

Procurement in South Carolina:
How to Successfully Compete for Government Contracts

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Procurement is the process by which government contracts are solicited and ultimately awarded to a successful bidder. The South Carolina Consolidated Procurement Code governs this process by establishing guidelines to ensure fair and unbiased competition and providing legal remedies for aggrieved parties. As a player in the procurement process, you should become familiar with the common obstacles presented to bidding parties or offerors.

The designated government agency begins the process by soliciting offers to contract for a good or service. The published solicitation, also known as the Invitation for Bids (“IFB”) or a Request for Proposals (“RFP”), establishes the rules and guidelines for participating, explicitly states the information to be included in the bid, and provides a detailed description of the service or item sought. At this point, you will want to have a good understanding of the agency’s needs and desires for the contract in order to best prepare your proposal. This requires extensive planning and attention to detail. Any error, although small, can prove fatal in your effort to be the most responsive offeror. For example, any material detour from the RFP or IFB renders the proposal non-responsive. An award cannot be given to an offeror unless the bid is both responsive and responsible. Simply put, your proposal must conform in all material aspects to the RFP or IFB to keep you in the running for an award. Failing to adhere to the RFP or IFB is a mistake that can be easily avoided. You should establish a system for evaluating the essential requirements of the RFP or IFB in order to best prepare your proposal.

Once proposals are completed and submitted to the governmental body, they are opened and evaluated based upon several criteria. The government must evaluate each proposal based upon the criteria outlined in the RFP or IFB. Typically, the scores for each offeror are calculated and the offeror with the highest score has the winning bid. However, negotiations ultimately determine which offeror receives the award. Even though an offeror’s proposal has the highest score, it may not be awarded the contract if negotiations fall through.

Negotiations present another hurdle that must be overcome before receiving an award of the contract. It is in this phase that your bid is either accepted or denied. Having an experienced legal team is crucial to successfully negotiating your bid. Through negotiations both parties reach an agreement concerning the final terms of the contract. Once a contract is reached, the government publishes a Notice of Intent to Award the contract to the successful offeror.

Although an award has been published, aggrieved offerors may protest such an award pursuant to the Consolidated Procurement Code. The protest is initially before a Chief Procurement Officer (“CPO”), but his decision may be appealed to the Procurement Review Panel (“Panel”). Ultimately, an aggrieved party may appeal from the Panel’s decision to the Circuit Court.

Important guidelines must be adhered to in the protest of an award. For example, the content of an initial protest letter is very important for issue preservation upon appeal to the Panel. In addition, there are very strict deadlines for filing protests and subsequent appeals. You can avoid easy mistakes in your appeal to the Panel simply by understanding these rules and deadlines. Therefore, in the event that you become involved in a protest, you will need to have counsel that is familiar with such restrictions.

The procurement process can be confusing and frustrating even for the most experienced business professional. Let our specialized knowledge and experience at MG&C help you through this difficult process. Our Consulting team can assist you by identifying opportunities and providing the necessary background information and advice to enhance the effectiveness of your sales team. Within the strict guidelines of the Consolidated Procurement Code, MG&C Consulting can introduce you to key decision-makers, assist with evaluating the RFP or IFB, and review your proposal for responsiveness and conformity with the local environment.

MG&C's legal team consists of experienced attorneys who are prepared to represent you from the very beginning by assisting in the drafting of your proposal to representing your interests during contract negotiations. Finally, we can represent you with the defense or prosecution of a protest and subsequent appeal.