

HENRY MCMASTER, CHAIR  
GOVERNOR  
CURTIS M. LOFTIS, JR.  
STATE TREASURER  
BRIAN J. GAINES  
COMPTROLLER GENERAL



THE DIVISION OF PROCUREMENT SERVICES  
DELBERT H. SINGLETON, JR.  
DIVISION DIRECTOR  
(803) 734-8018  
JOHN ST. C. WHITE  
MATERIALS MANAGEMENT OFFICER  
(803) 737-0600  
FAX: (803) 737-0639

HARVEY S. PEELER, JR.  
CHAIRMAN, SENATE FINANCE COMMITTEE  
BRUCE W. BANNISTER  
CHAIRMAN, HOUSE WAYS AND MEANS COMMITTEE  
GRANT GILLESPIE  
EXECUTIVE DIRECTOR

## Protest Decision

**Matter of:** GEL Laboratories LLC  
**File No.:** 2026-139  
**Posting Date:** August 7, 2026  
**Contracting Entity:** South Carolina Department of Environmental Services  
**Solicitation No.:** 5400029491  
**Description:** PFAS in Public Drinking Water

### DIGEST

Protest of the Intent to Award is denied. GEL Laboratories LLC's (GEL) letter of protest is included by reference. (Attachment A)

### AUTHORITY

The Chief Procurement Officer (CPO) conducted an administrative review pursuant to S.C. Code Ann. §11-35-4210(4). This decision is based on materials in the procurement file and applicable law and precedents.

### BACKGROUND

|                            |            |
|----------------------------|------------|
| Solicitation Issued        | 03/06/2026 |
| Amendment 1 Issued         | 04/13/2026 |
| Intent to Award Posted     | 05/06/2026 |
| Intent to Protest Received | 05/07/2026 |
| Amended Protest Received   | 05/12/2026 |

The South Carolina Department of Environmental Services (DES) issued this Invitation for Bids to acquire a contractor to conduct drinking-water analyses on South Carolina's public drinking water system for PFAS using the analytical methods listed under the State Primary Drinking Water Regulations and the National Primary Drinking Water Regulations (NPDWR). DES posted an Intent to Award to Eurofins Drinking Water and Wastewater South East LLC (Eurofins) on May 5, 2026. GEL filed an Intent to Protest on May 7 and amended its protest on May 12.

## ANALYSIS

The solicitation (Attachment B) included the following Special Standard of Responsibility:

### **QUALIFICATIONS - SPECIAL STANDARDS OF RESPONSIBILITY (MODIFIED)**

(a) This section establishes special standards of responsibility. UNLESS YOU POSSESS THE FOLLOWING MANDATORY MINIMUM QUALIFICATIONS, DO NOT SUBMIT AN OFFER:

1. Each Offeror (contract laboratory) must be certified by the SCDES Office of Environmental Laboratory Certification to perform and report regulatory monitoring data under the Safe Drinking Water Act for both the regulated and unregulated contaminants listed in the State Primary Drinking Water Regulations. The certification must be in effect at the time of submission of the Offeror's bid for this IFB.
2. The award Offeror's Contract Laboratory must retain certification for the analysis of the PFAS as listed under the Safe Drinking Water Act for the duration of the entire contract period.

Compliance with a special standard of responsibility is mandatory, and the failure to comply will render a proposal non-responsible.<sup>1</sup> See R. 19-445.2125F. GEL argues that it was actively

---

<sup>1</sup> The Procurement Officer characterized the failure to meet a special standard of responsibility as a matter of responsiveness. This is incorrect. A responsible offeror is "a person who has the capability in all respects to perform fully the contract requirements and the integrity and reliability which will assure good faith performance which may be substantiated by past performance." S.C. Code Ann. 11-35-1410(8). Regulation 19-445.2125 lists factors to be considered in determining responsibility, and Reg. 19-445.2125F permits the procurement officer to include "Special Standard of Responsibility" in the IFB when the State has determined that "unusual expertise or specialized facilities are needed for adequate contract performance." S.C. Code Ann. Reg. 19-445.2125. Failing to meet a special standard is a matter of responsibility, not responsiveness. *Id.*

engaged with DES in the PFAS certification review process for several months prior to the issuance of the intent to award. However, the special standard of responsibility clearly states that the “certification must be in effect at the time of submission of the Offeror’s bid.”

This requirement was affirmed in response to a question included in Amendment 1 (Attachment C):

**7. QUESTION:**

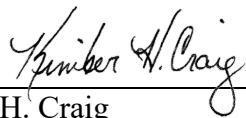
We are currently in the process of applying for SC Office of Environmental Laboratory Certification. Can labs operate under NELAP accreditation while certification is pending?

**State’s Response: Proof of certification by the SC Office of Environmental Laboratory Certification Program to perform and report regularly monitoring PHAS data is required at the time of bid submission.**

Based on information included in their protest, GEL was still engaged with DES in the PFAS certification review process at the time of bid submission (April 29, 2026). As part of the review process, the procurement officer confirmed with the DES Office of Environmental Laboratory Certification that only 2 labs – Eurofins South Bend and Alliance Technical Group LLC Akron – were certified (Attachment D). The State appropriately rejected GEL’s bid for failure to meet the Special Standard of Responsibility (Attachment E).

**DECISION**

For the reasons stated above, the protest of GEL Laboratories, LLC is denied.

  
\_\_\_\_\_  
Kimber H. Craig  
Chief Procurement Officer

Columbia, South Carolina

## STATEMENT OF RIGHT TO FURTHER ADMINISTRATIVE REVIEW

*Protest Appeal Notice (Revised July 2025)*

The South Carolina Procurement Code, in Section 11-35-4210, subsection 6, states:

(6) Finality of Decision. A decision pursuant to subsection (4) is final and conclusive, unless fraudulent or unless a person adversely affected by the decision requests a further administrative review by the Procurement Review Panel pursuant to Section 11-35-4410(1) within ten days of posting of the decision in accordance with subsection (5). The request for review must be directed to the appropriate chief procurement officer, who shall forward the request to the panel or to the Procurement Review Panel, and must be in writing, setting forth the reasons for disagreement with the decision of the appropriate chief procurement officer. The person also may request a hearing before the Procurement Review Panel. The appropriate chief procurement officer and an affected governmental body shall have the opportunity to participate fully in a later review or appeal, administrative or judicial.

-----  
Copies of the Panel's decisions and other additional information regarding the protest process is available on the internet at the following web site: <http://procurement.sc.gov>

FILING FEE: Pursuant to Proviso 111.1 of the 2025 General Appropriations Act, "[r]equests for administrative review before the South Carolina Procurement Review Panel shall be accompanied by a filing fee of two hundred and fifty dollars (\$250.00), payable to the SC Procurement Review Panel. The panel is authorized to charge the party requesting an administrative review under the South Carolina Code Sections 11-35-4210(6), 11-35-4220(5), 11-35-4230(6) and/or 11-35-4410...Withdrawal of an appeal will result in the filing fee being forfeited to the panel. If a party desiring to file an appeal is unable to pay the filing fee because of financial hardship, the party shall submit a completed Request for Filing Fee Waiver form at the same time the request for review is filed. *[The Request for Filing Fee Waiver form is attached to this Decision.]* If the filing fee is not waived, the party must pay the filing fee within fifteen days of the date of receipt of the order denying waiver of the filing fee. Requests for administrative review will not be accepted unless accompanied by the filing fee or a completed Request for Filing Fee Waiver form at the time of filing." PLEASE MAKE YOUR CHECK PAYABLE TO THE "SC PROCUREMENT REVIEW PANEL."

LEGAL REPRESENTATION: In order to prosecute an appeal before the Panel, business entities organized and registered as corporations, limited liability companies, and limited partnerships must be represented by a lawyer. Failure to obtain counsel will result in dismissal of your appeal. *Protest of Lighting Services*, Case No. 2002-10 (Proc. Rev. Panel Nov. 6, 2002) and *Protest of The Kardon Corporation*, Case No. 2002-13 (Proc. Rev. Panel Jan. 31, 2003); and *Protest of PC&C J&Hs, LLC*, Case No. 2012-1 (Proc. Rev. Panel April 2, 2012). However, individuals and those operating as an individual doing business under a trade name may proceed without counsel, if desired.

**South Carolina Procurement Review Panel  
Request for Filing Fee Waiver  
1205 Pendleton Street, Suite 366, Columbia, SC 29201**

---

\_\_\_\_\_  
Name of Requestor

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Business Phone

- 
1. What is your/your company's monthly income? \_\_\_\_\_
  2. What are your/your company's monthly expenses? \_\_\_\_\_
  3. List any other circumstances which you think affect your/your company's ability to pay the filing fee:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To the best of my knowledge, the information above is true and accurate. I have made no attempt to misrepresent my/my company's financial condition. I hereby request that the filing fee for requesting administrative review be waived.

Sworn to before me this  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
Notary Public of South Carolina

\_\_\_\_\_  
Requestor/Appellant

My Commission expires: \_\_\_\_\_

---

For official use only: \_\_\_\_\_ Fee Waived      \_\_\_\_\_ Waiver Denied

\_\_\_\_\_  
Chairman or Vice Chairman, SC Procurement Review Panel

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_  
Columbia, South Carolina

**NOTE: If your filing fee request is denied, you will be expected to pay the filing fee within fifteen (15) days of the date of receipt of the order denying the waiver.**