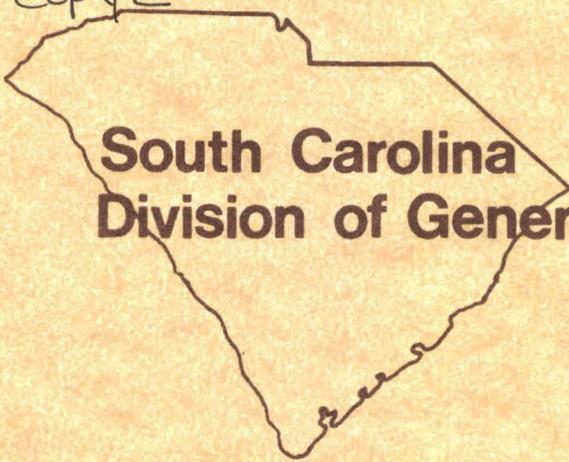


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**South Carolina
Division of General Services**

PROCUREMENT AUDIT AND CERTIFICATION

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SOUTH CAROLINA
DEPARTMENT OF JUVENILE JUSTICE

AGENCY

JANUARY 1, 1990 - DECEMBER 31, 1992

DATE

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



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DEPUTY DIRECTOR

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

August 13, 1993

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

Dear Rick:

I have attached the procurement audit report of the Department of Juvenile Justice as prepared 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 outlined in the report.

Sincerely,

A handwritten signature in cursive script that reads 'Helen T. Zeigler'.

Helen T. Zeigler
Deputy Division Director

HTZ/jj

Attachment

SOUTH CAROLINA DEPARTMENT OF JUVENILE JUSTICE

PROCUREMENT AUDIT REPORT

JANUARY 1, 1990 - DECEMBER 31, 1992

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

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



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WILLIAM D. BOAN
CHAIRMAN, WAYS AND MEANS COMMITTEE

LUTHER F. CARTER
EXECUTIVE DIRECTOR

August 12, 1993

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

Dear Helen:

We have examined the procurement policies and procedures of the South Carolina Department of Juvenile Justice, formerly known as the Department of Youth Services, for the period January 1, 1990 through December 31, 1992. 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 Department procurement policy. Additionally, the evaluation was used in determining the nature, timing and extent of other auditing procedures necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

The administration of the Department of Juvenile Justice 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 Juvenile Justice in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.



R. Voight Shealy, CFE, Manager
Audit and Certification

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 Juvenile Justice 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 random samples of procurement transactions for the period July 1, 1990 - December 31, 1992, for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. Specifically, 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 audit period January 1, 1990 through December 31, 1992
- (2) Purchase transactions for the audit period as follows:
 - a) 192 systematically selected procurement transactions each exceeding \$500.00
 - b) a block sample review of 500 purchase orders in numerical sequence
 - c) an additional 20 sealed bids issued and awarded from the audit period
- (3) 19 permanent improvement projects out of which 16 architect-engineer selections and 16 contracts were reviewed for compliance with the Manual for Planning and Execution of State Permanent Improvements
- (4) All real property leases
- (5) Minority Enterprise Plans and reports
- (6) Information Technology plans

- (7) Procurement Policies and Procedures Manual
- (8) Property management and fixed asset procedures
- (9) Supply Warehouse management procedures
- (10) Physical Plant work orders and blanket purchase agreement files
- (11) Procurement staff and training

SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of the South Carolina Department of Juvenile Justice, hereinafter referred to as the Department, produced findings and recommendations in the following areas:

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I. Resident vendor preference was inappropriately applied	6
II. The Drug-Free Workplace certification was not obtained on five contracts	7
III. Multi-term determinations were not prepared on five bid files	8
IV. We noted one unauthorized printing contract	9
V. Construction	
A. Construction procurements not supported by required bonds	10
B. Construction procurement made as goods and services	11
VI. One real property lease was not reported to the Division of General Services, Real Property Division.	12
VII. The Department's Procurement Procedures Manual needs to be updated.	13

RESULTS OF EXAMINATION

The Office of Audit and Certification performed an examination of the internal procurement operating policies and procedures and related manual of the Department of Juvenile Justice for the period January 1, 1990 through December 31, 1992.

Our on-site review was conducted January 6 through February 18, 1993, and was made under the authority as described in Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code, hereinafter referred to as the Code. The audit was primarily instituted because the most recent three year certification granted the Department by the Budget and Control Board is to expire on August 14, 1993. Additionally, the Department requested recertification at its existing limits which are as follows:

Goods and Services	\$50,000
Construction	25,000
Consultants	50,000
Information Technology	50,000

Since our previous audit in 1990, the Department has maintained what we consider to be a professional, efficient procurement system. We did note, however, the below listed items which should be addressed by management.

I. Resident Vendor Preference Inappropriately Applied

The Department applied resident vendor preference against two instate vendors because they had not prepared the affidavit in bid number 93-002.

However, a Fifth Judicial Circuit Court ruling dated April 5, 1992 upheld a previous judgement made in Case Number 1982-4 that the resident vendor preference cannot be applied against a South Carolina resident vendor simply because it failed to complete the affidavit. The actual low bidder did not get the award.

The Department did not realize that resident vendor preferences only apply if an out-of-state vendor is bidding against an instate vendor.

We recommend that the Department discontinue applying the preference to solicitations when only instate vendors respond.

DEPARTMENT RESPONSE

Since the vendors had not completed the vendor preference affidavit, vendor preference was applied against them. However, since the auditors have clarified when this preference is to be used through the citation of a Fifth Judicial Circuit Court ruling dated April 5, 1992, the Department will no longer apply this preference except in cases in which out-of-state vendors are bidding against instate vendors.

II. Drug-Free Workplace Certification Not Obtained

The Department could not locate the Drug-Free Workplace certification for the following contracts:

<u>Contract Date</u>	<u>P.O. Number</u>	<u>Amount</u>	<u>Description</u>
02/22/91	3797	\$ 53,468.00	Project # 9507 Water Distribution
01/02/91	3207	218,324.00	Project # 9507 Modular Buildings
07/01/92	529	93,748.00	Greenhouse for runaways
07/01/92	651	645,968.00	Marine Institute

Section 44-107-40 of the South Carolina Code of Laws, 1976, as amended, requires that:

No state agency may enter into a domestic contract or make a domestic grant with any individual for a stated or estimated value of fifty thousand dollars or more unless the contract or grant includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

The Department has not complied with the law in these cases.

We recommend that the Department exercise more caution to ensure that contracts greater than \$50,000 are not awarded unless the vendors complete Drug-Free Workplace certifications.

DEPARTMENT RESPONSE

We concur. Two contracts were permanent improvement projects which are handled by the State Engineer's Office. We are working with the State Engineer's Office to ensure that they include these documents in every bid package in the future.

The Department has obtained this certification for the other two contracts which are non-construction contracts; in the future, we will exercise more caution to ensure that this certification is part of all contracts exceeding \$50,000.

III. Multi-Term Determinations Not Prepared

The Department failed to prepare multi-term determinations to support five multiple year contracts. These bids were as follows:

<u>Bid #</u>	<u>Description</u>
90-028	Laundry supplies
91-041	Refuse collection
92-007	Snack crackers
92-012	Herbicide
91-057	Institutional mattresses

Regulation 19-445.2135.D states in part, a multi-term contract may be used when it is determined in writing by the procurement officer of the governmental body that:

- (1) special production of definite quantities or the furnishing of long term services are required to meet state needs; or
- (2) a multi-term contract will serve the best interest of the state by encouraging effective competition or otherwise promoting economies in state procurement.

Since the required determinations were not prepared, extension options should not be exercised. The Department should prepare these determinations to support future multi-term solicitations to ensure compliance with the Code.

DEPARTMENT RESPONSE

We concur. Procurement has since prepared multi-term determinations for the contracts listed in the report. Also, "multi-term determination" has been added as an item on the Solicitation Checklist to avoid future occurrences.

IV. Unauthorized Purchase - Printing

Voucher number 11844 for \$3,391.50 was for payment on the printing of five monthly Department newsletters. Purchase order number 3753 was issued after-the-fact to allow payment on these newsletters.

The Department's procurement procedures manual states in part in Section G.2. "under no circumstances are purchases to be made without authorization from Purchasing and a purchase order issued."

Therefore, this payment is an unauthorized procurement and must be ratified by the Department's Commissioner in accordance with Regulation 19-445.2015.A(1).

DEPARTMENT RESPONSE

We concur. The Commissioner of DYS has since ratified this unauthorized procurement. This was an isolated incident in which there was some confusion as to who was responsible for this unauthorized procurement. In the future, all unauthorized procurements will be ratified prior to payment.

V. Construction

A. Construction Procurements Not Supported by the Required Bonds

The Department added aluminum awnings to several institutions through bid number 90-017 for \$13,917.50. It also declared purchase order 1940 an emergency procurement for installation of a sewer system for \$30,750.00. These procurements were not supported by performance bonds or labor and material payment bonds which are required by Section 11-35-3030 of the Code for all awards of construction.

Department personnel did not realize bonding was required on the procurement of aluminum awnings. For purchase order 1940, the department personnel did not think the bonds were necessary since the job was completed within 15 days.

We recommend that the Department obtain the required bonding on minor construction contracts in the future.

DEPARTMENT RESPONSE

We concur. In the future, the Procurement Office will coordinate construction projects more closely with the Department's Support Services Section, which is responsible for construction projects, to ensure that the required bonds are in place before construction begins. Since the emergency procurement was completed within 15 days, it was believed by the Department's staff that the bonds were not necessary since the contractor is not required to show proof of bonds until the 21st day after the contract is awarded.

B. Construction Procurement Made as Goods and Services

The Department processed bid number 91-033, to furnish and install a metal building, under Article 5 of the Code rather than Article 9 of the Code. Article 9 defines construction and related services and identifies the procurement procedures required, which are specific to this area of procurement. Section 11-35-2910(2) defines construction as "the process of building, altering, repairing, remodeling, improving, or demolishing any public structure or building..." Clearly, erection of a metal building falls under this definition. Therefore, this procurement should have been made in accordance with Section 11-35-3020, Construction Procurement Procedures, and Section 11-35-3030, Bond and Security, of the Code.

We recommend that the Department strictly apply the definition of construction to future projects and follow the procurement procedures specific to Article 9 of the Code.

DEPARTMENT RESPONSE

We concur. The project was advertised as minor construction but was coded as equipment. In the future we will adhere strictly to Article 9 of the Code which deals with construction.

VI. Lease of Real Property

Using listings of real property leases provided by the Department and the Real Property Management Office of the Division of General Services, we tested for compliance with Section 11-35-1590 of the Code. While we found that all leases greater than \$10,000 annually had been approved by General Services, we noted one lease for \$3,000 per year for the Adams Run Civic Center which had not been reported.

Agencies are authorized to enter into leases for up to \$10,000 per year without approval but those smaller leases must be reported annually to the Division of General Services.

We recommend that the Department report this lease to the Real Property Management Office.

DEPARTMENT RESPONSE

Agencies are authorized to enter into leases for up to \$10,000 per year without approval from the Division of General Services. However, they must report these leases annually.

This unreported lease was simply an oversight and has since been reported. In the future, greater attention will be given to these types of leases to ensure that every one is reported to the Division of General Services annually.

VII. Procurement Procedures Manual

We reviewed the Department's internal procurement procedures manual and noted the following items which need to be added or changed.

The additions needed are as follows:

- A - Retention of Records
- B - Restrictive Specifications
- C - Expenditure of Funds (Federal)
- D - Professional Development
- E - Conflict of Interest
- F - Unauthorized Procurements and Ratification Process
- G - Term Contracts
- H - Legal Services
- I - Auditing Services
- J - Procurements of Art
- K - Information Technology Procedures
- L - Confirmation Purchases
- M - Lease of Real Property and Equipment
- N - Small Purchase Procedures
- O - Sealed Bid Procedures
- P - Request for Proposal Procedures
- Q - Sole Source Definition and Application
- R - Multi-term Contracts
- S - Drug-Free Workplace

Also, we noted that Section 4.10D of the manual delegates ratification authority to the Director of Finance. However, Regulation 19-445.2015 of the Code clearly restricts this authority to the head of the governmental body with no exception. Therefore, we recommend that the Department change this reference.

DEPARTMENT RESPONSE

We have prepared a separate Procurement Procedures Manual which corrects the ratification authority for unauthorized procurements as recommended by the auditors and have added sections to address all items recommended for inclusion by the auditors.

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 Juvenile Justice in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations. The Department should accomplish corrective action by August 1, 1993. We will verify completion through a follow-up review.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we recommend the Department of Juvenile Justice be recertified to make direct agency procurements for three years up to its existing limits which are as follows:

<u>Procurement Areas</u>	<u>Recommended Certification Limits</u>
I. Goods and Services	\$50,000 per purchase commitment*
II. Construction Services	25,000 per purchase commitment*
III. Consultant Services	50,000 per purchase commitment*
IV. Information Technology in accordance with the approved Information Technology Plan	50,000 per purchase commitment*

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



James M. Stiles, CPPB
Audit Manager



R. Voight Shealy, CFE, Manager
Audit and Certification

STATE OF SOUTH CAROLINA
State Budget and Control Board
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August 12, 1993

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

Dear Helen:

We have reviewed the response to our audit report of the South Carolina Department of Juvenile Justice covering the period January 1, 1990 - December 31, 1992. Combined with observations made during our site visit and documentation submitted by the Department, the review has satisfied us that the Department has corrected the problem areas found and that internal controls over the procurement system are adequate.

We, therefore, recommend that the certification limits for the Department of Juvenile Justice outlined in our audit report be granted for a period of three (3) years.

Sincerely,

A handwritten signature in cursive script that reads "R. Voight Shealy".

R. Voight Shealy, Manager
Audit and Certification

RVS/jj

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