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MICHAEL B. SPICER  
INFORMATION TECHNOLOGY MANAGEMENT OFFICER  
(803) 737-0600  
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## Written Determination

**Matter of:** Cancellation of Award to Edge Solutions, LLC

**Case No.:** 2018-216

**Posting Date:** June 11, 2018

**Contracting Entity:** South Carolina Revenue and Fiscal Affairs Office

**Solicitation No.:** 5400015517

**Description:** Zerto Software and Maintenance

This matter is before the Chief Procurement Officer for Information Technology (CPO) pursuant to a request from the South Carolina Revenue and Fiscal Affairs Office (RFA) [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 Edge Solutions, LLC (Edge) for Zerto software and maintenance due to an error by Edge in its bid submission discovered after award but prior to performance.

### BASIS FOR THE REQUEST

RFA issued Request for Quotation 5400015517 on April 11, 2018, for Zerto software and maintenance. The solicitation requested pricing for software licenses and three years of maintenance. Two bids were received on April 25, 2018. Edge was determined to be the lowest responsive and responsible bidder, and a statement of award was posted to Edge on April 27, 2018. [Ex. 2] On February 28, 2018, Edge requested to withdraw its bid due to an error in

entering its bid. [Ex. 3] A review of the bid tabulation indicates that Edge's bid for line item 2 is less than half the price of the next low bidder. Regulation 19-445.2085(A) provides:

A bidder or offeror must submit in writing a request to either correct or withdraw a bid to the procurement officer. Each written request must document the fact that the bidder's or offeror's mistake is clearly an error that will cause him substantial loss. All decisions to permit the correction or withdrawal of bids shall be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency, or the designee of either.

Edge has requested to withdraw its bid, and the evidence indicates that clearly an error was made that would cause substantial loss. [Ex. 4] The request by Edge to withdraw its bid is granted.

RFA requested cancellation of the award prior to performance in accordance with Regulation 19-445.2085(C)

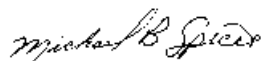
After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, if the Chief Procurement Officer determines in writing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

For the reasons stated above, the award to Edge Solutions, LLC is cancelled under Regulation 19-445.2085(C). RFA is directed to award the contract in accordance with the Code.



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Michael B. Spicer  
Chief Procurement Officer

## Exhibit 1

**From:** [O'Donnell, Morgan](#)  
**To:** [Spicer, Michael](#)  
**Cc:** [Athey, Paul](#); [Porter, Diane](#); [Roper, Donald](#); [Kubilis, Grace](#); [Dalton, Michael](#)  
**Subject:** Cancellation of Contract 4400018581  
**Date:** Wednesday, May 16, 2018 10:12:40 AM

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Michael Spicer,

In accordance with SC Regulation 19-445.2085(C)(7), we are requesting cancellation of the award for contract 4400018581. The vendor, Edge Solutions, included a parts number on their bid and their bid is deemed nonresponsive. This is a request for cancellation after award but prior to performance.

For background, RFA awarded Edge Solutions the contract. However, after RFA sent the purchase order to the vendor, Edge Solutions stated that they made a mistake in their bid and thought the maintenance period was for one year and not the three years as advertised in our solicitation. Edge Solutions stated that they were unable to honor their bid. Upon consultation with the Materials Management Office, it was determined that the Edge Solutions bid was not responsive due to their inclusion of the parts number and RFA is unable to hold Edge Solutions to their bid. RFA will post another solicitation to seek new bids after the current award is cancelled.

Thank you for your assistance.

**Morgan O'Donnell | SC Revenue and Fiscal Affairs Office**

Rembert Dennis Bldg. | 1000 Assembly St., Suite 402 | Columbia, SC 29201 | Phone: (803) 734-0958  
[morgan.o'donnell@rfa.sc.gov](mailto:morgan.o'donnell@rfa.sc.gov)

**Exhibit 2**

STATE OF SOUTH CAROLINA  
SC Revenue and Fiscal Affairs Office

**Statement of Award**  
Posting Date: April 27, 2018

**Solicitation:** 5400015517  
**Description:** ZERTO Software amd Maintenance  
**Agency:** Revenue and Fiscal Affairs Office

The State awards the contract(s) noted below. This document is the final Statement of Award, effective **April 27, 2018**. 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 State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

**Contract Number:** 4400018581  
**Awarded To:** EDGE SOLUTIONS LLC (7000173641)  
7 OLD ROSWELL STREET  
ALPHARETTA GA 30009

**Total Potential Value:** \$ 21,225.00  
**Maximum Contract Period:** May 01, 2018 through April 30, 2021

<b>Item</b>	<b>Description</b>	<b>Unit Price</b>	<b>Total</b>
00001	Zerto software	\$ 1,125.00	\$ 16,875.00
00002	Maintenance and Support	\$ 290.00	\$ 4,350.00

**Procurement Officer**  
GRAZYNA KUBILISZ

## Exhibit 3

**From:** Sue Ahmed <SAhmed@edge-solutions.com>  
**Sent:** Friday, May 25, 2018 3:15 PM  
**To:** O'Donnell, Morgan <Morgan.O'Donnell@rfa.sc.gov>  
**Cc:** Samantha Vince <SVince@edge-solutions.com>; Kubilisz, Grace <Grace.Kubilisz@rfa.sc.gov>; Theresa Jackson <tjackson@edge-solutions.com>  
**Subject:** Re: Cancellation of Contract 4400018581 - Zerto Software State of SC

**\*\*\* This is an EXTERNAL email. Please do not click on a link or open any attachments unless you are confident it is from a trusted source. \*\*\***

Morgan,

This is in response to your email to Samantha Vince dated 5/25/2018 on the above subject.

We are officially requesting that our bid be withdrawn, due to an error in quoting the correct number of years requested for support and maintenance of the 15 Zerto licenses. We actually quoted 1-year of maintenance on each, rather than the 3-years requested due to a misunderstanding on our part as to the P/Ns in the HPE/NASPO catalog. As it would result in a substantial loss for us, we are obliged to request this withdrawal.

Since Regulation 19-445.2085(A) includes the provision to request a correction, I am hereby doing so and have included a new RFP response with the correct quantities for consideration. Please let me know if I need to submit this in another form.

My sincere apologies for the delays and inconvenience caused by our error. Please let me know if anything further is required.

Regards,

*Sue*

**Sue Ahmed**  
Sr. Account Executive  
o: 770.814.6530 | c: 803.331.8788



7 Old Roswell Street, Alpharetta, GA 30009  
[www.edge-solutions.com](http://www.edge-solutions.com) | 1.888.861.8884

# Exhibit 4

RFX Number	5.4E+09	JC ENTERPRISES 5.5E+09	EDGE SOLUTIONS LLC 5.5E+09
Header Data			
Status		Submitted	Submitted
Version Nu	1	1	1
Net value		23,940.15 USD	21,225.00 USD
Currency		USD	USD
1. The Submitter has read and understood Yes, I have read and understood Yes, I have read and understand the terms and conditions.			
2. The offer is in accordance with Yes, I am in accordance with Yes, I am in accordance with the terms and conditions.			
1 Zerto software			
1 Net price	1 EA	931.21 USD	1,125.00 USD
1 Unit of Measurement		EA	EA
1 Price Unit		1	1
1 Product ID			
1 Quantity	15 EA	15 EA	15 EA
1 Net value		13,968.15 USD	16,875.00 USD
1 Acceptance Status			
1 Are you requesting the SC Resider No			No
1 Are you requesting the SC Resider No			No
1 Are you requesting the SC Resider No			No
2 Maintenance and Support			
2 Net price	1 EA	664.8 USD	290 USD
2 Unit of Measurement		EA	EA
2 Price Unit		1	1
2 Product ID			
2 Quantity	15 EA	15 EA	15 EA
2 Net value		9,972.00 USD	4,350.00 USD
2 Acceptance Status			
2 Are you requesting the SC Resider No			No
2 Are you requesting the SC Resider No			No
2 Are you requesting the SC Resider No			No

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Written Determinations Appeal Notice (Revised July 2017)*

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).

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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 111.1 of the 2016 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  
1205 Pendleton Street, Suite 367, 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.**