

GOVERNMENT & ADMINISTRATION COMMITTEE

EMPLOYEE EVALUATIONS

Reason for the Report

During the course of several other investigations the Grand Jury was made aware of the fact that the performance of county employees was not being evaluated on a yearly basis. The Grand Jury elected to inquire into the apparent conflict between the County Charter and current management practices.

Scope of the Investigation

The Committee interviewed:

- The El Dorado County ("County") Auditor/Controller;
- The Director of the County Department of General Services;
- The Director of the County Department of Social Services ("DSS");
- The Program Manager, Staff Services, County Department of Social Services; and
- The Director of the County Department of Human Resources ("HRD")

The Committee also reviewed:

- Section 501 of the County Charter;
- The County's Personnel Policy No.3, Management Evaluation Program, adopted February 2, 1988 and revised December 1, 1989;
- The County's Memorandum of Understanding ("MOU") with the General, Professional, and Supervisory Bargaining Units of Public Employees Local Union No. 1 ("Local #1"), for the period from July 1, 1999 through June 30, 2003;
- The County's MOU with the Trades & Crafts Bargaining Unit of Operating Engineers Local Union No.3 ("Local #3, Trades & Crafts"), for the period from November 21, 2000 through September 30, 2003; and
- The County's MOU with the Probation Bargaining Unit of Operating Engineers Local Union No. 3 ("Local #3, Probation"), for the period from July 1, 1999 through June 30, 2004.

Findings

F1. Section 501 of the County Charter provides, in part:

"The county **shall** appoint, **evaluate**, transfer, promote, compensate, discipline, and dismiss employees on the basis of job related qualifications, performance, merit, and equal employment opportunity." (Emphasis added.)

F2. Section 210(a)(2) of the County Charter provides that the Board of Supervisors (“Board”) shall:

“Appoint or remove the Chief Administrative Officer. At least once each year, the Board shall review and evaluate the Chief Administrative Officer’s performance. The Board shall (1) review, and (2) accept, reject or modify all **performance evaluations** performed by the Chief Administrative Officer pursuant to section 304(h) of this charter.” (Emphasis added.)

F3. Section 304(h) of the County Charter provides, in part, that the Chief Administrative Officer of the County “shall have the duty and power to:

“...On at least an annual basis, review and **appraise the performance** of all appointed department heads, except County Counsel, and submit the appraisal to the Board of Supervisors.” (Emphasis added.)

F4. The County’s Personnel Policy No. 3, entitled “Management Evaluation Program,” applies to unrepresented county employees. It includes the following provisions:

- Preamble – “The Board of Supervisors, in establishing this policy, intends to provide a fair and equitable incentive-oriented system of **evaluating the performance** of appointed department heads as well as line and staff management positions.”
- “This policy...is subject to revision by the Board of Supervisors in its discretion without prior notice in any manner provided by law.”
- Goals and Objectives – “The Board of Supervisors’ intention in adopting this policy is to accomplish the following: ... (b) establish a system for department heads to **evaluate the performance** of staff and line management who are covered by the County Civil Service system; ... (d) to improve **evaluation** of County management’s performance by the use of relevant criteria;”
- Policy – “Each appointed department head shall be **evaluated yearly** during the first quarter of the calendar year.”
- “Each staff or line manager’s performance shall be **evaluated yearly** when the incumbent is eligible for step advancement. Thereafter each incumbent manager shall be **evaluated every 12 months.**”
- “The department head of each department shall be responsible for **evaluating** each of the management employees in his/her department.”
- Administration of the Performance Evaluation Program – “The Chief Administrative Officer shall administer the Performance Evaluation Program by directing the following functions: (a) Instructing new department heads in the requirements of the Performance Evaluation System; (b) Monitoring the submission by department heads of their **evaluations** of staff and line managers on a timely basis; ... (e) Insuring that management performance **evaluations** are filed in department heads and management staff’s personnel files.”
- “After development of a draft performance evaluation, the department head or his/her designee shall meet with the incumbent [staff & line manager] to discuss

the evaluation of the manager's performance during the evaluation period. Based on this meeting, a **final performance evaluation** will be prepared and provided to the manager. A copy of the **evaluation** will also be sent to the Chief Administrative Officer for his/her signature acknowledging receipt and a copy filed in the employee's personnel file."

- **Performance Ratings** – "Each person **evaluated** on the Management Performance Form shall receive one of the following ratings based on their **overall performance**:"
- "Movement between steps in the salary range is based on performance. No management employee shall be eligible for a step advancement unless the **overall rating of their performance** is 'Meets Performance Standards (Satisfactory)' or higher." (Emphasis added.)

F5. Labor contracts between public entities and public employee organizations are commonly referred to as Memorandums of Understanding (MOU).

F6. The County's MOU with Local #1, at Chapter 11, Section 2, entitled "Documentation of Performance Evaluation," contains the following language:

"Effective September 1, 1999 and for the trial period of two years, **employee performance evaluations are eliminated** except as provided in this section and in Section 1 above [pertaining to probationary employees]. Section 907 of the Personnel Administration Resolution and Section 205.2 of the Compensation Administration Resolution insofar as they are related to employee performance evaluations, are suspended for this period. Supervisors are **encouraged** to provide regular and comprehensive feedback to employees on their performance and to maintain a record of feedback given to employees." (Emphasis added.)

F7. The County's MOU with Local #3, Trades & Crafts, at Chapter 11, Section 2, entitled "Documentation of Performance Evaluation," contains the following language:

"Effective September 1, 1999 and for the trial period of two years, **employee performance evaluations are eliminated** except as provided in this section and in Section 1 above [pertaining to probationary employees]. Section 907 of the Personnel Administration Resolution and Section 205.2 of the Compensation Administration Resolution insofar as they are related to employee performance evaluations, are suspended for this period.

Supervisors are **encouraged** to provide regular and comprehensive feedback to employees on their performance and to maintain a record of feedback given to employees." (Emphasis added.)

The only difference between this MOU and the County's MOU with Local #1 on this subject is that the last sentence of the quoted paragraph in the Local #1 MOU has been set forth in a separate paragraph in this MOU.

F8. The County's MOU with Local #3, Probation, at Chapter 11, Section 2, entitled "Documentation of Performance Evaluation," contains language which is identical to that which is contained in its MOU with Local #3, Trades & Crafts, quoted immediately above.

F9. It was the intention of the Director of HRD in negotiating the foregoing MOUs to substitute a "real-time" evaluation process in place of the previously existing annual employee performance evaluations.

F10. In an effort to implement the intention of the Director of HRD, the County's MOU with Local #1 also contains the following Language:

"Good performance is to be acknowledged by use of letters of commendation and/or recognition which are submitted to Human Resources for inclusion in employees personnel files. Letters of commendation and/or recognition from outside the department are to be forwarded to Human Resources with a copy to the department for inclusion in the employee's personnel file. Failure to provide letters of commendation and/or recognition is not grievable or appealable.

Performance or issues which need improvement are to be documented by memorandum, e.g., letters of warning or counseling, reprimands and notices of disciplinary action."

F11. In an effort to implement the intention of the Director of HRD, the County's MOU with Local #3, Trades & Crafts, also contains the following language:

"Good performance is to be acknowledged by use of letters of commendation and/or recognition which are submitted to Human Resources for inclusion in employees personnel files. Letters of commendation and/or recognition from outside the department are to be forwarded to Human Resources with a copy to the department for inclusion in the employee's personnel file. Failure to provide letters of commendation and/or recognition is not grievable or appealable.

Performance or issues which need improvement are to be documented by memorandum, e.g., letters of warning or counseling, reprimands, etc."

The only difference between this MOU and the County's MOU with Local #1 on this subject is the non-inclusion in this MOU of the words "and notices of disciplinary action," and their replacement with "etc."

F12. The County's MOU with Local #3, Probation, contains language on this subject which is identical to that which is contained in its MOU with Local #3, Trades & Crafts, quoted immediately above.

- F13. During the course of meetings with County Department Heads, the Director of HRD informed them that they should no longer administer yearly written performance evaluation reports for the employees under their supervision.
- F14. The practical effect of the foregoing is that, as a matter of practice, employee performance evaluations (of any kind) generally have not been and are not being conducted. The mere **encouragement** of “regular and comprehensive feedback” does not constitute compliance with a system that **requires** annual written performance evaluations.
- F15. At least one senior department employee within DSS has not received a performance evaluation for a period of five (5) years.
- F16. The practice described above is inconsistent with the County Charter.
- F17. The practice described above is also inconsistent with sound personnel management procedures, in that it results in a lack of objective foundations for:
- Imposition of discipline, ranging from reprimands to termination;
 - Making compensation and salary determinations;
 - Consideration of employee promotions;
 - Consideration of inter-department transfers; and
 - Feedback to county employees regarding the quality of their performance.

Recommendations

- R1. The County should require, at a minimum, that annual written employee performance evaluations be administered, in a meaningful manner, to all county employees.
- R2. HRD should take immediate steps to accomplish a restructuring of the employee evaluation provisions of all County MOUs to comply with the requirements of the County Charter and of sound management practice.
- R3. If the employee organizations dealing with the County decline to agree to such restructuring, the Board should adopt a Resolution declaring the provisions of all existing MOUs containing language stating that “employee performance evaluations are eliminated,” or words to that effect, to be in violation of the County Charter and therefore null and void.

Responses Required for Findings

F9 and F13 through 17 El Dorado County Board of Supervisors
Director of the Department of Human Resources

F13 and F15 Director of the Department of Social Services

Responses Required for Recommendations

R1 through R3 El Dorado County Board of Supervisors
Director of the Department of Human Resources