



***Luzerne County Correctional Facility
Kitchen Goods Procurement Analysis
for the Period
January 2012 to December 2012***

Fieldwork Performed by:

Patricia J. Llewellyn

Marty Moughan

Evelyn Rowles

Supervised by:

Walter L. Griffith, Jr.

February 11, 2013

Objective and Scope:

The Luzerne County Controller's Office has reviewed the Luzerne County Correctional Facility's kitchen invoices and each vendor's documentation for the following: coffee, bread, dairy products, fresh and frozen foods, meats, paper products, groceries and non perishables for the period January 1, 2012 thru December 31, 2012. The focus of our analysis was to determine if each item purchased was on the facility's menus. In addition our testing was designed to determine if the proper vendors with the appropriate bids are being utilized. Finally we determined if the facility is purchasing these items from the lowest bidder.

The Luzerne County Controller's Office strives to objectively and systematically evaluate, functions, procedures and activities to ensure that each are executed in the best, most efficient way. Our goals are to achieve the most value for each dollar spent, and make the best use of resources available by fostering ideas and to help implement those which maximize efficiency, economy and effectiveness. Our reviews are tailored to the unique circumstances of each office, and we work with management to ensure accountability.

The Controller's Office recognizes that the ordering, receiving, planning and preparation of over 1,800 meals a day, 7 days a week, in a safe, monitored and secure way, is a monumental task. All of the individual contributors which make this happen are to be commended for their dedication and hard work. Our sole focus is to ensure that the entire process follows the Purchasing and Acquisition Procedures set forth by the Charter.

The Luzerne County Controller's Office is authorized by the Home Rule Charter of Luzerne County (Herein after referred to as the Charter) Section 3.08 to conduct fiscal, performance, management, contract, grant, compliance and related audits of any County division, bureau, office, agency, board, commission, elective office, the Judiciary, Office of Court Administration or other administrative office. This review is an internal function, authorized by the Charter therefore the Controller is required to transmit to the Manager of Luzerne County and County Council and post for public inspection in the Controller's Office and on the County website and/or other electronic medium for a period of at least 60 days after it is issued. The Controller will also follow up on any recommendations, to the extent practical, in order to determine if they have been considered and/or implemented by the County Manager.

Auditors assigned to the engagement are employed by Luzerne County under the Controller's Office and report directly to the elected Controller. The audit staff is considered organizationally independent to conduct and report on the audit.

Methodology:

In order to ascertain whether each item purchased was found on the facility menus we reviewed vendor invoices and other records provided for our review and compared what was purchased to the items on the menus supplied by the prison kitchen manager.

We tested to see if the successful low bidder for each item bid was used in procuring the item. We used a spreadsheet supplied by Luzerne County's Office of Procurement which listed the items put out for bid and all bids submitted. The list was then reduced to show the lowest bidder for each item. Using that information, we canvassed vendor invoices and reports to verify if any vendor other than the low bidder supplied the items.

We believe that the data obtained provides a reasonable basis for our opinion.

Description:

Section 6.09 of the Home Rule Charter requires that purchases in excess of \$25,000.00 shall be competitively bid and awarded to the lowest bidder. Items over \$2,500.00, but less than the minimum for competitive bidding, require at least three written, telephonic or electronic price quotes. Procedures that are outlined in the Luzerne County Purchasing Policy require bidders to include a bid bond of 10 percent of their respective bid and if awarded the contract, provide a 50 percent performance bond for the duration of the contract. In the event the awarded bidder fails to perform under the contract requirements and the County incurs additional cost to obtain that item, the County has recourse against the vendors' performance bonds.

The County's Office of Procurement requests bids from vendors for the operation of the Prison's Kitchen twice annually. The bids are publicly opened, reviewed for compliance with the bid procedures and the contract for each item is awarded to the lowest bidder. In 2012 the Prison spent approximately \$900,000.00 on kitchen and grocery items. The 2013 budget includes \$950,000.00 for the same expenses. Currently the Luzerne County Correctional Facility utilizes several vendors with successful bids for kitchen groceries and supplies.

The purchase of all items for the Luzerne County Correctional facility's kitchen is managed by a Non-Union Management Corrections Officer, herein referred to as the Prison Kitchen Manager, who is under the direction of the Luzerne County Prison Warden. The Warden is responsible to the County Manager.

Once the contract is awarded, the Office of Procurement provides a listing of the successful bidders for each item to the Prison Kitchen Manager. The Prison Kitchen Manager forwards a Purchase Requisition to the Office of Procurement for the total amount to be purchased from each vendor on a monthly basis. The Office of Procurement completes a purchase order for the amount requested and upon approval, submits the purchase order back to the Prison. The Prison Kitchen Manager is solely responsible for the items ordered from each vendor. Upon delivery, all items are checked with the packing slip and the items are inventoried, and then placed in storage until needed. The invoices are forwarded to the Office of Procurement and attached to the appropriate approved purchase order. The invoices are forwarded to the accounts payable department to be paid.

Opinion and Conclusion:

In our opinion, the Luzerne County Correctional Facility's kitchen grocery and supply purchases are not performed in compliance with the Purchasing and Acquisition procedures contained in the Home Rule Charter and the Luzerne County Purchasing Policy due to the lack of bidding of items that have exceeded the minimum threshold stated in the Charter of \$25,000.00, as well as, the items that require telephonic quotes from three vendors prior to purchasing of these items.

Testing Methodology:

- We interviewed the Interim Director of the Office of Procurement, staff members and prison personnel to identify the business processes and reviewed the County's Purchasing and Acquisition procedures.
- We reviewed 12 months of kitchen vendor invoices and vendor reports for purchases from January 1, 2012 through December 31, 2012 for the following vendors: Benjamin Foods, Bimbo Bakery, Blue Ribbon Dairy, D W Richards, Karetas Foods, Keyco Distributors, Lucas Farms Produce, Inc. and Schiff's Foods.
- We obtained the bid sheets prepared by the Office of Procurement in order to identify and verify the lowest bidder was awarded the items through the contract award process.
- We reviewed the quantities provided to the vendors, for which they bid, to ensure limits were adequate and not over or under stated.
- We calculated the amounts of the contract awards to ensure accuracy and adequate performance bonds were obtained.
- We reviewed the prison's vendor invoices and vendors' documentation and compared them to the bid spreadsheets from the Office of Procurement to ensure items were purchased in compliance with the contract and County Purchasing and Acquisition Procedures.
- We verified if the items purchased were included on menus provided by the prison. The prison maintains a regular menu, as well as, vegetarian, special diet and Holiday menus.
- We performed testing to ascertain if each item purchased was from the vendor awarded the item through the bid process.

Findings and Recommendations:

1. **Finding** - One prison management employee is solely responsible for ordering kitchen groceries and supplies. We identified 25 “grocery and non-perishable” items that were awarded by contract to one vendor and purchased from another vendor. Due to the manner in which the purchase orders are created and approved, these items appear on the purchase order for the incorrect vendor and appear to not be properly approved.

Response to finding #1: Recognized as past practice that the kitchen supervisor was only responsible for ordering groceries and supplies. Further, certain items were purchased outside the bidding process.

Recommendation – The County Manager should direct the Division Head to establish and approve policies and procedures for kitchen and grocery orders and purchases. The County Manager should arrange for the Controller’s Office, Office of Procurement and Warden to establish a policy and procedure to ensure the bidding, purchasing and purchase ordering processes can not be circumvented to procure items not bid, not approved by purchase order or purchased from a vendor other than awarded in the contract.

Response to recommendation #1: The prison agrees with recommendation #1 and will develop a hierarchy for ordering goods and supplies for the prison kitchen. This plan shall be provided to the county manager for review. No goods will be purchased outside the bidding process.

2. **Finding** - We found 44, or 18%, of the items purchased were from vendors other than the one which was awarded the contract. The prices paid for these items were both higher and lower than the awarded price. In addition, some of these items were not included as being served on the menu. Purchases made through a vendor, other than the vendor to which the contract was awarded, could create breach of contract issues and affect the vendor’s performance bond.

Response to finding #2: The prison recognizes these finding but in some instances the awarded bidder was unable to honor the contract and the union would notify the next lowest bidder. Any difference in contract price would be paid from the bid bond of the original vendor.

Recommendation - The prison should be required to determine, and notify the Office of Procurement, the reason items are being purchased from vendors other than those awarded the contract. In the event the vendor is unable to provide the item, a policy should be adopted to have the prison formally notify the Office of Procurement to ensure the action is documented and the County is reimbursed through the vendor’s performance bond. In addition, the County Manager should not permit the ordering of items not served to the general prison population, and place restrictions and penalties on this practice immediately.

Response to recommendation #2: The prison agrees with recommendation #2 and will implement a policy consistent with this recommendation.

3. **Finding** - We identified 24, or 9%, of the items purchased were placed for bid, but were not on the menu. The cost to purchase these items totaled approximately \$21,000.00 for 2012. Discussions with prison kitchen personnel, indicated that some items were allowed by the Prison Kitchen Manager to be special ordered to meet the requests of the 13 inmate cooking staff. These items were used in preparation of meals for the inmate cooking staff and some prison management employees. Including such additional items in the bidding process, overstates the amount of bid and performance bonds that must be provided by the vendors, and may preclude some vendors from the bidding process.

Response to finding #3: The prison recognizes these findings.

Recommendation - The Warden, Prison Kitchen Manager and the Office of Procurement should review the bid sheets and ensure items not on the menu are removed from the bidding process to avoid overcharging the vendors for bid and performance bonds. The policies and procedures should regulate the ordering of items not served to the general prison population, and place restrictions and penalties on this practice immediately. In addition, we believe that only those items which are being used, served and consumed by the inmates should be purchased by the prison. If management decides that the prison staff should have meals furnished by the facility kitchen, and paid for by the County, we recommend meals which are available to the inmates should be available to the staff to reduce costs to the County.

Response to recommendation #3: The prison agrees with recommendation #3 and shall develop a policy to initiate these recommendations which will be provided to the county manager for review.

4. **Finding** - We noted the prison purchased several items that were not bid and not listed as being served on the menu. Purchases for these items for 2012 totaled \$23,000.00. At times these items, such as cereal, were more expensive than the items awarded in the contract and listed on the menu. Discussions with prison kitchen personnel, indicated that some items were allowed by the Prison Kitchen Manager to be special ordered to meet the requests of the 13 inmate cooking staff. These items were used in preparation of meals for the inmate cooking staff and some prison management employees. These items are not included in the vendor's performance bond.

Response to finding #4: The prison recognizes these findings.

Recommendation - The Prison Administration should review the items that were not bid and not on the menu to determine if the items are permitted to be purchased by the Prison Kitchen Manager. If approved, these items must be placed for bid according to the County Purchasing and Acquisition Procedures. In addition, the Office of Procurement and prison should review the Bid Specifications prior to the advertising of bids, to be certain that the items that are required to provide meals to the prison inmates are advertised in the correct quantity. If management decides that the prison staff should have meals furnished by the facility kitchen, and paid for by the County, we recommend

meals which are available to the inmates should be available to the staff to reduce costs to the County.

Response to recommendation #4: The prison agrees with recommendation #4 and shall develop a policy to initiate these recommendations which will be provided to the county manager for review.

5. **Finding** - We found the prison purchased orange juice, however, did not place the item out for bid. The total purchased for 2012 was approximately \$47,000.00. The Purchasing and Acquisition Procedures in the Home Rule Charter state contracts for purchases and acquisitions in excess of \$25,000.00 shall be competitively bid.

Response to finding #5: The office of procurement agrees with these findings.

Recommendation - The Office of Procurement should review the items being purchased by the prison and ensure all items that meet the requirements of the Home Rule Charter and County Purchasing and Acquisition Procedures are included in the bidding process.

Response to recommendation #5: The office of procurement agrees with recommendation #5.

6. **Finding** - We identified 11 items awarded by the Office of Procurement, and approved by the County Manager, to a vendor that was not the lowest bidder for the contract period 11/5/11 to 5/5/12. The Purchasing and Acquisition Procedures in the Home Rule Charter state the items shall be awarded to the lowest responsible bidder.

Response to finding #6: The office of procurement agrees with recommendation #6 but not all lowest bidders were lowest responsible bidder.

Recommendation - The Office of Procurement should not open bids or recommend the lowest responsible bidder. The Controller's Office, in conjunction with the Office of Procurement, should be responsible for opening all bids and tabulating all totals to ensure separation of duties between the County Manager and the Office of Procurement. This will ensure all items bid are awarded in a contract to the lowest responsible bidder. Policies should be established to ensure management approval is obtained prior to awarding the contract items to a particular vendor.

Response to recommendation #6: The Controller's Office will be invited to attend all bid openings and observe the tally of the results.

7. **Finding** - We found 36 items that were placed for bid, awarded to a vendor in a contract and were not purchased. Awarding items that won't be purchased overstates the amount of the performance bond to be provided by the vendor. The items bid and not purchased totaled over \$79,000.00 which required an additional \$39,000.00 be provided by the vendors in the performance bonds.

Response to finding #7: The prison recognizes these findings.

Recommendation - The prison and Office of Procurement should ensure the items listed for bid and awarded will be purchased by the Prison during the contract period. The Prison and/or Office of Procurement should contact the vendors at the end of the contract term to determine the items and quantities purchased. The bid sheets should be modified to include those items and amounts for the next contract period to avoid overstating the amounts of bid and performance bonds required.

Response to recommendation #7: The prison and office of procurement agree with recommendation #7 and will implement a policy consistent with these recommendations.

8. **Finding** - We observed instances where items were included on the bid sheets at quantities greater than the purchases made during the contract term. The practice of including excessive quantities for items in the bidding process overstates the amount of bid and performance bonds that must be provided by the vendors and may preclude some vendors from participating in the bidding process.

Response to finding #8: The prison recognizes these findings.

Recommendation - The Office of Procurement and/or the Prison Kitchen Manager should contact the vendors at the end of the contract term to determine the items and quantities purchased. The bid sheets should be modified to include those items and amounts for the next contract period to avoid overstating the amounts of bid and performance bonds required.

Response to recommendation #8: The prison and office of procurement agree with recommendation #8 and will implement a policy consistent with these recommendations understanding that discrepancies in the amount of goods bid and goods purchased may fluctuate due to fluctuation in prison population.

9. **Finding** - We noted that the bid sheets provided by the Office of Procurement were created in Microsoft Excel, however, values were entered instead of formulas to calculate the totals for each item. We entered formulas and found the values entered were incorrect in some instances. In addition, the amounts listed as the awards to various vendors were inaccurate, which affected the amounts of performance bonds provided by the vendors. We addressed the errors with the Office of Procurement's Interim Director and formulas were added to the spreadsheet to correct the errors for the next contract period.

Response to finding #9: The office of procurement recognizes these findings.

Recommendation - The Controller's Office, in conjunction with the Office of Procurement, should be responsible to open all bids and tabulate the results, to ensure the bid totals are accurate, and therefore provide adequate oversight on the bid process, in addition to having the vendors provide the correct amount for their performance bonds.

Response to recommendation #9: The Purchasing Office will add language to the bid documents stating “All bid totals must be computed accurately or the bid will be rejected”. This will address the errors in the vendors’ math. The Purchasing Office is also considering sending the vendors the bid sheet in electronic format for their completion.

Controller’s Office:

Walter L. Griffith, Jr., Controller

Patricia J. Llewellyn, Senior Auditor

Martin G. Moughan, Auditor

Evelyn Rowles, Auditor

County Manager:

Robert C. Lawton, County Manager

Prison:

Deputy Warden James Larson

Office of Procurement:

Michele Sparich