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

Dear Helen:

I have attached Clemson University'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 University a three year certification as noted in the audit report.

Sincerely,

Raymond L. Grant
Materials Management Officer

RLG/tl
CLEMSON UNIVERSITY
PROCUREMENT AUDIT REPORT
OCTOBER 1, 1992 - DECEMBER 31, 1995
Mr. Raymond L. Grant  
Materials Management Officer  
Office of General Services  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201

Dear Ray:

We have examined the procurement policies and procedures of Clemson University for the period October 1, 1992 through December 31, 1995. 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 State and University 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 Clemson University 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, 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 
University 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 Clemson University in compliance with the South 
Carolina Consolidated Procurement Code and ensuing regulations.
INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of Clemson University. Our on-site review was conducted February 13, - March 8, 1996, 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 Clemson University 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 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 14, 1993, the Budget and Control Board granted Clemson University the following procurement certifications:

<table>
<thead>
<tr>
<th>Category</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods and Services</td>
<td>$150,000 per commitment</td>
</tr>
<tr>
<td>Consultants</td>
<td>150,000 per commitment</td>
</tr>
<tr>
<td>Information Technology in accordance with the approved Information Technology Plan</td>
<td>150,000 per commitment</td>
</tr>
<tr>
<td>Construction</td>
<td>250,000 per commitment</td>
</tr>
<tr>
<td>Revenue Generating Management Services</td>
<td>10,000,000 per commitment</td>
</tr>
</tbody>
</table>

Our audit was performed primarily to determine if recertification is warranted. Additionally, Clemson University requested the following increased certification limits.

<table>
<thead>
<tr>
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<tbody>
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<tr>
<td>Consultants</td>
<td>200,000 per commitment</td>
</tr>
<tr>
<td>Construction</td>
<td>500,000 per commitment</td>
</tr>
<tr>
<td>Revenue Generating Management Services</td>
<td>10,000,000 per commitment</td>
</tr>
</tbody>
</table>
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 Clemson University 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 July 1, 1993 through December 31, 1995, 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, 1993 through December 31, 1995

(2) Procurement transactions for the period July 1, 1993 through December 31, 1995 as follows:
   a) 181 payments, each exceeding $1,500
   b) A block sample of 487 purchase orders filed by vendor
   c) An additional test of fifteen sealed bids

(3) Seven professional service contracts and twenty-three construction contracts 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 for Fiscal Years 93/94, 94/95 and 95-98

(6) Internal procurement procedures manual

(7) Surplus Property Procedures
SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of Clemson University, hereinafter referred to as the University, produced findings and recommendations as follows:

I. **Sole Source Procurements**
   A. **Determinations Not Current**
      Sole source procurements from two vendors were made using expired determinations.
   B. **Multi term Sole Source Contracts Not Properly Authorized**
      Sole source determinations written for multi-term contracts did not identify them as such and only approved these multi year contracts for one year as a result.
   C. **Sole Source Change Orders Not Authorized**
      Amendments to increase and/ or extend sole source contracts were not authorized by an appropriate official. Two changes were not reported.
   D. **Inappropriate Sole Sources**
      We cited eight transactions which we believe did not meet the definition of a sole source.

II. **General Procurement Exceptions**
   A. **Minimum Solicitation Requirements Not Met**
      Three procurements had an insufficient amount of solicitations of competition.
   B. **Bidding Procedures**
      Two sealed bids were mishandled. One bid allowed a faxed bid to be received and a late bid was opened. The second bid awarded a contract to a nonresponsive vendor.
   C. **Vendor's Right to Protest Statement Not Included on the Intent to Award**
      The University failed to include the vendor's right to protest statement on its Notice of Intent to Award statements.
D. Blanket Purchase Agreement

On one blanket purchase agreement, a Department made a $8,880 procurement contrary to BPA procedures and without competition. It was unauthorized as a result.

E. Standard Equipment Agreement

The University failed to use the standard equipment agreement on one bid due to a misunderstanding of its application.
RESULTS OF EXAMINATION

I. Sole Source Procurements

We examined the quarterly reports of sole source, emergency and trade-in sale procurements for the period January 1, 1993 through December 31, 1995. The 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 Consolidated Procurement Code. The following exceptions were noted.

A. Determinations Not Current

Sole source procurements were made throughout our audit period from one particular vendor using a determination form which was authorized on February 2, 1992 by copying this determination and attaching it to each purchase order. A total of sixty-five purchase orders totaling $1,219,353 for computer equipment were issued. Additionally, another vendor was sole sourced for computer equipment using an expired sole source determination. This determination stipulated a specific period of time for which it applied. At the end of this period, the University continued to use the determination. Forty-two purchase orders totaling $938,421 were issued after the expiration of the determination.

Section 11-35-1560 of the Code states in part, "A contract may be awarded for a supply, service or construction item without competition when...the head of the purchasing agency... determines in writing that there is only one source...." Regulation 19-445.2105 further states, "Such officer may specify the application of such determination and the duration of its effectiveness."

We recommend that sole source determinations specifically address the duration of their effectiveness and only be used during that time period. Unless a multi term contract is involved, we recommend that such a determination not be used for more than one year. This allows the authorizer a chance to review the market place to determine if competition is now available which was not available in the past.

B. Multi-Term Sole Source Contracts Not Properly Authorized

We reviewed some sole source contracts where no authorized determination had been prepared. Upon further review we learned that these were actually multi-
term contracts that extended beyond a year. The contracts we saw were five year maintenance agreements where we believe it was the intent of the University to procure a five year contract. However, the original determination which authorized the procurement did not identify the contract as a multi-term contract. In other words the person approving the sole source determination in essence only approved a one year contract. Subsequent yearly renewals would not be resubmitted for sole source approval. Instead the University would rely on the original approval and renew the contract for another year.

We recommend the University clearly identify multi-term contracts in the sole source determinations stipulating the period of time that the contracts cover. These determinations may then be used to support subsequent annual purchase orders issued for these contracts. Otherwise, determinations must be prepared and approved on an annual basis.

C. Sole Source Change Orders Not Authorized

In our test of sole source contracts, amendments would be made to add more funds and/or add to the duration of the contracts. The amendments to the sole source contracts were not signed by either the President or the Director of Fiscal Affairs, who have sole source authority. Additionally, we were unable to locate where the following change orders had been reported.

<table>
<thead>
<tr>
<th>PO</th>
<th>Description</th>
<th>Amount Reported</th>
<th>Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>303023</td>
<td>Reimbursement for Expenditure</td>
<td>$75,000</td>
<td>$344,361</td>
</tr>
<tr>
<td>3005478</td>
<td>Research Services</td>
<td>79,662</td>
<td>75,896</td>
</tr>
</tbody>
</table>

We recommend that amendments to sole source contracts be approved by officials with sole source authority. All amendments to the sole source contracts should be reflected on the quarterly reports.

D. Inappropriate Sole Sources

Most of the sole source contracts we reviewed were appropriately classified as such. However, the following eight sole source contracts we believe do not meet the definition of a sole source procurement.
<table>
<thead>
<tr>
<th>PO</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>500849</td>
<td>Digital Receivers</td>
<td>$84,800</td>
</tr>
<tr>
<td>600507</td>
<td>Presort First Class Mail Service</td>
<td>25,000</td>
</tr>
<tr>
<td>500186</td>
<td>Presort First Class Mail Service</td>
<td>25,000</td>
</tr>
<tr>
<td>400270</td>
<td>Presort First Class Mail Service</td>
<td>25,000</td>
</tr>
<tr>
<td>402439</td>
<td>Consulting Service</td>
<td>19,916</td>
</tr>
<tr>
<td>402920</td>
<td>Maps</td>
<td>10,500</td>
</tr>
<tr>
<td>500907</td>
<td>Professional Editing Service</td>
<td>9,000</td>
</tr>
<tr>
<td>305297</td>
<td>Telephone Survey</td>
<td>2,054</td>
</tr>
</tbody>
</table>

For the digital receivers the University could have bought them from the manufacturer. The delivery time was not acceptable to the University which we understand, but the fact that the receivers could have been bought from another vendor negates the use of the sole source procedure.

The three purchase orders issued for presorting of first class mail were issued over three fiscal years to the same vendor. The University indicated to us that they have been unable to obtain bids on this service. We have identified another vendor who we believe will offer a bid to the University.

For the consulting work, the sole source determination identified two vendors that could perform the work. Bids should have been solicited from both of them.

The determination prepared for the maps indicated that the maps were available from other map dealers but, the vendor chosen was the producer.

The professional editing service vendor was decided upon by a committee. This type of selection process should be used as part of a request for proposal solicitation and not a sole source.

The telephone survey services should have been competed.

We recommend these procurements be competed in the future. Sole source contracts should be limited to contracts for unique items available from a single source of supply or service.
II. General Procurement Exceptions

We tested one hundred eighty-one randomly selected transactions as well as performed other tests to determine compliance with the Procurement Code and University policies and procedures. Our findings were as follows:

A. Minimum Solicitation Requirements Not Met

The following three transactions did not meet the minimum solicitation requirements.

<table>
<thead>
<tr>
<th>Bid Number</th>
<th>Description</th>
<th>Award Amount</th>
<th>Competition Solicited</th>
</tr>
</thead>
<tbody>
<tr>
<td>500097</td>
<td>Partitions</td>
<td>$ 66,444</td>
<td>6</td>
</tr>
<tr>
<td>500105</td>
<td>Wind Machines</td>
<td>39,344</td>
<td>3</td>
</tr>
<tr>
<td>600110</td>
<td>Opscan &amp; Printer</td>
<td>67,617</td>
<td>4</td>
</tr>
</tbody>
</table>

Regulation 19-455.2035 required 10 solicitations for procurements of $10,000 or more. Bid 500097 was done during this time. The Regulation was changed effective February 24, 1995. The new Regulation required five solicitations of competition for bids 500105 and 600110.

We recommend the University meet the required minimum solicitation requirements on all solicitations.

B. Bidding Procedures

Our samples revealed two bids which were not properly handled. On bid 500346 for the printing of textbooks in the amount of $66,690, the University accepted a faxed response to the bid. Another bid was received late and opened. Further, because the award exceeded $50,000, a Notice of Intent to Award was required to be sent to all bidders. This was not done.

Section 11-35-1520 of the Code requires that bids be opened publicly in the presence of one or more witnesses at the time and place designated in the invitation for bids. In both these cases, the bids were not opened in accordance with the invitation for bids.

We recommend the University not accept faxed bids and not open late bids. Also, the Notice of Intent to Award must be sent to all bidders who responded to a solicitation with an award greater that $50,000.
The second instance occurred on bid 201005 for landscape maintenance in the amount of $18,400 per year for two years or $36,800. The awarded bidder included a statement in the bid which was in contradiction to the bid terms. Specifically, the bidder indicated that watering and flowering can be handled on a negotiated basis. The solicitation required that these services were part of the contract on an as needed basis. Since the statement made by the vendor was in contradiction to the terms of the bid, the University should have made the award to the next low bidder.

We recommend the University reject bidders who do not comply with bid terms.

C. **Vendor's Right to Protest Statement Not Included on Intent to Award**

The University does not include the vendor's right to protest statement on the Notice of Intent to Award. Section 11-35-1520 (10) of the Code states in part, "Such mailed notice (Notice of Intent to Award) must contain a statement of the bidder's right to protest under Section 11-35-4210(1)."

We recommend the University add the vendor's right to protest statement on each Notice of Intent to Award.

D. **Blanket Purchase Agreement**

The University issues blanket purchase agreements (BPAs) monthly with each stating a single purchase may not exceed $1,500. On one particular BPA issued on purchase order 600118, we noted where a Department had ordered a total of 48 speaker phones to be delivered 8 phones at a time. The cost for 8 phones was $1,480. The total cost of 48 phones was $8,880. Since the anticipated need exceeded $1,500, the BPA method of procurement should not have been used. Further, no competition was sought on the 48 speaker phones. The Code required solicitation of three written quotations on procurements from $5000 to $10,000. Finally, because the procurement of 48 phones exceeded the $1,500 limit, the transaction was unauthorized.

We remind the University that a BPA is a simplified method of filling anticipated repetitive needs for small quantities of supplies by establishing "charge accounts" with qualified sources of supply. Also, we recommend the University not exceed the established limits on a BPA and seek the appropriate level of competition on procurements as the Code requires. Because the transaction was unauthorized,
ratification must be sought from the President of the University in accordance to Regulation 19-445.2015.

E. Standard Equipment Agreement Not Used

On bid 300879 the University procured the rental of a crane and a telescoping boom which totaled $36,505 including change orders. The University did not use the standard equipment agreement required by Regulation 19-445.2152. The reason for not using the standard equipment agreement was the intended rental of this equipment was not to exceed $10,000. We remind the University that the Regulation is based on the length of the lease and the value of the equipment and not the value of the lease. If the rental is expected to exceed ninety days, the standard equipment agreement is required regardless of the value of the equipment. If the lease is less than ninety days and the value of the equipment exceeds $10,000, the standard equipment agreement is required.

We recommend the University adhere to Regulation 19-445.2152 when leasing equipment. The Regulation encourages the use of the standard equipment agreement even when it is not required.
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 Clemson University in compliance with the South Carolina Consolidated Procurement Code.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we recommend Clemson University be recertified to make direct agency procurements for three years up to the limits as follows:

<table>
<thead>
<tr>
<th>Category</th>
<th>Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goods and Services</td>
<td>$200,000 per commitment*</td>
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<td>200,000 per commitment*</td>
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<td>Construction</td>
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<tr>
<td>Revenue Generating Management Services</td>
<td>10,000,000 per commitment*</td>
</tr>
</tbody>
</table>

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

Robert J. Aycock, IV
Audit Manager

Larry G. Sorrell, Manager
Audit and Certification
May 8, 1996

Mr. Larry Sorrell, Manager
Office of Audit and Certification
1201 Main Street, Suite 600
Columbia, SC 29201

Dear Larry:

I have reviewed the results of the procurement audit for the period October 1, 1992, through December 31, 1995, as addressed in your report of April 5, 1996. These findings have been thoroughly reviewed and discussed with procurement personnel at Clemson University. There is one point that our staff felt deserved further clarification.

1.C. Sole Source Change Orders Not Authorized

This cited amendments to increase and/or extend sole source contracts not being authorized by an appropriate official. It is my understanding that approval for sole sources are based on actual justification and has nothing to do with dollar amounts. The amendments in question were done because of changes in dollar amounts and not on changes in the justification. Since the implementation of the South Carolina Consolidated Procurement Code in 1981, our procedure has been to follow established sole source approval channels; however, this has never included the same routing for amendments to those contracts unless the original justification was being changed. I feel that our interpretation has merit and that the sole source justification should be based on content only and not involve value.

Clemson University procurement personnel have taken steps to comply with all your audit recommendations to allow continuation of a strong procurement operation at Clemson University. In view of the audit findings and our understanding of the necessary corrective actions to be taken, I do not feel an exit conference is necessary.

I wish to express Clemson University’s appreciation for the excellent job done by you and your staff and the spirit of cooperation in performing the certification audits. These audits have proven to be
Mr. Larry Sorrell
2
May 8, 1996

very valuable tools to our procurement personnel. Again, we appreciate the willingness of you and your staff to assist Clemson University in improving its procurement operation.

Sincerely,

[Signature]

James M. Boleman, Jr.
Director of Purchasing

CC: Michael Hughey
Mr. Raymond L. Grant  
Materials Management Officer  
Materials Management Office  
1201 Main Street, Suite 600  
Columbia, South Carolina 29201  

Dear Ray:  

We have reviewed Clemson University’s response to our audit report for October 1, 1992 - December 31, 1995. Also, we have followed the University’s corrective action during and subsequent to our field work. We are satisfied that the University has corrected the problem areas and the internal controls over the procurement system are adequate.  

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

Sincerely,  

Larry G. Sorrell, Manager  
Audit and Certification  

May 9, 1996