

AGENCY NAME:	South Carolina Procurement Review Panel		
AGENCY CODE:	S600	SECTION:	111

Fiscal Year 2016-2017 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.
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AGENCY VISION	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.
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Please select yes or no if the agency has any major or minor (internal or external) recommendations that would allow the agency to operate more effectively and efficiently.

RESTRUCTURING RECOMMENDATIONS:	Yes	No
	<input type="checkbox"/>	<input checked="" type="checkbox"/>

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

	<i>Name</i>	<i>Phone</i>	<i>Email</i>
PRIMARY CONTACT:	Pamela Gillins	803-734-0660	Pamela.gillins@prp.sc.gov
SECONDARY CONTACT:	Christie Emanuel	803-734-0661	Christie.emmanuel@prp.sc.gov

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I have reviewed and approved the enclosed FY 2016-2017 Accountability Report, which is complete and accurate to the extent of my knowledge.

AGENCY DIRECTOR (SIGN AND DATE): (TYPE OR PRINT NAME):	

BOARD/CMSN. CHAIR (SIGN AND DATE): (TYPE OR 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 nine requests for administrative review, or appeals, during fiscal year 2016-2017. Eight of those appeals were from formal protests; and one was a request to review the CPO's written determination for basis of emergency procurement. On its new website, the Panel provides a link to the Panel's decisions that are posted on the Procurement Services 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 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.

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Risk Assessment and Mitigation Strategies

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. Failure by the Panel to provide these services in a timely manner could result in delays in the awarding of contracts, which could ultimately impact the manner in which other state agencies are able to perform. Depending on the using agency and the type of contract involved, delayed awards could negatively impact services to the public. In addition, failures or delays in providing these services could negatively affect the public’s perception of the State’s public procurement process.

The only circumstances under which the Panel would be unable to perform its function would be the loss of property or personnel. In the event of property loss, either temporarily or permanently, the Panel would rely on the assistance of the Facilities Management staff to assist us in relocating to other available state-owned facilities. The Panel would also rely on the Division of Technology Operations for any technology needs. During the period of time that alternative accommodations are being sought, Panel staff will maintain communication with one another, other agencies, and the public through remote access of e-mail and phone messages.

The Business Manager and Attorney for the Panel have undergone cross training and are familiar with basic functions of each other’s job duties. However, the Panel would rely on the Comptroller General’s Office, Procurement Services, and Human Resources to assist in the performance of complex technical duties of the Business Manager in the event of a temporary absence lasting up to 30 days. In the event of an extended temporary absence of the staff Attorney, there is presently one attorney who serves on the Panel that would be able to step in to handle the technical complex aspects of this job.

One challenge the Panel faces is the ability to ensure that there is a quorum for each scheduled hearing, due to current vacancies. The Panel relies heavily on the Governor to appoint panel members as needed.

Agency Organization Structure

The office is currently located at 367 Brown 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 (see Organization Chart below). 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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SOUTH CAROLINA PROCUREMENT REVIEW PANEL
 ORGANIZATIONAL CHART
 AS OF September 1, 2017



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Strategic Planning Template

Type	Goal	Item # Strat	Object	Associated Enterprise Objective	Description
G	1			Government and Citizens	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			Unless the complexity of a case prevents it, the Panel will conduct hearings and resolve cases within two months of the initial filing.
O			1.1.1		In most cases, the Panel will provide same-day verbal decisions as well as written decisions to the affected parties within 10 business days of the resolution of a case.
O			1.1.2		Written decisions will be accessible on the State Procurement Services and WestLaw subscription service within 15 business days of the resolution of a case.
S		1.2			Cases will be resolved in a fair and impartial manner in accordance with the Procurement Code.
O			1.2.1		Panel decisions will address all issues raised in an administrative review, seeking to limit motions for reconsideration to 2% of all cases.
O			1.2.2		Panel decisions will accurately apply the Procurement Code and Panel precedent in administrative reviews, seeking to limit appeals to circuit court to 10% of all cases.
O			1.2.3		Panel decisions will strive to resolve 80% of the cases filed during the fiscal year before the end of that fiscal year.
G	2			Government and Citizens	The Panel will consistently and efficiently process contract controversy cases.
S		2.1			The Panel will establish procedural rules for contract controversy cases by the end of FY 2018.
O			2.1.1		The Panel attorney will draft proposed rules for consideration and approval by the Panel.
O			2.1.2		The Panel will seek comment regarding the proposed rules from members of the procurement bar (both State and private attorneys).
O			2.1.3		The Panel will seek public comment regarding the proposed rules.
O			2.1.4		The Panel will revise the proposed rules as necessary.
O			2.1.5		The Panel will formally adopt the proposed rules.
G	3			Government and Citizens	To provide easy access to public information regarding the Procurement Review Panel's role in the procurement process, contact information, and hearing outcomes.
S		3.1			The Panel will maintain its own agency website containing pertinent information.
O			3.1.1		The Panel will continue to update and post its mission, current panel members, staff directory, information regarding current hearings, procedures for filing an appeal, and a link to panel orders on our website.

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Performance Measurement Template

Item	Performance Measure	Last Value	Current Target Value	Current Value	Future Target Value	Time Applicable	Data Source and Availability	Calculation Method	Associated Objective(s)	Meaningful Use of Measure
1	Unless the complexity of a case prevents it, the Panel will conduct hearings and resolve cases within two months of the initial filing.	42% of cases resolved within two months of initial filing*	80% of cases resolved within two months of initial filing	52%	80% of cases resolved within two months of initial filing	Within two months of initial filing	Written Orders posted to Procurement Services Website	The number of cases resolved within 2 months divided by the number of cases filed.	1.1.1 - 1.1.2	To demonstrate that the Panel is efficiently and effectively providing an administrative review of all case filings in accordance with state regulations set forth in the State Procurement Code.
2	Total number of cases resolved in FY 2017	75% of cases resolved within the fiscal year	80% of cases resolved within the current fiscal year	8	80% of cases resolved within the current fiscal year	July 1, 2016 - June 30, 2017	Written Orders posted to Procurement Services Website	The number of cases resolved within the fiscal year divided by the number of cases filed.	1.2.1 - 1.2.3	To demonstrate that the Panel is efficiently and effectively providing an administrative review of all case filings in accordance with state regulations set forth in the State Procurement Code.
3	The Panel will establish procedural rules for contract controversy cases by the end of FY 2018.	30-Jun-17	30-Jun-18	30-Jun-18	30-Jun-18	30-Jun-18	Written Procedures	Written procedures established before June 30, 2018	2.1.1 - 2.1.5	To demonstrate that the Panel is efficiently and effectively providing an administrative review of all case filings in accordance with state regulations set forth in the State Procurement Code.
4	The Panel's Website will be continuously updated to provide current information regarding its mission, panel members, staff directory, hearings, procedures for filing an appeal, and access to panel orders.	live in 2016	Updates posted within ten business days	100%	Updates posted within ten business days	Within ten business days	prp.sc.gov	Ten business days from the date of update occurrence	3.1.1	To demonstrate the Panel's commitment to transparency to the constituents of South Carolina.

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Legal Standards Template

Item #	Law Number	Jurisdiction	Type of Law	Statutory Requirement and/or Authority Granted	Does this law specify who (customer) the agency must or may serve? (Y/N)	Does the law specify a deliverable (product or service) the agency must or may provide? (Y/N)
1	11-35-4410(1)	State	Statute	Establishes the Procurement Review Panel to conduct administrative reviews of written determinations by the Chief Procurement Officers related to protests (11-35-4210); suspension or debarment (11-35-4220); and contract controversies (11-35-4230).	Yes	Yes
2	11-35-4410(2)	State	Statute	Provides that the Governor shall appoint seven members to the Procurement Review Panel. Five members shall be from the state at large and be representative of the professions governed by the Consolidated Procurement Code. The remaining two members shall be state employees.	No	No
3	11-35-4410(3)	State	Statute	Provides that the Procurement Review Panel members shall elect a Chairman and Vice Chairman; that the Procurement Review Panel will meet as often as necessary to resolve the controversies before it; that four members present and voting shall constitute a quorum; and that the result of a tie vote among Procurement Review Panel members shall be the finality of the chief procurement officer's decision. Also establishes that at-large members be paid per diem, mileage and subsistence in accordance with state law governing boards, commissions, and committees. Provides that state employee members must be reimbursed for meals,	No	Yes
4	11-35-4410(4)	State	Statute	Exempts Procurement Review Panel administrative reviews from the requirements of the Administrative Procedures Act. Authorizes the Procurement Review Panel to (i) establish rules and procedures; (ii) issue subpoenas; (iii) interview any person it considers necessary; and (iv) record all determinations. Provides that individuals aggrieved by a Procurement Review Panel subpoena may apply to the Panel for relief.	Yes	Yes
5	11-35-4410(5)	State	Statute	Requires the Procurement Review Panel to convene or schedule a hearing to conduct its administrative review within 15 days of receiving a grievance. For all administrative reviews except for contract controversies, the Procurement Review Panel is required to file its determination within 10 working days and communicate its decision to the parties involved. However, the Procurement Review Panel may designate a matter to be complex, in which case it shall file its written determination within 30 days.	Yes	Yes
6	11-35-4410(6)	State	Statute	Provides that appeals from Procurement Review Panel determinations may be made only to the circuit court. Establishes that the standard of review set forth in the Administrative Procedures Act at 1-23-380(6) shall apply to such appeals. Notes that the filing of an appeal in the circuit court does not automatically stay a decision of the Procurement Review Panel.	No	No
7	11-35-4220(5)	State	Statute	Notes that a suspended or debarred person may request further administrative review from the Procurement Review Panel.	Yes	Yes
8	11-35-4210(6)	State	Statute	Notes that a decision by the CPO regarding a protest may be appealed to the Procurement Review Panel.	Yes	No
9	11-35-4330(3)	State	Statute	Authorizes the Procurement Review Panel to impose a sanction in the event of a frivolous protest.	Yes	Yes
10	11-35-4310	State	Statute	Authorizes the Procurement Review Panel to grant enumerated remedies if a solicitation or contract award is found to be in violation of law.	Yes	Yes
11	11-35-4230(6)	State	Statute	Notes that a person adversely affected by a Chief Procurement Officer's decision in a contract controversy case may request further administrative review by the Procurement Review Panel.	Yes	Yes
12	11-35-4320	State	Statute	Authorizes the Procurement Review Panel to award such relief as is necessary to resolve a contract controversy.	Yes	Yes
13	11-35-4215	State	Statute	Authorizes the Procurement Review Panel to allow a prevailing agency to recover reasonable reimbursement costs, excluding attorney's fees, associated with a protest where the agency has requested the posting of bond or an irrevocable letter of credit.	Yes	Yes
14	1-23-600(A)(1)	State	Statute	Exempts cases arising under the Consolidated Procurement Code from the jurisdiction of the Administrative Law Court.	No	No

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General Appropriations Act, FY 2015-16, Part
IB, Section 111

State

Proviso

Authorizes the Procurement Review Panel to collect a filing fee of \$250.00 from a party requesting further administrative review. Allows the Procurement Review Panel to retain and carry forward the funds generated by the filing fees for operation use. Provides that withdrawal of an appeal results in forfeiture of the filing fee. Establishes a procedure for

Yes

No

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Customer Template

Divisions or Major Programs	Description	Service/Product Provided to Customers	Customer Segments	Specify only for the following segments: (1) Industry: Name; (2) Professional Organization: Name; (3) Public: Demographics.
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Administrative	The Procurement Review Panel conducts timely hearings to assure both vendors and the State of South Carolina that State contracts are solicited, awarded, and performed in the most effective and fair manner.	Provision of an administrative review of formal protests arising from: the solicitation or award of contracts; the debarment or suspension of a person from consideration for award of a contract; a contract controversy; or any other decision, policy, or procedure arising from or concerning the State procurement system	Executive Branch/State Agencies	State agencies involved in the solicitation and/or award of contracts for supplies or services
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Administrative	The Procurement Review Panel conducts timely hearings to assure both vendors and the State of South Carolina that State contracts are solicited, awarded, and performed in the most effective and fair manner.	Provision of an administrative review of formal protests arising from: the solicitation or award of contracts; the debarment or suspension of a person from consideration for award of a contract; a contract controversy; or any other decision, policy, or procedure arising from or concerning the State procurement system	Industry	Vendors who do, or who wish to do business with the State of South Carolina
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Partner Template

Name of Partner Entity	Type of Partner Entity	Description of Partnership	Associated Objective(s)
SC House of Representatives	State Government	Provides meeting rooms to conduct hearings	1.1.1 - 2.1.5
SC Governor's Office	State Government	Appoints Panel Members	1.1.1 - 2.1.5
South Carolina Department of Administration/General Services	State Government	Provides Parking spaces for Panel Members	1.1.1 - 2.1.5
SFAA/Procurement Services	State Government	Notifies vendors of the right to appeal CPO decisions and the appeals process; posts Panel decisions on their website	1.1.1 - 2.1.5

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Report Template

Item	Report Name	Name of Entity Requesting the Report	Type of Entity	Reporting Frequency	Submission Date (MM/DD/YYYY)	Summary of Information Requested in the Report	Method to Access the Report
1	CAFR	Comptroller General	State	Annually	August 26, 2017	Provides annual financial reporting to CG's Office	www.cg.sc.gov
2	Accountability Report	Executive Budget Ofc.	State	Annually	September 15, 2017	Provides the Governor and General Assembly with information that supports their analysis of the budget	http://www.scstatehouse.gov/reports/reports.php
3	Agency Budget Decision Package	Executive Budget Ofc.	State	Annually	September 28, 2017	Budget request for next FY	http://www.governor.sc.gov/ExecutiveOffice/Documents/[2016.01.15]%20FY%202016-17%20Executive%20Budget%20(FC).pdf
4	Minority Business Enterprise Utilization Plan	SMBCC	State	Annually	August 30, 2017	Estimates amount of money intended to spend with Small or Minority Businesses	pamela.green@admin.sc.gov
5	State Agency Quarterly MBE Report	SMBCC	State	Quarterly	July 16, 2016	Actual amount of money spent with small or minority business	pamela.green@admin.sc.gov
6	Unemployment Contribution Report	SCBOS	State	Quarterly	August 1, 2016	Employee quarterly wage information	https://www.scsignon.sc.gov/Login.aspx?ApplicationSid=SCBOSBlu&CallbackUrl=https%3a%2f%2fwww.scbosblue.sc.gov%2fDEW%2fContribution
7	Sole Source Report	SFAA/Procurement Services	State	Quarterly	July 31, 2016	Quarterly record of sole source procurement	http://procurement.sc.gov/PS/general/PS-general-audit-reports.phtm

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External Review Template

Item	Name of Entity Conducted External Review	Type of Entity	External Review Timeline (MM/DD/YYYY to MM/DD/YYYY)	Method to Access the External Review Report
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SFAA/State Auditor

State

4/28/2016 to 7/5/2016

procurement.sc.gov/PS/agency/PS-agency-audit-reports.phtm