

**SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION**

**PROCUREMENT AUDIT REPORT**

**JULY 1, 2004 – JUNE 30, 2007**

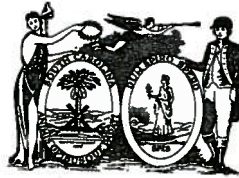
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NOTE: The Department's responses to issues noted in the report have been inserted immediately following the items they refer to.

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R. VOIGHT SHEALY  
MATERIALS MANAGEMENT OFFICER

April 11, 2008

Mr. R. Voight Shealy  
Materials Management Officer  
Procurement Services Division  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201

Dear Voight:

We have examined the procurement policies and procedures of the South Carolina Department of Transportation for the period July 1, 2004 through June 30, 2007. As part of our examination, we studied and evaluated the system of internal control over procurement transactions to the extent we considered necessary.

The evaluation established a basis for reliance upon the system of internal control to assure adherence to the Consolidated Procurement Code, State regulations and procurement policy of the South Carolina Department of Transportation. Additionally, the evaluation determined the nature, timing and extent of other auditing procedures necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

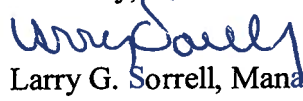
The administration of the South Carolina Department of Transportation is responsible for establishing and maintaining a system of internal control over procurement transactions. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly.

Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected. Also, 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 study and evaluation of the system of internal control over procurement transactions, as well as our overall examination of procurement policies and procedures, were conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe need correction or improvement. Corrective actions based on the recommendations described in these findings will in all material respects place the South Carolina Department of Transportation in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,

  
Larry G. Sorrell, Manager  
Audit and Certification

## INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Transportation. Our review, conducted October 23, 2007 through December 4, 2007, was made under the Section 11-35-1230 (1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

On December 14, 2004, the State Budget and Control Board granted the South Carolina Department of Transportation, hereinafter referred to as DOT, the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies	\$ 1,000,000 per commitment
Services	\$ 500,000 per commitment
Consultants	\$ 100,000 per commitment
Information Technology	\$ 100,000 per commitment
Construction Services (A)	\$ 10,000,000 per commitment
Construction Contract Change Order	25% of initial construction contract aggregate amount
Architect/Engineer Contract Amendment	25% of initial Architect/Engineer contract, aggregate amount

(A) The construction certification of \$10,000,000 applied only to acquisitions by competitive sealed bidding (IFB) using a design-bid-build project delivery method. Prequalifications on a contract with a total potential value above \$100,000 must be approved in writing by the State Engineer. Compliance with the Manual for Planning and Execution of State Permanent Improvement Projects, Part II is required.

The audit was performed primarily to determine if recertification is warranted.

## SCOPE

We conducted our examination in accordance with Generally Accepted Auditing Standards as they apply to compliance audits. Our examination encompassed a detailed analysis of the internal procurement operating procedures of the South Carolina Department of Transportation and its related policies and procedures manual to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly handle procurement transactions.

We selected samples for the period July 1, 2004 through June 30, 2007 of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. Specifically, the scope of our audit included, but was not limited to, a review of the following:

- (1) All sole source, emergency and trade-in sale procurements for the period July 1, 2004 through June 30, 2007
- (2) Procurement transactions for the period July 1, 2004 through June 30, 2007 as follows:
  - a) One hundred-one payments each exceeding \$1,500
  - b) Three hundred numerically filed purchase orders reviewed against the use of order splitting and favored vendors
- (3) Construction contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements as follows:
  - a) Nine delivery orders issued from five indefinite delivery construction contracts
  - b) Fifteen major construction contracts
  - c) Four professional service contracts for Architect/Engineering services with three being delivery orders issued through indefinite delivery contracts
- (4) Procurement card transactions for March and April 2007
- (5) Minority Business Enterprise Plans and reports for the audit period
- (6) Approval of the most recent Information Technology Plan
- (7) Internal procurement procedures manual
- (8) File documentation and evidence of competition
- (9) Surplus property disposal procedures

## SUMMARY OF RESULTS

### PAGE

#### I. Audit Findings Noted in Indefinite Delivery Contracts

##### A. Indefinite Delivery Price Lists Not Comprehensive

7

Based on the delivery orders we reviewed, the unit price lists were not comprehensive. Of eight delivery orders tested, seven derived no pricing from the unit price lists.

##### B. Cost Proposals Do Not Agree to Rate Schedules

9

Delivery orders issued against IDC contracts for Architectural/Engineering (A/E) services failed to include evidence that the delivery order fees were negotiated in accordance with the approved A/E hourly rate and reimbursable schedules.

#### II. Procurements Without Evidence of Solicitations of Competition

10

Three transactions were not supported with evidence of competition or otherwise showed compliance with the Code. For one vendor, we identified 36 payments during our audit period totaling \$482,000. Similarly, we identified 35 payments to another vendor for this same period totaling \$314,000.

III. Sole Source and Emergency Procurements

A. Sole Source and Emergency Procurement Reporting Errors

11

DOT over reported \$397,532 in sole source procurements and under reported \$ 274,429 in emergency procurements.

B. Emergency Procurement Incorrectly Reported

11

DOT reported a project budget of \$2,145,000 as an emergency procurement for Architectural/Engineering services, but the actual contract amount was \$101,895. Other contracts were made within this project budget, but those contracts were not reported.



## RESULTS OF EXAMINATION

### I. Audit Findings Noted in Indefinite Delivery Contracts

Article 10 of the South Carolina Consolidated Procurement Code (Code) authorizes the use of Indefinite Delivery Contracts (IDCs) for construction items, architectural-engineering and land surveying services. These contracts allow agencies to put vendors on call with established pricing derived through competitive sealed bidding for services. Our audit revealed findings of non-compliance with the Manual for Planning and Execution of State Permanent Improvements, herein after referred to the OSE Manual.

#### A. Indefinite Delivery Price Lists Not Comprehensive

Delivery orders are work orders issued by an agency to a contractor already on contract with agreed upon pricing determined through competitive sealed bids. Contractors are required to price future work using the prices provided in the bids. Section E2-5 of the OSE Manual requires agencies to use one of two methods, cost pricing guide and multiplier or unit pricing, to set up bid documents for IDC contracts to determine base bid for award purposes. DOT used the unit pricing method for their IDCs. Agencies may use unit pricing method provided unit pricing lists are comprehensive.

Based on the delivery orders we reviewed, the unit price lists were not comprehensive. Of eight delivery orders (DO) issued that exceeded \$2,500 on an IDC, seven derived no pricing from the unit price lists and the other delivery order had half its pricing derived from a price list.

<u>Description</u>	<u>DO</u>	<u>Total DO</u>	<u>Total DO from Bid</u>	<u>Percent from Bid</u>
North Charleston salt storage shed	D078A-02	\$58,714	\$0	0
Kershaw salt storage shed	D078A-01	50,286	\$0	0
DOT Myrtle Beach	D078C-04	40,823	20,338	49%
HQ (Park Street) Traffic engineering office	D078C-01	12,047	0	0

<u>Description</u>	<u>DO</u>	<u>Total DO</u>	<u>Total DO from Bid</u>	<u>Percent from Bid</u>
Richland shop roof and ventilation	D078D 05	\$98,900	\$0	0
HQ Carpet installation	D078D-03	\$35,618	\$0	0
Supply depot roof repair	D078D-04	\$5,610	\$0	0
Colleton I-95 rest area skylight replacement and roof repair	D078D-01	\$29,197	\$0	0

Section E2-5 A.2 of the OSE Manual states in part: “The agency may elect to use a comprehensive list of unit prices in the bidding documents. The bid form shall list estimated quantities to be purchased and a description of the work to be priced. The bidders must supply the unit price and multiply it times the number of units listed to arrive at an extended price. .... The agency must provide appropriate quantities that will reflect the estimated amount of work to be done under a typical delivery order....” The contractors’ cost proposals for most of the delivery orders issued against the IDC above did not derive pricing from competed price lists. As a result, no competition was obtained. If pricing could not be obtained through the price list, then the IDC contracts did not apply. Separate solicitations should have been done.

We recommend DOT develop comprehensive price lists for future IDC contracts. For work that can not be priced from the comprehensive list of unit prices, IDC contracts would not apply and solicitation in compliance with the Code would apply.

#### DEPARTMENT RESPONSE

While we do concur that Section E2-5 of the OSE Manual, Edition of 2001, states that unit costs are to be comprehensive, Section E.2-8(F) provides for the event that comprehensive unit price lists might not be available. Section E.2-8(F) states that “Should unit prices not be available for items of work desired to be included in the delivery order, the Agency shall request the contractor to prepare a proposal including labor and material breakdown with overhead and profit added.” The construction contract also states this. This is the method used in the referenced finding. This provision obviously anticipates that unit price lists cannot be all-inclusive. The new 2008 OSE Manual clarifies the method of contracting by stating “If an Agency proposes to issue a delivery order when more than 20% of the work is not covered by the cost data guide, the Agency must solicit competitive quotes on the work from multiple IDC contractors.” We have used the same method for these noted delivery orders as others under the

advice of a past State Engineers Project Manager. This method has been examined in past audits without findings being noted. Now that clarification and new direction has been given, we will comply.

B. Cost Proposals Do Not Agree to Rate Schedules

Delivery orders issued against IDC contracts for Architectural/Engineering (A/E) services failed to include evidence that the delivery order fees were negotiated in accordance with the approved A/E hourly rate and reimbursable schedules attached to the A/E contracts. The invoices did not show hourly rate information either.

<u>IDC Number</u>	<u>Description of Delivery Order</u>	<u>Amount</u>
D041	Oil/Water separators and wastewater lift stations (various delivery orders)	\$164,462
D041	SPCC/SWP3 Plan update – District 4	43,800

Section E1-3 General, of the OSE Manual, paragraph D., states: “The fee for each Delivery Order shall be separately negotiated in accordance with the approved A/E’s Hourly Rate and Reimbursable Schedule.” Section E1-6. C states: “In response to the Agency’s request, the A/E shall prepare a Cost and Technical Proposal to: 5. Provide the fee structure for providing services using the approved Hourly Rate & Reimbursables Schedule. This may be either a "Lump Sum" contract or "Not to Exceed" with payment on an hourly basis.”

We recommend DOT adhere to Sections E1-3 and E1-6 (C) when accepting price proposals from its IDC A/E firms.

DEPARTMENT RESPONSE

We acknowledge certain IDC contracts for A/E services failed to include evidence that the delivery order fees were negotiated in accordance with the approved A/E hourly rate and reimbursable schedules. We have already instructed the offending areas on the proper procedure for this and have instituted procedures designed to prevent a reoccurrence.

II. Procurements Without Evidence of Solicitations of Competition

Three transactions were not supported with evidence of competition, sole source, or emergency determinations, exempt or otherwise showed compliance with the Code.

<u>Voucher Date</u>	<u>Voucher Number</u>	<u>Description</u>	<u>Amount</u>
08/09/04	147722	Government consulting service	\$14,000
06/13/07	291642	Government consulting service	12,000
05/12/06	236802	Advisor, consultant and counsel services for matters involving the US Government, Congress and the Executive Branch	9,000

During the audit period, we identified 36 payments totaling \$482,000 to the vendor providing Government Consulting Services on vouchers 147722 and 291642. Similarly, we identified 35 payments totaling \$314,000 to the vendor providing advisor, consultant and counsel services for matters involving the US Government, Congress and the Executive Branch. We were not provided with any information supporting compliance with the Code for these services. We were not provided with any contract documents.

We recommend these types of procurements be made in accordance with the competitive requirements of Code.

DEPARTMENT RESPONSE

The audit recommended that the procurement of “government consulting services” and “advisor, consultant and counsel services for matters involving the US Government, Congress and the Executive Branch” be made in accordance with the competitive requirements of the Code. The particular three contracts cited were procured by DOT’s previous Executive Office through letter contracts under authority of S. C. Code Section 11-35-1270 (repealed in 2006). The contracts were cancelled by the DOT Commission in 2007. Future contracts of this kind will be procured in accordance with the applicable competitive requirements.

### III. Sole Source and Emergency Procurements

#### A. Sole Source and Emergency Procurement Reporting Errors

We noted sole source and emergency procurement reporting errors by DOT to the Materials Management Office. Section 11-35-2440 requires governmental bodies to submit quarterly a record listing all contracts made pursuant to Section 11-35-1560 (Sole Source Procurements) and Section 11-35-1570 (Emergency Procurements) to the chief procurement officers. These reports are accumulated by our office and become the State's official record of sole source and emergency procurements. DOT over reported sole source procurements by \$ 397,532 and under reported emergency procurements by \$274,429.

We recommend DOT review its operating procedures to identify the deficiencies and take the appropriate corrective action. We also recommend DOT submit amended reports for these transactions.

#### DEPARTMENT RESPONSE

We concur with the finding. In several instances DOT reported sole sources and emergency procurements that had been amended as new sole sources and emergencies without correctly calculating and reporting the amended amounts. Personnel changes and additional training have occurred to insure the proper handling and reporting of these transactions. Amended reports have been submitted to correct the discrepancies.

#### B. Emergency Procurement Incorrectly Reported

DOT reported \$2,145,000 as an emergency procurement for the quarter ending June 30, 2006 for Architectural/Engineering (A/E) services for the Pickens County Engineering Office that had burned. The amount reported of \$2,145,00 represented the entire project budget, not just the A/E services. The actual contract amount for the A/E service was \$101,895. DOT entered other contracts within this project budget, but those contracts were not reported. Section 11-35-2440 on the reporting of emergency procurements, states in part.

A governmental body as defined in Section 11-35-310 (18) shall submit quarterly a record listing of all contracts made pursuant to Section 11-35-1560 (Sole Source Procurements) or Section 11-35-1570 (Emergency Procurements) to the chief procurement officers. The report must contain

- (i) each contractor's name;
- (ii) the amount and type of each contract;
- (iii) a listing of supplies, services, information technology or construction procured under each contract.

Without the other contracts, we could not determine the number of emergency contracts and the corresponding value of these contracts.

We recommend DOT provide all contracts procured under emergency procedures for the Pickens County Engineering Office. DOT will need to amended reports for these contracts.

#### DEPARTMENT RESPONSE

We concur with the finding. DOT has submitted an amended report listing the individual emergencies. Copies of the purchase orders and emergency justifications associated with the Pickens County Engineering Office have been submitted with the amended report.

## CERTIFICATION RECOMMENDATIONS

As enumerated in our transmittal letter, corrective action based on the recommendations, described in this report, we believe, will in all material respect place the South Carolina Department of Transportation in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to corrective action, we will recommend the South Carolina Department of Transportation be re-certified to make direct agency procurements for three years up to the limits as follows.

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Supplies	\$ 1,000,000 per commitment
Services	\$ 500,000 per commitment
Consultants	\$ 50,000 per commitment
Information Technology	\$ 100,000 per commitment
Construction Services (A)	\$ 10,000,000 per commitment
Construction Contract Change Order	25% of initial construction contract aggregate amount
Architect/Engineer Contract Amendment	25% of initial Architect/Engineer contract, aggregate amount

(A) The construction certification of \$10,000,000 applies only to acquisitions by competitive sealed bidding (IFB) using a design-bid-build project delivery method. Prequalifications on a contract with a total potential value above \$100,000 must be approved in writing by the State Engineer. Compliance with the Manual for Planning and Execution of State Permanent Improvement Projects, Part II is required.

\*Total annual purchase commitment whether single year or multi-term contracts are used.



Robert J. Aycock, IV  
Audit Manager



Larry G. Sorrell, Manager  
Audit and Certification

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*State Budget and Control Board*  
PROCUREMENT SERVICES DIVISION

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R. VOIGHT SHEALY  
MATERIALS MANAGEMENT OFFICER

April 28, 2008

Mr. R. Voight Shealy  
Materials Management Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201

Dear Voight:

We have reviewed the response from the Department of Transportation to our audit report for the period of July 1, 2004 to June 30, 2007. Also we have followed the Department's corrective action during and subsequent to our fieldwork. We are satisfied that the Department of Transportation has corrected the problem areas and the internal controls over the procurement system are adequate.

Therefore, we recommend the Budget and Control Board grant the Department of Transportation the certification limits noted in our report for a period of three years.

Sincerely,

Handwritten signature of Larry G. Sorrell in blue ink.

Larry G. Sorrell, Manager  
Audit and Certification

LGS/gs

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