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## Protest Decision

**Matter of:** Pinewood Landfill Management Company, LLC

**Case No.:** 2016-140

**Posting Date:** May 31, 2016

**Contracting Entity:** SC Department of Health and Environmental Control

**Solicitation No.:** 5400010553

**Description:** Successor Trustee of the Pinewood Site Custodial Trust

### DIGEST

Protest of award in response to a request for proposals is denied where protester alleged little more than it should have been scored higher than the awarded offeror.

### AUTHORITY

The Chief Procurement Officer<sup>1</sup> conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on the evidence 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**

Solicitation Issued	December 3, 2015
Amendment 1 Issued	December 22, 2015
Intent to Award Issued	March 21, 2016
Protest Received	March 30, 2016
Award Suspended	April 1, 2016

The South Carolina Department of Health and Environmental Control (DHEC) issued this Request for Proposals under a delegation by the Chief Procurement Officer for services as Trustee of the Pinewood Site Custodial Trust. PIA was determined to be the most advantageous responsible offeror. DHEC posted an Intent to Award to PIA on March 30, 2016.

## **DISCUSSION**

Pinewood Landfill Management Company, LLC (PLM), protests the award to Pinewood Interim Administrator, Inc. (PIA) for a Successor Trustee of the Pinewood Site Custodial Trust alleging an erroneous evaluation. PLM's letter of protest is included by reference. [Attachment 1]

PLM protests that it is the most qualified offeror with respect to the first two evaluation criteria, that PIA included cost that was specifically prohibited by the solicitation, that PIA contracted with its parent company in violation of the solicitation, and that there was not an apples-to-apples comparison of cost.

The solicitation included three evaluation criteria:

**1. Ability to Perform**

Relevant experience in providing Trustee or substantially similar services, at similar sites, including knowledge of RCRA/CERCLA and other relevant environmental experience, and ability to implement fiscally conservative budgeting for the responsible management of Trust assets Maximum Points – 50

**2. Offeror's Staffing Experience/Qualifications**

Qualifications of key personnel to perform Trustee services under this contract Maximum Points – 30

**3. Price Proposal Maximum Points – 20**

PLM's first issue of protest questions its score with respect to the first criteria, Ability to Perform, as follows:

The solicitation requests information concerning work on projects of essentially the same scope as managing the Pinewood Landfill Site. ... Nobody on the nominal awardee's team has that level relevant environmental experience including the necessary budgeting. ***There are no better qualified people. How could we get fewer than the 50 points allocated for this category?***

(emphasis in original) In *In re: Protest of First Sun EAP Alliance, Inc.; Appeal by First Sun EAP Alliance, Inc.*, Case 1994-11, the Procurement Review Panel reaffirmed the standard of review of claims that errors were made by evaluators as follows:

S. C. Code Ann. Section 11-35-2410 provides for the finality of determinations under the RFP process unless "clearly erroneous, arbitrary, capricious, or contrary to law." First Sun argues that the ratings for the first three award criteria are arbitrary, capricious, and clearly erroneous. First Sun has the burden to prove its issue by a preponderance of the evidence. As the Panel had stated in previous cases, the Panel will not substitute its judgment for the judgment of the evaluators, or disturb their findings so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased.

(citation omitted) The Panel went on in *In re: Protest of Coastal Rapid Public Transit Authority*, Case No. 1992-16 to state that:

The Panel will not substitute its judgment for the judgment of the evaluators, who are often experts in their fields, or disturb their findings so long as the evaluators follow the requirements of the Procurement Code and the RFP, fairly consider all proposals, and are not actually biased.

PLM received scores of 20, 35, 15, 40, and 25 from the five evaluators. Evaluator comments indicate a strong technical expertise and environmental project management experience, but no indication of experience as a trustee for similar sites. There is no indication that the evaluators were arbitrary or capricious in their deliberations. PLM does not allege a violation of the Code. The CPO will not substitute his judgment for that of the evaluators. This issue of protest is denied.

PLM's second issue of protest is similar to its first. With regard to evaluation criteria #2, Offeror's Staffing Experience/Qualifications, PLM complains:

There are no better qualified persons to deal with underground chemicals in a complex geologic setting than the members of our team. Both principals hold PhD degrees in geology with an emphasis in geochemistry. Both have decades of experience in environmental technology and monitoring. ... ***There are no better qualified people. How could we get fewer than the 30 points allocated for this category?***

(emphasis in original) PLM received scores of 20, 20, 20, 20, 30 from the five evaluators. Evaluator comments indicate PLM is highly qualified but overstaffed for the project. Again, there is no indication that the evaluators were arbitrary or capricious in their evaluation and PLM does not allege a violation of the Code. The CPO will not substitute his judgment for that of the evaluators. This issue of protest is denied.

PLM next alleges that PIA is contracting with its parent company in violation of the solicitation:

***The solicitation expressly forbids a contractor subcontracting with itself for technical work.*** PIA is contracting with MVA, its parent company for technical support. PIA is a separate company in name only. The principals are still listed on the MVA website, and the PIA proposal indicates it will obtain bookkeeping, legal, and other services from MVA. PIA principles sit in the offices of MVA. This is clearly NOT an arms length relationship

In its proposal, PIA states that it contracted with MVA as follows:

To accomplish the responsibilities under the ISASA, PIA contracted with the Law Firm of Moore & Van Allen, PLLC (MVA) to provide PIA with staff resources including attorneys, non-attorney professionals and support staff. The staff resources provided by MVA included the services of Ben A. Hagood, Jr., Robert A Kerr, Jr. and Peter J. McGrath, Jr. to oversee the Interim Administration services. The staff resources also included bookkeeping and accounting resources, physical space for storage of important documents, and information technology services. The intent of this agreement was to provide to PIA the staff resources necessary to perform administration functions required by the ISASA and not to provide legal representation to PIA. Additionally, MVA and PIA entered into another engagement, documented by a separate letter, for legal representation. PIA has also engaged an environmental consulting firm to provide consulting services to PIA and the Trust.

[PIA proposal, Page 7] (DHEC file 3a)

The requirement in question is found on page 17 of the solicitation as follows:

The Trustee's scope of work is outlined in detail in the Trust Agreement and in Attachment 1A to the Trust Agreement, Scope of Fiduciary Duties. **The Trustee will accomplish post-closure care of the Site through technical services between the Trustee and third-party vendors, contractors, and consultants.** The Trustee will not directly perform technical services required for post-closure care. The Trustee will not contract with itself in its individual capacity for technical services.

[Solicitation, Page 17 (emphasis added)]

The solicitation separates legal, accounting, and administrative services from the technical services in the price proposal requirements of Section 4.3:

- 4.3.1. Detailed itemized proposal for the cost of Trustee services set forth in Section 3.2 above, including routine administrative, accounting, and legal services required to perform Trustee services.
- 4.3.2. The fixed price proposal shall not include costs for outside or third party engineers, consultants, or other professionals that may be retained by the Trustee to provide environmental services for the Site.

The work being provided by MVA are administrative, accounting, and legal services required to perform Trustee services, not technical services required by the Trustee to provide environmental services for the Site. There is no violation of the solicitation. This issue of protest is denied.

PLM's next issue of protest relates to the third evaluation criteria, Price Proposal Maximum Points – 20, as follows:

***The notice of proposed award statement posted by DHEC on March 21, 2016 for PIA does not include any information other than the outrageously high hourly rates of three individuals. The three hourly rates given are: President @ \$310; vice president @ \$395, and legal assistant @\$100.***

PLM is correct; the statement of Intent to Award only reflects three hourly and one annual charge. The Intent to Award should provide transparency to the procurement process and reflect

the total potential value of the contract which in this case is \$631,800 per year for seven years or \$4,422,600. However, PLM has suffered no injury because of the deficiency in the award statement. PLM also protests that:

***Furthermore, the proposed awardee includes \$30,000 for “Board of Directors.” The solicitation did not include provisions for such a board, and specifically prohibited inclusion in a proposal for items not requested.***

The procurement officer asked PIA to “explain in more detail the purpose of this position, and the justification for the amount of money to be expended for it.” PIA provided the following response:

With regard to item b. above, PIA is a South Carolina non-profit corporation. S.C. Code Ann. §33-31-803 provides that a non-profit board must consist of three (3) or more directors. Thus PIA must have at least 3 board members, and compensation for the time and experience of board members is appropriate. Mr. Hagood has been and remains one of three board members of PIA. He has extensive experience with the Pinewood Site and practiced environmental law for many years before retiring from the private practice of law on December 31, 2015. He has agreed to continue to serve as a PIA board member and will be involved in providing counsel to the officers of PIA on strategy and operations. As a former state legislator, his continued involvement with PIA is important to the success of PIA in carrying out the responsibilities of the Trustee as outlined in Section 3.2 of the Solicitation, including those provisions concerning communications with State Government offices. Under the circumstances, a board fee is appropriate and the amount stated is considered reasonable for the anticipated time demands.

In response to this issue, the agency observed:

PLM expresses concern for the “Board of Director’s” fee included in the PIA proposal and asserts that the solicitation specifically prohibits inclusion “for items not requested.” Section 4.1.1 requires the offeror to provide a detailed, clear and concise description on the approach to fulfill the proposed services identified under Part III of the solicitation. The inclusion of the Board of Trustees is responsive to 4.1.1 in that the Board is an integral part of the PIA organization. It is also responsive to Section of 4.4.1 which requires a copy of the Offeror’s organization. Because PIA is structured as a non-profit corporation, it is legally required to have a Board of Directors; it is not unexpected that it might include a Board of Director’s fee, especially considering PIA’s sole reason for being is to

administer the Trust. The amount of that fee was considered by DHEC evaluators in the total cost comparison when scoring the cost portion of the proposal.

The agency determined the fee to be within the permissible limits of the solicitation and reasonable. There is no violation of the solicitation and no violation of the Code with regard to the Board of Director's fee. This issue of protest is dismissed.

PLM also protest that:

***Review of PIA's proposal, obtained under FOIA, reveals that many of the activities required for Trust administration have their costs hidden in an "agreement" with PIA's parent, MVA. Our company openly lists these administrative providers as part-time employees, so that the total cost is honestly stated.***

The solicitation outlined the information required in the Price Proposal as follows:

4.3.3. The price proposal shall be based on hourly rate fees and shall detail the hourly rate and hours per month for each key member of the Offeror's organization, including support staff [...]. The price proposal shall include the estimated annual total for Trustee Services, which estimated total shall be the maximum annual amount due for Trustee services. The price proposal may include annual adjustments for inflation.

PIA's price proposal is based on an hourly rate, details the hourly rate for each key member of its organization including support staff,<sup>2</sup> includes an estimated annual total, and includes annual adjustments for inflation. The estimated total is the maximum annual amount the state will pay for Trustee services. There is no requirement that the price proposal include the number of hours and hourly rate for routine administrative, accounting, and legal services, only that these services be included in the total annual amount. PLM's suggestion that it could have reduced its price proposal from \$983,762.27 per year to \$645,668.62 per year by contracting separately for these

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<sup>2</sup> The price proposal includes an individual who will provide sixty hours of services per month at an hourly rate of \$120. PIA describes her qualifications as follows:

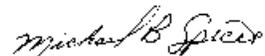
She provides PIA with administrative support in connection with Pinewood under PIA's agreement with MVA to provide staff resources. She has worked with PIA since November 2014 and has extensive experience with and knowledge of regulatory deadlines, historical Pinewood files, and current contracts.

services take its proposal out of compliance with the requirements of the solicitation. PIA's proposal complies with the requirements of the solicitation. There were negotiations as part of this procurement and had the agency felt more detail was necessary it could have asked in the same manner it asked for additional information about the Board of Trustee fee. There is no violation of the solicitation or the Code and this issue of protest is denied.

## **DECISION**

For the reasons stated above, the protest is denied. The procurement is remanded to DHEC with instructions to amend the award statement to reflect the total potential value of the contract.

For the Materials Management Office



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Michael B. Spicer  
Chief Procurement Officer

## **Attachment 1**

Pinewood Landfill Management Company, LLC (PLM)  
431 Shuler Court  
Columbia, S.C. 29212  
March 30, 2016.  
803-727-8073

Chief Procurement Officer  
Materials Management Office

WE PROTEST The **statement** of intention to award a contract to “Pinewood Interim Administrator, Inc.”(herinafter PIA) a contract under Solicitation #5400010553.

### **Background**

The Landfill near Pinewood in Sumter County contains, according to EPA records, 100 to 400 THOUSAND tons of buried waste. The constituents of the waste include chlorinated organic solvents known to be carcinogenic as well as metals and pesticides. This waste was emplaced in pits excavated into a fairly complex geologic setting with sands, clays, and buried channels. The pits are covered with plastic and soil. As the waste decays through chemical and biological actions, a toxic liquid called “leachate” is released. The leachate is pumped from pipes that penetrate the clay and plastic caps. Detailed calculations reveal that the site contains enough waste to produce leachate for thousands of years.

Wells have been installed to check ground water for signs that leachate is escaping from the pits and polluting natural waters which flow either to the Santee Swamp, or is pumped to fill duck ponds during hunting season. So far, there is very little evidence of pollution. But we are only a couple of decades into the thousand year life of the waste.

Currently, the management practice is to monitor for ground-water pollution, and to periodically replace the plastic and dirt caps. In the future, when pollution is detected, some remediation will be planned to keep the rest of the horses in the barn. This practice was established decades ago when environmental laws came into effect in the 1980s. It is still legal, and appropriate for some sites. Since the 1980s, environmental science and technology have developed to the point where there are better approaches to sites such as Pinewood.

There is almost no knowledge of the actual physical, chemical, and biological process at work within the waste. I will draw a parallel to cancer research. In the late 20<sup>th</sup> century, great strides were made in understanding cancer at a cellular and biochemical level. Today, we can actually cure many cancers based on the understanding of how they work, and thus how to mitigate them. Putting another layer of plastic on the Pinewood Toxic Waste Landfill is like putting a band-aid on a cancer that is festering out of sight.

We need a cure for Pinewood, not a palliative.

WE are Pinewood Landfill Management, LLC, herinafter “PLM.” PLM has proposed a team with the expertise to develop an understanding of the actual waste chemical processes while continuing to monitor for fugitive contaminants and carrying on day-to-day site operations.

## **The bidding Process**

The solicitation to which PLM responded listed three areas of evaluation. These were:

1. ability to perform; (50 points)
2. staffing experience and qualifications, experience, (30 points) and
- 3 cost. (20 points)

### **Ability to perform**

The solicitation requests information concerning work on projects of essentially the same scope as managing the Pinewood Landfill Site.

Our CFO has 20 years experience managing environmental monitoring at the Savannah River Site which is much larger and contains both hazardous and radioactive waste, and has a higher budget. This experience includes writing specifications and evaluating vendors for monitoring wells and surface sampling devices, vendors for analytical services, and vendors for report generation. Experience also included regular QA audit visits to analytical laboratories. All of these are directly applicable to Pinewood. Nobody on the nominal awardee's team has that level relevant environmental experience including the necessary budgeting. ***How could we get fewer than the 50 points allocated to "ability to perform?"***

Our field Project Manager was with AECOM, a principal consultant supporting the Pinewood Trustee, Kestrel, and was liaison between AECOM and the Trustee. He was also AECOM's program manager for a \$4M RFI/RI for NUCOR Steel in Darlington, S.C.

Our Accounting Manager (40 hours/month) writes software and manages accounting for Farm Credit Banks, and our Accounting Resource person (16 hours/month) is a partner in a CPA firm.

Our Engineering Resource person (16 hours/month) manages a construction firm with multi-million-dollar contracts with clients such as The City of Columbia, recently replacing sewer lines near the Congaree River that were damaged by recent floods. His role is specifically to evaluate vendor proposals for civil engineering projects. The objective is to protect the Pinewood Trust and DHEC from inflated projects proposed by ambitious vendors.

The general information to be submitted included audited financial reports for two years. As a new company, **we do not have these, but neither does DHEC's proposed awardee, PIA** which was only chartered in October of 2014 when appointed to be interim administrator. **PIA did not include a financial report for even the one year that PIA served as interim trustee. This helps obscure the hidden costs of this contractor.**

The solicitation allowed for qualifications of team members in lieu of company experience, and as we pointed out in our proposal, as a new company formed specifically to serve our State as Pinewood Trustee, we submitted individual team qualifications.

### **Technical qualifications of team members.**

There are no better qualified persons to deal with underground chemicals in a complex geologic setting than the members of our team. Both principals hold PhD degrees in geology with an emphasis in geochemistry. Both have decades of experience in environmental technology and monitoring.

Dr. Van Price (CEO, 80 hrs/mo) wrote the field sampling manual used for work under DOE's nationwide water and soil program in the 1970s. The procedures are essentially those used today for sampling of ground water at Pinewood. He has also taught geohydrology at Clemson and in short courses.

Dr. James Heffner (CFO, 50hrs/mo) managed the Savannah River Site's environmental monitoring program. SRS is larger and more complex than Pinewood, and houses radioactive as well as hazardous waste burials.

Dr. Craig Benson, (Landfill Resource person, 3hrs/mo) recently appointed dean of the University of Virginia Environmental engineering program, is of world renown as an expert on landfills. He has close ties with EPA, and has enjoyed success in securing EPA funding for landfill research.

Dr. Ronald Falta (underground movement resource, 3 hrs/mo)of Clemson actually wrote much of the computer code used to model flow of vapors underground – particularly appropriate if toxic gases are indeed migrating through the Pinewood landfill cover.

Jerry Smith, co-owner of G.H. Smith Construction, has current and past million dollar plus contracts involving environmental issues. His role on our team is largely to protect our budgets from unscrupulous field contractors who might overestimate or overcharge for field projects.

Lynn Martin was Director of Superfund Program for the state of SC at the SC Department of Health and Environmental Control before coming to work at the SRS. She and her colleague, Bill Maloney, are experts on EPA's RCRA, and other regulations without equal.

John Haramut was project manager for work that AECOM did for Kestrel. That work included developing a draft "Part B" for the Pinewood Site

Sandra Abouibrahim holds degrees in Geographic information systems from USC and NC State. Site records are largely the 3D distribution of contaminants detected in wells and sumps. Detection of changes of contaminant levels with time, critical for threat evaluation, is best done with GIS software.

Tammy Wolfe builds computer databases. Those two have all the skills to maintain records, maps and other data for the Site and to identify qualified contractors for related tasks.

***There are no better qualified people. How could we get fewer than the 30 points allocated for this category?***

***The solicitation expressly forbids a contractor subcontracting with itself for technical work.*** PIA is contracting with MVA, its parent company for technical support. PIA is a separate company in name only. The principals are still listed on the MVA website, and the PIA proposal indicates it will obtain bookkeeping, legal, and other services from MVA. PIA principles sit in the offices of MVA. This is clearly NOT an arms length relationship.

### **Three -- Cost**

The notice of proposed award statement posted by DHEC on March 21, 2016 for **PIA** does not include any information other than the outrageously high hourly rates of three individuals. The three hourly rates given are: President @ \$310; vice president @ \$395, and legal assistant @\$100.

Furthermore, the proposed awardee includes \$30,000 for “Board of Directors.” The solicitation did not include provisions for such a board, and specifically prohibited inclusion in a proposal for items not requested.

Review of PIA’s proposal, obtained under FOIA, reveals that many of the activities required for Trust administration have their costs hidden in an “agreement” with PIA’s parent, MNA. Our company openly lists these administrative providers as part-time employees, so that the total cost is honestly stated.

PLM could have reduced our proposal cost to our two managers and a field person. Then we could have formed a second company with all the other employees and subcontracted secretarial, book-keeping, records administration etc, to this company.

By failing to provide a financial statement as required, PIA keeps these added costs hidden.

The cost evaluation of the proposals was not an apples-to-apples comparison. Instead, services that PLM included in the proposal would be contracted out at unspecified added cost by PIA. The following table shows by strikethrough which PLM-offered services are not included in the PIA proposal. The second table shows the list of people and relevant cost data for services restricted to the services included in the PIA proposal.

Person	Hrs/Month	Bill Rate	Monthly Cost	Function
Haramut	168	75.26	\$12,643.68	Manager of technical subcontracts
<del>Abouibrahim</del>	<del>168</del>	<del>46.86</del>	<del>\$7,872.48</del>	<del>Data management, report preparation support</del>
<del>Office manager</del>	<del>168</del>	<del>42.6</del>	<del>\$7,156.80</del>	<del>General Office Work, typing, filing, document preparation, bookkeeping</del>
<del>Clerk</del>	<del>168</del>	<del>32.66</del>	<del>\$5,486.88</del>	<del>Files, document preparation</del>
Price*	80	120	\$9,600.00	CEO, Geochemist
Carr	72	92.3	\$6,645.60	Staff Attorney
Heffner*	50	120	\$6,000.00	CFO, Budgeting, financial reporting
Wolfe	40	56.8	\$2,272.00	Accounting Manager, financial reporting
Black	32	150	\$4,800.00	Environmental Statistician
Maloney / Martin	32	142	\$4,544.00	Permitting Experts
Smith*	16	71	\$1,136.00	Engineering Resource
Thomas	16	170.4	\$2,726.40	Accounting Resource
Falta*	3	200	\$600.00	Subsurface Transport Resource
Benson*	3	355	\$1,065.00	Landfill Expert Resource
			\$72,548.84	
OHD@13%			\$81,980.19	OHD - office supplies, copies, communications, internet, Heating and AC, electricity, commuting allowance, taxes, insurance
* No insurance			\$983,762.27	Total Annual Cost

Person	Hrs/Month	Bill Rate	Monthly Cost	Function
Haramut	168	75.26	\$12,643.68	Manager of technical subcontracts

Price*	80	120	\$9,600.00	CEO, Geochemist
Carr	72	92.3	\$6,645.60	Staff Attorney
Heffner*	50	120	\$6,000.00	CFO, Budgeting, financial reporting
Thomas	16	170.4	\$2,726.40	Accounting Resource
Monthly total			\$47,615.68	
Annualized			\$571,388.16	
Add OHD@13%		\$74,280.46		OHD - office supplies, copies, communications, internet, Heating and AC, electricity, commuting allowance, taxes, insurance
			\$645,668.62	Total Annual Cost

## Summary

The Pinewood Hazardous Waste Landfill is not a legal problem. It is an environmental problem. There are hundreds of thousands of tons of poisonous materials buried there festering under covers of plastic and dirt.

Until we understand the physical, chemical and biological processes going on in the waste, putting a new layer of plastic on is analogous to putting a band-aid on a cancer. It is LEGAL under the law, to put on a new layer of plastic. But that is a palliative, when we need a cure.

Simple calculations of the amount of material seeping from the waste and pumped from sumps indicates that the tons of waste are sufficient to fester and produce leachate for thousands of years. It is this leachate that has the potential to move toxic chemicals into the ground water and thus threaten the Santee Swamp and users of the ground water.

The solicitation, (page7, paragraph 2, (d)) states that, in accordance with the trust agreement, the trustee shall.... "retain engineers, environmental consultants, and other professionals **deemed by the trustee** to be necessary for the proper administration of the trust."

We do not believe that the politically appointed nominal awardee (PIA) has the background and expertise to manage the Pinewood Site properly for the State of South Carolina. Our team includes some of the brightest and most experienced persons in the environmental field. Only with this sort of expertise can the need for project actions be detected in the flow of monthly analytical data from wells and sumps. Only with this sort of expertise can we hope to move toward understanding of the ongoing processes beneath the thin covers of plastic and dirt. Only with this sort of expertise can we hope to cut centuries off the time during which Pinewood will pose an environmental threat to our state.

Failure to provide a financial statement for the previous year's operations hides costs that PIA incurred. PLM honestly estimated these costs and included them in our proposal. We also note that PIA did not include costs of real taxes that will be incurred, nor do they provide an overhead rate, which we can only assume is hidden in the agreement with their parent company.

We would welcome an opportunity to discuss this matter in detail.

**STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW**

*Protest Appeal Notice (Revised September 2015)*

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 2015 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  
1105 Pendleton Street, Suite 209, 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.**