

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

443



FROM: Executive Office

SUBMITTAL DATE:
June 25, 2011

SUBJECT: Response to the 2010-11 Grand Jury Report: Riverside County Department of Public Social Services - Riverside County Children and Families Commission First 5 Riverside.

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Approve with or without modifications, the attached response to the Grand Jury's recommendation regarding Riverside County Department of Public Social Services - Riverside County Children and Families Commission First 5 Riverside.
- 2) Direct the Clerk of the Board to immediately forward the Board's finalized responses to the Grand Jury, to the Presiding Judge, and the County Clerk-Recorder (for mandatory filing with the State).

BACKGROUND: On May 1, 2012, the Board directed staff to prepare a draft of the Board's response to the Grand Jury's report regarding Riverside County Department of Public Social Services - Riverside County Children and Families Commission First 5 Riverside.

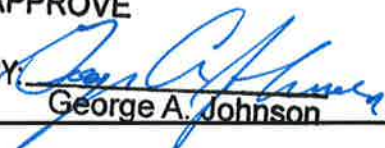
Section 933 (c) of the Penal Code requires that the Board of Supervisors comment on the Grand Jury's recommendations pertaining to the matters under the control of the Board, and that a response be provided to the Presiding Judge of the Superior Court within 90 days.

90dayresponsef11DPSSFirst506.12

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

BY: 
George A. Johnson

County Executive Office Signature

Policy
 Consent

 Policy
 Consent

 Dep't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 3.4 – 05/01/12 | District: | Agenda Number:

ATTACHMENTS FILED
WITH THE CLERK OF THE BOARD

3.2

2011-2012 GRAND JURY RESPONSE
Riverside County Department of Public Social Services
Riverside County Children and Families Commission
First 5 Riverside

Background

First 5 Riverside (First 5), the Riverside County Children and Families Commission (Commission) is a division of the Riverside County Department of Public Social Services (DPSS). It is funded by tobacco taxes generated by Proposition 10, which passed in November 1998. The purpose is to ensure that the youngest Californians, from prenatal to five years old, get the best possible start in life. The statewide initiative added a 50-cent tax per pack of cigarettes and a comparable tax on other tobacco products.

California's First 5 commissions were established in each of California's 58 counties. The Riverside County Children and Families Commission was established on January 22, 1999, by Ordinance 784 of Riverside County (County), which was adopted on December 22, 1998.

Initially, First 5 was a separate public entity, and is now a division of DPSS. The Commission retains independent authority over strategic planning and the trust fund.

During Fiscal Year (FY) 2010/2011, First 5 Riverside received approximately 23 million dollars in funding from tobacco tax revenue collected by the state and distributed to counties based on their annual live birth rate. These funds are awarded to organizations, specific projects, and providers that develop new programs or services that conform to the Commission's Strategic Plan in order to support Riverside County children from prenatal to age five and their families. Funds are applied for and distributed through a Request for Proposal (RFP) process. Proposals are sought from the community targeting areas that can meet the goals and objectives outlined in the Commission's Strategic Plan. These funds are to be utilized solely to enhance existing services for children and may not supplant existing resources or create service duplication.

As part of a results-based accountability system, First 5 collects data from agencies monthly to evaluate specific targeted areas and demonstrate results achieved. According to the First 5 website:

On June 9, 2009 the Riverside County Board of Supervisors amended the membership section of Ordinance 784 to reflect the appointment of six Commissioners and six alternate Commissioners. Each member of the Board of Supervisors appoints one Commissioner and one alternate with the sixth being an At-Large appointment by the entire Board. These appointments are in addition to a

member of the Board of Supervisors, the County Health Officer, and an individual responsible for the management of one of several enumerate County functions.

Methodology

The Riverside County Civil Grand Jury (Grand Jury) interviewed selected First 5 commissioners, employees, and other county personnel, and in addition attended a First 5 commission meeting. Also reviewed were First 5 governing documents including By-laws, procedures, Conflict of Interest Code (Title 2 California Code of Regulations §18730), Employee Handbook, financial statements, and the Strategic Plan. State statutes and County ordinances pertinent to the First 5 Commission was examined. The Grand Jury researched policies, procedures, and practices of First 5 commissions in surrounding counties.

FINDINGS:

Number 1:

Age Eligibility

Proposition 10 states that children to be served will be from “prenatal stage to five years of age.” The First 5 California Commission has determined for its use, “to five years of age” means until the sixth birthday.

Individual county commissions are permitted to use their own discretion on the age requirement for eligibility, as long as it's under six years of age.

Materials distributed from the First 5 programs in all 58 California counties differ in how they apply this eligibility. In Riverside County, First 5 has materials and publications that state:

- ***0-5***
- ***0 to 5***
- ***0 through 5***
- ***Under 5***
- ***Prenatal stage to 5***

After interview with First 5 staff and commissioners, we found they were inconsistent in their understanding and application of the age requirement.

Response:

Respondent disagrees partially with this finding.

F5R has consistently and historically funded services for children prenatal through 5 years of age. We believe that this approach is generally understood and consistently applied, but we agree that written materials have referred to the targeted age population in a variety of ways as described in the Grand Jury Report.

Number 2:

Funding Eligibility

Grand Jury testimony indicated there is confusion as to the extension or termination of a child's eligibility to continue coverage by a program when the child reaches the maximum age during the period of contract service. Legal counsel from First 5 California stated that the decision regarding this aspect is left to each county organization.

Response:

Respondent disagrees partially with this finding.

It is generally understood by F5R staff, Commission, and funded agencies that F5R funds are to be expended for children prenatal through 5 (until their 6th birthday).

Effective January 1, 2008, the Commission approved payment of an annual premium for health coverage through the Healthy Kids program for eligible children through 5 years of age. Since this is an annual premium, children receive benefit of this service for a full year after payment of the premium.

Funded agency contracts require compliance with Prop 10 guidelines including age requirements. In certain situations, termination of services may be significantly detrimental to a child and/or parents, and authorization to extend services may be granted on a temporary basis. In such situations, it is the responsibility of the funded agency to request an exception to the age restrictions, and such requests are evaluated on a case-by-case basis.

Number 3:

Organization and Process

Since the inception of First 5, there have been significant changes in the relationship between First 5 and Riverside County. In the beginning, First 5 was a quasi-independent "special district" within Riverside County, not administratively under any department. In 2009,

the Riverside County Board of Supervisors placed First 5 as a division under DPSS.

The RFP process, by which potential grantees applied for funding, was handled directly by First 5 through FY 2010/2011. Under the current funding cycle FY 2011/2012, RFP's are now initiated by First 5 and returned to the Riverside County Purchasing Department (Purchasing) for processing.

Response:

Respondent disagrees partially with this finding.

F5R was previously an independent Commission as described in the Act, and on July 1, 2009, became a component of the County and a division within DPSS. The current funding cycle is being implemented by F5R and County Purchasing working together in accordance with County policy. As defined in the Act, the F5R Commission retains full authority for the award of funds.

Number 4:

Document Control

Sworn testimony revealed there are allegations of document tampering and mismanagement of both computer and hardcopy files, including grants and contracts.

Response:

Respondent disagrees wholly with this finding.

F5R responded to an allegation of computer file tampering by an employee by conducting an investigation in coordination with County Human Resources. No evidence of tampering was discovered or substantiated.

Number 5:

Financial I Auditing

Multi-year grants are awarded and funds are set aside for full payment. First 5 receive money annually to cover these grants. The funds set aside for each grant are not tracked separately. Balances due on contracts are not adjusted and, as a result, unspent funds are not reallocated for new projects.

Testimony revealed there was a total fund balance of over 60 million dollars. Concerns were expressed over the excessive amount kept in the reserve and not being used to fund children's programs.

Grand Jury interviews revealed that several fiscal administrators warned management of the threat that the State of California would appropriate funds that were in reserves, some of which were tagged for future programs.

First 5 staff, who are not auditors, perform mini-audits on selected funded programs.

Auditing procedures are designed to form a validation of financial statements, and may not reveal all weaknesses in policies or procedures that exist.

Response:

Respondent disagrees wholly with this finding.

Funded agency contract expenditures are individually tracked. Actual expenditure of contract funds and year-end projections of contract funds are reported to the Commission on a monthly basis through financial statements. Contract expenditures are audited and reported to the Commission on an annual basis, and unexpended funds are reported to the Commission for re-allocation, with recommendations to do so provided by staff.

First 5 Commissions are legally required to have multi-year funding plans, and dedicate funds for projects over several years. In most cases, these dedicated funds remain in fund balance and are allocated within the fiscal year that services are delivered to ensure accountability and performance of funded agencies. The vast majority of F5R's fund balance is designated for specific uses. The Fund balance was \$60 million as of June 30, 2010. As of March 2012 (in the 2011-12 budget revision), the fund balance was \$11 million. Thirty million dollars will be returned to fund balance as a result of the successful legal challenge to AB 99, and these funds were already allocated for use at the April 2012 Commission meeting.

F5R staff performs compliance monitoring of contracts to ensure that agencies are fulfilling the terms of the contract, which includes on-site evaluation of service delivery and review of supporting documentation of billings and invoices. F5R staff does not perform "financial audits," mini or otherwise, as defined by the Financial Accounting Standards Boards (FASB). Funded agencies are required to provide year-end audits performed by independent auditors.

Number 6:

Information Technology

There is no requirement for First 5 to utilize Riverside County Information Technology Department (IT) resources. At the present time First 5 contracts with an outside vendor.

Response:

Respondent agrees with this finding.

F5R is not required to use County IT, and based on the County's bidding process chose an outside vendor to provide this service at a significant cost savings.

Number 7:

Communication

A DPSS staff report of interviews with First 5 staff, conducted from July 9, 2009 through July 22, 2009, states, "There is a perceived lack of communication from the top down." Several of the staff members interviewed mentioned a major concern regarding communication and better information feedback. Current testimony revealed poor communication continues in a number of areas between:

- *First 5 staff and administration.*
- *Staff/administration and the commission.*
- *Staff/administration and the grantees.*
- *Staff/administration and the community at large.*

Response:

Respondent agrees with this finding.

Earlier this year, the Commission established a committee that conducted interviews with staff and a subsequent evaluation of staff comments. The Commission determined that communication within the organization has room for improvement. An action plan to address this issue has been developed and is being implemented.

Number 8:

Management/Staff Relations

The Grand Jury investigation revealed management bias and favoritism when staff recommendations were modified prior to presentation to the Commission.

Further investigation revealed that neither staff nor management understands the First 5 Commission's policies and procedures related to staff complaints, grievances, and the resolution of internal conflicts.

Testimony revealed this confusion has led to low morale and fear of job loss.

Response:

Respondent disagrees partially with this finding.

This issue involves confidential personnel matters at all levels and is being addressed by the Commission.

Number 9:

Supplanting

California Proposition 10, Section 30131.4 states:

All moneys raised pursuant to taxes imposed by Section 30131.2 shall be appropriated and expended only for the purposes expressed in the California Children and Families Act, and shall be used only to supplement existing levels of service and not to fund existing levels of service. No moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose.

Under First 5 grant guidelines, a grant applicant must assure First 5 that funding of any kind will supplement, not supplant, existing programs. Sworn testimony revealed supplanting has allegedly occurred in funded programs.

Response:

Respondent disagrees wholly with this finding.

All contracts with funded agencies specifically prohibit supplantation. F5R is unaware of any cases of supplantation. Specific cases of supplantation would have to be raised in order to address any alleged instance.

Number 10:

Conflict of Interest

Each First 5 county commission in California consists of members appointed by the county board of supervisors. All county commissions must include one member from the board of supervisors, the county health officer, and one member from a local government health-related service agency.

The commission's structure could be perceived as causing conflicts of interest in the awarding of contracts in their areas of knowledge and interests. Though apparent care is taken to recuse those affected, testimony revealed there is a continuing perception on the part of community members, providers, and even some staff that conflicts of interest are not fully addressed.

Response:

Respondent disagrees partially with this finding.

The Commission structure is compliant with Proposition 10, which has very specific Commissioner requirements. First 5 Riverside has been attentive to preventing conflicts of interest and safeguards are in place to avoid actual or potential conflicts of interest.

RECOMMENDATIONS:

Number 1:

First 5 must be consistent with the interpretation and application of eligibility for the children being funded.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation is not warranted because F5R is, and has been compliant with the recommendation; F5R sets forth objective criteria for who qualifies for funding in each specific request for proposal.

All literature, publications, and terminology must be consistent in the wording of eligibility. All First 5 Commissioners and First 5 staff must adhere to this interpretation.

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

Future literature and terminology will reflect the F5R practice of providing funding for services for children 0 through 5 years of age; the website references of 0 through 5 years of age will be updated within two months.

Number 2:

First 5 must define in a written policy terms for either extending or terminating assistance when a child reaches the maximum age of the defined eligibility in the middle of a contract.

This policy must be consistent with the definition of child age eligibility to be utilized by First 5 commissioners, staff, and vendors throughout Riverside County.

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

The existing process allows for a case-by-case review of situations staff is made aware of, where a child reaches the maximum age of defined eligibility. F5R staff will evaluate and update these guidelines where appropriate and will present them to the Commission for consideration within 6 months.

Number 3:

First 5 and/or Purchasing shall prepare a clear and concise written procedure for the preparation of RFP applications to ensure the process and time-lines are the same for all applicants. First 5 and/or Purchasing shall educate potential grantees regarding the use of county purchasing procedures and the process for initiating and returning RFP applications, by offering workshops and published instructional materials. The Commission shall create a committee comprised of selected commissioners and staff to study how the new procedures impact the contracts division of First 5 and its future operations and responsibilities.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation is not warranted because F5R and County Purchasing have detailed policies and procedures in place to which we are adhering. In addition, F5R has provided workshops, pre-bid conferences and written instructions to assist applicants with responding fully to RFPs. The above stated procedures are not new, and have been historically implemented. F5R staff will keep the Commission informed about the benefits and challenges presented by partnering with County Purchasing, and will implement any additional studies requested by the Commission

Number 4:

Because of the confidential nature of information in the First 5 files, accountability, tracking, and security must be ensured. First 5 must create a tracking procedure to identify by whom and when a file (computer and/or hardcopy) is accessed by any member of the staff or management.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

F5R's Laserfische document imaging system tracks access and edits to computerized contract files to the individual users. In addition, access levels are in place within this system which restrict staff capacity to edit files, and requires username and passwords for access. The security measures already in place eliminate the possibility of undetected document tampering.

Number 5:

Each contract or grant must be audited by a certified auditor. Unspent funds which are not allotted for specific programs must be allocated for expansion of current or new projects/programs.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

The above stated procedures are not new, and have been historically implemented. Funded agencies are currently required to provide certified audits for F5R contracts. Actual contract payments are tracked and reported to the Commission on a monthly basis, as well as contract expenditure projections. Unspent allocations are identified and reported at year-end, and the Commission re-allocates funds as needed, based on staff recommendations.

The First 5 Commission shall appoint a finance committee comprised of at least five members to oversee and review the budget prepared by First 5 staff. The finance committee must be comprised of community persons with expertise in finance and auditing. This committee must be independent of First 5 staff and report directly to the commission. This committee must note any discrepancies or budgetary items with which First 5 staff disagrees and must point these out before the budget is presented to the commission. The finance committee shall review administrative costs as part of the annual budget review and determine if existing numbers are reasonable. The committee shall review statements of cash flow and returns on investments. It shall also review the annual financial audit report. The finance committee will make recommendations before acceptance by the commission.

Once established, the finance committee will initiate and oversee a forensic audit, rather than the typical method of only reviewing random samples of selected accounting records.

The recommendation requires further analysis. Explain the scope and parameters of an analysis or study

F5R currently implements a high degree of fiscal transparency, and was recently awarded a certificate of achievement for excellence in financial reporting by GFOA, the nationally recognized authority in government finance. The Commission reviews the budget developed by staff and provides direction prior to adoption. The Commission reviews financial statements on a monthly basis that compares budget to actual monthly revenues and expenses and provides year-end projections. The Commission also engages an outside independent auditor on an annual basis, and audits are sent to the State

Commission for review by the State Controller. All funds are invested by the County in accordance with Board of Supervisor Policy and legislation.

F5R's Fund Balance is reported on a monthly basis, and frequently discussed by the Commission.

Provide a time frame for analysis or study to be completed by the department/agency. This time frame shall not exceed six months from the date of publication of the Grand Jury Report.

The Commission will determine whether or not to establish a finance committee with the composition and function recommended by the Grand Jury within 6 months of issuance of Grand Jury Report

Number 6:

Prior to renewal of the current outside vendor information technology contract, First 5 shall compare and document the use of an outside vendor versus the use of Riverside County IT services. Cost to First 5 and coordination with OPSS, as well as security elements, must be considered in the documentation.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation is not warranted because F5R is, and has been compliant with the recommendation F5R has in the past and will continue to request bids from other vendors (including County IT) prior to entering into a new agreement for IT services when the current agreement expires. Previous procurement decisions were based on cost, and F5R required the selected vendor to consult with the County to ensure security compliance.

Number 7:

The administration shall give credence to all viewpoints promulgated by staff.

The staff must be clear and concise with information given to grantees. Communication with grantees must be documented and confirmed with both staff and grantees.

First 5 shall inform the community and potential grantees through the use of local workshops and publications as to the programs First 5 offers.

The recommendation has been implemented.

All of the Grand Jury recommendations stated above are consistent with current practice. Based on Commission discussions with staff, and subsequent review, the Commission directed the Executive Director to develop a plan to improve communication within the organization. This plan has been developed, accepted by the Commission, and is being implemented.

Number 8:

First 5 will implement a transparent management style that promotes teamwork and exchange of all views between and among staff, administration, and the commission.

Original recommendations made by staff and management, prior to any modification, must be presented to the commission prior to approval.

Administration and staff must review and adhere to all policies and procedures.

The recommendation has been implemented.

The Grand Jury recommendations stated above are consistent with current practice as described in Recommendation 7 above. With regard to recommendations, management seeks and utilizes staff input to develop the most effective recommendations possible; however management is ultimately responsible for the development of recommendations to the Commission.

Number 9:

First 5 staff, administration, and commissioners, as well as potential grantees must follow policies and procedures when funds are allocated, to ensure supplanting does not occur as defined by California Proposition 10, Section 30131.4.

Grantees must certify non-supplantation in their applications for funding.

First 5 must not allow grantees to re-title existing programs that are funded by other sources.

The Recommendation will not be implemented because it is not warranted or is not reasonable. Explain:

This recommendation is not warranted because F5R is, and has been compliant with the recommendation.

The Grand Jury recommendations stated above are consistent with current practice. The F5R commission does not permit supplantation. This prohibition is contained within the funding applications and subsequent contracts. In instances where there may be a question or concern about possible supplantation, county counsel is consulted.

Number 10:

The Riverside County Board of Supervisors must appoint commissioners not affiliated with agencies most likely to be awarded significant funding, except those positions required by Proposition 10.

To avoid the perception of conflict of interest, staff and commissioners must be transparent and publicly disclose and/or discuss the pertinent content of a recommended proposal and the voting results in applicant selection.

Current methods used to identify and recuse persons with possible conflicts of interest must be strengthened.

The Recommendation will not be implemented because it is not warranted or is not reasonable.

This recommendation is not warranted because the composition of the Commission is intended to have individuals who have specific expertise in early childhood development programs and services. It is not reasonable for agencies affiliated with individual Commissioners to be prohibited from applying and/or receiving funding; however, there are procedures in place to protect against actual or potential conflicts of interest.

Report Issued: 04/18/2012
Report Public: 04/23/2012
Response Due: 07/17/2012