Procurement Audit and Certification

South Carolina
Division of General Services

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GREENVILLE COUNTY SCHOOL DISTRICT
AGENCY
JULY 1, 1985 - FEBRUARY 28, 1987
DATE
January 6, 1988

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

Dear Rick:

Attached is the final Greenville County School District audit report and recommendations made by the Office of Audit and Certification. Since the issue of certification above $2,500 does not apply to the District, and no action is necessary by the Budget and Control Board, I recommend that this report be presented to Dr. Coles for his information.

Sincerely,

D. L. McMillin  
Acting Materials Management Officer  

Attachment
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Mr. D.L. McMillin, CPPO  
Acting Materials Management Officer  
Division of General Services  
Columbia, South Carolina 29201

We have examined the procurement policies and procedures of the Greenville County School District for the period July 1, 1985 through February 28, 1987. As a part of our examination, we made a study and evaluation of the system of internal control over procurement transactions to the extent we considered necessary.

The purpose of such evaluation was to establish a basis for reliance upon the system of internal control to assure adherence to district procurement policy. Additionally, the evaluation was used in determining the nature, timing and extent of other auditing procedures that were necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

The administration of the Greenville County School District 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 due professional care. They would not, however, because of the nature of audit testing, necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe to be subject to correction or improvement.

R. Voight Shealy, Manager
Audit and Certification
INTRODUCTION

The Office of Audit and Certification has completed an examination of the internal procurement operating procedures and policies of Greenville County School District. Our on-site review was conducted March 16, 1987 through April 10, 1987 and was made under authority described in Act 493 of 1984 as amended by Act 109 of 1985. The examination was directed principally to determine whether, in all material respects, the procurement system's internal controls were adequate and the procurement policies and procedures as outlined in the Greenville County School District Procurement Code were in compliance with existing laws and regulations and with accepted public procurement standards.

As with our audits of state agencies, our work was directed also toward assisting the school district in promoting the underlying purposes of the Consolidated Procurement Code which we believe to be applicable to all governmental bodies and which are outlined in Code Section 11-35-20, to 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.
SCOPE

Our examination encompassed a detailed analysis of the internal procurement operating procedures of Greenville County School District 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.

The Office of Audit and Certification of the Division of General Services statistically selected random samples for the period July 1, 1985 - February 28, 1987, of procurement transactions for compliance testing and performed other auditing procedures that we considered necessary in the circumstances to formulate this opinion. Our review of the system included, but was not limited to, the following areas:

(1) adherence to applicable laws, regulations and internal policy;
(2) procurement staff and training;
(3) adequate audit trails and purchase order registers;
(4) evidences of competition;
(5) small purchase provisions and purchase order confirmations;
(6) emergency and sole source procurements;
(7) source selections;
(8) file documentation of procurements;
(9) warehousing, inventory and disposition of surplus property; and
(10) economy and efficiency of the procurement process.
SUMMARY OF AUDIT FINDINGS

Our audit of the procurement system of Greenville County School District, hereinafter referred to as the District, produced findings and recommendations in the following areas:

I. Compliance-Sole Source Procurements

One procurement was made improperly as a sole source. Additionally, there were a variety of sole source procurement reporting inaccuracies.

II. Compliance-Emergency Procurements

Two emergency procurements were reported incorrectly as sole source procurements. Three other procurements were reported unnecessarily.

III. Compliance-Goods and Services

A. Procurements Made Without Competition

For several years, the District has not solicited competition for maintenance services for various office machines. Since these contracts total approximately $125,000 per year, we consider this a major violation. Another procurement was made without competition. A third procurement referenced an invitation for bids, but the item being procured was not included therein.
B. Unauthorized Procurements

Three procurements for bus charters were made by individuals without the requisite authority to do so.

C. Incorrect Procurement Methodology

The District did not use the appropriate procurement methodology on three transactions resulting in insufficient competition being solicited for them.

D. Splitting Orders

In one case, an order was split to circumvent the competitive procurement requirements.

IV. Compliance-Consultants

Three consultant service contracts were awarded improperly.

V. Minority Business Enterprise Reports

Required reports of minority business assistance have not been made to the Associate Superintendent for Fiscal Affairs. Also, the annual report to the Board of Trustees was not filed timely.

VI. Review of Invitation For Bids Package

The standard invitation for bids package should be expanded/revised.

VII. Review of the District's Procurement Code

The District's Procurement Code needs to be updated as a result of changes being made to the South Carolina Consolidated Procurement Code.
RESULTS OF EXAMINATION

I. Compliance-Sole Source Procurements

We examined the quarterly reports of sole source procurements for the period July 1, 1985 through December 31, 1986 for purposes of determining the appropriateness of the procurement actions taken and the accuracy of the reports submitted to the Associate Superintendent of Finance and subsequently to the Board of Trustees. The following exceptions were noted.

The following procurement did not meet the criteria for a sole source, thus competition should have been sought.

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT</th>
<th>DESCRIPTION-JUSTIFICATION</th>
</tr>
</thead>
</table>
| 9872 | $595.38| Compressor. The justifica-
|      |        | tion stated, among other |
|      |        | items, "...Vendor is the sole |
|      |        | distributor for General |
|      |        | Electric Compressors in the |
|      |        | upstate area. The compressor |
|      |        | was in stock at their ware-
|      |        | house. Did not have time to |
|      |        | get compressor from Columbia."

DISTRICT RESPONSE

The correct procedure is to list this as an emergency and not as sole source. Future requirements will be handled under the correct category.

Section V.B.6. of the District's Procurement Code states:

A contract may be awarded for a supply, service, equipment or construction item without competition when, under regulations, the Associate
Superintendent for Fiscal Affairs or a designee above the level of the Purchasing Agent, determines in writing that there is only one source for the required supply, service, equipment or construction item.

As indicated by the sole source justification, this was not the case.

Section VIII.D. of the District's Procurement Code requires that the District submit semi-annually a record listing all contracts made under sole source or emergency procurement procedures to the Associate Superintendent for Fiscal Affairs. Further, this section requires that a copy of the record of these procurements be submitted to the Board, through the Superintendent, on an annual basis. We noted several reporting discrepancies:

(1) The following sole source procurements were not reported:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>118</td>
<td>$1,206.95</td>
<td>Stack fans</td>
</tr>
<tr>
<td>4008</td>
<td>$1,330.50</td>
<td>Stack fans</td>
</tr>
<tr>
<td>7740</td>
<td>$1,638.00</td>
<td>Transmitter</td>
</tr>
<tr>
<td>32576</td>
<td>$5,458.74</td>
<td>Panels</td>
</tr>
</tbody>
</table>

**DISTRICT RESPONSE**

Sole source documentation is on file in the Purchasing Department, however, the documentation did not appear on the recap presented to the Board of Trustees. In the future, recaps will be presented to the Board.

(2) The following procurements should not have been reported because the required competition was solicited:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT REPORTED</th>
<th>COMPETITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1021</td>
<td>$810.23</td>
<td>Eight phone solicitations</td>
</tr>
<tr>
<td>31341</td>
<td>$801.13</td>
<td>Three phone solicitations</td>
</tr>
</tbody>
</table>
DISTRICT RESPONSE

This action exceeds the requirements of the policy. Purchasing felt that such reporting, since it exceeded the requirements, provided a much higher level of control. If the state prefers that this be discontinued, the District will comply.

(3) The following procurements should not have been reported as the amounts were less than $500.00, thus competition was not required if the price offered was fair and reasonable:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1079</td>
<td>$173.70</td>
<td>Parts</td>
</tr>
<tr>
<td>224</td>
<td>$299.38</td>
<td>Parts</td>
</tr>
<tr>
<td>36900</td>
<td>$ 43.34</td>
<td>Parts</td>
</tr>
<tr>
<td>37109</td>
<td>$357.21</td>
<td>Parts</td>
</tr>
<tr>
<td>12513</td>
<td>$306.18</td>
<td>Parts</td>
</tr>
</tbody>
</table>

DISTRICT RESPONSE

This action exceeds the requirements of the policy. Purchasing felt that such reporting, since it exceeded the requirements, provided a much higher level of control. If the state prefers that this be discontinued, the District will comply.

(4) The following procurements were reported, however, the written determinations to justify the procurements as sole sources were not prepared.

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT REPORTED</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>34359</td>
<td>$ 4,200.00</td>
<td>Learning charts</td>
</tr>
<tr>
<td>30714</td>
<td>$57,400.00</td>
<td>Educational material</td>
</tr>
<tr>
<td>91745</td>
<td>$ 3,875.00</td>
<td>Educational material</td>
</tr>
<tr>
<td>6978</td>
<td>$20,689.20</td>
<td>Software</td>
</tr>
<tr>
<td>7012</td>
<td>$ 2,356.20</td>
<td>Software</td>
</tr>
<tr>
<td>32200</td>
<td>$  973.86</td>
<td>Repair</td>
</tr>
<tr>
<td>31973</td>
<td>$1,131.11</td>
<td>Equipment</td>
</tr>
</tbody>
</table>
These sole source procurements occurred immediately after the District came under state supervision and before sole source procedures were prepared. Purchasing is currently following all procedures concerning Sole Source transactions.

(5) The amount of the following procurement was reported incorrectly:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT REPORTED</th>
<th>TOTAL P.O.</th>
<th>AMOUNT OVER REPORTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>91745</td>
<td>$3,875.39</td>
<td>$875.39</td>
<td>$3,000.00</td>
</tr>
</tbody>
</table>

This was a typographical error; ie, $3,875.39 should be $875.39 and amount over reported should be -0-.

The procurement department needs to develop a system that will adequately capture and summarize sole source procurement activity so that the reports to the Associate Superintendent of Finance and the Board of Trustees are accurate.

II. Compliance-Emergency Procurements

As in item I, we examined the quarterly reports of emergency procurements and all supporting documentation for the period July 1, 1985 - December 31, 1986. The following exceptions were noted.
The following emergency procurements were reported incorrectly as sole source procurements:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>30937</td>
<td>$9,839.63</td>
<td>Cans for canneries</td>
</tr>
<tr>
<td>4616</td>
<td>$3,750.00</td>
<td>Asbestos monitoring service</td>
</tr>
</tbody>
</table>

**DISTRICT RESPONSE**

The correct procedure is to list this as an emergency and not as sole source. Future requirements will be handled under the correct category.

The following procurements should not have been reported as the amounts were less than $500.00, thus competition was not required if the price offered was fair and reasonable:

<table>
<thead>
<tr>
<th>P.O.</th>
<th>AMOUNT</th>
<th>DESCRIPTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>6172</td>
<td>$295.76</td>
<td>Windows</td>
</tr>
<tr>
<td>6175</td>
<td>$372.00</td>
<td>Lumber</td>
</tr>
<tr>
<td>91351</td>
<td>$346.58</td>
<td>Rental equipment</td>
</tr>
</tbody>
</table>

**DISTRICT RESPONSE**

This action exceeds the requirements of the policy. Purchasing felt that such reporting, since it exceeded the requirements, provided a much higher level of control. If the state prefers that this be discontinued, the District will comply.

As in item I, the procurement department needs to accurately report emergency procurements. This requires careful preparation and review of each report.

**DISTRICT RESPONSE**

The District has a clearly defined procedure for purchasing items under the Emergency classification. This procedure is currently being used.
III. Compliance—Goods and Services

Our examination of sixty randomly selected procurements in the goods and services area plus a review of one thousand consecutively numbered purchase orders revealed the following areas of noncompliance.

A. Procurements Made Without Competition

The District has not solicited competition for procurements of maintenance services for typewriters, duplicators, mimeograph machines, adding machines and calculators. The decision was made by the procurement department to roll over the existing contracts improperly.

We consider this a major violation because these contracts total approximately $125,000 per year. Competitive solicitations should be developed for the procurement of these services for fiscal year 1987/88. Section 6. A. of the District’s procurement regulations requires solicitation of formal sealed bids from a minimum of ten qualified sources for procurements of $10,000 or more.

DISTRICT RESPONSE

It was the District's understanding, after consultation with the State's audit team in 1984, the company from whom equipment was purchased, should be the company that would provide the maintenance.

The state bid this service for the 1986-1987 year. The District followed the state's lead by bidding this service for the 1987-1988 year and will continue the practice in future years.

Purchase order 89742 was issued for a procurement of school supplies totalling $1,113.30 without competition. District procurement regulation 18.b.(2) requires solicitation of verbal or written quotes from a minimum of two qualified sources of supply for procurements from $500.01 to $1,499.99.
This order was comprised of books and testing material along with other items. Books and testing material, which are exempt from competition, comprised such a large portion of the order that the remainder was less than $500.00 and not subject to competition.

Purchase order 10848 was issued for a procurement of forty fifty-five gallon drums of all-purpose cleaner/disinfectant totalling $5,544.00. The purchase order referenced sealed bid 386-214. However, this cleaner/disinfectant was not included on this invitation for bids meaning this procurement was made without competition.

Section 6.a. of the District's procurement regulations requires solicitation of formal sealed bids from a minimum of five qualified sources for a procurement from $5,000.00 to $9,999.99.

Procurement officials must take care in establishing the list of items that will be procured on an extended contract basis. Once this is accomplished, only those items included therein can be procured from the established contracts.

The District's bid for operational supplies was comprised of 125 items. In listing each item, a price on 55 gallon drums was omitted, although a price for 5 gallon containers was obtained.

Since the 5 gallon quote was competitive and a savings of $.65/gallon was obtained (from the low bidder) for 55 gallon drums over 5 gallon pails, the order was issued.

The savings ($.65/gallon) is competitive in the industry in the area.

B. Unauthorized Procurements

Voucher number 18242 was issued on July 10, 1986 for $1,954.00 to pay for the following four invoices for the chartering of passenger buses:
<table>
<thead>
<tr>
<th>DATE</th>
<th>NUMBER</th>
<th>TOTAL</th>
</tr>
</thead>
<tbody>
<tr>
<td>6/16/86</td>
<td>1955</td>
<td>$452.00</td>
</tr>
<tr>
<td>6/17/86</td>
<td>1956</td>
<td>430.00</td>
</tr>
<tr>
<td>6/18/86</td>
<td>1957</td>
<td>536.00</td>
</tr>
<tr>
<td>6/24/86</td>
<td>1965</td>
<td>536.00</td>
</tr>
<tr>
<td>Total payment</td>
<td></td>
<td>$1,954.00</td>
</tr>
</tbody>
</table>

These procurements were made by personnel without the requisite authority to do so, making each an unauthorized procurement.

Section IV.A.1. of the District Procurement Code states in part:

All rights, powers, duties and authority relating to the procurements of supplies, equipment, services, and information technology and to the management, control, warehousing, sale, and disposal of supplies, construction, information technology and services now vested in or exercised by a school or department under the provisions of law relating thereto, and regardless of source of funding are hereby vested in the District.

Section 3 of the District's procurement regulations requires that an unauthorized procurement be ratified by the Superintendent or the Associate Superintendent for Fiscal Affairs. Further, it requires that a written determination be prepared as to the facts and circumstances surrounding the act, what corrective action was taken to prevent reoccurrence, action taken against the individual committing the act and documentation that the price paid is fair and reasonable. If the price is unreasonable, the individual may be held pecuniarily liable for the difference.

The District needs to inform the various departments/divisions that the procurement department has the procurement authority for this type of service. Future requests for these services must be forwarded to the procurement department.
C. Incorrect Procurement Methodology

The District did not use the appropriate procurement methodology on the following transactions which resulted in insufficient competition being solicited for them.

<table>
<thead>
<tr>
<th>PURCHASE ORDER</th>
<th>PROCUREMENT TOTAL</th>
<th>SOLICITATION UTILIZED</th>
<th>REQUIRED SOLICITATION METHODOLOGY</th>
</tr>
</thead>
<tbody>
<tr>
<td>1550</td>
<td>$1,679.81</td>
<td>Request for quotations-2 vendors</td>
<td>Request for quotations-3 vendors</td>
</tr>
<tr>
<td>5154</td>
<td>$1,581.22</td>
<td>2 telephone quotes</td>
<td>Request for quotations-3 vendors</td>
</tr>
<tr>
<td>6116</td>
<td>$3,533.25</td>
<td>5 telephone quotes</td>
<td>Sealed bids-5 vendors</td>
</tr>
</tbody>
</table>

In all cases, the competition requirements of the District's Procurement Code and regulations must be met.

D. Splitting Orders

The District issued two consecutively numbered purchase orders on June 9, 1986 based on two consecutively numbered requisitions dated June 6, 1986 from the maintenance department for siding and paneling. As evidenced by the following summary, the total procurement was split between the two requisitions.
The District obtained telephone quotations from the same three vendors on each purchase order. The quotes were identical.

<table>
<thead>
<tr>
<th>PURCHASE ORDER</th>
<th>REQUISITION NUMBER</th>
<th>PROCUREMENT AMOUNT</th>
<th>DESCRIPTION OF ITEMS PROCURED</th>
</tr>
</thead>
</table>
| 4698           | 95572              | $1,728.78          | 42 pieces 4'x9' x 5/8 T-1-11 siding  
|                |                    |                    | 54 pieces 4'x8' x 1/4 birch paneling |
| 4699           | 95573              | $1,627.61          | 40 pieces 4'x9' x 5/8 T-1-11 siding  
|                |                    |                    | 50 pieces 4'x8' x 1/4 birch paneling |

Section V.B.5. of the District's Procurement Code states:

Any procurement not exceeding the dollar amounts established in regulations ($2,500.00) and updated periodically may be made by the District in accordance with small purchase procedures; provided, however, that purchases shall not be artificially divided so as to constitute a small purchase. (emphasis added)

The procurement department should scrutinize requisitions for attempted order splitting. When found, the orders should be combined and the appropriate competition should be sought.

**DISTRICT RESPONSE**

This material was purchased for the purpose of rebuilding two (2) portable classrooms. The splitting of this order was for record keeping and not intended to circumvent the code and regulations.

**IV. Compliance-Consultants**

In our review of consultant service contracts, we noted three procurements that were not made in compliance with the District's Procurement Code and regulations. The District contracts with an insurance consultant to assist in the procurement of insurance contracts. The original contract dates back to 1977. In March of 1980, the Board of Trustees approved extension of this
contract. Each year thereafter, the contract has been extended by mutual agreement. The annual payments have exceeded $13,000.00.

Each extension represents a new procurement. Contracts entered into before the District came under the Procurement Code must be extended in accordance with the Code.

Toward the end of the current contract period, the District should prepare a competitive solicitation for this service. Annual roll-over of this contract is improper.

A contract for development of an educational television scheduling system totalling $3,000.00 was awarded without competition. Section V.B.2. of the District's Procurement Code states that, "Contracts amounting to two thousand, five hundred dollars or more shall be awarded by competitive sealed bidding except as listed above." (i.e. Sole source or emergency procurement)

We recommend that all future contracts be awarded subsequent to competitive solicitations as should have been done in this case.

The third exception was a contract with an insurance broker totalling $3,468.00 for employee blanket bond coverage. As we were told, due to the tight market, the District failed to adhere to the competitive bidding, sole source or emergency procurement methodologies.

We remind the District that one of the procurement methods allowed by the District's Procurement Code must be used in all cases.

**DISTRICT RESPONSE**

The District issued bids for the insurance consultant services for the 1987-1988 year.

The District should have declared this transaction a sole source. Corrective measures have been taken with the television scheduling system personnel to assure compliance in the future.

The District was unable to obtain competition for a broker on blanket bond coverage.
V. Minority Business Enterprise Reports

Section XV.B. of the District's Procurement Code states, "The Board of Trustees of the School District of Greenville County intends to ensure that those businesses owned and operated by minorities are afforded the opportunity to fully participate in the overall procurement process of the District." In order to monitor progress in this area, Section 29.e.(5) of the District's procurement regulations requires that progress reports be submitted quarterly to the Associate Superintendent for Fiscal Affairs no later than fifteen days after the last day of each fiscal quarter and that annual reports be submitted to the Board of Trustees no later than fifteen days after the end of the fiscal year.

We found that the quarterly reports to the Associate Superintendent have not been made. Further, the annual report for fiscal year 1985-86 was not submitted to the Board until September 9, 1986, almost two months after the due date of July 15.

We recommend that the minority business enterprise assistance reports be made in a timely manner.

DISTRICT RESPONSE

In the future, Procurement will make reports in compliance with the District's code.

VI. Review of the Invitation For Bids Package

The District's standard invitation for bids package (boiler plate) is not adequate. Bid conditions, specifications, bid schedules, award criteria, plus other data, should be included in a bid solicitation to afford equal opportunity to each vendor to avoid confusion and to protect the District. The following should be included in each invitation for bids:

1) the time that bids must be received by the district;

2) how long the bids are good for;
3) itemized unit costs of each item with additional cost such as freight, taxes, etc. shown separately;

4) a note that proprietary or confidential information provided by vendors must be noted as such;

5) a statement indicating how to withdraw a bid;

6) clearly stated award criteria including such criteria in the event of a tie bid;

7) potential district action if vendors fail to respond to the invitation for bids;

8) a termination clause;

9) goods or services destination;

10) if applicable, an "or equal clause";

11) requirement for a guarantee statement;

12) requirement that all bids must be signed by a vendor representative with requisite authority;

13) minimum information required to be on a vendor's invoice.

Specifications should be written in an unrestrictive manner so as to afford ample competition. All bid files should include all pertinent documents in an organized fashion.

These items, although not all inclusive, should be incorporated into the bid package immediately. We have furnished copies of bid packages for reference.

DISTRICT RESPONSE

Formal bids being issued by the District incorporate most of the above in invitation for bids, however, the District is in the process of formulating a boiler plate that will accompany all formal bids.

VII. Review of the District's Procurement Code

The Division of General Services approved the Procurement Code and regulations of the District as being substantially similar to the South Carolina Consolidated Procurement Code on September 20, 1984. Since that time, however,
changes have been made to the South Carolina Consolidated Procurement Code, some of which directly effect this approval. Additionally, further review of the South Carolina School Facilities Planning and Construction Guide, which the District follows for construction services procurements, revealed that one section therein is not substantially similar to the corresponding provisions of the Consolidated Procurement Code. Thus, in order for the District's Procurement Code to remain substantially similar, we recommend that the following changes be made:

DISTRICT RESPONSE

Changes to the Procurement Code are being prepared for the Board of Trustees approval at their regularly scheduled meeting to be held on Tuesday, December 8, 1987. The recommendation, as provided by the State Auditors, listed below will be considered.

A. Change resulting from the enactment of Act 109 of 1985, effective May 23, 1985:

Section 11-35-4210, Item (7), was amended to broadly increase the authority of the State Procurement Review Panel and remove the limit of relief that a successful protestant might be awarded. Specifically, it was amended to read:

(7) Reimbursement for Reasonable Cost and Authority to Grant other Relief. In the event a protestant contends that it should have been awarded the contract under a solicitation but is not, then the party may apply to the Review Panel, as provided for in Section 11-35-4410, for relief. Upon receipt of this application the Review Panel may order the computation and award of a reasonable reimbursement amount including reimbursement of bid preparation costs, and may order such other and further relief as justice dictates, including but not limited to a re-award of the contract or a rebid of the contract. The decision of the Review Panel is the final administrative review and the decision of the Review Panel is appealable to the Circuit Court under the provisions of the South Carolina Administrative Procedures Act.
The corresponding section of the District's Procurement Code is XIII.A.7. That section should be amended to conform with the change above which, in the District's case, would apply to the District Procurement Review Board.

B. Changes resulting from the enactment of Act 510 of 1986, effective June 11, 1986:

1) Section 11-35-1560, Sole Source Procurement, was changed to read:

Section 11-35-1560. A contract may be awarded for a supply; service, or construction item without competition when, under regulations promulgated by the board, the chief procurement officer, the head of a purchasing agency, or a designee of either officer above the level of the procurement officer, determines in writing that there is only one source for the required supply, service, or construction item. These regulations must include the requirements contained in this paragraph. Written documentation must include the determination and basis for the proposed sole source procurement. Any delegation of authority by either the chief procurement officer or the head of a governmental body with respect to sole source determinations must be submitted in writing to the materials management officer. In cases of reasonable doubt, competition must be solicited. Any decision by a governmental body that a procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. Any violation of these regulations by a purchasing agency shall, upon recommendation of the Division of General Services with approval of the majority of the Budget and Control Board, result in the temporary suspension not to exceed one year of the violating agency's ability to procure supplies, services, or construction items under this section.

The corresponding section of the District's Procurement Code is V.B.6. The change, which allowed for the removal of sole source procurement authority where it is abused, needs to be addressed by the District.

2) Section 11-35-1530, Competitive Sealed Proposals, Items (6), (7) and (8) were changed to read:

(6) Negotiation with Responsible Offerers and Revisions to Proposals. As provided in the request for proposals, negotiations may be conducted with
any offerers submitting a proposal, which appears to be eligible for contract award pursuant to the selection criteria set forth in the request for proposals. All apparently eligible offerers must be accorded the opportunity to submit best and final proposals if negotiations with any other offeror result in a material alteration to the RFP and such alteration has a cost consequence that may alter the order of offerers price quotations contained in the initial proposals. In conducting negotiations, there must be no disclosure of any information derived from proposals submitted by competing offerers.

(7) Award. Award must be made to the responsive offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals. No other factors or criteria may be used in evaluation and there must be adherence to any weightings specified for each factor in the request for proposals. The contract file shall contain the basis on which the award is made and must be sufficient to satisfy external audit. Procedures for the notification of intent to award the contract and the award of the contract must be the same as those required in Section 11-35-1520 (11).

(8) Other. When the proposal considered most advantageous to the State exceeds available funds as certified by the appropriate fiscal officer, and it is determined in writing by the chief procurement officer, the head of a purchasing agency, or the designee of either officer above the level of procurement officer, that time or circumstances do not permit the delay required to re-solicit competitive sealed proposals, a contract may be awarded pursuant to this section.

The offeror whose proposal is determined most advantageous to the State, taking into consideration price and the evaluation factors set forth in the RFP, must be requested to accept the contract for the available funds without any change in the scope of work. If the offeror agrees, the contract must be awarded. If the offerer declines, the next offeror whose proposal is determined to be the second most advantageous to the State must be requested to accept the contract under the terms noted above. This procedure must be followed with each successive offeror until all offerers whose proposals are considered responsive to the requirement of the contract have been exhausted. If the contract has not been awarded after a request has been made to each acceptable offeror,
the scope of the request for proposals may be changed to reduce the cost and all offerers must be allowed to submit their best and final offer.

3) Section 11-35-1520, Competitive Sealed Bidding, Item (10), was changed to read:

(10) The contract must be awarded with reasonable promptness by written notice. When a contract has a total or potential value in excess of fifty thousand dollars, notice must be given to all bidders responding to the solicitation as to the agency’s determination that a certain bidder is the lowest responsible and responsive bidder whose bid meets the requirements and criteria set forth in the invitation for bids unless there is a compelling reason to reject one or more bids as prescribed by regulation of the board. Notice may be given by first-class mail of this intent to contract to the name and address on the bid documents. Sixteen days after notice of intent to award a contract to the lowest responsive bidder, the agency may enter a contract with this bidder in accordance with the bid solicited. A determination of responsibility must be made before award in accordance with Section 11-35-1810.

The corresponding section of the District’s Procurement Code is V.B.2.j.

This section requires the issuance of an intent to award statement before actual award is made for all contracts in excess of $50,000.00.

C. Changes resulting from re-evaluation of the South Carolina School Facilities Planning and Construction Guide of the State Department of Education, hereinafter referred to as the Guide, are as follows.

All public school districts are required to follow the Guide; Regulation 43-191. In the past, the Division of General Services accepted the procurement procedures of the Guide as being substantially similar to the South Carolina Consolidated Procurement Code for procurement of construction services.

However, due to recent requests for further evaluation of this issue, we have reopened the topic. Based on further review, we believe that the Guide may
not offer the protection afforded vendors in the Procurement Code sections covering construction procurement, specifically dealing with the listing of subcontractors.

Division 7, Construction Documents Phase, Section 7.05, Specifications—Special Conditions, Item 3, Naming of Subcontractor of the Guide, should be replaced with Section 11-35-3020, Construction Procurement Procedures, Item (2) (b) of the South Carolina Consolidated Procurement Code which reads as follows:

(b) Bid Acceptance. In lieu of Section 11-35-1520(7), the following provision shall apply. Bids shall be accepted unconditionally without alteration or correction, except as otherwise authorized in this code. The using agency's invitation for bids shall set forth all the requirements of the bid including but not limited to the following:

(i) Any bidder or offeror in response to an invitation for bids shall set forth in his bid or offer the name and the location of the place of business of each subcontractor who will perform work or render service to the prime contractor to or about the construction, and who will specifically fabricate and install a portion of the work in an amount that exceeds the following percentages:

- Prime contractor's total bid up to three million dollars..............2 1/2%
- Prime contractor's total bid is three million to five million.............2%
- Prime contractor's total bid is over five million dollars................1 1/2%

(ii) Failure to list subcontractors in accordance with this section and any regulation which may be promulgated by the board shall render the prime contractor's bid unresponsive.

(iii) No prime contractor whose bid is accepted shall substitute any person as subcontractor in place of the subcontractor listed in the original bid, except with the consent of the awarding authority, for good cause shown.

(iv) The using agency shall send all responsive bidders a copy of the bid tabulation within ten working days following the bid opening.

Finally, each one of these recommended changes to the District's Procurement Code may also require changes to the regulations. These should be reviewed carefully to determine what those changes might be.
CONCLUSION

As enumerated in our transmittal letter, corrective action based on the recommendations described in the findings in the body of this report, we believe, will in all material respects place Greenville County School District in compliance with the Procurement Code and ensuing regulations.

Subject to this corrective action, we recommend that Greenville County School District be allowed to continue procuring all goods and services, construction, information technology and consulting services as outlined in the Procurement Code pursuant to Act 493 of 1984.

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Audit Manager

R. Voight Shealy
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