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GRANT GILLESPIE
EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

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

MICHAEL B. SPICER
INFORMATION TECHNOLOGY MANAGEMENT OFFICER
(803) 737-0600
FAX: (803) 737-0639

Protest Decision

Matter of: eBridge Business Solutions LLC
Case No.: 2021-210
Posting Date: June 1, 2021
Contracting Entity: State Fiscal Accountability Authority
Solicitation No.: 5400020717
Description: STC Online Reverse Auction Services

DIGEST

Protest alleging undisclosed additional criteria used in scoring the Price Proposals is denied.
eBridge Business Solutions LLC's letter of protest is attached as Exhibit A.

AUTHORITY

The Procurement Director¹ conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on materials in the procurement file and applicable law and precedents.

BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	January 5, 2021
Amendment 1 Issued	January 13, 2021
Amendment 2 Issued	January 25, 2021

¹ The Materials Management Officer delegated the administrative review of this protest to the Procurement Director for the State Fiscal Accountability Authority.

Intent to Award Posted	March 23, 2021
Intent to Protest Received	March 30, 2021
Protest Received	April 6, 2021

The State Fiscal Accountability Authority (SFAA) issued this Request for Proposal in order to establish a State Term Contract with a service provider to provide an on-line system and human services to enable and facilitate reverse auctions for Using Governmental Units. Three proposals were received on February 10, 2021. Proposals were evaluated against four evaluation criteria published in Amendment 2 to the solicitation:

- Proposed Online System (35)
- Baseline Methodology (30)
- Pricing (25)
- Value-Add Features & Services (10)

Three evaluators scored the non-price evaluation factors. Pricing was submitted by completing the Bid Schedule provided in Amendment 2. The Bid Schedule consisted of eight line-items. For seven of the items, offerors entered a proposed percentage of the actual auction value. Line Items 1-5 provided for tiered percentages based on auction dollar value for non-indefinite delivery, indefinite quantity contracts. Item 6 provided a single percentage for all Statewide Term Contracts. Item 8 provided a single percentage for non-statewide term indefinite delivery, indefinite quantity (IDIQ) contracts. Item 8 provided a single price-per-gallon fee for any fuel solicitations. The actual fee paid to the successful offeror would be calculated using these percentages during the term of the contract as Reverse Auctions are conducted and awarded. For purposes of evaluating price, the Procurement Officer used the percentages submitted in the bid schedule to calculate an evaluated amount for each offeror based on projected usage of the contract. The Procurement Officer then utilized the evaluated amount to determine the number of price points awarded to each offeror. Based on these calculations, price points were awarded as follows:

Vendor	Evaluated Fee Total	Price Points
EASiBuy LLC	\$1,315,075.00	25.00
eBridge Business Solutions LLC	\$2,785,125.00	11.80
Velocity Procurement LLC	\$2,311,875.00	14.22

The price points were then added to the non-price scores from the evaluation panel to determine the highest ranked offeror. The final rankings were as follows:

EasiBuy LLC	254 points
eBridge Business Solutions LLC	248.41 points
Velocity Procurement LLC	141.66 points

eBridge Business Solutions LLC (eBridge) protests the award to EASiBuy LLC (EASiBuy) which was posted on March 23, 2021.

ANALYSIS

eBridge's issue of protest is that the Procurement Officer utilized undisclosed additional criteria in scoring the price proposals. eBridge argues:

The evaluation methodology used in scoring the Price Proposals included Evaluated Amounts that weighted each line item (see attached Reverse Auction Price Proposal Evaluation). These additional evaluation criteria were not stated in the request for proposals as required by Section 11-35-1530 (7) Selection and Ranking which states, "Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the State, considering only the evaluation factors stated in the request for proposals."

The solicitation listed three non-price evaluation criteria – Proposed Online System (35), Baseline Methodology (30), and Value-Add Features & Services (10). These three factors were evaluated by the evaluation panel and assigned scores in accordance with the weightings listed in the solicitation. Price was the fourth evaluation criteria and weighted at 25 points. The Procurement Officer used the percentages and fee provided in the bid schedule to determine a total evaluated amount and then converted that into a Price score in accordance with the

weightings listed in the solicitation. The evaluated amounts were not additional evaluation criteria but were simply estimates used to determine an evaluated price. No additional evaluation criteria were used to score the proposals. This issue of protest is denied.

eBridge further argues:

Solicitation 5400020717 STC Online Reverse Auction
Services does not reference the weighted Evaluated Amounts
in the Bidding Schedule (see below) or any other section of the
Solicitation.

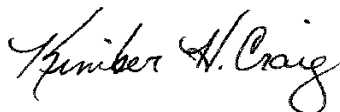
Failure to disclose all evaluation criteria in the request for
proposal, which includes the Evaluated Amounts, resulted in
Offerors being unable to submit informed, competitive and best
pricing.

The solicitation clearly identified price as an evaluation factor. The solicitation also defined the Price Proposal as Section VII. Bidding Schedule/Price-Business Proposal. The bidding schedule consists of eight line-items, of which seven are priced as a percentage rather than a monetary price. It is apparent that some process would be required to convert the provided percentages/fee to points for the price evaluation. To the extent that Offerors were unable to “submit informed, competitive and best pricing” without information concerning this process, it should have been raised as a protest of the solicitation or amendments. Any protest of the solicitation or amendments at this point is untimely.

DECISION

For the reasons stated above, the protest of eBridge Business Solutions, LLC is denied.

For the Materials Management Office



Kimber H. Craig
Procurement Director

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised May 2020)

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

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

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

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

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

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1205 Pendleton Street, Suite 367, Columbia, SC 29201**

Name of Requestor

Address

City

State

Zip

Business Phone

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

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

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

Notary Public of South Carolina

Requestor/Appellant

My Commission expires: _____

For official use only: _____ Fee Waived _____ Waiver Denied

Chairman or Vice Chairman, SC Procurement Review Panel

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

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



10200 Forest Green Blvd., Ste. LL1
Louisville, KY 40223 (502) 491-1980
eBridgeglobal.com

April 6, 2021

Via Email to protest-itmo@itmo.sc.gov

Chief Procurement Officer
Information Technology Management Office
1201 Main Street, Suite 600
Columbia, SC 29201

Chief Procurement Officer,

We are submitting a protest to the Award of Solicitation 5400020717 STC Online Reverse Auction Services. The grounds of the protest are undisclosed additional criteria used in scoring the Price Proposals.

The evaluation methodology used in scoring the Price Proposals included Evaluated Amounts that weighted each line item (see attached Reverse Auction Price Proposal Evaluation). These additional evaluation criteria were not stated in the request for proposals as required by Section 11-35-1530 (7) Selection and Ranking which states, "Proposals must be evaluated using only the criteria stated in the request for proposals and there must be adherence to weightings that have been assigned previously. Once evaluation is complete, all responsive offerors must be ranked from most advantageous to least advantageous to the State, considering only the evaluation factors stated in the request for proposals."

Additionally, Section VI. Award Criteria of Solicitation 5400020717 STC Online Reverse Auction Services states:

EVALUATION FACTORS -- PROPOSALS (JAN 2006)

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

- Proposed Online System (35)
- Baseline Methodology (30)
- Pricing (25)
- Value-Add Features & Services (10)

Solicitation 5400020717 STC Online Reverse Auction Services does not reference the weighted Evaluated Amounts in the Bidding Schedule (see below) or any other section of the Solicitation.

VIII. BIDDING SCHEDULE / PRICE-BUSINESS PROPOSAL

PRICE PROPOSAL (JAN 2006)

Notwithstanding any other instructions herein, you shall submit the following price information as a separate document: [08-8015-1]

All fees will be paid to the Contractor by the winning bidder of the reverse auction that is successfully awarded a contract as a result of such reverse auction.

PART 1

Insert the proposed fee as a percentage of the actual auction value for each range. **This is for non-indefinite delivery, indefinite quantity contracts only.** Fee will be calculated based on the ultimately awarded contract value.

Line Number	Auction Dollar Value	Proposed Fee (%)
1	\$0 - \$1,000,000.00	
2	\$1,000,000.01 - \$3,000,000	
3	\$3,000,000.01 - \$5,000,000	
4	\$5,000,000.01 - \$10,000,000	
5	≥ \$10,000,000.01	

PART 2

Insert the proposed fee as a percentage for all **Statewide Term Contracts**. Fee will be calculated based on the products and/or services actually acquired under the awarded contract(s).

Line Number	Contract Type	Proposed Fee (%)
6	Statewide Term Contracts	

PART 3

Proposed fee must be less than or equal to the Maximum Allowable Fee. Contractor will be compensated based on actual fuel purchases under the awarded contract(s).

Line Number	Commodity	Maximum Allowable Fee (price per gallon)	Proposed Fee (price per gallon)
7	Fuel (all types)	\$0.015	

PART 4

Insert the proposed fee as a percentage for **non-statewide term** indefinite delivery, indefinite quantity (IDIQ) contracts established by one or more UGUs. Fee will be calculated based on the products and/or services actually acquired under the awarded contract(s).

Line Number	Contract Type	Proposed Fee (%)
8	UGU IDIQ	

Failure to disclose all evaluation criteria in the request for proposal, which includes the Evaluated Amounts, resulted in Offerors being unable to submit informed, competitive and best pricing.

We are requesting that either:

1. All responsive Offerors be permitted to resubmit Price Proposals with Evaluated Amounts disclosed on each line item, OR
2. Solicitation 5400020717 STC Online Reverse Auction Services be cancelled and reissued to include Evaluated Amounts that will be used to score the Price Proposals.

Sincerely,

Cindy Sisloff

Cindy Sisloff
President

Attachments

5400020717 - Reverse Auction Price Proposal Evaluation**EASiBuy LLC**

	Proposed Fee	Evaluated Amount	Evaluated Fee
Line 1	0.98%	\$12,750,000.00	\$124,950.00
Line 2	0.75%	\$17,750,000.00	\$133,125.00
Line 3	0.75%	\$22,500,000.00	\$168,750.00
Line 4	0.68%	\$23,500,000.00	\$159,800.00
Line 5	0.68%	\$36,500,000.00	\$248,200.00
Line 6	0.75%	\$40,500,000.00	\$303,750.00
Line 7	0.0098	5000000.00	\$49,000.00
Line 8	0.75%	\$17,000,000.00	\$127,500.00
	EVALUATED FEE TOTAL		\$1,315,075.00

eBridge Business Solutions LLC

	Proposed Fee	Evaluated Amount	Evaluated Fee
Line 1	2.75%	\$12,750,000.00	\$350,625.00
Line 2	2.50%	\$17,750,000.00	\$443,750.00
Line 3	1.50%	\$22,500,000.00	\$337,500.00
Line 4	1.00%	\$23,500,000.00	\$235,000.00
Line 5	0.75%	\$36,500,000.00	\$273,750.00
Line 6	1.50%	\$40,500,000.00	\$607,500.00
Line 7	0.0139	5000000.00	\$69,500.00
Line 8	2.75%	\$17,000,000.00	\$467,500.00
	EVALUATED FEE TOTAL		\$2,785,125.00

Velocity Procurement LLC

	Proposed Fee	Evaluated Amount	Evaluated Fee
Line 1	2.00%	\$12,750,000.00	\$255,000.00
Line 2	1.75%	\$17,750,000.00	\$310,625.00
Line 3	1.50%	\$22,500,000.00	\$337,500.00
Line 4	1.00%	\$23,500,000.00	\$235,000.00
Line 5	0.75%	\$36,500,000.00	\$273,750.00
Line 6	1.50%	\$40,500,000.00	\$607,500.00
Line 7	0.0075	5000000.00	\$37,500.00
Line 8	1.50%	\$17,000,000.00	\$255,000.00
	EVALUATED FEE TOTAL		\$2,311,875.00

Lowest Price	\$1,315,075.00
Maximum Pricing Points	25

Vendor	Evaluated Fee Total	Price Points
EASiBuy LLC	\$1,315,075.00	25.00
eBridge Business Solutions LLC	\$2,785,125.00	11.80
Velocity Procurement LLC	\$2,311,875.00	14.22

TOTAL SCORE SUMMARY

Vendor	Evaluator 1	Evaluator 2	Evaluator 3	Total
EASiBuy LLC	90.00	76.00	88.00	254.00
eBridge Business Solutions LLC	85.80	75.80	86.80	248.41
Velocity Procurement LLC	54.22	41.22	46.22	141.66

EVALUATOR 1

Evaluation Factor	EASiBuy LLC	eBridge Business Solutions LLC	Velocity Procurement LLC
Proposed Online System (35)	30	35	20
Baseline Methodology (30)	28	30	15
Pricing (25)	25.00	11.80	14.22
Value-Add Features & Services (10)	7	9	5
Total	90.00	85.80	54.22

EVALUATOR 2

Evaluation Factor	EASiBuy LLC	eBridge Business Solutions LLC	Velocity Procurement LLC
Proposed Online System (35)	25	32	15
Baseline Methodology (30)	20	26	10
Pricing (25)	25.00	11.80	14.22
Value-Add Features & Services (10)	6	6	2
Total	76.00	75.80	41.22

EVALUATOR 3

Evaluation Factor	EASiBuy LLC	eBridge Business Solutions LLC	Velocity Procurement LLC
Proposed Online System (35)	30	35	15
Baseline Methodology (30)	25	30	15
Pricing (25)	25.00	11.80	14.22
Value-Add Features & Services (10)	8	10	2
Total	88.00	86.80	46.22