

**EL DORADO COUNTY'S WORKERS' COMPENSATION
ADMINISTRATION PROGRAM**

Competitive Process Needed Now

2016-2017 El Dorado County Grand Jury Case No. 2016-005

RELEASE DATE: June 9, 2017

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SUMMARY

The El Dorado County Grand Jury became interested in investigating El Dorado County's (County or EDC) handling of its Workers' Compensation claims as it involves the expenditure of hundreds of thousands of dollars of taxpayer money, and those expenditures involve activities that may be subject to waste, fraud, and abuse.

The County uses a third-party consultant and administrator, York Risk Services Group, Inc. (YRSG or York), to handle its workers' compensation claims services including administration, investigation, adjustment, utilization review, bill review, and case management. County maintains a \$200,000 trust fund for the payment of the workers' compensation settlements. York has been given the authority to settle all compensation claims of \$25,000 or less and those are the large majority of all compensation settlements. EDC currently pays YRSG \$23,766 per month or more than \$285,000 per year.

The County has a long-standing and continuous contractual relationship with YRSG dating back to 1986 when the company operated under a different name. The County last sought Requests for Proposals (RFP's) for its workers' compensation program in 2012 and York was, again, chosen from a group of ten (10) RFP's received from firms seeking to handle the County's workers' compensation system. The new agreement ran for a three-year term beginning in 2013. The contract was amended in 2014, and extended for an additional year in 2016. and is now due to expire on October 31, 2017.- The 2013 agreement and its amendments and extension were all approved by the Board of Supervisors. While extending the contract is proper under California law as it pertains to services contracts with public agencies, the Grand Jury questions the economic wisdom of that practice. There are many other firms who continue to offer the same services as YRSG.

The Grand Jury found the County's workers' compensation system is without significant waste, fraud, or abuse. Further, York Risk Services Group appears to be providing good support to the County, thus assuring that the system runs well.

However, the Grand Jury recommends that the County use a full competitive process at the end of the current contract period in October of 2017, to gain the advantage of such competition and obtain the best and lowest cost services.

BACKGROUND

El Dorado County (EDC County) is required by the State of California to provide Workers' Compensation (WC or compensation) benefits for employees who are injured while engaged in the scope of their employment. The County is self-insured up to \$300,000 per compensation settlement and pays these claims and settlements with its own funds. The County carries third-party insurance for settlements in excess of \$300,000. As of February 6, 2017, the county had 1,921 employees. As of mid-2017, there were 230 open (not finally settled or adjudicated) claims made by county employees under Workers' Compensation. Public contracting law in California allows local agencies to "renew" and expand existing services contracts without re-bidding.

The County has had a contractual relationship since 1986 with York Risk Services Group, Inc. (YRSG or York) and its predecessors. The last time the County engaged in a competitive process to select a WC claims administrator was in 2013.

METHODOLOGY

The Grand Jury, in conducting this investigation:

- Reviewed formational, operational, and administrative documents governing and describing the county's workers' compensation system
- Reviewed financial reports and statements
- Conducted interviews of key personnel
- Reviewed current labor agreements.

DISCUSSION

Workers in all fields occasionally get injured while engaged in their duties. The State of California mandates that all employers compensate their employees for those work-related injuries including medical costs, pain compensation, lost wages, future wage losses and ultimately retirement or death benefits. The State of California has a highly-regulated system with deadlines, mandatory examinations, and case reviews to ensure that workers' compensation claims are promptly and appropriately administered and settled. In the last three years, the County paid \$3.85 million in workers' compensation settlements. Only three of those settlements were for more than \$100,000. Seven settlements ranged between \$50,000 and \$100,000 and four settlements were paid out at between \$25,000 and \$50,000.

El Dorado County has a long-standing and continuous relationship with York Risk Services Group, Inc. In 1986, the Bragg Company secured an agreement with EDC to handle workers' compensation claims. YRSG subsequently bought out Bragg and became the successor claims administrator under a series of new and or extended agreements that ran through the 90's and up to 2013. YRSG is a New York corporation whose principal offices are in New Jersey. In anticipation of the expiration of the prior agreement, and in 2012, the County Purchasing Agent published a Request for Proposals (RFP) for workers' compensation claims administration. Ten firms, including YRSG, submitted proposals. Four of those, again including York, advanced to interviews in a second round in November of 2012. The Purchasing Agent published a letter on the County website on December 7, 2012, giving notice of a recommendation to award the WC

agreement to YRSG. Subsequently, the Purchasing Agent cancelled the process in its entirety in on April 18, 2013, and awarded the new agreement to YRSG¹.

The new agreement, as approved by the EDC Board of Supervisors (BOS) in November of 2013, provided for payments in an amount not to exceed \$836,724.96, during its three-year term for administration of the County's self-insured Workers' Compensation Claim Administration Program, including utilization review², bill review and case management.

YRSG was granted independent authority to settle any case up to a \$25,000. Most cases have been settled for that amount or less. The average settlement is considerably less than \$25,000. The County is self-insured up to \$300,000- those settlements are paid directly out of County funds. Coverage for settlements in excess of \$300,000 is provided through the California State Association of Counties-Excess Insurance Authority. Five county employee claims were referred to the District Attorney (DA) for possible fraud prosecution in the last three years. The DA's Office declined to proceed in each of those cases. This Grand Jury has found no evidence that YRSG did not conduct County's workers' compensation claims administration in a reasonable, prudent, and professional manner. York appears to have adequate procedural safeguards in place to control fraud or abuse in claims.

County payments to YRSG over the life of the current agreement have provided for monthly payments for basic services in the below-listed amounts:

Nov. 1, 2013-Oct. 31, 2014	\$21,750 per month
Nov. 1, 2014-Oct. 31, 2015	\$22,402 per month
Nov. 1, 2015-Oct. 31, 2016	\$23,075 per month
Nov. 1, 2016-Oct. 31, 2017	\$23,767 per month.

These payments support basic claims administration but do not cover "extra work" in complex, questionable or extraordinary claims where additional investigation and analysis are required. Total Dollar Amount paid to YRSG in each contact year was:

2013	\$261,000
2014	\$262,305
2015	\$270,174
2016	\$278,279.

The existing agreement with York expires on October 31, 2017. The County has not yet entered into a new or extended contract with YRSG but negotiations are currently underway.

The alternative of ending any third-party administration agreements and resuming the handling of workers' compensation claims "in house" is unwise and problematic in several respects. Potential conflicts of interest are inherent in an in-house system as all parties work for the county

¹ The 2013 agreement and subsequent revisions may be found at: <https://eldorado.legistar.com/LegislationDetail.aspx?ID=2860830&GUID=66257768-2BDB-42DD-83BF-D7B22E9FFEB5&Options=&Search=>

² "Utilization review" is an industry term that describes the process of reviewing treatments recommended by medical providers, determining their appropriateness and effectiveness, and exercising final authority to approve or deny those treatments.

and are subject to the pressures and influences of being together within county government. Bringing workers' compensation claims back under County Human Resources appears financially infeasible. The amount paid to York each year would be insufficient to hire county employees to handle all the work that the third-party firm has done. Witnesses unanimously asserted that experienced, competent claims administrators command salaries in excess of \$80,000 per year- exclusive of benefits. In addition to direct personnel costs, EDC would have to establish relationships with medical practice groups, specialists, medical laboratories, legal and other ancillary services-all of which would bear additional costs. None of these professional relationships currently exist or even a concern of the County as YRSG currently handles it all.

YRSG has established access to and continuing business relationships with significant resources, including networks of physicians. Since York specializes in handling compensation cases, it has extensive experience in the field, an integrated document network and efficient utilization review all of which reduce claims administration costs.

When Requests for Proposals (RFP's) were last openly sought in 2012, ten firms competed for the claims administration agreement with EDC- including York the current administrator. Four firms, including YRSG, made it to the second round before the entire process was cancelled and York was ultimately selected in 2013, for the approximately \$300,000 a year program³ within a 3-year agreement. The nine other firms who responded to the County's RFP in 2012, would likely be available to compete with YRSG again.

If responsive proposals competitive with York's are submitted the County should investigate the work and backgrounds of these firms to ensure that they can be as effective and efficient as York- and potentially at a lower cost- in administering the County's workers' compensation claims program.

FINDINGS

The Grand Jury makes the following findings:

- F1. The County's workers' compensation system is without significant waste, fraud, or abuse and the County has gotten fair value for its money.
- F2. A third-party workers' compensation claims administrator is better able to handle the important workers' compensation administration than an in-house program and appears to save the county money.
- F3. York Risk Services Group appears to be providing good support to the county, thus assuring that the system runs well.
- F4. While the County may legally extend services contracts with vendors such as YRSG; that may not be the best practice when contractual relationships are as long-standing and involve such significant costs as the one with York.

³ Subsequent and substantive amendments of that contract were approved by the Board of Supervisors in 2014, and 2016. The latter revision extending the agreement to October 31, 2017, and both amendments changing its financial terms.

F5. A competitive selection process, rather than another renewal of the existing agreement, is the better way to select the County's third-party administrator after the current compact expires on October 31, 2017.

F6. The use of a full competitive RFP selection process will gain the advantage of competition and obtain the best and lowest cost services.

RECOMMENDATIONS

The Grand Jury makes the following recommendations:

R1. The County not simply extend again the agreement awarded in 2012 to York.

R2. The County conduct and complete an open RFP and contractor selection process for its third-party workers' compensation administration program.

REQUESTS FOR RESPONSES

Pursuant to Penal Code §933.05, the Grand Jury requests responses from:

The El Dorado County Board of Supervisors as to Findings 1, 2, 4, 5 and 6 and Recommendations 1 & 2.

The Chief Administrative Officer of El Dorado County as to Findings 1 through 6, and Recommendations 1 & 2.

Responses are invited from:

The Human Resources Director of El Dorado County as to Findings 1, 2 and 3; and to Recommendations 1 & 2.

The Principal Purchasing Agent of El Dorado County as to Findings 4, 5 and 6 and to Recommendation 1 & 2.

The EDC Risk Manager as to Findings 1, 2, 4 and 5 and to Recommendations 1 & 2.

Address responses to:

The Honorable Suzanne N. Kingsbury
Presiding Judge of the El Dorado County Superior Court
1354 Johnson Blvd.
South Lake Tahoe, CA 96150

The Presiding Judge of the El Dorado County Superior Court additionally requests that the responses be sent electronically as a *Word*® or *PDF*® file to facilitate the economical and timely distribution of such responses. Please email responses to the El Dorado County Grand Jury at: courtadmin@eldoradocourt.org.

Reports issued by the Grand Jury do not identify individuals interviewed. Penal Code section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Grand Jury.