

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

In Re: Protest of Salters Property
Management Group, LLC.

CASE NO.: 2015-115

Protest of Intent to Award to Palmetto
Construction & Renovations for Property
Management Services for the Department
of Probation, Parole, & Pardon Services,
Solicitation No. 5400008075

POSTING DATE: October 17, 2014

MAILING DATE: October 17, 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 is for Property Management Services for the Department of Probation, Parole, & Pardon Services (PPP). Salters Property Management Group, LLC (Salters) protests the intended award of a contract to Palmetto Construction & Renovations [Attachment 1]. The Chief Procurement Officer¹ issues this ruling without a hearing.

Findings of Fact

Invitation For Bids Published:	06/30/2014
Intent to Award Posted:	10/03/2014
Protest Received	10/10/2014
Intent to Award Suspended	10/13/2014

Discussion

Salters protests that the solicitation included Attachment A which contained proprietary information about Salters' business model, and property management best practices and property management services and maintenance guidelines. Rather than bidding on its own, or State defined, best practices, business model and property management services, each bidder was asked to bid on Salters' property management services outlined in Attachment A. Salters protests that this created an unfair competitive bidding advantage.

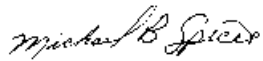
¹ The Interim Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

Section 11-35-4210(1)(b) grants any actual bidder the right to protest the award or intended award of a contract, “except that a matter that could have been raised pursuant to (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract” (emphasis added). Salters was aware at the time the solicitation was issued that Attachment A was included and that the other bidders would be submitting bids using those requirements. Salters should have protested at the time the solicitation was issued.

Determination

The Chief Procurement Officer lacks jurisdiction to address issues related to the solicitation as a protest of the award. Protest denied.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised June 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.

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 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.

Salters Property Management Group, LLC

PROTEST OF INTENT TO AWARD State of South Carolina Property Management Services Solicitation Number: 5400008075



Organization: Salters Property Management Group, LLC

Address: 7101 Parklane Road
Suite C
Columbia, SC 29223

Phone: Columbia: 803-419-5011

Email: keith.salters@yahoo.com

Fax: 803-419-5012

PROTEST OF INTENT TO AWARD

Solicitation: #5400008075

Contract: #4400009374

To: Chief Procurement Officer
Materials Management Office

GRIEVANCE

In accordance with the protest guidelines for an intent to award outlined in the PROTEST section of the Solicitation #5400008075 Property Management Services, this document will address the grievances of Salters Property Management Group LLC (SPMG) - State Vendor #7000211902, as it relates to the Intent to Award posted on the SC Budget & Control Board's SC Procurement website (<http://www.mmo.sc.gov/PS/PS-index.phtm>) on 10/03/2014.

The Intent to Award for Contract #4400009374 was awarded to Palmetto Construction & Renovations (State Vendor #7000129985). Salters Property Management Group LLC hereby submits the following grievances:

1. The Solicitation #5400008075 Property Management Services, was submitted to the SC Budget & Control Board's SC Procurement on 06/27/2014. Attachment A included in the Solicitation is the proprietary property of Salters Property Management Group LLC. The Attachment A consisted of a schedule of Best Practices, Preventative Maintenance, and a Schedule of Duties for the following:
 - i. Preventative Maintenance
 - ii. Landscaping Maintenance & Services
 - iii. Corridor & Entrance Care
 - iv. Office, Conference Room & Dorms
 - v. Classroom Cleaning
 - vi. Restroom Cleaning & Services
 - vii. Heating & A/C Unit Maintenance
 - viii. Building Maintenance

As the proprietary property of Salters Property Management Group LLC, Attachment A was taken without consent of SPMG and included in the Solicitation #5400008075. As Attachment A is referenced (MAINTENACE AND OPERATIONS section) in the Solicitation, each bidding vendor was then required to bid on the property management services outlined in Attachment A that was the proprietary property of SPMG. This inclusion of Attachment A (the proprietary property of SPMG), was done so without our consent, consequently created an unfair competitive bidding advantage. As such, each bidding vendor submitted bids based on Attachment A in the Solicitation #5400008075. Attached A is the proprietary property of SPMG, which is our business model, and property management best practices and property management services and maintenance guidelines. Other bidding vendors should have used their own best practices, business model and property management services, and not those of SPMG. Additionally, the State should have submitted their own list of best practices and property management services of all vendors to bid against, creating a fair bidding marketplace among the vendors.

PROTEST OF INTENT TO AWARD

Solicitation: #5400008075
Contract: #4400009374

RELIEF REQUESTED

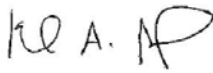
Salters Property Management requests:

1. Termination of the grant of the contract to Palmetto Construction and Renovations;
2. Grant of the contract to Salters Property Management Group, LLC;
3. A neutral panel fair hearing if Items 1 and 2 are not granted.
4. Compensation for loss of profits, use of Salters Property Management Group, LLC's proprietary information and document, attorney fees and costs.

Thank you for your fair consideration of this protest.

Sincerely,

Keith A. Salters



President

Salters Property Management Group, LLC