

February 22, 1993  
REPORT TO THE HONORABLE  
MAYOR AND CITY COUNCIL

PARAMEDIC CONTRACT ISSUE/RFP

On February 9, 1993, during a Council meeting, direction was given to the City Manager to answer the protest points made by Hartson in its letter to Coleman Conrad, Deputy City Manager, dated February 8, 1993. This report addresses protest number 2 which states, "the City failed to receive approval for its RFP from the Office of Exclusive Operating Areas of the California State Emergency Medical Services Authority" and as a result may be subject to liability under federal antitrust laws. The City does not contest the fact that it did not receive approval from the State Emergency Medical Services Authority ("Authority") regarding its RFP for paramedic services. The issue is whether it was legally required to do so. It is our opinion that the City was not required to obtain approval from the Authority and that the County of San Diego ("County") has complied with state statutes pertaining to this issue.

Health and Safety Code Section 1797.224 provides in part,

A local EMS agency which elects to create one or more exclusive operating areas in the development of a local plan shall develop and submit for approval to the authority, as part of the local EMS plan, its competitive process for selecting providers and determining the scope of their operations (emphasis added) . . . .

The County is the local EMS agency. Gail Cooper, Chief of the EMS Division of the County, stated in the Council meeting of February 9, 1993, that the County previously submitted a local EMS plan, which included a competitive process and that plan was approved by the Authority. Thus, the County has complied with the applicable state statutes. In addition, the County has been enmeshed in the City's RFP process for paramedic services to insure that the competitive process has been followed.

The Authority never has asked to review RFPs that have been issued in this County until now. Therefore, the historical authority referred to in Daniel R. Smiley letter of February 8,

1993, that allows for the Authority to review RFPs, as it relates to the County, appears to be unsubstantiated.

Most importantly, Mike Hammang of the State Attorney General's Office was contacted by our office regarding this issue. In his initial review, he verified that the position taken by the County regarding this issue appears correct and that the Authority has no legal authority to require review of the paramedic RFP in San Diego. Our office will be in contact with the State Attorney General's Office to obtain its official opinion on this issue.

Finally, attached is a memorandum of law from our office written by Chief Deputy City Attorney Ted Bromfield, who, although addressing a different issue, advises that issues, including the acquisition procedure, surrounding paramedic services are generally a municipal affair. Thus, The City of San Diego as a charter city is able to structure the acquisition procedure in accordance with the provisions of its own charter.

Respectfully submitted,  
JOHN W. WITT  
City Attorney

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Attachment

RC-93-7

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