B8595G
2.C64
1994
Copy 3

South Carolina
Division of General Services

PROCUREMENT AUDIT AND CERTIFICATION

S. C. STATE LIBRARY

DEPARTMENT OF PUBLIC SAFETY
CRIMINAL JUSTICE ACADEMY DIVISION

AGENCY

JULY 1, 1990 - JUNE 30, 1993

DATE

STATE OF SOUTH CAROLINA

State Budget and Control Board

DIVISION OF GENERAL SERVICES

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

HELEN T. ZEIGLER
DEPUTY DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600

HARDY L. MERRITT, Ph.D.
ASSISTANT DIVISION DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

February 4, 1994

Mr. Richard W. Kelly
Director
Division of General Services
1201 Main Street, Suite 420
Columbia, South Carolina 29201

Dear Rick:

I have attached the procurement audit report of the Department of Public Safety's Criminal Justice Academy Division. The audit period of the Academy was prior to restructuring of state government. However, since the Academy is a part of the Department of Public Safety now, the Office of Audit and Certification has recommended recertification for the Department of Public Safety. I concur and recommend the Budget and Control Board grant the Department a three (3) year certification as noted in the audit report.

Sincerely,

Hardy L. Merritt

HLM/jj

Attachment

MARION U. DORSEY, P.E.
OFFICE OF THE
STATE ENGINEER
(803) 737-0770

JAMES J. FORTH, JR.
STATE
PROCUREMENT
(803) 737-0600

RON MOORE
INFORMATION
TECHNOLOGY
MANAGEMENT
(803) 737-0600

VOIGHT SHEALY
AUDIT
& CERTIFICATION
(803) 737-0600

LARRY G. SORRELL
CUSTOMER ASSURANCE
PROGRAM
(803) 737-0600

WALT TAYLOR
STATE & FEDERAL
SURPLUS
PROPERTY
(803) 822-5490

WALT TAYLOR
CENTRAL SUPPLY
& INTERAGENCY
MAIL SERVICE
(803) 734-7919

DEPARTMENT OF PUBLIC SAFETY

CRIMINAL JUSTICE ACADEMY DIVISION

PROCUREMENT AUDIT REPORT

JULY 1, 1990 - JUNE 30, 1993

TABLE OF CONTENTS

PAGE

Transmittal Letter..... 1

Introduction..... 4

Background..... 5

Scope..... 6

Summary of Audit Findings..... 7

Results of Examination..... 9

Certification Recommendations..... 14

Department of Public Safety Response..... 15

Follow-up Review..... 16

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

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

HELEN T. ZEIGLER
DEPUTY DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600

HARDY L. MERRITT, Ph.D.
ASSISTANT DIVISION DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

February 4, 1994

Hardy L. Merritt, Ph.D.
Assistant Division Director
Division of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Hardy:

We have examined the procurement policies and procedures of the Criminal Justice Academy for the period July 1, 1990 through June 30, 1993. At that time the Criminal Justice Academy was a separately appropriated state agency. However, effective July 1, 1993, the Academy was restructured as part of the newly created Department of Public Safety. As part of our examination, we studied and evaluated the system of internal control over procurement transactions of the Criminal Justice Academy 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 State and internal 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.

MARION U. DORSEY, P.E.
OFFICE OF THE
STATE ENGINEER
(803) 737-0770

JAMES J. FORTH, JR.
STATE
PROCUREMENT
(803) 737-0600

RON MOORE
INFORMATION
TECHNOLOGY
MANAGEMENT
(803) 737-0600

VOIGHT SHEALY
AUDIT
& CERTIFICATION
(803) 737-0600

LARRY G. SORRELL
CUSTOMER ASSURANCE
PROGRAM
(803) 737-0600

WALT TAYLOR
STATE & FEDERAL
SURPLUS
PROPERTY
(803) 822-5490

WALT TAYLOR
CENTRAL SUPPLY
& INTERAGENCY
MAIL SERVICE
(803) 734-7919

The administration of the Criminal Justice Academy, and now the Department of Public Safety, is responsible for establishing and maintaining a system of internal control over procurement transactions. In fulfilling this responsibility, estimates and judgements 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 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 which we believe need correction or improvement.

Corrective action based on the recommendations described in these findings will in all material respects place the Criminal Justice Academy Division in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Voight Shealy

R. Voight Shealy, CFE, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating procedures and policies of the Criminal Justice Academy. Our on-site review was conducted August 11, 1993 through September 9, 1993 and was made under authority as described in Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Regulation 19-445.2020.

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 Academy 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 Division of General Services shall review the respective governmental body's internal procurement operation, shall verify in writing that 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.

Most recently, on November 21, 1990, the Budget and Control Board granted the Criminal Justice Academy the following procurement certifications:

	Category	Limit
1.	Goods and Services	$10,000 per commitment
2.	Construction Services	$25,000 per commitment

Since that certification expired November 21, 1993, this audit was performed primarily to determine if recertification is warranted. Additionally, the Department of Public Safety requested the following increased certification limits:

Category	Limit
Goods and Services	$50,000 per commitment
Construction Services	$25,000 per commitment
Information Technology	$25,000 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 Criminal Justice Academy and the related policies and procedures manual of the Department of Public Safety 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 July 1, 1990 to June 30, 1993, of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. As specified in the Consolidated Procurement Code and related regulations, our review of the system included, but was not limited to, the following areas:

1. All sole source, emergency and trade-in sale procurements for the period July 1, 1990 to June 30, 1993
2. Procurement transactions for the period July 1, 1990 to June 30, 1993 as follows:
   a) One hundred payments for procurement transactions, each exceeding $500
   b) A block sample of three hundred sequential purchase orders
3. Forty-six payments from permanent improvement object codes which included 11 contracts for permanent improvement projects for compliance with the Manual for Planning and Execution of State Permanent Improvements
4. Minority Business Enterprise Plans and reports for the audit period
5. Information Technology Plans
6. Internal procurement procedures manual
7. Property management procedures
8. Procurement staff and training

SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the South Carolina Criminal Justice Academy (the Academy) produced findings and recommendations in the following areas:

PAGE

I. Compliance- Sole Source and Emergency Procurements and Trade-In Sales

A. Inappropriate Sole Sources 9

We noted two sole sources that, in our opinion, were inappropriate.

B. Construction-Related Emergency with No Evidence of Bonding 9

A construction contractor was not required to provide a 100% performance bond and a 100% material and labor payment bond for an emergency contract. Even though this procurement was declared an emergency, the Code's bonding requirements apply. Additionally, the Academy could not provide evidence that the emergency was reported to the State Engineer's Office.

C. Determinations not Signed 10

Two emergency determinations were not signed by an authorized official.

II. Compliance- Construction

A. Construction Procured as Goods and Services 11

Three procurements were bid out as goods and services but should have been done as construction.

B. Missing Construction Documents 11

Four construction bid folders did not contain the required documents.

III. Compliance-General

A. Procurement with No Evidence of Compliance 13

The Academy hired actors without competition, sole source or emergency determinations.

B. Internal Procurement Procedures Manual 13

The manual in use at the Academy is no longer current due to changes in the Consolidated Procurement Code and the effects of restructuring on the agency.

RESULTS OF EXAMINATION

I. Compliance - Sole Source and Emergency Procurements and Trade-In Sales

A. Inappropriate Sole Sources

The Academy contracted with two vendors to develop training videos and classes in the medical aspects and history and theories of child abuse. These procurements were made on PO930901 for $5,000.00 and PO930902 for $4,000.00. The files did not contain any explanation as to why no other vendor could perform the duties listed in the contracts. In reading the contracts, we saw no duties that appeared to be unique to these vendors.

Section 11-35-1560 of the Consolidated Procurement Code (the Code) requires that any restriction of a procurement to one potential vendor be "accompanied by an explanation as to why no other will be suitable or acceptable to meet the need." This section also states that "in cases of reasonable doubt, competition must be solicited."

We believe, these sole sources are inappropriate. Accordingly, we recommend that the Academy solicit competition for these types of contracts in the future.

B. Construction-Related Emergency with no Evidence of Bonding

The Academy installed a septic tank as part of Project Number N20-9226. Sealed bids were solicited, but the lowest bid was greater than the agency's procurement certification. As a result, the Academy prepared an emergency determination covering PO912187 for $7200.00 and PO912321 for $32,489.95. Performance bonds, labor and material payment bonds and certificates of

insurance were not obtained. Additionally, Academy could not produce evidence that the emergency was reported to the State Engineer's Office.

An emergency determination simplifies the bidding requirements of Section 11-35-3020 but does not negate the bonds and security required by Section 11-35-3030. Also, the Manual for Planning and Execution of State Permanent Improvements (the Manual), Section 1.11.F, requires that all emergencies for construction be submitted within 10 days on the State Engineer's form SE-570.

Since the Code no longer requires bonding for construction contracts less than $100,000 as of July 1, 1993, we recommend that the Academy report emergencies to the State Engineer's Office and take care to ensure that all requirements are fulfilled.

C. Determinations Not Signed

The Academy declared emergency procurements on PO910401 for $3,278.60 and PO910261 for $3,064.00. Signed determinations could not be provided to us.

Section 11-35-1570 of the Code states that,"... 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...." Also, Regulation 19-445.2015 A. defines an unauthorized purchase as "...and act obligating the State in a contract by a person without the requisite authority to do so...."

Since the Code is specific about who may make an emergency purchase, and since these were not signed by the authorized person, these purchases are unauthorized.

Accordingly, we recommend that the procurement officer seek ratification from the Executive Director of the Department of Public Safety for these emergencies.

II. Compliance-Construction

A. Construction Procured as Goods and Services

The Academy procured the following construction contracts under Article 5 of the Code, which addresses goods or services, instead of Article 9 of the Code, which addresses construction.

Sealed Bid	Description	Amount
91-023	Stump Removal	$ 7,695.35
92-014	Pour and Form Concrete Slab	5,805.50
92-023	Pour Concrete and Lay Block	13,301.40

Section 11-35-2910 under Article 9 of the Code defines construction as "...the process of building , altering, repairing, remodeling, improving, or demolishing any public structure or building or other public improvements of any kind to any public real property."

These procurements were made as part of larger projects and therefore, were improvements to public real property. As a result, they should have been bid as construction under Article 9.

Accordingly, we recommend that the Academy procure construction contracts in accordance with Article 9.

B. Missing Construction Documents

The Academy could not provide all the required documentation to support four construction contracts for permanent improvement projects. They were as follows:

Project Number	Sealed Bid	Description	Amount	Documents Needed
-	91-033	Pole Building	$8,080.96	Fully Executed Contract Performance and Labor and Material Payment Bond with Power of Attorney Certificate of Insurance Certification of Availability of Funding (SE-610)
N20-9226	92-037	Electricity for Weapons Range	9,049.00	Advertisement in SCBO (SE-310) Fully Executed Contract Performance and Labor and Material Payment Bond with Power of Attorney Certificate of Insurance Certification of Availability of Funding (SE-610)
N20-9514	92-036	Installation of Air Conditioning Unit	23,863.00	Advertisement in SCBO (SE-310) Bid Security with Power of Attorney Fully Executed Contract Certificate of Insurance
N20-9226	92-030	Dynamite and Excavation for Weapons Range	9,350.00	Advertisement in SCBO (SE-310) Bid Security with Power of Attorney Fully Executed Contract Certificate of Insurance Performance and Labor and Material Payment Bond with Power of Attorney Certificate of Insurance Certification of Availability of Funding (SE-610)

Article 9 of the Code, prior to July 1,1993, required these documents on any construction contract over $2,500.00. Since these procurements were done prior to the changes in the Code, they were in violation of it. However, under the State Government Accountability and Reform Act of 1993, effective July 1, 1993, these documents are not required for contracts less than $100,000.00.

Our recommendation is, therefore, that the Academy exercise caution to ensure that the current Code is followed.

III. Compliance-General

A. Procurements with No Evidence of Compliance

The Academy paid for actors' services on voucher number 01536 dated 12/13/90 for $1,295.00 and voucher number 03316 dated 6/22/92 for $750.00. No evidence of sole source or emergency procurement or competition was contained in the file. In fact, the Academy has listed actors as exempt from the Code in their internal procedures manual.

Section 11-35-1510 lists the methods of source selection for procurements and Section 11-35-710 addresses exemptions. Actors are not exempt under 11-35-710.

As a result, we recommend that the Academy amend its manual to reflect the correct exemptions and procure actors in compliance with the Code.

B. Internal Procurement Procedures Manual

Due to the recent restructuring of state government agencies, the Academy has become a Division of the Department of Public Safety. Additionally, the State Government Accountability and Reform Act of 1993 made many changes to the Code. The internal procurement procedures manual has not been updated to reflect the effects of restructuring or the code changes.

We recommend that the Academy create a manual to reflect the current conditions prior to expiration of the current certificate.

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 Criminal Justice Academy in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

In order to determine that corrective action has been taken, we will perform a follow-up audit prior to October 31, 1993. If, at that time, we determine that corrective action has been taken, we will recommend recertification at the limits listed below for a period of three (3) years. Because the Criminal Justice Academy is now a division of the newly created Department of Public Safety, we recommend that certification be in the name of the Department of Public Safety.

Procurement Areas	Recommended Certification Limits
Goods and Services	*$50,000 per commitment
Construction Services	*$25,000 per commitment
Information Technology in accordance with the approved Information Technology Plan	*$25,000 per commitment

*The total potential commitment to the State whether single year or multi-term contracts are used.

Melissa Rae Thurstin

Melissa Rae Thurstin
Compliance Analyst

Voight Shealy

R. Voight Shealy, CFE, Manager
Audit and Certification

S.C. DEPARTMENT OF PUBLIC SAFETY

5410 Broad River Road
Columbia, SC 29210 - 4026

January 18, 1994

Mr. R. Voight Shealy
Manager Audit and Certification
Materials Management Office
1201 Main Street, Suite 600
Columbia, SC 29201

Dear Mr. Shealy:

This letter is our response to your audit of the S.C. Department of Public Safety Criminal Justice Academy Division. The audited time period is from July 1, 1990 to June 30, 1993.

We concur with your findings and will attempt not to make these mistakes in the future. We understand the irregularities noted are minor in nature.

Sincerely,

B. Boykin Rose
Director

ww1

cc: Joyce Smith
Dixie P. Jacobs,C.P.M.

#42vgepg2

RECEIVED
JAN 20 1994
RECEIVED

STATE OF SOUTH CAROLINA

State Budget and Control Board

DIVISION OF GENERAL SERVICES

CARROLL A. CAMPBELL, JR., CHAIRMAN
GOVERNOR

GRADY L. PATTERSON, JR.
STATE TREASURER

EARLE E. MORRIS, JR.
COMPTROLLER GENERAL

HELEN T. ZEIGLER
DEPUTY DIRECTOR

MATERIALS MANAGEMENT OFFICE
1201 MAIN STREET, SUITE 600
COLUMBIA, SOUTH CAROLINA 29201
(803) 737-0600

HARDY L. MERRITT, Ph.D.
ASSISTANT DIVISION DIRECTOR

JOHN DRUMMOND
CHAIRMAN, SENATE FINANCE COMMITTEE

WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

February 4, 1994

Hardy L. Merritt, Ph.D.
Assistant Division Director
Division of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Hardy:

Since completing our fieldwork, we have met with officials of the Criminal Justice Academy and the Department of Public Safety. Through those meetings and subsequent correspondence, we have resolved the issues raised during the audit. Therefore, we recommend recertification in the name of the Department of Public Safety for a period of three (3) years at the levels noted in the report.

Sincerely,

Voight Shealy

R. Voight Shealy, Manager
Audit and Certification

RVS/jj

Total Copies Printed - 33
Unit Cost - .82
Total Cost - 27.06

MARION U. DORSEY, P.E.
OFFICE OF THE
STATE ENGINEER
(803) 737-0770

JAMES J. FORTH, JR.
STATE
PROCUREMENT
(803) 737-0600

RON MOORE
INFORMATION
TECHNOLOGY
MANAGEMENT
(803) 737-0600

VOIGHT SHEALY
AUDIT
& CERTIFICATION
(803) 737-0600

LARRY G. SORRELL
CUSTOMER ASSURANCE
PROGRAM
(803) 737-0600

WALT TAYLOR
STATE & FEDERAL
SURPLUS
PROPERTY
(803) 822-5490

WALT TAYLOR
CENTRAL SUPPLY
& INTERAGENCY
MAIL SERVICE
(803) 734-7919

SOUTH CAROLINA STATE LIBRARY
0 01 01 0180463 0