



JIM STRICKLAND
MAYOR

EXECUTIVE DIVISION

June 22, 2018

Ms. Gina Sweat, Director
Fire Services Division
65 S. Front
Memphis, TN 38103

Dear Director Sweat,

We have completed our special investigation regarding the Rapid Assessment Decision and Redirection (RADAR) pilot program. The investigation was initiated based upon your discovery that questionable payments had been remitted for services performed under the RADAR program. As a result, you suspended the program pending the outcome of the investigation.

The primary objective of this investigation was to evaluate program activity to identify unusual or suspicious activity related to the RADAR program and determine whether fraud, waste, abuse or misuse was involved. A secondary objective was to identify significant internal control weaknesses and opportunities to strengthen controls for preventing or detecting such activity. The scope was limited to Emergency Medical Services (EMS) operations for the period July 1, 2014 through March 27, 2018. Our scope was expanded beyond the RADAR program to determine whether questionable payments were prevalent in EMS expenditures.

To accomplish our objectives, we interviewed pertinent personnel to obtain an understanding of the RADAR program. We also reviewed pertinent policies, procedures, contracts and agreements to identify significant internal control weaknesses. Finally, we conducted select transaction testing of EMS expenditures.

CONCLUSION

The questionable payments did not comply with City Purchasing Policies and Procedures. We believe that the contributing factor was the misuse of authority demonstrated by a high-ranking EMS employee with fiduciary capacity, that was placed in a position of trust. The EMS employee was assigned the critical task of monitoring the EMS budget and ensuring compliance with applicable budget limits and City Purchasing Policies and Procedures. Although we did not find any evidence of fraud, we noted opportunities to further strengthen internal controls.

BACKGROUND

The Memphis Fire Department (MFD) responds to over 25,000 non-emergent EMS incidents each year, which drastically reduces emergency medical response readiness for life-threatening emergencies. In an effort to proactively address the critical challenge, the RADAR pilot program was initiated. The main purpose of the program was to find alternate means of assisting the specific needs of specially identified “low acuity patients” who represent a significant percentage of non-emergent EMS incidents. The pilot program is one of several healthcare navigator initiatives developed to respond to low acuity patients. The Nurse Dispatch program was also developed, but not fully implemented during the time the pilot program was running.

On April 10, 2017, the City entered a Memorandum of Understanding (MOU) with a health care provider to assess the level of patient acuity, including the necessity of non-emergent care, and to provide them with resources to obtain follow-up or preventative care in a non-emergency setting. Two designated SUVs staffed with a MFD paramedic and a physician from the healthcare provider were responsible for responding to the non-emergent incidents. The MOU’s period of performance covered a six-month period that was effective from April 10, 2017 to October 10, 2017. An MOU extension was granted for an additional six-month period to cover October 10, 2017 to April 9, 2018. Per the initial agreement and the extension, physician services were provided at no cost to the City.

The questionable payments were paid through a vendor contracted by the City to perform billing and collection of ambulance service receivables. The City pays the vendor a fee of 4.5% of the net revenue received by the City for ambulance transport claims, including but not limited to revenue from participation in any local, state, or federal supplemental payment program. The fees are invoiced by the vendor monthly and pertinent reports are provided to support ambulance service receivables. The contract also allows hardware and software purchases that support the electronic Patient Care Reporting system (ePCR) included on each Emergency Unit (ambulance).

SUMMARY OF INVESTIGATION

From the appropriation statements for the EMS service center, we selected a sample of accounts for the period ending fiscal years 2014 through 2017, and for fiscal year 2018 transactions as of March 27, 2018. We reviewed account transactions and supporting documentation to identify questionable or suspicious activity similar to the payments that initiated this investigation. Based upon our review, we found:

1. Misuse of funds

Payments totaling \$114,270 were improperly billed through the contract that is used primarily for billing and collecting ambulance service receivables.

- We found that four invoices totaling \$100,000 were remitted for physician services specifically related to RADAR program participants for the months of September through December 2017. The invoices were emailed to the EMS employee who forwarded them to the vendor to be submitted for payment, along with the monthly invoice for ambulance

service receivables. The vendor would in turn, issue the payment to the healthcare provider(s).

- We obtained copies of the canceled checks for two payments totaling \$50,000 (\$25,000 each) that were remitted to the health care providers for services provided in September and October 2017.
- As a result of the directive you issued to cease the payment activity, you prevented further payments totaling \$50,000 from being issued to the healthcare providers.
- ❖ We confirmed that a credit memorandum totaling \$50,000 had been issued by the vendor to the City, returning the remaining funds that were remitted for the physician services. The credit was applied to invoice #18555 that was paid on April 2, 2018.
- We found that an invoice totaling \$14,270 was remitted for the Nurse Dispatch program through the vendor, in the same manner as the invoices for physician services. The payment did not comply with the contract terms pertinent to hardware and software purchases in support of the ePCR included on each Emergency Unit (ambulance).

2. Invoice approval

The invoices (RADAR physician services and Nurse Dispatch program) were subjected to Fire Services Division invoice review process which required management's approval signature to confirm that the invoice was reviewed and approved for payment. All five invoices contained the approval signature of the EMS manager.

- The EMS manager questioned the EMS employee about payment after the first invoice for physician services was provided for the EMS manager's review and approval. The EMS employee's response implied that a decision had been made to remit payment to the physicians. The EMS manager presumed that the decision was made by the Fire Services Division command staff, so no further due diligence was performed to confirm the payment arrangements.
 - The EMS manager acknowledged that invoices were expected to follow City Purchasing Policies and Procedures. Based upon the level of trust that was advanced to the EMS employee, the EMS manager expected that the EMS employee would also adhere to City Purchasing Policies and Procedures.
- According to the EMS employee, the payment arrangements were discussed with the EMS manager who was charged with obtaining approval from the Fire Services Division command staff. We found no evidence that the payment arrangements were discussed with the EMS manager.
- The EMS employee further stated that the invoices were subjected to the invoice review process, to be reviewed and questioned by the command staff and payment declined, if payment was not permissible. Per the EMS employee, after the first invoice was approved

without incident, the EMS employee believed that the payments were permissible and proceeded to submit the other invoices.

- We found email correspondence related to the submission of invoices for RADAR and the Nurse Dispatch program. We found no evidence that the email correspondence was forwarded to Fire Services Division management.
 - Other than the EMS employee, the email correspondence did not include the EMS manager or any members of the Fire Services Division command staff.

3. *Unauthorized negotiation*

The fiduciary relationship established by the EMS employee provided total trust and confidence in the employee's ability to manage and protect the City's interest pertinent to the RADAR program. The EMS employee admitted that the \$25,000 monthly payments were negotiated verbally and considered fair based upon research pertinent to industry standards. We found no written documentation to provide negotiation details, including the individuals involved in the discussions or the basis for the payments.

- Per the EMS employee, the main purpose of the payments was to ensure continuity of services for the RADAR program. We found email correspondence indicating the healthcare providers inability to continue without a clear path to financial viability.
 - Other than the EMS employee, the email correspondence did not include the EMS manager or any members of the Fire Services Division command staff.
 - Despite the financial concerns denoted in the email correspondence, the physician(s) agreed to an MOU extension, which required physician services at no cost to the City.
 - ❖ As of the effective date of the MOU extension (November 28, 2017), one invoice had already been paid (November 6, 2017).

In addition to the unauthorized payments, we also noted the following internal control weaknesses:

- We did not find any written policies and procedures that outlined the practices and procedures to be followed in performance of RADAR activities, including but not limited to:
 - Employee responsibilities
 - Program goals
 - Success criteria
 - Program evaluation
 - Monitoring activity
 - Reporting
- The MOU indicated that out of pocket expenditures directly related to RADAR would be considered for reimbursement. However, we found no written documentation to define the types of RADAR expenses that could be considered for payment, the specific amount set aside for reimbursement, or the payment source for reimbursement.

- Although the vendor's contract allows specific purchases (hardware/software) and special financing for the ePCR system, we found no written guidance to define the types of purchases that should follow each financing model, or conditions/criteria for use. Without specific guidance, it is difficult to detect unusual or suspicious purchasing activity or to evaluate compliance.
 - Per the EMS employee, supplies (cardiac monitors, life support supplies, medicines) were purchased using the EMS general ledger account for supplies.
 - The purchases for RADAR supplies were not tracked separately from EMS supply purchases to provide a clear depiction of resources used for the program. Therefore, we could not determine whether the supply quantities, or frequency of purchases for the RADAR program were reasonable and necessary.
- Through our transaction testing of EMS expenditures, we found several other instances for which payments did not comply with the City Purchasing Policies and Procedures.
 - Some of the check requests we reviewed did not include supporting documentation that provided evidence or pertinent information regarding the transaction.
 - We observed split purchases and purchases that were invoiced at just under the \$5,000 threshold required for payment requests initiated by check request. The purchases were invoiced at \$4,999 and occurred on a frequent basis, which is a procurement red flag indicative of payments that should have been subjected to competitive bid.

RECOMMENDATIONS

We would like to commend you for taking immediate action to report the questionable payments and for addressing the internal control weaknesses. We recommend that Fire Services Division management establish written policies and procedures that outline the practices to be followed in performance of all healthcare navigator initiatives, including but not limited to:

- Employee responsibilities
- Program goals
- Success criteria
- Program evaluation
- Monitoring activity
- Reporting
- Out of pocket expenses (approval, purchase, and tracking)
- Criteria/conditions for using special financing models provided through the vendor contract

We also recommend that Fire Services Division management increase monitoring efforts to periodically review check requests and supporting documentation to ensure compliance with City Purchasing Policies and Procedures. The review should include an analysis of transactions to look for unusual trends and patterns. Questionable activity should be investigated and monitoring activity

should be adequately documented to provide evidence of monitoring (dates, activity reviewed, monitoring results).

Your written response to the draft appears in full text in the appendix of this report. We will evaluate the adequacy of your corrective actions during our corrective action monitoring.

Our investigation may not necessarily disclose all weaknesses related to EMS expenditures. The work performed for this engagement does not constitute an audit under Government Auditing Standards. We appreciate the cooperation of Fire Services Division management and staff during this investigation. If you have any questions or need additional information, please feel free to call me.

Sincerely,

Debbie Banks, CFE, CICA, CMFO
City Auditor



c: Jim Strickland, Mayor
Doug McGowen, Chief Operating Officer
Shirley Ford, Chief Financial Officer
Alexandria Smith, Chief Human Resources Officer
Bruce McMullen, Chief Legal Officer
Michael Jubirt, Deputy Director, Fire Services
Patrice Thomas, Deputy Chief Operating Officer
Jennifer Sink, Deputy City Attorney
Pamela Kiestler, Deputy Chief, EMS
Chandell Carr, Manager, Equity, Diversity and Inclusion, Human Resources
Candi Burton, Interim City Comptroller

APPENDIX

Response from Director Sweat



June 18, 2018

Debbie Banks, CFE, CICA, CMFO
City Auditor
125 N. Main, Suite
Memphis, TN 38103

Subject: RADAR Investigation

Dear Ms. Banks:

Thank you for your diligence in investigating questionable payments that were remitted for services performed under the RADAR pilot program. Innovative initiatives such as RADAR are important for providing the right response to the citizens of Memphis; however, it is critical that they be conducted appropriately. In response to your findings, please find the Plan of Action for addressing the RADAR issue as well as strengthening our internal controls.

RADAR Plan of Action:

- RADAR pilot was deployed for 9 months. Two programs were tested: Vehicle manned with paramedic and Medical doctor, vehicle manned with paramedic connected to medical doctor through telemedicine.
- To expand the reach of the program and to make a meaningful impact on diverting patients away from ER, the next phase of RADAR will focus on paramedic/EMT first responders paired with medical doctors using telemedicine.
- Next month, we will issue a RFQ for medical providers (clinic, group or otherwise) to join us in this endeavor. Agreements will be put in place with each provider.
- Prior to implementing RADAR, there will be policies and procedures put in place to define the performance of RADAR activities.

Misuse of funds & Invoice Approval:

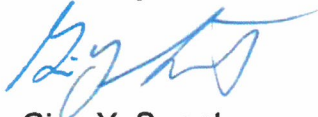
- Invoices totaling \$100,000 were submitted for payment through our third party billing vendor. We were able to stop payments totaling \$50,000. I will be working with the City Attorney's Office to recover the other \$50,000 that was remitted to the healthcare providers inappropriately.
- The third party billing vendor has been notified that no payments shall be made outside the contract. They have been instructed that if any such request is made, they are to notify the Deputy Chief of EMS for approval.
- The EMS employee who submitted said invoices and negotiated the verbal agreement to make payments contradictory to the MOU agreement resigned from employment effective 3/27/18 to seek other opportunities.
- The EMS Manager will be disciplined for failure to provide proper oversight within the next 30 days.

Fire Division Action:

- Purchasing procedures have already been reviewed with all Deputy Chiefs. Additional training for all managers, supervisors and support staff who are authorized and/or make purchases, monitor contracts and manage service center budgets will occur within 45 days to ensure that are knowledgeable regarding purchasing procedures.
- Effective July 1, 2018, a Transaction Listing Report (TLR) will be run monthly for each Service Center. The TLR shall be reviewed by the responsible Deputy Chief. Questionable or irregular transactions shall be investigated. Signed reports will be filed with the Fire Administrator.
- The division will set criteria for pilot and new programs to standardize implementation of program. This will include but not limited to the following:
 - Problem statement
 - Employee & supervisory responsibilities
 - Program goals or desired outcomes
 - Success criteria
 - Data collection and Program evaluation
 - Monitoring and reporting guidelines

Please feel free to let me know if you have additional input or concerns regarding the plan of action for resolving this issue.

Sincerely,



Gina Y. Sweat
Director of Fire Services