

"Governmental body" means a state government department, commission, council, board, bureau, committee, institution, college, university, technical school, legislative body, agency, government corporation, or other establishment or official of the executive, judicial, or legislative branches of this State. Governmental body excludes the General Assembly, and all local political subdivisions such as counties, municipalities, school districts, or public service or special purpose districts. [emphasis added]

An entity might be a governmental body, such as a local political subdivision, yet not be subject to the Consolidated Procurement Code, because it is specifically excluded from the definition of governmental body for purposes of application of the Consolidated Procurement Code. Thus, to determine if the Panel has jurisdiction in this case, the issue becomes the status of Charleston County Aviation Authority as a governmental body within the definition of S. C. Code Ann. §11-35-310(18).

1970 Act 1235 creates the Charleston County Airport District, which later in 1974 Act 1164 becomes the Charleston County Aviation Authority. The enabling statute, 1970 Act 1235, states "[t]he territory embraced by the County of Charleston is hereby constituted an Airport District and a political subdivision of this state...." [emphasis added]. Also, as noted in Panel Case No. 1989-2, In re: Protest of Willis Construction Co., Inc., the Attorney General of South Carolina has opined that an airport commission is a special purpose district or local political subdivision. 85 Op. Att'y Gen. 36 (April 11, 1985). As a local political subdivision, the Charleston County Aviation Authority is specifically excluded from the application of the Consolidated Procurement Code under the

Code's definition of a governmental body. Therefore the protest rights granted by S. C. Code Ann. §11-35-4210 are not applicable to CCAA and entities involved in CCAA procurements, and the Panel does not have jurisdiction in this case under S. C. Code Ann. §11-35-4210.

Jurisdiction under S. C. Code Ann. §11-35-4410(1)(b) may be applicable to political subdivisions through S. C. Code Ann. §11-35-50, which requires local political subdivisions to adopt procurement policies. However, in this case, CEI is requesting review of CCAA's final administrative decision concerning a procurement conducted by CCAA, using CCAA's procurement policy. S. C. Code Ann. §11-35-4410(1)(b) allows for review of decisions "as arise from or concern the procurement of supplies, services, or construction procured in accordance with the provisions of this code and the ensuing regulations:" [emphasis added]. CCAA did not conduct the procurement under the SC Consolidated Procurement Code, and therefore, the Panel does not have jurisdiction in this case under S. C. Code Ann. §11-35-4410(1)(b).

Although CCAA instructs parties involved in procurement disputes to request review by the Panel, and apparently consents to the Panel's jurisdiction, the parties to a case may not confer subject matter jurisdiction on a court. See, Cox v. Lunsford, 272 S.C. 527, 252 S.E.2d 918 (1979); Petroleum Transportation Inc. v. Public Service Comm., 255 S.C. 419, 179 S.E.2d 326 (1971). The Panel finds that it does not have jurisdiction to hear the merits of this case.

For the foregoing reasons, the Panel dismisses the protest of Charleston Equities, Inc. for lack of jurisdiction.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT
REVIEW PANEL

BY: 
Gus J. Roberts, Chairman

Columbia, SC

March 11, 1997