

CLEMSON UNIVERSITY
PROCUREMENT AUDIT REPORT
JANUARY 1, 2008 – MARCH 31, 2012

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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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April 12, 2013

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

Dear Voight:

We have examined the procurement policies and procedures of Clemson University for the period January 1, 2008 through March 31, 2012. As part of our examination, we studied and evaluated the system of internal controls 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 procurement policies of Clemson 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 Clemson 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 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 due to unauthorized use or disposition and those 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 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 Clemson 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". The signature is fluid and cursive, with a long horizontal stroke 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 Clemson University. Our on-site review was conducted June 13 through August 30, 2012. Our review was made under Section 11-35-1230(1) of the 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 Consolidated Procurement Code and its ensuing regulations.

On December 11, 2008, the State Budget and Control Board granted Clemson University the following procurement certifications.

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies & Services	\$ 1,500,000 per commitment
Information Technology	\$ 1,000,000 per commitment
Consultant Services	\$ 1,500,000 per commitment
Revenue Generating Management Services	\$15,000,000 per commitment
Construction Contract	\$ 3,000,000 per commitment
Construction Contract Change Order	\$ 500,000 per change order
Architect/Engineer Contract Amendment	\$ 100,000 per amendment

Our audit was performed primarily to determine if recertification is warranted. Additionally, Clemson University requested the following certification increases.

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Supplies & Services	\$ 2,000,000 per commitment
Information Technology	\$ 2,000,000 per commitment
Consultant Services	\$ 2,000,000 per commitment
Revenue Generating Management Services	\$15,000,000 per commitment
Construction Contract	\$ 3,000,000 per commitment
Construction Contract Change Order	\$ 500,000 per change order
Architect/Engineer Contract Amendment	\$ 100,000 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 Clemson 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 samples for the period January 1, 2008 through March 31, 2012 of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate our 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, 2008 through March 31, 2012, with exceptions noted in Section I of the report
- (2) Procurement transactions for the period January 1, 2008 through March 31, 2012 as follows:
 - a) One hundred payments each exceeding \$2,500 with exceptions noted in Section IV of the report
 - b) Nine construction contracts and nine professional service contracts for compliance with The Manual for Planning and Execution of State Permanent Improvements with no exceptions
 - c) Eight thousand five hundred eighty line items of sequentially filed purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
 - d) Procurement card transactions, with exceptions noted in Sections II of the report
- (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>
2008-2009	\$4,480,000	\$701,162
2009-2010	\$4,522,000	\$388,904
2010-2011	\$5,074,700	\$428,925

- (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 exceptions noted in Section III of the report
- (8) File documentation and evidence of competition with no exceptions
- (9) Other tests performed as deemed necessary with no exceptions

SUMMARY OF RESULTS

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The University's Procurement Card Policies and Procedures manual allows for the purchase of gift cards which are strictly prohibited by State policy. Also, the University issued two procurement cards each to thirteen cardholders in violation of the State policy.	
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RESULTS OF EXAMINATION

I. Sole Source and Emergency Procurements

We tested sole source and emergency procurements made pursuant to Sections 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 Section 11-35-2440. We noted the following:

A. Inappropriate Sole Source and Emergency Procurements

The written determinations authorizing the following sole source and emergency procurements did not adequately justify the procurements as such.

<u>PO#</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>	<u>Type</u>
9000032176	09/04/08	Repair Parts	\$ 4,295.96	Emergency
CU00005406	02/04/09	Honorarium	\$ 4,500.00	Sole Source
CU00005585	02/16/09	Sign Language Interpreter Service	\$ 4,024.96	Sole Source
CU00006347	03/30/09	Consulting in glass formation	\$ 5,000.00	Sole Source
CU00006898	04/23/09	Software Survey	\$ 3,250.00	Sole Source
CU00011260	09/10/09	Corn Transportation Service	\$ 4,760.00	Sole Source
CU00013796	12/04/09	Reduce Squirrel Population on Campus	\$ 7,397.59	Sole Source
CU00014166	12/17/09	Consultant/Teacher	\$ 3,550.00	Sole Source
CU00024970	07/01/10	Consultant	\$ 6,000.00	Sole Source
CU00027112	07/16/10	Assessment for Empower	\$ 4,997.00	Sole Source
CU00080561	08/08/11	Language Learning	\$130,005.00	Sole Source
CU00081058	08/11/11	Flowbench Workstation	\$ 5,725.00	Sole Source
CU00081115	08/12/11	Cary 60 Instrument Bundle	\$ 9,607.17	Sole Source
CU00092233	11/04/11	Outdoor Cinema System	\$ 21,978.32	Sole Source
CU00098335	12/21/11	Sail Boats	\$ 12,000.00	Sole Source

The determination authorizing an emergency procurement for repair parts on purchase order 9000032176 did not disclose the condition that created the emergency. The determination stated the repair parts for a combine was desperately needed to harvest research corn. The University did not explain the circumstances that created the emergency condition.

The sole source determination for purchase order CU00005406 for an honorarium indicated the individual is an expert in the area of white-collar crime and had been used by the University twice before. University did not explain why the University contracted with this person, whether it was to give a speech or to perform an investigation. The determination authorizing sign language interpreter services on purchase order CU00005585 claims there are no other vendors able to support this specific need. We don't accept this claim. The determination supporting purchase order CU00006347 for consulting in glass formation was based on the vendor being required in a grant. Typically, grant requests originate with the requestor, in this case, the University. In order to qualify as a grantor specified sole source, the University must provide a written requirement by the grantor agency, not merely approval of a grant request originated by the University. A procurement of survey services was authorized as a sole source on purchase order CU00006898 with the claim that the vendor was the only one willing to guarantee a sample of 200 or more respondents among other things. These requirements should have been specified and bid. The sole source on purchase order CU00011260 was to transport corn to the market. The determination claimed that there was only one vendor capable of taking the harvest to market because of time and equipment requirements. The determination justifying the sole source on purchase order CU00013796 to assist in reducing the squirrel population on campus is based on the vendor having expertise in disposing of squirrels in conjunction with the National Environment Policy Act and the Threaten and Endangered Species Act. We are not sure why squirrels must be disposed of in accordance with the Threaten and Endangered Species Act, but none the less, this service should be competed. The University procured the services of a teacher as a sole source on purchase order CU00014166. The determination claimed the teacher had to be a home bound instructor from Anderson School District. The University should have also asked the District to offer a price. The consulting services procured on purchase order CU00024970 claimed the project needed an instructor in the Orangeburg area that is trained in environmental education curricula. The University did not explain why the consulting services had to be limited to persons in the Orangeburg area. The Assessment for Empower Clemson on purchase order CU00027112 stems from a prior contract

with the vendor to conduct an evaluation and develop a program aimed at high risk behaviors. This current agreement continues the evaluation and program implementation to reduce risks on campus. The vendor may be positioned to be the best source for this service, but not the only source.

For the sole source procurement of a Language Learning system on purchase order CU00080561, the written sole source determination provides the functional features of the system procured and claims this is the only system that has these features. That doesn't necessarily mean another system with different features could not meet the University's requirements. The sole source determination for the Flowbench Workstation on purchase order CU00081058 only states, "The industrial size and functionality of this workstation is unique to this vendor. The price for the equipment is fair and reasonable." No other information was provided. Given the lack of information, it was inappropriate to authorize this transaction as a sole source. Competition should have been solicited. The Instrument Bundle on purchase order CU00081115 was specifically manufactured for the University to the University's specifications by the vendor. Since the equipment is manufactured to the University's requirements, other manufacturers could potentially manufacture the same equipment. The written sole source determination for the Outdoor Cinema system provides the functional features of the system and claims this is the only system that has these features. Other companies offer outdoor systems similar to what was procured. Specifications should have been developed and competition solicited. Finally, the sail boats procured on purchase order CU00098335 are not a sole source.

Section 11-35-1570, Emergency Procurements, of the South Carolina Procurement Code states in part, "Notwithstanding any other provision of this code, the chief procurement officer, the head of a purchasing agency, or a designee of either officer may make or authorize others to make emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions as defined in regulations...." Section 11-35-1560, Sole Source Procurement, paragraph (A) states in part, "A contract may be awarded for a supply, service, or

construction item without competition when, 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 source for the required supply, service, or construction item. In cases of reasonable doubt, competition must be solicited.” Additionally, Section 11-35-1560 (B) states in part, “...Any decision by a governmental body that a procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.” Some of the sole source determinations listed seemed more wrapped around a vendor’s product or service. Regulation 19-445.2140 B., Issuance of Specifications, states:

The purpose of a specification is to serve as a basis for obtaining a supply, service, information technology, or construction item adequate and suitable for the State's needs It is the policy of the State that specifications permit maximum practicable competition consistent with this purpose. Specification shall be drafted with the objective of clearly describing the State's requirements. All specifications shall be written in a nonrestrictive manner as to describe the requirements to be met.

We recommend competition be solicited in accordance with the Procurement Code for the types of transactions listed above.

University Response

Clemson has reviewed and addressed our internal procedures regarding written determinations and will solicit for competition when appropriate or write more appropriate determinations in the future.

B. Drug-Free Workplace Certifications Not Obtained

The University did not obtain drug-free workplace certifications from vendors on any of its sole source procurement transactions of \$50,000 or more for our audit period. Section 44-107-30 of the Drug-Free Workplace Act requires a written certification from vendors on any contract of \$50,000 or more stating the vendor provides a drug-free workplace. Sole Source procurements are subject to this law.

We recommend the University obtain drug-free workplace certifications from vendors on all future sole source procurements of \$50,000 or more as required by the Act.

University Response

For procurements required to have it, Clemson has maintained a drug-free workplace certification on file, but failed to obtain one at the time of each solicitation. We have modified our procedures to include language requesting this on each PO issued that requires such a certification thus addressing this issue going forward.

II. Procurement Cards

Our review of the University's procurement cards revealed the following issues.

A. Procurement Card Conflicts with State Policy

The University's Procurement Card Policies and Procedures manual allows for the purchase of gift cards by the Athletic Department for ACC & NCAA purchases per NCAA regulations. Section IV.D.3., Prohibited Purchases, of the South Carolina Purchasing Card Policy And Procedures strictly prohibits the purchase of gift cards.

The University issued two procurement cards each to thirteen cardholders in violation of the State's procurement card policy. Paragraph V.C.1, Card Issuance Requirements, of the South Carolina Purchasing Card Policy And Procedures manual limits one procurement card per cardholder.

We recommend the University revise its internal Procurement Card Policies and Procedures manual to comply with State policies.

University Response

Clemson will explore modifying our policies and procedures to reflect and comply with the State policies while at the same time pursuing either an exception to the current policies or a change in the policies to allow both of these practices as we believe they allow for much better controls over required purchases than the alternatives we are left with under the current State policies.

B. Cardholder Single Transaction Limits Exceeded Authorized Amount

We identified five cardholders with single transaction limits (STL) that exceeded the amount authorized. The University received approval from the Materials Management Office (MMO) Chief Procurement Officer to authorize procurement cards with STL's up to \$15,000. Our test revealed five individuals exceeding the \$15,000 authorized limit ranging from \$22,000 to \$35,000. Section II.D, Dollar

Limits, of the South Carolina Purchasing Card Policy And Procedures, requires prior approval from the MMO Chief Procurement Officer.

We recommend the University comply with the single transaction limits authorized by the MMO Chief Procurement Officer in accordance with State policy.

University Response

Clemson has followed our current practices since the early years of the p-card program with the State and we believed we were following approvals that were granted back then. Upon review, we realize we do not have these approvals in writing and therefore will seek a formal approval regarding the management of STLs with the Chief Procurement Officer.

III. Ratifications of Unauthorized Procurements

We reviewed ratifications of unauthorized procurements to determine if the ratifications were properly executed in accordance with Regulation 19-445.2015. We noted six instances where the ratification failed to address action taken against the individual committing the act. Two of these also failed to address the corrective action taken to prevent recurrence. Regulation 19-445.2015 B. states, “All decisions to ratify or terminate a contract shall be supported by a written determination of appropriateness. In addition, the appropriate official shall prepare a written determination as to the facts and circumstances surrounding the act, what corrective action is being taken to prevent recurrence, and the action taken against the individual committing the act.”

We recommend the University adhere to Regulation 19-445.2015 by addressing the required elements in its ratifications.

University Response

Clemson has addressed this issue by updating our policy on unauthorized procurements to outline actions that will be taken against the individual committing the act for various offenses. The updated policy can be found here – http://www.clemson.edu/cfo/procurement/policies/psv_policies/psv57proc.html and will be used to govern actions that will be taken on all future unauthorized procurements.

IV. Inappropriate Use of Exemption

Purchase order CU000051325 dated March 10, 2011, in the amount of \$3,300, and CU00065674 dated July 28, 2011, in the amount of \$10,646 for annual software subscription service was procured referencing a Board-granted exemption for software license renewals. These procurements did not meet the criteria established for the exemption since evidence could not be provided that the original software licenses had been competitively procured.

The Board exempted from the purchasing procedures of the Procurement Code license agreements for computer software after such software has been competitively bid as required by the Procurement Code. On April 22, 2008, the chief procurement officer (CPO) for information technology issued guidance¹ on this exemption. An excerpt from that document states, "If the software was procured through a competitive solicitation, then the renewal of that license is exempt."

We recommend the University follow the CPO guidance in using this exemption.

University Response

Clemson has implemented procedures that require the specific reference to the original PO in our eProcurement system whenever this exemption is utilized. We previously monitored for this but recognize that we failed to catch it in all instances. We believe this new procedure will allow us to better control and apply this specific exemption.

¹ The full text of the CPO guidance is available on the web at:
http://www.mmo.sc.gov/MMO/webfiles/MMO_POL_GD/Exemption_78_Clarification.pdf

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 Clemson University in compliance with the Consolidated Procurement Code and ensuing regulations.

Under the authority described in Section 11-35-1210 of the Consolidated Procurement Code, subject to this corrective action, we will recommend that Clemson 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 & Services	*\$ 2,000,000 per commitment
Information Technology	*\$ 2,000,000 per commitment
Consultant Services	*\$ 2,000,000 per commitment
Revenue Generating Management Services	*\$15,000,000 per commitment
Construction Contract	\$ 3,000,000 per commitment
Construction Contract Change Order	\$ 500,000 per change order
Architect/Engineer Contract Amendment	\$ 100,000 per amendment

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



Robert J. Aycock, IV, Manager
Audit and Certification

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MARCIA S. ADAMS
EXECUTIVE DIRECTOR

April 19, 2013

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

Dear Voight:

We have reviewed the response from Clemson University to our audit report for the period of January 1, 2008 through March 31, 2012. We have followed-up on Clemson University's corrective action during and subsequent to our fieldwork.

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

Sincerely,

Robert V. Aycock, IV, Manager
Audit and Certification

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