

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

In the Matter of:
Request for Cancellation of Award Prior
to Performance:

WRITTEN DETERMINATION

Greenville Technical College

POSTING DATE: 3/13/2015

Solicitation No. GTC 14-09-140RFP
Production of TV Commercials

This matter initially came before the Chief Procurement Officer (CPO) pursuant to an email dated 3/2/2015 from B. J. Hart-Landers with Greenville Technical College (GTC) asking the CPO to cancel GTC's award for Solicitation Number GTC 14-09-140RFP prior to performance under authority of S.C. Code Ann. Reg. 19-445.2085(C)(7), administrative error of the purchasing agency discovered prior to performance. A copy of GTC's email is attached.

As justification for GTC's request, Ms. Hart-Landers wrote,

I made a mathematical error when calculating the scoring totals for GTC 14-09-140RFP: Production of TV Commercials. I discovered the error prior to any performance of work.

I discovered the mathematical error on January 22, 2015 as I was organizing the folder for filing. I immediately notified the Greenville Tech Marketing Department and Williamson Evans, the awardee.

Filming of the commercials was projected to begin later this month at the earliest. No contract performance or preparation of contract performance was discussed by our Marketing Department and Williamson Evans prior to the discovery of the error.

This procurement is a small purchase made under the provisions of S.C. Code Ann. § 11-35-1550(2)(c). When a request for proposal process is used, Section 11-35-1550(2)(c) requires that the award be made to the highest ranked offeror. Regulation 19-445.2085(C) authorizes cancellation of an award prior to performance reading:

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (3) The supplies, services, information technology, or construction being procured are no longer required;
- (4) The invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;
- (5) Bids received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the bids were invited;
- (6) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith;
- (7) Administrative error of the purchasing agency discovered prior to performance, or
- (8) For other reasons, cancellation is clearly in the best interest of the State.

Taken together, these provisions authorize the Chief Procurement to cancel an award of a contract before performance begins, when a compelling reason exists and one or more of the grounds listed in the Regulation are present.

DISCUSSION

On or about October 7, 2014, GTC advertised for proposals to produce television commercials. By the time for receipt of proposals, GTC received five proposals. An evaluation committee of five evaluators evaluated and ranked the proposals. Ms. Hart-Landers totaled the scores of the evaluators for each offeror and determined that Sundown Sound Studios, Inc., DBA Williamson Evans, was the highest ranked offeror with a score of 516 points. On December 5, 2014, GTC posted an award to Williamson Evans. However, Ms. Hart-Landers subsequently discovered that in calculating Williamson Evans score, she made a mathematical error by adding the score of one of the evaluators twice. This error inflated Williamson Evans' score by 79 points. Correction of this error shows that Williamson Evans' actual score was 437 and that they were not the highest ranked offeror since TVP Studios had a score of 444.

These factors combine to furnish a compelling reason to cancel the award to Williamson Evans. Consequently, the CPO finds that GTC's request to cancel the award prior to performance should be granted.

DETERMINATION

For the foregoing reasons, GTC's request to cancel the award to Williamson Evans is granted; and the solicitation is remanded to GTC to proceed in accordance with the consolidated Procurement Code.



John St. C. White
Interim Chief Procurement Officer
For Supplies and Services

13 March 15
Date

Columbia, S.C.

STATEMENT OF RIGHT TO FURTHER 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.

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 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 S.C. Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6), 11-35-4330, 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**

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.

Singh, Anastasia

From: White, John
Sent: Thursday, March 12, 2015 1:06 PM
To: Singh, Anastasia
Subject: FW: Cancellation of Award for Greenville Tech
Attachments: GTC_14-09-140RFP_TV_Commer_Award.pdf; TVP Studios Score Sheets; Williamson Evans Score Sheets; GTC 14-09-140RFP Scoring Summary.docx; GTC 14-09-140RFP Scoring SummaryB.docx; RE: Math error of TV Commercial Scoring!!!!; RE: GTC 14-09-140RFP-contract on hold; RE: GTC 14-09-140RFP TV Commercials-additional info request

FYI

From: BJ.Landers@gvltec.edu [<mailto:BJ.Landers@gvltec.edu>]
Sent: Monday, March 02, 2015 11:57 AM
To: White, John
Cc: Aycock, Jimmy; Warren, Lane
Subject: Cancellation of Award for Greenville Tech

John,
I made a mathematical error when calculating the scoring totals for GTC 14-09-140RFP: Production of TV Commercials. I discovered the error prior to any performance of work. I consulted the Consolidated Procurement Code and Regulations. The process of a Cancellation of Award is addressed differently in the Code versus the Regulations.

According to 11-35-1520 (7) Correction or Withdrawal of Bids; Cancellation of Awards – Except as otherwise provided by regulation, all decisions to permit the correction or withdrawal of bids, or to cancel awards or contracts, after award but before performance, must be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency.

According to 19-445.2085 (C) Cancellation of Award Prior to Performance – After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing that:

(7) Administrative error of the purchasing agency discovered prior to performance,

I interpreted 11-35-1520 (7) to mean the head of Greenville Tech's purchasing agency could approve a written determination of the need to cancel the award. However, since the Chief Procurement Officer is in capital letters in 19-445.2085 (C), I understood that to mean a Chief Procurement Officer from the State Procurement Office had to make the cancellation.

I sought guidance from the Audit and Certification Department and was advised to submit a written determination to you requesting cancellation of the award for GTC 14-09-140RFP: Production of TV Commercials (Contract amount \$18,000.00).

Chain of events:

I discovered the mathematical error on January 22, 2015 as I was organizing the folder for filing. I immediately notified the Greenville Tech Marketing Department and Williamson Evans, the awardee.

The second highest ranked offeror, TVP Studios, was contacted by phone and email (January 23, 2015) to request additional financial information. TVP Studios was in the process of moving. Their fiscal information was mailed via USPS, postmarked 1/29/15. I received through intercampus mail 2/2/15 and delivered to Lisa Mangione for her

review. Lisa Mangione has determined that the fiscal integrity of TVP Studios is acceptable and we can award to TVP Studios.

With the cancellation of the award to Williamson Evans, I intend to confirm and possibly negotiate pricing of Commercial End Tags with TVP Studios and proceed to award. Our Marketing Department had planned to film the commercials outdoors on the Greenville Tech campus. Filming of the commercials was projected to begin later this month at the earliest. No contract performance or preparation of contract performance was discussed by our Marketing Department and Williamson Evans prior to the discovery of the error.

The solicitation and related documents are posted at http://gvltec.edu/template_purchasing.aspx?id=4473&tid=4501ertiary.aspx under current postings. Please let me know if you need copies of other documents or more information.

Attachments:

Statement of Award

Score sheets in question w/calculator tape documenting the mathematical error

Original Scoring Summary

Scoring Summary B (with corrections noted)

Email notification to end using department

Email to Williamson Evans

Email to TVP Studios-fiscal responsibility info needed

Thank you,

B J Hart-Landers | Procurement

Greenville Technical College

PO Box 5616, MS 1236 | Greenville SC 29606-5616

Phone: 864-250-8417 | Fax 864-250-8821

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Proposal Scoring Summary

Solicitation Description: Production of TV Commercials

GTC 14-09-140RFP Final Scoring – November 20, 2014

	Evaluator #1	Evaluator #2	Evaluator #3	Evaluator #4	Evaluator#5	Total	Ranking
	A Mathis	J Friesen	K Sayers	M Porter	T Brooks		
Williamson Evans	84	79	90	92	92	516	1
TVP Studios	90	79	94	94	87	444	2
Crawford Strategy	66	76	76	67	85	370	3
Winkur Productions	71	70	74	78	75	368	4
Dark Corner	60	61	65	59	87	332	5

1/22/15 – RECHECK OF SCORING SUMMARY TOTALS REVEALED MATHEMATICAL ERROR IN THE CALCULATION FOR WILLIAMSON EVANS. ACTUAL TOTAL FOR WILLIAMSON EVANS: 84 + 79 + 90 + 92 + 92 = 437.

SCORING TOTAL FOR ALL OTHER OFFERORS IS CORRECT.

HIGHEST RANKED OFFEROR IS TVP STUDIOS WITH A SCORING TOTAL OF 444.

NEW SCORING SUMMARY WILL BE PREPARED.

B J Hart-Landers

Proposal Scoring SummaryB – SCORING CORRECTION OF WILLIAMSON EVANS TOTAL (TO 437)

Solicitation Description: Production of TV Commercials
 GTC 14-09-140RFP Final Scoring – November 20, 2014
 GTC 14-09-140RFP **Scoring Correction – January 22, 2015**

	Evaluator #1	Evaluator #2	Evaluator #3	Evaluator #4	Evaluator#5	Total	Ranking
Williamson Evans	84	79	90	92	92	437	2
TVP Studios	90	79	94	94	87	444	1
Crawford Strategy	66	76	76	67	85	370	3
Winikur Productions	71	70	74	78	75	368	4
Dark Corner	60	61	65	59	87	332	5

**1/22/15 – Original Scoring Summary contained mathematical error of total for Williamson Evans . (Originally 516.)
 ACTUAL TOTAL FOR WILLIAMSON EVANS: 84 + 79 + 90 + 92 + 92 = 437.**

SCORING TOTAL FOR ALL OTHER OFFERORS IS CORRECT.

HIGHEST RANKED OFFEROR IS TVP STUDIOS WITH A SCORING TOTAL 444

B J Hart-Landers