



Enriching Lives & Connecting Communities

Purchasing Procedures and Bid Requirements

Finance
Policy No. 9045(B)

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Policy Statement

All Richland County Recreation Commission purchases which are not budgeted or which are of an exceptional or unusual nature must be approved in advance by the Executive Director or his designees. The Richland County Recreation Commission's Purchasing Procedures and Bid Requirements are consistent with the mandate of S.C. Code Ann. § 11-35-50 in that they embody sound principles of competitive procurement. Every attempt must be made to purchase items or services at the lowest possible price. The Richland County Recreation Commission strives to solicit and contract with Minority owned Business Enterprises in all aspects of the purchasing process. RCRC strives to reach Minority Businesses through: The Governor's Office of Small and Minority Business Assistance (OSMBA), The State Newspaper, The South Carolina Black Media Group, The RCRC Website and by following the Richland County Recreation Commission's Disadvantaged Business Enterprise Policy.

Guidance:

I. Cooperative Purchasing Authorized

The Richland County Recreation Commission (RCRC), at its option, may elect cooperative purchasing in consideration of Section 11-35-4810, amended June 13, 1997, of the South Carolina Consolidated Procurement Code and Regulations. This section provides that any public procurement unit may participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any supplies, services, or construction with one or more public procurement units or external procurement activities in accordance with an agreement entered into between the participants. Such cooperative purchasing may include, but is not limited to; joint or multi-party contracts between public procurement units and open-end state, county, city, or school district public procurement unit contracts that shall be made available to the Richland County Recreation Commission either before or after a contract containing this provision has been negotiated with a vendor or vendors. Any contract resulting from the public procurement solicitation shall be made available under the same terms and conditions to the Richland County Recreation Commission.

Additionally, the Cooperative Purchasing Authorization includes the option to take advantage of the Federal General Services Administration (GSA) when available.

II. General Procurement Guidelines

Purchasing Procedures (Purchases under \$2,500):

Small purchases under \$2,500 may be accomplished without securing competitive quotations if the prices are considered to be reasonable. The Executive Director or his designees shall annotate the purchase requisition: "Price is fair and reasonable" and sign. Such purchases shall be distributed equitably among qualified suppliers. When practical, a quotation will be solicited from other than the previous supplier prior to placing a repeat order. The administrative cost of verifying the reasonableness of the price of purchase 'not in excess of' may more than offset potential savings in detecting instances of over pricing. Therefore, action to verify the reasonableness of the price need to be taken only when the Executive Director or his designee suspects that the price may not be reasonable, e.g., comparison to previous price paid, personal knowledge of the item involved.

1. Every effort should be made to purchase items with Purchase Orders or from vendors with which the Recreation Commission has established credit.
2. When requesting a Purchase Order, the name of the item(s) to be purchased and the price, including all applicable taxes and delivery charges, must be provided prior to obtaining the Purchase Order.
3. When purchases are made, receipts and/or delivery tickets must be turned in to the Finance department immediately.
4. For approved out-of-pocket expenditures, a check request voucher accompanied by the appropriate receipts must be turned in to the Finance Director. Out-of-pocket purchases must be approved, in advance, by the appropriate supervisor.

Purchasing Procedures (Purchases Ranging From \$2,500 to \$25,000):

Solicitations of verbal or written quotes from a minimum of three qualified sources of supply shall be made and documentation of the quotes attached to the purchase requisition. The award shall be made to the lowest responsive and responsible source.

1. Every effort should be made to purchase items with Purchase Orders or from vendors with which the Recreation Commission has established credit.
2. When requesting a Purchase Order, the name of the item(s) to be purchased and the price, including all applicable taxes and delivery charges, must be provided prior to obtaining the Purchase Order.
3. When purchases are made, receipts and/or delivery tickets must be turned in to the finance department immediately.

Purchases Ranging From \$25,000 to \$50,000:

Solicitation of written quotes from a minimum of three qualified sources of supply shall be made and documentation of the quotes attached to the purchase order. The award shall be made to the lowest responsive and responsible source.

1. Written requests for quotes must be mailed to as many vendors as possible, but not less than three (3). The Richland County Recreation Commission's Disadvantaged Business Enterprise Policy will be followed in the purchase of the items or solicitation of bids and/or quotes for purchases.
2. Vendors should be allowed no less than 15 days between receipt of the request for quotes and the closing date for receiving quotes.
3. All written requests for quotes must include but may not be limited to the following:
 - a. Full description of the exact item(s) to be purchased along with complete specifications and any allowances for substitutions;
 - b. Delivery date of items where applicable;
 - c. A request that bid prices include all costs for assembly and delivery, where applicable;
 - d. Information on where bids should be mailed or delivered, the closing date and time for receiving bids, and how envelopes should be marked to indicate which bid the bidder is responding to;
 - e. A statement which reads "Richland County Recreation Commission reserves the right to reject any or all bids and waive any technicalities. No bid will be received nor will any bidder be allowed to withdraw a bid after the closing hour."
4. All quotes must be held, unopened, until the closing date and opened publicly in the presence of at least two staff members and any bidders wishing to be present. Quotes must be opened at the place to which bids were mailed or delivered, as indicated in the bid request.
5. Low quotes will be accepted for purchases except where quality and timeliness of delivery is insufficient.
6. All vendors must be notified in writing when a contract is awarded. Letters of rejection must include the name of the person or company receiving the contract and that company's quote price.
7. A complete file including copies of the quote requests, quote responses and letters awarding contract must be maintained in a central permanent file for procurement.

8. If a purchase is necessary for which a previous quote has been secured within the past 180 days, the item may be purchased without re-bidding if the vendor which was awarded the original contract will honor the original contract price and the quantity of the second purchase does not exceed the quantity of the original contract. Only one repeat purchase per original contract will be allowed without re-bidding.
9. For services purchased in this category, performance and payment bonds or a cashier's check in the amount of the bid contract may be required by the purchaser. Such assurances must be received within an appropriately designated time after the contract being awarded. Failure to provide such assurance will result in the contract being voided and another vendor selected.

Purchasing Procedures (Purchases In Excess of \$50,000):

All purchases exceeding \$50,000 (including applicable taxes and delivery charges) must be advertised for public bid in a statewide newspaper. All bids for purchases in excess of \$50,000 must be approved in advance by the Executive Director.

1. The following information must be submitted to the Director for his review and approval prior to advertising for bids:
 - a. Instructions for Bids;
 - b. Bid Form;
 - c. General and Special Conditions of the Contract;
 - d. "Scope of the Work" statement;
 - e. Any other information that must be provided as part of the bid package.
2. Any "Advertisement for Bids" must be placed in the closest statewide newspaper for no less than three (3) days during a thirty (30) day period.
3. Bidders should be allowed no less than thirty (30) days to respond to the "Advertisement for Bids."
4. The "Advertisement for Bids" must include but may not be limited to the following:
 - a. Complete description of the item(s) to be purchased or the project to be completed;
 - b. Delivery date or completion date of project where applicable;
 - c. Information on where bids should be mailed or delivered, the closing date and time for receiving bids, and how envelopes should be marked to indicate which bid the bidder is responding to;
 - d. Information on where the bidder may obtain copies of plans and specifications on the project or item for bid and the amount of deposit for

- obtaining such information;
- e. Information regarding the need for an amount of performance assurances to accompany the bid;
 - f. Notification of the need for licenses as required by State Law;
 - g. A statement encouraging minority bidders which may read “The Richland County Recreation Commission encourages bids from minority contractors” or “The Richland County Recreation Commission encourages contractors to solicit bids from minority and/or small business subcontractors when possible.”
 - h. A statement which reads “the Richland County Recreation Commission reserves the right to reject any or all bids and waive any technicalities. No bid will be received nor will any bidder be allowed to withdraw a bid after the closing hour.”
5. All bids must be held, unopened, until the closing date and opened publicly in the presence of at least two staff members and any bidders wishing to be present. Bids must be opened at the place to which bids were mailed or delivered, as indicated in the bid request.
 6. Low bid will be accepted for purchases except where quality and timeliness of delivery or completion is insufficient.
 7. All bidders must be notified in writing when a contract is awarded. Letter of rejection must include the name of the company receiving the contract and the company’s bid price.
 8. For services purchased in this category, performance and payment bonds, labor and material bonds or a cashier’s check in the amount of the bid contract will be required by the purchaser prior to any work beginning. Such assurances must be received within appropriately designated time after the contract being awarded. Failure to provide the assurances required by the purchaser will result in the contract being voided and another vender selected.
 9. A complete bid file including copies of the bid requests, proposal package containing all bid instructions and specifications, bid responses, and letters awarding the contract must be maintained in a central permanent file for procurement.
 10. In emergency situations requiring immediate action, the Executive Director may waive the formal bid process and make purchases necessary to maintain daily operations or to provide for the security of the Recreation Commission’s employees

and its facilities. Every effort must be made to secure the lowest possible price for such purchase.

III. Exceptions to Listed Procurement Procedures

Unless otherwise required by law, in certain cases involving purchases of non-custom, manufactured goods, the Commission may, by majority vote, deviate from the Procedures outlined herein. On a case by case basis, the Commission may vote to award a contract based on the responses to written requests for proposals sent to a minimum of three qualified providers. The award shall be made to the lowest responsive and responsible source. A copy of the written solicitation and written quotes shall be attached to the purchase requisition.

IV. Sole Source Procurement

1) **Conditions for Use:** In those instances where the Commission's needs can only be met by one method, means or item, sole source is an appropriate and necessary method of procurement. Price is not an operative factor, inasmuch as the cost is not pertinent where the needs are unique and can only be satisfied through a unique one-of-a-kind acquisition. Such determination as to whether a procurement shall be made as a sole source shall be made in writing by the Executive Director or his designee. In cases of reasonable doubt, competition must be solicited. Any request that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.

2. **Award:** A contract may be awarded for a supply, service or construction item, without competition when the Commission determines in writing that there is only one source for the required supply, service or construction item. The following are examples of circumstances which could necessitate sole source procurement:

- a) Where the compatibility of equipment, accessories or replacement parts is the paramount consideration;
- b) Where a unique item is needed for trial use or testing; and
- c) Printed forms, pamphlets, and brochures, exclusive of printing equipment.

V. Purchase of Used Goods: Competitive Best Value Proposals

1) The Commission recognizes that at times the purchase of used goods may be preferable to the purchase of new goods. In the case of the purchase of used goods, a contract may be entered into by competitive Best Value proposals. Competitive Best Value proposals shall be subject to provisions regarding competitive sealed bidding provided herein, within the applicable price range, except as otherwise provided below.

- 2) **Best Value Proposals:** A purpose of Best Value proposals is to allow factors other than price to be considered in the determination of award for used goods based on predetermined criteria identified by the Commission.
- 3) **Notice:** The Commission may, on a case by case basis, authorize solicitation for Best Value proposals pursuant to requests for proposals sent to a minimum of three (3) qualified providers. Further notice to vendors or advertisements shall not be necessary for this method of procurement.
- 4) **Evaluation Factors:** The best value request for proposals shall state the factors to be used in determination of award. Cost must be a factor in determination of award. Best value proposal evaluation factors may include, but are not limited to, any of the following as determined by the Executive Director in his sole discretion and not subject to protest:
 - a) Condition of item;
 - b) Time in service to date of item;
 - c) Perceived remaining useful life of item;
 - d) Reliability of item based on published data as to like make/model;
 - e) Extent to which item corresponds to Commission's requirements; and
 - f) Satisfaction of secured lender with item, if applicable.
- 5) **Discussion with Responsive Offerors:** Discussions may be conducted with apparent responsive offerors to assure understanding of the best value proposal. All offerors, whose proposals, in the Executive Director's or his designee's sole judgment, need clarification shall be accorded such an opportunity.
- 6) **Selection and Ranking:** Proposals shall be evaluated by using the criteria stated in the Best Value request for proposals. All evaluation factors, other than cost, will be considered prior to determining the effect of cost on the score for each participating proposal. Once the evaluation and negotiation is complete, all responsive offerors shall be ranked from most advantageous to least advantageous to the Commission, considering the evaluation factors stated in the best value bid. The Executive Director or his designee may, in his sole discretion, negotiate with the highest ranked offer and other offerors after proposals are received. In conducting negotiations, there must be no disclosure of any confidential information submitted by competing offerors.
- 7) **Award:** Award must be made to the responsive and responsible offeror whose proposal is determined, in writing, to be most advantageous to the Commission, taking into consideration all evaluation factors set forth in the Best Value request for proposals. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit.

- 8) **Retention of File:** A complete file including copies of the proposal requests, proposals, and letters awarding contract should be maintained in a central permanent file for procurement.

VI. Qualifications Based Selection Process.

1. RCRC Selection Committee:

The Richland County Recreation Commission Board shall establish its own architect-engineer, construction management, and land surveying services selection committee which must be composed of those individuals the Commission's board determines to be qualified to make an informed decision as to the most competent and qualified firm for the proposed project.

2. Advertisement of Project Responsibilities. The RCRC selection committee is responsible for the following:

- a.) Developing a description of the proposed project;
- b.) Enumerating all required professional services for that project; and
- c.) Prepare a formal invitation to firms for submission of information.
- d.) The invitation must include, but not limited to, the project title, the general scope of work, a description of all professional services required for that project, the submission deadline, and how interested firms may apply for consideration.

3. Response to invitation:

- a.) The date for submission of information from interested firms shall not be less than fifteen (15) days after publication of the invitation.
- b.) Interested architect-engineer, construction management, and land surveying firms shall respond to the invitation as the board may prescribe by regulation, and other information that the particular invitation may require.

4. Interviews with interested Firms.

Following receipt of information from all interested persons and firms, the RCRC selection committee shall hold interviews with at least three firms who respond to the committee's advertisement and who are considered most qualified on the basis of information available before the interviews. A list of firms selected for interview must be sent to all firms that submitted information in response to the advertisement, before the date selected for the interviews. If less than three persons or firms respond to the advertisement, the committee shall hold interviews with those that did respond.

The RCRC selection committee's determination as to which are to be interviewed must be in writing and based upon its review and evaluation of all submitted materials. The written report of the committee must list specifically the names of all firms that responded to the advertisement and enumerate the reasons of the committee for selecting those to be interviewed. The purpose of the interviews is to provide

further information that may be required by the RCRC selection committee to fully acquaint itself with the relative qualifications of the several interested firms.

5. Selection and Ranking of the Three Most Qualified.

a.) The RCRC selection committee shall evaluate each of the firms interviewed in view of their:

- i). Past Performance;
- ii). The ability of professional personnel;
- iii). Demonstrated ability to meet time and budget requirements;
- iv). Location and knowledge of the locality of the project if the application of this criterion leaves an appropriate number of qualified firms, given the nature and size of the project;
- v). Recent, current, and projected workloads of the firms;
- vi). Creativity and insight related to the project;
- vii). Related experience on similar projects;
- viii). Volume of work awarded by RCRC to the person or firm during the previous five years, with the objective of effectuating an equitable distribution of contracts by RCRC among qualified firms;
- ix). Volume of work awarded to Minority Business Enterprises certified by the South Carolina Office of Small and Minority business Assistance and firms that have not had previous RCRC work; and
- x). Any other special qualification required pursuant to the solicitation of RCRC.

b). Based upon these evaluations, the RCRC selection committee shall select the three (3) firms that, in its judgment, are the best qualified, ranking them in priority order. RCRC selection committee's report ranking the three chosen persons or firms must be in writing and include data substantiating its determinations.

6). Notice of Selection and Ranking.

When it is determined by the RCRC that the ranking report is final, written notification of the highest ranked firm must be sent immediately to all firms interviewed.

7). Negotiation of Contract.

The Commission or its designee shall negotiate a contract for services with the most qualified firm at a compensation that is fair and reasonable to the Commission. If the Commission or its designee is unable to negotiate a satisfactory contract with this firm, negotiations must be terminated formally. Negotiations must commence in the same manner with the second and then

the third most qualified until a satisfactory contract is negotiated. If an agreement is not reached with one of the three, additional firms in order of their competence and qualifications must be selected after consultation with the RCRC selection committee and negotiations must be continued in the same manner until an agreement is reached.

8). RCRC Board of Commissioners Review.

The Chair of the selection committee shall submit the following documents to the Commission for its review:

- a). The written report of the RCRC selection committee, listing the firms that responded to the invitation to submit information and enumerating the reasons of the committee for selecting the particular ones to be interviewed;
- b). The written ranking report of the RCRC selection committee and all data substantiating the determinations made in that report; and
- c). The tentative contract between the Commission and the selected firm.

9). Approval or Disagreement by the RCRC Board of Commissioners.

The RCRC Board of Commissioners has ten days to review the data submitted by the RCRC selection committee, and to determine its position with respect to the particular person or firm recommended for approval by the selection committee.

- a). If the Commission disagrees with the proposal, it may direct the selection committee to submit the name of another firm to the Commission for consideration in accordance with the procedures prescribed in this section.
- b). In the event of approval, the Commission shall authorize the selection committee to execute a contract with the selected firm.
- c). In the event of a contest, the selection committee immediately shall notify the Commission in writing of the contested ranking and the reasons for it.
 - All contract negotiations by the selection committee must be suspended pending a decision by the RCRC Board concerning a contested ranking.
 - The Commission shall hear contests at its next regularly scheduled meeting after notification of the selection committee.
 - If the Commission oppose the selection committee's position, the selection committee shall submit the name of another firm to the Commission for consideration, selected in accordance with the procedures prescribed in this section.
- d). If the Commission rules in support of the selection committee, the selection committee must be notified in writing and authorized to execute a contract with the selected person or firm.

VII. Legal and Contractual Remedies

Part A. Pre-Litigation Resolution of Controversies

Authority to Resolve Protested Solicitations and Awards

1. **Right to Protest; Exclusive Remedy.** Any prospective bidder, offeror, Contractor, or subcontractor who is aggrieved in connection with the solicitation of a Contract shall protest to the Executive Director or his designee in the manner stated in subsection 2 below within ten (10) days of the date of issuance of the Invitation for Bids or Requests for Proposals or other solicitation documents whichever is applicable or any amendment thereto, if the amendments is at issue.

Any actual bidder, offeror, Contractor, or subcontractor who is aggrieved in connection with the intended award or award of a Contract shall protest to the Executive Director or his designee in the manner stated in subsection 2 below within ten (10) days of the date notification of award is posted in accordance with this Regulation.

The rights and remedies granted in this article to an aggrieved bidder, offeror, Contractor, or subcontractor are to the exclusion of all other rights and remedies of such aggrieved bidder, offeror, Contractor, or subcontractor against the Commission or its agents and employees at common law or otherwise.

2. **Protest Procedure.** A protest under subsection 1 above shall be submitted to the Executive Director in writing and shall set forth the grounds of the protest and the relief requested with sufficient particularity to give notice of the specific issues to be decided. New issues may not be raised thereafter.

3. **Duty and Authority to Attempt to Settle Protests.** Prior to commencement of an administrative review as provided in subsection 4, the Executive Director or designee thereof shall attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, Contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the Contract. The Executive Director or designees thereof shall have the authority to approve any settlement reached by mutual agreement.

4. **Administrative Review and Decision.** If in the opinion of the Executive Director, after reasonable attempt, a protest cannot be settled by mutual agreement, the Executive Director shall promptly conduct an administrative review. An aggrieved party may request a hearing before the Executive Director. The Executive Director shall issue a decision in writing within ten (10) days of completion of the review. The decision shall state the reasons for the action taken.

5. **Notice of Decision.** A copy of the decision under subsection 4 of this section along with a statement of appeal rights shall be mailed or otherwise furnished immediately to the protestant and any other party intervening.

6. Finality of Decision. A decision under subsection 4 above is final and conclusive unless any person adversely affected by the decision requests a further administrative review before the Commission within 5 days of posting of the decision. The request for review shall be in writing and shall set forth reasons for disagreement with the decision.

7. Stay of Procurement During Protests. In the event of a timely protest under subsection 1 above, the Executive Director shall not proceed further with the solicitation or award of the Contract until a decision is rendered by him; provided, however, that solicitation or award of a protested Contract will not be stayed if the Executive Director makes a written determination that the solicitation or award of the Contract without delay is necessary to protect the best interests of the Commission.

Authority to Debar or Suspend.

1. Authority. After reasonable notice to the Person or firm involved and a reasonable opportunity for such Person to be heard, the Executive Director shall have the authority to debar a Person for cause from consideration for award of Contracts, provided that doing so is in the best interest of the citizens of Richland County, and there is probable cause for debarment. The aggrieved party may request a hearing before the Executive Director. The Executive Director may also suspend a Person from consideration for award of Contracts during an investigation where there is probable cause for debarment. The period of debarment or suspension shall be as prescribed by the Executive Director.

2. Causes for Debarment or Suspension. The causes for debarment or suspension shall include but not be limited to, the following:

- a) conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private Contract or subcontract, or in the performance of such Contract or subcontract;
- b) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or professional honesty which currently, seriously, and directly affects responsibility as a state Contractor;
- c) conviction under state or federal antitrust laws arising out of the submission of bids or proposals;
- d) violation of Contract provisions, as set forth below, of a character which is regarded by the Executive Director to be so serious as to justify debarment action:
 - I) deliberate failure without good cause to perform in accordance with the Specifications or within the time provided in the Contract; or
 - II) a recent record of failure to perform or of unsatisfactory performance in accordance with the terms of one or more Contracts; provided that failure to perform or unsatisfactory performance caused by acts beyond the control of the Contractor shall not be considered to be a basis for debarment;

- e) violation of an order of the Commission; and
- f) any other cause the Commission determines to be so serious and compelling as to affect responsibility as a Contractor for any cause listed herein.

3. Decision. The Executive Director shall issue a written decision to debar or suspend within ten (10) days of the completion of his administrative review of the matter. The decision shall state the action taken, the specific reasons therefore, and the period of debarment or suspension, if any.

4. Notice of Decision. A copy of the decision under subsection 3 of this section and a statement of appeal rights shall be mailed or otherwise furnished to the debarred or suspended Person and any other party intervening.

5. Finality of Decision. A decision under subsection 3 above is final and conclusive unless any person adversely affected by the decision requests a further administrative review before the Commission within 5 days of posting of the decision. The request for review shall be in writing and shall set forth the reasons for disagreement with the decision.

Authority to Resolve Contract and Breach of Contract Controversies.

1. Applicability. This section applies to controversies between the Commission and a Contractor or subcontractor when the subcontractor is the real party in interest, which arises under or by virtue of a Contract between them including, but not limited to, controversies based upon breach of Contract, mistake, misrepresentation, or other cause for Contract Modification or rescission. The procedure set forth in this section shall constitute the exclusive means of resolving a controversy between the Commission and a Contractor or subcontractor concerning a Contract solicited and awarded under this Regulation.

2. Request for Resolution; Time for Filing. Either the Executive Director or the Contractor or subcontractor when the subcontractor is the real party in interest may initiate resolution proceedings before the Executive Director by submitting a request for resolution to the Executive Director in writing setting forth the general nature of the controversy and the relief requested with enough particularity to give notice of the issues to be decided.

3. Duty and Authority to Attempt to Settle Protest. Prior to commencement of an administrative review as provided in subsection 4, the Executive Director or his designee thereof shall attempt to settle by mutual agreement a protest of an aggrieved bidder, offeror, Contractor, or subcontractor, actual or prospective, concerning the solicitation or award of the Contract. The Executive Director or designee thereof shall have the authority to approve any settlement reached by mutual agreement.

4. Administrative Review and Decision. If, in the opinion of the Executive Director, after reasonable attempt, a Contract controversy cannot be settled by mutual agreement, the Executive Director shall promptly conduct an administrative review. An aggrieved party may request a hearing before the Executive Director. The Executive Director shall issue a

decision in writing within ten (10) days of completion of the review. The decision shall state the reasons for the action taken.

5. Notice of Decision. A copy of the decision under subsection 4 of this section and a statement of appeal rights shall be mailed or otherwise furnished to all parties participating in the administrative review proceedings.

6. Finality of Decision. A decision under subsection 4 above is final and conclusive unless any person adversely affected by the decision requests a further administrative review before the Commission within 5 days of posting of the decision. The request for review shall be in writing and shall set forth the reasons for disagreement with the decision.

Part B. Solicitations or Awards in Violation of Law

Applicability of this Part. The provisions of this Part apply where it is determined administratively, or upon administrative review, that a solicitation or award of a Contract is in violation of law.

Remedies Prior to an Award. If prior to award it is determined that a solicitation or proposed award of a Contract is in violation of law, then the solicitation or proposed award shall be:

- a) cancelled; or
- b) revised to comply with the law and rebid.

Remedies After an Award. If after an award it is determined that a solicitation or award of a Contract is violation of law, then:

- a) if the person awarded the Contract has not acted fraudulently or in bad faith:
 - I) the Contract may be ratified and affirmed, provided it is determined that doing so is in the best interest of the Commission; or
 - II) the Contract may be terminated and the Person awarded the Contract shall be compensated for the actual expenses reasonably incurred under the Contract, plus a reasonable profit, prior to the termination;
- b) if the person awarded the Contract has acted fraudulently or in bad faith:
 - I) the Contract may be declared null and void; or
 - II) the Contract may be ratified and affirmed if such action is in the best interests of the Commission, without prejudice to the Commission's right to such damages as may be appropriate.

Part C. The Commission

Administrative Appeals to the Commission. Upon receipt of a written protest of a procurement decision of the Executive Director under the Sections above, the Commission may proceed to resolve the protest upon the written record presented to it or conduct a hearing. The Commission may appoint a committee of three or more individuals to hear the protest. The decision of the Commission is final as to administrative review and may be appealed to the circuit court under the provisions of the South Carolina Administrative Procedures Act.

Standard of Review for Factual Issues. A determination of an issue of fact by the Commission shall be final and conclusive unless arbitrary, capricious, fraudulent, or clearly erroneous.

ADOPTED BY RICHLAND COUNTY RECREATION COMMISSION BOARD

BOARD MEETING DATE: December 16, 2013
(Date Approved)

APPROVED: J. Marie Green
J. Marie Green, Chair

For more information about this policy, contact the Executive Department.