

County of Ventura
AUDITOR-CONTROLLER
MEMORANDUM

To: Leroy Smith, County Counsel

Date: August 31, 2012

From: Christine L. Cohen

**Subject: AUDIT OF CHANGE IN DEPARTMENT HEAD FOR COUNTY COUNSEL –
FINAL REPORT TO ADDRESS BILLING PRACTICES**

We have completed our audit of the change in department head for County Counsel. This final report presents matters associated with additional procedures applied during the audit regarding County Counsel billing practices. A separate, interim report was issued previously on January 4, 2012, addressing our overall objective to determine whether appropriate actions had been taken to accomplish the transfer of accountability and administrative functions from the preceding to the succeeding department head.¹ The results of this final stage of the audit are summarized below.

BACKGROUND

The County Counsel is the chief legal advisor on civil matters to the Board of Supervisors and to all County agencies and departments. Except for certain tort matters, the County Counsel handles the defense and prosecution of all civil litigation in which the County, County officers, or County agencies are involved. In addition, the County Counsel is the legal advisor to several County-related independent agencies, to all special districts of which the Board of Supervisors is the governing body, and to all other special districts to which the office is obligated to provide legal services.

During fiscal year ("FY") 2009-10, County Counsel provided 34,505 hours of support to various County agencies and special districts at a cost of approximately \$6.7 million. Approximately \$3.5 million of this cost was recouped through direct billings to non-General Fund agencies and cost shifts to certain General Fund budget units. The remaining costs were allocated to the various agencies through the County's cost allocation plan ("CAP").

SCOPE

The audit objective addressed during this final stage of the audit was to determine whether County Counsel records consistently and accurately reflected billings, and whether agencies, departments, and special districts were appropriately billed based on the established hourly rate. Specifically, we:

- determined whether County Counsel's bills were generated consistently and in accordance with written procedures;

¹ The interim report was deemed confidential and not subject to public inspection pursuant to California Government Code Section 6255 on the basis that the report contained sensitive findings.

- confirmed that attorneys completed supporting personnel time and activity reports (“attorney time reports”) on a daily basis; and
- verified that revenue from direct billings and cost shifts were properly reflected and adjusted within the CAP for FY 2009-10.

We performed audit tests and evaluations using documents and records provided by County Counsel and the Auditor-Controller’s Office for the period April 2009 through May 2012. Our audit objectives focused on activities and charges from FY 2009-10 and FY 2010-11. The audit was performed in conformance with the *International Standards for the Professional Practice of Internal Auditing* promulgated by The Institute of Internal Auditors.

FINDINGS

Overall, we found that County Counsel records supported the amounts billed and allocated. For example, we confirmed that attorneys maintained daily attorney time reports, which tied to invoiced amounts and were subject to monthly supervisory review. We also verified that revenue from direct billings and cost shifts were credited to the appropriate budget units and properly deducted within the CAP.

However, we noted that attorney time reports did not always specify the daily work activities for each employee. Following are details of the area where improvement was needed. County Counsel management initiated corrective action during the audit as noted.

Attorney Time Reports. Attorney time reports did not always meet recordkeeping requirements for tracking employee work activities. Because County Counsel allocates costs to other departments for legal services, County Counsel must keep attorney time reports in accordance with the cost principles set forth in Office of Management and Budget Circular A-87, *Cost Principles for State, Local, and Indian Tribal Governments* (“OMB A-87”). OMB A-87 states that such time records must reflect an after-the-fact distribution of each employee’s actual activity. However, our review of one monthly time report during FY 2010-11 for each of three attorneys disclosed two regular work days without descriptions of the actual work activities performed. Therefore, if billable hours were incurred on those days, the hours were not charged to the department(s) receiving the services.

Management Action. County Counsel management stated: “County Counsel will supplement its attorney time reporting procedure to require that attorneys affirmatively indicate on monthly time reports that they have recorded all work activities, both billable and non-billable, for hours worked on regular work days. In addition, both the Chief Assistant and Principal Assistant County Counsels approve all Billing Sheets (other than their own); they also approve Time Cards (other than their own). If facts are such that a question arises about the accuracy of a Billing Sheet or a Time Card, they discuss it with the attorney.”

AUDITOR’S EVALUATION OF MANAGEMENT ACTION

We believe that management actions taken or planned were responsive to the audit finding. Management planned to complete corrective actions by September 1, 2012.

Leroy Smith, County Counsel

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We appreciate the cooperation and assistance extended by you and your staff during this audit.

cc: Honorable John C. Zaragoza, Chair, Board of Supervisors
Honorable Peter C. Foy, Vice Chair, Board of Supervisors
Honorable Steve Bennett, Board of Supervisors
Honorable Linda Parks, Board of Supervisors
Honorable Kathy Long, Board of Supervisors
Michael Powers, County Executive Officer