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Protest Decision

Matter of: Health Force, LLC

Case No.: 2021-127

Posting Date: January 22, 2021

Contracting Entity: South Carolina Department of Health and Environmental Control

Solicitation No.: 5400020527

Description: Cancer Registry Abstracting Services

DIGEST

Protest that apparent successful bidder is not responsible and other bidding irregularities is dismissed. The protest letter of Health Force, LLC (HF) 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:	11/12/2020
Amendment 1 Issued	12/01/2020
Intent to Award Posted	01/07/2021
Protest Received	01/21/2021

Department of Health and Environmental Control (DHEC) issued this Invitation for Bids (IFB) on November 129, 2020, for cancer registry abstracting services. Amendment 1 was issued on December 1, 2020. An Intent to Award to Registry Data Solutions (RDS) was posted on January 7, 2021. The CPO received HF's protest on January 21, 2021.

ANALYSIS

Section 11-35-4210(1)(b) sets forth the protest procedure 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)

DHEC posted the Intent to Award on January 7, 2021. HF's protest was received by the CPO on January 21, 2021, nine (9) business days after the posting of the Intent to Award. HF's protest was not received within the statutorily required time and must be dismissed as untimely.

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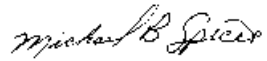
Case No. 2021-127

January 22, 2021

DECISION

For the reasons stated above, the protest by Health Force, LLC is dismissed.

For the Materials Management Office

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

Michael B. Spicer
Chief Procurement Officer

Attachment 1



January 20, 2020

Mr. Mike Spicer, Chief Procurement Officer
SFAA, Div. of Procurement Services, MM
P.O. Box 101103
Columbia, S.C. 29211

**RE: Notice of Protest of Award of Solicitation 5400020527
Cancer Registry Abstracting Services**

Via: protest-mmo@mmo.state.sc.us

Dear Mr. Spicer:

This letter is to notify you that Health Force, LLC would like to protest the award of the above solicitation which was announced on January 7, 2021. An email of intent was sent on 1/7/2021 regarding this solicitation.

We would like to protest on the grounds below:

1. The Solicitation cover page 2 usually states that In state preference does not apply. In fact, page 15 and 16 of the Solicitation references the resident Contractor Preference. Health Force included this preference on our Bidding Schedule as required.
2. Page 14 of the Solicitation states that Vendor Registration is mandatory. It further notes that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or the S.C. Department of Revenue. Additionally, it cites the web page to register with the Secretary of State's office. While the winner offeror did have a South Carolina vendor number, a registration with the Secretary of State's office could not be located on the web site.
3. Page 27 of Solicitation states that the Contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations and tariffs. (07-7B035-1). One of those is **SECTION 33-15-101** of the SC Code of Laws for Foreign Corporations, which states: *Authority to transact business required. (a) A foreign corporation may not transact business in this State until it obtains a certificate of authority from the Secretary of State.*
4. Lastly, the Bid Sheet required hourly pricing. Please refer to Page 12 of the Solicitation

1(877)244-9151 Ext 701

[www.HealthForceUS](http://www.HealthForceUS.com), LLC.



5. RESPONSIVENESS/IMPROPER OFFERS

- a) **Bid as Specified.** This required that the bid be based on hourly rates, not per case.
- b) **Responsiveness.** It is hard to determine whether this is advantageous to the State as it imposes an unfair advantage to the winning offer without allowing the other offerors to bid on a per case bases as well. The solicitation states that the solicitation does not allow for corrections to major conformity.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Valerie M. Aiken'.

Valerie M. Aiken, CEO

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.