



been filed within the fifteen day time limit imposed by §11-5-4210(11) of the South Carolina Consolidated Procurement Code.

### CONCLUSIONS OF LAW

The Consolidated Procurement Code provides actual and prospective bidders the right to protest the award of contracts in S.C. Code Ann. §11-35-4210(1). The statute reads as follows:

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 appropriate chief procurement officer in the manner stated in subsection (2) below within fifteen days of the date notification of award is posted in accordance with this code.

As the statute states, the protest must be filed within fifteen days. In Panel 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 S.C. Code Ann. §11-35-4210 is jurisdictional. In Oakland, the Panel held that "in the absence of statutory language to the contrary, perfection of a review proceeding within the time limited by statute is or rule is jurisdictional. Where the appeal is not taken within the time provided, jurisdiction cannot be conferred by consent or by waiver." The Panel therefore does not have jurisdiction to hear the merits of this case.

For the foregoing reasons, the Panel upholds the decision of the Chief Procurement Officer and dismisses the protest of Dean Polehill & Associates for lack of jurisdiction.

IT IS SO ORDERED.

SOUTH CAROLINA PROCUREMENT  
REVIEW PANEL

BY:



Gus J. Roberts, Chairman

Columbia, South Carolina

\_\_\_\_\_, 1997