

AGENCY NAME:	SC Procurement Review Panel		
AGENCY CODE:	S600	SECTION:	111

**Fiscal Year 2019–2020
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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Does the agency have any major or minor recommendations (internal or external) that would allow the agency to operate more effectively and efficiently?

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

Is the agency in compliance with S.C. Code Ann. § 2-1-230, which requires submission of certain reports to the Legislative Services Agency for publication online and to the State Library? See also S.C. Code Ann. § 60-2-30.

	Yes	No
REPORT SUBMISSION COMPLIANCE:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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Is the agency in compliance with various requirements to transfer its records, including electronic ones, to the Department of Archives and History? See the Public Records Act (S.C. Code Ann. § 30-1-10 through 30-1-180) and the South Carolina Uniform Electronic Transactions Act (S.C. Code Ann. § 26-6-10 through 26-10-210).

	Yes	No
RECORDS MANAGEMENT COMPLIANCE:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Is the agency in compliance with S.C. Code Ann. § 1-23-120(J), which requires an agency to conduct a formal review of its regulations every five years?

	Yes	No
REGULATION REVIEW:	<input checked="" type="checkbox"/>	<input type="checkbox"/>

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

	<u><i>Name</i></u>	<u><i>Phone</i></u>	<u><i>Email</i></u>
PRIMARY CONTACT:	Pamela Gillins	803-734-0660	Pamela.gillins@prp.sc.gov
SECONDARY CONTACT:	Cherlyn Borjes	803-734-0661	Cherlyn.borjes@prp.sc.gov

I have reviewed and approved the enclosed FY 2019–2020 Accountability Report, which is complete and accurate to the extent of my knowledge.

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

BOARD/CMSN CHAIR (SIGN AND DATE):	Signature on file
(TYPE/PRINT NAME):	C. Brian McLane, Sr.

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AGENCY’S DISCUSSION AND ANALYSIS

The main objective of the Panel is established by Subarticle 3, section 11-35-4410 of the Consolidated Procurement Code. 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.

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 four requests for administrative review during fiscal year 2019-2020. Three appeals requested review of a CPO’s written protest determination, and one was a request for review pursuant to S.C. Code §11-35-4410(1)(b) of other written decisions, policies or procedures. On its website, the Panel provides a link to the Panel’s decisions that are posted on the Procurement Services website at <https://prp.sc.gov/panel-orders>. In addition, the Panel publishes its decisions on WestLaw, a legal research service.

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

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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 the Attorney for the Panel 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. Additionally, the current Business Manager is a certified paralegal and is able to provide legal support to the attorney 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 or retired from state government. 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 July 18, 2019



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Strategic Planning and Performance Measurement Template

Statewide Enterprise Strategic Objective	Type	Item #			Description	2019-20			Time Applicable	Data Source and Availability	Calculation Method	Meaningful Use of Measure
		Goal	Strategy	Measure		Base	Target	Actual				
Government and Citizens	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			Unless the complexity of a case prevents it, the Panel will conduct hearings and resolve cases within two months of the initial filing.							
	M		1.1.1		Percentage of cases resolved within two months of initial filing	33%	80%	50%	7/1/19-6/30/20	Written Orders posted to Procurement Services Website	The number of cases resolved within 2 months divided by the number of cases filed.	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.
	S	1.2			Cases will be resolved in a fair and impartial manner in accordance with the							
	M		1.2.1		Percentage of cases appealed.	0%	10%	25%	7/1/19-6/30/20	Written Orders posted to Procurement Services Website	The number of cases appealed divided by the number of cases filed.	To demonstrate that the Panel is efficiently and effectively providing an administrative review of all case filings in accordance with state regulations as set forth in the State Procurement Code.
Government and Citizens	G	2			To provide easy access to public information regarding the Procurement							
	S	2.1			The Panel will continue to update and post its mission, current panel							
	M		2.1.1		Information Displayed on the Panel Website is current and clear.	100%	100%	100%	7/1/19-6/30/20	prp.sc.gov	No outdated or incorrect information on website	To demonstrate the Panel's commitment to transparency to the constituents of South Carolina.
Education, Training, and Human Development	G	3			To ensure that staff is adequately trained to provide extraordinary							
	S	3.1			Provide time and resources for staff to attend state offered training as							
	M		3.1.1		Educational programs, training classes, continuing education courses, etc., attended by staff.	6	5	8	7/1/19-6/30/20	Training documents, certificates of completion	Number of classes attended.	To demonstrate the Panel's commitment to excellence through training.
Maintaining Safety, Integrity and Security	G	4			To ensure that information is secure.							
	S	4.1			Collaborate with Information Technology Office, Enterprise Privacy							
	M		4.1.1		Security and privacy workshops and meetings attended by staff.	5		2	7/1/19-6/30/20	Training Documents	Number of workshops attended.	To demonstrate the Panel's commitment to Information Security
	M		4.1.2		Security measures implemented.	10%	25%	10%	7/1/19-6/30/20	Written policies, training	Number of measures implemented in relation to identified needs.	To demonstrate the Panel's commitment to Information Security.

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Strategic Planning and Performance Measurement Template

Statewide Enterprise Strategic Objective	Type	Item #			Description	2020-21			Time Applicable	Data Source and Availability	Calculation Method	Meaningful Use of Measure
		Goal	Strategy	Measure		Base	Target	Actual				
Government and Citizens	G	1			To provide an administrative review of decisions by the Chief Procurement							
	S	1.1			Unless the complexity of a case prevents it, the Panel will conduct hearings							
	M		1.1.1	Fifty percent of cases resolved within two months of initial filing.	50%	50%		7/1/20-6/30/21	Written Orders posted to Procurement Services Website	The number of cases resolved within 2 months divided by the number of cases filed.	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.	
	S	1.2			Cases will be resolved in a fair and impartial manner in accordance with the							
	M		1.2.1	Percentage of cases appealed.	25%	10%		7/1/20-6/30/21	Written Orders posted to Procurement Services Website	The number of cases appealed divided by the number of cases filed.	To demonstrate that the Panel is efficiently and effectively providing an administrative review of all case filings in accordance with state regulations as set forth in the State Procurement Code.	
Government and Citizens	G	2			To provide easy access to public information regarding the Procurement							
	S	2.1			The Panel will continue to update and post its mission, current panel							
	M		2.1.1	Information displayed on the Panel Website is current and clear.	100%	100%		7/1/20-6/30/21	prp.sc.gov	No outdated or incorrect information on website	To demonstrate the Panel's commitment to transparency to the constituents of South Carolina.	
Education, Training, and Human Development	G	3			To ensure that staff is adequately trained to provide extraordinary							
	S	3.1			Provide time and resources for staff to attend state offered training as							
	M		3.1.1	Non-security related educational programs, training classes, continuing education courses, seminars or briefings attended by staff.	8	5		7/1/20-6/30/21	Training documents, certificates of completion	Number of classes attended.	To demonstrate the Panel's commitment to excellence through training.	
Maintaining Safety, Integrity and Security	G	4			To ensure that information is secure.							
	S	4.1			Collaborate with Information Technology Office, Enterprise Privacy							
	M		4.1.1	Security and privacy related workshops and meetings attended by staff.	At least 2 meetings/ 2 training sessions attended by staff			7/1/20-6/30/21	Training Documents	Number of workshops attended.	To demonstrate the Panel's commitment to Information Security	
	M		4.1.2	Information security measures implemented in accordance with needs identified by staff in collaboration with Information Security and Enterprise Privacy offices.	10%	25%		7/1/20-6/30/21	Written policies, training	Number of measures implemented in relation to identified needs.	To demonstrate the Panel's commitment to Information Security.	

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Program Template

Program/Title	Purpose	<u>FY 2019-20 Expenditures (Actual)</u>				<u>FY 2020-21 Expenditures (Projected)</u>				Associated Measure(s)
		General	Other	Federal	TOTAL	General	Other	Federal	TOTAL	
Administration	The mission and vales of the Procurement Review 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.	\$ 157,810			\$ 157,810	\$ 160,000			\$ 160,000	1.1.1-4.1.2

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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 your agency must or may serve? (Y/N)	Does the law specify a product or service your agency must or may provide?	If yes, what type of service or product?	If other service or product, please specify what service or product.
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); contract controversies (11-35-4230); and requests for review of other written determinations, decisions, policies and procedures arising from or concerning the procurement of supplies, services, information technology, or construction procured in accordance with the Code and regulations, with some exceptions.	Yes	Yes	Other service or product our agency must/may provide	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); contract controversies (11-35-4230); and other written determinations regarding the procurement of certain items under the Code.
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 - But relates to manner in which one or more agency deliverables is provided		
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 a tie vote among Procurement Review Panel members shall result in 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, lodging and travel in accordance with state allowances.	No	Yes	Other service or product our agency must/may provide	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 a tie vote among Procurement Review Panel members shall result in 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, lodging and travel in accordance with state allowances.
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	Other service or product our agency must/may provide	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.
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	Report our agency must/may provide	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.

6	11-35-4410(6)	State	Statute	Provides that appeals from Procurement Review Panel determinations shall be made to the court of appeals pursuant to Section 1-23-380. Notes that the filing of an appeal in the court of appeals does not stay a decision of the Procurement Review Panel.	No	No - But relates to manner in which one or more agency deliverables is provided		
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	Other service or product our agency must/may provide	Notes that a suspended or debarred person may request further administrative review from the Procurement Review Panel.
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	Yes	Other service or product our agency must/may provide	Notes that a decision by the CPO regarding a protest may be appealed to the Procurement Review Panel.
9	11-35-4330(2)	State	Statute	Authorizes the Procurement Review Panel to impose a sanction in the event of a frivolous protest.	Yes	Yes	Other service or product our agency must/may provide	Authorizes the Procurement Review Panel to impose a sanction in the event of a frivolous protest.
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	Other service or product our agency must/may provide	Authorizes the Procurement Review Panel to grant enumerated remedies if a solicitation or contract award is found to be in violation of law.
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	Other service or product our agency must/may provide	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.
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	Other service or product our agency must/may provide	Authorizes the Procurement Review Panel to award such relief as is necessary to resolve a contract controversy.
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	Other service or product our agency must/may provide	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.
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 - But relates to manner in which one or more agency deliverables is provided		
15	General Appropriations Act, FY 2019-20, Part IB, Section 111	State	FY 2019-20 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 seeking a fee waiver in the event of financial hardship on a party.	Yes	No - But relates to sources of funding for one or more agency deliverables		
16	11-35-4425	State	Statute	Authorizes the Procurement Review Panel to file any unappealed final ruling with the clerk of the circuit court, or a court of competent jurisdiction, as requested, so that such final ruling has the same effect as a judgment of the court where filed.	Yes	No - But relates to manner in which one or more agency deliverables is provided		
17	11-35-4430	State	Statute	Prohibits Procurement Review Panel members and staff from communicating with parties, attorneys, or other persons regarding the facts or legal issues connected to any matter currently pending for review by the Panel. Establishes that a violation of the prohibition is a misdemeanor offense punishable by a fine of not more than two hundred and fifty dollars or imprisonment for not more than six months.	No	No - But relates to manner in which one or more agency deliverables is provided		

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Customer Template

Service/Product Provided to Customers	Customer Segments	<i>Specify only for the following Segments: (1) Industry: Name; (2) Professional Organization: Name; (3) Public: Demographics.</i>	Divisions or Major Programs	Description
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	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	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.

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Partner Template

Name of Partner Entity	Type of Partner Entity	Description of Partnership	Associated Goal(s)
SC House of Representatives	State Government	Provides meeting rooms to conduct hearings	1.1 - 1.2
SC Governor's Office	State Government	Appoints Panel Members	1.1 - 1.2
South Carolina Department of Administration/General Services	State Government	Provides technology support, and various training opportunities for panel staff	1.1 - 4.1
SFAA/Procurement Services	State Government	Notifies vendors of the right to appeal CPO decisions and the appeals process; posts Panel decisions on their website, and provides training opportunities for panel staff and members	1.1 - 4.1

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Report and External Review Template

Item	Is this a Report, Review, or both?	Report or Review Name	Name of Entity Requesting the Report or Conducting Review	Type of Entity	Reporting Frequency	Current Fiscal Year: Submission Date or Review Timeline (MM/DD/YYYY)	Summary of Information Requested in the Report or Reviewed	Method to Access the Report or Information from the Review
1	Internal Review and Report	CAFR	Comptroller General	State	Annually	Various	Provides annual financial reporting to CG's Office	www.cg.sc.gov
2	Internal Review and Report	Accountability Report	Executive Budget Ofc.	State	Annually	September 15, 2020	Provides the Governor and General Assembly with information that supports their analysis of the budget	http://www.scstatehouse.gov/reports/reports.php
3	Internal Review and Report	Agency Budget Request	Executive Budget Ofc.	State	Annually	September 25, 2020	Budget request for next FY	http://www.governor.sc.gov/ExecutiveOffice/Documents/{(2016.01.15)}%20FY%202016-17%20Executive%20Budget%20(FC).pdf
4	Internal Review and Report	Minority Business Enterprise Utilization Plan	SMBCC	State	Annually	August 15, 2020	Estimates amount of money intended to spend with Small or Minority Businesses	pamela.green@admin.sc.gov
5	Internal Review and Report	State Agency Quarterly MBE Report	SMBCC	State	Quarterly	July 10, 2020	Actual amount of money spent with small or minority business	pamela.green@admin.sc.gov
6	Internal Review and Report	Unemployment Contribution Report	SCBOS	State	Quarterly	July 6, 2020	Employee quarterly wage information	https://www.scsignon.sc.gov/Login.aspx?ApplicationSid=SCBOSBlu&CallbackUrl=https%3a%2f%2fwww.scbosblue.sc.gov%2fDEW%2fContribution
7	Internal Review and Report	Sole Source Report	SFAA/Procurement Services	State	Quarterly	July 15, 2020	Quarterly record of sole source procurement	http://procurement.sc.gov/PS/general/PS-general-audit-reports.phtm
8	Internal Review and Report	Fiscal Audit	SFAA/State Auditor	State	Other	March 24, 2020	Audit Report of financial processes	procurement.sc.gov/PS/agency/PS-agency-audit-reports.phtm