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W. BRIAN WHITE
CHAIRMAN, HOUSE WAYS AND MEANS

Written Determination

Matter of: Cancellation of Award to Audi Group

Case No.: 2017-108

Posting Date: August 26, 2016

Contracting Entity: SC State Housing Finance and Development Authority

Solicitation No.: 5400010514

Description: Background Check Services

This matter is before the Chief Procurement Officer for Information Technology¹ (CPO) pursuant to a request from the South Carolina State Housing Finance and Development Authority (Housing) [Ex. 1] under the provisions of §11-35-1520(7) of the South Carolina Consolidated Procurement Code (Code) and Regulation 19-445.2085(C) to cancel an award to Audi Group (Audi) for the provision of background information verifications for the Human Resources and Voucher Areas at SC State Housing Finance & Development.

BASIS FOR THE REQUEST

Housing issued solicitation 5400010514 for background information verifications on November 11, 2015 and issued an Award to Audi Group on February 29, 2016. The solicitation required Civil Court Records Search, Credit Reports, Criminal Records Check, County Criminal Records

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

Search, State Criminal Records Search, Federal Criminal Records Search, Sex Offender Registry Search, Sanctions, Risk & Compliance Checks, Employment & Reference Verifications. The background check needs to be a national level check that includes sex offender registry and that would gather information from the municipal court level up and include information from the preceding five years. After award but prior to performance it was determined that the price bid by the Audi Group did not include the full requirements for the criminal background checks required by the solicitation. Housing requests cancellation of the award prior to performance in accordance with Regulation 19-445.2085(C)

The solicitation required pricing to conduct two types of criminal records checks, one including misdemeanor traffic violations and one excluding misdemeanor traffic violations. The search was to include a search of County Criminal Records, State Criminal Records, Federal Criminal Records, and the Sex Offender Registry (Using the Dru Sjodin National Sex Offender database). Audi bid \$8.00 to conduct both types of searches. A Statement of Award was posted to Audi Group. (Exhibit 2) After award, Audi Group emailed the procurement officer a clarification of its bids for the criminal record searches explaining that the search of the sex offender records would increase its bid by \$3.00 and inclusion of the federal criminal records would increase its bid by an additional \$5.00 resulting in a "Total cost per applicant to cover state criminal, national/state sex offender, and federal would be \$16.00." (Exhibit 3)

Cancellation of Award Prior To Performance.

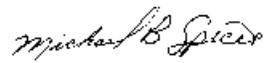
After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing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

- (7) Administrative error of the purchasing agency discovered prior to performance, or
- (8) For other reasons, cancellation is clearly in the best interest of the State.

DETERMINATION

The award to Audi Group is cancelled under Regulation 19-445.2085(C).

Written Determination, page 3
Case No. 2017-108
August 26, 2016

A handwritten signature in cursive script that reads "Michael B. Spicer".

Michael B. Spicer
Chief Procurement Officer for Information Technology

Exhibit 1

From: Bell, Reggie 6-9068
Sent: Tuesday, July 26, 2016 7:06 PM
To: mspicer@mmo.sc.gov
Subject: FW: Solicitation Number: 5400010514, Background Check
Importance: High

Mike,

Per SC Procurement Code section 19-445-2085(C), I am writing to you to seek cancellation of an award made to Audi Group (4400012560) as a result of solicitation number 5400010514 (Background Checks). After award, but prior to performance, we learned that the vendor's bid price of \$8 USD for criminal background checks was only for checks at the State level. Whereas, our scope of work specified the checks shall be done using the County, State and Federal databases as well as the National Sex Offender database. When the vendor communicated their correct price, the price was higher than their original bid.

Our preference is to cancel the award and re-solicit the scope of work to ensure fair and open competition.

Please let me know if you need anything further to approve cancellation of this award.

Reggie

Exhibit 2

STATE OF SOUTH CAROLINA
SC STATE HOUSING FINANCE AND DEVELOPMENT AUTHORITY
ATTN: PROCUREMENT DIRECTOR
300-C OUTLET POINTE BLVD.
COLUMBIA SC 29210

Statement of Award

Posting Date: February 29, 2016

Solicitation: 5400010514
Description: BACKGROUND CHECK HR & VOUCHER PROGRAM
Agency: SC State Housing Finance and Development Authority

The agency awards the contract(s) noted below. This document is the final Statement of Award, effective **09:00:00, February 29, 2016**. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The agency assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

Contract Number: 4400012560
Awarded To: AUDI GROUP (7000191392)
853 SELWYN AVE
CHARLOTTE NC 28209

Total Potential Value: \$ 50,000.00
Maximum Contract Period: February 29, 2016 through February 28, 2021

Item	Description	Unit Price	Total
00001	Civil Court Records Search:	\$ 15.00	\$ 2,250.00
00002	Credit Report	\$ 5.25	\$ 787.50
00003	Criminal Records Chk (Incl. Misdemeanor Traffic Violations)	\$ 8.00	\$ 1,200.00
00004	Sanctions, Risk & Compliance Chks	\$ 2.50	\$ 375.00
00005	Employment & Reference Verifications	\$ 10.00	\$ 1,500.00
00006	Criminal Records Chk (Excl. Misdemeanor Traffic Violations)	\$ 8.00	\$ 42,400.00

Procurement Officer
REGGIE BELL

Exhibit 3

“From: Audi Group LLC [<mailto:usachecknow@aol.com>]

Sent: Thursday, March 03, 2016 9:36 AM

To: Stanziale, Bill 6-9052

Subject: SC Award: Criminal Clarification

The original quote of \$8.00 for a statewide criminal which would include felony and misdemeanor cases. This would also pull a sex offender record as a case if it occurred in SC.

If sex offender were added the cost would be \$3.00.

If Federal were added it would be \$5.00.

Total cost per applicant to cover state criminal, national/state sex offender, and federal would be \$16.00.

Please let me know if this helps or if more information is required.

Regards,

Eric Audish”

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Written Determinations Appeal Notice (Revised May 2016)

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.

(Emphasis added.) See generally *Protest of Three Rivers Solid Waste Authority by Chambers Development Co., Inc.*, Case Nos. 1996-4 & 1996-5, *Protest of Charleston County School District*, Case No. 1985-5, *Charleston County School Dist. v. Leatherman*, 295 S.C. 264, 368 S.E.2d 76 (Ct.App.1988).

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**

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.