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## Protest Decision

**Matter of:** The Whitman Group, LLC dba Dunhill Staffing Systems.

**Case No.:** 2017-110

**Posting Date:** September 20, 2016

**Contracting Entity:** State Fiscal Accountability Authority

**Solicitation No.:** 5400010958

**Description:** State Term Contract for Executive Search Services

### DIGEST

Protest alleging that the apparent successful bidder is not a South Carolina based firm and its price is significantly higher than the protestant is denied. Dunhill Staffing Systems' (Dunhill) letter of protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> 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.

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

## **BACKGROUND**

The State Fiscal Accountability Authority (SFAA) issued this Request for Proposals on May 4, 2016, to establish a statewide term contract for executive search services for key senior level positions and high-level, hard to fill positions, on an as needed basis. Proposals were received from eleven (11) offerors on July 5, 2016. The solicitation stipulated that award would be made to the three (3) highest ranked, responsive and responsible offerors whose offers are determined to be the most advantageous to the State. Intents to Award were posted to Coleman Lew & Associates, Inc., Find Great People, LLC, and Randi Frank Consulting, LLC on September 12, 2016.

<i>Event</i>	<i>Date</i>
Solicitation Issued	05/04/2016
Amendment One Issued	05/31/2016
Amendment Two Issued	06/08/2016
Amendment Three Issued	06/16/2016
Proposals Opened	07/05/2016
Intent to Award Issued	09/12/2016
Protest Received	09/14/2016

## **ANALYSIS**

Dunhill protests the award to Randi Frank Consulting on September 14, 2016, complaining that Randi Frank Consulting is not a South Carolina based firm and its price is significantly higher than Dunhill's price. This Request for Proposal was issued under Section 11-35-1530 of the Code. The solicitation did not limit competition to South Carolina based firms only. A preference for South Carolina Resident Vendors and Contractors is provided for in Section 11-35-1524(C)(1), however this preference is not applicable to solicitations issued under Section 11-35-1530 as follows:

Section 11-35-1524(E)(5): This section does not apply to an acquisition of motor vehicles as defined in Section 56-15-10 or an acquisition of supplies or services relating to construction. This section does not apply to a procurement conducted pursuant to Section 11-35-1550(2)(a) or (b), Section 11-35-1530, or Article 9, Chapter 35.

The fact that Randi Frank Consulting is not a South Carolina based firm is immaterial and this issue of Dunhill's protest is denied.

Dunhill also protests that Randi Frank's price is significantly higher than Dunhill's. The Code requires that award of proposals received in response to a RFP will be made to the responsible offeror whose proposal is determined to be most advantageous to the State as follows:

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 evaluation criteria were clearly stated in the solicitation as follows:

**EVALUATION FACTORS – PROPOSALS (JAN 2006)**

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous.

- A. 40% -DETAILED APPROACH
- B. 40% -EXPERIENCE
- C. 20% -TOTAL PRICE PER FILLED POSITION

[Amendment 2, Page 21]

In addition, the solicitation included an extensive explanation of how the price would be evaluated as follows:

**\* Points for cost will be awarded using the following methodology:**

**Assume the following cost proposals (examples only)**

**Example, Fee to initiate the search:**

Company A: \$6,000  
Company B: \$4,000  
Company C: \$5,000

**Example, Percentage of first year salary:**

Company A. – 20%  
Company B - 22%  
Company C - 25%

**See next page for full example**

**Step 1:**

Company B with a price of \$4,000 is the low offer for fee to initiate the search. Use the low offer of fee to initiate the search and divide each of the other offers of fees to initiate the search into the lower offer coming up with the mathematical calculation to get a percentage. Use this percentage and multiply it by the number of points available for the cost to initiate the search. In this case, 10 points are available for the cost of fee to initiate the search.

Step 1, Part 1: \$4,000 is then divided by each of the cost. The results are as follows:

$$\text{Company A: } \$4,000 \text{ divided by } \$6,000 = .66$$

$$\text{Company B: } \$4,000 \text{ divided by } \$4,000 = 1.00$$

$$\text{Company C: } \$4,000 \text{ divided by } \$5,000 = .80$$

Step 1, Part 2: Use each company percentage and multiply it by the points available (10 points in this example). The results are as follows:

$$\text{Company A: } .66 * 10 = 6.6$$

$$\text{Company B: } 1.0 * 10 = 10$$

$$\text{Company C: } .80 * 10 = 8$$

**Step 2:**

Company A with a percentage of 20% is the low offer for percentage of first year salary. Use the low offer of percentage of first year salary and divide each of the other offers for percentage of first year salary into the lower offer coming up with the mathematical calculation to get a percentage. Use this percentage and multiply it by the number of points available for percentage of first year salary. In this case 10 points are available for percentage of first year salary.

Step 2, Part 1: 20% is then divided by each percentage. The results are as follows:

$$\text{Company A: } .20 \text{ divided by } .20 = 1.00$$

$$\text{Company B: } .20 \text{ divided by } .22 = .9$$

$$\text{Company C: } .20 \text{ divided by } .25 = .8$$

Step 2, Part 2: Use each company percentage and multiply it by the points available (10 points in this example). The results are as follows:

$$\text{Company A: } 1.0 * 10 = 10$$

$$\text{Company B: } .9 * 10 = 9$$

$$\text{Company C: } .8 * 10 = 8$$

**Step 3:** Add points for Steps 1 and 2 for the cost for each Company.

$$\text{Total Price Points Company A: } 6.6 + 10 = \mathbf{16.6}$$

$$\text{Total Price Points Company B: } 10 + 9 = \mathbf{19}$$

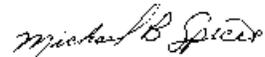
$$\text{Total Price Points Company C: } 8 + 8 = \mathbf{16}$$

The record indicates that price was evaluated in the manner prescribed in the solicitation. Dunhill only protests that Randi Frank's price is higher, not that there was some deviation from the evaluation of price as specified in the solicitation. There is no deviation from the process set forth in the solicitation and no violation of the Code. This issue of protest is denied.

**DECISION**

For the reasons stated above, the protest of The Whitman Group, LLC dba Dunhill Staffing Systems is denied.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

**Attachment 1**

# Dunhill® Staffing Systems

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1459 Stuart Engals Blvd. • Suite 300 • Mt. Pleasant, SC 29464 • 843-375-0031 • 843-375-0035 Fax

September 14, 2016

Chief Procurement Officer  
State of South Carolina  
SFAA, Div. of Procurement Services, MMO  
1201 Main Street, Suite 601  
Columbia SC 29201

We are protesting the award of the following contract awarded under solicitation 5400010958

Contract number: 4400014029  
Randi Frank Consulting LLC  
7 Promontory Dr.  
Wallingford CT 06492

**Basis for protest:**

1. This firm is not based in South Carolina and lists no past clients in our state
  - a. Dunhill Staffing Systems, headquartered in South Carolina, has a substantial track record providing recruiting services to many state agencies and South Carolina based companies.
2. Their pricing is significantly higher than the pricing offered by Dunhill Staffing Systems.
  - a. Dunhill's proposed initial fee \$1,500 is a \$13,500 savings to SC taxpayers
  - b. Dunhill's proposed recruiting fee is 17.5% a 2.5% reduction in fee

Assuming the placement of an individual earning \$70,000

Randi Frank's initial search fee	= \$15,000
Dunhill's fee	= \$1,500
SAVINGS	= \$13,500

Total fee difference                      = \$1,750 tax payer savings

Dunhill's recruiting expertise is as extensive as this awardee's, which lists no clients in our region, and is provided at a large initial fee discount to the tax payers of South Carolina.

**Requested resolution:**

Add Dunhill to the list of approved Executive Search Services providers

Sincerely,



Katie W. Henderson CPC  
Executive Vice President

**Professional Search • Temporary Staffing**

[www.dunhillstaff.com](http://www.dunhillstaff.com)

**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.

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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 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**

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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.**