

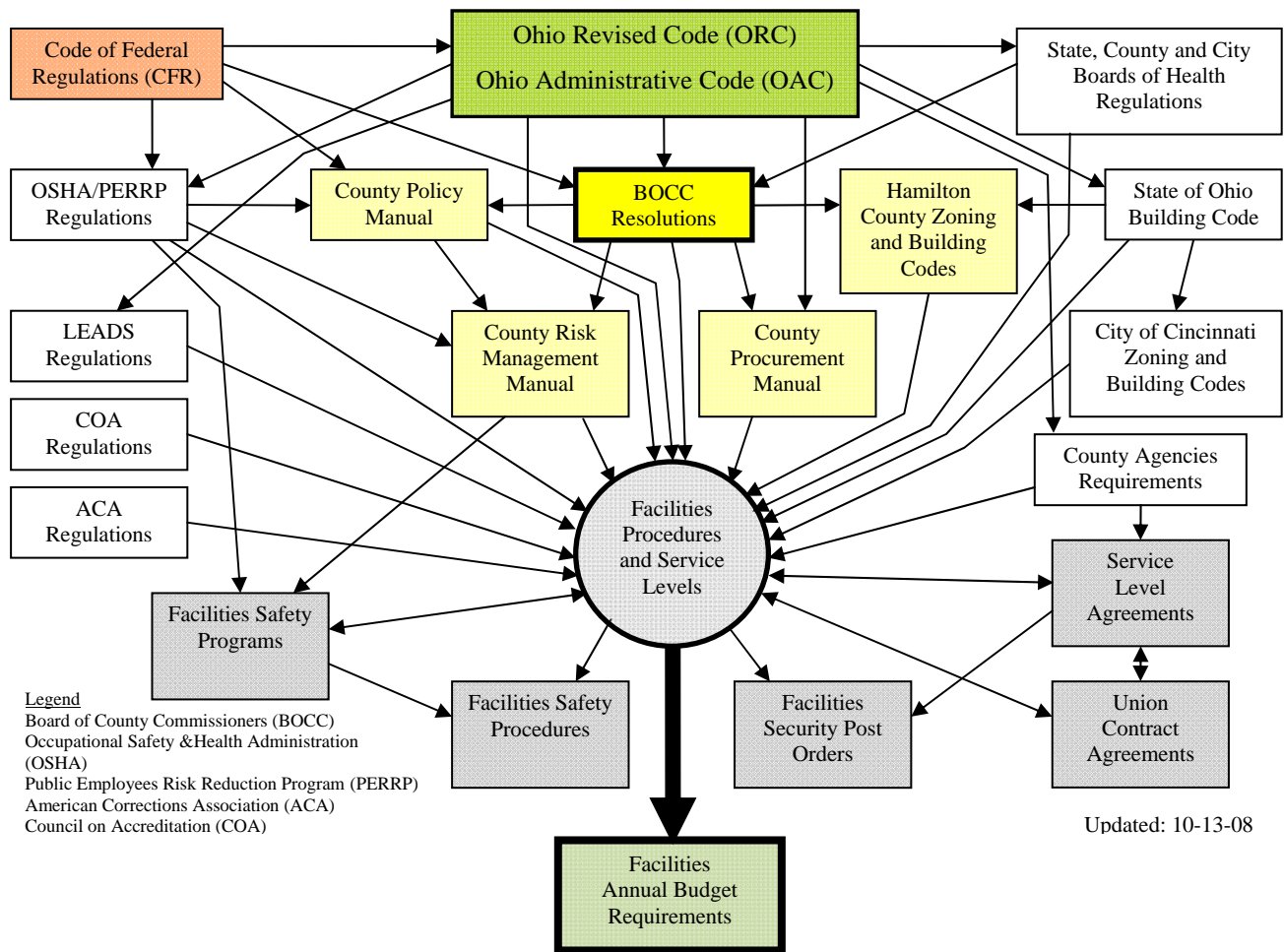
2009 Non-Mandated Expenditures Department Response

DEPARTMENT: COUNTY FACILITIES
 DEPARTMENT HEAD: Ralph Linne
 OCA TITLE: 060090 2020 Juvenile Detention Center

Hamilton County departments and agencies have the opportunity to respond and provide insight to the Office of Budget and Strategic Initiatives (BSI) initial assessment as to non-mandated services. This response form should be used for each specific BSI assessment; not a general response for entire department. Take as much space as necessary for each question.

1. Are there elements of the BSI non-mandated services that you believe are mandated? If so, provide the specific Ohio Revised Code (ORC) citation, Code of Federal Regulation (CFR) and/or relevant case law information. Please be especially diligent if there is a specific service or staffing level prescribed by law.

Below is a Flow Chart showing the Laws, Rules, and Agreements which determine the budget and staffing levels for the Hamilton County Facilities Department (HCFD).



2009 Non-Mandated Expenditures Department Response

RESPONSE:

All the services and staffing, under this OCA, are required in order to support the maintenance and daily operation of BOCC own facility at 2020 Auburn Avenue; below are several sections of the ORC which clearly states this.

ORC 307.01(A) states “(A) A courthouse, jail, public comfort station, offices for county officers, and a county home shall be provided by the board of county commissioners when, in its judgment, any of them are needed.

ORC 305.16 states “The board of county commissioners may employ a superintendent, and such watchmen, janitors, and other employees as are necessary for the care and custody of the court house, jail, and other county buildings, bridges, and other property under its jurisdiction and control.”

ORC 305.18 states “Each county officer or department head shall make an inventory, on the second Monday in January of each year, of all the materials, machinery, tools, and other county supplies under the jurisdiction of such county officer or department head. Such inventory shall be a public record, made in duplicate, and one copy shall be filed with the clerk of the board of county commissioners and one copy with the county auditor.”

ORC 307.92 states “As used in sections 307.86 to 307.91, inclusive, of the Revised Code, “contracting authority” means any board, department, commission, authority, trustee, official, administrator, agent, or individual which has authority to contract for or on behalf of the county or any agency, department, authority, commission, office, or board thereof.”

SERVICE LEVEL REQUIREMENTS FOR DETENTION CENTER

OAC 5139-37-08 states

“(A) The following standards are mandatory:

(1) The facility shall have exits that are properly positioned, clear, and distinctly and permanently marked in order to ensure the timely evacuation of children and staff in the event of fire or other emergency.

(2) Male and female children do not occupy the same sleeping rooms.

(3) All sleeping rooms in detention facilities shall have, at a minimum, access to, but not necessarily within the sleeping room, the following sanitation facilities: toilet above floor level available for use twenty-four hours a day; wash basin and drinking water; hot and cold running water. A bed above floor level, storage space and natural light shall be provided.

2009 Non-Mandated Expenditures Department Response

(4) The facility conforms to all applicable zoning ordinances or, through legal means, is attempting to comply with or change such laws, codes or zoning ordinances.

(5) The facility conforms to all applicable state and local building codes.

(B) The following standards are mandatory for new plants, and recommended for others:

(1) With the exception of the auditorium/gymnasium, the facility shall contain air conditioning and a back-up ventilation system.

(2) Water for showers is temperature-controlled to provide an appropriate mix of hot and cold water.

(3) The hallway in detention living unit shall be no less than eight feet wide.

(4) Places of assembly for fifty or more persons and all housing units shall have two exits.

(C) The following standards are mandatory for additions and new plants, and recommended for existing:

(1) Living units are designed for single occupancy sleeping rooms.

(2) Single sleeping rooms have at least seventy square feet of floor space with minimum eight-foot ceiling.

(D) The following standards are recommended:

(1) If the facility is on the grounds of any other type of correctional facility, it is a separate self-contained unit.

(2) The average daily population for any given month does not exceed the rated capacity of the facility.

(3) The facility is designed and constructed so that children can be grouped in accordance with a classification plan.

(4) When seriously ill, mentally disordered, injured or nonambulatory children are held in the facility, there is at least one single occupancy cell or room for them that provides for staff viewing.

(5) The facility perimeter is secured in such a way that children remain within the perimeter and that access by the general public is denied without proper authorization.

(6) The facility operates with living units of no more than twenty-five children each, based on the annual average daily population.

2009 Non-Mandated Expenditures Department Response

- (7) *All housing areas provide for a minimum of:*
Lighting as determined by the tasks to be performed;
One toilet and one wash basin for every five children;
Showers accessible to children;
A heating, ventilation and acoustical system to ensure healthful and comfortable living and working conditions for juveniles and staff;
Access to a drinking fountain.
- (8) *At least thirty-five square feet of floor space per child as determined by the annual average daily population is provided in the day room off each living unit. The day room has access to natural light.*
- (9) *All sleeping rooms in detention facilities shall have access to natural light.*
- (10) *Space is provided for the secure storage of chemical agents and of security equipment. The equipment is located in an area that is readily accessible to authorized persons only.*
- (11) *The total indoor activity area provides space for at least one hundred square feet per child based on the annual average daily population.*
- (12) *There are at least fifteen square feet of floor space per person for those occupying the dining room or dining area.*
- (13) *When the facility provides food service, the kitchen is a separate and distinct area with ten square feet per child or two hundred square feet, whichever is less.*
- (14) *School classrooms are designed in conformity with local and state educational requirements.*
- (15) *There is a visiting area that allows for privacy during visits.*
- (16) *There is an outdoor recreation area well-maintained and adequately designed to accommodate regularly scheduled recreation and group athletic activities.*
- (17) *Space is available for religious services.*
- (18) *The facility has a medical room with medical examination facilities available when medical services are provided in-house.*
- (19) *When there is an isolation room separate from the living unit, such room shall be equipped to provide for the washing, drinking, toilet use, and safety needs of confined children.*
- (20) *There is interview space available in or near the living unit.*

2009 Non-Mandated Expenditures Department Response

(21) *There is secure storage space provided for storage of child's property and personal belongings.*

(22) *There are storage rooms for clothing, bedding, and facility supplies.*

(23) *Closets for storage or cleaning supplies and equipment are located in each principal area and are well-ventilated.*

(24) *Separate and adequate space is provided for mechanical equipment.”*

OAC 5139-37-11(B) states

“The following standards are mandatory for new plants:

(2) Power generators are tested at least every two weeks and other emergency equipment and systems are tested at least monthly for effectiveness and repaired or replaced as necessary.

(8) Written policy and procedure provide for weekly inspection and maintenance of security devices; corrective action is initiated when necessary.

(19) Written policy and procedure govern the control and use of keys.

(20) Written policy and procedure govern the control and use of tools, medical and culinary equipment.”

OAC 5139-37-13 states

“The following standards are recommended:

(A) Written policy and procedure and practice require that the facility administrator, in conjunction with the facility's governing body, shall develop and implement a system designed to detect building and equipment deterioration, safety hazards and unsanitary conditions, and to provide the proper reporting of needed correction or modification. Such policies and procedures shall include a written plan for a daily inspection of the facility. Such inspection shall be recorded. Maintenance records shall be kept and subject to review by authorized personnel.

(C) Written policy, procedure and practice provide for the control of vermin and pests by a licensed professional.

(F) Written policy shall require that under no circumstances shall a child confined in a detention center replace a janitor, maintenance, caretaking staff or other staff normally maintained for operations of the facility.

(G) Written policy, procedure and practice provide that programs comply with all applicable governmental regulations and standards. At a minimum, these policies cover the following:

2009 Non-Mandated Expenditures Department Response

- (1) Sanitation inspections*
- (2) Water supply testing*
- (3) Waste disposal*
- (4) Housekeeping*
- (5) Clothing and building supplies*

REQUIRIED SAFETY AND EMERGENCY PROCEDURES

OAC 5139-37-10 states

“(A) The following standards are mandatory:

- (1) The facility complies with applicable federal, state and local sanitation, safety and health codes and is inspected at least annually for compliance.*
- (2) The facility is equipped with noncombustible receptacles for smoking materials and separate containers for other combustible refuse at readily accessible locations in the living quarters and other locations throughout the facility. Special containers are provided for flammable liquids and for materials used with flammable liquids.*
- (3) Written policy and procedure provide for a qualified fire and safety officer to perform a comprehensive and thorough annual inspection of the facility for compliance with safety and fire prevention standards and for annual review of this policy and procedure. There is a monthly fire and safety inspection of the facility by a supervisor or other qualified staff member. There are quarterly evacuation drills.*
- (4) Written policy and procedure specify the facility’s fire prevention regulations and practices to ensure the safety of staff, children and visitors. These include, but are not limited to: provisions for an adequate fire protection service, a system of fire inspection and testing of equipment at least annually, an annual inspection by local or state fire officials or other qualified person(s), and availability of fire hoses or extinguishers at appropriate locations throughout the facility.*
- (5) There are written plans that specify procedures to be followed in emergency situations, e.g., fire, disturbance, taking of hostages, natural disasters, strikes, bomb threats, work stoppage or other job action. These plans are made available to all applicable personnel and they are reviewed and updated annually.*
- (6) Written policy and procedure specify the means for the prompt release of children from locked areas in case of emergency, and provide for a secondary release system.*
- (7) All facility personnel are trained in the implementation of written emergency plans.*

2009 Non-Mandated Expenditures Department Response

(8) *Written policy and procedure govern the control and use of all flammable, toxic and caustic materials.*

(9) *The facility has a fire alarm system and an automatic detection system that is approved by the authority having jurisdiction. Whenever possible, all system elements are tested on a quarterly basis; the adequacy and operation of the system are approved by the state fire official or other authority annually.*

(B) *The following standards are recommended:*

(1) *The facility has available to it the services of a qualified fire and safety officer who reviews all policies and procedures related to safety and fire prevention.*

(2) *The facility has access to an alternate power source to maintain essential services in an emergency.*

(3) *Within ninety days after the effective date of this rule, specifications for the selection and approval of new furnishings indicate the fire safety performance requirements of the materials selected. Such materials are subject to careful fire safety evaluation before purchase or use. Neoprene or cotton mattresses treated with boric acid are recommended. Polyurethane is not to be used in any living area.*

REQUIRED BACKGROUND CHECKS FOR PERSONNEL

OAC 5139-37-05 states

“(A) The following standards are mandatory:

(2) An agency shall request the bureau of criminal identification and investigation (BCII) to conduct a criminal records check with respect to any prospective employee who has applied to the agency for appointment or employment.

(3) The agency shall inform each prospective employee at the time of initial application, that as a precondition to being approved for that position:

(a) The person is required to complete the BCII prescribed criminal records check form and provide a set of fingerprint impressions; and

(b) A criminal records check is required to be conducted by BCII and, except as provided in paragraph (A)(19) of this rule, satisfactorily completed if the prospective employee comes under final consideration for appointment or employment.

(4) The agency shall provide each person listed in paragraph (A)(2) of this rule with a copy of the BCII prescribed criminal records check form and a BCII standard impression sheet to obtain fingerprint impressions.

(5) Any person listed in paragraph (A)(2) of this rule who receives a copy of the BCII prescribed criminal records check form and a BCII standard impression

2009 Non-Mandated Expenditures Department Response

sheet and who is requested by the agency to complete the form and provide a set of fingerprints impressions shall:

- (a) Complete the form or provide all the information necessary to complete the form;*
- (b) Provide the impression sheet with the impressions of the person's fingerprints; and*
- (c) Submit the completed form and the impression sheet to the agency.*

(6) If a prospective employee seeking appointment or employment by an agency fails to provide the information necessary to complete the form or fails to provide fingerprint impressions, the prospective employee shall not be employed by the agency.

(7) The agency shall obtain the completed form and fingerprint impression sheet from each person listed in paragraph (A)(2) of this rule and forward the form and fingerprint impression sheet to BCII at the time the agency requests a criminal records check.

(8) The agency shall request that BCII obtain information from the federal bureau of investigation (FBI) as a part of the criminal records check for the person if:

- (a) The person does not present proof of residency in Ohio for the five-year period immediately prior to the date upon which the criminal records check is requested; or*
- (b) The person does not provide evidence that within that five-year period, BCII has requested information about the person from the FBI in a criminal records check.*

(9) The agency may request that BCII include information from the FBI in the criminal records check if the person presents proof of residency in Ohio for that five-year period.

(10) The agency shall pay to BCII the fee prescribed pursuant to division (C)(3) of section [109.572](#) of the Revised Code for each criminal records check conducted.

(11) The agency may charge a prospective employee a fee for the costs incurred in obtaining a criminal records check. A fee charged by the agency shall not exceed the fee paid by the agency to BCII. If a fee is charged, the agency shall notify the person at the time of initial application of the amount of the fee and that, unless the fee is paid, the person will not be considered for employment.

(12) The report of any criminal records check conducted by BCII in accordance with section [109.572](#) of the Revised Code and pursuant to a request made by the agency is not a public record. The report shall be made available only to the following persons:

2009 Non-Mandated Expenditures Department Response

- (a) The person who is the subject of the criminal records check or the person's representative.*
- (b) The agency requesting the criminal records check or its representative.*
- (c) Any court, hearing officer, or other necessary individual involved in a case dealing with the denial of employment, approval or certification to the person.*
- (d) ODYS employees as required for approval, inspection or monitoring purposes.*

(13) Reports from BCII or any other local, state, or federal agency regarding a person's criminal record are valid for a period of one year from the date of the report.

(14) An agency shall document that any person hired after October 29, 1993 as administrator, child care staff, caseworker, or in any other position responsible for a child's care in out-of-home care shall not have been convicted of or pleaded guilty to any of the offenses listed in paragraph (A)(15)(a) of this rule except as provided in paragraph (A)(16) of this rule.

(15) Except as provided in paragraph (A)(16) of this rule, an agency shall not, as of October 29, 1993, hire a prospective employee as administrator, child care staff, caseworker, or in any other position responsible for a child's care in out-of-home-care if the person has been convicted of or pleaded guilty to any of the following offenses:

- (a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.16, 2903.21, 2903.34, 2905.01, 2905.02, 2905.05, 2907.02, 2907.03, 2907.04, 2907.05, 2907.06, 2907.07, 2907.08, 2907.09, 2907.21, 2907.22, 2907.23, 2907.25, 2907.31, 2907.32, 2907.321, 2907.322, 2907.323, 2911.01, 2911.02, 2911.11, 2911.12, 2919.12, 2919.22, 2919.24, 2919.25, 2923.12, 2923.13, 2923.161, 2925.02, 2925.03, 2925.04, 2925.05, 2925.06, or 3716.11 of the Revised Code, a violation of section [2905.04](#) of the Revised Code as it existed prior to July 1, 1996, a violation of section [2919.23](#) of the Revised Code that would have been a violation of section [2905.04](#) of the Revised Code as it existed prior to July 1, 1996, had the violation been committed prior to that date, a violation of section [2925.11](#) of the Revised Code that is not a minor drug possession offense, or felonious sexual penetration in violation of former section [2907.12](#) of the Revised Code;*
- (b) A violation of an existing or former law of this state that is substantially equivalent to any of the offenses listed in paragraph (A)(15)(a) of this rule.*

(16) A prospective employee convicted of or who has pleaded guilty to an offense listed in paragraph (A)(15)(a) of this rule may be hired by an agency as an administrator, child care staff or caseworker, or in any other position responsible

2009 Non-Mandated Expenditures Department Response

for a child's care in out-of-home care only if the following conditions have been met:

(a) Where the offense was a misdemeanor, or would have been a misdemeanor if conviction had occurred under the current criminal code, at least three years have elapsed from the date the prospective employee was fully discharged from any imprisonment or probation arising from the conviction. A prospective employee who has had a misdemeanor record of conviction sealed by a court pursuant to section [2953.32](#) of the Revised Code shall be considered to have met this condition.

(b) Where the offense was a felony, at least ten years have elapsed since the person was fully discharged from imprisonment or probation.

(c) The victim of the offense was not one of the following:

(1) A person under the age of eighteen.

(2) A functionally impaired person as defined in division (A) of section [2901.10](#) of the Revised Code.

(3) A mentally retarded person as defined in division (K) of section [5123.01](#) of the Revised Code.

(4) A developmentally disabled person as defined in division (Q) of section [5123.01](#) of the Revised Code.

(5) A person with a mental illness as defined in division (A) of section [5122.01](#) of the Revised Code.

(6) A person sixty years of age or older.

(d) Hiring the prospective employee will not jeopardize in any way the health, safety or welfare of the children the agency serves. The following factors shall be considered in determining whether to hire the prospective employee:

(1) The person's age at the time of the offense.

(2) The nature and seriousness of the offense.

(3) The circumstances under which the offense was committed.

(4) The degree to which the person participated in the offense.

(5) The time elapsed since the person was fully discharged from imprisonment or probation.

(6) The likelihood that the circumstances leading to the offense will recur.

(7) Whether the person is a repeat offender.

(8) The person's employment record.

(9) The person's efforts at rehabilitation and the results of those efforts.

(10) Whether any criminal proceedings are pending against the person.

(11) Whether the person has been convicted of or pleaded guilty to a felony contained in the Revised Code that is not listed in paragraph (A)(15)(a) of this rule, if the felony bears a direct and substantial relationship to the duties and responsibilities of the position being filled.

(12) Any others factors the PCSA, PCPA, PNA considers relevant.

2009 Non-Mandated Expenditures Department Response

(17) *It is the prospective employee's duty to provide written verification that the conditions specified in paragraph (A)(16) of this rule are met. If the prospective employee fails to provide such proof or if the agency determines that the proof offered by the prospective employee is inconclusive or insufficient, the person shall not be hired. Any doubt shall be resolved in favor of protecting the children the agency serves.*

(18) *To determine whether a prospective employee is qualified to be hired pursuant to paragraph (A)(15)(a) of this rule, a criminal records check shall be conducted pursuant to this rule.*

(19) *An agency may conditionally hire a prospective employee until the criminal records check required by this rule is completed and the agency receives the results of the criminal record check, if the prospective employee submits to the agency a signed statement attesting that the prospective employee has not been convicted of or pleaded guilty to any offense listed in paragraph (A)(15)(a) of this rule. If the results of the criminal record check indicate that the person does not qualify for employment, the agency shall release the person from employment.*

(20) *The provisions of paragraph (A)(16) of this rule must be considered for any prospective employee who has been convicted of, or pleaded guilty to, one or more of the offenses listed in paragraph (A)(15)(a) of this rule even if the person's record has been sealed by a court pursuant to section [2953.32](#) of the Revised Code because the information contained in the sealed record bears a direct and substantial relationship to the care of children who may be entrusted to the person's care.*

(21) *A conviction of, or plea of guilty to, an offense listed in paragraph (A)(15)(a) of this rule shall not prevent a prospective employee's hire if the person has been granted an unconditional pardon for the offense pursuant to Chapter 2967. of the Revised Code or the conviction or guilty plea has been set aside pursuant to law. "Unconditional pardon" includes a conditional pardon with respect to which all conditions have been performed or have transpired.*

(22) *Current employees suspected of involvement in any of the offenses listed in paragraph (A)(15)(a) of this rule shall be terminated, suspended or removed from contact with residents until the public children services agency or law enforcement agency has completed its investigation and has made applicable recommendations.*

(23) *An agency shall assure that all staff hired or who are under any personal service contract who are required by law to possess any professional licensure or certification are so licensed or certified*

2009 Non-Mandated Expenditures Department Response

(B) The following standards are recommended:

(1) Each detention facility shall have written policies and procedures concerning personnel matters. The policies and procedures shall be approved by the parent agency and be available to all employees.

(2) Written policy and procedure provide for provisional appointment to ensure the availability of personnel for short-term, full-time or part-time work in an emergency situation.

(3) Written policy and procedure provide for a written annual performance evaluation of all employees, which is based on defined criteria and is reviewed and discussed with the employee.

(4) Written policy and procedure provide for a current, accurate, and confidential personnel record for each employee; confidentiality is ensured by restricting its availability to only the employee who is the subject of the record and to other agency employees who have a need for the record in the performance of their duties. A written procedure exists whereby the employee can challenge information in his or her personnel file and have it corrected or removed if it proves to be inaccurate.

(5) There is a written employee grievance procedure which is available to all employees.”

BOCC RESOLUTIONS

The following are resolutions (copies in reference materials) that must be followed by the administrative staff that provides the services required to support the maintenance, design, construction, and/or renovation of a County building:

- Resolutions Adopting Hamilton County Risk Manual – Dated 4-5-1995, 5-31-1995, 10-27-1995, 10-4-1995, and 8-20-2003
- Resolution Adopting Hamilton County Purchasing Manual – Dated 4-15-1995
- Resolution Approving the Hamilton County's GREEN Building Policy for New Construction and Major Renovations – Dated 4-23-2008
- Resolution Approving an Energy Policy for Hamilton County – Dated 4-23-2008
- Resolution Modifying Selection Procedures for Building Equipment Based on Life Cycle Costing – Dated 9-27-2000
- Resolution Modifying Selection Procedures for Professional Services of Architects, Engineers, Construction Managers and Environmental Professional – Dated 9-30-1998 – Per ORC

2009 Non-Mandated Expenditures Department Response

2. Who are the recipients of the service or activity for the non-mandated service?
 - Juvenile Court Staff and Contractors
 - Juveniles

How many recipients? Please note any internal customers, other county departments, jurisdictions, businesses, etc. If the service is geographic specific (i.e., a satellite probation office), please identify the neighborhood, township or municipality.

 - Juvenile Court Staff and Contractors - Unknown
 - Juveniles - Unknown
3. Are there county revenues associated with the non-mandated services? If so, please provide the methodology for any lost revenues. Please consider state or federal reimbursements, grants, fees, etc. Please note if the service or activity is included in the county's indirect cost plan.

None
4. If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County? If so, please list the specific municipality and/or township. – N/A
5. Does the non-mandated service include Board of County Commissioner policy via resolution or motion? – N/A
6. Are there contracts or agreements that preclude the elimination of a non-mandated service? If so, please provide the specific language as to termination and/or amendment terms. – N/A
7. What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment). – N/A
8. Do any of the non-mandated services include employees represented by a bargaining unit? If so, please note the union and provide information as to reduction-in-force and job abolishment considerations. – N/A
9. For positions within non-mandated services, are there are special circumstances that preclude a traditional job abolishment process? Separation costs will be addressed centrally including leave balance payouts, unemployment compensation and severance (based on current Commission policy). – N/A
10. In addition to positions associated with non-mandated services, the Budget Office included a review of management layers, support staff, and currently vacant positions. Please comment on the impact of eliminating these positions. – N/A
11. What is the performance impact of not providing the non-mandated service? For example, wait times, waiting lists, case loads, operating hours and other consequences of not providing the service. – N/A

2009 Non-Mandated Expenditures Department Response

12. Are there any alternatives that result in savings to the general fund? – No - In 2007, County Facilities maintenance functions were reviewed by the Competition and Efficiency Committee. The report found that County Facilities managed properties to the best, most cost-effective standards and recommended that “the County Administration should move forward with encouraging consolidating property maintenance within the Facilities Department to the largest extent possible.”
13. Are there more efficient ways to deliver a mandated service that may allow for the savings to offset the cost of a non-mandated service? – None known at this time
14. Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)? – N/A
15. Does your department have any fees that could be raised to offset the cost of a mandated service?
- No

Other Considerations and Comments: