

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

170



FROM: Executive Office

SUBMITTAL DATE:
July 12, 2005

SUBJECT: Grand Jury Report: Riverside County Facilities Management Division

RECOMMENDED MOTION: That the Board instruct Riverside County Facilities Management Division to forward to the Executive Office – within 30 days – a draft of the Board’s response to the findings and recommendations of the Grand Jury that pertain to the Department’s operational areas; and direct the Executive Office to submit draft responses to the Board within 60 days.

BACKGROUND: The attached report has been issued by the Grand Jury.

Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury’s recommendations pertaining to matters under the control of the Board, and that a response be provided to the Presiding Judge of Superior Court within 90 days.

Draft responses received from the affected department will be consolidated and presented for the Board’s consideration; the response ultimately approved by the Board will then be forwarded to the Grand Jury as required by statute.

Attachment

Gary M. Christmas

GARY M. CHRISTMAS
Deputy County Executive Officer

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Departmental Concurrence

FINANCIAL DATA

Current F.Y. Total Cost: \$ N/A
Current F.Y. Net County Cost: \$
Annual Net County Cost: \$

In Current Year Budget:
Budget Adjustment:
For Fiscal Year:

SOURCE OF FUNDS:

Positions To Be Deleted Per A-30
Requires 4/5 Vote

C.E.O. RECOMMENDATION: APPROVE.

County Executive Office Signature

Henry H. Malachuk

- Dep't Recomm.: Policy
- Per Exec. Ofc.: Consent
- Policy
- Consent

Prev. Agn. Ref.:

District:

Agenda Number:

3.5



RIVERSIDE COUNTY GRAND JURY

(909) 955-8990 OFFICE • (909) 955-8989 FAX

June 29, 2005

Riverside County Board of Supervisors
4080 Lemon Street
Riverside, CA 92501

Subject: 2004-05 Grand Jury Report:
Riverside County Facilities Management Division

Dear Board Members:

Please note that Penal Code Section 933 et seq., specifies that you respond within ninety days. Further, it specifies that this report be kept **confidential for a minimum of two working days** prior to public release. The contents of this report will be made public after the close of business **July 1, 2005**.

Sincerely,

A handwritten signature in cursive script that reads "Nikki Harris".

Nikki Harris, Foreperson
2004-05 Riverside County Grand Jury

NH:gs
Attach.

2004-2005 GRAND JURY REPORT

Riverside County Facilities Management Division

Background

Riverside County Facilities Management Division provides maintenance, custodial, design and construction, and real estate services to county departments occupying county owned and leased buildings. Facilities Management Division employs approximately 330 personnel with a total operating budget for fiscal year 2004-05 of \$29,905,979. The total budget for Major Design and Construction Projects in progress for FY 2004-05 is \$45,708,000. The total budget for Projects Completed as of June 16, 2005 is \$2,725,000; and the total budget for Projects Under Design is \$60,645,372. Facilities Management Real Estate Division administers real property leases for the following:

- County Departments
- State and Federal Agencies
- Privately owned property/buildings

There are approximately 220 leases currently being administered, encompassing nearly two million square feet of real estate.

Facilities Management Mission Statement:

OUR MISSION

Facilities Management provides a safe, physical working environment for the administration of County Government through preventive, daily and emergency maintenance and daily and utility custodial services, provides professional real property management through acquisition or sale of County properties and leasing of additional facilities as required, and provides professional project management for new construction and major renovations/remodeling of County buildings.

Findings

1. Since 1994, the Facilities Management Division has charged a monthly four percent (4%) property management fee to all departments occupying leased facilities throughout the County of Riverside. Lease agreements on all privately owned property/buildings, which include a maintenance package, are also charged a 4% property management fee. The lease agreement does not stipulate that a 4% property fee is included, however, the 4% fee is itemized on the monthly invoice. Upon review of documentation and testimony from the Auditor-Controller, it was discovered that the Auditor-Controller was not informed of the 4% property management fee nor reviewed it. Board of Supervisors Policy B-4 (Attachment A) requires the Auditor-Controller to review all new and charged fees for recommendation to the Board of Supervisors for Board adoption.

2. Documented correspondence shows that the Director and the Assistant Director of Facilities Management Division have knowledge that employees are engaging in 50/50 fundraisers during working hours on a regular basis. This practice is not in compliance with *Riverside County Human Resources Department New Employee Handbook*, Employment Policies, Personal Profit and Conflicts of Interest that states, "Employees must devote their time to county business and may not engage in private activities for profit during working hours..."
3. After review of employee timesheets and written documentation, some employees who were observed and documented by staff over a period of several months arriving late and/or leaving early from work, consistently registered a nine-hour workday on their timesheets.
4. Several coworkers testified an employee stated to them that a member of upper management had secured said employee a promotional position prior to the Human Resources Department open recruitment process.
5. Employees with previous overall satisfactory performance evaluations within the Facilities Management Division, subsequently received unsatisfactory evaluations as a result of:
 - a. Filing written complaints to the Human Resources Department and/or grievances with Service Employees International Union, Department of Fair Employment and Housing, and the Grand Jury.
 - b. Testifying in Human Resources Employee Relations Division investigations of upper management.

The Riverside County Human Resources Department New Employee Handbook and Memorandum of Understanding, maintain that employees shall be free from reprisal following a good faith filing of grievances and/or complaints.

6. Employees who officially came in contact with this Grand Jury after documents were requested testified that they received various forms of harassment from upper management such as:
 - a. Corrective Memorandums
 - b. Relieved of their positions and transferred to other departments within the Facilities Management Division without their request
 - c. Isolation from staff
 - d. Removal of supervisory duties
 - e. Received intimidating remarks and facial expressions from upper management

7. Employees who verbally reported harassment complaints to the Human Resources Department and to an Assistant County Executive Officer in the Riverside County Executive Office were not contacted by an Employee Relations Division Investigator for follow-up investigation as required by Board Policy C-25 (Attachment B), Harassment Policy and Complaint Procedures and *Riverside County Human Resources Department New Employee Handbook*, Complaint Procedure. Subsequently, these employees strongly expressed concern to the Grand Jury that their employment may be in jeopardy due to the lack of remedial action from the Human Resources Department to protect them from possible reprisal. Board Policy C-25 specifically states, "Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited..."

Recommendations

Riverside County Board of Supervisors Riverside County Facilities Management Division Riverside County Human Resources Department

1. Facilities Management Division strictly adhere to Board of Supervisors Policy B-4 requiring review by the Auditor-Controller of all new and charged fees.
2. Facilities Management Division review County policy regarding fundraisers to comply with the *Riverside County Human Resources Department New Employee Handbook*, Personal Profit and Conflicts of Interest.
3. Facilities Management Division install an electronic or mechanical time clock to curb the abuse of inaccurate recording of hours worked.
4. Facilities Management Division comply with Riverside County Human Resources Department established recruitment process to ensure a fair and equitable method of advancement.
5. The Facilities Management Division and the Human Resources Department enforce strict compliance to Riverside County Board of Supervisors Policy C-25 Harassment Policy and Complaint Procedure and *Riverside County Human Resources Department New Employee Handbook*, Personnel Policies and Practices Grievances, as referenced in Findings 5, 6 and 7.

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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| Subject: | Policy Number | Page |
| RATES CHARGED FOR CURRENT SERVICES | B-4 | 1 of 1 |

Policy:

1. Where a charge is necessary and/or appropriate to recover the actual cost of providing services by a County Department to other County Departments, other public agencies or various organizations or individuals, rates for such charges shall be established from time to time by Resolution or Minute Order adopted by the Board of Supervisors upon recommendation of the Auditor-Controller and the Administrative Officer. **Even mandated charges may require Board adoption.**
2. All County Departments should frequently evaluate existing charges for services and in conjunction with the Auditor-Controller and the Administrative Officer make recommendations to the Board of Supervisors on changes at least annually during the preparation of the County budget.
3. All development-related charges should be submitted to a full cost study not less than every three years and appropriate adjustments made.
4. All development-related charges should be adjusted yearly, in the years between full cost studies, to take into consideration anticipated or negotiated salary and benefit increments and the Consumer Price Index as related to non-salary costs.
5. All development-related charges should be routed through the Growth Fiscal Impact Task Force for review and comment prior to being presented to the Board of Supervisors.
6. Charges should recover actual costs of providing the services unless the Board of Supervisors sets the charge at a lesser amount.

Reference:

Policy Manual approval 1-28-75
Minute Order 3.24 dated 3-3-87

COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY

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| Subject: | Policy Number | Page |
| HARASSMENT POLICY AND COMPLAINT PROCEDURE | C-25 | 1 of 3 |

PURPOSE:

The purpose of this policy is to establish a strong commitment to prohibit and to prevent unlawful harassment in employment, and to set forth a procedure for investigating and resolving internal complaints of unlawful harassment.

POLICY:

Harassment of an applicant or an employee by a supervisor, management employee, County Officer, or co-worker on the basis of race, color, national origin, ancestry, religion, sex, age, physical disability, mental disability, medical condition, marital status, pregnancy, or sexual orientation will not be tolerated.

This policy applies to all workplace behaviors and forms and conditions of employment, including but not limited to, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leaves of absence, compensation and training. It applies to a County employee action on behalf of the County on or off the job sit.

Disciplinary action up to and including termination will be instituted for behaviors described in the definition of harassment referred to below.

Any retaliation against a person for filing a harassment charge or making a harassment complaint is prohibited. Employees found to be retaliating against another shall be subject to disciplinary action, which may include termination.

DEFINITION:

Harassment includes, but is not limited to:

Speech, such as lewd propositioning, epithets, stereotypical or derogatory comments or slurs on the basis of race, color, national origin, ancestry, religion, sex age, physical disability, mental disability, medical condition, marital status, pregnancy, or sexual orientation. This might include inappropriate sex-oriented comments or appearance, including dress or physical features, or race/ethnicity-oriented stories or jokes.

Physical acts such as assault, impeding or blocking movement, or offensive touching, or an physical interference with normal work or movement when directed at an individual on the basis of race, color, national origin, ancestry, religion, sex age, physical disability, mental disability, medical condition, marital status, pregnancy, or sexual orientation. This includes pinching, grabbing, patting, propositioning, leering or making explicit or implied job threats or promises in return for submission to physical acts.

Visual insults, such as derogatory posters, cartoons, or drawings related to race, color, national origin, ancestry, religion, sex age, physical disability, mental disability, medical condition, marital status, pregnancy, or sexual orientation.

**COUNTY OF RIVERSIDE, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

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| Subject: | Policy Number | Page |
| HARASSMENT POLICY AND COMPLAINT PROCEDURE | C-25 | 2 of 3 |

Unwanted sexual advances, request or sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unnecessarily interfere with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

COMPLAINT PROCEDURE:

An employee or job applicant who believes he or she has been harassed has a responsibility to immediately make a complaint either orally or in writing with any of the following:

- Immediate Supervisor;
- Any supervisor or management employee/officer within the department, including the department head.
- The Human Resources Director for the County of Riverside.

The employee or job applicant also has the right to file a complaint with the State Department of Fair Employment and Housing or the federal equal Employment Opportunity Commission.

Any supervisor or management employee, or County Officer who receives a harassment complaint shall immediately notify the County's Human Resources Director.

COMPLAINT INVESTIGATION:

Upon receiving notification of a harassment complaint the Department Head or the Human Resources Director shall:

1. Immediately authorize and supervise the investigation of the complaint. The investigation shall, at a minimum, include interviews with the complaint, the accused harasser, and any other persons the Department Head or the Human Resources Director has reason to believe may have relevant knowledge concerning the complaint.
2. Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment giving consideration to all actual information and the totality of the circumstance including the nature of the visual, verbal, and/or physical conduct.
3. Take or recommend prompt and effective remedial action against the harasser if it is determined through the investigation that illegal harassment occurred.
4. Take reasonable steps to protect the complainant from further harassment and any retribution.
5. Take action to remedy the victim's loss, if any, which resulted from the harassment.