

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF RICHLAND )  
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 In Re: )  
 Protest of Pulliam Motor )  
 Company )  
 )  
 Appeal of Pulliam Motor )  
 Company )  
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**BEFORE THE SOUTH CAROLINA  
 PROCUREMENT REVIEW PANEL  
 CASE NO. 2005-11**

**ORDER ON MOTION  
 TO QUASH SUBPOENA**

This case involves a petition for administrative review of an attempt by the state to buy truck cab and chassis units for a statewide term contract. The Invitation for Bids sought bids for five different lines of cab and chassis units based on gross vehicle weight ratings. This protest and subsequent appeal was based on the first award, the 8,600 GVWR minimum. Pulliam alleges that the awardee, Benson, violated the law by bidding below cost.

On February 6, 2006, Pulliam requested that the Panel issue a *subpoena duces tecum* to Burns Automotive. Burns Automotive was the second lowest bidder. The subpoena commanded that the following documents be delivered to the office of counsel for Pulliam at 4:00 p.m. on March 1, 2006. The documents were:

All documents and information used in any way, manner or form to compute or document the price proposed the State for vehicle cab and chassis units 8600 GVWR pursuant to IFB 06-S-6997. Such documentation shall include all files, correspondence with Ford Motor Company, any other dealer, any body builder, and any entity or individual with whom you discussed or contracted to purchase or sell parts or components relating to this bid in any way. Any work papers, work sheets, spreadsheets or documents of any kind either electronic or on paper which were used in the evaluation, calculation, computation or determination of your bid price. All supporting documentation which demonstrates your bid price and the manufacturers and other costs incurred for revenue received in calculating that price.

On February 24, 2006 Burns Automotive submitted a Motion to Quash Pulliam's *subpoena duces tecum*. On March 1, 2006, the Panel took up the motion without a hearing.

Burns Automotive is not a party to this action. While a party may subpoena documents from a non-party, care must be taken that the time, expense and disclosure involved are fair and necessary for the case at hand. Subpoenas for documents which are not relevant to the issue before the Panel will be quashed. GTECH Corporation vs. South Carolina Education Lottery, Case No. 2002-4. This subpoena to a non-party commanded production of confidential commercial documents. Further, the confidential commercial documents commanded were the documents relating to the bid of Burns, not of Benson. The Panel fails to see how these documents are relevant to case before us. Should the bid of Benson be overturned and Burns then be granted the award, the Panel believes that Pulliam would have a full and fair opportunity to challenge the bid of Burns. However, finding that the documents are presently not relevant, the motion is quashed.

#### ORDER

The February 6, 2006, subpoena issued by Pulliam commanding documents from Burns in hereby **QUASHED**.

**AND IT IS SO ORDERED.**



Willie D. Franks  
Vice Chairman  
South Carolina Procurement Review Panel

March 2, 2006