

**BROOME COUNTY
DEPARTMENT OF
AUDIT AND CONTROL**

**SHERIFF'S DEPARTMENT
COMMISSARY ADMINISTRATION AUDIT**

March 2006

Alex J. McLaughlin, Comptroller

March 23, 2006

Sheriff David E. Harder,

The Department of Audit and Control has conducted an audit of the Sheriff's Department Inmate Commissary Fund. The principle objective was to ascertain whether commissary funds are being used and accounted for properly in satisfaction with State Corrections Law. Auditing measures were performed to ensure that the Sheriff's Department has implemented adequate controls to effectively manage commissary funds, that bank reconciliations were properly prepared, and to ensure that the commissary account is properly collateralized.

The audit was conducted in accordance with generally accepted auditing standards. Such standards require that the Department of Audit and Control plan and perform the audit to adequately assess the accuracy of the financial records and adequacy of the internal controls, and that we examine, on a test basis, sufficient, competent and relevant evidence to afford a reasonable basis for our conclusions.

Based on the results of our examination, it is our opinion that the Sheriff's Department is in compliance with State Law regarding the commissary fund. It is also our opinion that some improvements are required in the system of internal controls that has been established by the Sheriff's Department relative to this fund, as outlined in the report.

Sincerely,

Alex J. McLaughlin
Comptroller

cc: Barbara J. Fiala, County Executive
Daniel A. Schofield, Chairman of the Legislature
Members of the Legislature
Louis P. Augostini, Clerk of the Legislature
Jerome Z. Knebel, Commissioner of Finance
Joseph J. Sluzar, County Attorney

COMMISSARY ADMINISTRATION AUDIT

Background Information:

The Commissary is designed for the purpose of making available, for sale to prisoners, personal and convenience items deemed proper by the Sheriff or Chief Administrative Officer consistent with the health and welfare of prisoners and the security and general operation of the facility. The commissary fund consists of the profit the Sheriff's department makes when inmates buy items (hygiene items, candy, chips and snacks, and other miscellaneous items such as writing pads, stamps, pencils, cards, envelopes, etc.) or make phone calls. (Note: A recent opinion from the Broome County Attorney advises that phone calls are not appropriately handled in the same manner as commissary profits.)

Profits are deposited in a separate bank account and are utilized only for purposes of prisoner welfare and rehabilitation. At the end of April 2005, the balance in the commissary fund was \$159,702.32. The commissary funds are not part of the budget.

The primary objectives of this audit were to evaluate the internal controls of this function and ensure statutory requirements related to the administration of the commissary are being complied with.

Prior Audit

September 2004

AUDIT FINDINGS, RECOMMENDATIONS AND RESPONSES

-Sheriff's Department-

FINDING 1: CONTRACTS DO NOT SPECIFY PRICE FOR HAIRCUTS AND COMMISSARY ITEMS

During the course of our audit we reviewed the contracts Broome County has with Michael Cleney and Swanson Services Corp. The contract with Michael Cleney does not specify rates for inmate haircuts or beard trimming. The agreement with Swanson does not provide the prices for certain indigent packs of commissary items we have purchased for inmates.

All contracts should clearly outline each party's responsibilities and obligations.

Failure to specify the rates for goods and services increases the risk that the Inmate Commissary Fund may be overcharged.

RECOMMENDATION:

We recommend that future agreements specify the rates for services performed by Michael Cleney and prices from Swanson for all commissary goods in the contracts.

MANAGEMENT RESPONSE:

Future contracts will specify rates for services and commissary items.

FINDING 2: THE SHERIFF’S DEPARTMENT DOES NOT ENSURE THAT COMMISSARY CONTRACT BILLING IS ACCURATE

The Sheriff’s Department does not employ any processes to verify the relationship between indigent commissary items received from Swanson Services Corp to indigent commissary items billed by Swanson Services Corp.

Management is required to make a reasonable certification that Commissary bills, like County bills, submitted for payment are appropriate and correct and that the goods were actually received.

Correction Law, §45 (6) Section 7016.1 Commissary states
“Commissary accounts shall be maintained in a manner which will fully substantiate all purchases, sales and expenditures...”

Without verification procedures, there is no way to determine whether or not amounts billed to the Commissary for indigent commissary items are correct.

RECOMMENDATION:

We recommend that the Sheriff’s department develop and implement procedures to verify that commissary items received matches commissary items billed.

MANAGEMENT RESPONSE:

Procedures shall be implemented in order to verify indigent commissary items.

FINDING 3: COMMISSION BASED SALES ARE NOT BEING VERIFIED

During the course of our audit, we noted that the Sheriff's department does not compare actual sales of commissary items to inmates with the Commission Report of sales from the Swanson Services Corp. Swanson Services Corp. is paying the Broome County Inmate Commissary account 14% commission on all sales.

Management is responsible for implementing internal controls that prevent, detect and correct errors within a timely period by employees in the normal course of performing their duties.

Just accepting that the Commission report provided by Swanson calculating the 14% commission is correct on the amount of sales may result in lost revenue. Our acceptance of their calculations does not ensure that we are receiving as much revenue as we are entitled.

RECOMMENDATION:

We recommend that the Sheriff's department develop and implement verification procedures to ensure that we are receiving the 14% commission based on the correct sales amount.

MANAGEMENT RESPONSE:

Effective 1/1/06 sales and commission amounts are verified to the commission statement.

FINDING 4: SHERIFF’S DEPARTMENT DOES NOT FOLLOW PROPER PROCUREMENT PROCESSES

During the course of our audit, we found that the Sheriff’s Department does not follow General Municipal Law when making equipment/vehicle purchases and entering into Public Works contracts using funds from the Inmate Commissary Account.

There are several instances in which the Sheriff’s department did not get the proper bids, quotes or approvals for various purchases made from the Inmate Commissary Account.

General Municipal Law §103 states that “...all contracts for public work involving an expenditure of more than \$20,000 and all purchase contracts involving an expenditure of more than \$10,000 shall be awarded by the appropriate officer...to the lowest responsible bidder...”

According to General Municipal Law §104-b “The governing board of every political subdivision shall adopt internal policies and procedures governing all procurements of goods and services...”

Broome County Legislative Resolution 92-440 authorized the adoption of the Broome County Purchase Procurement Process Manual. A Summary of Broome County Purchasing Guidelines revised on May 29, 2003 is attached.

Without following the proper competitive bidding requirements the Sheriff’s department is not ensuring appropriate and best use of financial resources.

RECOMMENDATION:

We recommend that the Sheriff’s Department follow the Broome County Purchase Procurement Process Manual.

MANAGEMENT RESPONSE:

Effective immediately, proper procurement processes will be adhered to per the Broome County Purchase Procurement manual.

FINDING 5: THE SHERIFF LACKS STATUTORY AUTHORITY TO RETAIN TELEPHONE PROFITS IN AN “OFF-LEDGER” ACCOUNT

Presently, profits from both the sale of items from the Commissary and the inmates’ use of telephones are deposited into a single off-ledger bank account maintained by the Sheriff’s department.

A recent opinion from the Broome County Attorney (attached) advises that such co-mingling of Commissary and telephone profits is not appropriate.

RECOMMENDATION:

We recommend that the County Attorney’s advice to separate the telephone monies from the Commissary monies and to move the telephone monies to the County’s ledger and into the Sheriff’s budget be implemented.

MANAGEMENT RESPONSE:

A trust account will be established for the telephone profits.

AUDIT FINDINGS, RECOMMENDATIONS AND RESPONSES
-Finance Department-

FINDING 6: COMMISSARY BANK ACCOUNT DOES NOT HAVE PROPER COLLATERALIZATION OR CONTROLS

As part of our audit we looked at controls over the bank account as well as collateralization for the account. The Finance Department was unable to produce information regarding the collateralization of the account. The Commissary Account was not included on their list of current bank accounts. We also found that there is no control in place to prohibit withdrawals from the account.

General Municipal Law Article 2 §10 requires that all public deposits in excess of amount insured by FDIC (\$100,000) be collateralized through an agreement with the bank.

Without proper internal controls to safeguard assets the risk of loss increases.

RECOMMENDATION:

We recommend that the Sheriff's Department work with the Finance Department to properly collateralize the bank account as well as obtain a new form from Partners Trust stating that money is not to be withdrawn from the account.

MANAGEMENT RESPONSE:

The Finance Department has added the Sheriff's off-ledger bank accounts to their monthly checklist for proper collateralization.