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STATE OF CALIFORNIA
Office of the Auditor General

Thomas W. Hayes
Auditor General

660 J STREET, SUITE 300
SACRAMENTO, CA 95814

October 26, 1987

F-749

Honorable Art Agnos, Chairman
Members, Joint Legislative
Audit Committee
State Capital, Room 3151
Sacramento, California 95814

Dear Mr. Chairman and Members:

We conducted some preliminary audit work to identify services provided to school districts by the Office of the Tulare County Superintendent of Schools (county office). While conducting our preliminary survey, we found that when the county office purchased microcomputers and related hardware for its own use, a county office employee circumvented statutes requiring competitive bidding for purchases that exceed \$21,000. In addition, the employee was promoting the use of a software package that was originally developed by a private corporation while he was its president. The software is currently marketed by a company in which the employee's son is a principal.

It appears that the county office employee may have violated Section 20111 of the Public Contract Code, which requires competitive bids for purchases that exceed \$21,000. When we examined documents concerning the county office's purchase of computers and related hardware for its own use, we noted that the purchase was made on four separate purchase orders, each of which totaled less than \$21,000, excluding sales tax and shipping charges. One purchase order was issued to a local company, and a second purchase order was issued to the owner of the same company. Both of the purchase orders were sent to the same address. The remaining two purchase orders were addressed to two separate companies; however, both companies were located on the same floor at the same building address, and all the items purchased from one of the companies were originally offered by the other company. In addition, one of the companies was a consulting firm, not a computer vendor, and we determined that the consulting firm owned the second

Honorable Art Agnos, Chairman
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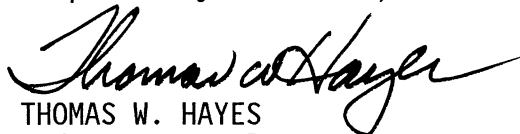
company. By splitting the purchases into four separate purchase orders, it appears that the employee circumvented the competitive bid requirements.

We also determined that the employee was the president of a company that developed a software package that he was promoting through the county office. When we asked him how he learned of the availability of the software that he was now promoting to the school districts, he stated that he knew the principals of the company that originally developed the software. According to the employee, the software was originally designed to operate on an Apple Computer system, which is not compatible with the IBM-compatible computer system that the county office was promoting. The employee indicated that three of the four principals of the company that held the copyright on the original software had modified it so that it could be used on IBM-compatible computer systems. The employee also stated that three individuals created a new company to market the modified software.

The employee stated that his son was one of the three principals in the newly created company. He also stated that he had disclosed his son's involvement with the company to the county office's administration and that he had assured the administration that there was no conflict of interest. The employee maintained that the software was the best available for its price on the market.

We brought these matters to the attention of the county superintendent of schools, who stated that he would immediately begin an examination of the circumstances surrounding the computer purchases. The superintendent also assured us that the department would not approve any school district purchase of the software until it had been thoroughly tested and its usefulness evaluated.

Respectfully submitted,


THOMAS W. HAYES
Auditor General

Tulare County Department of Education's response to this report



DR. DEAN HALL
Superintendent of Schools

Tulare County

Department of Education

October 21, 1987

Mr. Thomas W. Hayes
Auditor General
State of California
660 J. Street, Suite 300
Sacramento, California 95814

Dear Mr. Hayes:

Thank you for your letter of October 9, 1987 sharing the findings of your preliminary survey conducted August 10th and 11th. We also appreciate the extension of time to October 23rd to allow our audit firm time to complete their review.

The suggestions of Mr. Harold Turner and Mr. Timothy Bryan were followed. The following actions have been taken by our independent auditor and reviewed with our staff.

The purchasing transactions have been reviewed by our independent auditor. His review is attached.

A special audit was conducted of the data processing department - findings are forthcoming.

A special inventory of data processing equipment was conducted. All equipment is in place,

Purchasing and receiving procedures are being reviewed as a part of the audit process and recommendations will be forthcoming.

The State Board of Equalization has been contacted and action is pending.

Our office and the office of County Counsel contacted the Secretary of State's Office regarding the corporate status and officers of Sierra Pacific Data Corporation and Sierra Educational Systems Corporation.

There has not been and will not be an approval of payment for software until it is tested, acceptable to the user, and approved by the State Department of Education for attendance accounting purposes.

The employee is no longer a member of the Tulare County Department of Education staff.

Mr. Thomas W. Hayes

October 21, 1987

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We have worked very closely with our audit firm M. Green and Company and Mr. Ron Uchiumi and Harold Wood of the County Counsel's office. The recommendations of your staff have been followed. The recommendations of the independent audit and county counsel will be complied with.

If I can be of further assistance, please do not hesitate to call me at (209) 733-6301.

Sincerely,

A handwritten signature in cursive script that reads "Dean Hall".

Dean Hall

Tulare County

Superintendent of Schools

ROBERT L. BANDY ACCOUNTANCY CORP.

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PLEASE REPLY TO: VISALIA

October 21, 1987

Dr. Dean Hall, Superintendent
Tulare County Department of Education
County Civic Center
Visalia, CA 93291

Dear Dr. Hall:

In conjunction with our study and evaluation of the system of internal accounting controls in place for the Tulare County Department of Education we examined various equipment acquisitions. Among the acquisition transactions examined we specifically reviewed the Department's purchase of micro-computers and related hardware. At your request, we expanded our examination to include an investigation of these transactions in relation to all parties involved to determine whether appropriate procurement policies and procedures were followed. Our examination included the following procedures:

- reviewed copies of purchase orders, pay vouchers, invoices, and cancelled warrants issued to: Brentwood Consulting Group, Custom Application Systems, Inc., Think Computers, Inc., and Philip Petty.
- interviewed the Department's accounting and data processing personnel (Del Williams, John Prestridge, Irwin Iilda, Roger Smith, Lorena White, JoAnn Farless, Gwen Coughran, Rosemarie Nelson, and Assistant Superintendent Harold McKeown) relating to even remote involvement in the micro-computer acquisitions.
- contacted the various vendors involved and independently interviewed their managers/owners to determine their knowledge of the existing bid limits, how they were contacted by the Tulare County Department of Education, and which employee(s) they dealt with.

- reviewed applicable sections of the Public Contract Code, California Education Code, Administrative Code, California K-12 Audit Guide for Audits of Local Education Agencies, California School Accounting Manual, and local Board of Education Policies.
- conferred with the Department's legal counsel (Ron Uchiumi, Assistant County Counsel of Tulare County).
- contacted the city and the State Board of Equalization to verify a valid business license and resale registration for Philip Petty (he did not have a business license nor was he registered with the State Board of Equalization).
- inventoried all micro-computers and related hardware purchased by the Department (physically observed the systems on September 30, 1987 - all were accounted for).
- examined purchases of software by the Department throughout the fiscal year.
- evaluated the policies and procedures in place for purchasing and receiving of goods.
- reviewed the data processing department in relation to application controls, security, backup documentation and procedures, computer configurations, contingency planning, and facility description.
- observed demonstrations of the software program under development for student applications and attendance accounting (SAIL).

During February, 1987 the Tulare County Department of Education purchased the following micro-computers and related hardware from the following companies/vendors:

Brentwood Consulting Group

11726 San Vincente Blvd., Suite 580, Los Angeles, CA 90049
(17 Hayes 2400 Smartmodems, 17 Bi-Directional Feeders, and 17 Data
150 Surge Suppressors)
-- Total Cost \$20,585 --

Custom Application Systems, Inc. (CASI)

11726 San Vincente Blvd., Suite 500, Los Angeles, CA 90049
(15 P760 NEC Printers, 15 Smart Software, and 2 NEC Cut Sheet
Feeders)
-- Total Cost \$20,304 --

Philip Petty

2230 West Sunnyside Ave., Visalia, CA 93277
(17 40 megabyte hard disks)
-- Total Cost \$18,523 --

Think Computers, Inc.

2230 West Sunnyside Ave., Visalia, CA 93277
(15 multitech micro-computers with 12" softwhite monitors, Hercules graphics cards, serial/parallel interface, parallel printer cables, and MS-DOS 3.2 operating systems)
-- Total Cost \$20,149 --

Subsequently, during May, 1987, two additional multitech micro-computers were purchased from Think Computers, Inc. at a cost of \$2,614.

We interviewed Mr. Philip Petty and asked him why he personally sold the Department the 40 megabyte hard disks rather than Think Computers, Inc.? (Philip Petty is the President of Think Computers, Inc., however, he is not a shareholder.) His response was as follows: "the disk drives were purchased from a company in Fremont, Ca (Seagate), multitech did not have any 40 megabyte disk drives available at the time, and Think Computers, Inc. did not have a vendors agreement with Seagate at this time". Mr. Petty also told us that he had no knowledge of bid limits per equipment sales to the Tulare County Department of Education.

We contacted Mr. George Porter on August 14, 1987 by telephone. Mr. Porter is the President of Custom Application Systems, Inc. and he is a general partner in the Brentwood Consulting Group. Ms. Anna Lee, General Manager of CASI, referred us to Mr. Porter. Mr. Porter informed us that Brentwood Consulting Group is a partnership which was formed Jan. 1, 1986 for the purpose of providing data processing marketing, equipment analysis, software analysis, and general consulting on hardware and software needs. Further, the partnership has a valid retailers license and generates significant revenue from computer hardware resales. We asked Mr. Porter if all of the equipment sold to the Tulare County Department of Education by Brentwood was also available from CASI? His response was that the equipment could have been purchased from either company in its entirety. Mr. Porter stated that he had no knowledge of any bid limit requirements for these purchases.

We interviewed Mr. Del Williams, Data Processing Manager for the Tulare County Department of Education, on several occasions. Mr. Williams stated that he never intended to structure the purchases to circumvent any bid requirements, rather, he was interested in buying the best equipment for the price from whomever could deliver the specified goods. Mr. Williams showed us several micro-computer specification sheets with quotes from a variety of

Dr. Dean Hall
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of companies. In his opinion, none of the other companies could match the value and quality of the Multitech system. In addition, he recommended the Hayes modem, NEC Printers, and Seagate hard disks because he felt that they were the best components in the market for the price. According to Mr. Williams, no one company which he contacted carried all of the specific hardware needs which they required.

Although the purchases in question seem suspect, in relation to the expenditure limits for required bids as elaborated in Section 20111 of the Public Contract Code, we could not establish, nor was it conveyed to us, that there was intent to circumvent bid limits by splitting the purchases. None of the purchases exceeded the bid limits and each purchase was for different computer accessories manufactured by different companies. In reviewing the possibilities of a conflict of interest by Del Williams and the purchase of the SAIL software program (developed by a company in which Del's son is a principal), we recommend that the Department carefully evaluate and test the program prior to purchase and verify that the program has been certified by the California State Department of Education for attendance accounting applications. If all of these conditions are met, we do not feel that there is a conflict of interest in purchasing this program as long as other comparable programs are also considered and compared.

In summary, we do not feel that there have been any conflicts of interest between employees of the Tulare County Department of Education and vendors to the Department, nor do we feel that a breach of the Public Contract Code has taken place. However, during the course of our examination we identified a few weaknesses in the receiving department and the data processing department. Our specific findings and recommendations will be forthcoming.

We hope that this letter has accurately conveyed our evaluations of the micro-computer purchases and if you have any further questions, please feel free to call us at (209) 625-1575.

Very truly yours,



M. GREEN AND COMPANY
Certified Public Accountants

SVM:js

cc: Harold McKeown
Thomas W. Hayes