



**South Carolina
Department of Natural Resources**

INDEPENDENT PROCUREMENT AUDIT REPORT

**for the Audit Period:
January 1, 2019 to December 31, 2021**

**Office of Audit & Certification
Division of Procurement Services
October 11, 2022**

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ABBREVIATIONS

COTS	– Commercially Available Off-the-Shelf
CPO	– Chief Procurement Officer
DNR	-- The South Carolina Department of Natural Resources
DPS	– Division of Procurement Services
ITMO	– Information Technology Management Office
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
PI Manual	– Manual for Planning and Execution of State Permanent Improvements
Procurement Code	– SC Consolidated Procurement Code and ensuing Regulations
PO	– Purchase Order
SCEIS	– South Carolina Enterprise Information
SMBCC	– Small and Minority Business Contracting and Certification
SPO	– Surplus Property Office
State PO Policy	– State of South Carolina Statewide Purchase Order Policy

INTRODUCTION

DPS audited DNR's internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual, under § 11-35-1230 of the Procurement Code and Reg. 19-445.2020. The primary objective of our audit was to determine whether, in all material respects, the internal controls of DNR's procurement system are adequate to ensure compliance with the Procurement Code.

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

- Identifying the agency's procurement activities and understanding and complying with the Procurement 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 Procurement Code
- Establishing clear lines of authority and responsibility for making and approving procurements
- Documenting the agency's procurement procedures and system of internal controls 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 Procurement Code Ann. § 11-35-1210 is warranted.

On May 1, 2018 the State Fiscal Accountability Authority (SFAA) granted DNR the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CURRENT CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 300,000 per commitment
Construction Contract Award	*\$ 100,000 per commitment

During the audit DNR requested the following increases in its certification limits.

<u>PROCUREMENT AREAS</u>	<u>REQUESTED CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 300,000 per commitment
Construction Contract Award	*\$ 250,000 per commitment
Construction Contract Change Order	\$ 50,000 per change order

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

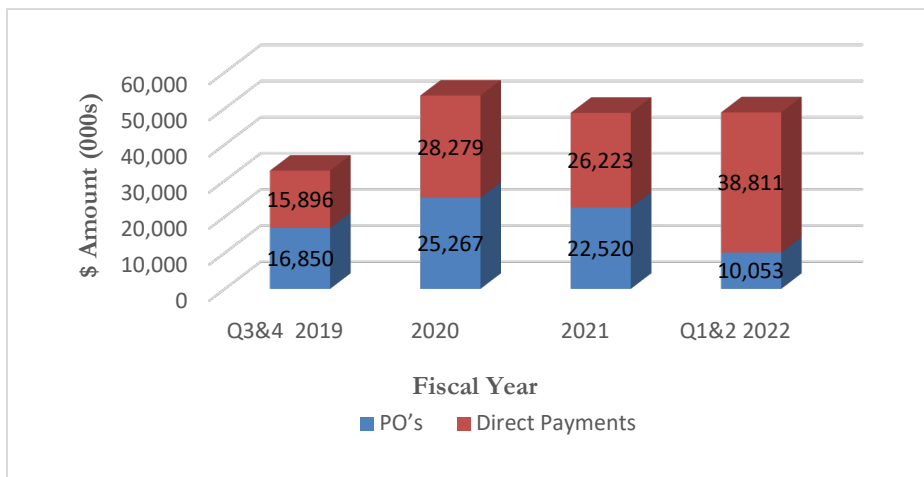
SCOPE

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 DNR’s compliance with the Procurement Code for the period January 1, 2019 through December 31, 2021, 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
	Q3,4 FY2019	FY2020	FY2021	Q1,2 FY2022	
POs ¹	16,850	25,267	22,520	10,053	74,699
Direct Pay ²	15,896	28,279	26,223	38,811 ³	109,209
Total Spend	32,747	53,545	48,743	48,864	183,899



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 purchase order based on the State Purchase Order Policy. These may occur with purchases of supplies or services that are exempt from the Procurement Code or for such things as payment for P-Card purchases or purchases less than \$2500.

³ Direct Pays in Q1 of FY 2022 included a land purchase of \$23.2M.

SUMMARY OF RESULTS

I. <u>Procurement Manual</u>	6
DNR provided a procurement manual dated July of 2013 after the completion of field work.	
II. <u>Supplies & Services</u>	6
Our testing of supplies and services expenditures did not identify any compliance issues.	
III. <u>Sole Source and Emergency Procurement</u>	
A. <u>Sole Source Procurements Not Reported to DPS</u>	7
DNR did not report five sole source procurements to DPS.	
B. <u>Right to Protest Clause Not Included in the Public Notice</u>	7
DNR did not include the right to protest clause in five public notices of intent to award without competition.	
IV. <u>Construction</u>	8
Our testing of construction did not identify any compliance issues.	
V. <u>P-Cards</u>	8
A P-Card audit was completed in June of 2022 (prior P-Card audit). The prior P-Card audit was a limited follow up review on the Procurement Audit Report as of April 2, 2021. Based on the results of that audit and DNR’s corrective action currently in process, we did not perform additional tests of DNR’s use of the P-Card during the current audit.	
VI. <u>Unauthorized or Illegal Procurements</u>	8
DNR did not include the required corrective action plans and disciplinary plans in seven written determinations.	
VII. <u>Surplus Property</u>	9
Our testing of surplus property did not identify any compliance issues.	
VIII. <u>MBE Reports</u>	9
DNR did not file the annual MBE utilization plans and quarterly reports.	

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

DNR provided a procurement manual dated July of 2013 after the conclusion of field work. The agency stated that an updated manual was being developed during the audit. Without documented procedures including the agency's system of internal controls over procurement activities, procurement officers have to rely on accepted practice and are at greater risk of non-compliance.

Recommendation: We recommend DNR develop an internal procurement manual that provides procedures for procurement personnel conducting commonly used source selection methods including the new small purchase procedures, the assignment of roles and responsibilities, and a consistent filing system. Procurement Services provides a Procurement Manual checklist on its website that may assist in revising the manual. Once the manual has been revised, we recommend DNR submit the manual to Audit and Certification for approval as required by SC Code Ann. § 11-35-540 and Reg. 19-445.2005. Upon approval, we recommend retraining staff on the procedures.

Agency Response

The SCDNR Procurement Manual is in draft status. As the Procurement Audit concluded the SCDNR Procurement Director transitioned to another State agency and SCDNR is in the process of hiring a replacement. Developing and implementing an updated procurement manual in accordance with the Procurement Manual checklist provided by Procurement Services will be a top priority for the newly hired Procurement Director and we expect this to be completed within 90 days of hiring a new Procurement Director. Upon completion the revised manual will be submitted to Audit and Certification for approval as required by SC Procurement Code Ann. § 11-35-540 and Reg. 19-445.2005. Upon approval this manual will be used in ongoing procurement training.

II. Supplies & Services

We audited expenditures exceeding \$10,000 made with POs, and expenditures made without a PO to determine compliance with the Procurement Code.

Our testing of procurements for the audit period did not identify any compliance issues.

RESULTS OF AUDIT

III. Sole Source and Emergency Procurements

We evaluated written determinations for all sole source and emergency procurements pursuant to SC Code Ann. § 11-35-1560 to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports required by § 11-35-2440. During the audit period DNR reported 126 sole source procurements totaling approximately \$6.9M, and twenty-one emergency procurements totaling approximately \$340k to DPS.

A. Sole Source Procurements Not Reported to DPS

DNR did not report five sole sources totaling \$401k in required quarterly reports to DPS. SC Code Ann. § 11-35-2440 requires that governmental bodies submit to the CPO quarterly a record listing of all sole source contracts made pursuant to § 11-35-1560.

Recommendation: We recommend DNR develop and implement reporting procedures, including management review and approval, to ensure complete, accurate, and timely reporting of sole source procurements.

Agency Response

SCDNR understands that a listing of all sole source contracts made is required to be submitted quarterly to DPS pursuant to SC Procurement Code Ann. § 11-35-2440. Previously, this was a process assigned to a staff member with minimal supervision. When that staff member left SCDNR their reporting duties did not get assigned to a new staff member. As a part of the revised procurement manual the sole source reporting requirement will workflow through a supervisor review process that will ensure adequate supervision and complete, accurate, timely reporting of sole source procurements. This process will be implemented within 90 days of hiring a new Procurement Director.

B. Right to Protest Clause Not Included in the Public Notice of Intent to Award

DNR did not include the right to protest clause in Public Notice of Intent to Award Without Competition for five procurements totaling approximately \$1.3M as required by SC Code Ann § 11-35-1560 (A).

RESULTS OF AUDIT

Recommendation: We recommend DNR review and revise its procedures to ensure that any sole source procurements greater than \$50k provide the right to protest clause in the public notice as required by SC Code Ann. §11-35-1560 (A).

Agency Response

SCDNR understands that the right to protest clause is required by SC Consolidated Procurement Code Ann § 11-35-1560 (A). Since SCDNR first became aware of this during the procurement audit, SCDNR started including the Right to Protest Clause in all SCBO advertisements. When the SCDNR procurement manual is revised it will include procedures to ensure that any Sole Source procurements greater than \$50k provide the right to protest clause in the public notice as required by SC Procurement Code Ann § 11-35-1560 (A).

IV. Construction

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

Our testing of construction did not identify any compliance issues.

V. P-Cards

A P-Card audit was completed in June of 2022 (prior P-Card audit). The prior P-Card audit was a limited follow up review on the Procurement Audit Report as of April 2, 2021. Based on the results of that audit and DNR's corrective action currently in process, we did not perform additional tests of DNR's use of the P-Card during the current audit.

Agency Response

See Attachment #1 for DNR's update on its implementation of corrective actions taken in response to the P-Card follow-up review.

VI. Unauthorized Procurements or Illegal Procurements

We tested unauthorized or illegal procurements to determine compliance with the Procurement Code. During the audit period DNR reported 28 unauthorized or illegal procurements totaling approximately \$139k.

RESULTS OF AUDIT

Written determinations for seven unauthorized procurements totaling approximately \$30k did not include the required corrective action plans and disciplinary plans for preventing reoccurrence and disciplinary actions with employees as required by Regulation 19-445.2015 (H) (2).

Recommendation: We recommend DNR develop and implement procedures for the disposition of unauthorized or illegal procurements to ensure compliance with Regulation 19-445.2015 including, all required elements of written determinations.

Agency Response

SCDNR has discussed with all staff the importance of completing unauthorized procurement or illegal procurement information fully. In addition, Procurement staff are being trained to carefully review documentation and verify all information is complete, prior to proceeding with processing any request. When the SCDNR procurement manual is revised procedures will be included to ensure compliance with Regulations 19-445.2015 including all required elements of written determinations.

VII. Surplus Property

We tested asset disposal to determine compliance with the Procurement Code and State policies and procedures.

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

VIII. Minority Business Enterprise (MBE) Reports

DNR did not file annual MBE utilization plans and quarterly progress reports.

Recommendation: We recommend DNR develop and implement procedures, including management review and approval, to require and assign responsibility for filing annual MBE utilization plans and quarterly progress reports be submitted to the Office of Small and Minority Business Assistance in a timely manner as required by SC Code Ann. § 11-35-5240 (2).

RESULTS OF AUDIT

Agency Response

SCDNR understands that the MBE Report is required by the SC Consolidated Procurement Code. Previously, this was a process assigned to a Procurement staff member with minimal supervision. When that staff member left SCDNR their reporting duties did not get assigned to a new staff member. As part of the revised procurement manual the MBE reporting requirement will workflow through a supervisor review process that will ensure adequate supervision and complete, accurate, and timely reporting of the annual MBE utilization plans and quarterly progress reports as required by SC Code Ann. § 11-35-5240 (2).

CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make DNR's internal procurement operations consistent with the Procurement Code.

As provided in SC Code Ann. § 11-35-1210, we recommend The South Carolina Department of Natural Resource's procurement authority to make direct agency procurements be increased up to the following limits for three years:

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Supplies and Services ⁴	*\$ 300,000 per commitment
Construction Contract Award	*\$ 250,000 per commitment
Construction Contract Change Order	\$ 50,000 per change order

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

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⁴ Supplies and Services includes non-IT consulting services