



Johnson County Auditor
Johnson County, Kansas
Memorandum Report

September 14, 2006

**Review of Exceptions to
Competitive Procurement**

County departments were in general compliance with purchasing policies



Johnson County Audit Services

September 14, 2006

To: The Johnson County Board of County Commissioners
County Manager

In accordance with the approved 2006 audit plan, we initiated an audit of the use of sole source procurements and purchases made as exceptions to competitive procurements. Our objectives were to determine compliance with County policies for awarding sole source contracts and exceptions to competition, and to evaluate decisions made and reasonableness of rationale for using sole source or exception to competition contracting procedures.

County purchasing policy, Section 110.165, requires competitive bidding on all purchases estimated to be valued at more than \$10,000. "Exceptions to competition" are allowed based on circumstances defined in the policy. Each exception must be approved by Purchasing and, depending on the dollar level of the purchase, the County Manager or the responsible governing board. "Sole source" procurements are one of the exceptions to competition. They are made when a vendor is the only source of a particular item.

An analysis of sample survey results showed small numbers of transactions falling in these areas and general compliance with the County's purchasing procedures for requesting approval for sole source and exceptions to competition procurements. Additionally, the control procedure for reviewing these requests, based on our sample, was effective. The rationale used by agencies to request sole source procurement and exceptions to competition were generally adequate. Based on these results, we terminated the audit at the survey stage.

A minor deficiency was noted when we asked for a listing of sole source and exception to competition purchases. The Oracle purchasing system has a code structure for identifying sole source and exception requests. When responding to our request, the Purchasing Manager discovered that purchasing staff were not consistently using these codes when entering the purchase information. As a result, we were not able to ensure that all of the sole source and exception request purchases were reported to us. The Purchasing Manager took immediate corrective action and as a result no recommendation is required.

Discussion

Purchasing policies govern use of sole source and exceptions

County policy requires open and competitive procurement for County purchases. Section 110.165 of the County's Office of Financial Management purchasing manual requires open and competitive procurement for all purchases over \$10,000 with varying rules for documentation to prove open competition depending upon the dollar value of the procurement.

County policy also recognizes there will be circumstances where sole source purchasing is necessary. Section 110.180 of the purchasing manual sets the rules and responsibilities for approving sole source purchases. Specifically, departments must request approval for sole source and exception to competition purchases, and the Purchasing Manager is responsible for validating the need for sole source or the exception. The County Manager has the approval authority for all such purchases valued up to \$100,000 and the Board of County Commissioners is the approval authority for such purchases over \$100,000.

The Purchasing Manager established a formal procedure for processing requests for sole source procurement and exceptions to competition. Standard forms are used which include questions the department staff must answer. Documentation supporting the request must also be submitted. According to the Purchasing Manager:

Purchasing has taken the position that unless the purchase meets the specific definition of "sole source" as described in the procedures that we will not allow a sole source exception. We will require the department to attempt to obtain valid competition and we recommend posting the bid request on DemandStar Quote Wire[®] as the best way to quickly do the competitive process. The other route is to process the purchase as an exception to competition under one of the several reasons permitted by policy and procedures.

When a sole source on rare occasion is processed through Purchasing, we require documentation from the department supporting the request. We then weigh the reasons and determine if it is a sole source, or whether it should be processed as an exception or if competition can be obtained. If Purchasing agrees that the purchase is a legitimate sole source per procedures, the Purchasing Administrator will place a cover sheet recommending that it be purchased as a sole source. The Purchasing Administrator then signs off and sends it to me to sign off on. The request then goes to the County Manager to approve if under \$100,000 or if over that threshold it goes to the BOCC on a briefing sheet.

Audit Methodology

To accomplish the audit objectives we interviewed staff and management to gain an understanding of procedures, and we reviewed:

- Policies and procedures for compliance with County policies and applicable laws, rules and regulations
- Management and internal controls
- Supporting documentation and rationale for not competitively bidding contracts
- Purchasing division policies, procedures, and practices for oversight of sole source and requests for exception to competition

We identified all sole source purchases requiring BOCC approval (purchases over \$100,000) for the period 2002 through 2005. We attempted to obtain sole source purchases (less than \$100,000) for the period January 2004 through December 2005. Additionally, we selected five County departments and asked them to provide documentation for all sole source and exceptions to competition requests. We validated the vendors and reviewed the justifications for the requests. We verified the control procedures used by the Purchasing Manager.

Audit tests confirm general compliance with purchasing procedures

We identified and reviewed 34 sole source and exception to competition requests for the period January 2002 through December 2005. However, we cannot attest to whether there were only 34 during that period because purchasing staff was not consistently coding the purchases in the automated system as sole source or requests for exception. Consequently, the Purchasing Manager had to have the buyers search their files and recollection for the items we reviewed. The Purchasing Manager took corrective action to get better coding of the purchases. Beginning in January of 2006, he instructed all of the Buyers to examine the flex field choices carefully and pick the most accurate code that fits the purchase order being processed. He stated he has made it a point to continue to emphasize this requirement at Purchasing staff meetings.

Based on documentation available, interviews, and independent checks, we determined the departments generally complied with the provisions for justifying and requesting non-competitive procurement action. The purchasing division took action on requests and either approved them or rejected them. In one instance, the request was denied and purchasing division staff advised the department of available alternatives. Nothing came to our attention during our review that warranted further review.

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County Auditor

The following auditor contributed to this report:

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