement officer's Affidavit, these documents did not appear in the "complete, un-redacted copy of the file for procurement PEBA 0042015" requested by the CPO. The procurement file, as finally revealed, indicates that the evaluation panel was properly instructed and informed. This issue of protest is denied.

MetLife's second issue of protest alleges that the procurement process did not comport with the Procurement Code, and the failure to keep written records denies MetLife of its right to due process. MetLife requested all written determinations, evaluations of responsiveness, ranking of offerors, other findings made by the State in connection with the evaluation and award of this contract, and the evaluator's notes, comments or explanations. The only relevant documents in the procurement file are the evaluator score sheets and the procurement officer's Determinations and Findings. This procurement was conducted under Section 11-35-1530 which requires certain written determinations. The first that is relevant to this protest is Section 11-35-1530(7):

Selection and Ranking. Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the State, considering only the evaluation factors stated in the request for proposals. If price is an initial evaluation factor, award must be made in accordance with Section 11-35-1530(9) below.

(emphasis added) In this case, the rank of the proposals is documented by the evaluator score sheets. In the instructions to the evaluation panel, evaluators were advised not to include comments or documentation of scoring:

No comments or documentation of scoring should appear on the evaluator reports.

[Evaluation Panel – General Instructions, page 5]

The second written determination that might provide information about the evaluation is found in Section 11-35-1530(9) Award:

Award must be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals, unless the procurement officer determines to utilize one of the options provided in Section 11-35-1530(8). The contract file must contain the basis on which the award is made and must be sufficient to satisfy external audit. Procedures and requirements for the notification of intent to award the contract must be the same as those provided in Section 11-35-1520(10).

(emphasis added) The procurement file includes the procurement officer's Determinations and Findings which in pertinent part states:

FINDINGS

Taking into consideration the evaluation factors set forth in the Request for Proposal, the evaluation panel has determined, by independent score, that the proposal submitted by **Blue Cross Blue Shield of South Carolina** to be the most advantageous to the State. No other criteria except those listed in the Request for Proposals were used in this evaluation.

DETERMINATION

Based upon the above findings, it is determined that the competitive sealed proposal award be made to **Blue Cross Blue Shield of South Carolina** as a responsive Offeror whose proposal is the most advantageous to the State price and other factors considered.

In this case the procurement officer relies on the scores of the evaluators as the basis upon which the award is made. This meets the minimum requirements of the Section 11-35-1530(9).

MetLife complains:

Additionally, the lack of supporting documentation essentially creates a situation where an aggrieved offerer is unable to receive meaningful review of the award. Without documentation regarding the evaluation of the proposals, it is impossible to demonstrate that the procurement was conducted in a fair and equitable manner. An aggrieved offeror must have access to all of the documentation in a solicitation relating to the other proposals and the evaluation process to conduct a review of the process. Otherwise, the state is insulated from review and purposes of the Procurement Code are thwarted. *See* S.C. Code Ann. §11-35-20.

While the CPO is sympathetic that a set of score sheets with nothing but numbers and a Determinations and Findings that does nothing more than adopt the numbers on the score sheets lends nothing to the transparency of the public procurement process; no insight into the strengths and weaknesses of each proposal, the extent to which each proposal was scrutinized, the qualifications of the evaluators, etc., the Code does not require evaluators to lend any insight into their scoring. This issue of protest is denied.

Recommendations

Agencies should take note of a January 2005 report to the Legislature by the Legislative Audit Council titled “A Limited-Scope Review of State Purchasing Overseen by the Budget and Control Board,” the LAC observed:

Sections 11-35-1528(8) and 11-35-1530(9) of the South Carolina Code of Laws provide that contract files for best value bid and request for proposal purchases shall contain the basis of awards and must be sufficient to satisfy external audits. While a number score shows that one vendor had a higher score, the basis of the score is not evident. Information on the basis of the score would be beneficial to determine the extent that vendor proposals were analyzed.

Particularly in high value procurements, agencies should be more transparent about the evaluation process by requiring evaluators provide some insight into the points awarded or provide more information in the procurement officer's Determination and Findings than simply adopting the evaluator's numerical scores.

The second area of concern with this procurement is related to the agency's response to requests under the Freedom of Information Act and requests by the Chief Procurement Officer. MetLife complained of making three requests under FOIA for documents related to this procurement and based on the letter of protest, did not receive all the requested documentation. The CPO also requested a "complete un-redacted copy of the procurement file" and repeatedly requested additional documents that were not included in the initial response that were directly related to protest issues. The evaluation panel meeting notice and minutes were not made available to the CPO until PEBA submitted its motion to dismiss to which they were attached. The agency is advised that Section 11-35-410 of the South Carolina Consolidated Procurement Code requires that:

Procurement information must be a public record to the extent required by Chapter 4 of Title 30 (The Freedom of Information Act) with the exception that commercial or financial information obtained in response to a request for proposals or any type of bid solicitation that is privileged and confidential need not be disclosed.

Further, Regulation 19-445.2010 requires that:

If requested in writing by an actual offeror prior to final award, the responsible procurement officer shall, within ten days of the receipt of any such request, make documents directly related to the procurement activity not otherwise exempt from disclosure available for inspection at an office of the responsible procurement officer.

The timely release of information related to the expenditure of public funds is required by the Code and Regulation to provide transparency and protect the integrity of the public procurement process. Failure to comply with these requirements could result in the loss of agency certification to conduct procurements without direct supervision. The CPO will request the audit staff review compliance in future audits.

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The protest is denied.

For the Information Technology Management Office

A handwritten signature in cursive script that reads "Michael B. Spicer".

Michael B. Spicer
Chief Procurement Officer

Attachment 1



David B. Summer, Jr.
Partner
Telephone: 803.253.8910
Direct Fax: 803.255.8017
davidsummer@parkerpoe.com

Charleston, SC
Charlotte, NC
Columbia, SC
Raleigh, NC
Spartanburg, SC

September 28, 2015

Michael Spicer
Chief Procurement Officer
S.C. Budget & Control Board
1201 Main Street, Suite 600
Columbia, S.C. 29201

SEP 28 15 MO 4:30 PM

RECEIVED BID CONTROL

Re: Amended Protest by MetLife of Intent to Award Solicitation No. PEBA0042015, to Provide Claims Administration Services for the Self-Funded State Dental Plan, and Accompanying Insurance for the State's Voluntary Supplemental Dental Product, Dental Plus

Dear Mr. Spicer,

This firm has been retained to represent Metropolitan Life Insurance Company ("MetLife") in connection with the above-referenced solicitation. Pursuant to Section 11-35-4210(1)(b) of the South Carolina Consolidated Procurement Code ("Procurement Code"), MetLife hereby protests the September 11, 2015 Intent to Award issued in favor of the Blue Cross Blue Shield of South Carolina ("BCBS") in the above-referenced solicitation. As an offeror in this procurement, MetLife has standing under Section 11-35-4210 to pursue a protest. MetLife provides this Amended Protest pursuant to Section 11-35-4210(1)(b) of the Procurement Code.

I. Background

On June 24, 2015, the South Carolina Public Employee Benefit Authority ("PEBA") issued Solicitation No. PEBA0042015 to Provide Claims Administration Services for the Self-Funded State Dental Plan, and Accompanying Insurance for the State's Voluntary Supplemental Dental Product, Dental Plus ("Solicitation") as a Request for Proposals ("RFP"). On July 20, 2015, PEBA issued Amendment 1 to the Solicitation, and on July 24, 2015, PEBA issued Amendment 2. Both Amendments responded to questions from offerors. Amendment 2 extended the time for offerors to submit their proposals to August 12, 2015 at 2:30 p.m.

Two offerors responded to the Solicitation: MetLife and BCBS, the incumbent. PEBA published a Statement of Intent to Award to BCBS on September 11, 2015. On September 15, 2015, MetLife submitted a Freedom of Information Act ("FOIA") request to PEBA for all bids, proposals, or other responses to the RFP submitted by bidders other than MetLife, and all written determinations, evaluations of responsiveness, ranking of offerors, or other findings made by the State in connection with the evaluation and award of this contract. PEBA

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responded kindly and promptly to the FOIA request, but the documents provided by PEBA did not include all of the information requested. BCBS's technical proposal was heavily redacted and its financial proposal and the appendices to the technical proposal were completely redacted. Thus, on September 17, 2015, MetLife made a second FOIA request for responsive documents, specifically an unredacted version of the financial proposal, and each evaluator's specific score sheets, notes of analysis and/or explanation of the scoring decision. MetLife requested that if such evaluator documents did not exist, then PEBA confirm that no such materials were created in connection with the Solicitation. In response to this request, PEBA provided the unredacted financial proposal, evaluator score sheets, and other documents. PEBA did not provide the evaluators' notes of analysis nor did it confirm that no such materials were created in connection with the Solicitation. MetLife made a third FOIA request and ultimately received a revised redacted copy of BCBS's technical proposal and a confirmation that the evaluation documents sought did not exist.

Based on a review of the information received from PEBA to date, MetLife hereby protests the intended award to BCBS on the grounds that (1) the evaluators' conduct and scoring is arbitrary and capricious, and (2) the procurement process was flawed and did not comport with the requirements of the Procurement Code.

II. Grounds for Protest

A. The Evaluation Panel's scores are arbitrary and capricious, thus any award to BCBS is clearly erroneous, arbitrary and capricious, and contrary to law.

The scoring in this case is arbitrary and capricious, thus any award to BCBS is clearly erroneous, arbitrary and capricious, and contrary to law. The evaluators' determinations may be overturned if they are "clearly erroneous, arbitrary, capricious, or contrary to law." S.C. Code Ann. § 11-35-2410(A).

As noted earlier, MetLife submitted three FOIA requests to PEBA requesting all written determinations, evaluations of responsiveness, ranking of offerors, other findings made by the State in connection with the evaluation and award of this contract, and the evaluators' notes, comments, or explanations. MetLife requested PEBA confirm whether any such evaluator notes, comments, or explanations were created in this Solicitation, and PEBA stated in response to the third FOIA request that no such evaluator information was created for the Solicitation. Considering that the only substantive information regarding the entire evaluation process for this nearly \$263 million Solicitation is one score sheet for each evaluator with the points awarded for each of the four evaluation criteria filled out by the evaluator, this paucity of information demonstrates that the evaluation of this Solicitation was perfunctory and not in compliance with the Procurement Code. See S.C. Code Ann. § 11-35-1530(5). There is no indication of how each evaluator arrived at the point total for each item and no indication of how or why the Evaluation Panel determined that the BCBS proposal is most advantageous to PEBA. See S.C. Code Ann. § 11-35-1530(7). Importantly, there is a significant question regarding when the points for each category was determined. The weights of the award criteria were not stated in the Solicitation, and no documentation provides when, how, and by whom the point values were determined.

Upon information and belief, the Procurement Officer appears to have provided the offerors' pricing scores to the Evaluation Panel prior to or contemporaneous with the Evaluation Panel's scoring of the "Understanding and Approach" and "Background and Qualifications" criteria, which created a situation where the Evaluation Panel's review of the offerors' proposals

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was not unbiased. See *In Re: Protest of Volume Services; Appeal by Volume Services*, Case No. 1994-8, 1994 WL 16006483, at *3 (S.C. Procurement Rev. Panel Aug. 31, 1994) (stating in an RFP pricing scores are not provided to the evaluation committee, but instead are separately calculated and added to the evaluators' scores for the other criteria). In this case, failing to keep the prices and price scores confidential until after the Evaluation Panel had scored the other two award criteria makes the Evaluation Panel's score unreliable, arbitrary, and capricious. If the Evaluation Panel received the pricing scores prior to evaluating the other criteria, that information could have led to bias in their evaluation of the other criteria, particularly in light of the fact that the MetLife plan will save State of South Carolina active employees and retirees approximately \$10M a year, or nearly \$40M over the life of the contract, over the price proposed by BCBS.

Additionally, on the face of the evaluator score sheets, Evaluator #2's scoring appears to be arbitrary and capricious. Evaluator #2's scoring for MetLife on "Understanding and Approach" and "Background and Qualifications" is substantially lower than the scoring of the other evaluators and is not reflective of MetLife's proposal and qualifications. Evaluator #2 gave BCBS perfect scores on those two sections but rated MetLife unwarrantedly low. Evaluator #2's scoring is arbitrary and capricious or biased, and thus undermines the entire evaluation process.

Further, it appears that the evaluators in this case were given a Panel Score Sheet that consisted only of a single sheet on which each evaluator recorded the total number of points available in four categories. No instructions appear to have been given to evaluators, nor were any meetings held with the evaluators. The lack of any instructions or methodology to objectively and demonstratively link the points for "Understanding and Approach" and "Background and Qualifications" to meaningful evaluation criteria produced evaluation results that were unsupportable, inconsistent, arbitrary, and capricious.

Finally, the lack of documentation and instructions provided to the evaluators and the fact that the pricing scores were written in by the evaluators suggests that the evaluators did not arrive at their judgments independently. Therefore, for all of the above reasons, the evaluators' scoring was arbitrary and capricious.

B. The procurement process did not comport with the Procurement Code, and the failure to keep written records denies MetLife of its right to due process.

As mentioned above, the Procurement Code requires numerous, detailed written determinations of the procurement process to ensure transparency, reliability, and fairness. Given the lack of written determinations and records in this Solicitation, the solicitation process is fundamentally flawed and does not comply with the requirements of the Procurement Code. Additionally, the lack of supporting documentation essentially creates a situation where an aggrieved offeror is unable to receive meaningful review of the award. Without documentation regarding the evaluation of the proposals, it is impossible to demonstrate that the procurement was conducted in a fair and equitable manner. An aggrieved offeror must have access to all of the documentation in a solicitation relating to the other proposals and the evaluation process to conduct a review of the process. Otherwise, the state is insulated from review and purposes of the Procurement Code are thwarted. See S.C. Code Ann. §11-35-20.

III. Relief Requested

For the reasons set forth above, MetLife respectfully requests that the Chief Procurement Officer order that the Statement of Intent to Award to BCBS be rescinded based

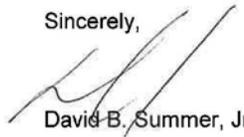
Micheal Spicer
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Page 4

upon the arbitrary and capricious evaluation and the inherent inadequacy of the solicitation process and the contract be awarded to MetLife as the most advantageous to PEBA and the State. Alternatively, MetLife requests that the Statement of Intent to Award be rescinded and the contract re-solicited.

Thank you for your consideration of MetLife's protest. MetLife respectfully requests that the Chief Procurement Officer conduct a hearing in this matter as part of his administrative review. We look forward to hearing from you on this matter.

With best regards, I am

Sincerely,

A handwritten signature in black ink, appearing to read "David B. Summer, Jr.", is written over the typed name.

David B. Summer, Jr.

DBS/abc

disclosure forms to keep the integrity and confidentiality of the RFP process. During briefing, I instructed the panel members that they were responsible for subjectively scoring Award Criteria 3 and 4. They were further advised that I would assign points for cost, determined using a mathematical calculation, for Award Criteria 1 and 2 which would be applied after they concluded their evaluation. The panel members were charged with independently reading each proposal and ensuring that it met the requirements as listed in the Solicitation PEBA0042015.

4. In this particular procurement there were four award criteria.

1. Composite Monthly Dental Plus Plan Premium
2. Fixed Administrative Fee
3. Approach
4. Background and Qualifications

5. After independent evaluation, the panel members scheduled a meeting at an agreed upon date to have discussion regarding their findings and complete the evaluation. The meeting was properly noticed (See **Exhibit 2**) and convened on September 2 (See **Exhibit 3**).

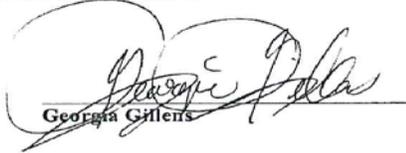
6. At the panel meeting, I provided an overview of the process and the panel members were again instructed that they were responsible for subjectively scoring Items 3 and 4. I further advised the panel members that I would assign points for cost, determined using a mathematical calculation, for items 1 and 2 and those points would be provided only after all discussion had been concluded and after all panel members had finalized and inked their scores. The panel members proceeded with evaluating and scoring award criteria 3 and 4.

7. At no point during the panel members' evaluation and scoring of the proposals did panel members receive any cost or pricing information. In fact, prior to convening the evaluation panel, I engaged in discussions with one of the Offerors pursuant to the Code and

requested that the Offeror remove references to cost from its technical proposal so as not to influence panel members.

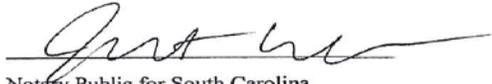
8. Once the panel members had completed their evaluation and provided their independently evaluated scoring for Award Criteria 3 and 4, they "inked their scores" on their respective Panel Score Sheets, signifying their scoring was complete and final. At that point, I provided the panel members the scoring for award criteria 1 and 2 and instructed them to place those scores on the Panel Score Sheet. See Panel Score Sheets attached as **Exhibit 4**. At no point after receiving the scoring for award criteria 1 and 2 were the panel members provided an opportunity to revise or adjust their scoring for award criteria 3 and 4.

FURTHER AFFIANT SAYETH NOT.



Georgia Gillens

Sworn and subscribed before me
this 2nd day of October 2015



Notary Public for South Carolina
My Commission Expires 7/23/17

Attachment 3

AGENCY: South Carolina Public Employee Benefit Authority
PROJECT NUMBER: Solicitation # PEBA0042015
PROJECT NAME: Provide Claims Administration Services for the Self-Funded State Dental Plan, and Accompanying Insurance for the State's Voluntary Supplemental Dental Product, Dental Plus
PROJECT LOCATION: 202 Arbor Lake Drive, Columbia, South Carolina
PROCUREMENT OFFICER: Georgia Gillens, CPPO, CPPB

I. Description of services to be acquired:

It is the intent of the State of South Carolina, S.C. Public Employee Benefit Authority (PEBA), in accordance with all requirements stated herein or attached hereto, to solicit proposals to Provide Claims Administration Services for the Self-Funded State Dental Plan, and Accompanying Insurance for the State's Voluntary Supplemental Dental Product, Dental Plus.

II. ORGANIZATIONAL STRUCTURE

A. Duties of the Procurement Officer:

- Develop the Request For Proposal
- Submit the RFP to the State Procurement Office (SPO) for review and approval
- Review proposals for responsiveness
 - Obtain Clarifications as necessary
 - If necessary and with Chief Procurement Office approval, conduct and maintain a record of discussions
- With the assistance of Procurement Officer from SPO, charge the Selection Committee and manage the Selection Committee meetings
- Assure compliance with FOIA meeting laws
- Compile the final offeror ranking and prepare selection committee recommendation
- Engage in negotiations and maintain record of negotiations
- Submit Notice of Award with supporting documentation to SPO for concurrence
 - Signed Non-Disclosure Agreement – Procurement Information and Procurement Integrity Representations and Restrictions statement
 - Individual committee member's scores and narratives
 - Records of all discussions
 - Record of negotiations

B. Duties of the Selection Committee:

Members of the selection committee will perform the following activities:

- Review submitted proposals
- Evaluate technical proposals and attend presentations
- Make a determination as to which offeror is best qualified to be awarded the project
- The Agency Procurement Officer will be responsible for scheduling all of the meetings and distributing all materials and information
- All communication with the offerors will be through the Agency Procurement Officer only.

C. Selection Committee Members:

The Selection Committee members are:

Name	Voting or Non-Voting Member	Representative of (Agency/Employer)	Role/Position/Title
Allen Register	Non-Voting	SPO Procurement Manager	Procedural Advisor
Denis Hunter	Voting	PEBA	Panel Member
Kevin Crosby	Voting	PEBA	Panel Member
Beth Corley	Voting	Retired	Panel Member
Panelist 4 (Pending)	Voting	School District	Panel Member

All committee members (Voting & Non-Voting) will be required to sign a Non-Disclosure Agreement – Procurement Information, Form and a Procurement Integrity Representations and Restrictions statement.

III. Description of the Solicitation Process, Methodology, and Techniques:

Agency will use a one-step selection process.

A. Advertise the RFP in South Carolina Business Opportunities (SCBO)

1. State the submission requirements
2. State the contract requirements
3. List the evaluation criteria

B. Pre-Proposal Conference for the RFP

1. Agenda
 - a. Welcome/ Introduction
 - b. General Project Information/scope/intent
 - c. Proposed Deadline
 - d. Format of Proposal
 - e. Procedures for questions and substitutions
 - f. Bonds and Insurance
 - g. Questions and Discussions
2. Sign-in sheet

C. Selection Committee review of proposals from offerors:

1. Reference calls:
 - a. Agency procurement officer will make reference checks
 - b. The procurement office will use a standard questionnaire
 - c. The procurement officer will distribute copies of the questionnaire to each committee member for information
2. The procurement officer will conduct a preliminary review of the proposals to determine if any proposal needs clarification. The procurement officer, with the Chief Procurement Officers approval, may conduct discussions with offerors submitting proposals determined to be reasonably susceptible of being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
3. Formal presentations: The Agency may give qualified offerors the opportunity to present orally their proposals to the selection committee.

4. The selection committee members will conduct separate and independent evaluations on the technical proposals.

5. The committee will consolidate and summarize the individual technical evaluations and will analyze the cost proposals to arrive at a consensus on the proposal most advantageous to the State.

G. Negotiations: Selection Committee will recommend the Agency enter into contract negotiations with the highest ranked offeror.

H. After successful negotiation of a contract, submit a request to the State Procurement Office for concurrence in posting a Notice of Award. Include with request:

1. Copy of Contract
2. Copy of selection committee's report and recommendation along with all supporting documentation:
 - o Signed Non-Disclosure Agreement – Procurement Information and Procurement Integrity Representations and Restrictions statement
 - o Individual committee member's scores and narratives
 - o Records of all discussions
 - o Record of negotiations

I. Post Notice of Award and mail copy to all offerors.

VI. Evaluation Factors for the Proposals

Composite Monthly Dental Plus Plan Premium	32
Fixed Administrative Fee	28
Approach	21
Background and Qualifications	19

VI. APPROXIMATE SCHEDULE OF SIGNIFICANT MILESTON EVENTS

SCHEDULE OF KEY DATES IN THE PROPOSAL PROCESS
All dates subject to change

1. Distribution of the Request for Proposal	06/23/2015
2. Questions on the Request For Proposal	07/05/2015
3. (a) Pre-Proposal Conference;	07/08/2015
b) Final Deadline for Submission of All Questions; and,	
(c) Final Deadline for Submission of the Non-Disclosure Agreement (If Applicable)	
4. State's Written Responses to Questions (tentative)	07/10/2015
5. Questions on Amendment 2	07/14//2015
6. Submission and Opening of Proposals (11:30 a.m.)	07/31/2015
7. Intent to Award Posting Date (tentative)	08/17/2015
8. Intent To Award Becomes Official (tentative)	08/27/2015
9. Implementation Plan Due	09/27/2015
10. Contract Performance	01/1/2016

APPROVED BY AGENCY:



(Signature of Agency Approving Authority)

DATE: June 19, 2015

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised September 2015)

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>

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 111.1 of the 2015 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**

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.