



## COMMISSIONERS' COURT AGENDA ITEM

**Meeting Date:** 10/17/2011

**Prepared by:** Sam Trujillo, Risk Manager

**Description:** Approve and authorize the County to pay for surety bonds for Public Official positions as required by law and as described in the attached backup information.

### **Background:**

The Texas Local Government Code requires certain public officials to file at least one surety bond along with the elected official's oath of office. The bond coverage amount, number of sureties, payee, and term is specific to the public official depending on the office held. The purpose of the bond is to provide liability coverage on public officials for the faithful performance of the duty of their office. In addition to these bonds, the County is a self-insured entity and does carry Crime Liability insurance for Employee Dishonesty with a deductible of \$25,000.

Currently 41 public official positions in the County of El Paso are required by the Texas Local Government Code to have at least one surety bond payable to the County Treasurer or to the Governor. The law also requires all Deputies who are directed by the elected official and all Reserve Deputies to acquire a surety bond.

However, Deputy and Reserve Deputy bonds are payable to the elected official and not the County or the Governor even though the County maintains the liability for any covered act and is currently paying for the cost of the premium.

A review of our records indicates that the County is paying for premiums for 9 *Deputy Constables*, a blanket bond for 5 *Reserve Deputy Constables*, and a blanket bond for 3 *Deputy Sheriff Reserves*. The cost for the bonds are specific to an individual and responsibility but generally cost under \$200 per individual. There are other Deputy Constables or Reserve Deputies that have bonds but the premiums are not paid by the County nor does the County receive any benefit when a claim is submitted.

It is staff's recommendation for the Commissioners Court to authorize payment for surety bonds of the attached public officials and to end the practice of paying for surety bonds that are not payable to the County or Governor which have been identified as *Deputy Constables* required by the Constable to have a bond, *Reserve Deputy Constables*, and *Reserve Deputies*.

Public Official positions required to obtain bond(s)  
which are payable to the County or the Governor:

County Judge	Judge County Criminal Court #1
County Commissioner Pct 1	Judge County Criminal Court #2
County Commissioner Pct 2	Judge County Criminal Court #3
County Commissioner Pct 3	Judge County Criminal Court #4
County Commissioner Pct 4	District Attorney
County Sheriff	District Clerk
County Attorney	Justice of the Peace Pct 1
County Clerk	Justice of the Peace Pct 2
Constable Pct 1	Justice of the Peace Pct 3
Constable Pct 2	Justice of the Peace Pct 4
Constable Pct 3	Justice of the Peace Pct 5
Constable Pct 4	Justice of the Peace Pct 6-1
Constable Pct 5	Justice of the Peace Pct 6-2
Constable Pct 6	Justice of the Peace Pct 7
Constable Pct 7	Probate Judge #1
Judge County Court of Law #1	Probate Judge #2
Judge County Court of Law #2	County Election Administrator
Judge County Court of Law #3	County Auditor
Judge County Court of Law #4	Tax Assessor
Judge County Court of Law #5	Tax Assessor Chief Deputy*
Judge County Court of Law #6	
Judge County Court of Law #7	

*\*Tax Assessor Chief Deputy not required by law to have bond but recommended because of risk to County if Tax Assessor not available.*



# COUNTY OF EL PASO

## HUMAN RESOURCES DEPARTMENT

BETSY C. KELLER, SPHR  
DIRECTOR

To: Betsy Keller, Director  
Human Resources Department

From: Sam Trujillo, Risk Manager  
Human Resources Department

Ref: Public Official Bonds

Date: June 28, 2011

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Recently, I was assigned the task of reviewing and correcting Public Official Bonds which are currently handled by the Human Resources Department for the County of El Paso, Texas. The following paragraph contains a brief synopsis of my review:

The Texas Local Government Code requires certain public officials to file at least one surety bond along with the elected official's oath of office. The bond coverage amount, number of sureties, payee, and term is specific to the public official depending on the office held. The purpose of the bonds is to provide liability coverage on public officials for the faithful performance of the duty of their office. In addition to these bonds, the County is a self-insured entity and does carry Crime Liability insurance for Employee Dishonesty with a deductible of \$25,000.

Currently 41 public official positions in the County of El Paso are required to have at least one surety bond payable to the County Treasurer or the Governor. With the exception of the County Auditor, these bonds are tracked through the Human Resources Department. The public official positions that require a bond include the following:

County Judge	District Attorney
Commissioners (4)	District Clerk
Sheriff	Justice of the Peace (8)
County Attorney	Probate Judge (2)
County Clerk	Constables (7)
Tax Assessor	County Elections Administration
County Court of Law Judge (7)	Judge Criminal Court (4)
County Auditor	

The County, through the Human Resources Department, indicates 9 additional bonds on *Deputy Constables*, a blanket bond for 5 *Reserve Deputy Constables*, and a blanket bond for 3 *Deputy Sheriff Reserves*. A bond is only required for a *Deputy Constable* if mandated by the Constable

which is payable to the Constable. *Reserve Sheriff Deputies* and *Reserve Deputy Constables* are required to have a bond by law and the bond is payable to the elected official. Other than the two blanket policies, neither the Human Resources Department nor our insurer indicates any additional bonds for reserves. Constables generally require the *Reserve Deputy Constables* to obtain their own bond which is payable to the Constable.

My review, along with the review of other Human Resources staff members prior to my assignment, found numerous discrepancies in the bonds for public officials. Most of these discrepancies involve the length of the bond in relation to the public official's term of office. Some of the bonds were payable to the wrong position, were made for the wrong amounts, or involved a person who was no longer employed with the County. Staff has worked with the insurer during this review to correct these discrepancies which has led to some additional costs to the County and some reimbursements. In addition, four elected positions were found not to have a bond as required and those are in the process of being corrected. Once these discrepancies are corrected staff involvement should be reduced because the bonds will be timed with the election cycle.

There was an additional concern raised during the review which involved the County paying for bonds that are not payable back to the County or to the Governor. These bonds include *Deputy Constables*, *Reserve Deputy Constables*, and *Reserve Deputy Sheriff's*. In these cases, the bonds would be payable to the elected official even though the County maintains the liability for any covered act and is currently paying for the cost of the premium.

Our review indicates that the County also has a high risk function which is the *Chief Deputy under the Tax Assessor*. The *Chief Deputy Tax Assessor* is not required to have a surety bond by law but will not be able to assume the duties of the Tax Assessor without a bond if the office of the Assessor becomes vacant. In such a case, the Tax office must remain closed until such bond is given and approved. This creates a liability risk for the County. In an emergency situation, our insurer has advised that a bond could be generated within a day of receiving an appropriate application. Best case scenario, our Tax Office may need to remain closed for one full day.

I have provided you with a spreadsheet (attached) which identifies the required bonds for public officials, bonds that are not required but recommended because of the risk associated with the public official's function, and bonds that are paid for by the County but payable to the elected official.

After review, it is my recommendation that the County through the Human Resources Department:

- Ensure that surety bonds are obtained for those public officials required by law to have surety bond(s) payable to the Governor or County;
- Ensure that surety bonds are obtained for public officials in functions that the Commissioners Court deem to be high risk; and
- End the practice of paying for surety bonds that are not payable to the County or Governor which have been identified as *Deputy Constables* required by the Constable to have a bond, *Reserve Deputy Constables*, and *Reserve Deputies*.