

SAN JOAQUIN COUNTY-EXEMPT POSITION HIRING Case No. 02-07

SUMMARY

The 2007-2008 Civil Grand Jury received complaints in July and August of 2007. These complaints alleged improprieties in the process for hiring of an Assistant Clerk of the Board of Supervisors, a newly created position. After an extensive review of the hiring documentation and interviewing the screening and selecting officials, the Civil Grand Jury finds no evidence of pre-selection of the selected candidate. In addition, the allegations of incorrect process also appear to be false. The Civil Grand Jury did, however, make some recommendations for the improvement of the county's exempt hiring process.

REASON FOR INVESTIGATION

The 2007-2008 Civil Grand Jury received citizen complaints in July and August of 2007. These complaints alleged improprieties in the process for hiring of a newly created exempt position, Assistant Clerk of the Board of Supervisors. Some specific allegations were that proper procedures were not followed and that the selectee was not qualified to fill the position, did not fill out an application, did not meet the application deadline, was not interviewed by the same interviewing panel, and was not among the top fourteen applicants..

BACKGROUND

In 2006 the San Joaquin County Board of Supervisors approved a position of Assistant Clerk of the County Board of Supervisors. This was approved as an exempt position. An exempt position is one that is exempt from Civil Service Rules. Although many people believe that this means that it is exempt from the Fair Labor and Standards Act (FLSA) it is, in fact, covered by it. In early 2007 a recruitment was initiated with the filing period of February 20, 2007 to March 16, 2007. See Appendices for a Recruitment Summary.

METHOD OF INVESTIGATION

The 2007-2008 Civil Grand Jury reviewed documents and interviewed personnel connected to the hiring process.

Materials Reviewed

- Complaints dated July 9, July 31 and August 3, 2007.

- Recruitment Brochure for Assistant Clerk of the Board as well as a copy of the job announcement in The Record.
- List of all Exempt Positions in San Joaquin County.
- Copy of San Joaquin County Ordinance No. 4310, Amending County Ordinance Section 2-5003 (It is this supplement that notes all of the positions that are exempt from the Civil Service System).
- Summary of the recruitment process for the position provided by Human Resources dated August 28, 2007. (See Appendices)
- Interview schedule for the 14 qualified and 7 referred applicants.
- The scoring criteria used.
- Screening panel forms blank and filled in for all screeners and interviewers.
- Recruitment process planning sheet showing sequence and progression of the hiring process.
- Assorted letters to candidates from Human Resources
- Assistant Clerk of the Board Job Description
- Email from the HR analyst to his supervisors dated August 28, 2007 describing the hiring process
- Email dated May 24, 2007 from the Management Services Administrator with the San Joaquin County Probation Department to the Clerk of the County Board of Supervisors with a suggested list of questions for the final 7 interviews.
- Packages for all 14 selectees including applications, interviewer notes, and results of the practical exercise.

Interviews Conducted

- The Director of Human Resources
- The Personnel Analyst assigned to the recruitment
- The Management Services Administrator with the San Joaquin County Probation Department
- The San Joaquin County Administrator
- The Clerk of the San Joaquin County Board of Supervisors

FINDINGS

1. After an extensive review of the hiring documentation and interviewing the screening and selecting officials, the Civil Grand Jury finds no evidence of pre-selection of the selected candidate. In addition, the allegations of incorrect process are not true. The final selectee did fill out an application, met the application deadline, was interviewed with all others by the same interviewing panel, and was in both the group of top fourteen candidates as well as the seven referred for a second round of interviews. The process used (as shown in Attachment A) was more extensive than usual and went well beyond anything required by San Joaquin County for an exempt position. This minimized the possibility of pre-selection. While it is possible that the chosen candidate was pre-selected, there was no evidence that she was. Even if she was, no written procedures prevent this from happening.

2. It appears that the complainants had a misunderstanding of “exempt” positions and the hiring process required. As noted above, an exempt position is exempt from Civil Service but not from FLSA. As such, there are no written requirements for how exempt position hiring should be handled. The only written documentation is in the San Joaquin County Ordinance No. 4310, Amending County Ordinance Section 2-5003, which just lists all of the positions that are exempt. It would be permissible for a hiring official to select a person without going through any process other than by having that person fill out an application. As noted by the County Administrator and the Director of Human Resources, some type of abbreviated civil service procedure is always followed. Both noted the necessity to have flexibility in the hiring for exempt positions. This provides the appointing authority more flexibility to evaluate an applicant’s experience and personal ability to perform the tasks required of the position.

3. In the announcement for the exempt position of Assistant Clerk of the Board, the definition of what it means to be an “exempt” employee is not spelled out.

RECOMMENDATIONS

1. While flexibility in hiring might be a good thing, the ability to create numerous exempt positions is not. Because an extensive list of exempt employees appears to have developed over the years, the Grand Jury recommends that the list be re-examined for validity as necessary for exempt status.

2. The Grand Jury recommends that future announcements for exempt positions contain an explanation of what an exempt position means.

3. The Grand Jury recommends that some type of hiring guideline for exempt positions be written and approved by the County Board of Supervisors, so that appointing authorities in the county (and job applicants) have a consistent path to follow. These guidelines should be written to ensure a visible and standard approach to exempt position hiring without overly restricting the appointing official.

RESPONSE REQUIRED

Pursuant to Section 933.05 of the Penal Code:

The San Joaquin County Board of Supervisors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:

As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six (6) months.
- d. The recommendation will not be implemented, with an explanation therefore.

APPENDICES

- 1. Recruitment Summary

Recruitment Summary:
Assistant Clerk of the Board -Position Exempt from Civil Service

Filing Period: 2/20/07- 3/16/07

Outreach and advertisement included the following:

- 1) Brochures were created and mailed to County CAO mailing list
- 2) Job posted on California Clerk of the Board of Supervisors Assn, Central Valley Jobs, and SJ County Websites.
- 3) Two ads posted in The Record on 2/18/07 and 3/4/07

Total number of applications received from 2/20/07 to 3/16/07: 69 applications

Application Summary:

- 42 did not meet the minimum qualifications and were screened out
- 27 met the minimum qualifications; of the 27 qualified 13 were screened out and 14 applicants were invited to a panel interview

Screening Steps:

- 1) Screening Panel to review all 69 applications convened on 3/29/07
 - Christine Ferraro, Stanislaus County Clerk of the Board
 - Cindy Turner, Sacramento Clerk of the Board
 - Kurt Shigematsu, San Joaquin County Personnel Analyst
- 2) Interview Panel to interview 14 candidates selected as a result of formal screening panel convened on 1/25/07 and 1 candidate who was ill on 4/25/07 was permitted to interview on 5/10/07 with the panel:
 - Christine Ferraro, Stanislaus County Clerk of the Board
 - Cindy Tuner, Sacramento-County Clerk of the Board
 - Lois Sahyoun, San Joaquin County Clerk of the Board

Note: The interview process consisted of a practical exercise in which the candidate had 10 minutes to produce two memos and a 20 minute interview with the panel.

3) As a result of the interview panel's recommendations, seven (7) candidates were referred to participate in a 2d interview with Lois Sahyoun, San Joaquin County Clerk of the Board, on May 31, 2007. Lois Sahyoun included Carol Bedell, Management Services Administrator with the San Joaquin County Probation Department as a 2nd interviewer in the selection process.

4) Final selection was made from the seven candidates referred with a start date of 7/9/07 for the selected candidate. The selected candidate submitted an

application on 3/16/07 which was during the open filing period.

Prepared by San Joaquin County Human Resources
August 28, 2007