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EXECUTIVE DIRECTOR

THE DIVISION OF PROCUREMENT SERVICES

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MICHAEL B. SPICER  
INFORMATION TECHNOLOGY MANAGEMENT OFFICER  
(803) 737-0600  
FAX: (803) 737-0639

## Protest Decision

**Matter of:** Carolina Filters, Inc.

**Case No.:** 2020-126

**Posting Date:** January 24, 2020

**Contracting Entity:** Medical University of South Carolina

**Solicitation No.:** N/A

**Description:** Intent to Award without Competition Air Filters

### DIGEST

Protest of Sole Source Award is denied as untimely. Carolina Filters' 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 materials in the procurement file and 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

Intent to Sole Source Published  
Protest Received

01/09/2020  
01/21/2020

## ANALYSIS

The Medical University of South Carolina advertised its intent to award a sole source contract for air filters that can withstand temperature at a minimum of 200 degrees Fahrenheit to Hoffman & Hoffman, Inc. in the South Carolina Business Opportunities publication on January 9, 2020. (Attachment 2) Carolina Filters protested the award on January 21, 2020, alleging that there is competition for these products.

Section 11-35-4210(1)(c) grants prospective bidders the right to protest the intended award of a sole source contract as follows:

Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract pursuant to Section 11-35-1560 or Section 11-35-1570 shall notify the appropriate chief procurement officer in writing of its intent to protest within five business days of the date that award or notification of intent to award, whichever is earlier, is posted in accordance with this code. Any actual or prospective bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of such a contract and has timely notified the appropriate chief procurement officer of its intent to protest, may protest to the appropriate chief procurement officer in the manner stated in subsection (2) within fifteen 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 subitem (a) as a protest of the solicitation may not be raised as a protest of the award or intended award of a contract.

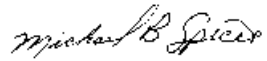
(emphasis added)

Carolina Filters did not notify the Chief Procurement Officer of its intent to protest until January 21, 2020, six business days after the intent to award was published in SCBO. Consequently, the Chief Procurement Officer lacks jurisdiction to consider the merits of Carolina Filters' protest.

**DECISION**

For the reasons stated above, the protest of Carolina Filters, Inc. is denied.

For the Materials Management Office

A handwritten signature in cursive script that reads "Michael B. Spicer".

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Michael B. Spicer  
Chief Procurement Officer

## Attachment 1

**From:** [Steve Stafford](#)  
**To:** [Protest-MMO](#)  
**Subject:** [External] Solicitation Request: Sole Source - Air Filters for MUSC and MUHA Air Filters  
**Date:** Tuesday, January 21, 2020 8:20:20 AM  
**Attachments:** [DOC425.pdf](#)

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To Whom It May Concern,

Please see the attached letter concerning Carolina Filters intent to protest the subject solicitation. A letter of our interest and capabilities to provide these services has been sent to the Procurement Officer at MUSC. Please contact me with any questions.

Thank you,

Photograph



**Steve Stafford, ASCS,  
CVI**

Indoor Air Quality Specialist

**Carolina Filters, Inc.**

**P:** 803-418-9720

**C:** 803-968-5024

**E:** [steve@carolinafilters.com](mailto:steve@carolinafilters.com)

109 E Newberry Ave  
Sumter, SC 29150

[www.carolinafilters.com](http://www.carolinafilters.com)





January 20, 2020

State Procurement Services  
Attn: Chief Procurement Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, SC 29201

**Re: Notice of Intent to Protest – Sole Source Contract for MUSC and MUHA Air Filters**

Dear Mr. Spicer,

Please accept this letter as Carolina Filters notice of intent to protest the award without competition, a five (5) year sole source contract to Hoffman & Hoffman, Inc. to supply air filters that withstand temperature at a minimum of 200 degrees Farenheit to the Medical University of South Carolina (MUSC) and Medical University Hospital Authority (MUHA).

Carolina Filters is submitting its notice of intent to the appropriate parties at MUSC/MUHA of our interest and capability to provide these services.

Please contact me if you have any questions.

Sincerely,

Cody Clepper  
Vice President and Controller

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P.O. Box 716  
109 E. Newberry Ave.  
Sumter, SC 29151

OFFICE: 803-773-6842  
FAX: 803-775-6190

## Attachment 2

# South Carolina Business Opportunities

## SCBO Online Edition

Back

Ads Main Page

### Ad Title:

Intent to Sole Source

### Ad Publish Date:

January 9, 2020

### Purchasing Agent/Entity:

Medical University of South Carolina

### Bid/Submittal Due Date:

January 24, 2020 - 12:00am

### Description:

The Medical University of South Carolina (MUSC) and Medical University Hospital Authority (MUHA), Engineering and Facilities Management in accordance with §11-35-1560 (A) of the SC Consolidated Procurement Code, intends to award without competition, a five (5) year sole source contract to

1/21/2020 SCBO - Procurement Services

<https://scbo.sc.gov/online-edition?s=14984> 2/2

PRINT ADVERTISEMENT

Hoffman & Hoffman, Inc. to supply air filters that withstands temperature at a minimum of 200 degrees

Fahrenheit.

### Solicitation #:

N/A

### Direct Inquiries To:

Belinda Holloway

### Buyer Phone#:

843-792-4967

### Buyer Email:

brownbr@musc.edu

### Full Details / Download:

<https://web.musc.edu/about/leadership/institutional-offices/finance/vendor-portal/solicitations>

South Carolina

State Fiscal Accountability Authority

Procurement Services

1201 Main Street, Suite 600 | Columbia, SC 29201

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised June 2019)*

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>

FILING FEE: Pursuant to Proviso 111.1 of the 2019 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

- 
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.**