

LANDER UNIVERSITY

PROCUREMENT AUDIT REPORT

APRIL 1, 2006 – SEPTEMBER 30, 2009

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

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March 30, 2010

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 Lander University for the period April 1, 2006 through September 30, 2009. 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 the procurement policy of the University. 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 Lander University 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 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 those 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 Lander University in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Aycock, IV", with a long, sweeping horizontal line extending to the right.

Robert J. Aycock, IV, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of Lander University. Our on-site review was conducted from November 15 through December 11, 2009, and was made under Section 11-35-1230(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.

On September 19, 2006 the State Budget and Control Board granted Lander University the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	\$150,000 per commitment
Consultant Services	\$150,000 per commitment
Information Technology	\$150,000 per commitment
Construction Contract Award	\$100,000 per commitment
Construction Contract Change Order	\$ 50,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

Our audit was performed primarily to determine if recertification is warranted. Additionally, Lander University requested the following increased certifications.

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Supplies and Services	\$250,000 per commitment
Consultant Services	\$250,000 per commitment
Information Technology	\$250,000 per commitment
Construction Services	\$250,000 per commitment
Construction Contract Change Order	\$ 75,000 per change order
Architect/Engineer Contract Amendment	\$ 50,000 per amendment

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 Lander University 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 April 1, 2006 through September 30, 2009 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 April 1, 2006 through September 30, 2009 with exceptions noted in Sections I and II of the report
- (2) Procurement transactions for the period April 1, 2006 through September 30, 2009 as follows:
 - a) Ninety-eight payments each exceeding \$2,500 with exceptions noted in Sections III, IV & V of the report
 - b) Four-hundred and seven 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 September and October 2009 with no exceptions.
- (3) Minority Business Enterprise Plans and reports with no exceptions and 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	\$278,968	\$ 44,498
2006-2007	\$238,823	\$ 82,193
2007-2008	\$167,055	\$199,633
2008-2009	\$192,264	\$ 67,175

- (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) File documentation and evidence of competition with no exceptions
- (9) Other tests performed as deemed necessary with no exceptions

RESULTS OF EXAMINATION

I. Inappropriate Emergency Procurement

Lander University procured as an emergency a lighting and dimmer system to replace the current system at the Cultural Center Auditorium. According to documentation, the old system continued to get worse, became harder to fix and was operating at half capacity. The determination leaves no doubt that this had been an ongoing problem that needed repair.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
2503	12/11/06	Lighting and dimmer system	\$143,306.20

Regulation 19-445.2110 Emergency Procurements, (B) Definition, states, “An emergency condition is a situation which creates a threat to public health, welfare, or safety such as may arise by reason of floods, epidemics, riots, equipment failures, fire loss,” The examples listed, by reason of floods, epidemics, riots, equipment failures, fire loss, are all unknown, unforeseen occurrences. Lander University knew of the problems with the lighting system making the emergency procurement inappropriate. An opinion issued by the South Carolina Supreme Court, in Sloan v. DOT, Opinion No. 26534 (S.C. 2008) supports our position. The Court ruled that, “An emergency is, by its very nature, a sudden, unexpected onset of a serious condition.” The lighting system condition was neither sudden nor unexpected.

We recommend in the future for such procurements, that competition be solicited in accordance with the Procurement Code.

UNIVERSITY RESPONSE

Lander University agrees with the findings and recommendations. Competition will be solicited in accordance with the Procurement Code. This had been an ongoing problem and should have been addressed prior to the need for immediate action for an upcoming performance. We have discussed this issue with the technical staff at the college.

II. Inadequate Written Determinations for Sole Source Procurements

Lander University failed to provide adequate written determinations for the following sole source procurements.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
2812	05/18/07	Emergency phones, lights and mounting equipment	\$ 5,623.00
3341	05/26/08	Classroom crash chair rail	\$ 7,925.07
3734	05/18/09	Scheduling software upgrade	\$31,425.00
3804	06/29/09	Reciprocating compressor	\$16,452.32

The written determination for the procurement of emergency phones, lights, and mounting equipment provided no information why the phones and lights had to match existing equipment. Lander University's determination for the classroom crash chair rail based its decision on the second floor renovation being uniform with the third floor renovation. We do not believe aesthetics is sufficient to justify not competing a type of wall molding. Lander University purchased, what it described, a major software upgrade for scheduling with an annual maintenance agreement. Since this represented a major upgrade, we would expect to see in the determination why no other software could be considered. The reciprocating compressor was sole sourced based on the vendor being the only one who could furnish a compressor quickly. This was not a valid reason to sole source.

Regulation 19-445.2105(C) for sole source procurements requires that written determinations contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision.

We recommend the University prepare its written determinations as required in the regulation by providing sufficient factual details and reasoning to provide an informed, objective explanation for each decision.

UNIVERSITY RESPONSE

Lander University agrees with the findings and recommendations. We will provide more detailed information in our written determinations as required in the regulation for Sole Source Procurements in the future.

III. Inappropriate use of Procurement Code Exemption

Lander University inappropriately used the Procurement Code's Exemption for Grant Specified Procurements for the following transactions:

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
P0002280	09/08/06	Technical Assistance in Grant Writing	\$14,630.00
P0003054	09/06/07	Technical Assistance in Grant Writing	\$15,069.00

Lander University contracted for assistance in writing grants. The exemption for Grant Specified Procurements states, "In accordance with Code Section 11-35-710, 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 exemption did not apply to these procurements. First, these procurements were not grant funded. Second, Lander University has not submitted procedures for approval.

We recommend Lander University solicit competition for this service in accordance with the Code.

UNIVERSITY RESPONSE

Lander University agrees with the findings and recommendations. We will solicit competition for this type of service in the future.

IV Procurement without Solicitations of Competition

Lander University supported the following procurement with internet quotes instead of making solicitations of competition.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
P0003303	04/25/08	Vinyl Mini Blinds	\$3,519.57

Section 11-35-1550 (2)(b) requires solicitations of competition from a minimum of three qualified vendors for procurements from \$2,500 to \$10,000. Downloading of pricing from the internet with no direct contact with vendors does not meet the definition of a solicitation.

While searching the internet for prospective contractors is a valid initial approach, we recommend direct communication with vendors when soliciting quotes to obtain the best available pricing for the State.

UNIVERSITY RESPONSE

Lander University agrees with the findings and recommendations. We have talked with the staff member regarding this solicitation. We cannot accept internet pricing without direct contact with the vendors as a replacement for a true quote. We will communicate directly with the vendor to obtain quotes to get the best pricing for the State.

V. Retention Exceeded Maximum Limit

The University withheld 10% retention on a construction contract on Project Number H21-9525-MJ. Section 11-35-3030 (4)(a) states in part, "...the retained amount of each progress payment or installment must be no more than three and one-half percent."

We recommend Lander University limit the amount of retention to no more than 3.5% allowed by the Code.

UNIVERSITY RESPONSE

Lander University agrees with the findings and recommendations. We will limit the amount of retention to no more than 3.5% allowed by the Code.

CONCLUSION

As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, we believe, will in all material respects place Lander University 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 that Lander University be recertified to make direct agency procurements for three years up to the limits as follows:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$200,000 per commitment
Consultant Services	*\$200,000 per commitment
Information Technology	*\$150,000 per commitment
Construction Contract Award	\$150,000 per commitment
Construction Contract Change Order	\$ 50,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

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



Allen R. Townsend, CBM
Audit Manager



Robert J. Aycock, IV, Manager
Audit and Certification

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FRANK W. FUSCO
EXECUTIVE DIRECTOR

May 6, 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 Lander University to our audit report for the period of April 1, 2006 to September 30, 2009. Also we have followed the University's corrective action during and subsequent to our fieldwork. We are satisfied that Lander University has corrected the problem areas and the internal controls over the procurement system are adequate.

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

Sincerely,

Robert J. Aycock, IV, Manager
Audit and Certification

RJA/gs

Total Copies Printed	11
Unit Cost	<u>\$.52</u>
Total Cost	<u>\$5.72</u>