



STATE OF NORTH CAROLINA  
Office of the State Auditor

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

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August 9, 2007

Mr. Britt Cobb, Secretary  
Department of Administration  
116 West Jones St.  
Raleigh, North Carolina 27603

Dear Secretary Cobb:

During the course of a special investigation of procurement activities at the North Carolina Department of Transportation (DOT), we found deficiencies involving a state vendor classified as a Historically Underutilized Business (HUB) by the North Carolina Department of Administration (DOA). Pursuant to North Carolina General Statute § 147-64.6(c)(16), our investigation of this matter resulted in the following findings and recommendations.

**An administratively dissolved business remained an active state vendor under three separate term contracts for nearly two years.**

On May 5, 2005, the North Carolina Secretary of State administratively dissolved a state vendor for failing to file its annual reports with the State. However, as of April 4, 2007, this vendor continued as an approved vendor under contracts 425A (Computer and Office Furniture), 425C (Bookcases), and 425D (Upholstered Chairs and Wood Furniture). These contracts are administered by DOA's Purchase and Contract Division (P&C).

North Carolina General Statute § 55, also known as the North Carolina Business Corporation Act, authorizes the Secretary of State to request forms and fees from corporations to provide acknowledgement of incorporation under the laws of North Carolina. The Act also authorizes the Secretary of State to pronounce administrative dissolution for a corporation's failure to file its annual report with the Secretary of State. A dissolved corporation may continue its corporate existence but may not conduct business except to liquidate its business affairs.

Therefore, we found both P&C and the vendor did not comply with the Secretary of State's decision. P&C was not aware of the vendor's dissolution status nor does it have a policy to monitor this status. On April 4, 2007, we notified P&C of the dissolution status. The vendor subsequently filed its annual report with the Secretary of State and was approved for administrative reinstatement on April 26, 2007.

### **Recommendations**

P&C should review the administrative status of all term contract vendors on an annual basis. If a vendor is in administrative dissolution status, P&C should request reinstatement within 30 days. If a vendor does not comply within 30 days, P&C should remove the vendor from the appropriate term contract(s) and notify all state agencies of its action. P&C's procedures should be updated to reflect any policy amendments.

### **The HUB Office did not renew vendor HUB certifications in a timely manner.**

DOA's HUB Office did not review the HUB certification status for a state vendor within the required two-year period. The HUB Office records show HUB certification was initially granted to this vendor on March 21, 2001 and extended in March 2003 and March 2005. However, renewal of the vendor's HUB certification did not occur in March 2007. In addition, our review of the HUB Office's *HUB Certification Manual* found the two-year renewal period policy is mentioned only in the section regarding initial designation but not in the re-designation section.

The HUB Office deputy director indicated their policy is to review HUB vendors' certification status every two years. He explained the vendor had not been properly identified as a candidate for renewal because of an internal information system problem. After we brought it to his attention, the HUB Office deputy director provided a list of another 20 vendors whose HUB designation had expired but had not been identified as such by the information system.

### **Recommendations**

The HUB Office should complete the HUB certification review for the identified vendors. In addition, DOA management should determine the cause of the information system problem and institute corrective action. Finally, the *HUB Certification Manual* should be updated to clearly state the two-year renewal policy for HUB re-designation.

### **HUB designations were not updated in term contracts.**

We reviewed the HUB certification status of all vendors under three term contracts: 425A (Computer and Office Furniture), 425C (Bookcases), and 425D (Upholstered Chairs and Wood Furniture). We identified 78 contract entries<sup>1</sup> entitled to HUB certification as authorized by the HUB Office. We found 60 (77%) of these 78 entries did not state a HUB designation. In addition, five contract entries showed HUB designation although they had either been inactivated by the HUB Office or were not found on the HUB Office website.

Term contracts have standard terms stating all known HUB vendors will be identified. The contracts further state "this is being done in an effort to recognize these businesses and to

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<sup>1</sup> Each contract entry is comprised of a vendor and an associated North Carolina city or town. A vendor can have multiple contract entries.

Mr. Britt Cobb, Secretary  
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encourage and promote their use to the greatest extent permitted by law.” The contracts note when more than one supplier is listed for a particular item, selection should be made, whenever possible, from any of the HUB designations<sup>2</sup> consistent with agency needs and price considerations. The omission of HUB status for the majority (77%) of the term contract entries fails to support the State’s intent to encourage and promote HUB businesses in state term contracts.

The P&C administrator responsible for these contracts said contractors provided the HUB designations for both contractors and dealers when the contracts were awarded. Since the contracts were three or more years old, HUB information had not been updated for more than three years. Contractors or dealers can notify P&C of HUB data omissions. However, P&C did not periodically check the HUB Office website for vendor HUB certification status. The administrator indicated the information system did not provide HUB status reports by term contract.

### **Recommendations**

P&C should verify HUB status of state-approved vendors with the HUB Office at the beginning of each term contract and on a quarterly basis. P&C’s procedures should be updated to reflect any policy amendments.

Please provide your written response to these findings and recommendations, including corrective actions taken or planned, by August 23, 2007. In accordance with General Statute § 147.64.6 (c)(12), the Governor, the Attorney General, and other appropriate officials will receive a copy of this management letter. If you have any questions or wish to discuss this matter further, please contact us. We appreciate the cooperation received from employees of the Department of Administration.

Sincerely,

A handwritten signature in cursive script that reads "Leslie W. Merritt, Jr.".

Leslie W. Merritt, Jr., CPA, CFP  
State Auditor

**Management letters and responses receive the same distribution as audit reports.**

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<sup>2</sup> HUB designations include minority, women and disabled owned businesses as well as disabled business enterprises and non-profit work centers for the blind and severely disabled, including dealers.



## North Carolina Department of Administration

Michael F. Easley, Governor

Britt Cobb, Secretary

August 30, 2007

Hon. Leslie W. Merritt, Jr., CPA, CFP  
State Auditor  
Office of the State Auditor  
20601 Mail Service Center  
Raleigh, NC 27699-0601

*Re: Statewide Term Contracts*

Dear Mr. Merritt:

On August 9, 2007, the Department of Administration received your draft report on the status of certain vendors on statewide term contracts. As stated in your letter, these findings were a result of the State Auditor's investigation of procurement activities at the North Carolina Department of Transportation.

The Department of Administration, through the Office for Historically Underutilized Businesses and the Division of Purchase and Contract remains committed to provide the most useful information about state-wide term contracts and to assist state agencies to meet their needs. Both offices make continuing efforts to enhance their effectiveness and therefore welcome the chance to review your final report.

If there are questions or comments, please let me know.

Sincerely,

A handwritten signature in cursive script that reads "Britt Cobb".

Britt Cobb

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Response to Audit Recommendations from  
The Office for Historically Underutilized Businesses and  
The Division of Purchase and Contract

Recommendation:

P&C should review the administrative status of all term contract vendors on an annual basis. If a vendor is in administrative dissolution status, P&C should request reinstatement within 30 days. If a vendor does not comply within 30 days, P&C should remove the vendor from the appropriate term contract(s) and notify all state agencies of its action. P&C's procedures should be updated to reflect any policy amendments.

Response:

The Division of Purchase and Contract agrees that entities that lose or change their corporate status have an obligation to notify all individuals, companies and state agencies with which they do business of such a change. In fact, in cases such as this where the Secretary of State dissolves the corporation, the dissolved corporation should not carry on any business except that business which is appropriate to wind up and liquidate its affairs. See N.C. Gen. Stat. § 55-14-05. Like the State Auditor, the Division of Purchase and Contract is concerned that this particular dissolved corporation failed to abide by North Carolina law, both as it pertains to its dissolved status and in its efforts to sell office supplies to a state agency outside of the approved term contract.

While it should be pointed out that this dissolved corporation represented only 1 of more than 350 term contract vendors, the Division of Purchase and Contract will take the necessary steps to confirm the corporate status of all term contract vendors. Additionally, the Division of Purchase and Contract will evaluate adding a provision to all new contracts requiring the immediate notification to the Division of Purchase and Contract of any change in the corporate status of any vendor.

Recommendation:

The HUB Office should complete the HUB certification review for the identified vendors. In addition, HUB management should determine the cause of the information system problem and institute corrective actions. Finally, the HUB Certification Manual should be updated to clearly state the two-year renewal policy for HUB re-designation.

Response:

With the assistance of our Management Information Systems Division, the Office for Historically Underutilized Businesses discovered and resolved a computer error in the Vendor Link system which resulted in a delay of 21 of the 8,970 recertifications completed by this office. This delay did not adversely affect the status of the recertified companies, since each company maintained its



certification during the delay. Since the conclusion of the audit, all 21 companies were contacted and invited to renew their HUB certification. As recommended, the Certification Manual has been updated to more clearly publicize the two-year renewal policy for HUB recertification.

Recommendation:

P&C should verify HUB status of state-approved vendors with the HUB Office at the beginning of each term contract and on a quarterly basis. P&C's procedures should be updated to reflect any policy amendments.

Response:

It is important to understand a few of the key elements of the certification program administered by the Office for Historically Underutilized Businesses (sometimes referred to as "HUB" certification) and the term contracts at issue. First and foremost, certification and designation by the Office for Historically Underutilized Businesses is a voluntary program and companies have the right and ability to choose if and when they wish to request HUB certification. Second, the contracts at issue involve two very distinct parties: 1) the vendor who has an executed contract with the Division of Purchase and Contract and 2) the dealers who have a separate contractual relationship with the vendor. For the contracts at issue, the vendors provided the names of the dealers for their particular product and provided any designations which the dealers wished to include.

In the future, the Division of Purchase and Contract will require that vendors confirm that all dealers were given the opportunity to be recognized as "HUB" certified and that each dealer so designated has been certified by the Office for Historically Underutilized Businesses. Additionally, each state agency and buyer is encouraged to verify the status of a dealer using the Vendor-Link system. This online registry can be found at <http://www.ips.state.nc.us/ips/vendor/srchven.asp>.

It should be noted that the statewide uniform certification legislation signed by the Governor on August 19, 2007 will aid those North Carolina companies who wish to receive this designation and aid those who desire to promote historically underutilized businesses.