



**SOUTH CAROLINA
DEPARTMENT OF MOTOR VEHICLES (DMV)
INDEPENDENT PROCUREMENT AUDIT REPORT
January 1, 2015 to June 30, 2019**

**Office of Audit & Certification
Division of Procurement Services
October 22, 2019**

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INTRODUCTION

We conducted an audit of DMV's internal procurement operating policies and procedures, as outlined in their Internal Procurement Operating Procedures Manual, under §11-35-1230 (1) of the South Carolina Consolidated Procurement Code and Reg. 19-445.2020 of the accompanying regulations.

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

The management of DMV 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 SC Consolidated Procurement 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.

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

INTRODUCTION

On August 23, 2016 the State Fiscal Accountability Authority granted DMV the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 350,000 per commitment
Information Technology	*\$ 150,000 per commitment
Consultant Services	*\$ 350,000 per commitment

DMV did not request any increases to its current certification levels during the audit .

*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 DMV's compliance with the Code for the period January 1, 2015 through June 30, 2019, 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) All sole source and emergency procurement justifications for the audit period. The following sole source procurement activity was reported to the Division of Procurement Services:

<u>Fiscal Year</u>	<u>Count</u>	<u>\$ Amount</u>
Q3,4 2015	14	1,321,055
2016	19	2,309,053
2017	20	1,590,768
2018	14	1,067,995
2019	25	1,242,326

- (3) Procurement transactions for the audit period as follows:
 - a) Sixty-five payments each exceeding \$2,500
 - b) Two hundred twenty-nine purchase orders (PO's) and direct expenditure vouchers reviewed against the use of order splitting or favored vendors
 - c) Twenty-five P-Card transactions for the periods of February and June of 2019
- (4) Eight construction contracts and four Architect/Engineer and Related Professional Service Contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements, Part II
- (5) Small and Minority Business utilization plans and reports. The following activity was reported to the Division of Small and Minority Business Contracting and Certification (SMBCC):

<u>Fiscal Year</u>	<u>\$ Goal</u>	<u>\$ Actual</u>
Q3, 4 2015	129,890	54,630
2016	860,828	295,478
2017	605,455	334,748
2018	not reported	not reported
2019	not reported	not reported

- (6) Information Technology acquisitions under IT Plans
- (7) Surplus property dispositions, and approval of trade-ins in excess of \$5,000

SCOPE

(8) Disposition of unauthorized procurements. The following unauthorized procurement activity was reported to the Division of Procurement Services:

<u>Fiscal Year</u>	<u>Count</u>	<u>\$ Amount</u>
Q3, 4 2015	1	7,734
2016	0	-0-
2017	0	-0-
2018	0	-0-
2019	0	-0-

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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.

RESULTS OF AUDIT

I. Contract Exceeded Agency Procurement Authority / Lacked Multi-Term Determination

A contract for Kofax software support was issued June 26, 2017 for \$387,238. The agency's procurement authority for IT services is \$150,000. Per Reg. 19-445.2020 A. (4), "...the particular governmental body may be certified and assigned a dollar limit below which the certified governmental body may make direct agency procurements."

DMV entered into this two year contract without completing the required written determination justifying the use of a multi-term contract. SC Code Ann. § 11-35-2030(1) of the Procurement Code states in part "...Unless otherwise provided by law, a contract for supplies, services, or information technology must not be entered into for any period of more than one year unless approved in a manner prescribed by regulation of the board." Paragraph (2) of that same section requires a written determination justifying the use of a multi-term contract.

Recommendation: We recommend DMV develop and implement procedures to:

- ensure compliance with the agency's certification limits,
- prepare written determinations for the disposition of unauthorized procurements as required by the Code, and
- obtain the CPO's concurrence with these unauthorized acts in excess of the agency's certification limit, as required by Reg. 19-445.2015(A).

SCDMV Response

SCDMV concurs with the finding and recommendation. Based on prior year expenditure amounts and the pre-solicitation estimate for this procurement, SCDMV thought this procurement was below the Agency's certification limit; however, the final award came in above our certification limit. Going forward, SCDMV will immediately notify the proper SFAA Procurement Authority if the procurement is above our certification level and obtain SFAA's concurrence prior to award.

II. Sole Source Procurements

A. Inappropriate Sole Source Procurements

We tested sole source procurements made pursuant to SC Code Ann. § 11-35-1560 to determine the appropriateness of the procurement actions. We identified IT application analyst services, totaling \$312,270 over a two year period, that had been acquired without competition under the following POs:

RESULTS OF AUDIT

<u>PO Date</u>	<u>Service Dates</u>	<u>\$ Amount</u>
7/11/17	7/1/17 – 6/30/18	168,270
7/27/18	7/1/18 – 9/30/18	34,000
9/21/18	10/1/18 – 6/30/19	110,000

The analyst had previously provided services under a state-term contract for several years. Although the justification referenced the difficulty in finding the required combination of skills and the analyst’s familiarity with the agency’s project, a qualified analyst could have been acquired through a competitive procurement.

Service dates for the POs spanned 24 consecutive months, with justifications provided for each of the three PO’s. The sole source justification for the three month period under the second PO stated that “This sole source was done with the understanding that it would be for a total of one year with a permanent solution created for the work she does by the end of this time period.” It further stated “...this sole source procurement is to be for an extra period of three months to allow them to finally bring this situation to a conclusion. The IT Department understands that this individual’s services (name omitted) will not be procured again under a sole source procurement.” Another sole source PO was issued September 21, 2018, for the subsequent nine months to continue these services.

SC Code Ann. § 11-35-1560(B) states in part, “...In cases of reasonable doubt, competition must be solicited. Any decision by a governmental body that a procurement be restricted to one potential vendor must be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need.”

Recommendation: We recommend DMV review and revise its procedures for sole source procurements to ensure that in cases of reasonable doubt, competition is obtained as required by SC Code Ann. § 11-35-1560.

SCDMV Response

SCDMV concurs with the audit finding and recommendation. These procurements were made against the recommendation of the Agency Procurement Officer. Going forward, the Agency will require this type of procurement to be handled through the competitive solicitation process.

B. No Sole Source Determinations Provided

Required written determinations for sole sources were not provided for 18 transactions totaling \$1,201,856.

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Per SC Code Ann. § 11-35-1560 (A), “A contract may be awarded for a supply, service, information technology, or construction item without competition if, under regulations promulgated by the board, the chief procurement officer, the head of the 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, information technology, or construction item.”

Recommendation: We recommend that DMV develop and implement procedures to ensure that sole source procurements are appropriately and adequately justified in writing as required by SC Code Ann. § 11-35-1560.

SCDMV Response

Prior to the current Chief of Procurement (hired in 2017), the DMV would process sole source POs prior to completing all required internal documentation, including justifications, which led to this issue. The Agency Procurement Office has now implemented a process of completing all required internal documents, including justification forms, prior to the issuance of a purchase order. Supporting documentation is uploaded into the purchase order in the SCEIS system as well as kept in an organized, digital manner by the Agency Procurement Department.

C. Sole Source Procurements Lacking Information Technology (IT) Plans

There were 37 sole source procurements, each exceeding \$50,000, for a total of \$8,390,955, where IT Plan approvals were not available. IT procurements that exceed \$50,000 require an approval from the Division of Technology as required by SC Code Ann. § 1-11-190.

Recommendation: We recommend that DMV develop and implement procedures to ensure that all IT procurements that exceed \$50,000 are approved under an IT Plan prior to solicitation.

SCDMV Response

The Agency IT Plan is the responsibility of the Agency's IT Department. Procurement has discussed the importance of updating the IT Plan on all IT purchases over a certain limit. Procurement now requires a copy of the IT Plan to be uploaded in the SCEIS shopping cart prior to processing the request.

D. Sole Source Procurements Omitted or Reported Late on Quarterly Reporting

DMV omitted 45 sole source procurements totaling \$3,380,127 from its statutorily required quarterly reports. Two sole source procurements, totaling \$613,110, were reported almost a year late.

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SC Code Ann. § 11-35-2440 requires that governmental bodies submit quarterly, a record listing of all contracts made pursuant to § 11-35-1560 to the Chief Procurement Officers.

Recommendation: We recommend that DMV develop a documented process, to include management review and approval, to ensure that an accurate and complete list of all sole sources is reported quarterly in a timely manner.

SCDMV Response

Due to high staff turnover, the Procurement quarterly reports were not filed. Multiple staff members have now been trained on how to submit the reports so this issue should be corrected moving forward.

E. Non-Compliance with Drug-Free Workplace Act

Our review of Sole Source procurements valued at \$50,000 or more identified 20 procurements totaling \$3,281,708 for which the Drug-Free Workplace Act Certifications were not obtained. Sole Source procurements are subject to this law.

Section 44-107-30 of the Drug-Free Workplace Act states, “no person, other than an individual may receive a domestic grant or be awarded a domestic contract for the procurement of any goods, construction, or services for a stated or estimated value of \$50,000 or more from any state agency unless the person has certified to the using agency that it will provide a drug-free workplace...”

Recommendation: We recommend that DMV revise its procedures to ensure that solicitations greater than \$50,000 require contractors to certify that they will provide a drug-free workplace as required by the Drug-Free Workplace Act, and verifying that such certifications are obtained prior to commencement of work under the contract.

Sole Source Procurement Recommendation: We recommend that for a period of at least one year, all sole source procurements greater than \$10,000 conducted by DMV will require posting adequate public notice of intent to award without competition in South Carolina Business Opportunities, and compliance with all other requirements of SC Code Ann. § 11-35-1560.

SCDMV Response

The Agency concurs with the finding and recommendation. The Drug-Free Workplace Act forms, for all sole source purchases exceeding fifty thousand dollars, will now be uploaded into the purchase order in the SCEIS system and kept in an organized, digital manner by the Procurement Office. In addition, the SCDMV will comply with the audit recommendation of advertising all sole source procurements for a period of one year. The Agency will do this from March 1, 2020 through March 2, 2021.

RESULTS OF AUDIT

III. Unauthorized Procurements

A. Unauthorized Procurement Not Reported

DMV procured a renewal of Palo Alto network services citing an expired state term contract. The old contract expired June 30, 2017, and a new contract was issued on August 11, 2018. DMV issued a PO, July 14, 2017, for \$43,200 during this 13 month gap in the state contract term. These services were available from other approved vendors under state term contracts in effect at the time.

This transaction was identified by MMO as an unauthorized procurement and brought to DMV's attention on August 29, 2017. MMO inquired whether the agency was going to handle the situation as a ratification or a termination of contract. This unauthorized procurement has not been reported as required, and no written determination was provided.

Per Regulation 19-445.2015(B), "All decisions to ratify or terminate a contract shall be supported by a written determination of appropriateness. In addition, the appropriate official shall prepare a written determination as to the facts and circumstances surrounding the act, what corrective action is being taken to prevent recurrence, and the action taken against the individual committing the act. Any governmental body shall submit quarterly a record listing all decisions required... to the chief procurement officers."

SCDMV Response

In the finding noted, the quote was obtained by the Agency's IT Department and was applied by the vendor to a terminated contract. The Agency has since implemented a process that requires all quotes, whether on contract or not, be obtained by the Procurement Office so contract terms, pricing, and expiration dates can be checked.

B. Reported Unauthorized Procurement Lacks Documentation

No written determination for the ratification of a PO dated January 22, 2015, for \$7,734 was provided. Per Regulation 19-445.2015(B), "all decisions to ratify or terminate a contract shall be supported by a written determination of appropriateness."

Recommendation: We recommend the agency require the disposition of the unauthorized procurement is adequately justified and documented, and submit quarterly records of unauthorized procurements as required by regulation.

SCDMV Response

The purchase noted in this finding was handled under the previous Chief of Procurement (prior to 2017). Current DMV Procurement Management will ensure any authorized procurement is

RESULTS OF AUDIT

documented thoroughly and handled according to all regulations and procurement code requirements.

IV. Purchasing Cards

A. No P-Cards Audits Had Been Performed

Periodic independent audits of P-Card activity had not been performed by the agency as required. Section III of the State P-Card Policy requires the agency to create a provision for audit or other independent review of all areas of program administration and transactions at least annually. DMV's P-Card Policy & Procedures/Cardholder Manual state in section 13, "Audit – The Department Liaison and the procurement card Coordinator will assist the SCDMV Internal Audit Department and the State of South Carolina in periodic audits of compliance..."

Recommendation: We recommend that DMV conduct independent audits of the P-Card program, at least annually, including program administration and transaction testing. We further recommend that these audits be performed by individuals not associated with the P-Card program.

SCDMV Response

The Agency has implemented a new P-Card Procedure that requires an annual internal audit by the Agency's Internal Auditing Department.

B. No Procurement Card Training

Currently, an applicant for a P-Card is provided DMV's P-Card Policy & Procedure/Cardholder Manual to read; however, there is no training or emphasis of key requirements nor an adequate knowledge assessment to reaffirm compliance. Section III.A.4. of the South Carolina Purchasing Card Policies and Procedures Manual, Level I states "Develop a mandatory Agency-specific training program for all prospective Cardholders and supervisors/approving officials prior to issuance of the P-Card."

Recommendation: We recommend that DMV ensure adequate training is provided to cardholders and supervisors/approving officials providing oversight responsibilities. The training should be documented and maintained as part of the cardholder's file.

SCDMV Response

The Agency has implemented a new P-Card Procedure that requires the State's P-Card Policy Level I training for all P-card holders and liaisons. Training has already been conducted and documented and will be provided to all new P-card holders/liaisons going forward.

RESULTS OF AUDIT

C. Reviews Performed by the Liaisons Should be Documented

The Liaison performs a list of reviews described in the “Department Liaisons Responsibilities” section of DMV’s P-Card manual. Currently there is no documentation of the review and reconciliation of the monthly bank statements. The review should be documented by signing and dating the statement to ensure effective reviews are consistently performed.

Recommendation: We recommend that the P-Card manual be updated to define the review process and require P-Card Liaisons to document their review by signing and dating the statement.

SCDMV Response

DMV concurs with the finding and recommendation. While the DMV believes that the liaisons were performing their required reviews, they were not documented. DMV has implemented a new P-Card Procedure that requires these reviews to be documented as required by the State's P-Card Policy.

D. Inconsistent Approval of P-Card Statements and Receipts

During our review, we noted 12 instances in which department approval of the statements was being provided by email instead of an actual signature and date on the statements. The State P-Card Policy requires, and the “Department Liaison Responsibilities” section of DMV’s P-Card Policy & Procedures Manual states “Ensure the monthly billing statements are signed by the employee and department head or manager. Must be original signatures.”

We noted four instances where the statements were not signed off by the cardholder, and two instances where the receipts lacked the cardholders’ signatures.

Recommendation: We recommend that DMV follow their policy that department head or manager approvals must be original signatures on the statements.

SCDMV Response

Starting in the March/April 2020 timeframe, DMV will begin a new P-Card Procedure that requires the Agency to use the "BOA Works" online application. The application requires the approval of all transactions by the P-card holder, the P-card holder's liaison, and the system administrator. In addition, all receipts are required to be signed by the P-card holder and must be uploaded into the "BOA Works" online application for each transaction. Each P-card holder's statement is also required to be approved by the P-card holder, the P-card holder's liaison and the P-card holder's supervisor.

RESULTS OF AUDIT

V. Small and Minority Business Utilization Plans and Reports Not Submitted

Annual utilization plans and quarterly progress reports were not submitted to the SMBCC during the last two (FY's 2018 and 2019) fiscal years of the audit period.

Section 11-35-5240(2) of the Code states that MBE utilization plans must be submitted to the SMBCC for approval no later than July thirtieth, annually, and that progress reports be submitted to the SMBCC no later than thirty days after the end of each fiscal quarter.

Recommendation: We recommend that DMV develop and implement procedures to comply with SC Code Ann. § 11-35-5240(2) by submitting annual utilization plans and quarterly progress reports to the SMBCC in a timely manner.

SCDMV Response

Due to Agency turnover, this requirement was overlooked. The Chief of Procurement and his staff have re-established communication with the Small and Minority Business Office and DMV has begun submitted the required reports.

CERTIFICATION RECOMMENDATION

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

<u>PROCUREMENT AREAS</u>	<u>RECOMMENDED CERTIFICATION LIMITS</u>
Supplies and Services ¹	*\$ 350,000 per commitment
Information Technology ²	*\$ 150,000 per commitment

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



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Director of Audit & Certification

¹ Supplies and Services includes non-IT consulting services

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