



Executive Office
County of Riverside

Larry Parrish
County Executive Officer

August 17, 2005

Honorable Board of Supervisors, County of Riverside
Robert T. Andersen Administrative Center
4080 Lemon Street, 5th Floor
Riverside, CA 92501-3651

SUBJECT: Developing Responses to Grand Jury Reports

At the August 9 meeting of your Board, concerns were expressed about two agenda items prepared in response to Grand Jury reports (items 3.5 and 3.7). These items were continued, with a request to the Executive Office to further investigate the responses to findings #3 and #6 of 3.5, Riverside County Human Resources Department Recruitment Process, and findings #3, #4, #5, and #6 of 3.7, Riverside County Facilities Management Division. Executive Office staff have independently researched these issues, and supplemental information is included below.

When the Executive Office receives a Grand Jury report, the report is forwarded to the county department that was the subject of the report. The department head then submits responses to the Assistant County Executive Officer. As you may know, the county's responses to Grand Jury reports are strictly controlled by the California Penal Code. Section 933.05(a) states:

“...as to each grand jury finding, the responding person or entity shall indicate one of the following:

- (1) The respondent **agrees** with the finding.
- (2) The respondent **disagrees wholly** or **partially** with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.”

County department heads must work within this framework in drafting their responses.

Once the Assistant County Executive Officer has read the department head's draft response, he distributes it to appropriate staff to review. These staff members frequently ask department heads to expand or clarify information they've provided. In essence, an informal panel provides input on the response before it is finalized for the Board agenda. At times, information contained in a Grand Jury report may prompt an assignment to the Executive Office's Management Audit Team or the Auditor-Controller's Internal Audits Division.

Human Resources Investigation

In the case of the Human Resources Department Recruitment Process report, Number 3, the information provided by the department head was accurate, but could use further clarification. An independent analysis by my office, for the year 2005 (to date), found that not all positions filled by TAP employees are entry-level, while the initial report addressed only entry-level placements. Occasionally, a journey-level, supervisory or management position may be filled temporarily with a TAP employee. This has occurred when a former employee returns to work at the county. Before that person can fill a job permanently, however, s/he will compete with other qualified candidates, in accordance with county policies.

A competitive process may take many forms, including a written or performance test, a review of resumes, or an interview. Sometimes an initial screening of resumes weeds out an employee who is interested in promoting, before that employee is even aware that the process is underway to fill a vacancy. That employee may wrongly assume that a competitive process was never conducted.

Lateral transfers, however, do not require a recruitment process, as the pay of the employee being transferred does not increase. There have been occasions when an employee transfers to fill a position for which lower-level employees within the department hoped to compete; this, obviously, can cause some discontent. It does not violate county policy, however.

Hiring managers, as well as Human Resources specialists, should be aware that these unusual situations may contribute to dissatisfaction among workers, and should avoid them when possible. Communicating clearly with current employees when such situations arise may go far to prevent misunderstandings and complaints.

In the case of Number 6 in the Human Resources investigation, concerning contracting for personal or professional services, the department heads involved conceded that Board approval was not obtained for the FY 2003-04 and 2004-05 contracts with QWIZ. Purchasing and Human Resources have committed to engaging in competitive processes for future contracts of this type. At present, no comparable contracting arrangements have been identified within the Human Resources Department. There are, however, a few areas in which cumulative expenditures may exceed \$25,000; these will be watched closely. Purchasing and Executive Office staff will continue to monitor large expenditures within Human Resources, and require competitive bids on any that are subject to Board Policy A-18.

Facilities Management Investigation

Concerns were expressed about several findings related to timekeeping, promotional practices, and retaliation. In the response to Number 3, Facilities Management stated that staff are held accountable for their time, but did not elaborate on the methods used to do this. Time clocks are not in use by any county employees, so it is difficult to independently

verify whether time cards are correct. It is also important to remember that salaried/exempt/management employees are not bound by set schedules, so monitoring their time is complex. However, further investigation into timekeeping practices in Facilities Management is merited, and will be undertaken by the Executive Office's Management Audit Team shortly. Any significant findings will be reported to your Board.

In regard to Number 4, concerning a promotional decision made before a recruitment process was undertaken, there is a perception among certain staff that this occurred. Despite statements by Facilities Management, it appears possible that managers were leaning toward promoting a particular individual when the position was created. What may be unclear to those who reported this as pre-selection is that upper management's interpretation of "qualifications" may be different from theirs. Regardless, the Executive Office was unable to document any recent promotions that were filled without a competitive process. The Human Resources Department has made it virtually impossible for personnel actions to occur without their oversight.

Findings Number 5 and 6 concern retaliation, in the form of unsatisfactory performance evaluations, disciplinary actions, intimidation and reassignment. A recent review of Facilities Management's administrative operations by my staff revealed several employees who feared retaliation, consistent with the Grand Jury's findings. Executive Office staff confirmed that, as Facilities Management states, the timing of unsatisfactory performance has been inconsistent with retaliation. In other words, documentation of performance problems occurred before the employees expressed a fear of retaliation. However, such a strong perception, among several employees, is probably supported by some events. That morale has been low and has remained so for months is an indication that upper management needs to be more responsive to perceived slights and unfairness, presumably by avoiding all appearances of favoritism, intimidation, arbitrariness and retribution.

Conclusion

Although there are constraints on the manner in which Grand Jury responses are formulated, independent review is part of the process. A thorough analysis is performed in response to each finding. When appropriate, additional resources are employed to investigate the findings. And, as alluded to on August 9, when "smoke" is abundant, there are additional efforts made to pinpoint "fire."

If at any time your Board would like further investigation into any issue, please bring this to my attention. Such issues will be given highest priority.

Respectfully submitted,



LARRY PARRISH
County Executive Officer

H:\DGRANT\LPARRISH\grbdmemo05.doc

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

482



FROM: Executive Office

SUBMITTAL DATE:
August 9, 2005

**SUBJECT: Response to the Grand Jury Report: Riverside County Facilities
Management Division**

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendations regarding the Riverside County Facilities Management Division.
- 2) Direct the Clerk of the Board to immediately forward the Board's finalized response to the Grand Jury, to the Presiding Judge, and the County Clerk-Recorder (for mandatory filing with the State).

BACKGROUND: On July 12, 2005, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding the Riverside County Facilities Management Division.

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


WILLIAM G. LUMA
County Finance Director

H:\DGRANT\GJURY\90dayresponse11fm05.doc

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:
	Current F.Y. Net County Cost:	\$	Budget Adjustment:
	Annual Net County Cost:	\$	For Fiscal Year:

SOURCE OF FUNDS:	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE.

County Executive Office Signature



Dept's Recomm.: Consent Policy
Per Exec. Ofc.: Consent Policy

Prev. Agn. Ref.: 3.5/7-12-05

District:

Agenda Number:

3 . 11

**RIVERSIDE COUNTY FACILITIES MANAGEMENT DIVISION
Response to Findings and Recommendations**

FINDINGS:

Number 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.

Response:

Respondent partially disagrees with the finding.

Board of Supervisors Policy B-4 allows departments, which provide service to other county departments, to recover their service cost through a recharge process. On May 14, 1997 the Auditor Controller submitted a fiscal control Audit Report of the General Services Agency/Building Services to the Board of Supervisors. This report dated April 30, 1997 makes reference to the (4%) property management fee. It does state, "There was no written evidence that the property management fee was based on a cost study, or that Auditor-Controller personnel reviewed and approved the fee. General Services Agency personnel agreed documentary evidence was lacking, but they advised that the fee was coordinated with and verbally approved by the previous Auditor-Controller and County Administrative Office personnel several years ago." Facilities Management is currently reviewing all fee structures and will go to the Auditor-Controller's office for approval and then to the board with recommendations during the next budget cycle.

Number 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..."

Response:

Respondent partially disagrees with this finding.

Facilities Management has an Employee Recognition Committee (ERC) which has been in operation for at least 15 years. The committee is made up of volunteers from the department. This committee is charged with developing ideas and events designed to recognize achievements and plan activities to distribute service awards. This committee also coordinates any charitable effort the department may undertake such as, adopting a family during the holidays or Toys for Tots. The ERC plans activities that bring employees together in a social setting which supports a positive team environment.

The committee has used various forms of fundraising over the years including bake sales, raffles, and lunches. These fundraisers typically take place during lunch or during normal break periods. At times employees donate their own personal time to these activities after hours, for example, in the case of baking goods for sale.

The section of the employee handbook quoted in the grand jury report deals with engaging in private activities for profit during working hours.

The 50/50 fundraiser has been discontinued.

The fundraising activities are being reviewed and the ERC has been directed to limit all activities to break and lunch periods.

Number 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.

Response:

Respondent disagrees wholly with the finding.

Employees making these observations are not privy to individual schedules of the respective staff implicated in this finding. Facilities Management provides services to facilities located over an area of more than 7000 square miles. With this responsibility it is necessary for staff to attend meetings at various sites throughout Riverside County. It is not uncommon for staff to report directly to a meeting at the start of their shift in the morning and to continue in meetings throughout the work day. Facilities Management has no knowledge of employees arriving to work late or leaving work early without prior approval or properly documenting such hours on their time sheets. Facilities Management staff are held accountable for their time.

Number 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.

Response:

Respondent disagrees wholly with the finding.

All recruitments are conducted in accordance with the hiring guidelines of the County Human Resources Department and in compliance with Board Policy. Particularly, pursuant to Ordinance 440 and the New Employee Handbook, "The County operates on a merit system of employment, meaning that hiring and promotions for permanent positions are competitive, with equal opportunity, and are based on a person's qualifications for the position." Facilities Management is not aware of any member of upper management who had secured a promotional position for any employee prior to the recruitment process. Human Resources determines the criteria used to qualify candidates based on an analysis of the job duties and knowledge, skills, and abilities required of the position being filled.

Number 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.

Response:

Respondent disagrees wholly with the finding.

No employee at any time has ever received an unsatisfactory performance evaluation as a result of filing written complaints to Human Resources, Service Employees International Union, Department of Fair Employment and Housing, and the Grand Jury or testifying in Human Resources Employee Relations Division investigations of upper management. A timeline would show that employees who did receive an unsatisfactory performance evaluation received it prior to filing a complaint with any of the respective agencies listed above.

Number 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

Response:

Respondent disagrees wholly with the finding.

Facilities Management maintains a strong commitment to prohibiting and preventing any form of harassment in the workplace. Facilities Management is not aware of any instances of harassment toward employees who came in contact with the Grand Jury. Pursuant to Board Policy, C-25, any employee who believes he or she has been harassed has a responsibility to immediately make a complaint either orally or in writing to a supervisor, member of management, department head, or Human Resources Director so that an investigation can be conducted to determine whether the alleged conduct constitutes harassment and prompt and remedial action be taken if determined through investigation that harassment has occurred. While no complaint has been filed pursuant to Board Policy C-25, a complaint was filed with the Department of Fair Employment and Housing and the County has responded accordingly.

(a.) Corrective Memorandums are issued in an attempt to correct a behavior related to one's performance or conduct in violation of departmental or county policy. Any such instances are well documented and are often reviewed by the Human Resources

Department before issuing to an employee. At no time has any employee ever received a Corrective Memorandum for any reason related to the Grand Jury.

(b.) In accordance with the Human Resources New Employee Handbook, Reassignment/Shift Change, "departments, like any other employer, may reassign you to work in any of its locations." Facilities Management attempts to be flexible with schedules and work assignments. At times, it is necessary to modify staff assignments based on work load, performance, or business needs. No employee has ever been relieved of their job duties or been reassigned as a result of coming into contact with the Grand Jury.

(c.) Facilities Management has no knowledge of isolation from staff, nor can we attest to employees' own perceptions of such.

(d.) The removal of supervisory duties was in no way related to employees who came in contact with the Grand Jury. The removal of supervisory duties was a direct result of poor job performance and complaints received from other County departments, both of which are well documented and had a negative impact on the day to day operations of the Facilities Management Department.

(e.) Facilities Management is not aware of intimidating remarks and facial expressions from upper management and does not condone such behavior in the workplace. Facilities Management is committed to a work environment based on professionalism, courtesy, and mutual respect. Rude, discourteous, or intimidating behavior is not tolerated.

Number 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..."

Response:

Respondent partially disagrees with the finding.

Pursuant to Board Policy, C-25, Harassment Policy and Complaint Procedure, the Human Resources Department Employee Relations Division is responsible for investigating allegations of harassment brought forth by any employee of Riverside County. If unlawful harassment is substantiated, the Human Resources Department takes immediate action to remedy the situation and eliminate any illegal practices.

An employee did meet with the Human Resources (HR) Director and an Assistant County Executive Officer (CEO), but at no time did any employee verbally report unlawful harassment or discrimination to the HR Director or Assistant CEO.

The Human Resources Department is not aware of any retaliation upon any employee, nor was there a complaint of retaliation brought to the attention of Human Resources by any employee. While no complaint has been filed pursuant to Board Policy C-25, a complaint was filed with the Department of Fair Employment and Housing and the County has responded accordingly. The Human Resources Department maintains a strong commitment to prohibiting any type of retaliation against an employee who has filed a complaint.

RECOMMENDATIONS:

Number 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.

Response:

The recommendation has not yet been fully implemented but will be in the future.

Facilities Management is currently reviewing all fee structures and will go to the Auditor-Controller's office and then to the Board with recommendations during the next budget cycle.

Number 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.

Response:

The recommendation has been implemented.

The 50/05 fundraiser has been discontinued.

The fundraising activities are being reviewed and the ERC has been directed to limit all activities to break and lunch periods.

Number 3:

Facilities Management Division install an electronic or mechanical time clock to curb the abuse of inaccurate recording of hours worked.

The recommendation will not be implemented because it is not warranted.

Facilities Management has no knowledge of employees arriving to work late or leaving work early without prior approval or properly documenting such hours on their time sheets. Facilities Management staff are held accountable for their time. Facilities Management has a system in place to accurately record hours worked.

Number 4:

Facilities Management Division comply with Riverside County Human Resources Department established recruitment process to ensure a fair and equitable method of advancement.

Response:

The recommendation has been implemented.

All recruitments are conducted in accordance with the hiring guidelines of the County Human Resources Department and in compliance with Board Policy. Particularly, pursuant to Ordinance 440 and the New Employee Handbook, "The County operates on a merit system of employment, meaning that hiring and promotions for permanent positions are competitive, with equal opportunity, and are based on a person's qualifications for the position."

Number 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.

Response:

The recommendation has been implemented.

Facilities Management maintains a strong commitment to prohibiting and preventing any form of harassment in the workplace. Facilities Management is not aware of any instances of harassment toward employees who came in contact with the Grand Jury. Pursuant to Board Policy, C-25, any employee who believes he or she has been harassed has a responsibility to immediately make a complaint either orally or in writing to a supervisor, member of management, department head, or Human Resources Director so that an investigation can be conducted to determine whether the alleged conduct constitutes harassment and prompt and remedial action be taken if determined through investigation that harassment has occurred. While no complaint has been filed pursuant to Board Policy C-25, a complaint was filed with the Department of Fair Employment and Housing and the County has responded accordingly.

MINUTES OF THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



3.7

On motion of Supervisor Wilson, seconded by Supervisor Stone and duly carried, IT WAS ORDERED that the Response to the Grand Jury Report - Riverside County Facilities Management Division is continue to Tuesday, August 23, 2005 with direction to the Executive Office to do some spot investigation independently from the department.

Roll Call:

Ayes: Tavaglione, Stone and Wislon

Nays: None

Absent: Buster and Ashley

I hereby certify that the foregoing is a full true, and correct copy of an order made and entered on
August 9, 2005 of Supervisors Minutes.

WITNESS my hand and the seal of the Board of Supervisors

Dated: August 9, 2005

Nancy Romero, Clerk of the Board of Supervisors, in
and for the County of Riverside, State of California.

(seal)

By: *Tamara Schlemmer* Deputy

AGENDA NO.
3.7

xc: E.O., Facil Mgmt., COB
MR