

BEFORE THE RICHLAND COUNTY SCHOOL DISTRICT ONE
PROCUREMENT REVIEW PANEL

STATE OF SOUTH CAROLINA	)
	)
COUNTY OF RICHLAND	)
	)

Matter of: Protest of HUB International Midwest Limited
RFP No. 2026-005 – Third-Party Benefits Enrollment & Management
Services

Date: June 19, 2026

REPORT AND RECOMMENDATION OF THE SPECIAL MASTER

I. Introduction

This matter comes before the Richland County School District One Procurement Review Panel (the “Panel”) upon the Request for Further Administrative Review filed by HUB International Midwest Limited (“Hub”), challenging the denial of its procurement protest concerning RFP No. 2026-005 for Third Party Benefits Enrollment & Management Services. The Chief Business Officer denied HUB’s protest by written determination posted December 3, 2025, and HUB thereafter requested further administrative review by the Panel. The administrative hearing was conducted on June 1, 2026, before the undersigned Special Master, pursuant to Section 4410 of the Richland County School District One Procurement Code (the “Code”).

II. Background Facts and Procedural Posture

Richland County School District One (“District”) issued Solicitation No. 2025-036 for Third Party Benefits Enrollment & Management Services on or about May 21, 2025 (the “First Solicitation”), and the First Solicitation was posted on the District’s website the same day. Bids for the First Solicitation were opened on June 16, 2025. Four (4) firms submitted bids, including

First Financial Group of America ("FFGA") and HUB, and their proposals were submitted to a five (5) person evaluation group. After completion of the first round of technical scores, the two top graded firms were requested to interview. After the interviews and scoring, FFGA was selected as the winning bidder and the District issued its Intent to Award on July 16, 2025. On July 17, 2025, HUB filed a Notice of Intent to Protest the Intent to Award; and on July 30, 2025, the District cancelled the First Solicitation.

On August 25, 2025, the District issued Solicitation No. 2026-005 for Third Party Benefits Enrollment & Management Services (the "Second Solicitation"), which was posted to the District Procurement website on the same date. Proposals were due on September 23, 2025, and were opened the same day. Five (5) firms submitted timely proposals; no late submissions were received or opened. All five (5) proposals were distributed to the new five-member evaluation committee for review. All five (5) vendors were interviewed, via video conference, on October 14, 2025. One evaluator, Mark Leslie, notified the Chief Procurement Officer on the morning of the presentations that he was ill and could not participate in the interviews. The bidders were notified of Mr. Leslie's absence and were also notified that the presentations would be recorded so they could be reviewed by Mr. Leslie. Following the presentations the proposals and presentations were then scored individually.

After individual scoring, the evaluators met, via video conference, on October 22, 2025, to discuss and provide consensus scoring. Following the scoring, FFGA had the highest score and was determined to be the winning bidder. The Intent to Award was posted on the District Procurement website and communicated to all offerors via email on October 27, 2025.

Subsequent to the issuance of the Notice of Intent to Award, two (2) parties, including HUB, timely protested the District's Intent to Award on or about November 11, 2025.

The Chief Business Officer for the District (the "CBO") conducted an administrative review of both protests and denied those protests on or about December 3, 2025. HUB timely served its request for an appeal to the Panel on or about December 15, 2025. The second party did not file an appeal with the Panel.

HUB and the District agreed to the appointment of a Special Master for purposes of conducting a hearing, taking evidence, and making a recommendation to the Panel. The undersigned Special Master was selected and agreed to be the Panel's Special Master. The parties, including FFGA, asserted no objection to the use of a Special Master or the selection of the undersigned to serve in this role.

III. Applicable Legal Standards

Section 4410(1) of the Richland County School District One Procurement Code (the "Code") grants the Panel authority to review and determine *de novo* requests for review of the CBO's written determinations. The Panel reviews the CBO's decision without deference, applying the law and facts independently and then evaluates the CBO's application of those legal standards under the framework established by the Code. The Panel may reverse the CBO's decision if it finds the determination was clearly erroneous, arbitrary, capricious or contrary to law. HUB, as the party requesting administrative review, bears the burden of proving its allegations by a preponderance of the evidence. The administrative review is conducted under the authority of the District Code but is guided as well by statutes and case law governing public procurement matters in South Carolina.

Pursuant to Sections 20(2)(a), (b), and (f), the Code must be construed and applied to promote, among other purposes, increased economy in District procurement activities, broad-based competition, and fair and equitable treatment of all persons who deal with the procurement

system. The Code also imposes an obligation of good faith, defined as honesty in fact and the observance of reasonable commercial standards of fair dealing. These standards mirror the fundamental principles applied by the South Carolina Procurement Review Panel in state procurement matters.

The South Carolina Procurement Panel has repeatedly recognized that a procurement process need not be perfect to be upheld; it must be fair. In *In re Appeal by Intralot, Inc., Case No. 2017-8*, the Panel stated that the evaluation process need not be perfect so long as it is fair, and that the reviewing body may not substitute its judgment for that of evaluators if the evaluators follow the Procurement Code and solicitation, fairly consider all proposals, and are not actually biased.

A procurement decision is arbitrary and capricious if it lacks a rational basis or is made without adequate determining principles. *In Re: Haren Construction Co., Inc., Case No. 2025-5*. The Court of Appeals has explained that a decision is arbitrary if it is “without a rational basis, is based alone on one’s will and not upon any course of reasoning and exercise of judgment, is made at pleasure, without adequate determining principles, or is governed by no fixed rules or standards. *Blackmon v. S.C. Dep’t of Health & Env’tl. Control*, 441 S.C. 342, 353, 893 S.E.2d 578,584 (2022).

IV. Findings of Fact

A. Page limitation as a mandatory, material requirement.

HUB’s initial appeal ground is that FFGA’s proposal exceeded the 60-page limit and therefore should have been rejected as nonresponsive. HUB asserts that allowing FFGA to exceed the page limitation was materially prejudicial and violated the principle of fair and equal treatment. The evidence does not support that conclusion. The solicitation language stated: “Failure to

comply with this specific format may cause your proposal to be rejected and non-responsive and eliminated from further consideration.” The Procurement Officer testified that the language did not say “will” or “shall,” but instead used “may,” which she understood as discretionary. HUB argues that the word “may” reflects the procurement officer’s discretion over the remedy for a violation and that discretionary language can be mandatory depending on the context.

The Procurement Officer testified that she examined what was included in FFGA’s 66 pages and determined that the additional pages were blank section dividers containing no material information. She testified that, because those pages contained no material information, the page overage could be weighed as a minor informality because it did not affect evaluation or fair treatment. The evidence further showed that HUB submitted 59 pages, FFGA submitted 66 pages, and when FFGA’s seven tab pages were excluded, FFGA’s proposal also contained 59 pages. The Procurement Officer testified that, with the tab pages excluded, the same amount of material information was considered for HUB and FFGA and that FFGA’s seven tab pages had no bearing on FFGA’s qualifications or ability to perform, that the overage was immaterial, and that it was not prejudicial to HUB or any other bidder.

The Code defines a minor informality or irregularity as one that is merely a matter of form or an immaterial variation from the exact requirements of the solicitation, having no effect or only a trivial or negligible effect on price, quality, quantity, delivery, or performance, and the waiver of which is not prejudicial to bidders. Code § 1520(11). The Code expressly permits the procurement officer either to give a bidder an opportunity to cure or to waive such a deficiency when advantageous to the District if it is not prejudicial to the other offerors. Whether this is a matter of responsiveness and waiver of a minor informality or the overarching fundamental fairness of the procurement, there must be evidence of prejudice. HUB failed to demonstrate prejudice in the

determination to consider the FFGA proposal despite the page overage. The Record supports the Procurement Officer's determination that exceeding the 60 page limit with seven tab pages was a minor informality and was not prejudicial to HUB or the other offerors.

HUB relies on a recent protest decision from the state Chief Procurement Officer ("CPO") where the CPO found unfairness because the evaluators in a SCDOT solicitation considered a proposal that exceeded the page limitations. *Protest of Harley, Inc.*, 2026-108. In *Harley*, the CPO found that where evaluators considered extra substantive material, the offeror submitting the proposal that exceeded the page limitation obtained an unfair competitive advantage and, as such, the other offerors were prejudiced. However, the CPO, in *Harley*, noted that a page-limit deviation may be waived if the waiver does not prejudice the other bidders. Here, by contrast, the evidence establishes that the additional pages were blank section dividers. There is simply no evidence that the evaluators considered additional substantive material from FFGA that HUB was barred from providing.

Although FFGA's witness agreed on cross-examination that section headers can help organize a proposal, she also testified that she did not deem those tabs important because they contained no substantive information. As such, HUB did not establish legal prejudice sufficient to convert the tab pages into a material defect requiring rejection. Accordingly, the CBO's determination that the page-count issue was a waivable minor informality should be affirmed.

B. Modification of Solicitation.

HUB also challenged the District's modification of the evaluation criteria from the First Solicitation to the Second Solicitation. HUB argues the reduction in points for experience and the elimination of the South Carolina experience requirement from the Second Solicitation

“demonstrates bias and appears designed to advantage the District’s pre-selected vendor.” This ground fails for two independent reasons.

First, it was untimely. Section 4210 of the Code requires a party aggrieved in connection with a solicitation to protest to the CBO within fifteen days of issuance of the request for proposal. The Second Solicitation was issued on August 25, 2025, and HUB did not raise this protest ground until its protest was filed on November 11, 2025. HUB argues that this protest ground is timely because the improper conduct could not be determined until after award when the pattern became clear. Contrary to HUB’s argument, the alleged intentional acts of modifying the solicitation to benefit FFGA and to the prejudice of HUB, was evident in the Second Solicitation. As such, any protest concerning the modification of the award criteria or deletion of the South Carolina experience requirement should have been filed within fifteen days of issuance of the solicitation.

Because HUB has alleged that the modification of the solicitation was evidence of unfair treatment afforded to FFGA, in considering the merits of the protest ground, I find the evidence does not support HUB’s claim. The Procurement Officer testified that the requirement was removed because the District was concerned about restricting competition after receiving only four offers in the first procurement, and that the District wanted “less restriction, more competition.” She further testified that both HUB and FFGA had South Carolina experience, that both qualified under the First and Second Solicitations, and that the Second Solicitation resulted in five proposals submitted versus four during the First Solicitation. The District Code identifies broad-based competition and increased value to the District as core procurement purposes. Code § 20(2)(a), (b). The testimony that the revision increased competition and did not disadvantage HUB relative to FFGA is un rebutted by any compelling evidence of bias, fraud, or unfair treatment. Accordingly, this protest ground should be denied as untimely and, alternatively, as unsupported by the evidence.

C. Evaluation Process

(1) Evaluator Leslie's Absence

HUB argued that Evaluator Mark Leslie's absence from the live presentations invalidated the evaluation process. HUB alleges that a recorded review is fundamentally different from active participation and this disparity created an unequal and unreliable evaluation process. The evidence does not support that claim.

The Procurement Officer testified that Leslie notified the District within a couple of hours of the presentations that he was ill and unable to participate live. She testified that all presentations were scheduled back-to-back for 30 minutes each, that the District notified presenters of Leslie's absence, and that the District requested permission to record presentations so Leslie could review them later. No bidder, including HUB, objected. The evidence reflects that the District responded with a reasonable approach to the unexpected absence and each bidder was treated the same as to Leslie's absence. Furthermore, Leslie reviewed the presentations, participated in individual scoring, gave HUB its highest individual score, and participated in consensus scoring. His absence affected all presenters equally. There is no evidence that Leslie's absence prejudiced HUB or changed the outcome.

(2) Evaluator Bradley

HUB argued that Evaluator Bradley's notes were insufficient and reflected arbitrary and capricious treatment of HUB. The evidence does not support that conclusion. The complaint seems to center around what HUB alleges as a low score assigned by Bradley and the lack of documentation to support Bradley's scoring. HUB conceded that no Code requirement specifies the amount of documentation an evaluator must include in notes. The Procurement Officer likewise testified that she was not aware of any District Code requirement concerning the number or amount

of evaluator notes. Moreover, there is nothing in the Record that supports that Bradley, or any of the other evaluators, failed to follow instructions provided or failed to consider and evaluate all proposals fairly and equally. Indeed, the Record reflects that each of the evaluators, including Bradley, executed guidelines for proposal evaluations in which they agreed to adhere to the responsibilities imposed upon them as evaluators, including to "ensure that the evaluation is conducted in an impartial, objective and professional manner, and that the same level of effort is extended to the evaluation of all vendors' proposals. In considering claims for evaluator bias based on scoring, the SC Procurement Review Panel has consistently held that variation between evaluator scores alone is only proof of the subjective nature of the evaluation aspect of the RFP process. *In Re: Protest of Drew Industrial Division*, Case No. 1993-15. Moreover, the Panel has stated numerous times that so long as the evaluators follow the requirements of the Code and the RFP, fairly consider all proposals and are not actually biased, it will not re-evaluate proposals and will not substitute its judgment for the judgment of the evaluators. *Appeal by Transportation Management Services, Inc.*, Case No. 2000-3.

The evidence also showed that Bradley was not the lowest scorer for HUB. Evaluator Flowers assigned a lower score for HUB. Moreover, Bradley's score for HUB actually increased by six points during consensus scoring, and the consensus meeting minutes documented the committee's general reasons. The burden is on HUB to demonstrate by a preponderance of the evidence that Bradley's scoring was arbitrary, capricious, biased, or outcome-determinative. HUB did not meet that burden with regards to its protest on the inadequacies of Bradley's scoring. Nor has there been a showing of actual bias sufficient to challenge Bradley's scoring.

(3) Consensus Scoring

HUB also argued that the District's consensus scoring process was conducted in such a way to manipulate the outcome. As an initial matter, consensus scoring has been routinely determined to be a mechanism for evaluation that comports with applicable procurement laws. The Procurement Officer testified that consensus scoring is the District's standard process, that it is not unusual in the industry, and that the purpose is to bring evaluators together to discuss scores and reach a final score with which everyone is comfortable.

The evidence showed that the ranking order did not change from individual scoring to consensus scoring: FFGA remained first, Mark III second, Pierce third, HUB fourth, and FBMC fifth. Hr'g Tr. p. 209, ll. 15-25; p. 210, ll. 1-7. The Procurement Officer testified that no bidder's order changed, that HUB's score did not move significantly up or down, that she recalled no biased comments during consensus, that the process went smoothly, and that all evaluators agreed with the consensus results. Moreover, the evidence submitted reflecting the scoring process supported the testimony and reflected a decrease in the standard deviation across award criteria and among the bidders when comparing the independent score with the consensus scores.

On these facts, the Record does not support a finding that the evaluators conducted the consensus scoring in an arbitrary or capricious manner, nor is there any evidence that the consensus scoring process was conducted in a way to manipulate the outcome. To the contrary, the evidence shows consensus scoring was consistently applied and did not alter HUB's relative position.

D. Responsiveness Protest Grounds

HUB's remaining arguments concern alleged deficiencies in FFGA's proposal, including financial information, insurance documentation, and cover-sheet solicitation number. HUB argues

that the CBO's characterizing these alleged deficiencies as "minor informalities" was legal error. Rather, each of these deficiencies were material, any one of which should have resulted in rejection of the FFGA proposal as non-responsive. The evidence supports the CBO's treatment of these issues as minor informalities.

The District Procurement Code expressly lists failure to furnish certificates of insurance and failure to furnish financial statements as examples of minor informalities or irregularities. Code § 1520(11)(h), (i). The Procurement Officer testified that discretion to waive such informalities is very important because perfect bids are uncommon, and overly strict enforcement would reduce competition by eliminating bidders before evaluation.

As to financial statements, the solicitation requested offerors to submit annual reports, financial statements, or other evidence of financial status. FFGA did not submit full financial statements but did include an independent auditor's report coversheet addressing audits of FFGA's 2023 and 2024 financial statements. The Procurement Officer accepted this financial information as adequate evidence of financial status. She believed that in her discretion the submission was compliant. The Procurement Officer testified that HUB also did not provide financial statements. She testified that she believed HUB and FFGA were treated the same and considered responsive with respect to the financial requirements. In any event, the Code expressly contemplates failure to furnish financial statements as an example of a minor informality that the Procurement Officer can waive. There is no evidence in the Record that would cause a deviation contemplated by the Code to be a minor informality to be considered a material defect warranting rejection of a proposal.

As to insurance, HUB argues that FFGA's failure to provide proof of the required commercial general liability coverage was a material defect requiring rejection of FFGA's

proposal. The solicitation required proof of coverage **at least as broad as \$1,000,000** in commercial general liability coverage. FFGA provided a certificate of professional liability insurance in the amount of \$2,000,000. The Procurement Officer testified that she considered FFGA's professional liability coverage to be "at least as broad as" the required commercial general liability coverage because it exceeded the per occurrence minimum dollar coverage and the professional liability coverage was more applicable to this contract type. There was no credible evidence offered to refute the Procurement Officer's exercise of discretion on the insurance coverage. In any event, the Code expressly contemplates failure to furnish certificates of insurance as an example of a minor informality that the Procurement Officer can waive. There is no evidence in the Record that would cause a deviation contemplated by the Code to be a minor informality to be considered a material defect warranting rejection of a proposal.

Regarding FFGA's incorrect solicitation number on the cover sheet, HUB argues that under fundamental contract law principles of offer and acceptance, a proposal that lists an incorrect solicitation number on the cover sheet must be rejected. The record contains no evidence that the Procurement Officer was confused about which solicitation FFGA intended to answer, particularly where FFGA previously bid on the earlier solicitation and the procurement was reissued. Moreover, the evidence reflects that there were other portions of FFGA's proposal that contained the correct solicitation number and FFGA participated in the interview stage that clearly referenced the correct solicitation number. Indeed, the evidence reflects that the incorrect solicitation number was nothing more than a scrivener's error that had no material effect on FFGA's demonstration of its intent to be bound by the terms of the solicitation at issue.

HUB also argues that even if some of the above allegations were found to be minor informalities, the cumulative effect of multiple material defects cannot be dismissed. Having found

that HUB has not carried its burden as to any of the above alleged deficiencies either because the FFGA proposal was compliant or because the deficiencies were no more than minor informalities, HUB's argument that there were multiple material defects must fail. The evidence does not support a finding that these informalities, individually or collectively, prejudiced HUB or required rejection of FFGA's proposal.

E. Pre-Solicitation Meeting

Although this issue was not raised in the initial protest letter or the request for administrative review by the Panel, HUB has suggested in its Post-Hearing Brief that a pre-solicitation meeting between FFGA and District personnel evidenced bias or a predetermined award. Unfortunately, the only evidence in the Record relating to this allegation is from FFGA's witness, Mindy Tart, which included brief testimony concerning a pre-solicitation meeting. Ms. Tart testified that the meeting occurred before any discussion of an RFP and before the First Solicitation. She testified that the District was investigating options and whether an RFP was something the District might be interested in pursuing. She further testified that the District did not disclose how its current system was operating and that there was no other communication with the District about the contract after that meeting, other than being told an RFP may be forthcoming.

The District Procurement Code's pre-solicitation regulation expressly encourages exchanges of information among interested parties, market research, and even one-on-one meetings with potential offerors, provided such exchanges comply with source-selection safeguards. R2017(D)(1)–(3). The Code further provides that general information about agency mission needs and future requirements may be disclosed, and that information necessary or advantageous for proposal preparation must be made public if disclosed to one or more potential offerors. R2017(D)(6).

Unfortunately, the Record lacks clarity in terms of the substance and context of such a meeting or whether such meetings occurred with other stakeholders. However, the fact that a meeting occurred in and of itself is not evidence that the District was biased or that there was a predetermined award. HUB did not prove that FFGA received protected source-selection information, proposal-preparation information unavailable to others, or any improper advantage from the pre-solicitation meeting or was violative of the Code in any way. Without more, the Record is insufficient to set aside an award.

V. Conclusions of Law

HUB bore the burden of proving that the procurement was conducted in violation of the District Procurement Code, the solicitation, or applicable South Carolina procurement law. A procurement process need not be perfect to be upheld; it must be fair. *In re Appeal by Intralot, Inc., Case No. 2017-8*. The Panel, as the reviewing body, may not substitute its judgment for that of evaluators if the evaluators follow the Code and solicitation, fairly consider all proposals, and are not actually biased. Moreover, protests “must assert some factual allegation of fraud, misrepresentation, or unfair treatment in order to state a claim upon which relief can be granted.” *In Re: Appeal by Catamaran, LLC, Case No. 2015-2*.

The central deficiency in HUB’s protest is the absence of proof. HUB raised serious allegations—predetermination, manipulation, arbitrary scoring, unequal treatment, and unfair advantage—but the evidentiary hearing did not produce sufficient evidence to sustain those allegations. HUB conceded that there was no evidence of fraud, misrepresentation or undue influence on behalf of the District with respect to any aspect of this procurement. The Record did not reflect sufficient evidence that the evaluators failed to follow the Code and solicitation. The Record did not establish that the evaluators failed to consider the proposals fairly and equally and

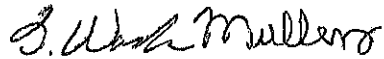
there was no evidence of actual bias. Under *Intralot*, the Panel may not substitute its judgment for that of evaluators where the evaluators followed the solicitation and Code, considered the proposals, and were not shown to be actually biased.

There was not sufficient evidence that any determination, action or inaction by the Procurement Officer or the evaluators was arbitrary, capricious or lacked a rational basis or was made without adequate determining principles. *In re Haren Construction Co., Inc., Case No. 2025-5*. The Code defines a minor informality or irregularity as one that is merely a matter of form or an immaterial variation from the exact requirements of the solicitation, having no effect or only a trivial or negligible effect on price, quality, quantity, delivery, or performance, and the waiver of which is not prejudicial to bidders. Code § 1520(11). The Record, as a whole, demonstrated that any deficiency as to FFGA's proposal was not material; and as such, the waiver of such deficiencies did not prejudice HUB. Materiality turns on whether waiver of a deviation frustrates the policies underlying competitive procurement, including fair treatment, competition, and integrity. On this Record, waiver of FFGA's non-substantive section dividers, financial documentation, insurance documentation and incorrect cover-sheet solicitation number did not frustrate those policies. *Ray Bell Construction Co., Inc. v. The School District of Greenville County*, 331 S.C. 19, 501 S.E.2d 725 (1998). The testimony established that the alleged informalities did not give FFGA additional substantive proposal content, did not change the ranking order, and did not result in unequal treatment of HUB. Therefore, the CBO and Procurement Officer acted within the discretion provided by Code § 1520(11) in treating those deficiencies as minor informalities. The CBO's denial of HUB's protest was not clearly erroneous, arbitrary, capricious, contrary to law, or unsupported by the record.

VI. Recommendation

Based on the foregoing findings and conclusions, the Special Master recommends that the Richland County School District One Procurement Review Panel **AFFIRM** the Chief Business Officer's December 3, 2025 denial of HUB International Midwest Limited's protest;

Respectfully submitted,



E. Wade Mullins, III

Special Master

Richland County School District One

Procurement Review Panel