

**STATE OF SOUTH CAROLINA  
COUNTY OF RICHLAND**

In the Matter of Protest of:

Kelmscott Communications

RFP No. USC-RFP-2353-MR  
Provide Undergraduate Admissions,  
Student Search Fulfillment and Rapid  
Response Program for the  
Aiken Campus

**BEFORE THE CHIEF PROCUREMENT OFFICER**

DECISION

CASE NO.: 2013-105

POSTING DATE: March 19, 2013

MAILING DATE: March 19, 2013

This matter is before the Chief Procurement Officer (CPO) pursuant to an undated letter submitted to the Chief Procurement Officer (CPO) February 1, 2013 by Kelmscott Communications (Kelmscott). With this request for proposals (RFP), the University of South Carolina (USC) attempts to procure an Undergraduate Admissions, Student Search Fulfillment, and Rapid Response Program for its Aiken Campus. Following evaluation of proposals, USC posted an award to Royall & Company (Royall). Kelmscott protested the award alleging (a) unlike Royall, “Kelmscott was not provided that opportunity” (to present its product); (b) unlike Royall who “was fully involved in the pre-RFP process”, USC did not make Kelmscott aware of the solicitation “until 12 days after it had been posted;” (c) an article referenced in the RFP was researched by Royall and only available from its website; (d) “it is not financially feasible to accurately determine the response and what fulfillment would be on the response;” (e) Kelmscott’s bid was much lower; and (f) “USC-Aiken and the RFP did not provide a fair opportunity for all interested vendors.”

On February 12, 2013, Scott Voris, President and CEO of Kelmscott, submitted a second letter to the CPO writing, “Kelmscott is withdrawing our letter of protest” after Kelmscott had been assured by USC that the “solicitation would be reposted.” The CPO forwarded Mr. Voris’ letter to Venis Manigo, USC Director of Purchasing, who affirmed Mr. Voris’ understanding, writing, “Yes, if you will allow us to cancel prior to performance. We believe some of our specifications may have been ambiguous and plan to significantly revise them and re-issue, making sure that Kelmscott is notified as soon as we reissue.” The CPO inquired further with Ms. Manigo asking, “Have you talked with the awarded offeror?” Ms. Manigo responded, “We are talking to the awarded offeror now.”

On February 14, 2013, Charles Johnson, USC Procurement Manager, wrote the CPO, “The University has determined that the award in reference to USC-RFP-2353-MR for Undergraduate Admissions Student Search Fulfillment and Rapid Response Program for the Aiken Campus was in error” . . . “the points for cost were not properly evaluated . . . “We have discussed this with Royall and they have agreed that it is in the best interest of all parties to cancel the solicitation/award and revise the specifications.”

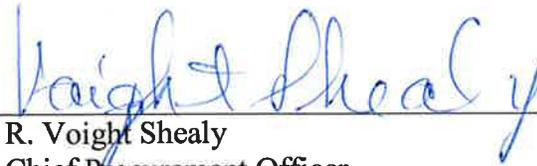
On February 25, 2013, Leslie Collins of Royall wrote in an email to Ms. Manigo, “Royall is willing to forego the award and agree to the rebid of USC-RFP-2353-MR Undergraduate Admissions Student Search Fulfillment and Rapid Response Program for the Aiken campus.”

On February 26, 2013, Ms. Manigo forwarded Ms. Collins’ email to the CPO and reaffirmed USC’s request that the CPO cancel the award to Royall and authorize a rebid.

#### **DETERMINATION**

Kelmscott timely protested USC’s award to Royall, and requested relief in the form of resolicitation. USC acknowledged the validity of at least part of Kelmscott’s protest, and requested the CPO authorize resolicitation. Royall, the apparent successful offeror, has agreed

the contract should be resolicited. In the absence of dispute over either the ground(s) of protest or the relief requested, the protest of Kelmscott is granted.



R. Voight Shealy  
Chief Procurement Officer  
For Supplies and Services



Date

Columbia, S.C.

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Protest Appeal Notice (Revised January 2013)*

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 83.1 of the 2012 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 202, 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.**