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RICHARD ECKSTROM, CPA  
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.  
DIVISION DIRECTOR  
(803) 734-8018

JOHN ST. C. WHITE  
MATERIALS MANAGEMENT OFFICER  
(803) 737-0600  
FAX: (803) 737-0639

HARVEY S. PEELER, JR.  
CHAIRMAN, SENATE FINANCE COMMITTEE

G. MURRELL SMITH, JR.  
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE  
EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** Otis Elevator Company

**Case No.:** 2022-121

**Posting Date:** March 9, 2022

**Contracting Entity:** University of South Carolina Upstate

**Solicitation No.:** 220067-01

**Description:** Elevator PM and Repair Services

### DIGEST

Protest seeking information about scoring is dismissed for failing to state a claim. The protest letter of Otis Elevator Company (Otis) is included by reference. (Attachments 1)

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> (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.

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

## BACKGROUND

Solicitation Issued:	11/30/2021
Amendment 1 Issued	12/06/2021
Amendment 2 Issued	12/08/2021
Intent to Award Posted	02/02/2022
Protest Received	02/10/2022

The University of South Carolina Upstate (USCU) issued this Best Value Bid (BVB) on November 30, 2021, to establish a contract for elevator maintenance and repair services. Amendment 1 was issued on December 6, 2021. Amendment 2 was issued on December 8, 2021. Bids from Otis, TK Elevator Corporation, and Southern Elevator were opened on December 15, 2021. There were two evaluation criteria published in the solicitation: Financial Proposal (60%), and Experience and Qualifications (40%). Three evaluators scored each proposal individually against each criterion. TK Elevator Corporation was determined to be the highest ranked responsible offeror, and an Intent to Award was posted to it on February 2, 2022. Otis filed its protest on February 10, 2022.

## ANALYSIS

The following is the Otis protest, which was not amended:

To whom it may concern, (Chief Procurement Officer)

Otis would like to officially protest Solicitation: GS-BVB-220067-01 Elevator Maintenance and

Repair. Please see the reasoning below:

The Evaluated Amount of the winning bidder (TK Elevator Corporation) was \$40,320.00 a year for 5 years = \$201,600.00

In comparison, the Otis Elevator bid was \$33,300.00 a year for 5 years = \$166,500.00

It is understood that Cost was valued at 60% of the Best Value Bid

Qualifications & Experience carried a 40% value. We want to understand/review/discuss the criteria for Otis receiving significantly lower rating percentages in this category including the 15% rating given by Evaluator 1.

USC Upstate is an important account to Otis Elevator and our end goal is to be retained as the

elevator service provider for this facility. We look forward to the opportunity to meet in person.

Thank you for your time and consideration.

This protest seeks information but alleges no violation of the Code or Regulations. Viewing this protest in a light most favorable to Otis, the CPO reviewed the evaluation.

Otis submitted the lowest cost and received the maximum of 60 points for the financial proposal. The evaluator score sheet provided the following guidance to the evaluators in assigning points for experience and qualifications:

**BVB RATING GUIDE:**

**Superior Response (95-100%):** A superior response will be a highly comprehensive, excellent reply that meets all of the requirements of the areas within that category. In addition, the response covers areas not originally addressed within the BVB category and includes additional information and recommendations that would prove both valuable and beneficial to the agency. This response is considered to be an excellent standard, demonstrating the offeror's authoritative knowledge and understanding of the project.

**Very Good Response (85-94%):** A very good response will provide useful information, while showing experience and knowledge within the category. The proposal is well thought out and addresses all requirements set forth in the BVB. The offeror provides insight into their expertise, knowledge and understanding of the subject matter.

**Good Response (75-84%):** A good response meets all the requirements and has demonstrated in a clear and concise manner a thorough knowledge and understanding of the subject matter. This response demonstrates an above average performance with no apparent deficiencies noted.

**Fair Response (65-74%):** A fair response meets the requirements in an adequate manner. This response demonstrates an ability to comply with guidelines, parameters, and requirements with no additional information put forth by offeror.

**Poor Response (60-64%):** A poor response minimally meets most requirements set forth in the BVB. The offeror has demonstrated knowledge of the subject matter only.

**Failed Response (0-59%):** A failed response does not meet the requirements set forth in the BVB. The offeror has not demonstrated knowledge of the subject matter.

The solicitation included the following requirements:

A. Contractor must have a web-based customer portal to view reports, place service calls, view trends, view maintenance procedures and service records, all in real-time.

B. Contractor must have a maintenance scheduling system that schedules tasks twelve (12) months in advance and the Contractor must provide the schedule to the University upon request.

C. Contractor must be able to send real-time mobile updates on mechanic dispatching and arrival for service calls.

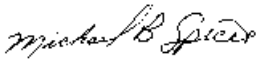
[Solicitation, Page 14]

Documentation from USCU indicates that Otis failed to acknowledge these solicitation requirements, and a review of the Otis bid confirms that these requirements were not addressed. While one might disagree with an individual evaluator's ranking, all three evaluators ranked the Otis bid as a failed response.

## **DECISION**

The protest of Otis Elevator Company is dismissed for failure to state a claim for which relief can be granted.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Schwartz, Jay](#)  
**To:** [Cash, Tammy](#)  
**Cc:** [Protest-MMO; Schwartz, Jay](#)  
**Subject:** [External] Solicitation Protest (GS-BVB-220067-01) Elevator Maintenance and Repair  
**Date:** Thursday, February 10, 2022 3:57:16 PM  
**Attachments:** [Intent to Award.pdf](#)  
[Excel Summary Evaluator Score Sheet.xlsx](#)

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To whom it may concern, (Chief Procurement Officer)

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It is understood that Cost was valued at 60% of the Best Value Bid

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USC Upstate is an important account to Otis Elevator and our end goal is to be retained as the elevator service provider for this facility. We look forward to the opportunity to meet in person. Thank you for your time and consideration.

Very Respectfully,

**Jay Schwartz**

Mgr, Sales | Otis Elevator

**M:** 864.538.1026

**Fax:** 860-650-4100

**Otis**

1200 Woodruff Road, Suite G-30 | Greenville, SC 29607

[jay.schwartz@otis.com](mailto:jay.schwartz@otis.com)

Visit <https://otis.payinvoicedirect.com/> to make a one-time payment or set up recurring maintenance payments!  
[otis.com](#) | [Twitter](#) | [Instagram](#) | [YouTube](#) | [LinkedIn](#)

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised May 2020)*

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.

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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>

FILING FEE: Pursuant to Proviso 111.1 of the 2020 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

- 
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.**