

STATE OF TENNESSEE

LIMITED REVIEW OF THE
OFFICE OF SHERIFF,
FINANCIAL MANAGEMENT COMMITTEE
AND
FINANCE DIRECTOR
SUMNER COUNTY, TENNESSEE

FOR THE PERIOD JULY 1, 2003
THROUGH JUNE 30, 2005



COMPTROLLER OF THE TREASURY

Division of County Audit

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AND
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**COMPTROLLER OF THE TREASURY
DIVISION OF COUNTY AUDIT**

TABLE OF CONTENTS

Transmittal Letter	1
Office of Sheriff:	
Findings and Recommendations, Management's Response and Rebuttal	3
Office of Financial Management Committee and Finance Director:	
Finding and Recommendation, Management's Response and Rebuttal	13
Office of Finance Director:	
Finding and Recommendation, Management's Response and Rebuttal	15
Sheriff's Response	Appendix A
Finance Director's Response	Appendix B



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF COUNTY AUDIT
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September 22, 2005

To the Sumner County Executive,
Sheriff, Financial Management Committee, Finance Director,
and Sumner County Board of County Commissioners
Sumner County, Tennessee

As a result of certain allegations this office received concerning the Sumner County Office of Sheriff, we conducted a limited review of the Sheriff Department's operations for the period July 1, 2003 through June 30, 2005. This limited review included purchasing procedures, a telephone contract, the construction of a maintenance garage, administration of drug control funds and certain internal control procedures. We reviewed findings concerning these five areas with the sheriff. These findings together with our recommendations, the sheriff's responses to the findings and recommendations and our rebuttal to the sheriff's responses are presented in this report.

During our examination of the sheriff's office, we noted that purchasing in the finance office was not being conducted in compliance with provisions of the private act and drug control funds were not being accounted for in a special revenue fund as required by state statute. We reviewed findings concerning these two areas with the County Executive, chairman of the Financial Management Committee, Finance Director and County Attorney. These findings together with our recommendations, the Finance Director's responses to the findings and recommendations and our rebuttal to the Finance Director's responses are presented in this report.

Sincerely,

Richard V. Norment
Assistant to the Comptroller
Division of County Audit

RVN/sb

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OFFICE OF SHERIFF,
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AND
OFFICE OF FINANCE DIRECTOR
SUMNER COUNTY, TENNESSEE
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As a result of certain allegations this office received concerning the Sumner County Office of Sheriff, we conducted a limited review of the Sheriff Department's operations for the period July 1, 2003 through June 30, 2005. This limited review included purchasing procedures, a telephone contract, the construction of a maintenance garage, administration of drug funds and certain internal control procedures.

During our examination of the sheriff's office, we noted that purchasing in the Finance Office was not being conducted in compliance with provisions of a private act and drug control funds were not being accounted for in a special revenue fund as required by state statute. Therefore, we extended our limited review to include these two items.

Findings and recommendations resulting from our limited review together with management's responses to our findings and recommendations and our rebuttal are presented below.

OFFICE OF SHERIFF

FINDING 05.01 **THE SHERIFF'S DEPARTMENT HAD DEFICIENCIES IN ITS PURCHASING PROCEDURES**

Background – Purchasing Procedures of Sumner County

On June 17, 2002, the Sumner County Commission approved a Financial Management System provided by Chapter 113, Private Acts of 2002. This act created a financial management committee consisting of the county executive, supervisor of highways, director of schools, and four members of the County Commission. This act also provided that the County Commission may authorize the financial management committee to assume the functions of a purchasing committee or the County Commission may by resolution create a purchasing committee. Sumner County has not created a purchasing committee; therefore, the financial management committee is charged with establishing and approving policies and procedures for the purchasing of all supplies, equipment, or goods for the county. Subsequent to the adoption of this Private Act, the financial management committee has not established and approved formal policies and procedures governing purchasing for the county. Instead, on June 17, 2002, the County Commission authorized the Highway Department to perform purchasing functions for the Highway Department as provided by Section 54-7-113, Tennessee Code Annotated (TCA), authorized the School Department to perform payroll, accounts payable, purchasing (provided by Section 49-2-203, TCA), budgets and ledgers for the School Department, and authorized the general county government to continue to operate under the same policies and procedures that were in effect prior to the adoption of the Private Act.

Also, this Private Act created a finance department with a finance director responsible for purchasing, accounting, budgeting, payroll, and cash management for all departments with certain exceptions as noted above for the Highway Department and the School Department. The finance director acts as the purchasing agent for the Sumner County general government under authorization of the Private Act. The Private Act provides that the financial management committee, with the assistance of the purchasing agent, shall establish a purchasing system for the county, and for the purchasing agent to review specifications and changes developed by individual departments to allow for maximum competition of prospective bidders; prepare formal and informal bids; collect sealed bids; open bids through a procedure open to the public; evaluate, compare and submit bids for approval by the financial management committee, if so deemed by the committee; issue purchase orders and contracts; and verify receiving the merchandise or service. The purchasing agent does not perform the purchasing functions noted above as provided in the Private Act; since each general government department performs its own purchasing functions. Instead, the purchasing agent (finance director) only performs the accounting and payment functions for the general county government and Highway Department.

Since Sumner County's Private Act does not provide a dollar amount requiring advertisement and competitive bidding, and the financial management committee has not formally adopted a dollar amount, public advertising provisions for the general government fall under the provisions of the County Purchasing Law of 1983, Sections 5-14-201 through 5-14-206, TCA, which provides that general government purchases in excess of \$5,000 are to be made after public advertisement and competitive bidding. The finance director advised that each department handles its own bidding and stated that written bids are required for items between \$2,500 and \$5,000, and that written bids with newspaper advertisements are required for items over \$5,000.

Purchasing – Office of Sheriff

The Sheriff's Department published a public notice twice a year in the local newspaper stating that the department is accepting bid proposals and/or price lists from vendors/merchants interested in providing products/services related to law enforcement use (the sheriff refers to this as bundle bidding). Examples of products/services would include but not be limited to food items, medications, uniforms, vehicles, vehicle parts-accessories, gasoline, oil, office supplies, furniture, copiers, computer hardware-software-data, telephone and radio communications, and jail supplies. From this advertisement the department created a vendor listing which varied from 10 to 20 vendors at various times. It appears that the department goes through this routine in an attempt to document some sort of competitive purchasing structure, but actually purchases items from any vendor it desires whether the vendor is on the vendor listing or not. The department may solicit quotes from vendors but usually does not publicly advertise for bids for specific items. During the period examined, documentation was on file to support the public advertisement for soliciting competitive bids in only one instance, the purchase of an automobile.

The following items were purchased by Sheriff's Department personnel and paid for through the county's General Fund without the solicitation of competitive bids through newspaper advertisement in compliance with state statute:

- A. Central Business Group was paid \$9,796.02 for a storage shelving system. No bids were received or solicited.
- B. Miracle Ford was paid \$25,770.79 for a 2005 Ford Escape. A deputy advised that he picked out this vehicle from the dealer's lot without competitive bidding.
- C. Paragon Total Solutions was paid \$29,786 for electronic fingerprinting equipment. Two quotations were obtained but no public advertisement was solicited.
- D. Rogers Market and Garden Center was paid \$9,195.30 for various trees, shrubs, and flowers. Two quotations were obtained but no public advertisement was solicited.
- E. Kay Uniforms was paid \$25,509.00 for bullet proof vests. Three quotations were obtained but no public advertisement was solicited.
- F. Sharp Communications was paid \$8,877.85 for light bars for patrol cars. Two quotations were obtained but no public advertisement was solicited.
- G. Martin Service Company was paid \$25,569.78 as the final payment for constructing a maintenance garage. Detailed documentation was not on file to support this disbursement. In addition to the \$25,569.78 payment from the General Fund, the contract with Martin Service Company included another payment of \$48,000 from a telephone contract which is discussed in Finding 05.02. This project was not bid or advertised.
- H. Perfect Fit was paid \$11,707.75 for uniforms. There were no quotations or bids solicited.

RECOMMENDATION

Sumner County has not adopted the purchasing provisions of its Private Act of 2002. Therefore, the Sheriff's Department should comply with the purchasing procedures of the County Purchasing Law of 1983, which requires purchases in excess of \$5,000 to be made after public advertisement and competitive bidding.

FINDING 05.02 DEFICIENCIES WERE NOTED IN THE OPERATIONS RELATED TO A TELEPHONE SERVICE CONTRACT

On October 15, 2001, the sheriff contracted with Global Tel*Link Company for an inmate telephone service to be in effect for four years. This agreement provided for the Sheriff's Department to receive remuneration of 30% of the gross revenue billed for all phones. The Sheriff's Department allowed the company to accumulate its monthly commissions in an escrow account until the department sent the company various invoices for the company to pay from this escrow account. In January 2005, the department renewed this telephone service agreement and was credited a signing bonus of \$100,000 into this escrow account plus raised the remuneration to 32% of gross revenue billed for all phones. From January 2002 through April 2005, the escrow account earned commissions of \$239,182.49 plus the \$100,000 signing bonus, a total of \$339,182.49. The company paid invoices for the Sheriff's Department totaling \$290,391.01 through April 2005. On June 29, 2005, Global Tel*Link remitted the balance of the escrow account (\$56,354.81, which included May 2005 commissions) to the Sheriff's Department and was instructed to remit the department's

commissions monthly. Below is a description of invoices paid by Global Tel*Link on behalf of the Sheriff's Department:

Cameron Sign Service - paid \$6,054.45 – painted hand lettered numbers in the detention area, tower, pod cell doors, exits, and gyms

Communications Group, Inc. - paid \$4,090 – several electronic items

Cornerstone Business Systems - paid \$32,528.75 – for 96 shelving sections for the jail

Garrott Brothers Continuous Mix - paid \$355.06 – concrete

InterACT Systems - paid \$30,212.70 - law enforcement records and jail management system – obtained quotes from Visionair \$126,099.30 and InterACT \$86,322 - During installation the department determined that the software was not adequate and cancelled the remainder of the contract. (See Paragon below)

Paragon Total Solutions - paid \$43,888 – the department stated that when they determined that the InterACT Systems contract noted above was not suitable and cancelled the contract that the department then contacted Paragon Total Solutions for a quote to compare with Visionair. The department chose the quote of Paragon Total Solutions

J.G. Bradleys - paid \$20,655.04 – printer paper, office supplies, printer cartridges

Kimbro Service - paid \$6,563 – obtained a quote from Derryberry Heating and Cooling for a two ton unit (\$5,900) and a quote from Kimbro Service for a three ton unit (\$6,563)

Locate Plus Corp. - paid \$824.89 – one year subscription service to help locate people

LPS Integration - paid \$35,133 – installed computer system, servers, copier, printer, workstation, and software

Martin Service Co. - paid \$2,272 – concrete forming, rebar, flagpole and steps

Martin Service Co. - paid \$48,000 as an advance on the department's maintenance garage project

Moore's Floor Covering - paid \$7,658.75 – carpet for the jail – one bid from Joey's Carpet (\$7,882.92) and two bids from Moore's Floor Covering (\$7,658.75 and \$5,560.50)

PC Mall - paid \$13,709.16 – for 15 computers, three laser jet printers, memory cards, one CPU, a digital camera, and various other items - a deputy stated that they compared prices available on the internet but kept no documentation

Pomeroy IT Solutions - paid \$8,777.67 – made up of \$6,617.79 and \$2,159.88 for computers, monitors, etc.

Sherwin Williams - paid \$1,956.05 – for 95 gallons of paint and painting supplies for the jail

Taser International - paid \$9,862.25 – for ten stun guns

Upbeat Inc. - paid \$2,570.24 – for three concrete rectangular tables

Volunteer Fence Co. - paid \$15,280 – for fencing at the maintenance garage- sheriff stated that he looked through the yellow pages for a fence company – this company had previously constructed a fence at the old impound lot

The following deficiencies were noted:

- A. The contract with Global Tel*Link Corporation was not entered into in accordance with the provisions of Section 7-51-904, Tennessee Code Annotated (TCA). This statute provides that a contract can only be entered into after being approved by a resolution of the County Commission.
- B. At the direction of the sheriff, Global Tel*Link Corporation used proceeds from the county's telephone commissions and signing bonus to purchase items totaling \$290,391.01 for the Sheriff's Department. Section 5-9-401, TCA, requires all county funds from whatever source to be appropriated by the county legislative body. These funds were not appropriated by the County Commission and were therefore not expended in compliance with Section 5-9-401, TCA.
- C. Many of the purchases made from this account exceeded \$5,000 and were not competitively bid. As noted in Finding 05.01, disbursements in excess of \$5,000 are to be publicly advertised and competitively bid in compliance with Sections 5-14-201 through 5-14-206, TCA.
- D. The office did not remit the revenues earned from its jail telephone operations to the county. The State Attorney General opined in November, 1989 (U89-134) that revenues earned from telephone operations are local revenues and should be administered as any other local revenue. Section 8-24-103, TCA, requires that all fees and commissions earned by the Sheriff's Department be remitted to the county on a monthly basis.

RECOMMENDATION

All contracts should be entered into in accordance with state statutes. All purchases for the Sheriff's Department should be made by the county's purchasing agent through the county's General Fund. In the absence of the county adopting the purchasing provisions of its Private Act, competitive bids should be solicited for all purchases estimated to exceed \$5,000, as required by the County Purchasing Law of 1983. Furthermore, all operating expenses of the office should be appropriated by the County Commission and paid through the county's budgetary process, and revenues generated from the operation of the jail telephone system should be remitted to the county on a monthly basis.

FINDING 05.03

THE SHERIFF DEPARTMENT'S MAINTENANCE GARAGE PROJECT WAS NOT ADMINISTERED IN COMPLIANCE WITH STATE STATUTES

Martin Service Company was paid \$73,569.78 for the construction of a maintenance garage for the Sheriff's Department. The sheriff advised that he went to the General Operations Committee of the County Commission for approval to build this maintenance garage and fund the construction project with the inmate telephone commissions/signing bonus and drug control funds. The sheriff stated that he talked to two vendors about the project; however, the project was not advertised in the newspaper, and neither party submitted formal bids. The sheriff chose Martin Service Company owned by Richard Martin who is the sheriff's brother's stepson-in-law. Martin Service Company received an advance draw of \$48,000 from commissions earned on the above noted telephone service contract, and a final payment of \$25,569.78 from the county's General Fund drug control account #55170-599-100. The sheriff advised that after the project was started, owner Richard Martin had to leave the state for an extended period, and that Jerry Vandercook, the sheriff's brother, supervised the project in Mr. Martin's absence.

Our audit revealed the following deficiencies concerning the maintenance garage:

- A. The sheriff did not publicly solicit competitive bids for the construction project. Sections 5-14-201 through 5-14-206, Tennessee Code Annotated (TCA), provide for all purchases exceeding \$5,000 to be publicly advertised and competitively bid.
- B. The sheriff did not employ a registered architect to design plans, specifications, and estimates for this project, as required by Section 62-2-107, TCA. This statute requires that a registered architect should be employed whenever construction contracts are estimated to exceed \$25,000.
- C. The sheriff did not employ a licensed contractor to construct or oversee this project, as required by Sections 62-6-102 through 62-6-103, TCA. These statutes require that a licensed contractor should be employed whenever construction contracts are estimated to exceed \$25,000.
- D. Documentation was not on file itemizing the building costs related to the \$73,569.78 project. Included in this project amount was an advance payment totaling \$48,000 to give the contractor operating funds to start the project.
- E. Martin Service Company did not have a business license, as required by Sections 67-4-701 through 67-4-729, TCA.

Since the county did not solicit competitive bids for the construction, did not employ a registered architect to design plans and specifications, did not employ a licensed contractor to construct or oversee the project, did not have a record of itemized building costs, and used a company that did not have a business license, auditors were unable to determine if the county received proper value for the funds it expended.

RECOMMENDATION

Competitive bids should be solicited on all purchases exceeding \$5,000, as required by state statute. A registered architect and a licensed contractor should be employed whenever construction contracts are estimated to exceed \$25,000. Itemized documentation should be on file to support the costs of the project. Payment should not be made on contracts in advance of services rendered. Sumner County should not contract with businesses which do not have a business license.

FINDING 05.04 **THE OFFICE HAD DEFICIENCIES IN THE** **ADMINISTRATION OF DRUG CONTROL FUNDS**

The following deficiencies in the administration of drug control funds were noted:

- A. The proceeds of goods seized, forfeited, and disposed under Sections 39-17-420 and 53-11-451, Tennessee Code Annotated (TCA), were not accounted for in a Drug Control Fund (Special Revenue Fund) maintained by the county. Instead, these proceeds were accounted for in the county's General Fund. Subsequent to year-end the county's contracted auditors extracted this drug activity from the General Fund and created a Drug Control Fund (Special Revenue Fund) for external financial reporting purposes.
- B. Forms documenting payments to confidential informants did not have the required signatures of two officers. The signature of the first officer is necessary to document that he made the payment, and the signature of the second officer is necessary to document that he witnessed the payment.
- C. Undercover drug agents did not receive funds from the county's General Fund drug control accounts for use in confidential undercover operations for the period July 1, 2003 through June 30, 2005. Instead, undercover agents received their funding (\$5,298) directly from forfeited funds awarded to the Sheriff's Department by the Tennessee Department of Safety and amounts paid by defendants to recover their confiscated property. Procedures established by the Comptroller of the Treasury related to cash transactions for undercover operations provide that in order to receive confidential undercover funds the sheriff should request those funds from the county executive, the executive would then issue the sheriff a check drawn on the Drug Control Fund, the sheriff would deposit the check into his checking account maintained for drug control funds, and checks would be drawn on his drug control fund checking account to obtain cash for confidential undercover investigations.
- D. During the period examined, drug funds were disbursed to pay for various recurring general law enforcement items totaling \$1,076 for a photo identification card (\$95), a babysitter (\$40) for a defendant, an interpreter (\$80), hardware (\$624), computer supplies (\$55), a camera and accessories (\$98), parking (\$19), and miscellaneous (\$65). These expenditures do not appear to meet any of the four criteria for the expenditure of drug funds. Section 39-17-420, TCA, states that drug control funds can only be expended for the following purposes: (1) the local drug enforcement program, (2) the

local drug education program, (3) the local drug treatment program, and (4) nonrecurring general law enforcement expenditures.

RECOMMENDATION

The county should account for the proceeds of goods seized, forfeited, and disposed of in a Drug Control Fund, special revenue fund. Forms documenting payments to confidential informants should be witnessed and signed by two officers. All funds awarded the Sheriff's Department should be deposited in the Drug Control Fund and disbursed in compliance with procedures established by the Comptroller of the Treasury. Drug funds should only be expended for items that comply with the criteria as provided by state statute.

FINDING 05.05 **THE OFFICE HAD INTERNAL CONTROL DEFICIENCIES**

The following internal control deficiencies were noted:

- A. The sheriff advised that he had purchased from his personal funds a set of steps for his family's van and had the steps installed by a private vendor. Subsequently, the sheriff had these steps on his personal vehicle adjusted by inmates at the Sheriff Department's maintenance garage. Furthermore, auditors were advised that inmates were permitted to wash and clean various county employees' personal vehicles. This service was provided at the maintenance garage using the county owned facility and county supplies. The inmates would personally receive compensation for this service from the county employee who owned the vehicle.

- B. The Sheriff's Department purchased tires in bulk on state contract from a local Goodyear store. The department stored 20 to 40 tires at the maintenance garage, and the Goodyear tire dealer (American Tire Center) stored an inventory of tires at its store for the department. The Sheriff's Department had no internal control procedures to track the tire inventory on hand at either location and relied on the Goodyear store to keep up with the Sheriff Department's inventory at its location. Generally accepted accounting principles require accountability for all county-owned assets. Without inventory records, the department cannot adequately control its assets.

RECOMMENDATION

The sheriff should not permit inmates to perform work on his or other county employees' privately owned property. The Sheriff's Department should maintain inventory records for all department-owned assets as required by generally accepted accounting principles. Furthermore, personnel independent of maintaining the inventory should periodically verify the inventory records.

MANAGEMENT'S RESPONSE - SHERIFF

The response of the sheriff to findings 05.01 through 05.05 have been included in Appendix A to this report.

REBUTTAL TO SHERIFF'S RESPONSE

This represents our rebuttal to the sheriff's response to the findings and recommendations found in Appendix A to this report. We have only rebutted those responses by the sheriff that related directly to the findings and recommendations presented in this report.

Rebuttal to Sheriff's Response to Finding 05.01

The practice of the sheriff's office to issue a "Public Notice" twice yearly asking vendors/merchants to submit bid proposals for products or services to be used in the day to day operation of the Sheriff's Department meets neither the letter of the law or the intent of the law. It does not create a competitive process. For instance, the public notice provides for bids to be submitted on vehicles. It does not state what type and size of vehicle. The public notice provides for bids to be submitted for computer hardware – software – data. It does not state what are the requirements for the computer hardware or what types of processes the software is to perform. Without adequate specifications of goods or services to be purchased, it is impossible for a vendor to make a truly competitive bid.

We realize that the county's failure to adopt purchasing procedures as provided for in the Private Act are beyond the sheriff's control. We have addressed the county's failure to adopt purchasing provisions of the Private Act in a separate finding of this report. However, the county's failure to adopt provisions of the Private Act does not prevent the sheriff from soliciting bids for purchases made for his department in compliance with state statute.

Rebuttal to Sheriff's Response to Finding 05.02

The sheriff in his response makes reference to an opinion of the state attorney general that states that a contract for the installation of a phone system in the county jail may be characterized as a lease of county property which is not subject to statutory bidding requirements. Our finding did not take issue with bidding the contract. Our finding dealt with the contract not being approved by the County Commission as required by state statute. The state attorney general, in the opinion the sheriff referred to, did state in the "Analysis" of the opinion that "The arrangement between the county and the phone company could therefore be fairly characterized as a lease of county property for county fiscal purposes". Section 7-51-904, Tennessee Code Annotated (TCA), states that "...any contract, lease, or lease-purchase agreement for any real property ... or for tangible personal property ... such contract, lease or lease-purchase agreement shall first be approved by resolution or ordinance duly adopted by the governing body of the municipality, and no such contract, lease, or lease-purchase agreement shall be entered into by a municipality without such approval."

The sheriff further states in his response that "Sumner County is not a municipality." Section 7-51-901, TCA, states that whenever used in this part "Municipality" means any

county or incorporated city or town of the state of Tennessee. Based on this definition, Section 7-51-904, TCA, applies to counties.

Rebuttal to Sheriff's Response to Finding 05.03

Our response here is to restate that the maintenance garage was not built in compliance with state statute. Competitive bids were not solicited, a registered architect was not used, and a licensed contractor was not used. Also, documentation was not on file itemizing building costs, and the company overseeing the construction did not have a business license.

In his response, the sheriff stated that the maintenance garage was built on a cost-plus basis. However, documentation was never presented to us itemizing the cost of the building, and we were not presented with a contract showing how much was to be charged above cost.

Rebuttal to Sheriff's Response to Finding 05.04

We realize that the county's failure to establish a separate fund for drug control transactions is not completely in the sheriff's control. We have addressed the county's failure to maintain a separate fund for drug transactions in a separate finding of this report.

We consider the expenses listed in part D. of the finding to be recurring operational expenses and therefore not permissible expenditures of the Drug Control Fund under state statute.

Rebuttal to Sheriff's Response to Finding 05.05

Anytime work is performed on private vehicles in a public facility, it raises questions of propriety. Therefore, we reiterate our recommendation that the sheriff not permit inmates to perform work on his or other county employees privately owned vehicles.

Documentation was not presented to us that any type of inventory of tires was being maintained. Based on our discussions it appeared the Sheriff's Department depended on the Goodyear Store to notify them when their inventory of tires was low.

**FINANCIAL MANAGEMENT COMMITTEE
AND OFFICE OF FINANCE DIRECTOR**

**FINDING 05.06 **SUMNER COUNTY DOES NOT COMPLY WITH THE
PURCHASING PROVISIONS OF ITS FINANCIAL
MANAGEMENT SYSTEM****

On June 17, 2002, the Sumner County Commission approved a Financial Management System provided by Chapter 113, Private Acts of 2002. This act created a financial management committee consisting of the county executive, supervisor of highways, director of schools, and four members of the County Commission. This act also provided that the County Commission may authorize the financial management committee to assume the functions of a purchasing committee or the County Commission may by resolution create a purchasing committee. Sumner County has not created a purchasing committee; therefore, the financial management committee is charged with establishing and approving policies and procedures for the purchasing of all supplies, equipment, or goods for the county. Subsequent to the adoption of this Private Act, the financial management committee has not established and approved formal policies and procedures governing purchasing for the county. Instead, on June 17, 2002, the County Commission authorized the Highway Department to perform purchasing functions for the Highway Department as provided by Section 54-7-113, Tennessee Code Annotated (TCA), authorized the School Department to perform payroll, accounts payable, purchasing (provided by Section 49-2-203, TCA), budgets and ledgers for the School Department, and authorized the general county government to continue to operate under the same policies and procedures that were in effect prior to the adoption of the Private Act.

Also, this Private Act created a finance department with a finance director responsible for purchasing, accounting, budgeting, payroll, and cash management for all departments with certain exceptions as noted above for the Highway Department and the School Department. The finance director is to serve as the purchasing agent for the Sumner County general government under authorization of the Private Act. The Private Act provides that the financial management committee, with the assistance of the purchasing agent, shall establish a purchasing system for the county, and for the purchasing agent to review specifications and changes developed by individual departments to allow for maximum competition of prospective bidders; prepare formal and informal bids; collect sealed bids; open bids through a procedure open to the public; evaluate, compare and submit bids for approval by the financial management committee, if so deemed by the committee; issue purchase orders and contracts; and verify receiving the merchandise or service. The purchasing agent does not perform the purchasing functions noted above as provided in the Private Act; since each general government department performs its own purchasing functions. Instead, the purchasing agent (finance director) only performs the accounting and payment functions for the general county government and Highway Department.

Since Sumner County's Private Act does not provide a dollar amount requiring advertisement and competitive bidding, and the financial management committee has not formally adopted a dollar amount, public advertising provisions for the general government fall under the provisions of the County Purchasing Law of 1983, Sections 5-14-201 through 5-14-206, TCA, which provides that general government purchases in excess of \$5,000 are to be made after public advertisement and competitive bidding. The finance director

advised that each department handles its own bidding and stated that written bids are required for items between \$2,500 and \$5,000, and that written bids with newspaper advertisements are required for items over \$5,000.

RECOMMENDATION

County officials should adopt a central system of purchasing covering all county departments by creating a purchasing committee or instructing the financial management committee to establish and approve formal policies and procedures for purchasing all supplies, equipment, or goods for the county. Also, the finance director should review specifications and changes developed by individual departments to allow for maximum competition of prospective bidders; prepare formal and informal bids; collect sealed bids; open bids through a procedure open to the public; evaluate, compare and submit bids for approval by the financial management committee, if so deemed by the committee; issue purchase orders and contracts; and verify receiving the merchandise or service, as provided by Chapter 113, Private Acts of 2002.

MANAGEMENT'S RESPONSE – FINANCE DIRECTOR

The response of the finance director to finding 05.06 is included in Appendix B to this report.

REBUTTAL TO FINANCE DIRECTOR'S RESPONSE

This represents our rebuttal to the Finance Director's response to finding 05.06 found in Appendix B to this report.

Section 19, Chapter 113, Private Acts of 2002 states that "The committee, with the assistance of the purchasing agent, shall establish a purchasing system for the county." The act further states that "Review of all contracts or purchases for biddable supplies, materials, equipment, and other needs of the county, shall be made by the purchasing agent." The use of the word "shall" in the act means these are items the act requires to be done. As we stated in the finding the county has not complied with the Private Act governing purchasing in Sumner County. We reiterate our recommendation that county officials comply with purchasing provisions of the Private Act.

OFFICE OF FINANCE DIRECTOR

FINDING 05.07 **THE OFFICE HAD A DEFICIENCY IN THE ADMINISTRATION OF DRUG CONTROL FUNDS**

The proceeds of goods seized, forfeited, and disposed under Sections 39-17-420 and 53-11-451, Tennessee Code Annotated (TCA), were not accounted for in a Drug Control Fund (Special Revenue Fund) maintained by the county. Instead, these proceeds were accounted for in the county's General Fund. Subsequent to year-end the county's contracted auditors extracted this drug activity from the General Fund and created a Drug Control Fund (Special Revenue Fund) for external financial reporting purposes.

RECOMMENDATION

The county should account for the proceeds of goods seized, forfeited, and disposed of in a Drug Control Fund (Special Revenue Fund) as required by state statute.

MANAGEMENT'S RESPONSE – FINANCE DIRECTOR

The response of the finance director to finding 05.07 is included in Appendix B to this report.

REBUTTAL TO FINANCE DIRECTOR'S RESPONSE

This represents our rebuttal to the Finance Director's response to finding 05.07 found in Appendix B to this report.

Section 39-17-420 Tennessee Code Annotated states that "... the proceeds of goods seized and forfeited under the provisions of 53-11-451, TCA and disposed of according to law, shall be accounted for in a special revenue fund...". The General Fund of a county is not a special revenue fund. A special revenue fund "Drug Control Fund – Fund Number 122" has been established in the County Uniform Chart of Accounts to account for drug transactions. Therefore, we reiterate our recommendation that drug funds be accounted for in a special revenue fund as required by state statute.

APPENDIX A

STATE OF TENNESSEE

J.D. VANDERCOOK
SHERIFF

(615) 452-2616
FAX (615) 451-6029



SHERIFF OF SUMNER COUNTY

117 W. SMITH STREET • GALLATIN, TN 37066

August 22, 2005

Joe Kimery
Middle Tennessee Audit Manager
State of Tennessee, Comptroller of the Treasury
Department of Audit, Division of County Audit
Suite 1500, James K. Polk State Office Building
Nashville, TN 37243-0269

Mr. Kimery,

I have reviewed the advanced copy of your findings and recommendations for the limited review of the Sumner County Office of the Sheriff. I am pleased to notice there are no findings of any missing funds or property for the years audited and I appreciate the professional manner in which your staff conducted the audit.

Since Sumner County Government has declined to participate in audits of the Comptroller's Office for the past 14 years, I have had to rely on the legal advice of the Sumner County Law Director, the Sumner County Finance Director, the Sumner County Board of County Commissioners and the 18th Judicial District Attorney General Office concerning bidding and purchasing procedures.

I have always followed the advice of the aforementioned and now find myself being criticized by the Comptroller's Office for not following the "proper procedures".

I am not disputing your intentions for Sumner County to comply with the provisions of their Private Act of 2002 or to comply with accepted practices recommended by the Comptroller's Office. I do protest any findings related to bidding practices in that I have always followed the recommendations provided to me by either the aforementioned authorities or the private auditing firm Sumner County has been using.

This brings about the question as to why after 14 years of not being in Sumner County, my office has been selected for the audit by the Comptroller's Office? I will address these issues in my comments of reply to the findings by section.

Reply to Finding 05.01: “The Sheriff’s Department had deficiencies in its purchasing procedures”

I have been employed at the Sumner County Sheriff’s Department for 27 years and have been the Sheriff of Sumner County for the past 11 years. I have followed the purchasing directives and policies as prescribed by the County Commission, the county Finance Director and the county Legal Office.

As stated in your report, “On June 17, 2002, the Sumner County Commission adopted a Financial Management System provided by Chapter 113, Private Acts of 2002”. Your report further stated “Sumner County has not created a purchasing committee; therefore, the financial management committee is charged with establishing and approving policies and procedures for the purchasing of all supplies, equipment, or goods for the county”. Your report also stated “Also, this Private Act created a finance department with a finance director responsible for purchasing, accounting, budgeting, payroll, and cash management for all departments with certain exceptions as noted above for the Highway Department and the School Department. The finance director acts as the purchasing agent for the Sumner County general government under authorization of the Private Act”.

Every item or service purchased and presented for payment through my office for the past 11 years has been with the knowledge, consent and approval of either the Sumner County Board of Commissioners, the Finance Director and/or the Legal Office. No goods or services claims for payment have ever been denied under these procedures so I must assume I was acting within the accepted practices of Sumner County. Surely the county would not have paid the bills if I had not been following their prescribed policies and/or procedures.

In December of 2002, meetings were held with the Finance Director and the Legal Department which resulted in establishing a policy and procedure that would satisfy the legal requirements for the Sheriff’s Department to advertise and purchase goods and/or services. Millions of dollars have been spent under this system and regular yearly audits by a private firm contracted to audit our policies and procedures resulted in no adverse findings concerning this method.

The issues concerning the way the Sheriff’s Department conducts business has come to light as a result of political matters concerning disgruntled Sheriff’s Department employees who have been recruited to assist a presiding county commissioner who is actively seeking my elected position as Sheriff of Sumner County. This commissioner does not want to wait for the regular voting process to take place next year, since he has suffered two previous defeats for the position in a regular voting process.

Witnesses have provided statements that this county commissioner, who is a retired state employee, will do whatever it takes to remove me from office so he can run his political election campaign as the incumbent Sheriff. Other county commissioners have provided details of this commissioner’s plan to be appointed by his fellow county commissioners once he has succeeded in removing me from office. This commissioner has a history of using audit results as a campaign tool in advertising in his previous unsuccessful campaigns for the Office of Sumner County Sheriff hence the reason for requesting the special audit by the Comptroller’s Office. This information can be substantiated by at least two presiding commissioners who were approached and requested to participate in the actions.

There was never any notice provided to me from any county commissioner or any other county official that there were any questions of our policies and procedures. Instead, several commissioners secretly met with the commissioner seeking my elected position and conspired to launch a public attack against me. During a routine scheduled committee meeting, where the news media had prior notice to be present, I was accused of using a county cellular phone to make calls to a "sex hotline", misuse of funds and other false allegations. The commissioners began an immediate campaign to have the state Comptroller's Office audit the Sheriff's Department.

Subsequent investigations provided proof that the allegations concerning abuse of the county cell phone were totally false and without merit. Had the conspirators bothered to ask me about the cell phone usage, I would have provided them with records and documentation that revealed that during the time period in question, the "sex hotline" number was in fact a county-owned pager number assigned to the Sheriff's Department. Their vindictive actions were the precursor to the audit I am now replying to. Humiliation to me, my family, the Sumner County Sheriff's Department and the citizens of Sumner County could have been avoided had they just asked to see the records. As a result of this vindictive campaign, the Sumner County Sheriff's Department employees, the Sumner County Finance Office employees and the Sumner County Legal Department employees have spent hundreds of hours researching, copying, compiling and documenting matters for this audit. The bill from the Comptroller's Office has not yet been produced but the bill for Sumner County employee time devoted to this matter will certainly be in the hundreds of thousands of dollars when the man hours utilized are converted to taxpayer dollars used to comply with this audit.

Reply to items A-H:

It is the position of this office that I was in compliance of state statutes by following the Sumner County Finance Director's prescribed policy of advertising in the Gallatin News Examiner with an ad printed twice a year which read in part;

"PUBLIC NOTICE"

"The Sumner County Sheriff's Department is accepting bid proposals and/or price lists from vendors/merchants interested in providing products/services related to law enforcement use by the Sumner County Sheriff's Department for the period of _____-_____. Such products/services would be used in the day to day operation of the Sheriff's Department.

Examples of products/services would include but not be limited to: food items, medications, uniforms, vehicles, vehicle parts-accessories, gasoline, oil, office supplies, furniture, copiers, computer hardware-software-data, telephone & radio communications, jail supplies.

Interested vendors/merchants should submit their proposals and/or price lists to Chief Deputy Bob Barker, Sumner County Sheriff's Department, 117 W. Smith Street, Gallatin, TN 37066.

Sheriff Vandercook reserves the right to refuse or reject any and all proposals and/or price lists and to solicit additional or new proposals and/or price lists and to waive informalities and minor inequalities in proposals and /or price lists received. All merchandise is subject to inspection. Sheriff Vandercook reserves the right to cancel any order, or any part thereof without penalty.

Sumner County, Tennessee is an equal opportunity employer and does not discriminate on the basis of race, sex, color, religion, natural origin, age, disability or veteran status. In the event of cancellation, no further sums shall be owed to the provider.

The provider agrees that he/she shall and does comply with all local, state and/or federal laws, statutes, rules and regulations including but not limited to the Rehabilitation Act of 1973 and the American with Disabilities Act. In the event that any claim should arise for violation of any such local, state and/or federal law, statute, rule or regulation, the provider will indemnify and hold Sumner County harmless for any damages, including court costs or attorney fees which might be incurred. Any dispute will be interpreted under the laws and statutes of the State of Tennessee. Any action arising shall be brought in the state courts of Sumner County, Tennessee or the United States Federal District for the Middle District of Tennessee.”

It is my position that the preceding advertisement would have served as meeting the requirements for solicitation of bids under the Private Act of 2002 and/or under the County Purchasing Law of 1983. Since a variety of merchants/vendors failed to respond to the advertising for products/services listed in A-H, the Sumner County Sheriff's made purchases of products and/or services based on the needs of the department.

I base this position on the fact that as the Sheriff of Sumner County, I was following the legal and authoritative advice of the Finance Director and the County Law Director who act under the direction of the Sumner County Finance Committee when they provided my office instructions of the legal and proper use of advertising for bids and/or making purchases.

Reply to recommendation of Finding 05.01:

I want this reply to be a matter of record on this recommendation. The Sheriff has no authority to instruct the Sumner County Board of Commissioners to adopt their provisions of the Private Act of 2002 and follows the legal and authoritative advice of the Finance Director and the County Law Director who act under the direction of the Sumner County Finance Committee concerning purchasing procedures. Yet, the Comptroller's Office is recommending the sheriff not follow the instructions of the Finance Director and the Legal Office Director and instead follow the recommendation of the Comptroller's Office by using the County Purchasing Act of 1983. This creates a no win situation for the Sheriff of Sumner County in that the Board of County Commissioners have the legal authority to instruct the use of the Private Act of 2002 and the Comptroller's Office is advising against its use. I welcome a written ruling of who is the governing authority in Sumner County and does the Sheriff's Office allowing the private auditing firm presently contracted with Sumner County access to the records of the Sheriff's Office? I have no problem with being a team player and following the rules, I just need to know who the head coach is and which plays to execute. On July 26, 2005, I issued a letter stating the Sheriff's Office would cease "bundle bidding" and comply with the Comptroller's Office recommendations. A subsequent meeting with the Finance Director and Law Director resulted in my issuing another letter on August 2, 2005 reinstating the "bundle bidding" procedures (see attached documents).

Note: A copy of June 20, 2005 Sumner County Financial Management Committee meeting minutes is attached to this report with notations that an Ad Hoc Committee has been formed and will address the issues of a Deputy Finance Director, disbursement warrants and the Purchasing Agent and Purchasing System.

Reply to Finding 05.02: “Deficiencies were noted in the operations related to a telephone service contract”

Reply to A-D:

The Comptroller’s Office claim that the contract with Global Tel Link was not entered into in accordance with TCA 7-51-904 is hereby disputed. TCA 7-51-904 states a contract shall first be approved by resolution or ordinance duly adopted by the governing body of a municipality for lease, lease-purchase or tangible personal property. The Attorney General’s Office has ruled that inmate telephone systems are not a lease, lease-purchase or tangible personal property and therefore does not apply to this finding. Furthermore, Sumner County is not a municipality and I have no knowledge of ever being required to seek a resolution for such matters.

The contract with Global Tel Link Corporation was entered into as a replacement service for a previous contract with Bellsouth who had been the original service provider to Sumner County as approved by previous Board of County Commissioners. The contract with Bellsouth was terminated when Bellsouth notified all inmate telephone customers that Bellsouth was discontinuing inmate telephone services.

Prior to signing the contract with Global Tel Link, the county Law Director was consulted and confirmed that the A.G. opinion did not require bids for the inmate telephone contract but recommended the Sheriff’s Department obtain bids which the Sheriff’s Department complied with. Bids were advertised and collected and the contract was awarded to Global Tel Link.

The issue of inmate telephone systems has been discussed and reviewed by Board of County Commissioners, sub-committees, County Executives, the Law Director’s Office and other county entities for many years. The sheriff has informed committees and sub-committees and the citizens of Sumner County of the revenues from the commissions of inmate telephone usage to fund the entire computerization of the Sheriff’s Department and to provide upgrades and replacement hardware as needed.

Previous years financial reports provided to county commissioners by the finance department would have disclosed income sent to Sumner County from Bellsouth which were extra funds left over from a payback plan when Bellsouth sub-contracted with Fastrac who provided an entire hardware/software package for the Sheriff’s Department with inmate telephone commissions making the payments for equipment provided.

Global Tel Link was a replacement contractor to the original system who offered signing bonus and commissions for purchase of third party goods/services at no cost to the taxpayers of Sumner County. This is a national industry standard in the inmate telephone

business and has been an accepted business practice as a means of providing jails and Sheriff's Department equipment and services which they would otherwise have to fund from the taxpayers. All of the equipment/services provided to Sumner County from Global Tel Link were used to improve and/or replace the functionality of the Sumner County Jail and Sheriff's Department.

The finding that TCA 5-9-401 concerning all county funds from whatever source be appropriated by the county legislative body is currently in compliance. During the review process of the allegations against me and prior to the start of the audit, I ordered Global Tel Link to send any/all fund balances to the county general fund as soon as I was informed that previous opinions of maintaining the funds in an escrow account were not proper procedure.

Reply to recommendation of Finding 05.02:

The Global Tel contract was entered into according to the legal advice received from the county Legal Department. Bids were obtained. I cannot make the Sumner County Board of County Commissioners and/or the County Finance Director comply with the adoption of the provisions of the 2002 Private Act and therefore rely on the advice of the County Law Director and the Finance Director for policies and procedures to be followed. The revenues from the operation of the jail telephone system are being remitted to the county on a monthly basis.

Reply to Finding 05.03: “The Sheriff’s Department maintenance garage project was not administered in compliance with state statutes”

Reply to A-E:

This finding is inaccurate. The sheriff appeared before the General Operations Committee and requested permission to build a vehicle maintenance garage and tow in lot on county-owned property using inmate labor to assist a contractor as a means to save money. The sheriff advised the committee he had inmate telephone commission funds, inmate telephone signing bonuses, local drug funds and federal drug funds to pay for the project. The sheriff presented photographs of other county buildings and community centers similar to what he intended to build. The committee gave the sheriff permission to find a contractor willing to allow inmate labor to offset the costs and to build the garage using the telephone commissions, signing bonuses and drug funds. The Sumner County General Operations Committee oversees and controls all building projects for Sumner County and no instructions were provided to the Sheriff regarding the need to verify a contractor being licensed, bonded, certified or otherwise qualified. No request for advertising or receiving bids was demanded of the sheriff and no instructions to hire an architect were given.

Subsequent to the General Operations Committee meeting, the sheriff spoke with at least two local area contractors who have completed numerous renovations and new construction projects for Sumner County businesses, churches and government entities. One of the contractors advised he was not willing to bid because he had no idea of the value of inmate labor. Martin Service Company agreed to utilize inmate labor on a cost plus basis to construct the maintenance building.

The sheriff returned to the General Operations Committee with his findings and sought permission to utilize Martin Services Company to building the maintenance building. When the sheriff began to address the General Operations Committee concerning his findings, the committee informed him they had already approved the project during a previous meeting and for the sheriff to proceed with the construction. The General Operations Committee is the governing body concerning all county construction and no restrictions or special instructions were provided to the sheriff concerning bids, advertising, licensing requirements, the need for an architect or any other issues.

Matthew C. Smith, a graduate of the University of Tennessee, a licensed general contractor (TN # 44030) and well respected businessman has examined the maintenance garage and provided a written estimate of \$67,100 for materials to build the maintenance garage with a total cost of \$77,165 for a “cost plus” project and \$80,520 for a completed project without inmate labor (see attached estimates from Consolidated Development & Construction, LLC).

Reply to recommendation of Finding 05.03:

The Sheriff of Sumner County received no instructions concerning bidding the contract for the maintenance building and received no instructions concerning the use of an architect from the General Operations Committee which is the governing authority for the construction projects of Sumner County. To the contrary, the sheriff sought and received permission to have the building constructed and built without bids to utilize supplemental inmate labor. The sheriff has no authority to set the standards, policies and procedures of the General Operations Committee.

Note: See attached June 6, 2005 Legislative Committee report with comments from General Operations Committee Chairman Ben Harris.

Reply to Finding 05.04: “The office had deficiencies in the administration of drug control funds”

Reply to A-D:

It is not within the scope of the sheriff’s authority to instruct the Finance Director where to deposit the drug funds. To cite the sheriff for failure to deposit the funds into a Special Revenue Fund when the sheriff has no control of said deposit funds is unfair and implies the sheriff has done something wrong. It is agreed that forms documenting payments to confidential informants did not have the required signatures of two officers and this issue has been corrected. Funds received directly from forfeited funds awarded to the Sheriff’s Department by the Tennessee Department of Safety have been accounted for in the quarterly drug fund reports to the Sumner County Trustee Office. Previous audits by the private auditing firm contracted by Sumner County have not cited this issue as a problem and the Sheriff’s Department utilized this practice for the past eleven years. The payments made for photo identification cards, an informant’s babysitter, an interpreter, hardware, computer supplies, camera/accessories, parking and miscellaneous were determined to be nonrecurring by the sheriff and therefore acceptable expenditures under the Drug Control Act.

Reply to recommendation of Finding 05.04:

The sheriff does not have authority or control of the deposits into the special revenue fund and should not be cited for this issue. The sheriff submits the funds to the Finance Director and/or the Trustee's Office and where the funds are deposited is not decided by the sheriff. Drug funds are expended for items that comply with the criteria as provided by state statute and the sheriff often seeks advice from the Sumner County Law Director, the Sumner County Finance Director and the 18th Judicial District Attorney General to ensure he is remaining in compliance with the rules.

Reply to Finding 05.05: "The office had internal control deficiencies"

Reply to A-B:

The 18th Judicial District Attorney General provided an opinion to the current and former sheriff of Sumner County that there was no problem with the inmates assigned to the Sheriff's Department maintenance garage washing/cleaning county employee privately owned vehicles at the facility. This practice has been on going for more than twenty years. The inmates have on occasions made adjustments to parts/accessories on county employee vehicles over the years. Pulling a pin from a hole in a step frame bracket on the sheriff's privately owned vehicle (which has been used on more than one occasion to haul county property/supplies) and reinserting the pin into another hole in the bracket does not constitute abuse of inmate labor.

The Sheriff's Department knows how many tires it purchases from vendors such as the Good Year store and has receipts for the tires purchased and work order receipts for tires placed into service. The balance of Sheriff's Department tires in vendor inventory/warehouse is calculated by the number of tires purchased not yet put into service.

Reply to recommendation of Finding 05.05:

The Sheriff of Sumner County stands by the opinion of the 18th Judicial District Attorney General in that it is not an abuse of inmate labor to allow inmates to wash and make minor adjustments to county employee vehicles.

Sumner County does require periodic inventory of county equipment and supplies and the Sheriff's Department completes and submits the required documentation when requested.

Summary:

"Disgruntled employees, county commissioners and other citizens" submitted a list of over 60 items of concern to the Comptroller's Office concerning the Sumner County Sheriff's Department. According to your exit interview, some of the items were so ridiculous, they did not warrant an investigation. I concur with your appraisal of the "issues".

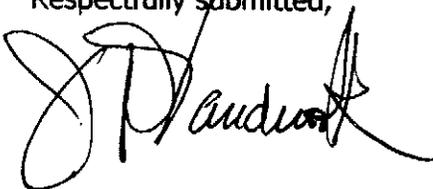
It appears that the Sheriff of Sumner County is being cited for improper procedures, policies and standards that the Sheriff has very limited control of. The Sumner County Board of County Commissioners established the use of the 2002 Financial Management

Private Act and their failure to establish the required policies and procedures is not in the scope of the Sheriff to correct. The Sheriff has followed the advice of the Sumner County Law Director, the Sumner County Finance Director and the private auditing firm contracted with Sumner County. If the Sheriff did not comply with the current policies and procedures, the debts incurred by his office would not be paid and he would face serious complications. The Sheriff of Sumner County thereby requests the Comptroller's Office to appear before the Sumner County Board of County Commissioners, address the commission on their duties and responsibilities concerning the 2002 Financial Management Private Act and to make the noted changes/deletions to the advanced copy of your findings and recommendations as a result of your limited review.

It is interesting to note that on August 15, 2005, during a regular meeting of the Sumner County Board of County Commissioners, a motion was made from Budget Committee Chairman Commissioner David Satterfield for \$113,658.02 to be paid to the Bledsoe's Lick Historical Society for the purchase of land that had not been appraised according to the statements made to the Board of County Commissioners when the question was asked. The motion passed. Would the Comptroller's Office have required land purchased by Sumner County be appraised prior to the purchase?

Another interesting note would be the recent purchase of the Brister property adjacent to the current jail property site (see attached July 11, 2005 Budget Committee Report). The records should confirm that the property appraised for \$20,500 and the property owner has and/or is to receive \$70,727. Would the Comptroller's Office have questioned this purchase of \$50,000 above the appraised value?

Respectfully submitted,

A handwritten signature in black ink, appearing to read "J.D. Vandercook". The signature is stylized and cursive, with a large initial "J" and "V".

J.D. Vandercook, Sheriff, Sumner County

**MINUTES
LEGISLATIVE COMMITTEE
KENNY PIERPAOLI, CHAIRMAN
June 6, 2005**

Present:

Kenny Pierpaoli, Chairman
Bill Craig, V. Chairman
Ben Harris
Anthony Holt
Darrin Carver
Jo Skidmore
Steve Botts

Absent:

David Satterfield

Also Present:

Hank Thompson, County Executive
Bill Kemp, County Clerk
Leah Dennen, County Law Director
Bob Barker, Sheriff's Chief Deputy
J.D. Vandercook, Sheriff

The called meeting of the Legislative Committee was brought to order on Monday, June 6, 2005, at 7:00 p.m. in the Sumner County Administration Building in Gallatin. Chairman Kenny Pierpaoli declared a quorum present.

The purpose of the special called meeting was the following: To consider, discuss and potentially vote on the possible request for an audit or other appropriate action concerning the Sumner County Sheriff's Department and its financial activities.

Upon motion of Comm. Craig, seconded by Comm. Carver, the committee voted to approve the agenda.

Comm. Carver moved to request an audit of the Sheriff's Department for purposes of discussion. Comm. Craig seconded the motion.

Chairman Pierpaoli recognized Director of Finance Dennis Petty who stated that the Comptroller's office agreed to perform the audit in a timely manner. He said the matter could cost between \$25,000 and \$100,000.00 to audit five items going three years back. The Comptroller's office charges \$35.00 per hour for a special procedures' review. He further stated that, upon discovery of other matters, those would be audited, as well. The committee members mentioned a letter from the Comptroller stating that the cost would be around \$30,000.00.

Comm. Harris stated that the reason he was led to request an audit was the fact a few months back, Sheriff's Department officials asked and got approval from the General Operations Committee to use drug funds to build a maintenance facility. His question lies with whether the work for the project was bid and awarded properly and whether the contractor had a state contractor's license.

The committee discussed the merits of an audit and if the matter should be sent to the District Attorney's office for consideration.

Upon further discussion, Comm. Carver amended his motion, with the agreement of the seconder, to approve an amount not to exceed \$30,000.00 and to have the

SUMNER COUNTY FINANCIAL MANAGEMENT COMMITTEE
JUNE 20, 2005
TO BEGIN IMMEDIATELY FOLLOWING INSURANCE TRUST

Present:

Harold Gilbert, Chairman
Benny Bills
Hank Thompson
Ragan Hall

Rod Lilly
Steve Botts
Scotty Parker

Also:

Dennis Petty
Maryanne Durski
Tabatha Beasley
Wayne Cummings

Leah Dennen
Rebecca Gross
David Cummings
Kathy Kirkham, *News Examiner*

Chairman Gilbert called the Financial Management Committee to order on Monday, June 20, 2005 at 5:40 p.m. in the County Executive's Conference Room, County Administration Building, Gallatin, Tennessee.

Public Recognition: None

Agenda and Minutes: Mr. Hall moved, seconded by Mr. Parker to approve the agenda as presented; motion passed. Mr. Thompson moved, seconded by Mr. Hall to approve the minutes of May 16, 2005 as presented; motion passed.

Chairman's Report: Leah Dennen reported regarding the zone changes for impact fees. Mr. Hall moved, seconded by Mr. Bills to combine the four zones and reconfigure into only three zones; motion passed 6-0.

Finance Director's Report: Mr. Petty stated that all reports would be a part of the County Commission packet.

Financial Management Compliance: Mr. Petty stated that the auditors found five minor compliance issues. Mr. Botts stated that an Ad Hoc committee has been formed to resolve the exceptions and stated that Mr. Petty should be a member of that committee. Ms. Dennen will look at the Financial Management Act to determine who determines the Investment Committee. A report on the Purchasing Committee will be made at the next meeting. Ms Dennen is going to obtain information from other counties and refer it to the Ad Hoc Committee. The Ad Hoc Committee will also address the issues of a Deputy Finance Director, Disbursement warrants and the Purchasing Agent and Purchasing System.

Law Director's Report: None

Old Business: None

New Business: None

No other business was discussed and the meeting adjourned at 6:00 p.m.

Minutes prepared by: Kathy Kirkham

SUMNER COUNTY BUDGET COMMITTEE
JULY 11, 2005
7:00 P.M.

Present:

David Satterfield, Chairman
Paul Freels

Bill Black
Ricky Goats

Also:

Dennis Petty
Walter Draper, Jr.
Kathy Kirkham

Hank Thompson
Rod Lilly

Chairman Satterfield called the Budget Committee to order on Monday, July 11, 2005 at 7:03 p.m. in the County Commission Chambers, County Administration Building, Gallatin, Tennessee.

Public Recognition: None

Agenda & Minutes: Mr. Goats moved, seconded by Mr. Freels to approve the agenda with the addition of Item 1 under Report of the Committee Chairman, Report on Gross Tax/Net Tax Penny & to move a request by Walter Draper, Jr. to be the first item on the agenda after the approval of the minutes; motion passed 4-0. Mr. Goats moved, seconded by Mr. Freels to approve the minutes of June 13, 2005, May 26, 2005, May 31, 2005, June 7, 2005, & June 15, 2005 as presented; motion passed 4-0. Mr. Black moved, seconded by Mr. Freels to approve the Minutes of June 21, 2005 as presented; motion passed 4-0.

Waiver of Interest, Penalties, Court & Attorney Cost: Mr. Walter Draper, Jr. requested that the committee forgive the interest, penalties, court & attorney costs assessed for failure to pay 2004 property taxes. The tax bill was sent to the wrong address. Mr. Freels moved, seconded by Mr. Black to approve the request; motion passed 4-0.

Report from the County Assessor Regarding Assessments: Mr. Goats moved, seconded by Mr. Black to approve to file the report; motion passed 3-1.

Report from the County Trustee Regarding Assessments: Mr. Freels moved, seconded by Mr. Black to approve the report as presented; motion passed 3-1.

Report from the Finance Director Regarding Assessments: Mr. Petty stated that the reports contained in the packet from the Assessor & Trustee continue to be in line.

Federal Reserve Rate Increase: Mr. Petty stated that this is an FY1 item for the committee.

Report from the School Dept. on the 100M. School Loan Program: No report contained in the packet.

Adequate Facilities Tax Zones: This report was deferred to the August meeting due to the Law Director having a scheduling conflict.

Presentation by CRS regarding In-mate Care: Mr. Thompson requested that this report be deferred to the August meeting due to CRS just receiving the requested information from the Sheriff's Department. Mr. Goats moved, seconded by Mr. Black to defer to the August meeting; motion passed 4-0.

Law Director: This request in the amount of \$727.00 was to cover additional cost over the previously approved appropriation in the amount \$70,000.00 for the purchase of the Brister property and is to be paid out of the Jail Capital Outlay fund. No action was taken.

School Department Budget: Mr. Lilly reported that the Board of Education has reduced their budget request by the amount requested and has been approved by the Board of Education. The Education Committee has a special call meeting on Wednesday at 6:00 p.m. to hopefully approve the budget and pass it on to the Budget Committee for review.

J.D. VANDERCOOK
SHERIFF

STATE OF TENNESSEE

(615) 452-2616
FAX (615) 451-6029



SHERIFF OF SUMNER COUNTY
117 W. SMITH STREET • GALLATIN, TN 37066

RECEIVED
JUL 26 2005
[Signature]

July 26, 2005

Mr. Dennis Petty, Director of Finance
Sumner County Finance Department
355 North Belvedere Drive
Gallatin, Tennessee, 37066

Dear Mr. Petty,

Between December 16, 2002 and December 30, 2002 my staff met with the county Finance and Legal departments to discuss the high cost of advertising for bids for the Sheriff's Department business. It was recommended and approved by Finance and the Legal Department that we use bundle bidding. For several years we have operated on this theory and have run ads in the newspaper in January and June of each year to comply.

Due to the recent events concerning bids for the Sheriff's Department, effective immediately our new policy is to obtain written bids on everything over \$2,500.00 dollars and advertise in the local paper for anything over \$5,000.00 dollars.

Thank you,

J. D. Vandercook, Sheriff

Cc: Attorney Leah Dennen
District Attorney Ray Whitley
Jeff B. Bailey, CPA
Chief Bob Barker ✓
Colonel Warren Hatley
Sonya Troutt, Jail Administrator
Major Don Linzy
Major Don Badacour
Major Jim Stone
Rita Wisner, Accounts Payable

J.D. VANDERCOOK
SHERIFF

STATE OF TENNESSEE



(615) 452-2616
FAX (615) 451-6029

SHERIFF OF SUMNER COUNTY

117 W. SMITH STREET • GALLATIN, TN 37066

August 2, 2005

Mr. Dennis Petty, Director of Finance
Sumner County Finance Department
355 North Belvedere Drive
Gallatin, Tennessee 37066

Dear Mr. Petty,

After further review, I have reconsidered my letter of July 26, 2005. Until further consideration, I am reinstating our previous policies regarding bidding.

Thank you,

A handwritten signature in black ink, appearing to read "J.D. Vandercook". The signature is written in a cursive style with a large, sweeping flourish at the end.

J. D. Vandercook, Sheriff

Cc: Attorney Leah Dennen
District Attorney Ray Whitley
Jeff B. Bailey, CPA
Chief Bob Barker ✓
Colonel Warren Hatley
Sonya Troutt, Jail Administrator
Major Don Linzy
Major Don Badacour
Major Jim Slone
Rita Wiser, Accounts Payable

CONSOLIDATED DEVELOPMENT & CONSTRUCTION, LLC
 1031 DORSET DRIVE HENDERSONVILLE, TN 37075
 615-394-0315 (FAX) 615-824-4467

22 August 2005

Sumner County Sheriff's Department
 J.D. Vandercook, Sheriff
 117 West Smith Street
 Gallatin, TN 37066
 615-452-2616

RE: Construction Cost Estimate, Maintenance Garage

The purpose of this construction cost estimate is to apply a monetary value to the replication of the existing 30' x 60' Sumner County Sheriff's Department Maintenance Garage including front apron, all fixtures, utilities and connections. All figures are based on current prices of materials and labor through vendors, suppliers and subcontractors with whom Consolidated Development & Construction, LLC has a working relationship. This estimate assumes that the structure would be built on an unimproved site with a structure similar to the existing Sumner County Sheriff's Department Shooting Range adjacent to it. A thorough walk through of the existing Maintenance Garage was done to determine the site improvements, materials, fixtures and construction type needed and on which to base this estimate. A monetary value is applied to each of the below categories to provide an estimated cost. The total project cost is then calculated on both a bid price and a cost-plus price with the bid price serving as a "not to exceed" price for the project.

1.	Site Work - grading, footings	\$3,800.00
2.	Stone	825.00
3.	Concrete - slab, footing, apron - material	7,200.00
4.	Concrete - labor	5,500.00
5.	Framing - material	7,500.00
6.	Metal roofing, siding / insulation	3,800.00
7.	Gutters / downspouts	725.00
8.	Doors / windows	2,300.00
9.	Framing - labor	17,000.00
10.	Trenching - electrical, plumbing, sewer tie-in	2,800.00
11.	Electrical - labor / material	7,100.00
12.	HVAC - labor / material	4,400.00
13.	Plumbing - labor / material	1,900.00
14.	Permits, fees	800.00
15.	Misc. - Fasteners, sealers, paint, steel, wire mesh, vapor barrier, etc.	<u>1,450.00</u>
<u>Total Cost Estimate</u>		<u>\$67,100.00</u>

Estimated Total Bid Price

Total Cost Estimate	\$67,100.00
Plus 20%	<u>13,420.00</u>
Total	\$80,520.00

Estimated Total Cost Plus Price

Total Cost Estimate	\$67,100.00
Plus 15%	<u>10,065.00</u>
Total	\$77,165.00

Respectfully,



Matthew C. Smith
Consolidated Development & Construction, LLC
General Contractor
TN # 44030
1031 Dorset Drive
Hendersonville, TN 37075
615-394-0315

LINZY

Attention: **Bill Wright**

Date: 6/26/01

Company: Sumner County Law Office

Number of Pages: 3

Fax Number: 451-6061

Voice Number:

From: **Bob Barker**

Company: Sumner County Sheriff's Department

Fax Number: 615-230-5637

Voice Number: 615-452-2616

COPY

Subject: Bidding on Inmate Phone System

Comments:

Bill,

Can you review the Attorney General opinion I am sending with this fax and advise if it acceptable that since inmate telephone systems are leased and not owned that we are not required to seek bids. We received this information from CTAS.

Bob

Citation Tenn. Op. Atty. Gen. No. Tenn. Op. Atty. Gen. No. 93-02 (Cite as: 1993 WL 349718 (Tenn.A.G.))	Search Result	Rank 1 of 1	Database TN-AG
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*1 Office of the Attorney General
State of Tennessee

Opinion No. 93-02
January 11, 1993

Contract to Install Pay Phone System in County Jail

Representative Mayo Wix
208 War Memorial Building
Nashville, Tennessee 37243-0144

COPY

QUESTION

Whether an arrangement under which a county, in exchange for a portion of receipts, allows a phone company to install a phone system in the county jail to be used by inmates and paid for by the recipients of the calls is subject to statutory competitive bidding requirements.

OPINION

It is the opinion of this Office that such an arrangement may fairly be characterized as a lease of county property which is not subject to statutory bidding requirements.

ANALYSIS

This opinion is based on an examination of state statutes of general applicability, including statutes which may be adopted by local option. In addition to these statutes, private acts applicable to different counties may apply to the type of arrangement considered in this opinion. Each county should address the issue only after examining private acts to which it is subject.

This opinion really concerns the characterization of a particular transaction for purposes of state statutes governing county contracts. As described to this Office, a phone company would lease space in the county jail to install phones for the use of inmates. Local and long distance calls made by inmates on the system would be collect calls. The system would therefore be supported out of billings to the recipients of the calls. In exchange for allowing the company to install the system in the jail, the county would receive a percentage of monthly

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Tenn. Op. Atty. Gen. No.
(Cite as: 1993 WL 349718, *1 (Tenn.A.G.))

receipts. No county funds would be used to support the system.
Whether state law requires such a contract to be bid out depends on whether it can be categorized as a lease of county property or as a purchase contract. This Office has found in the past that, under T.C.A. § 5-7-116, a county may lease land or existing buildings owned by the county to any person, corporation, partnership or association for such consideration and upon such terms as in the judgment of the governing body are in the interest of the county.
Op.Tenn.Atty.Gen. No. 86-102 (June 3, 1986).

By contrast, a county which has adopted the County Purchasing Law of 1957 must base contracts for the purchase of services on competitive bids wherever possible. T.C.A. § 5-14-108(a)(1) (1991). In addition, the County Purchasing Law of 1983 generally requires counties to which it is applicable to award purchase contracts only after advertisement and competitive bid. T.C.A. § 5-14-204 (1992). While that statute also covers leases and lease purchases, we think the context in which that term is used indicates that it refers to leases where the county is the lessee, not where the county acts as lessor of county property. See also T.C.A. § 5-14-202 (1991). Similarly, the Local Option Financial Management System requires counties which have adopted it to establish a purchasing system which includes competitive bidding procedures for many different types of contracts. T.C.A. § 5-21-119 (1991).

*2 In general, it would appear that an arrangement properly categorized as a service contract would involve the county as purchaser and the service provider as vendor. The provider would furnish specified services to the county in return for payment out of county funds. In such cases, compliance with bidding procedures would enable the county to obtain the necessary services with the most efficient expenditure of county funds. As described to this Office, the contract in question in effect involves services to be provided to county jail inmates and the recipients of their calls. The only county role in the transaction is that of allowing the company to install and service phone equipment in county jail space. The arrangement between the county and the phone company could therefore be fairly characterized as a lease of county property for county fiscal purposes.

Sincerely,

Charles W. Burson
Attorney General and Reporter

John Knox Walkup
Solicitor General

Ann L. Vix

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APPENDIX B

SUMNER COUNTY GOVERNMENT FINANCE DEPARTMENT TEL 615-451-6026
355 NORTH BELVEDERE DRIVE RM 110 GALLATIN, TN 37066 FAX 615-230-6392

DATE: AUGUST 23, 2005

TO: JOE KIMERY, AUDIT MANAGER
 DIVISION OF COUNTY AUDIT
 COMPTROLLERS OFFICE

RE: LIMITED REVIEW OF COUNTY PURCHASING PROCEDURES
 SUMNER COUNTY GOVERNMENT, TENNESSEE
 FINANCIAL MANAGEMENT COMMITTEE AND FINANCE DEPARTMENT

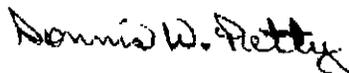
FINDING 05.01 COUNTY PURCHASING

THE SUMNER COUNTY COMMISSION HAS APPROVED A FINANCIAL MANAGEMENT SYSTEM AS PROVIDED BY CHAPTER 13, PRIVATE ACTS OF 2002, AND AUTHORIZED THE FINANCIAL MANAGEMENT COMMITTEE TO ACT AS THE PURCHASING COMMITTEE. SUMNER COUNTY HAS AUTHORIZED ALL DEPARTMENTS TO PERFORM THEIR ON PURCHASING FUNCTIONS WITHIN THE GUIDELINES OF TCA. SUMNER COUNTY BELIEVES THIS TO BE THE BEST AND MOST ECONOMICAL APPROACH TO COUNTY-WIDE PURCHASING MANAGEMENT.

FINDING 05.02 COUNTY DRUG CONTROL FUND

SUMNER COUNTY HAS ESTABLISHED A COUNTY DRUG CONTROL FUND WITHIN THE COUNTY GENERAL FUND, AND TRACKS ITS ACTIVITIES RELATING TO THE REVENUES, EXPENDITURES AND FUND RESERVES. SUMNER COUNTY BELIEVES THIS TO BE THE MOST EFFICIENT METHOD OF FINANCIAL ACCOUNTING FOR THE MANAGEMENT OF THE COUNTY DRUG CONTROL FUND.

RESPECTFULLY,



DENNIS W. PETTY
COUNTY FINANCE DIRECTOR