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## Protest Decision

**Matter of:** Reimers Furniture MFG, Inc. dba RFM Seating

**Case No.:** 2018-147

**Posting Date:** February 28, 2018

**Contracting Entity:** State Fiscal Accountability Authority

**Solicitation No.:** 5400013853

**Description:** Office Furniture State Term Contract

### DIGEST

Untimely protest is denied. Reimers Furniture MFG's (RFM) letter of protest is included by reference. [Attachment 1]

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on a review of the procurement file, applicable law, and precedents.

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<sup>1</sup> The Materials Management Officer delegated the administrative review of this protest to the Chief Procurement Officer for Information Technology.

## BACKGROUND

<i>Event</i>	<i>Date</i>
Solicitation Issued	09/28/2017
Amendment One Issued	10/16/2017
Amendment Two Issued	10/27/2017
Intent to Award Issued	02/09/2018
Protest Received	02/26/2018

## ANALYSIS

The State Fiscal Accountability Authority (SFAA) issued this Invitation For Bids (IFB) on September 28 17, 2017 to establish a state term contract for office furniture. Intents to Award to were posted on February 9, 2018. RFM protested the award on February 26, 2018. The South Carolina Consolidated Procurement Code authorizes the Chief Procurement Officer to conduct an administrative review of the protest of any actual bidder, offeror, contractor, or subcontractor in accordance with Section 11-35-4210(1)(b) as follows:

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall protest to the appropriate chief procurement officer in the manner stated in subsection (2)(b) within ten days of the date award or notification of intent to award, whichever is earlier, is posted in accordance with this code; except that a matter that could have been raised pursuant to (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

(emphasis added) In this case, the Intent to Award was posted on February 9, 2018. The tenth day fell on February 19, 2018, which was a state and federal holiday. Section 11-35-310(13) stipulates:

If the final day of the designated period falls on a Saturday, Sunday, or a legal holiday for the state or federal government, then the period shall run to the end of the next business day.

In this case, the final day to timely file a protest was 5:00 P.M. on February 20, 2018. Protests must be received by the CPO no later than the close of business on the tenth day or, in this case, February 20, 2018. RFM's protest was not received until February 26, 2018, and consequently the CPO lacks jurisdiction to review RFM's issues of protest.

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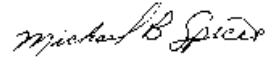
Case No. 2018-147

February 28, 2018

## **DECISION**

For the reasons stated above, the protest of Reimers Furniture MFG, Inc. is dismissed as untimely.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Marlene Reischman](#)  
**To:** [Protest-MMO](#)  
**Subject:** Protest bid #5400013853  
**Date:** Monday, February 26, 2018 2:05:23 PM  
**Attachments:** [SC Bid Submittal-11082017.msq](#)  
[Signed protest letter 02262018 .pdf](#)  
[2017 Warranty.pdf](#)  
[Attachment A-R eferences.pdf](#)  
[Attachment F.xlsx](#)  
[Attachment M.xlsx](#)  
[Cover page 1 and 2.pdf](#)  
[Info to Submit.docx](#)  
[Minority Participation.pdf](#)  
[V. Qualifications final.docx](#)

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Hello,

Please find the attached protest letter information. We have sent in an official letter and USB drive via US Mail as well. US Mail tracking number

USB drive information are submitted as attachments.

Thank you,

Marlene Reischman  
Customer Service Manager  
RFM seating  
619 SW Wood Street  
Hillsboro, OR 97123  
800-447-5542 PH/800-734-6377 FX  
[www.rfmseating.com](http://www.rfmseating.com)





619 SW Wood St., Hillsboro, OR 97123 T:800.447.5542 F:800.734.6377 www.rfmseating.com

Date: 2-23-2018

Re: Office Furniture Statewide Contract award for Bid #5400013853

To: Ms. Stacy Gregg, Chief Procurement Office, Materials Management Office

This is an official protest to the recent email notification Reimers Furniture MFG received stating our bid was left in the "saved" status and not submitted officially.

I received and appreciated the phone call from Mr. Sam Hanvey from your SCEIS division in researching why our screenshot shows the bid submitted (copies attached) and your system only showing it as "saved". Mr. Hanvey conveyed that there would have been another step we needed to follow through in order to give an official submission.

The bid was worked on by myself and the operations manager Devan Kelley on 11/08 as the screenshot shows, 5 days prior to when the bid was required to be submitted. At the time of uploading, the system showed the bid was submitted and neither of us recall there being a question and/or box saying any further checks were required. We are not arguing that the step was there, however, with the bid stating submitted and the fact we don't recall the other step, we considered the bid submitted and would not have known the bid did not go through.

Mr. Hanvey had mentioned on the phone, other companies have made the same error in past, so we don't feel it is an isolated instance. Per the email we received from Michael Spicer regarding case number 2018-146 in regards to unevaluated bids, we feel we may have been overlooked in the same way.

With the attached copies of our screen shot showing the bid submission, I believe it shows we have intended to submit a bid to be considered for the upcoming State of South Carolina Furniture Contract #5400013853 and would ask that you reconsider Reimers Furniture MFG (DBA RFM Seating) as an eligible contractor.

We firmly believe we followed all procedures and responded to all requests in a timely manner to ensure the RFM Seating would be on the State of South Carolina Furniture Contract. RFM Seating is a domestic small business manufacturer of high-quality ergonomic chairs. We have been selling our chairs to the State of South Carolina for 5 years.

In addition, we support dozens of South Carolina small businesses that sell our chairs to the State, including Forms and Supply, Alfred Williams, and Talotta Contract Interiors to name a few. All of these companies will be adversely affected if they can no longer sell RFM chairs to the State of South Carolina.

I am including our bid information via USB drive for an easier review.

Thank you for your consideration to this matter and we look forward to hearing from you.

Regards,



Marlene Reischman

Customer Service Manager

[marlene@rfmseating.com](mailto:marlene@rfmseating.com) / 800-447-5542

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

*Protest Appeal Notice (Revised July 2017)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

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Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

**FILE BY CLOSE OF BUSINESS:** Appeals must be filed by 5:00 PM, the close of business. *Protest of Palmetto Unilect, LLC*, Case No. 2004-6 (dismissing as untimely an appeal emailed prior to 5:00 PM but not received until after 5:00 PM); *Appeal of Pee Dee Regional Transportation Services, et al.*, Case No. 2007-1 (dismissing as untimely an appeal faxed to the CPO at 6:59 PM).

**FILING FEE:** Pursuant to Proviso 111.1 of the 2016 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. The Request for Filing Fee Waiver form is attached to this Decision. If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

**LEGAL REPRESENTATION:** In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C Enterprises, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1205 Pendleton Street, Suite 367, Columbia, SC 29201**

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\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

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1. What is your/your company's monthly income? \_\_\_\_\_

2. What are your/your company's monthly expenses? \_\_\_\_\_

3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

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For official use only: \_\_\_\_\_ Fee Waived      \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**