



**State Law Enforcement Division**

**INDEPENDENT PROCUREMENT AUDIT REPORT**

**for the Audit Period:  
July 1, 2018 to June 30, 2021**

**Office of Audit & Certification  
Division of Procurement Services  
December 14, 2021**

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## INTRODUCTION

The Division of Procurement Services (DPS) audited the State Law Enforcement Division's (SLED) internal procurement operating policies and procedures, as outlined in their internal Procurement Operating Procedures Manual, under § 11-35-1230 of the South Carolina Consolidated Procurement Code (Code) and Reg. 19-445.2020<sup>i</sup> of the ensuing regulations.

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

The management of SLED 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 effective controls over procurement activities that provide reasonable assurance that the agency administers its procurement programs in compliance with the Code
- Evaluating and monitoring the agency's compliance with the Code
- Taking corrective action when instances of noncompliance are identified, including corrective action on audit 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.

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On May 2, 2017, the State Fiscal Accountability Authority (SFAA) granted SLED the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 250,000 per commitment
Information Technology	*\$ 100,000 per commitment
Consultant Services	*\$ 100,000 per commitment

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

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### Total Expenditures

During the audit period, the agency conducted procurements as follows:

	<u>\$ Amount (000s)</u>			
	<u>FY2019</u>	<u>FY2020</u>	<u>FY2021</u>	<u>Total</u>
PO's	26,055	28,951	24,851	79,857
Direct Payments	12,086	11,729	12,790	36,605
<b>Total Spend</b>	<b>38,142</b>	<b>40,679</b>	<b>37,642</b>	<b>116,463</b>

## 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 SLED’s compliance with the Code for the period July 1, 2018 through June 30, 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.

The scope of our audit included, but was not limited to, a review of the following:

- (1) Internal procurement and purchasing card (P-Card) procedure manuals
- (2) Written Determinations for all sole source and emergency procurements. SLED reported the following sole source and emergency procurement activity during the audit period:

<u>Fiscal Year</u>	<u>Count</u>	<u>Sole Source</u>		<u>Emergency</u>	
		<u>\$ Amount</u>	<u>Count</u>	<u>\$ Amount</u>	<u>\$ Amount</u>
2019	95	5,182,709	8	39,422	
2020	67	6,649,732	12	2,287,407	
2021	53	7,866,709	1	11,480	

- (3) Procurement transactions for the audit period as follows:
  - a) Seventy-one expenditures each greater than \$10k totaling approximately \$6.3M.
  - b) Twenty-five direct payments totaling approximately \$48k.
  - c) A block of sequential expenditures over a two-month period reviewed for order splitting or the use of or favored vendors
  - d) Twenty-five P-Card transactions for two judgmentally selected months for compliance with the South Carolina Purchasing Card Policy (State P-Card Policy). During the audit period SLED had 46 cardholders that made expenditures as follows:

<u>Fiscal Year</u>	<u>Transactions</u>	<u>\$ Amount</u>
2019	1,399	365,215
2020	1,243	749,025
2021	1,167	291,621

- (4) Four Design-Bid-Build projects totaling approximately \$1.1M for compliance with the Manual for Planning and Execution of State Permanent Improvements
- (5) Disposition of unauthorized procurements. SLED reported the following unauthorized procurement activity to Procurement Services during the audit period:

<u>Fiscal Year</u>	<u>Count</u>	<u>\$ Amount</u>
2019	4	8,317
2020	3	2,730
2021	1	154

- (6) Reporting of surplus property dispositions, and approval of trade-ins in excess of \$5k

## SCOPE

- (7) Small and Minority Business utilization plans and reports. SLED reported the following activity to the Division of Small and Minority Business Contracting and Certification (SMBCC):

<u>Fiscal Year</u>	<u>\$ Goal</u>	<u>\$ Actual</u>
2019	343,779	405,327
2020	341,434	441,905
2021	537,904	225,126

## SUMMARY OF FINDINGS

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**Note:** The agency's responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report. The cover letter is at the end of the report as Attachment 1.

## RESULTS OF AUDIT

### **I. Internal Procurement Procedure Manual Lacked Key Provisions**

SLED's internal procurement procedure manual lacked key provisions to ensure compliance with the procurement code. The following key elements were not included in SLED's procurement manual:

- Commonly used source selection methods - SC Code Ann § 11-35-1510.
- Competitive sealed bidding (pre-bid conferences, safeguarding of bids, acceptance and evaluation, rejections of bids) - SC Code Ann § 11-35-1520.
- Construction procurement procedures - SC Reg. 19-445.2145.
- IT Procurements greater than \$50,000 - SC Proviso 117.117
- Maintenance of procurement files - SC Reg. 19-445.2005.
- Surplus Property Management - SC Code Ann § 11-35-3820.
- Trade-in sales - SC Code Ann § 11-35-1510.
- Minority Business Enterprise Utilization - SC Code Ann § 11-35-5210.

**Recommendation:** We recommend SLED revise its internal procurement procedures manual as required by SC Code Ann. § 11-35-540(3) and Reg. 19-445.2005 and submit the revised manual to DPS for approval. Procurement Services' website has a procurement manual checklist that may be helpful in revising the agency's manual.

#### **Agency Response**

Agency concurs with finding. SLED will revise the internal procurement procedures manual as noted in the audit report and will submit to DPS for approval.

### **II. Sole Source Procurements**

#### **Right to Protest Clause Not Included in SCBO Ads**

SLED did not include the prospective bidders' right to protest clause in the SCBO ads for nine procurements totaling approximately \$1.4M. SC Code Ann. § 11-35-1560(A) requires public notice of intent to award without competition contain a statement of a bidder's right to protest.

**Recommendation:** We recommend that SLED develop and implement procedures to ensure that the bidder's right to protest is included on all public notice of intent to award without competition.

#### **Agency Response**

Agency concurs with finding. While the notice was provided on the link that the SCBO advertisement directed vendors to view, we understand that it must be posted directly with the advertisement posted in SCBO and will ensure that this policy is adhered to.



## RESULTS OF AUDIT

### III. Supplies and Services

#### IT Procurement Plan Approval Not Documented

SLED did not request verification of required IT Plan approval prior to executing eight IT purchases that exceeded \$50k. Proviso 117.117 states that “With the consultation and approval of the Division of Technology Operations, agencies must create an information technology plan for purchases that exceed \$50,000 to ensure compliance with the Statewide Strategic Information Technology Plan and the standards defined by the division.”

**Recommendation:** We recommend SLED develop and implement procedures to require IT requisitions greater than \$50k include certification that the agency has IT Plan approval prior to contract execution.

#### **Agency Response**

While the agency felt that controls were in place to adhere to this Proviso, we have added this requirement to the agency's Policy Manual. The agency participates in the reporting of the annual IT Plan. All agency shopping carts that are created with IT General Ledger Codes, regardless of the dollar value, currently route through the IT Director for approval before the workflow goes to Procurement. A new process will be put in place to have a Proviso specific approval from the IT Director for each Procurement that is \$50,000 or greater.

### IV. P-Cards

#### Program Administration

##### A. Internal P-Card Manual

SLED's internal p-card manual did not address the following provisions:

- Annual review of internal policy.
- Monitoring cardholder accounts for inactivity
- Default accounting codes.
- Hierarchical review and approval of purchases
- Procedures for increasing the Single Transaction Limits greater than \$2.5K
- Prohibition against the use of blocked MCC codes.
- Responsibility for ensuring that the Certification Statements are submitted for approval by the Comptroller General (CG).

State P-Card Policy Section III. A. 1. (a) requires agencies to “Develop the internal policy governing the use of P-Cards, to include the [listed] minimum requirements.”

## RESULTS OF AUDIT

**Recommendation:** We recommend SLED revise its internal P-Card Manual to cover the key requirements of the State P-Card Policy. Procurement Services' website provides a P-Card Manual checklist which may be of assistance in revising the manual.

### Agency Response

The agency concurs with this finding. SLED staff has begun working on the revision of the P-Card Manual to adhere to the provisions listed in the audit report.

#### B. Independent Audit of P-Cards Not Performed

SLED had not performed independent audits of P-Card activity as required. State P-Card Policy, Section III. A. 1. a. (ix) requires agencies to "create a provision for audit or other independent review of all areas of program administration and transactions at least annually."

**Recommendation:** We recommend SLED develop and implement procedures to ensure independent audits of the P-Card program are conducted, at least annually, to include program administration and transaction testing. We further recommend that these audits be performed by individuals not associated with the P-Card program, and that the procedures for these audits be documented in SLED's internal p-card manual.

### Agency Response

The agency concurs with this finding. The SLED Internal Auditor will perform an annual audit of the P-Card Program beginning the current fiscal year of 2023.

## V. Minority Business Enterprise Utilization

### Annual Utilization Plans and Quarterly Progress Reports Not Submitted Timely

SLED did not submit three annual MBE Utilization Plans and five quarterly reports to the SMBCC in a timely manner. SC Code Ann. § 11-35-5240 (2) requires that MBE utilization plans be submitted to the SMBCC for approval no later than July 30th annually and that progress reports be submitted to the SMBCC no later than 30 days after the end of each fiscal quarter.

**Recommendation:** We recommend the SLED develop and implement procedures, including management review and approval, to ensure that annual MBE utilization plans, and quarterly progress reports are submitted to the SMBCC in a timely manner as required by SC Code Ann. § 11-35-5240 (2).

## **RESULTS OF AUDIT**

### **Agency Response**

The Agency concurs with this finding. The SLED Procurement Staff will compile and submit all reports in a timely manner. SLED is currently working on the 2023 MBE Utilization Plan and will submit by July 30, 2022.

## CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make the State Law Enforcement Division'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 State Law Enforcement Division's procurement authority to make direct agency procurements be re-certified up to the following limits for three years:

PROCUREMENT AREAS

RECOMMENDED CERTIFICATION LIMITS

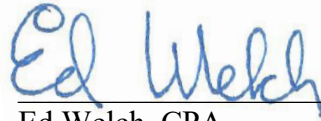
Supplies and Services<sup>1</sup>

\*\$ 250,000 per commitment

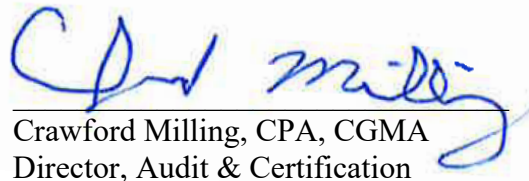
Information Technology<sup>2</sup>

\$ 100,000 per commitment

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



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<sup>1</sup> Supplies and Services includes non-IT consulting services

<sup>2</sup> Information Technology includes consulting services for any aspect of information technology, systems and networks

## End Notes

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<sup>i</sup> Regulation 19-445.2020 Certification

(A) Review Procedures.

(2) The Materials Management Officer shall review and report on the particular government body's entire internal procurement operation to include, but not be limited to the following:

- (a) Adherence to provisions of the Code and these Regulations.
- (b) Procurement staff and training.
- (c) Adequate audit trails and purchase order register.
- (d) Evidence of competition.
- (e) Small purchase provisions and purchase order confirmation.
- (f) Emergency and sole source procurements.
- (g) Source selection.
- (h) File documentation of procurements.
- (i) Decisions and determinations made pursuant to section 2015.
- (j) Adherence to any mandatory policies, procedures, or guidelines established by the appropriate chief procurement officers.
- (k) Adequacy of written determinations required by the Code and these Regulations.
- (l) Contract administrations.
- (m) Adequacy of the governmental body's system of internal controls to ensure compliance with applicable requirements.

(3) The report required by item A(2) shall be submitted to the board.