

**SOUTH CAROLINA DEPARTMENT OF
LABOR, LICENSING AND REGULATION**

PROCUREMENT AUDIT REPORT

JANUARY 1, 2007 – MARCH 31, 2010

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August 1, 2010

Mr. R. Voight Shealy
Materials Management Officer
Procurement Services Division
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 Labor, Licensing and Regulation for the period January 1, 2007 through March 31, 2010. 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 Consolidated Procurement Code, State regulations, and the Department's procurement policy. 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 Labor, Licensing and Regulation is responsible for establishing and maintaining a system of internal controls over procurement transactions. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of a system are to provide management with

reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are safeguarded against loss from unauthorized use or disposition and that transactions are executed in accordance with management's authorization and recorded properly.

Because of inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the system to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Our study and evaluation of the system of internal controls over procurement transactions, as well as our overall examination of procurement policies and procedures, were conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report that 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 Labor, Licensing and Regulation in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,

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

Robert B. 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 Labor, Licensing and Regulation. Our on-site review, conducted April 19 – June 4, 2010, 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 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 South Carolina Consolidated Procurement Code and its ensuing regulations.

On May 15, 2007, the State Budget and Control Board granted the South Carolina Department of Labor, Licensing and Regulation the following procurement certifications over the \$50,000 basic limit allowed by law:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	\$100,000 per commitment
Consultants Services	\$100,000 per commitment

The South Carolina Department of Labor, Licensing and Regulation requested to remain at the current certification levels. Our audit was performed primarily to determine if recertification is warranted.

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 Labor, Licensing and Regulation 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 a judgmental sample for the period July 1, 2007 through December 31, 2009, 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 January 1, 2007 through March 31, 2010, with seven exceptions noted in Section I of the report
- (2) Procurement transactions for the period July 1, 2007 through December 31, 2009 as follows:
 - a) One hundred one payments exceeding \$2,500 each with two exceptions noted in Sections II and III of the report
 - b) Three hundred forty-eight numerical purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
- (3) File documentation with no exceptions
- (4) Minority Business Enterprise plans and reports for the audit period 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>
2007-2008	\$ 62,526	\$ 80,433
2008-2009	\$ 67,911	\$106,996
2009-2010	\$ 62,526	\$ 48,339 ¹

- (5) Ratification files of unauthorized procurements with no exceptions

¹ Due to the timing of the audit, the final amount of MBE expenditures for Fiscal Year 2009-2010 was incomplete.

- (6) Approval of most recent Information Technology Plan with no exceptions
- (7) Internal procurement procedures manuals with no exceptions
- (8) Surplus property disposal procedures with no exceptions

SUMMARY OF AUDIT FINDINGS

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I. <u>Non-Compliance with Drug-Free Workplace Act</u>	7
<p>Seven sole source procurements with values greater than fifty thousand dollars were entered into without certification of a drug-free workplace by the contractor.</p>	
II. <u>No Competition</u>	7
<p>One procurement was processed without evidence of competition.</p>	
III. <u>Insufficient Competition</u>	8
<p>The Department claims it obtained quotes on one procurement but discarded those quotes when it was thought the work was going to remain under the competition threshold. The final invoice exceeded that amount.</p>	

RESULTS OF EXAMINATION

I. Non-Compliance with Drug-Free Workplace Act

The South Carolina Department of Labor, Licensing and Regulation, hereinafter referred to as the Department, failed to obtain certifications that the vendors maintained a Drug-Free Workplace prior to award of contracts for seven sole source procurements greater than \$50,000 for the period reviewed.

<u>Date</u>	<u>PO</u>	<u>Description</u>	<u>Amount</u>
10/15/07	80447	Fuel for Firefighter Training	\$213,000
01/29/08	80541	Breathing Apparatuses and Parts	\$ 67,110
07/01/08	90125	Drug Referral and Monitoring Services	\$600,000
08/06/08	90345	Wireless Monitoring System	\$443,611
11/06/08	90452	Fuel for Firefighter Training	\$330,000
11/26/08	90483	Consulting Services	\$680,000
07/06/09	100109	Fuel for Firefighter Training	\$330,000

All of the contracts were procured as sole sources without having a signed affidavit from the vendors indicating they would provide a drug-free workplace. 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 that the vendors will provide a drug-free workplace. Sole source procurements are subject to this law.

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

II. No Competition

On June 20, 2008, the Department issued purchase order 86656 in the amount of \$3,235 for catered meals without soliciting quotes. These meals were used for employee appreciation under Section 8-1-180 which allows for the purchase of tokens of recognition for employees. Section 11-35-1550(2)(b) of the Procurement Code requires for procurements over \$2,500 up to \$10,000, that solicitations of three written quotes be made.

We recommend the Department solicit competition as required by the Code.

III. Insufficient Competition

On June 26, 2008, the Department issued purchase order 86658 in the amount of \$2,450 for plumbing repairs. A change order was authorized on July 16, 2008, increasing the amount of the purchase order to \$3,875 after it was discovered that additional work was needed. The Department claims it had obtained quotes for the original plumbing work, but discarded those quotes when it was thought the work was going to remain under the \$2,500 competitive threshold.

The vendor issued an invoice for \$3,875 on July 3, 2008. After re-examining the work performed, the Department determined that the invoice did not reconcile with the work that was quoted and, therefore, requested the vendor issue a corrected invoice. The vendor corrected the invoice to the amount of \$3,250 and purchase order 90333 was issued on July 29, 2008, cancelling the original purchase order.

Because a) the contractor performed additional work not covered by the original quotation, b) the additional quotes were discarded, and c) the total amount of the procurement exceeded the \$2,500 competition threshold, the Department effectively entered into a contract without competition or any other source selection method.

We recommend the Department maintain all quotations for procurements, even when the value of the procurement does not exceed the competition threshold. Competition requirements as outlined in the Procurement Code must be adhered to.

CONCLUSION

As enumerated in transmittal letter, corrective action based on the recommendations described in this report, will in all materials respects place the South Carolina Department of Labor, Licensing and Regulation 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 will recommend the South Carolina Department of Labor, Licensing and Regulation be recertified to make direct Department procurements for three years up to the limits as follows:

PROCUREMENT AREAS

RECOMMENDED CERTIFICATION LIMITS

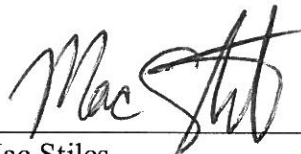
Supplies and Services

*\$100,000 per commitment

Consultant Services

*\$100,000 per commitment

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



Mac Stiles
Senior Auditor



Robert J. Aycock IV, Manager
Audit and Certification



South Carolina
Department of Labor, Licensing and Regulation

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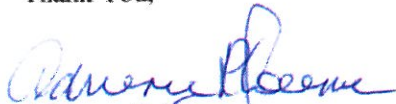
September 29, 2010

Robert J. Aycock IV, Manager
Audit & Certification
Materials Management Office
1201 Main St., Suite 600
Columbia, SC 29201

Dear Mr. Aycock:

We have reviewed your draft of the procurement audit for the Department of Labor, Licensing and Regulation for the period January 1, 2007 – December 31, 2010. Recommendations made by Audit and Certification are being implemented to insure compliance with all applicable provisions of the Consolidated Procurement Code.

Thank You,


Adrienne R. Youmans
Director

Cc: Janice A. Bell, CPPB

MARK SANFORD, CHAIRMAN
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CONVERSE A. CHELLIS, III, CPA
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September 29, 2010

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

Dear Voight:

We have reviewed the response from the Department of Labor, Licensing and Regulation to our audit report for the period of January 1, 2007 to March 31, 2010. Also we have followed the Department's corrective action during and subsequent to our fieldwork. We are satisfied that the Department of Labor, Licensing and Regulation has corrected the problem areas and the internal controls over the procurement system are adequate.

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

Sincerely,

Robert J. Aycock, IV, Manager
Audit and Certification

RJA/gs

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