

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION

PROCUREMENT AUDIT REPORT

JULY 1, 2007 – MARCH 31, 2011

TABLE OF CONTENTS

	<u>PAGE</u>
Transmittal Letter	1
Introduction	3
Scope	5
Summary of Results	7
Results of Examination	8
Certification Recommendations	13
Department's Response to Audit Report.....	14
Follow-up Letter.....	15

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March 26, 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 Transportation for the period July 1, 2007 through March 31, 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 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 the South Carolina Department of Transportation. 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 the South Carolina Department of Transportation 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 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 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 Transportation 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 the South Carolina Department of Transportation. We conducted our on-site review from June 27 through September 23, 2011. 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 May 13, 2008 the State Budget and Control Board granted the South Carolina Department of Transportation the following procurement certifications.

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies	\$ 1,000,000 per commitment
Services	\$ 500,000 per commitment
Consultants	\$ 50,000 per commitment
Information Technology	\$ 100,000 per commitment
Construction Services	\$10,000,000 per commitment ¹
Construction Contract Change Order	25% of initial Construction Contract, aggregate amount
Architect/Engineer Contract Amendment	25% initial Architect/Engineer Contract, aggregate amount

Our audit was performed primarily to determine if recertification is warranted. Additionally, the South Carolina Department of Transportation requested the following certifications.

¹ The Construction Certification of \$10,000,000 applies only to acquisitions by competitive sealed bidding (IFB) using a Design-Bid-Build Project delivery method. Prequalification on a contract with a total potential value above \$100,000 must be approved in writing by the State Engineer. Compliance with the Manual for Planning and Execution of State Permanent Improvement Projects, Part II is required.

PROCUREMENT AREAS

REQUESTED CERTIFICATION LIMITS

Supplies	\$ 1,000,000 per commitment
Services	\$ 500,000 per commitment
Consultants	\$ 100,000 per commitment
Information Technology	\$ 100,000 per commitment
Construction Services	\$ 500,000 per commitment
Construction Contract Change Order	\$ 100,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 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 the South Carolina Department of Transportation 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.

Scope Limitation: Because of very broad exemptions granted in Section 11-35-710(1) of the Consolidated Procurement Code, the South Carolina Department of Transportation's procurements for construction, maintenance, and repair of bridges, highways, and roads; vehicles and road equipment maintenance and repair; and other emergency-type parts or equipment are exempt from the State Procurement Code. The broad exemptions remove statutory oversight authority from the State's three chief procurement officers' area of responsibility. For this reason, our audit did not include procurements under the exemptions which represent most of what the South Carolina Department of Transportation procures.

We selected samples for the period July 1, 2007 through March 31, 2011 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 July 1, 2007 through March 31, 2011 with exceptions noted in Section III of the report
- (2) Procurement transactions for the period July 1, 2007 through March 31, 2011 as follows:
 - a) One hundred-two payments each exceeding \$2,500 with no exceptions
 - b) Five construction contracts and four professional service contracts for compliance with The Manual for Planning and Execution of State Permanent Improvements with no exceptions
 - c) Six-hundred 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 I and II of the report

- (3) Minority Business Enterprise Plans and reports with no exceptions; and the following activities reported to The Governor's Office of Small and Minority Business Assistance

<u>Fiscal Year</u>	<u>Goal</u>	<u>Actual</u>
2007-2008	\$3,451,190	\$3,077,904
2008-2009	\$2,701,642	\$2,058,121
2009-2010	\$2,628,832	\$5,139,118
2010-2011	\$3,458,554	\$8,717,223

- (4) Approval of the most recent Information Technology Plan with no exceptions
- (5) Internal procurement procedures manual with exceptions noted in Section II of the report
- (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 an exception noted in Section IV of the report

SUMMARY OF RESULTS

	<u>PAGE</u>
I. <u>Procurement Card Transactions</u>	
A. <u>Procurement Cardholders Issued Multiple Cards</u>	8
<p>DOT issued one hundred-four employees multiple procurement cards in violation of the State's procurement card policy.</p>	
B. <u>Mandatory Statewide Contract Not Used</u>	8
<p>Procurement card transactions totaling \$4,345 were made on September 3 and September 15, 2009, to procure brush cutters from a vendor who did not have the State term contract for this equipment.</p>	
II. <u>District Field Office Procurement Card Exceptions</u>	
A. <u>Untimely Statement Reconciliations</u>	9
<p>One hundred - sixty nine individual cardholder statements were not reconciled in a timely manner.</p>	
B. <u>Inappropriate Hierarchical Approval</u>	9
<p>We noted 31 instances where supervisors used subordinates to approve the supervisors' procurement card purchases in violation of the State's procurement card policy. Subordinates would not be in a position of authority to question such purchases.</p>	
C. <u>Cardholder Statement Reconciliations</u>	10
<p>We noted 28 instances where individual cardholder statement reconciliations were either not signed or dated by either the cardholder or the liaison.</p>	
III. <u>Sole Source and Emergency Procurements</u>	
A. <u>Inappropriate Sole Source Procurements</u>	10
<p>Three procurements made as sole source were inappropriate.</p>	
B. <u>Emergency Determinations Not Provided</u>	11
<p>DOT did not provide the written determinations that authorized the use of emergency procurement procedures on five transactions.</p>	
IV. <u>Former DOT Employee Defrauded Agency</u>	12
<p>DOT discovered where an employee defrauded the agency in excess of \$53,000.</p>	

RESULTS OF EXAMINATION

I. Procurement Cards

Our review of the South Carolina Department of Transportation's, hereinafter referred to as DOT, procurement cards revealed the following discrepancies.

A. Procurement Cardholders Issued Multiple Cards

DOT issued two procurement cards each to one hundred-one cardholders and issued three procurement cards each to three cardholders. All in all, DOT issued one hundred-four employees multiple procurement cards in violation of the State's procurement card policy. Paragraph V.C.1, Card Issuance Requirements, of the Division Of Procurement Services Materials Management Office South Carolina Purchasing Card Policy And Procedures manual (MMO Manual) allows one procurement card to be issued per cardholder. The MMO Manual establishes minimum standards for use of the P-Card in order to ensure compliance with all applicable State laws pertaining to purchasing as contained in the State Code.

We recommend DOT comply with the one card per cardholder requirement in accordance with State policy.

B. Mandatory Statewide Contract Not Used

Procurement card transactions totaling \$4,345 were made on September 3 and September 15, 2009, to procure brush cutters from a vendor who did not have the State term contract for this equipment. Section 11-35-310(35) of the State Procurement Code states in part, "'Term contract' means contracts established by the chief procurement officer (CPO) for specific supplies, services, or information technology for a specified time and for which it is mandatory that all governmental bodies procure their requirements during its term." The CPOs establish these contracts for frequently used items and services by guaranteeing vendors that governmental bodies will procure all purchases for those particular items or services through these contracts. By doing so, the State uses its buying power to get better pricing. Buying these items from vendors other than the State contract holder violates the contract, as well as the law.

We recommend DOT adhere to the requirements in section 11-35-310(35) regarding State term contracts.

II. District Field Office Procurement Card Exceptions

We selected four out of the seven district field offices to test procurement card transactions for compliance with the SCDOT Purchasing Card Program, Policy & Procedures Manual. We reviewed the March and June, 2011, statements noting the following discrepancies.

A. Untimely Statement Reconciliations

One hundred seventy (170) individual cardholder statements were not reconciled timely. Paragraph X.1 of the SCDOT Purchasing Card Program, Policy & Procedures Manual requires reconciliation of monthly individual cardholder statements within 5 days of receipt. The late individual cardholder statement reconciliations ranged from 8 to 157 days after the statement date.

We recommend DOT comply with its manual regarding timely reconciliations of the monthly individual cardholder statements.

B. Inappropriate Hierarchical Approval

We noted 31 instances where supervisors used subordinates to approve the supervisors' procurement card purchases. Section V.A.(3) Program Compliance, Internal Controls, of the MMO Manual requires, "Appropriate hierarchical review and approval of purchases by someone with supervisory authority over the Cardholder and/or with the authority to question purchases if needed". It is inappropriate for supervisors to require subordinates to approve procurement card purchases made by supervisors. The subordinate would not be a position of authority to question such purchases.

We recommend DOT comply with the MMO Manual by requiring approval of supervisors' procurement card transactions by someone with authority to question the purchases if needed. The DOT manual needs to be revised to reflect the requirements in section V.A. Program Compliance, Internal Controls of the MMO Manual.

C. Cardholder Statement Reconciliations

We noted 28 instances where individual cardholder statement reconciliations were either not signed or dated by either the cardholder or liaison. Paragraph III.1 of the SCDOT Purchasing Card Program, Policy & Procedures Manual requires the cardholders to sign and date each statement acknowledging its correctness and then forward it to the liaisons. Paragraph III.2 requires the liaisons to sign and date each statement after their reconciliations.

We recommend DOT comply with Section III of its manual regarding cardholder and liaison reconciliations.

III. Sole Source and Emergency Procurements

Sections 11-35-1560 and 11-35-1570 of the Consolidated Procurement Code authorizes the use of sole source and emergency procurements respectively. We noted the following issues.

A. Inappropriate Sole Source Procurements

The following procurements made as sole sources were determined to be inappropriate.

<u>PO</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
348631	11/01/07	Consulting Service	\$ 75,000.00
349291	12/10/07	Maintenance Agreement	\$ 30,000.00
359059	03/12/09	Moodle Hosting Service	\$ 9,394.60

The written determination for the consulting service was based on the company being familiar and knowledgeable of the services required. The sole source determination does not adequately explain why this company is the only source for the required service or why no other vendor would be acceptable to meet the need. The written determination for the maintenance agreement was based on the company being an authorized dealer for South Carolina. The sole source determination did not address whether this company was the only authorize dealer. The written determination for the moodle hosting service (e-learning programs) actually indicated there were a number of e-learning programs available through the market place and through state contracts. Further, even if no other e-learning programs could meet DOT requirements

except for this one program, the sole source does not address that this vendor is the only vendor that provides this program.

We recommend DOT compete these procurements in the future.

B. Emergency Determinations Not Provided

DOT did not prepare written determinations authorizing the use of emergency procurement procedures for the following procurements reported as emergencies.

<u>PO#</u>	<u>Date</u>	<u>Description</u>	<u>Cost</u>
374566	01/12/11	Sand (Emergency Snow & Ice)	\$ 5,500.00
375028	01/31/11	Sand for Snow & Ice	\$19,467.20
375068	02/03/11	Bulk Salt for Ice Control	\$12,702.62
375240	02/09/11	River Sand	\$11,972.20
375242	02/09/11	Washed Screening for Snow & Ice	\$11,011.68

Section 11-35-1570 of the Code provides the requirements for the use of emergency procurement procedures. It provides that emergency procurements may be made when conditions exist that create an immediate and serious need for supplies, services, information technology, or construction that cannot be met through normal procurement methods, and the lack of which would threaten the functioning of State Government, preservation or protection of property, or health or safety of any person. The written determination must be prepared by an authorized official stating the basis for the emergency procurement and the basis for selecting the particular contractor. Determinations must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision. Absent legitimate determinations, which are required by law, all of these procurements are inappropriate as emergencies. Further, since written determinations were not provided to validate the authority required to declare an emergency procurement, the procurements were also unauthorized and require ratification as defined in Regulation 19-445.2015.

We recommend DOT adhere to section 11-35-1570 of the Code in processing emergency procurements. Further, a ratification request must be submitted to the Secretary of Transportation or his designee for the unauthorized procurements in accordance with Regulation 19-445.2015.

IV. Former DOT Employee Defrauded Agency

Government Auditing Standards Chapter 8: Reporting Standards for Performance Audits, published by the US Government Accountability Office, paragraph 8.18 states,

Auditors should report deficiencies in internal control that are significant within the context of the objectives of the audit, all instances of fraud, illegal acts unless they are inconsequential within the context of the audit objectives, significant violations of provisions of contracts or grant agreements, and significant abuse that have occurred or are likely to have occurred.

In accordance with this reporting standard, DOT's Office of the Chief Internal Auditor (OCIA) issued a special report dated May 3, 2011, regarding a fraud of over \$53,000. The report identified internal control weaknesses that contributed to the fraud.

Criminal charges were filed through the South Carolina Law Enforcement Division with the individual being arrested on April 8, 2011 on charges of Breach of Trust. According to the arrest warrant, the employee used a state issued credit card to make more than \$53,000 worth of fraudulent purchases for personal use.

The OCIA special report presented recommendations to the Deputy Secretary of Finance and Administration to strengthen internal controls. We have no further recommendations.

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 Transportation in compliance with the Consolidated Procurement Code and ensuing regulations.

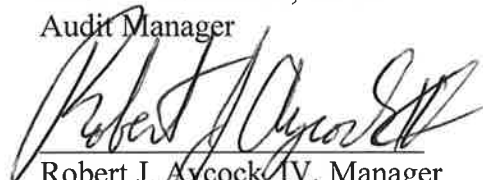
Under the authority described in Section 11-35-1210 of the Consolidated Procurement Code, subject to this corrective action, we will recommend that the South Carolina Department of Transportation be recertified to make direct agency procurements for three years up to the limits as follows:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies	*\$ 1,000,000 per commitment
Services	*\$ 500,000 per commitment
Consultant Services	*\$ 100,000 per commitment
Information Technology	*\$ 100,000 per commitment
Construction Services	\$ 500,000 per commitment
Construction Contract Change Order	\$ 100,000 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

July 18, 2012

Mr. Robert J. Aycock, IV, Manager,
Audit and Certification
Materials Management Office
1201 Main Street – Suite 600
Columbia, SC 29201

RE: Response to Procurement Audit Report

Dear Mr. Aycock:

The South Carolina Department of Transportation (SCDOT) appreciates the opportunity to respond to issues identified during your most recent audit of SCDOT procurement practices. We concur with the reported findings.

The multiple procurement cards cited in section I A of the report have already been eliminated. We are scheduled to begin a complete reimplementation of the Bank of America *WORKS* program later this month. We will update our internal procurement card policies and procedures and ensure all procurement card related recommendations from this audit are addressed during the reimplementation process.

SCDOT agrees to implement the recommendations regarding sole source and emergency procurements.

We thank you and your staff for the professionalism displayed throughout the audit process.

Sincerely,



Sherry D. Barton
Chief Procurement Officer

SDB: clb

cc: Christy A. Hall, Deputy Secretary for Finance and Administration
Procurement



NIKKI R. HALEY, CHAIR
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July 20, 2012

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Mr. R. Voight Shealy
Material 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 Transportation to our audit report for the period of July 1, 2007 through March 31, 2011. We have followed-up on the Department's corrective action during and subsequent to our fieldwork.

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

Sincerely,

Robert J. Aycock, IV, Manager
Audit and Certification

cc: Allen Townsend, Audit Manager

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