

SPECIAL REVIEW

**NORTH CAROLINA
DEPARTMENT OF TRANSPORTATION
PURCHASING DIVISION**

OCTOBER 1994

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October 24, 1994

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October 24, 1994

The Honorable James B. Hunt, Jr., Governor
The Honorable Michael F. Easley, Attorney General
Secretary Sam Hunt
North Carolina Department of Transportation
Secretary Katie G. Dorsett
North Carolina Department of Administration
Members of the General Assembly of North Carolina

Ladies and Gentlemen:

Pursuant to General Statute 147-64.6(c)(16), we have completed our special review into allegations concerning the North Carolina Department of Transportation, Purchasing Division. The results of our review, along with recommendations for corrective actions, are contained in this report.

General Statute 147-64.6(c)(12) requires the State Auditor to provide the Governor, the Attorney General, and other appropriate officials with written notice of apparent instances of violations of penal statutes or apparent instances of malfeasance, misfeasance, or nonfeasance by an officer or employee. In accordance with that mandate, and our standard operating practice, we are providing copies of this special review to the Governor, the Attorney General, the Director of SBI, and other appropriate officials.

Respectfully submitted,

Ralph Campbell, Jr.
State Auditor

OVERVIEW

The Purchasing Division within the North Carolina Department of Transportation (DOT) is responsible for obtaining all commodities necessary for the operation and maintenance of DOT. Currently, the Purchasing Division has one Purchasing Officer, one Deputy Purchasing Officer, one Transportation Agent, and twelve Assistant Purchasing Agents. Each of these employees is assigned a list of commodities in which the employee is responsible for purchasing. The Purchasing Officer is responsible for overseeing the day-to-day operations in the Purchasing Division.

For the fiscal year ending June 30, 1994, the Purchasing Division had state appropriations of \$1,303,134 for the purchasing function and expenditures of \$1,273,095.

INTRODUCTION

The Office of the State Auditor received several allegations through the State Auditor's Hotline concerning an Assistant Purchasing Agent with the North Carolina Department of Transportation (DOT).

Based on information received through the Hotline, we used the following procedures to conduct our review:

1. Interviews with employees of the Purchasing Division.
2. Interviews with individuals external to the Purchasing Division.
3. Examination of requisition orders, purchase orders, and invoices.
4. Examination of term contracts the state of North Carolina has with vendors.
5. Examination of other related documents.

This report represents the findings and recommendations from our review. We examined financial records but did not conduct a financial audit of DOT. The Office of the State Auditor reviews DOT's financial activities through its annual audit of the State's Comprehensive Annual Financial Report.

FINDINGS AND RECOMMENDATIONS

1. **The North Carolina Department of Transportation Is Not Purchasing All Items on Term Contracts From The Contracted Vendors**

According to North Carolina General Statute 143-55, “after sources of supply have been established by contract and certified by the Secretary of Administration,” it is “unlawful” for any state department, institution, or agency “to purchase any supplies, materials or equipment from other sources than those certified by the Secretary of Administration.” There are exceptions to purchasing from contracted suppliers, such as emergency purchases, as outlined in the North Carolina General Statutes; however, circumstances must be documented in writing during those occasions.

The Purchasing Division within the Department of Transportation (DOT) purchased automotive parts and supplies from an automobile dealer (Vendor) who was not certified by the Secretary of Administration to furnish these parts and supplies. We reviewed all payments of automotive parts and supplies made by DOT to Vendor during the period December 1, 1993 through May 31, 1994. During that period, a total of \$157,105.99 was paid to Vendor by DOT for purchases of automotive parts and supplies, excluding rebuilt engines. However, we determined that approximately \$22,136.63 of the \$157,105.99 was paid for items that should have been purchased from suppliers who have term contracts with North Carolina. Although the Assistant Purchasing Agents we interviewed stated that most purchases of automotive parts and supplies were needed immediately, there was no documentation indicating an emergency for any of these purchases.

According to the Deputy Purchasing Officer within DOT, when requisition orders are received within the Purchasing Division, one Assistant Purchasing Agent (Agent A) is responsible for reviewing the requisition orders and forwarding each requisition order to the appropriate agent assigned to purchase the requested item. In addition to forwarding the requisition orders to the appropriate agents, Agent A is also responsible for purchasing items listed on the automotive parts and supplies contract (060 Term Contract). The current 060 Term Contract, effective from March 1, 1991 through September 30, 1994, applies to all state agencies. Agent A is responsible for insuring that the requisition orders for automotive parts and supplies included in the 060 Term Contract are purchased from the appropriate certified supplier.

Agent A, who stated that he has family members employed with Vendor (See Finding #3), forwarded requisition orders for automotive parts and supplies included in the 060 Term Contract to another Assistant Purchasing Agent (Agent B). Based on our review of payments made to Vendor during the period December 1, 1993 through May 31, 1994, we noted that many of the items purchased by Agent B from Vendor were items included in a term contract. In one example, a starter, costing \$461.75, was purchased on January 20, 1994 by Agent B from Vendor. However, on January 26, 1994, four business days later, Agent A purchased another starter with the same manufacturer's number from the supplier who had been awarded the contract to sell starters to North Carolina. This second starter cost the state \$278.57. Agent B, who stated that he is familiar with the term contracts that North Carolina

has for automotive parts and supplies, is aware that starters are included in a term contract. However, according to Agent B, he assumed that since Agent A forwarded the requisition order to him that the starter requested was a special starter not included in a term contract. Agent B stated that he assumed that all items forwarded to him by Agent A were commodities in which Agent B had been assigned to purchase.

According to an Assistant Purchasing Administrator with the North Carolina Department of Administration's Purchase and Contract Division, Vendor has never contracted with North Carolina to provide any automotive parts or supplies as outlined in the 060 Term Contract.

Recommendation

We recommend that DOT take appropriate action to insure that all items listed on term contracts be purchased from the appropriate contracted supplier. If an item listed on a term contract is not purchased from the contracted supplier, then the circumstances should be documented and the procurement procedures as outlined in the North Carolina General Statutes should be followed.

2. **The Proper Procurement Procedures Concerning Competitive Bidding Are Not Always Followed By DOT's Purchasing Division.**

The Purchasing Division has not been in compliance with the North Carolina General Statutes regarding the purchases of commodities whose costs exceed ten thousand dollars. According to North Carolina General Statute 143-52, "where such total requirements will involve an expenditure in excess of the expenditure benchmark established under the provisions of G.S. 143-53.1 and where the competitive bidding procedure is employed as hereinafter provided, sealed bids shall be solicited" by the North Carolina Department of Administration's (DOA) Purchase and Contract Division. North Carolina General Statute 143-53.1 defines the expenditure benchmark for DOT as being ten thousand dollars. In cases of similar and related items, the \$10,000 limit applies to the total cost of the purchase order rather than the cost of any single item.

Four purchase orders, each exceeding \$10,000, were prepared by an Assistant Purchasing Agent (Agent B) within DOT's Purchasing Division and were sent to one automobile dealer (Vendor) prior to having the proper competitive bidding procedures administered by DOA's Purchase and Contract Division. These orders were for purchases of rebuilt engines which, according to an Assistant Purchasing Administrator with DOA's Purchase and Contract Division, are not included in any existing term contract. The Assistant Purchasing Administrator further stated that March 1992 was the last date a competitive bid was solicited for DOT by DOA's Purchase and Contract Division for rebuilt engines. In addition, ten rebuilt engines appear to have been placed on separate purchase

orders in order to keep the orders under the ten thousand dollar amount. These purchase orders were all prepared by Agent B.

According to Agent B, DOT's purchasing agents are not required to forward to DOA's Purchase and Contract Division any inventory items, including rebuilt engines, whose cost exceed \$10,000. Agent B stated that the competitive bidding procedures as outlined in the North Carolina General Statutes were not required for these items; however, Agent B could not recall who had told him that competitive bidding procedures were not required for inventory items. According to an Assistant Purchasing Administrator with DOA's Purchase and Contract Division, unless an item is included in a term contract or the purchase is an emergency, any purchase of a single item or group of related items exceeding \$10,000 should be forwarded to DOA's Purchase and Contract Division for the solicitation of competitive bids. DOT's Purchasing Officer, who is responsible for overseeing the Purchasing Division's daily operations, stated that he is familiar with the procurement procedures as outlined in the North Carolina General Statutes.

Recommendation

We recommend that all purchases made by DOT comply with the North Carolina General Statutes. In addition, the Purchasing Officer within DOT's Purchasing Division should insure that all purchasing agents are aware of the proper procurement procedures as outlined in the North Carolina General Statutes.

3. **An Assistant Purchasing Agent Ordered \$24,536.29 of Parts from A Vendor that Employs the Assistant Purchasing Agent's Brother as the Parts Manager and the Assistant Purchasing Agent's Son as a Parts Salesman.**

An Assistant Purchasing Agent (Agent A) with the Department of Transportation (DOT) has a son and a brother employed with an automobile dealer (Vendor) that frequently sells automotive parts and supplies to DOT. The brother works as the Parts Manager for Vendor and the son works within the parts department. In addition, Agent A was employed with Vendor prior to being employed by DOT. However, according to Agent A, he normally does not purchase anything from Vendor for DOT. Agent A stated that he might have purchased an occasional item from Vendor if the purchasing agent responsible for purchasing a part was absent from work and Vendor appeared to be the best available source for the product. During our review of payments made to Vendor by DOT during the period December 1993 through May 1994 for automotive parts (excluding rebuilt engines), approximately five purchase orders sent to Vendor (totaling \$1,786.29) were prepared by Agent A. In addition, our review of rebuilt engines purchased during the period May 1992 through May 1994 revealed seven purchase orders prepared by Agent A totaling \$22,750.00 for nine rebuilt engines.

The circumstances surrounding these purchases create, at a minimum, the appearance of a conflict of interest.

Footnote: The title of this finding was changed in response to the reply received from the Department of Transportation. See page 16.

Recommendation

We recommend that another assistant purchasing agent review the requisition orders and forward them to the appropriate purchasing agents. We also recommend that Agent A not be assigned to purchase any type of automotive parts or supplies, regardless of whether the items are included in a term contract.

4. **The Purchasing Division Can Not Provide Documentation That Proper Procurement Procedures Have Been Followed.**

The Purchasing Division has not followed the informal bid procedures as set forth in DOT's Purchasing Manual. According to the Purchasing Manual, purchases of single items or groups of related items exceeding \$1,000 but less than \$10,000 require written solicitation. Based on our review of the purchases paid by DOT to automobile dealer (Vendor) during the period December 1, 1993 through May 30, 1994, we noted that documentation could not be located to verify that written solicitation had been made by the purchasing agent on purchases of items that ranged in cost between \$1,000 to \$10,000. Agent B was responsible for completing forty-seven of the forty-nine purchase orders.

Recommendation

We recommend that all purchases of single items or groups of related items that range in price from \$1,000 to \$10,000 comply with DOT's Purchasing Manual. In addition, the Purchasing Officer within DOT's Purchasing Division should insure that all purchasing agents are aware of the proper procurement procedures as outlined in the Purchasing Manual.

STATEMENT OF FINANCIAL IMPACT

The following schedule represents a quantification of the items examined during our special review. We cannot completely quantify the tangible benefits or detriment, if any, to the taxpayer resulting from the findings of our review. We are simply noting those areas where the systems of internal controls were either circumvented or should be enhanced.

1)	Items listed on Term Contracts that were not purchased from the contracted vendor.	\$ 22,137
2)	Purchases of rebuilt engines whose totals exceeded \$10,000 but the competitive bidding process was not used.	70,460
3)	Purchase orders that appear to have been divided in order to keep the totals less than \$10,000.	32,817
4)	Purchases in which Written Solicitations were not obtained.	<u>201,249</u>
	TOTAL FINANCIAL IMPACT	<u>\$326,663</u>

Schedule of Purchase Orders Whose Totals Exceed \$10,000

<u>Date of Purchase</u>	<u>Purchase Order #</u>	<u>Warrant #</u>	<u>Amount</u>	<u>Description</u>
3/26/92	669034	313754/317118	\$23,834.00	8 Rebuilt engines, cores, pallets
11/8/93	757425	584385/590811	17,537.50	2 Rebuilt engines, cores, pallets
1/12/94	764474	606248	17,928.50	2 Rebuilt engines, cores, pallets
2/4/94	768983	594225	11,160.00	4 Rebuilt engines, cores, pallets

			\$70,460.00	
			=====	

Schedule of Purchase Orders That Appear to Have Been Divided

<u>Date of Purchase</u>	<u>Purchase Order #</u>	<u>Warrant #</u>	<u>Amount</u>	<u>Description</u>
3/1/93	719423	446763	\$ 5,400.00	2 Rebuilt engines, cores, pallets
3/1/93	719424	452117	5,400.00	2 Rebuilt engines, cores, pallets
2/4/94	768982	594402	8,964.25	1 Rebuilt engine, core, pallet
2/4/94	768983	594225	11,160.00	4 Rebuilt engines, cores, pallets
2/4/94	768984	594225	1,724.75	1 Rebuilt engine, core, pallet
2/4/94	768984	593728	<365.00>	Credit
3/3/94	773189	605291	3,998.00	3 Rebuilt engines, cores, pallets
3/3/94	773190	606248	7,694.80	1 Rebuilt engine, core, pallet

Schedule of Purchase Orders That Were Prepared By Agent A (parts & supplies)

<u>Date of Purchase</u>	<u>Purchase Order #</u>	<u>Warrant #</u>	<u>Amount</u>
2/16/94	770603	606248	\$ 710.50
12/15/93	762444	578696	48.17
11/23/93	759351	570307	733.68
2/14/94	770128	599622	212.47
	749611	555381	81.47

Schedule of Purchase Orders That Were Prepared By Agent A (engines)

<u>Date of Purchase</u>	<u>Purchase Order #</u>	<u>Warrant #</u>	<u>Amount</u>	<u>Description</u>
4/27/92	673958	334901	\$ 1860.00	1 Rebuilt engine
4/27/92	674156	334901	1860.00	1 Rebuilt engine
10/13/92	701214	394560	1830.00	1 Rebuilt engine
4/6/93	724307	461825	8850.00	1 Rebuilt engine
10/12/93	753028	540630	1185.00	1 Rebuilt engine
12/10/93	761281	570307	1465.00	1 Rebuilt engine
2/10/94	769769	599622/597916	5700.00	3 Rebuilt engines

Schedule of Purchases of a Single Item/Groups of Related Items Greater Than \$1,000

Purchase Order #	Warrant #	# of Items on P.O	Cost	Description	Agent
749611	604781	1	\$1020.42	Gear-steering	B
751819	552566	8	1387.20	Housing Assy	B
753074	563222	1	9218.75	Rebuilt engine	B
759542	626102	2	5960.00	Rebuilt engine	B
759611	559649	2	5580.00	Rebuilt engine	B
760629	570307	1	2551.25	Transmission	B
761281	570307	1	1465.00	Rebuilt engine	L
761553	573367	1	1909.81	Transmission	B
762030	570265	1	2980.00	Rebuilt engine	B
762417	624734	6	3472.86	Carburetor	B
762488	585675	2	5580.00	Rebuilt engine	B
762563	570307/570689	2	3800.00	Rebuilt engine	B
762563	585835	1	2790.00	Rebuilt engine	B
762929	570265	1	1698.00	Rebuilt engine	B
763342	585675	2	5580.00	Rebuilt engine	B
763813	573367	1	1900.00	Rebuilt engine	B
764181	585582	2	5580.00	Rebuilt engine	B
764366	585675	14	2427.60	Housing Assy	B
764366	585835	6	1126.92	Wheel Bud	B
764371	577412	1	8768.75	Rebuilt engine	B
766209	597916	8	1204.72	Pk Brk Chmbr	B
768884	588790	1	1034.25	Rebuilt engine	B
768982	594402	1	8964.25	Rebuilt engine	B
768984	594225	1	1359.75	Rebuilt engine	B
769058	594402	1	8964.25	Rebuilt engine	B
769216	599643	9	1690.38	Wheel Bud	B
769216	599643	6	1242.18	Rear Drum Assy	B
769216	599643	8	1148.88	Cylinder Assy	B
769216	599643	10	1734.00	Housing Assy	B
769216	600081	9	1063.44	Expander Assy	B
769216	600081	27	3626.64	Pressure plate	B
769519	604781	7	1823.08	Shoe w/lining	B
769528	597969	1	7790.00	Rebuilt engine	B
769769	597916/599622	3	5700.00	Rebuilt engine	L
770729	605291	9	1063.44	Expander	B
770729	605291	9	1292.49	Wheel cylinder	B
770729	605291	22	1963.06	Disc	B
770729	606284	12	1417.92	Expander Assy	B
771592	606248	1	1359.75	Rebuilt engine	B
772193	607206	2	5580.00	Rebuilt engine	B
772637	606284	2	5580.00	Rebuilt engine	B
772638	606616	28	3760.96	Pressure plate	B
772638	606616	12	2080.80	Housing Assy	B
772638	607206	10	1878.20	Wheel Bud	B
773078	610816	1	3121.70	Differential Assy	B
773189	605291	3	3998.00	Rebuilt engine	B
773190	606248	1	7694.80	Rebuilt engine	B
773584	616616	1	1238.00	Rebuilt engine	B
773928	606248	1	1308.00	Rebuilt engine	B

Schedule of Purchases of a Single Item/Groups of Related Items Greater Than \$1,000 (cont.)

774184	610240	2	5580.00	Rebuilt engine	B
775019	618570	1	1730.00	Rebuilt engine	B
775647	621009	7	1449.21	Rear Drum Assy	B
776160	618004/623954	2	4725.00	Rebuilt engine	B
776237	611494	1	8964.25	Rebuilt engine	B
776408	618570	1	1340.00	Rebuilt engine	B
776786	621009	1	1730.00	Rebuilt engine	B
777777	625151	1	1020.42	Gear-Steering	B
779074	625151	1	1020.42	Gear-Steering	B
779326	623954	1	1308.00	Rebuilt engine	B
779754	625151	1	1322.00	Rebuilt engine	B
781687	625674	2	5580.00	Rebuilt engine	B

			201,249.00		
			=====		