

AGENCY NAME:

South Carolina Procurement Review Panel

AGENCY CODE:

S600

SECTION:



## Fiscal Year 2013-14 Accountability Report

### SUBMISSION FORM

#### AGENCY MISSION

The mission and values of the Procurement Review Panel (the Panel) include conducting timely hearings to assure both vendors and the State that State contracts are solicited, awarded, and performed in the most effective and fair manner. The Panel's values are based on making unbiased decisions according to the letter of the law as set forth in the Consolidated Procurement Code.

Please identify your agency's preferred contacts for this year's accountability report.

	<u>Name</u>	<u>Phone</u>	<u>Email</u>
PRIMARY CONTACT:	Pamela Gillins	734-0660	<a href="mailto:Pamela.gillins@prp.sc.gov">Pamela.gillins@prp.sc.gov</a>
SECONDARY CONTACT:	Christie Emanuel	734-0661	<a href="mailto:Christie.emanuel@prp.sc.gov">Christie.emanuel@prp.sc.gov</a>

I have reviewed and approved the enclosed FY 2013-14 Accountability Report, which is complete and accurate to the extent of my knowledge.

AGENCY DIRECTOR  
(SIGN/DATE):

(TYPE/PRINT NAME):

BOARD/CMSN CHAIR  
(SIGN/DATE):

(TYPE/PRINT NAME):

C. Brian McLane, Sr., Chairman

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## **AGENCY'S DISCUSSION AND ANALYSIS**

The mission and values of the Procurement Review Panel (the Panel) include conducting timely hearings to assure both vendors and the State that State contracts are solicited, awarded, and performed in the most effective and fair manner. The Panel's 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:

- provision of an administrative review of formal protests arising from the solicitation or award of contracts;
- provision of an administrative review arising from the debarment or suspension of a person from consideration for award of a contract;
- provision of an administrative review arising from a contract controversy;
- provision of an administrative review of any other decision, policy, or procedure arising from or concerning the State procurement system

The Panel seeks to provide the best possible services to vendors and agencies of the State in keeping with the integrity of the Consolidated Procurement Code. The Panel is unique in its formation, being composed of five members drawn from the private sector and two State employees, all of whom are appointed by the Governor. Each Panel member brings his or her own experience to bear in independently reviewing how the State procures its goods and services, ensuring that the State's procurement process is transparent, fair, and effective. Moreover, the Panel's composition and specialized purpose allows it to schedule and conduct hearings in a very timely fashion, which is one of its continuing strategic goals. Timely hearings and written decisions from the Panel allow the State to conduct its business efficiently while also guaranteeing fairness to vendors.

The Panel received eleven requests for administrative review, or appeals, during fiscal year 2013-2014. Eight of those appeals were from formal protests; one was a contract controversy; one was a motion for sanctions, and one was a request to review the CPO's lifting of the automatic stay. The relatively low number of appeals is attributable to the Panel's legal precedent, which has been established and followed by the Panel for over twenty-nine years. This body of precedent adds order and stability to the State's procurement system. To improve accessibility, the Panel's decisions are posted on the Internet through the MMO website at <http://www.mmo.sc.gov/PS/legal/PS-legal-panel-orders.phtm>. In addition, the Panel publishes its decisions on WestLaw, a legal research service.

The key strategic challenge the Panel faces is the lack of funding for the Panel to perform its primary functions. The Panel has only one full-time employee and one part-time employee, and we have been allowed to occupy our current office space, owned by the House of Representatives, at no charge. However, we are being relocated due to their increasing office needs. As a result of the projected move, we are anticipating an increase in rental costs, and will be requesting a slight budget increase to accommodate these costs.

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The main objective of the Panel is established by Subarticle 3, section 11-35-4410 of the Consolidated Procurement Code. As mentioned above, the Panel's primary function is to provide an administrative review of decisions by the Chief Procurement Officers relating to (1) formal protests of the solicitation or award of State contracts; (2) suspension or debarment of individual vendors; (3) contract controversies; and (4) other written decisions, policies, or procedures affecting the state procurement system. These responsibilities are delineated in section 11-35-4410(1) of the Consolidated Procurement Code.

The Panel's key customers are the vendors who participate in the State procurement process and the State agencies which are procuring needed goods and services. Both groups of customers expect the Panel to conduct timely hearings and to ensure that the State's procurement process is open and fair to all participants. Both groups also expect the Panel to apply the provisions of the Consolidated Procurement Code in an independent and impartial manner. The Panel's primary services are providing hearings to aggrieved vendors and resolving the procurement questions presented by the appeal issues. The Panel's product is reflected by its written decisions resolving protests and other procurement issues. The written decisions are available in hard copies and by Internet access. The Panel does not have any key suppliers.

The office is currently located at 202 Blatt Building on Pendleton Street. The Panel's organizational structure consists of seven Panel members and two staff members. The staff members employed by the Panel 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 for or retired from the private sector. The Panel members elect a Chairman and a Vice Chairman, as provided by section 11-35-4410(3) of the Consolidated Procurement code. The Panel's unique composition, with the majority of its members drawn from the private sector, engenders trust among the business community because vendors know their protests and claims will be fairly and independently heard by the Panel's members.

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Strategic Planning Template

Type	Goal	Item # Strat	Object	Description
G	1			To provide an administrative review of decisions by the Chief Procurement Officers relating to (1) formal protests of the solicitation or award of State contracts; (2) suspension or debarment of individual vendors; (3) contract controversies; and (4) other written decisions, policies, or procedures affecting the state procurement system.
S		1.1		To conduct timely hearings and to ensure that the State's procurement process is open and fair to all participants.
O		1.1.1		To provide written decisions resolving protests and other procurement issues according to the letter of the law as set forth in the Consolidated Procurement Code.

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Performance Measurement Template									
Item	Performance Measure	Last Value	Current Value	Target Value	Time Applicable	Data Source and Availability	Reporting Freq.	Calculation Method	Associated Objective(s)
1	Number of Protests Filed	11	11	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
2	Number of Hearings Held	4	7	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
3	Number of Protests Withdrawn	0	1	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
4	Settled by Conference Call	1	2	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
5	Dismissed for Failure to Follow Procedures	0	0	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
6	Dismissed on Legal Grounds	2	0	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
7	Number of Protests Appealed to Circuit Court	0	0	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
8	Settlement Agreement	1	1	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6
9	Cases Pending	1*	0	N/A	July 1 - June 30	Written Orders posted on MMO Website within 10 days of occurrence	Annual	Written Orders posted on MMO Website within 10 days of occurrence	7.1-7.6

Target Values cannot be determined as filings and outcomes are not necessarily controlled by the Panel.



