

LANDER UNIVERSITY
PROCUREMENT AUDIT REPORT
OCTOBER 1, 2009 – JUNE 30, 2014

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

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August 28, 2015

Mr. John St. C. White
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1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear John:

We have examined the procurement policies and procedures of Lander University for the period October 1, 2009 through June 30, 2014. 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 was used to establish a basis for reliance upon the system of internal controls to assure adherence to the South Carolina Consolidated Procurement Code, State regulations, and the University's procurement policies. Additionally, the evaluation was used in determining 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 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 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 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 South Carolina Consolidated Procurement Code and ensuing regulations.

Sincerely,



Robert J. Aycock, IV, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of Lander University. We performed our examination 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 internal controls of the procurement system 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 ensuing regulations.

On June 30, 2010 the State Budget and Control Board granted Lander University the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	\$ 200,000 per commitment
Information Technology	\$ 150,000 per commitment
Consultant Services	\$ 200,000 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

Our examination was performed primarily to determine if recertification is warranted.

Additionally, Lander University requested the following increased certification limits.

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Supplies and Services	\$ 300,000 per commitment
Information Technology	\$ 250,000 per commitment
Consultant Services	\$ 300,000 per commitment
Construction Contract Award	\$ 200,000 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, hereinafter referred to as the 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 judgmental samples for the period October 1, 2009 through June 30, 2014 of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. 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 October 1, 2009 through June 30, 2014 with no exceptions
- (2) Procurement transactions for the period July 1, 2011 through June 30, 2014 as follows:
 - a) One hundred and fifty-three payments each exceeding \$2,500 with exceptions noted in Section I of the report
 - b) A block sample of three hundred sequential purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
 - c) Procurement card purchases for March, April and May 2014 with exceptions noted in Section III of the report
- (3) Two construction contracts and eight Architect/Engineer and Related Professional Service Contracts with seven of these being indefinite delivery contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements, Part II with no exceptions
- (4) 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>
FY10-11	\$218,574	\$30,610
FY11-12	\$309,859	\$13,626
FY12-13	\$365,450	\$12,232
FY 13-14	\$366,852	\$17,595

- (5) Approval of the most recent Information Technology Plan with no exceptions
- (6) Internal procurement procedures manual with no exceptions
- (7) Surplus property disposition procedures with no exceptions
- (8) Ratification of unauthorized procurements with no exceptions
- (9) File documentation and evidence of competition with no exceptions
- (10) Other tests performed as deemed necessary with one exception noted in Section II of the report

SUMMARY OF AUDIT FINDINGS

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I. <u>Supplies and Services</u>	
A. <u>Inappropriate Acceptance of Bids through Email and Fax</u>	7
<p> The University inappropriately accepted unsealed formal bids on six solicitations through either email or fax.</p>	
B. <u>Inadequate Written Determinations</u>	8
<p> The University inadequately justified using alternate procurement methods instead of using invitations for bid, the preferred default method of bidding in the Procurement Code.</p>	
C. <u>Bid Award Posting Dates Missed</u>	10
<p> The University failed to post bid awards on advertised posting dates.</p>	
II. <u>Unauthorized Multi-Term Contract</u>	10
<p> The University entered a ten year contract for computer baseline component systems maintenance. Contracts exceeding seven years must be approved by the State Fiscal Accountability Authority. The University provided no such approval for its ten year contract making the contract unauthorized.</p>	
III. <u>Procurement Card Charges Split</u>	12
<p> We noted two instances where procurement card single transaction limits were by-passed by processing sales tax through a separate transaction.</p>	

RESULTS OF EXAMINATION

I. Supplies and Services

Our audit of the University included a sampled review of supplies and services, information technology, consultant services and construction services. We noted the following exceptions.

A. Inappropriate Acceptance of Bids Through Email and Fax

Our sample revealed where the University inappropriately accepted unsealed formal bids on the following six solicitations through either email or fax.

<u>Solicitation</u>	<u>Description</u>	<u>Award Amount</u>
IFB-LA-244-3-23-2012	Roof Repair	\$25,940
IFB-LA232-7-25-2011	Bleacher Installation	\$22,625
RFP-LA-243-2-6-2012	Equestrian Riding Area	\$49,365
IFB LA 231 7/25/2011	Athletic Insurance	\$61,000
IFB LA 267 4-10-2013	Asbestos abatement	\$24,750
IFB-LA-272-6-18-2013	HVAC Units	\$51,751

Each of the solicitations instructed bidders to submit sealed bids. Section 11-35-1520(4) states all bids including modifications, received before the time of the opening must be kept secure and unopened. Regulation 19-445.2045 Receipt and Safeguarding of Bids supports this by saying prior to bid opening, information concerning the identity and number of bids received is made available on a need to know basis. The Code and Regulations are clear in that bids must be submitted on time, sealed and handled with sufficient care to prevent disclosures of any information that may give or even give the appearance of some competitive advantage before bid opening. Having sealed offers submitted helps ensure fair and open competition by reducing the likelihood that bid prices could be exposed prior to bid opening.

The “bid log” contained in each of the files above indicated how the offers were received against the solicitations advertised by the University. These solicitations had one or more offers accepted either by fax or email thus exposing information that must not be exposed until bid opening.

We recommend the University comply with section 11-35-1520(4) by not accepting unsealed formal bids.

University Response

Lander University agrees with the findings and recommendations. If the solicitation has “Sealed Bid or Proposal”, there will be no acceptance of emails or faxes.

B. Inadequate Written Determinations

The University inadequately justified using the following procurement methods instead of using competitive sealed bidding, the preferred, default method of bidding in the Procurement Code.

<u>Solicitation #</u>	<u>Procurement Method</u>	<u>Description</u>	<u>Award Amount</u>
FPB-MM-214-10-25-2010	Fixed Price Bid	Tree removal	\$200,000
FPB LA 224-6-21-2011	Fixed Price Bid	Carpet Cleaning	\$200,000
IFB-LA-213-10-12-2010	Fixed Price Bid	Farrier Services	unknown
RFP LA 233-8-9-2011	Request for Proposal	Refinishing Floors	\$200,000

Sections 11-35-1525(1) Fixed Price Bidding (FPB) and 11-35-1530(1) Request for Proposals (RFP) of the Code requires an agency to determine in writing that competitive sealed bidding is either not practicable or advantageous to the State when using a procurement method other than competitive sealed bidding. This should be documented in sufficient detail to satisfy requirements of audit. The purpose of fixed price bidding is to provide multiple sources of supply for specific services, supplies, or information technology based on a preset maximum price which the State will pay for such items. The purpose of RFPs is to consider other factors besides price in making award decisions. The written determinations drafted by the University supporting its decisions to use the FPB and the RFP methods on these solicitations did not make a compelling argument that competitive sealed bidding would not be advantageous.

The University’s determination supporting the tree removal solicitation was based on extensive renovations, new construction and regular maintenance on campus. These reasons did not establish why the sealed bid method would not be practicable or advantageous to the State as required by the Code.

The University based the determination for the carpet cleaning on the short time frame during fall semester break making it necessary to have several contractors working at the same time. Even with a short time frame we believe issuing a sealed bid with a defined scope of work could have resulted in more competitive pricing for the University and multiple awards could have been part of the award criteria. Section 11-35-1525(2) under FPB requires a preset maximum price for items to be established as part of the solicitation.

The determination for farrier services centered on the University having the capability to call another farrier should one be tired up and not able to service the horses at the time needed. This did not establish why a sealed bid would not be the most advantageous method to use. The University received one offer; and therefore had only one farrier under contract. This type of service would be well suited to solicit as a sealed bid. Additionally, the University did not pre-establish a maximum price as required under FPB procedures in the Code, instead allowing the vendor to set the price on the bid schedule in the solicitation.

The determination supporting refinishing floors as a request for proposal solicitation concentrated on the experience of the contractor. This is a responsibility check and can be accomplished through requiring references in the solicitation. We saw no reason this type of service could not be procured using the sealed bid method.

We recommend the University use competitive sealed bidding, the preferred, default method of bidding in the Procurement Code unless it can show through a written determination that competitive sealed bidding is either not practicable or advantageous to the State, then alternate methods of procurement authorized by the Code can be considered.

University Response

Lander University agrees with the findings and recommendations. We will provide more detailed information in our written determinations showing that competitive sealed bidding is either not practicable or advantageous to the State.

C. Bid Award Posting Dates Missed

The University missed the posting dates listed in the solicitations on the following procurements.

<u>Solicitation #</u>	<u>Description</u>	<u>Solicitation Posting Date</u>	<u>Actual Posting Date</u>	<u>Award Amount</u>
IFB-LA-231-7-25-2011	Athletic Insurance	07/25/11	08/01/11	\$183,000
FPB LA 224-6-21-2011	Carpet Cleaning	06/21/11	06/28/11	\$200,000

Regulation 19-445-2090 states the procurement officer shall issue the notice of intent to award or award on the date specified in the solicitation. Notice shall be given of a time extension if necessary at the location identified in the solicitation.

The awards for the athletic insurance and carpet cleaning were made past the posting date specified in the solicitations. There was no evidence that notification of the award dates were extended. The importance of specifying a posting date informs any offeror who is aggrieved in connection with the award a time frame in which to file a protest. Section 11-35-4210(b) states any actual bidder or offeror, contractor, or subcontractor who is aggrieved in connection with the intended award shall protest to the chief procurement officer within ten days of the posting of award. If a posting date is missed and if an extension is not given, then the time frame to protest is unknown and potentially unending.

We recommend the University post awards on the date given in the solicitation or post an extension giving proper notice thereof.

University Response

Lander University agrees with the findings and recommendations. We will post awards on the date given in the solicitation or post an extension giving proper notice thereof.

II. Unauthorized Multi-Term Contract

The University entered a ten year contract for computer baseline component systems maintenance beginning April 1, 2012 through May 31, 2022. Section 11-35-2030(4) of the Procurement Code limits contracts to five years. Contract terms of up to seven years may be approved by the

designated State Fiscal Accountability Authority officer. Contracts exceeding seven years must be approved by the State Fiscal Accountability Authority. The University provided no such approval for its ten year contract making the contract unauthorized.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
P0004946	04/02/12	Computer Baseline Maintenance	\$521,157

The University has no authority to enter a contract beyond five years. Furthermore, to enter a contract beyond a year, the University must prepare a written determination justifying the need for such a contract. Without the written determination, the University's contract cannot exceed 12 months. Section 11-35-2030(1) states, "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" Paragraph (2) of that same section states, "Before the utilization of a multi-term contract, it must be determined in writing by the appropriate governmental body that:

- (a) estimated requirements cover the period of the contract and are reasonably firm and continuing; and
- (b) such a contract serves the best interests of the State by encouraging effective competition or otherwise promoting economies in state procurement.

We recommend the University adhere to the multi-term contract requirements in section 11-35-2030. We also recommend the University seek ratification of this contract in accordance with Regulation 19-445-2015 from the chief procurement officer or cancel the contract.

University Response

Lander University agrees with the findings and recommendations. We have talked with the IT staff regarding this solicitation. The contract was set up as a 5 year with an opt-out to extend to 10 years. The University will cancel this contract to adhere to Section 11-25-2030 of the Procurement Code regarding Multi-Term Contracts.

III. Procurement Card Charges Split

As part of our review we examined procurement card purchases. Our sample revealed two instances where the procurement card single transaction limits were by-passed by separating sales tax through a separate transaction.

<u>Card last 4 Digits</u>	<u>Purchase Date</u>	<u>Amount</u>	<u>Vendor Name</u>
3450	03/17/14	\$2,473.00	Heat Lamp
3450	03/17/14	\$ 143.28	Sales Tax on the Heat Lamp
3273	04/14/14	\$2,450.00	2014 Pace 6x12 enclosed Trailer
3273	04/14/14	\$ 147.00	Sales Tax on the Trailer

Section II.D (1) of the Procurement Card Manual states: “Each P-Card is subject to Cardholder Spending (Credit) limits as defined in Section V. B. Neither Cardholders, nor merchants may exceed the Single Transaction Limit (STL) or split the purchase in order to accommodate for the STL.” Each of the cards above had a \$2,500 STL. Sales tax is included in the STL.

We recommend the University comply with the South Carolina Purchasing Card Policy and Procedures Manual by not circumventing the procurement card single transaction limits.

University Response

Lander University agrees with the findings and recommendations. We have sent an email to all P-Card users advising that Sales Tax is part of the Single Transaction Limit. We will comply with the SC Purchasing Card Policy and Procedures Manual.

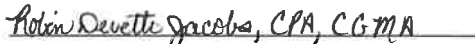
CERTIFICATION RECOMMENDATIONS


As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, we believe, will in all material respects place Lander University in compliance with the Consolidated Procurement Code.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to corrective action, we will recommend Lander University be certified to make direct agency procurements for three years up to the following limits.

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 200,000 per commitment
Information Technology	*\$ 150,000 per commitment
Consultant Services	*\$ 200,000 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.


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Audit Manager


Robert J. Aycock, IV, Manager
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CHAIRMAN, HOUSE WAYS AND MEANS

October 5, 2015

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

Dear John:

We have reviewed the response from Lander University to our audit report for the period of October 1, 2009 through June 30, 2014. In our opinion, Lander University complies with the South Carolina Consolidated Procurement Code, State regulations, and the University's procurement policies and procedures in all material respects and the internal procurement operating procedures are adequate to properly handle procurement transactions. Therefore, we recommend the State Fiscal Accountability Authority 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

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