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EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** Santana Pressure Cleaning Services, Inc.

**Case No.:** 2017-118

**Posting Date:** November 1, 2016

**Contracting Entity:** Department of Juvenile Justice

**Solicitation No.:** 5400012155

**Description:** SCDJJ Pressure Washing

### DIGEST

Protest of an award alleging successful bidder is non-responsible is dismissed where contract award was less than \$50,000. Santana Pressure Cleaning Services' (SPC) letter of protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence and applicable law and precedents.

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<sup>1</sup> The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

## **BACKGROUND**

<i>Event</i>	<i>Date</i>
Solicitation Issued	09/15/2016
Amendment 1 Issued	09/27/2016
Award Issued	10/21/2016
Protest Received	10/24/2016

## **ANALYSIS**

The South Carolina Consolidated Procurement Code (Code) grants any actual bidder, offeror, contractor, or subcontractor the right to protest the award or intended award of a contract. S.C. Code Ann. §11-35-4210(1)(b). SPC alleges that the successful bidder is not qualified to receive the award:

In the Invitation to Bid under section V. Qualifications it states that offerors are to have a minimum of three years' successful experience in pressure washing field. From the South Carolina Secretary of State records the awarded company has an effective date of 06/30/2014 making it 2 years and 4 months. The owner has a prior business which was for title services which would not qualify as experience in the pressure washing field.

J. D. Powers, LLC was awarded the contract at \$28,000.00. Section 11-35-4210(1)(d) limits the CPO's jurisdiction to procurements with a total or potential value greater than \$50,000:

The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

Since the total potential value of this contract is \$28,000, the Chief Procurement Officer lacks jurisdiction to address the issues raised by SPC.

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Case No. 2017-118

November 1, 2016

## **DECISION**

For the reasons stated above, the protest of Santana Pressure Cleaning Services, Inc. is dismissed.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Mario Santana](#)  
**To:** [Protest-MMQ](#)  
**Cc:** [slpull@scdjj.net](mailto:slpull@scdjj.net); [Spicer, Michael](#)  
**Subject:** Protest Solicitation# 5400012155 - SCDJJ PRESSURE WASHING  
**Date:** Monday, October 24, 2016 10:19:16 AM  
**Attachments:** [South Carolina Secretary of State Search Business Filings.pdf](#)  
[Statement of Award 2016-10-21 \(2\).rtf](#)  
**Importance:** High

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Chief Procurement Officer,

We are sending this letter to protest the Statement of Award posted October 21, 2016 for Solicitation# 5400012155 SCDJJ PRESSURE WASHING for the DJJ Administration Agency awarding Contract# 4400014570 to JD POWERS LLC. In the Invitation to Bid under section V. Qualifications it states that offerors are to have a minimum of three years' successful experience in pressure washing field. From the South Carolina Secretary of State records the awarded company has an effective date of 06/30/2014 making it 2 years and 4 months. The owner has a prior business which was for title services which would not qualify as experience in the pressure washing field. We would request that it be clarified how the awarded company meets the minimum requirements and should it be found that they don't that the award go to the next qualified bidder. Furthermore, we would like to request that the tabulation be posted so that all bidders can see their standings. We have attached a copy of the Statement of Award and a copy of the Business Filings from the State of South Carolina for the awarded company for your convenience.

Thank you,  
Mario Santana  
Santana Pressure Cleaning Services, Inc.  
813-932-2054 office  
813-932-2053 fax  
813-900-4341 cell

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

*Protest Appeal Notice (Revised October 2016)*

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

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

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

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

**FILING FEE:** Pursuant to Proviso 111.1 of the 2016 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 473, Columbia, SC 29201**

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

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

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

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1. What is your/your company's monthly income? \_\_\_\_\_

2. What are your/your company's monthly expenses? \_\_\_\_\_

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

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

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

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

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

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

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

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