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JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER
(803) 737-0600
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Protest Decision

Matter of: Heritage Health Solutions, Inc.
File No.: 2023-116
Posting Date: January 5, 2023
Contracting Entity: SC Department of Corrections
Solicitation No.: 5400024541
Description: Intent to Sole Source – Blue Cross Blue Shield of South Carolina

DIGEST

Protest of Intent to Award a Sole Source contract is dismissed as untimely.

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.

BACKGROUND

Intent to Sole Source Advertised	12/06/2022
HHS Intent to Protest Received	12/07/2022
HHS Protest Received	12/22/2022

The SC Department of Corrections (DOC) advertised its intent to award a Sole Source contract to Blue Cross Blue Shield of South Carolina to provide Medical Billing Pricing, Pre-Payment Audit, and reviews for all SC Department of Corrections Inmate Medical Bills from outside providers, Hospital and

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

Physicians on December 6, 2022. Section 11-35-4210(1)(c) grants potential offerors the right to protest in the following manner:

Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract pursuant to Section 11-35-1560 or Section 11-35-1570 shall notify the appropriate chief procurement officer in writing of its intent to protest within five business days of the date that award or notification of intent to award, whichever is earlier, is posted in accordance with this code. Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of such 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 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)

HHS timely file an Intent to Protest with the CPO on December 7, 2022. (Attachment 1) HHS emailed its formal protest to the DOC on December 21, 2022. (Attachment 2) However, HHS did not forward a copy of the formal protest to the Chief Procurement Officer until December 22, 2022, sixteen (16) days after the DOC first advertised the Intent to Sole Source. Section 11-35-4210(2) requires receipt of the formal protest by the Chief Procurement Officer within the fifteen days (15) specified above:

A protest pursuant to subsection (1) must be in writing, filed with the appropriate chief procurement officer, and set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided. The protest must be received by the appropriate chief procurement officer within the time provided in subsection (1).

(emphasis added)

The statute clearly states that the protest must be received by the Chief Procurement Officer within the prescribed time. Since the CPO did not receive the protest within the prescribed time, he lacks jurisdiction to consider the merits of the protest.

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January 5, 2023

DECISION

For the reasons stated above, the protest of Heritage Health Solutions, Inc. is dismissed as untimely.

For the Materials Management Office



Michael B. Spicer
Chief Procurement Officer

Columbia, South Carolina

Attachment 1

From: [Chris Bell](#)
To: [Protest-MMQ](#); purchasing@doc.sc.gov
Cc: [Ruthie Bishop \(C045688\)](#); [Chris Bell](#)
Subject: [External] Heritage Health Solutions Inc. Intent to Protest Notice - Sole Source Award 5400023541
Date: Friday, December 9, 2022 1:55:29 PM
Attachments: [image001.png](#)
[SC DOC Intent to Protest Letter Heritage 12.09.2022.pdf](#)
Importance: High

Good day,

Please find out intent to protest notice attached. Further information on our complete protest will be shared by the deadline of 12/20/22.

When possible, please acknowledge receipt of this email and notice.

Thanks,
CB



All the best,

Christopher (Chris) Bell

Director of Business Development

D: 615 651 3870

E: cbell@heritagehealthsolutions.com

W: heritagehealthsolutions.com



GSA Schedule Holder (GS-23F-0047U)

Confidentiality Notice: The information contained in this communication and any attachments is intended solely for the use of the individual or entity to whom it is addressed and others authorized to receive it. It may contain confidential or legally privileged information. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution, or taking any action in reliance on the contents of this information is strictly prohibited and may be unlawful. If you have received this communication in error, please notify us immediately by responding to this email and then delete it from your system. For more information, visit us at www.heritagehealthsolutions.com.

Attachment 2

From: [White, John](#)
To: [Spicer, Michael](#)
Subject: FW: [External] Fwd: Protest to Solicitation 5400024541 Intent to Award a Sole Source
Date: Thursday, December 22, 2022 12:22:03 PM
Attachments: [image001.png](#)
[SC DOC Protest 12212022.pdf](#)
[Heritage Bid Protest Exhibits \(compiled\) v3.pdf](#)

FYI – Heritage Health sent me the attached this morning. They sent it to DOC rather than here yesterday, the day it was due.

From: Chris Bell <CBell@heritagehealthsolutions.com>
Sent: Thursday, December 22, 2022 9:31 AM
To: White, John <jswhite@mimo.sc.gov>
Subject: [External] Fwd: Protest to Solicitation 5400024541 Intent to Award a Sole Source

From: "Chris Bell" <CBell@heritagehealthsolutions.com>
Subject: Protest to Solicitation 5400024541 Intent to Award a Sole Source
Date: 21 December 2022 16:40
To: "purchasing@doc.sc.gov" <purchasing@doc.sc.gov>
Cc: "Chris Bell" <CBell@heritagehealthsolutions.com>, "Kevin James" <KJames@heritagehealthsolutions.com>, "Tim Urlocker" <TUrlocker@heritagehealthsolutions.com>

Good day,

Please see the attached documentation concerning the subject matter above.

When possible, please confirm receipt of this email. Thank you.



All the best,

Christopher (Chris) Bell

Director of Business Development

D: [615.651.3870](tel:6156513870)

E: cbell@heritagehealthsolutions.com

W: heritagehealthsolutions.com

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2022)

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 2022 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
1105 Pendleton Street, Suite 209, 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.