

MIDLANDS TECHNICAL COLLEGE

PROCUREMENT AUDIT REPORT

JULY 1, 2005 - JUNE 30, 2008

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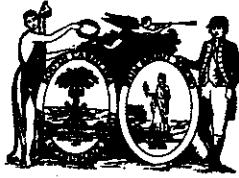
NOTE: The College's responses to issues noted in the report have been inserted immediately following the items they refer to.

STATE OF SOUTH CAROLINA
State Budget and Control Board
PROCUREMENT SERVICES DIVISION

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R. VOIGHT SHEALY
MATERIALS MANAGEMENT OFFICER

April 27, 2009

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

Dear Voight:

We have examined the procurement policies and procedures of Midlands Technical College for the period July 1, 2005 through June 30, 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 internal procurement policy of the College. 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 Midlands Technical College 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 assets are safeguarded against loss from unauthorized use or disposition and 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 Midlands Technical College in compliance with the 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 Midlands Technical College. Our on-site review was conducted September 24 through November 7, 2008, 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.

On December 13, 2005 the State Budget and Control Board granted Midlands Technical College, hereinafter referred to as the College, the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Goods and Services	\$150,000 per commitment
Consultant Services	\$150,000 per commitment
Information Technology	\$100,000 per commitment
Construction Contract Change Order	\$25,000 per change order
Architect/Engineering Contract Amendment	\$ 5,000 per amendment

We primarily performed our audit to determine if re-certification is warranted. Additionally, the College requested the following increased certification limits.

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	\$200,000 per commitment
Consultant Services	\$200,000 per commitment
Information Technology	\$100,000 per commitment
Construction Contract Change Order	\$25,000 per change order
Architect/Engineering Contract Amendment	\$ 5,000 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 Midlands Technical College 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 July 1, 2005 through June 30, 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 July 1, 2005 through June 30, 2008 with one exception noted in Section V of the report
- (2) Procurement transactions for the period January 1, 2006 through June 30, 2008 as follows:
 - a) Seventy-eight payments each exceeding \$2,500 with no exceptions
 - b) Block sample of 500 purchase orders reviewed for order splitting and favored vendors with no exceptions
 - c) Procurement card transactions for the months December 2007 – February 2008 with no exceptions
- (3) Seven construction contracts, four construction Indefinite Delivery contracts and three professional service contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements with one exception noted in Section IV of the report
- (4) Minority Business Enterprise (MBE) reports for the audit period. The annual MBE Plan and goal are prepared by the State Board for Technical and Comprehensive Education for the entire technical college system as one plan. Quarterly reports from Midlands Technical College show MBE expenditures for the College at:

<u>Fiscal Year</u>	<u>Actual</u>
2005-2006	\$879,084
2006-2007	\$463,801
2007-2008	\$281,147

- (5) Information technology plans for the audit period with no exceptions
- (6) Internal procurement procedures manual review with no exceptions
- (7) File documentation and evidence of competition with two exceptions noted in Sections I, II, and III of the report
- (8) Surplus property disposal procedures with no exceptions
- (9) Blanket purchase agreements with no exceptions

SUMMARY OF AUDIT FINDINGS

I. No Competition

A procurement for office furniture was not supported by solicitations of competition.

II. Best Value Bid Deficiencies

A Best Value Bid to procure microscope parts, services, accessories, and repairs had several deficiencies including no written determination authorizing the solicitation, inconsistent scoring by evaluators and failed to obtain pricing for all items being procured.

III. Fixed Price Bid Did Not Allow Vendor Responses

A Fixed Price Bid to procure interpreter services failed to provide a bidding schedule for vendors to provide pricing. Instead of stating a maximum price, the College stated a maximum price range it was willing to pay. Since vendors did not have a bidding schedule, we could not determine the hourly contract rates.

IV. Revenue Generating Contract Not Completed

The College did not complete a contract for vending machine management services.

V. Indefinite Delivery Contract (IDC) Activity Not Reported to OSE

The College failed to report Indefinite Delivery Contract information to the Office of the State Engineer through its quarterly reports.

VI. Non-Compliance with Drug-Free Workplace Act

Two sole source contracts exceeding \$50,000 each were not supported with affidavits from the contractors certifying compliance with the Drug-Free Workplace Act.

RESULTS OF EXAMINATION

I. No Competition

The College issued purchase order number 14516 in the amount of \$5,024 on 7/21/05 for office furniture. The awarded vendor's signed bid was on file. However, no evidence of advertisement or bid tabulation was on file. Section 11-35-1550(2)(b) of the Procurement Code requires documentation of all quotes for procurements between \$2500.01 and \$10,000.

We recommend the College comply with the competitive requirements of the Procurement Code for small purchases.

COLLEGE RESPONSE

The College inadvertently was not able to show competition. The College is in concurrence with the audit findings and per your recommendation will comply with the competitive requirements of the Procurement Code for small purchases.

II. Best Value Bid Deficiencies

The College issued a Best Value Bid on solicitation MTC-0508 to procure microscope parts, services, accessories, and repairs in the amount of \$25,000. We noted several problems with the solicitation.

Section 11-35-1528 of the Procurement Code allows the purchasing agency to use a competitive best value bid when the agency determines in writing that a competitive sealed bid is not practicable or advantageous to the state. The file contained no written determination authorizing the use of a bidding method other than a competitive sealed bid. Therefore, all contracts awarded pursuant to this solicitation are illegal.

The evaluators showed inconsistency in their scoring of the two proposals received.

		<u>Evaluator 1</u>	<u>Evaluator 2</u>	<u>Evaluator 3</u>
Vendor A	Response Time Maximum Points 30	1	5	20
	Experience Maximum Points 10	1	10	5
Vendor B	Response Time Maximum Points 30	30	30	30
	Experience Maximum Points 10	10	8	10

The evaluators scored response time from 1 point to 20 points for the same vendor out of a maximum of 30 points. Since response time would be expressed in a quantitative number, i.e. 2 hours, 8 hours, 1 day, etc., the scoring should reflect a more quantitative approach. The same can be said about the other evaluation criteria of experience because the College requested the vendors to provide the total number of years of experience of each employee. The number of years per employee sums into a total number of years of experience for each vendor. However, the scoring for one of the vendors ranged from 1 point to the maximum allowed of 10 points. Additionally, scoring from one of the Evaluators shown as Evaluator 1 in the chart above revealed he scored Vendor A the minimum points allowed in each category and scored Vendor B the maximum points in each category. We believe this evaluator's scoring should have been disqualified since the scores do not appear to reflect an objective review of the vendor proposals.

Finally, the solicitation procured microscope parts, services, accessories, and repairs. However, the pricing requested in the solicitation only covered labor charges. The College should have also requested pricing for repair parts and accessories by soliciting discounts off of manufacturers' list prices.

We recommend that the College terminate all contracts awarded pursuant to this solicitation at its first opportunity. In the future, the College must prepare a written determination

authorizing the use of a bidding method other than a competitive sealed bid when using another method of procurement. Evaluators should be objective in their scoring to the extent practical based on the information submitted by vendors. Pricing should be solicited based on what is being procured.

COLLEGE RESPONSE

The College is in concurrence with the audit findings and recommendations. The College will terminate the contract at the first opportunity and resolicit.

III. Fixed Price Bid Did Not Allow Vendor Responses

The College issued a Fixed Price Bid on solicitation MTC-510 to procure interpreter services in the amount not to exceed of \$75,000. In doing so, the College failed to provide a bidding schedule for the vendors to submit pricing. The purpose of a Fixed Price Bid is to allow multiple sources of supply for services, supplies or information technology based on a preset “maximum” price the state is willing to pay. Nothing prevents vendors from offering lower prices than our maximum. In fact, they are encouraged to do so because even though a vendor may receive a contract, the vendor is not guaranteed any work. Offering lower pricing than other vendors under this multiple source contract can help vendors in obtaining work.

Also, on this particular solicitation, the College stated its maximum price to be \$45 to \$50 an hour in one of its categories. A maximum price is just that, a maximum price. The maximum price should not be stated as a price range, but an absolute maximum price.

The purchase order did not state the hourly price to be paid to the vendor. The purchase order was simply issued for interpreter services in the amount of \$75,000. We recommend purchase orders be issued based on bidding schedules. Without detailed information, accounts payable cannot determine appropriate rates of pay.

Finally, the College did not issue an award statement. Section 11-35-1520(10) of the Procurement Code indicates that if the total potential value of the award is greater than \$50,000, an award statement must be posted and sent to all responding vendors. The statement must include information regarding a vendor's right to protest.

We recommend the College issue Fixed Price Bids with bidding schedules whereby vendors can submit pricing. While we set a maximum amount the State is willing to pay, vendors should be encouraged to offer less. Further, purchase orders should include sufficient detail to allow accounts payable to determine proper rates of pay. All competitive procurements over \$50,000 must be supported by award statements.

COLLEGE RESPONSE

The College is in concurrence with the audit findings and recommendations and will ensure Fixed Price Bidding procedures are followed in the future.

IV. Revenue Generating Contract Not Competed

The College has a contract for vending machine management services managed through its Auxiliary Enterprise Services. The College did not compete this contract because it is under the umbrella of a self-funded operation. An exemption from the competitive requirements of the Procurement Code reads, "Expenditure of funds at State institutions of higher learning derived wholly from athletic or other student contests, from the activities of student organizations and from the operation of canteens and bookstores, except as such funds are used for the procurement of construction, architect-engineer, construction-management and land surveying services." The exemption applies only to expenditures of funds once they have been derived from the activities identified in the exemption, not to the procurement of management services that may generate such proceeds. This procurement of vending management services is subject to the competitive requirements of the Procurement Code.

We recommend the College initiate a solicitation to compete vending machine management services in accordance with the competitive requirements of the Procurement Code.

COLLEGE RESPONSE

The College is in concurrence with the audit findings and will adhere to the recommendation.

V. IDC Activity Not Reported to OSE

The following projects were missing Indefinite Delivery Contract (IDC) information on the quarterly reports sent to the Office of the State Engineer.

<u>Project</u>	<u>Contractor</u>	<u>Date</u>	<u>Amount</u>
H59-D333-RC	Contractor A	10/26/2006	\$ 6,550.00
H59-D346-RC	Contractor B	8/23/2007	\$11,337.75
H59-D346-RC	Contractor C	1/30/2008	\$13,945.00
H59-D494-PM	Contractor D	6/19/2008	\$34,088.74
H59-N453-JM	Contractor E	6/14/2007	\$25,000.00

Sections 9.1.1 D. and 9.2.8 of the Manual for Planning and Executing of State Permanent Improvements - Part II require agencies to submit quarterly reports of IDC activity to the Office of the State Engineer.

We recommend the College report all IDC activity on its quarterly reports to the Office of the State Engineer.

COLLEGE RESPONSE

The College is in concurrence with the audit findings and will adhere to the recommendation.

VI. Non-Compliance with Drug-Free Workplace Act

The College failed to obtain the drug-free workplace certification on two sole source procurements of \$50,000 or more.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
B0002665	7/1/2006	Copier Service/Supplies	\$142,974
B0003380	7/1/2007	Copier Service/Supplies	\$153,236

Section 44-107-30 of the South Carolina Code of Laws requires a written certification on any contract of \$50,000 or more stating that the vendor provides a drug-free workplace. Sole source procurements are subject to this law.

We recommend the College obtain the drug-free workplace certification from vendors on all sole source procurements of \$50,000 or more.

COLLEGE RESPONSE

The College is in concurrence with the audit findings and will adhere to the recommendation.

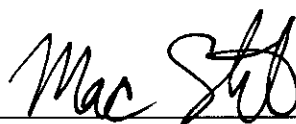
CERTIFICATION RECOMMENDATIONS

As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, will in all material respects place Midlands Technical College in compliance with the South Carolina Consolidated Procurement Code and ensuing Regulations.

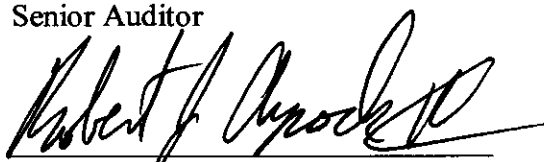
Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we recommend Midlands Technical College be re-certified to make direct agency procurements for three years up to the limits as follows:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$200,000 per commitment
Consultant Services	*\$200,000 per commitment
Information Technology	*\$100,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineering Contract Amendment	\$ 5,000 per amendment

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



Mac Stiles
Senior Auditor



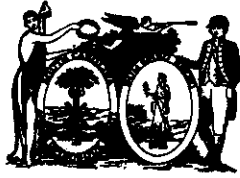
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R. VOIGHT SHEALY
MATERIALS MANAGEMENT OFFICER

June 1, 2009

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 Midlands Technical College to our audit report for the period of July 1, 2005 to June 30, 2008. Also we have followed the College's corrective action during and subsequent to our fieldwork. We are satisfied that Midlands Technical College has corrected the problem areas and the internal controls over the procurement system are adequate.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Aycock, IV".

Robert J. Aycock, IV, Manager
Audit and Certification

RJA/gs

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