

**SOUTH CAROLINA DEPARTMENT OF  
HEALTH AND ENVIRONMENTAL CONTROL  
PROCUREMENT AUDIT REPORT  
OCTOBER 1, 2007 – SEPTEMBER 30, 2011**

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**MARCIA S. ADAMS  
EXECUTIVE DIRECTOR**

April 20, 2012

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 the South Carolina Department of Health and Environmental Control for the period October 1, 2007 through September 30, 2011. 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 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 South Carolina Department of Health and Environmental Control'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 the South Carolina Department of Health and Environmental Control 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 from unauthorized use or disposition and that 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 the South Carolina Department of Health and Environmental Control in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,

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

Robert J. Aycock IV, Manager  
Audit and Certification

## INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Health and Environmental Control. Our on-site review was performed December 12, 2011 through January 27, 2012 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 internal controls of the procurement system were adequate and the procurement procedures, as outlined in the Internal Procurement Policies and Procedures Manual, were in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

On June 17, 2008 the State Budget and Control Board granted the South Carolina Department of Health and Environmental Control the following procurement certifications:

| <u>PROCUREMENT AREAS</u>   | <u>CERTIFICATION LIMITS</u>                                |
|--|--|
| Annual Term Contracts for:<br>Drugs, Biological for Human use;<br>Contraceptives, Biochemicals and<br>Biochemical Research | \$ 7,500,000 maximum of all<br>contracts combined annually |
| Annual Term Contracts for Hospital<br>Hospital Sundries and Germicides   | \$ 1,000,000 maximum of all<br>contracts combined annually |
| All other Supplies and Services  | \$ 2,000,000 per commitment                                |
| Information Technology   | \$ 225,000 per commitment                                  |
| Consultant Services  | \$ 250,000 per commitment                                  |

Our audit was performed primarily to determine if recertification was warranted. Additionally, the South Carolina Department of Health and Environmental Control requested an increase in

certification for drugs, biological for human use; contraceptives, biochemicals and biochemical research with all other areas remaining the same as follows:

| <u>PROCUREMENT AREAS</u>   | <u>CERTIFICATION LIMITS</u> |
|--|-----------------------------|
| Drugs, Biological for Human use;<br>Contraceptives, Biochemicals and<br>Biochemical Research | \$12,000,000 per commitment |
| Hospital Sundries and Germicides   | \$ 1,000,000 per commitment |
| All other Supplies and Services  | \$ 2,000,000 per commitment |
| Information Technology   | \$ 225,000 per commitment   |
| Consultant Services  | \$ 250,000 per commitment   |

## 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 the South Carolina Department of Health and Environmental Control, hereinafter referred to as DHEC, 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, 2007 through September 30, 2011 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, 2007 through September 30, 2011 with exceptions noted in Section I
- (2) Procurement transactions for the period October 1, 2007 through September 30, 2011 as follows:
  - a) One-hundred and two payments each exceeding \$2,500 with no exceptions
  - b) Three-hundred and seventeen sequentially issued purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
  - c) Procurement card purchases for June - July 2011 with exceptions noted in Section III
- (3) Six contracts for compliance with the Environmental Remediation Procurement Procedures manual approved under an exemption granted by the State Budget and Control Board with exceptions noted in Section II.
- (4) Minority Business Enterprise Plans and reports with exceptions noted in Section IV 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> |
|--------------------|-------------|---------------|
| 2007-2008          | \$4,819,570 | \$4,492,029   |
| 2008-2009          | \$4,145,069 | \$1,984,106   |
| 2009-2010          | \$2,075,480 | \$1,258,372   |
| 2010-2011          | \$2,150,594 | \$ 808,412    |

- (5) Internal procurement procedures manual with no exceptions
- (6) Approval of the most recent Information Technology Plans with no exceptions
- (7) Surplus property disposition procedures with no exceptions
- (8) Ratification of unauthorized procurements with no exceptions
- (9) Other tests performed as deemed necessary with no exceptions



## SUMMARY OF AUDIT FINDINGS

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| <p>Our review of DHEC's Minority Business Enterprise (MBE) quarterly progress reports indicated all reports were not submitted timely.</p>   |             |

## 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 accuracy of the quarterly reports submitted to the Chief Procurement Officers required by Section 11-35-2440. We noted the following exceptions.

#### A. Inappropriate Sole Source Procurements

The written determinations authorizing the following sole source procurements did not provide adequate explanations to support the procurements as sole sources.

| <u>PO#</u> | <u>PO Date</u> | <u>Cost</u>    | <u>Description</u>                           |
|------------|----------------|----------------|--|
| 708967     | 12/13/07       | \$ 49,000.00   | Multi-media campaign                         |
| 750759     | 11/13/08       | \$ 90,000.00   | Statewide 2-1-1 call system service in SC    |
| 781293     | 08/26/09       | \$ 170,000.00  | Advance preparedness to all hazard disasters |
| 783278     | 09/14/09       | \$ 50,000.00   | Statewide 2-1-1 call system service in SC    |
| 784924     | 10/01/09       | \$1,021,539.00 | Preparation for a pandemic influenza event   |
| 785968     | 10/09/09       | \$ 69,798.00   | Get with the Guidelines training             |
| 4600106230 | 07/14/11       | \$ 8,440.00    | Refurbished Mobility Spectroscopy Instrument |

DHEC justified PO 708967 as a sole source as being the only known vendor with the skills, knowledge and abilities to provide a multi-media campaign and technical assistance to promote awareness and preparedness for multiple sections of the community. The service is not appropriate as a sole source because multi-media campaigns are routinely competed. Similarly, POs 750759 and 783278 for statewide 2-1-1 call centers, both issued to the same vendor, were not sole sources. The development and operation of this system should have been competed. Likewise, a sole source

procurement on PO 781293 to develop an infrastructure for assessing, planning, evaluation and improving the preparedness of the State's hospitals and health care system should have been competed. PO 784924 issued as a sole source to improve the healthcare system's ability to develop and implement activities in preparation for a pandemic influenza event should have been competed. PO 785968 issued to provide the American Heart Association's "Get with the Guidelines" training is nothing more than a training program. This procurement should have been competed as well. PO 4600106230 was justified as a sole source based on the vendor being able to provide refurbished equipment and able to accept trade-ins on existing equipment. Competition should be solicited.

Section 11-35-1560 of the South Carolina Consolidated Procurement Code states in part that, "A contract may be awarded for a supply, service, information technology, or construction item without competition if, ... 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, information technology, or construction item." "In cases of reasonable doubt, competition must be solicited."

We recommend DHEC compete these transactions in the future.

#### Department Response

We concur. The written determinations authorizing the identified sole source procurements did not provide adequate explanations to support the procurements as sole sources. In the future, we will compete these transactions or, if determined to be sole sources, will sufficiently document this in the written determination.

#### B. Inappropriate Emergency Procurements

The written determinations authorizing the following emergency procurements did not provide adequate explanations to support the procurements as emergencies.

| <u>PO#</u> | <u>PO Date</u> | <u>Cost</u>  | <u>Description</u>       |
|------------|----------------|--------------|--------------------------|
| 754417     | 12/15/08       | \$500,000.00 | Detection Kits           |
| 761933     | 02/26/09       | \$100,000.00 | Immune Globulin Products |
| 768986     | 05/05/09       | \$100,000.00 | Immune Globulin Products |
| 4600087980 | 03/24/11       | \$100,000.00 | Immune Globulin Products |

DHEC justified an emergency procurement on PO 754417 because the current contract expired before another had been awarded. Sufficient time to solicit and award another contract had not been provided. DHEC submitted a requisition to MMO to bid an estimated \$4.25 million contract on October 7, 2008 to replace a contract expiring on December 18, 2008. Given the complexity of the procurement due to its value, MMO was not allowed sufficient time to solicit and award another contract before the existing contract expired. The new contract award was finalized on March 3, 2009. To cover the gap between the new contract and the expiration of the old, DHEC authorized an emergency procurement. The emergency could have been avoided through better planning.

Purchase Orders 761933, 768986 and 4600087980 were issued as back-ups to an existing contract for immune globulin products as emergencies based on anticipated needs if an outbreak of food borne illnesses, or exposure to rabies and/or hepatitis occurred and the contract vendor could not fulfill its obligations. Since an emergency condition never existed, immediate action was not necessary. DHEC could have competed these back-up contracts under normal procedures. Had an outbreak occurred during this process, an emergency determination could have been authorized and orders immediately placed.

Section 11-35-1570 of the South Carolina Consolidated Procurement Code authorizes the use of emergency procurements only when there exists an immediate threat to public health, welfare, critical economy and efficiency, or safety under emergency conditions.

We recommend DHEC compete these procurements in accordance with normal procedures in the future.

Department Response

We concur. The written determinations authorizing the identified emergency procurements did not provide adequate explanations to support the procurements as emergencies. In the future, we will compete these transactions.

C. Drug-Free Workplace Certification

DHEC did not obtain certifications from its contractors stating they maintained drug-free workplaces prior to award of contracts for the following sole source procurements of \$50,000 or more.

| <u>PO#</u> | <u>PO Date</u> | <u>Cost</u>    | <u>Description</u>                           |
|------------|----------------|----------------|--|
| 750759     | 11/13/08       | \$ 90,000.00   | Statewide 2-1-1 call system service in SC    |
| 781293     | 08/26/09       | \$ 170,000.00  | Advance preparedness to all hazard disasters |
| 783278     | 09/14/09       | \$ 50,000.00   | Statewide 2-1-1 call system service in SC    |
| 784924     | 10/01/09       | \$1,021,539.00 | Preparation for a pandemic influenza event   |
| 785968     | 10/09/09       | \$ 69,798.00   | Get with the Guidelines training             |
| 754802     | 12/17/08       | \$ 50,000.00   | Pathatrix Ultra Unit                         |

Section 44-107-30 of the Drug-Free Workplace Act requires a written certification from contractors on any contract of \$50,000 or more stating the contractor will provide a drug-free workplace. Sole source procurements are subject to this law.

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

Department Response

We concur with the findings. We have reminded staff of the necessity of obtaining drug-free workplace certifications from vendors on all contracts of \$50,000 or more as required by the Act. We have also added the drug-free workplace clause to the templates used for all professional service contracts.

## II Environmental Remediation Projects

On October 24, 1995, the Budget and Control Board exempted environmental remediation projects from the purchasing policies and procedures of the Procurement Code, provided that these contracts are procured in accordance with procedures established by the Office of the State Engineer. We tested environmental remediation procurements to determine compliance with the approved procedures resulting with the following exceptions.

### A. Bid Documents and Award Notice Did Not Provide Bidder Grievance Rights

Bidder grievance rights were not provided in either the bid documents or the award notices for the following transactions.

| <u>PO #</u> | <u>Project</u>  | <u>Amount of Award</u> |
|-------------|---|------------------------|
| 4600083380  | Underground Storage Tank Corrective Action                                      | \$108,500              |
| 4600101714  | Environmental Consulting Contract for DHEC<br>Underground Storage Tank Division | \$500,000              |

Additionally, bidder grievance rights were not provided in the award notice for the following transaction.

| <u>PO#</u> | <u>Project</u>  | <u>Amount of Award</u> |
|------------|---|------------------------|
| 732429     | Services to perform investigations of petroleum releases<br>from regulated underground storage tank sites | \$524,700              |

Section I.B.(7), Award, of the Environmental Remediation Procurement Procedures manual states in part, "...The Invitation for bids and the posted notice must contain a statement of a bidder's right for grievance outlined in Section IV of these procedures...."

We recommend DHEC comply with its Environmental Remediation Procurement Procedures manual by providing bidder grievance rights in bid documents and award notices in the future.

Department Response

We concur with the findings. In the future, we will comply with the Environmental Remediation Procurement Procedures manual by providing bidder grievance rights in bid documents and award notices.

B. Award Notices Not Sent to Offerors

DHEC could not provide evidence that award notices had been sent to all responding offerors on two solicitations. Further, DHEC did not provide for the eleven day bidder grievance period before finalizing awards.

| <u>PO #</u> | <u>Project</u>  | <u>Amount of Award</u> |
|-------------|---|------------------------|
| 4600083380  | Underground Storage Tank Corrective Action                                      | \$108,500              |
| 4600101714  | Environmental Consulting Contract for DHEC<br>Underground Storage Tank Division | \$500,000              |

Section II, Award Notification, of the bid solicitation documents states in part, "...Should the contract resulting from this Solicitation have a total or potential value of one hundred thousand dollars or more, such notice will be sent to all Offerors responding to the Solicitation and any award will not be effective until the eleventh day after such notice is given."

We recommend DHEC adhere to its obligations provided in its bid solicitations.

Department Response

We concur. For future Environmental Remediation projects we will ensure that award notices are sent to all responding offerors and that the eleven day bidder grievance period is allowed before finalizing awards.

III. No Annual Review of the Purchasing Card Program

Section III.A.1.ix of the Division of Procurement Services Materials Management Office South Carolina Purchasing Card Policy and Procedures manual requires the development of an internal policy governing the use of purchasing cards to include, but not limited to, the creation of a provision for audit or other independent review of all areas of program administration and transactions at least annually. According to DHEC, audits of procurement card activity were conducted by its Office of Internal Audits and the Legislative Audit Council.

We recommend DHEC create and implement an internal policy for the provision of audit or other independent review of all areas of program administration and transactions of the procurement card at least annually.

Department Response

We concur with this finding. While we have conducted “informal” audits on a routine basis, we will ensure that procurement card transactions are audited more fully.

IV. MBE Quarterly Progress Reports Not Submitted Timely

DHEC did not always submit Minority Business Enterprise (MBE) quarterly progress reports of its MBE activity to the Governor’s Office of Small and Minority Business Assistance (OSMBA) in a timely manner. Our review revealed the following quarterly progress reports not being submitted timely.

| <u>Quarterly Reports</u> | <u>Date Submitted</u> | <u>Days past due</u> |
|--------------------------|-----------------------|----------------------|
| 04/01/09 - 06/30/09      | 01/18/12              | 901                  |
| 07/01/09 - 09/30/09      | 12/21/11              | 781                  |
| 10/01/09 - 12/31/09      | 12/21/11              | 689                  |
| 01/01/10 - 03/31/10      | 01/11/12              | 630                  |
| 04/01/10 - 06/30/10      | 12/21/11              | 508                  |
| 07/01/10 - 09/30/10      | 12/02/11              | 397                  |



| <u>Quarterly Reports</u> | <u>Date Submitted</u> | <u>Days past due</u> |
|--------------------------|-----------------------|----------------------|
| 10/01/10 - 12/31/10      | 12/02/11              | 303                  |
| 01/01/11 - 03/31/11      | 12/02/11              | 216                  |
| 04/01/10 - 06/30/11      | 12/02/11              | 124                  |
| 07/01/11 - 09/30/11      | 01/26/12              | 87                   |

Section 11-35-5240 (2) states in part, “Progress reports must be submitted to the (OSMBA) no later than thirty days after the end of each fiscal quarter....”

We recommend DHEC submit MBE quarterly progress reports in a timely manner as required by the Code.

Department Response

We concur with the findings. We have put in place processes and have tasked staff with ensuring that MBE quarterly progress reports are submitted to OSMBA in a timely manner.

## 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 the South Carolina Department of Health and Environmental Control in compliance with the South Carolina Consolidated Procurement Code.

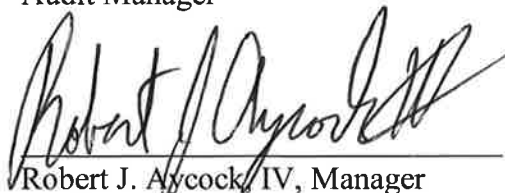
Under the authority described in Section 11-35-1210 of the South Carolina Consolidated Procurement Code, subject to this corrective action, we will recommend the South Carolina Department of Health and Environmental Control be certified to make direct agency procurements for three years up to the following limits:

| <u>PROCUREMENT AREAS</u>   | <u>CERTIFICATION LIMITS</u>  |
|--|------------------------------|
| Drugs, Biological for Human use;<br>Contraceptives, Biochemicals and<br>Biochemical Research | *\$12,000,000 per commitment |
| Hospital Sundries and Germicides   | *\$ 1,000,000 per commitment |
| All other Supplies and Services  | *\$ 2,000,000 per commitment |
| Information Technology   | *\$ 225,000 per commitment   |
| Consultant Services  | *\$ 250,000 per commitment   |

\*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

NIKKI R. HALEY, CHAIR  
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COMMITTEE

MARCIA S. ADAMS  
EXECUTIVE DIRECTOR

January 14, 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 the Department of Health and Environmental Control to our audit report for the period of October 1, 2007 through September 30, 2011. We have followed-up on DHEC's corrective action during and subsequent to our fieldwork.

Therefore, we recommend the Budget and Control Board grant DHEC 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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