



Warner Norcross + Judd LLP

Digitally signed  
by Kathryn Ross  
Date: 2019.04.19  
17:37:33 -04'00'

April 19, 2019

*Via Email*

Federal Election Commission  
Office of Complaints Examination and Legal Administration  
Attn: Kathryn Ross, Paralegal  
1050 First Street, NE  
Washington, DC 20463

Re: **MUR # 7570**

Dear Ms. Ross:

On behalf of Skytron, LLC and KMW Group, Inc. in the matter of MUR # 7570, I am supplementing my response dated March 19, 2019 to address additional information submitted by the Campaign Legal Center.<sup>1</sup> We stand by the information contained in my March 19 response as responding to the allegations made against Skytron, LLC in the initial complaint. Regarding the additional information that was submitted, the factual basis for the allegations made is incorrect. KMW Group, Inc. was not a federal contractor at the time that the contribution was made. Accordingly, the FEC should not take any action in this matter.

The Campaign Legal Center alleges that “there is reason to believe” that KMW Group, Inc. made prohibited contributions while performing or negotiating federal contracts, in violation of 52 U.S.C. § 30119(a)(1). The only basis for the Campaign Legal Center’s “reason to believe” is information contained on the website: [USAspending.gov](http://USAspending.gov). Specifically, the Campaign Legal Center points to a keyword search it conducted that brought back results showing that KMW Group, Inc. “has been the recipient of multiple federal contracts.” But there is only one federal contract in those search results with an end date that included the date of the contribution at issue, which was November 1, 2018. This contract is:

Award ID: VA24913J3106  
Awarding agency: Department of Veterans Affairs  
Description: Surgical Booms for Brooklyn Modernization Project

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<sup>1</sup> Skytron, LLC and KMW Group, Inc. received an extension of time to respond until April 19, so this submittal is timely.

MUR # 7570

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Period of performance: 7/29/13 to 12/17/18.

The USAspending.gov website identifies KMW Group, Inc. as the recipient of that contract.

In short, as explained below, the USAspending.gov website contains incorrect information and, in fact, KMW Group, Inc. was not a federal contractor at the time the contribution was made on November 1, 2018. The USAspending.gov website has been documented to contain mostly incorrect information. A recent staff report to the Permanent Subcommittee on Investigations of the United States Senate found that over half of the data submitted to USAspending.gov website for the investigated time period was inaccurate.<sup>2</sup> For the Department of Veterans Affairs specifically, the staff report indicated that the Office of Inspector General found that approximately 60 percent of the data submitted by the department was inaccurate.<sup>3</sup>

Specific to the one potentially relevant contract contained in the Campaign Legal Center's keyword search results, the information on the USAspending.gov website is inaccurate. In fact, Alliant Enterprises, LLC/Alliant Healthcare Products (DUNS: 121170653) was actually the federal contractor for that contract and not KMW Group, Inc.<sup>4</sup> There are no other contracts in the Campaign Legal Center's keyword search results having a period of performance that included November 1, 2018 (the date of the contribution). Indeed, KMW Group, Inc. has not been a federal contractor since 2011.

For these reasons and the reasons stated in my response dated March 19, 2019, the Campaign Legal Center's complaint (along with the additional information submitted) alleging that Skytron, LLC and KMW Group, Inc. made a prohibited contribution to the Outsider PAC has no merit. Therefore, the FEC should not take any action in this matter.

Very truly yours,



Troy M. Cumings

18381026-1

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<sup>2</sup> Federal Agency Compliance with the Data Act, Staff Report to the Permanent Subcommittee on Investigations of the United States Senate ([https://www.hsgac.senate.gov/imo/media/doc/2018-07-24%20PSI%20STAFF%20REPORT%20-%20DATA%20ACT%20\(UPDATED\).pdf](https://www.hsgac.senate.gov/imo/media/doc/2018-07-24%20PSI%20STAFF%20REPORT%20-%20DATA%20ACT%20(UPDATED).pdf)) at 7.

<sup>3</sup> *Id* at 41.

<sup>4</sup> See enclosed Solicitation/Contract/Order for VA24913J3106.

**SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS**  
**OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30**

1. REQUISITION NO.  
614 13 3 560 0212

PAGE 1 OF 7

2. CONTRACT NO. V797P4098B

3. AWARD/EFFECTIVE DATE

4. ORDER NO. VA249 13 J-3106

5. SOLICITATION NUMBER

6. SOLICITATION ISSUE DATE

7. FOR SOLICITATION INFORMATION CALL:

a. NAME  
Martin Frazier

b. TELEPHONE NO. (No Collect Calls)  
615 225 6960

8. OFFER DUE DATE/LOCAL TIME

9. ISSUED BY  
Department of Veterans Affairs  
Network Contracting Office 9  
1639 Medical Center Parkway  
Suite 400  
Murfreesboro TN 37129

CODE 90C

10. THIS ACQUISITION IS  
 UNRESTRICTED OR  SET ASIDE: 100 % FOR:  
 SMALL BUSINESS  
 WOMEN-OWNED SMALL BUSINESS (WOSB) ELIGIBLE UNDER THE WOMEN-OWNED SMALL BUSINESS PROGRAM NAICS: 339113  
 HUBZONE SMALL BUSINESS  
 EDWOSB  
 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS  8(A) SIZE STANDARD: 100 Employees

11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED  
 SEE SCHEDULE

12. DISCOUNT TERMS

13a. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)

13b. RATING  
N/A

14. METHOD OF SOLICITATION  
 RFQ  IFB  RFP

15. DELIVER TO  
Department of Veterans Affairs  
Memphis VA Medical Center  
1030 Jefferson Ave  
Memphis TN 38104

CODE

16. ADMINISTERED BY  
Department of Veterans Affairs  
Network Contract Office 9  
1639 Medical Center Parkway  
Suite 400  
Murfreesboro TN 37129

CODE 90C

17a. CONTRACTOR/OFFEROR  
ALLIANT ENTERPRISES, LLC  
ALLIANT HEALTHCARE PRODUCTS  
300 IONIA AVE. S.W.  
GRAND RAPIDS MI 495034154  
TELEPHONE NO. DUNS: 121170653 DUNS+4:

CODE

18a. PAYMENT WILL BE MADE BY  
Department of Veterans Affairs  
PSC  
P O Box 149971  
Austin TX 78714

CODE

17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER

18b. SUBMIT INVOICES TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED  
 SEE ADDENDUM

19. ITEMNO.	20. See CONTINUATION Page SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. AMOUNT
	See attached Schedule  POC: CLARENCE HALE DELIVER TO: SURG  VENDOR REFERENCE PO# 614-A39084 for Payment (Use Reverse and/or Attach Additional Sheets as Necessary)				

25. ACCOUNTING AND APPROPRIATION DATA See CONTINUATION Page  
614-3630160 560 820200 3131 0100C6075

26. TOTAL AWARD AMOUNT (For Govt. Use Only)  
\$1,351,615.98

27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, FAR 52.212-3 AND 52.212-5 ARE ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED.

27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4. FAR 52.212-5 IS ATTACHED. ADDENDA  ARE  ARE NOT ATTACHED

28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED

29. AWARD OF CONTRACT: REF. Buy 506056 06 OFFER DATED 07-22-2013 YOUR OFFER ON SOLICITATION (BLOCK 5), INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS:

30a. SIGNATURE OF OFFEROR/CONTRACTOR

30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)  
Martin Frazier  
Contracting Officer

30c. DATE SIGNED  
7/29/13

31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)  
Gale E. Damm Jr  
31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT)  
Martin Frazier  
Contracting Officer

31c. DATE SIGNED  
7/29/13

VA249-13-Q-0812

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**SECTION B - CONTINUATION OF SF 1449 BLOCKS**

**B.1 CONTRACT ADMINISTRATION DATA**

(continuation from Standard Form 1449, block 18A.)

1. Contract Administration: All contract administration matters will be handled by the following individuals:

a. CONTRACTOR: ALLIANT HEALTHCARE

b. GOVERNMENT: Contracting Officer 00614  
 Department of Veterans Affairs  
 Network Contracting Office 9  
 1639 Medical Center Parkway  
 Suite 400  
 Murfreesboro TN 37129

2. CONTRACTOR REMITTANCE ADDRESS: All payments by the Government to the contractor will be made in accordance with:

- 52.232-34, Payment by Electronic Funds Transfer - Other than Central Contractor Registration, or
- 52.232-36, Payment by Third Party

3. INVOICES: Invoices shall be submitted in arrears:

- a. Quarterly
- b. Semi-Annually
- c. Other  30 days in arrears]

4. GOVERNMENT INVOICE ADDRESS: All invoices from the contractor shall be mailed to the following address:

Department of Veterans Affairs  
 FSC  
 P O Box 149971  
 Austin TX 78714

ACKNOWLEDGMENT OF AMENDMENTS: The offeror acknowledges receipt of amendments to the Solicitation numbered and dated as follows:

AMENDMENT NO	DATE

## **B.2 LIMITATIONS ON SUBCONTRACTING-- MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes . Accordingly, any contract resulting from this solicitation will include this clause. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) retained by VA to assist in assessing the contractor's compliance with the limitations on subcontracting or percentage of work performance requirements specified in the clause. To that end, the support contractor(s) may require access to contractor's offices where the contractor's business records or other proprietary data are retained and to review such business records regarding the contractor's compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor's compliance with the limitations on subcontracting or percentage of work performance requirement.

(End of Clause)

## **B.3 SUBCONTRACTING COMMITMENTS--MONITORING AND COMPLIANCE (JUN 2011)**

This solicitation includes VAAR 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, and VAAR 852.215-71, Evaluation Factor Commitments. Accordingly, any contract resulting from this solicitation will include these clauses. The contractor is advised in performing contract administration functions, the CO may use the services of a support contractor(s) to assist in assessing contractor compliance with the subcontracting commitments incorporated into the contract. To that end, the support contractor(s) may require access to the contractor's business records or other proprietary data to review such business records regarding contract compliance with this requirement. All support contractors conducting this review on behalf of VA will be required to sign an "Information Protection and Non-Disclosure and Disclosure of Conflicts of Interest Agreement" to ensure the contractor's business records or other proprietary data reviewed or obtained in the course of assisting the CO in assessing the contractor for compliance are protected to ensure information or data is not improperly disclosed or other impropriety occurs. Furthermore, if VA determines any services the support contractor(s) will perform in assessing compliance are advisory and assistance services as defined in FAR 2.101, Definitions, the support contractor(s) must also enter into an agreement with the contractor to protect proprietary information as required by FAR 9.505-4, obtaining access to proprietary information, paragraph (b). The contractor is required to cooperate fully and make available any records as may be required to enable the CO to assess the contractor compliance with the subcontracting commitments.

(End of Clause)



**B.4 Price/Cost Schedule****Item Information**

ITEM NUMBER	DESCRIPTION OF SUPPLIES/SERVICES	QUANTITY	UNIT	UNIT PRICE	AMOUNT
1	NX ADDITIONAL EQUIPMENT: FSC# 6530-439529 SURGICAL LIGHT SYSTEM SKYVISION ORTHO, EYE, GENERAL, ENT, NEURO NX ADDITIONAL EQUIPMENT: FSC# 6530-439529 SURGICAL LIGHT SYSTEM SKYVISION ORTHO, EYE, GENERAL, ENT, NEURO Funding/Req. Number: 1	1.00	EA	\$732,310.4100	\$732,310.41
2	CARDIAC Funding/Req. Number: 1	1.00	EA	\$287,907.1400	\$287,907.14
3	HYDRID Funding/Req. Number: 1	1.00	EA	\$148,018.8400	\$148,018.84
4	CYSTO Funding/Req. Number: 1	1.00	EA	\$55,294.3500	\$55,294.35
5	TRAINING & EDUCATIONAL PROGRAMS INSTALLATION Funding/Req. Number: 1	1.00	EA	\$128,085.2400	\$128,085.24
<b>GRAND TOTAL</b>					<b>\$1,351,615.98</b>

**Accounting and Appropriation Data**

ACRN	APPROPRIATION	REQUISITION NUMBER	AMOUNT
1	614-3630160-560-820200 Surgical- 3131 MEDICAL, DENTAL AND SCIEN-0100C6075		\$1,351,615.98

**SECTION C - CONTRACT CLAUSES**

## **C.1 FSS RFQ INTRODUCTORY LANGUAGE**

The terms and conditions of the contractor's FSS contract (including any contract modifications) apply to all Blanket Purchase Agreements (BPA) and task or delivery orders issued under the contract as a result of this RFQ. When a lower price has been established, or when the delivery terms, FOB terms, or ordering requirements have been modified by the BPA or task/delivery order, those modified terms will apply to all purchases made pursuant to it and take precedence over the FSS contract. Any unique terms and conditions of a BPA or order issued under the contract that are not a part of the applicable FSS contract will govern. In the event of an inconsistency between the terms and conditions of a BPA or task/delivery order and the Contractor's FSS terms, other than those identified above, the terms of the FSS contract will take precedence.

## **C.2 VAAR 852.215-71 EVALUATION FACTOR COMMITMENTS (DEC 2009)**

The offeror agrees, if awarded a contract, to use the service-disabled veteran-owned small businesses or veteran-owned small businesses proposed as subcontractors in accordance with 852.215-70, Service-Disabled Veteran-Owned and Veteran-Owned Small Business Evaluation Factors, or to substitute one or more service-disabled veteran-owned small businesses or veteran-owned small businesses for subcontract work of the same or similar value.

(End of Clause)

## **SECTION E - SOLICITATION PROVISIONS**

### **E.1 VAAR 852.215-70 SERVICE-DISABLED VETERAN-OWNED AND VETERAN-OWNED SMALL BUSINESS EVALUATION FACTORS (DEC 2009)**

(a) In an effort to achieve socioeconomic small business goals, depending on the evaluation factors included in the solicitation, VA shall evaluate offerors based on their service-disabled veteran-owned or veteran-owned small business status and their proposed use of eligible service-disabled veteran-owned small businesses and veteran-owned small businesses as subcontractors.

(b) Eligible service-disabled veteran-owned offerors will receive full credit, and offerors qualifying as veteran-owned small businesses will receive partial credit for the Service-Disabled Veteran-Owned and Veteran-owned Small Business Status evaluation factor. To receive credit, an offeror must be registered and verified in Vendor Information Pages (VIP) database. (<http://www.VetBiz.gov>).

(c) Non-veteran offerors proposing to use service-disabled veteran-owned small businesses or veteran-owned small businesses as subcontractors will receive some consideration under this evaluation factor. Offerors must state in their proposals the names of the SDVOSBs and VOSBs with whom they intend to subcontract and provide a brief description of the proposed subcontracts and the approximate dollar values of the proposed subcontracts. In addition, the proposed subcontractors must be registered and verified in the VetBiz.gov VIP database (<http://www.vetbiz.gov>).

(End of Provision)



**E.2 52.209-5 REPRESENTATION BY CORPORATIONS REGARDING AN UNPAID TAX LIABILITY OR A FELONY CONVICTION UNDER ANY FEDERAL LAW (DEVIATION)(MAR 2012)**

(a) In accordance with Division H, sections 8124 and 8125 of P.L. 112-74 and sections 738 and 739 of P.L. 112-55 none of the funds made available by either Act may be used to enter into a contract with any corporation that—

(1) Has an unpaid federal tax liability, unless the agency has considered suspension or debarment of the corporation and the Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

(2) Has a felony criminal violation under any Federal or State law within the preceding 24 months, unless the agency has considered suspension or debarment of the corporation and Suspension and Debarment Official has made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) The offeror does  does not  have any unpaid Federal tax liability that has been assessed and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

(2) The offeror, its officers or agents acting on its behalf have  have not  been convicted of a felony criminal violation under a Federal or State law within the preceding 24 months.

(End of Provision)