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GRANT GILLESPIE
EXECUTIVE DIRECTOR

Protest Decision

Matter of: Burriss Electric, Inc.
File No.: 2022-003
Posting Date: March 25, 2022
Contracting Entity: University of South Carolina
Project No.: FY22003057
Description: Lighting Work at Flora 2nd Floor – East End

DIGEST

Protest that awardee was nonresponsive upheld where awardee did not submit its bid bond with its bid but provided it within 24 hours after the bid opening.

AUTHORITY

Per S.C. Code Ann. § 11-35-4210, the Chief Procurement Officer for Construction (CPOC) conducted an administrative review of a protest filed by Burriss Electric, Inc. (Burriss). Burriss's protest is attached as Exhibit A. This decision is based on materials in the procurement file and applicable law and precedents.

BACKGROUND

On March 4, 2022, Burriss emailed the CPOC a protest of the University of South Carolina's (USC) intent to award a contract to Ireland Electric Corporation (Ireland), to perform lighting work at Flora 2nd floor – east end (the Project). The following are facts relevant to this protest:

- On January 25, 2022, USC issued a solicitation for bids to perform the work of the project [Exhibit B]
- The deadline for receipt of bids was 2 PM on February 17, 2022 [Id.]
- By the deadline for receipt of bids, USC received three bids, including bids from Ireland and Burriss [Exhibit C]
- Ireland failed to include a bid bond with its bid [Exhibit D]

- Subsequent to opening bids, USC contacted Ireland and notified it that it had 24 hours after bid opening to submit its bid bond [Exhibit E]
- At 10:30 AM on February 18, 2022, Ireland delivered its bid bond to USC [Exhibit F]
- On February 21, 2022, USC posted a Notice of Intent to Award a contract to Ireland [Exhibit G]
- On February 28, 2022, Burriss filed a notice of intent to protest which it perfected on March 4, 2022

Resolution of this matter is governed by S.C. Code Ann. §11-35-3030 which states:

(1) Bid Security.

(a) Requirement for Bid Security. Bid security is required for all competitive sealed bidding for construction contracts in a design-bid-build procurement **in excess of one hundred thousand dollars** and other contracts as may be prescribed by the State Engineer's Office. Bid security is a bond provided by a surety company meeting the criteria established by the regulations of the board or otherwise supplied in a form that may be established by regulation of the board.

(c) Rejection of Bids for Noncompliance with Bid Security Requirements. When the invitation for bids requires security, **noncompliance requires that the bid be rejected except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating** must be given one working day from bid opening to cure the deficiencies. If the bidder is unable to cure these deficiencies within one working day of bid opening, his bid must be rejected.
[emphasis supplied]

USC's specification for the project include a requirement to provide a bid bond and a requirement for bidders to provide their bid bonds with their bids. [Exhibit H]

USC admits that Ireland failed to include a bid bond with its bid. In allowing Ireland to cure this defect, USC relied on the exception language contained in S.C. Code Ann. §11-35-3030(1)(c). However, this language applies only in the situation where a bidder provides a bid bond with its bid but fails to provide one in the proper amount or one issued by a surety with the proper rating. Ireland's failure to comply with S.C. Code Ann. §11-35-3030(1) renders its bid nonresponsive.

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File No. 2022-003

March 25, 2022

DECISION

Based on the foregoing, the CPOC grants Burriss's protest. The award to Ireland is vacated and the matter is remanded to USC with instructions to proceed in accordance with the Consolidated Procurement Code.



John St. C. White, PE

Chief Procurement Officer for Construction

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised May 2020)

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

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

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

FILING FEE: Pursuant to Proviso 111.1 of the 2020 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. *[The Request for Filing Fee Waiver form is attached to this Decision.]* If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

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

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 209, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

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

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

Sworn to before me this
_____ day of _____, 20_____

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

This _____ day of _____, 20_____
Columbia, South Carolina

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

Exhibit A

From: [Tommy Burriss](#)
To: [Protest-OSE](#); [White, John](#)
Cc: [Hatice Hikmet](#)
Subject: [External] Re: Protest of Bid Submission and Award of Lighting Work at 2nd Floor-East End, U of SC Project # FY22003057
Date: Friday, March 4, 2022 2:22:28 PM
Attachments: [cid5E3F4D52-71C3-4AF1-A143-2909E48624EE.pdf](#)
[cid692FCB1D-C21E-423E-97A5-8F9C9747582A.pdf](#)
[cid99F8A5BA-424D-47FD-BAF8-2A742CA55DCA.pdf](#)

Could I get confirmation this was received by OSE?

Tommy Burriss
Burriss Electrical, Inc.
1251 North Lake Dr.
Lexington, SC 29072
803.957.3350
803.951.3634 Fax
803.609.5970 Cell

On Mar 3, 2022, at 9:27 AM, Tommy Burriss <tommy@burrisselectrical.com> wrote:

Dear Chief Procurement Officer of Construction
Office of State Engineer,

We are formally protesting the bid submission and subsequent award of U of SC Project # FY22003057 to Ireland Electric Corporation. Our protest is based upon the failure of Ireland Electric to enclose a required bid security within the sealed bid at the time of bid opening.

On or about 25 January 2022 U of SC advertised in SCBO the attached invitation to bid.

The bid documents contain *Instructions to bidders South Carolina Division of Procurement Services, Office of State Engineer Version of Document A701™ – 2018*. We reference Article 4.2.1 which states “ If required by the invitation to bid, each Bid shall be accompanied by a bid security in an amount of not less than five percent of the Base Bid. The bid security shall be a bid bond or a certified cashier’s check.” Article 4.2.3.3 additionally directs the bidder that the bid security “Be enclosed in the bid envelope at the time of Bid Opening, either in paper copy or as an electronic bid bond authorization number provided on the Bid Form and issued by a firm or organization authorized by the surety to receive, authenticate and issue binding electronic bid bonds on behalf the surety.” Furthermore article 4.3.2 instructs the bidder “All paper copies of the Bid, the bid

security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope.”

Article 5.2.2 states “ 5.2.2 The reasons for which the Owner will reject Bids include, but are not limited to:” and paragraph 3 mentions “ Failure to comply with Bid Security requirements, except as expressly allowed by law;”

As you are aware Section 11-35-3030 of the SC Procurement Code addresses the requirements of a bid security to be enclosed within a sealed bid. Paragraph C specifically mentions a bid shall be rejected for noncompliance. I acknowledge it affords the bidder to cure a deficient bid security of the proper amount or a bid bond of the proper rating. This paragraph does not relieve the bidder from enclosing a bid security or bid bond altogether. The sealed bid without one of these shall be rejected.

SECTION 11-35-3030. Bond and security.

(1) Bid Security.

(a) Requirement for Bid Security. Bid security is required for all competitive sealed bidding for construction contracts in a design-bid-build procurement in excess of one hundred thousand dollars and other contracts as may be prescribed by the State Engineer's Office. Bid security is a bond provided by a surety company meeting the criteria established by the regulations of the board or otherwise supplied in a form that may be established by regulation of the board.

(b) Amount of Bid Security. Bid security must be in an amount equal to at least five percent of the amount of the bid at a minimum.

(c) Rejection of Bids for Noncompliance with Bid Security Requirements. When the invitation for bids requires security, noncompliance requires that the bid be rejected except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating must be given one working day from bid opening to cure the deficiencies. If the bidder is unable to cure these deficiencies within one working day of bid opening, his bid must be rejected.

We request the sealed bid of Ireland Electric Corporation be rejected as it was non responsive due to the lack of the aforementioned, required bid security. Furthermore we request the project be awarded to the next responsive and responsive low bidder.

By allowing the sealed bid deficiency of not containing a bid security or bid bond sets a precedence for subsequent bids to forgo including the bid security and therefore contrary to the purpose for its requirement.

Please confirm receipt of this protest.

Regards,
Thomas L Burriss

Tommy Burriss
Burriss Electrical, Inc.
1251 North Lake Dr.
Lexington, SC 29072
803.957.3350
803.951.3634 Fax
803.609.5970 Cell

South Carolina Business Opportunities

Published by Division of Procurement Services - Delbert H. Singleton, Jr., Division Director

Ad Category: Construction

Ad Start Date: January 25, 2022

Agency/Owner: University of South Carolina

Project Name: Lighting Work at Flora 2nd Floor-East End

Project Number: FY22003057

Construction Cost Range: \$125,000 to \$150,000

Project Location: 1206 Flora St, Columbia, SC 29208

Description of Project/Services:

The project work consists of installation of Electrical Lighting at 1206 Flora Mill at the east end of the 2nd Floor along with associated fixtures and wiring. Bidders shall submit bids in accordance of Hand-Delivery or Mail Service only. Small and Minority Business participation is strongly encouraged.

Bid/Submittal Due Date & Time: February 17, 2022 - 2:00pm

Number of Bid/Submittal Copies: 1

Project Delivery Method: Design-Bid-Build

Agency Project Coordinator: Hatice Hikmet

Email: hikmeth@mailbox.sc.edu

Telephone: 18037779994

Documents May Be Obtained From: Solicitation Opportunities on the UofSC Supplier Portal

Project Details: <https://supplier.ps.sc.edu>

South Carolina Business Opportunities • Scott Hawkins11111, Editor • 1201 Main Street, Suite 600 • Columbia, SC 29201
803-737-0686 • scbo@mmo.sc.gov • <https://procurement.sc.gov>



Exhibit C



UNIVERSITY OF
SOUTH CAROLINA

**Lighting Work at Flora 2nd floor East End
FY22003057
February 17, 2022 at 2pm**

Contractor	Bid Bond	Add 1	Base Bid
Ireland Electric	x	x	\$136,428.00
Burriss Electric	x	x	\$149,310.00
MSI	x	x	\$266,253.00

Recorded by: Aimee Rishm Procurement Manager

Read by: Hatice Hikmet, Procurement Specialist

**SE-330
LUMP SUM BID FORM**

Bidders shall submit bids on only Bid Form SE-330.

BID SUBMITTED BY: Ireland Electric Corporation
(Bidder's Name)

BID SUBMITTED TO: University of South Carolina
(Agency's Name)

FOR: PROJECT NAME: Lighting Work at flora 2nd Floor - East End
PROJECT NUMBER: FY22003057

OFFER

§ 1. In response to the Invitation for Construction Services and in compliance with the Instructions to Bidders for the above-named Project, the undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a Contract with the Agency on the terms included in the Bidding Documents, and to perform all Work as specified or indicated in the Bidding Documents, for the prices and within the time frames indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

§ 2. Pursuant to SC Code § 11-35-3030(1), Bidder has submitted Bid Security in the amount and form required by the Bidding Documents.

§ 3. Bidder acknowledges the receipt of the following Addenda to the Bidding Documents and has incorporated the effects of said Addenda into this Bid:

(Bidder, check all that apply. Note, there may be more boxes than actual addenda. Do not check boxes that do not apply)

ADDENDA: #1 #2 #3 #4 #5

§ 4. Bidder accepts all terms and conditions of the Invitation for Bids, including, without limitation, those dealing with the disposition of Bid Security. Bidder agrees that this Bid, including all Bid Alternates, if any, may not be revoked or withdrawn after the opening of bids, and shall remain open for acceptance for a period of 60 Days following the Bid Date, or for such longer period of time that Bidder may agree to in writing upon request of the Agency.

§ 5. Bidder herewith offers to provide all labor, materials, equipment, tools of trades and labor, accessories, appliances, warranties and guarantees, and to pay all royalties, fees, permits, licenses and applicable taxes necessary to complete the following items of construction work:

§ 6.1 **BASE BID WORK** *(as indicated in the Bidding Documents and generally described as follows):* The project work consists of installation of Electrical Lighting at 1206 Flora Mill at the east end of the 2nd Floor along with associated fixtures and wiring.

\$ 136,428.00, which sum is hereafter called the Base Bid.

(Bidder to insert Base Bid Amount on line above)

**SE-330
LUMP SUM BID FORM**

Bidders shall submit bids on only Bid Form SE-330.

§ 6.2 **BID ALTERNATES** as indicated in the Bidding Documents and generally described as follows:

ALTERNATE # 1 (Brief Description): N/A

ADD TO or **DEDUCT FROM BASE BID:** \$ _____

(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)

ALTERNATE # 2 (Brief Description): N/A

ADD TO or **DEDUCT FROM BASE BID:** \$ _____

(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)

ALTERNATE # 3 (Brief Description): N/A

ADD TO or **DEDUCT FROM BASE BID:** \$ _____

(Bidder to mark appropriate box to clearly indicate the price adjustment offered for each Alternate)

§ 6.3 **UNIT PRICES:**

BIDDER offers for the Agency’s consideration and use, the following **UNIT PRICES**. The **UNIT PRICES** offered by **BIDDER** indicate the amount to be added to or deducted from the **CONTRACT SUM** for each item-unit combination. **UNIT PRICES** include all costs to the Agency, including those for materials, labor, equipment, tools of trades and labor, fees, taxes, insurance, bonding, overhead, profit, etc. The Agency reserves the right to include or not to include any of the following **UNIT PRICES** in the Contract and to negotiate the **UNIT PRICES** with **BIDDER** prior to including in the Contract.

No.	ITEM	UNIT OF MEASURE	ADD	DEDUCT
<u>1.</u>	<u>N/A</u>	_____	<u>\$</u> _____	<u>\$</u> _____
<u>2.</u>	_____	_____	<u>\$</u> _____	<u>\$</u> _____
<u>3.</u>	_____	_____	<u>\$</u> _____	<u>\$</u> _____
<u>4.</u>	_____	_____	<u>\$</u> _____	<u>\$</u> _____
<u>5.</u>	_____	_____	<u>\$</u> _____	<u>\$</u> _____
<u>6.</u>	_____	_____	<u>\$</u> _____	<u>\$</u> _____

SE-330

LUMP SUM BID FORM

INSTRUCTIONS FOR SUBCONTRACTOR LISTING

1. Section 7 of the Bid Form sets forth an Agency-developed list of subcontractor license classifications or subclassifications for which Bidder is required to identify the entity (subcontractor(s) and/or himself) Bidder will use to perform this work.
 - a. **Columns A & B:** The Agency fills out these columns to identify the subcontractor license classification/subclassification and related license abbreviation for which the Bidder must list either a subcontractor or himself as the entity that will perform this work. In Column A, the subcontractor license classification/subclassification is identified by name and in Column B, the related contractor license abbreviation (per Title 40 of the SC Code of Laws) is listed. Abbreviations of licenses can be found at: <https://lir.sc.gov/clb/PDFFiles/CLBClassificationAbbreviations.pdf>. If the Agency has not identified a subcontractor license classification/subclassification, the Bidder does not list a subcontractor.
 - b. **Columns C and D:** In these columns, the Bidder identifies the subcontractors it will use for the work of each license listed by the Agency in Columns A & B. Bidder must identify only the subcontractor(s) who will perform the work and no others. Bidders must make sure that their identification of each subcontractor is clear and unambiguous. A listing that could be any number of different entities may be cause for rejection of the bid as non-responsive. For example, a listing of M&M without additional information may be problematic if there are multiple different licensed contractors in South Carolina whose names start with M&M.
2. **Subcontractor Defined:** For purposes of subcontractor listing, a subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site pursuant to a contract with the prime contractor. Bidder should not identify sub-subcontractors in the spaces provided on the bid form but only those entities with which Bidder will contract directly. Likewise, do not identify material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the Bidder or proposed subcontractor(s).
3. **Subcontractor Qualifications:** Bidder must only list subcontractors who possess a South Carolina contractor's license that includes the license classification and/or subclassification identified by the Agency in Columns A & B. The subcontractor license must also be within the appropriate license group for the work. If Bidder lists a subcontractor who is not qualified to perform the work, the Bidder will be rejected as non-responsible.
4. **Use of Own forces:** If, under the terms of the Bidding Documents and SC Contractor Licensing laws, Bidder is qualified to perform the work of a listed subcontractor classification or subclassification and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert itself in the space provided.
5. **Use of Multiple Subcontractors:**
 - a. If Bidder intends to use multiple subcontractors to perform the work of a single license classification/subclassification, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "and". If Bidder intends to use both his own employees to perform a part of the work of a single license classification/subclassification and to use one or more subcontractors to perform the remaining work, Bidder must insert itself and each subcontractor, preferably separating them with the word "and". Bidder must use each entity listed for the work of a single license classification/subclassification in the performance of that work.
 - b. **Optional Listing Prohibited:** Bidder may not list multiple subcontractors for a license classification/subclassification in a form that provides the Bidder the option, after bid opening or award, to choose one or more but not all the listed subcontractors to perform the work for which they are listed. A listing, which on its face requires subsequent explanation to determine whether it is an optional listing, is non-responsive. If Bidder intends to use multiple entities to perform the work for a single listing, Bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "and" between the names of each entity listed. Agency will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Agency may reasonably interpret as an optional listing.
6. If Bidder is awarded the contract, Bidder must, except with the approval of the Agency for good cause shown, use the listed entities to perform the work for which they are listed.
7. If Bidder is awarded the contract, Bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
8. Bidder's failure to identify an entity (subcontractor or himself) to perform the work of a subcontractor listed in Columns A & B will render the Bid non-responsive.

SE-330
LUMP SUM BID FORM

§ 7. LISTING OF PROPOSED SUBCONTRACTORS PURSUANT TO SECTION 3020(b)(i), CHAPTER 35, TITLE 11 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED
(See Instructions on the following page BF-2A)

Bidder shall use the below-listed Subcontractors in the performance of the Subcontractor Classification work listed:

(A) SUBCONTRACTOR LICENSE CLASSIFICATION or SUBCLASSIFICATION NAME <i>(Completed by Agency)</i>	(B) LICENSE CLASSIFICATION or SUBCLASSIFICATION ABBREVIATION <i>(Completed by Agency)</i>	(C) SUBCONTRACTOR and/or PRIME CONTRACTOR <i>(Required - must be completed by Bidder)</i>	(D) SUBCONTRACTOR'S and/or PRIME CONTRACTOR'S SC LICENSE NUMBER <i>(Requested, but not Required)</i>
BASE BID			
N/A			
ALTERNATE #1			
ALTERNATE #2			
ALTERNATE #3			

If a Bid Alternate is accepted, Subcontractors listed for the Bid Alternate shall be used for the work of both the Alternate and the Base Bid work.

**SE-330
LUMP SUM BID FORM**

§ 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (FOR INFORMATION ONLY):

Pursuant to instructions in the Invitation for Construction Services, if any, Bidder will provide to Agency upon the Agency's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code § 11-35-3020(b)(i).

§ 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

a) CONTRACT TIME

Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Agency. Bidder agrees to substantially complete the Work within 120 Calendar Days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

b) LIQUIDATED DAMAGES

Bidder further agrees that from the compensation to be paid, the Agency shall retain as Liquidated Damages the amount of \$ 200.00 for each Calendar Day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This amount is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

§ 10. AGREEMENTS

- a) Bidder agrees that this bid is subject to the requirements of the laws of the State of South Carolina.
- b) Bidder agrees that at any time prior to the issuance of the Notice to Proceed for this Project, this Project may be canceled for the convenience of, and without cost to, the State.
- c) Bidder agrees that neither the State of South Carolina nor any of its agencies, employees or agents shall be responsible for any bid preparation costs, or any costs or charges of any type, should all bids be rejected or the Project canceled for any reason prior to the issuance of the Notice to Proceed.

§ 11. ELECTRONIC BID BOND

By signing below, the Principal is affirming that the identified electronic bid bond has been executed and that the Principal and Surety are firmly bound unto the State of South Carolina under the terms and conditions of the AIA Document A310, Bid Bond, referenced in the Bidding Documents.

ELECTRONIC BID BOND NUMBER: NA

SIGNATURE AND TITLE:  President

**SE-330
LUMP SUM BID FORM****CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATION**SC Contractor's License Number(s): CLM.109989Classification(s) & Limits: UnlimitedSubclassification(s) & Limits: Unlimited

By signing this Bid, the person signing reaffirms all representation and certification made by both the person signing and the Bidder, including without limitation, those appearing in Article 2 of the SCOSE Version of the AIA Document A701, Instructions to Bidders, is expressly incorporated by reference.

BIDDER'S LEGAL NAME: Ireland Electric CorporationADDRESS: 130 Ireland BoulevardAugusta, GA 30906TELEPHONE: 706-855-9300EMAIL: cireland@irelandelectriccorp.comSIGNATURE: DATE: 02/17/2022PRINT NAME: Ralph A Ireland IIITITLE: President

Exhibit E

From: [Hikmet, Hatice](#)
To: cireland@irelandelectriccorp.com
Subject: Lighting Work at Flora 2nd Floor East End-request for bid bond
Date: Thursday, February 17, 2022 3:01:00 PM
Importance: High

Dear Mr. Ireland,

Per our discussion, the bid you submitted for the above project did not have the required bid security.

Per the SC Procurement Code 11-35-3030C, you have 24 hours from the time of the bid opening to submit your bid bond to me for the above project.

(1) Bid Security.

(a) Requirement for Bid Security. Bid security is required for all competitive sealed bidding for construction contracts in a design-bid-build procurement in excess of one hundred thousand dollars and other contracts as may be prescribed by the State Engineer's Office. Bid security is a bond provided by a surety company meeting the criteria established by the regulations of the board or otherwise supplied in a form that may be established by regulation of the board.

(b) Amount of Bid Security. Bid security must be in an amount equal to at least five percent of the amount of the bid at a minimum.

(c) Rejection of Bids for Noncompliance with Bid Security Requirements. When the invitation for bids requires security, noncompliance requires that the bid be rejected except that a bidder who fails to provide bid security in the proper amount or a bid bond with the proper rating must be given one working day from bid opening to cure the deficiencies. If the bidder is unable to cure these deficiencies within one working day of bid opening, his bid must be rejected.

Thank you,

Hatice Hikmet

Procurement Specialist
University of South Carolina
1600 Hampton Street, Suite 606
Columbia, SC 29208
803-777-9994



Memo to File
02-18-2022

Solicitation: FY22003057

Description: USC Lighting Work at Flora 2nd Floor-East End

On 2-17-2022 a phone call was place requesting Mr. Ireland to cure the deficiency of receiving his bid without the bid security, followed up with an email siting the code 11-35-3030C to cure this deficiency.

At approximately 10:30am on 2-18-2022, a representative from Ireland Electric submitted their bid security to me for the file.

Exhibit F



Memo to File

02-18-2022

Solicitation: FY22003057

Description: USC Lighting Work at Flora 2nd Floor-East End

On 2-17-2022 a phone call was place requesting Mr. Ireland to cure the deficiency of receiving his bid without the bid security, followed up with an email siting the code 11-35-3030C to cure this deficiency.

At approximately 10:30am on 2-18-2022, a representative from Ireland Electric submitted their bid security to me for the file.

SE-370

NOTICE OF INTENT TO AWARD DESIGN-BID-BUILD CONTRACT

AGENCY: University of South Carolina

PROJECT NAME: Lighting Work at Flora 2nd Floor -East End

PROJECT NUMBER: FY22003057

POSTING DATE: 2/21/2022

TO ALL BIDDERS:

Unless stayed by protest or canceled, the Agency intends to enter into a contract as 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 provided in Section 4 of the Bid Form, except as otherwise provided in the Instructions to Bidders.

NAME OF BIDDER: Ireland Electric Corporation

DATE BIDS WERE OPENED: 02-17-2022

BID INFORMATION:

BASE BID AMOUNT: \$ 136,428.00
ALTERNATES: #1 ACCEPTED [] \$
#2 ACCEPTED [] \$
#3 ACCEPTED [] \$

TOTAL CONTRACT AWARD: \$ 136,428.00

REMARKS (explain any negotiations that resulted in a change in any Bid amounts):

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency 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 a Notice to Proceed, other than the Contractor's non-reimbursable costs incurred in providing such bonds.

RIGHT TO PROTEST (SC Code § 11-35-4210)

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of this contract may be entitled to protest. To protest an award, you must (i) submit notice of your intent to protest within seven (7) business days of the date the award notice is posted, and (ii) submit your actual protest within fifteen days of the date the award notice is posted. Days are calculated as provided in Section 11-35-310(13). Both protests and notices of intent to protest must be in writing and must be received by the appropriate Chief Procurement Officer within the time provided.

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@mmo.sc.gov, or (b) 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.

Hatice Hikmet

(Agency Procurement Officer Signature)

Hatice Hikmet, Procurement Specialist

(Print or Type Name)

INSTRUCTIONS TO THE AGENCY:

- 1. Post a copy of the SE-370 at the location specified by the Instructions to Bidders and announced at the Bid Opening.
2. Send the SE-370 and the final Bid Tabulation electronically to all Bidders and OSE (if required) the same day it is posted.

1206 FLORA

Lighting Work at Flora
2nd Floor – East End

USC # FY22003057

GMC # ACOL210005

PROJECT MANUAL

01/14/2022



BUILDING COMMUNITIES

1219 Wayne Street
Columbia, SC 29201
803.766.1235

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PROJECT NAME: Lighting Work at flora 2nd Floor - East End

PROJECT NUMBER: FY22003057

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SE-310 INVITATION FOR DESIGN-BID-BUILD CONSTRUCTION SERVICES

AGENCY/OWNER: University of South Carolina
 PROJECT NAME: Lighting Work at Flora 2nd Floor - East End
 PROJECT NUMBER: FY22003057 CONSTRUCTION COST RANGE: \$ 125,000 to \$ 150,000
 PROJECT LOCATION: 1206 Flora Street, Columbia, SC 29208
 DESCRIPTION OF PROJECT/SERVICES: The project work consists of installation of Electrical Lighting at 1206 Flora Mill at the east end of the 2nd Floor along with associated fixtures and wiring. Bidders shall submit bids in accordance of Hand-Delivery or Mail Service only. Small and Minority Business participation is strongly encouraged.
 BID/SUBMITTAL DUE DATE: 2/17/2022 TIME: 2:00 pm NUMBER OF COPIES: 1
 PROJECT DELIVERY METHOD: Design-Bid-Build
 AGENCY PROJECT COORDINATOR: Hatice Hikmet
 EMAIL: hikmeth@mailbox.sc.edu TELEPHONE: 803-777-9994
 DOCUMENTS MAY BE OBTAINED FROM: http://purchasing.sc.edu

BID SECURITY IS REQUIRED IN AN AMOUNT NOT LESS THAN 5% OF THE BASE BID.

PERFORMANCE AND LABOR & MATERIAL PAYMENT BONDS: The successful Contactor will be required to provide Performance and Labor and Material Payment Bonds, each in the amount of 100% of the Contract Price.

DOCUMENT DEPOSIT AMOUNT: \$ 0.00 IS DEPOSIT REFUNDABLE Yes No N/A

Bidders must obtain Bidding Documents/Plans from the above listed source(s) to be listed as an official plan holder. Bidders that rely on copies obtained from any other source do so at their own risk. All written communications with official plan holders & bidders will be via email or website posting.

Agency **WILL NOT** accept Bids sent via email.

All questions & correspondence concerning this Invitation shall be addressed to the A/E.

A/E NAME: Goodwyn, Mills & Cawood (GMC)
 A/E CONTACT: Marc Warren, AIA
 EMAIL: marc.warren@gmcnetwork.com TELEPHONE: 803-766-1235

PRE-BID CONFERENCE: Yes No MANDATORY ATTENDANCE: Yes No

PRE-BID DATE: 2/2/2022 TIME: 10:00 am

PRE-BID PLACE: Conference Call (800) 753-1965 / Access Code 777-5253. The only official site visit will be held immediately following the pre-bid conference call. Use of attendee provided face masks is optional - social distancing shall fully apply.

BID OPENING PLACE: Conference Call (800) 753-1965 / Access Code 777-5253

BID DELIVERY ADDRESSES:

HAND-DELIVERY:

Attn: Hatice Hikmet - Project # FY22003057
1600 Hampton St., Suite 606
Columbia, SC 29208

MAIL SERVICE:

Attn: Hatice Hikmet - Project # FY22003057
1600 Hampton St., Suite 606
Columbia, SC 29208

IS PROJECT WITHIN AGENCY CONSTRUCTION CERTIFICATION? (Agency **MUST** check one) Yes No

APPROVED BY: _____ DATE: _____
 (OSE Project Manager)

South Carolina Division of Procurement
Services, Office of State Engineer Version of
 AIA[®] Document A701[™] – 2018

Instructions to Bidders

This version of AIA Document A701[™]–2018 is modified by the South Carolina Division of Procurement Services, Office of State Engineer (“SCOSE”). Publication of this version of AIA Document A701–2018 does not imply the American Institute of Architects’ endorsement of any modification by SCOSE. A comparative version of AIA Document A701–2018 showing additions and deletions by SCOSE is available for review on the SCOSE Web site.

Cite this document as “AIA Document A701[™]– 2018, Instructions to Bidders — SCOSE Version,” or “AIA Document A701[™]–2018 — SCOSE Version.”

South Carolina Division of Procurement Services, Office of State Engineer Version of AIA Document A701™ – 2018

Instructions to Bidders

for the following Project:

(Name, State Project Number, location, and detailed description)

1206 Flora Street
Columbia
SC 29208
Lighting Work at Flora 2nd Floor - East End
Project Number: FY22003057

THE OWNER:

(Name, legal status, address, and other information)

University of South Carolina
1300 Pickens Street
Columbia, SC 29208

The Owner is a Governmental Body of the State of South Carolina as defined by S.C. Code Ann. § 11-35-310.

THE ARCHITECT:

(Name, legal status, address, and other information)

Goodwyn Mills and Cawood, LLC
1219 Wayne Street
Columbia, SC 29201

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

TABLE OF ARTICLES

- 1 DEFINITIONS
- 2 BIDDER'S REPRESENTATIONS
- 3 BIDDING DOCUMENTS
- 4 **BIDDING PROCEDURES**
- 5 CONSIDERATION OF BIDS
- 6 POST-BID INFORMATION
- 7 PERFORMANCE BOND AND PAYMENT BOND
- 8 ENUMERATION OF THE PROPOSED CONTRACT DOCUMENTS

Init.

Any subsequent extension of the date for receipt of Bids by addendum shall not extend the date for receipt of such requests unless the addendum so specifies. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the Work of other contracts that incorporation of the proposed substitution would require, shall be included.

§ 3.3.3 The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.4 If the Architect approves a proposed substitution prior to receipt of Bids, such approval shall be set forth in an Addendum. Approvals made in any other manner shall not be binding, and Bidders shall not rely upon them.

§ 3.3.5 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 Addenda

§ 3.4.1 Addenda will be transmitted to Bidders known by the issuing office to have received complete Bidding Documents.

§ 3.4.2 Addenda will be available where Bidding Documents are on file.

§ 3.4.3 Addenda will be issued at least five (5) business days before the day of the Bid Opening, except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids. A business day runs from midnight to midnight and excludes weekends and state and federal holidays.

§ 3.4.4 Prior to submitting a Bid, each Bidder shall ascertain that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

§ 3.4.5 When the date for receipt of Bids is to be postponed and there is insufficient time to issue an Addendum prior to the original Bid Date, the Owner will notify prospective Bidders by telephone or other appropriate means with immediate follow up with an Addendum. This Addendum will verify the postponement of the original Bid Date and establish a new Bid Date. The new Bid Date will be no earlier than the fifth (5th) business day after the date of issuance of the Addendum postponing the original Bid Date.

§ 3.4.6 If an emergency or unanticipated event interrupts normal government processes so that Bids 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 Bids will be deemed to be extended to the same time of day specified in the solicitation on the first work day on which normal government processes resume. In lieu of an automatic extension, an Addendum may be issued to reschedule Bid Opening. If state offices are closed in the county in which Bids are to be received at the time a pre-bid or pre-proposal conference is scheduled, an Addendum will be issued to reschedule the conference. Bidders shall visit <https://www.scemd.org/closings/> for information concerning closings.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 Preparation of Bids

§ 4.1.1 Bids shall be submitted on the forms included with or identified in the Bidding Documents.

§ 4.1.2 All blanks on the Bid Form shall be legibly executed. Paper bid forms shall be executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in numbers.

§ 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Bid. Bidder shall not make stipulations or qualify his Bid in any manner not permitted on the Bid Form. An incomplete Bid or information not requested that is written on or attached to the Bid Form that could be considered a qualification of the Bid, may be cause for rejection of the Bid.

§ 4.1.5 All requested Alternates shall be bid. The failure of the Bidder to indicate a price for an Alternate shall render the Bid non-responsive. Indicate the change to the Base Bid by entering the dollar amount and marking, as appropriate, the box for "ADD TO" or "DEDUCT FROM". If no change in the Base Bid is required, enter "ZERO" or "No Change".

Init.

§ 4.1.6 Pursuant to S.C. Code Ann. § 11-35-3020(b)(i), as amended, Section 7 of the Bid Form sets forth a list of proposed subcontractors for which the Bidder is required to identify those subcontractors the Bidder will use to perform the work listed. Bidder must follow the instructions in the Bid Form for filling out this section of the Bid Form. Failure to properly fill out Section 7 may result in rejection of Bidder's bid as non-responsive.

§ 4.1.7 Contractors and subcontractors listed in Section 7 of the Bid Form who are required by the South Carolina Code of Laws to be licensed, must be licensed as required by law at the time of bidding.

§ 4.1.8 Each copy of the Bid shall state the legal name and legal status of the Bidder. Each copy of the Bid shall be signed by the person or persons legally authorized to bind the Bidder to a contract.

§ 4.1.9 A Bidder shall incur all costs associated with the preparation of its Bid.

§ 4.2 Bid Security

§ 4.2.1 If required by the invitation to bid, each Bid shall be accompanied by a bid security in an amount of not less than five percent of the Base Bid. The bid security shall be a bid bond or a certified cashier's check.

§ 4.2.2 The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and shall, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty.

§ 4.2.3 If a surety bond is required as bid security, it shall be written on AIA Document A310™, Bid Bond and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of an acceptable power of attorney. The Bid Bond shall:

- .1 be issued by a surety company licensed to do business in South Carolina;
- .2 be issued by a surety company having, at a minimum, a "Best Rating" of "A" as stated in the most current publication of "Best's Key Rating Guide, Property-Casualty", which company shows a financial strength rating of at least five (5) times the contract price.
- .3 be enclosed in the bid envelope at the time of Bid Opening, either in paper copy or as an electronic bid bond authorization number provided on the Bid Form and issued by a firm or organization authorized by the surety to receive, authenticate and issue binding electronic bid bonds on behalf the surety.

§ 4.2.4 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and performance and payment bonds, if required, have been furnished; (b) the specified time has elapsed so that Bids may be withdrawn; or (c) all Bids have been rejected.

§ 4.2.5 By submitting a Bid Bond via an electronic bid bond authorization number on the Bid Form and signing the Bid Form, the Bidder certifies that an electronic bid bond has been executed by a Surety meeting the standards required by the Bidding Documents and the Bidder and Surety are firmly bound unto the State of South Carolina under the conditions provided in this Section 4.2.

§ 4.3 Submission of Bids

§ 4.3.1 A Bidder shall submit its Bid as indicated below:

§ 4.3.2 All paper copies of the Bid, the bid security, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall, unless hand delivered by the Bidder, be addressed to the Owner's designated purchasing office as shown in the invitation to bid. The envelope shall be identified with the Project name, the Bidder's name and address, and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, or special delivery service (UPS, Federal Express, etc.), the sealed envelope shall be labelled "SEALED BID ENCLOSED" on the face thereof. Bidders hand delivering their Bids shall deliver Bids to the place of the Bid Opening as shown in the invitation for bids. Whether or not Bidders attend the Bid Opening, they shall give their Bids to the Owner's Procurement Officer or his/her designee as shown in the invitation to bid prior to the time of the Bid Opening.

§ 4.3.3 Bids shall be submitted by the date and time and at the place indicated in the invitation to bid. Bids submitted after the date and time for receipt of Bids, or at an incorrect place, will not be accepted.

Facilities Management Building (Flora St) -
Lighting Work at Flora 2nd Floor – East End

Project #: FY22003057
01/14/2022

BID BOND – AIA310

Note: AIA Document

Contractor to Provide Bid Bond In the form of AIA A310