PROCUREMENT AUDIT AND CERTIFICATION

S. C. STATE BUDGET
MAY 16, 1994
STATE DOCUMENTS

DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS

AGENCY

OCTOBER 1, 1990 - DECEMBER 31, 1993

DATE
April 18, 1994

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

Dear Helen:

I have attached the Department of Disabilities and Special Need'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 (3) year certification as noted in the audit report.

Sincerely,

Hardy L. Merritt
Assistant Division Director

HLM/jj

Attachment
DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS
PROCUREMENT AUDIT REPORT

OCTOBER 1, 1990 - DECEMBER 31, 1993
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transmittal Letter</td>
<td>1</td>
</tr>
<tr>
<td>Introduction</td>
<td>4</td>
</tr>
<tr>
<td>Background</td>
<td>5</td>
</tr>
<tr>
<td>Scope</td>
<td>6</td>
</tr>
<tr>
<td>Summary of Audit Findings</td>
<td>7</td>
</tr>
<tr>
<td>Results of Examination</td>
<td>9</td>
</tr>
<tr>
<td>Certification Recommendations</td>
<td>17</td>
</tr>
<tr>
<td>Follow-up</td>
<td>18</td>
</tr>
</tbody>
</table>

NOTE: The Department's responses to issues noted in this report have been inserted immediately following the issues they refer to.
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 South Carolina Department of Disabilities and Special Needs for the period October 1, 1990 through December 31, 1993. 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 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 Department of Disabilities and Special Needs 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 Department of Disabilities and Special Needs in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

R. Voight Shealy, CFE, Manager
Audit and Certification
INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the Department of Disabilities and Special Needs. Our on-site review was conducted January 10 through February 18, 1993, 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 Department 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 May 14, 1991, the Budget and Control Board granted the Department the following procurement certifications:

<table>
<thead>
<tr>
<th>Category</th>
<th>Certified Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pharmaceutical Drugs</td>
<td>$1,000,000 total annual contract(s)</td>
</tr>
<tr>
<td>2. Goods and Services</td>
<td>50,000 per purchase commitment</td>
</tr>
<tr>
<td>3. Consultant Services</td>
<td>50,000 per purchase commitment</td>
</tr>
<tr>
<td>4. Construction Services</td>
<td>100,000 per purchase commitment</td>
</tr>
<tr>
<td>5. Information Technology</td>
<td>50,000 per purchase commitment</td>
</tr>
</tbody>
</table>

This audit was performed primarily to determine if recertification is warranted. Additionally, the Department requested the following increased certification limits:

<table>
<thead>
<tr>
<th>Category</th>
<th>Requested Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pharmaceutical Drugs</td>
<td>$1,000,000 total annual contract(s)</td>
</tr>
<tr>
<td>2. Goods and Services</td>
<td>100,000 per purchase commitment</td>
</tr>
<tr>
<td>3. Consultant Services</td>
<td>100,000 per purchase commitment</td>
</tr>
<tr>
<td>4. Construction Services</td>
<td>250,000 per purchase commitment</td>
</tr>
<tr>
<td>5. Information Technology</td>
<td>100,000 per purchase 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 the Department of Disabilities and Special Needs 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 statistically selected random samples for the period July 1, 1991 - December 31, 1993, 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, review of the following:

(1) Two hundred forty randomly selected procurement transactions
(2) Selection and approval of eight professional service contracts
(3) Twenty-two major construction contracts for approvals and compliance with the Manual for Planning and Execution of State Permanent Improvements
(4) Block sample of nine hundred eighty-eight purchase orders
(5) All sole source procurements (10/1/90 - 12/31/93)
(6) All emergency procurements (10/1/90 - 12/31/93)
(7) All trade-in sales (10/1/90 - 12/31/93)
(8) Minority Business Enterprise Plans and quarterly progress reports for the audit period
(9) Seven real property lease agreements
SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the Department of Disabilities and Special Needs, hereinafter referred to as the Department, produced findings and recommendations as follows:

I. Emergency and Sole Source Procurements

A. Inappropriate Emergency

We believe one emergency procurement was inappropriate.

B. Competition Not Sought on Emergency

One emergency was not supported by solicitations of competition.

C. Drug-Free Workplace Certification

Four sole source procurements each exceeding $50,000 were not supported by the required Drug-Free Workplace certification.

D. Reporting - Emergency and Sole Source Procurements

Two transactions were not reported on the quarterly reports.
II. General Code Compliance

A. Procurements Without Evidence of Competition 13

Two procurements were not supported by evidence of solicitations of competition, sole source or emergency procurement determinations.

B. Artificially Divided Procurement 14

We believe one purchase was artificially divided.

C. Incorrect Awards Made 14

Two procurements were not made to the appropriate vendors.

D. Real Property Leases Not Reported 15

Two exempt real property leases were not reported to the Real Property Management Section of the Budget and Control Board.
RESULTS OF EXAMINATION

I. Emergency and Sole Source Procurements

We examined the quarterly reports of emergency, sole source and trade-in sale procurements for the period October 1, 1990 through December 31, 1993. This review was performed to determine the appropriateness of the procurement actions taken and the accuracy of the reports submitted to the Division of General Services as required by Section 11-35-2440 of the Consolidated Procurement Code. We noted the following:

A. Inappropriate Emergency

We believe an emergency procurement for keying services on purchase order 1-1-000-5105-2 for $4,000 was inappropriate.

Section 11-35-1570 of the Consolidated Procurement Code, hereinafter referred to as the Code, allows agencies to make emergency procurements when there exists an immediate threat to public health, welfare, critical economy and efficiency or safety. For the keying service, a section failed to notify the Procurement Office of its desire to continue this service in sufficient time to extend the current contract. By the time the Procurement Office was notified, emergency procurement was the only option available for continuation of the services.

We recommend the Department comply with Section 11-35-1570 of the Code over emergency procurements.
DEPARTMENT RESPONSE

Procedures have been implemented to notify users 90 days in advance of contract expiration. Hopefully by implementing this project all contracts will be bid or renewed in a timely manner.

B. Competition Not Sought on an Emergency

The Department sought no competition toward an emergency procurement to replace/repair a floor. Reference purchase order 3-1-001-1783-1 for $22,286.40.

Section 11-35-1570 of the Code requires, even under emergency conditions, that agencies seek as much competition as is practicable under the circumstances. On the repair and replacement of a floor, the Department had 6 weeks to accomplish this task before expiration of a DHEC deadline. We do not question the validity of the emergency condition. However, we believe time was available to at least seek informal estimates from prospective vendors.

We recommend as much competition as is practicable be obtained on future emergency procurements.

DEPARTMENT RESPONSE

Whitten Center thought that they had received quotes for this project. Unfortunately they were unable to find them. Whitten Center has been informed to always get other quotations when time permits and to attach all quotations to the original purchase order file.
C. Drug-Free Workplace Certification

We noted the following four sole source procurements over $50,000 each where the Department did not obtain Drug-Free Workplace certifications as required by Section 44-107-30 of the South Carolina Code of Laws. They were as follows:

<table>
<thead>
<tr>
<th>Purchase Order #</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>4-1-000-6590-0</td>
<td>Shower &amp; Bath Equipment</td>
<td>$51,802.00</td>
</tr>
<tr>
<td>4-2-000-2770-3</td>
<td>Retherm Supplies</td>
<td>76,695.00</td>
</tr>
<tr>
<td>3-1-000-1840-3</td>
<td>Cart Trays for Retherm System</td>
<td>54,164.00</td>
</tr>
<tr>
<td>J16-9587-MT</td>
<td>Repairs for Central Fire Alarm System</td>
<td>167,450.00</td>
</tr>
</tbody>
</table>

For the future, we recommend that all sole source procurements greater than $50,000 be supported by a certification from the vendor regarding their compliance with the Drug-Free Workplace Act.

DEPARTMENT RESPONSE

Failure to receive drug-free workplace certification was an oversight by the procurement staff. A document has been designed and will be implemented within the next 30 days to receive appropriate certification.

D. Reporting - Emergency and Sole Source Procurements

We noted two procurements which were not reported on the Department's quarterly reports of emergency and sole source procurements. One was done as an emergency and the other was done as a sole source. Both were initiated out of the Construction Office and were as follows:
<table>
<thead>
<tr>
<th>Procurement Type</th>
<th>Project#</th>
<th>Description</th>
<th>Contract Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Emergency</td>
<td>8933</td>
<td>Water Leakage - Computer Room</td>
<td>$3,855.00</td>
</tr>
<tr>
<td>Sole Source</td>
<td>9585</td>
<td>16 Bed Dormitory Proto Type</td>
<td>$20,000.00</td>
</tr>
</tbody>
</table>

For the emergency, the Department did not provide to us where the State Engineer acknowledged the use of this procurement methodology, as required by the Manual for Planning and Execution of State Permanent Improvements.

On the sole source procurement, the Department failed to provide to us the required written determination supporting the sole source procurement, as required by Section 11-35-1560 of the Code.

Section 11-35-2440 of the Code requires that agencies submit quarterly to the Division of General Services a record listing all emergency and sole source procurements.

We recommend the Department amend its reports adding these transactions. Also, more care should be utilized in insuring the other requirements listed above are followed.

DEPARTMENT RESPONSE

The sole source procurement for a prototype 16-bed dormitory for the amount of $20,000 and an emergency procurement for water leakage in the computer room in the amount of $3,855 will be reported to the Materials Management Office by an amended report.

II. General Code Compliance

Our examination included a review of two hundred forty (240) transactions selected at random from the procurement areas of
goods and services, information technology, consultant services and construction. The majority of these procurements were handled in compliance with the Code. However, we did note the following exceptions:

A. Procurements Without Evidence of Competition

Two procurements were not supported by either evidence of solicitations of competition or sole source or emergency procurement determinations. They were as follows:

<table>
<thead>
<tr>
<th>Purchase Order #</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-2-000-7068-3</td>
<td>Dietary Consultant</td>
<td>$3,180.00</td>
</tr>
<tr>
<td>6-1-000-7522-3</td>
<td>Typewriter Maintenance</td>
<td>752.00</td>
</tr>
</tbody>
</table>

Item 1 was considered exempt by the agency. No such exemption exists. Competition should have been sought.

For item 2, an expired State contract number was referenced on the purchase order to support the procurement.

We recommend either competition be solicited or, if appropriate, sole source or emergency procurement determinations be attached.

**DEPARTMENT RESPONSE**

The dietary consultant purchase was considered to be exempt at the time of purchase. Since the audit, it has been determined that this type service is not exempt under the medical services exemption.

The typewriter maintenance contract extension was an oversight. Pee Dee Center along with all the other regions have been notified to establish procedures whereby contracts will not be extended beyond the expiration date.
B. Artificially Divided Procurement

We noted two purchase orders which we believe should have been combined into one procurement. They were as follows:

<table>
<thead>
<tr>
<th>Purchase Order #</th>
<th>Date</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-1-000-7607-3</td>
<td>01/20/93</td>
<td>$475.00</td>
<td>Office furniture</td>
</tr>
<tr>
<td>6-1-000-7599-3</td>
<td>01/18/93</td>
<td>74.00</td>
<td>Office furniture</td>
</tr>
</tbody>
</table>

Even though the requisitions were prepared the same day, the requestor did not submit them at the same time. Consequently, the procurement officer did not combine the requisitions into a single solicitation. As a result, no competition was solicited.

At that time, Regulation 19-445.2100, Small Purchase Procedures, required that quotes be solicited from a minimum of two qualified sources for procurements from $500.01 to $1,499.99.

We recommend like items be combined when practical and appropriate competition levels be sought.

DEPARTMENT RESPONSE

This request for purchase was submitted to purchasing at two separate times. Pee Dee purchasing staff has been notified to establish procedures to ensure that all similar purchases are identified and grouped together.

C. Incorrect Awards Made

We noted two incorrect awards made by the Department. They are as follows:

<table>
<thead>
<tr>
<th>Purchase Order #</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>6-1-000-8079-3</td>
<td>Chart caddy</td>
<td>$2,671.83</td>
</tr>
<tr>
<td>1-1-000-5555-2</td>
<td>Printer ribbons</td>
<td>1,098.55</td>
</tr>
</tbody>
</table>
For item 1, we noted the US made preference was not applied. The result was the low bidder did not receive the award. We recommend that buyers make sure all preferences are appropriately applied.

On item 2, a freight charge was not considered when making the award. The result was the low bidder did not receive the award. We recommend the Department consider all costs when making awards.

DEPARTMENT RESPONSE

The procurement officer failed to note the US made preference. This was an oversight and all procurement officers have been notified to pay close attention to all preferences for future bids.

Failure to include the freight was an oversight by the buyer. All buyers have been notified to pay special attention to freight charges.

D. Real Property Leases Not Reported

We noted two real property leases which were less than $10,000 each annually that were not reported to the Real Property Management Section of the Budget and Control Board. They were as follows:

<table>
<thead>
<tr>
<th>PO#</th>
<th>Annual Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>94270007</td>
<td>$7,200.00</td>
</tr>
<tr>
<td>2-1-000-0001-3</td>
<td>$8,400.00</td>
</tr>
</tbody>
</table>

On June 27, 1990, the Board granted an exemption on leases of non-state owned real property which commit less than $10,000 in
a single fiscal year. However, agencies must report these exempt leases to the Budget and Control Board's Real Property Management Section annually.

We recommend the leases noted above be reported.

DEPARTMENT RESPONSE

The two items listed in the audit have been reported to the property management division. Procedures have been put in place to ensure that all future leases are reported.
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 Department of Disabilities and Special Needs in compliance with the South Carolina Consolidated Procurement Code.

We will perform a follow-up review by April 30, 1994, to ensure that the Department has completed this corrective action.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we recommend the Department of Disabilities and Special Needs be recertified to make direct agency procurements for three (3) years up to the limits as follows:

<table>
<thead>
<tr>
<th>PROCUREMENT AREAS</th>
<th>RECOMMENDED CERTIFICATION LIMITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pharmaceutical Drugs</td>
<td>$1,000,000 total annual contract(s)</td>
</tr>
<tr>
<td>Goods and Services</td>
<td>*$ 100,000 per purchase commitment</td>
</tr>
<tr>
<td>Consultant Services</td>
<td>*$ 100,000 per purchase commitment</td>
</tr>
<tr>
<td>Construction Services</td>
<td>*$ 250,000 per purchase commitment</td>
</tr>
<tr>
<td>Information Technology in accordance with the approved Information Technology Plan</td>
<td>*$ 100,000 per purchase 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

R. Voight Shealy, CFE, Manager
Audit and Certification

17
April 18, 1993

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

Dear Hardy:

Since we completed our field work, we have met with Department officials to discuss the exceptions noted and received correspondence indicating corrective action towards the recommendations. Based on the resolution of all issues, a visit to the Department for a formal follow-up was not necessary.

We recommend the Budget and Control Board grant the Department procurement recertification for three years at the levels noted in the report.

Sincerely,

R. Voight Shealy, CFE, Manager
Audit and Certification

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