



Washington County Auditor's Office

Ambulance Franchise Management

Final Report
July 15, 2019



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County Auditor

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AMBULANCE FRANCHISE MANAGEMENT

EXECUTIVE SUMMARY

Why we audited this:

We audited management of the EMS Ambulance Franchise Agreement to determine if the County effectively administered the franchise agreement, and to determine if reports of franchisee performance were accurate.

In 2014, the County Auditor released a report on jail healthcare that identified serious issues with the administration of that contract by HHS. The County provides emergency ambulance services vital to the health and safety of county residents. As was the case with jail healthcare, the County entered into an exclusive contract with a for-profit company and repeatedly renewed and extended the contract without soliciting competitive proposals. We initiated this audit as part of a longer-range strategy to assess County contract monitoring processes.

What we found:

The terms of the franchise agreement (FA) establish a reporting, monitoring and penalty system that represents a risk-based contract management process – a best practice recommended in the Jail Healthcare Audit.

The contract administrator (CA) effectively monitored many of the performance requirements of the FA.

The CA did not enforce several of the more closely monitored performance requirements established in the franchise agreement. Instead, the CA applied different standards.

The CA acted beyond his authority.

The CA did not accurately report that the franchisee did not meet performance requirements for response established in the administrative rule and the franchise agreement.

What we recommend:

The CA should continue to manage the ambulance franchise agreement through a risk-based approach that monitors certain performance requirements more rigorously.

The CA should continue to monitor and report on less closely monitored contract requirements at least every 18 months.

The CA should utilize the penalty and liquidated damage provisions of the agreement to ensure the franchisee satisfies contract requirements.

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.

The CA should accurately report whether the franchisee satisfies contract requirements.



A handwritten signature in black ink, appearing to read "John R. Hays", is written over the seal.

BACKGROUND

In Oregon, counties are responsible for regulating, monitoring and coordinating local Emergency Medical Systems (EMS). The state of Oregon has given authority to counties to coordinate local ambulance transportation systems and to regulate and monitor these services within their jurisdictions.

In Washington County fire agencies provide emergency first response, often beginning on-scene treatment and preparation for transport. Ambulance crews continue the care and transport patients to the most appropriate hospital emergency room. During our audit period, there were seven (7) fire agencies in Washington County. A single ambulance provider, Metro West Ambulance, responded to approximately 2,600 emergency medical calls per month.

The Oregon Health Authority Emergency Medical Services and Trauma Systems Program develops and regulates systems for quality emergency medical care in Oregon. That agency issues Oregon Administrative Rules to ensure EMS providers are fully trained, emergency medical vehicles are properly equipped, and emergency medical systems function efficiently and effectively.

The state of Oregon requires counties to develop and implement Ambulance Service Area (ASA) plans establishing authority, direction and standards for Emergency Medical Services in each county. The state requires that a licensed ambulance service establish and maintain an effective quality assessment and performance improvement program approved by the EMS medical director and ambulance service administration. State licensing of EMS personnel includes requirements for continuing education.

State law authorizes counties to regulate ambulance services. In 2000, Washington County adopted its EMS Ordinance. The ordinance establishes the Washington County EMS Office (WCEO). The WCEO is located within the Public Health Division of the Department of Health and Human Services. Its FY 2018-19 budget of approximately \$1.6 million supports 2.6 positions, other professional services, including EMS medical officer services, and system enhancements.

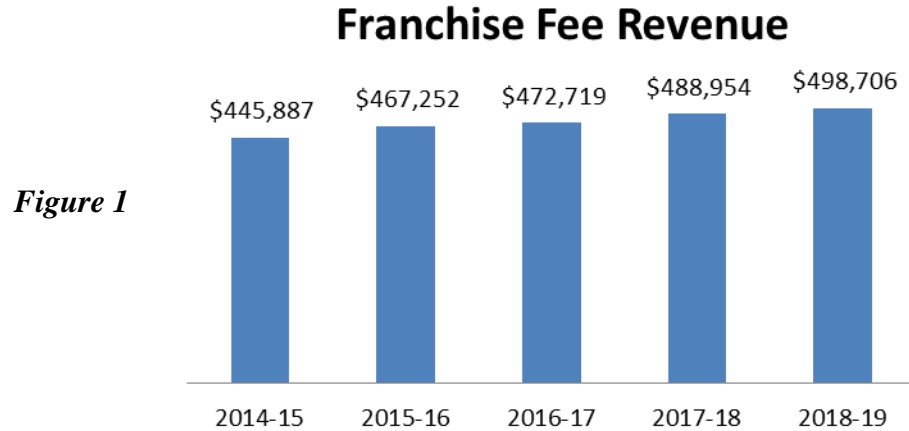
The ordinance provides for the appointment of an EMS Program Supervisor (EMS Supervisor) and designates the EMS Supervisor

to provide oversight and direction to EMS activities within the county. The EMS Supervisor is authorized to issue, suspend or revoke licenses, propose administrative rules or amendments thereto, adopt emergency rules, administer and enforce any franchise agreement, seek judicial enforcement of the code and take such other actions to carry out the chapter and the rules.

The ordinance and the EMS Administrative Rules authorize the County Board to grant an exclusive franchise for the privilege of providing emergency ambulance services within the County. In 1997, following a competitive process, the County awarded MWA, a local provider, a five-year exclusive franchise. The County extended that agreement three times through 2009.

In 2010, the County and MWA amended that fixed-term agreement to provide for a six-year contract that 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 FA. The county has extended the term of the agreement five times, most recently, through August 2024. The County has not solicited competitive proposals for emergency ambulance services since 1997.

MWA pays franchise fees for the exclusive right to provide ambulance services in the County. Franchise fees support the County EMS program staff, activities and services. In addition to contract oversight, staff facilitate and support a quality improvement committee, coordination of medical director services, and licensing and inspection of emergency ambulances. MWA collects fees from patients transported to a hospital. The FA provides for annual increases in both the franchise fee and service fees. Figure 1 shows the growth in the franchise fee over the last five years.



The EMS Supervisor is the contract administrator (CA) of the FA. County Contract Administration Guidelines direct the CA to monitor and enforce contractor performance. The Administrative Rule and the FA establish performance expectations for dispatch and response times. The FA also establishes performance expectations for Unit Hour Utilization and calls handled by other agencies. The FA and Administrative Rule 500-500 D require the county to report monthly on those performance measures.

We conducted this audit to determine whether the County effectively administered the ambulance franchise agreement and whether it accurately reported franchisee performance.

FINDINGS & RECOMMENDATIONS

The franchise agreement establishes a risk-based contract monitoring plan – a best practice.

The Administrative Rule establishes performance requirements for emergency ambulance services. The County incorporated those requirements and others into the FA, which also established a monitoring plan and a system of penalties and liquidated damages should the franchisee fail to meet performance targets.

The FA requires the CA to monitor most of the performance requirements every 18 months to determine whether to extend the FA for an additional 18 months. The CA must also monitor and report performance on certain requirements, such as dispatch and response times, every month.

The monthly reports provide feedback to the franchisee regarding lapses it should promptly address. Those measures roll up into the 18-month assessment. The FA provides that a single isolated lapse in performance does not necessarily constitute a failure to meet the standard for the 18-month period, but it specifically excludes performance standards monitored on a monthly basis, such as response times, from that provision.

The penalty and liquidated damage provisions of the FA establish a system of graduated sanctions. In addition, the FA identifies failure to meet certain requirements, such as “response time requirements as determined by Administrative Rule,” as grounds for denying an additional 18-month period.

Taken together, these provisions of the FA establish the kind of risk-based contract monitoring plan that we recognized as a best practice and recommended in our 2014 Audit of Jail Healthcare.

The CA should continue to manage the ambulance franchise agreement through a risk-based approach that monitors certain performance requirements more rigorously. Management has expressed concern that the performance requirements that are currently most closely monitored may not be appropriate. We encourage the WCEO to develop performance standards for the EMS system based upon current, evidence-based research.

The CA effectively monitored many performance requirements

The CA performs an 18-month periodic assessment to determine whether to grant the franchisee an 18-month extension of the contract. MWA provides a periodic report addressing 25 performance requirements. The CA evaluates that report and publishes the results.

Compliance with many of the elements reported, such as staff qualifications and training, equipment maintenance and supply, etc., are also required for state licensing and professional certification.

The WCEO participates in a quality improvement process that includes periodic inspections of equipment and detailed reviews of selected calls. Any violations of performance requirements identified through the quality improvement process are reported to the CA.

We found that the CA's monitoring of the 18-month assessment effectively ensures compliance with many of the performance requirements of the FA.¹ The CA should continue to monitor and report on less closely monitored contract requirements at least every 18 months

The CA did not enforce several of the more closely monitored performance requirements

Historical performance measures for emergency ambulance services include dispatch time and response time. The FA and Administrative Rule require MWA to dispatch an ambulance within 60 seconds of receiving a call for service. They also require that an MWA ambulance respond (arrive on scene) to at least 90% of all calls county-wide, and at least 88% of calls in each of four equity zones of the county, within specified time limits based on the location of the call.

We found that the CA monitored, but did not enforce, these performance requirements. The CA did not impose penalties or liquidated damages when performance fell below requirements established in the Administrative Rule and FA. Instead, the CA modified the performance standards without amending either the rule or the agreement.

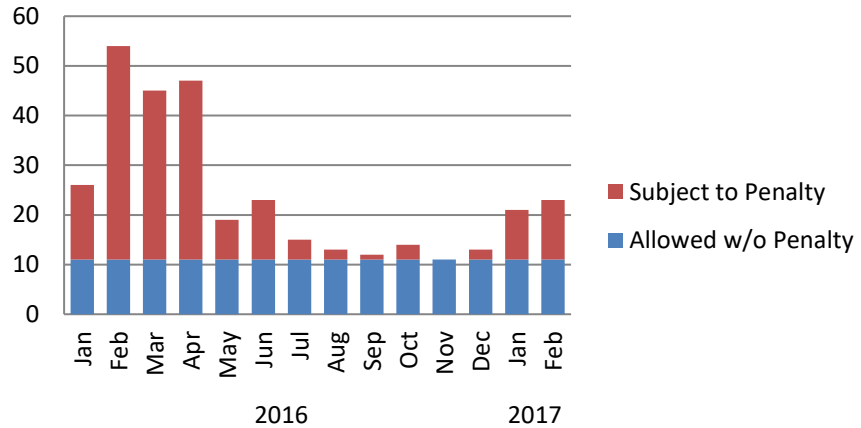
Dispatch Time

The FA and Administrative Rule require MWA to dispatch an ambulance within 60 seconds of a call for service. The FA establishes a penalty of \$250 for every untimely dispatch beyond 11 per month. The CA reported more than eleven untimely dispatches in 13 of 14 months (See Figure 2), but imposed no penalties.

¹ The CA had not considered whether he should assess liquidated damages for two failures (FTR) to respond reported in the June 2017 18-month assessment. When we brought the matter to the CA's attention during our audit, the CA assessed liquidated damages for one FTR and decided, in accordance with discretion granted in the FA, not to assess damages for the other.

Dispatches over 60 Seconds

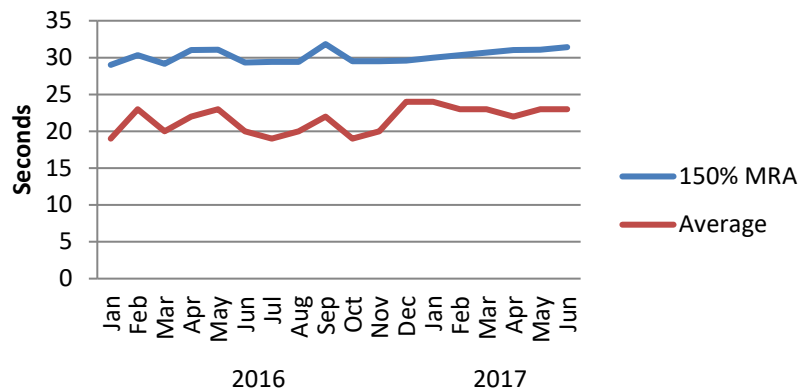
Figure 2



The CA held MWA to a different standard. The revised standard required that the average dispatch time be less than 60 seconds and not exceed 150% of the 18-month rolling average (MRA). MWA met that standard in every month of the period. (See Figure 3)

Average Dispatch Time

Figure 3



Response Time Beginning in 2014, MWA and the fire departments conducted several “pilot projects” in an attempt to determine whether changes to the MWA ambulance-posting plan could improve first response times for advanced life support (ALS) units from either Fire or MWA. These pilots, called Community Appropriate Response Time (CART), were initiated within areas served by Tualatin Valley Fire and Rescue (TVFR) in the South Equity Zone.

In 2015, MWA and Forest Grove Fire and Rescue (FGFR) initiated a CART pilot within the West Equity Zone in areas served by FGFR. From December 2016 through June 2017, the CART

program operated countywide. The CART pilot projects ended in June 2017.

The Administrative Rule and the FA provide that MWA must respond to at least 90% of all calls within established time limits determined by the location of the call. The FA specifies liquidated damages of \$1,000 for each month in which performance falls below 90%.

MWA and the fire agencies submitted proposals to WCEO for the CART pilots, requesting permission to relocate MWA post locations relative to fire stations and to utilize arrival of the first ALS unit to stop the response time clock. Through a series of Memoranda of Record, the EMS Supervisor agreed to utilize arrival of the first ALS unit to stop the response time clock for purposes of response time compliance. Although the response time of the MWA ambulance to such a call would be gathered, it would not be used for compliance purposes.

The CA monitored MWA response time performance, but did not impose liquidated damages, although MWA performance was below the standard throughout the period (See Figure 4).

Overall Response Rate

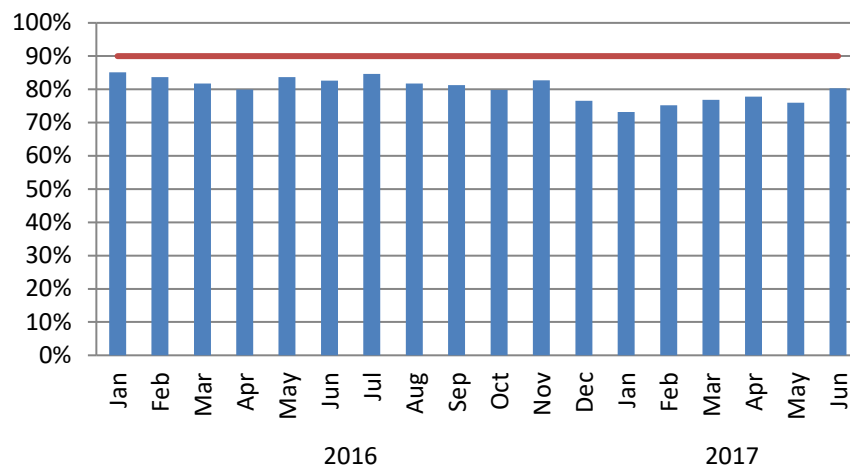
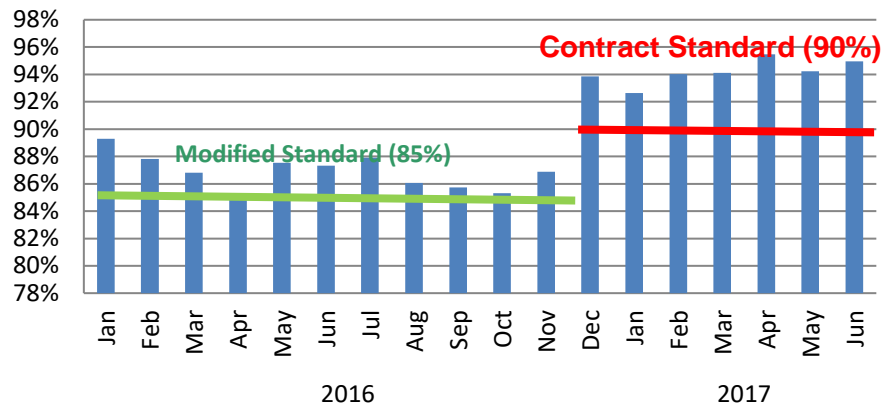


Figure 4

Instead, the CA first reduced the performance requirement to 85% and then reinstated the 90% standard. The CA also excluded calls where Fire arrived before MWA. With these modifications, MWA met performance standards in every month. (See Figure 5)

Countywide Response Rate with CART modified data

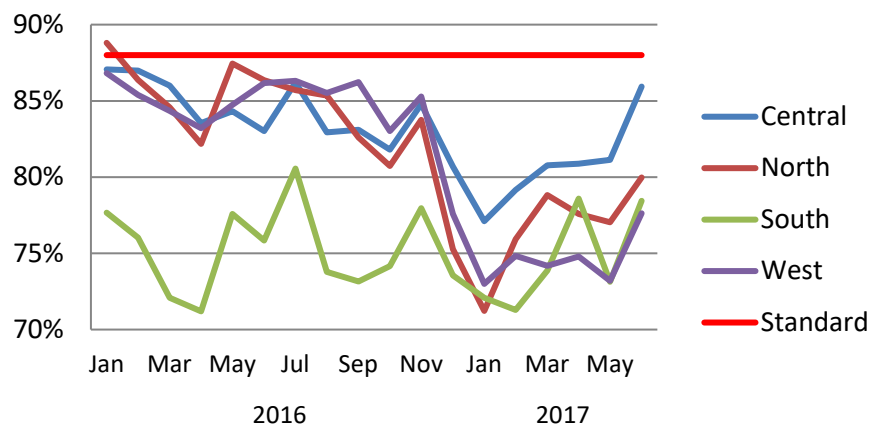
Figure 5



The Ambulance Service Area (ASA) plan divides the county into 4 equity zones (Central, North, South and West). The Administrative Rule and the FA require that the franchisee respond to at least 88% of calls for service in each zone within established time limits. The FA provides for liquidated damages of \$1,000 for failure to meet this response time requirement in each zone in any month. The CA monitored response time performance, but did not assess damages, although MWA met the standard only once in a single zone during the 18 months reviewed (See Figure 6).

Response Times by Equity Zone

Figure 6



Instead, the CA lowered the response time standard in the North and Central equity zones during months when the CART pilot was not operational in those zones. The CA also calculated performance where the pilot was operational by excluding those calls in which

MWA arrived after a fire department paramedic unit. With those changes, MWA met the standards as applied by the CA (See Figure 7).

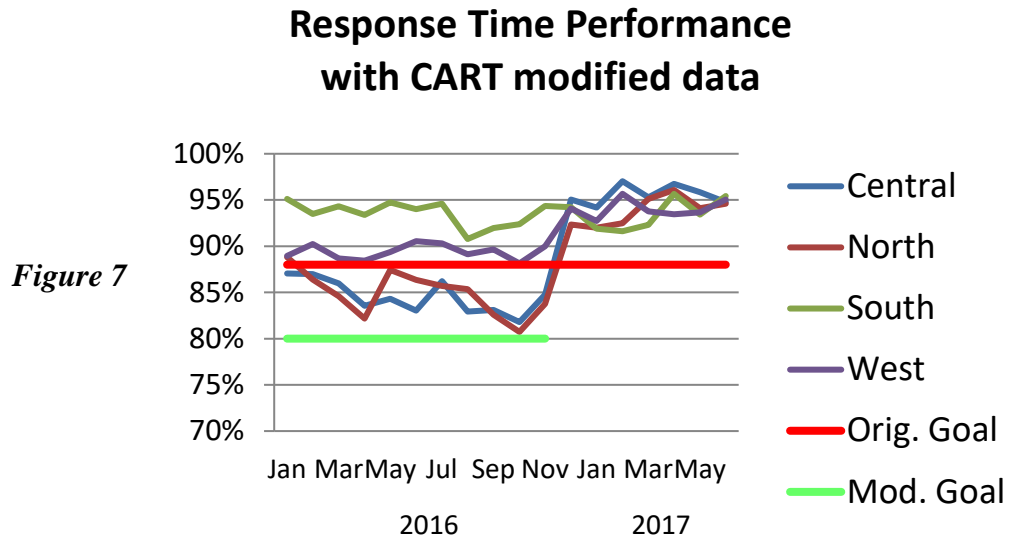


Figure 7

The CA should utilize the penalty and liquidated damage provisions of the agreement to ensure the franchisee satisfies contract requirements.

The CA acted beyond his authority

The CA was responsible for ensuring performance in accordance with the terms of the FA. The CA was not authorized to change those terms without processing a contract amendment for approval by the Board or the County Administrator's Office.

Although the FA recognized a phase-in provision, that “with time and experience ... there will be need to assess and revise some of the standards and parameters” of the 18-month assessment, it did not authorize the CA to make such changes. Furthermore, the FA drew a clear distinction between performance requirements that are reported only every 18 months and those reported monthly. In assessing whether performance warranted an 18-month contract extension, the CA was not granted authority to ignore single, isolated failures of performance on measures reported monthly, as he was with those reported only in the 18-month assessment.

We believe the CA exceeded his authority by revising dispatch and response requirements, without amending the contract through the process established in County Code.

Because performance requirements are established in the ASA plan and Administrative Rule, which directs that the FA include such terms, the EMS Supervisor should also have amended the rule before amending the contract. County Code requires a public hearing on a proposed amendment to an Administrative Rule. By altering the performance requirements without amending the rule, the EMS Supervisor denied members of the public their right to be heard on issues critical to their health and safety.

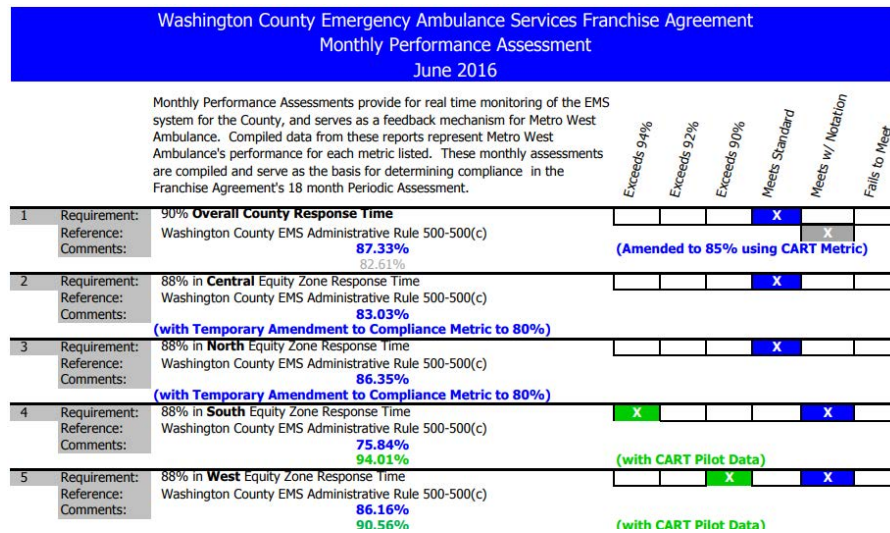
The CA adjusted the response time requirements in two of the equity zones during the CART pilot project. This action violated the concept of equity by establishing different standards in different equity zones of the county. The CA implemented those changes with a series of memoranda of record, a process that did not satisfy the requirements for amending Administrative Rule.

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.

The CA did not report that performance failed to meet requirements

In monthly performance reports, the CA reported two response time calculations, one representing MWA response times and a second identified as “with CART Pilot data.”

Although WMA timely response performance was consistently below the standards specified in the FA, the CA reported those results as “Meets w/ Notation” rather than “Fails to Meet” (See Figure 8).



The CA should accurately report whether the franchisee satisfies contract requirements.

OBJECTIVES, SCOPE & METHODOLOGY

We included this audit in the FY 2017-18 audit plan. We conducted this audit to address the following questions:

- Is the County effectively administering the franchise agreement?
- Is the county ensuring the performance reports are accurate?

We reviewed literature and best practices for emergency ambulance franchise management. We interviewed EMS management, franchise operators and county administrators.

We selected as our audit scope the most recent 18-month performance period, January 2016 through June 2017.

We assessed the reliability of the performance data reported by the EMS Supervisor for its intended purpose. Adequate documentation of certain calculations was lacking. The EMS Supervisor left his position during the course of our audit work, which prevented us from determining certain calculation methods. Although we could not exactly duplicate some of the calculations, we judged the data sufficiently reliable for purposes of this audit.

COMPLIANCE WITH AUDIT STANDARDS

We conducted this performance audit in accordance with generally accepted government auditing standards, except that we have not had an external peer review. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence provides a reasonable basis for our findings and conclusions based on our audit objectives.

SUMMARY OF AUDIT RECOMMENDATIONS

1. The contract administrator (CA) should continue to manage the ambulance franchise agreement through a risk-based approach. We encourage the WCEO to develop performance standards for the EMS system based upon current, evidence-based research.
2. The CA should continue to monitor and report on other 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.



signed:

A handwritten signature in black ink, appearing to read "John Hutzler".

Audit Team: County Auditor: John Hutzler, CIA, CGAP, CCSA
Auditor in Charge: Peter Morris, CGAP
Reviewer: Keith Shoop, CGAP



July 15, 2019

TO: Bob Davis, County Administrator
Sia Lindstrom, Deputy County Administrator
FROM: Marni Kuyl, Director
Department of Health and Human Services

SUBJECT: County Administrator Response to EMS Audit

Overview:

We have reviewed the Emergency Medical Services (EMS) Ambulance Contract audit and are providing a response developed with the Department of Health and Human Services (HHS). We appreciate the opportunity to engage with the County auditor in an assessment of important services provided to Washington County residents and visitors through our ambulance service contract with MWA. HHS values continuous quality improvement and was already working with our ambulance provider and broader EMS partners on development of an integrated EMS system with a focus on quality improvement. As we discussed during the audit entrance conference, HHS public health leadership was aware of and working to update the franchise agreement and governance documents to reflect current and best practices. We were also aware of the need to improve transparency and communication with our partners and the Board. The following changes were already in process during the time this audit was being conducted.

- 1) Updated the ambulance franchise agreement which was approved by the Board and implemented 8/1/2018. Major updates included:
 - a. More specific language on granting and approving waivers for pilot projects
 - b. New criteria for assignment of calls within 60 seconds to include a monthly and rolling average to allow for growth in call volume over time.
- 2) Created a draft procedure regarding pilot projects to include duration, documentation, evaluation and termination/continuation processes.
- 3) Developed written procedures with clear documentation for calculation methodologies for performance measures.
- 4) Created static excel calculation spread sheets using set formulas, eliminating potential for human calculation errors.
- 5) Made initial update to County Administrative Rules which will be posted with the BOC Clerk in July for final implementation.
- 6) Negotiating 190 governance MOUs with the fire districts and cities
- 7) Will work with our new EMS Alliance to update all EMS regulatory documents by December 2020.

- 8) Continue to monitor performance measurements, report monthly and every 18 month and assess penalties as appropriate.

Background:

We agree with the audit report general finding that the previous EMS supervisor did not follow appropriate process for modifying and updating the franchise agreement and other regulatory documents including county administrative rules in a timely manner. Instead, the supervisor used the language in the administrative rules and franchise agreements as authorization for the EMS office to allow pilot projects and/or update performance standards prior to a full open public process and updates of formal documents. Furthermore, due to the supervisor's interpretation of the ability to put temporary processes into place, MWA was not found in default or assessed a penalty as they were meeting the conditions approved by the supervisor. The HHS Department became aware of these issues prior to the beginning of the audit process and has been working to update governance documents and to develop written procedures for office practices.

At the same time, we acknowledge the intent of the supervisor was to support creation of an integrated county EMS system that takes a comprehensive approach to emergency public health and can test and implement best and promising practices in the EMS field. And we agree with the previous EMS supervisor that there is necessity for a process to allow pilot projects that can evaluate opportunities for improvements in our EMS county systems prior to full adoption of these changes in the franchise agreement and other governance documents. This is our rationale for developing clarification language for both the franchise agreement and the EMS administrative rules.

Regarding the performance measurement change for dispatch standards, we agree that the supervisor should have assessed penalties when the franchise holder first reported that they had not met the metric and then should have started a process to determine the need for updating this metric to meet the changing environment of the community. There are no state or nationally accepted standards for the specific metrics that should be a part of an emergency ambulance contract nor how to measure these metrics.

The franchisee performance standard of no more than 11 instances of dispatches taking longer than 60 seconds is a static number. Over the many years of this contract the county population has increased, and call volume has increased. It was understandable this static metric might not be appropriate for changing demographics. The supervisor worked with public health epidemiology and the franchisee to create a metric that looked at both monthly response times and response times over a longer period.

The pilot project, CART, allowed changes to the metric for response times. This pilot was brought forward by our EMS systems partners in collaboration with the franchisee. It was designed to disperse first response resources further across the county. Currently to meet the standards of response times, MWA ambulances are posted right next to fire facilities as both entities use historical data to determine where the most emergency calls will be generated from. Because all resources are closest to the areas where the most calls come in, those in regions further away experience longer response times. It was in the best interest of all County residents and visitors to allow this pilot project to be undertaken. Initial data analysis showed that the pilot hypothesis was accurate and those who might have experienced longer response times received services faster. However other issues and questions emerged (such as concerns about fire on scene times) and the pilot was terminated.

Audit recommendations and CAO response

- 1. The contract administrator (CA) should continue to manage the ambulance franchise agreement through a risk-based approach. We encourage the WCEO to develop performance standards for the EMS system based upon current, evidence-based research.**

We agree with this recommendation. The franchise agreement with Metro West Ambulance monitors 26 metrics to ensure all aspects of emergency transport are regularly reviewed. It is our expectation that we will continue to use this approach in all future agreements. However, we expect that the metrics will be changed over time as EMS practice and County needs change.

- 2. The CA should continue to monitor and report on other contract requirements at least every 18 months.**

We agree with this recommendation. The 18-month review allows us to evaluate all performance metrics that make up EMS best practices and ensure the franchisee provides safe, effective and efficient emergency ambulance transportation meeting the needs of Washington County residents and visitors.

- 3. The CA should utilize the penalty and liquidated damage provisions of the agreement to ensure the franchisee satisfies contract requirements.**

We agree with this recommendation. Although penalties were not levied during the CART project nor during changes made to the metric for dispatch times, penalties have been applied appropriately in several other instances over the course of this audit. The EMS office continues monthly and 18-month monitoring, as well as receives daily information from MWA that is evaluated against contract requirements to determine the appropriate application of penalties.

- 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.**

We believe that regular updating of governance documents is important to the public process for an integrated, transparent and responsive EMS system. However, as stated earlier we also believe that there is a need for a mechanism and process for testing of quality improvement efforts that could impact performance metrics for the franchise holder prior to formal adoption. Addition of language to support quality improvement efforts has already been added to the ambulance franchise contract and is in process for the administrative rule update. The office will request the EMS Alliance, once they are established, to review and approve the procedure for when and how pilots and waivers will be implemented. We also have immediate and long-term plans for updating all governance documents, including the EMS Ordinance, as necessary, in concert with development of the new Washington County EMS Alliance and before implementing another pilot project.

5. The CA should accurately report whether the franchisee satisfies contract requirements.

We agree with this recommendation. Although the audit did not find that data calculations in general were inaccurate, there was a need to have written documentation of the processes for monthly data calculation and an opportunity to improve data evaluation tools to limit human calculation errors. Both changes have been fully implemented. And as discussed in our response to recommendation #3, reporting of franchisee contract compliance during pilot projects will adhere to written procedures guiding these EMS quality improvement periods prior to formal contract updates which will be done in a timely manner.