

GOVERNMENT & ADMINISTRATION COMMITTEE

Purchase of a Doctor's Services for a "Fitness for Duty" Evaluation

Citizen Complaint #C5-02/03

Reason for the Report

The complaint alleges that the process and procedures used to obtain the services of a consulting doctor contracted by the Department of Human Resources were inappropriate and improper. (The employee has a great disadvantage in this process of separation from service.)

Scope of the Investigation

The Grand Jury interviewed the following persons :

- Complainant;
- Director, Department of Human Resources, El Dorado County;
- Manager, Procurement and Contracts, Department of General Services, El Dorado County.

The Grand Jury also reviewed the following items:

- A memo from the Director of Human Resources regarding fitness-for duty examinations;
- Statistics of fitness for duty 2000/01 and 2001/02;
- Purchase Order for doctor's services;
- County's policies and procedures regarding purchases and contracts;
- Total Purchase Order List for every Department from Fiscal Year 2001-02 through 2002-03;
- General Services Department memos issued to all County Departments regarding confirming purchase orders, purchasing procedures, and new contracts.

Background

There are approximately 1800 El Dorado County employees. In fiscal years 2000/01 and 2001/02 ten fitness for duty examinations were conducted in Sacramento for County employees.

The El Dorado County Personnel Management Resolution 228-84 1105(b) authorizes a departmental representative to request a fitness-for-duty examination. The section states:

“An appointing authority who has reasonable cause to believe that there are physical or mental health conditions present in an employee which endanger the health or safety of the employee, other employees, or the public, or which impair the employee’s performance of duty, may order the employee to undergo at County expense and on the employee’s paid time a physical, medical, and/or psychiatric examination by a licensed physician and receive a report of the findings on such examination. If the examining physician recommends that treatment for physical or mental health problems, including leave, are in the best interest of the employee or the County in relation to the employee overcoming any disability and/or performing his or her duties, the appointing authority may direct the employee to take such leave and/or undergo such treatment.”

Fitness for duty examinations are to be used as last resort. They are initiated when an appointing authority observes serious performance and behavior difficulties and where they believe there may be a medical cause for employee’s non-performance. A manager initiates the process by contacting the Department of Human Resources where upon an alternative course of action may be recommended to them. If an alternate action is not recommended, the Community Nursing/Occupational Health Division Manager in the Department of Public Health performs a second review. If the opinions agree, the Department of Human Resources will initiate the evaluation process and schedule an appointment with the appropriate physician.

Employees must attend the appointment. If an employee fails to attend, they can be disciplined. To date, records indicate that no employee has ever refused. In some instances, the evaluating doctor may request medical records from an employee’s treating physician. In other cases, the evaluator may refer an employee back to the treating physician or health care provider for follow-up and/or additional treatment. If at the conclusion of the evaluation an employee requests a second doctor’s opinion, he may do so at his own expense. To date no employee has made the request for a second evaluation.

In fiscal year 2000/01, five fitness for duty examinations were conducted. One employee was found fit and returned to service; two employees were found not fit and separated from service (one of the two employees was evaluated initially, and subsequently reevaluated as a result of new information); and the fourth employee was found fit but subsequently separated from service.

In fiscal year 2001/02, five fitness for duty examinations were conducted. Three of the five employees were found not fit and separated from service; one was found fit, returned to work, and subsequently separated from service; one employee returned to work after initial review.

The Grand Jury investigated broader issues related to the County’s handling of purchase orders and contracts. The investigation revealed doctors currently being used for evaluations do not have a contract with the County, yet the County purchase orders are approved to pay them as individuals. The County claims they are using an existing contract with Sutter Occupational Health Services (SOHS). It includes services of a physician who can conduct a fitness-for-duty examination. Additional testing can be referred to specialists within the SOHS system. SOHS is not identified for payment on purchase orders for the evaluations. It appears therefore, the

County is circumventing the contracting and purchase order system. Since no contract monitor is identified in the SOHS contract, the Public Health Occupational Health Manager reviews the services received and evaluates invoices. It is our understanding a flat fee is charged by these doctors at a rate of \$300 per hour. The fee includes analysis of testing data and the report.

Since contracts and purchase order procedures were addressed by the previous Grand Jury, we followed up with County staff to determine if former recommendations had been followed. Most purchase orders in past years were prepared after the fact. At the time of this report, the problem appears to be corrected. Regarding “fitness for duty” evaluations, the Director of Human Resources is currently working with the County’s Purchasing Agent to determine the viability and feasibility of having contracts with the individual doctors.

Findings

- F1. Of the nine County employees tested during 2000/01 and 2001/02, five were found unfit for duty.
- F2. Employees must travel to the doctor’s office in Sacramento, including employees who reside and work in South Lake Tahoe.
- F3. Some departments do not consistently follow purchase order and contract procedures and policies set forth by the Board of Supervisors.
- F4. Department Directors are not held accountable for following policies and procedures related to purchase orders and contracts by the CAO and the Board of Supervisors.
- F5. The County did not appropriately contract for the doctor’s services directly and therefore the County was probably not protected from liability and potential litigation.

Recommendations

- R1. The Board of Supervisors, with the assistance of the County Counsel and the Manager of Procurement and Contracts’ Office, should establish and enforce a procedure for departments to meet legal specifications and to be in compliance with procedures in awarding contracts for services.
- R2. The Board of Supervisors and the CAO should hold all County departments accountable for the policies and procedures established by the Manager of Procurement and Contracts’ Office.
- R3. The Department of General Services and the Procurement and Contracts’ Office personnel should design and provide a series of training programs on purchase orders and contract procedures for County staff.
- R4. Department Directors should be evaluated on their adherence to County procedures and their attendance at required training sessions.

