

STATE OF SOUTH CAROLINA)	BEFORE THE SOUTH CAROLINA
)	PROCUREMENT REVIEW PANEL
COUNTY OF RICHLAND)	CASE NO. 1998-1

In re:

Protest of ECL Equipment Company;)	ORDER
Appeal by ECL Equipment Company.)	
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This matter came before the Procurement Review Panel on January 30, 1998, on appeal by ECL Equipment Company (ECL). ECL appeals the decision of the Chief Procurement Officer (CPO) dismissing its protest for lack of jurisdiction. The Panel issues this order without conducting a hearing as a hearing is not necessary in making a determination based on the threshold legal issue of jurisdiction.

FINDINGS OF FACT

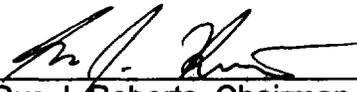
On December 4, 1997, the South Carolina Department of Corrections (SCDC) issued an Invitation for Bids (IFB) to procure washers and dryers for Cross Anchor Correctional Institute. In the IFB, SCDC specified that only bids on UNIMAC washers and dryers would be accepted due to compatibility with existing equipment. ECL sought to protest the IFB on the basis that the bid excluded fair competition by not allowing ECL or competitors to quote on other brands of equipment that it felt would be equal to UNIMAC brand. However, ECL did not submit its letter of protest to the CPO until after the fifteen day protest period allowed by §11-35-4210 of the Consolidated Procurement Code had expired. The

date on ECL's letter indicates that it did not prepare its letter of protest until December 22, 1997, and the letter was not received by the CPO until December 29, 1997. In order to meet the statutory requirements of §11-35-4210, ECL should have filed its protest with the CPO by December 19, 1997. In Case No. 1989-13, In re: Protest of Oakland Janitorial Service, Inc., and subsequent cases on the same issue, the Panel has held that the time period for filing a protest under §11-35-4210 is jurisdictional.

For the foregoing reasons, the Panel upholds the decision of the CPO and dismisses the protest of ECL for lack of jurisdiction.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT
REVIEW PANEL

BY: 
Gus J. Roberts, Chairman

Columbia, South Carolina

_____, 1998