



April 17, 2024

Office of State Procurement
Arkansas Department of Transformation and Shared Services
501 Woodlane Street, Suite 220
Little Rock, Arkansas 72201
Attn: Jessica Patterson, Director
E-mail: jessica.patterson@arkansas.gov

Re: Response to ClassWallet's Protest of Anticipation to Award Contract Pursuant to Solicitation No. S000000313: Online Platform for Education Freedom Accounts and Literacy Tutoring Grants to Student First Technologies

Ms. Patterson:

This letter serves as the response by Sid3car Co (d/b/a Student First Technologies), an Indiana corporation ("Student First"), to the protest submitted by Kleo, Inc. (d/b/a ClassWallet), a Delaware corporation ("ClassWallet"), in response to the anticipation to award a contract pursuant to Solicitation No. S000000313: Online Platform for Education Freedom Accounts and Literacy Tutoring Grants. Student First has timely filed this response within five days of receiving notice of the protest from counsel to ClassWallet.

I. Background

On December 15, 2023, the Office of State Procurement ("OSP") issued Solicitation No. S000000284 ("Solicitation 284") on behalf of the Arkansas Department of Education (the "ADE") for proposals to develop an online platform for education freedom accounts ("EFAs") and literacy tutoring grants ("LTGs"). (Exhibit 1.) EFAs are accounts that allow Arkansas to provide state funds for students and their families to spend on tuition for private schools and other services provided by various education-related vendors. (Exhibit 1.) LTGs are grants that provide up to \$500 to families of students in kindergarten through third grade who meet eligibility requirements for tutoring provided by an approved tutoring vendor. (Exhibit 1.) Section 2.4 of Solicitation 284 required that the online platform enable families and vendors to apply for EFAs and manage student information to disburse funds for approved EFA expenses and LTGs. (Exhibit 1.)

ADE subsequently decided to rebid the solicitation, and on February 9, 2024, OSP issued Solicitation No. S000000313 ("Solicitation 313"). (Exhibit 2.) Solicitation 313 was substantially similar to Solicitation 284 but included an updated price sheet to elicit additional information on differences in pricing as between EFAs and LTGs. Student First, Odyssey, and ClassWallet all submitted bids in response to Solicitation 313. (Exhibits 3, 4, and 5.)

On March 29, 2024, OSP announced its Anticipation to Award the contract to Student First. (Exhibit 6.) Student First received the highest score of all of the bidders, a perfect combined grand total score of 1000, consisting of a perfect weighted technical proposal score of 700 and a perfect cost score of 300 as a result of submitting the lowest-cost bid of \$15,170,000. (Exhibit 7.)

Odyssey finished second in the scoring of responses to the second solicitation. (Exhibit 7.) Odyssey received a combined grand total score of 953.66, consisting of a weighted technical proposal score of 676.67 and a cost score of 276.99. (Exhibit 7.) Odyssey bid \$16,430,000—an additional \$1.26 million over the amount bid by Student First. (Exhibit 7.)

ClassWallet finished third in the scoring of responses to the second solicitation. (Exhibit 7.) ClassWallet received a combined grand total score of 944.88, consisting of a weighted technical proposal score of 700 and a cost score of 244.88. (Exhibit 7.) ClassWallet bid \$18,584,500—an additional \$3.4 million over the amount bid by Student First. (Exhibit 7.)

Odyssey and ClassWallet filed protests against the Anticipation to Award on April 12, 2024. (Exhibits 8 and 9.)

II. Responses to ClassWallet’s Claims

Student First respectfully requests that you deny ClassWallet’s protest against the award of the contract to Student First because ClassWallet’s arguments rely on immaterial technicalities and ignore Student First’s substantial experience in serving education funding programs. On the contrary, Student First has experience with multiple education funding programs in multiple states. With respect to ClassWallet’s arguments against Odyssey, Student First will not express any opinion on their merits for the time being but reserves the right to do so and to raise additional arguments in a protest of an award of the contract to Odyssey should that ultimately occur.

1. Student First’s Inadvertent Use of the Signature Page from the Original Bid Solicitation Was a Clerical Error That Should Not Deprive the State of Arkansas of the Benefits of the Lowest Bid.

The State Procurement Director or agency procurement official may waive technicalities in proposals or minor irregularities in a procurement that do not affect the material substance of the Request for Proposals when it is in the State’s best interest to do so. R7:19-11-230(a). The reason for this is obvious: “There is a strong public interest in favor of conserving public funds in awarding public contracts, and little, if any, public benefit in disqualifying proposals for technical deficiencies in form or minor irregularities where the offeror does not derive any unfair competitive advantage therefrom.” R7:19-11-230(a).

Student First’s mistaken use of the incorrect signature page was a technical deficiency in form that amounted to no more than a minor irregularity that did not provide Student First with any unfair competitive advantage. When OSP issued Solicitation 284 on December 15, 2023, it included a signature page that included three representations to the effect that Student First would not knowingly employ or contract with an illegal alien, boycott Israel, or boycott an energy, fossil fuel, firearm, or ammunition company. (Exhibit 1.) Student First signed this signature page

when it submitted its original bid. When OSP subsequently issued Solicitation 313 on February 9, 2024, it included a new signature page that included an additional representation to the effect that the signatory was not and would not become a Scrutinized Company and did not and would not employ a Scrutinized Company during the term of the contract. (Exhibit 2.) Student First's support staff did not realize that the signature page had changed and reused the signature page previously signed by Mark Duran, the Chief Executive Officer of Student First. No one was aware of the change, so no one was trying to avoid giving a required representation. It was a clerical error.

This technical deficiency amounted to a minor irregularity because it is not as though Student First could not give that representation as of the date of its submission or is unwilling to give that representation as of today. On the contrary, it is true that Student First has not hired any Scrutinized Company and has no intention of doing so during the term of the contract. For that reason, Student First is perfectly willing to sign the corrected signature page with the correct representation and has done so. (Exhibit 10.)

That this technical deficiency and minor irregularity did not provide Student First with any unfair competitive advantage is obvious from the fact that (i) ADE did not notice the error; and (ii) the error played no part in ADE's decision to award the contract to Student First. ADE made the decision to award the contract to Student First based on a scoring matrix. (Exhibit 7.) Student First received the highest combined grand total score overall because it received a perfect score on the technical dimension and submitted the lowest-cost bid. (Exhibit 7.) There is no evidence that the Student First's failure to use the correct signature page advantaged Student First over ClassWallet or any other bidder in any way. On the contrary, it defies common sense to think that ADE would have awarded the contract to a different bidder if Student First had used the correct signature page with an additional representation.

Relying on the decision by Director Armstrong with respect to a protest in response to RFP No. 710-20-0041: Solicitation for the Design, Development, Implementation, Maintenance, and Operation of a New Comprehensive Child Welfare System ("RedMane"), ClassWallet argues that the signature page was a required portion of the bid, but ClassWallet neither (i) acknowledges the fact that the Director has the authority to waive technical deficiencies as discussed above nor (ii) addresses the fact that RedMane is clearly distinguishable on two key grounds.

First, RedMane is distinguishable because the error in RedMane created a \$2 million error in the department's favor that made RedMane's bid look substantially more attractive to the department. The department took advantage of the error and awarded the contract to RedMane on the basis of RedMane's artificially low bid. Here, no one seriously argues that ADE would have awarded the contract to a different bidder if Student First had used the correct signature page. The mistake did not change the outcome of the award. Student First would have won anyway. Student First would still be the lowest bidder by \$1.26 million as compared with Odyssey and by \$3.4 million as compared with ClassWallet.

Second, RedMane is distinguishable because the \$2 million error in RedMane could not easily be corrected. Here, all that would be necessary to correct the error would be for Student First to sign the corrected signature page. At bottom, ClassWallet's protest on this ground amounts

to asking the state of Arkansas to spend an additional \$3.4 million due to a technical error that can easily be corrected. The obvious remedy is to allow Student First Technologies to sign the correct signature page, which it has done and included as (Exhibit 19.) Allowing Student First to do so and denying ClassWallet's protest would save Arkansan taxpayers \$3.4 million.

2. Student First Has More Than Sufficient Experience Serving Education Funding Programs to Satisfy the Minimum Requirements in the RFP.

ClassWallet's argument that Student First does not satisfy the minimum qualifications required to be awarded the contract ignores Student First's longstanding leadership in the education funding program space and should be dismissed. Section 2.3A of Solicitation 313 requires that "the Contractor shall have one (1) year of experience with projects of similar size and scope as detailed in this RFP." (Exhibit 2.) Section 2.4 of Solicitation 313 generally required that the online platform enable families and vendors to apply for EFAs and manage student information to disburse funds for approved EFA expenses and LTGs. (Exhibit 2.) In other words, ADE required that the contractor have at least one year of experience building software-as-a-service technology platforms that allow an institution to set aside funds for and disburse those funds to educational service providers for the benefit of particular students.

That experience is precisely what Student First has. Student First's platform has serviced several types of education funding programs, including tax credit scholarships, microgrants, and education savings accounts. A tax credit scholarship program is a program that allows a state or local government to provide a full or partial tax credit to a taxpayer, whether an individual or a business, when the taxpayer donates to a nonprofit that provides private school scholarships. A microgrant program is a program that allows a state or local government or nonprofit to make a one-time grant to a family to pay for education-related expenses for a student. An education savings account program is a program that allows a state or local government to set aside funds for a family that the family can use to pay for education-related expenses for a student on an ongoing basis. Regardless, tax credit scholarships, microgrants, and education savings accounts are all fundamentally similar in that they enable institutions to disburse funds to families to pay for education-related expenses. In all cases, Student First's platform needs to perform the same core functions: (i) allow a participant to apply to the program; (ii) allow the institution to approve the participant; (iii) allow the family to direct their funding for permitted educational expenses to an approved service provider; and (iv) ensure that the institution, its administrators, the family, and service providers stay in compliance with the specific program. Student First's platform has successfully done that to the tune of tracking and/or disbursing over \$100 million of education funding. (Exhibit 3.)

Student First has been developing technology platforms for these programs for the last seven years. Student First was founded in 2017, and it began serving its first tax credit scholarship program the same year. Student First has since provided a technology platform for eleven tax credit scholarship programs, one microgrant program, and three tutoring and other similar education savings account programs.

In its proposal in response to Solicitation 313, Student First stated, "Our platform is the system of record & distribution for over \$100+ million in education funding to families annually across 17 states, serving 75k+ families through 11 clients." Exhibit 3. In fact, the

numerical values were conservative estimates. The following table sets out the amount of funding that Student First has tracked and/or distributed to families in each state, and the approximate number of such families, through February 22, 2024, the date of Student First’s submission in response to Solicitation 313:

State	Program Types	Funding Total (2/22/23 – 2/22/24)	Estimated Families Served (2/22/23 – 2/22/24)
Indiana	Tax credit scholarships and microgrant (ESA)	\$41,740,917.49	36,000
Arizona	Tax credit scholarships	\$17,448,927.44	5,000
Tennessee	ESA (multiple programs)	\$20,000,000 (estimated)	4,100
Utah	ESA (tax credit funded)	\$4,000,000 (estimated)	900
Other States (Arkansas, Georgia, Illinois, Louisiana, Oklahoma, Missouri, Nebraska, Ohio, Pennsylvania, Virginia)	Tax credit scholarships	\$85,639,172.42	15,000
Other States (Indiana, New Hampshire, Ohio)	Discovery Calculators	\$0	15,000

ClassWallet’s argument that Student First has not served a program with the same number of students and families as the Arkansas program ignores how many students and families Student First has served across all of the various programs that Student First serves. Perhaps more importantly, it ignores the fact that the real complexity in serving an education funding program with a software-as-a-service comes from the specific requirements of different programs, not the scale or the number of transactions expected.

III. Conclusion

In conclusion, Student First Technologies respectfully requests that you dismiss the protest filed by ClassWallet and finalize the award of the contract to Student First Technologies.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. McPike', with a long horizontal flourish extending to the right.

Jonathan McPike