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MICHAEL POST, C.P.A., M.B.A.
HARRIS COUNTY AUDITOR

June 5, 2020

Sheriff Ed Gonzalez
Harris County Sheriff's Office
1200 Baker Street
Houston, TX 77002

Dear Sheriff Gonzalez:

The Harris County Auditor's Office Audit Division has completed an audit of the Sheriff's Jail Commissary for the 12 months ended February 28, 2019. The results of our audit are included in the attached report.

We appreciate the time and attention provided by you and your staff during this engagement. Please look for an email to complete the Audit Division's Post Engagement Survey. We look forward to your feedback. If you have any questions, please contact me or Errika Perkins, Chief Assistant, 713-274-5673.

Sincerely,

A handwritten signature in blue ink that reads "Michael Post".

Michael Post
County Auditor

Attachment

Report Copies:
District Judges
County Judge Lina Hidalgo
Commissioners:
R. Jack Cagle
Rodney Ellis
Adrian Garcia
Steve Radack
Vince Ryan

AUDIT REPORT
SHERIFF JAIL COMMISSARY FISCAL YEAR 2019
JUNE 5, 2020

Executive Summary

OVERALL CONCLUSION

Based on the testwork performed for the Sheriff's Jail Commissary (Commissary) for the 12 months ended February 28, 2019, Commissary proceeds were used for the benefit of the inmates or to fund, staff, and equip Commissary operations in accordance with Local Government Code (LGC) §351.0415(c). In addition, Aramark Correctional Services, LLC (Contractor) complied with the performance bond and insurance coverage terms of the Commissary Agreement (Agreement). However, controls related to commission payments, contract compliance, disaster recovery/business continuity planning, and bank account signatories need improvement; see the Summary of Issues below. The issues were discussed with the Sheriff's Office Director of Finance, and a plan of remediation has been developed which will address the issues identified by December 1, 2020.

SCOPE AND OBJECTIVE

Audit Services conducted an audit of the Harris County Sheriff's Office (the Office) to test controls over the Commissary. The objectives of this engagement were to determine if:

- User Access rights in the QuickBooks application were adequate and appropriate.
- Bank reconciliations and related cash balances were accurately and timely recorded in the County's financial records.
- Disbursements were in compliance with LGC Section 351.0415 and were properly authorized, supported, and accurately recorded in the Commissary System and County's financial records.
- Sales were accurately recorded in the Commissary System and appropriately deducted from the respective inmates' trust accounts.
- Contractor payments to the County were in accordance with the Agreement, and were properly received, recorded, and deposited timely by the County.
- The Contractor complied with the performance bond and insurance coverage terms of the Agreement.

Furthermore, an additional objective was to:

- Review prior audit issues from the previous "Commissary" engagement to determine whether prior audit recommendations have been implemented.

The audit reviewed internal controls and data for the 12 months ended February 28, 2019.

SUMMARY OF AUDIT ISSUES

1. The Office does not have sufficient controls in place to adequately monitor and track commission payments owed to the County.
2. The Office does not have adequate controls in place to ensure the Contractor complies with the terms and conditions of the Agreement and Office internal policy.
3. The Office has not performed or documented a Disaster Recovery/Business Continuity Plan.
4. The Office does not have sufficient controls in place to ensure that authorized signatories who leave the County or department are removed from the bank account signatory list as required by County Accounting Procedure C.10, *Departmental Bank Accounts Non-Imprest*.

The enclosed Auditor's Report presents the audit issues, management's action plans to address the issues and background information regarding this audit area.

AUDIT ISSUES

ISSUE #1: Insufficient Controls for Monitoring and Tracking Commissary Commissions

What is the Issue: The Office does not adequately monitor or track commission payments owed to the County. Specifically, the following items were noted:

- 1) The Office does not invoice the Contractor for commissions due.
- 2) Commission tracking worksheets and/or schedules maintained by the Office are not updated in an accurate or timely manner.
- 3) Commission reports for iCare purchases (online purchases made by the family and friends of inmates) were not adequately reviewed and recorded.
- 4) Duties are not adequately segregated as commission payment tracking, receiving, and depositing is performed by one person.

What is Expected: Pursuant to section 6.F, *Financial Arrangements*, of the Agreement, “the Contractor shall pay the County a commission in an amount equal to Fifty-Six percent (56%) of Net Sales. At the end of each month, the Contractor shall deliver to the County a check covering commissions on Net Sales made during the month. The Agreement defines “Net Sales” as product sales (excluding all sales of tobacco products, stamps and pre-stamped envelopes, prepaid telephone calling cards or any other telephone sales, debit cards, and indigent products) less sales or use taxes and authorized returns.”

Pursuant to section 6.G, *Guarantee*, of the Agreement, the Contractor will guarantee to pay HCSO a minimum annual commission of \$4,000,000.00. The Contractor shall pay HCSO, annually, in two installments of \$2,000,000.00 each. The first payment is required to be made on March 1st and the second payment required to be made on August 1st of each year. All additional commissions owed in excess of these guaranteed minimum payments are to be remitted to the County as they are earned.

Pursuant to section 8, *Performance Bond*, of the Agreement, the County has the right to call the Contractor’s performance bond to obtain revenues owed in the event that the Contractor fails to pay all of the commissions owed.

Pursuant to County Accounting Procedure A.1, *Cash Handling Guidelines*, employees who accept payments should not be the same employees who balance receipts or deposit the revenue collected. In addition, the supervisor should prepare deposits in accordance with County Accounting Procedure F.1-2-1, *Deposits via Treasurer*, or F.1-2-2, *Deposits via Armored Carrier or Field Location*, as applicable.

Why it Matters: As of the end of FY 2019, \$481,104 dollars of commissions owed to the County had not been received. The commissions owed are a roll forward balance that originated from the start of Agreement between the Contractor and the County, March 1, 2016.

In the event that the Contractor became insolvent, the County would be required to call the Contractor’s performance bond in order to obtain the outstanding commissions owed.

Why it Happened: The Office does not have sufficient controls for adequate monitoring and tracking of Commissary commission payments owed to the County.

What Action(s) are Suggested: The Office should request that the Contractor pay the \$481,104 balance owed to the County. In addition, the Office should reconcile payments received from the Contractor to the Sales and Commissions reports provided by the Contractor as of the current date.

Furthermore, the Office should consider transferring the function of billing and tracking receivables to the Auditor's Office Accounts Receivable (Accounts Receivable) Department. The function transfer would help to ensure invoices are submitted to the Contractor, duties are adequately segregated, owed commissions are accurately tracked, and commission reports are adequately reviewed.

If the Office does not elect to transfer the monitoring and tracking function, consideration should be given to providing staff with additional training and resources to ensure that the monitoring and tracking of Commissary commissions is performed in an accurate manner. Finally, a collections function should be established within the Office to invoice the Contractor for all revenue owed to the Office.

MANAGEMENT'S ACTION PLAN

Responsible Party: Sheriff's Office Financial Administrator

Once Aramark draws down their initial guaranteed payment, further sales trigger additional off cycle payments until another guaranteed payment is received. The contractor made a guaranteed payment of \$2,000,000 on 2/28/2019 that was received and deposited by HCSO on 3/6/2019. This payment brought the overall balance back to positive, and temporally covered the additional commissions owed.

A full reconciliation of this rolling balance from inception to current date will need to be completed before we request that the Contractor make additional payments.

We will work with the County Auditor to see if their office will take on the billing and tracking of commissions. If not, we will monitor the billing and tracking of commissions and implement a collections function within our department.

Due Date: July 1, 2020

ISSUE #2: Contractor Noncompliance with the Agreement and Internal Policy

What is the Issue: The Contractor is not in compliance with some requirements of the Agreement and the Office's internal policy. The following items were noted:

- 1) The Contractor was unable to locate 10 of the 60 (17%) invoices and/or receipts requested for verification.
- 2) The Contractor was unable to locate and provide the Commissary menu for the period of March 1, 2018, through November 7, 2018, and as a result, 47 of 60 (78%) invoices could not be tested to determine whether sales prices agreed with menu prices approved by the Sheriff's Office. For the 13 invoices available for testing, it was noted that 11 of the 13 (85%) contained sales prices that did not agree with authorized menu prices.
- 3) The Contractor completed 6 of 50 (12%) sampled sales transactions without obtaining the required authorization (i.e., inmate signature and fingerprint) on the invoice.

What is Expected: Pursuant to section 24.B, *Record Retention*, of the Agreement, "the Contractor agrees to retain within the boundaries of Harris County, for six (6) years after the expiration of this Agreement, all books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement. The Contractor will retain and make available, and insert the requisite clause in each applicable subcontract, requiring its subcontractors to retain and make available, the books, records, contracts, spreadsheets, correspondence, and documents applicable to this Agreement."

Pursuant to the Harris County Sheriff's Office Criminal Justice Command Policy CJC-720, *Commissary Post Orders*, Commissary delivery clerks are required to obtain the inmates signature and fingerprint on sales invoices as evidence that the sale has been completed.

Why it Matters: Failure to comply with the Agreement and Office internal policy could result in improper sales transactions, financial misstatement, over or undercharge to inmates, and/or financial loss of County funds.

Why it Happened: The Office does not have adequate controls in place to ensure the Contractor complies with the terms and conditions of the Agreement and Office internal policy.

What Action(s) are Suggested: Office Management should implement monitoring controls, such as periodic reviews, to ensure that the Contractor complies with the following terms of the Agreement:

- 1) Invoices are required to be maintained by the vendor and made available in a timely manner when requested.
- 2) Commissary menus are required to be maintained by the vendor and made available in a timely manner when requested. In addition, only authorized products can be sold at the amounts authorized by the Office.
- 3) All invoices are required to be properly signed and fingerprinted by the inmates before sales transactions are completed.

MANAGEMENT'S ACTION PLAN

Responsible Party: Sheriff's Office Financial Administrator

In December of 2018 Aramark installed an electronic device that would collect thumbprints and signatures for documentation purposes. This new equipment should eliminate misplaced invoices and receipts immediately. Going forward we fully expect 100% compliance with internal and county policy. To strengthen controls we will implement quarterly testing of invoices and/or receipts to ensure the contractor complies with the terms and conditions of the agreement.

MANAGEMENT'S ACTION PLAN (CONTINUED)

In January 2019, HCSO began receiving and reviewing the proposed Commissary menu along with any updates to pricing or items listed on a monthly basis. Additionally, HCSO periodically selects a sample of sales invoices from CORE Warehouse and verifies that they are complete, accurate, and properly authorized. This menu review process and periodic sample selection should eliminate any menu related issues.

Due Date: July 1, 2020

ISSUE #3: Nonperformance of IT Disaster Recovery/Business Continuity Plan

What is the Issue: The Office does not have a documented IT Disaster Recovery/Business Continuity Plan. Per Office Management, restoration testing of backup data for neither QuickBooks nor CORE has been performed with Universal Services (US). It should be noted that this issue was identified in previous Sheriff Jail Commissary engagements.

What is Expected: An IT Disaster Recovery/Business Continuity Plan enables the recovery and continuation of vital technology infrastructure systems following a natural or human induced disaster. Per the COBIT IT framework, designing, implementing, testing, and maintaining the disaster recovery and business continuity plan on a regular basis will allow for a more efficient and timely restoration and resumption of computer-based operations, should a natural or human induced disaster occur.

Why it Matters: Should a natural or human induced disaster occur, financial and/or operational data loss could occur, and Office Management may not be able to timely and efficiently recover Commissary operations.

Why it Happened: Office Management has not developed or documented a Disaster Recovery/Business Continuity Plan.

What Action(s) are Suggested: Office Management should formally document an IT Disaster Recovery/Business Continuity Plan, and conduct a disaster recovery test in conjunction with US on a periodic basis to reduce the risk of financial and/or operational loss in the event of a disaster.

MANAGEMENT'S ACTION PLAN

Harris County Sheriff's Office

Responsible Party: Sheriff's Office Financial Administrator

HCSO agrees that it is important to have a formally documented IT Disaster Recovery/Business Continuity Plan. We requested assistance from Universal Services in 2019 and will follow up again to ensure we have a documented plan in place to help reduce the risk of a financial and/or operational loss.

Once an IT Disaster Recovery/Business Continuity Plan has been formalized, HCSO will work with Universal Services to determine the best way to perform the disaster recovery test.

Due Date: December 1, 2020

Universal Services

Responsible Party: Assistant Chief Technology Officer

Universal Services agrees that an IT Disaster Recovery/Business Continuity Plan should be created, documented, and tested. Universal Services will collaborate with the Sheriff's Office to determine the best course of action to complete this process.

Due Date: August 31, 2020

ISSUE #4: Retired County Employee Not Removed from Bank Account Signatory List

What is the Issue: One retired employee has not been removed as an authorized signatory from the Sheriff's Office Commissary bank account. The employee retired on January 31, 2019. It should be noted that based on a review of the Commissary bank account and the QuickBooks application, no transactions were identified as being performed by the retired employee after their last day of employment.

What is Expected: Pursuant to County Accounting Procedure C.10, *Departmental Bank Accounts Non-Imprest*, authorized signatories for bank accounts must be County employees or Officials, and when a signatory leaves the County (i.e., due to resignation, termination, lost election, retirement, etc.), that signatory must be removed as an authorized signer on all bank accounts.

When an authorized signatory leaves the County, the departmental account owner must request that the Budget Management Department remove the employee from the authorized signatory list within five business days. The department should follow up with Budget Management to verify that the signatory has been removed.

Pursuant to County Accounting Procedure L.2-1, *Change in Status of Employee*, the termination (i.e., resignation, dismissal, retirement, leave of absence, etc.) of an employee requires that County departments complete County Auditor's Form 3412, *Employee Termination Summary*. Form 3412 is a checklist that assesses whether the County department has completed required tasks prior to the termination of an employee. The checklist includes items such as status change within the County systems, the return of County owned property, signatory removal from County bank accounts, etc.

Why it Matters: Failure to remove former employees from the authorized bank account signatory list results in noncompliance with the County's Accounting Procedure C.10 *Departmental Bank Accounts Non-Imprest*, and could result in unauthorized transactions and/or financial loss to the County.

Why it Happened: The Office does not have sufficient controls in place to ensure that authorized signatories who leave the County or Department are removed from the bank account signatory list.

What Action(s) are Suggested: The Office should remove the retired employee from the Sheriff Jail Commissary bank account signatory list and all other applicable signatory lists. In addition, the Office should perform a review of all Sheriff's Office bank accounts to ensure all authorized signatories are current County employees. Furthermore, going forward, the Office should complete County Auditor's Form 3412, *Employee Termination Summary*, whenever an employee is terminated or moves to another County department. Completion of County Auditor's Form 3412 will ensure that the employee's bank signatory access is removed.

MANAGEMENT'S ACTION PLAN

Responsible Party: Sheriff's Office Financial Administrator

HCSO will remove the retired employee from the commissary bank account signatory list and all other applicable signatory lists. Form 3412 Employee Termination Summary is managed and maintained by local Human Resources. We will work with them to ensure they notify the appropriate personnel so access can be removed.

MANAGEMENT'S ACTION PLAN (CONTINUED)

Additionally, HCSO has performed a review of all Sheriff's Office bank accounts to ensure all authorized signatories are current County employees.

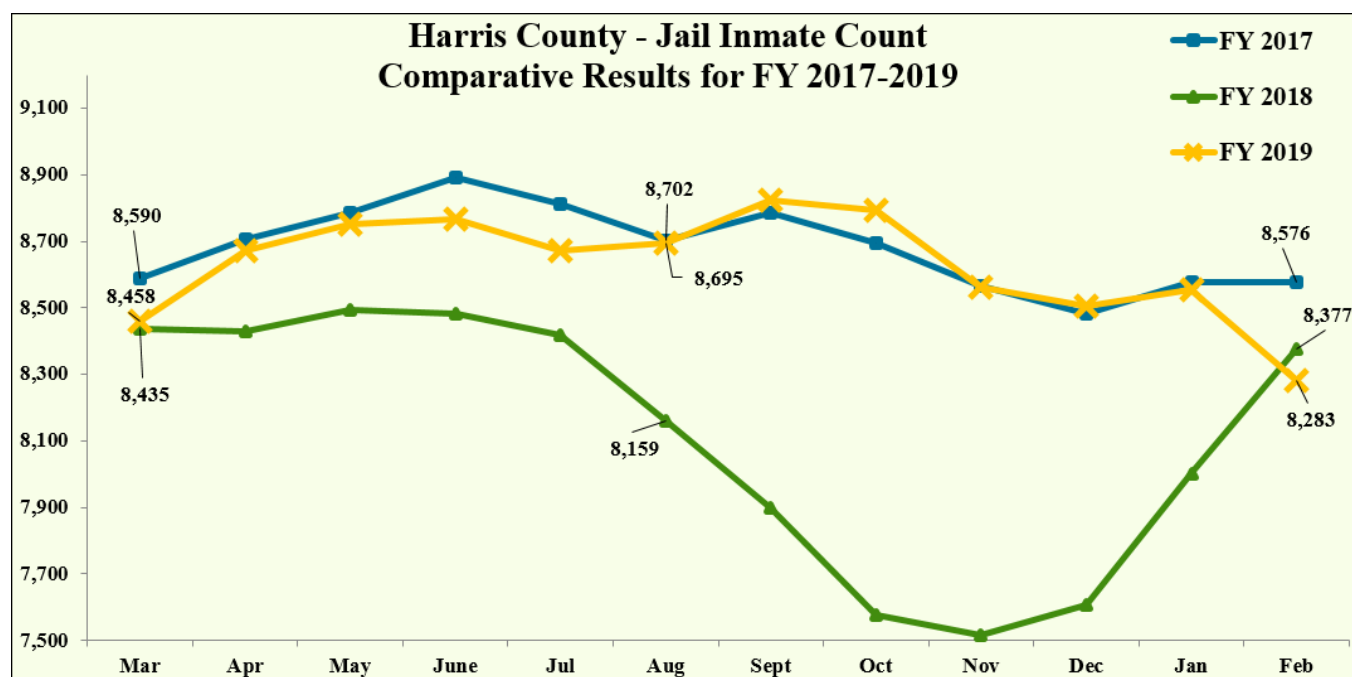
Due Date: June 30, 2020

BACKGROUND

The Harris County Sheriff's Office operates the following three downtown jail locations: 1200 Baker Street, 701 San Jacinto Street, and 1307 Baker Street. On March 1, 2016, the Office entered into a 1 year Agreement whereby Aramark Correctional Services, LLC (Contractor) would provide Commissary services for the 3 jail locations. Pursuant to the Agreement, the County earns a commission in an amount equal to 56% of net Commissary sales, and the County is guaranteed a minimum commission amount of \$4,000,000 per year. On March 1, 2017, and March 1, 2018, the Agreement was renewed at the County's option for additional 1-year periods with the same terms and conditions. Pursuant to the Agreement, the County has the option to renew the Contractor's services by exercising yearly renewals through February 28, 2021.

The Commissary sells food products, hygiene supplies, clothing, over the counter drugs, and writing materials that are not provided to inmates by the County. Contractor personnel supervise and process the inmate orders, deliver the items to the inmates, and maintain the Commissary inventory. Individual inmate trust accounts (trust accounts) are established with funds in the inmates' possession at the beginning of incarceration and credited with deposits made thereafter. Inmates may place orders for Commissary items, subject to available funds in their trust accounts. Commissary purchases are deducted from the trust accounts.

The chart below presents comparative results of the Sheriff Jail Inmate Count (population) served by the Commissary operations for the fiscal years ended February 2017, 2018, and 2019.



(Source: Harris County Sheriff's Office Daily Jail Count by Facility)

On December 22, 2011, the Attorney General of Texas issued Opinion No. GA-0901. The summary information provided states, "A county sheriff controls the county jail Commissary fund, and as a result, the sheriff must make the initial determination, subject to judicial review, as to whether proceeds from the fund may be used for particular purposes. The proceeds may be used only to fulfill one of the five purposes described in section 351.0415(c) of the Local Government Code." The five purposes are as follows: (1) fund, staff, and equip a program addressing the social needs of the inmates, including an

BACKGROUND (CONTINUED)

educational or recreational program and religious or rehabilitative counseling; (2) supply inmates with clothing, writing materials, and hygiene supplies; (3) establish, staff, and equip the Commissary operation and fund the salaries of staff responsible for managing the inmates' Commissary accounts; (4) fund, staff, and equip both an educational and a law library for the educational use of the inmates; and (5) fund physical plant improvements, technology, equipment, programs, services, and activities that provide for the well-being, health, safety, and security of the inmates and the facility.

ACCOUNTABILITY

The work performed required our staff to exercise professional judgment in completing the scope procedures. As the procedures were not a detailed examination of all transactions, there is a risk that fraud, errors, or omissions were not detected during this engagement. The official, therefore, retains the responsibility for the accuracy and completeness of their financial records and for ensuring sufficient controls are in place to detect and prevent fraud, errors, or omissions.