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Protest Decision

Matter of: 3M Company

Case No.: 2022-128

Posting Date: June 13, 2022

Contracting Entity: South Carolina Department of Motor Vehicles

Project: 5400019885

Description: Digitalized License Plate Production & Distribution

DIGEST

Protest alleging non-responsiveness, arbitrary and capricious evaluation, and improper negotiation is denied in part and granted in part. The protest letter of 3M Company (3M) is included by reference. (Attachments 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:	03/15/2021
Amendment 1 Issued	03/26/2021
Amendment 2 Issued	05/13/2021
Amendment 3 Issued	05/14/2021
Amendment 4 Issued	06/22/2021
Intent to Award Posted	03/07/2022
Intent to Protest Received	03/15/2022
Protest Received	03/22/2022

The South Carolina State Fiscal Accountability Authority issued this Request for Proposal on behalf of the South Carolina Department of Motor Vehicles to acquire digitized license plate production and distribution on March 15, 2021. Amendment 1 was published on March 26, 2021. Amendment 2 was published on May 13, 2021. Amendment 3 was published on May 14, 2021. Amendment 4 was published on June 22, 2021. An Intent to Award was posted to Intellectual Technology Inc. on March 7, 2022. 3M filed an Intent to Protest on March 15, 2022, followed by its formal protest on March 22, 2022.

ANALYSIS

3M first protests:

ITI's proposal is non-responsive because it fails to comply with the essential and/or mandatory requirements of the RFP.

3M alleges that the ITI proposal was non-responsive in eight (8) instances, the first of which is:

The RFP mandates that the Contractor provide a Project Manager with a minimum of five (5) years' experience managing projects of an ongoing nature. *See* RFP Section III, 3.21. ITI's proposed Project Manager, Kevin Haverstock, does not meet this requirement. The RFP requires that the Project Manager have 5 years of experience (e.g., a total of 1826 days). Mr. Haverstock, however, only demonstrated 1637 days of experience.

The original solicitation included a special standard of responsibility² that required that the project manager "have maintained continuous Project Management Professional (PMP)

² Regulation 19-445.2125(F) When it is necessary for a particular acquisition or class of acquisitions, the procurement officer may develop, with the assistance of appropriate specialists, special standards of responsibility. Special standards may be particularly desirable when experience has demonstrated that unusual expertise or

certification for the past five (5) years with credential issued through the Project Management Institute (PMI).” [Solicitation, Page 37] The special standard was deleted, and the requirement was changed from five years of PMI certification to five years of experience then reinserted as part of a new paragraph 3.21 in Amendment 2:

Project Manager

Contractor shall provide a Project Manager with a minimum of five (5) years’ experience managing projects of an ongoing nature. The Project Manager will be the single point of contact for the State. The Project Manager should be aware of all aspects of the contract and its requirements as well as all issues related to the actual goods and services and all associated processes of it as well. The State requires a single point of contact for its own day-to-day internal management, as well as contract management for this Contract and the Contractor’s Project Manager should be the best, most informed individual for this task.

[Amendment 2, Page 30] (emphasis and highlighting in original)

While ITI acknowledged receipt of Amendment 2, apparently it overlooked this change as evidenced in its proposal by the following:

Special Standards of Responsibility

ITI has a dedicated and certified Project Management Professional who will be the single point of contact for this project. ITI has provided a resume for the select Project Manager above. These individuals are certified and hold Project Management Professional (PMP) certifications they have been issued through the Project Management Institute (PMI). Our Project Managers exceed all requirements as required by the SCDMV.

[ITI Proposal, Page 130]

The 3M protest is that the work history included in the ITI proposal for the proposed project manager does not show the level of experience required by the solicitation. Alleging that the solicitation required 1826 days and the proposal only documented 1637 days or 228 days less than required. Two hundred and twenty-eight days is 12.5% of the required total. Proposals were evaluated and scored by five evaluators. All five commented on ITI’s experience and

specialized facilities are needed for adequate contract performance. The special standards shall be set forth in the solicitation (and so identified) and shall apply to all offerors. A valid special standard of responsibility must be specific, objective and mandatory.

references. Four evaluators rated ITI higher than 3M on experience and qualifications while one rated the two companies equal. Regulation 19-445.2095(E) provides for the waiver of a minor informality or irregularity:

A minor informality or irregularity is one which is merely a matter of form or is some immaterial variation from the exact requirements of the invitation for bids having no effect or merely a trivial or negligible effect on total bid price, quality, quantity, or delivery of the supplies or performance of the contract, and the correction or waiver of which would not be prejudicial to bidders. The procurement officer shall either give the bidder an opportunity to cure any deficiency resulting from a minor informality or irregularity in a bid or waive any such deficiency when it is to the advantage of the State. Such communication or determination shall be in writing.

The CPO finds the 12.5% deficiency in the five years of required experience is a minor informality and this issue of protest is denied.

The next issue of responsiveness protested by 3M alleges:

Section III, 3.21 of the RFP mandates that the Project Manager be the single point of contact for the State and that the Project Manager be aware of all aspects of the contract and its requirements as well as all issues related to the actual goods, services and associated processes....

ITI did not, however, address and/or accept the conditions in Section III, 3.21. Instead, ITI noted that each project will include a dedicated project manager and that the assigned account manager will be the single point of contact for South Carolina. *See* page 12 of ITI response.

The requirement in Amendment 2 states:

The State requires a single point of contact for its own day-to-day internal management, as well as contract management for this Contract and the Contractor's Project Manager should be the best, most informed individual for this task.

On page 130 of its proposal, ITI states:

ITI has a dedicated and certified Project Management Professional who will be the single point of contact for this project.

On page 12 of its proposal, ITI states that an account manager will be the single point of contract:

All projects include a dedicated program manager, project manager, solutions engineer, business analysts, delivery team, and account manager, along with Executive overview....

Once a project is fully implemented, ITI will assign an account manager who serves as a single point of contact for South Carolina. This liaison role ensures all needs are met and excellent communication is continuous throughout the life of the contract.

While these two statements appear to conflict, it is possible for the project manager to be the single point of contract for all matters related to this specific project in compliance with the solicitation while having an account manager as the single point of contact for all other matters. ITI agreed that the project manager would be the single point of contact for this project. This issue of protest is denied.

In the next six issues of protest 3M alleges that ITI failed to specifically address requirements published in Amendment 2 and consequently should have been disqualified as non-responsive. ITI's signed cover page includes the following statement:

You must submit a signed copy of this form with Your Offer. By signing, You agree to be bound by the terms of the Solicitation.

The order of precedence published in Amendment 2 states:

(a) Any contract resulting from this solicitation shall consist of the following documents: (1) a Record of Negotiations, if any, executed by you and the Procurement Officer, (2) the solicitation, as amended, (3) discussions [11-35-1530(6)] of an offer, if applicable, (4) your offer, (5) any statement reflecting the State's final acceptance (a/k/a "award"), and (6) purchase orders.

By signing the cover page, the offeror agrees to perform those requirements as published in the solicitation and is consequently responsive. *Appeal by Otis Elevator Co.*, Panel Case No. 2017-1; *see also Appeals by Justice Technology, Inc.*, Panel Case No. 1992-4 (finding proposal responsive despite failure to “follow the format by responding on a point-by-point basis . . . [as] such failure did not prevent the State from being able to understand and evaluate [the] proposal in this case.”) These issues of protest are denied.

3M next protests that:

The Evaluation Panel's Scoring was arbitrary and capricious and did not follow the published award criteria.

3M first alleges that ITI's failure to address specific requirements in the solicitation rendered its proposal non-responsive and consequently the evaluation was arbitrary and capricious. As stated above the failure to address specific requirements does not render the proposal non-responsive. This issue of protest is denied.

In the second issue 3M alleges that the evaluators either lacked understanding of the 3M or ITI response and/or lacked thoroughness in reviewing the proposals pointing to perceived deficiencies and omissions in ITI's disaster recovery plan. ITI's proposed disaster recovery plan was reviewed and evaluated by five evaluators and found acceptable with two evaluators specifically commenting on the plan:

There are multiple disaster recovery options available to put in place to address any issues.

DR plan was well written and included tests in non DR scenario.

The CPOs and the Procurement Review Panel have repeatedly held:

The Panel will not substitute its judgment for the judgment of the evaluators, who are often experts in their fields, or disturb their findings so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased.

3M does not allege that ITI failed to meet published disaster recovery requirements or allege actual bias. This issue of protest is denied.

3M next protests that in five instances the negotiations between ITI and the State violated the Code. 3M first argues:

The South Carolina Procurement Code outlines the process for negotiations. See S.C. Code Ann. § 11-35-1530. Negotiations are to be conducted with the highest ranked responsive offeror. For the reasons set forth above, it was error for the State to engage in negotiations with ITI as its proposal was nonresponsive and ITI, therefore, was improperly determined to be the highest ranked offeror.

As stated above, the CPO finds this argument without merit and this issue of protest is denied.

3M next protests:

Additionally, the RON reflects that the State and ITI negotiated changes to certain terms and conditions, specific requirements listed in the RFP or highlighted in

Q&A, which impacted pricing. The new pricing negotiated is not explicitly laid out in the document, as the pricing is to be determined at a future date. So not only is the basis of scoring for pricing invalid given that the final pricing offered by ITI will differ from the pricing offered and scored in its response, the resulting contract is illusory since the parties have simply reached an agreement to agree about pricing in the future.

The Record of Negotiations reflects changes to bulk shipping prices, future price adjustments, performance requirements, and indemnification all of which either directly or indirectly have an impact on price. 3M's protest does not identify which terms and conditions, or solicitation requirements were changed, how they were changed or how the changes altered the proposed pricing in a way that invalidates the allocation of evaluation points for price. Consequently, this issue of protest is dismissed for a lack of specificity.

3M next argues that the following negotiated changes were in violation of the Code.

3M first alleges:

Contractor is responsible for the conversion of all existing SCDMV plate designs into the Contractor's standard digital image at no cost to SCDMV. The RFP requires that this be done within thirty (30) days of contract the start of the contract term. ITI's proposal said they could complete within 3-4 months if they didn't have the vector files, which they do not. As a result, the State has essentially changed the requirement from 30 days to 6 months.

Relevant solicitation requirements include:

- 3 Contractor must be accept graphic design artwork in a variety of formats including, but not limited to, JPG, PNG, ESP, PSD, and PDF.

[Amendment 2, Page 23], and

- 5 Contractor is responsible for the conversion of all existing SCDMV plate designs into the Contractor's standard digital image at no cost to SCDMV.
This must be done within thirty (30) days of contract the start of the contract term.

[Amendment 2, Page 24] (emphasis in original)

During the question-and-answer period a potential offeror inquired about ownership of the license plate graphics and artwork:

15. Question – Section 3.2 - Graphic Design Work, Page (s): 24

Who owns the current license plate graphics/artwork? Will the offeror have unlimited access to these graphics at no charge?

Response: Yes, the contractor will have access to graphics at no charge, once a design is approved by SCDMV.

[Amendment 2, Page 71]

The State's response did not specifically address the question of ownership. However, the response can reasonably be interpreted as implying that the State owns the license plate graphics and artwork, and the contractor will have unfettered contractor access to those work products.

In its response, ITI addressed the solicitation requirement as follows:

3. Contractor must be (sic) accept graphic design artwork in a variety of formats including, but not limited to, JPG, PNG, EPS, PSD, and PDF.

ITI Response:

ITI is familiar with most file types used for license plate artwork such as JPG, PNG, EPS, PSD, and PDF. For production use, ITI prefers to work with Vector-based artwork formats as opposed to Raster artwork, as Vector provides a superior quality of print. Our Graphics Team will work closely with SCDMV to produce license plate designs which work best with the SCDMV.

5. Contractor is responsible for the conversion of all existing SCDMV plate designs into the Contractor's standard digital image at no cost to SCDMV. ***This must be done within thirty (30) days of contract the start of the contract term.***

ITI Response:

ITI is committed to meeting the thirty-day timeline proposed by South Carolina to ensure efficient delivery of all necessary license plate designs. All license plate designs are created with suggested AMMVA standards in mind. All plate designs will be converted into our standard digital image as part of the turnkey solution that will be no cost to SCDMV. To meet the thirty-day requirement, the vector artwork currently in use will need to be provided by the State immediately. If the State does not own the vector artwork, ITI will require approximately three to four months to reproduce the designs.

These responses were not flagged as nonresponsive during discussions or evaluation, reaffirming the impression that the State owned the graphics and artwork.

During negotiations the parties agreed modify the requirement as follows:

1. As amended by Amendment #2 to the solicitation, Section III. Scope of Work/Specifications, Subsection 3.2 Graphic Design Work, A. Plates, item #5 shall be revised as follows:

Contractor is responsible for the conversion of all existing SCDMV plate designs into the Contractor's standard digital image at no cost to SCDMV. ~~*This must be done within thirty (30) days of contract the start of the contract term. Templates shall be converted, tested, and approved by SCDMV within six (6) months of contract start date.*~~

[Record of Negotiations, Page 3]

The State's failure to clearly respond to the question of ownership, created an ambiguity that had a direct impact on the period of performance. The negotiations only changed the period of performance, not the work to be performed. This ambiguity was properly resolved during negotiations. This issue of protest is denied.

3M's next alleges the following:

Negotiations provided for a change in initial pricing at the start of the contract period for postage and aluminum. Under the RFP, ITI would be required to provide for postage and aluminum without any adjustments. This new allowance allows ITI to pass on significant increase in costs to the State and does not reflect the results of a negotiation that achieved the best value to the State.

The initial term of this contract is four years with three one-year options to extend. [Solicitation, Page 6] The solicitation anticipates that the initial twelve-months will be a transition period during which there will be no charges paid by the State until production and distribution are being provided in accordance with this contract. [Solicitation, Page 6] The original solicitation stipulated that prices would not be increased during the initial four-year term of the contract except that prices for aluminum and postage may be adjusted on an annual basis beginning in year two:

PRICE ADJUSTMENT - LIMITED (MODIFIED)

Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term. **Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase.** If approved, a price increase becomes effective starting with the term beginning after approval.

A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

Upon approval of the Procurement Officer, **prices may be adjusted on an annual basis during the initial contract term or renewal contract terms for (1) aluminum and (2) postage for each shipping category (direct mail of individual plates and bulk shipments of boxes of plates) only.** Contractor shall submit with their request supporting documentation from manufacturers of raw materials to substantiate this request. Price increases or decreases become effective only when approved in writing by executing a change order. Prices shall not be increased during the first year of the contract. Any request for a price increase must be received by the Procurement Officer **at least ninety (90) days prior to the anniversary date of the contract.**

[Solicitation, Page 56]

Included in Amendment 2 were the following questions and answers concerning price:

29 Question – Section 7 - Price Adjustments, Page (s): 55

USPS postage rate adjustments can occur at any time, and the contractor has no control over these adjustments or when they take place. Can the State confirm that postage can be adjusted at the time that the USPS rate increase/decrease occurs? It would be unfair to the contractor to absorb these costs and have to wait till the next annual adjustment to get an adjustment for postage rates.

Response: The request for postage rate increases is remaining as currently stated in the solicitation.

[Amendment 2, Page 74]

32. Question – Section: VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL, Page (s): 61

Bearing in mind that postage is subject to price variation from USPS and should be a flow through cost (without margin) to the State, and that the State may well be able to negotiate superior rates with USPS, would the State consider removing postal costs from the price proposal?

Response: Postal cost will remain a part of the price proposal.

[Amendment 2, Page 74]

Amendment 4 included the following:

3. Question – Follow up to question 29 regarding the frequency of the USPS postage rate changes the offeror may request of South Carolina. The SCDMV's preference is to limit price

adjustments for postage on an annual basis, however, the USPS can change the postage rate any number of times per year. For example, in 2020, on separate occasions, the USPS implemented both a permanent and temporary price increase followed by an additional price increase in early 2021. As such, would the SCDMV consider semi-annual postage price adjustments for each shipping category if applicable?

Response: All terms for requesting price adjustments will remain as currently presented in the solicitation.

[Amendment 4, Page 5]

In spite of the State's insistence during the solicitation process that all price adjustments would remain as stated in the solicitation, during negotiation the following changes were agreed to:

As amended by Amendment #2 to the solicitation, Section VIL Terms and Conditions - B. Special, Price Adjustment- Limited (MODIFIED) clause shall be revised as follows:

PRICE ADJUSTMENT - LIMITED (MODIFIED)

(1) Upon approval of the Procurement Officer, prices may be adjusted for any renewal term. Prices shall not be increased during the initial term except for the items expressly listed in paragraphs (2) through (4) below. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term unless otherwise stated below and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval unless otherwise stated below. A price increase must be executed as a change order. Contractor may terminate this contract at the end of the then current term if a price increase request is denied. Notice of termination pursuant to this paragraph must be received by the Procurement Officer no later than fifteen (15) days after the Procurement Officer sends contractor notice rejecting the requested price increase.

(2) Upon approval of the Procurement Officer, prices may be adjusted on an annual basis during the initial contract term or renewal contract terms for ~~(1) aluminum and (2) postage for each shipping category (direct mail of individual plates and bulk shipments of boxes of plates) only~~. Contractor shall submit with their request supporting documentation from manufacturers of raw materials to substantiate this request. Price increases or decreases become effective only when approved in writing by executing a change order. Prices shall not be increased during the first year of the contract except as contemplated by subparagraph 4 below. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the anniversary date of the contract.

(3) Upon approval of the Procurement Officer, prices may be adjusted up to three (3) times a Contract Year during the initial contract term or renewal contract terms for postage for each shipping category (direct mail of individual plates and bulk shipments of boxes of plates). Contract Year One (1) shall be defined as beginning upon the contract start date and ending twelve months later. Contract Year Two (2) shall be defined as beginning upon the anniversary date of the contract start and ending twelve months later. Contract Years Three (3) through Seven (7) shall follow the same structure. Contractor shall submit with their request supporting documentation from USPS or other shipping provider to substantiate this request. Price increases or decreases become effective only when approved in writing by executing a change order. Prices shall not be increased during the first year of the contract except as contemplated by subparagraph 4 below. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the effective date of the increase.

(4) Upon approval of the Procurement Officer, prices may be adjusted prior to initial implementation for (1) aluminum and (2) postage for each shipping category (direct mail of individual plates and bulk shipments of boxes of plates) only. Contractor shall submit with their request supporting documentation from manufacturers of raw materials or USPS or other shipping provider to substantiate this request. Price increases or decreases become effective only when approved in writing by executing a change order. The request for a price increase associated with this subparagraph (4) must be received by the Procurement Officer at least thirty (30) days prior to initial implementation of the contract.

[Record of Negotiation, Page 3]

The standard for review is established in Section 1530(8)(a) which authorizes the State to:

negotiate with the highest ranking offeror on price, on matters affecting the scope of the contract, so long as the changes are within the general scope of the request for proposals, or on both. If a satisfactory contract cannot be negotiated with the highest ranking offeror, negotiations may be conducted, in the sole discretion of the procurement officer, with the second, and then the third, and so on, ranked offerors to the level of ranking determined by the procurement officer in his sole discretion;

(emphasis added)

The general scope of a solicitation defines the needs to be satisfied along with the circumstances, conditions, degree, and manner in which the competition will be decided. Any change during the evaluation or negotiation phases of the procurement process that could not have been reasonably anticipated by potential participants and could have had a chilling effect on competition is outside the general scope of the solicitation.

The State repeatedly insisted that there would be no adjustments to the pricing. Potential offerors could not have reasonably anticipated that the State would change course during negotiations. Consequently, these negotiated changes are outside the general scope of the solicitation and in violation of the Code.³ This issue of protest is granted.

3M next alleges the following:

The State and ITI negotiated an allowance for multiple box types for shipping that was explicitly denied by the State during the Q&A period. Under the RFP, ITI would be required to provide one rate for all box types without any adjustments. This new allowance passes on significant costs to the State and does not reflect the results of a negotiation that achieved the best value to the State.

In the solicitation, the State indicated a desire to take advantage of bulk shipping to reduce shipping costs:

G. Contractor must maximize the use of bulk shipping for customers ordering multiple plates in order to reduce shipping cost.

[Solicitation, Page 23]

9. Packaging for Plates Shipped to Branch Offices and Sections:

- a) Current process includes shipments to branch offices in increments of 100 plates. For plate orders less than 100, the Contractor backfills the box with Regular Plates (RP1) or In God We Trust (GT) plates to reach 100 plates, often resulting in excessive stock of these backfilled plates.
- b) Contractor shall maximize the use of the 100-plate shipping configuration when financially prudent.

[Solicitation, Page 25]

The solicitation indicated offerors were to submit their pricing through a prepopulated spreadsheet attached to the solicitation with the following explanation:

Offeror should provide their proposed pricing for the maximum contract term in Appendix 17: Price Proposal.

Currently SCDMV uses numerous plate types and descriptions. In an effort to streamline

³ 3M's protest regarding the negotiations also complains that "the final price offered by ITI will differ from the pricing offered and scored in its response[.]" However, this is permissible with competitive sealed proposals under § 11-35-1530, where the negotiated price may be different than the price in the proposal.

both the soliciting and billing processes for this solicitation all plates are to be one of the following:

- Automobile Plate with Decal & Registration
- Automobile Plate with Registration & without Decal
- Automobile Plate without Decal & Registration
- Motorcycle Plate with Decal & Registration
- Motorcycle Plate with Registration & without Decal
- Motorcycle Plate without Registration & without Decal

The Price Proposal section takes these plate types and requires the price for each be separated by aluminum, postage, and price minus aluminum and postage. The total price for each plate must equal these three items added together. The State will only pay the price submitted in the Price Proposal. Any additional cost with the exception of sales tax must be included in this price.

*Bulk shipments are sent to all SCDMV Field Offices, SCDMV's Warehouse and Headquarters throughout the State of South Carolina. A list of all locations can be found in Appendix 19.

The spreadsheet also asked for the following shipping costs:

Automobile Plate Postage Cost, Individual For Shipments of Individual Plates
One (1) Plate Only

Automobile Plate Postage Cost, Bulk For Shipments of Multiple Plates Two (2)
or More Plates Only

Motorcycle Plate Postage Cost, Individual For Shipments of Individual Plates
One (1) Plate Only

Motorcycle Plate Postage Cost, Bulk For Shipments of Multiple Plates Two (2) or
More Plates Only

During the question-and-answer period the State was asked to allow additional bulk shipping discounts:

37. Question – Appendix 17

Line Item #10 - This is nearly impossible to quote as indicated due to the fact that pricing is required for "2 or more plates" and pricing would vary depending on whether there were two plates up to 100 plates. Currently, bulk plates are couriered (not sent by post) out to the branch offices. These plates are sent out in lots of 25, 50, 75, or 100 plates per box, and pricing is structured around these volume points.

Can SCDMV add these line items into the pricing Appendix for bulk shipments with the approximate quantity of plates for each volume point (25, 50, 75, or 100 plates per box)?

Response: The requirements for two categories for shipping price; individual and bulk, will remain as currently stated in the Price Proposal.

[Amendment 2, Page 75]

1. **Question** – Follow up to questions 37 and 45

The SCDMV provided two categories for the price of shipping: individual and bulk and in the SCDMV's response to question 45, the SCDMV clarified "bulk shipping for customers ordering multiple plates" as bulk shipments that include more than one plate, and the current revised price proposal lists the following two bulk plate shipping categories:

Automobile Plate Postage Cost, Bulk
For Shipments of Multiple Plates
Two (2) or More Plates Only

and

Motorcycle Plate Postage Cost, Bulk
For Shipments of Multiple Plates
Two (2) or More Plates Only

Based on the SCDMV's responses and the two price line items, it appears that the SCDMV considers bulk plates shipped to branch offices and to the DMV warehouse in the same price category as grouped plates mailed to motorists. However, to get the best possible pricing, bulk plates shipped to branch offices and to the DMV warehouse are packaged differently and are shipped by way of a different shipping company as compared to plates mailed to motorists.

That said, is the SCDMV willing to create a separate price line item for grouped plates mailed via the USPS to motorists?

Please know that the USPS postage rate to ship grouped plates varies by the number of plates per package. Knowing this, is the SCDMV planning to create multiple price line items as shown below for grouped plates shipped to motorist to account for the postage rate change that occurs when the number of plates in a grouped package changes from 2 group plates, to 3 grouped plates, to 4 grouped plates, etc.?

- 2 grouped plates
- 3 grouped plates
- 4 grouped plates
- 5 grouped plates
- greater than 5 grouped plates

Or is it the SCDMV's preference to only mail individual plates to motorist?

In the event SCDMV does not revise the Price Proposal V2 to allow for groups of plates shipped to motorists, can offerors add additional price line items in effort to account for this grouped postage rate change and to provide the SCDMV with more advantageous pricing?

Response: The SCDMV will not be creating any additional line items for the solicitation. Offerors are to use the existing lines in the Bid Schedule without adding any additional information or making any changes.

2. **Question** – Follow up to question 37 regarding the two shipping price categories: individual and bulk and the SCDMV's response to question 45 regarding the clarification of "bulk shipping for customers ordering multiple plates".

Please confirm whether or not the SCDMV wants to continue bulk shipping in boxes of 25, 50, 75 or 100 plates per box to the DMV branch offices and the DMV warehouse or is it the SCDMV's preference to only bulk ship plates to branch offices and DMV the warehouse in boxes of 100 plates? Please note that these different box sizes were introduced to save cost and avoid overstocking.

If the SCDMV wants to continue shipping plates to branch offices in boxes of 25, 50, 75 and 100, please know that shipping rates for each box are different – will the SCDMV add price line items to the Price Proposal V2 to account for all four-box sizes as shown below?

- 25 plates shipped in bulk to branch offices
- 50 plates shipped in bulk to branch offices
- 75 plates shipped in bulk to branch offices
- 100 plates shipped in bulk to branch offices

Response: The SCDMV will not be adding any additional line items. Offerors are to present their prices in the Bid Schedule as it is currently written, without adding any information or making any changes to it.

[Amendment 4, Page 3]

During negotiations the parties incorporated bulk shipping discounts:

Exhibit A
Record of Negotiation Negotiated Changes to Proposal

1. The following shall be added to Intellectual Technology, Inc.'s (ITI's) Price Proposal:
License Plate Shipping Costs

#Plates	Weight	Class	Zones 1-2	Zone3	Zone4
1	2.85oz	IC Flats	\$1.61		
2	5.70oz	IC Pkg Service	\$4.36	\$4.39	\$4.41

3	8.55oz	IC Pkg Service	\$4.94	\$4.99	\$5.02
4	11.40oz	IC Pkg Service	\$4.94	\$4.99	\$5.02
5	14.25oz	IC Pkg Service	\$6.09	\$6.13	\$6.17
6	1.071b	Priority Mail	\$8.42	\$8.61	\$8.91
7	1.251b	Priority Mail	\$8.42	\$8.61	\$8.91
8	1.431b	Priority Mail	\$8.42	\$8.61	\$8.91
9	1.601b	Priority Mail	\$8.42	\$8.61	\$8.91
10	1.781b	Priority Mail	\$8.42	\$8.61	\$8.91
11	1.961b	Priority Mail	\$8.42	\$8.61	\$8.91
12	2.141b	Priority Mail	\$8.65	\$9.03	\$9.43
13	2.321b	Priority Mail	\$8.65	\$9.03	\$9.43
14	2.491b	Priority Mail	\$8.65	\$9.03	\$9.43
15	2.671b	Priority Mail	\$8.65	\$9.03	\$9.43
16	2.851b	Priority Mail	\$8.65	\$9.03	\$9.43
17	3.031b	Priority Mail	\$8.76	\$9.28	\$9.96
18	3.211b	Priority Mail	\$8.76	\$9.28	\$9.96
19	3.381b	Priority Mail	\$8.76	\$9.28	\$9.96
20	3.561b	Priority Mail	\$8.76	\$9.28	\$9.96
21	3.741b	Priority Mail	\$8.76	\$9.28	\$9.96
22	3.921b	Priority Mail	\$8.76	\$9.28	\$9.96
23	4.101b	Priority Mail	\$8.87	\$9.33	\$10.31
24	4.281b	Priority Mail	\$8.87	\$9.33	\$10.31

Note:

- (1) At seventeen (17) license plates per package ITI would automatically switch to UPS as rates would be lower.

UPS	
25 ct	\$8.67
50 ct	\$8.67
75 ct	\$8.67
100 ct	\$9.20
* All zone 1	

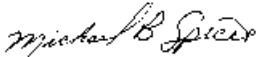
- (2) Householding would be employed at four plates per package with the January 2022 USPS postage increase.

The State repeatedly insisted that it would not add line items for additional bulk shipping rates and potential participants could not have reasonably anticipated that the State would change course during negotiations. Consequently, these negotiated changes are outside the general scope of the solicitation and in violation of the Code. This issue of protest is granted.

DECISION

For the reasons stated above, 3M's protest of improper negotiations is granted. All other issues of protest are denied. This procurement is remanded to the State for processing in accordance with the Code.

For the Materials Management Office

A handwritten signature in black ink, appearing to read "Michael B. Spicer".

Michael B. Spicer
Chief Procurement Officer

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March 22, 2022

*Via Email protest-mmo@mmo.state.sc.us
and Hand Delivery*

Ms. Johanne M. Sullivan, CPPB
Procurement Officer
SFAA, Division of Procurement Services, MMO
1201 Main Street, Suite 600
Columbia, SC 29201
jmsullivan@mmo.sc.gov

**Re: Notice of Protest of Award of Contract for Solicitation 5400019885 / Digitalized
License Plate Production & Distribution /Agency: DMV Administration**

Dear Ms. Sullivan:

We represent 3M Company ("3M") in connection with the Notice of Intent to Award the Contract arising out of Solicitation 5400019885 for DMV Administration Digitized License Plate Production & Distribution (the "RFP" or "Solicitation") to Intellectual Technology, Inc. ("ITI"). 3M brings the following protest pursuant to S.C. Code Ann. § 11-35-4210 and requests a review by the Chief Procurement Officer.

In short, 3M contends the proposed award to ITI is improper and contrary to the South Carolina procurement code. The procuring agency failed to follow the procurement standards set forth in the South Carolina Code of Laws and the Solicitation itself because, the intended award under the Solicitation has been made to an Offeror that not only was less competitive than 3M, but also ineligible for the award. The integrity of the entire evaluation process was tainted and unfairly prejudiced 3M. Therefore, 3M has sufficient grounds for filing this protest and, for the reasons described below, the contract arising out of the Solicitation should be awarded to 3M.

I. Factual Background and Procedure

The South Carolina Department of Motor Vehicles ("SCDMV") is responsible for administering the state motor vehicle licensing and titling laws. In accordance with its duties, SCDMV maintains strict controls to deliver secure and valid identification, licenses and property

records while accounting for the receipt and distribution of all revenue collected in order to serve the citizens of South Carolina. Part of its duties include properly registering vehicles using a license plate. Currently SCDMV produces over 400 different types of plates including standard and specialty plates. [RFP, Section III, 1.0].

On or about March 15, 2021, the State Fiscal Accountability Authority (SFAA), Division of Procurement Services ("DPS"), Office of State Procurement ("OSP") on behalf of the SCDMV, began the procurement process and sought sealed proposals from qualified vendors to provide digitized license plate production and distribution in accordance with the RFP. There were four amendments to the RFP, with Amendment #2 detailing most of the changes and modifications resulting from the Questions and Answers period.

The RFP sought cost savings and improvements in customer service for its license plate production and distribution process including, but not limited to, all of the following: electronic flow improvement (automating manual ordering processes); inventory management, production and distribution; labor efficiencies that result in cost and time savings processes; application of new technology; and protection of personally identifiable information ("PII") and SCDMV issued data. According to the RFP the goal for the procurement process is to result in a final award to an Offeror who proposes a solution that will, among other things:

1. Reduce costs associated with the manufacture and distribution of license plates
2. Improve customer service by reducing/improving delivery times
3. Reduce inventory costs and other costs associated with the management of license plates
4. Improve customer service by providing more design and ordering options for personalized and specialty plates
5. Improve current inventory management of license plates

[RFP, Section III, 1.0].

The RFP provides for an initial term of four (4) years. At the end of the initial term, and at the end of each renewal term, the contract shall automatically renew for a period of 1 year, unless the State elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, the contract will expire no later than the last date stated on the final statement of award. [RFP, Section VII, Terms and Conditions--B. Special-Terms of Contract].

The state has the discretion to reject any offer that fails to conform to the material requirements of the RFP. Offerors are not allowed to correct any material inconformity. [RFP, Section II, Instructions to Offerors- A. General Services-Instructions Responsiveness/Improper Offers].

The prospective vendors were to submit a technical proposal and separate price proposal. Section III, Scope of Work/Specifications of the RFP sets forth the scope and detailed requirements of the contract, including numerous mandatory requirements. For example, Section III, 3.21 provides very specific requirements regarding the experience, termination and/or reassignment of staffing and/or key personnel.

According to the RFP each proposal was to be evaluated by a review panel on the basis of the following criteria, which are listed in the relative order of importance:

1. Capability (40 points)

This criterion evaluates the degree, completeness, and suitability of the Offeror's proposed solution (including but not limited to the Offeror's Technical Approach and Methodology, Implementation Plan, Quality Management Plan, Cost Reduction Plan, and Customer Service Improvements) to meet or exceed the needs stated in the solicitation.

2. Experience and Qualifications (30 points)

This criterion evaluates the Offeror's previous experience on similar projects (with references), equipment and personnel to be utilized.

3. Price (30 points)

This criterion evaluates the price of the proposed solution.

Proposals were to be evaluated by a review panel on the basis of the criteria listed above. No other details as to scoring were delineated in the RFP. Once the evaluation was complete, all responsive offerors were to be ranked from most advantageous to least advantageous. [Section VI, Award Criteria].

Upon information and belief, 3M and ITI were the only vendors that submitted proposals in response to the RFP. The evaluation team reviewed the technical proposals and awarded ITI 469 points and 3M was awarded 367.20 points. 3M's price proposal was \$52,769,021.18 and ITI's price proposal was 37,061,500.25. The scoring sheets were signed on October 20, 2021.

The State notified ITI on November 8, 2021, that it had been selected to move into the negotiation process pursuant to Section S.C. Code Ann. § 1-35-1530. The notice also detailed the list of items the State intended to clarify with ITI.

On March 1, 2022, the State executed the Record of Negotiated Changes ("RON") and the Notice of Intent to Award the Contract resulting from the RFP was posted on March 7, 2022.

This protest is timely filed in accordance with the S.C. Code Ann. § 11-35-4210 and the RFP.

II. Basis for Protest

South Carolina procurement laws are intended to secure procurements that are most advantageous to the state, foster effective broad base competition for public procurement within a free enterprise system, and to ensure the fair and equitable treatment of all persons who deal with the procurement system which will promote increased public confidence in the procedures, among other goals. S.C. Code Ann. § 11-35-20(2).

An offeror who is aggrieved has the right to protest and set forth the grounds of its protest and relief requested with enough particularity to give notice to the issues to be decided. S.C. Code Ann. § 11-35-4210(2). Both the code and past panel decisions delineate expectations for solicitations and awards that, if not properly followed, create grounds for protest. As a general rule, an agency must award a contract only to the lowest responsive and responsible bidder. *See M.A.R. Const. Co., Inc., et al v. So. Carolina Dept. of Mental Health*, Protest No. 2013-010A-B. When evaluating a bid under a competitive sealed bidding process, the State should also consider the relative importance of a valuation factor set forth in the solicitation. *See* S.C. Code Ann. § 11-35-1520. Further, the contract file must contain the basis for which the award was made and must contain a sufficient basis for an external audit. *See* S.C. Code Ann. § 11-35-1530.

Protest of awards must, and in some way, “alert the parties to the general nature of the grounds for protest.” *Protest by Sterile Services Corporation*, Panel Case No. 1983-17. Alleging that some of the solicitation has been ignored or the award of the contract has violated some statute or regulation is sufficient grounds for a protest. *Appeals of Logisticare Solutions, LLC and Medical Transportation Management, Inc.*, Panel Cases Nos. 2011-1 and 2011-2; *cf. Appeal by Coastal Rapid Public Transit Authority*, Panel Case No. 1992-16 (protester must demonstrate the State departed from the standard set forth in the Procurement Code and the RFP).

Under S.C. Code Ann. § 11-35-1530, the procuring agency is required to adhere to the standards it sets forth in the Solicitation when evaluating a proposal and awarding contracts. Demonstrating that the agency failed to adhere to these standards constitutes sufficient grounds for a protest. *Protest by Sterile Services Corporation*, Panel Case No. 1983-17.

- A. ITT's proposal is non-responsive because it fails to comply with the essential and/or mandatory requirements of the RFP as follows:
 - 1. The RFP mandates that the Contractor provide a Project Manager with a minimum of five (5) years' experience managing projects of an ongoing nature. *See* RFP Section III, 3.21. ITT's proposed Project Manager, Kevin Haverstock, does not meet this requirement. The RFP requires that the Project Manager have 5 years of experience (e.g., a total of 1826 days). Mr. Haverstock, however, only demonstrated 1637 days of experience. *See* Page 99-100 of ITI response. It is also clear that multiple project managers will be assigned and subject to Executive overview. *See* page 12 of ITI response. The refusal to address Section III, 3.21 in its proposal

demonstrates ITI's refusal to comply with these specific staff requirements in contravention of the material requirement of the RFP. Additionally, ITI's failure to meet this requirement should have rendered its proposal non-responsive and ITI should have been disqualified because the Project Manager does not have the mandatory experience.

2. Section III, 3.21 of the RFP mandates that the Project Manager be the single point of contact for the State and that the Project Manager be aware of all aspects of the contract and its requirements as well as all issues related to the actual goods, services and associated processes. The State specifically indicated in the RFP that a single point of contact is necessary for its own day-to-day internal management, as well as contract management for this Contract. Importantly, the State advised that the Contractor's Project Manager is the best, most informed individual for this task. ITI did not, however, address and/or accept the conditions in Section III, 3.21. Instead, ITI noted that each project will include a dedicated project manager and that the assigned account manager will be the single point of contact for South Carolina. *See* page 12 of ITI response. The refusal to address Section III, 3.21 in its proposal demonstrates ITI's refusal to comply with these specific staffing requirements in contravention of the material requirements of the RFP. Additionally, ITI's failure to meet this requirement should have rendered its proposal non-responsive and ITI should have been disqualified because ITI's proposed liaison role does not provide for a single point of contact with the state.
3. The RFP requires the Contractor provide SCDMV with immediate notice of the termination or transfer of any key personnel, the reason(s) for the termination or transfer, and an action plan for replacing the terminated or transferred employee. As indicated above, ITI did not specifically address and/or accept the conditions in Section III, 3.21. ITI did provide that after a termination it would send an automated notice to necessary personnel, but ITI's proposal does not provide the level of detail required by the RFP. ITI's refusal to comply with the Scope of Work regarding the termination of staff and/or key personnel is in contravention of a material requirement of the RFP. Additionally, ITI's failure to meet this requirement should have rendered its proposal non-responsive and ITI should have been disqualified.
4. The RFP requires the Contractor to promptly remove and replace any employee as reasonably requested by SCDMV. *See* Section III, Section 3.21 of RFP. As indicated above, ITI did not specifically address and/or accept the conditions in Section III, 3.21. In fact, ITI's Proposal is devoid of any mention or agreement that prior to providing a replacement for any key personnel that leaves the Project for any reason, ITI would obtain SCDMV's written approval of the replacement. This is clearly a material

term as the termination or removal may be withheld in SCDMV's sole discretion. ITI's refusal to comply with the Scope of Work regarding termination or removal of personnel is in contravention of a material requirement of the RFP. Additionally, ITI's failure to meet this requirement should have rendered its proposal non-responsive and ITI should have been disqualified.

5. Section III, 3.21 of the RFP requires the Contractor to ensure that any replacement candidate proposed by Contractor has qualifications and experiences of substantial similarity to the qualifications and experiences of the individual being replaced and such replacement will not delay the Project. The Contractor is also required to use reasonable efforts to ensure that such replacement has served on the Project in another role and that replacement candidate had not been previously removed due to SCDMV's request. ITI failed to include and/or address Section III, 3.21 and the Proposal is otherwise devoid of any mention of these specific requirements. ITI's refusal to comply with the Scope of Work regarding termination or removal of personnel is in contravention of a material requirement of the RFP. Additionally, ITI's failure to meet this requirement should have rendered its proposal non-responsive and ITI should have been disqualified.
6. Section 3.1 General, Item E, as amended, provides that South Carolina Department of Correction ("SCDC") inmates and SCDC supervisory personnel must still be incorporated into the proposal for plate production, even if production is off-site, and in similar personnel quantities as is currently used with the exception of efficiencies gained that reduce manpower requirements. Additionally, after the award, the Contractor must enter into and maintain a current Memorandum of Agreement ("MOA") and/or contract with South Carolina Department of Corrections ("SCDC") or a division within SCDC for these services, which must be provided to SCDMV within 15 days of execution. See Appendix 18 for a copy of the Memorandum of Agreement between SCDMV and SCDC. ITI attempted to address this requirement in its section titled "Equipment Switchover." See page 69 of ITI response. ITI's proposal, however, unequivocally has all plates being produced at the ITI facility until the SCDC facility can have a new ITI supplied blanking line ordered, assembled, tested and the SCDC personnel trained. There is no mention of using SCDC personnel or inmates working at the ITI facility during this period. With the timelines for delivery of equipment, this means it will take an estimated six (6) months for ITI to have the SCDC blanking line operational. Accordingly, ITI was non-responsive and/or non-compliant with this requirement.

7. ITI did not incorporate the amendment for section 3.0 Basic Services and System Functionality in its proposal. This omission reflects a material non-compliance with the RFP.
 8. ITI did not incorporate the amendment for Section 3.7(3)(d) in its proposal. Accordingly, ITI was non-responsive and/or non-compliant with this requirement.
- B. The Evaluation Panel's Scoring was arbitrary and capricious and did not follow the published award criteria.
1. As indicated above ITI's proposal was non-responsive in many respects. Not only did the State fail to find ITI's proposal non-responsive, but the evaluators' scores indicate that certain evaluator overlooked or chose to ignore ITI's material non-compliance with the RFP. For example, it is inexplicable how Evaluator Number 1 awarded the maximum available points to ITI for Capability/Experience and Qualifications. Based upon the numerous areas where ITI did not provide information or where its response was not in compliance with the RFP, it is a clear that a reasonable and deliberate review of ITI's proposal by the evaluation panel did not occur.
 2. A number of the comments by the evaluators indicate either a lack of understanding of the 3M or ITI response and/or a lack of thoroughness in reviewing the proposals. For example, each evaluator commented on ITI's response related to a standalone Disaster Recovery. While ITI included a Disaster Recovery plan starting on page 408 of their Response to the RFP, ITI's focus is almost exclusively on how the IT systems will be recovered in the event of a disaster. There is not, however, an explanation in the Disaster Recovery Plan as to how ITI will provide plate production in the event of a disaster, which is what the RFP requires. ITI also failed to include a business continuity plan starting on page 418, as the focus of the content is about the plan with no explanation given as to how plate production would continue. Finally, the ITI fulfillment center drawing on page 89 shows two printers at the ITI facility, but the SCDC facility drawings shown on page 86 and 87 show no printer. This reduces ITI's ability to implement a Disaster and Recovery plan should the ITI facility experience a production disruption. These are each a material omission regarding how ITI would recover from a disaster that affected their South Carolina fulfillment facility.

C. The Negotiations that Occurred Were in Violation of the Procurement Code

The South Carolina Procurement Code outlines the process for negotiations. See S.C. Code Ann. § 11-35-1530. Negotiations are to be conducted with the highest ranked responsive offeror. For the reasons set forth above, it was error for the State to engage in negotiations with ITI as its proposal was nonresponsive and ITI, therefore, was improperly determined to be the highest ranked offeror.

Additionally, the RON reflects that the State and ITI negotiated changes to certain terms and conditions, specific requirements listed in the RFP or highlighted in Q&A, which impacted pricing. The new pricing negotiated is not explicitly laid out in the document, as the pricing is to be determined at a future date. So not only is the basis of scoring for pricing invalid given that the final pricing offered by ITI will differ from the pricing offered and scored in its response, the resulting contract is illusory since the parties have simply reached an agreement to agree about pricing in the future.

Further changes resulting from the negotiations, include, but are not limited to:

1. Contractor is responsible for the conversion of all existing SCDMV plate designs into the Contractor's standard digital image at no cost to SCDMV. The RFP requires that this be done within thirty (30) days of contract the start of the contract term. ITI's proposal said they could complete within 3-4 months if they didn't have the vector files, which they do not. As a result, the State has essentially changed the requirement from 30 days to 6 months.
2. Negotiations provided for a change in initial pricing at the start of the contract period for postage and aluminum. Under the RFP, ITI would be required to provide for postage and aluminum without any adjustments. This new allowance allows ITI to pass on significant increase in costs to the State and does not reflect the results of a negotiation that achieved the best value to the State.
3. The State and ITI negotiated an allowance for multiple box types for shipping that was explicitly denied by the State during the Q&A period. Under the RFP, ITI would be required to provide one rate for all box types without any adjustments. This new allowance passes on significant costs to the State and does not reflect the results of a negotiation that achieved the best value to the State.

As the circumstances described above demonstrate, the changes made by ITI to its proposal in negotiations are not within the scope of the RFP as required by S.C. Code Ann. § 1530(8)(a). To the extent that the procurement officer wanted to make changes to the RFP within the general

Johanne M. Sullivan, CPPB
March 22, 2022
Page 9

scope of the RFP, it should have provided 3M, as the sole responsive offeror, with an opportunity to submit a best and final offer pursuant to S.C. Code Ann. §1530(8)(c).

III. Conclusion

3M does not invoke its right to protest lightly. The review of ITI's proposal and the means and methods of the proposed award presents serious concerns and, as a result, ITI's proposal was not the most advantageous to the State. Additionally, ITI's proposal should have been rejected as it is nonresponsive. With the rejection of ITI, 3M, therefore would be the highest ranked offer. As such, 3M is requesting that the Chief Procurement Officer issue a decision to award the contract to 3M and/or in the alternative reject all bids. We reserve the right to amend our protest in accordance with the Procurement Code upon the discovery additional information that may become available through the course of 3M's freedom of information act requests and further investigation. Finally, 3M is requesting an administrative review and hearing regarding this protest and looks forward to addressing the issues with you in person and presenting its proof.

We appreciate your attention to these matters and look forward to addressing these issues with you.

Respectfully,

HOLLAND & KNIGHT LLP



George G. Robertson

GGR/mlm
Enclosures

CC: Eric S. Crusius, Esquire [*Firm*]
Karen D. Walker, Esq. [*Firm*]
Mia L. McKown Esq. [*Firm*]
Mr. John Macklin
Ms. Maria Paraschou

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.

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**

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.