

SOUTH CAROLINA DEPARTMENT OF EDUCATION

PROCUREMENT AUDIT REPORT

JANUARY 1, 2006 – DECEMBER 31, 2008

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

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October 14, 2009

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 Education for the period January 1, 2006 through December 31, 2008. 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 controls to assure adherence to the Consolidated Procurement Code, State regulations and the Department's procurement policy. 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 Education is responsible for establishing and maintaining a system of internal controls over procurement transactions. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of

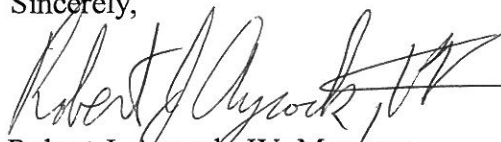
control procedures. The objectives of a system of internal controls are to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and are recorded properly.

Because of inherent limitations in any system of internal controls, 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 controls 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 action based on the recommendations described in these findings will in all material respects place the South Carolina Department of Education in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Aycock, IV", written over a horizontal line.

Robert J. Aycock, IV, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Education. Our onsite review was conducted from March 23, 2009 through April 23, 2009, and was made under Section 11-255-1220(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

The examination was directed principally to determine whether, in all material respects, the procurement system's internal controls were adequate and the procurement procedures, as outlined in the Internal Procurement Operating Procedures Manual, were in compliance with the South Carolina Consolidated Procurement Code and its ensuing regulations. Additionally, the South Carolina Department of Education requested the following certifications:

PROCUREMENT AREA

CERTIFICATION LIMITS

Supplies and Services

*\$100,000 per commitment

School Bus supplies and maintenance

*\$250,000 per commitment

Information Technology

*\$100,000 per commitment

Consultants

*\$100,000 per commitment

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 Education 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 January 1, 2006 through December 31, 2008 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 January 1, 2006 through December 31, 2008 with exceptions noted in Section I of the report.
- (2) Procurement transactions for the period January 1, 2006 through December 31, 2008 as follows:
 - a) Ninety-seven payments each exceeding \$2,500 with one exception noted in Section III of the report
 - b) Six hundred and fifty-five sequentially filed purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
 - c) Procurement card transactions for the months of November and December 2008 with exceptions noted in Section II of the report
- (3) Minority Business Enterprise Plans and reports with the following activity reported to The Governor's Office of Small and Minority Business Assistance

<u>Fiscal Year</u>	<u>Goal</u>	<u>Actual</u>
2005-2006	\$307,846	\$524,334
2006-2007	\$750,812	\$416,517
2007-2008	\$959,546	\$607,019

- (4) Approval of the most recent Information Technology Plan with no exceptions

- (5) Internal procurement procedures manual with no exceptions
- (6) Surplus property disposition procedures with no exceptions
- (7) Ratification of Unauthorized Procurements with no exceptions
- (8) Other tests performed as deemed necessary with no exceptions

RESULTS OF EXAMINATION

I. Sole Source and Emergency Procurements

Sections 11-35-1560 and 11-35-1570 authorize the use of sole source and emergency procurements respectively. We noted the following issues.

A. Inappropriate Sole Source Procurements

Two procurements procured as sole sources by SCDE should have been competed.

<u>PO #</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
P34908	9/29/2008	Maintenance, Support and implementation of Software	\$1,796,581
P34879	9/26/2008	Evaluation Services	\$ 24,480

The basis for the sole source determination prepared by SCDE supporting PO 34908 for maintenance, support and implementation of software indicated the current statewide software license would reach its end-of-life at the end of the 2009-2010 school year. SCDE procured software to replace the current software as a sole source. The determination further indicated that SCDE did not have funding to solicit an RFP for new software.

Audit and Certification, consulting with the Chief Procurement Officer (ITMO), concluded that there were other software products available that can do the same thing. Therefore, the sole source determination was not proper. SCDE should have solicited bids for its software requirements. We recommend competition be solicited for these procurements in the future.

The basis for the sole source determination prepared by SCDE for PO 34879 seems to present that the vendor is the best source for the contract. The determination failed to address that the vendor was a sole source. We recommend competition in accordance with the Code be solicited on this contract in the future.

DEPARTMENT RESPONSE

I. Sole Source and Emergency Procurements

The response to I. (A), Inappropriate Sole Source Procurements was prepared with the assistance of the Department of Education's Legal Council.

Response to I. (A) Inappropriate Sole Source Procurements

P34908 (Maintenance, Support and Implementation of Software)

The Audit Report for the period January 1, 2006 through December 31, 2009, sited our Sole Source Justification for P34908 as being inappropriate for the procurement to Pearson. While we understand and concur with the audit findings that this procurement should not have been procured as a sole source, at the time of issuance the Department of Education felt that we had no other alternative. It is true that Pearson is not the only vendor of student information system software.

This procurement was for the support and maintenance of Powerschool, the student information system software that was already licensed by all of South Carolina's School Districts. To purchase a new system for a period of three years would have cost an estimated \$45,000,000.00, requiring approximately \$15,000,000.00 in new funds each year. In addition, if a solicitation had resulted in a product other than the product school districts already had, their license to Powerschool would have been obsolete. This would have created more expense, requiring the Department of Education to purchase a license for each school district for the new product. The districts did not need a new system, only support for what they had.

At the time this decision was made, the Department of Education and the school districts had already experienced budget reductions, and were facing still more reductions. Under the circumstances at the time, the Department of Education made the only decision possible. Although, our decision rendered our procurement an improper sole source, it was the best decision for the Department, the School Districts, and the State.

If and when the Department of Education replaces the student information system in the future, we will process a solicitation for a Bid or for a Request for Proposal for these services.

P34879 (Evaluation Services)

After reviewing the procedure used for this procurement, the SCDE agrees that in the future we will seek competition for this contract.

B. Inadequately Justified Sole Source Procurements

The following procurements made as sole sources used justification that the vendors were approved as part of grant applications. No other information supplied justified the vendors as sole sources. Therefore, the written determinations were inadequate.

<u>PO #</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
P05520	11/7/2006	Psychometric & Statistical Ser.	\$ 77,000
P11190	3/5/2007	Consulting and Training Facilitation	\$ 45,600
P13024	4/5/2007	Services for English Language Learners	\$118,000
P13025	4/5/2007	Services for Achieving for Diverse Learners	\$ 68,000
P16089	6/1/2007	Services for English Language Learners	\$ 29,000
P16652	6/15/2007	Services for Achieving for Diverse Learners	\$ 5,000
P24476	1/11/2008	Psychometric & Statistical Ser.	\$ 77,000
P28080	4/1/2008	Evaluation and Research	\$229,847
P29455	5/20/2008	Consultant Services	\$ 11,503
P30449	6/12/2008	Existing H.S. Science items	\$206,500
P33733	9/2/2008	Analysis of Student Evidence (MARS)	\$ 29,460
P35691	11/4/2008	Evaluation and Research	\$350,237
P35470	10/21/2008	Curriculum Kits	\$ 7,557

These transactions were funded through Federal grants. The state does not recognize a grantor requirement as justification for a sole source unless the requirement originates with the grantor. Most often, grants originate with a grant request submitted by the state agency that initiates the use of a particular vendor. If an agency suggests in its grant request that it will use a particular vendor, a grantor's acceptance of the grant request does not mean the grantor required the agency to use that particular vendor.

On March 22, 1994 the Budget and Control Board exempted procurements made by a requesting agency for the purchase of grant-specified and approved major equipment, subcontracts, and consultants the agency determines to be essential to the successful completion of the grant funded project if those procurements are made in accordance with procedures approved by the Office of General Services on an agency-by-agency basis. The SCDE may want to consider developing procedures to be submitted to our office for approval that can be used to exempt grant funded procurements.

We recommend SCDE provide adequate justification for sole source procurements.

DEPARTMENT RESPONSE

The procurements listed in this section were made based on the justification that the vendors were approved in the grant application. The Department of Education will develop and submit to the Budget and Control Board procedures for approval that will allow for grant funded exemptions.

II. Unauthorized Procurement Card Transaction

The internal control spending limit established by the State Department of Education Purchasing Card Program Users Manual set the maximum spending limit at \$2,500 per transaction, with no single item exceeding \$925. An exception to the \$925 single item limitation exists in the Office of Transportation Bus Shops provided the item receives the Assistant Director’s prior approval. We noted the following issues.

A. Artificially Divided Transactions

The following procurement card transactions were artificially divided thereby circumventing the maximum spending limit of \$2,500.

<u>Order Date</u>	<u>Description</u>	<u>Amount</u>
3/5/08	Brakes parts	\$1,589
3/6/08	Brakes and other parts	<u>\$1,302</u>
	Total	\$2,891

The parts were ordered by the same person a day apart for a bus shop. The order should have been combined and competition solicited. Since the total procurement card transaction exceeded the maximum spending limit, the procurement was unauthorized as defined in Regulation 19-445.2015.

B. Card purchases exceeding single dollar limitation without authorization

We noted two bus shop procurements with single items exceeding the \$925 per item limit without appropriate approval.

<u>Transaction Date</u>	<u>Description</u>	<u>Amount</u>
11/18/08	Turbo Chg./Core Deposit	\$1,640
12/16/08	Allison (Remanufactured)	\$1,999

We recommend the South Carolina Department of Education adhere to the internal control spending limits established by the State Department of Education Purchasing Card Program User Manual or change the policy. A ratification request must be submitted to the State Education Superintendent or designee for the unauthorized procurements in accordance with Regulation 19-445.2015.

DEPARTMENT RESPONSE

A. Artificially Dividend Transactions

The two transactions in question were made by David Marshall who is no longer employed by the Department of Education. Mr. Marshall made the purchases with different Over-the Counters, one on March 5, 2008, the other on March 6, 2008. We can offer no explanation as to why the invoices were not sent for payment upon receipt of goods. Both invoices were paid using the bus shop's Purchasing Card on November 3, 2008. Mr. Allen Townsend requested that we submit more legible copies of the invoices and receipts. The copies were submitted.

B. Card purchase exceeding single dollar limitation without authorization

Department of Education Ratification letters were submitted for the two transactions cited in this section.

III. Improper Procurement

A payment on Voucher V26776 dated March 2, 2007 for Family Literacy Training was made in the amount of \$3,600 from a contract that had already expired. The contract's terms included 29 days at \$600 per day totaling \$17,400 between August 15, 2006 and September 30, 2006. Information in the contract file showed the number of days increased to 138.5 but with a reduced daily rate of \$400 totaling \$55,200. The Procurement Office never issued a change order altering any of the terms of the original contract. By not having authorized changes, all payments made outside the original contract were unauthorized. We recommend SCDE not make payments on expired contracts. Ratification will have to be requested in accordance with Regulation 19-445.2015.

DEPARTMENT RESPONSE

Ratification letter for P00164, V26776, for Elizabeth McKinney has been submitted.

CERTIFICATION RECOMMENDATIONS

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

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

PROCUREMENT AREAS

CERTIFICATION LIMITS

Supplies and Services

*\$100,000 per commitment

School Bus supplies and maintenance

*\$250,000 per commitment

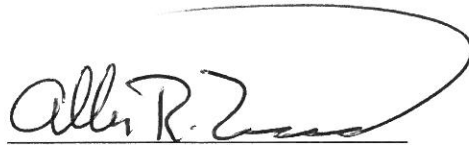
Consultant Services

*\$100,000 per commitment

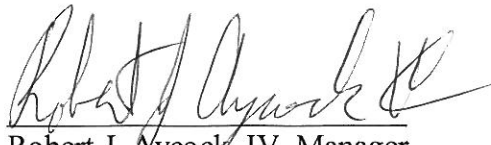
Information Technology

*\$100,000 per commitment

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



Allen R. Townsend, CBM
Auditor Manager



Robert J. Aycock, IV, Manager
Audit and Certification

MARK SANFORD, CHAIRMAN
GOVERNOR

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FRANK W. FUSCO
EXECUTIVE DIRECTOR

May 7, 2010

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 Education to our audit report for the period of January 1, 2006 to December 31, 2008. Also we have followed the Department's corrective action during and subsequent to our fieldwork. We are satisfied that the Department of Education 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 Education the certification limits noted in our report for a period of three years.

Sincerely,

Robert J. Aycock, IV, Manager
Audit and Certification

RJA/gs

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