

**STATE OF SOUTH CAROLINA
COUNTY OF RICHLAND**

In the Matter of Protest of:

DesignLab, Inc.

Department of Public Safety
IFB No. 5400003998
Polo Shirts w. Embroidery

BEFORE THE CHIEF PROCUREMENT OFFICER

DECISION

CASE NO.: 2012-114

POSTING DATE: June 11, 2012

MAILING DATE: June 11, 2012

This matter is before the Chief Procurement Officer (CPO) pursuant to a letter of protest dated April 16, 2012 from DesignLab, Inc. (DesignLab). With this invitation for bids (IFB), the Department of Public Safety (DPS) attempts to procure polo shirts with embroidery. The IFB asked for bids on two items: short sleeve polo shirts with embroidery and long sleeve polo shirts with embroidery. After evaluating the bids received, DPS posted a statement of award to Reliance Management d/b/a Logodogz (LogoDogz) for both items. DesignLab protested DPS's award to LogoDogz. Its protest email alleged "[t]he Solicitation Specifications clearly state, the 'Shirt must have a no-roll collar even after repeated washing.' The shirt in question, Port Authority K420 bid by the intended awardee LogoDogz does not have a no-roll collar. Port Authority does not state the shirt has a no-roll collar nor do they claim the collar will not roll." In order to resolve the matter, the CPO conducted a hearing May 30, 2012. Appearing before the CPO were DesignLab, represented by Patricia Spires,¹ and DPS, represented by Warren Ganjehsani, Esq. Although LogoDogz was invited to the hearing, LogoDogz did not appear.

NATURE OF PROTEST

The letter of protest is attached and incorporated herein by reference.

¹ Doris Moller, DesignLab's owner, signed the protest letter. Ms. Spires manages DesignLab's Columbia store.

FINDINGS OF FACT

The following dates are relevant to the protest:

1. On February 15, 2012, DPS published the IFB. The specifications required “[s]hirt must have a no-roll collar even after repeated washing. (Ex. 1, Scope of Work/Specifications)
2. On March 1, 2012, DPS issued Amendment #1. (Also Ex. 1)
3. On March 5, 2012, DPS opened the bids received.
4. On April 6, 2012, DPS posted a Statement of Award to LogoDogz for both the short sleeve and the long sleeve polo shirts. (Ex. 2)
5. On April 16, 2012, DesignLab filed its protest with the CPO.

CONCLUSIONS OF LAW

Regarding award of an IFB, the Consolidated Procurement Code requires “notice of an award or an intended award of a contract to the lowest responsive and responsible bidders whose bid meets the requirements set forth in the invitation for bid.” (Section 11-35-1520(10)) The Code defines a responsive bidder as “a person who has submitted a bid or offer which conforms in all material aspects to the invitation for bids or request for proposals.” (Section 11-35-1410(7)). DesignLab alleges that LogoDogz’s bid was not responsive to the specifications.

LogoDogz offered the lowest bid price. In its response, LogoDogz stated no exception to the bid specifications. DPS evaluated LogoDogz’s bid, including the sample shirts submitted with the bid, and determined LogoDogz’s bid responsive. Captain C.S. Watford of the Highway Patrol manages the Department’s Patrol Supply. He stated that DPS has washed Logodogz’s sample shirts repeatedly without the collars rolling up.

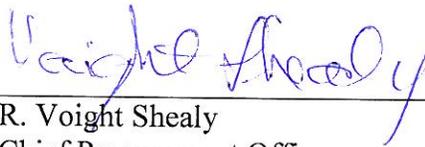
DesignLab alleged “[t]he shirt in question, Port Authority K420 bid by the intended awardee LogoDogz does not have a no-roll collar.” DesignLab offered a sample of the short sleeve polo shirt it provides DPS under its current contract for the same item and a sample of the short sleeve shirt it offered with this bid. DPS submitted one of the sample short sleeve shirts

offered by LogoDogz. Ms. Spires pointed out distinctions between the collars of LogoDogz's sample and DesignLab's sample, notably a stiffener sewn into the latter. However, she stated DesignLab's manufacturing process was not the only way to make a no-roll collar. Asked if "no-roll collar" was a term of art in the apparel industry, she answered "no." In response to a question by the CPO, Ms. Spires stated there is a "little bit of difference" in the price of a no-roll collar from one not manufactured not to roll, but she offered no evidence or testimony regarding what that price difference might be.

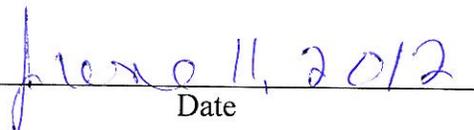
DesignLab also alleged, "Port Authority does not state the shirt has a no-roll collar nor do they claim the collar will not roll." By offering a bid for this IFB, LogoDogz agreed to all the specifications. It is incumbent upon LogoDogz to supply shirts to DPS that conform to those specifications. It is not required to affirm conformance with each individual specification.

DETERMINATION

The protestant has the burden to prove by a preponderance of the evidence the issues that it alleges. *See generally, Protest of DP Consultants, Inc. and Horizon Software Systems, Inc., Panel Case No. 1998-6.* DesignLab simply has not met its burden of proof in this case. Therefore, the protest is denied.



R. Voight Shealy
Chief Procurement Officer
For Supplies and Services



Date

Columbia, S.C.

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW
Protest Appeal Notice (Revised March 2012)

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: www.procurementlaw.sc.gov

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

FILING FEE: Pursuant to Proviso 83.1 of the 2011 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 hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waived." 2011 S.C. Act No. 73, Part IB, § 83.1. PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, an incorporated business must retain 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).

Skinner, Gail

From: Protest-MMO <Protest-MMO@mmo.sc.gov>
Sent: Monday, April 16, 2012 4:56 PM
To: _MMO - Procurement; Shealy, Voight; Skinner, Gail
Subject: FW: Solicitation: 5400003998
Attachments: K420 Specs.pdf

From: DesignLab, Inc.[SMTP:DESIGNLAB2@AOL.COM]
Sent: Monday, April 16, 2012 4:55:15 PM
To: Protest-MMO
Subject: Solicitation: 5400003998
Auto forwarded by a Rule

Chief Procurement Officer,

Designlab, Inc. would like to protest the Statement of Award to Solicitation 5400003998. The Solicitation Specifications clearly state, the "Shirt must have a no-roll collar even after repeated washing." The shirt in question, Port Authority K420 bid by the intended awardee LogoDogz does not have a no-roll collar. Port Authority does not state the shirt has a no-roll collar nor do they claim the collar will not roll. Attached are specifications for the Port Authority K420.

Thank you,

Doris Moller
DesignLab, Inc.
toll free 1-800-786-7464
phone 864-297-7199, ext. 236
fax 864-297-9551
www.designlabonline.com

PORT AUTHORITY

Pique Knit Polo K420



A favorite year after year, these polos are known for their exceptional range of colors, styles and sizes. The soft pique knit is shrink resistant and easy to care for, so your group will always look its best.

- 7-ounce, 100% ring spun combed cotton heavyweight pique (pre-shrunk)
- Garment washed for softness
- Double-needle stitching throughout
- Flat knit collar and cuffs
- Horn-tone buttons
- Locker patch
- Side vents

CARE INSTRUCTIONS

Machine wash cold with like colors. Do not bleach. Tumble dry low. Warm iron if necessary.

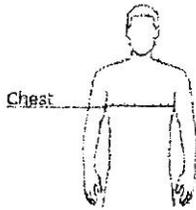


front



back

HOW TO MEASURE



CHEST

With arms down at sides, measure around the upper body, under arms and over the fullest part of the chest.

SIZE CHART

	XS	S	M	L	XL	2XL	3XL	4XL	5XL	6XL
Chest	32-34	35-37	38-40	41-43	44-46	47-49	50-53	54-57	58-60	61-63

COLOR INFORMATION

 Athletic Gold PMS 137 C	 Bark PMS 411 C	 Black PMS Nt Black C	 Blueberry PMS 7682 C	 Burgundy PMS 604 C	 Classic Navy PMS 433 C	 Dark Green PMS 5407 C	 Faded Blue PMS 655C	 Faded Olive PMS 417 C
 Forest PMS 3308 C	 Ivory PMS 7490 C	 Khaki Heather PMS 7605 C	 Light Blue PMS 644 C	 Light Pink PMS 489 C	 Navy PMS 633 C	 Orange PMS 172 C	 Oxford PMS 414 C	 Pistachio PMS 7492 C
 Purple PMS 669 C	 Red PMS 200 C	 Royal PMS 854 L	 Sealoom PMS 5407 C	 Steel Grey PMS 7640 C	 Stone PMS 7632 C	 Sunset Red PMS 1607 C	 Turquoise PMS 319 C	White PMS No Match