

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR  
BETH A. WOOD, CPA

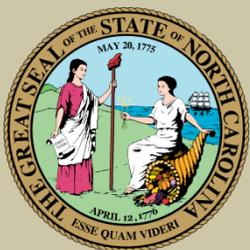


## NORTH CAROLINA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

NORTH CAROLINA FOREST SERVICE

ASHEVILLE, NORTH CAROLINA

INVESTIGATIVE REPORT  
DECEMBER 2017



**NC OSA**  
The Taxpayers' Watchdog

# EXECUTIVE SUMMARY

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## **PURPOSE**

The Office of the State Auditor received a Hotline complaint alleging that employees of the North Carolina Department of Agriculture and Consumer Services (Department), North Carolina Forest Service (Forest Service) did not follow proper bid procedures for expenditures in the Forestation program.

## **BACKGROUND**

The Forest Service works to protect, manage, and develop the forest resources of the State. The Forest Service is divided into three geographical regions throughout the State and further divided into 13 districts (four within Region One, five within Region Two, and four within Region Three).

## **KEY FINDINGS**

- The Forest Service failed to comply with state purchasing requirements potentially resulting in less competition
- Purchasing files did not contain required proof of insurance resulting in potential increased liability for the Forest Service

## **KEY RECOMMENDATIONS**

- The Department should enforce purchasing policies and procedures and hold Forest Service management accountable
- The Department should retrain all applicable Forest Service employees on its purchasing policies and procedures
- Each Region should create written policies and procedures to standardize purchasing processes and project management at the district level
- The Department should enforce the insurance requirement in the agreement by requiring the Forest Service to provide proof of insurance with each agreement before a contract is signed and work begins
- The Department should ensure that all signed agreements include proof of insurance

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



**Beth A. Wood, CPA**  
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## AUDITOR'S TRANSMITTAL

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The Honorable Roy Cooper, Governor  
Members of the North Carolina General Assembly  
Steve Troxler, Commissioner, North Carolina Department of Agriculture and Consumer Services

Ladies and Gentlemen:

Pursuant to *North Carolina General Statute §147-64.6(c)(16)*, we have completed an investigation of allegations concerning the North Carolina Department of Agriculture and Consumer Services, North Carolina Forest Service. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the North Carolina Department of Agriculture and Consumer Services during our investigation.

Respectfully submitted,

A handwritten signature in cursive script that reads 'Beth A. Wood'.

Beth A. Wood, CPA  
State Auditor



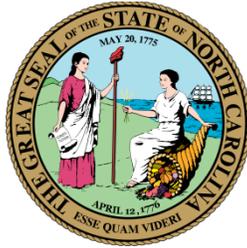
**Beth A. Wood, CPA  
State Auditor**

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Article 5A, Chapter 147 of the North Carolina General Statutes, gives the Auditor broad powers to examine all books, records, files, papers, documents, and financial affairs of every state agency and any organization that receives public funding. The Auditor also has the power to summon people to produce records and to answer questions under oath.



# BACKGROUND

The Office of the State Auditor received a Hotline complaint alleging that employees of the North Carolina Department of Agriculture and Consumer Services (Department), North Carolina Forest Service (Forest Service) did not follow proper bid procedures for expenditures in the Forestation program.

Our investigation of these allegations included the following procedures:

- Review of applicable Department policies and procedures
- Interviews with Department management and Forest Service staff
- Review of the North Carolina Procurement Manual
- Examination and analysis of available documents and records related to the allegation, including invoices, insurance certificates, and bid records for expenditures in the Forestation program and Community Protection Plans (CPP)

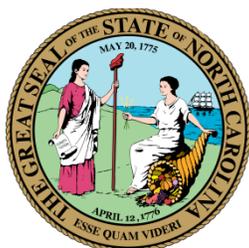
This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statute § 147-64.6 (c) (16)*.

The Department's mission is to provide services that promote and improve agriculture, agribusiness, and forests; protect consumers and businesses; and conserve farmland and natural resources.

The Forest Service works to protect, manage, and develop the forest resources of the State. The Forest Service is divided into three geographical regions throughout the State and further divided into 13 districts (four within Region One, five within Region Two, and four within Region Three).

The Forest Service administers the Forestation program, a receipt-supported program that provides services to private landowners. The Forestation program strives to put land back into timber production. Services include tree planting, site preparation, and tree stand improvement. The Forest Service provides some services directly and subcontracts certain services.

The Forest Service also administers Community Protection Plans (CPP), a federal grant-supported program that provides private landowners with no-cost fire mitigation services such as controlled burning and mechanical fuel reduction. The CPP strives to help prevent wildfires and mitigate the conditions that lead to them in high risk communities within a 10-mile radius of a U.S. Forestry Service boundary. The Forest Service also provides some of these services directly and subcontracts certain services.



# **FINDINGS AND RECOMMENDATIONS**

## **1. THE FOREST SERVICE FAILED TO COMPLY WITH STATE PURCHASING REQUIREMENTS POTENTIALLY RESULTING IN LESS COMPETITION**

The North Carolina Forest Service (Forest Service) within the North Carolina Department of Agriculture and Consumer Services (Department) failed to comply with state purchasing requirements for contracted forest services. As a result, the Forest Service may have paid a higher price than necessary for the contracted services. This occurred due to a lack of Department and Region Three<sup>1</sup> oversight and failure to establish standardized procedures. The North Carolina Procurement Manual and the Department's Purchasing Policies and Procedures identify the purchasing and bidding requirements.

### **Contracts for Services Did Not Follow Proper Purchasing Procedures**

The Forest Service did not comply with state purchasing regulations. Region Three contracted with private businesses to provide forest services to private landowners for the Forestation Program (Forestation) and Community Protection Plans (CPP). Analysis of Forestation and CPP invoices<sup>2</sup> paid between June 2013 and May 2017 revealed Region Three did not follow required purchasing procedures as follows:

- None of the six invoices reviewed that required e-quotes (price between \$5,000 and \$10,000) contained documentation of the e-quote process
- Only one of the 17 (5.9%) invoices reviewed had the required documentation of the competitive bidding process (price between \$10,000 and \$25,000)
- None of the five invoices reviewed that exceeded the Department's delegation<sup>3</sup> (price exceeds \$25,000) and required submission to the Department of Administration, the Division of Purchase and Contract (P&C) had documentation of P&C involvement

### **Potentially Resulted in Less Competition and Higher Costs**

The lack of proper bidding procedures for services contracted in Forestation and CPP may have resulted in less competition among service providers. With potentially limited competition, the Department may have paid a higher price than necessary.

### **Caused by Lack of Oversight and Standardized Procedures**

The Department's inadequate oversight and Region Three's lack of standardized procedures contributed to the failure to comply with purchasing requirements.

#### *Lack of Oversight*

The Department did not hold the Forest Service accountable. Examples of this include:

- The Department paid invoices without required documentation
- The Department's Controller asked the Forest Service if it had a waiver from competition for bidding prior to becoming part of the Department<sup>4</sup> but did not receive any response from the Forest Service

<sup>1</sup> Region Three covers 32 counties in the western part of the State.

<sup>2</sup> Investigators analyzed all Region Three payments during the period under review that appeared to exceed dollar thresholds requiring quotes or bids.

<sup>3</sup> According to the North Carolina Procurement Manual, "the maximum authorized dollar limits (delegation/benchmark) for purchases of commodities...and services by agencies" without higher level approval from P&C.

<sup>4</sup> The Forest Service transferred to the Department from the Department of Environment and Natural Resources in 2011.

- The Department did not receive the contracts from the Forest Service until after the work was completed
- The Department requested, but did not receive, a listing of the contractors used by Region Three

In addition, the Regional Forester for Region Three failed to provide proper oversight as detailed in his job description. He blamed the lack of documentation on employee turnover in district offices and a decentralized organizational structure. However, employee turnover and decentralization does not absolve the Regional Forester of his oversight responsibility.

### *Lack of Standardized Procedures*

The Regional Forester explained that each district office within Region Three made contractor decisions independently with an individual responsible for managing and executing the programs at the district level. The Regional Forester said that different employees prepared and retained documentation in varied ways. As a result, he said he could not locate certain purchasing documents such as bids, e-quotes, and P&C approvals.

### **Competitive Bidding Requirements**

The North Carolina Procurement Manual and the Department's policies and procedures specify competitive bidding requirements based on the total dollar amount of purchases.

### *The North Carolina Procurement Manual Solicitation Requirements*

According to the North Carolina Procurement Manual,<sup>5</sup> for agency purchases involving expenditures over \$5,000 up to the agency's general delegation limit:

- Competition shall be solicited
- Solicitation documents requesting or inviting offers shall be issued
- E-Quotes, Request for Quotes, or Invitation for Bids may be used for solicitations below \$10,000

The Procurement Manual<sup>6</sup> further states, "For purchases made by an agency involving an expenditure over \$10,000:

- 1) Competition shall be solicited
- 2) Procurements for goods over the agencies delegation, must be sent to P&C or [Statewide Information Technology Procurement] for processing
- 3) Procurements for services normally are prepared and advertised by the using agency
- 4) Solicitation documents requesting or inviting offers shall be issued...
- 5) Advertising through [Interactive Purchasing System] is required for solicitations over \$10,000. The solicitation shall be advertised at a minimum 10 days prior to the date designated for opening
  - IPS must be used to advertise all formal solicitations over \$10,000.

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<sup>5</sup> North Carolina Procurement Manual, 3.4.2

<sup>6</sup> North Carolina Procurement Manual, 3.4.3

- This rule does not prevent solicitation of offers by additional direct mailings, phone calls or additional advertisement by an agency.”

Department Purchasing Policies and Procedures

According to the Department’s policies and procedures,<sup>7</sup>

“For the purchase of commodities or services involving an expenditure of funds totaling \$10,000.00 up to \$25,000.00, the competitive bidding procedure must be used and the solicitation must be advertised on the State’s Interactive Purchasing System (IPS), unless it is 1) covered by a term contract, 2) available from Correction Enterprises, or 3) qualifies as a waiver.

Procurements for goods under the agencies delegation (\$25,000) and procurements for services normally are prepared and advertised by the using agency.”

The Department’s policies and procedures<sup>8</sup> further state,

“For the purchase of commodities or services involving an expenditure of funds exceeding twenty-five thousand dollars (\$25,000), competition shall be solicited.

Solicitation documents requesting or inviting offers shall be issued...

Advertising through IPS is required for solicitations over \$25,000. The solicitation shall be advertised at a minimum 10 days prior to the date designated for opening.”

**RECOMMENDATIONS**

- The Department should enforce purchasing policies and procedures and hold Forest Service management accountable
- The Department should retrain all applicable Forest Service employees on its purchasing policies and procedures
- Each Region should create written policies and procedures to standardize purchasing processes and project management at the district level

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**2. PURCHASING FILES DID NOT CONTAIN REQUIRED PROOF OF INSURANCE RESULTING IN POTENTIAL INCREASED LIABILITY FOR THE FOREST SERVICE**

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The North Carolina Forest Service (Forest Service) within the North Carolina Department of Agriculture and Consumer Services (Department) did not require or retain proof of insurance from all contractors. This resulted in potentially increased liability for the Forest Service. The Forest Service’s Agreement for Sub-Contractual Services requires contractors to provide proof of automobile liability, general liability, and worker’s compensation insurance, or accident and disability insurance when worker’s compensation is not applicable.

<sup>7</sup> North Carolina Department of Agriculture and Consumer Services Purchasing Policies and Procedures, .7019

<sup>8</sup> North Carolina Department of Agriculture and Consumer Services Purchasing Policies and Procedures, .7020

### **Proof of Insurance Not Obtained from All Contractors**

The Forest Service failed to obtain required proof of insurance from contractors. Region Three contracted with private businesses to provide forest services to private landowners for the Forestation Program (Forestation) and Community Protection Plans (CPP). A review of Forestation and CPP invoices paid between June 2013 through May 2017 revealed Region Three did not retain or require proof of insurance from contractors for all agreements. The Forest Service could not verify proof of insurance for 32 of the 94 (34.0%) invoices<sup>9</sup> reviewed from 10 of the 24 (41.7%) separate contractors.

### **Resulted in Potentially Increased Liability Risk**

The lack of proof of insurance could result in increased liability for the Forest Service. Without proof of insurance, the Forest Service did not know if a contractor maintained the required insurance. If an incident at a site occurred and the contractors did not have adequate insurance, the State may be liable for certain costs.

### **Caused by Lack of Accountability**

The Department did not hold the Forest Service accountable and properly monitor its contracts and invoices. The Department paid contractors for work without requiring the Forest Service to provide proof of insurance for all agreements.

### **Proof of Insurance Required by Contract Agreement**

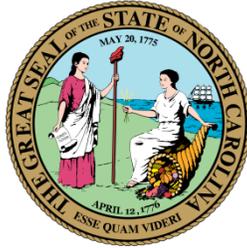
The agreements between the Forest Service and the private contractors included a requirement for proof of insurance. The agreement required the contractors “to furnish the Forest Service with a certificate of insurance showing proof that he is covered by automobile liability, general liability, and workman’s compensation insurance, or accident and disability insurance when workman’s compensation insurance requirements are not applicable.”

## **RECOMMENDATIONS**

- The Department should enforce the insurance requirement in the agreement by requiring the Forest Service to provide proof of insurance with each agreement before a contract is signed and work begins
- The Department should ensure that all signed agreements include proof of insurance

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<sup>9</sup> The Forest Service paid 251 invoices for the Forestation and CPP programs during the period reviewed.



# **RESPONSE FROM THE DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES**



Steve Troxler  
Commissioner

**North Carolina Department of Agriculture  
and Consumer Services**

December 4, 2017

The Honorable Beth Wood  
State Auditor  
Office of the State Auditor  
20601 Mail Service Center  
Raleigh, North Carolina 27699

Madam Auditor:

The North Carolina Forest Service (NCFS) Forestation Program provides landowners with assistance in establishing a new woodland where there was not one, or re-establishing a woodland, typically after a timber harvest. The program helps ensure that quality forestry practices are being performed at all stages of the forestation process. The long-term benefits of this program extend well beyond the landowner and into the North Carolina forest products industry, wildlife management, environmental quality, and aesthetics.

NCFS appreciates the work of the Office of the State Auditor in reviewing the Forestation Program and respectfully accepts its findings and recommendations regarding bid procedures for Forestation contracted services.

Our responses follow:

**Finding Item #1:** The Forest Service failed to comply with state purchasing requirements potentially resulting in less competition.

**Recommendations:**

1. The Department should enforce purchasing policies and procedures to hold Forest Service management accountable.
2. The Department should retrain all applicable Forest Service employees on its purchasing policies and procedures.
3. Each Region should create written policies and procedures to standardize purchasing process and project management at the District level.

**Response:** Contracted services included tree planting, fuel mitigation and timber-stand improvement. Competition is extremely high because the work NCFS solicits is very seasonal, somewhat inconsistent, and relatively small in scope. Additionally, some contractors, particularly for tree planting, are transient and rely on word of mouth for work opportunities. Electronic solicitation of their services through the Interactive Purchasing System (IPS) is difficult and somewhat prohibitive. As a result, the Department and NCFS developed procedures that worked to ensure competition among known contractors. After an extensive review of Forestation contracting procedures, NCFS has decided to discontinue this service to landowners as of November 28, 2017.



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The Honorable Beth Wood  
December 4, 2017

**Finding Item #2:** Purchasing files did not contain required proof of insurance resulting in potential increased liability for the Forest Service.

Recommendations:

1. The Department should enforce the insurance requirement in the agreement by requiring the Forest Service to provide proof of insurance with each agreement before a contract is signed and work begins.
2. The Department should ensure that all signed agreements include proof of insurance.

Response: NCFS procedure and the contract agreement did not specify that proof of insurance must be obtained for each job and that contractors must obtain a new certificate each year. This lack of specificity was compounded by turnover in the positions administering the program. NCFS has issued a memorandum to all applicable employees and is reviewing its contract administration training materials to ensure that all potential individuals are reached.

Sincerely,



Steven W. Troxler  
Commissioner

# ORDERING INFORMATION

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This investigation required 352.5 hours at an approximate cost of \$36,307.50.