

EL DORADO IRRIGATION DISTRICT EXECUTIVE WELLNESS PROGRAM GJ05-028

Reason for the Report

On October 24, 2005 the Grand Jury received a complaint concerning the implementation of the Executive Wellness Program (EWP), also known as the Management Wellness Program of the El Dorado Irrigation District (EID).

Scope of the Investigation

People Interviewed:

- General Manager of EID
- Employee of EID

Documents Reviewed:

- E-mails:
 - July 12, 2004 from Human Resources Director to EID Board of Directors and Department Heads
 - July 12, 2004 from Human Resources Director to EID Board of Directors
 - July 19, 2004 from Human Resources Director to Payroll Clerk
 - July 28, 2004 from employee to EID Counsel
- EID Website
- Memorandum from employee to EID General Manager, May 10, 2004
- Letter from CPA to Human Resources Director, August 2, 2004
- Letter from EID General Manager to Grand Jury, December 23, 2005
- Letter from EID General Manager to Grand Jury, February 28, 2006
- Government Code Section 53200

Background

A health insurance plan for EID employees was in effect from 1980 with revisions made in 1983 and 1994. Prior to July 2004 the Board of Directors received “cash-in-lieu” benefits for medical expenses.

The EWP, also known as Management Wellness Program, was implemented on July 1, 2004. It provides benefits up to \$5,000 annually for medical, dental, vision and healthcare costs and expenses incurred that are not covered by an insurance plan. This applies only to the Board of Directors, General Manager, General Counsel, Department Heads, Assistant Department Heads, their spouses and their dependents.

An additional \$250 (an all employee benefit) is provided, if the eligible EWP member belongs to a health club.

Also, paid administrative leave for the management group was increased to 80 hours (from an unknown base) in addition to vacation and holiday time.

This EWP was initiated by and under the authority of the General Manager and the then Human Resources Director.

Facts:

1. The General Manager and the Director of Human Resources made an executive decision to initiate this EWP.
2. An e-mail notice sent on July 12, 2004, stated that the EWP was retroactively implemented on July 1, 2004. Reimbursements under the Program are subject to Section 105 of the Internal Revenue Code.
3. No written notice was given to the Board of Directors and no discussions were held with the Board before this announcement.
4. The Grand Jury requested copies of minutes regarding this program and was informed by the General Manager that no minutes existed.
5. No written records exist regarding the criteria or codification of the EWP.
6. In response to an inquiry of the EID Human Resources Director, a certified public accountant (CPA), in a letter dated August 2, 2004, stated the following:

“I researched the discrimination rules for ‘self funded’ insurance plans. Section 105 of the IRC states a self-insured health plan may not discriminate in favor of certain individuals and must satisfy certain ‘nondiscriminatory rules’ which include covering 70% of the total employees or make at least 70% of employees eligible to participate, provided 80% if those eligible actually participate; or cover a classification of employees that the IRS finds does not discriminate in favor of ‘highly compensated individuals.’ For purposes of applying for these tests, the El Dorado Irrigation District’s proposed plan did not qualify under these rules. Consequently any benefits payable to any individuals under the proposed plan would be deemed discriminatory and therefore taxed to the individuals. Research of current revenue rulings and other associated regulations failed to yield an allowable exception to the above law.”
7. When the EWP policy was initiated no source of funding was identified.
8. During the same time frame, employees were asked to give up raises for 2 years and rate payers were billed for rate increases in both January, 2005 and January, 2006.

9. The General Manager had the authority to approve expenditures of up to \$50,000 annually without Board approval.
10. The maximum cost of the EWP was estimated not to exceed \$60,000.

Findings/Recommendations:

1F. Finding: The EID General Manager violated district administrative procedures that has a \$50,000 limitation by implementing a benefit program exceeding approved expenditure guidelines.

1Ra. Recommendation: The EWP should be formally brought before the Board of Directors for public hearing and vote.

1Rb. Recommendation: In the future, all employee benefit plans, including management's, should be presented before the Board of Directors for public hearing and vote.

1Rc. Recommendation: Suspend the \$5,000 EWP benefit until an independent audit determines the legality under IRS guidelines.

2F. Finding: The criteria utilized for benefit coverage under the EWP is very broad in terms of eligibility, dependents and coverage.

2Ra. Recommendation: Define specific criteria for those activities eligible for reimbursement.

2Rb. Recommendation: Specifically define what constitutes a dependent.

3F. Finding: No requirement exists for certification of a medical condition and related expenses not covered by an insurance plan.

3R. Recommendation: Certification should be required from a physician for reimbursement of expenses eligible under the EWP.

4F. Finding: The practice of giving Board of Directors "cash-in-lieu" benefits prior to 07-01-2004 appears to be illegal.

4R. Recommendation: An audit must be conducted by an independent agency to determine the legality of the "cash-in-lieu" program.

A response is required by the El Dorado Irrigation District within sixty (60) days. See Table of Contents, "Notice to Respondents."