



**South Carolina
Office of the Adjutant General**

INDEPENDENT PROCUREMENT AUDIT REPORT

**for the Audit Period:
November 1, 2019, to October 31, 2022**

**Office of Audit & Certification
Division of Procurement Services
July 25, 2023**

TABLE OF CONTENTS

	<u>Page</u>
Abbreviations	1
Introduction	2
Scope	4
Summary of Results	5
Results of Audit	7
Certification Recommendation	14

ABBREVIATIONS

Code	– SC Consolidated Procurement Code and ensuing Regulations
COTS	– Commercially Available Off-the-Shelf
CPO	– Chief Procurement Officer
DFWA	– Drug Free Workplace Act
DPS	– Division of Procurement Services
ITMO	– Information Technology Management Office
PI Manual	– Manual for Planning and Execution of State Permanent Improvements
MBE	– Minority Business Enterprise
MMO	– Materials Management Office
OCG	– Office of the Comptroller General
OSE	– Office of State Engineer
PCA	– Purchasing Card Administrator
P-Card	– Purchasing Card
PO	– Purchase Order
SC Code Ann.	– South Carolina Code of Laws Annotated
SCBO	- South Carolina Business Opportunities
SCEIS	– South Carolina Enterprise Information
SFAA	– State Fiscal Accountability Authority
SMBCC	– Small and Minority Business Contracting and Certification
SPO	– Surplus Property Office
State PO Policy	– State of South Carolina Statewide Purchase Order Policy
STL	– Single Transaction Limit

INTRODUCTION

Per SC Code Ann. § 11-35-1230 and Regulation 19-445.2020, DPS audited South Carolina Office of the Adjutant General's (TAG) internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual.

The primary objective of our audit was to determine whether, in all material respects, the internal controls of TAG's procurement system were adequate to ensure compliance with the Code and ensuing regulations.

The management of TAG is responsible for the agency's compliance with the Code. Those responsibilities include the following:

- Identifying the agency's procurement activities and understanding and complying with the Code
- Establishing and maintaining an effective organization structure and system of internal control over procurement activities that provide reasonable assurance that the agency administers its procurement programs in compliance with the Code
- Establishing clear lines of authority and responsibility for making and approving procurements
- Documenting the agency's system of internal control over its procurement activities in an internal procurement procedure manual
- Taking corrective action when instances of noncompliance are identified, including corrective action for the findings of this audit

Because of inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. 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 review and evaluation of the system of internal control over procurement transactions, as well as our overall audit of procurement policies and procedures, was conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

INTRODUCTION

Our audit was also performed to determine if recertification under SC Code Ann. § 11-35-1210 is warranted.

On August 21, 2018 the SFAA granted TAG the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CURRENT CERTIFICATION \$ LIMITS</u>
Supplies and Services	100,000 per commitment*
Construction Contract Award	100,000 per commitment*

During the audit TAG did not request an increase in its certification limits.

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

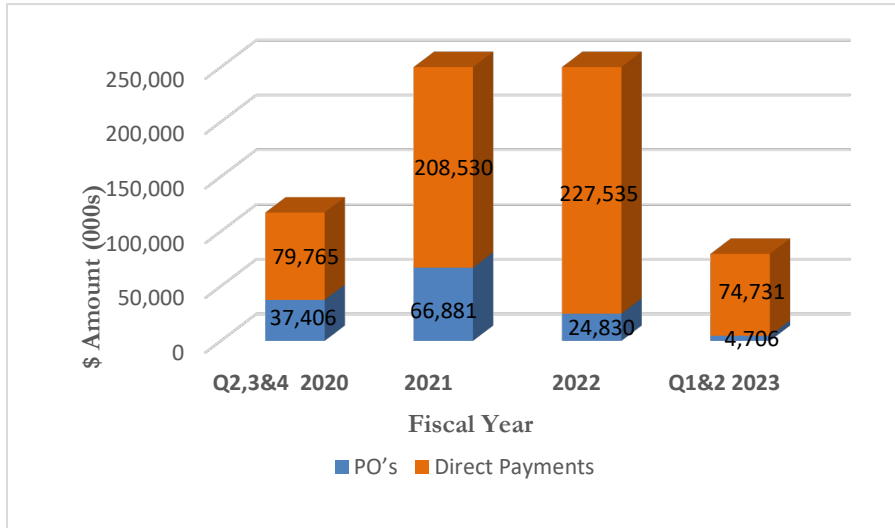
SCOPE

We conducted our audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Our audit included testing, on a sample basis, evidence about TAG's compliance with the Code for the period November 1, 2019 through October 31, 2022, the audit period, and performing other procedures that we considered necessary in the circumstances. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Total Expenditures

During the audit period, the agency made expenditures as follows:

	\$ Amount (000s)				Total
	Q2, 3&4 FY2020	FY2021	FY2022	Q1&2 FY2022	
POs ¹	37,406	66,881	24,830	4,706	133,823
Direct Pay ²	79,765	208,530	227,535	74,731	590,561
Total Spend	117,171	275,411	252,365	79,437	724,393



¹ **POs** represents all expenditures made with a Purchase Order. These are required for most contract purchases by the terms of the contract and is the preferred procurement instrument when a government unit orders or procures supplies or services from a vendor.

² **Direct Pays** are made without a purchase order based on the State Purchase Order Policy. These may occur with purchases of supplies or services that are exempt from the Code or for such things as payment for P-Card purchases or purchases less than \$2500.

SUMMARY OF RESULTS

	<u>PAGE</u>
I. <u>Procurement Manual</u>	7
Our review of TAG’s internal procurement procedure manual did not identify any compliance issues.	
II. <u>Supplies and Services</u>	7
Our review of TAG’s Supplies and Services procurements did not identify any compliance issues.	
III. <u>Sole Source Procurements</u>	7
Our review of TAG’s Sole Source Procurements did not identify any compliance issues.	
IV. <u>Emergency Procurements</u>	
<u>Not Reported to DPS</u>	7
TAG did not report 10 out of 20 emergency procurements to DPS.	
V. <u>Construction</u>	
A. <u>Payment and Performance Bonds Not Obtained</u>	8
TAG did not obtain required payment and performance bonds for eight construction projects.	
B. <u>Artificially Divided Procurements</u>	8
TAG divided construction procurements bypassing competition and performance bond requirements of the Code.	
C. <u>Contract Awarded to Nonresponsive Bidder</u>	10
TAG awarded one contract to a nonresponsive bidder.	
D. <u>Lack of Competition</u>	10
TAG awarded one small construction project without receiving a minimum of three written quotes or advertising in SCBO.	
VI. <u>P-Cards</u>	
<u>Program Administration</u>	
Without adequate management oversight, there is increased risk of P-Card misuse or abuse.	
<u>Independent Audit of P-Cards Not Performed</u>	11
TAG did not perform periodic independent audits of the P-Card program as required.	

SUMMARY OF RESULTS

PAGE

Transaction Testing

A. Blocked MCC Codes 11

TAG made purchases with blocked MCCs in violation of the State P-Card Policy.

B. Split Purchases..... 12

Three cardholders split purchases to avoid the STL.

VII. Unauthorized or Illegal Procurements..... 13

Our testing of unauthorized or illegal procurements did not identify any compliance issues.

VIII. Surplus Property..... 13

Our testing of surplus property did not identify any compliance issues.

IX. MBE Reports..... 13

Our testing of MBE reports did not identify any compliance issues.

Note: The agency’s responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report.

RESULTS OF AUDIT

I. Procurement Manual

We reviewed TAG's internal procurement procedures manual to evaluate its effectiveness in documenting the agency's system of internal controls over procurement and did not identify any compliance issues.

II. Supplies and Services

We audited expenditures exceeding \$10,000 made with POs, and expenditures made without a PO to determine compliance with the Code. Our procedures did not identify any compliance issues.

III. Sole Source Procurements]

Written determinations for all sole source procurements pursuant to SC Code Ann. § 11-35-1560, were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440. During the audit period TAG reported 40 sole source procurements totaling approximately \$893k to DPS.

Our testing of Sole Source Procurements did not identify any compliance issues.

IV. Emergency Procurements

All written determinations for emergency procurements made pursuant to SC Code Ann. § 11-35-1570 were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440. TAG reported 10 emergency procurements totaling approximately \$478k to DPS during the audit period.

Not Reported to DPS

TAG did not report 10 out of 20 emergency procurements to DPS as required by S.C. Code Ann. §11-35-2440.

Recommendation: We recommend TAG implement a review process that will include management oversight and approvals to ensure all emergency procurements are reported to DPS as required by the Procurement Code.

Agency Response

This was an oversight. We are unable to determine how these were overlooked, as reports are submitted by the due date every quarter. To prevent this from reoccurring a log has been created to track all Emergency Procurements. The log will be use as a checklist when submitting Quarterly Reports.

RESULTS OF AUDIT

V. Construction

We tested construction, and architectural/engineer and related professional service contracts for compliance with the Code and the PI Manual.

A. Payment and Performance Bonds Not Obtained

TAG did not obtain payment and performance bonds for eight projects as required by SC Code Ann. §§11-35-3030(2)(a) and 29-6-250.

Recommendation: We recommend TAG develop and implement procedures to ensure compliance with the Procurement Code and PI Manual for Construction projects and provide training to construction personnel.

Agency Response

This was not a systematic issue; this was a training issue with one employee who has been made aware of the requirement. However, Purchase Orders will not be issued until the bonds are attached in the shopping cart in accordance with established OSE policy.

B. Artificially Divided Projects

TAG divided construction projects totaling approximately \$805k between five vendors keeping the projects below the agency's \$100,000 certification level. Moreover, TAG divided most of these to be below \$50k, avoiding the payment and performance bonds requirements from contractors. In addition, TAG divided small construction projects totaling approximately \$132k, keeping the projects below the small purchase threshold of \$10k. We identified multiple purchases from the same vendor, same scope of work, at the same location, and within a short period of time.

Management explained that many of the projects were paid for with federal funding. Federal funds were often provided at the end of the federal fiscal year and came with a requirement to be committed within the next quarter. TAG would alter the scope of projects based on available funding and commodity pricing. Management also stated that several personnel were responsible for work orders from different locations making it difficult to determine if some projects should have been procured as one project. The purchasing approver stated workorders were not always available in the shopping carts.

SC Code Ann. § 11-35-1550(1) states that procurement requirements must not be artificially divided so as to constitute a small purchase.

Recommendation: We recommend TAG properly solicit projects in compliance with Regulation 19-445-2145(B). TAG should comply with SC Code Ann. § 11-35-1550(2)(b)

RESULTS OF AUDIT

for small construction projects. We further recommend TAG revise its procedures to provide for centralized oversight of construction work orders and consolidation of projects where appropriate.

Agency Response

These projects were not intentionally divided as to constitute a small purchase. All projects had a minimum of three written quotes. National Guard Bureau (NGB), the funding source, defines a project as a single building rather than a combination of “like” work. Except for two projects identified in the findings, all projects are 100% federally funded and located on McCrady Training Center or Clarks Hill Training Site. There are over 100 facilities located at these sites and not utilized for one single function or have the same utilization rates. Each facility is identified by its own real property number, and managed and funded individually for operation and maintenance support. Because of where they are located, they are all identified by the same state building number and utilize the same cost/fund center for SCIES approval which suggests they are a common facility.

Additionally, NGB provides funds over the course of the Federal Fiscal Year, rather than a single annual appropriation, often providing large appropriations in the final month of the Federal Fiscal Year. This practice makes it extremely difficult to plan projects regardless of the definition. TAG utilizes a work order system to track work request from tenants. Many work orders are deferred due to funding availability or current facility utilization. Additionally, work orders are input and often actioned by different project managers. Historically Federal funds (October-September) are received as late as July, and often end of Federal Fiscal Year funds become available due to other states turning in Federal funds to National Guard Bureau. The receipt of this late funding leads to projects being awarded in similar timeframes.

TAG will plan projects to be consolidated when appropriate and similar. The work orders, scopes and Purchase Orders will be more clearly written to better identify that the projects are separate and distinct. The Facilities Maintenance Office has scheduled a meeting with OSE seeking guidance on the most efficient way to complete these tasks while adhering to the Procurement Code.

RESULTS OF AUDIT

C. Contract Awarded to Nonresponsive Bidder

TAG awarded one contract to a nonresponsive bidder. The request for quotes asked for bids for removing and replacing shingles on four buildings at one location. Three bids were received, but one bidder only included bids for two buildings and not four. The award was given to that bidder for those two buildings only.

S.C. Code Ann. §11-35-1550(2)(c) requires that an award be made to the lowest responsive and responsible bidder and conforms to S.C. Code Ann. §11-35-1410(9).

Recommendation: We recommend the TAG report this procurement as unauthorized or illegal as required by regulation.

Agency Response

This procurement will be reported as an unauthorized or illegal procurement. To prevent this from re-occurring, in addition to attaching the quotes to the shopping cart, requestors will also be required to attach Work Orders as well as specifications to the Shopping Cart. Reviewers will have the documents available to determine responsiveness prior to approving the shopping cart.

D. Lack of Competition

Tag awarded one small construction project without receiving a minimum of three quotes nor advertising in SCBO.

Tag's Internal Procurement Manual states that SCBO ads are not required for purchases between \$10,000 and \$25,000 or for construction purchases between \$25,000 and \$100,000. This is only true if the agency received at least three qualifying quotes, which it did not.

Recommendation: We recommend TAG comply with small purchase requirements of SC Code Ann. § 11-35-1550(2)(b)(c), and Regulation 19-445-2100(B), and develop and implement a supervisory review procedure for procurements greater than \$10k.

Agency Response

This was an oversight during the review process. There were nine documents attached to this shopping cart. Five were Requests For Quotes, two were quotes, one was a paper requisition, and one was the specifications. With all of these documents, it was overlooked that there were only two quotes.

RESULTS OF AUDIT

VI. P-Cards

TAG had 68 P-Cards in use during the audit period and spent approximately \$4.1M in 8,465 transactions. Based on the volume of usage, there is increased risk that misuse or abuse of P-Cards will not be prevented or detected without adequate management oversight.

Program Administration

We reviewed TAG's P-Card Policy and Procedures for compliance with the State P-Card Policy and identified areas of non-compliance.

Independent Audit of P-Cards Not Performed

TAG did not perform annual independent P-Card audits as required by Section V. A (6) of the State P-Card policy and TAG's internal policy.

Recommendation: We recommend TAG comply with the State P-Card Policy and its internal policy regarding independent audits or reviews. Reviews should be performed at least annually and include program administration and transaction testing. To improve the effectiveness of these audits, we further recommend that these audits be performed by individuals not associated with the P-Card program.

Agency Response

TAG will comply with this recommendation. The individual performing the audits will not be in any way associated with the P-card program. Calendar reminders have been put in place to ensure the annual audit takes place. Additionally, a checklist has been created for the annual audits.

P-Card Transaction Testing

We performed tests of P-Card transactions to ensure compliance with State and agency P-Card policies and procedures. Transaction testing identified areas of non-compliance, which were not identified by the PCAs or supervisor/approvers during the monthly review and reconciliation of cardholder statements.

A. Blocked MCCs

TAG made 106 purchases with blocked MCCs during the audit period. A sample of ten transactions was selected to test for proper approvals to unblock the MCCs prior to purchases. Six out of ten purchases tested were made without prior approvals from the OCG to unblock the MCC codes.

RESULTS OF AUDIT

Agency Response

Regarding the purchases from blocked MCCs, the cardholder cannot use their P-Card for a blocked MCC. The system will not allow the purchase to go through.

If the Agency P-Card Administrator places the cardholder's card in the SUSPEND profile, any prior transactions which have not posted will appear as a blocked MCC purchase regardless of the MCC status on the date of the actual transaction.

B. Split Purchases

Three cardholders split purchases during the audit period to avoid the \$2,500 STL. Part IV (C) of the State P-Card Policy prohibits splitting transactions to avoid the STL and further provides that doing so may result in removal of P-Card privileges.

Recommendation: We recommend TAG retrain cardholders to comply with State P-Card and internal P-Card policies. We further recommend TAG implement the use of checklists in the monthly liaison review to identify purchases which violate State and internal P-Card policies.

TAG should report the split purchases to DPS as unauthorized or illegal procurements.

Agency Response

Concerning the three split purchases, two of the three were made by the same employee. That employee's P-card was placed in the SUSPEND profile for 30 days for each violation. However, TAG did not have a method to capture these violations to include in quarterly reporting. A log and a file folder for the documentation has been created for these types of situations.

The third split purchase was a solution to an issue that was ongoing for several months. A purchase order was issued to Lowe's. However, Lowe's did not have a valid vendor record in the system that would allow for the payment to be processed. Lowe's had already provided the supplies when the purchase order was presented. Lowe's was contacted on several occasions regarding their vendor record, but did not update their record. The decision was made to pay the invoice totaling \$11,685.00 in increments of \$2,500.00 to satisfy the debt, as Lowe's is a State Term Contracted vendor. This was not thought to be a split purchase violation. The P- card was the only way to execute the purchase under the State Term Contract.

RESULTS OF AUDIT

VII. Unauthorized or Illegal Procurements

We tested Unauthorized or Illegal Procurements to determine compliance with the Procurement Code and Regulations. Our testing of reported unauthorized or illegal procurements did not identify any compliance issues.

VIII. Surplus Property

We tested asset disposals to determine compliance with the Procurement Code and State policies and procedures. Our testing of asset disposals did not identify any compliance issues.

IX. Assistance to Minority Business Enterprises (MBE)

We requested copies of the agency's Annual MBE utilization plans and quarterly progress reports to assess compliance with the Code. Our testing did not identify any compliance issues.

CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make TAG's internal procurement operations consistent with the South Carolina Consolidated Procurement Code and ensuing regulations.

As provided in SC Code Ann. § 11-35-1210, we recommend that the Office of the Adjutant General's procurement authority to make direct agency procurements be re-certified up to the following limits for three years:

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION \$ LIMITS</u>
Supplies and Services ¹	100,000 per commitment*
Construction Contract Award	100,000 per commitment*

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



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¹ Supplies and Services includes non-IT consulting services