Oversight Division

Committee On Legislative Research

PROGRAM EVALUATION

Review of the
Department of Corrections
and
Office of Administration
Food Service Contracts

Program Evaluation
Review of the Department of Corrections and Office of Administration Food Service Contracts

Prepared for the Committee on Legislative Research
by the Oversight Division

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Committee on Legislative Research
Oversight Subcommittee

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Members of the General Assembly:

The Joint Committee on Legislative Research adopted a resolution on September 10, 2013 directing the Oversight Division to perform a program evaluation of the Department of Corrections and Office of Administration Food Service Contracts to determine and evaluate program performance in accordance with program objectives, responsibilities, and duties as set forth by statute or regulation.

The report includes Oversight's comments on internal controls, compliance with legal requirements, management practices, program performance and related areas. We hope this information is helpful and can be used in a constructive manner for the betterment of the state program to which it relates. You may obtain a copy of the report on the Oversight Division's website at http://www.moga.mo.gov/oversight/audits.html.

Respectfully,

Brad Lager

Senator Brad Lager
Chairman

EXECUTIVE SUMMARY

This Missouri Department of Correction (DOC) operates 20 adult correctional facilities, two community release centers, seven community supervision centers and two cook-chill production facilities throughout the state. The average DOC daily prison population is approximately 32,000 inmates. At three meals per day for each inmate, DOC served approximately 35.1 millions meals in FY 2013 at an approximate cost of $2.64 a day.

The Office of Administration (OA) - Division of Purchasing and Materials Management (DPMM) is responsible for procuring most of the food needs for the DOC facilities. DOC calculates what food product needs it will have in the coming weeks or months and works with DPMM to ensure that a sufficient quantity of goods will be delivered to meet that demand. In accordance with applicable statutes, DPMM procures goods and services by awarding contracts using a "lowest and best" price evaluation method.

Food contracts can range in duration from a couple of months to several years. For example, commodity warehouse meats or grocery contracts are bid every 6 months, while the contract to provide produce has generally been for 5 years. Also, food contracts can be for specific departments or they can be for any state agency that wishes to purchase product from the contract (for example, DOC and the Department of Mental Health may purchase dairy products for their institutions from the same contract).

The Oversight Division interviewed DOC and DPMM personnel, reviewed applicable State of Missouri Statues, rules and regulations, analyzed budget and actual expenditure information, as well as gathering information from other states. Oversight also reviewed a sample of sixteen (16) contracts that covered the various types of contracts awarded during the scope of the evaluation. It appears that DPMM is adequately thorough in its bidding process.

State statutes require OA to advertise for large bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders". OA satisfies this requirement by advertising in the St. Louis Daily Record and The Daily Record, Kansas City. With the technological advances that have been incorporated into the procurement system (chiefly electronic notifications and web site posting of bidding opportunities), Oversight wonders if the statutory requirements of newspaper advertising are still necessary.

Since our last review of purchasing in 2002, DPMM and the Department of Revenue have developed an automated system of verification of vendor tax due status. Oversight also recommends DPMM continue to pursue the verification of vendors' status with other appropriate state and federal government agencies.

The Oversight Division wishes to acknowledge the cooperation and assistance of the staff of the Division of Purchasing and Materials Management as well as the Department of Corrections during this evaluation.

Chapter 1

Purpose/Objectives

The General Assembly has provided by law that the Joint Committee on Legislative Research may have access to and obtain information concerning the needs, organization, functioning, efficiency and financial status of any Department of state government or of any institution that is supported in whole or in part by revenues of the State of Missouri. The General Assembly has further provided by law for the organization of an Oversight Division of the Joint Committee on Legislative Research and, upon adoption of a resolution by the General Assembly or by the Joint Committee on Legislative Research, for the Oversight Division to make investigations into legislative governmental institutions of this state to aid the General Assembly.

The Joint Committee on Legislative Research directed the Oversight Division to perform an evaluation of the food services contracts entered into by the Office of Administration - Division of Purchasing and Materials Management for the Department of Corrections.

Oversight's review addressed, but was not limited to the following:

1. Review of the bidding procedures for the procurement of food products for the state's correctional facilities.

2. What criteria are used in determining the "lowest and best" bid?

3. Are contracts bid in conjunction with other state departments' institutional food needs?

Scope

The scope of the evaluation concentrated on the period of July 1, 2010 through June 30, 2013, State Fiscal Years 2011 through 2013.

Methodology

The methodology used by the Oversight Division included interviewing Department of Corrections and Office of Administration - Division of Purchasing and Materials Management personnel, reviewing the State of Missouri statutes, rules and regulations, reviewing a sample of bids, analyzing budget and actual expenditure information, as well as gathering information from other states.

Background

The Missouri Department of Corrections (DOC) operates 20 adult correctional facilities throughout the state, which are responsible for ensuring offenders sentenced to their custody are confined in a safe, secure and humane manner and have access to programs and services to assist them in becoming productive citizens. In addition, DOC operates two community release centers, seven community supervision centers and two cook-chill production facilities. The average daily DOC prison population throughout the state is approximately 32,000 inmates. Therefore, at three meals per day for each inmate, 365 days per year, DOC reports serving approximately 35.1 million meals in FY 2013.

DOC's total annual expenditures for food during the last three fiscal years has been $27.3 million in FY 2011, $29.4 million in FY 2012, and $30.8 million in FY 2013 (and an appropriation of $30.8 million in FY 2014). Dividing the total annual expenditures by the average daily prison population, DOC states the average cost of food and related equipment per inmate per day was $2.637 in FY 2013 ($2.528 in FY 2012 and $2.374 in FY 2011).

Assisting DOC in this undertaking, the Office of Administration (OA) - Division of Purchasing and Materials Management (DPMM) is responsible for procuring most of the food needs for the DOC facilities. DPMM's stated mission is "to perform comprehensive procurement and materials management services for state agencies and other eligible entities in an efficient and effective manner and to provide assistance to our customers in fulfillment of their missions while maintaining the public trust and maximizing the use of public funds." In accordance with applicable statutes, DPMM procures goods and services by awarding contracts using a "lowest and best" price evaluation method.

Generally, the DOC calculates what food product needs it will have in the coming weeks or months and works with DPMM to ensure that a sufficient quantity of food will be delivered (or in some instances, picked-up) to meet that demand. Since the purchases of food for the inmates are generally valued over $25,000, the DPMM administers the bidding/contracting process and DOC's Purchasing Section serves as the liaison with DPMM.

Food contracts can range in duration from a couple of months to several years. For example, commodity warehouse meats or grocery contracts are bid every 6 months, while the contract to provide produce has generally been for 5 years. Also, food contracts can be for specific departments (for example, DOC contracts to have diced chicken delivered to its two warehouse facilities) or they can be for any state agency that wishes to purchase product from the contract (for example, DOC and the Department of Mental Health may purchase dairy products for their institutions from the same "state-wide" contract).

Chapter 2

The continual need for food:

As stated earlier, the Department of Corrections feeds approximately 32,000 inmates each day. To ensure that all inmates receive a varied and sufficient amount of food and that the food served meets nutritional guidelines, DOC regulates what is served in its institutions. DOC's Food Service Coordinator determines the menu for all DOC institutions (all institutions must serve essentially the same menu). The menus are very specific and any substitutions must be documented.

All DOC institutions use a six week cycle Master menu. There are two sets of six week cycle menus, each used according to the season: 1) Fall and Winter and 2) Spring and Summer. Each institution calculates their food orders based on what is needed to support the Master menu and in quantities needed to serve their population. The institutions submit their quarterly grocery orders and monthly meat orders to the Food Service Coordinator at least three months in advance of the period the food will actually be served. The Food Service Coordinator then compiles the orders from the various institutions and release centers, estimates the quantities of food needed to meet future demand, determines how much product is available at the two commodity warehouses (Jefferson City and Bonne Terre), and then coordinates with the Office of Administration (OA) - Division of Purchasing and Materials Management (DPMM) to purchase the food needed to meet the demand.

Formal procurement of food:

When a procurement is estimated to be $25,000 or more, a formal method of solicitation must be utilized by an agency, unless that agency has been delegated general procurement authority. Generally, all of the food purchases for DOC are above this threshold, and they have not been delegated general procurement authority; therefore, DOC is not allowed to procure the product on its own and must utilize the services of DPMM. Per Section 34.040, RSMo, for items over $25,000, the Commissioner of Administration shall advertise for bids in at least two daily newspapers, post a notice of the proposed purchase in his or her office, and solicit bids by mail or other reasonable method generally available to the public from prospective buyers.

Once DOC's Food Service Coordinator informs OA of the need for a product (by entering an appropriate requisition into SAM II), DPMM will begin the procurement process. DOC states they purchase the vast majority of their food through the following types of purchases:

1. <u>Bakery items</u> - generally a regional contract (i.e. Central Missouri) in which the vendor supplies the needed bakery items (bread, buns, rolls, etc.) directly to the institutions. These generally are state-wide contracts, meaning that any state agency (i.e. Department of Mental Health) can purchase those products at the contract rate. These contracts are bid yearly by DPMM and have few bidders.
2. <u>Dairy items</u> - also generally a regional contract in which the vendor supplies the needed dairy items (milk, ice cream, yogurt, etc.) directly to the institutions. These also are generally state-wide contracts and are bid yearly by DPMM and have few bidders.
3. <u>Commodity Warehouse Groceries</u> - contract for a guaranteed quantity of product to be delivered to the two DOC commodity warehouses. A single bid may include 30 or more different products (canned goods, salad dressing, spices, etc.) and each product is evaluated separately; therefore, numerous contracts can be written based on a single solicitation from DPMM. These are generally bid every six months and attract several bidders.
4. <u>Commodity Warehouse Meats</u> - contracts bid for six months, with some having one or two 3 month renewals.
5. <u>Produce (Prime Vendor)</u> - multiple year contract (had generally been for five years, but current contract is for two years) to supply institutions weekly with produce (apples, onions, cabbage, etc.). This is the only bid type, for DOC food purchases, in which the bids are subjectively graded by factors other than cost only.
6. <u>OA Meats</u> - bid monthly by OA, usually 2-3 months prior to delivery.
7. <u>OA Groceries</u> - bid quarterly by OA, usually 2-3 months prior to delivery. Products (juices, sugar, dried beans, pasta, etc.) are delivered directly to the institutions.
8. <u>Local Food Purchases</u> - a relatively small amount of purchase orders may be written by the institution for pre-approved and "emergency" food purchases such as items for a special medical diet or situations of food/ingredient shortage.

<u>Expenditures for food:</u>

The DOC reported the following annual expenditures for 'food and food related supplies' during the scope of our evaluation for the 20 correctional facilities, two community release centers, four community supervision centers (the other three community supervision centers are provided food through different sources), and two cook-chill production facilities.

	FY 2011	FY 2012	FY 2013
Food expenditures	$27,343,672	$29,383,373	$30,813,814
Number of meals served	34,393,793	34,846,473	35,114,580
Average cost of food & equip / inmate / day	$2.374	$2.528	$2.637
Average daily prison population	31,519	31,844	32,138

Source: Department of Corrections

Invitation for Bids vs. Request for Proposals:

Two basic types of procurement methods are the Invitation for Bid (IFB) and the Request for Proposal (RFP).

An IFB is a formal request for sealed bids. The document will contain standard technical specifications for a specific item and a formal bid opening date and time with which the bidder must comply in order to be considered for the award. The evaluation may be based on cost only or may include weighted subjective criteria. At formal openings of IFBs, the bidders' names and prices are read aloud.

An RFP is a competitive method of procuring goods and services whereby offerors are asked to submit proposals for the supply of goods/services in a format that allows for the consideration of factors other than price in the evaluation and award process. Competitive negotiations are allowed to obtain the "best value" and the cost of the project is not the single determining factor. An RFP will contain functional specifications for which the offeror must respond with a sealed proposal. A formal proposal opening date and time will be specified. Subjective evaluation criteria may be used to select a contractor. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. At the formal RFP opening, only the offerors' names will be read.

Since the purchase of food does not generally involve competitive negotiations (generally, the only variable within the bids is the offered price for the product), DPMM mostly utilizes IFBs during the procurement process.

Contracts vs. Non-Contract vs Single Feasible Source:

There are different methods DOC and DPMM can use to procure food for its institutions:

- Contract Purchase: DPMM solicits bids through the procurement process and enters into a contract with the winning vendor. DOC then writes purchase orders off the established contract let by DPMM. Delivery of the product is established in the contract to be either to specific institutions or to the commodity warehouses.

- Non-Contract Purchase: DPMM solicits bids through the procurement process the same as through the contract purchases; however, DPMM does not execute a contract with the winning vendor. DPMM does not enter a price agreement into SAM II, but rather issues purchase orders to the awarded vendor. Since no price agreement is entered into SAM II, these purchases are reflected as non-contract purchases. Items purchased through this mechanism are bid more frequently (i.e. meats monthly, grocery items quarterly) due to factors such as shorter shelf life or price volatility. Compared to "contract purchases", the bid/solicitation process is the same, the difference is in regards to how the purchase is handled through the SAM II system.

- Single Feasible Source Purchase: Section 34.044, RSMo, states the Commissioner of Administration may waive the requirement of competitive bids or proposals for supplies when the Commissioner has determined in writing that there is only a single feasible source for the supplies. Three examples of single feasible source are given, and the instance that is the most relative to DOC is when supplies are available at a discount from a single distributor for a limited period of time (i.e. sales price). The discount is defined in the Code of State Regulations as "at least ten percent (10%) less than the current contract or other comparable price." Therefore, if DOC is offered a one-time discount on a specific item by a vendor, perhaps if the product is to expire soon, DOC/DPMM does not have to go through the competitive bidding process. If the estimated expenditure is over $5,000, DPMM must, however, post notice of the proposed purchase. If the estimated expenditure is over $25,000, DPMM must also advertise their intent to make such purchase in at least two daily newspapers at least five days before the purchase. The requirement for advertising may be waived, if not feasible, due to the supplies being available at a discount for only a limited period of time. These purchases are entered into SAM II as non-contract purchases.

- Occasional small purchases: DOC sometimes makes small purchases under local purchasing authority. Examples given include individual size bags of potato chips for work release lunches, items necessary for special medical diets, or emergency situations of food/ingredient shortages. These too would be entered into SAM II as non-contract purchases.

Review of sample of bids:

During our review of food contracts for this program evaluation, Oversight selected and reviewed a sample of sixteen (16) Invitations for Bid (IFBs) from DPMM. We were provided digital images of the documentation supporting the bid, which included the original solicitation, any responses from vendors, subsequent contracts, evaluation narratives by the DPMM Buyer, checklists used by DPMM, as well as other documentation. Oversight reviewed the sample to ensure that the procurement process followed state statutes (chapter 34, RSMo) as well as the Code of State Regulations (1 CSR 40-1), and that the "lowest and best" bidders were the winning bidders. Examples of things that Oversight looked for included:

- appropriate signatures and dates;
- documentation of newspapers advertising;
- winning bidders were indeed the "lowest and best";
- tax clearance verification through the Department of Revenue;
- domestic produce procurement act (34.353, RSMo);
- blind and sheltered workshop preference (34.165, RSMo); and
- debarment certification of the vendor.

We reviewed each bid in the sample to ensure that the necessary items were taken into consideration. It appears that DPMM followed bidding procedures.

Most of the bids were evaluated simply based on price. Since the item (food) being purchased is a commodity and that same commodity usually can be supplied from several vendors, the largest distinguishing factor between bids is price. In all of the non-subjective bids that we reviewed, the Buyer from DPMM analyzes the costs of the competing bids and makes a recommendation to DOC regarding a winning bid. Occasionally, DOC stated that the lowest bid was not recommended because the quality of the product did not meet standards. Often a sample of the product would be provided to DOC, who would determine if the product met flavor, consistency, nutritional, mass production capabilities, and other criteria. Therefore, if a product failed DOC's testing, the bid for that product was no longer considered.

As stated earlier, most solicitations for DOC food are evaluated solely on the price at which the vendor is willing to deliver the product. However, for the awarding of the multi-year prime vendor contract (delivery of fresh fruits and vegetables), DPMM uses subjective criteria to evaluate the bidders. In 2012, DPMM accepted bids for the prime vendor contract (solicitation number B1Z13001). The subjective part of the evaluation was conducted by a four-person evaluation committee of DOC employees. Each bid/vendor was evaluated on a 213 point basis:

- Maximum 100 points for costs;
- Maximum 40 points for experience and expertise;
- Maximum 50 points for method of performance, product quality, and support;
- Maximum 10 points for MBE/WBE participation;
- Maximum 10 points for Blind/Sheltered Workshop preference; and
- Maximum 3 points for MO Service-Disabled Veteran Business preference.

The maximum of 90 points for 'experience and expertise' as well 'method of performance, product quality, and contractor support' were assigned by the DOC evaluation committee. They subjectively evaluated items such as sanitation, operating procedures, personnel policies, quality control, customer service tracking, fleet detail, and economic impact.

The evaluation committee consisted of four DOC employees; the General Services Manager, Food Services Coordinator, Purchasing Manager, and an Institutional Food Service Manager. Oversight inquired if there was ever a discussion regarding having a non-DOC employee serve as part of the evaluation committee. DOC responded that, as far as they were aware, no such discussion had occurred, and that DOC was the only stakeholder in the contract. The DPMM buyer served as facilitator for the evaluation.

DPMM stated this situation would not be considered unusual, since the contract was for Corrections and their staff had the greatest amount of experience. Multi-agency evaluation teams are appropriate for instances where many agencies are impacted. DPMM gave the example of inmate health care which would impact DOC, the Department of Health and Senior Services, and the Department of Social Services.

Protesting of Award:

A non-winning bidder has the ability, in writing within ten business days after the date of award, to formally protest the awarding of a contract. Oversight asked DOC if any vendors, within the three year scope of this evaluation, had formally protested the award of a DOC food contract and what was the outcome. DOC responded that there had been no such protests during this time period. However, during our evaluation, Oversight found and reviewed a formal protest from a non-winning bidder for the prime vendor contract from January, 2008. The solicitation was for a five year contract (January 1, 2008 - December 31, 2012) to be the prime vendor of produce - fresh fruits and vegetables. Therefore, the awarding of this contract occurred in 2007, which is before the scope of our review. The contract, however, was in our sample pool because DOC had expenditures from it in all three years of the scope.

A non-winning bidder protested to DPMM the awarding of the contract to another vendor. Several objections were raised regarding the subjective score given to the bidder regarding the vendors capacity to execute the large orders, the adequacy of their transportation assets, the condition of the vendor's warehouses, the amount of cold storage space available, as well as other areas of concern. The Assistant Director of DPMM formally responded to each of the issues protested by the non-winning bidder, but the final outcome of awarding the contract to another vendor did not change.

Oversight noted the same vendor who protested the award in 2007/2008, was the winning bidder the next time it was bid (in 2012) and was awarded a contract (C113001001).

Purchasing through a procurement card:

The Department of Corrections encourages the use purchasing cards, also known as Procurement Cards (P-Card), whenever possible. According to DOC, these cards are kept in a secure location and must be "checked out" for use and a log is created for each use.

Vendors who accept purchasing cards receive payment within three days of the transaction from United Missouri Bank, the current Missouri purchase card issuing provider. The vendor pays transaction fees for accepting the card, but that amount is most likely built into the contract pricing. When a purchase is made using a purchasing card, vendors must send an itemized paid receipt to the ordering institution or division. DOC states many of the milk, bread, and produce vendors have become merchant accounts (accept the p-card as a means of payment) in recent years; therefore, allowing for increases in p-card purchasing from these vendors.

Rebates are offered by the issuing provider (bank) if the contractor (DOC) uses a P-Card. Rebates received on DOC food purchases totaled $73,622 in FY 2011, $85,142 in FY 2012, and, $71,241 through three quarters of FY 2013. By OA policy, all rebates received are put back into the fund where the funds originated, in this case General Revenue. DOC receives no direct benefit from the rebates.

DOC institution gardens:

A question was raised during the September meeting of the Joint Committee on Legislation Research regarding DOC institutional gardens. According to the DOC, offenders within their institutions have produced more than 50 tons of produce through the Restorative Justice Garden Program and distributed the food to local food pantries throughout the state. No produce is retained and consumed by the institutions. HB 836 in the 2013 legislative session would have required each institution to develop and maintain a garden, and would have required all of the food harvested through the program to supplement the food purchased by DOC. In response to the request for fiscal impact of this legislation, DOC expressed concern about impacts such as available space, water usage, refrigeration space, as well as ensuring that enough of the produce was available so that sufficient quantity is available for all inmates.

Examples of contract terms not being met:

As part of the mission for this program evaluation, Oversight was tasked with determining when terms of food purchase contracts were not being met, what actions the state took to remedy the situation. Below are four examples of awarded vendors not being able to meet the terms of their contracts and the consequences.

Contract C111208002 - A shipment of canned pears was delivered late. Pursuant to paragraph 2.6.2 of the commodity warehouse grocery contracts, vendors would be assessed liquidated damages in the amount of one-percent (1%) of the total dollar amount of the scheduled delivery order for each business day in which the requirement was not completed. In this instance, 10% of the total amount of the scheduled delivery order, equal to $1,693.33, was deducted from the invoice.

Contract C112086001 - A shipment of cookies was delivered late. Pursuant to section 2.17 of the contract, vendors would be assessed liquidated damages in the amount of one-percent (1%) of the total dollar amount of the scheduled delivery order for each business day in which the requirement was not completed. In this instance, 10% of the total dollar amount of the scheduled delivery order, equal to $1,955.33, was deducted from the invoice.

Contract C1112084001 - The vendor was awarded a contract for canned beets with a minimum 70 ounce drained weight. It was later determined that the actual drained weights were less than the 70 ounce bid requirement. The vendor was unable to meet the specifications as required in the contract and DPMM sent a notification to the vendor regarding breach of contract. Two other companies confirmed with DPMM that they could not meet the 70 oz. requirement. Since the vendor was unable to fulfill its obligation, that line item was cancelled from the contract instead of accepting a product that did not meet the bid specifications, and the product was not procured from a different vendor.

Contract C113001001 - As stated earlier, this contract was awarded to the vendor who filed a formal protest with OA-DPMM in 2007/2008. Numerous performance issues occurred in the early stages of this contract for produce prime vendor - fresh fruits and vegetables. Issues included:

- Performance discrepancies which included missed scheduled deliveries, alteration of delivery dates without DOC consent, mixed orders, and truck drivers not off-loading product as required by contract;
- Quality issues specific to fruits and vegetables, causing delivery to be rejected in some cases by DOC;
- Delivery truck breakdowns along with security concerns and sanitation issues which brought up concerns about the general condition of the trucks in the fleet; and
- Service Level Tracking and Reporting as required in section 3.12 of the contract was incomplete.

Discussions with DOC indicate that the issues have been resolved and the vendor has instituted a procedure to call back institutions after each delivery to ensure there are no unmet expectations. The vendor has also implemented a quality control program and a pre-delivery training program for all drivers qualified to make deliveries to DOC facilities.

Chapter 3

The need to advertise?:

In 2002, Oversight conducted a program evaluation of the Office of Administration - Division of Purchasing and Materials Management. One of the comments Oversight made in the report was that DPMM's selection of newspapers, for advertising bids, does not meet the legislative intent of Sections 34.040.2(1) and 34.044.2, RSMo. We stated that DPMM advertises all necessary bids (over $25,000) in the St. Louis Daily Record and The Daily Record, Kansas City, which are marketed primarily to attorneys and are considered "legal" newspapers with a combined estimated readership of 4,500 people per day.

Subsection 34.020.2, RSMo, states "On any purchase where the estimated expenditure shall be twenty-five thousand dollars or over, except as provided in subdivision of this section, the commissioner of administration shall advertise for bids in at least two daily newspapers of general circulation in such places as are most likely to reach prospective bidders". The subsection also states OA shall "solicit bids by mail or other reasonable method generally available to the public from prospective suppliers."

In that report, Oversight recommended DPMM advertise in daily newspapers with a larger general circulation than the St. Louis Daily Record and The Daily Record, Kansas City, especially when the cities of St. Louis and Kansas City are the target audience. Oversight considered newspapers such as the St. Louis Post Dispatch and the Kansas City Star would come closer to meeting the legislative intent of the statue.

During the current program evaluation, it was evident that DPMM still conducts the statutorily-required newspaper advertising through the same two publications, St. Louis Daily Record and The Daily Record, Kansas City, that they did before 2002. DPMM estimates they spent approximately $6,900 in newspaper advertising in FY 2013.

In addition to the required newspaper advertisements, DPMM notifies registered vendors via e-mail of upcoming bid opportunities. Any vendor wishing to do business with the state can register with OA. Therefore, depending on what types of products and/or services the vendor registers as being able to provide, the vendor would receive e-mail notification that DPMM is soliciting bids for the product or service. For example, a company that sells dairy products (i.e. Highland Dairy) can register as a vendor with the state, and as such would receive notification that the state is soliciting bids to provide dairy products to state institutions in the central region of the state.

Through 2012, vendors had to pay an annual $50 premium registration fee for this service. However, in January 2013, this fee was removed; therefore, all vendors registered with the state should receive notifications of appropriate bid opportunities. DPMM stated that vendors were also able to look at the state's web site and easily determine what bid opportunities were available, if they did not pay for the premium registration service. Bid opportunities are posted on the OA-DPMM web site by either commodity/service or department.

With the technological advances that have been incorporated into the procurement system (chiefly electronic notifications, web site posting of bidding opportunities, and on-line bidding capabilities), Oversight wonders if the statutory requirements of newspaper advertising is still relevant and necessary.

Verification/Clearance for Vendors:

In the 2002 report mentioned above, Oversight recommended DPMM take certain steps before an award is made to ensure that vendors are in good standing with the state. Specifically, Oversight recommended DPMM:

- Use the Secretary of State's website to determine if a corporate bidder is in good standing;
- Request the bidder to submit a "Notice of Liability" letter, a rate statement, or a contribution of wage report from the Division of Employment Security; and
- On a quarterly basis, submit the current vendor list to the Department of Revenue (DOR) and request DOR run an exceptions report listing those vendors that are not registered with DOR.

For this program evaluation, when asked if DPMM verifies the tax status with the Department of Revenue, DPMM stated DOR has implemented a procedure of updating the vendor file nightly (tied to SAM II) with "match" or "no match" indicator on the record. Meaning, if the vendor file lists the applicant as a "match", DOR has not determined that the vendor has an outstanding tax debt, and therefore, DPMM is allowed to contract with them. If the vendor file lists the vendor as a "no match", DPMM states they must insure proper documentation is completed prior to the award.

Regarding verification with the Secretary of State (SOS) and the Division of Employment Security, DPMM states the vendor attests to being in good standing in the state by signing the bid document. If a bidder is later found to not be in good standing with the state, this would be considered a breach of contract and could be grounds for termination. DPMM states they are currently conducting random verifications through the SOS system.

Oversight recommends DPMM continue to pursue the verification of vendors' status with the appropriate state and federal government agencies.

The two-year prime vendor contract:

As stated earlier, in 2012-2013 DPMM solicited bids for a prime vendor of fresh fruits and vegetables for the Department of Corrections. The previous two contracts had each been let for five year periods, with the most recent contract (C107295001) expiring December 31, 2012. DPMM changed the proposed length for the next contract to three years (January 1, 2013 - December 31, 2015). Through the initial bid solicitations (RFP, Amendments 1, 2, and 3, and the Best and Final Offer 1), the stated length of the contract was for three years, January 1, 2013 - December 31, 2015. However, during the last solicitation (Best and Final Offer 2) the time period was changed to April 1, 2013 - March 31, 2015 (2 years). The contract (C113001001), signed by DPMM on February 19, 2013, states the effective period of April 1, 2013 - March 31, 2015 (2 years).

When Oversight inquired with DPMM and DOC, both seemed unaware of this change. Oversight assumes that as the procurement process was taking longer than anticipated, DPMM attempted to shift the three year window back three months (to April 1, 2013 - March 31, 2016); however, an error was made by DPMM by not changing the final year of the contract from 2015 to 2016. DPMM verified that an error had been made in changing the contract date and that it should have been from April 1, 2013 - March 31, 2016. DPMM also stated that an amendment to the contract will be issued, correcting the contract period to the intended three years.

DPMM noted that a previous Commissioner of Administration changed the policy regarding five year contracts. The previous Commissioner felt that a five-year contract hindered competition, citing pricing concerns and efficiencies. Thus, as five-year contracts expired, new three-year contract periods were established.

Officials from DOC stated that having a shorter contract period (either two or three years, instead of five) shortens the turn-around in the contract bid process, increasing their work load. Typically, DOC must start the contract process a year in advance for this type of contract. However, DOC officials did indicate that if there are continuing issues with the performance of a vendor for a contract, DOC has the opportunity to change vendors more often with a shorter contract period.

In summary, a typographical error changed the intended contract period for a prime vendor from three years to two years; however, DPMM states they will work to extend (correct) the contract through an amendment.

Chapter 4

Comparisons to other states:

The daily cost to feed an inmate; Missouri vs other states:

As stated earlier, DOC reports that they spent an average of $2.637 (FY 2013) per day feeding each inmate. Oversight requested DOC provide to us comparable food cost per day per inmate from the eight surrounding states. Oversight also contacted the eight states to compare the results. The cost per inmate per day estimates below were provided by DOC, and were comparable to the amounts reported to Oversight from the states. It is difficult to determine if all nine states include the same expenditures in the per day cost calculation, so we will include the caveat that these are simply estimates provided by the Department of Corrections. Some of the costs not only included food, but also included the equipment to cook the food and utilities such as gas, electric, and water. In the last column, Oversight calculated what the state's annual expenditure would have been to feed 32,000 inmates (average daily population in Missouri's state prisons). The following are the results of that calculation:

	Cost per inmate per day	Comparative annual expense (x Missouri average daily prison population x 365 days)
Oklahoma	$2.550	$29.8 million
Missouri	$2.637	$30.8 million
Kentucky*	$2.794	$32.6 million
Tennessee	$2.990	$34.9 million
Nebraska	$3.270	$38.2 million
Illinois	$3.600	$42.0 million
Kansas*	$3.950	$46.1 million
Arkansas	$5.340	$62.4 million
Iowa	$5.610	$65.5 million

* Kentucky and Kansas both have contracts with Aramark Correctional Services to provide food services at their institutions.

An alternative (privatizing food services):

As stated above, the states of Kentucky and Kansas have both contracted with Aramark Correctional Services for their food service. So, instead of issuing state contracts or purchase orders through their Office of Administration and using manpower to run their food service operations, both states have contracted with a third party to handle this process. According to Aramark's website, more than a thousand state and county correctional leaders nationwide have made the switch to privatized food service. Aramark's website noted several advantages in contracting for food service:

1. Improve Organization Focus
2. Reduce Risk
3. Add Outside Expertise
4. Leverage Contractor Assets
5. Reallocate Budget

Conversely, the State of Florida did not have a successful experience with Aramark, and dropped the contract in 2008. Kentucky has also had issues with Aramark, and cited several problems in a 2010 report by the Kentucky Auditor of Public Accounts.

Officials from DOC stated they explored the possibility of privatizing food service operations at the two Community Release Centers in 2007. DPMM issued an RFP for this service; however, ultimately, all vendors declined to submit a proposal. Aramark later submitted a letter to DPMM listing the reasons for not submitting a bid. The reasons included:

- the requirement to offer employment to all current employees at current wages;
- the absolute requirement to serve the Missouri Master Menu as written;
- the requirement for the contractor to repair and replace equipment; and
- the RFP required a projection of costs nearly two years out.