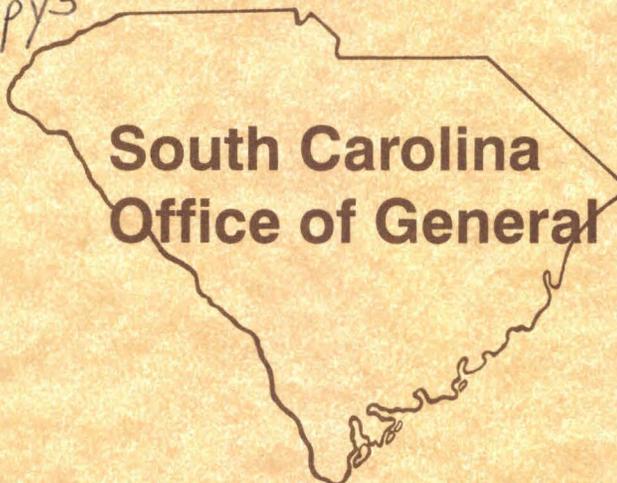


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PROCUREMENT AUDIT AND CERTIFICATION

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**SOUTH CAROLINA DEPARTMENT
OF EDUCATION**

AGENCY

JULY 1, 1995 - MARCH 31, 1998

DATE

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State Budget and Control Board
OFFICE OF GENERAL SERVICES



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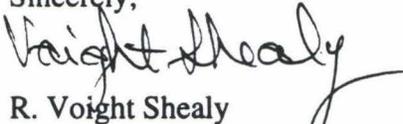
VOIGHT SHEALY
ASSISTANT DIRECTOR
September 8, 1998

Ms. Helen T. Zeigler, Director
Office of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Helen:

I have attached the South Carolina Department of Education's procurement audit report and recommendations made by the Office of Audit and Certification. I concur and recommend the Budget and Control Board grant the Department a three year certification as noted in the audit report.

Sincerely,


R. Voight Shealy
Materials Management Officer

/tl

SOUTH CAROLINA DEPARTMENT OF EDUCATION

PROCUREMENT AUDIT REPORT

JULY 1, 1995 - MARCH 31, 1998

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

STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF GENERAL SERVICES



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VOIGHT SHEALY
ASSISTANT DIRECTOR
July 22, 1998

Mr. R. Voight Shealy
Materials Management Officer
Office of General 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 Education for the period July 1, 1995 through March 31, 1998. 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 was to establish a basis for reliance upon the system of internal control to assure adherence to the Consolidated Procurement Code and Department 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 Education is responsible for establishing and maintaining a system of internal control 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, assurances 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 control, 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 control 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 Education in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,



Larry G. Sorrell, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Education. Our on-site review was conducted March 23 through April 8, 1998 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 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.

Additionally, our work was directed toward assisting the South Carolina Department of Education in promoting the underlying purposes and policies of the Code as outlined in Section 11-35-20, which include:

- (1) to ensure the fair and equitable treatment of all persons who deal with the procurement system of this State
- (2) to provide increased economy in state procurement activities and to maximize to the fullest extent practicable the purchasing values of funds of the State
- (3) to provide safeguards for the maintenance of a procurement system of quality and integrity with clearly defined rules for ethical behavior on the part of all persons engaged in the public procurement process

BACKGROUND

Section 11-35-1210 of the South Carolina Consolidated Procurement Code states:

The (Budget and Control) Board may assign differential dollar limits below which individual governmental bodies may make direct procurements not under term contracts. The Office of General Services shall review the respective governmental body's internal procurement operation, shall verify in writing that it is consistent with the provisions of this code and the ensuing regulations, and recommend to the Board those dollar limits for the respective governmental body's procurement not under term contract.

On December 10, 1996, the Budget and Control Board granted the South Carolina Department of Education the following procurement certifications:

<u>Category</u>	<u>Limits</u>
Goods and Services	\$25,000 per commitment
Consultant Services	\$25,000 per commitment
Information Technology	\$25,000 per commitment

Our audit was performed primarily to determine if recertification is warranted. No additional certification over the current limits was requested.

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 Education and its related policies and procedure's 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, 1995 through February 28, 1998, 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, 1995 through December 31, 1997
- (2) Procurement transactions for the period July 1, 1995 through February 28, 1998 as follows:
 - a) Ninety-seven judgmentally selected procurement transactions
 - b) A block sample of four hundred twenty-nine numerical purchase orders
- (3) Minority Business Enterprise Plan and reports for the audit period
- (4) Information technology plan and approval for the audit period
- (5) Internal procurement procedures manual review
- (6) Surplus property disposition procedures
- (7) Real Property Management Office approvals of leases
- (8) File documentation and evidence of competition

SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the South Carolina Department of Education, hereinafter referred to as the Department, produced the following findings and recommendations.

	<u>PAGE</u>
I. <u>Sole Source Procurements</u>	
A. <u>Inappropriate Sole Source Procurements</u>	8
We believe ten procurements made as sole sources were inappropriate.	
B. <u>Fixed Price Bidding</u>	9
Procurements made as sole sources for training services should be procured through the fixed price bidding method.	
C. <u>Travel Costs Not Considered In Procurements</u>	10
The Department did not consider reimbursed consultant travel expenses as part of the procurement cost when the sole source method was used.	
D. <u>Drug-Free Workplace Certification</u>	11
We noted sole source and emergency procurement contracts for \$50,000 or greater where the Department did not obtain the required drug-free workplace certification. This exception was noted in our prior audit.	
E. <u>Other Sole Source Exceptions</u>	12
One sole source procurement was approved by someone who did not have sole source authority. The Department failed to report that sole source procurement and one other sole source.	
II. <u>General Procurement Exceptions</u>	
A. <u>Request For Proposal Solicitations</u>	13
Request for proposal solicitations did not include the vendor's right to protest statement nor was the statement recorded on the statement of award. The solicitations did not contain the date and award posting location. The written determinations to support the request for proposals were not prepared.	
B. <u>Purchase Order Preparation</u>	13
Two purchase orders issued for consultant contracts could not be reconciled to the vendors' invoices.	

PAGE

C. Accounts Payable And Receiving Errors

14

On one purchase, the Department received and paid for a lessor item than was specified on the purchase order. On another purchase, the vendor invoiced and was paid in advance even though such a provision was not included on the purchase order.

D. Late Payments

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Two payments were not made within thirty work days.

RESULTS OF EXAMINATION

I. Sole Source Procurements

We examined the quarterly reports of sole source and emergency procurements for the audit period. This review was performed to determine the appropriateness of the procurement actions taken and the accuracy of the reports submitted to the Office of General Services as required by Section 11-35-2440 of the Code.

A. Inappropriate Sole Source Procurements

We believe ten procurements made as sole sources were inappropriate.

<u>Item</u>	<u>PO</u>	<u>Date</u>	<u>Amount</u>	<u>Description</u>
1	P02254	10/18/95	\$25,000	Technology plan for schools
2	P21251	01/24/97	18,750	Consultant on facilities planning
3	P31105	08/14/97	12,010	Public relations firm
4	P28230	06/30/97	10,000	Public relations firm
5	P31076	08/14/97	7,500	Consultant on gifted and talented program
6	P22143	02/19/97	4,000	Consultant on special education
7	P22141	02/19/97	5,000	Teacher for statewide course
8	P33090	09/25/97	4,000	Teacher for statewide course
9	P20765	01/13/97	3,000	Teach graduate level english course
10	P29759	07/22/97	2,500	News clipping service

Item one was to a local vendor to develop a statewide technology plan for all schools. Other qualified firms were available for this type of service. Item two was for a study on facilities planning. The sole source was based on an individual's experience in construction and architecture of schools. Other qualified firms were available. Items three and four was issued to a public relations firm to developed a model to bring together the media, schools and community. The sole source was based on the firm being the best qualified. The terms "best source" and "sole source" are not synonymous. For item five the consultant was hired to give technical assistance in the area of under representation of minorities in the gifted and talented programs. On item six the consultant was hired to serve on a task force to address the overrepresentation of minorities in special education. Items seven and eight were based on the teachers being qualified and available to teach French and Spanish. Similarly, item nine was based on the teacher being

qualified and available for teaching a graduate level course to other teachers. These three teachers fit an employment contract more so than consultants. Item ten for a news clipping service was selected on the basis they were local. Other news clipping services are available.

Competition should have been sought on the cited sole sources. The request for proposal method should have been considered since other factors besides price are considered for award. This would have encouraged competition and allowed the Department to select the most qualified vendor.

We recommend the Department solicit competition on these items in the future.

DEPARTMENT RESPONSE

Sole source procurements for consultants, speakers, and trainers, such as those noted in the audit findings (items 2 and 5 through 9) continue to be areas of concern for the Department. While we always strive to seek competition in all procurements, circumstances requiring the unique capabilities, experience, and methods employed by a particular consultant, speaker, or trainer, demand we pursue a sole source procurement. We recognize the issues raised by the findings and we are in the process of soliciting a fixed price contract for consultant services to be used in the future for employing individuals for these services. The bid opening is scheduled for August 28, 1998 and we are in the process of developing procedures for procuring services from and adding consultant to the vendor's list. The firm employed in the sole source procurements noted in items 3 and 4 was replicating a model program they developed and used in other states in the country. Because it was our desire to conduct this particular program in South Carolina, a sole source procurement was pursued. We concur with the audit findings for items 1 and 10 and will solicit competition on these items in the future as per your recommendation.

B. Fixed Price Bidding

The following procurements made as sole sources for training services should not have been procured as sole sources. We believe the contracts could be procured through the fixed price bidding method.

<u>PO</u>	<u>Training Service</u>	<u>Fee/Day</u>	<u>Total Fee</u>
P12016	Teaching	\$180	\$1,800
P18111	Mathematical thinking for Kindergarten	300	1,800
PO6373	School wide discipline	900	4,500
PO3043	School wide discipline	900	4,500
PO0395	School wide discipline	900	3,600
PO9781	School wide discipline	900	1,800
PO16245	School wide discipline	1,000	9,000

<u>PO</u>	<u>Training Service</u>	<u>Fee/Day</u>	<u>Total Fee</u>
P32256	School wide discipline	\$1,000	\$4,000
P98783	Equity issues for teachers & administration	250	22,500
P99624	Assistance to first year superintendents	800	32,000
PO4367	School safety	500	7,000

On June 13, 1997, the Code was amended to allow for, among other things, fixed price bidding. This method of procurement allows an agency to determine what it is willing to pay, i.e., a fixed price, instead of vendors offering a price. The method works particularly well in a consultant environment where the agency can establish a rate of pay not to exceed a certain amount. Consultants which meet a set of qualifications established by the Department may be added to the contract at any time during the year. Different categories of training can be established with each category paying a different amount. Contracts can be established up to five years under multi-term procurement procedures.

We recommend the Department consider fixed price solicitations for hiring training consultants by establishing minimum set of consultant qualifications and determining a fair market price to offer the consultants.

DEPARTMENT RESPONSE

As noted in the previous section, we are in the process of awarding a fixed price contract for consultant services that will be opened August 28, 1998. We believe this contract will greatly reduce the number of sole source service procurements awarded by the Department

C. Travel Costs Not Considered In Procurements

The Department does not consider reimbursed consultant travel expenses when determining the total value of sole source procurements. Travel costs and other reimbursables must be considered as part of the actual cost of the procurement.

We recommend that requisitions sent to the Procurement Office for consultant services include an estimate for reimbursable consultant travel expenses. All costs associated with the hiring of a consultant must be considered in determining the most appropriate method of procurement and also when reporting sole source dollars. These costs should be included on the purchase order.

DEPARTMENT RESPONSE

It is our understanding the Comptroller General's Office will not process purchase orders for payment of travel reimbursements. For this reason, we do not include these charges on purchase

orders submitted. Instead, these payments are made via travel reimbursement vouchers. In the future, we will encumber purchase orders for sole source consultant contracts as two lines. The first line will be for services provided and the second line will be for estimated travel and subsistence reimbursements. When the voucher is paid for the consultant services, the entire purchase order will be disencumbered, allowing the budget encumbered for travel to be returned to the requesting office. The consultant will still be reimbursed for travel by submitting a travel reimbursement request. By making these changes, we will be able to accurately identify travel costs associated with consultant contracts. Given this information, the Department will more accurately report sole source information and will be able to make appropriate decisions as to procurement methods to be used.

D. Drug-Free Workplace Certification

We noted seventeen sole source procurements and one emergency procurement for \$50,000 or greater where the Department did not obtain the required certification from the vendor stating that they were in compliance with the South Carolina Drug-Free Workplace Act.

Effective January 1, 1991, Section 44-107-30 of the South Carolina Code of laws, 1976, requires that no State agency may enter into a domestic contract or make a domestic grant with any individual for a stated or estimated value of fifty thousand dollars or more unless the contract or grant includes a certification that the individual will not engage in the unlawful manufacture, distribution, possession, or use of a controlled substance in the performance of the contract.

We recommend the Procurement Office obtain the Drug-Free Workplace certification on all contracts \$50,000 or greater.

DEPARTMENT RESPONSE

In response to MMO findings in a previous audit conducted for the period July 1, 1992 to June 30, 1995, the Department implemented new procedures to ensure compliance with drug-free workplace certification requirements. The procedures require the inclusion of a drug-free certification statement in all contracts entered into by the Department. While we do not require the submission of a particular form, we feel this statement meets the requirements of the Drug-Free Workplace Act. Some of the sole sources cited did have contracts which included drug-free certification language. However, procurements made without a Department generated contract did not include certifications; therefore, we concur with the audit findings for the procurements noted in your report. In the future we will ensure the drug-free certification is included in all contracts greater than \$50,000.

E. Other Sole Source Exceptions

One sole source procurement was approved by someone who did not have the authority to do so. Also, the Department failed to report that sole source and one other sole source on the quarterly report to the Materials Management Office.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
P11555 amended	08/08/97	Phone postage meters	\$10,000
P24242	04/11/97	Consultant	12,000

On P11555 an amended purchase order was issued for the purpose of adding additional equipment to an existing contract. The person who approved the original sole source procurement had the authority to do so at one time. In November of 1996, the sole source authority was changed by the Department so that only the State Superintendent of Education could authorize such procurements. The amended sole source purchase for \$10,000 made on August 8, 1997, which was after the policy change, was not authorized by the Superintendent, thus making the procurement unauthorized as defined in Regulation 19.445-2015.

Also, Section 11-35-2440 of the Code requires that agencies submit to the Office of General Services a record listing all sole source procurements. The Department did not report the two sole source procurements.

We recommend the Department file amended reports for the two sole source procurements. Since the dollar amount is within the Department's certification limit, a ratification request for the unauthorized procurement, per Regulation 19.445-2015, must be submitted to the Superintendent.

DEPARTMENT RESPONSE

As recommended in the finding, the Department has amended the two sole source reports in question. A ratification request has been prepared for the Superintendent's review and approval for the unauthorized procurement action noted in the audit report.

II. General Procurement Exceptions

A. Request For Proposal Solicitations

Our testing revealed that request for proposal solicitations did not include the vendor's right to protest statement nor the date and award posting location which are all required in Section 11-35-1520(10). The notices of a statement of award or an intended award must also contain a statement of a bidder's right to protest per Section 11-35-4210(1).

We recommend the Department ensure that all request for proposal solicitations contain the award posting location and a statement of a vendor's right to protest. The protest rights must be recorded on all notices of award and notices of intended award as well.

Furthermore, Section 11-35-1530 requires that a written determination stating why it is either not practicable or not advantageous to the State to use competitive sealed bidding be prepared prior to a solicitation being made under the request for proposal method. The Department did not prepare the written determinations.

We recommend the Department prepare the written determination as to why the request for proposal is advantageous to the State.

DEPARTMENT RESPONSE

The rules governing protest provisions for RFP solicitations of less than \$25,000 continue to be source of confusion in the procurement community at large. Until further clarification such as new guidelines or regulations are received, the Department will include protest provisions and award posting instructions in all solicitations for RFPs.

B. Purchase Order Preparation

The Department issued purchase orders P24588 and P99567 for consultant contracts that we could not reconcile to the vendors' invoices. We could not verify the payment rates without reviewing the bid documents. Since bid documents are not made a part of the payment file, Accounts Payable cannot verify the payment rates based on the information provided on the purchase orders.

We recommend the purchase orders be prepared according to the bid documents in sufficient detail to allow Accounts Payable to verify payment rates.

DEPARTMENT RESPONSE

While the proposals for these consultant contracts included the billing information as provided on the invoices in question, the purchase orders were not prepared as such. In the future, we will ensure all purchases orders agree with billing information provided in contract proposals.

C. Accounts Payable And Receiving Errors

On purchase order 7457 the Department ordered a LCD projection panel model M3X for \$2,949. The Department received a model M2 for \$2,374 that was paid on voucher V22941. Since the purchase order differed from the invoice, the invoice should not have been paid without proper approval from the Purchasing Office.

We recommend invoices which differ from purchase orders not be paid unless a change order, if applicable, is issued authorizing such a change.

On purchase order P20162 for yearbooks, the vendor invoiced for an advance payment prior to delivery of goods. An advance payment was not included on the purchase order nor was it included in the solicitation or bid. The advance payment should not have been paid without an approved change order.

DEPARTMENT RESPONSE

On purchase order 7457 the change in model was not agreed to until the item was delivered. For this reason, the need for a change order was overlooked. We will continue to adhere to the requirement for purchase order amendments when a model number is changed. The yearbook purchase order P20162 was indeed issued without a prepay authorization. When the need for a deposit was recognized, the purchase order should have been amended to authorize prepayment. We will continue to require prepay authorization for the payment of invoices for advances.

D. Late Payments

Voucher V01925 included an invoice dated April 29, 1996, with a receiving report dated June 8, 1996. The payment was made on August 1, 1996. Voucher V16962 included an invoice dated November 13, 1996 with a receiving report dated November 8, 1996. The payment was made February 3, 1997. Section 11-35-45 requires that payments be made within thirty work days.

We recommend that payments be made timely.

DEPARTMENT RESPONSE

We have implemented a program to track the turn-around time for the payment of invoices received by the Department. It is our goal to minimize the amount of time required for the payment of invoices. We feel this program will help us identify problem areas and speed the process of making timely payments to vendors.

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 Education in compliance with the 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 Department be recertified to make direct agency procurements for three years up to the limits as follows:

<u>PROCUREMENT AREA</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Goods and Services	*\$25,000
Consultants Services	*\$25,000
Information Technology	*\$25,000

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


Robert J. Aycock, IV
Audit Manager


Larry G. Borrell, Manager
Audit and Certification

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VOIGHT SHEALY
ASSISTANT DIRECTOR
September 8, 1998

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 the South Carolina Department of Education to our audit report for the period of July 1, 1995 - March 31, 1998. Also we have followed the Department's corrective action during and subsequent to our field work. We are satisfied that the Department 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 South Carolina Department of Education the certification limits noted in our report for a period of three years.

Sincerely,

Handwritten signature of Larry G. Sorrell in cursive.

Larry G. Sorrell, Manager
Audit and Certification

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