

STATE OF SOUTH CAROLINA )  
COUNTY OF RICHLAND )  
)  
IN THE MATTER OF: PROTEST )  
)  
CORE CONSTRUCTION CO., INC. )  
)  
VS. )  
)  
WIL LOU GRAY OPPORTUNITY )  
SCHOOL )  
)  
CAMPUS-WIDE WINDOW )  
REPLACEMENT )  
STATE PROJECT NO. H71-9512-SG )  
\_\_\_\_\_ )

BEFORE THE CHIEFPROCUREMENT  
OFFICER FOR CONSTRUCTION

DECISION

CASE NO: 2013-014

POSTING DATE: MAY 6<sup>TH</sup>, 2013

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request from Core Construction Co., Inc. (Core), under the provisions of §11-35-4210 of the South Carolina Consolidated Procurement Code, for an administrative review on the Campus-Wide Window Replacement bid (“the Project”) for the Wil Lou Gray Opportunity School (WLG). Core protests WLG’s posting of a Notice of Intent to Award a contract to Solid Structures, LLC. Pursuant to S.C. Code Ann. §11-35-4210(4), the CPOC conducted an administrative review. This decision is based on the evidence and applicable law and precedents.

#### **NATURE OF THE PROTEST**

A copy of Core’s protest letter is incorporated herein by reference and attached hereto as Exhibit A.

#### **RELEVANT FACTS**

1. On March 7, 2013, WLG advertised for bids to construct the project. [Ex. B]
2. By the time for receipt of bids, WLG received five bids. [Ex. 1]
3. Solid Structures submitted the apparent low bid for the base bid and each of the two alternates. [Ex. 1]
4. On April 3, 2013, WLG posted a Notice of Intent to Award a contract to Solid Structures. [Ex.2]

## DISCUSSION

This Project is a window replacement project requiring the removal of existing exterior windows and replacement of those windows with a combination of aluminum “storefront windows” and operable casement windows. [Project plans and specifications, which are incorporated herein by reference] At issue in this solicitation is whether Solid Structure’s license permits Solid Structures to bid and act as a sole prime contractor for this Project.<sup>1</sup> Solid Structures possesses an unlimited contractor’s license (Group 5) with a General Contractors-Building Classification (BD).

A determination of responsibility is required by S.C. Code Ann. § 11-35-1810, which states “[r]esponsibility of the bidder or offeror shall be ascertained for each contract let by the State.” A procurement officer’s determination of responsibility is final and conclusive unless it is “clearly erroneous, arbitrary, capricious, or contrary to law.” S.C. Code Ann. § 11-35-2410(A). To prevail, the protestant must prove the responsibility determination is clearly erroneous, arbitrary, capricious, or contrary to law. *Protest of Brantley Construction Co., Inc.*, Panel Case No. 1999-3.

A responsibility determination is a determination that the bidder has the ability to perform. *See* S.C. Code Ann. Regs. 19-445.2125(A)(1). Possession of the proper contractor license is an issue of responsibility. *Protest of Brantley Construction Co., Inc.*, Panel Case No. 1999-3 (where the State is investigating the bidder’s ability to perform it is deciding an issue of responsibility); *Protest of Roofco, Inc.*, Panel Case No. 2000-14(I) (“[T]he lack of a proper license to do the work solicited in a state contract will always render a bidder nonresponsible.”); *see also* S.C. Code Ann. § 40-11-200(B) (“It is a violation of this chapter for an awarding authority ... to consider a bid ... unless the bidder has first obtained the licenses required by this chapter. Bids or contracts submitted by contractors may not be reconsidered or resubmitted to an awarding authority ... if the contractor was not properly licensed at the time the initial bid or contract was submitted.”).

On a whole, the laws governing licensing of contractors are not clearly written. The language and grammar used in those laws create confusion concerning their proper application to construction projects. This confusion is most apparent when it comes to determining the scope of license classifications and subclassifications. Attorneys trained in statutory interpretation find divining the intent of the contractor licensing laws challenging. These same laws place on project owners and others without legal training the burden of properly interpreting them before considering a bid or making an award. Licensed contractors themselves are confused by application of the licensing laws as evidenced by the numerous protests of

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<sup>1</sup> A contractor is limited to the scope of his license group and classification both in bidding and performing work. S.C. Code Ann. § 40-11-270; *see also* §§ 40-11-30 and 260(A).

awards the CPOC receives regarding licensing issues and the ubiquity of contractors or subcontractors bidding outside the scope of their license. This confusion is apparent in this case.

The licensing laws provide two different license subclassifications related to window installation. One such license subclassification is a General Contractors-Building, Interior Renovation (IR) Subclassification, which includes:

installing, remodeling, renovations, and finishes of acoustical ceiling systems and panels, load-bearing and nonload-bearing drywall partitions, lathing and plastering, flooring (excluding carpet) and finishing, interior recreational surfaces, **window and door installation**, and installation of fixtures, cabinets, and millwork; and which also includes fireproofing, insulation, lining, painting, partitions, sandblasting, interior wall covering, and waterproofing.

S.C. Code Ann. § 40-11-410(4)(c) [emphasis added]. A contractor, such as Solid Structures, with a BD classification on their license may perform IR work. S.C. Code Ann. § 40-11-410(1). The other license subclassification permitting window installation is the General Contractors – Specialty, Glass and Glazing (GG) license subclassification. This subclassification includes the following:

[C]ommercial, residential, industrial, institutional, modular, and all other types of glass and glazing construction. The construction is limited to selection, cutting, assembling, and installing all makes and kinds of glass for windows, sash and doors, metal frames .... This license classification includes all work under the subclassifications of renovation, structural shapes, and architectural aluminum glazing systems which include aluminum entrance doors and frame systems, entrance and egress hardware, curtain wall systems, sliding doors/mall fronts, overhead glazing systems, and architectural window systems and accessories.<sup>2</sup>

S.C. Code Ann. § 40-11-410(4)(p). A contractor, such as Solid Structures, with only a BD classification on their license **may not** perform GG work.

WLG relied on its project architect to advise it regarding the responsibility of Solid Structures. The project architect in turn consulted with the Office of State Engineer (OSE) Project Manager. Both the architect and OSE Project Manager examined the licensing laws and specifically the IR and GG license subclassifications.<sup>3</sup> They both believed the GG license subclassification primarily covered the work of the project. However, they concluded that because the IR license subclassification included window and door installation, a contractor possessing a license with a BD classification could bid the project as a sole prime

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<sup>2</sup> The language of the GG subclassification illustrates some of the difficulties of interpreting the contractor licensing laws. Despite the language stating the GG subclassification includes all work under the license subclassifications of “renovation” and “architectural glazing systems,” there are no such license subclassifications provided for in the law.

<sup>3</sup> The OSE Project Manager also consulted with Contractors’ Licensing Board staff via telephone.

contractor provided he subcontracted the work requiring a GG subclassification to a subcontractor with a GG subclassification on his license. The architect further determined that Solid Structures was going to use a subcontractor with a GG subclassification on his license to perform the GG work. For the forgoing reasons, WLG determined Solid Structures to be a responsible bidder.

In advising WLG, both the project architect and OSE Project Manager failed to consider the limitations the licensing laws place on sole prime contracting. A prime contractor is an “entity which contracts directly with an owner [e.g., WLG] to perform general or mechanical construction.” S.C. Code Ann. § 40-11-20(17). A sole prime contractor is a “prime contractor for a project on which there is only one prime contractor.” S.C. Code Ann. § 40-11-20(21). WLG’s solicitation only allowed for sole prime contracting. Therefore, by submitting a bid to WLG, Solid Structures offered to act as the sole prime contractor on the Project. However, the contractor licensing laws state:

An entity licensed under the classifications or subclassifications in Sections 40-11-410(1), (2), or (3) may act as a sole prime contractor on a project if forty percent or more of the work as measured by the total cost of construction falls under one or more of the licensee's license classifications or subclassifications. An entity licensed under the classifications or subclassifications in Section 40-11-410(4) and (5) may act as sole prime contractor if fifty-one percent or more of the work falls under one or more of the licensee's license classifications or subclassifications.

S.C. Code Ann. § 40-11-340. Solid Structures is licensed under the classifications in S.C. Code Ann. § 40-11-410(1) and may only offer to act as the sole prime contractor if 40% or more of the total cost of construction falls under the BD Classification on its license.

A review of the legislative history of Title 40, Chapter 11, sheds light on how the IR and GG subclassifications apply to construction. When the General Assembly enacted Title 40, Chapter 11 in 1998, they did not include a license subclassification for glass and glazing. 1998 Act No. 440, Section 1; 1998 S.C. Acts 3250. Instead, the General Assembly provided for glass and glazing work under the license subclassification of interior renovation, which also included window installation. *Id.*; 1998 S.C. Acts at 3275. No other license classification or subclassification that the General Assembly provided for in the Act included window installation, glass, or glazing. Therefore, under the original Act, any contractor with a BD classification on their license could bid window installation, glass, and glazing as a sole prime contractor. *See* S.C. Code Ann. § 40-11-410(1).

In 2001, the General Assembly amended Title 40, Chapter 11, to add the license subclassification of glass and glazing at S.C. Code Ann. § 40-11-410(4)(p), provide a definition of glass and glazing, and remove glass and glazing from the interior renovation subclassification. 2001 Act No. 32, Sections 2 and 3; 2001

S.C. Acts at 109-110. However, the General Assembly retained window installation within the scope of the interior renovation subclassification.<sup>4</sup>

The focus of the GG subclassification is the “selection, cutting, assembling, and installing all makes and kinds of glass for windows, sash and doors, metal frames, ornamental decorations, mirrors, and tub and shower enclosures.” Therefore, the GG classification covers work that requires a contractor to make custom metal window frames by cutting and assembling metal structural shapes, to cut and assemble glazing to fit into those customized window frames, and to install the glazing into the window frames. Moreover, the 2001 amendments prohibit a contractor with the IR subclassification from performing this work. Since 2001, the law has allowed a contractor with the IR subclassification only to install (without modifying) fully assembled or manufactured window units (*i.e.*, completely assembled window frames with the glass already installed in the frames) made by someone else.

The work of the Project calls for the measuring of window openings, cutting and assembling of extruded aluminum shapes into window framing sized to fit into the window openings, cutting and assembling glass to fit into the window frames, and installing the glass with gaskets into the window frames. All of this requires a GG subclassification. Moreover, a review of the specified window systems indicates they are not a type that a GG subcontractor (or manufacturer) makes as a complete unit off site and the prime contractor simply inserts into an existing window opening, screws or nails into place, and caulks. There is no way to separate installation and assembly into distinctly separate categories of work. Instead, the windows require some onsite assembly of the window unit within the window opening to complete installation. Therefore, none of the licensed work for window installation on the Project falls within the IR subclassification.

The only work of the project not covered by the GG subclassification is demolition. The project architect estimated demolition at 10% of the total cost of the project (not including demolition’s proportionate share of overhead and profit). Even assuming, without deciding, that this unregulated work falls under the BD classification on Solid Structures’ license for purposes of bidding as a sole prime contractor, does not mean Solid Structures can bid as a sole prime contractor. The portion of the work falling under Solid Structure’s license is still not at least 40% of the total cost of construction. Therefore, under the licensing laws of this state, Solid Structures may not act as the sole prime contractor on the Project.<sup>5</sup>

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<sup>4</sup> Window installation is not expressly included in the GG subclassification. However, the nonexistent subclassification of “renovation” that is included with the GG subclassification was presumably intended to mean interior renovation, which does include window installation.

<sup>5</sup> The CPOC does not opine as to whether this prohibition provides any added value to the state in assuring the work is only performed by contractors who actually have the skill and ability necessary to perform the work. However,

**DETERMINATION**

Solid Structures is not properly licensed to bid the Project as a sole prime contractor.<sup>6</sup> Therefore, the protest is granted. The award to Solid Structures is canceled, and WLG is instructed to proceed in a manner consistent with this decision and the Consolidated Procurement Code.

  
\_\_\_\_\_  
John St. C. White  
Chief Procurement Officer  
For Construction

  
\_\_\_\_\_  
Date

Columbia, South Carolina

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the CPOC notes that bidders without a GG subclassification apparently intended to subcontract with contractors who have a GG subclassification. Moreover, these bidders' bids are \$100,000 or more below the bids submitted by bidders with a GG subclassification.

<sup>6</sup> This conclusion is consistent with the opinion of Contractor's licensing Board staff who reviewed the plans and specifications after receipt of this protest.

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**  
*Protest Appeal Notice (Revised January 2013)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILE BY CLOSE OF BUSINESS: Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

FILING FEE: Pursuant to Proviso 83.1 of the 2012 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1105 Pendleton Street, Suite 202, Columbia, SC 29201**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

- 
1. What is your/your company's monthly income? \_\_\_\_\_
  2. What are your/your company's monthly expenses? \_\_\_\_\_
  3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

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For official use only: \_\_\_\_\_ Fee Waived \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**



P.O. Box 2156  
West Columbia, SC 29171  
Office: 803.791.8788  
Fax: 803.791.0388

**By Email and Regular Mail**

[Protest-ose@mmo.sc.gov](mailto:Protest-ose@mmo.sc.gov)

Chief Procurement Officer for Construction  
Office of State Engineer  
1201 Main Street, Suite 600  
Columbia SC 29201

**EXHIBIT A**

Re: Wil Lou Gray Opportunity School  
Campus-wide Window Replacements  
H71-9512-SG

Dear CPO:

The purpose of this letter is to protest the awarding of the contract for the above referenced project to Solid Structures, LLC and to seek to have it awarded to the lowest responsive (with alternates accepted) and responsible bidder, Core Construction Co., Inc. ("Core").

Recently the above-referenced job was bid. Bids were submitted by Boykin Contracting Group Inc, Construction Services of SC, Core Construction Co Inc, Pyramid Contracting LLC and Solid Structures LLC. According to LLR's website only Boykin Contracting Group Inc & Core have a Glass and Glazing subclassification license. With alternates accepted, Core is the lowest responsive and responsible bidder with the proper license.

It would be improper to award the contract to Solid Structures because it is not properly licensed to do the work. Section 40-11-30 of the 1976 Code of Laws of South Carolina, as amended, prohibits an unlicensed entity or individual from performing or offering to perform regulated construction work if the total cost of the project is greater than \$5,000 and the nature of the work falls within one of the general or mechanical contractor major or subclassifications. The value of this project far exceeded the \$5,000 limit and the nature of the project was Aluminum Framed Storefronts and Glazing which falls under the subclassification of Glass and Glazing. The scope of work for this project consisted of Glass and Glazing and therefore a general contractor cannot bid as a prime without holding this specialty subclassification.

Furthermore, the statutes and regulations neither permit an improperly licensed contractor to bid on a project nor to correct his bid. To do so would be a misdemeanor. Even if a bidder eventually obtains the proper license, it cannot be reconsidered for this job under South Carolina law.

Attached is a letter from LLR stating their policy for licensing requirements for your review. In conclusion, Core is the lowest responsive, responsible bidder and I ask that the project be awarded to Core.

Sincerely,

Joel Dutton

**A/E Telephone:** (843) 577-6073  
**A/E Fax:** (843) 722-1659  
**Note:** All questions & correspondence concerning this Invitation to Bid shall be addressed to the A/E.

**Bidding Documents/Plans May Be Obtained From:** A&E Digital Printing, 517 King St., Charleston, SC 29403, phone (843) 853-5066. Complete sets only

**Plan Deposit:** \$400.00, refundable  
**Note:** Only those bidding documents / plans obtained from the aforementioned source are official. Bidders rely on copies of bidding documents / plans obtained from any other source at their own risk.

**Bidding Documents/Plans Are Also on File for Viewing Purposes Only At:**

**AGC:** [www.cagc.org](http://www.cagc.org) on IBuild  
**Dodge:** [www.network.construction.com](http://www.network.construction.com)  
**Reed:** 30 Technology Pkwy. Norcross, Ga. 30092, phone (770) 209-3323  
**iSqFt/HCAC:** 109 Woodruff Industrial Lane, Greenville, SC 29607, phone (877) 227-1680

**Pre-Bid Conf.:** Not mandatory  
**Pre-Bid Date/Time:** 3/14/13 – 3:00pm  
**Place:** MUSC Engineering Facilities, Second Floor, Large Conference Room 209, 97 Jonathan Lucas St., Parking Garage 1, Charleston, SC 29425

**Agency/Owner:** Medical University of South Carolina  
**Agency Procurement Officer:** Wade Gatlin  
**Address:** 97 Jonathan Lucas St., MSC 190, Charleston, SC 29425

**E-mail:** [gatlin@musc.edu](mailto:gatlin@musc.edu)  
**Telephone:** (843) 792-2233  
**Fax:** (843) 792-1252  
**Bid Closing Date/Time:** 4/4/13 – 2:00pm  
**Place:** MUSC, Engineering Facilities, Second Floor, Large Conference Room 209, 97 Jonathan Lucas St., Parking Garage 1, Charleston, SC 29425

**Hand Deliver/Mail Bids To:** MUSC, Attn.: Wade Gatlin, 97 Jonathan Lucas St., MSC 190, Charleston, SC 29425

**Project Name:** CAMPUS-WIDE WINDOW REPLACEMENT  
**Project Number:** H71-9512-SG  
**Project Location:** Wil Lou Gray Opportunity School, West Columbia  
**Bid Security Required:** Yes  
**Performance Bond Required:** Yes  
**Payment Bond Required:** Yes  
**Description of Project:** Removal of existing windows & installation of new windows at Wil Lou Gray Campus. Contractor may be subject to performance appraisal at close of project.  
**Construction Cost Range:** Less than \$700,000

**Architect/Engineer:** Studio 2LR  
**A/E Contact:** Wes Lyles, AIA  
**A/E Address:** 801 Gervais St., Ste. 201, Columbia, SC 29201  
**A/E E-mail:** [wyles@studio2lr.com](mailto:wyles@studio2lr.com)  
**A/E Telephone:** (803) 233-6602  
**A/E Fax:** (803) 233-6613  
**Note:** All questions & correspondence concerning this Invitation to Bid shall be addressed to the A/E.

**Bidding Documents/Plans May Be Obtained From:** Architect's project FTP site, [ftp://ftp.studio2lr.com](http://ftp.studio2lr.com) – login is WLG\_window & password is #12073gray

**Plan Deposit:** None  
**Note:** Only those bidding documents / plans obtained from the aforementioned source are official. Bidders rely on copies of bidding documents / plans obtained from any other source at their own risk.

**Pre-Bid Conf.:** Mandatory  
**Pre-Bid Date/Time:** 3/14/13 – 2:00pm  
**Place:** Wil Lou Gray Opportunity School Auditorium  
**Agency/Owner:** Wil Lou Gray Opportunity School  
**Agency Procurement Officer:** Charles Abbott

**Address:** 3300 West Campus Rd., West Columbia, SC 29170  
**E-mail:** [abbott@wigos.sc.gov](mailto:abbott@wigos.sc.gov)  
**Telephone:** (803) 896-6469  
**Fax:** (803) 896-6467  
**Bid Closing Date/Time:** 3/28/13 – 2:00pm  
**Place:** Wil Lou Gray Opportunity School Boardroom  
**Hand Deliver/Mail Bids To:** Wil Lou Gray Opportunity School, Attn.: Charlie Abbott, "H71-9512-SG," 3300 West Campus Rd., West Columbia, SC 29170

**Project Name:** ENERGY PLANTS V.S.D. REPLACEMENT  
**Project Number:** H27-Z038  
**Project Location:** USC, Columbia  
**Bid Security Required:** Yes  
**Performance Bond Required:** Yes  
**Payment Bond Required:** Yes  
**Description of Project:** This project involves replacing the existing main secondary chilled water distribution pump variable speed drive units at east & west energy plants. Contractor may be subject to performance appraisal at close of project.

**Construction Cost Range:** \$150,000 - \$210,000  
**Architect/Engineer:** RWR Engineering  
**A/E Contact:** Richard Roof  
**A/E Address:** 129 Catawba Trail, Lexington, SC 29072  
**A/E E-mail:** [rwrengr@aol.com](mailto:rwrengr@aol.com)  
**A/E Telephone:** (803) 957-8267  
**A/E Fax:** (803) 356-3023

**Note:** All questions & correspondence concerning this Invitation to Bid shall be addressed to the A/E.  
**Bidding Documents/Plans May Be Obtained From:** <http://purchasing.sc.edu>

**Plan Deposit:** None  
**Note:** Only those bidding documents / plans obtained from the aforementioned source are official. Bidders rely on copies of bidding documents / plans obtained from any other source at their own risk.

**Bidding Documents/Plans Are Also on File for Viewing Purpose only At:** USC web site. It is the bidder's responsibility to download all information pertaining to this project from the Purchasing web site, <http://purchasing.sc.edu>

**Pre-Bid Conf.:** Not mandatory  
**Pre-Bid Date/Time:** 3/19/13 – 10:00am  
**Place:** USC, 743 Greene St., Conference Room 53, Columbia  
**Agency/Owner:** University of South Carolina  
**Agency Procurement Officer:** Juaquana Brookins  
**Address:** 743 Greene St., Columbia, SC 29208

**E-mail:** [jbrookin@fmc.sc.edu](mailto:jbrookin@fmc.sc.edu)  
**Telephone:** (803) 777-3596  
**Fax:** (803) 777-7334  
**Bid Closing Date/Time:** 4/2/13 – 2:00pm  
**Place:** USC, 743 Greene St., Conference Room 53, Columbia  
**Hand Deliver/Mail Bids To:** USC, Attn.: Juaquana Brookins, 743 Greene St., Columbia, SC 29208

**Project Name:** H & I QUARTERS ROOF REPAIRS  
**Project Number:** M10-N082-MJ  
**Project Location:** North Charleston  
**Bid Security Required:** Yes  
**Performance Bond Required:** Yes  
**Payment Bond Required:** Yes  
**Description of Project:** Base bid work includes repairs to Roof Areas A-D & D1. Alternate No. 1 includes removal & reinstallation of clay tile roof system in lieu of repairs for approximately 50 squares. Alternate No. 2 includes replacement of modified bitumen roof system on Roof Areas D & D1 in lieu of repairs for approximately 5 squares. Contractor may be subject to performance appraisal at close of project.

**Construction Cost Range:** \$100,000 - \$200,000  
**Architect/Engineer:** ADC Engineering, Inc.  
**A/E Contact:** Richard L. Cook Jr  
**A/E Address:** 1226 Yeamans Hall Rd., Hanahan, SC 29410  
**E-mail:** [amandam@adcengineering.com](mailto:amandam@adcengineering.com)  
**Telephone:** (843) 566-0161  
**Fax:** (843) 566-0162

**Bid Tabulation**

Wil Lou Gray School of Opportunity Campus Wide Window Replacement

OSE Project Number H71-9512-SG

Date: March 28,2013 Time: 2:00 p.m.

<u>Category</u>	<u>*Boykin Contracting Group, Inc.</u>	<u>*Construction Services of SC</u>	<u>*Core Construction Co., Inc.</u>	<u>*Pyramid Contracting, LLC</u>	<u>*Solid Structures, LLC</u>
Addenda	1 &2	1&2	1&2	1&2	1&2
Bid Bond	Yes	Yes	Yes	Yes	Yes
**Subcontractor Listed	Arnold Ullman Construction Demo	Palmetto State Glass	-	-	-
Base Bid	\$ 519,200.00	\$ 419,500.00	\$ 521,500.00	\$ 419,000.00	\$ 398,697.00
Alternate 1	\$ 82,400.00	\$ 64,075.00	\$ 62,749.00	\$ 61,000.00	\$ 44,746.00
Alternate 2	\$ 52,400.00	\$ 32,500.00	\$ 34,900.00	\$ 36,000.00	\$ 20,430.00
<b>Total</b>	<b>\$ 654,000.00</b>	<b>\$ 516,075.00</b>	<b>\$ 619,149.00</b>	<b>\$ 516,000.00</b>	<b>\$ 463,873.00</b>

\* Per OSE, General Contractors with a BD5 license are acceptable for the project.

\*\* Subcontractor listing was not required (if Owner had listed a subcontractor specialty then GC would have been required to list the subcontractor)

Signed:

  
 Studio 2LR  
 Wes Lyles

  
 OSE Project Manager  
 Stan Gailey

**Notice of Intent to Award**

STATE OF SOUTH CAROLINA

*Wil Lou Gray Opportunity School (insert agency name)*  
3300 West Campus Road  
*West Columbia, South Carolina 29170 (insert agency address)*

**EXHIBIT 2**

Posting Date: 4/3/2013

Unless stayed by protest or canceled, the State intends to enter into a contract for the project with the contractor noted below. The successful bid will be accepted and the contract formed by execution of the contract documents. All bid bonds remain in effect for the bid acceptance period as provide in Section 4 of the Bid Form, except as otherwise provided in the instructions to bidders.

**Project Number:** H71-9512-SG  
**Project Name:** Campuswide Window Replacements  
**Awarded To:** Solid Structures, LLC

**Solicitation Type**     Invitation for Bid    Request for Proposals  
**Contract Amount**    \$ \$463,873.00

**Invitation for Bid**

Information	Description	Bid Amount
<b>Base Bid</b>	Bldg. A, B, C, D, E, G, & N.	\$ \$398,697.00
<b>Alternate 1</b>	Bldg. J & L.	\$ \$44,746.00
<b>Alternate 2</b>	Bldg. F & H.	\$ \$20,430.00
<b>Alternate 3</b>	none	\$ \$0.00

**Remarks (explain any negotiations that resulted in a change in either the Base Bid or the accepted Bid Alternates)**

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency for execution. The State assumes no liability for any expenses incurred by the contractor prior to submitting a contract to the contractor for execution. Contractor should not perform any work prior to (1) delivering to the Agency both certificates of insurance and performance and payment bonds meeting the requirements of the solicitation; and (2) receipt of the Agency's written notice to proceed. The State assumes no liability for any expenses incurred by the contractor prior to issuance of notice to proceed other than contractor's non-reimbursable costs incurred in providing such bonds.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with the Consolidated Procurement Code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35-4210]

PROTEST - CPO ADDRESS - OSE: Any protest must be addressed to the Chief Procurement Officer for Construction, Office of State Engineer, and submitted in writing (a) by email to protest-ose@mso.sc.gov, (b) by facsimile at 803-737-0639, or (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the e-mail address from which you sent your protest.

Agency Procurement Officer: Charlene H. Abbott 3 Apr 13  
(Signature)

- INSTRUCTIONS TO THE AGENCY:**
1. Post a copy of this form at the location specified by the Instructions to bidders and announced at the Bid Opening.
  2. Send a copy of this form and the final bid tabulation to all responsive bidders and OSE.