
AGENCY: Division of Procurement Services

SUBJECT: Procurement Audits and Certifications

- a. The Division of Procurement Services, in accord with Section 11-35-1210, has audited the following agency and recommends certification within the parameters described in the audit reports for the following limits (total potential purchase commitment whether single-or multi- year contracts are used):

Francis Marion University (for a period of three years): supplies and services, \$275,000* per commitment; information technology, \$175,000* per commitment; consultant services, \$150,000* per commitment; construction services, \$175,000 per commitment; construction contract change order, \$75,000 per change order; architect/engineer contract amendment, \$50,000 per amendment.

The University complies with the South Carolina Consolidated Procurement Code, State regulations, and the University's procurement policies and procedures in all material respects and the internal procurement operating procedures are adequate to properly handle procurement transactions. Procurement Services recommends the State Fiscal Accountability Authority grant Francis Marion University the certification limits noted above.

- b. In accordance with Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations, the Division of Procurement Services has reviewed the procurement system of the South Carolina Judicial Department. The audit revealed two areas of non-compliance. One of the audit findings showed the written determinations used to justify and authorize sole source procurements did not have adequate explanations to justify the transactions as sole source procurements, a violation of Section 11-35-1560 and Regulation 19-445.2105. To resolve this issue, the Division of Procurement Services has requested that the Judicial Department follow their recommendation regarding the adequacy of sole source determinations in future procurements by including in its written determinations the basis for the proposed sole source procurements, the reason no other vendor will be suitable or acceptable to meet the needs, and sufficient factual grounds and reasoning to provide an informed, objective explanation for the decisions. The other audit finding discovered the Judicial Department inappropriately procured lobbying services as sole source procurements, which violates Section 11-35-1560. It is their belief that lobbying services are exempt when procured through attorneys. No such exemption exists. The Division of Procurement Services recommendation is for the Judicial Department to procure lobbying services through a competitive bid, but the agency is not willing to accept this recommendation. Because the Judicial Department has not agreed to comply with the Procurement Code, we recommend that the State Fiscal Accountability Authority (SFAA)

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SUBJECT: Procurement Audits and Certifications

impose administrative penalties under Section 11-35-1240 by withdrawing the Department's authority to acquire lobbying services except through the Division of Procurement Services until such time that the SFAA is assured the Judicial Department will comply with State procurement laws.

AUTHORITY ACTION REQUESTED:

- a. Grant procurement certification, in accord with Section 11-35-1210, for the following agency within the parameters described in the audit report for the following limits (total potential purchase commitment whether single- or multi- year contracts are used):has audited the following agencies and recommends certification within the parameters described in the audit reports for the following limits (total potential purchase commitment whether single-or multi- year contracts are used):

Francis Marion University (for a period of three years): supplies and services, \$275,000* per commitment; information technology, \$175,000* per commitment; consultant services, \$150,000* per commitment; construction services, \$175,000 per commitment; construction contract change order, \$75,000 per change order; architect/engineer contract amendment, \$50,000 per amendment.

- b. Remove the South Carolina Judicial Department's procurement authority under Section 11-35-1240 to acquire lobbying services except through the Division of Procurement Services until such time that the SFAA is assured the Judicial Department will comply with State procurement laws.

ATTACHMENTS:

Agenda item worksheets and attachments

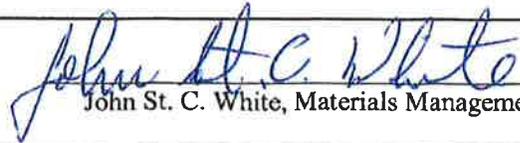
STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

Meeting scheduled for: December 13, 2016

Blue Agenda

1. Submitted by:

- (a) Agency: Division of Procurement Services
- (b) Authorized Official Signature:


John St. C. White, Materials Management Officer

2. Subject: Procurement Certification for Francis Marion University

3. Summary Background Information:

In accordance with Section 11-35-1210 of the South Carolina Consolidated Procurement Code, the Division of Procurement Services has reviewed the procurement system of Francis Marion University and recommends its certification within the parameters described in the audit report for the following limits for a period of three years.

	<u>Current Certification</u>	<u>Certification Recommended</u>
I. Supplies and Services	*\$ 250,000 Per Commitment	*\$ 275,000 Per Commitment
II. Information Technology	*\$ 150,000 Per Commitment	*\$ 175,000 Per Commitment
III. Consultant Services	*\$ 150,000 Per Commitment	*\$ 150,000 Per Commitment
IV. Construction Services	\$ 150,000 Per Commitment	\$ 175,000 Per Commitment
V. Construction Contract Change Order	\$ 75,000 Per Change Order	\$ 75,000 Per Change Order
VI. Architect/Engineer Contract Amendment	\$ 50,000 Per Amendment	\$ 50,000 Per Amendment

The University complies with the South Carolina Consolidated Procurement Code, State regulations, and the University's procurement policies and procedures in all material respects and the internal procurement operating procedures are adequate to properly handle procurement transactions. We recommend the State Fiscal Accountability Authority grant Francis Marion University the certification limits noted above.

4. What is Authority asked to do?

Grant procurement certification for Francis Marion University by approval of the Blue Agenda.

5. What is recommendation of Authority division involved? Approve.

6. Recommendation of other office (as required)?

- (a) Authorized Signature: _____
- (b) Division/Agency Name: _____

7. List of supporting documents:

- (a) Section 11-35-1210 of the Consolidated Procurement Code

§ 11-35-1210. Certification

(1) Authority. The board may assign differential dollar limits below which individual governmental bodies may make direct procurements not under term contracts. The designated board office shall review the respective governmental body's internal procurement operation, shall certify in writing that it is consistent with the provisions of this code and the ensuing regulations, and recommend to the board those dollar limits for the respective governmental body's procurement not under term contract.

(2) Policy. Authorizations granted by the board to a governmental body are subject to the following:

(a) adherence to the provisions of this code and the ensuing regulations, particularly concerning competitive procurement methods;

(b) responsiveness to user needs;

(c) obtaining of the best prices for value received.

(3) Adherence to Provisions of the Code. All procurements shall be subject to all the appropriate provisions of this code, especially regarding competitive procurement methods and nonrestrictive specifications.

STATE FISCAL ACCOUNTABILITY AUTHORITY AGENDA ITEM WORKSHEET

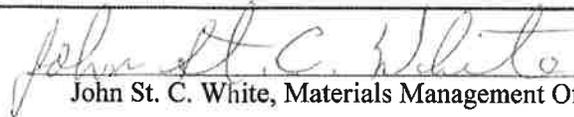
Meeting scheduled for: December 13, 2016

Blue Agenda

1. Submitted by:

(a) Agency: Division of Procurement Services

(b) Authorized Official Signature:


John St. C. White, Materials Management Officer

2. Subject: Procurement Audit of the South Carolina Judicial Department

3. Summary Background Information:

In accordance with Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations, the Division of Procurement Services has reviewed the procurement system of the South Carolina Judicial Department. Our audit revealed two areas of non-compliance. One of the audit findings showed the written determinations used to justify and authorize sole source procurements did not have adequate explanations to justify the transactions as sole source procurements, a violation of Section 11-35-1560 and Regulation 19-445.2105. To resolve this issue, we have requested that the Judicial Department follow our recommendation regarding the adequacy of sole source determinations in future procurements by including in its written determinations the basis for the proposed sole source procurements, the reason no other vendor will be suitable or acceptable to meet the needs, and sufficient factual grounds and reasoning to provide an informed, objective explanation for the decisions. The other audit finding discovered the Judicial Department inappropriately procured lobbying services as sole source procurements, which violates Section 11-35-1560. It is their belief that lobbying services are exempt when procured through attorneys. No such exemption exists. Our recommendation is for the Judicial Department to procure lobbying services through a competitive bid, but the agency is not willing to accept this recommendation. Because the Judicial Department has not agreed to comply with the Procurement Code, we recommend that the State Fiscal Accountability Authority (SFAA) impose administrative penalties under Section 11-35-1240 by withdrawing the Department's authority to acquire lobbying services except through the Division of Procurement Services until such time that the SFAA is assured the Judicial Department will comply with State procurement laws.

4. What is Authority asked to do?

Remove the South Carolina Judicial Department's procurement authority under Section 11-35-1240 to acquire lobbying services except through the Division of Procurement Services until such time that the SFAA is assured the Judicial Department will comply with State procurement laws.

5. What is recommendation of Authority division involved?

Remove the South Carolina Judicial Department's procurement authority under Section 11-35-1240 to acquire lobbying services except through the Division of Procurement Services until such time that the SFAA is assured the Judicial Department will comply with State procurement laws.

6. Recommendation of other office (as required)?

(a) Authorized Signature: _____

(b) Division/Agency Name: _____

7. List of supporting documents:

- (a) Section 11-35-1230(1) of the Consolidated Procurement Code
- (b) Section 11-35-1240 of the Consolidated Procurement Code
- (c) Section 11-35-1560 (C) of the Consolidated Procurement Code
- (d) Regulation 19-445.2105 of the Consolidated Procurement Code

§ 11-35-1230. Auditing & Fiscal Reporting

(1) The designated board office, through consultation with the chief procurement officers, shall develop written plans for the auditing of state procurements.

In procurement audits of governmental bodies thereafter, the auditors from the designated board office shall review the adequacy of the system's internal controls in order to ensure compliance with the requirement of this code and the ensuing regulations. A noncompliance discovered through audit must be transmitted in management letters to the audited governmental body and the State Fiscal Accountability Authority. The auditors shall provide in writing proposed corrective action to governmental bodies. Based upon audit recommendations of the designated board office, the board may revoke certification as provided in Section 11-35-1210 and require the governmental body to make all procurements through the appropriate chief procurement officer above a dollar limit set by the board, until such time as the board is assured of compliance with this code and its regulations by that governmental body.

§ SECTION 11-35-1240. Administrative penalties.

(A) The board shall prescribe administrative penalties for violation of the provisions of this code and of regulations promulgated under it, excluding those matters under the jurisdiction of the Ethics Commission as provided by law.

(B) Violation of these provisions is grounds for loss of or reduction in authority delegated by either the board or this code.

§ 11-35-1560. Sole Source Procurement

(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 a 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.

(B) These regulations must include the requirements contained in this paragraph. Written documentation must include the determination and basis for the proposed sole source procurement. A delegation of authority by either the chief procurement officer or the head of a governmental body with respect to sole source determinations must be submitted in writing to the Materials Management Officer. 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.

(C) A violation of these regulations by a purchasing agency, upon recommendation of the designated board office with approval of the majority of the State Fiscal Accountability Authority, must result in the temporary suspension, not to exceed one year, of the violating governmental body's ability to procure supplies, services, information technology, or construction items pursuant to this section.

19-445.2105. Sole Source Procurements.

C. Written Determination.

The determination as to whether a procurement shall be made as a sole source shall be made by either the Chief Procurement Officer, the head of a purchasing agency, or designee of either office above the level of the procurement officer. Any delegation of authority by either the Chief Procurement Officer or the head of a purchasing agency with respect to sole source determinations shall be submitted in writing to the Materials Management Officer. Such determination and the basis therefor shall be in writing. Such officer may specify the application of such determination and the duration of its effectiveness. In cases of reasonable doubt, competition should be solicited. Any request by a governmental body that a procurement be restricted to one potential contractor shall be accompanied by an explanation as to why no other will be suitable or acceptable to meet the need. The determination must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision. The determination must be authorized prior to contract execution.