

FINANCIAL SERVICES

CONTRACTS AND PROCUREMENT DIVISION

EILEEN GONZALES, CPPO, CPPB, CONTRACTS AND PROCUREMENT DIVISION MANAGER

NOTICE OF INTENT TO TAKE ACTION

DATE: April 3, 2019

TO: Armor Correctional Health Services, Inc.
4960 SW 72nd Avenue, Suite 400
Miami, Florida 33155

RE: Project: Inmate Medical
Contract No.: 17-003
Department: Sheriff's Office

Armor Correctional Health Services; you are hereby notified of non-compliance with the subject contract requirements, warranting an immediate and strong action by Armor to cure multiple deficiencies. Specific deficiencies and actions include the following:

Armor has numerous personnel vacancies creating below-standard support to jail staff; this insufficiency has been addressed with Armor several times with little or no resolution. The following statistics are alarming, considering the welfare of Armor's incarcerated patients is in jeopardy. Additionally, these vacant positions create multiple hazards for El Paso County Sheriff's Office ("EPSO") and Armor staff.

Daily Staffing Attendance

EPSO reviewed thirty (30) weekdays in 2019 of staffing reports to evaluate what percentage of daily Armor staffing personnel were actually onsite. We found that Armor is operating at an average of 89% of contractual staffing. This is further broken down to reflect that on a daily average, six (6) Armor staff members were absent; as many as 11 staff members have been absent on some dates. These numbers do not include the temporary staff that Armor has provided from its corporate office(s).

On March 21, 2019, a memo was written to document unprofessional conduct by Dr. Thompson. The memo is attached.

Armor has been involved with the resolving a Hepatitis A exposure to inmates; Armor staff and EPSO staff spent several days to get the outbreak under control. The cause of the outbreak was that an Armor employee failed to follow contagious disease protocols. EPSO involved the County Department of Public Health to secure and disseminate over 1600 inoculations at a direct and indirect cost of nearly \$100,000. The printout of medical records and JMS information is available upon request.

On February 26, 2019, a Deputy documented that Armor staff was observed providing tap water for the CPAP inhalers for inmates. The minimum requirement for CPAP devices is distilled water. Tap water will have a detrimental effect on the user and the equipment.

On February 22, 2019, medication for Inmate [REDACTED] was depleted and the med pass nurse did not notify the charge nurse or the pharmacy and the process for re-order was ignored and therefore no replacement meds were ordered. Medication was provided to the inmate ten (10) days later on March 4th.

Contract 17-003 states Armor will ensure all services provided meet the standards of the American Correctional Association, and the National Commission on Correctional Health Care. (Page 4.1) This includes prompt referral to hospital and specialty care when dictated by the medical needs of the patient.

These deficiencies and concerns show Armor's failure to meet contract standards governing provision of general medical services, mental health services, and pharmacy services. Armor's actions/inactions described above unnecessarily subject the County's inmates to significant physical and psychological danger and subject the County & Armor to substantial civil liability due to the non-delegable obligation to provide medical care for its inmates. See *Estelle v. Gamble*, 429 U.S. 97, 103 (1976); *West v. Atkins* 487 U.S. 42, 56 (1988).

Due to the grievous nature of the above-described situations, the County believes immediate and strong action by Armor is necessary to correct the deficiencies. Accordingly, the County demands that Armor provide a written plan of action explicitly describing how each of the deficiencies will be addressed. Additionally, the County intends to procure the services of a consultant to observe Armor's actions over the coming months to ensure that inmates are provided appropriate medical services in accordance with legal and contractual requirements. In the event Armor does not immediately provide a written plan and take action to avoid repeating the above-referenced deficiencies, the County will take all appropriate legal action to protect the health and wellbeing of its inmates.

Section 5.3 of the contract states: "If the County Representative determines that CONTRACTOR is not making sufficient progress or is performing unsatisfactory work under this CONTRACT, the County Representative may protest CONTRACTOR'S written invoice or statement by providing written notice to CONTRACTOR within ten (10) days following receipt of the invoice or statement. The written notice shall identify the nature of the problem and request an appropriate remedial action by CONTRACTOR. CONTRACTOR shall either correct the problem and advise the County Representative of the correction, or shall provide a detailed written response to the notice within ten (10) days following receipt of the COUNTY'S notice. During this process, payment of CONTRACTOR'S invoice or statement shall be adjusted to the alleged infraction and may be withheld by the COUNTY."

This Notice will be sent to Armor via email and with a request for acknowledgment; Armor will then have ten (10) business days from the email receipt date of this NOTICE to submit Armor's response to this NOTICE OF INTENT TO TAKE ACTION.

If these documents are not received by this office in the time specified, the County reserves the right to issue a Notice of Default. If you have questions or are requiring documentation of these findings, please contact Ronald Neely, Procurement Specialist at the Contracts and Procurement Office, by phone at (719) 520-6489, or by email at ronaldneely@elpasoco.com.

Please acknowledge receipt and acceptance of this Notice by signing the below and returning a copy to the CONTRACTS and PROCUREMENT DIVISION.


Eileen Gonzales, CPPQ, CPPB, Manager

ACCEPTANCE OF NOTICE

Armor Correctional Health Services Inc.
AUTHORIZED REPRESENTATIVE (Print or Type Name)
DATE:



El Paso County Sheriff's Office



INTRA-OFFICE MEMORANDUM

TO: Commander Roybal, via Chain of Command

FROM: Inmate Classification/ADA Liaison Brande Ford EID# 00005

DATE: March 21, 2019

SUBJECT: Unprofessional Conduct by Armor's Dr. Thompson

On March, 21, 2019, at approximately 11:30 am, while working in the Inmate Classification section of CJC, I received a phone call from the charge nurse in medical, Amanda McClaine. During this phone call, I was advised that a female inmate by the name of [REDACTED] had returned from the hospital and per Dr. Thompson, needed to be housed in the medical section for 24 hour observation period. Having previously reviewed all medical housing options earlier in my shift and knowing there were none available; I recommended to her that we go through the list of inmates housed in medical again. After a second review and discussion, inmate [REDACTED] status was determined to be questionable but no one was officially cleared to be removed at that time.

The mental health section was contacted to verify that no one housed in medical for mental health reasons would be eligible for movement. I left a message for Mental Health Director Tanya Belknap and then spoke with mental health clinician Jordan Frasier. After requesting names of any inmates that had recently been reviewed or soon to be reviewed by mental health, it was advised no one would be cleared by any mental health staff at this time and those in medical would need to remain per their section and by the determination of the SMIRC team.

My supervisor Liz O'Neal was contacted for advice via email and a message left on her voicemail. When able to break away from her training, she contacted me and our discussion entailed the staff I had already spoken with, the limited housing availability in medical and my suggestion of inmate [REDACTED] as a possible move. Ms. O'Neal suggested I speak with the Health Services Administrator Allison Beatty about possibly housing inmate [REDACTED] into ward [REDACTED] until medically cleared, thus gaining the needed medical cell Dr. Thompson required for inmate [REDACTED]. I attempted to contact HSA Beatty by phone twice and left messages with this possible solution. After 45 minutes of not receiving any response, I walked down to the medical section to speak with her in person. HSA Beatty's office lights were off and no one was present, MSM McClaine said she had a migraine and just left the facility moments before I came down.



Civil Process Unit
210 South Tejon St. • Colorado Springs, CO 80903
719-520-7144

Office of the Sheriff
27 East Vermijo Ave. • Colorado Springs, CO 80903
719-520-7100
www.epcsheriffsoffice.com

Criminal Justice Center
2739 E. Las Vegas St. • Colorado Springs, CO 80906
719-390-2106

MSM McClaine and I had a brief discussion about ideas on how to make space for inmate [REDACTED]. I requested more information about inmate [REDACTED]. From what I reviewed, I learned that inmate [REDACTED] had been housed in general population from his entry into the facility on February 24, 2019, until refusing to have a medical test administered that is required before receiving Trusty or Volunteer status. Due to this refusal he was subsequently housed in [REDACTED] on March, 12, 2019. The first cell he was housed in was #4 and then #9, neither of these cells have extraordinary or noteworthy attributes. It wasn't until March 20, 2019, that inmate [REDACTED] was moved into cell #11 of [REDACTED]. This cell is special in that it is the negative airflow cell, typically utilized with those deemed possibly contagious with infection or disease. MSM McClaine confirmed to me that inmate [REDACTED] is not currently or had not been symptomatic of any contagious disease while housed in any medical cells. It was further reported that inmate [REDACTED] had agreed to a chest x-ray when speaking to a different medical staff member, Mark Miller, earlier that morning. MSM McClaine reported that the x-ray had not been ordered as of this discussion and that even ordering an x-ray 'STAT' from their provider, wouldn't be performed or read by appropriate staff until the next day (March 21, 2019).

During this discussion it was also revealed that in the previous SMIRC team meeting the day prior, Allison was assigned to review Armor's policy on housing inmates in [REDACTED] that refuse testing and the length of time said inmate would need to be isolated. MSM McClaine and I then went into one of the back offices of the medical section and spoke with MSM Cassie Heitger, who was identified as Armor's Nurse Educator/Infectious Disease Control staff member. The current dilemma and HSA Beatty's abrupt departure was explained to MSM Heitger. She then took a few moments to identify the Armor policy in question. Armor's Regional Vice President Vickie Freeman was also present in the office during the policy search and suggested that MSM McClaine, MSM Heitger and I all go speak with Dr. Thompson for approval to move inmate [REDACTED].

Dr. Thompson was alone in his office when MSM Heitger requested that the three of us have a few moments to speak with him. She presented Dr. Thompson with the Armor policy and asked if HSA Beatty had spoken with him about it. He said he had not and didn't know anything about the issue with the policy. MSM Heitger and McClaine both began explaining the proposed scenario, the reasoning behind this suggestion and the approval needed from him. Dr. Thompson promptly cut off the conversation by asking questions of them in an irritated and badgering manner. "Has he been examined?" their response was no, "then why would I clear him?" At this point I stepped forward and attempted to introduce myself when I too was dismissively cut off by Dr. Thompson with a question to the effect of, what other information do *you* have to give me? I explained that the reason we were there was to discuss the possibility of moving inmate [REDACTED] from medical to [REDACTED] due to the limited housing

options in [REDACTED]. Specifically if he could review the Armor policy; then based off that review, the factors surrounding inmate [REDACTED] housing to include his previous stay in general population for more than two weeks and the fact that the inmate is not now nor has been symptomatic was sufficient enough for him to approve moving the inmate to [REDACTED] until the x-ray could be completed and reviewed, all so we could make space for inmate [REDACTED].

Dr. Thompson's tone and the obvious disdain in the peppered questions to me were off-putting and I was confused at the reason for the following disrespectful rant.

He repeatedly asked me, "Are you telling me what to do?" but before I could answer, he would ask the question again. I glanced in the direction of MSM Heitger and MSM McClaine because I noticed that both slightly bowed their heads downward, in my opinion due to embarrassment and familiarity with Dr. Thompson's demeaning behavior. I took a moment longer than normal in order to gather my thoughts and respond professionally, "No sir, I am not telling you what to do. I am telling you that we do not have any space in [REDACTED] and offering this suggestion. If you can look at the policy with us..." this again is where I was cut off by Dr. Thompson who addressed MSM Heitger and MSM McClaine, requesting to know if inmate [REDACTED] had given permission to be tested or have the chest x-ray done. The answer was still no to the test but he had agreed to the x-ray. Nothing had been scheduled so the earliest was tomorrow which did not solve the housing of inmate [REDACTED] right now. Dr. Thompson addressed me again with, "How can he be approved to go to [REDACTED] if he's not been examined? I haven't examined the patient, I can't tell you if he's contagious, I don't know, I can't tell you he can go to [REDACTED]. He's in the negative air-flow cell, does [REDACTED] have a negative air-flow cell?" I responded, "No sir, it does not." Dr. Thompson retorted, "Then he can't go there can he?" He continued, "This is a medical section for medical patients but it is over half full with behavioral health problems. Why don't you contact behavioral health and have them clear some so we can put medical people in the medical section?" I responded to Dr. Thompson, "I have already contacted mental health and no one will be clearing from medical today and that is not just mental health's decision but per the SMIRC team too, that is why we are coming to you." Dr. Thompson stated, "This is not my problem to find housing." MSM Heitger and MSM McClaine began leaving the office as Dr. Thompson waived us away saying, "No, I said no. No." As I stepped out of the office and into the medical hallway, I saw how many inmates, medical staff and EPSO personnel were within earshot of this demeaning one-sided conversation and found this embarrassing.

Before leaving the medical section and walking back to my office, MSM McClaine stopped me and apologized for the doctor's behavior and quickly walked away. Once returned to my office, I left a message for my immediate supervisor to contact me when she had the opportunity. After waiting some time for her to call back, knowing my Lieutenant was on vacation and the bristled feelings I experienced

during Dr. Thompson's verbal abuse, I went to the Administrative hall to speak with Commander Roybal. I relayed the circumstances surrounding the interaction with Dr. Thompson and the fact that still no housing [REDACTED] was determined for inmate [REDACTED] I was advised that he would handle the situation from here.

I am still confused and indignant at Dr. Thompson's level of disrespectful and unprovoked behavior towards staff members, regardless of the situation. In addition, I do not believe him to be remorseful for his behavior as no apology has been offered. During my 19 year tenure with the Sheriff's Office, Dr. Thompson's unprofessional display is one of the rare examples I have been witness to, specifically of what not to do. I have nothing further at this time.

BDF/bf



April 16, 2019

Ron Neely, CPPB
Procurement Specialist
El Paso County Contracts & Procurement Division
210 S. Tejon Street, Suite 138
Colorado Springs, Colorado 80903

Re: Notice of Intent to Take Action dated April 3, 2019

As set forth in Section 5.3 of the El Paso County Contracts & Procurement Division Services Contract #17-003 Armor provides this detailed response to the above referenced Notice of Intent ("The Notice").

Staffing Levels: Armor reviewed the staffing levels for the indicated period and found that any staffing deficit was not as asserted in The Notice.¹ Like other healthcare providers in Colorado Springs and across the country, Armor acknowledges a nationwide nursing shortage. One way we address this challenge is to utilize highly trained traveling corporate staff (discussed in more detail, below). Armor compared the staffing tables provided in The Notice against Kronos records, our internal time and attendance system. To ascertain an accurate daily analysis, we reviewed actual hours paid for each of the dates you selected and compared those hours to the matrix that is a part of the contract. We found no support for the assertion that 11 staff members were absent on a given date and in fact found that on at least two of the days in question Armor had excess staff at the facility.

We understand that your analysis does not include or account for the hours worked by the several Armor Corporate team members, who have been in El Paso providing coverage and training. The presence of these team members is one of the benefits of the Armor Contract and one which Armor offers its clients as we have seasoned correctional healthcare experts able to assist as needed to ensure proper care is provided. The work and support provided by Mark Miller, Allison Beatty, Alex Garcia,

¹ FTEs are based upon a 40 hour work and all positions are not covered every day. Your analysis is based on FTE's per day and are weekdays. This will make a difference as neither psychiatrist nor dentist are expected each weekday.

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Tel: 239-269-6511

██████████ and other corporate staff at El Paso should be included in your analysis².

The Kronos detail supporting our response is attached hereto. Personal information has been redacted from the Kronos forms.

Armor has worked diligently to address staffing concerns. Armor took aggressive action to on-board high performing staff members. In the past 30 or so days Armor hired 11 nursing staff, an H.S.A., an M.A. and an D.O.N. A new psychiatrist is on board to replace the psychiatrist who chose to move with his family when his tour with the military ended and currently the April nursing schedule is adequately filled.

To further attract talent Armor recently initiated a combination sign-on and retention bonus of up to \$10K for RNs and LPNs.

Hepatitis A: There have recently been only two confirmed cases of active hepatitis A in the El Paso County Jail; while this does not meet standard epidemiologic definitions of an "outbreak," Armor is vigilant in addressing illnesses such as hepatitis.

It is clinically noteworthy that hepatitis A can be an elusive disease. One patient reference in a timeline provided by EPSO was clearly an atypical presentation. Credit is due to staff for picking up on cues in the case and obtaining the testing that made the diagnosis timely. It is important to understand that infectious (contagious) individuals can present to the jail at any time with no symptoms at all. Typically, the medically accepted rule of thumb is that a symptomatic individual is infectious for roughly 7 days before the onset of symptoms and another 7 days after symptoms first develop; total of roughly two weeks. Individuals with compromised immune systems can remain infectious longer, up to 6 months. Viral shedding does generally not occur outside this time period. In both the cases cited, care was appropriate based on what was known regarding these cases at the time. Additionally, the Health Department and County Health Officer (Dr. Johnson) were promptly involved to evaluate the situation and mitigate further problems, to include prompt vaccination of inmates and staff as medically appropriate. Vaccines and syringes were provided by the Health Department to the facility at no cost to EPSO or Armor.

Hepatitis A is on an upswing nationwide, with jails being at particular risk due to the behaviors associated with transmission. Ongoing vigilance through screening and identifying symptomatic complaints is central to maximizing efforts to identify those infected. Clinical staff comes to Armor licensed and trained in all aspects of infection

² These hours do not include any time provided by Armor's Regional Vice Presidents, Corporate Pharmacy team members, Corporate Behavioral Health team members, Chief Medical Officer or the Senior Vice President.

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control. At the time of this event, re-education was provided to all Armor staff. Education was also provided to our patients.

As mentioned above, positive Hepatitis A outcomes are growing nationally. Inmates are part of the high risk group. Last summer El Paso County became concerned after identifying community cases and asked the jail to screen homeless inmates upon arrival. Armor has been an integral part of this project. In an effort to further educate the community Armor spoke with Dr. Robin Johnson, Medical Director for El Paso County and we are scheduling a debriefing among EPSO, Memorial Hospital, Armor, the Health Department and any other groups to discuss the various nuances of our jail environment.

Effective April 4, 2019, Armor became a Colorado Immunization Information System (CIIS) Clinic Administrator.

CPAP device:

The CPAP manual reports distilled water as "recommend." It is not required.

Armor met with its team and determined that tap water is not routinely used for CPAP machines. Additionally, we reviewed the appropriate PAR (minimum amount to be available on hand at any time) level of distilled water to be maintained in the facility. Appropriate PAR level maintenance will ensure that tap water will not be used.

Patient Medication: Upon investigation we determined that the patient's medication was in stock, on the cart and available. However, the medication was not administered. Armor has taken performance measures for each nurse involved who did not administer the medication.

Medical Director Behavior: Our Chief Medical Officer discussed this matter with the site Medical Director. The CMO met with Domenick Damico and Commander Roybal on April 15th to discuss the event.

As partners with EPSO, we welcome timely feedback of potential and actual concerns or questions EPSO staff may have regarding actions of Armor staff. If something is observed that EPSO staff believes to be a concern, please come to us as your partner so it can be promptly addressed. Together we can accomplish much good.

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Armor's primary focus is quality healthcare and we will work to continue be a good partner with El Paso in providing good and consistent patient care. We continue to be committed to being responsive and transparent. If you have further questions or concerns you may reach me at 239-269-6511.

Respectfully,

A handwritten signature in black ink that reads "Vickie Freeman". The signature is written in a cursive, flowing style.

Vickie Freeman, LMHC, CAP, CCHP
Senior Vice President

Armor Correctional Health Services, Inc.
4960 SW 72nd Avenue, Suite 400
Miami, FL 33155

Tel: 239-269-6511



COMMISSIONERS:
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LONGINOS GONZALEZ, JR. (VICE-CHAIR)

HOLLY WILLIAMS
STAN VANDERWERF
CAMI BREMER

FINANCIAL SERVICES DEPARTMENT
CONTRACTS AND PROCUREMENT DIVISION

EILEEN GONZALES, CPPO, CPPB, CONTRACTS AND PROCUREMENT MANAGER

April 23, 2019

Armor Correctional Health Services, Inc.
4960 SW 72nd Avenue, Suite 400
Miami, FL 33155

Attn: Ken Palombo, Chief Operations Officer

Re: Vickie Freeman, Request to Replace

Dear Mr. Palombo,

Unfortunately, during the course of our contract's duration, Armor has been sent several letters of concern for providing substandard and for unreliable service. In our numerous dialogs, both written and verbal the El Paso County Sheriff's Office (EPSO), has specified to Armor our concerns. We see that Armor is trying to implement some fixes; however, more often than not, we are left with a sense of obfuscation on behalf of your Senior Vice President Vickie Freeman.

In Armor's response to the recent "Notice of Intent to Take Action," the superficial answers that were written by Vickie Freeman left us with the decision to proceed with sending this letter.

In Armor's response to the RFP, you acknowledged the language that states in Section 8.E. Personnel Standards, "The El Paso County Sheriff's Office may request in writing replacement of any Proposer's employees believed unable to carry out the responsibilities of the contract. Proposer shall have up to five (5) business days to respond."

EPSO is requesting that Vickie Freeman, Senior VP, be replaced and we request she no longer serve as part of the Armor team directly or indirectly under this Contract with EPSO for Inmate Medical Services at the Criminal Justice Center.

EPSO has documented several incidents of Ms. Freeman's lack of professional manners, berating coworkers and inmates. These documents can be sent upon request.



EPSO has committed to allowing the consultant Health Management Associates (HMA) to evaluate health care services provided to inmates in CJC and assist EPSO in identifying a structure of providing health care to detainees that is high quality, efficient, and integrated with the community standards of care and the local safety net. EPSO is strongly advocating that Vickie Freeman not be allowed to participate in any communications with HMA, and, it would be our preference that Vickie Freeman not be allowed in CJC while HMA is in our facility and involved with their assessment. EPSO is also asking that Vickie Freeman not be allowed to direct or communicate with any Armor employees during this HMA assessment time.

EPSO is optimistic that with your approval for this requested change will begin steps toward an amiable working environment and increase efficiencies for both Armor's and EPSO staff.

This written Request will be sent to Armor via email and with a request for acknowledgment; Armor will then have five (5) business days from the email receipt date of this Request to submit Armor's response to this Request to Replace Vickie Freeman.

If you have questions or are requiring documentation of these findings, please contact Ronald Neely, Procurement Specialist at the Contracts and Procurement Office, by phone at (719) 520-6489, or by email at ronaldneely@elpasoco.com.

Please acknowledge receipt and acceptance of this Notice by signing the below and returning a copy to the CONTRACTS and PROCUREMENT DIVISION.



EILEEN GONZALES, CPPO, CPPB, MANAGER

ACCEPTANCE OF NOTICE

Armor Correctional Health Services Inc.
AUTHORIZED REPRESENTATIVE (Print or Type Name)