



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
DEPARTMENT OF AUDIT
DIVISION OF COUNTY AUDIT
SUITE 1500
JAMES K. POLK STATE OFFICE BUILDING
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June 9, 2009

To the Dickson County Mayor and
Board of County Commissioners:

Dickson County decided to renovate their current jail building and increase the number of prisoner cells. In an effort to maximize the number of available cells at the lowest estimated cost, a decision was made to move the sheriff's administrative offices out of the current jail building to a separate newly constructed administrative building.

The Dickson County Jail Committee hired Mr. Gary Springer as construction manager to oversee the building of the administrative building for the Sheriff's Department. Mr. Springer oversaw the construction until four complaints were filed with the Tennessee Board of Licensing Contractors in February 2009. As a result of the complaints, Dickson County voluntarily stopped work on the project. Subsequently, the county hired an architectural firm to assist in the completion of the project.

As a result of certain allegations this office received concerning the construction of the administrative building for the Sheriff's Department, we conducted a limited review of the project. This limited review included interviews and an examination of invoices, bid documentation, contracts, and contractor qualifications.

The finding and recommendation resulting from our limited review is presented below together with the written response from the Dickson County Mayor. The written response from the county mayor has been paraphrased in this report. We also reviewed this finding with Mr. Gary Springer, the construction manager.

Sincerely,

A handwritten signature in black ink, appearing to read "James R. Arnette".

James R. Arnette
Director of County Audit

Attachment: Finding and Recommendation
cc: Mr. Gary Springer

FINDING AND RECOMMENDATION

FINDING 08.01 DEFICIENCIES AND IRREGULARITIES EXISTED REGARDING THE CONSTRUCTION OF A JAIL ADMINISTRATION BUILDING

Our examination of the jail administration building project disclosed numerous deficiencies and irregularities, which are discussed below.

- A. Dickson County publicly advertised in a local newspaper to competitively solicit applicants to serve as construction manager for the project. Four applications were received; however, the jail committee interviewed only two of the applicants and then decided to reject all four applicants. Minutes of the jail committee did not clearly document why only two of the four applicants were interviewed or why all four were rejected. The jail committee subsequently negotiated with and hired Mr. Gary Springer as the construction manager.
- B. Dickson County did not enter into a formal written contract with Mr. Springer. Without a written contract, the county and the contractor have no documented guidance of their responsibilities.
- C. Dickson County did not require the construction manager, Mr. Springer, to post a bid bond. Section 62-6-129, TCA, requires that no contract for the services of a construction manager shall be awarded unless there is posted at the time of the submittal of a proposal for services as a construction manager a bid bond equal to ten percent of the value of the services proposed and the value of the work to be managed.
- D. Mr. Springer, as the construction manager, solicited subcontractors and executed contracts with the subcontractors for the county. There is no statutory authority for Mr. Springer to execute contracts on behalf of the county.
- E. Mr. Springer billed Dickson County \$116,379.67 through his construction company (Master Craft Construction) for the purchase of materials, supplies, labor, and equipment usage and rentals. Detailed documentation was not on file in the county to support approximately \$69,500 of the \$116,379.67. We gave Mr. Springer an opportunity to provide us with detailed documentation to support the \$69,500. Mr. Springer provided us with lists of checks issued (including copies of cancelled checks) for labor, materials, equipment rental, and overhead charges; however, we do not consider these lists to be sufficient documentation.

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- F. Dickson County hired Mr. Springer as the construction manager to oversee the project; however, it appears that Mr. Springer was actually paid as a construction manager (\$24,925.79), a subcontractor for electrical work (\$17,550), and a general contractor (\$116,379.67) for various other work. Mr. Springer advised that he received reimbursements through his construction company to expedite the project. Therefore, we question a perceived conflict of interest of serving as the construction manager for the county, a subcontractor, and a general contractor at the same time.

- G. In-lieu-of employing a registered architect or engineer for the project, Dickson County allowed Mr. Springer to obtain plans and specifications from vendors as deemed necessary. Section 62-2-107, TCA requires that a registered architect or engineer be employed whenever construction contracts are estimated to exceed \$25,000.

- H. Dickson County did not employ properly licensed contractors and subcontractors to manage or perform work on this project as required by Sections 62-6-102 and 62-6-103, TCA. These statutes require that a licensed contractor be employed whenever construction contracts are estimated to exceed \$25,000. Mr. Springer held a residential contractor's license with a monetary limit of \$800,000. The project requires a general contractor's license and has an estimated cost of \$1,200,000. Therefore, Mr. Springer held the wrong kind of license for this project and the monetary limit of his license was insufficient for this project. Also, Mr. Springer, who was licensed as a Limited Licensed Electrician (LLE), contracted to personally perform \$19,500 of electrical work on the project and to supervise several thousand dollars worth of other electrical work. An LLE license only allows electricians to perform work on projects where the total cost of the project is less than \$25,000. Therefore, since the electrical work exceeded \$25,000, Mr. Springer did not have the proper license. Furthermore, Mr. Springer executed contracts on behalf of the county with two subcontractors and received a quote from another subcontractor who was not licensed as required by statute.

- I. Dickson County did not require contractors, whose contracts were in excess of \$100,000, to provide performance bonds. Section 12-4-201, TCA, requires contractors to execute a performance bond for 25 percent of the contract price on all contracts in excess of \$100,000.

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- J. Competitive bids were not solicited for some purchases in excess of \$10,000 as required by Section 5-14-108, TCA. A listing of those purchases is presented below:

Vendor	Amount	Description
Leon Ross Construction	\$ 67,549	Concrete
U.S. Plumbing	48,800	Plumbing
Drywall Systems Plus, Inc.	106,367	Drywall
SDI Networks	51,616	Data Systems
Gulf States Manufacturing	125,941	Steel Framework
Irving Materials	25,234	Concrete
Rexel Electrical	18,925	Generator
Three States Supply	18,373	Air Conditioning Units

- K. Mr. Springer was allowed to use the county's tax exempt status to purchase items for the project without paying sales tax. Section 67-9-209(B) TCA, requires contractors and subcontractors to remit sales tax on tangible personal property that has been furnished to them.
- L. Mr. Springer's company (Master Craft Construction) did not have a license to conduct business in Dickson County. Sections 67-4-701 through 67-4-729, TCA, require businesses engaging in business activity to have a business license.

As a result of the deficiencies, irregularities, and lack of documentation noted above, we are unable to determine the propriety of all of the expenditures and whether all of the expenditures were for the benefit of the jail administration building.

RECOMMENDATION

Minutes of the jail committee should have clearly documented why only two of the four applicants were interviewed and why all four applicants were subsequently rejected. Contracts should be in writing to document the responsibilities of all parties. The county should require bid bonds where applicable and execute all contracts. In the absence of an architect to approve purchases and work performed independently by the construction manager's company, Master Craft Construction Company should not participate in the project. The county should hire a registered architect or engineer and properly licensed contractors and subcontractors for all projects costing in excess of \$25,000. The county should require all contractors with a contract in excess of \$100,000 to provide a performance bond. The county should not permit their tax exempt status to be used inappropriately. County officials should resolve this sales tax issue with officials from the

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Tennessee Department of Revenue. The county should contract only with businesses that are licensed to do business in the county.

MANAGEMENT'S RESPONSE – COUNTY MAYOR

While I will not attempt to address each area in the finding in your report, I would like to make a few comments in response to certain aspects of the finding set forth in the following paragraphs:

Item F. – Mr. Gary Springer was hired to serve as a construction manager. It was never contemplated that he or his company, Master Craft Construction, would serve in the role of general contractor for the project; however, his company was reimbursed for costs advanced in connection with the project, which the county acknowledges certainly gives the appearance that a general contractor relationship existed.

Item G. – The following architects and/or engineers were utilized for various aspects of the project: Facilities Design Group, Inc. (architectural design of the building); Gulf State Pre-engineered Metal Building Sales (pre-engineering of the steel building); Eastern Engineering (electrical design and engineering); Anthony L. Lock (concrete, footer, and interior steel design); and Glen Abernathy (design of the second story mezzanine). The project as a whole, however, was not under the direction or supervision of a single architect or engineer.

Item J. – Although not publicly advertised as required, quotes or bids were obtained on all of the work listed in this paragraph to obtain the best possible price for the county. The only exception being SDI Networks, which is a contract that was entered into by the Sheriff's Department directly for communications and data services. The county acknowledges that public advertising should have accompanied, and was required as part of, the competitive bidding process.

Now turning to your recommendations, we acknowledge that there were many missteps made in this project in terms of complying with certain requirements under the law. The intent of the Jail Committee in hiring Mr. Springer, and the intent of the County Commission and my office in moving this project forward, was to construct a quality building for the least amount of money. We (the County Commission and my office) recognized that we were going to spend a considerable amount of the taxpayers' money on the jail expansion, and we wanted to keep costs as low as possible on the administration building to meet the funding needs of the jail expansion.

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Initial cost estimates for the administration building were as high as \$2,400,000. The county ultimately elected to pursue a course of action that would result in a total construction cost of \$1,200,000, representing a substantial savings to the taxpayers. Immediately upon receiving notice that complaints had been made by one or more citizens to the state regarding the manner in which this project was being handled, construction was voluntarily halted by the county. At that time, the project was approximately 85 percent complete, and the county was on track to complete the project for a total cost of \$960,000, or approximately \$240,000 under budget. Having now engaged an architectural firm at a cost of \$65,000 to assist with the completion of the project, we believe that we are adequately responding to the recommendations made in your report.

Further, as to the specific recommendations set forth in your letter, we respond as follows:

1. In the future, all purchases of goods and services that are required to be competitively bid will be bid in compliance with state statutes, and not simply purchased based on quotes and bids obtained without notice being published in the newspaper.
2. Contracts will be required to be in writing.
3. Bid bonds will be obtained where applicable.
4. Contracts will be executed by officials duly authorized to do so on behalf of the county.
5. Master Craft Construction Company will not be providing any other services in connection with this project other than providing information about prior work on the project.
6. The county has engaged the services of C&I Design, Inc., to provide architectural services in the completion of this project, and will utilize the appropriate professional services in the future for projects costing in excess of \$25,000.
7. The county will require all contractors with a contract in excess of \$100,000 to provide a performance bond unless otherwise permitted by law.
8. The county will take steps to ensure the appropriate use of the county's tax exempt status.
9. The county has been, and is, working with the Tennessee Department of Revenue to resolve any outstanding sales tax issues identified in your report.
10. The county will work to ensure that businesses with which it contracts are properly licensed to do business in the county.