

**SOUTH CAROLINA HIGHER EDUCATION EFFICIENCY
AND
ADMINISTRATIVE POLICIES ACT OF 2011**

**Changes to Procurement
(What the Act Does Not and Does Do)**

On August 1, 2011, the South Carolina Higher Education Efficiency and Administrative Policies Act of 2011 (the "Act") became law. Among other things, the Act contains modifications to State law affecting procurement and construction project approval. This document addresses the nature and scope of the changes to procurement and construction. For clarity, Higher Education Institutions, as used in this document, means all public colleges, universities, and technical colleges.

I. What the Act DOES NOT Do with Respect to Procurement¹

A. Procurement Certification: The Act does not increase any Higher Education Institution's procurement certification level.

B. Small Procurements: The Act did not raise the \$50,000 cap on small procurements.

C. Procurement Cards: The Act does not authorize Higher Education Institutions to use the p-card for expenditures prohibited by the State P-Card Policy. Prohibited expenditures include but may not be limited to:

1. Personal purchases of any kind (Personal purchases are defined as purchases of goods or services intended for non-work related use or use other than official State business).
2. Cash advances including use of the card or card number at Automated Teller Machines (ATMs), inside bank branches or at cash advance, quasi-cash and money transfer locations such as Western Union, Telecheck, etc.
3. Gift cards, stored value cards, calling cards, pre-paid cards or similar products.
4. Employee travel expenses, including lodging, transportation (except airline tickets), and meals.
5. Entertainment, including in-room movies.
6. Alcoholic beverages.
7. Tobacco products.
8. Fuel, repairs, and maintenance of State-owned or rental vehicles. Many of these purchases may be made with the State Fuel Credit Card, an alternate program.
9. Professional services.
10. Food for consumption by State employees.

For an all inclusive list of prohibited P-Card expenditures, consult the state's P-Card policies and procedures manual at http://www.mmo.sc.gov/webfiles/MMO_spo/Contracts/ProcCardRev.pdf.

¹ The Permanent Improvement Project establishment and approval process is not a procurement process and is not addressed in this document. However, Higher Education Institutions should be aware that not all PIP levels were raised, e.g. see the \$500,000 level for new construction. Questions concerning the new PIP limits for Higher Education and the PIP approval process should be addressed to the Capitol Budgeting Unit of the B&CB.

D. Small Architect-Engineer Procurements: The Act does not change the small procurement limits for Architect-Engineer procurements under SC Code Ann § 11-35-3230.

E. Indefinite Delivery Contract Expenditure Caps: Not all Higher Education Institutions are automatically granted authority to use higher expenditure caps on their Indefinite Delivery Contracts.

F. Multi-State Cooperative Contracts (Article 19 of the Code): The changes to Section 11-35-4810 remove some impediments to cooperative purchasing, but they do not grant Higher Education Institutions either an exemption from the Code or blanket authority to join multi-state cooperative contracts. Higher Education Institutions and Agencies can only participate in cooperative purchases approved by the Office of State Procurement that are sponsored by a public entity, and any participation is subject to the other provisions of the Procurement Code, including certification and the procurement processes required by the Consolidated Procurement Code.

II. What the Act Does Do with Respect to Procurement

A. Higher Education Institutions Divided Into Two Categories: Without attempting to define these groups or add to the statutes, the Act generally addresses two categories of Higher Education Institutions: the Technical Colleges and all other Colleges & Universities. For Colleges & Universities, the increases to the bidding thresholds, procurement card single transaction limits, and expenditure caps are made by statute. For Technical Colleges, these changes require approval of the State Board for Technical and Comprehensive Education (“State Tech. Board”).

B. Technical Colleges May Seek \$50,000 Increase in Procurement Certification (§ 11-15-1210): The Act authorized the State Tech. Board to increase a Technical College’s procurement authority by a cumulative total of \$50,000, subject to a favorable review by the Materials Management Office and a current procurement audit showing no material audit findings. Administratively, these grants of additional authority are effective upon issuance of a revised procurement certificate. Any such additional authority is subject to all other rules governing procurement certification. For example, certification is subject to use of statewide term contracts [R. 19-445.2020(B)(1)], may be suspended by a CPO [Regulation 19-445.2022], and may be removed by the Budget and Control Board.

C. Small Procurements (§ 11-15-1550): Colleges & Universities, and all Technical Colleges approved by the State Tech. Board, may make procurements up to \$10,000 without competition or advertisement, provided the price is certified as fair and reasonable by the procurement officer. However, all other small purchase procedures apply. For example, procurement requirements may not be artificially divided so as to constitute a small purchase, and applicable statewide term contracts must be used, even for procurements beneath the \$10,000 bidding threshold.

The following chart outlines the revised limits for small procurements, including construction:

Code Section	Procurement Method	All Agencies – Current Limits	Colleges & Universities – New Limits	Technical Colleges – New Limits	In-State Preferences / 11-35-1524
11-35-1550(2)(a)	Fair & Reasonable	Up to \$2,500.00	Up to \$10,000	Up to \$10,000, if authorized by State Tech. Board. <i>[P-Card may be used for these transactions “up to the amount approved” by the Tech Board.]</i>	Inapplicable
11-35-1550(2)(b)	Written Quotes	\$2,500.01 to \$10,000.00	Inapplicable	Variable: applicable to purchases above amount authorized by State Tech. Board and less than \$10,000.01.* <i>[P-Card may be used for these transactions “up to the amount approved” by the Tech Board.]</i>	Inapplicable
11-35-1550(2)(c)	Written Request for Quotations, advertised in SCBO	\$10,000.01 to \$50,000.00	\$10,000.01 to \$50,000.00	\$10,000.01 to \$50,000.00	Applicable

**Example: If the State Tech Board grants a college authority to use the “Fair and Reasonable” small purchase procedure up to \$8,000, then the “Written Quotes” small purchase procedure would apply for that technical college to procurements of \$8,000.01 to \$10,000.*

D. Procurement Card Management: For Colleges & Universities, the Act authorizes each institution’s governing board to approve increases in the single-transaction limits for their P-Cards, up to \$10,000. For Technical Colleges, the Act authorizes the State Tech. Board to delegate administrative approval of increases in the single-transaction limits up to \$10,000 to specific colleges. For both types of institutions, the level at which an individual organization is authorized to use its P-Card is not tied to the level at which that organization is authorized to use the “fair and reasonable” small purchase procedure; these limits may be set separately. More importantly, different single-transaction P-Card limits may be authorized for different individual users.

E. Changed Expenditure Caps on Indefinite Delivery Contracts (§ 11-35-3310): The Act increases the IDC expenditure caps for all Colleges & Universities and for all Technical

Colleges approved by the State Tech. Board. This change does not elevate the procurement certification for any Higher Education Institution. Please remember, all IDC contract awards must be approved by the State Engineer's Office. The maximum expenditure caps allowed by the Act are set forth in the tables below.

Construction IDCs - Summary of Change Chart

	Individual Project Cap	Total Expenditure in 2 years
Current Threshold	\$150,000	\$750,000
Colleges & Universities	\$250,000	\$1,000,000
Technical Colleges*	\$250,000	\$1,000,000

* Only applies to "technical college service contracts authorized by the" State Tech. Board. The State Tech. Board may elect to authorize a particular college to award all its Construction IDCs to that level. Alternatively, the State Tech. Board could elect to approve only categories of IDCs, or could elect to approve each contract.

A/E IDCs - Summary of Change Chart

	Individual Project Cap	Total Expenditure in 2 years
Current Threshold	\$100,000	\$300,000
Colleges & Universities	\$200,000	\$500,000
Technical Colleges*	\$200,000	\$500,000

* Only applies to "technical college service contracts authorized by the" State Tech. Board. The State Tech. Board may elect to authorize a particular college to award all its A/E IDCs to that level. Alternatively, the State Tech. Board could elect to approve only categories of IDCs, or could elect to approve each contract.

Small A/E IDCs² - Summary of Change Chart

	Individual Contract Cap	Total Expenditure in 2 years
Current Threshold	\$25,000	\$75,000
Colleges & Universities	\$50,000	\$150,000
Technical Colleges*	\$50,000	\$150,000

* Only applies to "technical college delivery contracts authorized by the" State Tech. Board. The State Tech. Board may elect to authorize a particular college to award all small A/E IDCs to this level. Alternatively, the State Tech. Board could elect to approve only categories of small A/E IDCs.

F. Multi-State Cooperative Contracts (Article 19 of the Code): Provided a cost savings is demonstrated to the Office of State Procurement, the Act removes the requirements that thirty days notice of a proposed multi-state solicitation must be provided through central advertising and that such contracts may be only awarded to manufacturers who will be distributing the products to South Carolina governmental bodies through South Carolina vendors. All other requirements of Article 19 of the Consolidated Procurement Code still apply.

² Please note that while the Small Architect-Engineer limit increased for IDCs, the Act did not change the small Architect-Engineer procurement limits under SC Code Ann § 11-35-3230.