

## **Section I - Executive Summary**

The mission and values of the panel include the production of timely hearings to accommodate vendors and the state in the effective and fair performance of state contracts. Our values are based on making unbiased decisions according to the letter of the law as set forth in the Consolidated Procurement Code. The Panel's mission can be divided into the following functions:

- is responsible for providing an administrative review of formal protest of decisions arising from solicitation award of contracts;
- the debarment or suspension of a person from consideration for award of a contract;
- a decision concerning the resolution of a contract or breach of contract controversy;
- or any other decision, policy, or procedure arising from or concerning the expenditure of state funds for the procurement of any supplies, services, or construction procurement in accordance with the provisions of the State Procurement Code.

The Panel seeks to provide the best possible services to vendors and agencies of the state in keeping with the integrity of the Procurement Code. The Panel has posted their opinions on the Internet to make them more accessible. One of the sites is through the MMO website. The address is <http://www.state.sc.us/mmo/Legal/paneldec.htm>. The Panel also publishes its opinions to West Law, which is a legal research service. Our strategic goal is to continue the Panel's timely hearings that oversee the Procurement system. The Panel keeps the Procurement process in check. The Panel is unique in having people from the private sector overseeing how goods are bought in South Carolina Government and making sure the process is fair for vendors.

## **Section II – Organizational Profile**

The main objective of the Procurement Review Panel (Panel), is established by Sub article 3, Section 11-35-4410 of the South Carolina Consolidated Procurement Code. The Panel's responsibility is to review and determine de novo: requests for review of written determinant

ions of the chief procurement officers under Sections 11-35-4210(6), 11-35-4220(5), and 11-35-4230(6). Also, we review requests for review of other written determinations, decisions, policies, and procedures as arise from or concern the procurement of supplies, services, or construction procured in accordance with the provisions of this code and the ensuing regulations; provided that any matter which could have been brought before the chief procurement officers in a timely and appropriate manner under Sections 11-35-4210, 11-35-4220, or 11-35-4230, but was not, shall not be the subject of review under this paragraph. Requests for review under this paragraph shall be submitted to the Procurement Review Panel in writing, setting forth the grounds, within fifteen days of the date of such written determinations, decisions, policies, and procedures.

We have 2 (two) employees, one full time and one part time, located at the Solomon Blatt Building, 1105 Pendleton Street, Suite 203, Columbia, S. C. 29201.

### **Base Budget Expenditures and Appropriations**

|                                | <b>04-05 Actual Expenditures</b> |                      | <b>05-06 Actual Expenditures</b> |                      | <b>06-07 Appropriations Act</b> |                      |
|--------------------------------|----------------------------------|----------------------|----------------------------------|----------------------|---------------------------------|----------------------|
| <b>Major Budget Categories</b> | <b>Total Funds</b>               | <b>General Funds</b> | <b>Total Funds</b>               | <b>General Funds</b> | <b>Total Funds</b>              | <b>General Funds</b> |
| Personal Service               | \$70,380.76                      | \$70,380.76          | \$73,886.84                      | \$73,886.84          | \$74,142.00                     | \$74,142.00          |
| Other Operating                | \$22,452.70                      | \$22,452.70          | \$33,361.69                      | \$33,361.69          | \$19,851.00                     | \$19,851.00          |
| Special Items                  | \$                               | \$                   | \$                               | \$                   | \$                              | \$                   |
| Permanent Improvements         | \$                               | \$                   | \$                               | \$                   | \$                              | \$                   |
| Case Services                  | \$                               | \$                   | \$                               | \$                   | \$                              | \$                   |
| Distributions to Subdivisions  | \$                               | \$                   | \$                               | \$                   | \$                              | \$                   |
| Fringe Benefits                | \$19,395.80                      | \$19,395.80          | \$20,741.09                      | \$20,741.09          | \$20,796.00                     | \$20,796.00          |
| Non-recurring                  | \$                               | \$                   | \$                               | \$                   | \$                              | \$                   |
| <b>Total</b>                   | <b>\$112,229.26</b>              | <b>\$112,229.26</b>  | <b>\$127,989.62</b>              | <b>\$127,989.62</b>  | <b>\$114,789.00</b>             | <b>\$114,789.00</b>  |

### **Other Expenditures**

| <b>Sources of Funds</b> | <b>04-05 Actual Expenditures</b> | <b>05-06 Actual Expenditures</b> |
|-------------------------|----------------------------------|----------------------------------|
| Supplemental Bills      | \$0                              | \$0                              |
| Capital Reserve Funds   | \$0                              | \$0                              |
| Bonds                   | \$00                             | \$0                              |

### **Filing Fee Revenue**

Proviso 66.1 was passed by the General Assembly(See Proviso below)

|  |            |
|--|------------|
| 02-03 Actual receipts from filing fees | \$1,750.00 |
| 03-04 Actual Receipts from filing fees | \$3,433.00 |
| 04-05 Actual Receipts from filing fees | \$1750.00  |
| 05-06 Actual Receipts from filing fees | \$2,750.00 |

Effective July 1, 2002, the following proviso in the 2002-2003 Budget Bill was passed by the South Carolina General Assembly.

#### Section 66-S60-Procurement Review Panel

66.1 (PRP:Filing Fee) Requests 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(4). The funds generated by the filing fee shall be retained by the panel and carried forward to be used for the operation of the panel. 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

hardship, the party shall submit a notarized affidavit to such effect. If after reviewing the affidavit the panel determines that such hardship exists, the filing fee shall be waved.

Our Key customers are vendors and state agencies. We have no key suppliers. Our major products are procurement orders which are available in hard copies and by internet access. Our services include providing hearings to aggrieved vendors and answering procurement questions on appeal issues. Our organizational structure consists of seven Panel members and two staff members. The staff members are a full time business manager and a part time attorney. Of the seven panel members, two are state employees and the other five are working or retired from the private sector. We have one chairman and one vice chairman elected by the panel members. The panel is unique because vendors get the opportunity to bring their protest before a group of people that a majority is of the private sector.

### **Section Three - Elements of Malcolm Baldrige Award Criteria**

#### **Category 1 Leadership**

Agency direction comes from the chairman on a periodic basis if ideas to run hearings more efficiently are mentioned. The ideas are set by the entire panel, the chairman deploys the ideas by communicating them to the agency attorney who carries them out in writing. The chairman audits the budget on a monthly basis. The chairman also has on going communication with the attorney and business manager concerning all issues of the Panel. The key performance measures regularly reviewed by the Chairman are making sure our hearings are held within the time guidelines.

Performance expectations for the attorney and business manager are set by the chairman in accordance with state guidelines. Their duties are clearly communicated each time a hearing is to be scheduled, held and orders are prepared and disseminated thereafter.

Organizational values are simply set forth as providing unbiased decisions on procurement appeals and contract controversy issues.

Size of the agency does not allow for much empowerment or innovation. The Procurement Code is followed to accomplish our goals and we do not deviate from the process.

There is an annual learning conference for the entire organization, which is held locally. Employees of the Office of General Services speak to the panel on new laws, any concerns, and what to expect in future years. This conference is very important. The attorney and the business manager attend seminars and workshops throughout the year specific to their respective duties and area of concentration. But due to budget cuts, these have been very few if any. We try to stay informed of new procedures and apply them to our specific duties.

The attorney keeps an updated file on ethical questions as they arise.

Our senior leaders do not establish and promote a focus on customers due to the unbiased opinions of the Panel members.

The Panel through it's attorney addresses the impact of it's orders on the public by having a question and answer system in place to address new procurement issues when they arise as well as to review how specific issues were handled in the past if the same issues come up again.

## Category 2 - **Strategic Planning**

The Agency's strengths are holding these hearings within a short time frame. The whole purpose of the panel is to provide hearings at the second step of the grievance process for vendors. That is the key objective.

The Panel's action plan is to continue the timely, cost efficient hearings that produce timely orders. And to provide these hearings within the budgetary and statutory time limits.

The vendors need a forum to present their cases openly and extensively, the state needs to have their position heard on what is in the best interest of the State and everyone expects that protests and appeals will be heard in a reasonable time frame.

Hearings are heard within one to two days. Fortunately, our agencies activities present no substantial societal and other risks. We just focus on presenting orders which represent fair dealings with all parties involved so that society has faith in the procurement process.

Our human resource capabilities are limited to giving the public access to our orders anytime requested. In house human resources are handled by the business manager. The lack of funds for training provides a hardship on the attorney because there are mandatory continuing legal education hours that an attorney needs in the State of South Carolina to continue practicing law. The panel has traditionally been responsible for these expenses but due to the budget cuts the burden has been placed upon the attorney. They have to attend training on their own and free training sometimes is not available.

The Panel operates under the time frames set forth in the Procurement Code with some flexibility given to motions by parties involved. We are expected to maintain operations by hearing new protests in a reasonable time frame.

We operate on just the necessities of supplies due to our small budget. We definitely operate on the bare minimum. We have no contractor/partner needs.

Our strategic objectives are tracked by keeping records of our hearings and orders, taking minutes of new developments, and researching new and innovative procurement laws. Resources are allocated as needed to hold hearings according to the size and depth of the issues involved as well as addressing the Panel member's needs to attend those hearings.

The Panel communicates and deploys our action plans and performance measures through oral and written communication.

Our objectives are communicated in orders which are available to the public and action plans are designed for panel members in executive memorandums.

### Category 3 - **Customer Focus**

Our key customers are vendors and state agencies.

Our customers are identified when we receive written requests for administrative reviews from parties or their attorneys. These written requests spell out what the key requirements are.

We use vendor and agency information to provide the best form of review. Sometimes hearings are not necessary and we act on these matters de novo after reviewing motions and/or briefs from the parties.

We usually do not measure satisfaction, but appeals to higher courts give us an indication of satisfaction with our orders.

We build positive relationships with vendors and agencies by keeping our phone lines available for pre-hearing questions, by providing hearing records, and supplying updated panel orders as requested. As previously mentioned, orders are now available through two sources on the Internet.

### Category 4 – **Measurement , Analysis, and Knowledge Management**

We only have hearings and decisions to measure for tracking financial and operational performance.

Our key measures are producing timely hearing and issuing timely orders. This benefits the state by not holding up government contracts.

We ensure data integrity, timeliness, accuracy and security and availability for decision-making by holding de novo hearings, legal research and legal updates.

The data gathered in research is presented to the panel by the attorney, which provides effective support for decision making. The case is the basis for decision making for the panel. The panel members review all the information and makes an unbiased decision on the case based on the information presented to them by a hearing.

Comparative data comes from prior orders which are similar to new hearings. Those similar decisions are used as precedent to keep consistent rulings.

#### Category 5 - **Human Resource**

As a two person agency the employees consult each other on all operations and encourage each other by complementing work well done

As a two person agency our only means of training is occasional seminars.

Our chairman and panel members give us feedback on our work performed. Our chairman evaluates our job performance each year and offers suggestions if he believes they are necessary. He demands our best performances at all times.

Assessments are informal and verbal. We perform our duties to the best of our abilities.

We maintain a safe and healthy work environment by following state guidelines and building codes.

We maintain a safe, secure and healthy work environment by abiding by the rules and regulations of the Blatt Building.

We have no community involvement as far as the panel is concerned, unless called upon. We are an appeals board. Each individual member and staff has their own involvement in the community but not as a whole.

#### Category 6 - **Process Management**

Our key processes are holding timely hearings which keep the panel very successful. We have written procedures which are updated as needed.

Our day to day operations depend upon how many pending appeals we have. We meet key performance requirements by scheduling all hearings in a timely manner and delivering decisions thereafter.

The panel is always looking for ways to perform more effectively and efficiently.

As a two person agency, our support processes consists mostly of computer operations, which are updated as needed by system warnings.

We have no key supplier/contractor/partner interactions due to the nature of the panel. We buy supplies as needed by the office, which consists of paper, pens, stamps, all standard supplies that an office needs.

## Category 7-Results

### Performance Measures

| Fiscal year                                    | 2003-04 | 2004-05 | 2005-06 |
|--|---------|---------|---------|
| ◆ Number of Protests filed                     | 14 *    | 8       | 9       |
| ◆ Number of hearings held                      | 10      | 2**     | 5       |
| ◆ Number of Protest withdrawn                  | 3       | 5       | 4       |
| ◆ Settled by Conference Call                   | 1***    | 0****   | 0       |
| ◆ Dismissed for failure to follow Procedures   | 0       | 0       | 0       |
| ◆ Dismissed on legal grounds                   | 0       | 0       | 0       |
| ◆ Number of Protests appealed to Circuit Court | 0       | 0       | 0       |
| ◆ Settlement agreement                         | 0       | 1       | 0       |
| ◆ Cases pending                                | 0       | 1**     | 0       |

\* Case #2000-1 was remanded back to the Panel by the Circuit Court.

\*\* One of the hearings was a lengthy motion hearing of a complex construction case which is still pending

\*\*\* The Panel held four public teleconferences in lieu of hearings to settle motions and other procedural matters to save money. Otherwise, the panel would have to hold a hearing to settle these issues.

\*\*\*\* In 2004-05 the Panel also held four public teleconferences. No case was settled in the Process but procedural matters were decided eliminating the need for extra travel to the hearings.

Our agency continues to conduct its business as efficiently and effectively as possible even with its modest budget.

- 7.1 The Panel's performance levels and trends of the key measures of mission accomplishment and organizational effectiveness is holding timely hearings and issuing timely orders.
- 7.2 The Panel's performance measures and trends for key measures of customer satisfaction is the lack of hearings appealing to a higher court.
- 7.3 The performance level for the key measures of financial performance is not declaring a deficit for the agency. We performed within our budget guidelines.
- 7.4 The performance levels and trends for the key measures of Human Resources Results is by the retention of the employees. The diversity of the agency consist of two women.
- 7.5 The panel abides by all regulatory/legal requirements.



