

SOUTH CAROLINA DEPARTMENT OF MOTOR VEHICLES

PROCUREMENT AUDIT REPORT

JANUARY 1, 2006 – MARCH 31, 2010

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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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November 3, 2010

Mr. R. Voight Shealy
Materials Management Officer
Procurement Services Division
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have examined the procurement policies and procedures of South Carolina Department of Motor Vehicles for the period January 1, 2006 through March 31, 2010. As part of our examination, we studied and evaluated the system of internal controls over procurement transactions to the extent we considered necessary.

The evaluation established a basis for reliance upon the system of internal controls to assure adherence to the Consolidated Procurement Code, State regulations and the Department's procurement policy. Additionally, the evaluation determined 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 administration of the South Carolina Department of Motor Vehicles 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 a system of internal controls are to provide management with reasonable, but not absolute, assurance of the integrity of the procurement process, that affected assets are

safeguarded against loss from unauthorized use or disposition and those transactions are executed in accordance with management's authorization and recorded properly.

Because of inherent limitations in any system of internal controls, errors or irregularities may occur and not be detected. Also, 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 study and evaluation of the system of internal controls 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 the South Carolina Department of Motor Vehicles in compliance with the Consolidated Procurement Code and ensuing regulations.

Sincerely,



Robert J. Aycock, IV, Manager
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of the South Carolina Department of Motor Vehicles. Our onsite review was conducted from June 7 through July 8, 2010, and was made under Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

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

On August 22, 2006, the State Budget and Control Board granted the South Carolina Department of Motor Vehicles the following procurement certifications:

<u>PROCUREMENT AREAS</u>	<u>CERTIFICATION LIMITS</u>
Goods and Services	\$ 250,000 per commitment
Consultant Services	\$ 250,000 per commitment
Information Technology	\$ 50,000 per commitment

Our audit was performed primarily to determine if recertification is warranted. Additionally, the South Carolina Department of Motor Vehicles requested the following increased certifications.

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

SCOPE

We conducted our examination in accordance with Generally Accepted Auditing Standards as they apply to compliance audits. Our examination encompassed a detailed analysis of the internal procurement operating procedures of the South Carolina Department of Motor Vehicles, hereinafter referred to as the DMV, and its related policies and procedures manual to the extent we deemed necessary to formulate an opinion on the adequacy of the system to properly handle procurement transactions.

We selected samples for the period January 1, 2006 through March 31, 2010, of procurement transactions for compliance testing and performed other audit procedures that we considered necessary to formulate this 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 period January 1, 2006 through March 31, 2010, with no exceptions
- (2) Procurement transactions for the period January 1, 2006 through March 31, 2010 as follows:
 - a) Ninety payments each exceeding \$2,500 with exceptions noted in Sections II and III of the report
 - b) Two hundred ninety sequentially filed purchase orders reviewed against the use of order splitting and favored vendors, with no exceptions
 - c) Procurement card transactions for the months of November and December 2009, with no exceptions
- (3) Two construction contracts and six construction Indefinite Delivery contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements, with exceptions noted in Section I of the report
- (4) Minority Business Enterprise Plans and reports, with the following activity reported to The Governor's Office of Small and Minority Business Assistance

<u>Fiscal Year</u>	<u>Goal</u>	<u>Actual</u>
2005-2006	\$ 564,407	\$250,391
2006-2007	\$1,245,238	\$252,456
2007-2008	\$ 942,254	\$ 34,519
2008-2009	\$ 881,706	\$109,743

- (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 one exception noted in Section II of the report
- (10) Other tests performed as deemed necessary, with no exceptions

SUMMARY OF AUDIT FINDINGS

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A. <u>Former Facilities Manager</u>	7
<p>During the fieldwork portion of our audit, the DMV facilities manager resigned, and the same person was later charged for embezzling over \$300,000 from the agency while employed there.</p>	
B. <u>Reports of IDC and Small A/E Activity Not Reported to the State Engineer</u>	8
<p>A review of IDC activity for the audit period revealed DMV had not submitted quarterly reports of IDC use to the Office of the State Engineer nor were small A/E contracts reported. Submitting reports will help strengthen internal controls.</p>	
C. <u>Bid Tabulation not Provided</u>	8
<p>The DMV could not provide evidence that the Notices of Intended Award and the bid tabulations were sent to all responsive bidders on two facilities projects.</p>	
II. <u>Inadequate Competition</u>	9
<p>DMV solicited one quote from a vendor to supply and install powered door operators and downloaded two other internet catalog prices instead of making three solicitations of competition as required by the Code.</p>	
III. <u>Best Value Bid Evaluation</u>	9
<p>An evaluation of a Best Value Bid to procure Fraud Hotline Services resulted in questionable scoring by one evaluator that was not supported by adequate explanations. Also, the written determination used to justify using the best value bidding method over competitive sealed bidding was inadequate.</p>	

RESULTS OF EXAMINATION

I. Construction

A. Former Facilities Manager

During our testing of DMV's construction activity, we attempted to supplement our sample of construction procurements for testing by requesting a list of all indefinite delivery contract (IDC) vendors from the DMV facilities manager. She provided what was represented as a complete list of all IDC contracts. Shortly thereafter, the DMV facilities manager resigned. After her resignation, but subsequent to the completion of our fieldwork, DMV management noticed irregularities in the facilities manager's area of responsibility, and its Office of Integrity and Accountability conducted an internal investigation. Based on the results of the DMV's internal investigation, DMV asked the State Law Enforcement Division (SLED) to investigate as well. Pursuant to the SLED investigation, the facilities manager was charged with embezzling over \$300,000 from the agency during the two years she was employed there. She has confessed to her crimes and is awaiting sentencing.

Her means for conducting the embezzlement was to establish a fictitious vendor and then authorize procurements and payments to the same fictitious vendor. At the facilities manager's request, many of the payments were delivered to her for delivery to the fictitious vendor. She was given virtually complete control over the procurement, certification of receipt of the work, and authorization of payment to the contractor; a classic violation of the separation of duties for internal controls.

Subsequent to charges being filed, but prior to release of this report, we requested access from DMV to review all documents identified in the embezzlement scheme. We discovered that the facilities manager had withheld at least one IDC contract from us during the audit. The IDC contract withheld from us was, not surprisingly, with the fictitious company she set up to complete the embezzling scheme. These documents which were withheld from us by the facilities manager were created from February 2009 through June 2010. The documents included twenty-two fraudulent

vouchers paid, thirteen of which paid for professional services (Architect/Engineering (A/E) services), and nine paid for construction services. In all, twelve out of the twenty-two fraudulent vouchers did not reference any type of procurement action while ten referenced fabricated procurement actions. The total embezzled amount identified was \$301,454.27.

Once DMV discovered the embezzlement, DMV investigated the matter, reported it to SLED and other state authorities, and prosecuted the perpetrator. DMV has reviewed its internal controls and made changes to help prevent a recurrence of the problem. Further, the DMV, working through the State Auditor's Office, hired an independent CPA firm to evaluate the agency's internal controls. We have no further recommendations.

B. Reports of IDC and Small A/E Activity Not Reported to the State Engineer

A review of IDC activity for the audit period revealed DMV had not submitted quarterly reports of IDC use to the Office of the State Engineer (OSE) as required by Section 9.1.1(D) of the Manual for Planning and Execution of State Permanent Improvements, Part II, (OSE Manual). Further, small A/E contracts were not reported to the OSE as required by 11-35-3230(3) of the Procurement Code.

We recommend DMV submit quarterly reports of all IDC activity to the OSE as required by the OSE Manual. Also, small A/E contracts must be reported to the OSE as required by the Procurement Code. Adhering to reporting requirements will strengthen internal controls over IDC and small A/E usage since this information is reviewed by the OSE.

DEPARTMENT RESPONSE

SCDMV will ensure all required capital project reporting is submitted in a timely manner.

C. Bid Tabulation Not Provided

The DMV could not provide evidence that the Notice of Intended Awards and the bid tabulations were sent to all responsive bidders on projects R40-9587-PG and R40-9586-MJ-A. Section 11-35-

3020(c)(i) of the Code requires governmental bodies to promptly send all responsive bidders a copy of the Notice of Intended Award and the bid tabulation.

We recommend that in the future the DMV comply with Section 11-35-3020(c)(i) of the Code by providing the Notice of Intended Award and the bid tabulation to all responsive bidders.

DEPARTMENT RESPONSE

SCDMV will ensure award notices are sent to responsive bidders.

II. Inadequate Competition

DMV solicited one quote from a vendor to supply and install powered door operators and downloaded two other internet catalog prices instead of making three solicitations of competition.

<u>PO Number</u>	<u>PO Date</u>	<u>Description</u>	<u>Amount</u>
09 000798	05/07/2009	Provide and install powered door operators	\$3,285

Section 11-35-1550 (2)(b) requires solicitations of competition from a minimum of three qualified vendors for procurements from \$2,500 to \$10,000. Downloading of pricing from the internet without evidence of direct contact with vendors does not meet the definition of a solicitation. Further, neither catalog price provided for installation, nor would the vendors be expected to since these were mail order catalogs. Finally, the price obtained from the solicited vendor, which included installation was substantially lower than either catalog price even without installation. This finding supports why solicitations of competition through direct contact with vendors as required by the Procurement Code should be adhered to.

We recommend DMV solicit competition as required by the Procurement Code to obtain the best available pricing for the State.

DEPARTMENT RESPONSE

SCDMV will ensure quotes are not accepted from Internet company catalogs.

III. Best Value Bid Evaluation

The DMV issued Best Value Bid 08-422671 to procure Fraud Hotline Services. Our review of the scoring revealed questionable scoring by one evaluator that was not supported by adequate explanations.

<u>Scoring</u>						
	<u>Evaluation Criteria</u>	<u>Point Range</u>	<u>Vendor A</u>	<u>Vendor B</u>	<u>Evaluator notes to support scores</u>	<u>Audit Note</u>
<u>Evaluator 1</u>	Experience	1-20	20	5	Vendor A more years in business	Vendor A - 27 years experience Vendor B - 25 years of experience
	Qualification	1-20	18	5	Vendor A - Excellent reference	Vendor B - Good references
	Cost	1-60	<u>50</u>	<u>60</u>		
	Total Points		88	70		
<u>Evaluator 2</u>	<u>Criteria</u>	<u>Point Range</u>	<u>Vendor A</u>	<u>Vendor B</u>		
	Experience	1-20	17	15		
	Qualification	1-20	17	16		
	Cost	1-60	<u>50</u>	<u>60</u>		
	Total Points		84	91		
<u>Evaluator 3</u>	<u>Criteria</u>	<u>Point Range</u>	<u>Vendor A</u>	<u>Vendor B</u>		
	Experience	1-20	18	17		
	Qualification	1-20	18	17		
	Cost	1-60	<u>50</u>	<u>60</u>		
	Total Points		86	94		
Evaluation Points			258	255		

Section 11-35-2410(A) reads, "The determinations required by the following sections and related regulations are final and conclusive, unless clearly erroneous, arbitrary, capricious, or contrary to law: ... Section 11-35-1528(1) (Competitive Best Value Bidding: Conditions for Use), Section 11-35-1528(8) (Competitive Best Value Bidding: Award)...." The requirements of the Procurement Code and Procurement Review Panel set a high standard for vendors to challenge scores of evaluators. However, with the disparity in scoring by evaluator 1 where 20 out of 20 points were assigned a

vendor with 27 years of experience and 5 out of 20 points were assigned to a vendor with 25 years of experience and with similar results also scored for qualifications for the two vendors with no reasonable explanations, we believe the DMV is at risk of losing a protest by being found that an evaluator acted erroneously, arbitrarily or capriciously.

We recommend that the procurement manager maintain oversight of the evaluators scores so that scoring could not be considered erroneous, arbitrary or capricious. Adequate explanations should be included in the file to support scoring disparities that could otherwise be called into question and protested.

We also found the written determination used to justify using the best value bidding method over competitive sealed bidding to be inadequate. The determination did not adequately explain why a best value bid should be used. The two reasons given (confidential nature of the calls and desired qualifications and experience) could both be accommodated under a competitive sealed bid.

We recommend adequate written determinations be prepared when using authorized procurement methods other than competitive sealed bidding. Without adequate justification, competitive sealed bidding must be used.

DEPARTMENT RESPONSE

SCDMV will ensure written determinations are more detailed.

In reference to the above scoring chart: Information of this nature is normally released through a FOIA request.

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 the South Carolina Department of Motor Vehicles in compliance with the Consolidated Procurement Code and ensuing regulations. Because of the internal control weaknesses resulting in the embezzlement, we are recommending that the South Carolina Department of Motor Vehicles certification remain at the current levels. We are willing to perform another review of internal controls in one year upon request for consideration of higher procurement authority.

Under the authority described in Section 11-35-1210 of the South Carolina Consolidated Procurement Code, subject to this corrective action, we recommend the South Carolina Department of Motor Vehicles be recertified to make direct agency procurements for three years up to the limits¹ as follows:

PROCUREMENT AREAS¹

CERTIFICATION LIMITS

Supplies and Services

*\$ 250,000 per commitment

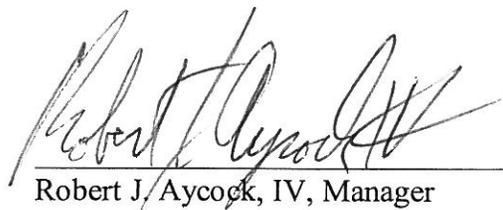
Consultant Services

*\$ 250,000 per commitment

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



Allen R. Townsend, CBM
Audit Manager



Robert J. Aycock, IV, Manager
Audit and Certification

¹ DMV's previous certification limits included \$50,000 for information technology procurements. Since the last certification was granted by the Budget and Control Board, the Procurement Code's basic authority limits increased to \$50,000. Therefore, by statute, DMV has \$50,000 in information technology procurement authority making a certification recommendation for this amount unnecessary.

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EXECUTIVE DIRECTOR

February 11, 2011

Mr. R. Voight Shealy
Materials Management Officer
Materials Management Office
1201 Main Street, Suite 600
Columbia, South Carolina 29201

Dear Voight:

We have reviewed the response from the Department of Motor Vehicles to our audit report for the period of January 1, 2006 to March 31, 2010. Also, we have followed the Department's corrective action during and subsequent to our fieldwork. We are satisfied that the Department of Motor Vehicles has corrected the problem areas and the internal controls over the procurement system are adequate.

Therefore, we recommend the Budget and Control Board grant the Department of Motor Vehicles the certification limits noted in our report for a period of three years.

Sincerely,

Robert J. Aycock, IV, Manager
Audit and Certification

RJA/gs

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