

2011-2012 GRAND JURY REPORT

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 enumerated 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 were examined. The Grand Jury researched policies, procedures, and practices of First 5 commissions in surrounding counties.

Findings

Age Eligibility

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

Funding Eligibility

2. 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.

Organization and Process

3. 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.

Document Control

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

Financial / Auditing

5. Multi-year grants are awarded and funds are set aside for full payment. First 5 receives 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.

Information Technology

6. 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.

Communication

7. 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.

Management / Staff Relations

8. 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.

Supplanting

9. 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.

Conflict of Interest

10. 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.

Recommendations

**Riverside County Board of Supervisors
Riverside County Department of Public Social Services
Riverside County Purchasing Department
First 5 Riverside**

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

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.

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.

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.

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.

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 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.

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 DPSS, as well as security elements, must be considered in the documentation.
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.

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.

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.

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.