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Protest Decision

Matter of: Blue Ridge X-Ray Co., Inc, DBA Blue Ridge Imaging Technologies

Case No.: 2021-124

Posting Date: January 6, 2021

Contracting Entity: Horry Georgetown Technical College

Solicitation No.: IFB0170-20

Description: Digital Radiographic Suite

DIGEST

Protest that apparent successful bidder is not responsive is denied as untimely. The protest letter of Blue Ridge X-Ray Co., Inc, DBA Blue Ridge Imaging Technologies (BRIT) 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:	10/12/2020
Amendment 1 Issued	10/23/2020
Intent to Award Posted	12/16/2020
Protest Received	12/31/2020

Horry Georgetown Technical College (HGTC) issued this Invitation for Bids for a Pinnacle 40 kw OTC Dual DR Panel Radiographic Suite on October 12, 2020. Amendment 1 was issued on October 23, 2020, changing the scope of the solicitation follows:

Horry-Georgetown Technical College (HGTC) is seeking competitive bids for a Pinnacle 40 kw OTC Dual DR Panel Radiographic Suite or another brand that is equal to this particular brand. The College currently uses this brand in it's second teaching lab and would like to standardize for fluidity of teaching.

(emphasis added) [Amendment 1, Page 3]

An Intent to Award was posted to Salus Medical Products on December 16, 2020. BRIT's protest was received by the CPO on December 31, 2020.

ANALYSIS

Section 11-35-4210(1)(b) grants any actual bidder, offeror, contractor or subcontractor the right to protest as follows:

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.

(emphasis added)

Section 11-35-310(4) defines a business day as:

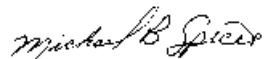
'Business day' means a day that is neither a Saturday, Sunday, nor a state or federal holiday.

While HGTC was closed from Monday, December 21, 2020 through Friday, January 1, 2021, only three of these days were considered official holidays by the State of South Carolina: December 24, 25, and 28. The Intent to Award was posted on December 16, 2020. Excluding holidays and weekends, the seventh business day ended at the close of Wednesday, December 30, 2020. BRIT's protest was not received by the CPO until Thursday, December 31, 2020 at 12:16:42 PM. BRIT's protest was not received within the time prescribed in the statute and is dismissed as untimely.

DECISION

For the reasons stated above, the protest of Blue Ridge X-Ray Co., Inc, DBA Blue Ridge Imaging Technologies is dismissed.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Attachment 1

From: [Paul Eil](#)
To: [Protest-MMO](#)
Subject: [External] Protest; IFB0170-20 Digital Radiography Suite
Date: Thursday, December 31, 2020 12:16:42 PM
Attachments: [image002.png](#)
[image001.png](#)
[ifb0170-20 intent to award 1.pdf](#)
Importance: High

Chief Procurement Officer, Materials Management Office,

We are writing to formally protest the Intent to Award for Solicitation Number: IFB0170-20 Digital Radiology Suite at Horry-Georgetown Technical College.

Our protest points are as follows;

1. The awarded company, Salus Medical Products, an Indiana based company, is **NOT a Registered Vendor** with the State of South Carolina Department of Radiological Health. Therefore, **they are restricted** from the sales, installation or service of radiographic equipment. Source: SC DHEC Website; www.scdhec.gov/x-ray-vendors-registered-south-carolina Furthermore, we cannot find record of Salus Medical Products ever installing any equipment in the State of South Carolina as they are not registered to do so.
2. Under Section III: SCOPE OF WORK/SPECIFICATIONS; states that "HGTC is seeking bids to purchase a digital radiographic (DR) system to replace the current one used in our Radiologic Technology program. HGTC has two teaching labs and one lab was recently replaced. The equipment purchased was a Pinnacle OTC DR Unit and we would like to purchase another unit of the **same make and model.**" It goes on to list the **exact specifications** of a Pinnacle 40 kW OTC Dual DR Panel Radiographic Suite. This is **exactly** what BLUE RIDGE X-RAY CO., INC, DBA BLUE RIDGE IMAGING TECHNOLOGIES provided. This is also the **same configuration that we recently replaced in the first lab earlier this year**, as requested. The awarded company **DID NOT** provide the requested "unit of the same make and model". Furthermore, after months of consulting with Dr. Douglas Gleasman, Academic Chair Medical Imaging Sciences and Becky Boone, PhD, AVP for Institutional Support, we ensured that the equipment specifications were EXACTLY what they required to provide continuity between teaching labs.

Additionally, we are also an Authorized Dealer for Aspen Imaging, the manufacturer of the system offered by Salus Medical Products. If this system matched the requirements requested by HGTC, we would have offered this in place of the Pinnacle Radiographic Suite specified.

For these reasons, and for our concern to continue our long term service to HGTC, we respectfully request that the Intent to Award be suspended and reconsidered at a later date.

We welcome any questions or clarifications and we look forward to your response.

Respectfully,

Paul Eill, Regional Director

800.727.7290 x1109

m-864.270.5180

<https://www.youtube.com/blueridgeimagingtechnologies>

www.blueridgeimage.com



From: Cecala, Dianna <Dianna.Cecala@hgtc.edu>

Sent: Wednesday, December 16, 2020 4:31 PM

To: Paul Eill <peill@BRXRAY.COM>

Subject: FW: IFB0170-20 Digital Radiography Suite

Paul,

As directed by the State of SC Consolidated Procurement Code Section 11-35-1520 paragraph 10, please be notified that the College has found Salus Medical Products bid to be responsive, responsible and the lowest overall price for this solicitation. Attached in our Intent to Award notice.

Thank you for your interest in doing business with our College and we look forward to any future opportunities that we might have.

Wishing you a very happy holiday season!

Dianna Cecala, Procurement Manager
Horry-Georgetown Technical College
2050 Hwy 501 E
Conway, SC 29526
Dianna.cecala@hgtc.edu / 843-349-5207



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.