SENT ELECTRONICALLY

July 19, 2021

OIG File No.: 2021-5234-PI

Timothy Keown, President
SC Governor's School for Agriculture
at John de la Howe
192 Gettys Road
McCormick, SC 29835

Re: Review of Procurement Services Practices and Procurement Training – SC Governor's School for Agriculture at John de la Howe (JDLH)

Dear President Keown:

The South Carolina Office of the State Inspector General (SIG) conducted a limited scope review of the procurement services practices of JDLH at your request following a series of newspaper articles in the *Post & Courier* and the *Index-Journal* regarding construction projects at the school since 2018.

The scope and objectives of the review were:

- Determine if JDLH staff adhered to JDLH procurement policies;
- Determine if JDLH staff violated the state's Consolidated Procurement Code (CPC); and
- Identify procurement training provided to JDLH staff.

Executive Summary

Background

In 2018, the SIG conducted a limited scope review of JDLH's procurement practices at the request of two state senators. At that time, the SIG identified numerous wasteful procurement practices by JDLH staff that unnecessarily exposed the school to risk of fraud and abuse. In addition, the SIG identified the staff's disregard for the procurement policies and procedures implemented by Sylvester Coleman, the recently appointed chief financial officer (CFO).

Chief among the wasteful practices identified was the staffing level of 53 employees for 25 students in a school that had its state certification rescinded by the South Carolina Department of Education (SCDE). During the course of that review, the interim president of JDLH resigned.

Subsequently, various JDLH board members either resigned or were not re-appointed to their positions.

In July 2018, Sharon Wall, a retired superintendent of education and former chair of the South Carolina Board of Education was appointed as JDLH's interim president with the mandate to correct the waste and mismanagement issues at the state agency/educational institution.

Based on her initial 90-day assessment and recommendation the school was temporarily closed and the students were dispersed back to the Departments of Juvenile Justice or Social Services, or absorbed in the students' home school districts. Wall implemented a reduction-in-force plan in coordination with the Division of State Human Resources with the goal of reopening the school within two years as an agricultural school consistent with its original intent and obtaining SCDE certification for the school.

In order to meet this challenge, a multi-million dollar, campus-wide renovation of buildings and housing was initiated in multiple phases. Simultaneously, a revised curriculum focused on agricultural education was developed and a student and faculty recruitment plan was implemented.

Over the course of two fiscal years (2019 and 2020), renovations were completed in student housing and temporary classrooms sufficient to handle the initial class of 38 students and reopen in August 2020 for the 2020-21 school year. In December 2020, Governor Henry McMaster signed legislation creating the SC Governor's School for Agriculture at John de la Howe. Current renovations in student housing, classrooms and other facilities at JDLH will support the 75 students slated to arrive on campus in August 2021 for the 2021-22 school year.

Procurement Services Review

The SIG interviewed JDLH leadership, educational staff, maintenance supervisors, and procurement services personnel to gain insight into the procurement issues set forth in the newspaper articles.

Initial renovations of student housing began with the Huguenot house performed by JDLH maintenance staff. Wall subsequently hired a Director of Facilities and Campus Projects who had experience as a general contractor to oversee renovations. Following his initial assessment of JDLH facilities and operations it was determined that outside contractors were needed in order for the JDLH maintenance staff to focus on the general maintenance and upkeep of the campus.

In addition to individual contractors overseen by the Director of Facilities for smaller scale renovation projects, the Director of Facilities engaged the state engineer's office to procure an outside general contractor to construct a new front entrance to the campus with security features and the installation of a new fire suppression system at the campus.

During the course of the fire suppression work, the general contractor tore up sidewalks that were also slated for repair. The state engineer's office notified the JDLH Director of Facilities the budget had remaining funds that could be utilized by the general contractor to replace the sidewalks. However, the estimate provided by the general contractor ($79,919) was excessive for a change order based on the Director of Facilities' opinion. As a result, the Director of Facilities utilized the JDLH procurement services office to issue a request for quotes to replace the sidewalks in two phases (demolition and installation).

Four contractors submitted quotes for the projects, with the two lowest quotes being equal in cost. The quotes were submitted to the JDLH procurement services office, which administered the opening of the bids and the awarding of the contract. As reported in the news articles the JDLH procurement services office awarded the contract to Faith Construction, whose owner was a business associate of Scott Mims, a JDLH maintenance supervisor, in an unrelated business venture. The JDLH procurement services office selected Faith Construction on the criterion that JDLH received the Faith Construction quotes first.

The two phases of the contract cost $33,000 and $37,000. Taken separately, the cost for each phase of the project was within JDLH's procurement authority ($50,000); however, when combined as a single procurement, the $70,000 total exceeded JDLH's authority. A procurement that exceeds an agency's procurement authority requires the Division of Procurement Services to handle the procurement process.

JDLH leadership advised the SIG the sidewalk renovations were conducted in two phases because the JDLH staff was undecided on which areas of the campus were to return to natural sod instead of being replaced with concrete. Regardless, the separation of the project that required two separate quotes gave the appearance of the intent to circumvent JDLH's limit on awarding a procurement for each phase by keeping the cost under its procurement authority of $50,000.

Finding #1: South Carolina Code of Laws, §11-35-1520 (9) (e) states, *"In all other situations in which bids are tied...the tie must be resolved by the flip of a coin witnessed by the procurement officer. All responding vendors must be invited to attend."* The awarding of the contract to Faith Construction based on being the first vendor to submit the quote to JDLH failed to follow state procurement law.

> **Recommendation #1:** JDLH procurement services should adhere to the Consolidated Procurement Code in the awarding of contracts that fall within its procurement authority.

Finding #2: Scott Mims, a JDLH maintenance supervisor, maintained a business association with Shannon Philpott, owner of Faith Construction, in an unrelated business venture, which he failed to disclose to JDLH leadership and the procurement services office. As a result, the JDLH procurement services office unknowingly awarded the contract to Faith Construction, thereby causing the appearance of a conflict of interest in a procurement matter between Mims' supervision of the sidewalk renovations contract awarded to Faith Construction even though Mims had no decision-making authority in the contract award.

> **Recommendation #2a:** JDLH leadership should conduct a review of the agency's code of conduct with staff and ensure all staff affirm they have read and understand the agency's code of conduct.

> **Recommendation #2b:** JDLH leadership should contact the State Ethics Commission and request ethics training for all staff.

Finding #3: The JDLH procurement services office's award of two separate procurements to Faith Construction appeared to circumvent JDLH's procurement authority of $50,000.

> **Recommendation #3:** The SIG should contact the Division of Procurement Services and request a procurement onsite audit of the JDLH procurement policies and practices.[1]

Other Procurement Services Observations

The SIG conducted a sampled review of current JDLH procurement files to compare the process and procedures outlined in the JDLH procurement guidelines policy and the actual practice. The SIG identified the following concerns and made recommendations to address these issues with JDLH leadership and staff:

Requisition Approval Process

The final approval in the requisition process was the CFO instead of the JDLH president. The JDLH requisition process reviewed by the SIG was:

- a purchase requisition form is created and signed by the requestor who forwards the requisition for supervisory approval;
- the department head or first line supervisor approves the requisition and forwards to the JDLH president for approval;
- the JDLH president approves the requisition and forwards to the JDLH CFO for approval and procurement processing; and
- the JDLH CFO approves the requisition and initiates the procurement process.

This approval sequence affected the CFO's ability to independently identify procurement issues not in compliance with the CPC prior to the JDLH president's approval of the requisition. In addition, this approval process placed the CFO in the position of countermanding the approval made by the JDLH president who is the CFO's supervisor, and placed the agency at risk of non-compliance with state law (CPC) if the CFO allowed a non-conforming procurement to move forward. The CFO is the procurement authority for the agency and the person who interacts directly with the Division of Procurement Services on procurement matters.

Finding #4: The SIG confirmed with the Division of Procurement Services the agency head should be the last person in the approval process so that the CFO can work directly with the requester to ensure the requisition complies with the CPC and the agency head can rely upon the CFO's expertise in procurement matters.

> **Recommendation #4:** The JDLH leadership should amend the procurement approval process to have the CFO as the second approver and the JDLH president as final approver in the requisition process.[2]

---

[1] The SIG requested this audit during the course of the SIG's review. The SIG notified the JDLH leadership and staff of the forthcoming audit during the SIG's training session on 6/16/21.

[2] The SIG discussed this observation with the JDLH president who made an immediate correction to the approval process to ensure the CFO reviewed all procurements prior to his approval.

Improper Handling of Vendor Quotes

The SIG identified procurements wherein the requester received quotes directly from potential vendors and then provided these as part of the requisition package for approval. This does not comply with the JDLH procurement policies.

JDLH procurement policies require that all vendor quotes for purchases be sent to a dedicated email address or physical address under the control of the JDLH procurement services office. This process is to ensure quotes are kept confidential until a selection is made. It also ensures the quotes are from a vendor who has registered with the state. JDLH is unable to process payments to vendors who are not registered state vendors.

In one example, an educational staff member submitted a quote for the purchase of certain agricultural materials from a regional vendor that had a familial relationship to the staff member. Even though the vendor was a statewide-approved vendor and had provided services to JDLH in the past, this presented the appearance of a conflict of interest for the staff member. Fortunately, both the CFO and the JDLH president recognized the issue and cancelled the requisition.[3] The JDLH procurement services staff took control of procuring the agricultural materials for the school.

Finding #5: The SIG's review of JDLH procurements identified instances where JDLH staff failed to adhere to the JDLH procurement policies in obtaining vendor quotes.

> **Recommendation #5:** JDLH leadership should provide training to all staff on the policies and procedures for procurements and requisitions.[4]

Procurement Training

Based on the SIG's review of JDLH's procurement services records, policies, and staff interviews, the SIG determined that new educational staff had not received direct training on the school's procurement process. While the procurement policies and a PowerPoint slide presentation were available to all JDLH staff for viewing and reference, the SIG determined the materials had not been updated since February 2020, which was five months prior to the hiring of new educational staff and six months prior to the re-opening of the school after a two-year hiatus. On 6/16/21, the SIG provided a two-hour training session for all JDLH leadership and educational staff on JDLH procurement policies and the CPC. A question and answer (Q&A) session followed the formal training session.

Observation: Based on the Q&A responses, the SIG identified the JDLH staff lacked an understanding of the state's procurement process. Interviews conducted of educational staff identified a lack of confidence in JDLH's procurement services office ability to complete their procurements in a timely manner that resulted in the educational staff trying to manage most of the procurement process before a requisition was sent forward for the necessary approvals.

---

[3] This issue was identified by the CFO and brought to the attention of the JDLH president because of the immediate change in the requisition approval process previously identified in Finding #4.

[4] The JDLH president subsequently requested the SIG to provide this training to JDLH staff. This training was completed on 6/16/21.

Recommendation #6a: JDLH leadership should ensure that all staff adhere to the established procurement process and work directly through the JDLH procurement services office to ensure timely acquisition of inventory and payment of invoices.

Recommendation #6b: JDLH leadership should provide annual procurement training, at a minimum, to JDLH staff.

I want to thank you and the JDLH staff for the courtesies and assistance provided to the SIG staff during the course of this review. I have attached your response to this summary report for the recipients of this letter to review.

If you have any questions regarding this review do not hesitate to call me. Additionally, the SIG's office is always available to assist the school in future training endeavors or program reviews. I may be reached at (803) 896-1287 (direct) or (803) 605-3161 (cell).

Sincerely,

Brian D. Lamkin /tw

Brian D. Lamkin
State Inspector General

CC: Hugh Bland, Chairman, SC Governors School for Agriculture at John de la Howe
Delbert Singleton, Director, Division of Procurement Services, SFAA
George Kennedy, State Auditor, Office of the State Auditor
Mark Plowden, Deputy Chief of Staff, South Carolina Office of the Governor