

SOUTH CAROLINA
DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL
PROCUREMENT AUDIT REPORT
OCTOBER 1, 2011 – DECEMBER 31, 2015

Office of Audit & Certification
Division of Procurement Services
February 23, 2018

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NOTE: The Department’s responses to issues noted in this report have been inserted immediately following the items they refer to.

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February 23, 2018

Mr. John St. C. White
Materials Management Officer
Division of Procurement Services
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Re: South Carolina Department of Health and Environmental Control (DHEC)
Procurement Examination

John:

We have examined the procurement policies and procedures of DHEC for the period October 1, 2011 through December 12, 2015. As part of our examination, we reviewed and evaluated the system of internal control over procurement transactions to the extent we considered necessary.

The evaluation was used to establish a basis for reliance upon the system of internal control to assure adherence to the South Carolina Consolidated Procurement Code and ensuing regulations, and the Agency's procurement policies. Additionally, the evaluation was used to determine the nature, timing and extent of other auditing procedures necessary for developing an opinion on the adequacy, efficiency and effectiveness of the procurement system.

The management of DHEC is responsible for establishing and maintaining a system of internal controls over procurement transactions. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objectives of internal control relate to (1) financial reporting, (2) operations, and (3) compliance. Safeguarding of assets is a subset of these objectives. Management designs internal control to provide reasonable assurance that unauthorized acquisition, use, or disposition of assets will be prevented or timely detected and corrected.

Because of inherent limitations in any system of internal control, errors or irregularities may occur and not be detected. Projection of any evaluation of the system to future periods is subject

DHEC Procurement Examination (Continued)

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 examination of procurement policies and procedures, were conducted with professional care. However, because of the nature of audit testing, they would not necessarily disclose all weaknesses in the system.

The examination did, however, disclose conditions enumerated in this report which we believe need correction or improvement. Corrective action based on the recommendations described in these findings will in all material respects place DHEC in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Sincerely,



D. Crawford Milling, CPA, CGMA
Acting Director
Audit and Certification

INTRODUCTION

We conducted an examination of DHEC's internal procurement operating policies and procedures. Our examination was conducted under authority granted in Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

The objectives of our examination were to determine whether, in all material respects, the internal controls of the procurement system were adequate and the procurement procedures, as outlined in DHEC's Internal Procurement Operating Procedures Manual, were in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Our examination was also performed to determine if recertification was warranted. DHEC requested to remain at its current procurement certification limits.

On January 29, 2013, the State Budget and Control Board granted DHEC the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS*</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals and Biochemical Research	\$ 12,000,000 per commitment
Hospital Sundries and Germicides	\$ 1,000,000 per commitment
All other Supplies and Services	\$ 2,000,000 per commitment
Information Technology	\$ 225,000 per commitment
Consultant Services	\$ 250,000 per commitment

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

SCOPE

We conducted our examination to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Our examination included an analysis of the internal procurement operating procedures at DHEC, and its related policies and procedures to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly handle procurement transactions. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We selected judgmental samples for the audit period, October 1, 2011 through December 31, 2015, of procurement transactions managed by DHEC for compliance testing and performed other audit procedures that we considered necessary to formulate our opinion. Specifically, the scope of our audit included, but was not limited to, a review of the following:

- (1) All sole source, emergency and trade-in sale procurements for the audit period with exceptions noted in Section I
- (2) Procurement transactions for the period January 1, 2013 through December 31, 2015 as follows:
 - a) One hundred twenty-seven payments each exceeding \$2,500 with no exceptions
 - b) Three hundred sequentially filed purchase orders reviewed against the use of order splitting and favored vendors with no exceptions
 - c) Twenty-four procurement card transactions during August, September, and October 2015 with no exceptions
- (3) Seven contracts for compliance with the Environmental Remediation Procurement Procedures manual approved under an exemption granted by the State Budget and Control Board with exceptions noted in Section II.

SCOPE

- (4) Minority Business Enterprise Plans and reports with no exceptions. The following activity was reported to the Governor's Office Division of Small and Minority Business Contracting and Certification:

<u>Fiscal Year</u>	<u>Goal</u>	<u>Actual</u>
2012-2013	\$ 1,944,301	\$ 774,686
2013-2014	\$ 30,788,728	\$ 1,029,227
2014-2015	\$ 29,220,968	\$ 628,520
2015-2016	\$ 29,027,509	\$ 318,122 *

* - represents first and second quarters only (07/01/15 – 12/31/15)

- (5) Approval of the most recent Information Technology Plan with no exceptions
- (6) Internal procurement procedures manual with no exceptions
- (7) Surplus property disposition procedures with no exceptions
- (8) Ratification of unauthorized procurements with no exceptions
- (9) File documentation and evidence of competition with no exceptions
- (10) Other tests performed as deemed necessary with no exceptions

SUMMARY OF FINDINGS

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Three sole source procurements were deemed inappropriate.	
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No multi-term determination was provided for a sole source procurement having a contract period greater than one year.	
II. <u>Bidder Grievance Rights Not Provided on Statement of Award Notices</u>	9
Bidder grievance rights were not provided on the Statement of Award notices for seven Underground Storage Tank removal procurements.	

RESULTS OF EXAMINATION

I. Sole Source and Emergency Procurements

We tested sole source and emergency procurements made pursuant to Sections 11-35-1560 (Sole Source Procurements) and 11-35-1570 (Emergency Procurements) to determine the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted to the chief procurement officers required by Section 11-35-2440.

A. Inappropriate Sole Source Procurements

Our review of sole source and emergency procurements identified the following inappropriately determined procurements:

<u>PO Number</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
4600202290	9/14/12	Wellness Management	\$ 156,000
4600209381	10/12/12	Wellness Management	\$ 50,000
4600272326	7/26/13	Groundwater Remediation	\$ 25,000

Purchase orders 4600202290, in the amount of \$156,000, and 4600209381, in the amount of \$50,000, were issued as sole sources for wellness management services to the same vendor. We performed an internet search and identified other companies that could provide this service.

PO 4600272326 was issued as a sole source in the amount of \$25,000 for the operation and maintenance of a groundwater remediation system. We also identified other companies that could provide this service.

We recommend DHEC comply with the South Carolina Consolidated Procurement Code and ensuing regulations when conducting sole source procurements.

Department Response

Finding #1 (PO 4600202290 and PO 4600209381):

DHEC concurs that competition may have been available and there is insufficient documentation to support the sole source procurement.

RESULTS OF EXAMINATION

Finding #2 (PO 4600272326):

The previous contract with [the vendor] ended on July 15, 2013, while DHEC was still in the process of awarding a new contract. The site in question operates a groundwater pump and treat system that maintains hydraulic control of groundwater contaminated with metals and volatile organics at the facility. The system keeps the contaminated groundwater from leaving the facility boundaries and from migrating into surface water. If the system is not maintained and operated continuously, contaminated groundwater would be uncontrolled and allowed to move beyond the facility boundaries.

It was necessary to maintain the remediation system at the facility to maintain hydraulic control until the new contract was awarded. A new contract was awarded two weeks later to the same vendor, awarded from a pool of four bidders, on July 26. The PO was issued on August 14 after the award became final. The only other procurement option would have been to deem it an Emergency. We felt that for short-term continuity of services that a sole source was a more appropriate method.

[The vendor] was, in fact, the only vendor that could provide the services for this very brief 30-day bridge period between the end of the contract and issuance of a the new purchase order. The cost and complexity of setting up equipment for such a brief period of time made it impractical to secure any other vendor. The contract with [the vendor] could not have been extended to bridge the gap because the contract term was reaching the end of its five-year maximum term. The solicitation process was delayed because there was a question as to whether or not the services would continue to be maintained under the auspices of the RCRA program, or would instead move to the Superfund program. If the site had moved to Superfund, the process for assigning contractors to perform work at the site would have fallen under the guidelines and procedures of EPA, not DHEC. Continuation of the services was necessary to prevent contamination from spreading in the ground water.

B. No Multi-Term Determination

DHEC issued PO 4600260266 as a sole source for a three-year software license renewal in the amount of \$45,100. DHEC entered into a multi-year agreement without completing the required written determination justifying the use of a multi-term contract. Section 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 a 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.

We recommend DHEC prepare written determinations as required by the South Carolina Consolidated Procurement Code.

Department Response

DHEC concurs that a written, multi-term determination for all purchase orders and contracts exceeding one year should be in the file.

RESULTS OF EXAMINATION

II. Bidder Grievance Rights Not Provided on Statement of Award Notices

On October 24, 1995, the Budget and Control Board exempted environmental remediation projects from the purchasing policies and procedures of the South Carolina Consolidated Procurement Code provided that these contracts are procured in accordance with procedures established by the Office of the State Engineer. We tested environmental remediation procurements to determine compliance with the approved procedures noting that bidder grievance rights were not provided on the Statement of Award notices for the following transactions.

<u>PO Number</u>	<u>Date</u>	<u>Description</u>	<u>Amount</u>
4600463091	12/11/15	UST Corrective Action	\$197,000
4600450765	10/08/15	UST Corrective Action	\$207,000
4600443639	09/02/15	UST Corrective Action	\$368,000
4600356108	07/28/14	UST Corrective Action	\$250,000
4600346359	06/27/14	UST Corrective Action	\$134,000
4600309449	01/06/14	UST Corrective Action	\$119,500
4600294218	10/08/13	UST Corrective Action	\$248,885

Section 1.B.(7), of the Environmental Remediation Procurement Procedures manual states in part, "The Invitation for bids and the posted notice must contain a statement of a bidder's right for grievance outlined in Section IV of these procedures..." This is a repeat finding from our previous audit.

We recommend DHEC comply with its Environmental Remediation Procurement Procedures manual by providing bidder grievance rights on its Statement of Award notices.

Department Response

We concur. An administrative error caused the omission of the Grievance Clause in a subset of the Statements of Award. This omission escaped notice until identified by the auditor. We immediately resumed inclusion of the Grievance Clause in all Statements of Award.


CERTIFICATION RECOMMENDATIONS

As enumerated in our transmittal letter, corrective action based on the recommendations described in this report, we believe, will in all material respects place DHEC in compliance with the South Carolina Consolidated Procurement Code.

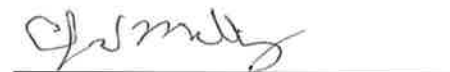
Under the authority described in Section 11-35-1210 of the Procurement Code, subject to this corrective action, we will recommend the South Carolina Department of Health and Environmental Control be recertified to make direct agency procurements to the following limits for three years.

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS *</u>
Drugs, Biological for Human use; Contraceptives, Biochemicals and Biochemical Research	\$ 12,000,000 per commitment
All other Supplies and Services ¹	\$ 2,000,000 per commitment
Information Technology	\$ 225,000 per commitment
Consultant Services	\$ 250,000 per commitment

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



J. Lane Warren, CFE, CBM
Audits Manager



D. Crawford Milling, CPA, CGMA
Acting Director
Audit and Certification

¹ DHEC has had a separate certification for Hospital Sundries and Germicides. Those items can be procured through the supplies and services certification.