

STATE OF SOUTH CAROLINA)
COUNTY OF RICHLAND)
)
)
IN THE MATTER OF: BID PROTEST)
)
SOUTHERN ATLANTIC MECHANICAL CO)
)
VS.)
)
MEDICAL UNIVERSITY OF SOUTH)
CAROLINA PSYCHIATRIC HOSPITAL)
)
A.H.U. REPLACEMENT)
PROJECT H51-N301-FW)
_____)

BEFORE THE
CHIEF PROCUREMENT OFFICER

CASE NO. 2014-003

DECISION

POSTING DATE: FEBRUARY 18, 2014

This matter is before the Chief Procurement Officer for Construction (CPOC) pursuant to a request by Southern Atlantic Mechanical Co. (SAM), under the provisions of section 11-35-4210 of the South Carolina Consolidated Procurement Code (Code), for an administrative review of the Psychiatric Hospital Facility A.H.U. Replacement bid (the Project) for the Medical University of South Carolina (MUSC). Pursuant to S.C. Code Ann. §11-35-4210(4), the CPOC conducted an administrative review without a hearing. This decision is based on the applicable facts and law.

NATURE OF THE PROTEST

SAM's statement of protest is attached as Exhibit A and incorporated herein by reference. MUSC's response to SAM's protest is attached as Exhibit B and incorporated herein by reference.

FINDINGS OF FACT

The following dates and facts are relevant to the protest:

1. On December 12, 2013, MUSC advertised for bids to construct the Project. Pursuant to this advertisement, bidders were to submit their bids on or before January 16, 2014. [Ex. 1]
2. The invitation for bids included a base bid and an alternate #1. [Ex. 2, pp. BF-1 & BF-1A]
3. Pursuant to the subcontractor listing requirements of SC Code Ann § 11-35-3020(b)(i), the bid form included in the solicitation documents required bidders to list the "Electrical - EL" and "Structural - SF" subcontractors the bidder intended to use on the project. [Ex. 2, p. BF-2]

4. By the time for receipt of bids, MUSC received seven bids. [Ex. 3]
5. SAM submitted the low bid price on the base bid and the base bid plus Alternate #1. [Ex. 3]
6. SAM failed to list any subcontractor for the work of “Structural – SF” leaving the space for doing so blank. [Ex. 2, p. BF-2]
7. MUSC rejected SAM’s bid as non-responsive. [Ex. 3]
8. H.R. Allen, Inc. (Allen), listed Limehouse & Sons, Inc. (Limehouse) as the subcontractor they intended to use to perform the work of “Structural – SF.”¹ [Ex. 3 and 4, p. BF-2]
9. On January 22, 2014, MUSC posted a Notice of Intent to Award a contract to Allen for the work of the base bid plus Alternate #1. [Ex. 5]
10. On January 31, 2014, SAM protested MUSC’s Notice of Intent to Award a contract to Allen.

DISCUSSION

SAM does not argue that its bid is responsive. Instead, SAM claims that besides itself, five other bidders also failed to respond properly to the listing requirement for “Structural – SF.” While SAM failed to list anyone at all, SAM claims these other five bidders, including Allen, failed to list a subcontractor that possessed the proper license to perform the work of “Structural –SF.” SAM further claims that only Triad properly responded to the listing requirement by listing a properly licensed subcontractor. In short, SAM argues that the intended award to Allen was improper because Allen’s listed subcontractor, Limehouse, was not responsible.

In response, MUSC argues that Allen is responsible because Allen listed Limehouse, and Limehouse is licensed to perform the work of “Structural Shapes.” MUSC further argues that Limehouse does not need to be licensed to perform the work of “Structural Framing” because MUSC’s listed “Structural – SF” on the bid form in error and the listing requirement should have been for “Structural Shapes.”² Finally, MUSC asserts that SAM, as a non-responsive bidder, does not have standing to protest since it cannot be awarded the contract.

The CPO addresses SAM’s standing first.

¹ Four of the five remaining bidders also listed Limehouse, and one, Triad Mechanical Contractors, Inc. (Triad), listed Linton’s Mechanical Services, Inc.

² This is tantamount to a request that the CPOC not enforce the “Structural – SF” requirement provided the bidder listed someone licensed to perform the unidentified work of “Structural Shapes.”

STANDING

The right to protest an award or intended award of a contract is a right granted by the General Assembly in S.C. Code § 11-35-4210. Section 11-35-4210(1)(b) sets forth those entities the General Assembly has granted this right to. Under this Section, an “actual bidder ... who is aggrieved in connection with the intended award or award of a contract may protest an intended award. Therefore, to have standing SAM is required to be both an actual bidder and aggrieved. SAM timely submitted a bid on this project, making SAM an actual bidder. Moreover, the Procurement Review Panel (Panel) has held that a nonresponsive bidder has standing to protest because of its interest in the possibility of a re-bid of the project.³ Appeals by Pizzagalli Construction Co., Primesouth, Inc., and Harbert International, Inc., Cases Nos. 1991-8 and -9 (consolidated). Therefore, the CPOC finds that SAM has standing to protest the intended award to Allen.⁴

RESPONSIBILITY

The protestant has the burden of proving upon the preponderance of the evidence that MUSC’s determination that Allen was a responsible bidder is “clearly erroneous, arbitrary, capricious, or contrary to law.” Protest of Brantley Construction Co., Inc., Case No. 1999-3. MUSC’s determination regarding responsibility is a matter of discretion that cannot be overturned absent a showing by SAM that it is “clearly erroneous, arbitrary, capricious, or contrary to law.” See Protest of CollegeSource, Inc., Case No. 2008-4. Since agency decisions regarding responsibility are a matter of business judgment, SAM must demonstrate a lack of reasonable or rationale basis for the responsibility determination. See Protest of Value Options, et al., Case No. 2001-7.

Contractor and subcontractor responsibility is the ability to perform work for which the contractor or subcontractor is bidding. Factors to consider in determining contractor or subcontractor responsibility are set forth in Regulation 19-445.2125(A). One of these factors is “whether the contractor is qualified legally to contract with the State.” Regulation 19-445.2125(A)(4). SAM claims Allen’s listed subcontractor, Limehouse, does not have the legal ability to perform the “Structural – SF” work. If the listed subcontractor does not possess an appropriate license to perform the “Structural – SF” work, then the bidder is not legally qualified to contract with the state to perform the work of the bid. See Protest of Burkwood Construction Company, Inc., Case No. 1997-8; Protest of ECB Construction Company, Case No. 1989-7.

³ In its request for relief, SAM requests a rebid of the project along with two other alternatives.

⁴ Even if SAM did not have standing, Allen’s listed subcontractor for the work of “Structural – SF” must be properly licensed for that work in order for Allen to proceed with the contract. Under state law, proper licensing is required to perform a contract and substitution of another subcontractor for the listed subcontractor is prohibited. S.C. Code Ann. §§ 40-11-270, 300, 350 and 11-35-3021.

The subcontractor specialties identified on the bid form by MUSC are identified by contractor license classification and/or subclassification found in Title 40 of the S.C. Code of Laws, as amended. [Ex. 2, p. BF-2, first column on the left] While there is no license classification or subclassification in Title 40 specifically called “Structural – SF,” the meaning of this term is clear. The Contractor’s Licensing Board (Board) uses abbreviations to identify license classifications and subclassifications and these abbreviations are well known within the contractor community. [Ex. 6] SF is an abbreviation used by the Board to identify the work of “Structural Framing.” [Ex. 6] Therefore, it is clear that MUSC was asking the bidders to identify the subcontractors they intended to use to perform the Structural Framing work on the project.⁵

Limehouse possesses two contractor’s licenses, one license with a Process Piping subclassification of the Mechanical classification and the other with a General Contractors-Building classification. [Ex. 7 and Ex. 8 respectively] Limehouse may not perform any work outside the scope of these two licenses. S.C. Code Ann. § 40-11-270. Nothing in the Process Piping subclassification permits a contractor to perform structural work of any kind and the General Contractors-Building classification does not permit a contractor to perform work requiring a Structural Framing subclassification. S.C. Code Ann. §§ 40-11-410(1) and (5)(g). The General Contractors-Building classification does permit a contractor to perform certain types of structural work, but not Structural Framing.⁶ Therefore, MUSC’s determination that Limehouse was a responsible subcontractor for the work of Structural Framing was contrary to law.

⁵ MUSC does not contend that “Structural – SF” does not stand for Structural Framing, but maintains it required this listing in error and that the listing should have been for Structural Shapes (SS). MUSC further contends its responsibility determination was appropriate since Allen’s listed subcontractor for “Structural – SF,” Limehouse, possess a contractor’s license that allows it to perform the work of Structural Shapes. However, bidders are required to respond to the requirements of the bid form, not some undisclosed intention on the part of MUSC. Only if there is no structural framing in the project would MUSC’s argument have some bearing on the result since in that case any listed subcontractor would do regardless of licensure. However, a review of the plans for the project makes it clear that the project involves work requiring a Structural Framing subclassification. This project will require rigging to construct a heavy structure made of wide flange structural steel members on the roof of the building. Moreover, the plans clearly require onsite welding to attach the structural steel to the existing building structure. Both rigging and welding are activities that are within the work of Structural Framing but are not within the work of Structural Shapes. S.C. Code Ann. § 11-35-410(4)(j) and (k).

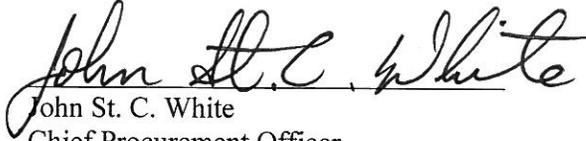
⁶ In this regard S.C. Code Ann. § 40-11-410(1) states:

“General Contractors-Building” ... This license classification includes all work under the subclassifications of Wood Frame Structures-Class II, ... Masonry, Pre-engineered Metal Buildings, ...and Structural Shapes.

However, missing from the statement of work included within this classification is the work of Structural Framing.

DECISION

For the foregoing reasons, the CPOC finds that MUSC's determination that Allen was a responsible bidder was clearly "erroneous, arbitrary, capricious, or contrary to law." The protest is therefore granted and this matter is remanded to MUSC for further proceedings in accordance with the requirements of the Consolidated Procurement Code.



John St. C. White
Chief Procurement Officer
For Construction

18 Feb. 2014

Date

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW
Protest Appeal Notice (Revised June 2013)

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>

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 108.1 of the 2013 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal.

Protest of Lighting Services, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel
Request for Filing Fee Waiver
1105 Pendleton Street, Suite 202, 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.

couraged. It is the bidder's responsibility to obtain all bid information from the Purchasing web site. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: \$650,000 - \$800,000

Architect/Engineer: The Boudreaux Group
A/E Contact: David C. Wiesendanger, AIA
A/E Address: 1330 Lady St., Ste. 500, Columbia, SC 29201

A/E E-mail: dwiesendanger@boudreauxgroup.com

A/E Telephone: (803) 799-0247

A/E Fax: (803) 771-6844

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

Bidding Documents/Plans May Be Obtained From:

<http://purchasing.sc.edu> – bidders are responsible for obtaining all updates to bidding documents from the USC Purchasing web site

Plan Deposit: None

Note: Only those bidding documents / plans obtained from the aforementioned source are official. Bidders rely on copies of bidding documents / plans obtained from any other source at their own risk.

Bidding Documents/Plans Are Also on File for Viewing Purposes Only At:

The USC Purchasing web site, <http://purchasing.sc.edu> – see "Facilities / Construction Solicitations & Awards." Bidders are responsible for obtaining all updates to bidding documents

Pre-Bid Conf.: Not mandatory

Pre-Bid Date/Time: 1/9/14 – 10:00am

Place: USC, 743 Greene St., Conference Room 53, Columbia, SC 29208

Agency/Owner: University of South Carolina

Agency Procurement Officer: Juaquana Brookins

Address: 743 Greene St., Columbia, SC 29208

E-mail: jbrookin@fmc.sc.edu

Telephone: (803) 777-3596

Fax: (803) 777-7334

Bid Closing Date/Time: 1/22/14 – 2:00pm

Place: USC, 743 Greene St., Conference Room 53, Columbia, SC 29208

Hand Deliver/Mail Bids To: USC, Attn.: Juaquana Brookins, 743 Greene St., Columbia, SC 29208

Project Name: PSYCHIATRIC HOSPITAL ANIMAL FACILITY A.H.U. REPLACEMENT

Project Number: H51-N301-FW

Project Location: MUSC, Institute of Psychiatry, Charleston

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Provide for replacement of existing AHU. System modifications include demolition, piping, insulation, roof structure, ductwork, controls, startup, testing & balance of new system components. Project also consists of one alternate. Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: \$250,000 - \$750,000

Architect/Engineer: Mechanical Engineering Consulting Associates, Inc.

A/E Contact: Kevin Stanley

A/E Address: PO Box 50644, Columbia, SC 29250

A/E E-mail: kstanley@mecainc.com

A/E Telephone: (803) 765-9421

A/E Fax: (803) 765-9848

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

Bidding Documents/Plans May Be Obtained From:

http://academicdepartments.musc.edu/vpfa/feandf/construction_projects/index.html

Plan Deposit: None

Note: Only those bidding documents / plans obtained from the aforementioned source are official. Bidders rely on copies of bidding documents / plans obtained from any other source at their own risk.

Pre-Bid Conf.: Not mandatory

Pre-Bid Date/Time: 1/2/14 – 11:00am

Place: MUSC, Engineering & Facilities, Room PG 209, 97 Jonathan Lucas St., Charleston, SC 29425

Agency/Owner: Medical University of South Carolina

Agency Procurement Officer: Alex Chung

Address: 97 Jonathan Lucas St., MSC 190, Charleston, SC 29425

E-mail: chungga@musc.edu

Telephone: (843) 792-4672

Fax: (843) 792-0251

Bid Closing Date/Time: 1/16/14 – 11:00am

Place: MUSC, Engineering & Facilities, Room PG 109, 97 Jonathan Lucas St., Charleston, SC 29425

Hand Deliver/Mail Bids To: MUSC, Attn.: Alex Chung, Engineering & Facilities, 97 Jonathan Lucas St., MSC 190, Charleston, SC 29425

Project Name: ROCK HILL DMV RENOVATIONS, SCDMV

Project Number: R40-N010-SG

Location: 305 Hands Mill Hwy, Rock Hill, SC 29732

Bid Security Required: Yes

Performance Bond Required: Yes

Payment Bond Required: Yes

Description of Project: Project consists of interior renovation for the Rock Hill DMV, with minimal exterior work consisting of new aluminum framed windows & storefront & awning on aluminum frame at front entry. Interior work includes, but is not limited to, approximately 4,800 s.f. renovation including selective demolition. CMU partition walls, hollow metal frames & wood doors, aluminum storefront & windows, GWB, resil. Flooring, ACT, painting, new plumbing fixtures, replacement & new mechanical units, lighting fixtures, electrical work. Alternate includes window replacement Contractor may be subject to performance appraisal at close of project.

Construction Cost Range: \$250,000 - \$300,000

Architect/Engineer: McCreary/Snow Architects, PA

A/E Contact: Deborah A. Snow, AIA

A/E Address: 3111 Devine St., Columbia, SC 29205-1845

A/E Telephone: (803) 771-6267

A/E Fax: (803) 771-6264

A/E E-mail: dasnow@msarch.net

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

Plans May Be Obtained From: TPM

Plan Deposit: \$45.00, Non-refundable

Bidding Documents/Plans Are On File For Viewing Purposes Only At:

online at iSqFt, AGC & Dodge, & at the office of the A/E

Pre-Bid Conf./Site Visit: Non-mandatory

Pre-Bid Date/Time: 1/7/13 – 10:00am

Place: Project site, 305 Hands Mill Hwy, Rock Hill, SC 29732

Agency/Owner: SCDMV

Name of Agency Procurement Officer: Marshall Rock

Address: 10311 Wilson Blvd., Blythewood, SC 29016

Telephone: (803) 896-3847

Fax: (803) 896-3855

E-mail: marshall.rock@scdmv.net

Bid Closing Date/Time: 1/22/13 – 2:00pm

Place: Room CG-52

Hand Deliver Bids To: Attn: Marshall Rock, 10311 Wilson Blvd., Blythewood, SC 29016

Mail Bids To: Attn: Marshall Rock, PO Box 1438, Blythewood, SC 29016

SE-330 – LUMP SUM BID BID FORM

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

BID SUBMITTED BY: SOUTHERN ATLANTIC MECHANICAL CONTRACTORS LLC
(Bidder's Name)

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

FOR PROJECT: PROJECT NAME: Psych Hospital Animal Facility AHU Replacement
PROJECT NUMBER: H51-N301-FW

OFFER

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

§ 2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, Bidder has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

Bid Bond with Power of Attorney Electronic Bid Bond Cashier's Check
(Bidder check one)

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

ADDENDUM No: ONE

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

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

§ 6.1 BASE BID WORK (as indicated in the Bidding Documents and generally described as follows): Provide replacement for existing AHU. System modifications include demolition, piping, insulation, roof structure, ductwork, controls, startup, testing and balance of new system components.

\$545,800.00, which sum is hereafter called the Base Bid.
(Bidder - insert Base Bid Amount on line above)

**SE-330 – LUMP SUM BID
BID FORM**

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

ALTERNATE # 1 (Brief Description): Substitute a 30,000 CFM air handling unit for the one specified in the base bid.

ADD TO or DEDUCT FROM BASE BID: \$ 29,350

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 2 (Brief Description): N/A

ADD TO or DEDUCT FROM BASE BID: N/A

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 3 (Brief Description): N/A

ADD TO or DEDUCT FROM BASE BID: N/A

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

**SE-330 – LUMP SUM BID
BID FORM**

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

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

SUBCONTRACTOR SPECIALTY By License Classification and/or Subclassification (Completed by Owner)	SUBCONTRACTOR'S PRIME CONTRACTOR'S NAME (Must be completed by Bidder) BASE BID	SUBCONTRACTOR'S PRIME CONTRACTOR'S SC LICENSE NUMBER
Electrical - EL	\$48,912.00 Walkup Elec. Con.	M109856
Structural - SF		
ALTERNATE 1		
	\$2,188	M109856
ALTERNATE 2		
N/A		
ALTERNATE 3		
N/A		

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

INSTRUCTIONS FOR SUBCONTRACTOR LISTING

1. Section 7 of the Bid Form sets forth a list of subcontractor specialties for which bidder is required to identify by name the subcontractor(s) Bidder will use to perform the work of each listed specialty. Bidder must identify only the subcontractor(s) who will perform the work and no others.
2. For purposes of subcontractor listing, a Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the bidder or proposed subcontractor(s) are not subcontractors and Bidder should not insert their names in the spaces provided on the bid form. Likewise, Bidder should not insert the names of sub-subcontractors in the spaces provided on the bid form but only the names of those entities with which bidder will contract directly.
3. Bidder must only insert the names of subcontractors who are qualified to perform the work of the listed specialties as specified in the Bidding Documents and South Carolina Licensing Laws.
4. If under the terms of the Bidding Documents, Bidder is qualified to perform the work of a specialty listed and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert its own name in the space provided for that specialty.
5. If Bidder intends to use multiple subcontractors to perform the work of a single specialty listing, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "and". If Bidder intends to use both his own employees to perform a part of the work of a single specialty listing and to use one or more subcontractors to perform the remaining work for that specialty listing, bidder must insert his own name and the name of each subcontractor, preferably separating the name of each with the word "and".
6. Bidder may not list subcontractors in the alternative nor in a form that may be reasonably construed at the time of bid opening as a listing in the alternative. A listing that requires subsequent explanation to determine whether or not it is a listing in the alternative is non-responsive. If bidder intends to use multiple entities to perform the work for a single specialty listing, bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "and" between the name of each entity listed for that specialty. Owner will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Owner may reasonably interpret as a listing in the alternative.
7. If Bidder is awarded the contract, bidder must, except with the approval of the owner for good cause shown, use the listed entities to perform the work for which they are listed.
8. If bidder is awarded the contract, bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
9. Bidder's failure to insert a name for each listed specialty subcontractor will render the Bid non-responsive.

**SE-330 – LUMP SUM BID
BID FORM**

§ 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (FOR INFORMATION ONLY): Pursuant to instructions in the Invitation for Bids, if any, Bidder will provide to Owner upon the Owner's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code Ann § 11-35-3020(b)(i).

§ 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

a. **CONTRACT TIME:** Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Owner. Bidder agrees to substantially complete the Work within 270 calendar days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

b. **LIQUIDATED DAMAGES:** Bidder further agrees that from the compensation to be paid, the Owner shall retain as Liquidated Damages the sum of \$500.00 for each calendar day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This sum is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

§ 10. AGREEMENTS

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

§ 11. ELECTRONIC BID BOND

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

Electronic Bid Bond Number: N/A

Signature and Title: _____

**SE-330 – LUMP SUM BID
BID FORM**

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 20-0320600

OR

SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

Classification(s) & Limits: PB5 AC5 HT5 2P5 UNLIMITED

Subclassification(s) & Limits: _____

SC Contractor's License Number(s): M107551

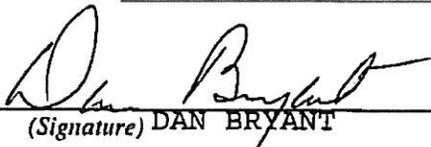
BY SIGNING THIS BID, THE PERSON SIGNING REAFFIRMS ALL REPRESENTATIONS AND CERTIFICATIONS MADE BY BOTH THE PERSON SIGNING AND THE BIDDER, INCLUDING WITHOUT LIMITATION, THOSE APPEARING IN ARTICLE 2 OF THE INSTRUCTIONS TO BIDDER. THE INVITATION FOR BIDS, AS DEFINED IN THE INSTRUCTIONS TO BIDDERS, IS EXPRESSLY INCORPORATE BY REFERENCE.

SIGNATURE

BIDDER'S LEGAL NAME: SOUTHERN ATLANTIC MECHANICAL CONTRACTORS LLC

ADDRESS: 3770 FERNANDINA ROAD

COLUMBIA, SC 29210

BY: 
(Signature) DAN BRYANT

DATE: 1/16/14

TITLE: DIVISION MANAGER

TELEPHONE: 803-781-9825

EMAIL: dbryant@samcosc.com

TABULATION OF BIDS

MEDICAL UNIVERSITY OF SOUTH CAROLINA

PROJECT: Psychiatric Hospital Animal Facility

DATE 1/16/14

AHU Replacement

TIME 11:00 a.m.

S.C. PROJECT NO. H51-N301-FW

OPENED BY Philip Mauney *PDM*

PAGE 1 of 1

WITNESSED BY Susie Watts *swatts*

CONTRACTOR C.R. Hipp Construction Inc BASE BID \$ 589,871.00 ALT #1 \$ 30,000.00	BID BOND X ADDENDUM 1	Subcontractors EL - MC Dean SF - Limehouse
--	--------------------------------	--

CONTRACTOR McCarter Mechanical Inc BASE BID \$ 597,767.00 ALT #1 \$ 54,297.00	BID BOND X ADDENDUM 1	Subcontractors EL - Walkup Electrical SF - Limehouse & Sons
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CONTRACTOR W.B. Guimarin & Co Inc BASE BID \$ 628,000.00 ALT #1 \$ 62,250.00	BID BOND X ADDENDUM 1	Subcontractors EL - MC Dean SF - Limehouse & Sons
--	--------------------------------	---

CONTRACTOR H.R. Allen inc. BASE BID \$ 556,135.00 ALT #1 \$ 52,601.00	BID BOND X ADDENDUM 1	Subcontractors EL - H.R. Allen Inc SF - Limehouse & Sons
---	--------------------------------	--

CONTRACTOR Southern Atlantic Mechanical Contractors LLC BASE BID \$ 545,800.00 ALT #1 \$ 29,350.00	BID BOND X ADDENDUM 1	Non-Responsive - Failure to list subcontractor Subcontractors EL - Walkup Elec SF -
--	--------------------------------	--

CONTRACTOR Triad Mechanical Contractors BASE BID \$ 634,349.00 ALT #1 \$ 49,000.00	BID BOND X ADDENDUM 1	Subcontractors EL - MC Dean SF - Lintons
--	--------------------------------	--

CONTRACTOR Cullum Constructors Inc BASE BID \$ 648,400.00 ALT #1 \$ 52,900.00	BID BOND X ADDENDUM 1	Subcontractors EL - MC Dean SF - Limehouse & Sons
---	--------------------------------	---

**SE-330 – LUMP SUM BID
BID FORM**

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

BID SUBMITTED BY: H.R. Allen, Inc.
(Bidder's Name)

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

FOR PROJECT: PROJECT NAME: Psych Hospital Animal Facility AHU Replacement
PROJECT NUMBER: H51-N301-FW

OFFER

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

§ 2. Pursuant to Section 11-32-3030(1) of the SC Code of Laws, as amended, Bidder has submitted Bid Security as follows in the amount and form required by the Bidding Documents:

Bid Bond with Power of Attorney Electronic Bid Bond Cashier's Check
(Bidder check one)

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

ADDENDUM No: #1 dated 1/10/14

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

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

§ 6.1 **BASE BID WORK** *(as indicated in the Bidding Documents and generally described as follows):* Provide replacement for existing AHU. System modifications include demolition, piping, insulation, roof structure, ductwork, controls, startup, testing and balance of new system components.

 \$556,135.00

, which sum is hereafter called the Base Bid.

(Bidder - insert Base Bid Amount on line above)

**SE-330 – LUMP SUM BID
BID FORM**

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

ALTERNATE # 1 (Brief Description): Substitute a 30,000 CFM air handling unit for the one specified in the base bid.

ADD TO or DEDUCT FROM BASE BID: \$52,601.00

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 2 (Brief Description): N/A

ADD TO or DEDUCT FROM BASE BID: _____

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

ALTERNATE # 3 (Brief Description): N/A

ADD TO or DEDUCT FROM BASE BID: _____

(Bidder to Mark appropriate box to clearly indicate the price adjustment offered for each alternate)

**SE-330 – LUMP SUM BID
 BID FORM**

2011 Edition
 Rev. 9/21/2011

§ 7. LISTING OF PROPOSED SUBCONTRACTORS PURSUANT TO SECTION 3020(b)(1), CHAPTER 35, TITLE 11 OF THE SOUTH CAROLINA CODE OF LAWS, AS AMENDED – (See Instructions on the following page BF-2A)

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

SUBCONTRACTOR SPECIALTY By License Classification and/or Subclassification (Completed by Owner)	SUBCONTRACTOR'S PRIME CONTRACTOR'S NAME (Must be completed by Bidder) BASE BID	SUBCONTRACTOR'S PRIME CONTRACTOR'S SC LICENSE NUMBER
Electrical - EL	H.R. Allen, Inc.	M108812
Structural - SF	Limehouse & Sons	G13329
ALTERNATE 1		
ALTERNATE 2		
N/A		
ALTERNATE 3		
N/A		

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

INSTRUCTIONS FOR SUBCONTRACTOR LISTING

1. Section 7 of the Bid Form sets forth a list of subcontractor specialties for which bidder is required to identify by name the subcontractor(s) Bidder will use to perform the work of each listed specialty. Bidder must identify only the subcontractor(s) who will perform the work and no others.
2. For purposes of subcontractor listing, a Subcontractor is an entity who will perform work or render service to the prime contractor to or about the construction site. Material suppliers, manufacturers, and fabricators that will not perform physical work at the site of the project but will only supply materials or equipment to the bidder or proposed subcontractor(s) are not subcontractors and Bidder should not insert their names in the spaces provided on the bid form. Likewise, Bidder should not insert the names of sub-subcontractors in the spaces provided on the bid form but only the names of those entities with which bidder will contract directly.
3. Bidder must only insert the names of subcontractors who are qualified to perform the work of the listed specialties as specified in the Bidding Documents and South Carolina Licensing Laws.
4. If under the terms of the Bidding Documents, Bidder is qualified to perform the work of a specialty listed and Bidder does not intend to subcontract such work but to use Bidder's own employees to perform such work, the Bidder must insert its own name in the space provided for that specialty.
5. If Bidder intends to use multiple subcontractors to perform the work of a single specialty listing, Bidder must insert the name of each subcontractor Bidder will use, preferably separating the name of each by the word "and". If Bidder intends to use both his own employees to perform a part of the work of a single specialty listing and to use one or more subcontractors to perform the remaining work for that specialty listing, bidder must insert his own name and the name of each subcontractor, preferably separating the name of each with the word "and".
6. Bidder may not list subcontractors in the alternative nor in a form that may be reasonably construed at the time of bid opening as a listing in the alternative. A listing that requires subsequent explanation to determine whether or not it is a listing in the alternative is non-responsive. If bidder intends to use multiple entities to perform the work for a single specialty listing, bidder must clearly set forth on the bid form such intent. Bidder may accomplish this by simply inserting the word "and" between the name of each entity listed for that specialty. Owner will reject as non-responsive a listing that contains the names of multiple subcontractors separated by a blank space, the word "or", a virgule (that is a /), or any separator that the Owner may reasonably interpret as a listing in the alternative.
7. If Bidder is awarded the contract, bidder must, except with the approval of the owner for good cause shown, use the listed entities to perform the work for which they are listed.
8. If bidder is awarded the contract, bidder will not be allowed to substitute another entity as subcontractor in place of a subcontractor listed in Section 7 of the Bid except for one or more of the reasons allowed by the SC Code of Laws.
9. Bidder's failure to insert a name for each listed specialty subcontractor will render the Bid non-responsive.

**SE-330 – LUMP SUM BID
BID FORM**

§ 8. LIST OF MANUFACTURERS, MATERIAL SUPPLIERS, AND SUBCONTRACTORS OTHER THAN SUBCONTRACTORS LISTED IN SECTION 7 ABOVE (FOR INFORMATION ONLY): Pursuant to instructions in the Invitation for Bids, if any, Bidder will provide to Owner upon the Owner's request and within 24 hours of such request, a listing of manufacturers, material suppliers, and subcontractors, other than those listed in Section 7 above, that Bidder intends to use on the project. Bidder acknowledges and agrees that this list is provided for purposes of determining responsibility and not pursuant to the subcontractor listing requirements of SC Code Ann § 11-35-3020(b)(i).

§ 9. TIME OF CONTRACT PERFORMANCE AND LIQUIDATED DAMAGES

a. **CONTRACT TIME:** Bidder agrees that the Date of Commencement of the Work shall be established in a Notice to Proceed to be issued by the Owner. Bidder agrees to substantially complete the Work within 270 calendar days from the Date of Commencement, subject to adjustments as provided in the Contract Documents.

b. **LIQUIDATED DAMAGES:** Bidder further agrees that from the compensation to be paid, the Owner shall retain as Liquidated Damages the sum of \$500.00 for each calendar day the actual construction time required to achieve Substantial Completion exceeds the specified or adjusted time for Substantial Completion as provided in the Contract Documents. This sum is intended by the parties as the predetermined measure of compensation for actual damages, not as a penalty for nonperformance.

§ 10. AGREEMENTS

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

§ 11. ELECTRONIC BID BOND

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

Electronic Bid Bond Number: _____

Signature and Title: _____

**SE-330 – LUMP SUM BID
BID FORM**

BIDDER'S TAXPAYER IDENTIFICATION

FEDERAL EMPLOYER'S IDENTIFICATION NUMBER: 20-3400841

OR

SOCIAL SECURITY NUMBER: _____

CONTRACTOR'S CLASSIFICATIONS AND SUBCLASSIFICATIONS WITH LIMITATIONS

Classification(s) & Limits: AC5 HP5 EL5 LP5 PB5 None

Subclassification(s) & Limits: _____

SC Contractor's License Number(s): M108812

BY SIGNING THIS BID, THE PERSON SIGNING REAFFIRMS ALL REPRESENTATIONS AND CERTIFICATIONS MADE BY BOTH THE PERSON SIGNING AND THE BIDDER, INCLUDING WITHOUT LIMITATION, THOSE APPEARING IN ARTICLE 2 OF THE INSTRUCTIONS TO BIDDER. THE INVITATION FOR BIDS, AS DEFINED IN THE INSTRUCTIONS TO BIDDERS, IS EXPRESSLY INCORPORATE BY REFERENCE.

SIGNATURE

BIDDER'S LEGAL NAME: H.R. Allen, Inc.

ADDRESS: P. O. Box 31898
Charleston, SC 29417

BY: 
(Signature)

DATE: 1/16/14

TITLE: Rod Allen, President

TELEPHONE: 843-747-4100

EMAIL: rod.allen@hrallen.com

STATE OF SOUTH CAROLINA

Medical University of South Carolina
MSC 190, Charleston, SC 29425

Posting Date: 1/22/14

Unless stayed by protest or canceled, the State intends to enter into a contract for the project with the contractor noted below. The successful bid will be accepted and the contract formed by execution of the contract documents. All bid bonds remain in effect for the bid acceptance period as provide in Section 4 of the Bid Form, except as otherwise provided in the instructions to bidders.

Project Number: H51-N301-FW
Project Name: Psych Hospital Animal Facility AHU Replacement
Awarded To: H.R. Allen Inc.

Solicitation Type Invitation for Bid Request for Proposals
Contract Amount \$608,736.00

Invitation for Bid

Information Description	Bid Amount
Base Bid	\$556,135.00
Alternate 1 Substitute 30,000 CFM AHU	\$ 52,601.00
Alternate 2	\$
Alternate 3	\$

Remarks (explain any negotiations that resulted in a change in either the Base Bid or the accepted Bid Alternates)

Contractor should not incur any costs associated with the contract prior to receipt of a contract from the Agency for execution. The State assumes no liability for any expenses incurred by the contractor prior to submitting a contract to the contractor for execution. Contractor should not perform any work prior to (1) delivering to the Agency both certificates of insurance and performance and payment bonds meeting the requirements of the solicitation; and (2) receipt of the Agency's written notice to proceed. The State assumes no liability for any expenses incurred by the contractor prior to issuance of notice to proceed other than contractor's non-reimbursable costs incurred in providing such bonds.

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest within ten days of the date notification of award is posted in accordance with the Consolidated Procurement Code. A protest shall be in writing, shall set forth the grounds of the protest and the relief requested with enough particularity to give notice of the issues to be decided, and must be received by the appropriate Chief Procurement Officer within the time provided. [Section 11-35-4210]

PROTEST - CPO ADDRESS - OSE: Any protest must be addressed to the Chief Procurement Officer for Construction, Office of State Engineer, and submitted in writing (a) by email to protest-ose@mso.sc.gov, (b) by facsimile at 803-737-0639, or (c) by post or delivery to 1201 Main Street, Suite 600, Columbia, SC 29201. By submitting a protest to the foregoing email address, you (and any person acting on your behalf) consent to receive communications regarding your protest (and any related protests) at the e-mail address from which you sent your protest.

Agency Representative: Philip D. Murray
(Signature)

INSTRUCTIONS TO THE AGENCY:

1. Post a copy of this form at the location specified by the Instructions to bidders and announced at the Bid Opening.
2. Send a copy of this form and the final bid tabulation to all responsive bidders and OSE.

EXHIBIT 6

CURRENT CLASSIFICATION ABBREVIATIONS and PROJECT LIMITATIONS

The two-letters on a license indicates the licensee's classification of work (i.e. **BD3**); the number behind the letters indicates the licensee's dollar limit per contract (i.e. **BD3**); see classifications & contract limits below:

GENERAL CONTRACTORS

Building.....	BD
Asphalt Paving	AP
Concrete Paving.....	CP
Bridges	BR
Glass & Glazing.....	GG
Grading.....	GD
Highway.....	HY*
Highway Incidental	HI
Public Utility Electrical	1U or 2U**
Pipelines	PL
Water & Sewer Lines.....	WL
Water & Sewer Plants	WP
Boiler Installation	BL
Concrete	CT
Boring & Tunneling.....	BT
Marine.....	MR
Masonry.....	MS
Pre-Engineered Metal Buildings.....	MB
Interior Renovation	IR
Railroad	RR
Specialty Roofing	SR
General Roofing	GR
Structural Framing.....	SF
Structural Shapes.....	SS
Swimming Pools.....	SP
Wood Frame Structures	WF

MECHANICAL CONTRACTORS

Air Conditioning #.....	AC
Electrical.....	EL
Heating	HT
Lightning Protection	LP
Packaged Equipment.....	PK
Plumbing	PB
Process Piping.....	1P or 2P***
Refrigeration.....	RG

* The Highway classification "HY" is given to licensees who have passed all of the following exams: AP, CP, BR, GD & HI.

** 1U is the Public Utility Electrical classification for those licensed prior to April 1, 1999; licenses issued April 1, 1999, and after are designated as 2U and may not engage in stadium lighting.

*** Process Piping is designated as 1P prior to April 1, 1999. Those licensed in Process Piping April 1, 1999, and after are designated as 2P and may not engage in boiler work.

LICENSEES' DOLLAR LIMITATION PER BID AND/OR PROJECT

GENERAL CONTRACTORS

MECHANICAL CONTRACTORS

Group	\$ Limitation per project	Group	\$ Limitation per project
Group 1	\$30,000	Group 1	\$17,500
Group 2	\$100,000	Group 2	\$30,000
Group 3	\$350,000	Group 3	\$50,000
Group 4	\$750,000	Group 4	\$125,000
Group 5	Unlimited	Group 5	Unlimited

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EXHIBIT 7

LIMEHOUSE & SONS INC
9550 HIGHWAY 78
LADSON, SC 29456
(843) 797-0711

License number: 2529
License type: MECHANICAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2015
First Issuance Date: 01/06/1992
Classification: 2P5

Supervises
TERRY K. LIMEHOUSE - (COM)

Board Public Action History: None

[Click here for classifications key](#)

[File a Complaint against this Licensee](#)

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LIMEHOUSE & SONS INC
9550 HIGHWAY 78
LADSON, SC 29456
(843) 797-0711

License number: 13329
License type: GENERAL CONTRACTOR
Status: ACTIVE
Expiration: 10/31/2014
First Issuance Date: 01/06/1992
Classification: BD5

Supervises
TIMOTHY J LIMEHOUSE - (COG)

Board Public Action History: None

[Click here for classifications key](#)

[File a Complaint against this Licensee](#)