



**South Carolina
Department of Public Safety**

INDEPENDENT PROCUREMENT AUDIT REPORT

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

**Office of Audit & Certification
Division of Procurement Services
June 3, 2022**

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INTRODUCTION

Procurement Services audited the Department of Public Safety's (DPS) 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 (Code) and Reg. 19-445.2020 of the ensuing regulations.

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

The management of DPS 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 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

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

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

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Supplies and Services	*\$ 500,000 per commitment
Consultant Services	*\$ 100,000 per commitment
Information Technology	*\$ 100,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineer Contract Amendment	\$ 5,000 per amendment

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

During the audit, the agency did not request additional certification.

Total Expenditures

During the audit period, DPS made expenditures as follows:

	<u>\$ Amount (000s)</u>			
	<u>FY2019</u>	<u>FY2020</u>	<u>FY2021</u>	<u>Total</u>
POs	23,966	25,159	31,200	80,326
DEVs	23,937	32,217	24,504	80,658
Total Spend	47,903	57,376	55,704	160,984

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 DPS'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. DPS reported the following sole source and emergency procurement activity during the audit period:

<u>Fiscal Year</u>	<u>Sole Source</u>		<u>Emergency</u>	
	<u>Count</u>	<u>\$ Amount</u>	<u>Count</u>	<u>\$ Amount</u>
2019	13	773,873	2	128,796
2020	5	647,036	2	310,730
2021	9	811,303	1	15,931

- (3) Procurement transactions for the audit period as follows:
 - a) Seventy-one expenditures each greater than \$10,000 totaling approximately \$8.9M.
 - b) Twenty-five direct payments totaling approximately \$9M.
 - c) A block of sequential expenditures over a two-month period reviewed for order splitting or the use of favored vendors.
 - d) Twenty-five P-Card transactions for two judgmentally selected months for compliance with the South Carolina Purchasing Card Policy and Procedures (State P-Card Policy). During the audit period DPS had 42 cardholders that made P-Card expenditures as follows:

<u>Fiscal Year</u>	<u>Transactions</u>	<u>\$ Amount</u>
2019	2,300	539,804
2020	2,304	562,214
2021	2,517	596,606

- (4) Four Design-Bid-Build projects totaling approximately \$1.1M and one small construction project totaling approximately \$70k for compliance with the Manual for Planning and Execution of State Permanent Improvements.
- (5) Reporting of surplus property dispositions and approval of trade-ins in excess of \$5k.
- (6) Disposition of unauthorized procurements. DPS reported no unauthorized procurement activity to Procurement Services during the audit period:

SCOPE

- (7) Small and Minority Business utilization plans and reports. DPS 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	108,709	238,132
2020	112,645	262,875
2021	136,800	136,800

SUMMARY OF FINDINGS

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DPS did not provide evidence of required competition for three procurements totaling approximately \$196k.	
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DPS authorized approvers did not date their signatures on seven sole source written determinations totaling approximately \$354k.	
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DPS omitted 14 sole source procurements totaling approximately \$1.2M from its statutorily required quarterly reports and did not report four sole source procurements totaling approximately \$90k in a timely manner.	
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DPS did not specify the dollar limit per call, as required, on three BPAs totaling approximately \$19k.	

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. Supplies and Services Contracts

Our review of supplies and services for the audit period identified the following issues:

DPS did not provide evidence of competition for three procurements greater than \$10k totaling approximately \$196k.

Per SC Code Ann § 11-35-1550 (2) (b) requires that: "Written request for written quotes from a minimum of three qualified sources of supply may be made and, unless adequate public notice is provided in the South Carolina Business Opportunities, documentation of at least three bona fide, responsive, and responsible quotes must be attached to the purchase requisition for a small purchase not in excess of twenty-five thousand dollars, or for a small purchase of commercially available off-the-shelf products not in excess of one hundred thousand dollars, or for a small purchase of construction not in excess of one hundred thousand dollars. The award must be made to the lowest responsive and responsible sources. The request for quotes must include a purchase description. Requests must be distributed equitably among qualified supplies unless advertised as provided above."

Recommendation: We recommend that DPS develop and implement procedures to ensure that all procurements are appropriately procured through a competitive process as required per SC Code Ann. § 11-35-1550.

Agency Response

SCDPS concurs with this finding. While gathering the initial documentation as requested for this audit by the auditors, these three procurements were identified as lacking competition and reported as such to the auditors by the Director of Procurement as improper procurements. As the products and services were already completely received, the decision to declare the contracts null and void was unnecessary; therefore, a written determination was created for each of the three procurements and sent to the agency Director for affirmation and reported accordingly in Audit & Certification's Online Reporting Database on 1/14/2022. In addition, SCDPS has created an agency term contract for thermal paper and miscellaneous vehicle equipment.

SCDPS procedures require procurements be appropriately procured through a competitive process as required by the SC Procurement Code. The staff who conducted these three procurements are no longer employed at SCDPS.

II. Sole Source Procurements

Sole source and emergency procurements made pursuant to SC Code Ann § 11-35-1560 and 1570, were evaluated to assess the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted to the chief procurement officers as required by § 11-35-2440.

RESULTS OF AUDIT

A. Sole Source Written Determinations Not Dated

DPS authorized approvers did not date their signatures on seven sole source written determinations totaling approximately \$354k. Therefore, we could not determine if authorizations for these sole source procurements were obtained before contract execution. The audit file did not contain sufficient documentation as required, therefore, we have to assume that these eight procurements were illegal or unauthorized.

Regulation 19-445.2105(C) (2) requires that, “The determination must be authorized prior to contract execution”. A signature provides documentation that the authorization was made by the appropriate official. Dating the approval provides documentation that the required approval was obtained prior to execution of a contract for supplies and services without competition.

Regulation 19-445.2015 (A) (1) requires that, “Upon discovering after award either (a) that a person lacking actual authority has made an unauthorized award or modification of a contract or (b) that a contract award or modification is otherwise in violation of the Consolidated Procurement Code or these regulations, the appropriate official, as defined in section G below, must decide to either ratify the contract in accordance with this regulation or acknowledge and declare the contract null and void.”

Recommendation: We recommend that these eight procurements be reported as illegal or unauthorized as required by regulation. We further recommend DPS develop and implement procedures to ensure that written determinations are prepared for all sole source procurements and properly authorized by the appropriate level of management as required by regulation. We also recommend that the format of the written determinations provide for documentation of timely approvals. A sample form is posted on the Department of Procurement Services web site.

Agency Response

SCDPS concurs with this finding. Dates were not included on seven sole source written determinations; however, appropriate management approval was included on all of these documents, which, to the Procurement Officer, indicated approval of the sole source. The Procurement Officer proceeded with the purchase order or contract based on this approval. As evidence that these sole sources were in place prior to contract execution, four of the sole source documents had the signed written determination attached to the PO on the date the contract or purchase order was executed.

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The goods receipts and payments happened after the purchase order was issued as outlined in the table below:

Vendor Name	PO Amount	Sole Source Attached to PO	PO Date	Goods Receipt	Date Paid
Vendor 1	\$176,390	3/20/2019	3/20/2019	6/30/2019	6/30/2019
Vendor 2	\$ 29,000	3/25/2019	3/25/2019	3/26/2019	6/24/2019
Vendor 3	\$ 44,780	2/12/2019	2/12/2019	5/21/2019	5/21/2019
Vendor 4.	\$ 5,764	3/29/2019	4/3/2019	6/7/2019	6/10/2019

It is standard practice for written determinations to be prepared for all sole source procurements and properly authorized by the appropriate level of management as required by regulation prior to the Procurement Officer proceeding with a purchase order or contract. The absence of a date on these documents was an oversight by management. Approved/authorized sole source written determinations will be dated and attached in SCEIS upon issuance of the purchase order. In addition, SCDPS utilizes the form posted on the Department of Procurement Services web site as further assurance the agency is following appropriate procedures.

In accordance with Regulation 19-445.2015, as the products and services have been completely received, the decision to declare the contracts null and void is unnecessary; therefore, a written determination will be created for these procurements and sent to the agency Director for affirmation and reported accordingly in Audit & Certification's Online Reporting Database.

B. Sole Source Written Determinations Not Reported or Reported Late

DPS omitted 14 sole source procurements totaling approximately \$1.2M from its statutorily required quarterly reports, and four sole source procurements totaling approximately \$90k were reported late.

SC Code Ann. § 11-35-2440 (1) (a) requires that governmental bodies submit quarterly, a record listing of all contracts made pursuant to § 11-35-1560 – Sole Source Procurements, to the Chief Procurement Officers.

Recommendation: We recommend that DPS develop and implement procedures, including management review and approval, to ensure that all sole source procurements are accurately and timely reported as required by SC Code Ann. § 11-35-2440.

Agency Response

SCDPS concurs with this finding. SCDPS is like many other agencies and has experienced staff turnover within the Procurement Office during this audit period. Because tracking items for quarterly reports is still a manual process, it is often an overlooked requirement when a new

RESULTS OF AUDIT

employee is transitioning into their new position. SCDPS will ensure that sole source procurements are accurately and timely reported by SC Code Ann. §11-35-2440. Going forward, once a purchase order is issued as a sole source procurement, the purchase order will be reported within the online reporting database with all documents attached to the purchase order within SCEIS. In addition, original copies are stored in a file cabinet in the Director of Procurement's office by date/quarter.

III. Blanket Purchase Agreements

Three BPAs totaling approximately \$19k were identified that did not contain required terms and conditions. Regulation 19-445.2100 E. (3) (c) requires: "Notice of individuals authorized to place calls and dollar limitations. A provision that a list of names of individuals authorized to place calls under the agreement, identified by organizational component, and the dollar limitation per call for each individual shall be furnished to the supplier by the Procurement Officer."

Recommendation: We recommend that DPS modify the BPAs to include the dollar limitations per call as required by SC Code of Regulation 19-445.2100. We also recommend that DPS develop and implement procedures to ensure that future BPAs contain the terms and conditions required by regulation.

Agency Response

SCDPS concurs with this finding. DPS will ensure that future BPAs contain the terms and conditions required by regulation including the dollar limitations per call.

SCDPS accepts your findings and recommendations. The exceptions noted within this audit have been discussed with Procurement Staff to ensure appropriate procedures are adhered to going forward.

We appreciate the time, effort, and guidance you have given our agency throughout the audit process.

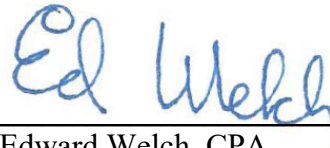
CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will make the Department of Public Safety'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 Department of Public Safety'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	*\$ 500,000 per commitment
Information Technology ²	*\$ 100,000 per commitment
Construction Contract Change Order	\$ 25,000 per change order
Architect/Engineer Contract Amendment	\$ 5,000 per amendment

* 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

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

End Notes

¹ Regulation 19-445.2020 Certification.

- (1) Review Procedures.
- (2) The Materials Management Officer shall review and report on the 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.