

LANDER UNIVERSITY
PROCUREMENT AUDIT REPORT
JULY 1, 2014 – SEPTEMBER 30, 2016

Office of Audit & Certification
Division of Procurement Services
October 25, 2017

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April 4, 2018

Mr. John St. C. White
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Re: Lander University
Procurement Examination
Transmittal Letter

John:

We have examined the internal procurement operating policies and procedures of Lander University for the period July 1, 2014 through September 30, 2016 to determine whether, in all material respects, the internal controls of the University's procurement system were adequate to ensure compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

The examination disclosed conditions enumerated in the report which we believe need correction or improvement. Corrective action based on the recommendations described in these findings, including providing procurement training to staff, will in all material respects place Lander University in compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

Sincerely,

Crawford Milling, CPA, CGMA
Acting Director
Audit and Certification

INTRODUCTION

We conducted an examination of the internal procurement operating policies and procedures of Lander University, as outlined in the University's Internal Procurement Operating Procedures Manual, under Section 11-35-1230(1) of the South Carolina Consolidated Procurement Code and Section 19-445.2020 of the accompanying regulations.

The primary objective of our examination was to determine whether, in all material respects, the internal controls of the University's procurement system were adequate to ensure compliance with the South Carolina Consolidated Procurement Code and ensuing regulations.

The management of the University 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 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 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.

Our examination was also performed to determine if recertification is warranted.

INTRODUCTION

On October 27, 2015 the State Fiscal Accountability Authority granted Lander University the following procurement certifications:

| <u>PROCUREMENT AREAS</u> | <u>CERTIFICATION LIMITS</u> |
|---------------------------------------|-----------------------------|
| Supplies and Services | *\$ 200,000 per commitment |
| Information Technology | *\$ 150,000 per commitment |
| Consultant Services | *\$ 200,000 per commitment |
| Construction Contract Award | *\$ 150,000 per commitment |
| Construction Contract Change Order | \$ 50,000 per change order |
| Architect/Engineer Contract Amendment | \$ 25,000 per amendment |

During the examination the University requested the following increases in its certification limits.

| <u>PROCUREMENT AREAS</u> | <u>REQUESTED CERTIFICATION LIMITS</u> |
|---------------------------------------|---------------------------------------|
| Supplies and Services | *\$ 250,000 per commitment |
| Information Technology | *\$ 250,000 per commitment |
| Consultant Services | *\$ 200,000 per commitment |
| Construction Contract Award | *\$ 200,000 per commitment |
| Construction Contract Change Order | \$ 75,000 per change order |
| Architect/Engineer Contract Amendment | \$ 50,000 per amendment |

*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 objectives. Our examination included testing, on a sample basis, evidence about the University's compliance with the South Carolina Consolidated Procurement Code for the period July 1, 2014 through September 30, 2016, 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 objectives.

The scope of our examination included, but was not limited to, a review of the following:

- (1) All sole source, emergency and trade-in sale procurements for the period July 1, 2014 through September 30, 2016 with exceptions noted in Section I
- (2) Procurement transactions for the period July 1, 2014 through September 30, 2016 as follows:
 - a) One hundred three payments each exceeding \$2,500 with exceptions noted in Section II
 - b) A block sample of 115 purchase orders reviewed for the use of splitting orders or favoring vendors with no exceptions
 - c) Procurement card purchases for May, June and July 2016 with no exceptions
- (3) Four construction contracts and five Architect/Engineer and Related Professional Service Contracts for compliance with the Manual for Planning and Execution of State Permanent Improvements, Part II with no exceptions
- (4) Minority Business Enterprise Plans and reports with the following activity 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> |
|--------------------|-------------|---------------|
| FY14-15 | \$548,071 | \$92,120 |
| FY15-16 | \$410,686 | \$16,917 |

- (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

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Note: The University's responses to issues raised in this report have been inserted immediately following the recommendations in the body of the report.

RESULTS OF EXAMINATION

I. Sole Source Procurement

We tested sole source procurements made pursuant to Section 11-35-1560 of the South Carolina Consolidated Procurement Code to determine the appropriateness of the procurement actions and the accuracy of the quarterly reports submitted as required by Section 11-35-2440 noting the following exceptions:

A. Inappropriate Sole Sources

The University purchased light poles and fixtures as a sole source on purchase order P0005789 in the amount of \$39,975. The determination indicated a standard had been established for the University throughout the campus and the vendor selected was the only source. We could not determine how this standard was established and could see no reason this item could not be competitively procured. If the University wishes to establish a standard, it should do so in a competitive manner.

Section 11-35-1560 of the South Carolina Consolidated Procurement Code requires that sole source procurements be limited to unique items available only from a single source.

We recommend the University develop a process to initiate sole source procurements only when supplies or services are unique and available from one source, as required by the Procurement Code.

Lander Response

Agree and accept. Our procurement office will work on training in determining true sole sources and then when they are determined, writing better justifications for them.

B. Inadequate Sole Source Determinations

The written determinations on the following procurements did not have sufficient information to support the transactions as sole source procurements.

| <u>PO</u> | <u>Date</u> | <u>Description</u> | <u>Amount</u> |
|-----------|-------------|---------------------|---------------|
| P0006130 | 12/11/15 | Simulation Manikins | \$52,564 |
| P0005802 | 12/17/14 | Simulation Manikins | \$78,094 |

RESULTS OF EXAMINATION

The determinations explained why the University wanted a particular manikin but failed to address whether the manikin was only available from a single source or why no other manikins were acceptable. Regulation 19-445.2105(C) requires that 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 and must contain sufficient factual grounds and reasoning to provide an informed, objective explanation for the decision.

We recommend the University comply with the sole source regulation by ensuring that determinations are written that contain sufficient information to provide an informed, objective explanation for the decision.

Lander Response

Agree and accept. This was a situation that has been discussed. We will not include “see attached” on a justification form going forward.

II. Supplies and Services Procurements

Our examination of the University included review of a sample of supplies and services, information technology, consultant services and construction services procurements. We noted the following exceptions:

A. Flawed Request for Proposal

The University awarded Request for Proposal number RFP-LA-293-9-11-2014 for fire alarm system testing, maintenance and repair with a total potential amount of \$100,000. There were key steps missing from the solicitation process:

1. No written determination was provided justifying this multi-term contract. The solicitation stated the contract would be awarded for an initial one year term with a four year extension. 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

RESULTS OF EXAMINATION

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.

Lander Response

Agree and accept. This was not intended to be a multi-term contract. Unfortunately we failed to put 4 additional 1-year terms. We will include the proper verbiage going forward.

2. The solicitation did not contain a contract award posting date giving notice when the award would be made. 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, unless the procurement officer determines, and gives notice, that a longer review time is necessary.” The posting must be made at the location identified in the solicitation.

Lander Response

Agree and accept. Will have award date going forward.

3. There was no written determination declaring that the award was made to the responsible offeror whose proposal was determined most advantageous to the State. The contract file must contain the basis on which the award is made and must be sufficient to satisfy an external audit. Section 11-35-1530 (9) states: “Award must be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the State, taking into consideration price and the evaluation factors set forth in the request for proposals...”

We recommend the University develop and implement procedures to ensure compliance with the Procurement Code and regulations when issuing request for proposals and awarding contracts.

Lander Response

Agree and accept. Will include award determination on all RFPs going forward.

RESULTS OF EXAMINATION

B. Missing Preferences in Solicitations

The University failed to provide vendors the opportunity to claim preferences on the following solicitations.

| <u>Date</u> | <u>Solicitation Number</u> | <u>Description</u> | <u>Amount</u> |
|-------------|----------------------------|--------------------|---------------|
| 06/09/15 | RFWQ-LA 312-6-18/2016 | Moving Services | \$22,600 |
| 06/16/15 | RFWQ-MM-327-9//16/2015 | Printing | \$15,815 |

Section 11-35-1524(C)(2) and (D)(3) of the South Carolina Consolidated Procurement Code requires that preferences be applied to the price of each line item of work.

We recommend the University develop and implement procedures to ensure bidders are afforded the opportunity to claim the appropriate preferences as provided for in the Procurement Code. We recommend the University provide training on RFP solicitations to its procurement staff.

Lander Response

Agree and accept. We will work on cross-checking these solicitations to be sure they have everything included.

C. Artificially Divided Procurement

The University artificially divided a procurement to avoid the competition requirements of the Procurement Code. The University issued purchase orders P0005610 for \$5,700 and P0005609 for \$6,080 on the same day to the same vendor for printing services. The two purchase orders together totaled \$11,780. Section 11-35-1550(1) of the South Carolina Consolidated Procurement Code states in part, "procurement requirements must not be artificially divided by governmental bodies so as to constitute a small purchase..." Section 11-35-1550(2)(C) requires for procurements over \$10,000 up to \$50,000, that written solicitations of written quotes, bids or proposals be made and the solicitation advertised in the South Carolina Business Opportunities.

RESULTS OF EXAMINATION

We recommend the University develop and implement procedures to prevent procurements from being artificially divided thereby avoiding requirements to solicit the appropriate levels of competition.

Lander Response

Agree and accept.

D. Intent to Award Improperly Waived

Our testing identified a required Intent to Award statement that was not issued. The University did post a Statement of Award for solicitation IFB-LA-321-8-13-2015 for sidewalk repair in the amount of \$143,250. Awards in the amount of \$100,000 or more require that an Intent to Award to be posted, the difference being the Statement of Award is effective immediately whereas the Intent of Award requires a ten day waiting period before an award becomes final. This requirement located in Section 11-35-1520(10) of the South Carolina Consolidated Procurement Code provides an exception to the ten day waiting period when only one response is received. The University received two offers, rejecting one because an amendment was not acknowledged. Since two offers were received by the University, the Intent to Award period cannot be waived.

We recommend the University develop and implement procedures to ensure compliance with the intent to award posting requirements as provided in Section 11-35-1520(10) of the Procurement Code.

Lander Response

Agree and accept. When an offer is deemed non-responsive, we will still count them as an offer as far as award statement goes. This should have been an intent to 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 Lander University in compliance with the Consolidated Procurement Code. Lander University requested increases in its certification limits. We are recommending that certification levels for Supplies and Services, Information Technology, and Consultant Services remain unchanged.

Under the authority described in Section 11-35-1210 of the Procurement Code, subject to corrective action, we recommend Lander University 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 | *\$ 200,000 per commitment |
| Information Technology | *\$ 150,000 per commitment |
| Consultant Services | *\$ 200,000 per commitment |
| Construction Contract Award | *\$ 200,000 per commitment |
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