



RANDOLPH COUNTY JUSTICE CENTER

**From The Office Of State Auditor
Claire McCaskill**

**Report No. 2003-79
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AUDIT REPORT



Office Of The
State Auditor Of Missouri
Claire McCaskill

August 2003

Due to much public attention and the numerous calls and complaints received from Randolph County citizens, the State Auditor's Office has performed an audit of the Randolph County Justice Center construction project. The following problems were discovered as a result of the audit.

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- The County Commission did not adequately relate costs and needs to funding sources or adequately document its considerations when determining the sales tax issue to be presented for voter approval. Additionally, the county's project documentation is insufficient and the County Commission cannot demonstrate that it has been actively involved in the decision making process or has adequately monitored the financial aspects of the project.

The County Commission could not provide documentation showing how a ½ cent, 18-year sales tax was determined to be adequate to fund the justice center project. Even though the length of the proposed sales tax was shortened, it appears the conceptual drawings for the justice center at the time of the November 2001 election were brought forward to the April 2002 election.

The April 2003 bond schedule calculations used lower operating costs and inflation rates than provided for in the county's project documentation. The County Commission could not explain the reason for this discrepancy in amounts. If the county's documented estimated costs are used, projected operating costs over the 17-year bond period are approximately \$24.6 million or about \$5 million more than the April 2003 bond issue estimate, and operating costs and projected bond principal and interest payments would exceed estimated resources by approximately \$2.2 million.

The Justice Center Fund has had a negative cash balance since its inception and by the end of May 2003, the cash balance in this fund was (\$267,307). Monies from other county funds are being borrowed to cover the costs of the justice center project until other financing is secured.

The January 2003 project budget reflects a total project cost of approximately \$7.1 million, whereas the April 2003 project budget reflects a total project cost of approximately \$7.6 million. The April 2003 bond issue information indicates the project funds available from the bond issue proceeds is approximately \$7.7 million (proceeds less other fund deposits and underwriter discounts). A comparison of these amounts shows that the anticipated project cost is very close

YELLOW SHEET

to estimated funds available for the project from the bond proceeds. Should bond issue proceeds not be sufficient to cover the total project costs, other county funds will need to be used. Given the county's overall poor financial condition, this may not even be a potential option.

The County Commission has delegated much of its authority on the project. To answer many of our questions, the County Commission referred us to the owner's representative. Additionally, many records associated with the project were not on file at the county courthouse, and had to be obtained from the owner's representative or others involved with the project.

- In May 2002, the county contracted with a professional engineer to provide consulting services for the justice center project. The contract provides for the consultant to serve as the owner's representative and provide consultation and advice in connection with the justice center project.

The County Commission did not negotiate with or solicit requests for proposals from any other company or individual for owner's representative services.

The county entered into this contract without adequately evaluating the potential time and cost involved and did not ensure it documented clear expectations of the owner's representative. The contract did not provide for a maximum amount. According to the initial project budget dated June 2002, the owner's representative fee was estimated at \$100,000. However, this was doubled five months later to \$200,000 on the January 2003 project budget.

The owner's representative's billings did not include adequate supporting documentation for services rendered, mileage incurred, and reimbursable expenses.

- Problems were also noted with other professional services arrangements. Competitive proposals were not always solicited and documentation regarding the selection process was not adequate. Some contracts were either incomplete or not on file at the county.
- Project information provided in the County Commission meeting minutes was generally very limited and often included only a reference to those in attendance and the topics discussed. The minutes lacked sufficient details regarding the commissioners' discussions and decisions.

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RANDOLPH COUNTY JUSTICE CENTER

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STATE AUDITOR'S REPORT



CLAIRE C. McCASKILL
Missouri State Auditor

To the County Commission
and
Officeholders of Randolph County, Missouri

We have audited the Randolph County Justice Center. The scope of this audit included, but was not necessarily limited to, the period April 2, 2002, through May 30, 2003. The objectives of this audit were to:

1. Review project planning, financing decisions, and monitoring.
2. Review procurement and contracting procedures.
3. Review compliance with certain legal and contractual provisions.
4. Review Justice Center Fund receipts and disbursements.
5. Identify and investigate public concerns.

Our audit was conducted in accordance with applicable standards contained in *Government Auditing Standards*, issued by the Comptroller General of the United States, and included such procedures as we considered necessary in the circumstances. In this regard, we reviewed minutes of meetings, written policies, financial records, and other pertinent documents and interviewed various officials, personnel, and contractors of the county.

Our audit was limited to the specific matters described above and was based on selective tests and procedures considered appropriate in the circumstances. Had we performed additional procedures, other information might have come to our attention that would have been included in this report.

The accompanying Management Advisory Report presents our findings arising from our audit of the Randolph County Justice Center.

A handwritten signature in black ink that reads "Claire McCaskill". The signature is written in a cursive, flowing style.

Claire McCaskill
State Auditor

May 30, 2003 (fieldwork completion date)

The following auditors participated in the preparation of this report:

Director of Audits: Thomas J. Kremer, CPA
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BACKGROUND INFORMATION

RANDOLPH COUNTY JUSTICE CENTER BACKGROUND INFORMATION

On April 2, 2002, the voters in Randolph County authorized a ½ cent sales tax for the purpose of constructing, equipping, operating, and maintaining a county jail with judicial facilities on the county farm in Huntsville. The new sales tax became effective on October 1, 2002, and will continue for a period of 18 years. The county plans to issue approximately \$8 million in leasehold revenue bonds to fund the project. The bonds will be paid off over the next 17 years with revenues generated from the new sales tax and other county funds if necessary. The planned facility, which is referred to as the Randolph County Justice Center, will be approximately 40,000 square feet and include a 76-bed jail, judicial facilities (courtroom and office space for court personnel and judge), and a sheriff's office. The estimated total project cost as of April 2003 is approximately \$7.6 million.

Over the last several months there has been much publicity regarding project concerns. Due to this public attention and the numerous calls and complaints received from Randolph County citizens, the State Auditor's Office has performed an audit of the Randolph County Justice Center construction project.

For several years the county considered the need for new county facilities. In 1997 a "Master Plan" was prepared to assess the need and cost of a new jail, courthouse, and administrative building. A sales tax issue was placed on the ballot in 1997 to fund a new facility based on the Master Plan. The ballot issue did not provide for a sunset provision (expiration date of sales tax) and failed. Similar ballot issues failed during November 1999 and November 2001 elections. The 1999 issue provided for a 30-year sales tax to fund construction and occupancy of a governmental center and justice center. The 2001 issue provided for a 25-year sales tax to provide law enforcement services, which included, but was not limited to, constructing, equipping, operating and maintaining a new jail and court facilities to be located at the county farm and the Commerce Bank building in Moberly to be used for court facilities, and any other law enforcement functions authorized by the Commission.

Prior to the November 2001 election, conceptual drawings for the proposed justice center included an unfinished open lower level that would eventually be converted into county administrative offices. This lower level was referred to as the administrative shell. It appears the same conceptual drawings were brought forward for the April 2002 election and were being utilized subsequent to its passage. However, after the ballot issue passed, it was determined projected construction costs exceeded the projected amount available for construction given the anticipated sales tax revenues. Additionally, there were questions regarding whether the ballot language allowed for the administrative shell and the County Commission indicated they were advised by the Prosecuting Attorney's office that the sales tax monies could not be used for the administrative shell. Therefore, the proposed facility was changed from a winged facility to a rectangular facility and the administrative shell was removed.

In May 2002, the county established a Justice Center Fund to account for the new sales tax receipts and related project disbursements. The county also contracted with a professional engineer to provide consultation and advice in connection with the justice center project and serve as the owner's (the county) representative.

Through May 2003, the county had expended \$779,000 on the project and had collected \$512,000 in sales tax revenues. To cover the shortfall, monies were borrowed from other county funds. The majority of justice center expenditures related to the owner's representative, architectural, construction management, and mine remediation services. Some earthwork was completed and most of the construction phase bid packages were awarded.

The county had planned to sell the leasehold revenue bonds in April 2003. However, the county has delayed issuing the bonds and is currently planning to sell tax anticipation notes in the amount of \$500,000 so that work on the project can continue.

MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

RANDOLPH COUNTY JUSTICE CENTER
MANAGEMENT ADVISORY REPORT -
STATE AUDITOR'S FINDINGS

1. Financial Planning and Monitoring

The County Commission did not adequately relate costs and needs to funding sources or adequately document its considerations when determining the sales tax issue to be presented for voter approval. Additionally, the county's project documentation is insufficient and the County Commission cannot demonstrate that it has been actively involved in the decision making process or has adequately monitored the financial aspects of the project.

A.1. The County Commission could not provide documentation showing how a ½ cent, 18-year sales tax was determined to be adequate to fund the justice center project. According to the County Commission, the taxpayers wanted the tax to be less than 20 years. Therefore, after the 30-year and 25-year sales tax ballot issues failed in 1999 and 2001, respectively, the County Commission decreased the sunset provision to 18 years. However, it appears the conceptual drawings for the justice center at the time of the November 2001 election were brought forward to the April 2002 election, even though the length of the proposed sales tax was shortened. Given the changes to the ballot language provisions and anticipated sales tax revenues, utilizing the same drawings appears questionable and demonstrates inadequate planning.

2. After the sales tax ballot issue passed in April 2002, initial project estimates were prepared by the owner's representative to calculate the amount of funds available for construction. During the next few months the owner's representative obtained input from the various users of the new justice center regarding space and furnishing needs. This information was provided to the construction manager who developed detailed project estimates based on users' needs. These estimates were substantially more than was feasible given the anticipated sales tax revenues, and the building space was scaled back several times to ensure sales tax revenues would be sufficient to fund the project and operate the new facility. Sometime during August and September 2002, the proposed justice center building was modified from a winged facility to a rectangular facility. The administrative shell was also removed from the drawings at some point, but it is unclear exactly when this occurred. The County Commission, county employees, and county contractors provided varying information regarding this change.

The County Commission could not provide documentation regarding these significant changes to the conceptual drawings or show that these changes were sufficiently discussed and conveyed to the public. As noted in other findings, the County Commission meeting minutes did not provide adequate details to show whether these decisions were discussed during the meetings. In addition, the

county's 2001 published financial statements (issued in February 2002) included a drawing of the proposed justice center with the winged design that was brought forward from the November 2001 election. Several newspaper articles prior to the election also discussed plans for additional space that would eventually be used for county administrative offices. As a result, it appears there was a need to publicly provide more information regarding changes subsequent to the election.

As the justice center project continues, the County Commission needs to ensure that decisions are more adequately documented and conveyed to the public.

- B. The county intends to issue approximately \$8 million in leasehold revenue bonds to fund the project. The April 2003 bond issue information provides revenue and cost projections for 2004 through 2020 (the year the bonds are planned to mature). This information projects approximately \$25.7 million in sales tax revenues and \$8.5 million in General Revenue Fund appropriations over the 17-year bond period (a total of \$34.2 million). These funds will be used to pay for projected facility operating costs of approximately \$19.6 million and satisfy projected bond principal and interest of approximately \$11.8 million (a total of \$31.4 million). While the county's bond statement provides for \$8.5 million in General Revenue Fund appropriations, the county does not anticipate that it will need the total amount appropriated each year, thus the \$2.8 million difference.

Along with the bond issue information, we reviewed the county's General Revenue Fund and Justice Center Fund budgets, various financial records, project budgets, operating costs estimates, and construction bid information.

- 1) According to the county's investment banker, the amount of the leasehold revenue bond issue is based on the anticipated sales tax revenues (from the date the bonds are sold to the expiration of the sales tax), anticipated costs of operating the new facility, and interest rates at the time of the issuance. County documentation provided for \$980,000 in operating costs in the first year with a 4.65 percent increase for each year thereafter. However, the April 2003 bond schedule calculations used operating costs of \$900,000 in the first year with a 3 percent increase for each year thereafter. The County Commission could not explain the reason for this discrepancy in amounts, but indicated other counties were contacted regarding operating costs and the estimates were lowered. There is no information in the County Commission minutes or other documentation to support this explanation. Therefore, it is uncertain if the appropriate operating costs projections were used for the bond issue calculations.

A recalculation of the bond schedule using \$980,000 in projected operating costs in the first year with a 4.65 percent increase each year changes projected operating costs over the 17-year bond period to approximately \$24.6 million (about \$5 million more than the April 2003 bond issue estimate). With the results, total operating costs and projected

bond principal and interest payments would exceed estimated resources by approximately \$2.2 million. The county needs to review all projections and ensure its utilizes the most appropriate operating cost estimates.

- 2) The Justice Center Fund has had a negative cash balance since its inception. The County Commission began approving expenditures from the fund in May 2002, even though the county received no monies from the new sales tax until November 2002. During 2002 the county budgeted for a surplus in this fund of \$20,000. However, actual disbursements exceeded approved budgeted amounts by approximately \$354,000 and actual revenues were approximately \$60,000 below budgeted amounts, which resulted in a cash balance in the fund at year-end of (\$393,770). By the end of May 2003, the cash balance in this fund was (\$267,307). Because all county funds are maintained in one bank account, monies from other county funds (particularly the Special Road and Bridge Fund) are being borrowed to cover the costs of the justice center project until other financing is secured. Additionally, the County Commission has not developed procedures to authorize transfers between funds and report interfund debts in the county's financial records.
- 3) In April 2003, the bids for the construction phase of the project were opened, and some came in higher than the project estimates. Additionally, bids were not received for some bid packages and will have to be rebid. Thus, there is some uncertainty as to whether these bids will be more or less than the project estimate amounts. The January 2003 project budget (which includes the construction phase estimated cost amounts) reflects a total project cost of approximately \$7.1 million, whereas the April 2003 project budget (which includes the construction phase bid amounts) reflects a total project cost of approximately \$7.6 million, an approximate 7.5 percent increase in anticipated project costs. The April 2003 bond issue information indicates the project funds available from the bond issue proceeds is approximately \$7.7 million (proceeds less other fund deposits and underwriter discounts). A comparison of these amounts shows that the anticipated project cost is very close to estimated funds available for the project from the bond proceeds. However, due to the delay in issuing the bonds, the possibility that interest rates may change, and any change in anticipated sales tax amounts, future bond issue information will differ from the April 2003 amounts. Should bond issue proceeds not be sufficient to cover the total project costs, other county funds will need to be used. Given the county's overall poor financial condition and the fact that the General Revenue Fund cash balance was (\$374,760) at December 31, 2002, the County Commission needs to consider if this is even a potential option.
- 4) The county has not established a record keeping procedure to account for justice center project expenditures by project budget categories. Due to the financial concerns related to the bond proceeds and projected costs, it

is critical that the county closely monitor its actual project expenditures to ensure it is staying within its project budget.

When undertaking such a significant capital improvement project, it is imperative that the County Commission carefully assess the county's needs as compared to the available funds and proposed funding sources. Additionally, the County Commission must carefully evaluate its funding decisions and closely monitor actual expenditures as compared to project budget estimates.

- C. The County Commission has delegated much of its authority on the project to the owner's representative and the County Commission is apparently not aware of many aspects of the project. The County Commission referred us to the owner's representative to answer many of our questions. Additionally, many records associated with the project were not on file at the county courthouse, and had to be obtained from the owner's representative or others involved with the project. The County Commission has a fiduciary responsibility to ensure public funds are properly expended, complete records are maintained, and that significant county projects are carefully supervised.

WE RECOMMEND the County Commission:

- A. Ensure information regarding significant project decisions is thoroughly documented and made available to the public through the meeting minutes and other methods, as appropriate.
- B. Reevaluate the overall financial plans for the project, giving consideration to construction costs, anticipated ongoing operating costs of the justice center, and the county's overall financial condition. The county also needs to formalize its interfund borrowing process and establish a method to effectively monitor budget to actual project expenditures.
- C. Ensure it is actively involved in decisions made for the remainder of the justice center project, and that all pertinent documentation is retained by the county.

AUDITEE'S RESPONSE

The Associate Commissioners provided the following responses:

- A. *As with many public projects, it is difficult to precisely pinpoint construction costs before an architect is even retained to design the building.*
- B. *The County Commission understands the point being made here, but it is comfortable with the April 2003 bond schedule calculations.*

The County Commission will request a legal opinion from the Randolph County Prosecuting Attorney regarding the proper procedure for documentation of interfund transfers.

The County Commission acknowledges that bids were not received for some bid packages and accordingly the bids could be less (or more) than the project estimate. The County Commission acknowledges the need, as it goes through the building construction process, to ensure that sufficient revenues be available to fund project costs. The County Commission will continue to rely on its financial advisor, bond counsel, owner's representative, and other involved parties to assist it in this process.

The County Commission will explore ways to categorize expenditures into project budget categories.

- C. *The owner's representative functions as the person chosen by the County Commission to superintend the erection of the County building. This is wholly consistent with Sections 49.330 and 49.440, RSMo. The County Building Superintendent, as provided for in Chapter 49, RSMo, evidences Missouri legislative intent and recognition that third-class counties cannot 1) afford to or 2) have the need to employ, on a full-time basis, a person to oversee county building construction projects. It also evidences Missouri public policy that it is beneficial for a county to retain someone to serve as a building project manager. As a result, we do not believe that the comments contained in this section are consistent with Missouri state law on how county building projects may be managed.*

AUDITOR'S COMMENT

- C. There was no reference to the provisions of Chapter 49, RSMo, in the County Commission minutes, contract with the owner's representative, or other county project records.

The Presiding Commissioner provided the following responses:

- A. *The media will be faxed a copy of the agenda each week when it is posted. I will recommend that we endeavor to group items on the agenda in a timeframe that will allow the media to cover and report the significant actions taken by the Commission. Implementation date - August 15, 2003.*

We will ask the newspaper, as a public service, to print the agenda each week to better inform the public. Implementation date - August 1, 2003.

The statute creating the office of County Clerk is Section 51.010, RSMo, and states "In each county of this state there shall be an office of clerk of the county commission to be styled "The Office of the Clerk of the County Commission"." We will need to require the County Clerk or a deputy to fulfill the duties as required by law. Section 51.120, RSMo says, "Every clerk of a county commission shall keep an accurate record of the orders, rules, and proceedings of the county commission, and shall make a complete alphabetical

index thereto; ..." The County Clerk must fulfill the requirements of the law. He or a deputy must attend and actively take minutes to record the how and why of the decisions as well as recording of the vote. Implementation date - August 15, 2003.

- B. A complete reevaluation of the financial plans must be a priority and must take place at the earliest possible date. I will place it on the agenda of the first meeting after this report is made public. This should take place before the bonds are sold to reestablish the confidence of investors and the public that it is a financially viable project. Implementation date - August 15, 2003.*

The Justice Center operating budget will be reviewed and adjusted as necessary to ensure the financial health of the facility and the county General Revenue Fund budget. Implementation date - August 15, 2003.

I will propose that we ask the Moberly Town Council to allow some of their professional managers to assist us in developing a financial monitoring system. Implementation date - August 15, 2003.

We as a Commission must strongly reassert our authority to make all decisions concerning the project. The first three hours of each weekly commission meeting should include a tour of the site and a report from the construction managers. We should require a comprehensive written weekly report from the construction management company. The construction management company must be made to understand the absolute necessity of full communication of problems and progress without delay. Implementation date - August 15, 2003.

2. Contracting and Related Expenditures
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The county has entered into various contracts and agreements for services to be performed related to the justice center project. These include agreements for owner's representative, construction management, legal, architectural, investment banking, surveying, mine remediation, and geotechnical engineering services.

- A. In May 2002, the county contracted with a professional engineer to provide consulting services for the justice center project. The contract provides for the consultant to serve as the owner's representative and provide consultation and advice in connection with the justice center project. The owner's representative consults with the County Commission and designated third parties on matters pertaining to the project.

- 1) The County Commission did not negotiate with or solicit requests for proposals from any other company or individual for owner's representative services. The County Commission indicated the owner's representative was chosen largely due to the county's past experience with him for engineering services on bridge projects. The County Commission

also indicated his company provided the most inexpensive engineering services to the county, and while the architect or construction manager on the project could have provided some of these services, it would have been at a higher cost to the county. Additionally, the County Commission wanted someone familiar with the county who could commit significant time to this project.

Despite these verbal comments, the County Commission could provide no documented justification for choosing the owner's representative and had no evidence to show how the owner's representative was qualified for this type of project. The owner's representative stated that his company generally works on road and bridge projects, not building projects. Additionally, the county did not perform a cost benefit analysis to determine if using an owner's representative was the most cost effective approach and has no documentation supporting a cost savings. Soliciting proposals and subjecting such services to a competitive selection process is necessary to make a better informed decision and ensure services are obtained from the best qualified vendor at the lowest and best cost.

- 2) The county entered into this contract without adequately evaluating the potential time and cost involved and did not ensure it documented clear expectations of the owner's representative. The contract did not provide for a maximum amount, but instead required compensation at \$50 per hour, mileage reimbursement at \$.30 per mile, and payment of reimbursable expenses at actual cost.

According to the initial project budget dated June 2002, the owner's representative fee was estimated at \$100,000. However, this was doubled five months later to \$200,000 on the January 2003 project budget. In April 2003, the County Commission and the owner's representative indicated the owner's representative's work was approximately 90 percent complete. Through May 2003, the owner's representative had billed the county approximately \$134,000, so given their estimate, it appears remaining billings should approximate an additional \$15,000. It is apparent the County Commission has not adequately monitored the progress of the work performed as compared to the project budget and billings under the contract.

Entering into agreements that do not set a maximum value for the services performed makes it difficult to monitor and control the overall costs of the services, and to assess the reasonableness of contractor billings. In addition, written agreements should provide a means for the county to monitor compliance with the contract terms and protect the county in the event of a dispute over the terms of the agreement. Had the County Commission utilized a competitive process for selecting owner's representative services and performed a cost benefit analysis to evaluate

the more economical alternative for the county, there would likely be less uncertainty regarding total costs under this contract.

- 3) The owner's representative's billings did not include adequate supporting documentation for services rendered, mileage incurred, and reimbursable expenses. In addition, the reimbursable expenses did not always appear reasonable. Through May 2003, the owner's representative had billed for a total of 2,480 hours, 12,470 miles, and \$6,217 in reimbursable expenses. The invoices reflected no information regarding the services performed during the invoice periods, including only the total number of hours worked and the total number of miles traveled.

While some supporting documentation was present for reimbursable expenses claimed by the owner's representative, it was generally inadequate. For example, some outside engineers, consultants, and an architect were hired to review design schematics. There was no documentation to indicate the County Commission was aware of or approved the hiring of outside consultants. Also, the related billings lacked adequate documentation regarding the services provided, the need for these services, and conclusions reached by these reviewers. Some supporting documentation consisted of rediform receipt slip copies for a permit fee and a deposit on materials apparently paid by the owner's representative. However, the receipt slip copies did not identify the entities these payments were made to, and there was no documentation (i.e., permit copy) attached to support the amounts paid. Due to the limited information provided, the county has less assurance as to the propriety of the consulting service fees and expenses billed.

The county also reimbursed the owner's representative \$775 for a registration fee to attend a construction training seminar at the University of Wisconsin in November 2002. However, there was no documentation to show that this training was necessary for the owner's representative to accomplish contract objectives or whether it was an allowable reimbursable cost under the contract terms.

- 4) The contract provides for monthly billings from the owner's representative; however, billing periods have been inconsistent and varied from 14 days to 60 days. It does not appear the County Commission could effectively review and evaluate the reasonableness of billings that include charges which cover periods longer than the contract specifies, especially given the lack of details provided with the billings.

- B. In August 2002, the county contracted with a professional contracting company to provide construction management services for the design phase of the justice center project, not to exceed \$60,000. In December 2002, the county extended the contract with this company to include the construction phase of the project.

The construction management services were not procured in accordance with state law. The county did not place advertisements in a local newspaper. In addition, the County Commission did not document its selection procedures and did not maintain adequate documentation regarding the firms considered for the construction management services. For the design phase, the county could only provide information submitted by one firm. Additionally, the County Commission extended the scope of services to be provided by the design phase construction manager to include the construction phase without soliciting additional proposals for the construction phase or documenting its reasons for extending the contract. As of April 21, 2003, the date of the latest project budget revision, the county had expended \$59,000 for the design phase contract and the estimated cost for the construction phase was approximately \$400,000 in fees and reimbursable expenses.

Section 8.679, RSMo 2002, provides that if the cost of a construction project exceeds \$1.5 million, proposals for construction management services shall be solicited by advertisement in a specified manner. This includes placing advertisements in a local paper. Section 8.681, RSMo 2002 provides various criteria for evaluating proposals received and selecting a construction manager.

C. We noted concerns regarding other professional services arrangements:

- The county contracted with an attorney in April 2002 to provide legal services related to the project. Through May 2003, the county had paid the attorney \$4,875. The County Commission did not solicit proposals for this service. Additionally, the County Commission signed its acceptance to the attorney's proposal letter prior to approving it at a County Commission meeting.
- The county contracted with an architectural firm in July 2002. Although the County Commission meeting minutes indicated various firms were considered, the county did not retain any other firms' proposals and had no written documentation of criteria used in the selection process. Additionally, the county has not monitored the architect's compliance with this contract. Through May 2003, the county had paid the firm approximately \$367,000 in fees and reimbursable expenses. The architect's billings show the percentages to be billed for various phases differ from contract terms. Because the county does not have procedures for comparing billings to contract terms, the county paid \$16,000 earlier than was necessary.
- The County Commission approved an investment banker in July 2001, but could not provide written documentation of criteria used or reasons for selecting this investment banker or demonstrate whether other proposals were submitted. In March 2003, the county changed investment bankers. The County Commission meeting minutes indicated there were discussions with two potential firms; however, adequate documentation was not retained

regarding these discussions, the firms' qualifications, and the subsequent decisions.

- On May 21 2002, the County Commission signed its acceptance to a proposal for survey work to be performed at the project site. Three invoices were received from this surveyor totaling \$6,368. However, \$3,485 of the billed amounts did not pertain to the survey work described in the proposal on file at the county, but the invoices made reference to other agreed upon fees. Therefore, it appears the county did not retain all agreements with this company.
- In November 2002 the county contracted with a firm for mine remediation services at the justice center site. Through May 2003, the county had paid the firm \$171,000. However, the contract retained by the county was not dated and was not complete.

The County Commission should always seek and retain proposals for professional services and document the criteria used and basis for selection to ensure the county is receiving quality services at a reasonable price. Additionally, the County Commission should ensure contracts are not signed prior to County Commission approval, are reviewed by legal counsel for propriety, and are retained in the county's files. The County Commission should also ensure that billings to the county are reviewed for compliance with contract provisions.

WE RECOMMEND the County Commission ensure that 1) future professional services obtained by the county are subject to a competitive and well documented selection process; 2) contract terms clearly quantify services to be performed and compensation to be paid and provide a means for the county to assess achievement of contract objectives; and, 3) contractor billings are submitted timely, provide sufficient detail, and are reviewed for compliance with contract terms. The County Commission should also ensure contracts are not signed prior to County Commission approval, are reviewed by legal counsel for propriety, and are retained in the county's files. In addition, the County Commission should ensure these recommendations are considered for the remainder of the project.

AUDITEE'S RESPONSE

The Associate Commissioners provided the following responses:

The reasoning for retaining the owner's representative is the same reason why Missouri has enacted laws authorizing counties to retain a person to superintend the erection of county buildings and to provide compensation to that person that the County Commission deems reasonable. See Section 49.330, RSMo. The owner's representative's billing statements are consistent with industry's custom and practice in this part of the state.

The County Commission understands the point being made here, and will endeavor to comply with all required notice and documentation provisions on future professional services arrangements.

AUDITOR'S COMMENT

The limited amount of detail provided in the owner's representative billings and contract do not appear consistent with industry standards.

The Presiding Commissioner provided the following responses:

We will follow the letter of the law in acquiring professional services. The County Clerk will be required to develop a procedure to ensure the retention of all contract documents. We will require professionals with ongoing contracts to update their qualifications and experience annually and that this information be kept on file. Implementation date - September 1, 2003.

We will submit all contracts to the Prosecuting Attorney or other appropriate attorney for review prior to acceptance. The Commission and the contractor will make objectives and measurements an integral part of the contract. Implementation date - August 15, 2003.

The Commission, with the County Clerk, will establish guidelines and a checklist to ensure timeliness, detailed documentation, and compliance. Every contractor will be advised of the requirements and the consequences if they are not followed. Implementation date - September 1, 2003.

To regain public confidence we must publicly ensure compliance with these recommendations throughout the remainder of the project. Implementation date - immediately.

3.

Meeting Minutes

The County Commission meeting minutes indicated there were numerous discussions regarding topics such as possible future building projects, obtaining citizen input through public meetings and task forces, ballot language, professional services and contractors to be used for the building project, progress updates from the owner's representative and architect, and revenue bond financing options and requirements. However, the information provided in the minutes was generally very limited and often included only a reference to those in attendance and the topics discussed. The county has no written policy regarding meeting procedures and minutes.

Examples where information was lacking included the following:

- On numerous occasions the County Commission met with the owner's representative, architect, or other individuals involved with the justice center project. Details regarding matters discussed and subsequent decisions made were not sufficient.
- Information regarding bids and proposals submitted by potential project contractors was generally very limited and included no justification for the selection of various vendors. This concern is more significant when considering the county could not provide many documents related to bids/proposals received and the evaluation process. As a result, the county cannot demonstrate that it has properly selected project contractors and obtained quality services at a reasonable price.
- The minutes stated the project attorney, owner's representative, surveyor, and geotechnical engineer were hired by the county. However, a record of votes taken was not included as required by Section 610.020(6), RSMo 2000.
- According to the meeting minutes there were a few occasions where the County Commission attended meetings regarding the justice center project at an off-site location (i.e., owner's representative's office, construction manager's office). While there were references to these meetings in the regular County Commission meeting minutes, they lacked adequate details regarding those attending, discussions, and any decisions made.

While the County Clerk indicated he attends County Commission meetings and is on hand to record the results of votes taken, the minutes still lacked sufficient details regarding the commissioners' discussions and decisions. Section 51.120, RSMo 2000 requires the County Clerk to keep an accurate record of the orders, rules, and proceedings of the County Commission.

On April 29, 2002, the County Commission appointed an Executive Committee to make "all decisions" for the justice center project. The Executive Committee was comprised of the County Commissioners, the Circuit Judge, and the owner's representative, with the owner's representative being appointed spokesman. Although all five members of the Executive Committee stated the committee never actually met, the May 14, 2002, County Commission meeting minutes indicate the Executive Committee met with the architect and awarded the surveyor and geotechnical engineering bids. This is the only documented decision made by the Executive Committee. Additionally, a county commission resolution dated May 27, 2003, indicated that neither the circuit judge nor owner's representative ever agreed to serving on the committee and were not in attendance at the May 14, 2002 meeting. Due to the lack of documentation regarding the Executive Committee and the lack of documentation available in the County Commission meeting minutes, it is unclear exactly who made the significant decisions regarding the

project. The justice center project represents a major capital improvement for the county and decisions related to a project of this magnitude should be documented thoroughly.

Complete and accurate minutes provide an official record of County Commission actions and decisions. The minutes are the only official record of the actions of the County Commission. Care should be taken to ensure the minutes are complete and document discussions and specific intentions or reasons behind County Commission decisions. Inadequate or unclear minutes can lead to subsequent confusion as to the County Commission's intentions, possible incorrect interpretation of the County Commission's actions by the general public or other outside entities, and the inability to demonstrate compliance with legal provisions.

WE RECOMMEND the County Commission ensure meeting minutes include the information necessary to provide a complete record of all significant matters discussed and actions taken. In addition, the County Commission should consider developing a written policy regarding meeting procedures and minutes.

AUDITEE'S RESPONSE

The Associate Commissioners provided the following response:

A draft of a Sunshine Law policy has been circulated to the Missouri State Auditor's office and Attorney General's office for their review. It is anticipated that it will be presented to the County Commission for adoption during the month of July. We would like to ask that the report reflect the fact that the County Commission adopted a resolution abolishing the Executive Committee.

The Presiding Commissioner provided the following responses:

I am recommending that the Commission acquire a tape recorder so that all meetings will be recorded. This will provide a complete record that will be available to the public and the media that could be accessed at any time. It will also prevent many disputes caused by selective memory. Implementation date - September 1, 2003.

We will adopt a policy to govern meeting procedures and the recording of minutes. The policy will include appropriate portions of Robert's Rules of Order. The procedures will be written to ensure that all commissioners are provided the opportunity to bring issues before the Commission. In addition, the Commission will develop a policy to ensure compliance with the Missouri Sunshine Law. Implementation date - September 1, 2003.

In response to finding number 1 the duties of the County Clerk were addressed. That response applies to this recommendation as well.