

# County of Santa Clara

Office of the Clerk of the Board of Supervisors  
County Government Center, East Wing  
70 West Hedding Street  
San Jose, California 95110-1770  
(408) 299-5001 FAX 298-8460 TDD 993-8272



Maria Marinos  
Clerk of the Board

August 24, 2010

The Honorable Jamie Jacobs-May  
Presiding Judge  
Santa Clara County Superior Court  
191 North First Street  
San Jose, CA 95113

**FILED**

SEP 01 2010

DAVID H. YAMASAKI  
Chief Executive Officer, Clerk,  
Superior Court of CA County of Santa Clara  
BY D. ALDYCKI *[Signature]*

RE: Grand Jury Report: Are County Community Based Organizations (CBOs)  
Contracts Administered Properly?

Dear Judge Jacobs-May:

At the August 24, 2010 meeting of the County of Santa Clara Board of Supervisors (Item No. 20), the Board adopted the responses from the County Administration to the Final Grand Jury Report and recommendations relating to "Are County Community Based Organizations (CBOs) Contracts Administered Properly?"

As directed by the Board of Supervisors and on behalf of the Board President, our office is forwarding to you the enclosed certified copies of the responses to the Final Grand Jury Report with the cover memorandum from Mr. Graves. This response constitutes the response of the Board of Supervisors, consistent with provisions of California Penal Section 933(c).

If there are any questions concerning this issue, please contact our office at 299-5001 or by email at [maria.marinos@cob.sccgov.org](mailto:maria.marinos@cob.sccgov.org).

Very truly yours,

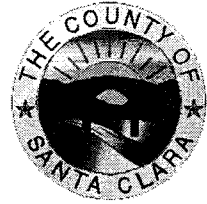
*Maria Marinos*

MARIA MARINOS  
Clerk, Board of Supervisors  
County of Santa Clara

Enclosures

MM/mm

# County of Santa Clara Office of the County Executive




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CE06 081010

Prepared by: Monica Fernandez  
Executive Assistant to the Chief  
Operating Officer

DATE: August 10, 2010

TO: Board of Supervisors

FROM:   
Gary A. Graves  
Chief Operating Officer

SUBJECT: Santa Clara County Civil Grand Jury Report: Are County Community Based Organizations (CBOs) Contracts Administered Properly?

## **RECOMMENDED ACTION**

Consider recommendations included in the Final Grand Jury Report: Are County Community Based Organizations (CBOs) contracts administered properly?

Possible action:

- a. Adopt response from Administration to Final Grand Jury Report relating to the procedures for administering CBO contracts.

AND

- b. Authorize the President and Clerk of the Board of Supervisors to forward department/agency responses to Grand Jury report to the Presiding Judge of the Superior

Court with approval that responses constitute the response of the Board of Supervisors, consistent with provisions of California Penal Section 933 (c).

OR

- c. Adopt a separate or amended response to the Final Grand Jury Report relating to the procedures for administering CBO contracts, and authorize the President and Clerk of the Board of Supervisors to forward response to the Presiding Judge of the Superior Court.

### **FISCAL IMPLICATIONS**

There are no fiscal implications associated with these Board actions.

### **REASONS FOR RECOMMENDATION**

Attached are the Agency/Departments responses to the Grand Jury's findings and recommendations enumerated in the Final Report; Are County community based organization (CBOs) contracts Administered Properly? The responses have been completed pursuant to California Penal Code, Section 933 (c) and 933.05.

### **BACKGROUND**

The Civil Grand Jury reviewed Santa Clara County's contract management procedures for CBOs to verify the consistency and the renewing process of competitive bidding. The Civil Grand Jury recommends the establishment of a definite plan to put all no-bid contracts through the rebidding process within the next five years and after the initial rebidding, RFPs should be required every other contract period, or at the minimum, every five years for contract renewal or continuation of service.

### **CONSEQUENCES OF NEGATIVE ACTION**

The County would not be in compliance with the law in responding to the Grand Jury's Final Report.

### **STEPS FOLLOWING APPROVAL**

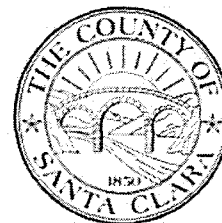
Following approval of the responses provided by the Social Services Agency, Mental Health Department and the Department of Alcohol & Drug Services, forward all comments of the Santa Clara County Board of Supervisors to the Honorable Jamie Jacobs-May, Presiding Judge, Santa Clara County Superior Court on or before August 25, 2010

**ATTACHMENTS**

- Santa Clara County Civil Grand Jury Final Report 8 28 10
- Social Services Agency Response
- Department Mental Health Response
- Department of Alcohol and Drug Services Response

# County of Santa Clara

Social Services Agency



333 West Julian Street  
San Jose, California 95110-2335

DATE: June 16, 2010

TO: Gary Graves  
Chief Operating Officer

FROM: Will Lightbourne  
Agency Director

SUBJECT: **Response to Civil Grand Jury Report**

This memo outlines Social Services Agency response to the Civil Grand Jury report, **Are County CBO Contracts Administered Properly?**

The Social Services Agency is in agreement with the general recommendations of the report, which are consistent with the Agency's current contracting practices. The only distinction of note is that while the Grand Jury's report does not define the universe of service providers it considers to be subject to contracting guidelines, the Agency's arrangement for services for specialized care and placement of dependent children are not contractual but rather a purchase of services from a pre-identified pool of State-licensed, Agency-screened and selected care providers.

**Social Services Agency agrees with Finding 1.**

**Social Services Agency does not agree with Finding 2.**

The Social Services Agency strictly follows the Board of Supervisors contracting policies. Contracts that are wholly funded with County General Fund monies are procured according to Board policy. Contracts under \$100,000 are procured as service agreements and are subject to the requirements outlined in county policy. Board contracts are rebid according to the Board policy. Please refer to section 5.3 (Human Services Contracting) and section 5.8.5 (Contracting and Bidding) for relevant rules which guide Social Services contracting for County General Fund Contracts. Any variation from this policy is preceded by a formal request to the Board of Supervisors to approve the variance.

In the event that contracts include State and Federal funding we rely on State regulations, the California State Department of Social Services

Manual Division 23 contracting regulations (Management and Office Procedures, Purchase of Services). This is consistent with Board policy, see section 5.8.6, Contracting and Bidding.

**Recommendation 2a**

This recommendation has been implemented and is not relevant to Social Services Agency as SSA does not have 'no-bid contracts'.

**Recommendation 2b**

This recommendation will not be implemented because it is inconsistent with the Board policy currently used by the Social Services Agency. Furthermore, when contracts include state and federal funding or grant funding, the rules of procurement need to follow the appropriate regulations and terms.

The foregoing instrument is a correct copy of the original.

ATTEST: Maria Marinos  
Clerk of the Board

BY: 

Deputy Clerk

Date: AUG 24 2010

Dedicated to the Health  
of the Whole Community



Mental Health Administration  
828 South Bascom Avenue, Suite 200  
San Jose, California 95128  
Tel (408) 885-5770  
Fax (408) 885-5788  
Fax (408) 885-5789

July 19, 2010

TO: Gary Graves, Chief Operating Officer

FROM: Nancy Peña, Ph.D., Director, Mental Health Department

SUBJECT: Response to Santa Clara County Civil Grand Jury Report

Per your request, this is to provide a response from the Mental Health Department (MHD) regarding the Santa Clara County Grand Jury Report, **Are County CBO Contracts Administered Properly?**

### Background

The 2009-2010 Santa Clara County Civil Grand Jury (Grand Jury) completed an investigation of the County's contract management and oversight procedures for community based organizations (CBOs). The investigation involved interviews with County department staff and the Silicon Valley Council of Nonprofits (SVCN) and review of multiple documents. The Grand Jury found that while County agencies appear to be doing a satisfactory job in administering CBO contracts, many contracts are renewed without competitive bidding. Their conclusion is that this finding "is inconsistent with good business practices and could potentially lead to deterioration in service."

The purpose of this report is to respond to the following findings and recommendations as they relate to the Department of Mental Health:

#### **Finding 2 -**

**Once a contract is awarded, renewing it without going through the process of competitive bidding is widespread.**

#### **Recommendation 2a**

**The county should establish a defined, documented plan to put all no-bid contracts through the rebidding process. This initial rebidding should be accomplished within the next five years, with a set number of contracts evaluated each year. This change should be communicated to the CBOs in a timely manner.**

**Recommendation 2b**

**After this initial rebidding is accomplished, RFPs should be required every other contract period, or at a minimum, every five years for contract renewal or continuation of service.**

**Mental Health Department Response**

**Finding 2 - Once a contract is awarded, renewing it without going through the process of competitive bidding is widespread.**

**MHD Response: Disagree (in Part)**

**Explanation:**

The Mental Health Department executes over 300 contracts annually in a variety of categories (service agreements, CBO contracts, fee-for-service contracts, residential care facility contracts, Skilled Nursing Facilities, inpatient hospitals, state and federal grants, and a variety of MOUs and interagency agreements). In addition the Department executes approximately 150 amendments to these contracts each fiscal year in order to reflect changes in service or funding levels. Of those, 60 contracts are with CBO's for approximately 60 specific programs for adults, older adults and children. This group of providers, along with County operated outpatient clinics, and fee-for-service providers, comprise the provider network that delivers service to approximately 22,000 eligible mental health clients each year. The services are primarily professional mental health treatment services that must be delivered in compliance with State and Federal Medi-Cal Mental Health Managed Care requirements.

In 1998, the Board of Supervisors approved the Mental Health Department's proposal to develop a plan and protocol for monitoring the Short/Doyle agreements with CBO's utilizing evaluation criteria that included specific performance measures. It was further proposed that the performance evaluation system be applied to county operated programs and that performance oversight be addressed during contract negotiations, in lieu of re-bidding. The argument for this model of contract oversight was that ongoing provider continuous quality improvement and participation in quality improvement activities was a more effective method of assuring quality consumer services. It was also understood that new program funding would be made available through an RFP process, thus allowing for new providers to have opportunities to join the MHD provider network.

With Board of Supervisor approval, the MHD has conducted annual performance reviews of county and contracted (CBO) organizations using the Annual Performance Evaluation process in lieu of rebidding. This method of contract oversight has been effective in supporting providers to continually improve the quality of service and to adapt service improvements that emerge in the field of mental health. The MHD agrees, however, that it is prudent and in alignment with County policy that all contracts should be subject to periodic rebidding, in addition to the annual review process.



Many of the current CBO providers have had MHD contracts for many years; and many have multiple programs under their master contract with the MHD. All new programs over the past decade are the result of an RFP process or a specific alternative process presented to the Board of Supervisors for approval (see Attachment A). For example, during recent budget reductions, proposals have been made to transfer CBO contracts from other Departments, or to modify current programs as a result of a redesign process. It is accurate that the MHD has not routinely rebid CBO contracts for specific levels of care (e.g., age-based outpatient, day treatment, residential, crisis).

The Mental Health CBO contracts provide 31 unique adult and older adult programs, and 31 unique youth programs. Many of these programs are linked so that they support the goals of a specific MHSA funded work-plan. In addition, we have contracts that are the result of other County agency's programs such as SSA, Probation, Office of Education and DADS. Many of these arrangements were made in order to develop a more effective collaborative program between departments or agencies or to enhance revenue.

#### **Recommendation 2a**

**The county should establish a defined, documented plan to put all no-bid contracts through the rebidding process. This initial rebidding should be accomplished within the next five years, with a set number of contracts evaluated each year. This change should be communicated to the CBOs in a timely manner.**

#### **MHD Response: Agree**

The MHD will develop a plan to rebid all contracts of the MHD over the next five fiscal years (FY12 – FY16) and will schedule a rebidding calendar based on 3-5 year cycles, depending on the program type. It may be possible to complete rebidding for the entire inventory of MHD contracts prior to FY16, however the pending impact of federal Health Care Reform and Parity legislation may significantly change the structure of the public mental health system, and thus change the parameters and requirements of services and reimbursement models. These changes will have additional implications for current providers and county contracting processes, including rebidding cycles. The plan will include the continuance of the annual performance evaluation report. The contract rebid plan will be submitted to the Board of Supervisors through the Health and Hospital Committee prior to the end of December 2010.

#### **Recommendation 2b**

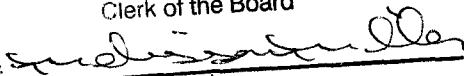
**After this initial rebidding is accomplished, RFPs should be required every other contract period, or at a minimum, every five years for contract renewal or continuation of service.**

#### **MHD Response: Agree**

As indicated above, the MHD Contract Rebid Plan will include an ongoing multi-year cycle of contract rebidding. Given that it is expected that many aspects of the MHD care delivery system will change with the implementation of Health Care Reform, it is very likely that many contracts will be modified and/or rebid prior to FY16.

The foregoing instrument is a correct copy  
of the original.

ATTEST: Maria Marinos  
Clerk of the Board

BY:   
Deputy Clerk

Date: AUG 24 2010

**Attachment A  
Mental Health Department  
Recent CBO Contract History**

**FY05 Short/Doyle Contract Renewal – No RFP – per Board approval of Performance**

Evaluation alternative to rebidding

*AACI	EESA	*Momentum
AchieveKids	*EMQ	Oasis
Alum Rock	*F&CS	*Rebekah
Bill Wilson	*Gardner	Seneca
*Catholic Charities	*HOPE	Starlight
*Chamberlain's	*Indian HC	Ujima
Children's HC	Kidango	Unity Care
City of San Jose	Mekong	VIA
*Community Solutions	*MH Advocacy Prog.	Victor's

**FY07 MHSA Transitional Housing Units – New RFP**

Community Solutions  
InnVision  
Rainbow Recovery

**FY07 MHSA Full Service Partnerships -New RFP**

Catholic Charities  
Community Solutions  
Gardner  
Indian Health Ctr.  
Mekong  
Momentum  
Peninsula Healthcare  
Starlight

**FY08 MHSA-CSS System Development "Enhancements" NO RFP Process – funding provided to current contracts per MHSA state approved plan to support service transformation**

AACI	EMQ	MH Advocacy Prog.
AchieveKids	Family&Childrn S	Momentum
Bill Wilson	Gardner	Peninsula Healthcare
Catholic Charities	HOPE	Rebekah
Chamberlain's	Indian Health Ctr.	Starlight
Children's HC	InnVision	Ujima
Community Solutions	Kidango	Unity Care
EHC Lifebuilders	Mekong	

\* These CBO contractors have a history with the Mental Health Department that goes back to the beginning of Short Doyle funding in the 1970's. Those CBOs with no asterisk have been added to Mental Health as contractors over the past 20 years due to specialized programming, specific funding sources, or arrangements with other County agencies.

Dedicated to the Health  
of the Whole Community



SANTA CLARA  
VALLEY  
HEALTH & HOSPITAL SYSTEM

DEPARTMENT OF  
ALCOHOL & DRUG SERVICES

Administration  
976 Lenzen Avenue, Third Floor  
San Jose, California 95126  
Tel. (408) 792-5680  
Fax (408) 947-8702

July 20, 2010

TO: Gary Graves  
Chief Operating Officer

FROM: Robert Garner  
Director, Department of Alcohol and Drug Services

SUBJECT: **RESPONSE TO GRAND JURY REPORT**

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This is the response from the Department of Alcohol and Drug Services to the Civil Grand Jury Report addressing the question: Are county CBO contracts administered properly? This has less impact on DADS than most departments because all contracts were rebid last June to implement a large budget reduction. But DADS has significant experience in contracting for services that may be helpful to the discussion.

Finding 1: Agree. No recommendation.

Finding 2: Agree with finding.

Regarding the recommendation, I would suggest that action #3 be pursued:  
"The recommendation requires further analysis ...."

Several comments made in the Discussion section are not supported.

1. "If agencies with expiring contracts know they will be obligated to participate in a competitive bidding process, they will have a stronger incentive to assess the way they are operating."

This assertion is made without supporting documentation. In my experience, CBO's want to do well because they believe strongly in providing a high level of services to clients. Assuming only a negative environment – that they will only do well under threat of lost funding – is not accurate. In addition, if the contracting department is doing a good job at performance management and oversight, this type of negative incentive will not be necessary.

2. Reassessing a business will lead to a higher level of service and standards."

It may lead to a higher level of service and standards, but it may not. Higher levels of service and standards come from clear contract expectations, training and feedback, on-

going review of data and recognition of high performance. The reassessment needs to be a continuous process, and not a once every five year process as indicated by this statement. DADS has required for many years that all contractors include Continuous Quality Improvement strategies in their service delivery. If reassessment is only viewed as a way to select contractors every five years it isn't having much of an impact on services.

3. "No matter how long an agency holds a contract, or how well it performs, there are always ways to improve."

This is true, but unrelated to the rebidding discussion. Performance improvement must be viewed as an iterative process, and not something that happens every five years in a rebidding process. (See CQI comment above)

Other comments about the rebidding process include the following:

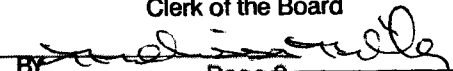
1. Preparation of bids is often a function of who has the best writer, or can afford to hire the best writer.
2. The suggestion to rebid incrementally has its own problems. For example, all providers of a service modality would have to be rebid at the same time, because some may want to bid on a larger part of the service system. Having fewer contracts allows for economies of scale.
3. There are advantages to being in the system of care, since proposals usually require knowledge of that system, and a clear understanding of how it works and how their proposal would fit in. We have offered training to prospective bidders in how our system works to level the playing field, but the advantage still goes to the current contractors.
4. The cost of preparing a proposal and the cost to the department of managing a rebidding process are extensive and very disruptive.
5. This recommendation ignores the fact that county staff providing services are still service providers, and at least in DADS, are treated the same way as contract providers. If the goal is to encourage competition, open the funding door to new providers, and encourage higher performance, why is it necessary for contract providers to be rebid and not county providers?
6. Ultimately, the discussion needs to be about the importance of opening public funding to others in the community on some regular basis relative to the cost.
7. Rebidding does make sense when the needs have changed and the department wants to identify providers best qualified to meet those new needs.

Regardless of the outcome of this discussion, the more helpful focus should be on performance. Contracts should have clear performance requirements and monitoring should be performed on a regular basis. Providers, county or contract, should be given the opportunity to improve where underperformance is identified, and departments should be both encouraged and supported when underperformance cannot be corrected and the provider needs to be changed, both county and contract. The rebidding process should be focused primarily on removing providers not doing an adequate job.

cc: Sylvia Gallegos, Deputy County Executive/Acting Director, SCVHHS

The foregoing instrument is a correct copy of the original.

ATTEST: Maria Marinos  
Clerk of the Board

BY:   
Deputy Clerk

Response to Grand Jury Report

July 20, 2010

Date: AUG 24 2010