



**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION**

PROCUREMENT AUDIT REPORT

JULY 1, 2014 – JUNE 30, 2017

**Office of Audit & Certification
Division of Procurement Services
August 14, 2017**

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June 1, 2018

Mr. John St. C. White
Materials Management Officer
Division of Procurement Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Re: South Carolina Department of Labor, Licensing and Regulation (LLR)
Procurement Examination
Transmittal Letter

John:

We have examined the internal procurement policies and procedures of LLR for the period July 1, 2014 through June 30, 2017 to determine whether, in all material respects, the internal controls of SCLLR's procurement system were adequate to ensure compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

The examination disclosed conditions described in the report which we believe need correction or improvement. We believe corrective action based on the recommendations contained in this report, will place LLR in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations, in all material respects.

Sincerely,

D. Crawford Milling, CPA, CGMA
Acting Director
Audit & Certification

INTRODUCTION

We conducted an examination of LLR's internal procurement operating policies and procedures, as outlined in their Internal Procurement Operating Procedures Manual, under §11-35-1230(1) of the South Carolina Consolidated Procurement Code and Reg. 19-445.2020 of the accompanying regulations.

The primary objective of our examination was to determine whether, in all material respects, the internal controls of LLR's procurement system were adequate to ensure compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

The management of LLR 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 internal control relate to (1) financial reporting, (2) operations, and (3) compliance. Safeguarding of assets is a subset of these objectives. Management designs internal control to provide reasonable assurance that unauthorized acquisition, use, or disposition of assets will be prevented or timely detected and corrected.

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 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.

Our examination was also performed to determine if recertification under S.C. Code Ann. §11-35-1210 is warranted.

INTRODUCTION

On August 25, 2015, the Budget and Control Board re-certified LLR's procurement authority as follows:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	\$ 100,000 per commitment
Consultant Services	\$ 100,000 per commitment

LLR has not request any increases to its current certification levels.

SCOPE

We conducted our examination to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Our examination included testing, on a sample basis, evidence about LLR's compliance with the South Carolina Consolidated Procurement Code, for the period July 1, 2014 through June 30, 2017, the examination 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) All sole source, emergency, and trade-in sale procurements for the examination period, with exceptions noted in Section 1
- (2) Procurement transactions for the examination period as follows:
 - a) One hundred and six payments, each exceeding \$2500, with exceptions noted in Section II
 - b) Two hundred thirty-seven sequentially filed purchase orders reviewed for the use of splitting orders or favoring vendors with no exceptions
 - c) Procurement card purchases for March, April and May 2017, with no exceptions
 - d) Current revenue generating contracts with no exceptions
- (3) Minority Business Enterprise plans and reports with no exceptions.
- (4) The most recent Information Technology Plan with no exceptions
- (5) Internal procurement procedures manual with no exceptions
- (6) Surplus property disposal procedures with no exceptions
- (7) Ratification of unauthorized procurements with no exceptions

SUMMARY OF FINDINGS

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I. <u>Sole Source and Emergency Procurements</u>	
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Five procurements made as sole sources should have been competed.	
B. <u>Non-Compliance with Drug-Free Workplace</u>	7
Six sole source and two emergency procurements with values greater than fifty thousand dollars were entered into without drug-free workplace certifications.	
II. <u>Supplies and Services</u>	
<u>Justification for Multi-Term Contracts not provided</u>	7
Four multi-year contracts did not have multi-term determinations justifying a contract exceeding 1 year.	

RESULTS OF EXAMINATION

I. Sole Source & Emergencies

We tested sole source and emergency procurements made pursuant to S.C. Code Ann. §11-35-1560 (Sole Source Procurements) and §11-35-1570 (Emergency Procurements) to determine the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted to the chief procurement officers required by §11-35-2440. We also tested trade-in procurements, unauthorized procurements, and those procurements in which preferences were applied. We noted the following exceptions:

A. Inappropriate Sole Source Procurements

Blanket Purchase Orders 4600358981 dated August 05, 2014 in the amount of \$40,000, 4600427808 dated July 17, 2015 in the amount of \$50,000, and 4600503255 dated July 19, 2016 in the amount of \$46,411, were issued as sole sources for micro-blaze out firefighting agent (foam). Although the selected supplier is the sole manufacturer of the product, the product was available through other suppliers (dealers and resellers) at the time of the procurement. Therefore, competition should have been solicited.

Purchase Order 4600446138 dated September 15, 2015 in the amount of \$9,940 was issued as a sole source for a ScanPro 3000 microfilm scanner. The scanner purchased was available through other suppliers at the time of the procurement. Therefore, competition should have been solicited.

Purchase Order 4600478612 dated March 10, 2016 in the amount of \$9,720 was issued as sole source for Stanley Coremax locks. Stanley Coremax locks were available through other suppliers at the time of the procurement. Therefore, competition should have been solicited.

Section 11-35-1560(A) states, "A contract may be awarded for a supply, service, information technology, or construction item without competition if, under regulations promulgated by the board, the chief procurement officer, the head of a purchasing agency, or a designee of either officer, above the level of the procurement officer, determines in writing that there is only one

RESULTS OF EXAMINATION

source for the required supply, service, information technology, or construction item.” Regulation 19-44.2105(B) states, “sole source procurement is not permissible unless there is only a single supplier.” Multiple suppliers existed for all the aforementioned procurements.

We recommend that LLR revise its procurement procedures to limit the use of sole source procurements to situations where there is only one source in compliance with §11-35-1560 of the South Carolina Consolidated Procurement Code and Reg. 19-44.2105(B). These procurements must be competed in the future.

B. Non-Compliance with Drug-Free Workplace

Our review of sole source and emergency procurements valued at \$50,000 or more identified six sole source procurements totaling \$747,893, and emergency procurements totaling \$827,499, in which the Drug-Free Workplace Act Certifications were not obtained.

Section 44-107-30 of the Drug-Free Workplace Act states, “No person, other than an individual, may receive a domestic grant or be awarded a domestic contract for the procurement of any goods, construction, or services for a stated or estimated value of fifty thousand dollars or more from any state agency unless the person has certified to the using agency that it will provide a drug-free workplace...” Sole source and emergency procurements are subject to this law.

We recommend that LLR revise its procurement procedures to ensure that solicitations comply with the Drug-Free Workplace Act.

II. Supplies & Services

Justification for Multi-Term Contracts not provided

The Agency was unable to provide written determinations justifying contract terms of greater than one year for four procurements. Contracts 4400008344 dated May 12, 2014 in the amount of \$110,925 for firefighter turn out gear, 4400012622, dated March 07, 2016, in the amount of

RESULTS OF EXAMINATION

\$93,330, for credit reports, and 4400012673, dated March 15, 2016, in the amount of \$54,000, for janitorial services for the Fire Academy, were contracted for five years without preparing a justification stating why a multi-term contract was appropriate. Contract 4400014064, dated September 16, 2016, in the amount of \$21,600, for general wall repairs and painting was contracted for two years without preparation of a justification stating why a multi-term contract was appropriate.

Section 11-35-2030(1) of the Procurement Code states in part, "...Unless otherwise provided by law, a contract for supplies, services, or information technology must not be entered into for any a period of more than one year unless approved in a manner prescribed by regulation of the board." Paragraph (2) of that same section requires a written determination justifying the use of a multi-term contract.

We recommend that LLR revise its procurement procedures to ensure that prior to entering into a contract lasting more than one year the Department prepare a written determination justifying the use of a multi-term contract as required by the Procurement Code.

CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations contained in this report will place the South Carolina Department of Labor, Licensing, and Regulation in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations, in all material respects.

Under the authority granted in §11-35-1210 of the Procurement Code, subject to these corrective actions, we recommend the South Carolina Department of Labor, Licensing, and Regulation be recertified to make direct agency procurements for three years up to the following limits.

PROCUREMENT AREAS

CERTIFICATION LIMITS

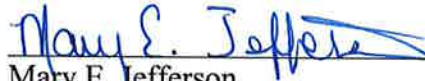
Supplies and Services

*\$ 100,000 per commitment


Consultant Services

*\$ 100,000 per commitment

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



Mary E. Jefferson
Senior Auditor



D. Crawford Milling, CPA, CGMA
Acting Director
Audit & Certification



Henry D. McMaster
Governor

Emily H. Farr
Director

South Carolina
Department of Labor, Licensing and Regulation

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July 16, 2018

Mr. D. Crawford Milling, CPA, CGMA

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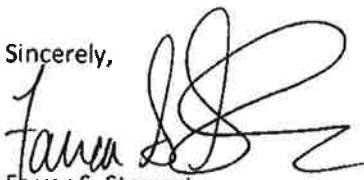
Subject: SC Department of Labor, Licensing and Regulation Audit Report

Dear Mr. Milling:

My staff and I have reviewed your draft report regarding the procurement audit for the SC Department of Labor, Licensing and Regulation (SCLLR) for the period July 1, 2014 – June 30, 2017. SCLLR concurs with the findings noted in this report, specifically after the issues were brought to our attention and discussed extensively with Ms. Parker and me. Furthermore, since the audit in June 2017, SCLLR has adopted various measures and internal controls to ensure on-going and future Procurement Code compliance relative to sole source procurements, multi-term contract determinations, and the Drug Free Workplace Certification requirement.

Please extend our thanks to Ms. Mary Jefferson for the expertise and professionalism displayed during this audit. It was a pleasure working with her. Through the consultative approach in during our audit, we were able to further hone our processes to insure that we are "Procuring the Right Way" for the citizens of this state.

Sincerely,



Farrar S. Stewart

Deputy Director of Administration

CC: Emily Farr, Agency Director

Diane Parker, Procurement Manager