



COUNTY OF YOLO

Office of the County Administrator

Patrick S. Blacklock
County Administrator

625 Court Street, Room 202 Woodland, CA 95695
(530) 666-8150 FAX (530) 668-4029
www.yolocounty.org

To: Honorable Judge Daniel P. Maguire
Superior Court of California, County of Yolo
725 Court Street, Department 16
Woodland, CA 95695

February 26, 2013

To: Yolo County Grand Jury via e-mail: grand-jury@sbcglobal.net

RE: Follow-up on Recommendations in Yolo County Grand Jury Report - Yolo County
Probation Department: A Troubling Contract, Questionable Ethics

Honorable Judge Maguire:

On December 11, 2012, the Yolo County Board of Supervisors, County Administrator, County Counsel, Human Resources and Interim Chief Probation Officer transmitted a response to you concerning the 2012/2013 Grand Jury Report entitled "Yolo County Probation Department: A Troubling Contract, Questionable Ethics." The Yolo County Auditor-Controller's response came under separate cover on November 8, 2012. Each response referenced pending payroll and procurement practices audits. This memo is to provide an update on actions Yolo County has taken in response to the Grand Jury's recommendations, and Yolo County's related findings. For purposes of readability, the Grand Jury's recommendations are in **bold**.

R1 The ADC contract should be reviewed by Yolo County Counsel and the County Administrative Officer to determine by December 28, 2012 the operational fitness and financial viability of ADC.

12/11/12 County response: This recommendation will be implemented by December 28, 2012. The last active contract between the County and ADC expires January 1, 2013.

11/08/12 Auditor-Controller response: The County Administrator and the County Counsel have informed that this recommendation will be implemented.

Update: The Probation Department terminated further requests for service from ADC effective December 31, 2013. While ADC apparently remains operationally and financially viable and has recently merged with another company, Probation management determined that alternative risk assessment and case management software tools were available. At present, the Probation Department continues to utilize some of the risk assessment software provide by ADC as the Department determines exactly what tools it will use going forward.

R2 Yolo County should develop and implement a code of conduct, clarifying professional protocol for high level management employees to avoid dual relationships, conflicts of interest, improprieties or the appearance of impropriety by December 28, 2012

12/11/12 County response: The County will develop a general code of conduct for high level management employees to be considered by the Board of Supervisors by the end of fiscal year 2012-13. The additional time is required to allow for employee participation in development of such a policy.

Update: A general code of conduct for high level management employees was drafted and presented to the Board of Supervisors on 12/11/12. The Board engaged in a lengthy policy discussion and formed a sub-committee of the Board to work with staff in further refining the code of conduct for Board adoption. County Counsel will support the Board sub-committee in preparing a final version for future Board consideration.

R3 The MIT compensation package should be reviewed by December 28, 2012 to determine if YCPD management has the authority to authorize a compensation package.

12/11/12 County response: An audit of payroll practices is expected to be completed by December 28, 2012, but could take longer depending on the Yolo County Auditor-Controller's findings.

11/08/12 Auditor-Controller response: This recommendation will be implemented in conjunction with our upcoming audit of payroll practices at the Probation Department by the end of December 2012.

Update: While the audit of payroll practices determined YCPD management had the authority to authorize the MIT compensation package, the audit notes there was no consultation with Human Resources, as ordinarily expected. The implementation of the MIT compensation package by YCPD management undermined the County's ability to rely on the terms of the Memorandum of Understanding with Probation employees. Such an extensive variance in pay arrangements should have been negotiated by Human Resources and the failure to do so resulted in widespread dissatisfaction and confusion among Probation employees. Furthermore, the MIT compensation package was so complex that both employees and management were confused as to how to properly fill out timesheets under the arrangement and several errors resulted.

The County Administrator will affirm and clarify with Department Heads that consultation with Human Resources is required when developing alternative or out of the ordinary compensation strategies. Additionally, external MI training events were suspended in late summer 2012. For future internal training related to MI and other topics, the Probation Department will require documentation from trainers that substantiates the time commitment and compensation allowed.

R4 The scheduling of MIT training on days not at work should be reviewed by December 28, 2012 to determine if this is a violation of the MOU.

12/11/12 County response: This recommendation will be implemented by December 28, 2012 as part of the audit of payroll practices.

11/08/12 Auditor-Controller response: This recommendation will be implemented in conjunction with our upcoming audit of payroll practices at the Probation Department by the end of December 2012.

Update: The audit of payroll practices determined that the MIT compensation package exceeded what was required by the Probation MOU and such an extensive change in the way hourly employees were paid should have been negotiated by Human Resources. The practice employed by the former Chief Probation Officer created confusion and morale problems among Probation employees. However, it did not violate the terms of the MOU. Under both state and federal law, and the terms of the Probation MOU dealing with when overtime is payable, an hourly employee performing work beyond what is required in that employee's job description, as requested and authorized by a manager, is entitled to compensation including overtime, if applicable. The audit has disclosed a few instances in which confusion may have resulted in erroneous timesheets being completed by employees and approved by Probation management.

R5 No single Yolo County manager should have singular authority over the development and implementation of a contract or vendor.

12/11/12 County response: Under current County policies and procedures, although Department Heads have ultimate responsibility for selection of vendors and the award of contracts within their department, the contracting process usually involves fiscal staff in the department, the County Purchasing Officer, and in many cases, Board of Supervisors approval. Larger contracts usually involve an RFP or bidding process with many individuals in the decision process. Similarly, the payment approval process, in addition to authorization from the Department Head or his or her designee, passes through the County Auditor-Controller's Office for verification or the existence of a contract or other payment obligation to ensure funds are available to be encumbered for the payment. The Grand Jury's findings raise the question whether additional procedures can be put in place to ensure services or products are actually received prior to payment authorization. With guidance from the County Auditor-Controller, based on the findings from the procurement practices audit, scheduled to be completed by December 28, 2012, the County will develop enhancements to internal control standards to address any weaknesses disclosed in the audit, particularly with respect to situations in which a single individual may be primarily responsible for the administration of a contract with an outside provider.

11/08/12 Auditor-Controller response: This recommendation requires further analysis and will be fully considered after completion of the upcoming audit of contract practices at the Probation Department by the end of December 2012.

Update: The Auditor's procurement practices audit notes that while in general, County procedures were followed, there were deviations from the Department's normal practices. Furthermore, the audit includes specific recommendations intended to support this recommendation. The County Administrator's Office will implement these recommendations in 2013.

R6 The timesheets for MIT trainers should be audited and overpayments should be recovered by December 28, 2012.

12/11/12 County response: This recommendation will be implemented by December 28, 2012 as part of the audit of payroll practices.

11/08/12 Auditor-Controller response: This recommendation will be partially implemented: the audit will be completed by the end of December but recovery of overpayments may extend into 2013.

Update: The payroll audit has identified a few instances where possible over and underpayments may have occurred. The County's investigation has determined that any variances resulted from the confusion caused by the overly complex MIT compensation plan and not as a result of any intent to defraud the County. The identified overpayments are not large. Human Resources will analyze and provide their recommendations to the County Administrator for resolution of any specific instance where there may be grounds for recovery of an overpayment to an employee.

R7 Yolo County should closely monitor YCPD to ensure no dual relationship exist between employees and outside contractors.

12/11/12 County response: The existing Code of Ethics for Procurement Policy already prohibits relationships or circumstances, such as dual relationships, that cause a breach of confidence in the acquisition (contracting) process. The County will review the policy for possible improvements following the procurement practices audit.

11/08/12 Auditor-Controller response: This recommendation will be fully considered after completion of the upcoming audit of contract practices by the end of December 2012.

Update: County Counsel found no evidence of a prior fiscal relationship, although in light of the personal friendship that existed between the former Chief Probation Officer and the president of ADC, it would have been a far better management practice to involve other personnel in the ultimate approval of payment for invoices for services provided by ADC.

The County's research has determined that ADC substantially performed its tasks required under the contracts and was paid accordingly. Both Probation fiscal staff and Auditor staff were involved in the payment processing for invoices under the ADC contracts.

The Auditor has recommended that the County utilize a conflict of interest check list to be filled out by department managers or other personnel dealing with outside contractors in which the County managers or employees are queried on whether they have any personal or financial relationship with entities contracting with their department. In addition, the Auditor has recommended that additional monitoring of contract performance be done before renewing existing contracts. The County General Services Division will adopt these recommendations by developing a conflict of interest review form and by adding a section to the contract checklist form departments use when creating or renewing contracts that will require a department to detail any prior contract deliverables or other problems with the contractor. The County plans on having these reforms in place by July of 2013.

As part of the divorce proceedings of the president of ADC, a Utah state court appointed a trustee to oversee the management of ADC in 2012. The court-appointed trustee has confirmed that there are no records of any payments to the former Chief Probation Officer prior to the time when ADC hired her in July of 2012. The court-appointed trustee also explained the necessity of hiring someone very familiar with probation risk assessment software and interview training practices, such as the former Chief, in light of the incapacity of ADC's president and the recent defection of several key ADC employees. The court-appointed trustee confirmed that the hiring decision was made by him, and was not any reward or *quid pro quo* for the former Chief Probation Officer utilizing ADC products while at the County of Yolo, or favoring or assisting ADC while still in the position of Chief Probation Officer.

R8 Yolo County should perform an audit of payments to ADC and determine if any payment irregularities occurred and recoup funds as necessary by December 28, 2012.

12/11/12 County response: This recommendation will be implemented by the Interim Chief Probation Officer and Director of General Services by December 28, 2012.

11/08/12 Auditor-Controller response: This recommendation will be implemented.

Update: The procurement audit found insufficient evidence to determine if appropriate payments were made. Probation staff, General Services IT staff and County Counsel have reviewed the findings of the audit and the services and software provided under the ADC contracts. While some of the ADC software products have not been fully implemented in the County of Yolo, some of this was due to difficulties in the implementation and configuration of the software and some was due to decisions by Yolo County Probation management to delay certain aspects of the programs. It appears that the software products were substantially delivered as required by the contracts. The Probation Department continues to use several of the ADC risk assessment and needs guide components but has elected not to continue any software maintenance agreements at this time.

IT staff is of the opinion that the amount charged for software maintenance provided for in the contracts was within industry standards, and perhaps a little lower than normal.

Probation staff has reconciled the invoices for training services provided by ADC under the four ADC contracts by verifying with training sign-in sheets and calendar records. There were only two billed training sessions for which Probation staff was unable to locate documentary support. One of these occurred back in 2007, so the lack of documentation may be explained by the passage of time. The other instance was in 2010, and involved off-site analysis of taped interview training for 14 individuals so there would not be a record of any group attendance at a single training event. Probation staff is of the opinion that these trainings were actually provided. The staff's review of trainings also found four instances of trainings provided by ADC that were never invoiced to the County.

Based on the audit and the additional review of the contract performance, there appear to be no funds that need to be recouped from ADC.

R9 Any agreements and/or payments for reimbursement for MIT training from other counties should be reviewed for compliance with Yolo County's financial policies and procedures.

12/11/12 County response: This recommendation will be implemented by the Interim Chief Probation Officer by December 28, 2012.

11/08/12 Auditor-Controller response: This recommendation will be implemented.

Update: The Auditor's audits did find some purchase agreements and contracts related to this recommendation. The Auditor notes, however, that the County does not have clear guidance on shared service agreement authority and recommends developing supporting policies. The County Administrator's Office will work with department heads to develop draft policy for Board consideration in 2013.