

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

In Re: Protest of Carolina Collegiate Federal
Credit Union

CASE NO. 2015-154

Protest of Solicitation No. USC-RFP-2779-
CJ for a License to Operate a Financial
Service Center to be located in the Russell
House University Union (RHUU)

POSTING DATE: June 3, 2015

MAILING DATE: June 3, 2015

The South Carolina Consolidated Procurement Code (the Code) 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 as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract. S.C. Code Ann. § 11-35-4210(1)(b). This solicitation was issued by the University of South Carolina (USC) for a License to Operate a Financial Service Center to be located in the Russell House University Union (RHUU). Carolina Collegiate Federal Credit Union (CC) timely protests the intended award of a contract to Founders Federal Credit Union (Founders). [Attachment 1] The Chief Procurement Officer¹ held a hearing on the issues on May 28, 2015. Appearing at the hearing was CC represented by Jeremy C. Hodges, Esquire; Founders represented by John E. Schmidt, III, Esquire; and USC, represented by George W. Lampl, III, Esquire.

Findings of Fact

Request for Proposals Published:	03/23/2015
Amendment 1 Issued	03/30/2015
Intent To Award Issued	04/27/2015
Protest Received	05/07/2015

Discussion

The USC sought to license space in the Russell House University Union to a Financial Institution to provide a financial service center to primarily serve the needs of students, faculty and staff. Basic services such as check cashing, making change, trading out bills, and cash banks were to be available to any visitors to the Russell House while students, faculty, and staff should be able to open checking, savings and other accounts. The financial institution must also partner with academic and service departments on campus to provide educational experiences and course credit (as well as life skills) for students who may work in the facility as well as support of the Russell House University Union student employment

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

program. Proposals were received from a number of financial institutions including CC, the incumbent, and Founders. Founders was determined the highest ranked responsive and responsible offeror and USC issued an Intent to Award to Founders on April 27, 2015.

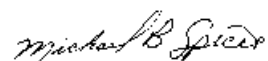
CC and Founders are federally chartered credit unions governed by National Credit Union Administration (NCUA). NCUA grants charters to credit unions to serve a specific group or groups of people based on occupational, association or community similarities. The group or groups that a credit union may serve are defined in, and limited to, those identified in the credit union's charter as its field of membership. While credit unions can cash checks, make change, trade out bills, provide cash banks and provide educational opportunities to the general public, account services such as checking accounts, saving accounts, loans, etc., can only be offered to members of the credit union. In order to become a member of a credit union one must belong to at least one of the groups defined in the credit union's field of membership.

CC protests that Founders' field of membership does not include students, faculty, and staff of the University of South Carolina's Columbia campus rendering it ineligible for award. Founders testified that it has over 1,600 groups defined in its field of membership to include USC Lancaster, USC Union, USC Upstate, Friends of the Lancaster County Library, and the Palmetto State Teachers Association. According to undisputed testimony, any teacher or student in South Carolina can join the Palmetto State Teacher's Association thereby become eligible to join Founders. Again according to undisputed testimony, anyone can join the Friends of the Lancaster County Library and thereby become eligible to join Founders.² Additionally, CC testified that it had not reviewed all 1,600 groups in Founders' field of membership and thus could not attest with certainty that the faculty, students, and staff of the University of South Carolina Columbia campus were not included in one of those groups.

Determination

Carolina Collegiate has failed to prove that Founders cannot offer banking services to the faculty, students, and staff of the University of South Carolina Columbia campus. Protest denied.

For the Information Technology Management Office



Michael B. Spicer
Chief Procurement Officer

² Founders testified that it would pay the initial membership fee for any USC Columbia faculty, staff, or student to join the Friends of the Lancaster County Library if they wanted to become a member of Founders and were not otherwise covered by Founders' fields of membership.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW
Protest Appeal Notice (Revised October 2014)

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 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 for 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.



May 7, 2015

Mike Spicer, Chief Procurement Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, SC 29201

Re: Protest to Intent to Award Solicitation Number: USC-RFP-2779-CJ
Description: License to Operate a Financial Service Center to be Located in the Russell House
University Union (RHUU)

Dear Mr. Spicer:

Carolina Collegiate Federal Credit Union is filing a formal protest on the intent to award the USC-RFP-2779-CJ to Founders Federal Credit Union.

The grounds of our protest are based upon the fact that neither Founders Federal Credit Union nor Safe Federal Credit Union has the required field of membership listing within their federal charters. Therefore, Founders Federal Credit Union and Safe Federal Credit Union are ineligible to bid.

The relief requested by Carolina Collegiate Federal Credit Union is to disqualify both Founders Federal Credit Union and Safe Federal Credit Union and to award the RFP to Carolina Collegiate Federal Credit Union, the only qualified remaining bidder.

RFP Requirements:

On page 11 of the original Request for Proposal USC-RFP-2779-CJ under "Scope of Work", the financial service center is to "primarily serve the needs of students, faculty and staff" of the University of South Carolina.

On page 13 of USC-RFP-2779-CJ under "Qualifications of Financial Institutions Submitting Proposals", it states "To be qualified to respond to the RFP, the Financial Institution must be one holding proper charters and Licenses from all state and federal regulatory authorities, and must be a federally insured depository institution."

Explanation of Field of Membership Section of Charter:

In order to join a credit union, potential members must be part of a federally approved field of membership, which is typically based on one's employment, geographic community, or membership in an association or organization.

Every credit union is limited by federal regulation as to who they may serve as defined by their federally approved field of membership section in their charter.

Our federal regulator, the National Credit Union Administration (www.ncua.gov), must approve all fields of membership as an amendment to the credit union's federal charter, including geographic areas, associations, and employers, that a credit union serves.

Definitions of credit union, charter, common bond and field of membership are defined in the code of federal regulations. The Code of Federal Regulations (CFR) annual edition is the codification of the general and permanent rules published in the Federal Register by the departments and agencies of the Federal Government produced by the Office of the Federal Register (OFR) and the Government Publishing Office.

Under Title 12, Chapter VII, Subchapter A, Part 701, Appendix B, Chapter 1, Section II Types of Charters, it states:

"The Federal Credit Union Act recognizes three types of federal credit union charters—single common bond (occupational and associational), multiple common bond (more than one group each having a common bond of occupation or association), and community."

Within the same document under Chapter 1, Section XI – Field of Membership Designation, it states:

"Multiple Common Bond: If a credit union serves more than one group, each of which has a common bond of occupation and/or association, it will be designated as a multiple common bond credit union."

Within the same document under Appendix 1 Glossary, it defines the following important terms:

"Charter – The document which authorizes a group to operate as a credit union and defines the fundamental limits of its authority, *generally including the persons the credit union is permitted to accept for membership*. Charters are issued by the National Credit Union Administration for federal credit unions and by the designated state chartering authority for credit unions organized under the laws of that state."

"Common bond – The characteristic or combination of characteristics which distinguishes a particular group of persons from the general public. There are two common bonds which can serve as a basis for a group forming a federal credit union or being included in an existing federal credit union's field of membership: occupational – employment by the same company, related companies or in a trade, industry, or professions (TIP); and associational – membership in the same association."

"Credit Union – a member-owned, not-for-profit cooperative financial institution formed to permit those in *the field of membership specified in the charter* to save, borrow, and obtain related financial services."

"Field of membership – The persons (including organizations and other legal entities) a credit union is *permitted* to accept into membership."

Founders Federal Credit Union Field of Membership

Founders Federal Credit Union is a federally chartered credit union with a multiple common bond field of membership.

Within the Founders Federal Credit Union 2014 Annual Report, their auditing firm, Orth, Chakler, Murnane and Company, CPAs Independent Auditor's Report page 9, note 1, it is noted that "Participation in the Credit Union is limited to those individuals who qualify for membership."

On Founders Federal Credit Union's website (foundersfcu.com) under "Become A Member" and then "Open My Account", there are several drop down menus that enable potential members to verify their membership eligibility. None of these drop down menus lists the University of South Carolina Columbia campus.

Under "Scope of Work" within the RFP, the financial service center is to primarily serve the needs of students, faculty and staff of the University of South Carolina. Founders Federal Credit Union does not have the federal regulator's approval to serve all students, faculty, and staff of the University of South Carolina's Columbia campus. Therefore Founders Federal Credit Union does not qualify to bid on this RFP.

Safe Federal Credit Union Field of Membership:

Safe Federal Credit Union presented a bid on USC-RFP-2779-CJ and did not win the bid. Safe Federal Credit Union is also a multiple common bond credit union with the additions of service to low income designed census tracts.

On Safe's website at www.safefed.org/membership/corporate-partners a list of Safe's select employee groups can be found. A listing of the University of South Carolina Columbia campus students, faculty and staff is not included.

Also on their website is a listing of Richland County and Lexington County approved census tracts and the core census tract of the University of South Carolina is not listed. The University's main locations are in census tracts 28.00, 29.00, 30.00, and 31.00. The relevant section of Safe Federal Credit Union's charter does not include census tract 29.00, 30.00, and 31.00 but does include 28.00.

Under "Scope of Work" within the RFP, the financial service center is to primarily serve the needs of students, faculty and staff of the University of South Carolina. Safe Federal Credit Union does not have the federal regulator's approval to serve all students, faculty, and staff of the University of South Carolina's Columbia campus. Therefore, Safe Federal Credit Union does not qualify and is ineligible to bid on this RFP.

Carolina Collegiate Federal Credit Union Field of Membership:

Carolina Collegiate Federal Credit Union was founded in 1967 by a group of University of South Carolina employees who believed in the philosophy of not-for-profit financial services cooperatives where the members were the owners. We are proud to continue this tradition of commitment today and have become one of the most financially secure and innovative credit unions in the state of South Carolina.

As detailed in our charter, Carolina Collegiate Federal Credit Union is a multiple common bond credit union with a field of membership that includes the following:

"Employees of the University of South Carolina who work in Columbia, Beaufort, Sumter, Conway, Spartanburg, Union, Lancaster, Aiken, and Allendale, South Carolina";

"Employees of those contractors who work regularly on the premises of the University of South Carolina and Coastal Carolina University and its locations in Columbia, Beaufort, Sumter, Conway, Spartanburg, Union, Lancaster, Aiken, and Allendale, South Carolina."

"Students enrolled in the University of South Carolina located in Columbia, Beaufort, Sumter, Spartanburg, Union, Lancaster, Aiken and Allendale, South Carolina."

Under "Scope of Work" within the RFP, the financial service center is to primarily serve the needs of students, faculty and staff of the University of South Carolina. Carolina Collegiate Federal Credit Union does have the federal regulator's approval to serve all students, faculty, and staff of the University of South Carolina's Columbia campus. Therefore, Carolina Collegiate Federal Credit Union is the only bidder that has the required field of membership in its Federal Charter and is the only one of the three financial institutions that is qualified to bid on this RFP.

Freedom of Information Act:

Carolina Collegiate Federal Credit Union has not received all RFP responses and documents as requested under the FOIA. All documents were requested on Tuesday, April 28, 2015 with repeated follow up. In particular, Carolina Collegiate has not received the final negotiated agreement between Founders Federal Credit Union and the University of South Carolina. This document was specifically requested on Thursday, April 30, 2015. Without all related responses and agreements to review, any additional grounds for protest could not be determined.

Carolina Collegiate Federal Credit Union requests the ability to amend, if necessary, our protest to include any added grounds that may be determined upon the review of this document.

Conclusion:

The Financial Service Center, as outlined in USC-RFP-2779-CJ, is to primarily serve the needs of students, faculty and staff of the University of South Carolina. A qualified bidder must have the legal ability to serve the students, faculty, and staff of the University of South Carolina Columbia campus under its charter.

Therefore, we respectfully request that Founders Federal Credit Union and Safe Federal Credit Union be disqualified from bidding on USC-RFP-2779-CJ. The RFP should be awarded to Carolina Collegiate Federal Credit Union, the only bidder federally authorized to serve the students, faculty, and staff of the University of South Carolina Columbia campus.

Please contact me at 803-227-5526 or 803-351-0701 for added discussion.

Sincerely,



Anne Shivers
President/CEO
Carolina Collegiate Federal Credit Union

Attachments included with this protest are:
USC-RFP-2779-CJ
Part 701 of the Code of Federal Regulations
Founders Federal Credit Union Field of Membership
Safe Federal Credit Union Field of Membership
Carolina Collegiate Federal Credit Union Field of Membership
University of South Carolina Census Tract Map
Safe Federal Credit Union Census Tract Codes