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EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

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DIVISION DIRECTOR
(803) 734-8018

MICHAEL B. SPICER
INFORMATION TECHNOLOGY MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

Protest Decision

Matter of: Holiday Tours, Inc.

Case No.: 2020-121

Posting Date: December 9, 2019

Contracting Entity: College of Charleston

Solicitation No.: 20.19.SDM.P.T3

Description: Coach Bus Transportation for Athletics

DIGEST

Protest that successful bidder is not responsible is denied. Holiday Tours' (HT) letter of protest is included by reference. (Attachment 1)

AUTHORITY

The Chief Procurement Officer¹ (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on materials in the procurement file and applicable law and precedents.

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

BACKGROUND

Solicitation Issued	09/24/2019
Amendment 1 Issued	10/04/2019
Intent to Award Posted	11/26/2019
Protest Received	12/03/2019

The College of Charleston (CoC) issued this Invitation for Bids on September 24, 2019 to acquire bus transportation to transport its athletic teams to events. Amendment 1 was issued on October 4, 2019 and an Intent to Award was posted to Entertainment Technology, LLC on November 26, 2019. HT protests that ET is not authorized for interstate passenger transportation and fails to meet federally required insurance minimums on December 3, 2019.

ANALYSIS

Three bids were received in response to this solicitation: Going Coastal Transportation, Kelly Tours, and Entertainment Technology, LLC. According to the procurement officer, HT did not submit a bid in response to this solicitation. (Attachment 2)

Section 11-35-4210(1)(b) provides:

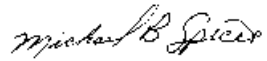
Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall notify the appropriate chief procurement officer in writing of its intent to protest within seven business days of the date that award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code. Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract and has timely notified the appropriate chief procurement officer of its intent to protest, may protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen days of the date award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code; except that a matter that could have been raised pursuant to subitem (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

HT is not an actual bidder, offeror, contractor, or subcontractor and consequently lacks standing to protest this award.

DECISION

The protest of Holiday Tours, Inc. is dismissed for lack of standing.

For the Materials Management Office

A handwritten signature in cursive script, appearing to read "Michael B. Spicer".

Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [David C. Moody](#)
To: [Protest-MMQ](#)
Subject: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3
Date: Tuesday, December 3, 2019 2:58:01 PM
Attachments: [scan.pdf](#)

December 4, 2019

To Whom It May Concern,

The purpose of this letter is to protest the Intent to Award of Solicitation 20.19.SDM.P.T3 to Entertainment Technology LLC. The bid was issued on September 24, 2019, opened October 2, 2019, and the Intent to Award posted on November 26, 2019.

The bid solicitation clearly states in C.02.15 A.1.a.(1) that the Offeror and/or any of its Principals "Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agent."

The company that the Intent for Award was published about "Entertainment Technology LLC", identified by the United States Department of Transportation # 3271810 is **not authorized** for interstate passenger-carrying authority. (Appendix A) This company also has no insurance on file, and there is a federal minimum requirement of \$5,000,000 in liability insurance. (Appendix B) This company's Motor Passenger Common Carrier Application was dismissed on May 20, 2019. (Page 2, Appendix B)

While we understand many factors are taken into consideration when choosing a vendor, there must have been a more capable bidder. How would a transportation contract, which should be based on safety, be awarded to a company which was formed less than a year, who has no current for-hire operating authority by the Federal Motor Carrier Safety Administration, nor any insurance on file.

Safety should be the focus any time transportation is mentioned, but how can you grade safety on a company that can't legally operate the required equipment?

We request that the Chief Procurement Officer and the College of Charleston take a second look at the selected bidder and the factors by which they were chosen.

Respectfully,

David C. Moody
General Manager
Holiday Tours, Inc.

Attachment 2

From: [Dick-McKeon, Susan M](#)
To: [Spicer, Michael](#)
Subject: RE: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3
Date: Wednesday, December 4, 2019 11:19:22 AM

Correct. We had three responses but one was eliminated as the vendor (GTC - Going Coastal Transportation) failed to provide pricing as required for all items listed on Appendix A. Appendix A is the pricing structure that will be utilized to calculate the cost for future bus trips.

Susan Dick-McKeon, CPM

Procurement Manager II

Office Procurement

**COLLEGE of
CHARLESTON**

176 Lockwood Dr.

Charleston SC 29403

p: (843)953-5555

f: (843)953-5444

e: dickmckeonsm@cofc.edu

<http://blogs.cofc.edu/procurement>



From: Spicer, Michael <mspicer@mmo.sc.gov>
Sent: Wednesday, December 04, 2019 11:13 AM
To: Dick-McKeon, Susan M <dickmckeonsm@cofc.edu>
Subject: RE: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Just checking to make sure. You only received 2 bids. Is that correct?

From: Dick-McKeon, Susan M <dickmckeonsm@cofc.edu>
Sent: Wednesday, December 4, 2019 11:09 AM
To: Spicer, Michael <mspicer@mmo.sc.gov>
Cc: Williams, Wendy E <WilliamsW@cofc.edu>; Grier, Manton <mgrier@ogc.sc.gov>; Robertson, Dixon <drobertson@ogc.sc.gov>; Skinner, Gail <GSKinner@mmo.sc.gov>
Subject: RE: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3

Hi Mike,

Here's the tabulation. Please let me know if you need anything else.

Thanks

Susan Dick-McKeon, CPM

Procurement Manager II
Office Procurement

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<http://blogs.cofc.edu/procurement>



From: Spicer, Michael <mspicer@mmo.sc.gov>

Sent: Wednesday, December 04, 2019 10:32 AM

To: Dick-McKeon, Susan M <dickmckeonsm@cofc.edu>

Cc: Williams, Wendy E <WilliamsW@cofc.edu>; Grier, Manton <mgrier@ogc.sc.gov>; Robertson, Dixon <drobertson@ogc.sc.gov>; Skinner, Gail <GSkinner@mmo.sc.gov>

Subject: RE: [External] Protest of Intent to Award Soliditation 20.19.SDM.P.T3

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Susan,

Please send me a copy of the bid tabulation.

Thanks!

From: Dick-McKeon, Susan M <dickmckeonsm@cofc.edu>

Sent: Wednesday, December 4, 2019 10:28 AM

To: Spicer, Michael <mspicer@mmo.sc.gov>

Cc: Williams, Wendy E <WilliamsW@cofc.edu>; Grier, Manton <mgrier@ogc.sc.gov>; Robertson, Dixon <drobertson@ogc.sc.gov>; Skinner, Gail <GSkinner@mmo.sc.gov>

Subject: RE: [External] Protest of Intent to Award Soliditation 20.19.SDM.P.T3

Hi Mike,

Thanks for talking with us last night. As discussed, Holiday Tours did not submit a proposal for solicitation 20.19.SDM.P.T3. Thus, they should be deemed ineligible to submit a protest. Since they would be declared ineligible to submit a protest, are we still required to issue a Stay of Contract notice?

As a side note, we have reconfirmed that Entertainment Technology meets or will meet the concerns outlined in Holiday Tours protest prior to the contract start date of December 14, 2019.

Thanks

Susan Dick-McKeon, CPM

Procurement Manager II
Office Procurement

 COLLEGE of
CHARLESTON

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Charleston SC 29403

p: (843)953-5555

f: (843)953-5444

e: dickmckeonsm@cofc.edu

<http://blogs.cofc.edu/procurement>



From: Spicer, Michael <mspicer@mmo.sc.gov>

Sent: Tuesday, December 03, 2019 4:06 PM

To: Dick-McKeon, Susan M <dickmckeonsm@cofc.edu>

Cc: Williams, Wendy E <WilliamsW@cofc.edu>; Grier, Manton <mgrier@ogc.sc.gov>; Robertson, Dixon <drobertson@ogc.sc.gov>; Skinner, Gail <GSKinner@mmo.sc.gov>

Subject: FW: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please see the protest attached and proceed in accordance with the Code.

From: David C. Moody <davidm@trusholiday.com>

Sent: Tuesday, December 3, 2019 2:58 PM

To: Protest-MMO <Protest-MMO@mmo.sc.gov>

Subject: [External] Protest of Intent to Award Solicitation 20.19.SDM.P.T3

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised June 2019)

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>

FILING FEE: Pursuant to Proviso 111.1 of the 2019 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**

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.