PROCUREMENT
AUDIT AND
CERTIFICATION
October 14, 1991

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

Dear Rick:

I have attached the State Health and Human Services Finance Commission'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 Commission a three (3) year certification as noted in the audit report.

Sincerely,

James J. Forth, Jr.
Assistant Division Director

JFF/jjm

Attachment
STATE HEALTH AND HUMAN SERVICES FINANCE COMMISSION
PROCUREMENT AUDIT REPORT

JANUARY 1, 1988 - FEBRUARY 28, 1991

FOLLOW-UP REVIEW
MARCH 1, 1991 - AUGUST 31, 1991
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</table>

**NOTE:** The Commission's responses to issues noted in this report have been inserted immediately following the issues they refer to.
October 21, 1991

Mr. James J. Forth, Jr.
Assistant Division Director
Division of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Jim:

We have examined the procurement policies and procedures of the State Health and Human Services Finance Commission for the period January 1, 1988 through August 31, 1991. 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 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.
The administration of the State Health and Human Services Finance Commission 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 State Health and Human Services Finance Commission in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

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

We conducted an examination of the internal procurement operating procedures and policies of the State Health and Human Services Finance Commission. Our on-site review was conducted March 6, 1991 through April 29, 1991 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 Commission 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.

Most recently, on August 8, 1988, the Budget and Control Board granted the State Health and Human Services Finance Commission the following procurement certifications:

<table>
<thead>
<tr>
<th>Category</th>
<th>Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Service Provider Contracts Funded</td>
<td>750,000 per contract, per year, limit two one-year extension options</td>
</tr>
<tr>
<td>From Social Services Block Grants</td>
<td></td>
</tr>
<tr>
<td>-Service Provider Being a Provider of Services Directly to a Client</td>
<td></td>
</tr>
<tr>
<td>2. Consultant Services</td>
<td>$150,000 per contract</td>
</tr>
<tr>
<td>3. Printing Services</td>
<td>10,000 per purchase commitment</td>
</tr>
</tbody>
</table>

Since that certification expires August 8, 1991, this audit was performed primarily to determine if recertification is warranted. Additionally, the Commission requested the following increased certification limits:
<table>
<thead>
<tr>
<th>Category</th>
<th>Requested Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Service Provider Contracts Funded From Any Funding Source-Service</td>
<td>2,000,000 per contract, per year,</td>
</tr>
<tr>
<td>Provider Being Provider of Services Directly to a Client</td>
<td>limit four one-year extension options</td>
</tr>
<tr>
<td>2. Consultant Services including Information Technology Consultants</td>
<td>150,000 per purchase commitment</td>
</tr>
<tr>
<td>3. Printing Services</td>
<td>10,000 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 State Health and Human Services Finance Commission and the 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 judgemental samples for the period January 1, 1988 through February 28, 1991, 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 and emergency procurements and trade-in sales for the period January 1, 1988 - December 31, 1990

(2) Property management and fixed asset procedures

(3) Purchase transactions for the period January 1, 1988 - February 28, 1991

   a) Fifty-seven payments for department transactions, each exceeding $500

   b) Nineteen solicitations for Service Provider Contracts funded under Social Services Block Grant

   c) Fifty-two administrative contracts for consultants

   d) A block sample of six hundred and two sequential purchase orders
(4) Minority Business Enterprise Plan and reports
(5) Procurement staff and training
(6) Procurement procedures
(7) Information Technology Plan

FOLLOW-UP SCOPE

We performed an extensive follow-up audit September 6-9 during which we verified Health and Human Services Finance Commission's corrective action for each recommendation that we made in this report. Also, we tested the following additional transactions:

1. All sole source and emergency procurements and trade-in sales for the period January 1, 1991 through June 30, 1991
2. Fourteen consultant contracts
3. A block sample of one hundred sixty-nine purchase orders in numerical sequence

Please see page 31 of this report for the follow-up results.
SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the State Health and Human Services Finance Commission (the Commission) produced findings and recommendations in the following areas:

I. Sole Source and Emergency Procurements

A. Unauthorized Sole Source and Emergency Procurements

The Commission made nine sole sources of telecommunications equipment and services without the required approvals. Three sole source determinations and one emergency determination were approved after the fact.

B. Consultants Procured Under Emergency or Sole Source

The Commission procured a consultant under an inappropriate emergency determination and extended the contract under two sole source determinations. The Commission hired three consultants as sole sources that were inappropriate.

C. Inappropriate Emergencies for Printing Services

The Commission made fifteen emergency procurements for printing services.
D. Miscellaneous Sole Source and Emergency Procurements

The Commission sole sourced playground equipment inappropriately. Due to inadequate planning, the Commission procured a display unit as an emergency.

II. Compliance - Consultants

A. Consultants Procured As Exempt

The Commission procured ten consultants as exempt under an Appropriations Act proviso. Additionally, a psychologist was misidentified as a psychiatrist and treated as exempt.

B. Advertisements

Five solicitations for consultant services were not advertised in accordance with the Commission's internal procurement policy.

III. Compliance - General

A. Procurements Split by Department

We found eight orders for furniture split by various departments.

B. Late Payments

We noted seven late payments.
C. Minority Business Reports
Nine out of twelve quarterly reports reviewed were more than a month late.

D. Training Facilities
A conference room was procured without being processed by purchasing and without competition.
RESULTS OF EXAMINATION

I. Sole Source and Emergency Procurements and Trade-ins

We examined the quarterly reports of sole source and emergency procurements and trade-in sales for the period January 1, 1988 through December 31, 1990. We performed this review 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. The following pages enumerate the problems noted during the review.

A. Unauthorized Sole Source and Emergency Procurements

The Commission sole sourced various telecommunications equipment and services without the required approvals. The following is a list of purchase orders or requisitions for these sole sources.

<table>
<thead>
<tr>
<th>Date</th>
<th>PO/Requisition Number</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/19/89</td>
<td>192-8882</td>
<td>$43,512.00</td>
</tr>
<tr>
<td>11/15/89</td>
<td>192-1848</td>
<td>3,885.18</td>
</tr>
<tr>
<td>12/12/89</td>
<td>192-1853</td>
<td>6,469.19</td>
</tr>
<tr>
<td>12/28/89</td>
<td>192-1859</td>
<td>1,500.00</td>
</tr>
<tr>
<td>01/17/90</td>
<td>192-3005</td>
<td>1,440.00</td>
</tr>
<tr>
<td>03/08/90</td>
<td>192-0924</td>
<td>8,300.00</td>
</tr>
<tr>
<td>03/05/90</td>
<td>192-4055</td>
<td>3,500.00</td>
</tr>
<tr>
<td>08/04/89</td>
<td>192-8864</td>
<td>8,379.00</td>
</tr>
<tr>
<td>09/08/89</td>
<td>192-8879</td>
<td>4,105.50</td>
</tr>
</tbody>
</table>

Section 1-11-430 of the 1976 South Carolina Code of Laws, as amended, states in part:

The State Budget and Control Board shall secure all telecommunications equipment and services for the state government enterprise under terms it considers suitable.
and coordinate the supply of the equipment and services for state government use. No entity of state government enterprise may enter into an agreement or renew an existing agreement for telecommunications services unless approved by the Board.

Therefore, all authority for these purchases rests in the State Budget and Control Board, Division of Information Resource Management (DIRM) and the Commission did not have approval to buy these items.

Since the Commission did not have authority to purchase these items, they are all unauthorized and must be ratified in accordance with Regulation 19-445.2015.

Accordingly, we recommend that the Commission submit ratification requests to the Division Director, Division of General Services, for requisition 192-8882 and to the Materials Management Officer for the other procurements, and coordinate telecommunications service and equipment purchases through DIRM.

Additionally, the Commission made the following sole source and emergency procurements which were not approved until after services had been rendered.

<table>
<thead>
<tr>
<th>Determination Date</th>
<th>Reference Document</th>
<th>Amount</th>
<th>Type of Procurement</th>
<th>Service Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>10/17/89</td>
<td>PO 1655</td>
<td>$4,764.00</td>
<td>Sole source</td>
<td>7/1/89-6/30/90</td>
</tr>
<tr>
<td>09/06/89</td>
<td>PO 1481</td>
<td>612.00</td>
<td>Sole source</td>
<td>7/1/89-6/30/90</td>
</tr>
<tr>
<td>10/22/90</td>
<td>603</td>
<td>706.50</td>
<td>Emergency</td>
<td>8/30/90</td>
</tr>
<tr>
<td>06/23/89</td>
<td>192-8767</td>
<td>5,380.00</td>
<td>Sole source</td>
<td>Unknown</td>
</tr>
</tbody>
</table>

Items 1 and 2 are both maintenance agreements which began July 1, 1989, two to three months prior to the determinations. On item 3, the voucher for payment was dated August 30, 1990. An employee had purchased software for the agency on a personal credit card. The determination was not done until a month and a half after...
reimbursement to the employee was made. Item 4 was used to pay for office automation training which had been solicited but not awarded. Prior to award but after training had started, the solicitation was withdrawn. The agency prepared a sole source to pay for the training already done.

Section 11-35-1560, Sole Source Procurement, and Section 11-35-1570, Emergency Procurement, require specific approvals for sole source and emergency procurements.

Therefore, these items are unauthorized and must be submitted for ratification in accordance with Regulation 19-445.2015. Items 2-4 may be ratified by the Executive Director since they are within the Commission's certification. A ratification request must be submitted to the Materials Management Officer for Item 1.

COMMISSION RESPONSE

Our telephone system was bid through Materials Management Office in 1984. [This company] is the only company that can repair or add additional equipment to this system. We thought that once this system was procured, then future changes had to be sole source since no other company could provide this service. We have written, copy enclosed, to the Division of Information Resources Management asking for blanket authority to make necessary changes to our telephone system. A ratification request has been submitted to the Director of General Services. Additionally, the four items described on page 13; ratification by our Executive Director and the Director of General Services has been requested.

B. Consultants Procured Under Emergency or Sole Source Determinations

The Commission inappropriately procured a consultant as an emergency to assist "in the procurement and installation of an office automation and communications system." The emergency was based on the consolidation of staff into one building and
installation of a new accounting system and time lines involved. The choice of consultant was justified based on experience and availability. No documentation of competition was contained in the file.

The contract which resulted from the emergency was A 89 0118 C for February 21, 1989 through December 31, 1989 in the amount of $28,000. An amendment was processed on May 17, 1989 to increase the hours worked by the consultant and add $22,000 to the total contract amount. A sole source determination was prepared to justify the addition.

Another amendment was processed to add to the consultant's responsibilities and increase the contract by $3,000. No determination was prepared for this amendment dated June 12, 1989. A final amendment was done to include a rewrite of a solicitation and increase the total contract by $34,000. A sole source determination was completed for this amendment dated September 14, 1989.

According to Commission personnel, the rewrite was completed. However, between completion of the request for proposals rewrite and solicitations, management at the Commission decided to do an invitation for bid instead of a request for proposal.

The Commission forwarded the invitation for bids solicitation to the State Materials Management Office which issued an intent to award April 30, 1990, over a year after the Commission declared the original emergency.

Section 11-35-1570 of the Consolidated Procurement Code defines an emergency as an "...immediate threat to public health, welfare, critical economy and efficiency or safety..." and
Regulation 19-445.2110 further clarifies that "conditions must create an immediate and serious need... that cannot be met through normal procurement methods..." We do not see how the original procurement met this criteria since a solicitation would have added forty-five to sixty-days to the process which took a year anyway.

We take exception with all of these transactions. We recommend that the Commission review the requirements of an emergency and refrain from declaring emergencies based on an indefinite time line.

Additionally, the following consultants were also sole sourced.

<table>
<thead>
<tr>
<th>Contract Number</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A 1 0171 A</td>
<td>$6,000.00</td>
<td>Preparation of Human Services Directory</td>
</tr>
<tr>
<td>2. A 90 0171 A</td>
<td>500.00</td>
<td>Update of Human Services Directory</td>
</tr>
<tr>
<td>3. Requisition 192-6345</td>
<td>3,250.00</td>
<td>Minority Business Listing</td>
</tr>
</tbody>
</table>

Items 1 and 2 were for the same consultant. The sole sources were based on the experience the consultant had in developing the directory while employed by another agency.

Item 3 was for services which are offered by another state office at no charge.

Section 11-35-1560 limits a sole source procurement to items available from only one source. Since the four items listed above have alternative sources, the purchases do not qualify under this section.
Therefore, these sole sources are inappropriate and should have been competed.

COMMISSION RESPONSE

The draft report states: "The Commission inappropriately procured a consultant as an emergency to assist in the procurement and installation of an office automation and communications system." "The contract which resulted from the emergency was A 89 0118 C for February 21, 1989 through December 31, 1989 in the amount of $28,000." The report goes on to discuss sole source amendments with the same contractor on May 17th, June 12th, and September 14th, 1989. The report accurately reflects that the last amendment was for a rewrite of the solicitation which was completed. The report further states:

"However, between completion of the request for proposals rewrite and solicitations, management at the Commission decided to do an invitation for bid instead of a request for proposal.

The Commission forwarded the invitation for bids solicitation to the State Materials Management Office which issued an intent to award April 30, 1990, over a year after the Commission declared the original emergency.

Section 11-35-1570 of the Consolidated Procurement Code defines an emergency as an (...immediate threat to public health, welfare, critical economy and efficiency or safety...) and Regulation 19-445.2110 further clarifies that "conditions must create an immediate and serious need... that cannot be met through normal procurement methods...). We do not see how the original procurement met this criteria since a solicitation would have added forty-five to sixty-days to the process which took a year anyway."

The original procurement was not effectuated in order to obtain an intent to award on April 30, 1990. The original procurement was for the development of a Request for Proposal which required proposals be returned by May, 1989, three months after the effective date of the original contract - not "over a year after the Commission declared the original emergency." The initial Request for Proposal and responding proposals generated an intent to award an multiple protests in June of 1989. As a result of the protests, the Request for Proposal and intent to award were withdrawn causing the rewrite, the resulting Invitations for Bid, and the year delay in obtaining the office automation system. The original emergency procurement never anticipated the resulting delay.

Page 16, contact number A 1 0171 A for the preparation of the Human Services Directory. This contract was with [this
consultant). We feel this was justified since [this consultant] contracted initially with the State Reorganization Commission to develop the original Directory four years ago. When the Interagency Council wanted the directory [this consultant] was the only person knowledgeable as to why the directory was developed in a particular way and what agreements there were between agencies. With her assistance the directory was completed in a timely manner.

Page 16, contract number A 90 0171 A for the update of the Human Services Directory. This sole source was signed for the same reasons as stated above. After the directory was completed, it made sense to use [this consultant] for the needed update.

C. Inappropriate Emergencies for Printing Services

The Commission declared numerous emergencies for printing services. The emergencies were as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Document#</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>03/07/88</td>
<td>0399</td>
<td>$3,093.00</td>
<td>Forms</td>
</tr>
<tr>
<td>09/26/89</td>
<td>1503</td>
<td>6,259.85</td>
<td>Physician Services Manual</td>
</tr>
<tr>
<td>06/22/90</td>
<td>192-04934</td>
<td>9,893.00</td>
<td>HSCC Manuals</td>
</tr>
<tr>
<td>10/25/90</td>
<td>2503</td>
<td>1,414.75</td>
<td>Forms</td>
</tr>
<tr>
<td>10/17/90</td>
<td>2484</td>
<td>798.30</td>
<td>Forms</td>
</tr>
<tr>
<td>07/01/90</td>
<td>2179</td>
<td>2,458.00</td>
<td>Forms</td>
</tr>
<tr>
<td>07/19/90</td>
<td>2212</td>
<td>1,796.00</td>
<td>Forms</td>
</tr>
<tr>
<td>07/31/90</td>
<td>2242</td>
<td>531.00</td>
<td>Medicaid Bulletin</td>
</tr>
<tr>
<td>08/03/90</td>
<td>2247</td>
<td>867.25</td>
<td>Forms</td>
</tr>
<tr>
<td>08/03/90</td>
<td>2252</td>
<td>4,155.60</td>
<td>OAC user guide</td>
</tr>
<tr>
<td>09/06/90</td>
<td>2338</td>
<td>4,220.00</td>
<td>Forms</td>
</tr>
<tr>
<td>09/04/90</td>
<td>2335</td>
<td>4,764.60</td>
<td>Forms</td>
</tr>
<tr>
<td>09/10/90</td>
<td>2347</td>
<td>5,293.50</td>
<td>Medicaid DME Manual</td>
</tr>
<tr>
<td>03/06/89</td>
<td>950</td>
<td>2,945.00</td>
<td>Physician Services Manual</td>
</tr>
<tr>
<td>08/31/88</td>
<td>192-3674</td>
<td>671.50</td>
<td>Legal brief</td>
</tr>
</tbody>
</table>

Items 4-10 and 13 were justified as emergencies because procurement had a procurement officer II slot vacant and procurement did not have time to compete these items. For item 15, the Commission had ten days to have a transcript of record printed and bound. The rest of the items were declared emergencies based on time constraints. The Commission did not solicit competition for any of these procurements.
Regulation 19-445.2110 of the Consolidated Procurement Code requires that an emergency "... must create an immediate and serious need for supplies, services, or construction that cannot be met through normal procurement methods..." Also, Section 11-35-1570 of the Code requires that "...emergency procurements shall be made with as much competition as practicable under the circumstances."

For items 4-9 and 15, the normal procurement methods could have met the need since two verbal quotes were required for those between $500.01 and $1,499.99 and three written quotes would be required for those from $1,500.00 to $2,500.00.

The other items could have been bid if the departments had adequately planned for their needs. Also, during the period when procurement was lacking personnel, the Commission could have routed their printing purchases over $2,500.00 through the Materials Management Office.

Therefore, the Commission should monitor their printing needs to avoid emergency procurements. Particularly, for procurements less than $2,500.00, which may be processed under small purchase procedures, the Commission should seek adequate competition rather than declare emergencies.

**COMMISSION RESPONSE**

Document Number 0399 - These are forms maintained by the South Carolina Department of Social Services for their county office use. South Carolina Department of Social Services did not give us adequate lead time to procure forms for them. We purchased only a limited supply and processed the remainder through Materials Management Office.
Document Number 1503 - [This company] printed the original physicians manual. Our policy changed and we had to get the changes out to all physicians statewide as quickly as possible. Since [this company] had the original plates on this manual it was more cost effective to contract with the.

Document Number 4934 - Printing of the Human Services Dictionary. The printing of this item was done on an emergency basis because of needs to meet the deadline of the Human Services Coordinating Council. Completion of the dictionary took much longer than anticipated (one year), and there was considerable pressure to publish the dictionary as quickly as possible. If we had to wait up to three of four months, the value of the dictionary would have been diminished. Additionally, the Human Services Master file project and the Human Services Resource Book project's completion were contingent upon completion and printing of the Human Services Dictionary. The Bureau worked closely with James W. Allen, and three quotes were received in order to receive the best available price for printing.

Document Number 2484 - Two new programs were implemented and the forms were necessary to support the program. The forms could not be printed until all decisions were made on the program.

Document Number 2179 - These forms support the physicians on a statewide basis. Shortage of staff and the urgent need to supply forms to physicians necessitated using [this company]. They had printed these forms before and had the negatives available.

Document Number 2212 - These forms are used by providers on a statewide basis. [This company] had the negative which reduces the print time considerably. Our stock of these forms was depleted.

Document Number 2242 - This was to print a medicaid bulletin that announced a change in procedures that had to be released to all medical providers.

Document Number 2252 - These were manuals to support the training of staff on our new office automation system. This printing was necessary in order not to delay the training and implementation of the system.

Document Number 2338 - This form is stocked by the South Carolina Department of Social Service for use by their county offices to support our programs. South Carolina Department of Social Services did not give us sufficient notice in order to reprint in a timely manner. We had to act to get the forms as quickly as possible.

Document Number 2235 - South Carolina Department of Social Services also stocks this form and did not give us sufficient time to order forms.
Document Number 2347 - Medicaid bulletins and manuals that changed policy and procedures. It is necessary to get changes to our providers as quickly as possible.

Document Number 950 - Physicians and clinical services manual. No manuals were available to supply to new providers. It was necessary for providers to have adequate policy and procedures.

Document Number 3674 - This was a legal case being appealed to the State Supreme Court. Court rules allow twenty days to get the transcript of record filed in court. Twenty-five copies had to be supplied. All documents were not immediately available. The time frames set by the court would not allow us to go out for bid.

D. Miscellaneous Sole Source and Emergency Procurements

The Commission sole sourced playground equipment on PO 1447 for $2,917.45. The determination stated that this equipment was the only kind that could fit in the space provided. However, playground equipment is available through different sources. Therefore, the purchase should have been competed.

The Commission procured a display unit as an emergency on PO 1006 for $2,473.03 dated March 20, 1989. However, the requisition was dated December 9, 1988. Had the department turned in the requisition in a timely manner, the emergency would have been unnecessary. We recommend that the Commission take steps to ensure that requisitions are turned in timely.
II. Compliance - Consultants

A. Consultants Procured as Exempt

The Commission procured consultant services under Fiscal Year 1989-90 Appropriations Act proviso 38.9 and Fiscal Year 1990-91 Appropriations Act proviso 38A.9 and 129.54. The following contracts were made under the assumption that the proviso exempted them from the Consolidated Procurement Code.

<table>
<thead>
<tr>
<th>Contract Number</th>
<th>Contract Period</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A 0 0213 C</td>
<td>09/01/90 - 12/31/90</td>
<td>Development of training program</td>
<td>$40,000</td>
</tr>
<tr>
<td>2. A 90 0118 C</td>
<td>03/01/90 - 12/31/90</td>
<td>Development of training program</td>
<td>89,820</td>
</tr>
<tr>
<td>3. A 1 0217 C</td>
<td>10/17/90 - 06/30/91</td>
<td>Technical support services</td>
<td>10,000</td>
</tr>
<tr>
<td>4. A 1 0210 C</td>
<td>08/01/90 - 08/17/90</td>
<td>Technical support services</td>
<td>5,500</td>
</tr>
<tr>
<td>5. A 1 0227 C</td>
<td>04/01/91 - 09/30/91</td>
<td>Review of RFP process</td>
<td>29,000</td>
</tr>
<tr>
<td>6. A 1 0214 C</td>
<td>10/01/90 - 03/31/91</td>
<td>Review of RFP process</td>
<td>25,000</td>
</tr>
<tr>
<td>7. A 0 0212 C</td>
<td>09/17/90 - 10/30/90</td>
<td>Development of training video</td>
<td>1,900</td>
</tr>
<tr>
<td>8. A 90 0168 C</td>
<td>10/18/89 - 04/16/90</td>
<td>Technical support services</td>
<td>29,940</td>
</tr>
<tr>
<td>9. A 90 0177 C</td>
<td>11/17/89 - 12/01/89</td>
<td>Technical support services</td>
<td>1,287</td>
</tr>
<tr>
<td>10. A 90 0185 C</td>
<td>01/15/90 - 07/14/90</td>
<td>Technical support services</td>
<td>29,940</td>
</tr>
</tbody>
</table>

The provisos, however, specify that contacts must be with individuals for personnel services and "notwithstanding any other provision of the law". Therefore, these provisos do not nullify the Consolidated Procurement Code.

These contracts should have been competed. We recommend that the Commission procure consultant services in accordance with the Consolidated Procurement Code.
Additionally, Items 5 through 10 should have been classified as employees. According to Federal Taxable Payroll paragraph 861, if the right of control exits, then the relationship is employee/employer. In each of these cases, the contracts contained supervision by the Commission. Therefore, we recommend that the Commission review their contracts to determine if the right of control is in the contract. If it is, then the individual should be considered a temporary employee or a special contract employee and paid through payroll procedures with applicable taxes withheld.

In another instance, the Commission procured psychological services on contract A 1 0195 C assuming these services were exempt. The department had erroneously identified the consultant as a psychiatrist rather than a psychologist. However, the contract specified psychological services and the consultant was clearly identified as a Ph.D. Therefore, we recommend that the Commission be careful to ensure that services are properly classified in the future.

COMMISSION RESPONSE

The draft report states: "Commission procured consultant services under Fiscal Year 1989-90 Appropriations Act proviso 38.9 and Fiscal Year 1990-91 Appropriations Act proviso 38A.9 and 129.54. The following contracts were made under the assumption that the proviso exempted them from the Consolidated Procurement Code." The report goes on to state: "The provisos, however, specify that contracts must be with individuals for personnel services and notwithstanding any other provision of the law. Therefore, these provisos do not nullify the Consolidated Procurement Code."

The Commission still believes that the provisos do, in fact, exempt these contracts from the Procurement Code. The term notwithstanding is defined as "in spite of"; the term personnel
is defines as "persons employed in any work enterprise, service, etc.; the term employed is defined as "used." These provisos do nullify the Consolidated Procurement Code in that they allow for contracts with individuals for personnel (Persons used in any work) services in spite of any other provision of the law; therefore, while these contracts could have been competed under the Consolidated Procurement Code, competition was not required. The Commission believes that the actions it took regarding the consultant contracts were either appropriate or have been cured in accordance with the corrective action proposed in the draft report. Further, actions taken in accordance with Section 11-35-1560 and 11-35-1570 of the Consolidated Procurement Code and the provisos were outside of the competitive requirements of the Consolidated Procurement Code and would have transpired regardless of the Commission's certification or certification level. Therefore, the Commission requests recertification for consultant services. If the Commission is competent to handle procurement in the provider service area up to $10,000,000, it is certainly competent to handle procurements of consultant services up to $150,000.

B. Advertisements

The Commission did not advertise the following solicitations:

<table>
<thead>
<tr>
<th>Contract Number</th>
<th>Contract Period</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. A 0 0189 C</td>
<td>03/26/90 - 08/30/91</td>
<td>Development of Quality Assurance System</td>
</tr>
<tr>
<td>2. A 0 0192 C</td>
<td>05/10/90 - 04/30/91</td>
<td>Personal Care Aide Services</td>
</tr>
<tr>
<td>3. A 90 0176 A</td>
<td>11/07/89 - 11/30/90</td>
<td>Management Consultant</td>
</tr>
<tr>
<td>4. A 90 0178 C</td>
<td>11/20/89 - 11/19/90</td>
<td>Information Technology Consultant</td>
</tr>
<tr>
<td>5. A 89 0109 A</td>
<td>12/15/88 - 06/30/89</td>
<td>Consultant Services</td>
</tr>
</tbody>
</table>

The Commission's internal procurement manual section 1355.3 and 1360.1, require that all solicitations be advertised.

Additionally, the Commission did not prepare a multi-term determination to support item 1 above. Such a determination is required by Section 11-35-2030 of the Code when a contract will exceed twelve months.

We recommend that the Commission comply with their internal procurement manual's requirement that solicitations be advertised and prepare multi-term determinations as required by the Code.
COMMISSION RESPONSE

The Commission's internal procedures have been changed, copy enclosed, to state we "may" advertise solicitations.

III. Compliance – General

A. Procurements Split By Departments

Various departments appeared to be dividing furniture purchases onto different requisitions. The items are listed with a brief explanation following each one.

1. Requisition Date Requisition Number Purchase Order# Amount
   12/07/90 192-06491 2587 $ 998.00
   12/12/90 192-06492 2610 995.00
   12/06/90 192-06493 2593 365.50
   12/04/90 192-06494 2601 1,912.00
   12/06/90 192-06495 2589 1,690.00
   12/17/90 192-06497 2618 2,578.80
   Total 1 $8,539.30

All the requisitions were prepared over a two week period (12/4/90 - 12/17/90) and all were for different items of furniture (chairs, desks, sofa, credenza and bookcases). All items were deliverable to one office of the agency.

2. Requisition Date Requisition Number Purchase Order# Amount
   12/05/90 192-07858 2679 $ 261.45
   12/05/90 192-07857 2680 334.95
   Total 2 $ 596.40

A department requested a lateral file and a bookcase. Both items were purchased from the same vendor for the same requestor. No competition was sought on either purchase.
3. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---
01/14/91 | 192-07872 | 2708 | $934.00  
01/11/91 | 192-07875 | 2722 | 2,044.88  
01/11/91 | 192-07877 | 2730 | 826.35  
Total 3 | | | $3,805.23  

A department ordered furniture on different requisitions. The requisitions are dated three days apart.

4. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---
01/01/91 | 192-8901 | 2717 | $2,100.00  
01/17/91 | 192-8903 | 2715 | 537.65  
01/22/91 | 192-8906 | 2702 | 795.00  
01/23/91 | 192-8907 | 2729 | 1,794.16  
02/01/91 | 192-8911 | 2750 | 262.50  
Total 4 | | | $5,489.31  

A department ordered furniture for one requestor on several different requisitions dated over a two-week period (1/17 - 2/1).

5. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---
03/11/91 | 192-10107 | 2887 | $2,152.50  
03/26/91 | 192-10120 | 2896 | 833.70  
Total 5 | | | $2,986.20  

A department ordered furniture for one requestor on different requisitions. The requisitions are dated 3/11 and 3/26.

6. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---
01/15/91 | 192-4793 | 2740 | $424.90  
01/15/91 | 192-4794 | 2740 | 239.00  
01/15/91 | 192-4795 | 2740 | 139.00  
01/16/91 | 192-4796 | 2740 | 206.00  
01/17/91 | 192-4797 | 2715 | 1,117.15  
01/17/91 | 192-4798 | 2715 | 490.00  
01/17/91 | 192-4799 | 2715 | 89.00  
Total 6 | | | $2,705.05  

A department ordered furniture for one requestor on seven requisitions over a three day period (1/15 - 1/17). The requisitions were combined by procurement based on the type of furniture (Oak vs. Walnut).
### 7. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---  
11/01/90 | 192-07457 | 2546 | $303.45  
10/31/90 | 192-07547 | 2547 | 778.58  
11/01/90 | 192-07560 | 2544 | 472.50  
Total 7 | | | $1,554.53  

- A department ordered furniture for one requestor on three different requisitions dated on two days (10/31 and 11/1).

### 8. Requisition Date | Requisition Number | Purchase Order# | Amount  
---|---|---|---  
09/25/89 | 192-00043 | 1596 | $906.00  
09/25/89 | 192-00042 | 1609 | 1,896.00  
Total 8 | | | $2,802.00  

- A department submitted separate requisitions for a conference table and chairs.

  - Section 11-35-1550 of the Consolidated Procurement Code specifies that purchases not be artificially divided to circumvent the competition requirements.

  - The departments are ordering one piece of furniture on each requisition.

  - We recommend that the Commission institute procedures to review requisitions to ensure that departments are not splitting orders. We also recommend that the Commission coordinate their furniture purchases.

**COMMISSION RESPONSE**

Procurement staff is monitoring all requests for furniture/equipment to insure that requests are not being divided onto different requisitions.
B. Late Payments

The Commission made seven late payments. They were as follows:

<table>
<thead>
<tr>
<th>Voucher Number</th>
<th>Invoice Date</th>
<th>Voucher Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1261</td>
<td>09/01/89</td>
<td>01/04/90</td>
<td>$1,474.60</td>
</tr>
<tr>
<td>918</td>
<td>07/12/89</td>
<td>12/08/89</td>
<td>6,740.74</td>
</tr>
<tr>
<td>3560</td>
<td>11/02/89</td>
<td>05/10/90</td>
<td>2,917.45</td>
</tr>
<tr>
<td>3644</td>
<td>11/19/90</td>
<td>02/01/91</td>
<td>1,554.00</td>
</tr>
<tr>
<td>MV00881</td>
<td>06/28/89</td>
<td>10/12/89</td>
<td>5,105.10</td>
</tr>
<tr>
<td>2522</td>
<td>07/25/89</td>
<td>03/13/90</td>
<td>1,133.83</td>
</tr>
<tr>
<td>913</td>
<td>Various from 5/17/89 to 11/14/89</td>
<td>12/08/89</td>
<td>13,423.87</td>
</tr>
</tbody>
</table>

Section 11-35-45 requires that payments be made within 30 work days of receipt.

The departments within the Commission are not turning receiving reports into Fiscal Affairs in a timely manner.

Therefore, we recommend that the Commission set up a central receiving point to ensure that receiving reports are processed timely.

COMMISSION RESPONSE

Procurement staff is monitoring the timely submission of receiving reports to ensure payment to vendors as quickly as possible. Notices are sent to all managers when it appears receiving reports are not submitted timely.

C. Minority Business Reports

We reviewed the quarterly reports of minority business activity for the period January 1, 1988 through December 31, 1990. Of the twelve reports reviewed, nine were a month or more late. Section 11-35-5240(2) of the Consolidated Procurement Code
requires that quarterly reports be submitted within ten days of the end of the quarter. We recommend that the Commission ensure that the quarterly reports are submitted in accordance with the Consolidated Procurement Code.

**COMMISSION RESPONSE**

MBE reports are submitted as quickly as we received expenditure information from our Fiscal Affairs office. The Governor's Office, Division of Small and Minority Business has never complained to us about late reports.

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D. Training Facilities

Fiscal Affairs rented a conference room for training of personnel. The purchase was made on voucher 1261 for 1,474.60 dated January 4, 1990. The procurement was made with no competition and was not processed by purchasing. Therefore, the procurement is unauthorized and must be ratified by the Executive Director.

**COMMISSION RESPONSE**

This purchase has been ratified by our Executive Director.

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29
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 State Health and Human Services Finance Commission in compliance with the South Carolina Consolidated Procurement Code.

Prior to September 30, 1991, we will perform a follow-up review in accordance with Section 11-35-1230(1) of the Procurement Code to determine if the proposed corrective action has been taken. Based on the follow-up review, and subject to this corrective action, we will recommend that the State Health and Human Services Finance Commission be recertified to make direct agency procurements for a period of three (3) years as follows:

<table>
<thead>
<tr>
<th>Procurement Area</th>
<th>Recommended Certification Limits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Service Provider Contracts Funded</td>
<td>$2,000,000 per contract, $150,000 per purchase commitment</td>
</tr>
<tr>
<td>From Any Funding Source-Service</td>
<td>per year, limit of four one-year extension options</td>
</tr>
<tr>
<td>Provider Being Provider of Services</td>
<td></td>
</tr>
<tr>
<td>Directly to a Client</td>
<td></td>
</tr>
<tr>
<td>Consultant Services</td>
<td></td>
</tr>
<tr>
<td>Including Information Technology Consultant</td>
<td></td>
</tr>
<tr>
<td>*Total potential purchase commitment whether single year or multi-term contracts are used.</td>
<td></td>
</tr>
</tbody>
</table>

Due to the results of this audit and our follow-up review, we are not prepared to recommend recertification for printing services at this time.

Melissa Rae Thurstin  
Compliance Analyst

R. Voight Shealy, CFE, Manager  
Audit and Certification
September 13, 1991

Mr. Thomas K. Barnes
Bureau of Administrative Services
State Health and Human Services
Finance Commission
P.O. Box 8206
Columbia, South Carolina 29202

Dear Tom:

We have returned to the State Health and Human Services Finance Commission to perform a two-day follow-up audit of procurement activity since the end of our original audit period of January 1, 1988 - February 28, 1991. The follow-up was conducted September 6 and 9, 1991 and covered the period March 1, 1991 - August 31, 1991.

The scope of our review included but was not limited to the following:

1) All sole source and emergency procurements and trade-in sales for the period January 1, 1991 through June 30, 1991

2) Fourteen consultant contracts

3) A block sample of one hundred sixty-nine purchase orders in numerical sequence

Based on tests performed, we noted the following exceptions:

Sole Source and Emergency Procurements

A. The Commission procured printing services on purchase order 2841 and 2838 for $2,499.00 and $1,496.00 as emergencies.
Each of these procurements could have been handled under the small purchases section of the Code.

B. Printing services were also procured on purchase order 2644 for $4,701.00 as an emergency. However, the determination did not match the vendor. It appears that the wrong determination was attached.

C. The Commission procured telephone maintenance services as a sole source on purchase order 3020 for $1,032.00 on 6/10/91. Section 1-11-430 of the 1976 South Carolina Code of Laws, as amended, vests all authority for procurements of telecommunications equipment and services in the Division of Information Resources Management. Therefore, this procurement is unauthorized and must be ratified by the Materials Management Officer.

Consultant Contracts

A. The Commission procured two consultants as exempt under the Appropriations Act Proviso. The contracts were A 1 0240 C for $18,500.00 and A 1 0244 C for $25,000.00. As of September 5, 1991, the Commission agreed to discontinue employing consultants under the interpretation that the proviso exempts them from the Consolidated Procurement Code. These contracts were prior to this date. Based on the September 5, 1991 letter, further corrective action is not necessary.

B. The Commission procured services under contract A 2 0195 C for $2,000.00 and A 1 0204 A for $36,000.00. The first contract was for psychologist services which the buyer assumed were exempt. The second was with a County Board of Social Services for reimbursement of salary and fringes of a county employee. Neither of these contracts were procured in accordance with the Consolidated Procurement Code.

Split Order

We found one split order for furniture:

<table>
<thead>
<tr>
<th>PO</th>
<th>Requisition</th>
<th>Requisition Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2996</td>
<td>192-10451</td>
<td>04/30/91</td>
<td>$1,367.10</td>
</tr>
<tr>
<td>2997</td>
<td>192-10452</td>
<td>04/30/91</td>
<td>496.10</td>
</tr>
</tbody>
</table>

Both of these procurements were for the same make but different model chairs. The purchase orders were to the same vendor and were ordered by the same person.
Printing

We requested the files on sealed bids for printing services since the Budget and Control Board granted certification on September 13, 1988. The Commission has done no sealed bids under this certification.

Conclusion

Based on our follow-up audit, it appears that the Commission has made progress in all areas but not corrected all deficiencies.

Please address these exceptions and let me know how the Commission intends to correct these problems by September 30, 1991.

Sincerely,

[Signature]

R. Voight Shealy, Manager
Audit and Certification

RVS/jjm

C James J. Forth, Jr.
Melissa Rae Thurstin
State of South Carolina
State Health And Human Services Finance Commission

William P. Simpson, Chairman
DISTRICT 1
George P. Knight
DISTRICT 2
T. M. Copeland
DISTRICT 3
G. Fred Tolly, Jr.

Eugene A. Laurent, Ph.D.
Executive Director
DISTRICT 4
Robert E. Robards, MD
DISTRICT 5
James T. McCray
DISTRICT 6
James L. Pasley, Jr.

P.O. Box 8206, Columbia, South Carolina 29202-8206

September 30, 1991

Mr. R. Voight Shealy, Manager
Audit and Certification
Division of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We appreciate the follow up review to our procurement audit and agree that progress has been made to correct the deficiencies noted. We have not received a reply from the Division of Information Resource Management concerning our telecommunications request. However, we will seek their approval prior to making any changes/additions to our system.

Small purchase procedures under the Code have been reviewed with all procurement staff. These procedures will be utilized when appropriate. Careful attention is being applied to our documentation to insure that appropriate documentation matches the correct vendor. We have requested ratification (copy enclosed) for purchase order number 3020. We no longer are using the Appropriations Act Proviso to employ consultants. Furniture orders are not being split. All requests are reviewed and like items are being combined where possible. We are reviewing contracting procedures with all agency staff to insure that all deficiencies are corrected and to maintain compliance with the procurement code.

We appreciate the opportunity to work with you to strengthen our agency. Thank you for your cooperation.

Sincerely,

[Signature]

Thomas K. Barnes, Jr., Chief
Bureau of Administrative Services

TKBjr/j

Enclosure
October 7, 1991

Mr. James J. Forth, Jr.
Assistant Division Director
Division of General Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Jim:

We have reviewed the State Health and Human Services Finance Commission's response to our follow-up examination. We are satisfied the Commission has corrected the problem areas and that internal controls over the procurement system for provider services and consultant services are adequate.

However, the Commission did not provide any evidence that it ever used the certification for printing services. Based on this and eighteen emergency procurements for printing services that we took exception to in this report, we do not believe recertification for printing services is warranted.

Therefore, we recommend that the Budget and Control Board grant the State Health and Human Services Finance Commission the certification limits for provider services and consultant services noted in our audit report for a period of three (3) years.

Sincerely,

R. Voight Shealy, Manager
Audit and Certification

RVS/jjm