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Cancellation of Award

Matter of: Chesapeake Marine, LLC and Clark Board Co., Inc.

File No.: 2027-107

Posting Date: October 13, 2026

Contracting Entity: State Fiscal Accountability Authority

Solicitation No.: 5400029647

Description: State Term Contract for Boats

DIGEST

The Chief Procurement Officer¹ (CPO) grants the request to cancel a notice of intent to award a contract prior to performance where the evaluator made an administrative error and did not properly evaluate all bids received. The Division of Procurement Services - Statewide Sourcing Section's request to cancel is attached as [Exhibit A].

AUTHORITY

The Chief Procurement Officer (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.

¹ The Materials Management Officer delegated the administrative review of this protest to the Deputy Chief Procurement Officer.

BACKGROUND

Solicitation Issued	04/06/2026
Amendment 2 Issued	05/12/2026
Intent to Award Posted	06/08/2026

The State Fiscal Accountability Authority, Division of Procurement Services (DPS) issued this Invitation for Bids to acquire a source or sources of supply for two types of boats (Fiberglass Hull and Aluminum Hull Boats) and Outboard Motors. DPS subsequently issued two amendments to the solicitation, publishing the last on May 12, 2026 [Exhibit B]. By the deadline for receipt of bids, DPS received eight bids [Exhibit C]. DPS posted an Intent to Award to Clark Boat Co, Inc, Cove2Coast Marine, Pioneer Boats, and Prodigy Boats, LLC. on June 08, 2026. A copy of the Intent to Award is attached as [Exhibit D].

ANALYSIS

Upon posting the Intent to Award, a FOIA inquiry was received by the Procurement Director. In fulfilling the inquiry, it was discovered that an error had been made during evaluation and that the complete offer submitted by Cove2Coast Marine had not been evaluated. Upon noticing the error, the Procurement Director reevaluated the Cove2Coast Marine offer and discovered that it was the lowest responsive and responsible bidder for five of the line items awarded to Chesapeake Marine, LLC and Clark Board Co., Inc.

On July 08, 2026, the Procurement Director – Supplies and Services Statewide Contracting Team, the section within DPS conducting this procurement, submitted a request to the CPO to cancel the intended award of contracts to Chesapeake Marine, LLC and Clark Board Co., Inc. pursuant to Reg. 19-445.2085(C). The basis of the request was that in evaluating bids, the evaluator made an administrative error and did not properly evaluate all bids received.

The Consolidated Procurement Code allows cancellation of award prior to performance in certain circumstances. Section 11-35-1520(7) states:

Correction or Withdrawal of Bids; **Cancellation of Awards**. Correction or withdrawal of inadvertently erroneous bids before or after award, or **cancellation and re-award of awards or contracts, after award** but before performance, **may be permitted in accordance with regulations promulgated by the board**. After bid opening, changes in bid prices or other provisions of bids prejudicial to the interest of the State or fair competition must not be permitted. After opening, bids must not be corrected or withdrawn except in accordance with the provisions of this code and the regulations promulgated pursuant to it. Except as otherwise provided by regulation, **all decisions** to permit the correction or withdrawal of bids, or to **cancel awards** or contracts, **after award but before performance, must be supported by a written determination of appropriateness made by the chief procurement officers or head of a purchasing agency**. [emphasis supplied]

Pursuant to this statute, the state adopted Regulation 19-445.2085, which states in relevant part:

C. Cancellation Of Award Prior To Performance.

After an award or notification of intent to award, whichever is earlier, has been issued but before performance has begun, the award or contract may be canceled and either re-awarded or a new solicitation issued or the existing solicitation canceled, **if the Chief Procurement Officer determines** in writing that:

- (1) Inadequate or ambiguous specifications were cited in the invitation;
- (2) Specifications have been revised;
- (3) The supplies, services, information technology, or construction being procured are no longer required;
- (4) The invitation did not provide for consideration of all factors of cost to the State, such as cost of transporting state furnished property to bidders' plants;
- (5) Bids received indicate that the needs of the State can be satisfied by a less expensive article differing from that on which the bids were invited;
- (6) The bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith;
- (7) **Administrative error of the purchasing agency discovered prior to performance**, or
- (8) **For other reasons, cancellation is clearly in the best interest of the State**.

[emphasis supplied]

While the authority to cancel awards and solicitations should be exercised carefully and sparingly, these provisions authorize the Chief Procurement to cancel an award of a contract before performance begins, when a compelling reason exists and one or more of the grounds

listed in the Regulation are present. *In Re: Analytical Automation Specialists, Inc.*, Panel Case 1999-1. One of the purposes and policies of the Procurement Code is:

To ensure the fair and equitable treatment of all persons who deal with the procurement system which will promote increased public confidence in the procedures followed in public procurement.

S.C. Code Ann. §11-35-20(f)

The integrity of the State's procurement system is negatively affected, and public trust is diminished, where the evaluator made an administrative error and did not properly evaluate the totality of all bids received. In such case, cancellation of award is clearly in the best interest of the State.

DECISION

For the reasons stated above, the CPO cancels the awards to Chesapeake Marine, LLC and Clark Board Co., Inc., and remands this Procurement back to DPS to proceed in accordance with the Procurement Code.



Stacy Adams
Deputy Chief Procurement Officer

Columbia, South Carolina

STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

Protest Appeal Notice (Revised July 2025)

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.

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 2025 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 J&Hs, 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 366, Columbia, SC 29201**

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: _____

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.