




# Maricopa County

Internal Audit Department

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**To:** Max W. Wilson, Chairman, Board of Supervisors  
Fulton Brock, Supervisor, District I  
Don Stapley, Supervisor, District II  
Andrew Kunasek, Supervisor, District III  
Mary Rose Wilcox, Supervisor, District V

**From:** Ross L. Tate, County Auditor 

**Subject:** MCSO Bus Procurement Contract

**Date:** October 30, 2009

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We have completed our review of the Maricopa County Sheriff's Office (MCSO) procurement of a 58-passenger inmate bus in October 2008. Our findings are presented below.

## Executive Summary

MCSO did not comply with the County Procurement Code or Jail Enhancement Fund (JEF) Guidelines for the bus procurement. In summary, the following required approvals were not obtained:

- Board of Supervisors' (Board) approval prior to the bus purchase
- Board approval of contract to purchase over \$250,000
- Board approval for sole source purchase over \$50,000
- Office of Management and Budget (OMB)/Board approval for exemption to capital purchasing freeze

In addition, MCSO did not deposit JEF monies with the County Treasurer as required by JEF Guidelines and Arizona Revised Statutes (ARS). MCSO should follow procurement procedures established by ARS, County policies, and JEF Guidelines for all JEF purchases.

## Background

Our objective was to determine if MCSO complied with ARS, County policies and procedures, contract terms and conditions, and other guidelines when purchasing a 58-passenger bus in October 2008. MCSO did not allow access to its procurement files; consequently, we relied on documentation obtained directly from the vendor and from other County departments to complete this review. We reviewed laws, policies, guidelines, and documentation relating to MCSO's bus procurement with JEF monies.

**Procurement Code**

ARS § 41-2512 delegates procurement authority to any state governmental unit. Based on this statute, Maricopa County established the Procurement Code to regulate the purchase of goods and services. In addition, ARS § 11-254.01 states that a county’s purchases should be based on sealed competitive bids. The following questions address MCSO’s compliance with the Maricopa County Procurement Code for the bus purchase.

Procurement Code Requirements	Yes/No
<p><b>Did MCSO receive Board approval for a contract over \$250,000 to purchase a bus?</b> <i>All contracts must be approved by the Board unless delegated. (Procurement Code MC1-105A and MC1-201)</i></p>	<p><b>No*</b></p>
<p><b>Did MCSO submit a purchase request to the Procurement Officer (Materials Management)?</b> <i>After determining a need for a commodity, the using agency must submit a purchase request to the County’s Procurement Officer. (Procurement Code MC1-309A)</i></p>	<p><b>No</b></p>
<p><b>Did MCSO submit written documentation to the Board to allow a sole source contract?</b> <i>The Board may award a contract exceeding \$50,000 for a commodity without competition when documentation is provided that states only one source is available for the commodity. (Procurement Code MC1-343A)</i></p>	<p><b>No</b></p>
<p><b>Did MCSO provide the Board clear and convincing evidence that there was only one source for this commodity?</b> <i>Any agency making a request to restrict procurement to one contractor must submit written justification to the Board explaining why no other contractor is suitable or acceptable. (Procurement Code MC1-344A)</i></p>	<p><b>No</b></p>
<p><b>Did MCSO make a payment pursuant to a written contract?</b> <i>Payment for any commodity shall not be made unless pursuant to a written contract procured under this Code. (Procurement Code MC1-105B)</i></p>	<p><b>No*</b></p>
<p><b>Did MCSO ensure that sufficient funds were available for the purchase?</b> <i>A procurement officer shall not incur an obligation on behalf of Maricopa County if sufficient funds are not available. (Procurement Code MC1-105C)</i></p>	<p><b>Yes</b></p>
<p><b>Was the contract consistent with the provisions of the code?</b> <i>All contract clauses shall be consistent with the provisions of this code. (Procurement Code MC1-601C)</i></p>	<p><b>No*</b></p>
<p>* MCSO could not provide a copy of a Board-approved contract.</p>	

The vendor, Motor Coach Industries (MCI), provided a signed agreement to purchase the bus. This agreement contained some contract terms, but not all standard terminology that is normally required in a County contract.

### Jail Enhancement Fund Guidelines

The JEF Guidelines published by the Arizona Department of Corrections (ADOC) state that the sheriff should follow county procurement policies. The following questions address MCSO’s compliance with JEF Guidelines for the bus procurement.

JEF Requirements—Procurement	Yes/No
<b>Will MCSO use the bus more than 50% of the time for jail operations?</b> <i>Joint use of equipment funded by JEF monies is only authorized if the equipment is more than 50 percent committed to jail operations. (JEF Guideline #3)</i>	Yes
<b>Did MCSO follow County procurement policies?</b> <i>The sheriff shall follow county procurement policies. (JEF Guideline #6)</i>	No

ARS § 11-492 states that all public monies from any source shall be paid into the county treasury. Also, JEF Guidelines require all county jail enhancement monies be deposited with the County Treasurer. However, MCSO is currently depositing the money in an outside Bank of America account. JEF Guidelines also state the sheriff should record financial activity on the County’s accounting and reporting system. MCSO uses QuickBooks for JEF accounting. The following questions address MCSO’s compliance with JEF Guidelines for the bus procurement.

JEF Requirements—Accountability	Yes/No
<b>Did MCSO record the bus expenditure on the County’s accounting and reporting system?</b> <i>The sheriff should record financial activity on the County’s accounting and reporting system. (JEF Guideline #6)</i>	Yes*
<b>Did MCSO submit a 2<sup>nd</sup> quarter JEF report with the AZ Dept of Corrections (ADOC), which included the bus purchase?</b> <i>The quarterly report is due to ADOC the month following the close of the last fiscal year quarter. (JEF Guideline Attachment #2)</i>	Yes
<b>Did MCSO provide an annual narrative report to ADOC including the bus purchase?</b> <i>The annual narrative report details the previous year’s JEF expenditures, which is due by September. (JEF Guideline Attachment #2)</i>	Yes
<b>Did MCSO provide an annual report to ADOC that included the bus purchase?</b> <i>ARS § 41-2401.B requires the sheriff to provide ADOC with an annual financial activity report for the preceding fiscal year of all expenditures. (JEF Guideline Attachment #2)</i>	Yes
* MCSO wrote the JEF check in October 2008, but did not record the expenditure on the County’s financial system until June 2009.	

### Capital Purchasing Freeze

In FY 2008 and FY 2009, the Board implemented a hiring and capital purchasing freeze for all judicial branches, elected offices, and appointed departments. The following questions address MCSO’s compliance with the Board’s capital purchasing freeze for the bus procurement.

Capital Purchasing Freeze Requirements	Yes/No
<b>Was the bus purchase initiated prior to the Board’s approval of the capital purchasing freeze?</b> <i>The Board approved the FY09 capital purchasing freeze on July 23, 2008 for all capital equipment and for all funds. (Agenda # C-49-09-004-6-00)</i>	No
<b>Did MCSO work with OMB for an exemption to the capital purchasing freeze?</b> <i>If a purchase is deemed necessary, the elected office will work with OMB to determine whether the purchase is appropriate. (Agenda #C-49-09-004-6-00)</i>	No
<b>Did MCSO appeal OMB decision regarding an exemption to the capital asset freeze?</b> <i>If the elected office and OMB cannot agree on an exemption, the elected office may appeal the decision to the County Manager. (Agenda #C-49-004-6-00)</i>	No
<b>Did MCSO bring an agenda item before the Board for an exemption to the capital purchasing freeze?</b> <i>If the elected office and OMB cannot agree on an exemption, the elected office may bring the item to the Board on an agenda. (Agenda #C-49-004-6-00)</i>	No

### Fleet Policies and Procedures

According to County policy, the Equipment Services Department is the only agency authorized to procure vehicles. In addition, County policy requires Board approval prior to acquiring fleet equipment. The Department of Finance’s (DOF) Capital Asset Manual documents procedures for purchasing vehicles with JEF funds. The following questions address MCSO’s compliance with County policy and procedures for the bus procurement.

Fleet Policies and Procedures Requirements	Yes/No
<b>Did MCSO ensure funding was available to support the bus purchase?</b> <i>Per the Capital Asset Manual, once a department determines an additional vehicle is necessary, the department must coordinate with their financial entity to ensure funding is available to support the purchase. (DOF Capital Asset Manual 1E Section 4)</i>	Yes
<b>Did MCSO formally request Board approval via the agenda process?</b> <i>Elected officials who request to acquire a vehicle through special or grant funding must submit their request on an agenda form for Board approval. (County Policy A2306)</i>	No

<p><b>Did MCSO receive Board approval to order the vehicle?</b> <i>Upon Board approval, the department may order the vehicle. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>No</b></p>
<p><b>Did MCSO receive and inspect the bus and sign the delivery documents?</b> <i>Upon receipt of the vehicle, the department is to inspect the vehicle and sign all delivery documents. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>Yes</b></p>
<p><b>Did MCSO process payment according to DOF procedures?</b> <i>Upon receipt of the vehicle, the department prepares and processes the payment to the vendor. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>No</b></p>
<p><b>Did MCSO prepare a capital asset acquisition form and submit to DOF?</b> <i>Upon receipt of the vehicle, the department is to prepare the capital asset acquisition form and submit to DOF for processing. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>No</b></p>
<p><b>Was Equipment Services notified of the delivery?</b> <i>Equipment Services is to be notified of the delivery. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>No</b></p>
<p><b>Did Equipment Services receive all necessary documents to enter the bus into the FASTER fleet management system?</b> <i>Upon delivery, Equipment Services is to be provided with the vehicle information to ensure it is included in the FASTER fleet management system. (DOF Capital Asset Manual 1E Section 4)</i></p>	<p><b>No</b></p>

**Conclusion**

MCSO circumvented procurement policies and procedures designed to promote competitive bidding and stewardship of public funds. There is no evidence that the bus was acquired for the best price, or that procurement controls meant to protect and account for public funds were followed.

**Recommendation**

The Maricopa County Sheriff’s Office should follow procurement policies established by Arizona Revised Statutes, County policies, and JEF Guidelines for all JEF purchases; MCSO work with County management to resolve the bus status.

**Information for Management’s Consideration**

Other than the legal courses of action that may be under consideration by County management, Internal Audit came across the following information during the course of this review:

- A representative from MCI, the bus vendor, stated that MCI would not accept the bus if returned, and that no return or refund policy exists. However, the representative did state that MCI may be able to sell the bus on behalf of the County for a commission.

- County management may be able to sell the bus directly to another agency. Internal Audit learned from the MCI representative that other local or regional agencies (Arizona Department of Corrections, Los Angeles County, and San Diego County) own similar buses manufactured by MCI, and could be potential buyers of the County's bus. The demand for such a transaction is not known.

### **Auditing Standards**

We conducted this audit in accordance with generally accepted government auditing standards except for the scope limitation described in the Background section above. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

C: Joseph Arpaio, County Sheriff  
David Hendershott, Chief Deputy  
Loretta Barkell, Executive Chief, Business Operations Command  
David Smith, County Manager  
Sandi Wilson, Deputy County Manager



# MARICOPA COUNTY SHERIFF'S OFFICE

JOSEPH M. ARPAIO  
SHERIFF



October 21, 2009

To: Max W. Wilson, Chairman, Board of Supervisors  
Ross L. Tate, County Auditor

From: Joseph M. Arpaio, Sheriff

Subject: Response to Internal Audit Review of MCSO Bus Procurement

As the Sheriff is the only person in the Maricopa County authorized to spend JEF funds, it was determined that the disbursement of funds for the purchase of critical equipment for the transportation of inmates was not subject to the County's Capital purchasing freeze or prior approval by the Board of Supervisors. As a result of this determination, further Board approval on sole source and a purchase over \$250,000 was also not considered a requirement to proceed with the purchase of the MCI bus.

Additionally, it has always been the position of Maricopa County Material Management that Jail Enhancement Funds and RICO funds were outside the responsibility of Materials Management and not governed by the Procurement Code. There has been no customer support provided by Materials Management for over a decade for the purchase of items with these two special funds. In spite of this, the Sheriff's Office has followed procedures for purchases from these funds mirroring the County's procurement code. Each purchase is reviewed through the Sheriff's Office Chain of Command and justified under the terms of the special fund. In addition, sole source information or quotations are received and documented and county vendors are used for purchases.

The County's Internal Audit Department at the direction of the Board of Supervisors and County Management has determined that the Sheriff's Office did not receive County required County approvals even though the Board and County Management have no authority to decide what can be purchased with Jail Enhancement Funds.

The total unreliability of the current fleet of transport buses forced this Office to take action to resolve its problem of getting inmates to court and appointments on time. In addition, acutely aware of the County's financial situation and the unavailability of taxpayer funded revenues, the Sheriff's Office determined there was sufficient funds in JEF (funding from fines, penalties and forfeitures) and made the business decision to proceed with implementing this enhancement to our detention operations. Further, this Office followed the procurement and reporting requirements for the purchase of the bus.

Based on the recommendations of Internal Audit, it now appears that County Materials Management should be providing customer support for purchases made with special funds. If that is the case, why won't the Materials Management Department allow the use of County requisitioning and purchasing systems to eliminate the need for this Office to duplicate what is already in place in County systems?

The purchase of the MCI Bus was not made maliciously or as an attempt to usurp the policies of the Board of Supervisors. The purchase was a business decision to get critical equipment quickly. Unfortunately, the Board of Supervisors and County Management are allowing bureaucratic policies and power plays to get in the way of releasing the bus for service by this Office.

I am confident a resolution can be reached on how the County deals with special fund purchases and the final release of the MCI bus.

Sincerely,

A handwritten signature in black ink, appearing to be 'Joseph M. Arpaio', written in a cursive style.

Joseph M. Arpaio  
Sheriff