

HENRY MCMASTER, CHAIR
GOVERNOR

CURTIS M. LOFTIS, JR.
STATE TREASURER

BRIAN J. GAINES
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES

DELBERT H. SINGLETON, JR.
DIVISION DIRECTOR
(803) 734-8018

JOHN ST. C. WHITE
MATERIALS MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

HARVEY S. PEELER, JR.
CHAIRMAN, SENATE FINANCE COMMITTEE

BRUCE W. BANNISTER
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE

GRANT GILLESPIE
EXECUTIVE DIRECTOR

Protest Decision

Matter of: Nitsom Promotional Manufacturing Corp.

File No.: 2026-116

Posting Date: October 21, 2025

Contracting Entity: South Carolina Department of Juvenile Justice

Project No.: 5400027870

Description: SCDJJ Promotional Items

DIGEST

Protest by Nitsom Promotional Manufacturing Corp. (Nitsom) challenging the South Carolina Department of Juvenile Justice's (SCDJJ) method of determining low bid denied where SCDJJ complied with provisions in the solicitation addressing how the awardee would be determined, and language in the solicitation that implied a different approach was patently ambiguous. Nitsom's protest 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 determination is based on the evidence and applicable law and precedents.

BACKGROUND

On January 21, 2025, SCDJJ issued a solicitation for bids to provide promotional items.¹ [Exhibit B] SCDJJ subsequently issued three Addenda, none of which are pertinent to this decision.

The solicitation bid schedule required unit prices for 14 different line items. [Id.] By the deadline for receipt of bids, SCDJJ received twelve bids including one from Nitsom. [Exhibit C] On September 26, 2025, SCDJJ posted a notice of award to Fyre Marketing LLC (Fyre), the bidder submitting the lowest total price on the sum of prices for all line items. [Id. and Exhibit D] On September 30, 2025, Nitsom protested. On October 3, 2025, SCDJJ responded directly to Nitsom stating it had followed the award criteria in the solicitation. [Exhibit E] Nitsom responded to SCDJJ's letter with a rebuttal. [Exhibit F] On October 9, 2025, SCDJJ provided a formal response to Nitsom's protest to the CPO. [Exhibit G] On October 9, 2025, Fyre also provided a response to Nitsom's protest. [Exhibit H]

DISCUSSION

Nitsom protests that the solicitation provided for award by line item to the lowest bidder on each line item. In support of its argument, Nitsom cites language in the solicitation which states:

II. INSTRUCTIONS TO OFFERORS -- B. SPECIAL INSTRUCTIONS

OFFERING BY ITEM OR LOT (JAN 2006)

Offers may be submitted for complete lots or for one or more items not within lots. Failure to offer on all items within a single lot will be reason for rejection.
[02-2B090-1]

This language suggest that bidders need not bid every line item to be eligible for an award. However, the solicitation also stated:

¹ The solicitation is dated January 13, 2025, but was not advertised in South Carolina Business Opportunities until January 21, 2025. Therefore, the official publication date is January 21, 2025.

VI. AWARD CRITERIA

AWARD CRITERIA -- BIDS (JAN 2006)

Award will be made to the lowest responsible and responsive bidder(s). [06-6020-1]

AWARD TO ONE OFFEROR (JAN 2006)

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

CALCULATING THE LOW BID (MODIFIED)

Low bid shall be calculated by adding each line item to get a total cost of ownership. Quantities are estimated for evaluation purposes only.

These clauses are clear that SCDJJ was going to award a contract only to one bidder; the low bidder on all line items added together.

Nitsom in fact takes the position that the instructions and the award criteria create a "direct procedural conflict." [Exhibit H] Nitsom further argues that SCDJJ should have provided clarification via an addendum.

The CPO finds that to the extent the instructions to offerors and award criteria conflict, they are patently ambiguous. The Instructions to Offerors address patent ambiguities stating:

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]

[emphasis supplied]

Nitsom failed to make any inquiry concerning this ambiguity and cannot now complain.

Moreover, to the extent that Nitsom intends this protest to be a protest of the solicitation's ambiguous language it is untimely. Section 11-35-4210(1)(a) provides that a prospective bidder ... who is aggrieved in connection with a solicitation shall protest ... within fifteen days of the

date of issuance of the Invitation for Bids, Request for Proposals, or other solicitation documents or any amendment to it if the amendment is in question." Therefore, February 5, 2025, was the deadline to this language which appeared in the original solicitation. Nitsom protested 233 days later.

While the instructions to offerors concerning "Offering by Line Item or Lot" may be ambiguous when compared to the "Award Criteria" in the solicitation. The "Award Criteria" is not in and of itself ambiguous. The "Award Criteria" clearly states how SCDJJ would make award and SCDJJ followed those criteria.

DECISION

For the forgoing reasons, protest denied.



John St. C. White, PE
Chief Procurement Officer

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2025)

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 2025 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 Copes, 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 366, 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

Nitsom Promotional Manufacturing Corp.
P.O. Box 88840
Carol Stream, IL 60188
Tel: 416-850-7860
Email: terrence@nitsompromos.com

To:
Chief Procurement Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, SC 29201
Email: protest-mmo@mmo.state.sc.us

Subject: Protest of Award – Solicitation No. 5400027870 (SCDJJ Promotional Items)

Date: September 30, 2025

Dear Chief Procurement Officer,

We, Nitsom Promotional Manufacturing Corp., hereby submit this formal Notice of Protest under Section 11-35-4210 of the South Carolina Consolidated Procurement Code.

The basis of this protest concerns the award decision for Solicitation 5400027870 – SCDJJ Promotional Items, which was announced on September 26, 2025 and awarded entirely to FYRE Marketing LLC under Contract No. 4400038130.

1. Grounds for Protest

a) Solicitation Requirement – Award by Item or Lot

The solicitation clearly states under 'Offering by Item or Lot (JAN 2006)':

“Offers may be submitted for complete lots or for one or more items not within lots. Failure to offer on all items within a single lot will be reason for rejection.”

This provision establishes that award may be made by individual item.

b) Our Low Bid on Specific Items

Nitsom Promotional Manufacturing Corp. submitted competitive pricing and was the lowest responsive bidder on multiple items, including but not limited to:

- Hand Sanitizer (1 oz) – \$0.65 (vs. Awarded \$1.35)

- Magnet Clips – \$0.45 (vs. Awarded \$0.79)
- Drawstring Bag w/ Mesh Pocket – \$0.79 (vs. Awarded \$0.89)

Despite being the lowest responsive bidder for these items, the award was granted solely to another vendor for all items.

c) Deviation from Solicitation Terms

By awarding the contract on an all-or-none basis, the State did not follow its own stated solicitation criteria. This deprived our company of rightful award(s) where we submitted the lowest responsive pricing.

2. Relief Requested

We respectfully request that:

1. The award decision be reviewed and corrected to align with the solicitation requirements;
2. Award(s) for the items where Nitsom Promotional Manufacturing Corp. was the lowest responsive bidder be granted to our company;
3. Alternatively, the solicitation be resolicited or the award decision modified to ensure compliance with the 'Offering by Item or Lot' clause.

3. Conclusion

Nitsom Promotional Manufacturing Corp. seeks a fair and transparent procurement process in accordance with the South Carolina Procurement Code and the solicitation provisions. We trust the Chief Procurement Officer will take corrective action to uphold the integrity of the award process.

Sincerely,

Terrence Hu
President



Nitsom Promotional Manufacturing Corp.

South Carolina Business Opportunities

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

Ad Category: Supplies

Ad Start Date: January 21, 2025

Title: Updated Link: South Carolina Department of Juvenile Justice Promotional Items

Purchasing Agent/Entity: Department of Juvenile Justice

Bid/Submittal Due Date: March 3, 2025 - 3:00pm

Description:

Request For Bid for Promotional Items for the South Carolina Department of Juvenile Justice.

Solicitation #: 5400027870

Direct Inquiries To: erineburdick@djj.sc.gov

Buyer Phone#: 8035700200

Buyer Email: erineburdick@djj.sc.gov

Pre-Bid Information:

n/a

Full Details / Download: <https://apps.sceis.sc.gov/SCSolicitationWeb/contractSearch.do?solicitnumber=5400027870>

South Carolina Business Opportunities • SCBO Team • 1201 Main Street, Suite 600 • Columbia, SC 29201
803-737-0600 • scbo@mmo.sc.gov • <https://scbo.sc.gov> • <https://procurement.sc.gov>



	State of South Carolina Invitation For Bid	Solicitation:	5400027870
		Date Issued:	01/13/2025
		Procurement Officer:	ERIN BURDICK
		Phone:	803-570-0200
		E-Mail Address:	ERINEBURDICK@DJJ.SC.GOV
Mailing Address:		SCDJJ Procurement Department 220 Executive Drive, Winthrop Bldg. Columbia SC 29221	

DESCRIPTION: **PRMOTIONAL ITEMS**

USING GOVERNMENTAL UNIT: **SC DEPARTMENT OF JUVENILE JUSTICE**

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

SUBMIT OFFER BY (Opening Date/Time): **02/12/2025 at 15:00:00** (See "Deadline For Submission Of Offer" provision)

QUESTIONS MUST BE RECEIVED BY: **01/22/2025 at 17:00:00** (See "Questions From Offerors" provision)

NUMBER OF COPIES TO BE SUBMITTED: **Online submission preferred. One (1) Electronic "Original" uploaded**

CONFERENCE TYPE: MS Teams / Online Meeting DATE & TIME: 01/21/2025 10:00 AM (As appropriate, see "Conferences - Pre-Bid/Proposal" & "Site Visit" provisions)	LOCATION: MS TEAMS / Online meeting Contact the Procurement Manager, by 01/21/2025, at 10:00 AM ET for access code, via email: erineburdick@dj.sc.gov
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AWARD & AMENDMENTS	Award will be posted on 02/24/2025 . The award, this solicitation, any amendments, and any related notices will be posted at the following web address: http://www.procurement.sc.gov
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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 sixty (60) calendar days after the Opening Date.
(See "Signing Your Offer" provision.)

NAME OF OFFEROR (full legal name of business submitting the offer)	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.
AUTHORIZED SIGNATURE (Person must be authorized to submit binding offer to contract on behalf of Offeror.)	DATE SIGNED
TITLE (business title of person signing above)	STATE VENDOR NO. (Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)
PRINTED NAME (printed name of person signing above)	STATE OF INCORPORATION (If you are a corporation, identify the state of incorporation.)

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)

(Return Page Two with Your Offer)

PAGE TWO (SEP 2009)

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I. SCOPE OF SOLICITATION

ACQUIRE SUPPLIES / EQUIPMENT (JAN 2006)

The purpose of this solicitation is to establish a source or sources of supply for the purchase of new supplies and/or equipment as listed for the South Carolina Department of Juvenile Justice (SCDJJ). [01-1015-1]

MAXIMUM CONTRACT PERIOD - ESTIMATED (JAN 2006)

Start date: 03/11/2025 End date: 03/10/2030. 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]

II. INSTRUCTIONS TO OFFERORS - A. GENERAL INSTRUCTIONS

DEFINITIONS, CAPITALIZATION, AND HEADINGS (MAY 2024) CLAUSE HEADINGS USED IN THIS SOLICITATION ARE FOR CONVENIENCE ONLY AND WILL NOT BE USED TO CONSTRUE MEANING OR INTENT. EVEN IF NOT CAPITALIZED, THE FOLLOWING DEFINITIONS APPLY 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)]

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(5)] CONTRACT See clause entitled Contract Documents & Order of Precedence.

CONTRACT MODIFICATION means a written order signed by the procurement officer, directing the contractor 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. [11-35-310(9)] CONTRACTOR 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 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. If the Cover Page identifies the Using Governmental Unit as "Statewide Contract," either optional or mandatory, the phrase "Using Governmental Unit" means any South Carolina Public Procurement Unit [11-35-4610(5)] that has submitted a Purchase Order to you pursuant to the contract resulting from this solicitation. Reference the clauses titled "Purchase Orders" and "Statewide Contract."

WORK means all labor, materials, equipment, services, or property of any type, provided or to be provided by the Contractor to fulfill the Contractor's obligations under the Contract. [02-2A003-4]

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, 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]

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. [02-2A032-1]

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 nonresponsible.

(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 (FEB 2015)

You warrant and represent 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. The two underlying principles are (a) preventing the existence of conflicting roles that might bias a contractor's judgment, and (b) preventing an unfair competitive advantage. If you have an unfair competitive advantage or a conflict of interest, the state may withhold award. Before withholding award on these grounds, an offeror will be notified of the concerns and provided a reasonable opportunity to respond. Efforts to avoid or mitigate such concerns, including restrictions on future activities, may be considered. Without limiting the foregoing, you represent that your offer identifies any services that relate to either this solicitation or the work and that has already been performed by you, a proposed subcontractor, or an affiliated business of either. [02-2A047-2]

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 WORK PLACE CERTIFICATION (JAN 2004)

By submitting an Offer, Contractor certifies that, if awarded a contract, Contractor 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 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 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 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]

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]

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 (MAY 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 the 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 foia@djj.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 subcontractors 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 (FEB 2015)

- (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 five (5) days prior to opening unless an earlier date is 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]

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 work day 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 (MODIFIED)

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. Note that your vendor registration submission may take up to 30 days to process due to high numbers of registrants. 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>). This process can take up to 45 days to complete.

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

BID SAMPLES OR DESCRIPTIVE LITERATURE (MAR 2024)

Do not submit bid samples or descriptive literature unless expressly requested. Unsolicited bid samples or descriptive literature will not be examined or tested, will not be used to determine responsiveness, and will not be deemed to vary any of the provisions of the solicitation. S.C. Code Ann. Reg. 19-445.2077D. [02-2B017-1]

CONFERENCE - PRE-BID/PROPOSAL (JAN 2006)

Pre-Bid/Proposal Conference Date and Time: **01/09/2025 10:00:00**

Location of Pre-Bid/Proposal Conference: **MS TEAMS / Online meeting**

Due to the importance of all offerors having a clear understanding of the specifications and requirements of this solicitation, a conference of potential offerors will be held on the date specified on the cover page. Bring a copy of the solicitation with you. Any changes resulting from this conference will be noted in a written amendment to the solicitation. 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. [02-2B025-1]

This solicitation includes a Non-Mandatory Pre-Bid Conference. While attendance is not required, Offerors are strongly encouraged to attend and participate. The purpose of the Pre-Bid is to identify items that are in error, unclear, or unduly restrictive.

All conference attendees should read the proposal and develop their questions in preparation for the conference. The pace of the conference will NOT afford individuals enough time to complete an initial review of the document during the conference.

ELECTRONIC COPIES – REQUIRED MEDIA AND FORMAT (MAR 2015)

In addition to your original offer, you must submit an electronic copy or copies on compact disk (CD), DVD, or 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 disk or USB drive must be labeled with the solicitation number and the offeror's name, and specify whether its contents address technical proposal or business proposal. If multipledisk sets are provided, each disk in the set must be appropriately identified as to its relationship to the set, e.g., 1 of 2. 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. [02-2B070-2]

OFFERING BY ITEM OR LOT (JAN 2006)

Offers may be submitted for complete lots or for one or more items not within lots. Failure to offer on all items within a single lot will be reason for rejection. [02-2B090-1]

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.
 - a. 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 document should be addressed with the Procurement Officer.
 - b. 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.

PREFERENCES - A NOTICE TO VENDORS (SEP 2009)

On June 16, 2009, the South Carolina General Assembly rewrote the law governing preferences available to in-state vendors, vendors using in-state subcontractors, and vendors selling in-state or US end products. This law appears in Section 11-35-1524 of the South Carolina Code of Laws. A summary of the new preferences is available at www.procurement.sc.gov/preferences. ***ALL THE PREFERENCES MUST BE CLAIMED AND ARE APPLIED BY LINE ITEM, REGARDLESS OF WHETHER AWARD IS MADE BY ITEM OR LOT. VENDORS ARE CAUTIONED TO CAREFULLY REVIEW THE STATUTE BEFORE CLAIMING ANY PREFERENCES. THE REQUIREMENTS TO QUALIFY HAVE CHANGED. IF YOU REQUEST A PREFERENCE, YOU ARE CERTIFYING THAT YOUR OFFER QUALIFIES FOR THE PREFERENCE YOU'VE CLAIMED. IMPROPERLY REQUESTING A PREFERENCE CAN HAVE SERIOUS CONSEQUENCES.*** [11-35-1524(E)(4)&(6)] [02-2B111-1]

PREFERENCES - SC/US END-PRODUCT (SEP 2009)

Section 11-35-1524 provides a preference to vendors offering South Carolina end-products or US end-products, if those products are made, manufactured, or grown in SC or the US, respectively. An end-product is the tangible project identified for acquisition in this solicitation, including all component parts in final form and ready for the use intended. The terms "made," "manufactured," and "grown" are defined by Section 11-35-1524(A). By signing your offer and checking the appropriate space(s) provided and identified on the bid schedule, you certify that the end-product(s) is either made, manufactured or grown in South Carolina, or other states of the United States, as applicable. Preference will be applied as required by law. Post award substitutions are prohibited. See "Substitutions Prohibited - End Product Preferences (Sep 2009)" provision. [02-2B112-1]

PREFERENCES - RESIDENT VENDOR PREFERENCE (SEP 2009)

To qualify for the RVP, you must maintain an office in this state. An office is a nonmobile place for the regular transaction of business or performance of a particular service which has been operated as such by the bidder for at least one year before the bid opening and during that year the place has been staffed for at least fifty weeks by at least two employees for at least thirty five hours a week each. In addition, you must either: (1) maintain at a location in South Carolina at the time of the bid an inventory of expendable items which are representative of the general type of commodities for which the award will be made and which have a minimum total value, based on the bid price, equal to the lesser of fifty thousand dollars [\$50,000] or the annual amount of the contract; or (2) be a manufacturer headquartered and having an annual payroll of at least one million dollars in South Carolina and the end product being sold is either made or processed from raw materials into a finished end product by that manufacturer or its affiliate (as defined in Section 1563 of the Internal Revenue Code). [02-2B114-1]

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-mmommo@mmo.state.sc.us, or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. [02-2B122-2]

RESPONSIVENESS – CORRECTION OF NON-CONFORMITY (MAR 2024)

Offerors will not be given an opportunity to correct any material nonconformity. Any deficiency resulting from a minor informality may be cured or waived at the sole discretion of the Procurement Officer. [02- 2B127-1]

SAMPLES (MODIFIED)

Free samples are required for testing and/or evaluation. Your failure to provide a sample will result in rejection of your offer. You must send your sample to the Procurement Officer under separate cover, mark the solicitation number on the outside of the shipping carton, and tag each sample with your name and other pertinent information. **The Procurement Officer must receive your samples prior to opening date.**

Send Sample To:
Erin Burdick, Procurement Officer
Winthrop Building
220 Executive Center Drive, 2C5
Columbia, SC 29210

Mark to attention of buyer listed on cover page.

UNIT PRICES REQUIRED (JAN 2006)

Unit price to be shown for each item. [02-2B170-1]

III. SCOPE OF WORK/SPECIFICATIONS

SCDJJ is requesting promotional items as defined herein.

SPECIFICATIONS

Contractor must:

1. Deliver ordered products within thirty (30) business days from purchase order receipt.
2. Notify the Purchase Order Point of Contact and/or the Procurement Manager immediately upon discovery that an order cannot be filled (partially or totally).
3. Accept multiple orders per year for the extent of the Contract.

ARTWORK INFORMATION

For logos, see Attachment (D) in SECTION IX – ATTACHMENTS.

SCDJJ Logo pantone colors and fonts (if a blue or garnet is to be used):

- Blue: 1C3664 or RGB: 28, 54, 100
- Garnet: 89171A or RGB: 137, 23, 26
- Font: Iowan Old Style

ADDITIONAL ITEMS

The State reserves the right to add additional products during the term of the Contract.

DELIVERY LOCATIONS

See Delivery/Performance Locations; SCDJJ reserves the right to add, delete, modify and/or change locations during the contract term.

SAMPLES

Samples are required and must be furnished free of expense to SCDJJ on or before the specified date. If Offeror would like samples returned, they will be returned to Offeror, if requested, at Offeror's expense. Each sample must be marked with the offeror's name and address, RFB number, and opening date.

SHIPPING

Quoted price must include shipping fees. All shipping order shall include a packing slip with the ordering agency's name, location, name of ordering person, order number, and number of items/cartons/boxes in each shipment.

SEE BIDDING SCHEDULE

See Bidding Schedule: SECTION IX. ATTACHMENTS – ATTACHMENT A - BID TABULATION.

DELIVERY/PERFORMANCE LOCATION -- SPECIFIED (JAN 2006)

After award, all deliveries shall be made and all services provided to the following address, unless otherwise specified:

Point of Contact HR
220 Executive Drive
Columbia, SC 29210

Point of Contact Warehouse
1620 Shivers Road
Columbia, SC 29212

Point of Contact Goldsmith Bldg. #3001
4900 Boad River Road
Columbia, SC 29212
[03-3030-1]

DELIVERY DATE -- PURCHASE ORDER (MODIFIED)

All items shall be delivered within thirty (30) business days after receipt of purchase order.

DELIVERY EXTENSION REQUESTS

All delivery extension requests must be provided in writing and approved by the Procurement Officer listed on the Cover Page. Extensions may or may not be approved dependent upon urgency of need.

DISCONTINUED ITEMS

Any item that is discontinued must be reported to SCDJJ Procurement Manager (found on the cover page of the Solicitation) immediately. A replacement item can be offered, but the item must be a product of equal or greater value at the cost of the discontinued item.

SUBSTITUTIONS

Request for substitutions, after award, will be reviewed by Procurement and approval may be given by Procurement at its sole discretion.

USE OF BRAND NAMES

Unless otherwise provided in a request, the name of a certain brand, make, or manufacturer does not restrict offerors to the specific brand, make or manufacture named; it conveys the general style, type and quality of the article desired.

QUALITY -- NEW (JAN 2006)

All items must be new. [03-3060-1]

IV. INFORMATION FOR OFFERORS TO SUBMIT

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 (DEC 2015)

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? ☐ 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? _____

Will any of the work under this contract be performed by a minority business certified by another governmental entity as a subcontractor? ☐ 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? _____

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://osmba.sc.gov/directory.html>

[04-4015-3]

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 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]

VI. AWARD CRITERIA

AWARD CRITERIA -- BIDS (JAN 2006)

Award will be made to the lowest responsible and responsive bidder(s). [06-6020-1]

AWARD TO ONE OFFEROR (JAN 2006)

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

CALCULATING THE LOW BID (MODIFIED)

Low bid shall be calculated by adding each line item to get a total cost of ownership. Quantities are estimated for evaluation purposes only.

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]

UNIT PRICE GOVERNS (JAN 2006)

In determining award, unit prices will govern over extended prices unless otherwise stated. [06-6075-1]

VII. TERMS AND CONDITIONS -- A. GENERAL

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

(a) Contractor 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 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 (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 amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor 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 enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor 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 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 AWARDED PURSUANT TO CODE (MAR 2024)

Any contract resulting from this solicitation is formed pursuant to the South Carolina Consolidated Procurement Code and is deemed to incorporate all applicable provisions thereof and the ensuing regulations. See also clause titled "Code of Laws Available." [07-7A012-1]

CONTRACT DOCUMENTS & ORDER OF PRECEDENCE (MAY 2024)

(a) Any contract resulting from this solicitation shall consist of the following documents:

- (1) the solicitation, as amended,
- (2) your offer, as amended,
- (3) any statement reflecting the State's final acceptance (a/k/a "award"), and
- (4) purchase orders.

These documents shall be read to be consistent and complementary. 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 (4) above shall apply notwithstanding any additional or different terms and conditions in any other document, including without limitation, (i) any instrument submitted by the State other than a purchase order, (ii) any invoice or other document submitted by Contractor, or (iii) any privacy policy, terms of use, or end user agreement. Except as otherwise allowed by the solicitation, the terms and conditions of all such documents and any purchase orders 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. [07-7A015-2]

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 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 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 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 by certified mail (return receipt requested) addressed to Contractor 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]

EFT INFORMATION (APR 2024)

The Contractor must furnish to the State Treasurer's Office information necessary for making a payment by electronic funds transfer (EFT). Additional information is available at the STO's website at <https://treasurer.sc.gov> (.). The Contractor is responsible for the currency, accuracy and completeness of the EFT information. Updating EFT information may not be used to accomplish an assignment of the right to payment, does not alter the terms and conditions of this contract, and is not a substitute for a properly executed contractual document. [07-7A027-2]

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 shall include all costs for performing the work associated with that price. Except as otherwise provided in this solicitation, contractor's price shall be fixed for the duration of this contract, including option terms. This clause does not prohibit contractor 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 (MAY 2024)

(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) ten days after 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 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. [07-7A050-2]

OPEN TRADE (JUN 2015)

During the contract term, including any renewals or extensions, Contractor 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]

PAYMENT and INTEREST (FEB 2021)

The State shall pay the Contractor, 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) Unless otherwise provided herein, including the purchase order, payment will be made by electronic funds transfer (EFT). See clause titled " EFT Information." (c) 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 exclusive means of recovering any type of interest from the Owner. Contractor 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. (d) 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. (e) 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 (c) and (d) 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. (f) The State shall have all of its common law, equitable and statutory rights of set-off. [07-7A055-4]

PUBLICITY (JAN 2006)

Contractor 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 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 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 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, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor 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 net income or assets shall be the sole responsibility of the contractor. [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 will be reimbursed the resulting unamortized, reasonably incurred, nonrecurring costs. Contractor 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

CISG (JAN 2006)

The parties expressly agree that the UN Convention on the International Sale of Goods shall not apply to this agreement. [07-7B030-1]

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 to suspension or debarment. [07-7B045-1]

DEFAULT - SHORT FORM (FEB 2015)

The state may terminate this contract, or any part hereof, for cause in the event of any default by the contractor, or if the contractor fails to comply with any material contract terms and conditions, or fails to provide the state, upon request, with adequate assurances of future performance. In the event of termination for cause, the state shall not be liable to the contractor for any amount for supplies or services not accepted, and the contractor shall be liable to the state for any and all rights and remedies provided by law. If it is determined that the state improperly terminated this contract for default, such termination shall be deemed a termination for convenience. [07-7B080-2]

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]

LIMITATION OF LIABILITY -- SINGLE AGENCY (MAY 2020)

- (1) Contractor's liability for damages to the Using Governmental Unit shall not exceed [a dollar amount].
- (2) The parties waive claims against each other for (i) exemplary or punitive damages and (ii) special or consequential damages.
- (3) The foregoing limitations shall not apply: (a) to claims for physical damage to real or tangible personal property, (b) to claims regarding bodily injury, sickness, disease or death, (c) to claims arising from reckless or intentional misconduct, (d) to amounts due or obligations under a clause (regardless of how named) providing for liquidated damages, or if such a clause is ruled unenforceable as a penalty, (e) to amounts due or obligations under the following clauses, if included: (i) Indemnification-Third Party Claims-General, (ii) Indemnification-Third Party Claims-Disclosure of Information, (iii) Indemnification-Intellectual Property, (iv) Information Security Safeguarding Requirements, (v) Information Security-Location of Data, (vi) Information Use and Disclosure Standards, or (vii) Service Provider Security Representations; (f) to amounts due or obligations under a clause imposing a duty to defend or indemnify, or (g) to any loss or claim to the extent the loss or claim is covered by a policy of insurance maintained, or required by this contract to be maintained, by contractor.

- (4) The absence in any subcontract of a similar clause limiting contractor's liability shall not effectively increase the obligation of the Using Governmental Unit beyond what it would have been had the subcontract contained such a clause.
- (5) The Using Governmental Unit's liability for damages, if any, shall in no event exceed [*a dollar amount*]. Nothing herein shall be construed to waive any law or clause regarding the availability or appropriation of funds, sovereign immunity, or any other immunity, restriction, or limitation on payment or recovery provided by law.
- (6) The State of South Carolina's total liability for any obligation under any clause imposing any duty of confidentiality or non-disclosure shall not exceed an amount equal to fifty thousand dollars. [07-7B117-1]

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 PPI (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 Producer Price Indexes (PPI) for the applicable commodity, as determined by the Procurement Officer. The Bureau of Labor and Statistics publishes this information on the web at www.bls.gov (.). [07-7B180-1]

PURCHASING CARD (JAN 2006)

Contractor agrees to accept payment by the South Carolina Purchasing Card for no extra charge. The Purchasing Card is issued by Visa. The purchasing card allows state agencies to make authorized purchases from a vendor without the requirement to issue a purchase order. [07-7B200-1]

SHIPPING / RISK OF LOSS (JAN 2006)

F.O.B. Destination. Destination is the shipping dock of the Using Governmental Units' designated receiving site, or other location, as specified herein. (See Delivery clause) [07-7B220-1]

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(s), 0 months, 0 days 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(s), 0 month(s), and 0 day(s), unless contractor 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 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 -- SHORT FORM (JAN 2006)

The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. In such a termination, the Procurement Officer may require the contractor 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 has specifically produced or specially acquired for the performance of the terminated part of this contract. Upon such termination, the contractor shall (a) stop work to the extent specified, (b) terminate any subcontracts as they relate to the terminated work, and (c) be paid the following amounts without duplication, subject to the other terms of this contract: (i) contract prices for supplies or services accepted under the contract, (ii) costs incurred in performing the terminated portion of the work, and (iii) any other reasonable costs that the contractor can demonstrate to the satisfaction of the State, using its standard record keeping system, have resulted from the termination. The contractor shall not be paid for any work performed or costs incurred that reasonably could have been avoided. As a condition of payment, contractor shall submit within three months of the effective date of the termination a claim specifying the amounts due because of the termination. The absence of an appropriate termination for convenience clause in any subcontract shall not increase the obligation of the state beyond what it would have been had the subcontract contained such a clause. [07-7B260-1]

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

Quantities are estimates only for evaluation purposes. Total annual quantities may be more or less than stated on Attachment A. Bid Tabulation.

BIDDING SCHEDULE (NOV 2007)

IX. ATTACHMENTS TO SOLICITATION

ATTACHMENTS LIST [09-9002-1]

ATTACHMENT A – BID TABULATION SHEET

ATTACHMENT B – IMPORTANT TAX NOTICE – NONRESIDENTS ONLY

ATTACHMENT C - OFFEROR'S CHECKLIST – AVOID COMMON BID/PROPOSAL MISTAKES

Exhibit C

Rfx Number	S400027870												
		BERNSTEIN LASH MARKETING LLC	PROGRESSIVE MARKETING	CARI TRADING COMPANY LLC	WLC PROMOTIONS	NITSOM PROMOTIONAL MANUFACTURING	FYRE MARKETING LLC	USA PROMO SOLUTIONS LLC	BLINK SIGNS	ZHENG COMMERCE LLC	ARS MARKETING INC	ESSENTIAL PRODUCTS OF AMERICA INC	BRANDINGHAWK
		5500096339	5500096381	5500096415	5500096440	5500096441	5500096454	5500096392	5500096439	5500096446	5500096449	5500096400	5500096436
Header Data	Status	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted	Submitted
Version Number	6	5	5	5	5	5	5	5	5	5	5	5	5
Net value		16.28 USD	0 USD	22.41 USD	7.59 USD	14.22 USD	11.79 USD	20.29 USD	42.3 USD	12.29 USD	29.36 USD	21.51 USD	24.45 USD
Currency		USD	USD	USD	USD	USD	USD	USD	USD	USD	USD	USD	USD
2. The offer is in accordance with the terms and		Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance	Yes, I am in accordance
The bidder has read and understands all		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Are you entering a bid for this line item?		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
1. The Submitter has read and understands the		Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and	Yes, I have read and
0001 Clear Stadium Bag 12" x 12" x6"-Zipper													
0001 Net price	1 EA	2.99 USD	0 USD	3.06 USD	1.45 USD	2.9 USD	0.99 USD	2.8 USD	7.71 USD	2.65 USD	3.63 USD	2.47 USD	4.71 USD
0001 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0001 Price Unit		1	2500	1	1	1	1	1	1	1	1	1	1
0001 Product ID													
0001 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0001 Net value		2.99 USD	0 USD	3.06 USD	1.45 USD	2.9 USD	0.99 USD	2.8 USD	7.71 USD	2.65 USD	3.63 USD	2.47 USD	4.71 USD
0001 Acceptance Status													
0002 Drawstring Back w/ Mesh Pocket													
0002 Net price	1 EA	2.03 USD	0 USD	2.37 USD	1.53 USD	0.79 USD	0.89 USD	0.74 USD	2.8 USD	1.55 USD	2.5 USD	2.12 USD	1.23 USD
0002 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0002 Price Unit		1	5000	1	1	1	1	1	1	1	1	1	1
0002 Product ID													
0002 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0002 Net value		2.03 USD	0 USD	2.37 USD	1.53 USD	0.79 USD	0.89 USD	0.74 USD	2.8 USD	1.55 USD	2.5 USD	2.12 USD	1.23 USD
0002 Acceptance Status													
0003 Fan (twist, collapsible) 8": Diameter													
0003 Net price	1 EA	0.42 USD	0 USD	0.92 USD	0.37 USD	0.68 USD	0.29 USD	0.58 USD	2.2 USD	0.32 USD	1 USD	0.84 USD	0.99 USD
0003 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0003 Price Unit		1	5000	1	1	1	1	1	1	1	1	1	1
0003 Product ID													
0003 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0003 Net value		0.42 USD	0 USD	0.92 USD	0.37 USD	0.68 USD	0.29 USD	0.58 USD	2.2 USD	0.32 USD	1 USD	0.84 USD	0.99 USD
0003 Acceptance Status													
0004 Fanny Pack 5"H x 14" W x 3" D Zipper													
0004 Net price	1 EA	1.39 USD	0 USD	5.83 USD	1.48 USD	1.98 USD	1.59 USD	4.7 USD	7.04 USD	1.85 USD	1.87 USD	2.58 USD	2.7 USD
0004 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0004 Price Unit		1	500	1	1	1	1	1	1	1	1	1	1
0004 Product ID													
0004 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0004 Net value		1.39 USD	0 USD	5.83 USD	1.48 USD	1.98 USD	1.59 USD	4.7 USD	7.04 USD	1.85 USD	1.87 USD	2.58 USD	2.7 USD
0004 Acceptance Status													
0005 Folder Gloss coated cardstock 12"H x 9"W													
0005 Net price	1 EA	0.39 USD	0 USD	0.79 USD	0.32 USD	0.8 USD	0.44 USD	0.83 USD	2.11 USD	0.75 USD	2.16 USD	1.04 USD	0.69 USD
0005 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0005 Price Unit		1	10000	1	1	1	1	1	1	1	1	1	1
0005 Product ID													
0005 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0005 Net value		0.39 USD	0 USD	0.79 USD	0.32 USD	0.8 USD	0.44 USD	0.83 USD	2.11 USD	0.75 USD	2.16 USD	1.04 USD	0.69 USD
0005 Acceptance Status													
0006 Hand Sanitizer w/ Silicone Strap 1 oz													
0006 Net price	1 EA	1.08 USD	0 USD	0.92 USD	0.72 USD	0.65 USD	1.35 USD	1.55 USD	2.65 USD	0.69 USD	1.71 USD	1.48 USD	1.05 USD
0006 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0006 Price Unit		1	10000	1	1	1	1	1	1	1	1	1	1
0006 Product ID													
0006 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0006 Net value		1.08 USD	0 USD	0.92 USD	0.72 USD	0.65 USD	1.35 USD	1.55 USD	2.65 USD	0.69 USD	1.71 USD	1.48 USD	1.05 USD
0006 Acceptance Status													
0007 Hot/Cold Pack 4-1/4" diameter													
0007 Net price	1 EA	1.02 USD	0 USD	0.92 USD	0.65 USD	0.9 USD	0.79 USD	2.36 USD	2.93 USD	0.65 USD	1.62 USD	1.13 USD	1.39 USD
0007 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0007 Price Unit		1	2500	1	1	1	1	1	1	1	1	1	1
0007 Product ID													
0007 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0007 Net value		1.02 USD	0 USD	0.92 USD	0.65 USD	0.9 USD	0.79 USD	2.36 USD	2.93 USD	0.65 USD	1.62 USD	1.13 USD	1.39 USD
0007 Acceptance Status													
0008 Lanyard 40" BREAKAWAY													
0008 Net price	1 EA	0.28 USD	0 USD	0.86 USD	0.31 USD	0.48 USD	0.55 USD	0.42 USD	1.7 USD	0.39 USD	2.34 USD	0.71 USD	1.17 USD
0008 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0008 Price Unit		1	15000	1	1	1	1	1	1	1	1	1	1
0008 Product ID													
0008 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA
0008 Net value		0.28 USD	0 USD	0.86 USD	0.31 USD	0.48 USD	0.55 USD	0.42 USD	1.7 USD	0.39 USD	2.34 USD	0.71 USD	1.17 USD
0008 Acceptance Status													
0009 Magnet (Clips) 1.75" D x 1.25 W x 3.5 H													
0009 Net price	1 EA	1.12 USD	0 USD	1.11 USD	0.54 USD	0.45 USD	0.79 USD	0.6 USD	2.8 USD	0.52 USD	1.04 USD	1.27 USD	0.99 USD
0009 Unit of Measurement		EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA	EA
0009 Price Unit		1	5000	1	1	1	1	1	1	1	1	1	1
0009 Product ID													
0009 Quantity	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA	1 EA

0009	Net value			1.12 USD		0 USD		1.11 USD		0.54 USD		0.45 USD		0.79 USD		0.6 USD		2.8 USD		0.52 USD		1.04 USD		1.27 USD		0.99 USD	
0009	Acceptance Status																										
0010	Pen w/ Stylus 5-1/2" H																										
0010	Net price	1 EA		0.3 USD		0 USD		0.79 USD		0.22 USD		0.38 USD		0.34 USD		0.68 USD		1.64 USD		0.28 USD		1.08 USD		0.98 USD		0.69 USD	
0010	Unit of Measurement		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		
0010	Price Unit			1		15000		1		1		1		1		1		1		1		1		1		1	
0010	Product ID																										
0010	Quantity	1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA	
0010	Net value			0.3 USD		0 USD		0.79 USD		0.22 USD		0.38 USD		0.34 USD		0.68 USD		1.64 USD		0.28 USD		1.08 USD		0.98 USD		0.69 USD	
0010	Acceptance Status																										
0011	Phone Stand 2" x 2.25"																										
0011	Net price	1 EA		1.99 USD		0 USD		0.73 USD		0 USD		0.65 USD		1.49 USD		1.71 USD		1.75 USD		0.23 USD		2.48 USD		1.81 USD		1.37 USD	
0011	Unit of Measurement		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		
0011	Price Unit			1		3750		1		3750		1		1		1		1		1		1		1		1	
0011	Product ID																										
0011	Quantity	1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA	
0011	Net value			1.99 USD		0 USD		0.73 USD		0 USD		0.65 USD		1.49 USD		1.71 USD		1.75 USD		0.23 USD		2.48 USD		1.81 USD		1.37 USD	
0011	Acceptance Status																										
0012	Reusable bag folding w/ pouch																										
0012	Net price	1 EA		0.95 USD		0 USD		1.8 USD		0 USD		2.38 USD		0.99 USD		1.22 USD		1.91 USD		0.92 USD		2.96 USD		1.45 USD		2.99 USD	
0012	Unit of Measurement		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		
0012	Price Unit			1		3750		1		3750		1		1		1		1		1		1		1		1	
0012	Product ID																										
0012	Quantity	1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA	
0012	Net value			0.95 USD		0 USD		1.8 USD		0 USD		2.38 USD		0.99 USD		1.22 USD		1.91 USD		0.92 USD		2.96 USD		1.45 USD		2.99 USD	
0012	Acceptance Status																										
0013	Stress Ball (foam) Star Shape 3-1/4" dia																										
0013	Net price	1 EA		0.77 USD		0 USD		1.11 USD		0 USD		0.7 USD		0.74 USD		1.05 USD		2.2 USD		0.36 USD		1.33 USD		1.22 USD		1.49 USD	
0013	Unit of Measurement		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		
0013	Price Unit			1		5000		1		5000		1		1		1		1		1		1		1		1	
0013	Product ID																										
0013	Quantity	1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA	
0013	Net value			0.77 USD		0 USD		1.11 USD		0 USD		0.7 USD		0.74 USD		1.05 USD		2.2 USD		0.36 USD		1.33 USD		1.22 USD		1.49 USD	
0013	Acceptance Status																										
0014	Stress Ball (Gel/Flour) 2" dia																										
0014	Net price	1 EA		1.55 USD		0 USD		1.2 USD		0 USD		0.48 USD		0.55 USD		1.05 USD		2.86 USD		1.15 USD		3.64 USD		2.41 USD		2.99 USD	
0014	Unit of Measurement		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		EA		
0014	Price Unit			1		5000		1		5000		1		1		1		1		1		1		1		1	
0014	Product ID																										
0014	Quantity	1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA		1 EA	
0014	Net value			1.55 USD		0 USD		1.2 USD		0 USD		0.48 USD		0.55 USD		1.05 USD		2.86 USD		1.15 USD		3.64 USD		2.41 USD		2.99 USD	

STATE OF SOUTH CAROLINA
WINTHROP BUILDING
220 EXECUTIVE CENTER DRIVE
COLUMBIA SC 29210-8420

Statement of Award

Posting Date: September 26, 2025

Solicitation: 5400027870
Description: SCDJJ PROMOTIONAL ITEMS
Agency: South Carolina Department of Juvenile Justice (SCDJJ)

The State awards the contract(s) noted below. This document is the final Statement of Award, effective October 11, 2025. Unless otherwise provided in the solicitation, the final statement of award serves as acceptance of your offer.

Contractor should not perform work on or incur any costs associated with the contract prior to the effective date of the contract. Contractor should not perform any work prior to the receipt of a purchase order from the using governmental unit. The State assumes no liability for any expenses incurred prior to the effective date of the contract and issuance of a purchase order.

If you are aggrieved in connection with the award of the contract, you may be entitled to protest, but only as provided in Section 11-35-4210. To protest an award, you must (i) submit notice of your intent to protest within seven 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. See clause entitled "Protest-CPO". The grounds of the protest and the relief requested must be set forth with enough particularity to give notice of the issues to be decided.

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, or (b) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. [02-2B122-2]

Contract Number: 4400038130
Awarded To: FYRE MARKETING LLC (7000327530)
13115 3RD ST E
MADEIRA BEACH FL 33708

Maximum Contract Period: October 12, 2025 through October 11, 2030

Item	Description	Unit Price
00001	Clear Stadium Bag 12" x 12" x6" -Zipper	\$ 0.99
00002	Fan (twist, collapsible) 8: Diameter	\$ 0.29
00003	Fanny Pack 5"H x 14" W x 3" D Zipper	\$ 1.59
00004	Folder Gloss coated cardstock 12"H x 9"W	\$ 0.44
00005	Hand Sanitizer w/ Silicone Strap 1 oz	\$ 1.35
00006	Hot/Cold Pack 4-1/4" diameter	\$ 0.79
00007	Lanyard 40" BREAKAWAY	\$ 0.55
00008	Magnet (Clips) 1.75" D x 1.25 W x 3.5 H	\$ 0.79
00009	Pen w/ Stylus 5-1/2" H	\$ 0.34
00010	Phone Stand 2" x 2.25"	\$ 1.49
00011	Reusable bag folding w/ pouch	\$ 0.99
00012	Stress Ball (foam) Star Shape 3-1/4" dia	\$ 0.74
00013	Stress Ball (Gel/Flour) 2" dia	\$ 0.55
00014	Drawstring Back w/ Mesh Pocket	\$ 0.89

Procurement Officer
ERIN BURDICK



L. Eden Hendrick
Executive Director

P.O. Box 21069
Columbia, SC 29221-1069
djj.sc.gov

Henry McMaster
Governor



To:
Nitsom Promotional Manufacturing Corp.
P.O. Box 88840
Carol Stream, IL 60188
Tel: 416-850-7860
Email: terrence@nitsompromos.com

October 3, 2025

Subject: Response to Protest of Award – Solicitation No. 5400027870 (SCDJJ Promotional Items)

Dear Mr. Nitsom,

South Carolina Department of Juvenile Justice (DJJ) have reviewed your letter and the concerns raised regarding the clause *Offering by Item or Lot (JAN 2006)*.

Please note that this clause was included in **Section II.B – Instructions to Offerors – Special Instructions** of the solicitation. The purpose of the clause was to provide guidance to offerors on how to submit their offers in the event that DJJ chose to award by item or by lot. However, the actual method of award was delineated in **Section VI – Award Criteria** of the solicitation document.

Section VI included the following clauses:

- **Award Criteria – Bids (JAN 2006):** Award will be made to the lowest responsive and responsive bidder(s).
- **Award to One Offeror (JAN 2006):** Award will be made to one Offeror.
- **Calculating the Low Bid (Modified):** Low bid shall be calculated by adding each line item to determine the total cost of ownership. Quantities were estimated for evaluation purposes only.

Based on the criteria listed above, DJJ made the award to the single lowest responsive and responsible bidder, as stated in the solicitation.

Therefore, we respectfully request that you withdraw your protest, as the award was made in full accordance with the published award criteria.

Please provide a response by 5:00 PM on Monday 6, 2025.

Sincerely,

LaTasha Terry, MBA, NIGP-CPP, CPPO
Director of Procurement and Support Services
220 Executive Center Drive
Columbia, SC 29212
p 803.896.8289 | m 803.521.6512
e LatashaATerry@djj.sc.gov

Formal Rebuttal Letter

To:

Latasha A. Terry, MBA, NIGP-CPP, CPPO
Director of Procurement and Support Services
South Carolina Department of Juvenile Justice
220 Executive Center Drive
Columbia, SC 29212
Email: LatashaATerry@djj.sc.gov

From:

Nitsom Promotional Manufacturing Corp.
P.O. Box 88840
Carol Stream, IL 60188
Tel: 416-850-7860
Email: terrence@nitsompromos.com

Date: October 5, 2025

Subject: Rebuttal – Response to Protest of Award, Solicitation No. 5400027870 (SCDJJ Promotional Items)

Dear Ms. Terry,

Thank you for your October 3, 2025 response to our protest regarding the award of Solicitation No. 5400027870. We appreciate your prompt attention and the detailed clarification provided.

After reviewing your response, Nitsom Promotional Manufacturing Corp. respectfully maintains that the award process for this solicitation remains inconsistent with the intent and structure of the solicitation documents. Our position is supported by the following considerations:

1. Conflict Between Section II.B and Section VI

In Section II.B, *Offering by Item or Lot (JAN 2006)* explicitly allows:

“Offers may be submitted for complete lots or for one or more items not within lots.”

This clause indicates that the solicitation was designed to permit **item-based bidding and evaluation**, giving offerors the option to compete for individual items. However, Section VI later states “*Award will be made to one offeror*”. The coexistence of these

clauses creates a **direct procedural conflict**, as offerors were not notified prior to bid submission that the evaluation would disregard the per-item pricing structure.

Under South Carolina procurement best practices, when a solicitation contains conflicting evaluation criteria, clarification is typically issued through an **Addendum** or pre-bid Q&A. No such clarification was issued in this case.

2. Intent and Practical Application of “Calculating the Low Bid (Modified)”

Your letter cites that:

“Low bid shall be calculated by adding each line item to determine the total cost of ownership.”

While this method can be used for internal cost analysis, it does **not automatically mandate a single-award structure**. In fact, most solicitations using similar language still allow award **by item** if multiple vendors offer the lowest prices for different line items.

Furthermore, the online procurement portal (vendorportal.sc.gov) permitted submission of partial line-item bids, reinforcing the reasonable expectation that line-item award was permissible.

3. Fair Competition and Transparency

Nitsom submitted the **lowest responsive bid** on several individual items, including:

- Hand Sanitizer (1 oz): \$0.65 (vs. Awarded \$1.35)
- Magnet Clips: \$0.45 (vs. Awarded \$0.79)
- Drawstring Bag w/ Mesh Pocket: \$0.79 (vs. Awarded \$0.89)

If the solicitation had indeed been evaluated “by item,” our company would have been awarded at least these specific line items.

The absence of prior notice that DJJ would treat this as an “all-or-none” award deprived bidders of the opportunity to structure their offers accordingly.

4. Request for Independent Review

We respectfully request that the **Materials Management Office (MMO)** review this procurement under Section 11-35-4210 of the South Carolina Procurement Code, specifically regarding the ambiguity between *Section II.B* and *Section VI*.

If MMO determines that DJJ's interpretation was reasonable, we will respectfully accept that finding. However, given the textual and procedural discrepancies, a secondary review is warranted to ensure compliance and fairness in the award process.

Conclusion

Nitsom Promotional Manufacturing Corp. deeply values the integrity of South Carolina's procurement process and appreciates DJJ's professionalism.

We believe an independent review will clarify the intent of the solicitation and ensure that all vendors are evaluated under consistent and transparent criteria.

Sincerely,

Terrence Hu

President

Nitsom Promotional Manufacturing Corp.



Exhibit G

STATE OF SOUTH CAROLINA	)	BEFORE THE
	)	CHIEF PROCUREMENT OFFICER
COUNTY OF RICHLAND	)	
	)	
	)	CASE NO.
Nitsom Promotional Manufacturing Corp.,	)	
	)	
Petitioner/Protestant,	)	SOUTH CAROLINA DEPARTMENT OF
	)	JUVENILE JUSTICE'S
	)	REPLY TO PROTEST OF AWARD
vs.	)	
	)	SOLICITATION NO. 5400027870
	)	SCDJJ Promotional Items
South Carolina Department of Juvenile	)	
Justice,	)	
	)	
Respondent.	)	

The South Carolina Department of Juvenile Justice (“SCDJJ” or “DJJ”) responds to the protest of Nitsom Promotional Manufacturing Corp. (“Nitsom”), as follows:

1. Nitsom’s protest should be dismissed as the same is a protest of the Award, but the protest grounds constitute a protest of the Solicitation. Nitsom argues that it was the low bidder on specific items and wrongly states that the Solicitation allows for an award by item. Nitsom objects to the following language in the Solicitation under “Offering by Item or Lot (JAN 2006) which it asserts indicates that an award could be made by item. However, it notes in its “Rebuttal” (attached as Exhibit A) that “The Coexistence of these clauses creates a direct procedural conflict, as offerors were not notified prior to bid submission that the evaluation would disregard the per-item pricing structure.” Nitsom had the opportunity to ask questions about the Solicitation and seek clarification on any questions or concerns. 41 questions were asked and answered during the procurement process, and a pre-bid meeting was held.

2. An examination of the Solicitation as required by the DUTY TO INQUIRE section on page 8 of the Solicitation. That section explicitly states that the “Offeror assumes responsibility

for any patent ambiguity in the Solicitation that the Offeror does not bring to the State's attention. The Protestant relies on the OFFERING BY ITEM OR LOT Paragraph on Page 14 of the solicitation and ignores the AWARD CRITERIA on page 21 of the Solicitation, which provides that "Award will be made to one Offeror." If there is an issue at all, it is a patent ambiguity that the Protestant failed to clarify as required by the Solicitation.

3. A patent ambiguity requires that the Solicitation, rather than the award, be the subject of the protest. S.C. Code Ann. §11-35-4210(1)(a) provides that a prospective bidder . . . who is aggrieved in connection with a solicitation shall protest . . . within fifteen days of the date of issuance of the Invitation for Bids, Request for Proposals, or other solicitation documents or any amendment to it if the amendment is in question." Since Nitsom's protest is clearly a protest of the solicitation, it would have had to be filed no later than March 25, 2025, which is that date, fifteen days after the last Extension in this procurement. However, DSS would assert that the actual date would have been January 28, 2025, since the language complained of was in the original solicitation and was neither questioned nor modified.

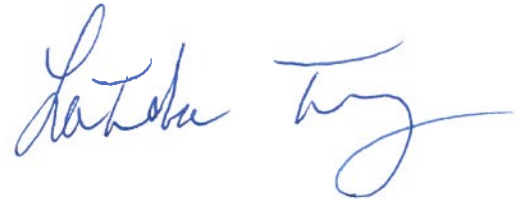
4. Nitsom filed its protest on September 30, 2025, and as a protest of the Solicitation, the protest is untimely.

5. Even if the CPO were to find that the protest was not a protest of the Solicitation, Nitsom's protest should be denied because it raises no irregularity or mistake in the award as DJJ strictly complied with the Award Criteria articulated in the Solicitation and made its award to the Single Responsive and Responsible Offeror whose bid provided the best value to the state in accordance with the Solicitation, as amended.

WHEREFORE, having responded fully to the allegations contained in Nitsom's protest, SCDJJ requests that:

1. The Chief Procurement Officer dismisses the protest as an untimely protest of the Solicitation or, in the alternative, dismiss the protest as without merit.
2. SCDJJ requests such other and further relief as the CPO deems just and proper.

Respectfully submitted,



La Tasha Terry, MBA, NIGP-CPP, CPPO
Director of Procurement and Support Services
Administrative Services
Office of Procurement and Support Services
Winthrop Building
220 Executive Center Drive
Columbia, SC 29212
p 803.896.8289 | m 803.521.6512
e LatashaATerry@djj.sc.gov

Exhibit H



Fyre Marketing Advisors LLC
13115 3rd St E Unit 1B
Madeira Beach, FL 33708
C/O Margina Arguello, Humberto
Arguello

Dear STATE OF SOUTH CAROLINA,

We respectfully submit this letter to formally reject the protest of award recently filed regarding the **SCDJJ PROMOTIONAL ITEMS**.

FYREMARKETING LLC was the lowest responsive and responsible bidder overall in this solicitation. Throughout the process, our company has demonstrated full compliance with all requirements and specifications outlined in the bid documents.

In good faith, we have made substantial investments in product samples, customer service coordination, and administrative efforts to ensure accuracy, transparency, and full responsiveness to all requests from your team. These commitments required both time and financial resources, made with the understanding that the evaluation would be conducted fairly based on the published criteria.

We firmly believe that, as the lowest overall bidder and a fully compliant vendor, FYREMARKETING LLC rightfully deserves the award. It would be unfair for our company to absorb the cost of our extensive preparation and compliance after having met all obligations and contributed positively throughout the process.

For these reasons, we respectfully but firmly reject the protest of award submitted by the other bidder and request that the award to FYREMARKETING LLC be maintained.

We sincerely appreciate your time and attention to this matter and remain available for any clarification or supporting documentation you may require.