PROCUREMENT AUDIT AND CERTIFICATION

SOUTH CAROLINA TAX COMMISSION

AGENCY

OCTOBER 1, 1988 - DECEMBER 31, 1991

DATE
April 20, 1992

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

Dear Rick:

I have attached the South Carolina Tax 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
SOUTH CAROLINA TAX COMMISSION
PROCUREMENT AUDIT REPORT

OCTOBER 1, 1988 - DECEMBER 31, 1991
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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 South Carolina Tax Commission for the period October 1, 1988 - December 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 South Carolina Tax 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 Tax Commission in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

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

We conducted an examination of the internal procurement operating procedures and policies of the South Carolina Tax Commission. Our on-site review was conducted December 16, 1991 - January 7, 1992 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.
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.

Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code states:

In procurement audits of governmental bodies thereafter, the auditors from the Division of General Services shall review the adequacy of the system's internal controls in order to ensure compliance with the requirements of this Code and the ensuing regulations.

Our audit was performed primarily to determine if recertification above the $2,500 limit is warranted. The Tax Commission has requested recertification to make procurements in the following category and designated amount:

<table>
<thead>
<tr>
<th>Category</th>
<th>Requested Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing Services</td>
<td>$10,000</td>
</tr>
</tbody>
</table>
SCOPE

Our examination was performed in accordance with Generally Accepted Auditing Standards as they apply to compliance audits. It encompassed a detailed analysis of the internal procurement operating procedures of the South Carolina Tax 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 judgementally selected samples for the period July 1, 1988 through December 31, 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 audit period

(2) Purchase transactions for the period July 1, 1989 through December 31, 1991 as follows:
   a) Sixty judgementally selected procurement transactions, each exceeding $500.00
   b) Twenty-six sealed bid procurements of printing services
   c) A block sample of all purchase orders issued for the period June 7 - December 12, 1991

(3) Minority Business Enterprise Plans and reports

(4) Information Technology Plan

(5) Procurement procedures

(6) Property management and fixed asset procedures

(7) Supply management procedures

(8) Procurement staff and training
SUMMARY OF AUDIT FINDINGS

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

I. Unauthorized Sole Source Procurements

Twenty-two sole source procurements were not approved in a timely manner and were unauthorized as a result.

II. Sealed Bid Practices

A. Mail Room Opening Sealed Bids

The mail room has been opening sealed bids prior to bid opening time.

B. Printing Overages Exceeding Five Percent

Three transactions in our sample of twenty-six were noted where the printing overages exceeded the maximum allowance of five percent.

C. Invitation for Bids Not Signed

In lieu of using the "Invitation for Bids" form, some vendors sign their own bid form which may not be subject to the Tax Commission's terms and conditions.
III. Contracts Between State Agencies

Five contracts with other State agencies were not competed by the Tax Commission.

IV. Drug Free Workplace Act

The drug free workplace certification was not signed on one contract which exceeded $50,000.

V. Telecommunications

One procurement of telecommunications equipment was not approved by the Budget and Control Board's Division of Information Resource Management.

VI. Repair Services

Procurements for repair services were not routed through the Procurement Office until after the services were rendered.
I. Unauthorized Sole Source Procurements

We examined the quarterly reports of sole source and emergency procurements and trade-in sales for the period October 1, 1988 through December 31, 1991. This review was performed to determine the appropriateness of the procurement actions taken and the accuracy of the reports submitted to the Division of General Services as required by Section 11-35-2440 of the Consolidated Procurement Code.

Based on our review we did not take exception with the appropriateness of any of the procurement determinations. However, we did note twenty-two sole source procurements for original equipment manufacturer maintenance agreements where the services had already started before the contracts were approved as sole sources by an appropriate official. They were as follows:

<table>
<thead>
<tr>
<th>PO#</th>
<th>Service Period</th>
<th>Approval Date</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>1737 01/02/89-12/01/89</td>
<td>02/17/89</td>
<td>$ 1,098.00</td>
</tr>
<tr>
<td>2)</td>
<td>88 07/01/89-06/30/90</td>
<td>07/24/89</td>
<td>58,260.40</td>
</tr>
<tr>
<td>3)</td>
<td>89 07/01/89-06/30/90</td>
<td>07/24/89</td>
<td>1,164.00</td>
</tr>
<tr>
<td>4)</td>
<td>116 06/26/89-06/26/90</td>
<td>07/27/89</td>
<td>885.62</td>
</tr>
<tr>
<td>5)</td>
<td>115 07/01/89-06/30/90</td>
<td>07/27/89</td>
<td>1,400.00</td>
</tr>
<tr>
<td>6)</td>
<td>114 07/01/89-06/30/90</td>
<td>07/27/89</td>
<td>744.92</td>
</tr>
<tr>
<td>7)</td>
<td>194 07/01/89-06/30/90</td>
<td>08/24/89</td>
<td>25,098.00</td>
</tr>
<tr>
<td>8)</td>
<td>193 07/01/89-06/30/90</td>
<td>08/24/89</td>
<td>525.00</td>
</tr>
<tr>
<td>9)</td>
<td>251 07/18/89-07/17/90</td>
<td>09/06/89</td>
<td>5,258.30</td>
</tr>
<tr>
<td>10)</td>
<td>276 07/01/89-06/30/90</td>
<td>09/08/89</td>
<td>517.03</td>
</tr>
<tr>
<td>11)</td>
<td>541 09/01/89-06/30/90</td>
<td>11/29/89</td>
<td>1,365.00</td>
</tr>
<tr>
<td>12)</td>
<td>990 02/01/90-01/31/91</td>
<td>04/09/90</td>
<td>4,486.00</td>
</tr>
<tr>
<td>13)</td>
<td>125 07/01/90-06/30/91</td>
<td>07/20/90</td>
<td>42,447.00</td>
</tr>
<tr>
<td>14)</td>
<td>86 07/01/91-06/30/92</td>
<td>07/15/91</td>
<td>6,600.00</td>
</tr>
<tr>
<td>15)</td>
<td>151 07/01/90-06/30/91</td>
<td>07/25/91</td>
<td>31,200.00</td>
</tr>
<tr>
<td>16)</td>
<td>58 07/01/91-06/30/92</td>
<td>07/15/91</td>
<td>661.43</td>
</tr>
<tr>
<td>17)</td>
<td>59 07/01/91-06/30/92</td>
<td>07/15/91</td>
<td>1,200.00</td>
</tr>
<tr>
<td>18)</td>
<td>60 07/01/91-06/30/92</td>
<td>07/15/91</td>
<td>23,598.00</td>
</tr>
<tr>
<td>19)</td>
<td>62 07/01/91-06/30/92</td>
<td>07/15/91</td>
<td>4,675.00</td>
</tr>
<tr>
<td>20)</td>
<td>35 07/01/91-06/30/92</td>
<td>09/14/89</td>
<td>50,170.00</td>
</tr>
</tbody>
</table>
Section 11-35-1560 of the Procurement Code indicates that a procurement may be made as a sole source if the chief procurement officer, the head of a governmental body or a designee of either officer above the level of the purchasing agent determines in writing that the item or service is only available from a single source. Since the Code is so specific about the authority required to make a sole source procurement, determinations must be approved by someone with requisite authority before commitments are made.

We recommend that sole source determinations be approved before commitments are made. Also, ratification in accordance with Regulation 19-445.2015 must be requested on the transactions noted above.

COMMISSION RESPONSE

Ratifications of the cited transactions are attached. Sole source determinations will be approved before commitments are made.

II. Sealed Bid Practices

The Tax Commission is certified to make sealed bid procurements of printing services up to $10,000 per commitment. As such we performed a separate test of 26 of these transactions. Most of these were handled properly. However, we did note three procedural exceptions which need improvement. Each is addressed below.
A. Mail Room Opening Sealed Bids

Our testing of sealed bids revealed that the mail room at the Tax Commission opens sealed bids prior to bid openings.

Section 11-35-1520(5) requires that all sealed bids received prior to bid opening time must be kept secure and unopened in a locked box or safe.

We recommend the Tax Commission develop procedures to ensure sealed bids are not opened by anyone prior to bid opening time. Opening sealed bids prior to bid opening is a serious problem. This problem must be corrected before we will recommend recertification.

COMMISSION RESPONSE

We have a separate post office box for the receipt of sealed bids. The sealed bids will be held in the C.F.O.'s cash drawer located in our teller cage prior to bid opening.

B. Printing Overages Exceeding Five Percent

We noted three contracts in our sample where the printing overages accepted and paid for exceeded the maximum allowance of five percent. They were:

<table>
<thead>
<tr>
<th>PO#</th>
<th>PO Amount</th>
<th>Line Item PO#</th>
<th>Quantity Ordered</th>
<th>Quantity Received</th>
<th>Overage</th>
<th>% Over</th>
</tr>
</thead>
<tbody>
<tr>
<td>1)</td>
<td>78</td>
<td>$1,632.49</td>
<td>10,000</td>
<td>10,800</td>
<td>800</td>
<td>8.0%</td>
</tr>
<tr>
<td>2)</td>
<td>207</td>
<td>$2,450.91</td>
<td>50,000</td>
<td>54,800</td>
<td>4,800</td>
<td>9.6%</td>
</tr>
<tr>
<td></td>
<td></td>
<td>See above</td>
<td>10,000</td>
<td>11,000</td>
<td>1,000</td>
<td>10.0%</td>
</tr>
<tr>
<td>3)</td>
<td>443</td>
<td>$2,953.76</td>
<td>50,000</td>
<td>53,000</td>
<td>3,000</td>
<td>6.0%</td>
</tr>
</tbody>
</table>

The South Carolina Government Printing Services Manual limits printing overages to a maximum of five percent. The Tax
Commission's "Invitation for Bids" forms also limit the maximum overage to five percent.

We recommend the Tax Commission adhere to the State's policy limiting the maximum overages that the State is willing to accept to five percent.

**COMMISSION RESPONSE**

We will adhere to the State policy in this matter and will cause our purchase orders to include a statement that we will accept no more than 5% overage.

C. Invitation for Bids Not Signed

We noted two instances where vendors did not submit the "Invitation for Bids" form issued by the Tax Commission. The vendors submitted their own bid forms instead. As a result of this action, the vendors may not be subject to the terms and conditions established by the Tax Commission. We recommend the Tax Commission include in its "Invitation for Bids" form a statement indicating that vendors must submit the bid form issued by the Tax Commission to be responsive to the bid.

**COMMISSION RESPONSE**

We will instruct vendors to use our bid form.
III. Contracts Between State Agencies

We noted five contracts between the Tax Commission and other State agencies which had no evidence of competition or an approved MMO-136 - Contracts Between State Agencies-form. They were as follows:

<table>
<thead>
<tr>
<th>PO#</th>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>20079</td>
<td>Graduate assistant</td>
<td>$2,314.00</td>
</tr>
<tr>
<td>49</td>
<td>Microfiche services</td>
<td>18,000.00</td>
</tr>
<tr>
<td>212</td>
<td>Microfiche services</td>
<td>18,000.00</td>
</tr>
<tr>
<td>2893</td>
<td>Annual school</td>
<td>13,402.55</td>
</tr>
<tr>
<td>766</td>
<td>Seminar</td>
<td>3,000.00</td>
</tr>
</tbody>
</table>

While the Tax Commission knew that contracts between State agencies were subject to the Procurement Code, they thought the contracts listed above were exempt.

We recommend the Tax Commission procure these contracts either through procedures outlined in the Procurement Code or through the use of an MMO-136 exemption request.

COMMISSION RESPONSE

We will utilize form MMO-136 "Exemption Request" for future transactions of this type.

IV. Drug Free Workplace Act

We noted one contract which requires the "Drug Free Workplace Certification" which was not obtained. This occurred on PO #5 for hardware maintenance on a computer system in the amount of $65,633.70.

Section 44-107-30 of the Code of Laws requires this certification on every contract of $50,000.00 or more. Since the
contract above was procured as a sole source, the Tax Commission did not realize that the certification applied.

We recommend the Tax Commission adhere to this law by requiring the drug free workplace certification on all contracts of $50,000 or more. Also, this certification should be obtained on the current contract.

COMMISSION RESPONSE

We have obtained certification on the current contract. We will require certification on all contracts of $50,000 or more.

V. Telecommunications

On PO #523 the Tax Commission made a sole source procurement of 12 telephones in the amount of $3,875.00.

Section 1-11-430 of the Code of Laws requires that the purchase of telecommunications equipment and service be approved by the Budget and Control Board's Division of Information Resource Management. As such, the Division has sole authority over telecommunications procurements.

The Tax Commission failed to obtain this approval and, as a result, the procurement is unauthorized.

We recommend the Tax Commission coordinate all of its procurements of telecommunications equipment and service through the Budget and Control Board's Division of Information Resource Management. Ratification must be requested on this transaction in accordance to Regulation 19-445.2015.
COMMISSION RESPONSE

Ratification of the subject transaction has been obtained. We will coordinate all procurements of telecommunications equipment and service through the Division of Information Resource Management.

VI. Repair Services

One procurement of repair services on voucher 9273 for $790.00 was not supported by solicitations of competition. We learned that the Tax Commission does not send requisitions to the Procurement Office for repairs until after the services have been rendered. As a result of this practice, no assurance is made that the appropriate levels of competition are being sought.

We recommend the Tax Commission revise its practice to route procurements for repairs through its Procurement Office prior to contract awards being made.

COMMISSION RESPONSE

We have revised our procedures to route procurements for repairs through our Procurement Office prior to contract awards being made.
CONCLUSION

As we noted in our transmittal letter, corrective action based on the recommendations described in this report, should place the South Carolina Tax Commission in compliance with the South Carolina Consolidated Procurement Code.

Subject to this corrective action, under the authority described in Section 11-35-1210 of the Procurement Code, we recommend that the Budget and Control Board recertify the Tax Commission to make direct agency procurements for three (3) years up to the limit as follows:

<table>
<thead>
<tr>
<th>Procurement Area</th>
<th>Recommended Certification Limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Printing Services</td>
<td>*10,000 per purchase commitment</td>
</tr>
</tbody>
</table>

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

Robert J. Aycock, IV
Audit Supervisor

R. Voight Shealy, CFE, Manager
Audit and Certification
April 15, 1992

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 response to our audit report of the South Carolina Tax Commission covering October 1, 1988 - December 31, 1991. We made a follow-up visit on April 10, 1992. This visit and their response has satisfied the Office of Audit and Certification that the Commission has corrected the problem areas found and that internal controls over the procurement system are adequate.

We, therefore, recommend that the certification limits outlined in the audit report be granted for three (3) years.

Sincerely,

R. Voight Shealy, Manager
Audit and Certification

RVS/jjm