

## 2009 Non-Mandated Expenditures Department Response

DEPARTMENT: Human Resources  
 DEPARTMENT HEAD / ELECTED OFFICIAL: Gary Berger  
 OCA TITLE: Labor/Employee Relations & Staffing 270074

*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.*

Summary: The Labor/Employee Relations & Staffing Division of the Human Resources department is primarily responsible for negotiating, administering, and ensuring compliance with the six BOCC collective bargaining agreements (and to a lesser extent the five Sheriff Office's collective bargaining agreements); ensuring compliance with BOCC personnel policies, Ohio Revised Code, Ohio Administrative Code, and other state and federal laws related to civil service (job posting, selection, layoffs, reinstatements, disciplinary hearings and actions, processing grievances and appeals, performance management, etc.); and ensuring compliance with fair employment practices in accordance with the U.S. Department of Labor, U.S. Equal Opportunity Commission, and the Ohio Civil Rights Commission in relation to Title 7 of the Civil Rights Act, Americans with Disabilities Act, Age Discrimination in Employment Act, The Equal Pay Act, The Pregnancy Discrimination Act, etc. Additionally, the division is responsible for coordinating responses to countywide unemployment claims and coordinating the Commercial Driver's License Alcohol and Drug Testing Program which are also mandated activities.

### Labor/Employee Relations & Staffing Position Budget:

FTE Count	Position Title	Indirect Cost Plan Reimbursement Level
1.0	Sr. HR Manager	25%
1.0	Labor/Employee Relations Manager	70%
1.0	Labor/Employee Relations Specialist	100%
1.0	Labor/Employee Relations & Staffing Specialist	50%
1.0	Human Resources Officer 2 <i>(currently vacant/not posted)</i>	0%
1.0	Human Resources Officer 1	10%
1.0	Human Resources Officer 1	90%
1.0	Personnel Aide 1	0%

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.*

Yes, the mandated responsibilities/activities of this division are described below:

A) Mandated activities related to labor/employee Relations include: Chapter 4117 of the ORC, the National Labor Relations Act 29 U.S.C. §§ 151-169, the Labor-Management Relations Act

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29 U.S.C. § 186 -9-132, and the County's eleven labor contracts collectively require us to negotiate (obligated to bargain collectively and to execute a written contract) administer, and ensure compliance with collective bargaining agreements (the BOCC has 6 separate agreements representing approximately 1,107 employees and the Sheriff's Office has 5 separate agreements representing approximately 734 employees). In addition to negotiating and ensuring compliance with these agreements, per ORC 4117 we must represent the employer in Fact-Finding and Conciliation Hearings, process grievances, represent management in arbitration hearings and process/represent management before the State Employment Relations Board regarding Unfair Labor Practices. Each of these 11 legally binding contracts contain language which requires the employer to process disciplinary actions timely, hold timely disciplinary hearings, engage in labor/management meetings, and process other employee transactions (transfers, layoffs, promotions, etc.) per each individual contract.

B) Mandated activities related to employee relations/regulatory compliance include: providing civil service employees with "pre-deprivation hearings" or pre-disciplinary hearings as we refer to them in PPM 7.2, per Cleveland Board of Ed. V. Loudermill, 470 U.S. 532, 105 S. Ct. 1487, 84 L.Ed 2d494; processing removals, suspensions, reductions, etc. per OAC 123.1-31 and ORC 124.34 (B); processing involuntary disability separations and pre-separation hearings per OAC 123:1-33-02 promulgated pursuant to ORC 119; maintaining EEO data and compiling report for EEOC per CFR – V42-2000e-8 Section 709; responding to EEO complaints per 29 CFR 1640.6; processing civil service layoffs per ORC 124.321-327 and County Personnel Administrative Regulations Chapter 41; Respond to layoff appeals 124.328; conducting investigations per 124.09 and The Civil Rights Act of 1964, Title 7; ensuring compliance with numerous Federal employment laws such as OAC 123:1-49, The Civil Rights Act of 1964 (Title 7 Section 709C), the ADA, the ADEA, the Equal Pay Act, Pregnancy Discrimination Act; coordinating Fitness for Duty examinations per ORC 145.362, OAC 123-1, OSHA, 145.362.

C) Mandated activities related to staffing include: Per ORC Chapter 124 and BOCC PPM 2.0, the ensure that civil service positions are posted for a at least two weeks, that applicants are screened for minimum qualifications, and that "exams" (defined in ORC 124.23) are performed in order to hire the most competitive candidate for civil service positions; keeping staffing related records per 124.09; conducting various reference and criminal background checks per BOCC policy 2.0 and per the Ohio Law Enforcement Automated Data System Security Policy; ensure that the "Declaration Regarding Material Assistance to a Terrorist Organization Declaration Form" is completed by every applicant for public employment and maintain the forms per ORC 2909.32-2909.34; must physically examine evidence of identity and complete an I-9 form for each new employee within three business days of the date employment begins and must maintain the form per the Immigration Reform and Control Act of 1986, Pub. L. 99-603(8 USC 1324a); ensure that the OPERS Personal History Record is completed by each new employee per ORC Chapter 145.

D) Mandated activities related to the Commercial Driver's License (CDL) Alcohol and Drug Testing Program: US Department of Transportation Regulations 49 CFR 382 and 49 CFR 40 mandates a drug and alcohol testing program for all employees required to have a CDL; ensure compliance with the CDL Alcohol and Drug Testing Program (BOCC PPM 6.12); initiate testing on a quarterly basis for all CDL holders employed by the County (153 employees); training is required by law for CDL program coordinators (1-2 people in HR) and all supervisors of CDL drivers in order to be administratively certified to respond to problems; maintain CDL testing records and mandated training records; maintains drug testing services contract.

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E) Mandated activities related to Unemployment: coordinating county-wide unemployment claims process and representing employer in unemployment hearings per ORC 4141.28.

F) Other Mandated Activities performed by this division: manages the timekeeping and payroll, sick and vacation reporting and tracking processes for four departments totaling 70 employees (ensuring compliance with Fair Labor Standards Act and various BOCC policies).

2. *Who are the recipients of the service or activity for the non-mandated service? 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.*

Recipients of non-mandated services (and mandated services alike) performed by this division are internal customers such as civil service and bargaining unit employees (1961 total BOCC employees)<sup>1</sup>, BOCC supervisors and managers (356 total), countywide payroll officers (47 total) and HR representatives of other Appointing Authorities (12 total); external customers such as job applicants ( Total for 2007=8851, YTD Total for 2008=7733), members of the public, Labor Union Representatives (11 contracts with 8 points of contact), and other governmental jurisdictions.

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.*

All costs associated with JFS HR operations are reimbursed to the General Fund by the JFS through the Indirect Cost Plan.

4. *If the county did not provide the non-mandated service, is there the potential for increased expenditures in another jurisdiction within Hamilton County (see attached list of CPD participating agencies)? If so, please list the specific municipality and/or township.*

Non-mandated responsibilities/activities of this division are described below:

- o Electronic Job Posting & Application Processes;
- o All web applications and services rendered through the web;
- o Non-mandated internal investigations related to employee and customer complaints;
- o Development and administration of Performance Improvement Plans;
- o Coordination of Fitness for Duty Exams for non-BOCC agencies;
- o Providing policy development, employee relations, and other "consulting" to non-BOCC agencies;
- o Ohio Public Records Law Training;
- o Oversight and supervision of the Engineer's HR Division;
- o JFS HR Recommendations concerning merit distribution of JFS bargaining unit employees:
- o Supervise Volunteer Program;
- o New Hire Orientation;
- o Provide training to staff in the area of labor relations/collective bargaining;
- o Manage special Human Resources projects as assigned;

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<sup>1</sup> Employee and internal customer counts as of 10/9/08

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- Design statistical reports for departments; gather compile and input data analyze and disseminate results;
- Maintain spreadsheets and databases;
- Conduct consumer survey's and focus groups;
- Serve on cross functional review teams;
- Develop, implement and maintain internal audits (sick & vacation leave, travel);
- Obtain agency equipment such as cellular phones, ID's etc and distributing to appropriate Departments;
- Process non-BOCC leave donation requests;
- Process, renew, track and maintain approx 350 notary public applications;
- Prepare JFS employee retirement plaques;
- Performing Exit interviews; maintaining exit interview data and reports;
- Assist managers with writing exit performance appraisals;
- Assist Managers with questions/concerns regarding new MWO's; assist managers with Performance Evaluations in an effort to prevent grievance complaints and/or resolve disputes; assist Section Managers and Supervisors with preparation of memorandums of understanding for a performance and behavior deficient subordinates, in lieu of proceeding with formal discipline;
- Assist Supervisors with JFS consumer breach of confidentiality complaints/investigations;
- Train Policy and Procedure and Discipline and Dismissal HCJFS Management Development Classes;
- Assist JFS Supervisors with questions about accessing and interpreting phone and Internet records of subordinates;
- Assist Fraud Investigation Unit in matters involving HCJFS employee's alleged to have been involved in public assistance fraud;
- Work with HCJFS Section Managers and Supervisors on completion of probationary evaluations and retention of probationary employees.

If the HR department were limited to performing mandated activities for BOCC departments only, the above non-mandated services would no longer be performed for BOCC departments and would also be eliminated for CPD participating agencies. The elimination of these services could potentially increase costs for CPD participating agencies. These entities would either have to work with ODAS (confirmed with Sharon Stevens of ODAS that they are providing counties with very limited services, if any) and pay a fee-for-service, and/or absorb the workload for these entities would increase possibly necessitating an increase in FTE's for those appointing authorities.

5. *Does the non-mandated service include Board of County Commissioner policy via resolution or motion?*

Please see attached list of BOCC Policy mandates and directives for HR.

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.*

Non-mandated Service: See attached service agreement between the HR Department and the County Engineer's Office for oversight and supervision services of the Engineer's HR division.

Termination language: *"The term of this agreement shall commence September 4, 2008 and shall expire December 31, 2010. This agreement may be renewed for two (2) additional one-year periods,*

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*upon the prior written agreement of the Parties. This Agreement may be terminated by either party, without cause, with 30 days written notice."*

Mandated Service: See attached contract with Concentra for the CDL Drug and Alcohol Testing.

Termination language: *"Either party may terminate this Contract at any time upon notice, in writing, delivered upon the other party, thirty (30) days prior to the effective date of termination. The parties further agree that should Vendor become unable to provide the services agreed to in this Contract for any reason or otherwise materially breach this Contract, such service as Vendor has provided upon the date of its inability to continue the terms of this Contract shall be eligible to be billed and paid according to the provisions of Section 4- Billing And Payment."*

Mandated Service: See attached contract with CompManagement for Unemployment services.

Termination language: *"This agreement shall be effective from the 1<sup>st</sup> day of June, 2008 through the 31<sup>st</sup> day of May, 2009 and shall automatically renew itself from year to year unless written notice is given by either party, thirty (30) days prior to the current expiration date."*

Mandated Service: See attached contracts with Clemans Nelson & Associates for Labor/Employee Relations Consulting.

Termination language: *"This Agreement shall begin on the effective date and terminate December 31, 2008, unless extended by mutual written agreement of the parties. This Agreement may be terminated by either party upon thirty (30) days prior written notice if the other party breaches any material term hereof and the breaching party fails to cure such breach within thirty (30) days after receiving notice of such breach from the non-breaching party. In addition, the County may terminate this Agreement at any time for any reason or for no reason at all upon thirty (30) days written notice delivered to Consultant."*

7. *What are the equipment/non-personnel expenditure considerations with discontinuing a non-mandated service? (i.e., surplus equipment).*

Minimal.

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.*

No.

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).*

No.

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 – BSI did not provide HR with a review of management layers.

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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.*

Please see information related to non-mandated services in response to question #4.

12. *Are there any alternatives that result in savings to the general fund?*

Reassigning certain HR staff into vacant positions in JFS HR which are fully funded by the indirect cost plan.

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?*

Revising layoff procedures as provided in HB187 would streamline this process for BOCC and CPD Participating Agencies alike. Quicker turnaround time would result in more dollar savings when layoffs/job abolishments are necessary.

14. *Is there an opportunity to transfer any non-mandated expenditures to another funding source (i.e., restricted fund or grant)?*

Reassigning certain HR staff into vacant positions in JFS HR which are fully funded by the indirect cost plan.

15. *Does your department have any fees that could be raised to offset the cost of a mandated service?*

In 2009 the County Engineer will reimburse the general fund for the cost of CDL Drug and Alcohol Tests. HR will IT the Engineer's Office for these tests.

*Other Considerations and Comments:*