

Follow-Up Report: Audit of Ambulance Franchise Management

I. Background and Summary

State law authorizes counties to regulate ambulance services. Washington County's Emergency Medical Services (EMS) Ordinance provides for the appointment of an EMS Program Supervisor to provide oversight and direction to EMS activities within the county.

The County has granted an exclusive franchise for emergency ambulance services to Metro West Ambulance (MWA) since 1997. The franchise agreement (FA) has a term of six years which extends every 18 months for an additional 18-month period, as long as franchisee performance meets or exceeds standards established in the Oregon Administrative Rules, the EMS Administrative Rules and the franchise agreement.

The EMS Supervisor, as the contract administrator (CA) of the franchise agreement, is responsible for monitoring and enforcing franchisee performance. The Administrative Rule and the FA establish performance expectations for dispatch and response times. The FA and Administrative Rule require the county to report monthly on those and other performance measures.

II. Overview of the 2019 Audit

The Auditor's Office initiated the Audit of Ambulance Franchise Management to determine whether the County effectively administered the ambulance franchise agreement and whether it accurately reported franchisee performance.

In our July 2019 report, we found:

- The terms of the franchise agreement (FA) establish a reporting, monitoring, and penalty system that represents a risk-based contract management process.
- The contract administrator (CA) effectively monitored many of the performance requirements of the FA.
- The CA monitored, but did not enforce, several of the performance requirements established in the franchise agreement.

- Instead, the CA changed the response performance requirements of the ambulance provider, established in the FA and in administrative rule, without amending either the rule or the agreement.
- The CA exceeded his authority by, in effect, amending the franchise agreement without action by the Board and amending the EMS Administrative Rule without a public hearing.
- The CA did not accurately report that the franchisee had failed to meet performance requirements for dispatch and response established in the administrative rule and the franchise agreement.

We recommended:

1. The CA should continue to manage the ambulance franchise agreement through a risk-based approach.
2. The CA should continue to monitor and report on less closely monitored contract requirements at least every 18 months.
3. The CA should utilize the penalty and liquidated damage provisions of the agreement to ensure the franchisee satisfies contract requirements.
4. The CA should change the performance requirements of the EMS Administrative Rule and the franchise agreement only through established processes for amending a rule and amending a contract.
5. The CA should accurately report whether the franchisee satisfies contract requirements.

The County Administrator agreed with all but one of our recommendations. In regard to recommendation 4, the County Administrator planned to modify the EMS Administrative Rule to allow for pilot projects or waivers of performance requirements prior to formal amendment.

III. Status of Audit Recommendations

We conducted this follow-up review to determine the whether the County had implemented the audit recommendations. We found that the County has implemented

the two recommendations that it continue existing practices. Two recommendations for change were Not Implemented. One remains In Process.

Recommendations 1 and 2 - Fully Implemented

The contract administrator (CA) continues to manage the ambulance franchise agreement through a risk-based approach.

The CA continues to monitor and report on lower-risk contract requirements at least every 18 months.

Recommendations 3, 4, and 5

One of the findings in the original report was that the CA had exceeded his authority by changing the compliance standard for dispatch time. The Administrative Rule (AR) and the franchise agreement (FA) required that Metro West dispatch an ambulance within 60 seconds of receiving a call. The agreement provided for a penalty of \$250 for every call, beyond 11 in a month, that did not meet that standard. Instead of enforcing the 60-second dispatch provision, the contract administrator had modified the performance standard to require that the eighteen-month rolling average not exceed 60 seconds and that the average for any single month not exceed 150% of the 18 month rolling average.

This finding and others were the basis for the following recommendations:

3. The CA should utilize the penalty and liquidated damage provisions of the agreement to ensure the franchisee satisfies contract requirements.
4. The CA should change the performance requirements of the EMS Administrative Rule and the franchise agreement only through established processes for amending a rule and amending a contract.
5. The CA should accurately report whether the franchisee satisfies contract requirements.

Until the provisions of the Rule and the agreement were properly amended, the contract administrator should have ensured compliance with current requirements and should have accurately reported performance against those requirements.

The penalty provision of the franchise agreement (Appendix A of the agreement) was changed in August 2018 to provide that the \$250 penalty applied only to a failure to meet the modified standard. This change deprived the contract administrator of the ability to utilize this penalty to enforce compliance with the 60-second dispatch requirement. Recommendation 3 was **Not Implemented**.

The Administrative Rule and the FA still require that requests shall be dispatched within 60 seconds, but the contract administrator has not held the franchisee to that standard. Instead, the contract administrator has continued practices that effectively amend the Rule and the agreement, without following established practices for amendment. Management reports that their intention is to amend the Rule and the franchise agreement by June 2021 through established processes. Since management has an action plan to implement this recommendation, we consider Recommendation 4 to be **In Process**. We have communicated through County Counsel to the Board of County Commissioners the ongoing risk represented by the delay in implementing this recommendation. We will conduct further follow-up to confirm whether management fully implements this recommendation.

The contract administrator should have reported in the monthly and 18-month compliance reports whether the franchisee met the 60-second dispatch standard. Before agreeing to an 18-month extension of the franchise agreement, the Board should have been informed of any failure by the franchisee to meet its contractual obligations. Instead, the contract administrator continued to report compliance with a dispatch standard not stated in the contract. Recommendation 5 was **Not Implemented**.

IV. About this Review

In December 2020 we initiated a follow-up review to determine whether management had implemented the five recommendations from our July 2019 Audit Ambulance Franchise Management. We asked the EMS Program Supervisor to describe any actions taken to implement the Auditor's recommendations, and to provide documentation that would support the actions taken. We reviewed the response to our request, reviewed the documentation submitted, and collected additional information as necessary to provide sufficient, appropriate evidence to conclude whether each recommendation was fully implemented.

We concluded that a recommendation was Fully Implemented when we found management had completed the recommended actions. We concluded that a recommendation was Not Implemented if we found that management had taken no action to implement the recommendation and had no specific plan to implement the recommendation. We concluded that a recommendation was In Process when management had not completed planned implementation.