



**SOUTH CAROLINA DEPARTMENT OF
DISABILITIES AND SPECIAL NEEDS (DDSN)**

INDEPENDENT PROCUREMENT AUDIT REPORT

JANUARY 1, 2012 – JUNE 30, 2018

**Division of Procurement Services
Office of Audit & Certification
October 5, 2018**

TABLE OF CONTENTS

	<u>PAGE</u>
Introduction.....	1
Scope.....	3
Summary of Findings	4
Results of Audit.....	5
Certification Recommendation	10
DDSN Response	Attachment

INTRODUCTION

We conducted an audit of DDSN'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 (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 the agency's procurement system were adequate to ensure compliance with the Code and ensuing regulations.

The management of DDSN 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.

INTRODUCTION

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

On May 8, 2013 the Budget and Control Board granted DDSN 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	*\$ 250,000 per commitment
Pharmaceutical Drugs	*\$ 1,000,000 per commitment
Pharmaceutical Services	*\$ 1,000,000 per commitment
Construction Contract Award	\$ 500,000 per commitment
Construction Contract Change Order	\$ 250,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

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

During the examination DDSN did not request an increase in its certification.

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 DDSN's compliance with the Code for the period from January 1, 2012 through June 30, 2018, 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
- (3) Procurement transactions for the audit period as follows:
 - a) One hundred eighty-five payments each exceeding \$2,500
 - b) Eight hundred seventy purchase orders (POs) reviewed for the use of splitting orders and favored vendors
 - c) Sixty-six P-Card transactions
- (4) Twelve construction contracts and twelve architectural-engineering (A-E) 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:

<u>Fiscal Year</u>	<u>Goal</u>	<u>Actual</u>
2013	\$ 1,324,931	\$ 310,728
2014	\$ 1,232,148	\$ 9,041
2015	\$ 1,295,946	\$ 28,707
2016	\$ 1,418,445	\$ 128,104
2017	\$ 1,176,438	\$ 727,717
2018	\$ 1,896,767	\$ 701,291

- (6) Information Technology acquisitions under IT Plans
- (7) Surplus property dispositions, and approval of trade-ins in excess of \$5000
- (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>
2013	2	13,141

SUMMARY OF FINDINGS

	<u>PAGE</u>
I. <u>Sole Source and Emergencies</u>	
A. <u>Inappropriate Sole Source and Emergencies</u>	5
We noted five procurements inappropriately done as a sole source or emergency.	
B. <u>Unreported Sole Source and Emergency Procurements</u>	6
Five sole source or emergency procurements were not included on the agency's quarterly reports.	
II. <u>Supplies and Services</u>	
A. <u>No Evidence of Competition</u>	6
Four procurements were not supported by evidence of competition.	
B. <u>Price Increase Allowed in Violation of Contract Terms</u>	7
DDSN allowed a price increase on one of its contracts without sufficient review or approval and in violation of the contract terms.	
C. <u>Overpayments on Contract</u>	7
The agency paid prices in excess of the contract on two contracts.	
D. <u>Award Posting Dates Missed</u>	8
The agency missed or did not include required award posting dates in five solicitations.	
E. <u>Resident Vendor Preference Elections Not Provided on Bidding Schedules</u>	9
The bidding schedules in five solicitations did not provide a place for bidders to claim resident vendor preferences as provided in the terms of the solicitations.	

Note: DDSN's responses to the recommendations made in this report are attached after the report.

RESULTS OF AUDIT

I. Sole Sources and Emergency Procurements

A. Inappropriate Sole Source and Emergency Procurements

We tested sole source procurements made pursuant to §11-35-1560 and emergency procurements made pursuant to §11-35-1570 of the Code to determine the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted as required by §11-35-2440. The following exceptions were identified:

Type	Purchase Order (PO)	Date	Description	\$ Amount
Emergency	4600371519	09/19/14	Janitorial Services	69,800
Sole Source	4600423407	07/02/15	Janitorial Services	5,068
Sole Source	4600491301	05/13/16	Janitorial Services	2,950
Emergency	4600252194	05/07/13	Consulting	89,652
Sole Source	4600354379	07/23/14	Consulting	48,000

Emergency PO 4600371519 for janitorial services was processed after a contract cancellation. The PO was valid from September 2014 through June 2015. Two additional POs, 4600423407 and 4600491301, were processed as sole source procurements for continuation of this service through the end of July 2015. DDSN issued a new solicitation for this service in June of 2015, and awarded a contract on July 24, 2015. No explanation was documented for the delay in soliciting a new contract.

PO 4600252194 was processed as an emergency for a yearlong review of DDSN's health care delivery system. PO 4600354379 was a sole source for consulting services. Competition should have been solicited for both of these services.

SC Code Ann. §11-35-1560 (B) states in part, "...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.

RESULTS OF AUDIT

Recommendation: We recommend DDSN develop and implement procedures to ensure compliance with sole source and emergency procurement requirements including adequate lead time for required competition.

B. Unreported Sole Source and Emergency Procurements

The following sole sources and emergency procurements were not included on the agency's quarterly reports:

<u>Type</u>	<u>PO</u>	<u>Date</u>	<u>Description</u>	<u>\$ Amount</u>
Sole Source	4600367993	09/05/14	Lab Services	24,833
Sole Source	4600354379	07/23/14	Consultant	48,000
Emergency	4600290659	09/24/13	HVAC Repair	8,829
Emergency	4600321838	03/10/14	Roof Repair	139,300
Emergency	4600371519	09/19/14	Janitorial Services	69,800

The documents were located in DDSN's sole source and emergency procurement files but were never recorded on the submitted reports. SC Code Ann. §11-35-2440(1)(a) requires a governmental body to submit quarterly records of all sole source and emergency procurements to the chief procurement officers.

Recommendation: We recommend DDSN develop and implement management review procedures to ensure the accuracy and completeness of sole source and emergency procurements reporting to comply with SC Code Ann. §11-35-2440(1)(a).

II. Supplies and Services

A. No Evidence of Competition

No evidence of competition was provided for the following procurements:

<u>PO #</u>	<u>Date</u>	<u>Description</u>	<u>\$ Amount</u>
4600265685	07/10/13	Nursing Service	20,000
4600357545	07/30/14	Electronic Repairs	4,520
4600151287	02/17/12	Greenhouse Repair	12,864
4600368819	09/09/14	Moving Services	21,240

RESULTS OF AUDIT

Small purchase procedures in §§11-35-1550(2)(b) & (c) of the Code require written quotes from a minimum of three qualified sources of supply for purchases over \$2,500 up to \$10,000; and written solicitation of written quotes, bids or proposals, and advertisement in the South Carolina Business Opportunities publication for procurements over \$10,000 up to \$50,000.

Recommendation: We recommend DDSN review and revise its procedures to ensure compliance with the small purchase procedures of the SC Consolidated Procurement Code.

B. Price Increase Allowed in Violation of Contract Terms

The agency awarded a contract for janitorial services on June 7, 2013, in the amount of \$79,140. In the first year of a potential five-year contract, the agency allowed the vendor to increase price by 30% (from \$1,319/month to \$1,720), beginning in December of 2013, in violation of the terms of the contract.

The solicitation contained a price adjustment clause which stated, "Prices shall not be increased during the initial term. Any request for a price increase must be received by the Procurement Officer at least ninety (90) days prior to the expiration of the applicable term and must be accompanied by sufficient documentation to justify the increase. If approved, a price increase becomes effective starting with the term beginning after approval." The only documentation provided to support approval of the price increase was a note on the vendor's December 2013 invoice indicating that the previous Procurement Director allowed the vendor to increase the monthly rate.

Recommendation: We recommend DDSN develop and implement procedures that provide for review of vendors' requested price increases sufficient to ensure compliance with contract terms.

C. Overpayments on Contract

The agency awarded a contract for refuse services at multiple locations for \$31,111 per year. PO #4600380590, was issued under the contract on October 29, 2014, covering July 1, 2014

RESULTS OF AUDIT

through June 30, 2015, in the amount of \$19,722. We were unable to determine why the PO was issued four months after the beginning of the period it covered, or why it was for \$11,389 less than the annual contract amount. We tested the payments made against the PO over a nine-month period from September 2014 through May 2015, and determined that the payments exceeded the contract price by approximately \$896.

The agency awarded a contract for janitorial services for the Midland's Center on January 21, 2015, in the amount of \$111,540. We tested the monthly payments from February 2015 through June 2016. With the exception of the first month, the contractor billed and was paid \$675 per month in excess of the contract price. This resulted in an overcharge of \$10,800 over 16 months. No evidence of an approved price increase was provided.

Recommendation: We recommend DDSN develop and implement procedures to ensure that supplies and services are not accepted without a PO, and that invoice and purchase order pricing agrees to the contract.

D. Award Posting Dates Missed

The agency missed the award posting dates or did not include a posting date in the solicitations as required on the following procurements.

Description	Award Date per Solicitation	Actual Award Date	Award \$ Amount
Landscape Services	4/10/12	4/12/12	126,180
Janitorial Services	No posting date	6/7/13	79,140
Janitorial Services	No posting date	1/21/15	111,540
Refuse Collection	No posting date	7/11/13	112,775

Regulation 19-445.2090 states the procurement officer shall issue the notice of intent to award or award on the date specified in the solicitation. Notice shall be given of a time extension if necessary at the location identified in the solicitation. There was no evidence of notification that the award dates were extended. The award posting date informs any offeror who is aggrieved in

RESULTS OF AUDIT

connection with the award and serves as the start time for the period in which to file a protest. SC Code Ann. §11-35-4210(b) states that any actual bidder or offeror, contractor, or subcontractor who is aggrieved in connection with the intended award shall protest to the chief procurement officer within ten days of the posting of award. If a posting date is missed and if an extension is not given, then the protest period cannot be determined.

Recommendation: We recommend DDSN revise its procedures to ensure awards are posted on the date provided in the solicitation or an amendment providing proper notice of extension as required by Regulation 19-445.2090.

E. Resident Vendor Preference Elections Not Provided on Bidding Schedules

The bid schedule in the following solicitations did not provide a place for a bidder to claim resident vendor preferences as described on the second page of the solicitations:

Description	Date	\$ Amount
Refuse Collection	11/23/11	13,620
Janitorial Service	4/24/13	79,140
Janitorial Services	12/3/14	111,540
Refuse Collection	6/3/13	112,775
Grounds Maintenance	3/22/12	126,180

The solicitations referenced SC Code Ann. §11-35-1524 which provides a preference to vendors residing in or offering South Carolina and/or United States end-products, as long as the vendor checks the appropriate space on the bidding schedule and signs the offer. Bidders entitled to resident vendor preferences would be at a disadvantage in the absence of a way to make the election.

Recommendation: We recommend DDSN establish procedures to ensure that qualifying solicitations provide a designated space on the bidding schedules for vendors to elect resident vendor preference(s).

CERTIFICATION RECOMMENDATION

We believe corrective action based on the recommendations in this report will place the agency in compliance with the South Carolina Consolidated Procurement Code.

Under the authority granted in SC Code Ann. §11-35-1210, subject to corrective action(s) by the agency, we recommend South Carolina Department of Disabilities and Special Needs be certified to make direct agency procurements for three years up to the following limits:

<u>PROCUREMENT AREAS</u>	<u>RECOMENDED CERTIFICATION LIMITS</u>
Supplies and Services ¹	*\$ 250,000 per commitment
Information Technology ²	*\$ 100,000 per commitment
Pharmaceutical Drugs	*\$ 1,000,000 per commitment
Pharmaceutical Services	*\$ 1,000,000 per commitment
Construction Contract Award	\$ 500,000 per commitment
Construction Contract Change Order	\$ 250,000 per change order
Architect/Engineer Contract Amendment	\$ 25,000 per amendment

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


Crawford Milling, CPA, CGMA
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

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August 12, 2019

Mr. Crawford Milling
Director Audit & Certification
Division of Procurement Services
1201 Main Street, Suite 600
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RE: South Carolina Department of Disabilities and Special Needs (DDSN)
Procurement Audit Report

Crawford:

On behalf of DDSN, I accept and acknowledge the findings and recommendations of the audit report referenced above. We appreciate your division's hard work and diligence to complete this audit as DDSN wants to confirm and maintain their compliance with the South Carolina Consolidated Procurement Code.

Procurement is a continuous learning experience. As such, DDSN is continuously upgrading/tweaking policies and procedures to maintain our work load and to document our work. DDSN is committed to maintaining the State's high standards and compliance with the South Carolina Consolidated Procurement Code. We welcomes and appreciates the oversight provided by your Organization.

I. Corrective Action Plan for Sole Source and Emergency Procurements

A. Inappropriate Sole Source and Emergency Procurements:

The inappropriate Sole Source and Emergency Procurements sited were a result of poor planning. DDSN is in process of developing a timeline worksheet for upcoming procurements in order to provide adequate lead time for required competition. In addition, DDSN will provide more details to ensure that requirements are met. DDSN has been diligent with more recent Sole Source and Emergency Procurements to be in compliance with the code.

B. Unreported Sole Source and Emergency Procurements:

DDSN has implemented procedures to provide back-up information to ensure accuracy and completeness of sole source and emergency procurements accuracy. DDSN provides this by uploading justifications and notes into SCEIS when completing the purchase orders. Specific responsibility has been assigned for the completion of this process.

II. Corrective Action Plan for Supplies and Services:

A. No Evidence of Competition

New small procurement regulations will help to eliminate the deficiencies noted here as procurements up to \$10k require no completion with exceptions for repeated purchases. Then, procurements for \$10 to \$25k have an option that still requires competition but requires less time and a simpler process to complete. Management and staff will seek additional training on these new regulations and DDSN will comply with the new small purchase procedures.

B. Price Increase Allowed in Violation of Contract Terms

Director of Procurement Services is responsible to review and approve all price increases and DDSN will comply with price adjustment requirements.

C. Overpayment of Contract

DDSN has developed standard procedures to issue a PO to the Contractor upon contract award matching the Contractor's price submitted. Accounts payable verifies payment amounts are the same as the amounts listed on the PO prior to payment. Additional training and awareness will be provided to staff responsible for oversight to ensure exceptions are addressed and eliminated from payment.

D. Award Posting Dates Missed

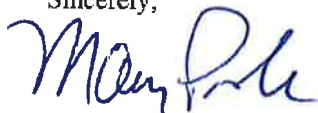
Procedures have been revised to ensure that upon completion of an IFB, DDSN procurement personnel will complete a checklist detailing the required documents for the file. The Director of Procurement Services will approve the checklist and follow up to ensure that award is posted on the specified date. DDSN will comply with Regulation 19-445.2090.

E. Resident Vendor Preference Elections not Provided on Bidding Schedules

The Director of Procurement Services will begin reviewing all requisitions and determine and communicate to procurement personnel which preferences will be required. The Director of Procurement Services will review solicitations before posting to ensure correct preferences have a designated space on the bidding schedules. DDSN will comply with Vendor Preferences as noted in the South Carolina Consolidated Procurement Code.

DDSN appreciates the opportunity Audit and Certification provided us to respond to these deficiencies listed herein and to maintain our certification levels at the current level. As DDSN strives to provide the best services to assist all persons with disabilities and their families in South Carolina, our Supplies and Services Division strives to meet the underlying purposes and policies of the South Carolina Consolidated Procurement Code necessary to maintain and increase the public confidence in State Procurement.

Sincerely,



Mary Poole
State Director

CC: Chris Clark, Chief Financial Officer