

SOUTH CAROLINA DEPARTMENT OF CORRECTIONS

PROCUREMENT AUDIT REPORT

APRIL 1, 2005 – JUNE 30, 2008

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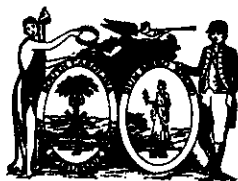
NOTE: The Department’s responses to issues noted in this report have been inserted immediately following the items they refer to.

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

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R. VOIGHT SHEALY
MATERIALS MANAGEMENT OFFICER

February 4, 2009

Mr. R. Voight Shealy
Materials Management Officer
Procurement Services Division
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have examined the procurement policies and procedures of the South Carolina Department of Corrections for the period April 1, 2005 through June 30, 2008. 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 used to establish a basis for reliance upon the system of internal control to assure adherence to the South Carolina Consolidated Procurement Code, State regulations, and the Department's 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 Department of Corrections is responsible for establishing and maintaining a system of internal control over procurement transactions. In

fulfilling this responsibility, estimates and judgments 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 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 Corrections in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Sincerely,

A handwritten signature in black ink, appearing to read "Robert J. Aycock, IV". The signature is fluid and cursive, with a prominent initial "R".

Robert J. Aycock, IV, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Corrections. Our review was conducted September 23, 2008 through November 5, 2008 and was made under Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

The examination was directed principally to determine whether, in all material respects, the internal controls of the procurement system 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 ensuing regulations.

On December 13, 2005, the Budget and Control Board granted the Department of Corrections the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Goods and Services	\$ 1,000,000 per commitment
Food Products	\$ 1,500,000 per commitment
Information Technology	\$ 100,000 per commitment
Consultant Services	\$ 100,000 per commitment
Construction Contract	\$ 100,000 per commitment
Construction Contract Change Order	\$ 100,000 per commitment
Architect/Engineer Contract Amendment	\$ 15,000 per Amendment

Our audit was performed primarily to determine if recertification is warranted. The South Carolina Department of Corrections requested to remain at its current certification levels.

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 South Carolina Department of Corrections, hereinafter referred to as the Department, 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 judgmental samples for the period April 1, 2005 through June 30, 2008 of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this opinion. The scope of our audit included, but was not limited to, a review of the following:

- (1) All sole source, emergency and trade-in sale procurements for the period April 1, 2005 through June 30, 2008 with exceptions noted in Section I of the report
- (2) Procurement transactions for April 1, 2005 through June 30, 2008 as follows:
 - a) Ninety-one payments each exceeding \$2,500 with exceptions noted in Section II of the report
 - b) A block sample of three hundred sequential purchase orders from fiscal year 2008 reviewed against the use of order splitting and favored vendors with no exceptions
 - c) Procurement card purchases for November 2006, April and May 2007 with an exception reported in Section V of the report
 - d) Current revenue generating contracts with one exception in Section III of the report
- (3) Seven construction contracts and nine professional service contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements, Part II with exceptions noted in Section VI of the report
- (4) Minority Business Enterprise Plans and reports for the audit period with no exceptions. The chart below contains the Department's annual goals and actual activity reported to The Governor's Office of Small and Minority Business Assistance.

<u>Fiscal Year Ending</u>	<u>MBE Annual Utilization Goals</u>	<u>Actual Utilization</u>
2006	\$932,768	\$377,758
2007	\$650,268	\$742,411
2008	\$702,289	\$384,363

- (5) Approval of the most recent Information Technology Plan with no exceptions.
- (6) Internal procurement procedures manual with recommendations made in Section IV.
- (7) Surplus property disposal procedures with no exceptions
- (8) File documentation and evidence of competition

SUMMARY OF AUDIT FINDINGS

I. Sole Source, Emergency and Trade-in Sale Procurements

A. Inappropriate Sole Source Procurements

Our review of sole source procurements for the audit period identified 58 inappropriate sole source procurement transactions to one specific vendor for radio communication repair services, equipment and supplies.

B. Inadequate Determinations for Sole Source Procurements

Written determinations for 52 sole source procurement transactions failed to provide adequate information to support the procurements as sole sources.

C. Inappropriate Sole Source for Frosted Flakes Cereal

The Department authorized a blanket sole source determination for the period July 28, 2006 through July 27, 2007 for the purchase of frosted flakes cereal for testing purposes.

D. Unauthorized Sole Source Procurements

Several sole source procurements were deemed unauthorized and not in compliance with the Procurement Code, one of which was inappropriate as a sole source.

E. Trade-in Sale not Reported to MMO

A trade-in sale was not reported to the Materials Management Office.

F. Inadequate Determinations for Emergency Procurements

Written determinations to support twelve emergency procurements were insufficient.

II. Goods and Services Procurements

A. Contracts Should Have Been Set Up as Blanket Purchase Agreements

Two contracts should have been set up as blanket purchase agreements utilizing terms and conditions outlined in a Procurement Regulation to improve internal controls.

B. No Solicitations of Competition

The Department failed to provide evidence of solicitation of competition and advertisement in the South Carolina Business Opportunities for one procurement.

III. Revenue Generating Contracts

The Department did not provide us proof that it obtained liability insurance coverage from two vendors as required by the solicitation.

IV. Procurement Procedures Manual

A review of the Department's Procurement Procedures Manual which was revised on April 1, 2007 identified sections which were not in compliance with the Procurement Code and regulations.

V. Artificially Divided Procurement Card Purchase

The Department artificially divided a procurement card purchase exceeding the authorized amount for a transaction of \$2,500. No competition was solicited.

VI. Construction Services

A. Certificate of Insurance not on File

On a construction contract for a lift station upgrade at Perry Correctional Institution, the Department failed to provide evidence that it obtained a certificate of insurance from the contractor.

B. Quarterly Reports of IDC Activity Not Reported to the OSE

A review of Indefinite Delivery Contract (IDC) activity for the audit period revealed the Department had not been submitting quarterly reports to the Office of the State Engineer.

RESULTS OF EXAMINATION

I. Sole Source, Emergency and Trade-in Sale Procurements

We tested sole source and emergency procurements made pursuant to Sections 11-35-1560 (Sole Source Procurements) and 11-35-1570 (Emergency Procurements) and section 11-35-3830 (Trade-in Sale Procurements) to determine the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted to the chief procurement officers required by Section 11-35-2440. We noted extensive problems.

A. Inappropriate Sole Source Procurements

Our review of sole source procurements for the audit period identified 58 inappropriate sole source procurement transactions to one specific vendor for radio communication repair services, equipment and supplies totaling \$2,062,268. One of the Department's reasons for the sole sources stated that this was the only authorized vendor within a 100 mile radius of Columbia, South Carolina. The Procurement Code does not provide a provision allowing a 100 mile radius for service to be an adequate determination to restrict competition.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>PO Amount</u>
300156884	04/12/06	40 watt units	\$ 31,602
300157785	05/08/06	40 watt units	\$ 31,602
300168120	02/02/07	40 watt units	\$ 37,000
300146720	06/30/05	Antennas, batteries, chargers, microphones & belt clips	\$ 66,745
300171391	05/09/07	Base stations and communication tower w/ antenna	\$ 86,182
300143217	04/07/05	Batteries	\$ 8,700
300144635	05/23/05	Batteries	\$ 8,945
300145422	06/22/05	Batteries	\$ 13,050
300149342	08/24/05	Batteries	\$ 10,470
300150537	09/28/05	Batteries	\$ 12,725
300151761	11/04/05	Batteries	\$ 12,210
300153095	12/16/05	Batteries	\$ 8,330

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>PO Amount</u>
300153900	01/18/06	Batteries	\$ 13,745
300155288	03/01/06	Batteries	\$ 11,960
300157036	04/17/06	Batteries	\$ 12,870
300158792	06/08/06	Batteries	\$ 20,155
300160622	06/27/06	Batteries	\$ 10,200
300162754	08/11/06	Batteries	\$ 9,415
300163946	09/15/06	Batteries	\$ 15,450
300165967	11/20/06	Batteries	\$ 8,780
300166825	12/19/06	Batteries	\$ 14,170
300168840	02/26/07	Batteries	\$ 16,150
300170160	04/03/07	Batteries	\$ 9,900
300178632	10/08/07	Batteries	\$ 8,100
300179943	11/15/07	Batteries	\$ 8,850
300181173	01/04/08	Batteries	\$ 8,500
300181926	01/28/08	Batteries	\$ 8,500
300183367	03/07/08	Batteries	\$ 10,375
300184685	04/16/08	Batteries	\$ 12,125
300144223	05/01/05	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300145289	06/15/05	Draw down for repair and service of Agency's statewide radio system	\$ 30,000
300147372	07/07/05	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300149874	09/08/05	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300152474	11/29/05	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300154278	01/27/06	Draw down for repair and service of Agency's statewide radio system	\$ 40,000
300155481	03/08/06	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300157642	05/03/06	Draw down for repair and service of Agency's statewide radio system	\$ 30,000
300161230	07/06/06	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300163467	08/31/06	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300170254	04/05/07	Draw down for repair and service of Agency's statewide radio system	\$ 50,000
300172118	06/01/07	Draw down for repair and service of Agency's statewide radio system	\$ 40,000
300174852	07/09/07	Draw down for repair and service of Agency's statewide radio system	\$ 75,000
300178493	10/03/07	Draw down for repair and service of Agency's statewide radio system	\$ 75,000
300181218	01/07/08	Draw down for repair and service of Agency's statewide radio system	\$ 75,000
300185176	05/02/08	Draw down for repair and service of Agency's statewide radio system	\$ 65,000
300167368	01/12/07	Portable radios and battery packs	\$ 147,630
300164790	10/11/06	Portable walkie talkie	\$ 15,675
300167781	01/25/07	Portable walkie talkie	\$ 54,457

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>PO Amount</u>
300181841	01/24/08	Portable walkie talkies	\$ 5,250
300182404	02/05/08	Portable walkie talkies	\$ 3,745
300182635	02/13/08	Portable walkie talkies	\$ 3,150
300186442	06/24/08	Portable walkie talkies	\$ 93,450
300168559	02/15/07	Portable walkie talkies and batteries	\$ 28,002
300171649	05/17/07	Portable walkie talkies and batteries	\$ 14,980
300180989	12/21/07	Portable walkie talkies, mobile radios and VHF repeater systems	\$ 185,047
300179463	10/31/07	UHF/VHF repeater	\$ 7,885
300176014	07/31/07	UHF/VHF repeater and batteries	\$ 18,980
300171288	05/07/07	VHF repeater system	\$ <u>127,211</u>
			<u>\$2,062,268</u>

Section 11-35-1560 of the South Carolina Procurement Code states in part, “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. In cases of reasonable doubt, competition must be solicited.”

During the prior audit period, the Department processed twelve transactions as sole sources to the same vendor totaling \$325,186 during the last three calendar quarters of the audit period. The auditor, who is no longer employed with this office, failed to question the validity of the sole sources, but should have.

We recommend competition be solicited in accordance with the Procurement Code.

B. Inadequate Determinations for Sole Source Procurements

The written determinations for the following 52 sole source procurement transactions failed to provide adequate information to support the procurements as sole sources. Department determinations included reasoning such as being familiar with products, processes, or facilities.

The Procurement Code does not provide provisions for being familiar with products, processes, or facilities to be an adequate determination to restrict competition.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>PO Amount</u>
300140434	05/13/05	Replace Control System	\$ 41,875
300143614	04/20/05	WRAT Test	\$ 7,030
300147288	07/06/05	Drug Testing Kits	\$ 65,000
300147621	07/12/05	Specimen Cups	\$ 3,000
300150223	09/19/05	Chill Water Coil	\$ 2,326
300150332	09/21/05	WRAT Test	\$ 7,030
300150462	09/27/05	Switches	\$ 2,259
300151299	10/21/05	Tre Flite 5S System	\$ 2,377
300151559	10/28/05	Motor	\$ 1,905
300151619	10/31/05	Thermostat	\$ 3,264
300152005	11/14/05	Hospital Bed Rentals	\$ 3,850
300152434	11/29/05	Repair Chiller	\$ 32,000
300154100	01/24/06	Repair Part for chiller	\$ 1,600
300155836	03/20/06	Interface Card for Chiller	\$ 2,800
300155894	03/21/06	Replace Pump on Propane System	\$ 2,339
300156740	04/07/06	ARO Screwdriver/Drill	\$ 1,540
300158369	06/26/06	Unit Controller on Chiller	\$ 2,713
300158406	06/20/06	Replace Oil Pump on Chiller	\$ 3,040
300161510	07/11/06	Monthly Maint. – MTX Equip.	\$210,986
300161530	07/12/06	Drug Testing Kits	\$ 39,000
300161598	07/12/06	Specimen Cups	\$ 2,500
300162253	07/28/06	Chill Water Coil	\$ 2,537
300162838	08/15/06	Sand Blast Propane Tank	\$ 8,500
300163457	01/22/07	Repair Wrecker Assembly	\$ 4,986
300164002	10/04/06	Repair HVAC-Energy Mgt. System	\$ 3,796
300165973	11/20/06	CPR DVD	\$ 3,110
300166409	12/06/06	35 hp Compressor	\$ 5,339
300166626	12/12/06	Locknuts/Bushing Assembly	\$ 2,693
300166722	02/28/07	Chiller Controller	\$ 5,637
300169127	03/06/07	Compressor	\$ 5,952
300169957	03/28/07	Timer Switch	\$ 5,522

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>PO Amount</u>
300170122	04/03/07	Compressor	\$ 5,733
300172125	06/04/07	Refrigeration Repair	\$ 4,087
300174914	07/09/07	Drug Testing Kits	\$ 50,000
300175362	07/17/07	Monthly Maint.-MTX Equip.	\$210,968
300176045	08/01/07	Sand Blast LP Storage Tank	\$ 15,200
300177120	09/12/07	Repair Chiller Controller	\$ 4,038
300178071	09/21/07	Grinder	\$ 20,210
300178228	11/15/07	Repair HVAC System	\$ 4,805
300178627	10/08/07	Muffler Assembly	\$ 3,123
300179527	02/21/08	Monitoring Wells/Sampling	\$ 12,000
300180433	01/11/08	Education Program	\$ 60,960
300181129	01/04/08	Automated Logic Controls	\$ 18,376
300181497	01/14/08	Marquee Message Board	\$ 6,581
300181979	01/30/08	Poly Valves	\$ 3,300
300183018	02/27/08	Rack Track	\$ 8,082
300183414	03/10/08	Marquee Message Board	\$ 9,506
300183739	03/19/08	HVAC Controls	\$ 36,106
300184018	05/19/08	HVAC Repair	\$ 2,400
300185974	05/30/08	Compressor	\$ 3,870
300179273	10/27/07	Equipment	\$ 7,495
300175363	07/17/07	Maintenance Coverage	\$ 37,103

Section 11-35-1560 of the South Carolina Procurement Code states in part, “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. In cases of reasonable doubt, competition must be solicited.”

In a declaratory judgment issued against Greenville County School District in *Sloan v. School District of Greenville County*, No. 98-CP-23-2816 (Greenville, S.C., Ct. Common Pleas, July 15, 2003), the Court stated in part in regards to a written emergency determination that:

The Code requires a written determination to afford the District and the public sufficient information to intelligently and objectively review the decision. The decision to use the emergency exception must be sufficiently detailed to satisfy an audit, and it must be made available to the public. The purpose of the determination is to provide the basis of the decision to the school board and to the public. If the determination provides, in sufficient detail, the information necessary for the school board and the public to make an intelligent, objective review of these decisions, then it has accomplished its purpose. The Court is empowered to determine whether the written determination is sufficiently detailed to accomplish this purpose.

We recommend that the Department follow the court ruling in preparing its written determinations by providing sufficient, factual details that allow intelligent, objective reviews of the decisions.

C. Inappropriate Sole Source for Frosted Flakes Cereal

The Department authorized a blanket sole source determination for the period July 28, 2006 through July 27, 2007 for the purchase of frosted flakes cereal for testing purposes.

<u>PO Number</u>	<u>PO Date</u>	<u>Type Transaction</u>	<u>Amount</u>
300162531	08/07/06	Sole Source	\$ 9,600
300165156	10/25/06	Sole Source	\$40,000
300166835	12/20/06	Emergency	<u>\$ 7,140</u>
			<u>\$56,140</u>

Based on Regulation 19-445.2105, the sole source procurement on August 7, 2006 (PO 300162531) as a sole source may have been justified since the Department decided to test this cereal for a trial period. However, we see no justification for authorizing a blanket sole source determination for testing purposes for an entire year and issuing a second PO for frosted flakes in the amount of \$40,000. Further, the Department issued a third PO under an emergency determination based on the product being available and competitively priced. This was not an appropriate justification for an emergency procurement. Once products are qualified, solicitations of competition should be made from all qualified products for that commodity.

We recommend the Department limit testing to reasonable time periods.

D. Unauthorized Sole Source Procurements

The following sole source procurements were deemed unauthorized and not in compliance with the Procurement Code.

<u>PO #</u>	<u>PO Date</u>	<u>Amount</u>	<u>Description</u>	<u>Reason</u>
300169534	03/16/07	\$411,400	X-ray Imaging System	Unauthorized approval by the Director of Health Services. (Director of Administration authorized to approve sole source procurements).
300142582	05/25/05	\$3,047	Forklift Repair	No Approving Signature
300147941	08/04/05	\$5,515	Voltage Sensors	No Approving Signature
300157316	04/24/06	\$2,125	Alcohol Testing Instruments	No Approving Signature

Regarding the X-ray imaging system, the Department advertised for vendors to provide information. Three vendors responded and the Department evaluated the systems. The Department then procured what it considered to be the best system through a sole source procurement. The Department could have procured the X-ray system through a Best Value Bid or Request for Proposal thereby keeping the evaluation and contract award in a competitive environment. The sole source method of procurement was not appropriate.

Regulation 19-445.2105(C) requires that sole source determinations be authorized prior to contract execution by the chief procurement officer, head of the agency or a designee of either office above the level of the procurement officer. Such delegation should be submitted in writing to the Materials Management Officer.

All unauthorized contracts should be either submitted for ratification, affirmed or terminated by the appropriate Department official in accordance with Regulation 19-445-2015. All decisions to ratify or terminate an unauthorized contract should be supported by a written determination of appropriateness. Written determinations as to the facts and circumstances, corrective action to

prevent recurrence, and action taken against the individual committing the act for all such decisions should be submitted quarterly to the chief procurement officers.

Conclusion – Sole Source Procurements

Section 11-35-1560 for sole source procurements states:

A violation of these regulations by a purchasing agency, upon recommendation of the designated board office with approval of the majority of the Budget and Control Board, must result in the temporary suspension, not to exceed one year, of the violating governmental body’s ability to procure supplies, services, information technology, or construction items pursuant to this section.

Considering the large number of findings over sole source transactions, we recommend the Budget and Control Board suspend the Department’s sole source authority for up to one year.

E. Trade-in Sale not Reported to MMO

The following trade-in sale was not reported to the Materials Management Office.

<u>PO #</u>	<u>PO Date</u>	<u>Description</u>	<u>Trade-in Amount</u>
300179273	10/27/07	Machinery	\$3,000

Section 11-35-3830 requires a governmental body to submit a quarterly record of all trade-in sales to the chief procurement officers.

We recommend the Department comply with trade-in reporting requirements as established by the Procurement Code. An amended report should be submitted to the Materials Management Office for this transaction.

F. Inadequate Determinations for Emergency Procurements

The written determinations to support the following emergency procurements were insufficient.

<u>PO #</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
300148294	07/27/05	Replace Transformer	\$ 7,830
300151828	11/07/05	Bulk Limestone	\$ 5,940
300152687	12/14/05	Sugar	\$82,383
300164929	10/17/06	Machinery Repairs	\$31,609
300166497	12/12/06	Shortening	\$21,000
300166498	12/12/06	Flour	\$23,910
300166768	12/18/06	Mayo/Mustard/Peanut Butter	\$ 6,248
300166801	01/02/07	Peanut Butter	\$11,970
300166835	12/20/06	Frosted Cereal	\$ 7,140
300179692	11/07/07	Frosted Flake Bowls	\$24,883
300180167	11/26/07	Air Quality Check	\$ 7,457
300182883	02/22/08	Soybean Seed	\$10,425

In most instances, the paperwork supporting the emergency procurement failed to adequately describe the underlying emergency. In another instance for the machinery repairs, the determination stated the machine had been down for several weeks suggesting to us that immediate action was not necessary. Also, PO 300166835 was supported by the same emergency determination used to authorize PO 300466801 issued two weeks earlier. A new determination should have been authorized. The determination for PO 300180167 referenced an attachment for its justification. We were not provided with the attachment.

In a declaratory judgment issued against Greenville County School District in *Sloan v. School District of Greenville County*, No. 98-CP-23-2816 (Greenville, S.C., Ct. Common Pleas, July 15, 2003), the Court stated in part in regards to a written emergency determination that:

The Code requires a written determination to afford the District and the public sufficient information to intelligently and objectively review the decision. The decision to use the emergency exception must be sufficiently detailed to satisfy an audit, and it must be made available to the public. The purpose of the determination is to provide the basis of the decision to the school board and to the public. If the

determination provides, in sufficient detail, the information necessary for the school board and the public to make an intelligent, objective review of these decisions, then it has accomplished its purpose. The Court is empowered to determine whether the written determination is sufficiently detailed to accomplish this purpose.

We recommend that the Department follow the court ruling in preparing its written determinations by providing sufficient, factual details that allow intelligent, objective reviews of the decisions.

DEPARTMENT RESPONSE

The SC Department of Corrections (SCDC) has hired a new Director, Office of Budget and Resource Management (March 2008) and a new Chief, Purchasing Branch (June 2008).

Some of these improper practices and justifications for sole source/emergency procurements were commonly approved by our previous Chief Purchasing Officer and were not noted by your previous audits. The same is true regarding long used justifications for emergency procurements. Now that we are aware of the insufficiency of such justifying language, we can correct these problems.

The two-way radio related transactions that are excepted occurred after the expiration of a statewide contract for such equipment, services and supplies, in 2004. At that time, the State Information Technology Office (now CIO) informed us that a new statewide contract for two-way communications was not justified, since most law enforcement agencies had switched to the 800 mhz system. Our Purchasing Office failed to follow-up with your office and effectively 'sole sourced' two-way communications equipment, services and supplies with the same vendors that had been authorized under the expired statewide contract.

A thorough review of the processes and procedures related to sole source, emergency and trade-in sale procurements is being completed. Information on correct procedures and requirements related to the procurement code is being provided to all employees involved with purchasing. These procedures are being established in conjunction with the S.C. Consolidated Procurement Code.

SCDC has requested training assistance from MMO (scheduled for April 2, 2009) to help ensure staff is made aware of proper procedures for requesting sole source, emergency and trade-in sale procurements.

II. Goods and Services Procurements

A. Contracts Should Have Been Set Up as Blanket Purchase Agreements

Two contracts should have been set up as blanket purchase agreements utilizing terms and conditions outlined in a Procurement Regulation to improve internal controls.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
300164319	11/27/06	Tractor Parts	\$8,636
300174140	6/19/08	Lab Supplies	\$45,000

Per Regulation 19-445.2100(B)(3), blanket purchase agreements shall contain a description of the agreement during a specified time period with an aggregate amount not to exceed, the extent of the obligation, notice of individuals authorized to place calls and the dollar limitation per call for each individual.

We recommend that the Department utilize the internal controls in the Regulation for blanket purchase agreements on these transactions.

B. No Solicitations of Competition

The Department failed to provide evidence of solicitations of competition or advertisement in the South Carolina Business Opportunities for the following procurement.

<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
300183368	4/16/08	Packaging Supplies	\$26,053

Per 11-35-1550(2)(c), purchases over ten thousand dollars up to fifty thousand dollars require written solicitation of written quotes, bids, or proposals. The procurement must be advertised in the South Carolina Business Opportunities publication.

We recommend that the Department comply with section 11-35-1550 of the Procurement Code.

DEPARTMENT RESPONSE

Purchasing Branch will work with appropriate staff to ensure agency procedures to include specific instructions on how and when a request to buy other than state term contract. All changes to internal procedures will be submitted to MMO for review.

III. Revenue Generating Contracts

The Department did not provide us proof that it obtained liability insurance coverage from two vendors. They were both awarded contracts under the following solicitation.

<u>Solicitation #</u>	<u>Description</u>	<u>Term</u>	<u>Contract Value</u>
#247537-11/28/06-M	Food/Drinks	5 years/Beginning 1/3/07	\$1.2 million per year for up to five years

The solicitation required the contractors to obtain and keep in force during the term of the contract certain minimum levels of public liability and product liability insurance. It also stated, "Copies of the coverage shall be kept on file with SCDC."

We recommend that proof of liability coverage be obtained from each of the vendors as required by the solicitation.

DEPARTMENT RESPONSE

Chief, Purchasing Branch, will ensure that appropriate insurance coverage documentation is maintained in file for audit purposes.

IV. Procurement Procedures Manual

A review of the Department's Procurement Procedures Manual revised on April 1, 2007 identified sections which were not in compliance with the Procurement Code and regulations. The manual will require revision.

We recommend that the Department's Procurement Procedures Manual be reviewed and updated to ensure compliance with the Procurement Code and regulations. The updated manual must be submitted to our office for review and approval per Regulation 19-445.2005.

DEPARTMENT RESPONSE

Chief, Purchasing Branch, is revising internal procedures to ensure that all sections are in compliance with Procurement code and regulation. Final document will be submitted to MMO for review.

V. Artificially Divided Procurement Card Purchase

The Department artificially divided a procurement card purchase exceeding the authorized amount for a transaction of \$2,500. No competition was solicited.

<u>Statement Date</u>	<u>Trans. Date</u>	<u>Time</u>	<u>Inv. #</u>	<u>Charge</u>	<u>Description</u>
05/27/07	05/07/07	11:33	112195	\$1,854.89	Vehicle Supplies and Parts (i.e. filters, oil, clamps, etc)
05/27/07	05/07/07	11:34	112196	\$ 523.09	Vehicle Supplies and Parts (i.e. filters, oil, clamps, etc)
05/27/07	05/07/07	11:39	112198	<u>\$ 867.83</u>	Vehicle Supplies and Parts (i.e. filters, oil, clamps, etc)
				<u>\$3,245.81</u>	

Section 11-35-1550 (2)(b) of the Code for purchases over \$2,500 to \$10,000 requires agencies to solicit written quotes from a minimum of three qualified sources with documentation of the quotes attached to the purchase requisition. The Department's Procurement Card Manual limits total transaction amounts to \$2,500.

We recommend the Department adhere to the requirements of its Procurement Card Manual.

DEPARTMENT RESPONSE

Staff assigned to Purchase card program will review any instance of multiple purchase of single or similar products or single vendor purchases on same day. Report will be prepared for Director, Budget and Finance who will meet with appropriate executive staff to review issue.

VI. Construction Services

A. Certificate of Insurance not on File

On a construction contract for a lift station upgrade at Perry Correctional Institution, the Department failed to provide evidence that it obtained a certificate of insurance from the contractor.

<u>PO #</u>	<u>PO Date</u>	<u>Amount</u>
H300169456	07/31/07	\$251,975

As stated in the *General Conditions of the Contract for Construction*, AIA Document A201, Article 11, Subparagraph 11.1.2, "Coverage shall be written on an occurrence basis and shall be maintained without interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment."

Per subparagraph 11.1.3, "Certificates of Insurance shall be in the form of the latest edition of the ACORD 25S and shall be filed with the Agency prior to commencement of the Work.

We recommend that the Agency obtain a Certificate of Insurance from the contractor for the construction project noted above and maintain this document in the project file.

B. Quarterly Reports of IDC Activity Not Reported to the OSE

A review of Indefinite Delivery Contract (IDC) activity for the audit period revealed the Department had not submitted quarterly reports to the Office of the State Engineer (OSE) as required by Section 9.1.1 (D) of the OSE Manual.

We recommend the Department file amended reports and start filing quarterly reports of IDC activity to the OSE.

DEPARTMENT RESPONSE

Chief, Purchasing Branch, will ensure that the required quarterly reports to the Office of State Engineer are submitted in a timely fashion.

CERTIFICATION RECOMMENDATIONS

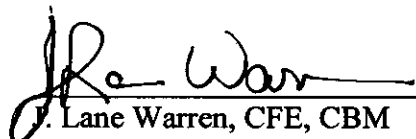
We must state our concern over the number of exceptions with sole source procurements. The Department should re-evaluate how it determines sole source procurements. As stated in the body of this report, we recommend the Budget and Control Board suspend the Department's sole source authority for up to one year. We are recommending a reduction in the Department's supplies and services certification from \$1,000,000 to \$500,000 per commitment whether single year or multi-term contracts are used.

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 South Carolina Department of Corrections in compliance with the Consolidated Procurement Code.


Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we will recommend the South Carolina Department of Corrections be re-certified to make direct agency procurements for one year, at the end of which we will return to perform another audit, at the reduced limits as follows:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 500,000 per commitment
Food Products	*\$ 1,500,000 per commitment
Information Technology	*\$ 100,000 per commitment
Consultant Services	*\$ 100,000 per commitment
Construction Contract	*\$ 100,000 per commitment
Construction Contract Change Order	\$ 100,000 per commitment
Architect/Engineer Contract Amendment	\$ 15,000 per amendment

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



J. Lane Warren, CFE, CBM
Audit Manager



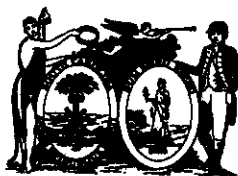
Robert J. Aycock, IV, Manager
Audit and Certification

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

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R. VOIGHT SHEALY
MATERIALS MANAGEMENT OFFICER

June 1, 2009

Mr. R. Voight Shealy
Materials Management Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have reviewed the response from the South Carolina Department of Corrections (Department) to our audit report for the period of April 1, 2005 to June 30, 2008. Also we have followed-up on the Department's corrective action plan during and subsequent to our fieldwork. We are satisfied that the Department has taken or is currently taking corrective action to prevent the recurrence of the problem areas noted and that steps have been implemented to help ensure internal controls over the procurement system are adequate.

We performed our follow-up review from May 18 through 21, 2009 to determine the progress of corrective action at the Department. The results of that review are listed below.

Sole Source, Emergency and Trade-in Sale Procurements

Procurements for radio communication repair services, equipment and supplies are no longer being processed as sole sources. Instead they are being processed through a state term contract and temporarily as emergency procurements as the Department works with the Budget and Control Board's Division of State Information Technology in formulating a method for procuring this equipment and service in a manner that ensures compliance with the South Carolina Procurement Code. Additionally, blanket purchase orders are no longer issued for payments of multiple invoices for the above noted equipment and service. An individual purchase order is now issued by the Procurement Division for the total dollar amount of each month's invoice from the vendor.

At the request of Department management, the Materials Management Office provided training to Department personnel on April 2, 2009 to include guidelines to follow relating to sole source and emergency procurements. All requests for sole source and emergency procurements are now thoroughly reviewed and researched by the Procurement Office prior to approval by management. Additionally, all sole source and emergency procurements now require the approval of the Department's Director, the Director of Budget and Resource Management, and the Procurement Director.

Closer monitoring of trade-in sales is now being performed by the Procurement Division to ensure such sales are reported to MMO on a quarterly basis.

Supplies and Services Procurements

The Procurement Director now requires that all blanket purchase agreements reflect a dollar limit per transaction and the names of those individuals authorized to make procurements under such agreements. We tested blanket purchase agreements issued by the Department subsequent to our audit period and noted no exceptions.

Revenue Generating Contracts

For those contracts requiring liability insurance coverage, proof of such coverage must now accompany all bid packages submitted by vendors to the Department's Procurement Office.

Procurement Procedures Manual

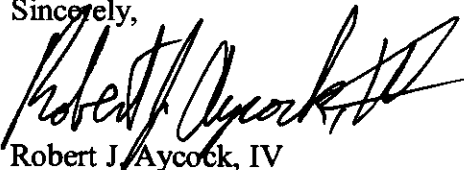
We reviewed the revised Department Procurement Manual and confirmed compliance with the SC Procurement Code.

Procurement Card Purchases

All procurement card applications are now reviewed and approved for issuance by the Department's Procurement Director. Procurement card transactions are monitored by the Procurement Office to identify inappropriate use. Procurement card transactions are reviewed by supervisors and procurement card liaisons prior to approval for payment.

Indefinite Delivery Contracts

The Department's Facilities Office Manager now provides quarterly reports of all Architect and Engineer activity to the Office of the State Engineer and forwards a copy of the report to the Procurement Office. We confirmed adherence to this process with Office of the State Engineer.

Sincerely,

Robert J. Aycock, IV
Manager, Audit and Certification

Total Copies Printed	11
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