

May 12, 2016

TO: Los Alamos County Councilors
FROM: Los Alamos Council Vice Chair Susan O'Leary
RE: Independent Personnel Audit

Los Alamos County has been sued a number of times by its employees in the recent past; with a number of cases settled by the County's insurance carrier.

A single personnel-related lawsuit will have a negative impact on any organization; numerous personnel-related lawsuits in a relatively short time period suggests there could be issues with the County's personnel system and in particular its policies and/or the adherence of personnel policies.

This issue is worthy of the Council's consideration. From a financial standpoint, the lawsuits have resulted in a significant waste of taxpayer dollars. The time spent by County staff to respond to the lawsuits has been time consuming and expensive. The lawsuits have been a drain on the morale of other County employees. The settled cases have resulted in large payments paid by the County's insurance carrier.

From a public trust standpoint, the lawsuits have had a negative impact. Because of the often sensitive nature of the personnel-related information involved in these lawsuits, the County has shared very little information with the public. With a lack of credible information from the County, citizens are left to wonder why the County is being repeatedly sued; and why the County's insurance carrier is repeatedly paying out large settlements. These lawsuits have resulted in decreased trust in government among some citizens.

From a basic moral standpoint, the negative actions that resulted in many of these cases were completely inconsistent with the values shared by the Los Alamos community – values that include treating others with respect and encouraging diversity in the workplace. Many of the people who sued the County have been personally damaged in significant ways as a result of their experiences. Regardless of their settlement, the specific actions that resulted in their taking legal action against the County are unacceptable to many citizens.

Clearly, no one is happy that employees have been suing the County. At this time, the County Council can either take proactive measures to ensure that the County's personnel system is not contributing to situations that result in lawsuits; or it can choose to do nothing on the assumption that current policies and practices are appropriate and there is no need for review and possible improvement because the current personnel system did not contribute in any way to these negative experiences and outcomes.

I recommend that the County Council take the proactive measure of commissioning an independent audit of the County's personnel policies and the implementation of those policies. I believe that this is necessary action in order to validate the management effectiveness of the County's personnel system; to ensure that the County's personnel system operates in a way that is consistent with our community values; and to minimize future lawsuits.

Conducting policy, management effectiveness, and financial audits is common in government as well as in the private sector. It's an important oversight tool that's used to demonstrate to citizens that tax dollars are being spent appropriately; and that government entities are being managed and operated in ways that are consistent with the requirements of law and community values.

In the Federal Government, both the Executive Branch and the Legislative Branch have specific officials to perform these kinds of audits on an ongoing basis. Each federal agency, board or commission has an Inspector General, and Congress operates the Government Accountability Office as its auditing arm. Each of these entities provide policy, management effectiveness, and financial oversight of federal government organizations and programs.

The State of New Mexico has an elected State Auditor. The Office of the State Auditor promotes accountability for state government organizations through audits focused on financial compliance and for cases of fraud, waste and abuse.

At the local government level, there isn't a dedicated office or an elected representative like a County Auditor that is focused specifically on this kind of oversight for county government on behalf of its citizens. This responsibility is left to the elected representatives that serve on the County Council.

An audit of the County's personnel system – its policies and the implementation of those policies -- would determine whether the County's personnel system can be improved to achieve a reduction in lawsuits and settlement payouts. The audit could find that current policies and practices are appropriate, in which case the County Council can assure employees and citizens of that finding. This audit could also find opportunities to improve the County's personnel policies and practices; and the County Council could then direct the County Manager to implement those recommendations.

To make this kind of evaluation process effective and worth the time and expense it will require, it needs to have the following components:

- **Auditor Independence:** The auditor should not be associated with the County's management, to make clear that the review is impartial and unbiased. This independence is necessary in order to legitimize its findings and recommendations with County employees and citizens.
- **Personnel Policy Evaluation – are our policies adequate:** There should be an objective look at the County's current personnel policies to assess their completeness and appropriateness with respect to the personnel management requirements of the County. The evaluation should also provide benchmark comparisons of other successful organizations for consideration by the County Manager and the County Council.
- **Personnel Policy Implementation – are our policies being properly followed:** The report should examine cases that have resulted in settlements or payments and evaluate whether a failure to follow adequate policies that were in place contributed to the adverse outcomes experienced. If we have good policy and we are still being sued, that suggests that our policies aren't being followed. If that's the case, the audit should identify opportunities for improvement in this area.

Los Alamos County needs to move forward from this spate of lawsuits in a proactive manner. I encourage the County Council to hire a truly independent expert to come in and perform this review for us; and an independent review can help us both improve for the future and rebuild employee and public trust in the County. We shouldn't want to bound, control, or spin this audit so that we look better. We should find the absolute truth now so that we can be better going forward.