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Protest Decision

Matter of: Project Solutions Group LLC

File No.: 2025-110

Posting Date: December 9, 2024

Contracting Entity: State Fiscal Accountability Authority

Project No.: 5400026972

Description: Facilities Management Services for South Carolina State University

DIGEST

The Chief Procurement Officer (CPO) grants the protest of Project Solutions Group LLC (PSG). The protest document is attached as Exhibit A.

AUTHORITY

The Chief Procurement Officer (CPO) conducted an administrative review pursuant to S.C. Code Ann. § 11-35-4210. This decision is based on materials in the procurement file and applicable law and precedents.

BACKGROUND

- On May 13, 2024, the State Fiscal Accountability Authority (SFAA) issued a solicitation for Facilities Management Services for South Carolina State University. The solicitation was processed using the request for proposals source selection method (RFP).
- On June 12, 2024, SFAA issued Amendment 3 replacing the original solicitation document in its entirety. Amendment 3 mad modifications to the document and answered supplier questions. As used hereinafter, reference to the solicitation is a reference to Amendment 3 (Exhibit B).

- On July 2, 2024, SFAA received 8 proposals including one from PSG.
- On July 19, 2024, SFAA distributed all responsive proposals to the Evaluation Committee from South Carolina State University.
- On July 31, 2024, the Evaluation Committee met to review and score the technical proposals.
- On September 18, 2024, SFAA posted an Intent to Award a contract to Thompson Hospitality Services LLC.
- On September 26, 2024, PSG filed a Notice of Intent to Protest with the CPO.
- On October 3, 2024, PSG submitted their grounds for protest.

DISCUSSION

PSG bases its first ground of protest on the allegation that the State failed to comply with stated evaluation factors. The solicitation included the following evaluation criteria:

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [06-6065-1]

1. General Administration and Management
2. Contract Innovation
3. Price
4. Social Responsibility Measures

The relative order of importance, however, was changed during evaluation. Rather than adhering to the stated factors and their relative order of importance, the evaluation panel scored and ranked the proposals based on the following criteria and their order of importance.

1. General Administration and Management (45 points)
2. Price (25 points)
3. Contract Innovation (15 points)
4. Social Responsibility Measures (15 points)

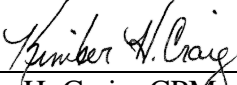
The Consolidated Procurement Code requires that proposals be evaluated using only stated criteria and must adhere to pre-determined weightings. S.C. Code Ann. § 11-35-1530(5) and (7).

¹Because the actual evaluation used point values that did not adhere to the relative order of importance established in the solicitation, the evaluation was conducted in violation of the law and the RFP. This issue of protest is granted.

PSG raised several additional grounds for protest. As the previous issue has been granted, these grounds are dismissed as moot.

DECISION

For the reasons stated above, the CPO grants PSG's protest, cancels the award, and remands this Procurement back to SFAA for re-solicitation.



Kimber H. Craig, CPM
Chief Procurement Officer

Columbia, South Carolina

¹ There is no requirement for evaluation criteria weightings to be published in the solicitation. When listing evaluation criteria in relative order of importance, the solicitation should identify criteria as equally important if multiple criteria are assigned the same the pre-determined weighting.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2024)

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 2024 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 Goldmans, 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.



October 3, 2024

Chief Procurement Officer
Materials Management Office
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Columbia, SC 29201

Womble Bond Dickinson (US) LLP

Post Office Box 999
Charleston, SC 29402

5 Exchange Street
Charleston, SC 29401

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Via E-Mail PDF Attachment to protest-mmo@mmo.sc.gov

Re: Protest of Solicitation No. 5400026972

Dana Lang

Partner

Direct Dial: 843-720-4641

Direct Fax: 843-410-2341

E-mail: Dana.Lang@wbd-us.com

Dear Chief Procurement Officer:

As indicated in the September 26, 2024, Notice of Intent to Protest, Project Solutions Group LLC ("PSG"), by undersigned counsel and pursuant to S.C. Code Ann. § 11-35-4210 and the S.C. Consolidated Procurement Code, hereby protests the intended award to Thompson Hospitality Services LLC ("THS") under that solicitation, Solicitation No. 5400026972 ("Solicitation" or "RFP"), by the State Fiscal Accountability Authority-Division of Procurement Services ("SFAA") on behalf of South Carolina State University ("SCSU").

The following exhibits are attached to this protest:

- Exhibit 1 - Amendment 3, fully restated Solicitation, exclusive of Attachments
- Exhibit 2- Attachments I, J, K and R to Amendment 3
- Exhibit 3- Exemplar Score Sheet
- Exhibit 4- Consolidated Score Sheet from the State
- Exhibit 5 - THS's Technical Proposal, as revised (redacted)
- Exhibit 6- THS Price Proposal, as revised
- Exhibit 7- Discussion Letter to THS
- Exhibit 8 - Delaware Secretary of State screenshots
- Exhibit 9- Excerpt of PSG Price Proposal
- Exhibit 10- Redacted Record of Negotiations with THS
- Exhibit 11- Excerpt from SMBCC.gov's list of SWMBEs
- Exhibit 12- Email from Stacey Gregg, SCSU (Aug. 27, 2024)
- Exhibit 13- Email from John Stringfield, THS (Sept. 4, 2024)

The following documents are provided to the CPO separately, as they were produced under the operative Protective Order:

1. THS's Technical Proposal, as revised (unredacted version of Ex. 5)
2. Record of Negotiations with THS (unredacted version of Ex. 10)



INTRODUCTION

This protest should be sustained for several reasons. First, the procurement officer (“PO”) failed to adhere to the express weighting of evaluation criteria in the RFP, improperly prioritizing price over contract innovation in direct contravention of the relative importance list set forth in the RFP. Second, THS’s technical and pricing proposals were non-responsive in several material aspects. Finally, the non-responsive nature of THS’s pricing proposal, which culminated in negotiations by the state, increasing the cost by 1.37 million dollars, distorted the pricing evaluation to other bidders, including PSG, that faithfully priced the requirements of the RFP. For these reasons, PSG requests re-solicitation.

BACKGROUND

A. The Solicitation

The State originally issued the Solicitation on May 13, 2024, and issued three amendments to that RFP; Amendment 3 fully restated the entire amended solicitation and all attachments, so the undersigned will use Amendment 3 when discussing the contents of the Solicitation. The Solicitation seeks to “establish a contract for Facility Management Services in accordance with all requirements stated herein.” (**Ex. 1**, Amendment 3, p. 3.) The RFP contemplated a single award. (Id.) Joint bids were not permissible under the Solicitation:

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, you are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

The scope of the work is far-reaching and, in some respects, difficult to quantify. For example, it includes, without limitation:

- provision of all facilities management services and oversight for “all actions and projects related to Facilities operations” along with data management and monitoring of same (Ex. 1 at p. 20);
- comprehensive onsite staff for custodial work, groundskeeping, and skilled trades (including plumbers, HVAC technicians, electricians, and locksmiths, as well as events management and moving services) (Id.);
- cleaning all facilities to APPA Level 2, which requires high frequency cleaning, such as high-touch areas like doorknobs wiped clean four (4) times per day, daily dusting, and bathrooms cleaned four (4) times per day, which are among the seven (7) pages of



- itemized cleaning tasks delineated by SCSU (Ex. 2, Attachment K, “Performance Plan for Custodial Operations”);
- responsibility for subcontracting pest control, fire extinguisher, water treatment and waste management services, which currently cost approximately \$946,000 over the life of the contract (Ex. 1 at 20);
 - the price was also to be inclusive of all supplies and equipment needed to provide all scoped services (such as chemicals, towels, cleaning supplies, soap office supplies, trash bags, and the like) (Id. at 21);
 - personnel “on site 24/7” and evening and weekend staffing at no additional cost to SCSU (Id. at 22);
 - comprehensive groundskeeping and landscaping work (Ex. 2, Attachment I).
 - cleaning and refreshing of Residence Halls each semester for new occupancies, and at the beginning of summer camp – with a current bed count of 1729 (Ex. 1 at 23); and
 - all repairs to equipment associated with the contract up to \$5000 per repair, including replacement of HVAC systems that cost less than \$5000 (Id. at 23).

The Solicitation also contemplated undefined construction management services for significant current and planned future repair, renovation, and construction projects to be included in the price. (Id at 20-21).

The RFP required submission of a technical proposal and a separate, detailed pricing proposal, as well as a summary of insurance policies that would govern the work (Ex. 1 at 32):

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (MAR 2015)

You shall submit a signed Cover Page and Page Two. If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. [04-4010-2]

The Technical Proposal was required, without limitation, to include an implementation plan, a staffing plan, a training and development plan, qualifications, and a description of how the offeror would institute multiple operations, including, but not limited to, a call center, disaster recovery, event staffing. Contract Innovations and Social Responsibility Measures, including sustainability and minority participation, completed the tech proposal. (Id. at 30-31).

The Price Proposal required offerors to “[d]escribe, in detail, your pricing model/fee arrangement.” Guidelines for required pricing data was included in Attachment J, “Instructions



for Cost & Price Data,” which the State incorporated into the Solicitation¹ in the form of an Answer to Bidders’ Questions.

- 9 Ref. IV. B. File 2-Price Proposal. Is there a standard bid form the University would like us to populate our Pricing in, preferably in Excel? This should be standard so that all bidders can provide competitive pricing in the exact format.
The University’s standard Bid form is provided as Section VIII (Bid Schedule). Instructions for Cost and Price data is provided as Attachment K.

(**Ex. 2**, Attachment R at Q. 9). This heightened pricing data requirement was wholly logical, given the far-reaching scope of the work and the significant and varied assumptions each offeror would have to make when pricing non-definite work, such as unlimited repairs less than \$5000, or an unknown number of future construction management requirements.

The RFP listed four evaluation factors, “stated in the relative order of importance”:

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [06-6065-1]

1. General Administration and Management
2. Contract Innovation
3. Price
4. Social Responsibility Measures

(Ex. 1 at 34).

B. Evaluation and Award

Eight offerors ultimately submitted proposals for consideration. The technical proposals were evaluated by four evaluators, assigning points to three of the evaluation factors in accordance with a score sheet provided by the State. (**Ex. 3**, Exemplar Score Sheet). The PO evaluated the pricing proposals, using a standardized pricing formula to compare price proposals among bidders. (**Ex. 4**, Consolidated Score Sheet, sheet 2). She used the top line number from each bidder, assigned maximum points to the lowest bidder, and then applied a mathematical formula to assign lesser points to each higher bidder based on the delta between that bidder and the low bid. After the PO separately scored the pricing proposals, she compiled the aggregate scoring. (Id. at sheet 1)

¹ While “[q]uestions do not form a part of the contract; the “STATE’S RESPONSE” does.” (Ex. 1, Amendment 3 at p. 14 (“Questions From Offerors – Amendment (Jun 2017)”).



THS was determined to be the offeror most advantageous to the State; PSG was rated fourth. (Id.). THS and the State entered negotiations, which culminated in a Notice of Intent to Award posted on September 18, 2024.

This protest timely followed.

BASES FOR PROTEST

The fundamental purpose of the South Carolina Consolidated Procurement Code is to create a fair, transparent, and predictable process through which public resources are used to buy goods and services from the private sector. The Procurement Code expressly states this goal at the outset: "The underlying purposes and policies of this code are 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 followed in public procurement." S.C. Code Ann. § 11-35-20(f).

This procurement violated the Procurement Code in several material ways. The PO did not apply the appropriate relative weights to the evaluation factors as set forth in the RFP. THS's Technical Proposal diverged in material respects from the RFP, rendering it non-responsive. THS's Pricing Proposal likewise was non-responsive in several respects, and the PO failed to evaluate the pricing information required by the RFP. These errors combined to unfairly advantage THS because its artificially low price proposal gave THS maximum price points, which error was compounded by the PO applying outside, improper weight to the Price factor over the Contract Innovation factor. Taken together, the PO's scoring was in clear error and re-solicitation is appropriate.

A. Failure to Comply With Stated Evaluation Factors

The PO improperly evaluated the factors set in the RFP with weighting that did not align with the relative importance of those factors set forth in the RFP. A request for proposal "must state the relative importance of the factors to be considered in evaluating proposals." S.C. Code § 11-35-1530(5). The Procurement Code provides that "[p]roposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously." S.C. Code Ann. § 11-35-1530(7).

The RFP, Amendment 3, sets forth the following regarding the hierarchy of evaluation factors:



EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [06-6065-1]

1. General Administration and Management
2. Contract Innovation
3. Price
4. Social Responsibility Measures

Contrary to these factors, the PO assigned a point value for Price (25 points) that exceeded the points value assigned for Contract Innovation (15 points). (Ex. 4, Composite Score Sheet):

Criteria	Max. Point Value
1. General Administration and Management	45
2. Price	25
3. Contract Innovation	15
4. Social Responsibility Measures	15
Totals	

This improper ranking of factors is contrary to the RFP, which stated that Contract Innovation had a higher relative value. Therefore, the PO's evaluation violated the Procurement Code, and re-solicitation is the appropriate remedy.

This failure to adhere to stated evaluation weights mandates re-solicitation, according to the Procurement Review Panel. When an error infects and ruins the entire procurement process—namely, misleading offerors regarding how their proposals will be evaluated—then the “evaluation was conducted in violation of law and the RFP” and the award “cannot stand.” *In re Protest of Accessibility Consulting, LLC*, Case No. 2012-104, 2012 SC CPO LEXIS 50, at *4-5 (S.C. Chief Procurement Officer for Supplies and Services Apr. 6, 2012) (vacating an award because the College of Charleston “altered the order of importance of the evaluation criteria” when evaluating proposals “in violation of law and the RFP,” and not engaging in any harmless error theory).

It is unknown what the appropriate point value for each factor should have been (as it was not provided in the FOIA file), but it is indisputable that Contract Innovation should merit a higher point value than Price in accordance with the express terms of the RFP.

This is especially significant because THS had the lowest price of all offerors, while PSG had the highest Contract Innovation score. (Ex. 4, Composite Score Sheet). By improperly weighting these



two evaluation criteria, the PO tipped the scales in THS's favor and minimized the value that PSG offered the State with its Contract Innovation.

PSG scored comparably to THS for the first factor, General Administration and Management, and much higher than THS on Contract Innovation and Social Responsibility. Depending on the appropriate rating scale that should have been applied, PSG may have had the highest point value.

B. Material Non-Responsive Aspects of THS's Proposal

A "responsive offeror" is "a person who has submitted a bid ... which conforms in all material aspects to the invitation for bids." S.C. Code Ann. § 11-35-1410(9). The solicitation includes the following provision on responsiveness within Clause 02-2A105-3:

RESPONSIVENESS (MAR 2024)

(a) Award will not be made on a nonresponsive offer. An offer is nonresponsive (i) if it does not constitute an unambiguous offer to enter into a contract with the State, or (ii) if it imposes conditions inconsistent with, or does not unambiguously agree to, the solicitation's material requirements. (b) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation. [02-2A105-3]

Further, an award is only appropriate for a responsive offeror:

AWARD CRITERIA – PROPOSALS (JAN 2006)

Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

The Procurement Review Panel addressed the issue of the materiality of a requirement in *Appeal by Coastal Rapid Public Transit Authority and Anderson-Oconee Council on Aging*, Panel Case No. 2000-4 (emphasis added):

A "responsive bidder or offeror" is defined in § 11-35-1410(7) as "a person who has submitted a bid or offer which **conforms in all material aspects** to the invitation for bids or requests for proposals." Section 11-35- 1520(13) of the South Carolina Consolidated Procurement Code provides for the waiver or curing of minor informalities and irregularities in bids and proposals. That section provides in relevant part:

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 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.

Thus, variations in THS's proposal that have a marked effect on the total bid price, the quality of the services, or the performance of the contract are material and should render a proposal non-responsive.

1. Technical Proposal Material Non-Responsiveness

THS's proposal is non-responsive because it fails to conform in several material aspects to the RFP. Each affected the bid price, the quantity or quality of services or performance of the contract.

a. Non-Responsive to SWMBE² Requirements

The RFP (Ex. 1, Amendment 3, Evaluation Criteria 3.2 at p. 31) required specific, detailed plans on supporting certified South Carolina disadvantaged businesses. The complete criteria from the RFP is set forth here:

2. Offerors shall demonstrate how they would assist SCSU with efforts to support disadvantaged businesses (SWMBEs) and the local economy. Preferably, the Contractor will provide substantial assistance helping reach the State's requirement for SCSU to expend 10% of our controllable dollars with suppliers Certified by the Office of Small and Minority Business Contracting and Certification (SMBCC). Offerors are cautioned to be very specific and to demonstrate actual subcontractors who will be used in this area. Also, identify actual suppliers, distributors, and manufacturers that will be utilized to purchase goods or services from disadvantaged or minority suppliers who may or may not be state certified. More information about SMBCC (including a list of certified suppliers) may be found online: <https://smbcc.sc.gov/index.html>
Note: Offeror's status as an SWMBE or Local supplier will not be evaluated in this category.

Offerors were "cautioned to be **very specific** and to demonstrate **actual subcontractors** who will be used in this area." (Id. (emphasis added)). An Offeror's own status is not evaluated in this category. (Id.)

THS's proposal devotes two sentences to this requirement. (**Ex. 5**, Redacted THS Tech Proposal at p. 76). Contrary to the evaluation criteria, THS does not name a single SWMBE certified subcontractor in this section. It identifies no SWMBE certified suppliers, distributors, or manufacturers. The entirety of THS' response to this evaluation criteria is set forth here:

As the largest minority owned food service companies and of one of the country's largest minority owned facilities management companies, Thompson Hospitality

² Small, Women and Minority Business Enterprise. SMBCC certifies that a South Carolina business is owned, controlled, and operated by a socially and economically disadvantaged minority who is a United States citizen.



understands the critical need to support disadvantage businesses. Thompson has dedicated resources to identifying SWMBE and local suppliers that will enable us to provide the best solution to South Carolina State's facilities management program.

(Id.) THS's response is not responsive to the RFP requirements to "be very specific" and name "actual subcontractors" and "identify actual suppliers" that help SCSU meet its obligation to support South Carolina certified SWMBEs with 10% of expendable dollars. THS does not identify even a single certified SWMBE with which it would subcontract or purchase from—evidencing a failure to respond to a critical aspect of the RFP and a failure to meet a contract requirement to substantially support SCSU's SWMBE obligation.

On THS's Minority Participation Form, THS states that ten percent (10%) of its janitorial services sub-scope will be performed by a SC-certified Minority Business. (Ex. 1 at p. 80). It names "Greenguard Cleaning, LLC"³ as that certified Minority Business subcontractor.

There is no certified SWMBE carrying that name or any similar name, according to the SWMBE directory published by the SC SMBCC (available at <https://smbcc.sc.gov/directory.html>); see also **Ex. 11**, Excerpt from alphabetical directory of SWMBEs, spanning from "Gra- to H2O-" and showing no "Greenguard or Green guard").

The information contained on the Minority Participation Form, representing to the State that Greenguard Cleaning LLC was a certified Minority Business subcontractor, was a false representation to the State, and therefore non-responsive.

b. Unknown Role of The Compass Group

The entire Technical Proposal is rife with references to the Compass Group, described vaguely as a "strategic partner." (Tech Proposal at 46). The PO also noted this phenomenon and raised it with THS in her discussion letter to THS prior to evaluation. (**Ex. 7**, THS Discussion Letter). She cautioned THS that "failure to successfully address the items that are the subject of this communication may result in your proposal being eliminated from further consideration." (Id.)

The PO directed THS to "**Please clearly describe and clarify the relationship between Thompson and Compass Group USA Inc.**" (Id.) Contrary to that request, precisely how and what services The Compass Group will provide is never clarified. THS explains in its revised proposal that "details on Compass Group are meant to show the benefits they provide as Thompson's strategic

³ On its Minority Participation Form, THS states that Greenguard Cleaning LLC has been performing commercial cleaning for 15 years. The Secretary of State's office has no business listing for an LLC named "Greenguard Cleaning LLC". There is a company called GreenGuard Commercial Cleaning LLC, but it was formed in September 2023, so that cannot be the referenced company. In any case, that company is also not a certified SWMBE in South Carolina.



partner.” But THS never explains with any specificity how this strategic partnership will be implemented at SCSU for this project. The proposal states that “Thompson Hospitality and Compass Group work hand in hand to provide innovative programs that drive results.”(Id. p 46). On page 23, it states, “With over 40 years of facilities management (FM) experience, 1,000 clients and more than 150 million square feet of maintainable space, *Compass Group and Thompson Hospitality Services* are national leaders in maintaining facilities of all scopes and scales.” (Id. at 23 (emphasis added)).

Yet, THS never clarifies whether or to what extent Compass is providing some or all of the proposed services to SCSU under this proposal. THS devotes a full page of its proposal to list Compass Group’s family of companies and Compass Group’s employees in the area. (Id. at 47). It devotes yet another page to discuss Compass Group’s “Planet Promise” in lauding THS’s sustainability commitment. (Id. at 75). THS’s proposal references diversity training and supports its qualifications in this area by noting that “The Compass Group” is a Forbes 2022 Best Employer for Diversity and discusses Compass Group’s Five Jewel Awards for DEI initiatives. (Id. at 39). A full page discusses Compass Group’s “data-driven approach and financial strength” and Compass Group’s balance sheet, human resources, and data management approach. (Id. at 49). These are only some of the references to Compass Group in the proposal.

While THS disclaims Compass Group’s role in the proposal other than “benefits they provide as Thompson’s strategic partner” (p. 48), THS never clarifies what exactly those benefits are, or what The Compass Group will do with this Project or its role in serving SCSU. Given its outside emphasis in THS’s technical proposal, it is difficult to separate what parts of the proposal describe Compass Group versus those describing THS, and evaluators were likely confused as to exactly which company’s qualifications and services they were evaluating.

THS’s reliance on Compass Group and Thompson Facilities Services LLC (discussed below), and its failure to articulate their respective roles in this scope of work, renders THS’s proposal non-responsive and leaves open the question of whether evaluators were reviewing the expertise, resources and capabilities of the Compass Group, Thompson Facilities Management, or THS. While the state potentially could have resolved these issues in discussions, it did not; thus, the proposal as evaluated was not responsive.

Of course, Joint Bids were specifically barred in this solicitation. Yet, one profiled THS executive carries the title “Senior Vice President – Joint Ventures” and her primary role is to oversee “all aspects of Thompson Hospitality’s strategic partnership with Compass Group.” (Ex. 5, Tech Proposal at 31). Thompson’s own website describes The Compass Group as its joint venture partner. (<https://www.thompsonhospitality.com/teams-joint-ventures/>). If The Compass Group is providing services as a “partner” or joint venturer to THS, the proposal, which prohibits joint bids, is not responsive.



c. Unknown Role of Thompson Facilities Services

THS's Technical Proposal frequently references the services of "Thompson Facilities Services." THS explains this phenomenon by stating:

In 2007, Thompson Hospitality Services, LLC launched a facilities management services division - Thompson Facilities Services. Thompson Hospitality Services is the only offerer submitting this proposal, in accordance with established requirements. However, our name may appear as Thompson Facilities Services (TFS) interchangeably throughout the document.

(Ex. 5, second unnumbered page). Contrary to that assertion, according to the Delaware Secretary of State, Thompson Facilities Services, LLC is a distinct legal entity from Thompson Hospitality Services, LLC. (Ex. 8, Delaware Secretary of State screenshots). It is not simply a department or division of THS, at least in a legal sense. Each has its own officers, and its own limited liability, separate and distinct from the other. The two distinct legal entities are not interchangeable; therefore, Thompson's failure to report Thompson Facilities Services as a separate entity providing some or all of the services to SCSU is non-responsive, contrary to the RFP, and not responsible.

The President of Thompson Facilities Services, Brian Banks, is the first name listed on the team assigned to SCSU, and Thompson Facilities Services' Regional Vice President Wes Graves is listed as the person responsible for "development of integrated facility maintenance strategies." (Ex. 5, THS Tech Proposal at pp. 10, 30). Thomas Ganchuk, touted as the Executive Director ("ED"), states on his own LinkedIn profile that he is the ED for Thompson Facilities Services, not THS. (<https://www.linkedin.com/in/thomas-ganchuk-3a891793/>).

Thompson Facilities Services is listed as the party holding the copyright on the proposal, not THS. (Id. at 162). The cover page for sustainability measures notes that "Thompson Facilities Services understands a learning environment must be . . . cleaned and maintained without doing harm to the natural surroundings." (Id. at 63). Thompson Facilities Services is referenced as the party providing "green space management" and the "grounds management program." (Id. at 74).

Most tellingly, the Record of Negotiations was signed by Brian Banks as "President." (Ex. 10, redacted Record of Negotiations). But, Warren Thompson is the President of THS, not Brian Banks. (Ex. 5 at 30.) Brian Banks is the President of Thompson Facilities Services, LLC. (Id.).

One potential explanation is that Thompson Facilities Services, LLC ("TFS"), not THS, is the entity that will actually perform the contract. If so, the responsibility, financial, and reference information evaluated by the State for THS was inapplicable and therefore non-responsive; and, potentially, the actual bidder and contracting party (TFS, as evidenced by Brian Bank's signature) is not a responsible bidder.



Thompson Facilities Services, LLC is not registered to do business in South Carolina, per a search on the South Carolina Secretary of State's website. (Search performed at <https://businessfilings.sc.gov/BusinessFiling/Entity/Search>).

The State properly requires an offeror to submit its own financial information, references, and qualifications for the offering party only and not its parent company, because "[a]s a general rule, a parent or holding corporation is not liable on the contracts of its subsidiary. The mere fact of the ownership of a majority of all the stock of its subsidiary does not render the parent corporation liable on the contracts of the subsidiary." *Carroll v. Smith-Henry, Inc.*, 281 S.C. 104, 105-106, 313 S.E.2d 649, 650 (Ct. App. 1984). If Thompson Facilities Services, LLC is performing the work and management of the contract, that is the entity that should have proposed and been evaluated, not THS.

Alternatively, if THS is subcontracting out significant work to its subsidiary TFS, then THS failed to identify its subcontractors as required by the RFP, rendering its proposal non-responsive:

SUBCONTRACTOR(S) -- IDENTIFICATION (FEB 2015)

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security - Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subContractor(s) by providing the business name, address, phone, taxpayer identification number, **and point of contact**. In determining your responsibility, the state may contact and evaluate your proposed subContractor(s). [05-5030-2]

(Ex. 5 at 33). The RFP requires identification of all subcontractors. TFS is not named as such, either in the Tech Proposal or the Price Proposal.

For these reasons, THS's bid was not responsive, and the solicitation should be re-let.

d. Failure to provide Insurance Information

Offerors were required to submit a summary of all insurance policies, with detail, that it had or intended to acquire applicable to the work:

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (MAR 2015)

You shall submit a signed Cover Page and Page Two. If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two. Your offer should include all **other information and documents requested in this part** and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. [04-4010-2]



The Insurance Certificate that THS provided to satisfy this mandate names “Compass Group USA, Inc.” as the Insured. (Ex. 5, THS Tech Proposal at 144):

Insurance Requirements

ACORD DATE (MM/DD/YYYY)
08/26/2023

CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER MARSH USA, L.L.C. TWO ALLIANCE CENTER 3560 LENOX ROAD, SUITE 2400 ATLANTA, GA 30309	CONTACT NAME: Randi K. Nyamir, CPOU, ARM PHONE: No. Ext.: 404-995-3102 FAX: JAC, NYI EMAIL ADDRESS: Compasscont@Marsh.com														
CMT025SD71.Compa-UMR10-23- CORP - BOKMG - BOKMG	INSURER(S) AFFORDING COVERAGE														
INSURED: Compass Group USA, Inc. 7400 Yorkmont Road Charlotte, NC 28217	<table border="1" style="width: 100%; border-collapse: collapse;"><tr><th>INSURER</th><th>NAIC #</th></tr><tr><td>INSURER A - National Union Fire Ins Co of Pittsburgh PA</td><td>10445</td></tr><tr><td>INSURER B - AIG Insurance Co</td><td>10288</td></tr><tr><td>INSURER C - ACE Property And Casualty Ins Co</td><td>20686</td></tr><tr><td>INSURER D:</td><td></td></tr><tr><td>INSURER E:</td><td></td></tr><tr><td>INSURER F:</td><td></td></tr></table>	INSURER	NAIC #	INSURER A - National Union Fire Ins Co of Pittsburgh PA	10445	INSURER B - AIG Insurance Co	10288	INSURER C - ACE Property And Casualty Ins Co	20686	INSURER D:		INSURER E:		INSURER F:	
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INSURER A - National Union Fire Ins Co of Pittsburgh PA	10445														
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INSURER C - ACE Property And Casualty Ins Co	20686														
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES **CERTIFICATE NUMBER:** ATL 005495734-42 **REVISION NUMBER:** 11

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

WHT	TYPE OF INSURANCE	AUTHORITY	POLICY NUMBER	POLICY EFF	POLICY EXP	LIMITS
110						

THS is not listed on the certificate. This Insurance Certificate is solely for The Compass Group. Insurance coverage for this type of work is absolutely critical to protect the State; THS’s failure in this respect represents a materially non-responsive proposal, which should have been rejected. As stated above, THS’s “partner” The Compass Group is, according to THS, not the offeror. Yet, THS submitted insurance information for The Compass Group, and not for THS.

e. Groundskeeping limitations

The RFP contains detailed requirements for landscaping and grounds. Offerors are required to maintain 76 acres of green space. (Ex. 2, Attachment I). The obligations are broad: as a partial list, the contractor must empty all outdoor trash receptacles daily; maintain three (3) outdoor fountains; power wash all ground level areas (sidewalks, stairs, etc.) once a year; mark, stripe and clean all athletic fields; plant and maintain 7,000 square feet of planting beds, including pine bark or cedar mulching; trim and prune all trees and shrubs; and maintain all turf and grass, including cutting, edging, fertilization and reseeding or sodding. (Id).

For all of this work, THS priced only a total of eight (8) laborers. (Ex. 6, Price Proposal at 9). It did so because THS priced a “tiered landscape management program,” wherein certain areas of campus, designated as Levels 2 and 3 in the Tech Proposal, do not receive the attention and care required by the RFP. While this scheme might be appropriate as a proposed Contract Innovation to save costs, it is improper for an offeror to knowingly fail to price the complete required scope of work and, subsequently, be evaluated on that discounted price. Thus, THS’s proposal was non-responsive.



2. Pricing Proposal Material Non-Responsiveness

THS's pricing proposal likewise was non-responsive to the RFP, as it also failed to conform in several material aspects to the RFP.

a. Non-conformance to Attachment J.

Offerors' obligation to provide detailed cost and pricing data was incorporated into the Solicitation by virtue of the State's response to Question 9, set forth in Attachment R to Amendment 3. (Ex. 2 at Attachment R). The RFP dictated that the States' response was incorporated into the contract:

QUESTIONS FROM OFFERORS - AMENDMENT (JUN 2017)

The Solicitation is amended as provided herein, information or changes resulting from questions will be shown in a question-and-answer format. All questions received have been reprinted below. THE "STATE'S RESPONSE" should be read without reference to the questions. THE questions are included solely to provide a cross-reference to the potential Offeror that submitted the question. Questions do not form a part of the contract; the "STATE'S RESPONSE" does. Any restatement of part or all of an existing provision of the Solicitation in an answer does not modify the original provision except as follows: Underlined text is added to the original provision. Stricken text is deleted. [02-2A097-1]

Thus, according to the RFP, the State's responses to questions become a part of the Solicitation. Question 9 asked the State to provide a pricing spreadsheet format for offerors' use, ostensibly to ensure the State could verify that each offeror was pricing all aspects of the Solicitation (and was therefore materially responsive) and also could affirm that offerors' bids were compared on an "apples to apples" basis:

- 9 ~~Ref. IV. B. File 2-Price Proposal. Is there a standard bid form the University would like us to populate our Pricing in, preferably in Excel? This should be standard so that all bidders can provide competitive pricing in the exact format.~~
The University's standard Bid form is provided as Section VIII (Bid Schedule). Instructions for Cost and Price data is provided as Attachment K.

(Ex. 2, Attachment R, Q. 9). In its response, the State did not provide the requested bid form spreadsheet; instead, it incorporated Attachment J, "Instructions for Cost and Price Data" (incorrectly identified as Attachment K in the response but using the correct title), into the Solicitation. (Id.)

Attachment J required such detailed cost data that a comprehensive summary here is near-impossible. Generally, offerors were required to "show the relationship between contract line-item prices and the total contract price. You must attach cost-element breakdowns for each proposed line item, using the appropriate format prescribed in the 'Formats for Submission of Line Item Summaries' section of this table. You must furnish supporting breakdowns for each cost element, consistent with your cost accounting system." (Ex. 2 at Attachment J, Section I.D).



For materials and services, offerors were required to provide material quantities informing the various tasks or contract line items, and the rationale for that pricing (vendor quotes, subcontractor bids, etc.) as well as documentary evidence of those costs for items exceeding \$10,000 per year. Cost summaries were required per line item. Direct labor costs were to be time-phased and calculated by appropriate category. Offerors were required to provide cost breakdowns of all indirect costs, including applied rates. (See generally Ex. 2 at Attachment J, Sections I and II).

THS's Price Proposal failed to meet, or even attempt to meet, the obligations of Attachment J. There is no backup or supporting documents to demonstrate to the State how pricing was derived. There is no line-item summary. No subcontractors are even identified, and there are no subcontractor proposals.

This sparse pricing data is, as discussed above, especially concerning as THS's Technical Proposal is rife with references to "Compass Group", which THS states, with no precision, will provide "benefits . . . as Thompson's strategic partner". (Ex. 5, Tech Proposal at 52). THS states that SCSU will "gain access to the additional Compass Group programs, purchasing power and the resources of its various sectors," but does not explain how Compass will be doing the purchasing or what programming, labor, or technology that Compass will be providing under this contract. THS provided no pricing or detail for Compass's scope of work, nor any subcontract information or subscription fees to Compass.

THS's sparse pricing proposal is non-responsive to the requirements in the RFP, as set forth on Attachment J. The State should have grave concern that THS's Price Proposal does not adequately address all aspects of the scope of work set forth in the RFP.

b. Existing Subcontractor Work Omitted

The RFP required that "Contractor will be responsible for acquiring, managing and paying subcontractors to take care of the following: Pest control, Fire extinguisher service, water treatment and waste management." The RFP provided current pricing for these services for the use of Offerors, totaling \$948,020 over 5 years:

The Contractor will be responsible for acquiring, managing, and paying subcontractors to take care of the following items:

1. Pest control service (Previously \$33,946 per year) – as an alternative, SCSU may consider acceptability of the Contractor having a Pest Control professional on staff if the employee is and maintains proper licensure and certification as required by the [State of South Carolina](#). – Supplier: **Ariail's Termite & Pest Control**
2. Fire extinguisher service (Previously \$9,000 per year)
3. Water treatment service (\$21,640 per year) – Supplier: **Chem Aqua**
4. Waste management service (\$125,000 per year) Supplier: **Republic Services**

(Ex. 1, Amendment 3 at p. 30).



THS’s Pricing Proposal appears to completely omit these items. (Ex. 6, THS Pricing Proposal). (While the proposal describes an “Integrated Pest Management” program at p. 73, it is evident from the description this program is part of groundskeeping and addresses only “insects, weed or disease that may affect the health of a desirable plant” and therefore is not for interior pest control service inside the buildings). This represents nearly a million dollars of work that was not included in THS’s price as evaluated by the State.

This material omission has more than a “trivial effect” on bid price and unfairly disadvantages responsive bidders like PSG that properly included these costs in their Price Proposal. Further, expressly omitting pricing for required scope “evidences an offeror’s refusal to perform the contract requirements,” which is a hallmark of material unresponsiveness. *In re: Protest of C&W Facility Services, Inc., 2024-124* (Decision of CPO White).

c. Events Support Omitted

The RFP requires certain Event Support Services to be included in the Price, which THS fails to do. The Technical Proposal only provides “examples” of “setup and breakdown services” that “TFS is able to provide.” In response to a bidder question, the State clarified that staff assisting with evening and weekend events are not billable and therefore should be included in the contract price. (Ex. 2, Attachment R at Q. 79).

The THS Price Proposal lists “Summer Clean Up/Events” as a line item but allocates zero dollars to this work. (Ex. 6, THS Price Proposal). Failing to allocate any budget to this substantial work item artificially lowered THS’s price when compared to responsive bidders that planned and budgeted for that scope item. Expressly omitting pricing for required scope “evidences an offeror’s refusal to perform the contract requirements”, which is a hallmark of material unresponsiveness. *In re: Protest of C&W Facility Services, Inc., 2024-124* (Decision of CPO White).

d. Wages are Unrealistic

THS’s proposed hourly wages for skilled and general labor are inadequate, as evidenced by a simple comparison of its wage table compared to all other bidders. A selected comparison of a few exemplar wage rates for several bidders is below; all bidders’ wages were higher than THS’s:

	THS	PSG	Owens	CBRE	CW
HVAC tech	\$ 19.00	\$ 35.00	\$ 30.70	\$ 46.84	\$ 45.23
Plumber	\$ 20.00	\$ 35.00	\$ 28.02	\$ 46.84	\$ 39.42
Electrician	\$ 20.00	\$ 35.00	\$ 28.50	\$ 46.84	\$ 45.17
General Labor	\$ 11.00	\$ 26.55	\$ 16.50	\$ 35.49	\$ 20.45

(information derived from price proposals of each bidder). THS’s proposed wages will not support the work of the contract. By way of example, the average wage for an HVAC mechanic in South Carolina is \$28.44, according to Indeed.com. (<https://www.indeed.com/career/hvac->



[mechanic/salaries/SC?from=top_sb](#)). THS's proposed HVAC tech wage is almost ten (10) dollars per hour lower than average; it is dubious THS will be able to attract and retain talent for the low wages around which its Price Proposal is built. In the Solicitation, SCSU described one of its biggest problems as retaining its workforce:

“SCSU is currently experiencing the same challenges that are commonplace for Higher Eds and other Facilities maintenance teams seeking the same services. **Most notably, these challenges include hiring and retaining skilled talent.**”

(Ex. 1, Amendment 3 at 6).

The Record of Negotiations reflects upward correction of some salaries, as well as negating the use of student labor in favor of higher paid laborers—demonstrating that even at the negotiation table, the State was aware that the price for services presented by THS was inadequate. (See unredacted RON for details).

Prior to evaluating and scoring the pricing proposals, the PO had the opportunity to determine whether wages offered by the bidders were competitive in the area and could therefore resolve SCSU's challenge of hiring and retaining a reliable workforce. She did not. The PO performed no “reality check” on the wages proposed to determine whether bidders could adequately staff the work for the proposed contract price. Thus, THS's evaluated Price pProposal was artificially low. The RFP required offerors to provide substantial wage information; however, it appears the PO ignored that data, even when she should have been on notice that THS's wage pricing was lower than all other offerors due to its low wages.

Beyond rendering THS's proposal non-responsive because the proposed wages are insufficient to properly staff the work scope, accepting this price proposal unfairly advantaged THS, because THS received a higher point value on the Price Evaluation as a result of proposing low wages. The PO had sufficient data to evaluate THS' proposed labor rates but failed to do so.

C. Unfair Results Due to the PO's Pricing Evaluation Strategy.

a. The PO's Pricing Evaluation Strategy Was Irrational Given the Nature of the Solicitation

The Procurement Code does not dictate how a PO must compare prices in a competitive procurement. However, the process applied must have a rational basis; the price evaluation may not be “arbitrary.” [S.C. Code §11-35-2410](#); see *In Re: Protest of Value Options*, Panel Case No. 2001-7 (equating “arbitrary and capricious” with “a lack of reasonable or rational basis”).

Here, the PO used a standard pricing formula to compare price proposals among bidders. She used the top line number from each bidder, assigned maximum points to the lowest bidder, and



then applied a mathematical formula to assign lesser points to each higher bidder based on the delta between that bidder and the low bid. (See Ex. 4, Composite Score Sheet, at worksheet 2).

That very formula was evaluated in *In re: Appeal by GPS Insight, LLC*, SCPD 2021-1, 2021 WL 3510184 (2021). The Panel held that, while the approach is reasonable in many procurements, “This approach is only rational if the prices entered into that formula provides a common basis for the price comparison, or a ‘apples to apples’ comparison.” *Id.* In *GPS Insight*, the Panel found that an “apples to oranges” comparison occurs when offerors employ different assumptions that prevent meaningful comparison between top-line numbers; that risk is especially high when there is an expectation that bidders might employ different pricing models. (*Id.* at *7).

Here, the State specifically required offerors to “describe, in detail, your pricing model/fee arrangement.” (Ex. 1, Amendment 3 at 31). It mandated deep detail through Attachment J that allowed the State to ensure its comparisons were fair and that the pricing covered the required scope. (Ex. 2 at Attachment J). Although the State required meticulous pricing detail, it is apparent that the only price actually evaluated was the top-line number entered into the Solicitation vendor portal.

PSG’s evaluated top line pricing was the highest of the offerors. (Ex. 4, Consolidated Score Sheet). However, PSG’s pricing proposal used the most conservative, inclusive pricing number to capture all potential costs that SCSU could incur, a methodology that appears to have departed markedly from the pricing strategy employed by THS.

Significantly, PSG expressly identified and itemized more than eleven million dollars (\$11,435,233.00) in savings from its top line price that would occur if certain assumptions were made. (**Ex. 9**, Excerpt of PSG Price Proposal at 14-15). Had the PO considered and evaluated those “savings”, PSG’s price would have much more closely aligned with other top bidders and resulted in a much higher score for PSG’s price.

PSG’s assumption that the State would fully evaluate all pricing models and assumptions was wholly reasonable, given the level of detail in pricing data that the solicitation required. If the State did not intend to evaluate the required pricing models and data, then it should have removed those obligations and issued an amendment reflecting that change. The State’s decision to wholly ignore all required pricing data is contrary to the express provisions of the RFP.

b. Record of Negotiations (RON) Evidences Missed Scope And Artificially Low Evaluated Price

Finally, in response to FOIA request, SFAA provided a redacted RON. The only unredacted information within the memo is the final price. (**Ex. 10**, Redacted RON). Negotiation points raised by SCSU prior to discussions with THS included “negotiat[ing] better pricing.” (**Ex. 12**, Email from Stacey Gregg (August 27, 2024)).



Somehow, after negotiations meant to improve the State's contract value, the price for THS's work *increased* by 1.37 million dollars. (Compare Price Proposal to Intent to Award). THS's price for services increased from \$30,384,655 at bid to \$31,756,010 at award.

An email from THS to the State on September 4, 2024, reflects that THS's original bid contained unreasonably low salaries for certain positions, an insufficient number of laborers, an improper reliance on low-cost student labor, and an insufficient number of Project Managers for the scope of work, which should have rendered THS's Price Proposal materially non-responsive. (**Ex. 13**, Email from Stringfield (Sept. 4, 2024)). Evidently, THS was permitted to increase its price proposal to meet the scope obligations when THS was at the negotiating table, after pricing scores had already been evaluated and scored adversely against PSG. Thus, the Price points that got THS to the negotiating table were artificially lower because they omitted scope or staff sufficient to perform the work of the contract. This unfairly prejudiced responsible bidders that priced appropriately in accordance with the RFP, including PSG.

c. Distortions in Pricing Structure Were Magnified Such that a Fair Comparison to Determine Best Value to the State is Impossible.

The serious problems with the State's evaluation of THS's Pricing Proposal compounded exponentially to unfairly favor THS to the detriment of PSG and other responsive bidders. The multiple omissions from THS's Pricing Proposal served to artificially lower THS's price proposal – it omitted significant aspects of the scope, which totaled millions of dollars in other offeror's price proposals. Thus, offerors like PSG that painstakingly priced the work SCSU desires obviously arrived at a higher price – but the comparison was no longer “apples to apples.”

The PO's erroneous over-weighting of Price ahead of Contract Innovation in contravention of the stated factors in the RFP multiplied the problem created by THS's deficient, non-responsive pricing model. Not only was THS's price artificially low—the PO gave that deficient pricing outsized importance by applying an improper 25 percent weight. Given those compounded issues, the scoring was erroneous, not to mention in contravention of the RFP.



CONCLUSION

Given the multiple, compounded problems with evaluation of the technical and pricing proposals, the improper weighting of stated evaluation factors, and the fundamental unfairness to PSG and others that resulted, the State should require re-solicitation.

Sincerely,


Womble Bond Dickinson (US) LLP

A handwritten signature in blue ink that reads "Dana W. Lang". The signature is written in a cursive, flowing style.

Dana W. Lang
Partner

DWL:dwl
Attachments

EXHIBIT B

	<h2 style="margin: 0;">State of South Carolina</h2> <p style="margin: 5px 0 0 0;">Request for Proposal Amendment 3</p>	<table style="width: 100%; border: none;"> <tr> <td style="border: none; padding-right: 5px;">Solicitation:</td> <td style="border: none;">5400026972</td> </tr> <tr> <td style="border: none; padding-right: 5px;">Date Issued:</td> <td style="border: none;">06/12/2024</td> </tr> <tr> <td style="border: none; padding-right: 5px;">Procurement Officer:</td> <td style="border: none;">SHEILA O. WILLIS, CPPB</td> </tr> <tr> <td style="border: none; padding-right: 5px;">Phone:</td> <td style="border: none;">803 737-4417</td> </tr> <tr> <td style="border: none; padding-right: 5px;">E-Mail Address:</td> <td style="border: none;">swillis@mmo.sc.gov</td> </tr> <tr> <td style="border: none; padding-right: 5px;">Mailing Address:</td> <td style="border: none;">SFAA, Div. of Procurement Services OSP 1201 Main Street, Suite 600 Columbia SC 29201</td> </tr> </table>	Solicitation:	5400026972	Date Issued:	06/12/2024	Procurement Officer:	SHEILA O. WILLIS, CPPB	Phone:	803 737-4417	E-Mail Address:	swillis@mmo.sc.gov	Mailing Address:	SFAA, Div. of Procurement Services OSP 1201 Main Street, Suite 600 Columbia SC 29201
Solicitation:	5400026972													
Date Issued:	06/12/2024													
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Phone:	803 737-4417													
E-Mail Address:	swillis@mmo.sc.gov													
Mailing Address:	SFAA, Div. of Procurement Services OSP 1201 Main Street, Suite 600 Columbia SC 29201													

DESCRIPTION: **FACILITIES MANAGEMENT SERVICES**

USING GOVERNMENTAL UNIT: **South Carolina State University**

SUBMIT YOUR OFFER ON-LINE AT THE FOLLOWING URL: <http://www.procurement.sc.gov>

SUBMIT OFFER BY (Opening Date/Time): **07/02/2024 11:00 AM EST** (See "Deadline for Submission of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **05/23/2024 11:00 AM EST** (See "Questions from Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **ONLINE BIDDING PREFERRED**; If submitting Online in SCEIS please See Online Bidding Instructions in Section II.B. If submitting Hardcopy, submit One (1) Original Hardcopy marked "Original", and One (1) Electronic (digital) Media Copy marked "Copy" (See "Electronic Copies-Required Media & Format" provision Section II.B.) **Initial here if NO redacted copy is necessary** _____

<p>CONFERENCE TYPE: Site Visit DATE & TIME: 05/21/2024 at 10:00 AM</p> <p style="font-size: small;">(As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)</p>	<p>LOCATION: SC State University Crawford-Zimmerman Lobby 300 College Avenue Orangeburg, SC 29115</p>
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AWARD & AMENDMENTS	<p>Award will be posted on 07/26/2024. The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.procurement.sc.gov</p>
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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. You agree to hold Your Offer open for a minimum of ninety (90) calendar days after the Opening Date. (See "Signing Your Offer" provision.)

<p>NAME OF OFFEROR</p> <p style="font-size: small;">(full legal name of business submitting the offer)</p>	<p>Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror. The entity named as the offeror must be a single and distinct legal entity. Do not use the name of a branch office or a division of a larger entity if the branch or division is not a separate legal entity, i.e., a separate corporation, partnership, sole proprietorship, etc.</p>
<p>AUTHORIZED SIGNATURE</p> <p style="font-size: small;">(Person must be authorized to submit binding offer to contract on behalf of Offeror.)</p>	<p>DATE SIGNED</p>
<p>TITLE</p> <p style="font-size: small;">(business title of person signing above)</p>	<p>STATE VENDOR NO.</p> <p style="font-size: small;">(Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</p>
<p>PRINTED NAME</p> <p style="font-size: small;">(printed name of person signing above)</p>	<p>STATE OF INCORPORATION</p> <p style="font-size: small;">(If you are a corporation, identify the state of incorporation.)</p>

OFFEROR'S TYPE OF ENTITY: (Check one) (See "Signing Your Offer" provision.)

Sole Proprietorship Partnership Other _____

Corporate entity (not tax-exempt) Corporation (tax-exempt) Government entity (federal, state, or local)

PAGE TWO

(Return Page Two with Your Offer)

HOME OFFICE ADDRESS (Address for offeror's home office / principal place of business)	NOTICE ADDRESS (Address to which all procurement and contract related notices should be sent.) (See "Notice" clause)
	_____ Area Code - Number - Extension Facsimile _____ E-mail Address

PAYMENT ADDRESS (Address to which payments will be sent.) (See "Payment" clause)	ORDER ADDRESS (Address to which purchase orders will be sent) (See "Purchase Orders and "Contract Documents" clauses)
_____ Payment Address same as Home Office Address _____ Payment Address same as Notice Address (check only one)	_____ Order Address same as Home Office Address _____ Order Address same as Notice Address (check only one)

ACKNOWLEDGMENT OF AMENDMENTS
 Offerors acknowledges receipt of amendments by indicating amendment number and its date of issue. (See "Amendments to Solicitation" Provision)

Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date	Amendment No.	Amendment Issue Date
1	05/22/2024	3	06/12/2024				
2	06/10/2024						

DISCOUNT FOR PROMPT PAYMENT (See "Discount for Prompt Payment" clause)	10 Calendar Days (%)	20 Calendar Days (%)	30 Calendar Days (%)	_____ Calendar Days (%)
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PREFERENCES - A NOTICE TO VENDORS (SEP. 2009): Preferences do not apply to Request for Proposals per SC Consolidated Procurement Code Section 11-35-1524, e (5)

PREFERENCES - ADDRESS AND PHONE OF IN-STATE OFFICE: Preferences do not apply to Request for Proposals per SC Consolidated Procurement Code Section 11-35-1524, e (5)

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IMPORTANT NOTICE: In order to make the solicitation document easier to read, the state has opted to issue a completely new document. This approach has been selected to ensure the clarity of the contract documents during both the “Pre-Award” and “Post Award” phases of this procurement. Prospective Offerors should discard the original solicitation document and use this document when preparing their on-line bids.

To assist your review of the amendment, we have endeavored to highlight changes in yellow. To use this feature, Offerors will need to view the electronic version of this document.

Despite our best efforts, there is a chance that a change was inadvertently left unhighlighted. Therefore, Offerors are cautioned that they are responsible to review the content of the entire document and cannot rely detrimentally on highlights identifying all changes.

Please refer to the Summary of Questions and Answers Page at the end of this solicitation for information pertaining to this amendment.

I. SCOPE OF SOLICITATION

ACQUIRE SERVICES (Modified)

It is the intent of the State Fiscal Accountability Authority (SFAA), Division of Procurement Services (DPS), to solicit proposals from qualified Offerors to establish a contract for facility management services on behalf of South Carolina State University (SCSU) in accordance with all requirements stated herein.

By way of this solicitation, SCSU seeks innovative solutions, which will result in a contract to cover the need to address the four (4) core competencies that encompass the broad range of facilities management oversight as identified by APPA-Leadership in Educational Facilities:

- General Administration and Management
- Maintenance and Operations
- Energy and Utility Systems
- Planning, Design and Construction

SCSU is currently experiencing the same challenges that are commonplace for Higher Eds and other Facilities maintenance teams seeking the same services. **Most notably, these challenges include hiring and retaining skilled talent.** The purpose of this resulting contract is for the resulting Contractor to provide services that meet the immediate needs of the campus while collaborating with SCSU to determine and address future needs.

Offerors are encouraged to provide innovative solutions to carry-out daily operations for the campus. As such, there is not a formalized budget. Potential Offerors are cautioned to reach the solicitation in its entirety because the scope of work and terms and conditions are significantly different than previously issued for each section. Successful offeror must demonstrate experience with and financial capability to support a campus with work nearing 2 million square feet.

MAXIMUM CONTRACT PERIOD - ESTIMATED (JAN 2006)

Start date: 09/01/2024 End date: 08/31/2029. Dates provided are estimates only. Any resulting contract will begin on the date specified in the notice of award. See clause entitled "Term of Contract - Effective Date/Initial Contract Period". [01-1040-1]

The State anticipates award for a one (1) year initial term, with four (4) possible one (1) year options to renew. The maximum potential contract life is five (5) years.

Estimated Schedule	
Solicitation Issued	05/13/2024
Site Visit	05/21/2024
Amendment 1	05/21/2024
Amendment 2	06/10/2024
Amendment 3	06/12/2024
RFP Closing	07/02/2024
Evaluations	07/12/2024
Negotiations (Optional)	07/19/2024
Award	07/26/2024
Contract Commencement	08/07/2024
Work Begins	09/01/2024

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS, CAPITALIZATION, AND HEADINGS (MODIFIED)

CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND SHALL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS ARE APPLICABLE TO ALL PARTS OF THE SOLICITATION, UNLESS EXPRESSLY PROVIDED OTHERWISE.

- AMENDMENT means a document issued to supplement the original solicitation document.
- AUTHORITY means the State Fiscal Accountability Authority or its successor in interest.
- BUSINESS means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity. [11-35-310(3)]
- CAPITAL EXPENDITURES means expenditures valued at \$5,001.00 or greater and have a useful life of at least three years and are defined as any new construction, renovation and/or modification of client's buildings, equipment, appliances, electrical and mechanical systems that change the original purpose of the client's facility. The University will be responsible for capital expenditures over the \$5,001.00 threshold.
- CHANGE ORDER means any written alteration in specifications, delivery point, rate of delivery, period of performance, price, quantity, or other provisions of any contract accomplished by mutual agreement of the parties to the contract. [11-35-310(4)]
- CONTRACT See clause entitled Contract Documents & Order of Precedence.
- CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the Contractor(s) to make changes which the clause of the contract titled "Changes," if included herein, authorizes the Procurement Officer to order without the consent of the Contractor(s). [11-35-310(9)]
- CONTRACTOR(S) means the Offeror receiving an award as a result of this solicitation.
- COVER PAGE means the top page of the original solicitation on which the solicitation is identified by number. Offerors are cautioned that Amendments may modify information provided on the Cover Page.
- OFFER means the bid or proposal submitted in response this solicitation. The terms Bid and Proposal are used interchangeably with the term Offer.
- OFFEROR means the single legal entity submitting the offer. The term Bidder is used interchangeably with the term Offeror. See bidding provisions entitled Signing Your Offer and Bid/Proposal As Offer To Contract.
- PAGE TWO means the second page of the original solicitation, which is labeled Page Two.
- PROCUREMENT OFFICER means the person, or his successor, identified as such on either the Cover Page, an amendment, or an award notice.
- YOU and YOUR means Offeror.
- SOLICITATION means this document, including all its parts, attachments, and any Amendments.
- STATE means the Using Governmental Unit(s) identified on the Cover Page.
- SUBCONTRACTOR(S) means any person you contract with to perform or provide any part of the work.
- US or WE means the using governmental unit.
- USING GOVERNMENTAL UNIT means the unit(s) of government identified as such on the Cover Page. May also be referred to as South Carolina State University, SCSU, SC State University, or the University.
- WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor(s) to fulfill the Contractor(s)'s obligations under the Contract.

AMENDMENTS TO SOLICITATION (JAN 2004)

(a) The Solicitation may be amended at any time prior to opening. All actual and prospective Offerors should monitor the following web site for the issuance of Amendments: www.procurement.sc.gov (b) Offerors shall acknowledge receipt of any amendment to this solicitation (1) by signing and returning the amendment, (2) by identifying the amendment number and date in the space provided for this purpose on Page Two, (3) by letter, or (4) by submitting a bid that indicates in some way that the bidder received the amendment. (c) If this solicitation is amended, then all terms and conditions which are not modified remain unchanged. [02-2A005-1]

AUTHORIZED AGENT (FEB 2015)

All authority regarding this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement or the resulting contract. [02-2A007-1]

AWARD NOTIFICATION (MAR 2024)

Notice regarding any award, cancellation of award, or extension of award will be posted at the location and on the date specified on the Cover Page or, if applicable, the most recent notice of extension of award. Should the contract resulting from this Solicitation have a total or potential value more than one hundred thousand dollars or more, such notice will be sent electronically to all Offerors responding to the Solicitation. Unless a written notice of intent to protest is timely filed pursuant to Section 11-35-4210(1)(b) or the award is otherwise suspended or canceled, the award will be effective on the calendar day (including weekends and holidays) immediately following the seventh business day after such notice is given. [02-2A010-3]

BID/PROPOSAL AS OFFER TO CONTRACT (JAN 2004)

By submitting Your Bid or Proposal, you are offering to enter into a contract with the Using Governmental Unit(s). Without further action by either party, a binding contract shall result upon final award. Any award issued will be issued to, and the contract will be formed with, the entity identified as the Offeror on the Cover Page. An Offer may be submitted by only one legal entity; "joint bids" are not allowed. [02-2A015-1]

BID ACCEPTANCE PERIOD (JAN 2004)

In order to withdraw Your Offer after the minimum period specified on the Cover Page, You must notify the Procurement Officer in writing. [02-2A020-1]

BID IN ENGLISH and DOLLARS (JAN 2004)

Offers submitted in response to this solicitation shall be in the English language and in US dollars, unless otherwise permitted by the Solicitation. [02-2A025-1]

AUTHORITY AS PROCUREMENT AGENT (DEC 2015)

The Procurement Officer is an employee of the Authority acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor(s) and the Using Governmental Units(s). The Authority is not a party to such contracts, unless and to the extent that the Authority is a using governmental unit and bears no liability for any party's losses arising out of or relating in any way to the contract. [02-2A030-3]

CERTIFICATE OF INDEPENDENT PRICE DETERMINATION (MAR 2024)

GIVING FALSE, MISLEADING, OR INCOMPLETE INFORMATION ON THIS CERTIFICATION MAY RENDER YOU SUBJECT TO PROSECUTION UNDER SECTION 16-9-10 OF THE SOUTH CAROLINA CODE OF LAWS AND OTHER APPLICABLE LAWS.

(a) By submitting an offer, the offeror certifies that-

(1) The prices in this offer have been arrived at independently, without, for the purpose of restricting competition, any consultation, communication, or agreement with any other offeror or competitor relating to-

- (i) Those prices;
- (ii) The intention to submit an offer; or
- (iii) The methods or factors used to calculate the prices offered.

(2) The prices in this offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening (in the case of a sealed bid solicitation) or contract award (in the case of a negotiated solicitation) unless otherwise required by law; and

(3) No attempt has been made or will be made by the offeror to induce any other concern to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory-

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; or

(2)(i) Has been authorized, in writing, to act as agent for the offeror's principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this certification [As used in this subdivision (b)(2)(i), the term "principals" means the person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal];

(ii) As an authorized agent, does certify that the principals referenced in subdivision (b)(2)(i) of this certification have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this certification.

(c) If the offeror deletes or modifies paragraph (a)(2) of this certification, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure. [02-2A032-2]

CERTIFICATION REGARDING DEBARMENT AND OTHER RESPONSIBILITY MATTERS (JAN 2004)

(a) (1) By submitting an Offer, Offeror certifies, to the best of its knowledge and belief, that-

(i) Offeror and/or any of its Principals-

(A) Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any state or federal agency;

(B) Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph (a)(1)(i)(B) of this provision.

(ii) Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any public (Federal, state, or local) entity.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

(b) Offeror shall provide immediate written notice to the Procurement Officer if, at any time prior to contract award, Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed

circumstances.

(c) If Offeror is unable to certify the representations stated in paragraphs (a)(1), Offer must submit a written explanation regarding its inability to make the certification. The certification will be considered in connection with a review of the Offeror's responsibility. Failure of the Offeror to furnish additional information as requested by the Procurement Officer may render the Offeror non-responsible.

(d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

(e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly or in bad faith rendered an erroneous certification, in addition to other remedies available to the State, the Procurement Officer may terminate the contract resulting from this solicitation for default. [02-2A035-1]

CODE OF LAWS AVAILABLE (JAN 2006)

The South Carolina Code of Laws, including the Consolidated Procurement Code, is available at:
<http://www.scstatehouse.gov/code/statmast.php>

The South Carolina Regulations are available at:
<http://www.scstatehouse.gov/coderegs/statmast.php>
[02-2A040-2]

DISCLOSURE OF CONFLICTS OF INTEREST OR UNFAIR COMPETITIVE ADVANTAGE (JUL 2023)

("OCI FAQ for Contractors" is available at www.procurement.sc.gov)

(a) You certify that, after reasonable inquiry, to the best of your knowledge and belief:

(1) your offer identifies any services that relate to either this solicitation or the work and that have already been performed by you, a proposed subcontractor, or an affiliated business or consultant of either; and
(2) there are no relevant facts or circumstances that may give rise to an actual or potential organizational conflict of interest, as defined in S.C. Code Ann. Reg. 19-445.2127, or that your offer identifies and explains any unfair competitive advantage you may have in competing for the proposed contract and any actual or potential conflicts of interest that may arise from your participation in this competition or your receipt of an award.

(b) If you, a proposed subcontractor, or an affiliated business or consultant of either, have an unfair competitive advantage or a significant actual or potential conflict of interest, the State may withhold award. Before withholding award on these grounds, the State will notify you of the concerns and provide a reasonable opportunity for you to respond. The State may consider efforts to avoid or mitigate such concerns, including restrictions on future activities.

(c) The certification in paragraph (a) of this provision is a material representation of fact upon which the State will rely when considering your offer for award. [02-2A047-3]

DEADLINE FOR SUBMISSION OF OFFER (JAN 2004)

Any offer received after the Procurement Officer of the governmental body or his designee has declared that the time set for opening has arrived, shall be rejected unless the offer has been delivered to the designated purchasing office or the governmental body's mail room which services that purchasing office prior to the opening. [R.19-445.2070(G)] [02-2A050-1]

DRUG FREE WORKPLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor(s) certifies that, if awarded a contract, Contractor(s) will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended. [02-2A065-1]

DUTY TO INQUIRE (FEB 2015)

Offeror, by submitting an Offer, represents that it has read and understands the Solicitation and that its Offer is made in compliance with the Solicitation. Offerors are expected to examine the Solicitation thoroughly and should request an explanation of any ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation. Failure to do so will be at the Offeror's risk. All ambiguities, discrepancies, errors, omissions, or conflicting statements in the Solicitation shall be interpreted to require the better quality or greater quantity of work and/or materials, unless otherwise directed by amendment. Offeror assumes responsibility for any patent ambiguity in the Solicitation that Offeror does not bring to the State's attention. See clause entitled "Questions from Offerors." [02-2A070-2]

ETHICS CERTIFICATE (MAY 2008)

By submitting an offer, the offeror certifies that the offeror has and will comply with, and has not, and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended (ethics act). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or assistance of public official; Sections 8-13-755 and 8-13-760, regarding restrictions on employment by former public official; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342, regarding restrictions on contributions by Contractor(s) to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If Contractor(s) participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, Contractor(s) shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed. [02-2A075-2]

MULTIPLE OFFERS (MAR 2024)

Offerors may submit more than one Offer, provided that each Offer has significant differences other than price. Each separate Offer must satisfy all Solicitation requirements. If this solicitation is an Invitation for Bids, each separate offer must be submitted or uploaded as a separate document and must clearly indicate that it is a separate offer. If this solicitation is a Request for Proposal, multiple offers may be submitted or uploaded as one document, provided that you clearly differentiate between each offer and you submit a separate cost proposal for each offer, if applicable. [02-2A079-1]

OMIT TAXES FROM PRICE (JAN 2004)

Do not include any sales or use taxes in Your price that the State may be required to pay. [02-2A080-1]

PRICING (MAR 2024)

(a) Fixed Price. If a fixed price is required, award will not be made on an Offer if the total possible price to the State cannot be determined. (b) Price Reasonableness: Any offer may be rejected if the Procurement Officer determines in writing that it is unreasonable as to price. S.C. Code Ann. Reg. 19-445.2070E. (c) Unbalanced Pricing. The State will analyze all offers with separately priced line items or subline items to determine if the prices are unbalanced. Unbalanced pricing exists when, despite an acceptable total evaluated price, the price of one or more line items is significantly over or understated. The responsible procurement officer may reject an offer as unreasonably priced if she determines that unbalanced pricing increases performance risk (e.g., it is so unbalanced as to be tantamount to allowing an advance payment) or could result in payment of unreasonably high prices. S.C. Code Ann. Reg. 19-445.2122C. [02-2A082-1]

OPEN TRADE REPRESENTATION (JUN 2015)

By submitting an Offer, Offeror represents that Offeror is not currently engaged in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [02-2A083-1]

PROTESTS (MAR 2024)

(a) If you are aggrieved in connection with the solicitation or award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest a solicitation or an amendment, your written protest must be received within fifteen Days of the date the applicable solicitation document is issued. To protest an award, (i) written notice of your intent to protest must be received within seven Business Days of the date the award notice is posted, and (ii) your actual written protest must be received within fifteen Days of the date the award notice is posted. Time periods are computed in accordance with Section 11-35-310(13) and the definitions for Day and Business Day. Both protests and notices of intent to protest must be received by the appropriate Chief Procurement Officer (CPO). See clause entitled "Protest-CPO". (b) Pursuant to Section 11-35-410, documents directly connected to a procurement activity may be available within five days after request. All document requests should be directed to DocReq@mmo.sc.gov. If a protest is pending, the protestant's lawyer may access otherwise unavailable information by applying to the CPO for the issuance of a protective order. Additional information is available at www.procurement.sc.gov/legal. [02-2A085-3]

PROHIBITED COMMUNICATIONS AND DONATIONS (FEB 2015)

Violation of these restrictions may result in disqualification of your offer, suspension or debarment, and may constitute a violation of law.

(a) During the period between publication of the solicitation and final award, ***you must not communicate, directly or indirectly, with the Using Governmental Unit or its employees, agents or officials regarding any aspect of this procurement activity***, unless otherwise approved in writing by the Procurement Officer. All communications must be solely with the Procurement Officer. [R. 19-445.2010]

(b) You are advised to familiarize yourself with Regulation 19-445.2165, which restricts donations to a governmental entity with whom you have or seek to have a contract. ***You represent that your offer discloses any gifts made, directly or through an intermediary, by you or your named subcontractor(s) to or for the benefit of the Using Governmental Unit during the period beginning eighteen months prior to the Opening Date.*** [R. 19-445.2165] [02-2A087-1]

PUBLIC OPENING (JAN 2004)

Offers will be publicly opened at the date/time and at the location identified on the Cover Page, or last Amendment, whichever is applicable. [02-2A090-1]

QUESTIONS FROM OFFERORS (MODIFIED)

(a) Any prospective offeror desiring an explanation or interpretation of the solicitation, drawings, specifications, etc., must request it in writing. Questions regarding the original solicitation or any amendment must be received by the Procurement Officer no later than the date stated on the Cover Page. Label any communication regarding your questions with the name of the procurement officer, and the solicitation's title and number. Oral explanations or instructions will not be binding. [See R. 19-445.2042(B)] Any information given a prospective offeror concerning a solicitation will be furnished promptly to all other prospective offerors as an Amendment to the solicitation, if that information is necessary for submitting offers or if the lack of it would be prejudicial to other prospective offerors. See clause entitled "Duty to Inquire." **We will not identify you in our answer to your question.** (b) The State seeks to permit maximum practicable competition. Offerors are urged to advise the Procurement Officer -- as soon as possible -- regarding any aspect of this procurement, including any aspect of the Solicitation that unnecessarily or inappropriately limits full and open competition. [See R. 19-445.2140] [02-2A095-2]

All questions must be submitted in writing and received by the Procurement Manager for this solicitation no later than **May 22, 2024 at 11:00 AM EST.**

Email is the preferred method for submitting questions to the procurement officer. Title the "Subject" line of your email "Questions 54000XXXXX". Questions must be submitted in an easily copied format such as MS Word.

Email: swillis@mmo.sc.gov

Questions may also be submitted to the address listed on the Cover Page of this document

QUESTIONS FROM OFFERORS - AMENDMENT (JUN 2017)

The Solicitation is amended as provided herein, information or changes resulting from questions will be shown in a question-and-answer format. All questions received have been reprinted below. THE "STATE'S RESPONSE" should be read without reference to the questions. THE questions are included solely to provide a cross-reference to the potential Offeror that submitted the question. Questions do not form a part of the contract; the "STATE'S RESPONSE" does. Any restatement of part or all of an existing provision of the Solicitation in an answer does not modify the original provision except as follows: Underlined text is added to the original provision. Stricken text is deleted. [02-2A097-1]

REJECTION/CANCELLATION (JAN 2004)

The State may cancel this solicitation in whole or in part. The State may reject any or all proposals in whole or in part. [SC Code Section 11-35-1710 & R.19-445.2065] [02-2A100-1]

RESPONSIVENESS (MAR 2024)

(a) Award will not be made on a nonresponsive offer. An offer is nonresponsive (i) if it does not constitute an unambiguous offer to enter into a contract with the State, or (ii) if it imposes conditions inconsistent with, or does not unambiguously agree to, the solicitation's material requirements. (b) Bid as Specified. Offers for supplies or services other than those specified will not be considered unless authorized by the Solicitation. [02-2A105-3]

SIGNING YOUR OFFER (JAN 2004)

Every Offer must be signed by an individual with actual authority to bind the Offeror. (a) If the Offeror is an individual, the Offer must be signed by that individual. If the Offeror is an individual doing business as a firm, the Offer must be submitted in the firm name, signed by the individual, and state that the individual is doing business as a firm. (b) If the Offeror is a partnership, the Offer must be submitted in the partnership name, followed by the words by its Partner, and signed by a general partner. (c) If the Offeror is a corporation, the Offer must be submitted in the corporate name, followed by the signature and title of the person authorized to sign. (d) An Offer may be submitted by a joint venturer involving any combination of individuals, partnerships, or corporations. If the Offeror is a joint venture, the Offer must be submitted in the name of the Joint Venture and signed by every participant in the joint venture in the manner prescribed in paragraphs (a) through (c) above for each type of participant. (e) If an Offer is signed by an agent, other than as stated in subparagraphs (a) through (d) above, the Offer must state that it has been signed by an Agent. Upon request, Offeror must provide proof of the agent's authorization to bind the principal. [02-2A115-1]

STATE OFFICE CLOSINGS (JAN 2004)

If an emergency or unanticipated event interrupts normal government processes so that offers cannot be received at the government office designated for receipt of bids by the exact time specified in the solicitation, the time specified for receipt of offers will be deemed to be extended to the same time of day specified in the solicitation on the first workday on which normal government processes resume. In lieu of an automatic extension, an Amendment may be issued to reschedule bid opening. If state offices are closed at the time a pre-bid or pre-proposal conference is scheduled, an Amendment will be issued to reschedule the conference. Useful information may be available at: <https://scemd.org/closings/> [02-2A120-3]

DISCLOSURE OF YOUR BID / PROPOSAL and SUBMITTING CONFIDENTIAL DATA (FEB 2021)

(a) According to Section 11-35-410, any person submitting a document in response or with regard to any solicitation or other request must "comply with instructions provided in the solicitation for marking information exempt from public disclosure. Information not marked as required by the applicable instructions may be disclosed to the public." **IF YOU IDENTIFY YOUR ENTIRE RESPONSE AS EXEMPT FROM PUBLIC DISCLOSURE, OR IF YOU DO NOT SUBMIT A REDACTED COPY AS REQUIRED, THE STATE MAY, IN ITS SOLE DISCRETION, DETERMINE YOUR BID OR PROPOSAL NONRESPONSIVE AND INELIGIBLE FOR AWARD.** (b) By submitting a response to this solicitation or request, Offeror (1) agrees to the public disclosure of every page, or portion thereof, of every document regarding this solicitation or request that was submitted at any time prior to entering into a contract (including, but not limited to, documents contained in a response, documents submitted to clarify a response, and documents submitted during negotiations), unless the page, or portion thereof, was redacted and conspicuously marked "Trade Secret" or "Confidential" or "Protected", (2) agrees that any information not redacted and marked, as required by these bidding instructions, as a

"Trade Secret" is not a trade secret as defined by the Trade Secrets Act, and (3) agrees that, notwithstanding any claims or markings otherwise, any prices, commissions, discounts, or other financial figures used to determine the award, as well as the final contract amount, are subject to public disclosure. (c) If your offer includes any information that you claim is exempt from public disclosure, you must submit one complete copy of your offer from which you have removed or concealed such information (the redacted copy). Except for the information removed or concealed, the redacted copy must be identical to your original offer. (d) Do not mark your entire response (bid, proposal, quote, etc.) as confidential, trade secret, or protected. If only portions of a page are subject to some protection, do not redact the entire page. The redacted copy must reflect the same pagination as the original and show the empty space from which information was redacted. The Procurement Officer must be able to view, search, copy and print the redacted copy without a password. If your response, or any part thereof, is improperly marked as confidential or trade secret or protected, the State may, in its sole discretion, determine it nonresponsive. (e) On the redacted copy, you must identify the basis of your claim by marking each redaction as follows: You must separately mark with the word "CONFIDENTIAL" every page, or portion thereof, that you redacted and claim as exempt from public disclosure because it is either (1) a trade secret as defined in Section 30-4-40(a)(1) of the Freedom of Information Act, or (2) privileged and confidential, as that phrase is used in Section 11-35-410. You must separately mark with the words "TRADE SECRET" every page, or portion thereof, that you redacted and claim as exempt from public disclosure as a trade secret pursuant to Section 39-8-20 of the Trade Secrets Act. You must separately mark with the word "PROTECTED" every page, or portion thereof, that you redacted and claim as exempt from public disclosure pursuant to Section 11-35- 1810. All markings must be conspicuous; use color, bold, underlining, or some other method in order to conspicuously distinguish the mark from the other text. (f) In determining whether to release documents, the State will detrimentally rely on your redaction and marking of documents, as required by these bidding instructions, as being either "Confidential" or "Trade Secret" or "Protected". By submitting a response, you agree to defend, indemnify and hold harmless the State of South Carolina, its agencies, officers and employees, from every claim, demand, loss, expense, cost, damage or injury, including attorney's fees, arising out of or resulting from withholding information by the State of South Carolina or any of its agencies, that you have redacted or marked as "Confidential" or "Trade Secret" or "Protected". (All references to S.C. Code of Laws.) [02-2A125-3]

SUBMITTING A PAPER OFFER OR MODIFICATION (MAR 2015)

Unless specifically instructed otherwise in the solicitation, you should submit your offer or modification in accordance with the clause titled "ON-LINE BIDDING INSTRUCTIONS." Paper offers are discouraged. If you must submit a paper offer or modification the following instructions apply. (a) All prices and notations should be printed in ink or typewritten. Errors should be crossed out, corrections entered and initialed by the person signing the bid. Do not modify the solicitation document itself (including bid schedule). (b) (1) All copies of the offer or modification, and any other documents required to be submitted with the offer shall be enclosed in a sealed, opaque envelope or package. (2) Submit your offer or modification to the address on the Cover Page. (3) The envelope or package must show the time and date specified for opening, the solicitation number, and the name and address of the bidder. If the offer or modification is sent by mail or special delivery service (UPS, Federal Express, etc.), the outermost envelope or wrapper must be labeled "OFFER ENCLOSED" on the face thereof. (c) If you are responding to more than one solicitation, submit each offer in a separate envelope or package. (d) Submit the number of copies indicated on the Cover Page. (e) Facsimile or e-mail offers, modifications, or withdrawals, will not be considered unless authorized by the Solicitation. [02-2A130-2]

TAX CREDIT FOR SUBCONTRACTING WITH DISADVANTAGED SMALL BUSINESSES (APR 2024)

Pursuant to Section 12-6-3350, a taxpayer having a contract with this State who subcontracts with a socially and economically disadvantaged small business is eligible for an income tax credit equal to four percent of the payments to that subcontractor for work pursuant to the contract. The subcontractor must be certified as a socially and economically disadvantaged small business as defined in Section 11-35-5010 and regulations pursuant to it. The credit is limited to a maximum of fifty thousand dollars annually. A taxpayer is eligible to claim the credit for ten consecutive taxable years beginning with the taxable year in which the first payment is made to the subcontractor that qualifies for the credit. After the above ten consecutive taxable years, the taxpayer is no longer eligible for the credit. A taxpayer claiming the credit shall maintain evidence of work performed for the contract by the subcontractor. The credit may be claimed on Schedule TC-2, "Credit for State Contractors Subcontracting with Socially and Economically Disadvantaged Small Business." A copy of the subcontractor's certificate from the Division of Small and Minority Business Contracting and Certification is to be attached to the contractor's income tax return. Questions regarding the tax credit and how to file are to be referred to: SC Department of Revenue, <http://dor.sc.gov>. Questions regarding subcontractor certification are to be referred to: Division of Small and Minority Business Contracting and Certification, <http://smbcc.sc.gov>. [02-2A135-2]

VENDOR REGISTRATION MANDATORY (MAR 2024)

You must have a state vendor number to be eligible to submit an offer. To obtain a state vendor number, visit www.procurement.sc.gov and select Doing Business with Us. Then select New Vendor Registration. (To determine if your

business is already registered, go to "Vendor Search"). Upon registration, you will be assigned a state vendor number. Vendors must keep their vendor information current. If you are already registered and know your User ID and Password, you can update your information by selecting Update Vendor Registration. If you need to update information but do not have your User ID/Password, you must complete a new vendor registration and On Step 9 – Messages to Administration indicate “Update vendor number” with your existing 10-digit vendor number. (Please note that vendor registration does not substitute for any obligation to register with the S.C. Secretary of State or S.C. Department of Revenue. You can register with the agencies at South Carolina Business One Stop, <http://scbos.sc.gov>) [02-2A145-2]

WITHDRAWAL OR CORRECTION OF OFFER (JAN 2004)

Offers may be withdrawn by written notice received at any time before the exact time set for opening. If the Solicitation authorizes facsimile offers, offers may be withdrawn via facsimile received at any time before the exact time set for opening. A bid may be withdrawn in person by a bidder or its authorized representative if, before the exact time set for opening, the identity of the person requesting withdrawal is established and the person signs a receipt for the bid. The withdrawal and correction of Offers is governed by S.C. Code Section 11-35-1520 and Regulation 19-445.2085. [02-2A150-1]

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

CONTENTS OF OFFER (RFP) (FEB 2015)

- (a) Offers should be complete and carefully worded and should convey all of the information requested.
- (b) Offers should be prepared simply and economically, providing a straightforward, concise description of offeror's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content.
- (c) The contents of your offer must be divided into two parts, the technical proposal and the business proposal. Each part should be bound in a single volume.
- (d) If your offer includes any comment over and above the specific information requested in the solicitation, you are to include this information as a separate appendix to your offer. Offers which include either modifications to any of the solicitation's contractual requirements or an offeror's standard terms and conditions may be deemed non-responsive and not considered for award. [02-2B040-2]

ELECTRONIC COPIES - REQUIRED MEDIA AND FORMAT (MODIFIED)

If you must submit a hardcopy of your original offer, you must submit an electronic copy on USB drive. Submit the number of copies indicated on the cover page. Each copy should be on separate media. Your business and technical proposals must be on separate media. Every USB drive must be labeled with the solicitation number and the offeror's name and specify whether its contents address the technical proposal or business proposal. The electronic copy must be identical to the original offer. File format shall be compatible with Microsoft Office (version 2003 or later), or Adobe Acrobat or equivalent Portable Document Format (.pdf) viewer. The Procurement Officer must be able to view, search, copy and print electronic documents without a password. Submit your electronic copies to the following address: State Fiscal Accountability Authority, 1201 Main Street, Suite 600, Columbia SC 29201.

MAIL PICKUP (JAN 2006)

The State Procurement Office picks up all mail from The US Postal Service once daily around 8:30 a.m. (excluding weekends and holidays). See provision entitled Deadline for Submission of Offer. [02-2B080-1]

ON-LINE BIDDING INSTRUCTIONS (MODIFIED)

(a) Mandatory Registration. **You must register before you can submit an offer online!** See clause entitled "VENDOR REGISTRATION MANDATORY."

(b) Steps for On-Line Bidding

#1 The link provided on the solicitation's Cover Page will take you to our web based on-line bidding system, where you will enter and/or upload your offer.

#2 Follow the general user instructions posted at www.procurement.sc.gov under the heading "Submitting Offers."

#3 Confirm your offer has a status of "submitted" by refreshing the "RFx and Auctions" screen.

Only offers with a status of "submitted" have been received by the State.

Offers with a status of "saved" have not been received.

#4 Save or print a copy of your offer using the "Print Preview" button after your offer has been submitted.

(c) If you have problems entering an on-line offer, you must contact the SCEIS Help Desk for assistance at (803) 896-0001 and follow the prompts. You may also contact the SCEIS Help Desk on-line at <http://www.sceis.sc.gov/vendorrequests/>. Do not contact the Procurement Officer with problems entering an offer into the system. Only questions regarding the solicitation documents should be addressed with the Procurement Officer.

(d) Do not wait until the last minute to submit your offer. If an on-line offer is not completed and in a submitted status prior to the submission deadline, the offer will not be considered for award.

OPENING PROPOSALS -- INFORMATION NOT DIVULGED (FEB 2015)

In competitive sealed proposals, neither the number or identity of offerors nor prices will be divulged at opening. [Section 11-35-1530 & R. 19-445.2095(C)(1)] [02-2B110-2]

PROTEST - CPO - MMO ADDRESS (MAR 2024)

Any protest must be addressed to the Chief Procurement Officer, Materials Management Office, and submitted in writing

- (a) by email to protest-mmo@mmo.state.sc.us,
- (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201.

SITE VISIT (JAN 2006)

A site visit will be held at the following date, time and location. Your failure to attend will not relieve the Contractor from responsibility for estimating properly the difficulty and cost of successfully performing the work, or for proceeding to successfully perform the work without additional expense to the State. The State assumes no responsibility for any conclusions or interpretations made by the Contractor based on the information made available at the conference. Nor does the State assume responsibility for any understanding reached or representation made concerning conditions which can affect the work by any of its officers or agents before the execution of this contract, unless that understanding, or representation is expressly stated in this contract.

Date & Start Time: 05/21/2024 at 10 AM EST

Point of Contact: Ken Davis

Location: Crawford-Zimmerman

Note: Questions will not be accepted at the site visit. Potential Offerors are strongly encouraged to submit questions from site visits in writing to the Procurement Officer. No answers shall be official unless they are provided in writing through an amendment to the solicitation.

[02-2B165-1]

III. SCOPE OF WORK/SPECIFICATIONS

About South Carolina State University

South Carolina State University (SCSU) was founded in 1896 and has maintained a legacy of excellence in education. We have been home to generations of scholars and leaders in business, military service, government, athletics, education, medicine, science, engineering technology and more. Located in Orangeburg, SC., SCSU was founded as a land grant college with a mission of providing education and service to the citizens of the state. In its first century, SCSU was a leader in education and continues to lead the way into the next century. More information about SCSU may be found online at www.scsu.edu.

SCSU experienced a decline in student enrollment throughout the life of the previous contract. Currently, we are aggressively recruiting students; and project that student enrollment will substantially increase in the next few years. SCSU expects that growth in student enrollment, will yield a need for growth in the resulting contract. Recent enrollment has been as follows:

Fall 18	Fall 19	Fall 20	Fall 21	Fall 22	Fall 23	Fall 24
3,022	2,479	2,339	2,374	2,649	2,796	3,041

Information regarding statistics and demographics may be found on the Commission for Higher Education's website: <https://www.che.sc.gov/che-data-and-reports> .

Stateite Creed

As a member of the community of scholars at South Carolina State University, I obligate myself to the pursuit of academic excellence model citizenship, and cultural and social inclusiveness.

As a Stateite...

- **I will assume personal responsibility for my intellectual, cultural, and social growth.**
- **I will practice academic integrity**
- **I will value the individualism and the dignity of all people.**
- **I will respect the rights and properties of others.**
- **I will work for the common good of South Carolina State University in both my speech and actions.**

As a South Carolina State University scholar, I affirm and embrace the above principals and ideals.

SCSU began outsourcing Facilities Operations and Maintenance in 2004. Potential Offerors may revisit contract information for those contracts <https://webprod.cio.sc.gov/SCSolicitationWeb/solicitationSearch.do>. The previous contracts are substantially different from the next and offer very little perspective to expectations related to the enclosed scope of work.

Scope of Work

A. Overview

To narrow the breadth of professional oversight and bring some level of order to an organization's many activities, the APPA-Leadership in Educational Facilities identifies four (4) core competencies that encompass the broad range of facilities management oversight:

- General Administration and Management
- Maintenance and Operations
- Energy and Utility Systems
- Planning, Design and Construction

The Contractor and staff shall work closely with and under the supervision of SCSU Facilities employees. The resulting

contract will encompass the above competencies and shall be awarded to cover the following areas:

1. Facilities Office Management – with dedicated onsite positions to manage daily campus activities including workorder receipt and assignment, general facilities and maintenance project management, receptionist, and clerical. Employees provided for Facilities Office Management positions will be handling sensitive data and will be expected to sign non-disclosure agreements for SCSU. The contractor shall provide oversight for all actions and projects related to Facilities operations and shall furnish for itself a computerized application for managing, monitoring, and reporting staff, assets, and activities provided to SCSU. The current contractor owns and utilizes Computerized Maintenance Management System (CMMS) **FM-360**. While SCSU may have limited access to the current data, under the resulting contract all data incorporated in the software shall remain property of SCSU. Any information and data currently accessible by SCSU will be provided to the Contractor. **SCSU does not have a preference for the software to be used.**

2. Skilled and Trades Workers – with onsite positions to manage custodial operations, grounds maintenance, and trades positions, which will include but may not be limited to the following:

- a. Custodial and maintenance services for inside facilities (learning centers and classrooms, administrative and office spaces, residential and dormitory structure, including summer refreshing/fall preparation).
- b. External building structures, including pressure washing of buildings and sidewalks.
- c. Care of grounds (which may or may not include athletics fields), and
- d. Trades services including but not limited to plumbers, carpenters, HVAC technicians, locksmiths, electricians, painters, fire compliance officers, etc.
- e. Movers to provide light moving services as needed.
- f. Event management services to set up and break down spaces in preparation of and following meetings and events.

The Contractor will be responsible for acquiring, managing, and paying subcontractors to take care of the following items:

1. Pest control service (Previously \$33,946 per year) – as an alternative, SCSU may consider acceptability of the Contractor having a Pest Control professional on staff if the employee is and maintains proper licensure and certification as required by the [State of South Carolina](#). – **Supplier: Ariail's Termite & Pest Control**
2. Fire extinguisher service (Previously \$9,000 per year)
3. Water treatment service (\$21,640 per year) – **Supplier: Chem Aqua**
4. Waste management service (\$125,000 per year) **Supplier: Republic Services**

3. Planning and Construction – with dedicated onsite talent to be utilized for specific construction projects as needed, Contractor to maintain (**full time employee**) position(s) to **assist work** in advisory and project management capacity such that SCSU can manage the procurement of design professionals, utilize various delivery methods for the construction/renovation of SCSU facilities, institute sustainable strategies, energy conservation methods, low maintenance materials and renewable energy sources to the extent possible. Employee(s) provided by the Contractor shall operate as follows:

- a. As assigned, the Contractor will assist the SCSU Facilities Office with the planning and management for the design of capital projects by private firms. These services will vary from project to project but will generally consist of managing the services provided by design professional architectural and/or engineering firms that will be, or have been, procured in accordance with the South Carolina Consolidated Procurement Code, and the Office of State Engineers' Manual for Planning and Execution of State Permanent Improvements (Manual).
- b. Provide recommendations to SCSU concerning the planning and future operations of facilities regarding energy and sustainability as required by the International Building Codes and any adopted SC modifications.
- c. Provide advisement to SCSU as they consider the construction delivery method to be used for construction. The Contractor shall provide construction administration and project management during construction, consistent with the delivery method chosen and in accordance with the procedures of the OSE Manual. SCSU renovation and capital improvement construction projects include, but not limited to, the following:
 - i. Architectural Interior and Exterior Renovations and Repairs
 - ii. Landscaping Installation
 - iii. Structural Renovations and Repairs
 - iv. Mechanical, Electrical and Life Safety Upgrades and Replacements
 - v. Recreational and Athletic Facilities
 - vi. Utility and Infrastructure Systems

- vii. Historical Restoration
- viii. Classroom and Assembly Facilities

Currently, SCSU has at least 8 construction projects that are complex, multimillion-dollar new construction and renovation projects and 20 projects that are less than \$1 Million. That will remain the case over the life of the contract.

Without deviation, Contractor shall adhere to all processes and policies specified by the Office of the State Engineer as well as South Carolina laws. All information is located on the website for the State Fiscal Accountability Authority Department of Procurement Services (SFAA DPS). The Contractor may use the following link for more information:

<https://www.procurement.sc.gov/construction>.

Without substantially modifying the scope of this contract, SCSU reserves the right to add, change, and/or delete from this contract as necessary. All change orders and/or amendments to the contract must be communicated in writing between the Contractor and SCSU procurement office and must be approved by the State Procurement Office prior to implementation.

B. General Scope of Project

Contractor shall perform services in compliance with the resulting contract. The minimum scope of work for each of the above referenced categories is provided as an attachment to this solicitation. Additionally, the following shall apply.

1. Environmental Health and Safety – The Contractor and the Contractor Subcontractor(s) shall comply with all applicable Federal, State, and Local laws and regulations, as well as all SCSU Environmental Health and Safety policies and procedures. The Contractor and the Contractor Subcontractor(s) shall cooperate with SCSU Environmental Health and Safety Administrator to ensure regulatory compliance. Annual regulatory compliance report is to be submitted to VP of Finance.
2. Parking - The same regulations and fees as apply to SCSU employees shall govern parking on SCSU property by the Contractor's employees. SCSU will provide information regarding costs associated with parking permits. Note: SCSU currently has plans to implement campus safety measures that would require scanning of license tags and driver's licenses upon entry to the campus. These changes may occur in the first or second year of the contract and will automatically check criminal records history of drivers and passengers.
3. Office and Storage Space - SCSU agrees to provide the Contractor with the use of office and storage spaces on SCSU premises from which to conduct its management-support services. All such spaces are to be under the control of Contractor. Such use shall include all utilities including water, sewer, electricity, internet, and local telephone services. Such utilities shall be provided without costs to Contractor. Office furniture and internet access will be provided.
4. Contractor shall furnish all supply, equipment, and human resources needed to provide services identified here-in. **This includes all chemicals, paper, soaps, cleansers, deodorizers, towels, carts, mops, brooms, bags, office supplies, and anything else needed to care for the University's facilities through grounds, maintenance, custodial, and office functions.**
5. Additional Items/Services - Additional items or services within the scope of the contract and found to be needed by SCSU may be added to the contract if mutually agreeable to the Contractor and SCSU and approved by the State Procurement Office. No additional items or services may occur without the appropriate procurement officer's written consent in the form of a SCSU issued purchase order. Any work outside of the contract completed by the Contractor without proper approval and an authorized purchase order issued in advance will be done at the cost of the Contractor. Charge/Reimbursable Work shall only be authorized or requested in writing by the Contracting Officer Representative.
6. Service Performance - All services performed under the Contract shall be in accordance with the terms and provisions of the contract. SCSU will determine whether such services rendered are performed and acceptable. Major deviations of services performed will not be made without the written approval of the COR.
7. Accessibility to Employees and Facilities - To ensure a smooth transition of services, the successful Contractor will be allowed contact with employees and access to SCSU's facilities prior to the starting date of the contract. Contact with employees and access to facilities will be in accordance with a mutually agreed upon transition schedule. The anticipated transition time is approximately thirty (30) days.
8. Audit - SCSU reserves the right to audit and/or examine for compliance any provisions associated with the contract to determine that the company has met all obligations under the terms of the contract. Such records and accounts shall be maintained for five (5) years after the end of the contract year to which they relate.

9. Dangerous/Hazardous Conditions – The Contractor shall not do, or permit anything to be done on said premises, nor bring or keep on the premises anything which will in anyway increase the fire insurance rate or premium to SCSU, or which will constitute a nuisance or create a dangerous or hazardous condition.

10. Operating Programs – The Contractor will prepare operating programs for each operating unit and necessary sub-units. Timelines for submission of these operating programs will be established with the successful Contractor. The operating programs shall include - but not be limited to - the following information:

- a. Organization of the operating unit and sub-units.
- b. Staffing of the operating unit by job classification keyed to work identification.
- c. Updated and approved job descriptions for each job classification.
- d. Individual worker assignments and responsibilities.
- e. Operating procedures including tasks, frequencies, methods, and information flow.
- f. Material, tools, equipment, and supply requirements including basic specifications for individual items.
- g. Performance standards for the work to be done by the operating unit.
- h. Quality assurance program to ensure compliance with the performance standards.
- i. Schedules for work to be done on an infrequent but recurring basis.
- j. Description of training requirements including training rosters and records.
- k. Methods for providing relief for absent workers.
- l. Any program instituted by you will include work identification, responsibilities, accountability of the work force, and cost per hour of work force.
- m. Key Performance Indicators for Maintenance, Grounds, Construction, and Custodial to be presented for approval within the 1st 90 days of this agreement. KPI's will be approved by the COR.

11. Principal Management and Leadership Responsibilities - Responsibilities include, but are not limited to, the following:

- a. Setting department direction (vision and mission)
- b. External relations
- c. Strategic planning
- d. Establishment of goals and objectives
- e. Establishment of policies and procedures
- f. Resource allocation
- g. Workload/workforce planning
- h. Definition of priorities and departmental services
- i. Assurance of coordination and cooperation among operations components
- j. Inspection and monitoring of performance
- k. Physical facilities
- l. Support services
- m. Administrative services
- n. Budget, cost accounting, financial management
- o. Human resources
- p. Training, education, and development
- q. Information systems support
- r. Regulatory and compliance
- s. Serve on various SCSU committees as required
- t. Attend State of South Carolina training events offered by the Office of State Engineer as they become available.

12. Resident Personnel – In the instance that SCSU requires resident personnel, then changes to the Contractor resident personnel assigned to SCSU will be subject to prior approval by SCSU's VP of Finance and the Associate Vice President for Facilities. **Contractor to keep qualified personnel on site 24/7. These persons should be cross-trained in all aspects of facilities maintenance to include electrical, plumbing, HVAC, locks, and life safety.**

13. Where appropriate, Contractor shall furnish employees to support the campus during inclement weather and other instances of natural disasters or other exceptional incidences. Extraordinary work occurring during regular business hours shall not be billed to SCSU.

14. Contractor shall furnish staff as requested to assist in tasks directly related to the scope of their contract for evening and weekend events as needed. **Contractors are expected to plan staff schedules in a manner that will accommodate these tasks without SCSU's organizations having to incur additional charges. In the case of exceptional circumstances, then all charges must be pre-approved by the COR.**

15. Contractor shall render timely payments to subcontractors and other suppliers related to the resulting contract. SCSU reserves the right to pay supplier invoices that are 90 days overdue and remove the same amount from the balance of the following payment SCSU makes to the Contractor.

16. Contractor shall ensure that all buildings are kept free of pests (insects, termites, rodents, etc.). SCSU does not have detail scope for these services because pest control services are managed by the current Contractor through a 3rd party. There are not termite bonds for each facility. Pest control challenges vary depending on the building and time of the year.

17. SCSU has separate Contractors for generator maintenance, fire alarm maintenance and repair, and elevator maintenance services. Contractor shall be responsible for helping manage these Contractors and ensuring all items are in operating as they should be.

18. Contractor shall provide emergency lock-out services through-out the day and evening to students and employees as needed.

19. Contractor shall be responsible for repairs to equipment associated with the O&M contract. Repairs up to \$5,000 are the responsibility of the Contractor. Repairs greater than \$5,000 but less than \$10,000 can be billed to SCSU after request and approved from SCSU. **This includes replacement of older HVAC systems if the cost falls under the \$5,000.00 threshold.**

20. Contractor shall be responsible for cleaning and refreshing Residential Halls for new occupancies following each semester. The quantity for December/January flips are unknown because rooms for students returning from fall Semester to Spring Semester are not included for Spring related preparation. There shall be a period following Spring Commencement Services and Prior to the beginning of Fall semester that will require residential hall cleaning in preparation for summer camps. The current total number of beds are as follows:

- a. Hugine Suites: 756 beds**
- b. Mitchell Hall: 156 beds**
- c. Battiste Hall: 200 beds**
- d. Truth Hall: 384 beds**
- e. Williams Hall: 144 beds**
- f. Earle Hall: 89 beds**

The number of beds will fluctuate in both directions as SCSU is planning multiple projects for renovations. Rooms shall be cleaned to APPA Level 2 standards. Floorplans are provided in Attachment K. Hugine B, I, J, & K are all the same and Hugine C, D, E, F, G, H, & L are the same.

Student Common areas shall be cleaned regularly in the same manner and time required in the performance plan for other buildings.

21. While the Contractor may reasonably anticipate that office facilities may have regular business hours of 8:00 – 5:30, these hours are subject to change regularly based on the needs of the campus at any given time. The occupancy and operational hours of our theaters, athletics spaces, auditoriums, and other event spaces change regularly based on events hosted on campus; and occupancy and operational hours in residential spaces change with each semester and are based on the number of students on campus for regular enrollment and summer camps.

22. Any repairs deemed as a project will be at the cost of the University and the contractor to procure and manage. Repairs made due to vandalism is outside of the SOW and is billable to SCSU with prior written authorization from the COR.

23. Paint projects will be furnished at the cost of SCSU and the Contractor shall procure and manage.

24. Contractor should be equipped to respond to small (100 sq ft) environmental remediation calls and offer immediate response to all such episodes until an outside contractor can be brought to assist if SCSU deems it appropriate to call in an outside contractor.

C. Deliverables

Contractor shall prepare monthly reports in an electronic format approved by the COR. The report will be submitted to the COR by the 5th of each month and will summarize the activity of the Department of Facilities Management for the preceding month. Reports shall be value-oriented rather than volume oriented. This means that reports shall focus on clearly identifying important performance trends, specific problems, problem solutions, and efficiency improvement solutions. Data without analysis and interpretation is not value-oriented; therefore, the Contractor shall include analysis and interpretation.

While this requirement applies to all, the following speaks to specific information:

1. Construction Management Reports

The Contractor shall submit a monthly report to the COR, outlining the monthly activity of all projects. A project is any work financed outside of this contract. The report will include the following:

- State Project Name
- State Project Number
- Name of the Designer of Record
- Name of the Construction Contractor
- Procurement Method Used to Hire the Construction Contractor
- Original Award Amount of the Construction
- Purchase Order Number
- Description of all Change Orders and the Amount (reference OSE forms)
- Schedule and Status of Construction
- Potential Problems

Contractor will submit a yearly evaluation of the Campus as determined by a customer survey, and shall include a plan to improve the ratings as directed by the COR. ~~The Contractor shall reconcile the guaranteed water and energy savings for the contract with the Energy Performance Contractor and shall submit the results to SCSU along with any recommendations for the next year.~~

2. Maintenance Operating Reports (Skills/Trades)

The Contractor will submit monthly operating reports in the form of an electronic file e-mailed as an attachment to the COR. SCSU reserves the right to add, delete or change the frequency of reports. Reports include, but not limited to the following:

- a. Work order report illustrating the number of routine maintenance work orders completed, backlog of pending work orders, average response and completion time of work orders.
- b. Non-routine report illustrating expenditures for non-routine maintenance repairs, renovations, and replacement items. This report shall include a progress report of projects in progress, but not completed, and shall illustrate up-to-date cost summaries for each renovation project.
- c. Complaint resolution report, illustrating the disposition of complaints by students, faculty and staff, parents, and others.
- d. Preventive Maintenance (PM) Summary, showing PM work orders scheduled, PM work orders completed, total hours spent on PM, and PM work order backlog.
- e. Staffing/personnel summary: List positions by area and the number of positions filled or vacant. If vacant, note the length of time the position has been vacant and plan of action to fill, to include any credits earned due to the vacancy.
- f. Other reports as required and requested by the COR.

3. Annual Plans

Upon the commencement of the renewal period, the Contractor shall provide plans for services to occur throughout the year as follows:

a. Preventive Maintenance Program

The Contractor shall **fully** develop and manage a well-defined PM program that considers all maintenance, is based on system condition or performance, and achieves the goal of maintaining facility quality while reducing

life-cycle cost.

b. Campus Landscaping Plan

Campus landscaping plan to enable SCSU to improve the appearance of the Campus and to reduce grounds maintenance costs.

c. Required Maintenance Plan

A required maintenance plan based upon a facilities condition assessment of each building and Campus infrastructure. The plan will identify work items, cost, priority, and will include a 10- year renewal or replacement plan for major building components/systems and Campus infrastructure. **Contractors are expected to provide this within 120 days of commencement of Contract.**

D. SC State Ethics Act Applies

Contractor shall adhere to the State Ethics Act in its entirety as written in Title 8, Chapter 13 (Public Officers and Employees, Ethics, Government Accountability, and Campaign Reform). At a minimum, the following applies:

1. Contractor represents that it is an independent Contractor, competent, knowledgeable, and familiar with the type of work contemplated by the resulting agreement. Contractor agrees and understands that neither it nor any of its agents or employees may act in the name of SCSU except and unless specifically authorized in writing by SCSU to do so.
2. Integrity, objectivity and absence of self-dealing are essential at all levels and in all aspects of governmental and private activities. Contractor must be committed to conducting itself and its activities in accordance with the highest standards of integrity and ethics in accordance with the State's laws and Procurement Codes. Contractor represents that it accepts a fiduciary role and responsibility with respect to SCSU and that it owes SCSU the duties of good faith, trust, confidence, and candor, and that it must exercise a high standard of care in managing money, property, and other capital assets. Contractor will, to its best abilities, act in the best interests of SCSU and the timely completion of the work. Contractor shall evaluate conditions, provide recommendations, implement approved actions, manage third party contracts on behalf of SCSU, and use the Facilities Management Services Contractor's best efforts to execute the work in an expeditious and economical manner consistent with the interests of SCSU.
3. SCSU recognizes that actual or potential conflicts of interest could occur in the normal conduct of business. It is essential that conflicts of interest be avoided and that possible conflicts of interest be disclosed in writing to and reviewed by SCSU and the State before the Facilities Management Services Contractor proceeds with any action. After disclosure, SCSU can make an informed judgment about a particular action/circumstance, and require appropriate oversight, limitations, or prohibitions in accordance with this policy.
4. Contractor nor any employee, agent, or officer of the Contractor shall himself or through a business in which he owns or controls an interest, or by any other persons for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by SCSU. Note: This prohibition shall not apply to publicly solicited contracts or purchases that are available on the same terms and conditions to the public or which are made at public auction or by competitive sealed bid by a Procurement Officer employed by the State of South Carolina or SCSU.
5. Contractor shall disclose to SCSU any corporate or individual direct or indirect interest in any undertaking that could potentially put Contractor's interest in conflict with that of SCSU including, but not limited to, bonuses, rebates, preferential pricing and other financial compensation or consideration associated with the implementation of an action/circumstances.

The State Ethics Act may be found online: <https://www.scstatehouse.gov/code/t08c013.php>

NOTE: Contractors are strictly prohibited from participating as Offerors on any SCSU construction project, maintenance project, design project, or other facilities related project. This includes any business affiliated with the Contractor as defined here-in and in the SC Ethics Act.

E. Contracting Officer Representative

1. SCSU shall designate a Contracting Officer's Representative (COR). The COR may be changed at any time by SCSU without prior notice to the contractor and without modification to the contract.
2. The responsibilities and limitations of the COR are as follows:

- a. The COR is responsible for the technical aspects of the contract and serves as technical liaison with the contractor and Procurement Officer. The COR is also responsible for the final inspection and acceptance of all deliverables and such other responsibilities as may be specified in the contract.
- b. The COR is not authorized to make any commitments or otherwise obligate the State or authorize any changes which affect the contract price, terms or conditions. Any contractor request for changes shall be referred to the Procurement Officer directly or through the COR. No such changes shall be made without the express written prior authorization of the Procurement Officer. The Procurement Officer may designate assistant or alternate COR(s) to act for the COR by naming such assistant/alternate(s) in writing and transmitting a copy of such designation to the contractor.

F. Staffing Plan

Contractor shall provide trained and qualified personnel to perform the duties required in accordance with the contract and General Conditions and Specifications. SCSU strongly encourages the Contractor to recruit and maintain employees already assigned to this campus by the previous contractor as appropriate; and may furnish space for the Contractor to market opportunities and conduct interviews for these employees. All hires shall be at the discretion of the Contractor. Key staff decisions shall be made in collaboration (or approval) of SCSU. Key Staff shall be defined as those in managerial and supervisory positions. All Contractor's full-time employees assigned to SCSU, must work on SCSU campus unless otherwise approved by the COR. SCSU shall not pay for support staff that is not exclusively related to the Contract. In the case of extraordinary circumstances, where extra help is needed by off-site personnel, then SCSU may pay an hourly billable rate that has been mutually agreed upon by the Contractor and SCSU.

1. All employees must always conduct themselves in a professional manner while fulfilling the requirements of this contract. SCSU places particular emphasis on the employee/employer relationship and subscribes to a philosophy of training, encouragement, recognition, customer service excellence and accountability.
2. SCSU seeks to provide a working environment that is safe and free from elements that might cause workplace illnesses and injuries. Employee education, training and preventive measures shall be used as strategies to reduce the risk and severity of injury. Contractor is responsible to adhere to all OSHA and DHEC requirements.
3. The Contractor shall be fully responsible for the acts and omissions of its Subcontractors and of persons employed by them, while on SCSU property, and will be held accountable for any conduct that violates SCSU Policy.
4. The Contractor, its employees, and Subcontractors shall adhere to the same standards of conduct required by students, staff, and faculty while on the campus of SCSU and during any time in which the Contractor is representing SCSU and operating in the capacity as a Contractor for SCSU.
5. Sexual harassment is strictly forbidden. All violations shall be reported to the Procurement Officer within 24 business hours of Contractor's knowledge of violation.
6. Discrimination based on race, gender, religion, age, and other protected classes is strictly forbidden. All violations shall be reported to the Procurement Officer within 24 business hours of Contractor's knowledge of violation.
7. The use of alcohol or drugs on campus or prior to arrival to campus is strictly forbidden. All violations shall be reported to the Procurement Officer within 24 business hours of Contractor's knowledge of violation.
8. The use of tobacco, nicotine, and vapor products on campus is strictly forbidden.
9. The Contractor must submit a Criminal Background check for each employee and/or Subcontractor(s) prior to employee and/or Subcontractor performing contract work on campus. The background check must include criminal conviction check (County, State, Federal) and sex and violent offender registry check. The cost of background checks will be paid by the Contractor. SCSU shall not accept any employees with a history of violent or sexually deviant offenses; and reserves the right to reject applicants who have previous criminal convictions. Such judgements shall be made on a case-by-case basis. Contractors must have prior written approval by the COR for every candidate prior to his or her commencement of work on SCSU campus. Beginning on the Contract's first anniversary date, Contractor shall obtain subsequent background checks for each employee in the month of the employee's birthday.

10. In the event of periods of vacant positions and/or scheduled absenteeism for Contractor employees, Contractor will provide suitable replacement employees within a timely manner. Periods of scheduled absenteeism include vacation time and extended illness longer than ten (10) consecutive workdays. If the Contractor is unable to provide a suitable replacement, then SCSU shall deduct the appropriate charge for the employee from its monthly payment in addition to a proportionate reduction in overhead, profit, or management fee payment.

11. The Contractor and its staff shall always wear a form of identification while on SCSU property; and shall be easily recognizable as an employee assigned to the campus facility.

12. Fraternalization between the Contractor's employees and SCSU students, faculty or staff is strictly prohibited and addressed with zero-tolerance. All violations shall be reported to the Procurement Officer within 24 business hours of Contractor's knowledge of violation.

13. SCSU will not tolerate rude, abusive, or degrading behavior on the job site. Inappropriate communications directed towards students, faculty, staff, or any other person on SCSU property is strictly prohibited. All violations shall be reported to the Procurement Officer within 24 business hours of Contractor's knowledge of violation.

14. Use of SCSU communications property (telephone, computers, etc.) must be related to campus responsibilities.

15. Improper use of SCSU owned equipment and devices by the Contractor is prohibited, unless prior arrangements are made with the COR.

16. The Contractor will be provided one point of contact for the duration of each agreement. That person shall be the Contractor Officer Representative (COR). Unless officially notified differently, the Contractor shall at no time ask questions or take direction from any other individuals. Should an incident occur where they are approached by SCSU staff, faculty, or students for any requests outside the scope of the contract, the Contractor must direct that person to the COR.

17. The Contractor must have the ability to communicate effectively and efficiently to SCSU representatives.

18. Proper attire must be always worn. All employees shall present a professional image when working on campus. For employees working in custodial and maintenance capacities, clothing bearing the SCSU logo is preferable. Employees wearing clothing with abusive, profane, political, or divisive language will not be tolerated. Clothing with large and graphic images are not acceptable unless it is the SCSU logo. Clothing shall not be torn and tattered.

- a. Ball caps and other head gear are not permitted unless they are for the specific purpose of protecting the employee from harsh weather conditions.
- b. Tank tops, cropped shirts, and shorts are prohibited.
- c. Footwear must be non-slip and if applicable, OSHA compliant. Open toe shoes are not permitted on site, at any time. (The exception may be for office staff).

19. The Contractor must not allow its workers and Subcontractors to dispose any food waste/items into its construction dumpster to prevent potential rodent infestation of the dumpster. All food/waste items must be removed daily from inside the buildings and disposed of off Campus daily.

20. Workers are prohibited from standing on or using existing furniture (i.e., desks, desk chair, beds, etc.) for any reason, including in lieu of approved stepladders.

21. The Contractor will not be allowed to access any rooms or buildings that do not require any work under their agreement. Contractors found in areas, other than as designated for their assignments, may be found to be trespassing, and be reported to authorities.

22. If the agreement requires that the Contractor shall enter occupied residential spaces, the Contractor must provide 48-hour notice to COR; and must be accompanied by a SCSU escort, which will be assigned by the COR. Contractors shall not enter any residential spaces (occupied or unoccupied) unless it is specifically and expressly stated in the corresponding agreement.

23. As appropriate, Contractor employees shall attend training and meetings provided by the Division of Procurement Services. Cost for the training shall be at the expense of the Contractor. **The training schedule may be found on the State Fiscal Accountability Authority's website www.procurement.sc.gov. Click on Training Opportunities. SFAA offers training at low cost to participants.**

24. Additional staff expectations:

- a. Must be productive in the workplace for the paid time.
- b. Must have good work ethic.
- c. Must always be truthful.
- d. Must be trustworthy and honest.
- e. Must be able to ask questions when in doubt.
- f. Must seek supervisory approvals before leaving the workplace.
- g. Only takes instruction from supervision or management.
- h. Will call supervision and inform if they cannot report to work before the work shift begins.
- i. Must have a clean and professional appearance.
- j. Must comply with all SCSU workplace safety regulations.
- k. Makes recommendations about how to make the work better.
- l. Does not abuse time for breaks and lunch periods.
- m. Does not use profanity or abusive language in the workplace.
- n. Does not yell in the workplace.
- o. Is courteous to all employees and customers on campus.
- p. Has a strong desire to work at SCSU.
- q. Has an attitude of helpfulness.

G. Communications Plan

Contractor shall work with the COR daily and shall foster regular and collaborative communications. Contractor shall be responsible for identifying and reporting program successes and failures and shall provide immediate communication about potential, imminent, or actual emergencies in their areas.

H. Change Management Process

The following applies:

1. Contractor shall strictly adhere to the terms and conditions with regards to nominal changes.
2. Contractor shall furnish immediate advisement to the COR following notification of departure by a member of their key staff, including anyone with duties including staff supervision or project management duties.
3. Contractor shall not undertake any changes to this contract without prior written approval memorialized by an executed change order as described in Section VII of this solicitation document.

I. APPA Levels

Under the Association of Physical Plant Administrators (APPA) there are six levels of maintenance. Contractor shall adhere to APPA Level 2 standards as follows:

1. Level 2 Maintenance Standards: Comprehensive Stewardship Maintenance activities appear to be somewhat organized, but they remain people dependent. Equipment and building components are usually functional and in operating condition. Service and maintenance calls are responded to in a timely manner. Buildings and equipment are regularly updated, keeping them current with modern standards and usage.
2. Level 2 Custodial Standards: Ordinary This level is the base upon which this study is established. Tidiness is the level at which cleaning should be maintained. Lower levels for washrooms, changing/locker rooms and similar type facilities are not acceptable. Floors and base moldings shine and/or are bright and clean. There is no buildup in corners or along walls, but there can be up to two days' worth of dirt, dust, stains, or streaks. All vertical and horizontal surfaces are clean, but marks, dust, smudges, and fingerprints are noticeable with close observation. Washroom and shower tile and fixtures gleam and are odor free. Supplies are adequate. Trash containers and pencil sharpeners are empty, clean, and odor-free.
3. Level 2 Grounds Standards: High-level maintenance. Associated with well-developed public areas, malls, government grounds, or college/university campuses. Recommend level for most organizations. Turf Care: Grass cut once every 5 days. Aeration required no less than 2 times per year. Reseeding when spots are present. Weed

control to no more than 5% of surface. Fertilizer: Adequate fertilizer level to ensure all plants are healthy and growing vigorously. Irrigation: Sprinkler irrigated by electronic automatic controls. Frequency follows rain fall, temperature, season length and demands of individual plant species. Litter Control: Minimum of one per day, 5 days per week. Accumulation depends on size of container available to public. Pruning: Usually done at least once per season, species planted may dictate more frequent attention. Disease and Pest Control: Done when disease or pest are inflicting noticeable damage or reducing vigorous plant material growth. Surfaces: Should be kept clean, repaired, or replaced when their condition has noticeable deterioration. Repairs: Done whenever safety, function or appearance is in question. Inspections: A staff member to conduct inspections daily when regular staff is scheduled. Litter and refuse: Grounds should be cleared of litter daily. Loading docks at Crawford-Zimmerman and I.P. Stanback Museum & Planetarium should be checked weekly for debris and pallet removal.

J. Payment

Contractor shall provide itemized invoices monthly by e-mail to AccountsPayable@scsu.edu. Additionally, a copy shall be remitted to the COR.

K. End of Contract Concerns

Contractor shall collaborate with SCSU to ensure a challenge-free transition from this contract to the next. Doing so, the Contractor shall:

1. Provide final reports as stated in this scope of work.
2. Shall not hold any employee inaccessible through a non-compete contract; and shall furnish the next Contractor with honest and objective assessments of employee performance as requested by the COR or the next Contractor.
3. Shall provide training or advisement services to Contractor key staff, other employees, or SCSU staff as needed.
4. Shall remove all Contractor-owned equipment and supplies from SCSU campus within 15 calendar days of completion of contract or ownership shall automatically convert to ownership by SCSU.

DELIVERY/PERFORMANCE LOCATION -- SPECIFIED (JAN 2006)

After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:
South Carolina State University; 300 College Street; Orangeburg, SC 29117

IV. INFORMATION FOR OFFERORS TO SUBMIT

INFORMATION FOR OFFERORS TO SUBMIT -- EVALUATION (JAN 2006)

In addition to information requested elsewhere in this solicitation, offerors should submit the following information for purposes of evaluation:

Note: There is a 10 mb limit on each single upload into SCEIS and a 31-character limit on the Title SCEIS will accept for files uploaded. Example: Company Name Technical Proposal

A. File 1 (PDF or Word)

Offeror shall attach to the online submission (or on USB Drive), preferably in one continuous file. Offerors are discouraged from providing information not specifically requested in this solicitation, including graphics that are provided as a means of decoration, but serving no meaningful purpose.

File 1 shall be organized in the following order:

Section 1 Cover Page One & Page Two of the solicitation - Limit 2 Pages

1. Company information, applicable signatures, and acknowledgement of amendments, which shall be the Header Pages for this solicitation (Cover Sheet and Page Two). This is the foundation for the Offeror's bid. Offers must include completed versions of these pages as Section 1 of their official bid.
2. Section 1 shall also include a brief overview of the submittal which includes a capabilities statement.

Section 2 Evaluation Criteria 1 - General Administration and Management

1. Implementation Plan demonstrating how the offeror will approach the beginning of the contract while providing milestone dates.
2. Proposed Staff demonstrating the organization to be provided to SCSU. Also, describing how the offeror will provide adequate staff for all positions related to the offer and resulting contract. Also position descriptions and salary ranges. Offeror shall also disclose minimum qualifications for each position, including levels of education, development, licensure, and certifications.
3. Training & Development plan describing the training and development program Contractor will implement for employees. Include subjects, hours of training, content, and provider(s) of the training.
4. Summary of Qualifications & Experience describing the firm's experience with organizations similar to the SCSU in mission, size, and type.
5. Offerors shall describe how they plan to institute the following in their operations:
 - a) Implementation of Quality Programs
 - b) Call Center Options
 - c) Disaster Recovery
 - d) Event Staffing
 - e) Key Performance Indicators
 - f) Stakeholder Surveys
 - ~~g) Energy Management~~

Section 3 Evaluation Criteria 2 – Contract Innovation

Offerors shall provide a list of value-added services that have not been addressed in the solicitation; but may be needed by SCSU to enjoy the most efficient and effective contract available.

Section 4 Evaluation Criteria 3 – Social Responsibility Measures

1. Environmentally Preferred (Green) Purchasing for State Agencies - Offerors shall present a plan to SCSU that would help SCSU remain in compliance and elevate our response to Green Purchasing initiatives defined by SC Department of Health and Environmental Control (SCDHEC). Suggestions include addressing the use of chemicals, sustainable products, and leading/presenting on campus recycling efforts. SCDHEC's guidance is provided online: <https://scdhec.gov/green-purchasing-state-contracts>
2. Offerors shall demonstrate how they would assist SCSU with efforts to support disadvantaged businesses (SWMBEs) and the local economy. Preferably, the Contractor will provide substantial assistance helping reach the State's requirement for SCSU to expend 10% of our controllable dollars with suppliers Certified by the Office of Small and Minority Business Contracting and Certification (SMBCC). Offerors are cautioned to be very specific and to demonstrate actual subcontractors who will be used in this area. Also, identify actual suppliers, distributors, and manufacturers that will be utilized to purchase goods or services from disadvantaged or minority suppliers who may or may not be state certified. More information about SMBCC (including a list of certified suppliers) may be found online: <https://smbcc.sc.gov/index.html>
Note: Offeror's status as an SWMBE or Local supplier will not be evaluated in this category.

Section 5 Attachments and Additional Items

1. Minority Participation Form *if applicable* [04-4015-4]
2. Attachment A: References
3. Attachments related to qualifications (Section V of this solicitation)
4. Financial reports – Evidence of the offeror's financial capacity to provide the services being bid.

B. File 2 Evaluation Criteria 4

An original and also redacted copy of the Price Proposal shall be submitted on the same USB Drive as the Technical proposals. Note: Offerors **cannot** redact the price the State will pay for services.

1. The Price Proposal shall be a separate file. No information shall be placed in the Technical Proposal. The original Price Proposal shall be labeled "Price Proposal" and shall include Page 1 of this solicitation.
2. The Price Proposal shall include the Pricing and Fee Structure as follows:
 - a. Describe, in detail, your pricing model/fee arrangement. Offerors shall provide a monthly fee, which shall include all expenses related to the services being provided, including labor, chemicals, supplies, equipment purchases and maintenance, etc. This monthly fee shall be provided on the bid schedule and shall be placed on the corresponding line in SCEIS online submittal portal. Offerors shall furnish the monthly price as the unit price, multiply that by 60 months and provide the extended price, which shall also be known as the Total Potential Value of the contract. The extended price shall be entered into Line 1 of the SCEIS submission. (Note: SCSU reserves the right to request cost and price data related to the Offeror's submission. In which case, the Offeror has 24 hours to provide it.)
 - b. Offerors shall provide an hourly rate for each staff position provided to this campus for services.

INFORMATION FOR OFFERORS TO SUBMIT -- GENERAL (MAR 2015)

You shall submit a signed Cover Page and Page Two. If you submit your offer electronically, you must upload an image of a signed Cover Page and Page Two. Your offer should include all other information and documents requested in this part and in parts II.B. Special Instructions; III. Scope of Work; V. Qualifications; VIII. Bidding Schedule/Price Proposal; and any appropriate attachments addressed in Part IX. Attachments to Solicitations. You should submit a summary of all insurance policies you have or plan to acquire to comply with the insurance requirements stated herein, if any, including policy types; coverage types; limits, sub-limits, and deductibles for each policy and coverage type; the carrier's A.M. Best rating; and whether the policy is written on an occurrence or claims-made basis. [04-4010-2]

MINORITY PARTICIPATION (APR 2024)

Is the bidder a South Carolina Certified Minority Business? Yes No

Is the bidder a Minority Business certified by another governmental entity? Yes No

If so, please list the certifying governmental entity: _____

Will any of the work under this contract be performed by a SC certified Minority Business as a subContractor(s)? Yes No

If so, what percentage of the total value of the contract will be performed by a SC certified Minority Business as a subContractor(s)? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subContractor(s)? Yes No

If so, what percentage of the total value of the contract will be performed by a minority business certified by another governmental entity as a subContractor(s)? _____

If a certified Minority Business is participating in this contract, please indicate all categories for which the Business is certified:

- Traditional minority
- Traditional minority, but female
- Women (Caucasian females)
- Hispanic minorities
- DOT referral (Traditional minority)
- DOT referral (Caucasian female)
- Temporary certification
- SBA 8 (a) certification referral
- Other minorities (Native American, Asian, etc.)

(If more than one minority Contractor will be utilized in the performance of this contract, please provide the information above for each minority business.)

The Department of Administration, Division of Small and Minority Business Contracting and Certification, publishes a list of certified minority firms. The Minority Business Directory is available at the following URL: <http://smbcc.sc.gov> (.) [04-4015-4]

Form 04-0415-4 is being used for data collection only.

V. QUALIFICATIONS

QUALIFICATIONS OF OFFEROR (MAR 2015)

(1) To be eligible for award, you must have the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance. We may also consider a documented commitment from a satisfactory source that will provide you with a capability. We may consider information from any source at any time prior to award. We may elect to consider (i) key personnel, any predecessor business, and any key personnel of any predecessor business, including any facts arising prior to the date a business was established, and/or (ii) any subContractor(s) you identify. (2) You must promptly furnish satisfactory evidence of responsibility upon request. Unreasonable failure to supply requested information is grounds for rejection. (3) **Corporate subsidiaries are cautioned that the financial capability of an affiliated or parent company will not be considered in determining financial capability;** however, we may elect to consider any security, e.g., letter of credit, performance bond, parent-company corporate guaranty, that you offer to provide. Instructions and forms to help assure acceptability are posted on procurement.sc.gov, link to "Standard Clauses & Provisions." [05-5005-2]

QUALIFICATIONS -- REQUIRED INFORMATION (MAR 2015)

If requested by the Procurement Officer, submit the following information or documentation for you and for any subcontractor (at any tier level) that you identify pursuant to the clause titled Subcontractor - Identification. Err on the side of inclusion. You represent that the information provided is complete. (a) The general history and experience of the business in providing work of similar size and scope. (b) Information reflecting the current financial position. Include the most current financial statement and financial statements for the last two fiscal years. If the financial statements have been audited in accordance with the following requirements, provide the audited version of those statements. [Reference Statement of Financial Accounting Concepts No. 5 (FASB, December, 1984), as amended.] (c) A detailed, narrative statement listing the three most recent, comparable contracts (including contact information) which have been performed. For each contract, describe how the supplies or services provided are similar to those requested by this solicitation, and how they differ. (d) A list of every business for which supplies or services substantially similar to those sought with this solicitation have been provided, at any time during the past three years. (e) A list of every South Carolina public body for which supplies or services have been provided at any time during the past three years, if any. (f) List of failed projects, suspensions, debarments, and significant litigation. (g) Dun & Bradstreet number.

SUBCONTRACTOR(S) -- IDENTIFICATION (FEB 2015)

If you intend to subcontract, at any tier level, with another business for any portion of the work and that portion either (1) exceeds 10% of your cost, (2) involves access to any "government information," as defined in the clause entitled "Information Security - Definitions," if included, or (3) otherwise involves services critical to your performance of the work (err on the side of inclusion), your offer must identify that business and the work which they are to perform. Identify potential subContractor(s) by providing the business name, address, phone, taxpayer identification number, **and point of contact**. In determining your responsibility, the state may contact and evaluate your proposed subContractor(s). [05-5030-2]

VI. AWARD CRITERIA

AWARD CRITERIA -- PROPOSALS (JAN 2006)

Award will be made to the highest ranked, responsive and responsible offeror whose offer is determined to be the most advantageous to the State. [06-6030-1]

AWARD TO ONE OFFEROR (JAN 2006)

Award may be made to one Offeror. [06-6040-1]

COMPETITION FROM PUBLIC ENTITIES (JAN 2006)

If a South Carolina governmental entity submits an offer, the Procurement Officer will, when determining the lowest offer, add to the price provided in any offers submitted by non-governmental entities a percentage equivalent to any applicable sales or use tax. S.C. Code Ann. Regs 117-304.1 (Supp. 2004). [06-6057-1]

DISCUSSIONS AND NEGOTIATIONS - OPTIONAL (FEB 2015)

Submit your best terms from both a price and a technical standpoint. Your proposal may be evaluated and your offer accepted without any discussions, negotiations, or prior notice. Ordinarily, nonresponsive proposals will be rejected outright without prior notice. Nevertheless, the State may elect to conduct discussions, including the possibility of limited proposal revisions, but only for those proposals reasonably susceptible of being selected for award. [11-35-1530(6); R.19-445.2095(I)] If improper revisions are submitted during discussions, the State may elect to consider only your unrevised initial proposal, provided your initial offer is responsive. The State may also elect to conduct negotiations, beginning with the highest ranked offeror, or seek best and final offers, as provided in Section 11-35-1530(8). Negotiations may involve both price and matters affecting the scope of the contract, so long as changes are within the general scope of the request for proposals. If negotiations are conducted, the State may elect to disregard the negotiations and accept your original proposal. [06-6058-1]

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

Offers will be evaluated using only the factors stated below. Evaluation factors are stated in the relative order of importance, with the first factor being the most important. Once evaluation is complete, all responsive offerors will be ranked from most advantageous to least advantageous. [06-6065-1]

1. General Administration and Management
2. Contract Innovation
3. Price
4. Social Responsibility Measures

VII. TERMS AND CONDITIONS -- A. GENERAL

ASSIGNMENT, NOVATION, AND CHANGE OF NAME, IDENTITY, OR STRUCTURE (FEB 2015)

(a) Contractor(s) shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, Contractor(s) may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after Contractor(s) (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If Contractor(s) amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, Contractor(s) shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law. [07-7A004-2]

BANKRUPTCY - GENERAL (FEB 2015)

(a) Notice. In the event the Contractor(s) enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor(s) agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the Contractor(s)'s insolvency, including the filing of proceedings in bankruptcy. [07-7A005-2]

CHOICE-OF-LAW (JAN 2006)

The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. [07-7A010-1]

CONTRACT DOCUMENTS and ORDER OF PRECEDENCE (MODIFIED)

(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) documentation of 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. These documents shall be read to be consistent and complimentary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. (b) The terms and conditions of documents (1) through (5) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) a purchase order or other instrument submitted by the State, (ii) any invoice or other document submitted by Contractor(s), or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed herein, the terms and conditions of all such documents shall be void and of no effect. (c) No contract, license, or other agreement containing contractual terms and conditions will be signed by any Using Governmental Unit. Any document signed or otherwise agreed to by persons other than the Procurement Officer shall be void and of no effect.

DISCOUNT FOR PROMPT PAYMENT (JAN 2006)

(a) Discounts for prompt payment will not be considered in the evaluation of offers. However, any offered discount will form a part of the award, and will be taken if payment is made within the discount period indicated in the offer by the offeror. As an alternative to offering a discount for prompt payment in conjunction with the offer, offerors awarded contracts may include discounts for prompt payment on individual invoices.

(b) In connection with any discount offered for prompt payment, time shall be computed from the date of the invoice. If the Contractor(s) has not placed a date on the invoice, the due date shall be calculated from the date the designated billing

office receives a proper invoice, provided the state annotates such invoice with the date of receipt at the time of receipt. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or, for an electronic funds transfer, the specified payment date. When the discount date falls on a Saturday, Sunday, or legal holiday when Federal Government offices are closed and Government business is not expected to be conducted, payment may be made on the following business day. [07-7A020-1]

DISPUTES (JAN 2006)

(1) Choice-of-Forum. All disputes, claims, or controversies relating to the Agreement shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. Contractor(s) agrees that any act by the government regarding the Agreement is not a waiver of either the government's sovereign immunity or the government's immunity under the Eleventh Amendment of the United States Constitution. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation. (2) Service of Process. Contractor(s) consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the Agreement; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor(s) by certified mail (return receipt requested) addressed to Contractor(s) at the address provided as the Notice Address on Page Two or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail. [07-7A025-1]

EQUAL OPPORTUNITY (JAN 2006)

Contractor(s) is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference. [07-7A030-1]

FALSE CLAIMS (JAN 2006)

According to the S.C. Code of Laws Section 16-13-240, "a person who by false pretense or representation obtains the signature of a person to a written instrument or obtains from another person any chattel, money, valuable security, or other property, real or personal, with intent to cheat and defraud a person of that property is guilty" of a crime. [07-7A035-1]

FIXED PRICING REQUIRED (JAN 2006)

Any pricing provided by Contractor(s) shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, Contractor(s)'s price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit Contractor(s) from offering lower pricing after award. [07-7A040-1]

NO INDEMNITY OR DEFENSE (FEB 2015)

Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason. [07-7A045-2]

NOTICE (JAN 2006)

(A) After award, any notices shall be in writing and shall be deemed duly given (1) upon actual delivery, if delivery is by hand, (2) upon receipt by the transmitting party of automated confirmation or answer back from the recipient's device if delivery is by telex, telegram, facsimile, or electronic mail, or (3) upon deposit into the United States mail, if postage is prepaid, a return receipt is requested, and either registered or certified mail is used. (B) Notice to Contractor(s) shall be to the address identified as the Notice Address on Page Two. Notice to the state shall be to the Procurement Officer's address on the Cover Page. Either party may designate a different address for notice by giving notice in accordance with this paragraph. [07-7A050-1]

OPEN TRADE (JUN 2015)

During the contract term, including any renewals or extensions, Contractor(s) will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300. [07-7A053-1]

ORGANIZATIONAL CONFLICT OF INTEREST (JUL 2023)

(a) The Contractor agrees to immediately advise the Procurement Officer if an actual or potential organizational conflict of interest is discovered after award, and to make a full written disclosure promptly thereafter to the Procurement Officer. This disclosure shall include a description of actions which the Contractors has taken or proposes to take, after consultation with the Procurement Officer, to avoid, mitigate, or neutralize the actual or potential conflict.

(b) The State may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the State beyond what it would have been if the subcontract had contained such a clause.

(c) The disclosure required by paragraph (a) of this provision is a material obligation of the contract. If the Contractor knew or should have known of an organizational conflict of interest prior to award, or discovers an actual or potential conflict after award, and does not disclose, or misrepresents, relevant information to the Procurement Officer, the State may terminate the contract for default. [07-7A054-1]

PAYMENT and INTEREST (MODIFIED)

(a) The State shall pay the Contractor(s), after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government.

(b) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor(s)'s exclusive means of recovering any type of interest from the Owner. Contractor(s) waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason. (c) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30. (d) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (b) and (c) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding. (e) The State shall have all of its common law, equitable and statutory rights of set-off.

PUBLICITY (JAN 2006)

Contractor(s) shall not publish any comments or quotes by State employees or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer. [07-7A060-1]

PURCHASE ORDERS (JAN 2006)

Contractor(s) shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order. [07-7A065-1]

SURVIVAL OF OBLIGATIONS (JAN 2006)

The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit. [07-7A075-1]

TAXES (JAN 2006)

Any tax the Contractor(s) may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the Contractor(s) upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to Contractor(s), to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor(s) agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to Contractor(s) by the taxing authority. In the event that the Contractor(s) fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to Contractor(s), Contractor(s) shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor(s)'s net income or assets shall be the sole responsibility of the Contractor(s). [07-7A080-1]

TERMINATION DUE TO UNAVAILABILITY OF FUNDS (JAN 2006)

Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the contract shall be canceled. In the event of a cancellation pursuant to this paragraph, Contractor(s) will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor(s) will not be reimbursed any costs amortized beyond the initial contract term. [07-7A085-1]

THIRD PARTY BENEFICIARY (JAN 2006)

This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise. [07-7A090-1]

WAIVER (JAN 2006)

The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing. [07-7A095-1]

VII. TERMS AND CONDITIONS -- B. SPECIAL

CHANGES (JAN 2006)

(1) Contract Modification. By a written order, at any time, and without notice to any surety, the Procurement Officer may, subject to all appropriate adjustments, make changes within the general scope of this contract in any one or more of the following:

- (a) drawings, designs, or specifications, if the supplies to be furnished are to be specially manufactured for the [State] in accordance therewith;
- (b) method of shipment or packing;
- (c) place of delivery;
- (d) description of services to be performed;
- (e) time of performance (i.e., hours of the day, days of the week, etc.); or,
- (f) place of performance of the services. Subparagraphs (a) to (c) apply only if supplies are furnished under this contract. Subparagraphs (d) to (f) apply only if services are performed under this contract.

(2) Adjustments of Price or Time for Performance. If any such change increases or decreases the Contractor(s)'s cost of, or the time required for, performance of any part of the work under this contract, whether or not changed by the order, an adjustment shall be made in the contract price, the delivery schedule, or both, and the contract modified in writing accordingly. Any adjustment in contract price made pursuant to this clause shall be determined in accordance with the Price Adjustment Clause of this contract. Failure of the parties to agree to an adjustment shall not excuse the Contractor(s) from proceeding with the contract as changed, provided that the State promptly and duly make such provisional adjustments in payment or time for performance as may be reasonable. By proceeding with the work, the Contractor(s) shall not be deemed to have prejudiced any claim for additional compensation, or an extension of time for completion.

(3) Time Period for Claim. Within 30 days after receipt of a written contract modification under Paragraph (1) of this clause, unless such period is extended by the Procurement Officer in writing, the Contractor(s) shall file notice of intent to assert a claim for an adjustment. Later notification shall not bar the Contractor(s)'s claim unless the State is prejudiced by the delay in notification.

(4) Claim Barred After Final Payment. No claim by the Contractor(s) for an adjustment hereunder shall be allowed if notice is not given prior to final payment under this contract. [07-7B025-1]

COMPLIANCE WITH LAWS (MODIFIED)

During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs. Contractor shall meet the requirements of the Fair Labor Standards and all other regulations of the U.S. Department of Labor. Contractor must be an "Equal Opportunity Affirmative Action Employer."

CONFERENCE -- PRE-PERFORMANCE (MODIFIED)

Unless waived by the Procurement Officer, a pre-performance conference between the contractor, state and Procurement Officer shall be held at a location selected by the state within ten (10) days after final award, and prior to commencement of work under the contract. The responsibilities of all parties involved will be discussed to assure a meeting of the minds of all concerned. The successful contractor or his duly authorized representative shall be required to attend at contractor's expense.

CONTRACT LIMITATIONS (JAN 2006)

No sales may be made pursuant to this contract for any item or service that is not expressly listed. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject Contractor(s) to suspension or debarment. [07-7B045-1]

CONTRACTOR(S)'S LIABILITY INSURANCE - GENERAL (FEB 2015)

(a) Without limiting any of the obligations or liabilities of Contractor(s), Contractor(s) shall procure from a company or companies lawfully authorized to do business in South Carolina and with a current A.M. Best rating of no less than A: VII, and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work and the results of that work by the Contractor(s), his agents, representatives, employees or sub-Contractor(s).

(b) Coverage shall be at least as broad as:

(1) Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 12 07 covering CGL on an "occurrence" basis, including products-completed operations, personal and advertising injury, with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, the general aggregate limit shall be twice the required occurrence limit. This contract shall be considered to be an "insured contract" as defined in the policy.

(2) Auto Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor(s) has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limits no less than \$1,000,000 per accident for bodily injury and property damage.

(3) Worker's Compensation: As required by the State of South Carolina, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.

(c) Every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them, must be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor(s) including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor(s)'s insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

(d) For any claims related to this contract, the Contractor(s)'s insurance coverage shall be primary insurance as respects the State, every applicable Using Governmental Unit, and the officers, officials, employees and volunteers of any of them. Any insurance or self-insurance maintained by the State, every applicable Using Governmental Unit, or the officers, officials, employees and volunteers of any of them, shall be excess of the Contractor(s)'s insurance and shall not contribute with it.

(e) Prior to commencement of the work, the Contractor(s) shall furnish the State with original certificates and amendatory endorsements, or copies of the applicable policy language effecting coverage required by this section. All certificates are to be received and approved by the State before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor(s)'s obligation to provide them. The State reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by this section, at any time.

(f) Should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. In addition, the Contractor(s) shall notify the State immediately upon receiving any information that any of the coverages required by this section are or will be changed, cancelled, or replaced.

(g) Contractor(s) hereby grants to the State and every applicable Using Governmental Unit a waiver of any right to subrogation which any insurer of said Contractor(s) may acquire against the State or applicable Using Governmental Unit by virtue of the payment of any loss under such insurance. Contractor(s) agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the State or Using Governmental Unit has received a waiver of subrogation endorsement from the insurer.

(h) Any deductibles or self-insured retentions must be declared to and approved by the State. The State may require the Contractor(s) to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

(i) The State reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances. [07-7B056-2]

CONTRACTOR(S) PERSONNEL (JAN 2006)

The Contractor(s) shall enforce strict discipline and good order among the Contractor(s)'s employees and other persons carrying out the Contract. The Contractor(s) shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. [07-7B060-1]

CONTRACTOR(S)'S OBLIGATION -- GENERAL (JAN 2006)

The Contractor(s) shall provide and pay for all materials, tools, equipment, labor and professional and non-professional services, and shall perform all other acts and supply all other things necessary, to fully and properly perform and complete the work. The Contractor(s) must act as the prime Contractor(s) and assume full responsibility for any sub-Contractor(s)'s performance. The Contractor(s) will be considered the sole point of contact with regard to all situations, including payment of all charges and the meeting of all other requirements. [07-7B065-1]

CONTRACTOR(S)'S USE OF STATE PROPERTY (JAN 2006)

Upon termination of the contract for any reason, the State shall have the right, upon demand, to obtain access to, and possession of, all State properties, including, but not limited to, current copies of all State application programs and necessary documentation, all data, files, intermediate materials and supplies held by the Contractor(s). Contractor(s) shall

not use, reproduce, distribute, display, or sell any data, material, or documentation owned exclusively by the State without the State's written consent, except to the extent necessary to carry out the work. [07-7B067-1]

DEFAULT (JAN 2006)

(a) (1) The State may, subject to paragraphs (c) and (d) of this clause, by written notice of default to the Contractor(s), terminate this contract in whole or in part if the Contractor(s) fails to:

(i) Deliver the supplies or to perform the services within the time specified in this contract or any extension;

(ii) Make progress, so as to endanger performance of this contract (but see paragraph (a)(2) of this clause); or

(iii) Perform any of the other material provisions of this contract (but see paragraph (a)(2) of this clause).

(2) The State's right to terminate this contract under subdivisions (a)(1)(ii) and (1)(iii) of this clause, may be exercised if the Contractor(s) does not cure such failure within 10 days (or more if authorized in writing by the Procurement Officer) after receipt of the notice from the Procurement Officer specifying the failure.

(b) If the State terminates this contract in whole or in part, it may acquire, under the terms and in the manner the Procurement Officer considers appropriate, supplies or services similar to those terminated, and the Contractor(s) will be liable to the State for any excess costs for those supplies or services. However, the Contractor(s) shall continue the work not terminated.

(c) Except for defaults of subContractor(s) at any tier, the Contractor(s) shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the Contractor(s). Examples of such causes include (1) acts of God or of the public enemy, (2) acts of the State in either its sovereign or contractual capacity, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor(s).

(d) If the failure to perform is caused by the default of a subContractor(s) at any tier, and if the cause of the default is beyond the control of both the Contractor(s) and subContractor(s), and without the fault or negligence of either, the Contractor(s) shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the Contractor(s) to meet the required delivery schedule.

(e) If this contract is terminated for default, the State may require the Contractor(s) to transfer title and deliver to the State, as directed by the Procurement Officer, any (1) completed supplies, and (2) partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (collectively referred to as "manufacturing materials" in this clause) that the Contractor(s) has specifically produced or acquired for the terminated portion of this contract. Upon direction of the Procurement Officer, the Contractor(s) shall also protect and preserve property in its possession in which the State has an interest.

(f) The State shall pay contract price for completed supplies delivered and accepted. The Contractor(s) and Procurement Officer shall agree on the amount of payment for manufacturing materials delivered and accepted and for the protection and preservation of the property; if the parties fail to agree, the Procurement Officer shall set an amount subject to the Contractor(s)'s rights under the Disputes clause. Failure to agree will be a dispute under the Disputes clause. The State may withhold from these amounts any sum the Procurement Officer determines to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders.

(g) If, after termination, it is determined that the Contractor(s) was not in default, or that the default was excusable, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the termination had been issued for the convenience of the State. If, in the foregoing circumstances, this contract does not contain a clause providing for termination for convenience of the State, the contract shall be adjusted to compensate for such termination and the contract modified accordingly subject to the Contractor(s)'s rights under the Disputes clause.

(h) The rights and remedies of the State in this clause are in addition to any other rights and remedies provided by law or under this contract. [07-7B075-1]

DISPOSAL OF PACKAGING (JAN 2006)

Contractor(s) shall dispose of all wrappings, crating, and other disposable materials pertaining to this contract at the end of each working day and upon completion of installation. [07-7B085-1]

ESTIMATED QUANTITY -- PURCHASES FROM OTHER SOURCES (JAN 2006)

The state may bid separately any unusual requirements or large quantities of supplies covered by this contract. [07-7B090-1]

ESTIMATED QUANTITY -- UNKNOWN (JAN 2006)

The total quantity of purchases of any individual item on the contract is not known. The State does not guarantee that the State will buy any specified item or total amount. The omission of an estimated purchase quantity does not indicate a lack of need but rather a lack of historical information. [07-7B095-1]

ILLEGAL IMMIGRATION (NOV 2008)

(An overview is available at www.procurement.sc.gov) By signing your offer, you certify that you will comply with the applicable requirements of Title 8, Chapter 14 of the South Carolina Code of Laws and agree to provide to the State upon request any documentation required to establish either: (a) that Title 8, Chapter 14 is inapplicable to you and your sub-Contractor(s) or sub-sub-Contractor(s); or (b) that you and your sub-Contractor(s) or sub-sub-Contractor(s) are in compliance with Title 8, Chapter 14. Pursuant to Section 8-14-60, "A person who knowingly makes or files any false, fictitious, or fraudulent document, statement, or report pursuant to this chapter is guilty of a felony, and, upon conviction, must be fined within the discretion of the court or imprisoned for not more than five years, or both." You agree to include in any contracts with your sub-Contractor(s) language requiring your sub-Contractor(s) to (a) comply with the applicable requirements of Title 8, Chapter 14, and (b) include in their contracts with the sub-sub-Contractor(s) language requiring the sub-sub-Contractor(s) to comply with the applicable requirements of Title 8, Chapter 14. [07-7B097-1]

INDEMNIFICATION-THIRD PARTY CLAIMS - GENERAL (NOV 2011)

Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor(s) shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of Contractor(s), its sub-Contractor(s), their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor(s) shall be given timely written notice of any suit or claim. Contractor(s)'s obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees. [07-7B100-2]

LICENSES AND PERMITS (JAN 2006)

During the term of the contract, the Contractor(s) shall be responsible for obtaining, and maintaining in good standing, all licenses (including professional licenses, if any), permits, inspections and related fees for each or any such licenses, permits and /or inspections required by the State, county, city or other government entity or unit to accomplish the work specified in this solicitation and the contract. [07-7B115-1]

OWNERSHIP OF DATA and MATERIALS (JAN 2006)

All data, material and documentation prepared for the state pursuant to this contract shall belong exclusively to the State. [07-7B125-1]

PRICE ADJUSTMENTS (JAN 2006)

(1) Method of Adjustment. Any adjustment in the contract price made pursuant to a clause in this contract shall be consistent with this Contract and shall be arrived at through whichever one of the following ways is the most valid approximation of the actual cost to the Contractor(s) (including profit, if otherwise allowed):

(a) by agreement on a fixed price adjustment before commencement of the pertinent performance or as soon thereafter as practicable;

(b) by unit prices specified in the Contract or subsequently agreed upon;

(c) by the costs attributable to the event or situation covered by the relevant clause, including profit if otherwise allowed, all as specified in the Contract; or subsequently agreed upon;

(d) in such other manner as the parties may mutually agree; or,

(e) in the absence of agreement by the parties, through a unilateral initial written determination by the Procurement Officer of the costs attributable to the event or situation covered by the clause, including profit if otherwise allowed, all as computed by the Procurement Officer in accordance with generally accepted accounting principles, subject to the provisions of Title 11, Chapter 35, Article 17 of the S.C. Code of Laws.

(2) Submission of Price or Cost Data. Upon request of the Procurement Officer, the Contractor(s) shall provide reasonably available factual information to substantiate that the price or cost offered, for any price adjustments is reasonable, consistent with the provisions of Section 11-35-1830. [07-7B160-1]

PRICE ADJUSTMENT - LIMITED -- AFTER INITIAL TERM ONLY (JAN 2006)

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. [07-7B165-1]

PRICE ADJUSTMENTS -- LIMITED BY CPI "ALL ITEMS" (JAN 2006)

Upon request and adequate justification, the Procurement Officer may grant a price increase up to, but not to exceed, the unadjusted percent change for the most recent 12 months for which data is available, that is not subject to revision, in the Consumer Price Index (CPI) for all urban consumers (CPI-U), "all items" for services, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov [07-7B170-1]

PRICING DATA -- AUDIT -- INSPECTION (JAN 2006)

[Clause Included Pursuant to Section 11-35-1830, - 2210, & -2220] (a) Cost or Pricing Data. Upon Procurement Officer's request, you shall submit cost or pricing data, as defined by 48 C.F.R. Section 2.101 (2004), prior to either (1) any award to Contractor(s) pursuant to 11-35-1530 or 11-35-1560, if the total contract price exceeds \$500,000, or (2) execution of a change order or contract modification with Contractor(s) which exceeds \$100,000. Your price, including profit or fee, shall be adjusted to exclude any significant sums by which the state finds that such price was increased because you furnished cost or pricing data that was inaccurate, incomplete, or not current as of the date agreed upon between parties. (b) Records Retention. You shall maintain your records for three years from the date of final payment, or longer if requested by the chief Procurement Officer. The state may audit your records at reasonable times and places. As used in this subparagraph (b), the term "records" means any books or records that relate to cost or pricing data submitted pursuant to this clause. In addition to the obligation stated in this subparagraph (b), you shall retain all records and allow any audits provided for by 11-35-2220(2). (c) Inspection. At reasonable times, the state may inspect any part of your place of business which is related to performance of the work. (d) Instructions Certification. When you submit data pursuant to subparagraph (a), you shall (1) do so in accordance with the instructions appearing in Table 15-2 of 48 C.F.R. Section 15.408 (2004) (adapted as necessary for the state context), and (2) submit a Certificate of Current Cost or Pricing Data, as prescribed by 48 CFR Section 15.406-2(a) (adapted as necessary for the state context). (e) Subcontracts. You shall include the above text of this

clause in all of your subcontracts. (f) Nothing in this clause limits any other rights of the state. [07-7B185-1]

RELATIONSHIP OF THE PARTIES (MODIFIED)

Neither party is an employee, agent, partner, or joint venturer of the other. Neither party has the right or ability to bind the other to any agreement with a third party or to incur any obligation or liability on behalf of the other party.

All the Contractor's employees furnishing services to SCSU shall be deemed employees solely of the Contractor and not – for any purposes whatsoever – employees of SCSU. No acts performed or representations – whether oral or written – made by the Contractor with respect to third parties shall be binding on SCSU except as identified in writing in both the Facilities Management Services contract and the applicable third-party contract(s).

TERM OF CONTRACT -- EFFECTIVE DATE / INITIAL CONTRACT PERIOD (JAN 2006)

The effective date of this contract is the first day of the Maximum Contract Period as specified on the final statement of award. The initial term of this agreement is 1 year from the effective date. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B240-1]

TERM OF CONTRACT -- OPTION TO RENEW (FEB 2021)

At the end of the initial term, and at the end of each renewal term, this contract shall automatically renew for a period of 1 year unless Contractor(s) receives notice that the state elects not to renew the contract at least thirty (30) days prior to the date of renewal. Regardless, this contract expires no later than the last date stated on the final statement of award. [07-7B245-3]

TERM OF CONTRACT -- TERMINATION BY CONTRACTOR (JAN 2006)

Contractor(s) may terminate this contract at the end of the initial term, or any renewal term, by providing the Procurement Officer notice of its election to terminate under this clause at least 90 days prior to the expiration of the then current term. [07-7B250-1]

TERMINATION FOR CONVENIENCE -- INDEFINITE DELIVERY / INDEFINITE QUANTITY CONTRACTS (JAN 2006)

Unless the termination so provides, a termination for convenience shall not operate to terminate any purchase orders issued prior to the effective date of termination. [07-7B255-1]

TERMINATION FOR CONVENIENCE (JAN 2006)

(1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the Contractor(s) specifying the part of the contract terminated and when termination becomes effective.

(2) Contractor(s)'s Obligations. The Contractor(s) shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor(s) will stop work to the extent specified. The Contractor(s) shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor(s) shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the Contractor(s) to assign the Contractor(s)'s right, title, and interest under terminated orders or subcontracts to the State. The Contractor(s) must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

(3) Right to Supplies. The Procurement Officer may require the Contractor(s) to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the Contractor(s) has specifically produced or specially acquired for the performance of the terminated part of this contract. The Contractor(s) shall, upon direction of the Procurement Officer, protect and preserve property in the possession of the Contractor(s) in which the State has an interest. If the Procurement Officer does not exercise this right, the Contractor(s) shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause.

(4) Compensation. (a) The Contractor(s) shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the Contractor(s) fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the Contractor(s), if at all, an amount set in accordance with Subparagraph (c) of this Paragraph.

(b) The Procurement Officer and the Contractor(s) may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated;

(c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the Contractor(s) the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph:

- (i) contract prices for supplies or services accepted under the contract;
- (ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services;
- (iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph;
- (iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the Contractor(s) under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the Contractor(s) reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated.

(d) Contractor(s) must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles.

(5) Contractor(s)'s failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the State's right to require the termination of a subcontract, or (ii) increase the obligation of the State beyond what it would have been if the subcontract had contained an appropriate clause. [07-7B265-1]

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

PRICE PROPOSAL (JAN 2006)

Notwithstanding any other instructions herein, you shall submit the following price information (and all attachments discussed for File 2 in Section IV of this solicitation) as a separate document:

Line Number	Quantity	Unit of Measure	Unit Price	Extended Price
1. Facilities Management Services	60.000	Months	\$_____	\$_____
<i>Prices provided in the garnet font is what should be placed on the corresponding line in the SCEIS online submittal.</i>				
Product Catg.: 95815 - Building and Facilities Management Services				
Item Description: Building and Facilities Management Services				
Internal Item Number: 1				

[08-8015-1]

IX. ATTACHMENTS TO SOLICITATION

LIST OF ATTACHMENTS

The following documents are attached to this solicitation:

- A. References
- B. Important Tax Notice – Non-Residents
- C. Offeror Checklist
- D. Clarification of Procurement Responsibilities
- E. Waste Collection Schedule
- F. Irrigation System
- G. Parking Rules and Regulations
- H. Artificial Grass Care
- I. Additional Specifications for Grounds Maintenance
- J. Performance Plan for Custodial Operations
- K. Instructions for Cost and Price Data
- L. Maintenance Services Specifications
- M. Building Inventory
- N. Equipment Inventory
- O. Current Organizational Chart
- P. Work Order History
- Q. Campus Holidays
- R. Answers to Bidder Questions**
- S. Facilities Conditions Assessment**
- T. Site Visit Sign-in sheet**
- U. Annual Campus Events**

[09-9002-1]

ATTACHMENTS