



**The South Carolina
Governor's School for Agriculture
at John de la Howe**

FOLLOW-UP PROCUREMENT AUDIT REPORT

**for the Audit Period:
July 1, 2021 to January 31, 2022**

**Office of Audit & Certification
Division of Procurement Services
March 28, 2022**

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INTRODUCTION

The Division of Procurement Services (DPS) audited the SC Governor’s School for Agriculture at John de la Howe’s (GSAg) internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual, under § 11-35-1230 of the South Carolina Consolidated Procurement Code (Code) and Reg. 19-445.2020ⁱ. GSAg is a non-certified agency.

The primary objective of our audit was to determine whether, in all material respects, the internal controls of GSAg’s procurement system were adequate to ensure compliance with the Code and ensuing regulations.

The management of GSAg is responsible for the agency’s compliance with the Code. Those responsibilities include the following:

- Identifying the agency’s procurement activities and understanding and complying with the Code
- Establishing and maintaining effective controls over procurement activities that provide reasonable assurance that the agency administers its procurement programs in compliance with the Code
- Evaluating and monitoring the agency’s compliance with the Code, and
- Taking corrective action when instances of noncompliance are identified, including corrective action on the findings of this audit

Because of inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. Projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our review and evaluation of the system of internal control over procurement transactions, as well as our overall audit of procurement policies and procedures, was conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

Total Expenditures

During the audit period, the agency conducted procurements as follows:

	\$ Amount (000s)		
	Spend Amount		
	<u>PO’s Direct Pay Total</u>		
Audit Period	591	539	1,130

SCOPE

We conducted our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Our audit included testing, on a sample basis, evidence about GSAG's compliance with the Code for the period July 1, 2021 through January 31, 2022, the audit period, and performing other procedures that we considered necessary in the circumstances. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The scope of our audit included, but was not limited to, a review of the following:

- (1) Internal procurement and purchasing card (P-Card) procedure manuals
- (2) Written determinations for all sole source and emergency procurements. No sole source or emergency procurement activity was reported to DPS during the audit period
- (3) Procurement transactions for the audit period as follows:
 - a) Sixteen payments, for a total of \$198k
 - b) Twelve direct expenditure vouchers (Direct Payments) totaling \$138k
 - c) Two hundred sixty-six purchase orders (PO) and four hundred eight direct payments reviewed for order splitting or the use of favored vendors
 - d) Twenty-five P-Card transactions for two judgmentally selected months for compliance with the South Carolina Purchasing Card Policy and Procedures (State P-Card Policy). During the audit period there was one cardholder that made P-Card expenditures as follows:

	<u>Transactions</u>	<u>\$ Amount</u>
Audit Period	200	82,585

- (4) Three construction projects totaling approximately \$161k and one Architect/Engineer and Related Professional Service Project totaling approximately \$400k for compliance with the Manual for Planning and Execution of State Permanent Improvements
- (5) Small and Minority Business utilization plans and reports
- (6) Reporting of surplus property dispositions, and approval of trade-ins in excess of \$5k.
- (7) Disposition of unauthorized procurements. No unauthorized procurement activity was reported to DPS

SUMMARY OF FINDINGS

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Note: The Agency's responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report. The Agency's response cover letter is at the end of the report as Attachment 1.

RESULTS OF AUDIT

I. Unauthorized Procurements Not Reported to DPS

We identified three unauthorized or illegal procurements during the previous audit and recommended they be reported to DPS as required. GSAG agreed with the recommendation in the prior audit report, however the agency still had not reported nor provided written determinations for these unauthorized or illegal procurements as of the date of this audit.

Regulation 19-445.2015 (A) requires that, "upon finding after award that a State employee has made an unauthorized award of a contract or that it is otherwise in violation of law, the appropriate official may ratify or affirm the contract or terminate it in accordance with this section... If the value of the contract exceeds \$100,000 the CPO must concur in the written determination before any action is taken on the decision." (I) states "every quarter, each governmental body shall submit to the Materials Management Officer a record listing all contract awards or modifications discovered as described in item A(1) above, along with copies of the applicable written determinations..."

Recommendation: We recommend that GSAG report these illegal or unauthorized procurements, along with written determinations, to DPS as previously recommended.

Agency Response

One purchase was not in compliance with the South Carolina Consolidated Procurement Code and all applicable Office of State Engineer (OSE) procedures. The payment method should have been procured through a competitive source selection method and paid for with a PO. The agency did not follow the state purchase order policy as set forth by the state of South Carolina, and the invoice was paid utilizing the direct payment method. The procurement was reported as an unauthorized/illegal to DPS on 7/20/2022.

One purchase order was determined not to be a sole source by DPS. The vendor is not the sole company in the state of South Carolina that provides this type of service. The agency has prepared a determination, and it was sent to the CPO for concurrence or written determination on 7/19/2022. The agency will report the unauthorized/illegal procurement within seven business days of receipt of the determination from the CPO.

One purchase order was issued as an emergency purchase order. The agency has completed a determination regarding this illegal/unauthorized procurement, and it was reported to DPS on 7/01/2022.

RESULTS OF AUDIT

II. Two Purchases Made Without Competition

Two purchases during the audit period were made without competition; one for food for the school's cafeteria, and the other for propane gas.

Food Service - GSAG procured food services as an emergency procurement in the last audit. This was determined to be an illegal procurement and we recommended GSAG report the procurement, along with the required written determination, to DPS. We further recommended GSAG contact DPS to solicit a food contract for GSAG since the dollar amount exceeded the agency's certification level. As of the end of the follow-up audit period, GSAG had not reported the illegal procurement to DPS as recommended. After the last audit, the one-year contract expired; however, the agency continued to purchase food from the same vendor. The total spend during this audit period is approximately \$56k. GSAG had not contacted DPS to request the solicitation of a food contract as recommended in the previous audit.

Regulation 19-445.2015 (A) requires that, "upon finding after award that a State employee has made an unauthorized award of a contract or that it is otherwise in violation of law, the appropriate official may ratify or affirm the contract or terminate it in accordance with this section... If the value of the contract exceeds \$100,000, the CPO must concur in the written determination before any action is taken on the decision." (I) states "every quarter, each governmental body shall submit to the Materials Management Officer a record listing all contract awards or modifications discovered as described in item A(1) above, along with copies of the applicable written determinations..."

Recommendation: We recommend GSAG Procurement submit a requisition for food to DPS as well as any required supplies and services, information technology, or construction that exceed the agency's procurement authority. We further recommend that GSAG report this illegal procurement, including the required written determination, to DPS as previously recommended.

Agency Response

The agency completed a determination that was sent to the CPO for review and a ratification was executed on 5/18/2022. The procurement was reported to DPS as an illegal/unauthorized procurement on 6/2/2022. DPS has processed a solicitation for food services, and no offers were received. The agency reposted the solicitation on 7/25/2022 to secure a competitive contract.

Propane Gas - The agency purchased propane gas from one vendor as an exempt commodity. Management stated they had always purchased this as an exempt commodity in the past and were recently made aware that propane is not an exempt commodity.

Utilities Exemption 1982.04.27 states: "The Board exempted the following from the purchasing procedures required under the Consolidated Procurement Code as authorized by

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Section 11-35-710:(1) invoices for gas and electricity and water and sewer services provided by public utilities subject to rate regulations by the Public Service Commission;"

SC Code Ann. §11-35-1550(2)(b) states, "Written request for written quotes from a minimum of three qualified sources of supply may be made and, unless adequate public notice is provided in the South Carolina Business Opportunities, documentation of at least three bona fide, responsive, and responsible quotes must be attached to the purchase requisition for a small purchase not in excess of twenty-five thousand dollars..."

Recommendation: We recommend GSAg Procurement solicit competition for small purchases as outlined in SC Code Ann. §11-35-1550(2)(b). We further recommend that GSAg report this illegal procurement, along with a written determination, to DPS as required.

Agency Response

The agency reported the illegal/unauthorized procurement to DPS on 4/20/2022. The agency has developed a draft solicitation and is awaiting end user input and approval to post for competition. The agency intends to have secured a contract by the end of December 2022.

III. Direct Payments (Without POs)

We tested 12 Direct Payments for compliance with the Code and the CG's PO Policy.

A. Improper Use of Direct Payments

One Direct Pay tested was for seven past due invoices for one vendor totaling \$16k. Payment for late invoices is only acceptable if they occur before a fiscal year cutoff.

Per the CG's State of South Carolina Purchase Order Policy regarding Direct Payments, "The expenditures for the purposes listed below may be paid by Direct Pay. (12) late invoices after FYE cut-off..."

Agency Response

GSAg entered into shared services agreement with the South Carolina Department of Administration in May 2022. With this agreement GSAg has created a draft SCGA-300 Procurement Procedure. SCGA Procurement Procedure will be finalized by September 30, 2022. Additionally, the agency will begin to attach all documents as images to the documents created during transaction in SCEIS to ensure proper file retention. The agency will respond to all audit inquiries from DPS in the future.

B. Agency Does Not Have a Policy Specifying When a PO is Required

In the previous audit, we recommended the agency add a provision to its business operations manual that clearly defines when supplies and services, information technology, and construction

RESULTS OF AUDIT

requisitions be routed through the procurement department. This provision should be consistent with the CG's PO Policy regarding when the direct payment method may be used. In response, management provided a corrective action plan to implement the recommendation. However, GSAg has not revised its business operations manual to develop such a policy, consistent with the State PO Policy.

During this Follow-Up audit, management stated: "The agency does not have a direct payment policy, however, as an operating practice has used 11-35-1550 as guidance on SC code exempt items, small purchases under \$10,000 to include PCard purchases, expenses not expected to exceed \$2,500 and late invoices."

Per the Comptroller General's State of South Carolina Statewide Purchase Order Policy, ... "A Direct Pay is a payment method only. It does not establish compliance with the SC Consolidated Procurement Code & Regulations or other State regulations." In addition, the CG PO Policy states, Direct Payments "should not be used as a matter of convenience as it leads to a reduction in controls and approvals."

Recommendation: We recommend GSAg implement its corrective action plan as provided in the previous audit. Having a policy in place that identifies when it is acceptable to use the direct payment method should reduce the control risk of improper direct payments being made.

Agency Response

GSAg entered into shared services agreement with the South Carolina Department of Administration in May 2022. With this agreement GSAg has created a draft SCGA-300 Procurement Procedure. SCGA Procurement Procedure will be finalized by September 30, 2022.

IV. GSAg's Internal Procurement Procedures Manual Lacked Key Provisions

The previous audit found that GSAg's procurement manual did not provide procedures, including assignment of roles and responsibilities, for application of key provisions of the Code, as required by Code and Regulation 19-445.2005. GSAg provided a corrective action plan stating the final written updated Procurement Manual would be submitted to Audit and Certification for pre-approval. No completion date was given.

Although improvements were made in the agency's most current Procurement Procedures Manual, the improvements were limited to small purchase procedures, which had been identified as a significant area of concern.

RESULTS OF AUDIT

SC Code Ann. § 11-35-540(3) states, “Governmental bodies shall develop internal operational procedures consistent with this code; except, that the operational procedures must be approved in writing by the appropriate chief procurement officer.”

Recommendation: We recommend GSAg develop and implement procedures including assignment of roles and responsibilities, for application of key provisions of the Code, as required by Code and Regulation 19-445.2005. We also recommend this procedure be made accessible to all agency staff by including it in a business operation manual.

Agency Response

GSAg entered into shared services agreement with the South Carolina Department of Administration in May 2022. With this agreement SCGA has established a SCGA-300 Procurement Procedure. The Procurement procedure will be finalized by September 30, 2022.

V. Purchasing Cards (P-Cards)

GSAg had one P-Card in use during the audit period and spent approximately \$83k in 200 transactions.

Program Administration

Roles and Responsibilities

Roles and responsibilities for the P-Card program have been updated in its P-Card Manual, however, current practice has not changed since the last audit.

Current practice is for the fiscal technician to perform the monthly statement reconciliations for the Director of Finance. There is no one with authority over the Director of Finance assigned the responsibility to approve his P-Card transactions. In addition, the Director of Finance is the Procurement Director, a cardholder, the Purchasing Card Administrator (PCA), and the approver of the monthly bank statements and P-Card Statement Certifications. The lack of separation of duties is a control weakness. This is a repeat finding from the previous audit.

The State P-Card Policy, section (V).(A) states, “...Internal controls shall include:

(1) Appropriate separation of duties between making transactions (Cardholders), review and approval of transactions for payment (approving officials), and payment of the cardholder monthly bank statements (Accounts Payable).

(3) Appropriate hierarchical review and approval of purchases by someone with supervisory authority over the Cardholder and/or with the authority to question purchases if needed.

(4). No Cardholder can provide approval for payment for his/her transactions or of the P-Card cardholder monthly bank statements. Review and approval responsibilities cannot be delegated to someone else...”

RESULTS OF AUDIT

Recommendation: We recommend GSAg implement its corrective plan provided in the previous audit to ensure the proper separation of duties and other internal controls as outlined in the State P-Card Policy.

Agency Response

GSAg entered into shared services agreement with the South Carolina Department of Administration in May 2022. With this agreement SCGA has established a SCGA-305 Purchasing Card Procedure. The Purchasing Card procedure will be finalized by September 30, 2022. The SCGA-305 Purchasing Card procedures will ensure the agency has proper separation of duties and internal controls in place.

VI. Unauthorized Procurement Not Reported to DPS

GSAg identified one unauthorized procurement during the audit period, but did not report it to DPS as required.

The procurement was initially a sole source and was advertised in SCBO; however, the requisition is dated after the service start date. The Sole Source determination was then approved by someone without the proper authority.

Although GSAg prepared a written determination to ratify the unauthorized procurement during this follow-up audit period, the ratification was flawed in that the value of the contract, \$57k, exceeded the agency's certification level.

Regulation 19-445-2015(A)(1) states, "Upon discovering after award either (a) that a person lacking actual authority has made an unauthorized award or modification of a contract or (b) that a contract award or modification is otherwise in violation of the Consolidated Procurement Code or these regulations, the appropriate official, as defined in G below, must decide to either ratify the contract in accordance with this regulation or acknowledge and declare the contract null and void. If ratified, the contract may be continued or terminated. The contract may be ratified only if ratification is in the interest of the State."

And per section (G). "Appropriate Official. The appropriate official to make the decisions authorized by sections A...is the chief procurement officer, the head of a purchasing agency, or, for a contract with a total potential value no greater than \$100,000, a designee of either officer, above the level of the person responsible for the person committing or authorizing the act. If a contract award or modification is made in violation of the Consolidated Procurement Code or these regulation, and the value of the contract exceeds the certification of the purchasing agency or one hundred thousand dollars, the chief procurement officer must concur in the written determination before any further action is taken, unless the contract is declared null and void. In all circumstances, the chief procurement officer must concur in any determination finding bad faith."

Recommendation: We recommend that GSAg properly report this unauthorized procurement to DPS as required.

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Agency Response

This illegal/unauthorized procurement was initially reported on 7/1/2022 and the amount was requested to be updated by the agency to \$57,000 on 7/21/2022. The determination relating to this procurement has been sent to the CPO on 7/25/2022 for review and for a determination to be drafted. The agency will report the unauthorized/illegal procurement within seven business days of receipt of the determination from the CPO.

VII. MBE Utilization Plans and Quarterly Reports

GSAg did not submit annual MBE utilization plans or quarterly progress reports to the Small and Minority Business Enterprise during the follow-up audit period, as required. This is a repeat finding.

Recommendation: We recommend GSAg develop and implement procedures, including management review and approval, to require annual MBE utilization plans and quarterly progress reports be submitted to the SMBCC in a timely manner as required by SC Code Ann. § 11-35-5240 (2).


Agency Response

The agency has completed the annual plan for FY2023, and it was submitted to the Office of Minority Business and Contracting. The agency has submitted two quarterly reports for FY2022.

CONCLUSION

We believe corrective action based on the recommendations described in this report will make the Governor's School for Agriculture's internal procurement operations consistent with the South Carolina Consolidated Procurement Code and ensuing regulations.

The Governor's School for Agriculture has not requested increased procurement certification above the \$50,000 statutory authority provided by SC Code Ann. § 11-35-1210. We recommend the Governor's School for Agriculture be allowed to continue to make direct procurements of supplies and services, information technology, and construction services up to \$50,000 per commitment.



Cherie Ergle, CRMA
Audit Manager,
Audit & Certification



Crawford Milling, CPA, CGMA
Director, Audit & Certification

End Notes

ⁱ Regulation 19-445.2020 Certification

(A) Review Procedures.

(2) The Materials Management Officer shall review and report on the particular government body's entire internal procurement operation to include, but not be limited to the following:

- (a) Adherence to provisions of the Code and these Regulations.
- (b) Procurement staff and training;
- (c) Adequate audit trails and purchase order register;
- (d) Evidence of competition;
- (e) Small purchase provisions and purchase order confirmation;
- (f) Emergency and sole source procurements;
- (g) Source selection;
- (h) File documentation of procurements;
- (i) Decisions and determinations made pursuant to section 2015;
- (j) Adherence to any mandatory policies, procedures, or guidelines established by the appropriate chief procurement officers;
- (k) Adequacy of written determinations required by the Code and these Regulations;
- (l) Contract administrations;
- (m) Adequacy of the governmental body's system of internal controls in order to ensure compliance with applicable requirements.

(3) The report required by item §A(2) shall be submitted to the board.



**SC Governor's School
for Agriculture**

AT JOHN DE LA HOWE

July 19, 2022

Crawford Milling
Director
Audit and Certification
SC State Fiscal Accountability Division of Procurement Services
1201 Main St., Suite 600

Dear Mr. Milling,

Our Agency has investigated the findings and observations identified in your draft procurement mid-year audit report. We consider any finding, comment, or discussion during an audit other review to be constructive and beneficial to us in performing our jobs more efficiently.

We concur with your report and have already implemented most of your suggestions and we are in the process of implementing corrective action, as appropriate. We are also in the process of initiating or changing procedures to ensure that these deficiencies are not repeated.

Respectfully,

A handwritten signature in black ink, appearing to read 'T. Keown', followed by a long horizontal line extending to the right.

Timothy R. Keown