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GRANT GILLESPIE  
EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** Carolina Specialty Fitness

**Case No.:** 2022-127

**Posting Date:** March 16, 2021

**Contracting Entity:** South Carolina Department of Mental Health

**Project:** 5400022766

**Description:** Fitness Equipment – Bryan Psychiatric Hospital

### DIGEST

Protest alleging successful bidder is not responsive is dismissed. The protest letter of Carolina Specialty Fitness (CSF) is included by reference. (Attachments 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**

Request for Quote Issued:	01/30/2022
Amendment 1 Issued	02/14/2022
Amendment 2 Issued	02/18/2022
Amendment 3 Issued	02/22/2022
Statement of Award Posted	03/07/2022
Protest Received	03/14/2022

The South Carolina Department of Mental Health issued this Request for Quotation on January 30, 2022, for sources to provide all labor, materials, equipment necessary to furnish, deliver and install fitness equipment. Amendments were published on February 14, 18, and 22. A Statement of Award was posted to Rep Run on March 7, 2022, with a total potential value of \$15,275.00.

## **ANALYSIS**

Section 11-35-4210(1)(b) grants actual bidders the right to protest the award of a contract under the Consolidated Procurement Code:

Any actual bidder, offeror, contractor, or subcontractor who is aggrieved in connection with the intended award or award of a contract shall notify the appropriate chief procurement officer in writing of its intent to protest within seven business days of the date that award or notification of intent to award, whichever is earlier, is posted and sent in accordance with this code.

However, Section 11-35-4210(d) limits the right to protest an award as follows:

The rights and remedies granted by subsection (1) and Section 11-35-4410(1)(b) are not available for contracts with an actual or potential value of up to fifty thousand dollars.

The total potential value of this contract is only \$15,275.00. Consequently, the CPO had no jurisdiction to review the merits of this protest.

## **DECISION**

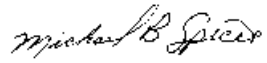
For the reasons stated above, the protest of Carolina Specialty Fitness is dismissed.

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Case No. 2022-127

March 16, 2021

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:** [CAROLINA SPECIALTY FITNESS](#)  
**To:** [Protest-MMO](#)  
**Cc:** [John Misenheimer](#)  
**Subject:** [External]  
**Date:** Monday, March 14, 2022 10:58:01 AM

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I am writing to protest the award for solicitation 5400022766.

The vendor that was awarded the bid did not follow the Amendment #2.

The treadmills on RepRun's bid are DC drive motors and will not withstand the environment they are being put in.

Per amendment #2 these treadmills are to be 4 HP AC drive motors.

**Aaron L. Reimer**

**Head of Sales**



**285 Columbiana Drive Suite B**

**Columbia, SC 29212**

**(803)407-4114**

[f\\_solutions2@msn.com](mailto:f_solutions2@msn.com)

<http://www.CarolinaSpecialtyFitness.com>



## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised May 2020)*

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 2020 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.**