

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND) BEFORE THE SOUTH CAROLINA
) PROCUREMENT REVIEW PANEL
) CASE NO. 1992-20

IN RE:)
)
PROTEST OF THE COMPUTER GROUP;) O R D E R
APPEAL BY THE COMPUTER GROUP)
)
_____)

This case came before the South Carolina Procurement Review Panel ("Panel") for hearing on November 13, 1992, on The Computer Group's appeal from a decision by the Chief Procurement Officer ("CPO") dismissing as untimely The Computer Group's protest of a solicitation to establish a statewide term contract for personal computers.

Present and participating at the hearing before the Panel were The Computer Group, represented by its President Mike Anderer and the Division of General Services, represented by James W. Rion, Esquire.

FINDINGS OF FACT

The only issue before the Panel is the timeliness of The Computer Group's protest. The facts, as follows, are undisputed.

On May 7, 1992, the State issued an Invitation for Bids (IFB) for a statewide term contract for personal computers. On May 27, the State issued Amendment #001 to the IFB which extended the solicitation until further notice.

On September 17, 1992, the State issued Amendment #002 to the IFB, which amendment included a diskette with information on new product releases and pricing. (Record, pp. 28-29). The Computer Group received this amendment

several days after it was issued, however, no diskette was included.

The next week an employee of The Computer Group visited State Procurement's offices to obtain a copy of the diskette. After attempting to locate a copy, State Procurement advised The Computer Group to return the next week when the buyer in charge of this solicitation returned from vacation.

The Computer Group complied and received a copy of the diskette. Within ten days after receipt of the diskette, on October 5, 1992, The Computer Group protested the specifications for the Memorex Telex lot, alleging that the specifications did not promote fair and equal competition and were too broad in scope. The Computer Group also alleged that the State was over-expanding the scope of the base contract to include items that could be purchased elsewhere. (Record, p. 8).

On October 8, 1992, bids were opened.

On October 12, 1992, at the request of the State, The Computer Group clarified its original protest issues. (Record, p. 9).

On October 22, 1992, the Chief Procurement Officer issued his decision without a hearing finding the original October 5 protest of The Computer Group untimely under §11-35-4210(1), which requires an aggrieved bidder to file a written protest "in writing within ten days after such aggrieved persons know or should have known of the

facts giving rise thereto, but in no circumstance after thirty days of notification of award of contract."

CONCLUSIONS OF LAW

At the conclusion of The Computer Group's case, the Division of General Services conceded that the CPO erred in holding The Computer Group's protest untimely without holding a hearing to determine when The Computer Group received the diskette containing the information which formed the basis of its protest. General Services further admitted that the evidence that The Computer Group filed its protest within ten days of receipt of the diskette compels the conclusion that The Computer Group's protest is timely filed under §11-35-4210(1).

The Panel agrees.

For the reasons stated above, the Panel remands this case to the Chief Procurement Officer for a hearing on the merits of The Computer Group's claims.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT
REVIEW PANEL

By: 
Gus J. Roberts
Chairman

Columbia, S.C.
11-17, 1992