



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
July 24, 2013**

TO: Mayor and City Council
FROM: Alan Shear, Assistant City Manager
SUBJECT: Grand Jury Response to Assessing Fiscal Risk
DATE: July 9, 2013

RECOMMENDATION:

Approve and authorize the Mayor to sign the attached responses to the Grand Jury Report #1311, “Assessing Fiscal Risk” by the 2012-2013 Contra Costa Grand Jury.

BACKGROUND:

The California Constitution established Grand Juries in each county. With respect to public agencies, Grand Juries are authorized to “investigate and report upon the operations, accounts and records of the officers, departments, functions, and the method of performing the duties of any such city and make such recommendations as it may deem proper. A governing body has 90 days to respond to the presiding judge of the superior court on findings contained in a Grand Jury Report.

In June, Martinez (as well as other public agencies in Contra Costa County) received the attached Grand Jury Report titled “Assessing Fiscal Risk” (Attachment A) which contained recommendations specific to certain jurisdictions. Accordingly, the attached draft responses (Attachment B) are presented for the City Council’s consideration to transmit to the presiding judge.

FISCAL IMPACT:

Responding to the Grand Jury reports took staff time.

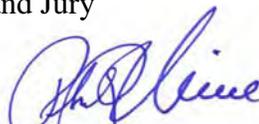
ACTION:

Motion to approve staff’s responses to the Grand Jury Report, and authorize the Mayor to sign staff’s response letter.

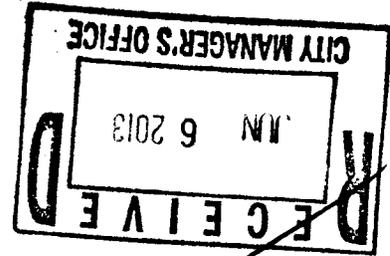
Attachments:

- A. Grand Jury Letter & Report
- B. Letter to Contra Costa County Grand Jury

APPROVED BY:


City Manager

June 4, 2013



Philip A. Vince, City Manager
City of Martinez
525 Henrietta Street
Martinez, CA 94553

Dear Mr. Vince:

Attached is a copy of **Grand Jury Report No. 1311, "Assessing Fiscal Risk"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 4, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,



Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

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**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

APPROVED BY THE GRAND JURY:

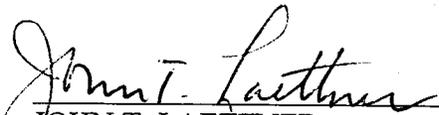
Date: 5/30/13



MARTHA WHITTAKER
GRAND JURY FOREPERSON- PRO TEM

ACCEPTED FOR FILING:

Date: 6/3/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report

REPORT 1311

ASSESSING FISCAL RISK

Who is Minding the Store?

TO: Contra Costa County, Cities, School Districts and other Special Districts in Contra Costa County, LAFCO (Local Agency Formation Commission)

SUMMARY

Contra Costa County (“County”), its cities, school districts and other special districts (collectively “County Organizations”) have an obligation to establish and maintain a proper system of fiscal controls (“Internal Controls”), including financial and physical oversight, in order to safeguard the public assets. Any financial loss or additional expenditure as a result of lack of oversight is never acceptable.

Internal Controls include but are not limited to: adequate segregation of duties, physical control over assets and records, proper financial reporting and independent checks/oversight on performance. These controls are important when it comes to grant administration. The County, cities and most school districts vie for state and federal grants which require separate reporting and performance according to grant terms. Proper controls are critical to ensuring that grant funds are expended as intended, program activities are carried out in accordance with the terms of the grant, and there is no required repayment to the grantor.

As part of the annual financial statement audit, independent auditors evaluate Internal Controls to the extent that they believe necessary to issue their audit opinion. In doing so, they will report to the organization any problems or findings identified with Internal Controls (including more serious problems which they characterize as “Material Weaknesses” and “Significant Deficiencies”) and instances of non-compliance with grant programs. The reaction of the governing body to any deficiencies in terms of Internal Control Material Weaknesses or Significant Deficiencies and grant non-compliance reported as part of the audit is significant. If the deficiencies are taken seriously and corrected quickly and an environment exists of not allowing repetitive findings, then a robust control environment is promoted. Where reaction is lax and accountability weak, the potential exists for further abuse. This is particularly important in the case of the County, cities and special districts which lack other independent, direct oversight (unlike the relationship of the County Office of Education to the school districts).

A review of auditor reports on Internal Controls and grant compliance from the County, selected cities, school districts and other special districts suggests that the control environment is far from optimum among County Organizations. The majority of County Organizations reviewed had problems with Internal Controls and/or grant compliance identified by the independent auditors, including Material Weaknesses and Significant Deficiencies. In a number of instances, these findings were recurring over multiple years. Furthermore, there is a significant difference among officials interviewed regarding the importance of establishing and maintaining a rigorous Internal Control environment and responding to/fixing findings raised by the independent auditors.

The Grand Jury considers Internal Controls an important element in establishing and maintaining integrity in financial reporting and safeguarding assets on behalf of the citizens of the County.

METHODOLOGY

In evaluating the Internal Control environment maintained by County Organizations, the following tasks were performed:

- Interviews with financial and management officials from selected County Organizations;
- Interviews with representatives from the California State Controller's Office ("SCO");
- Review of audited financial statements for selected County Organizations for the Fiscal Years ("FY") 2011 and 2012;
- Review of auditor communication letters for selected County Organizations related to their audits for the FY2008-FY2012 periods;
- Review of auditor "Management Letters" and/or "Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards" for selected County Organizations related to their audits for the FY2008-2012 periods;
- Review of auditor-prepared Single Audit Reports and/or "Independent Auditors' Report on Compliance with Requirements that could have a Direct and Material Effect on Each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133" for selected County Organizations related to their audit for the FY2008-2012 periods;
- Preparation of a detailed control questionnaire and survey of selected County Organizations;
- Review of State Controller Office Audit report to assess the adequacy of the system of Internal Controls at both the City of Hercules and the Hercules Redevelopment Agency (SCO.ca.gov);
- Review of Contra Costa County internal audit reports and City of Richmond internal audit report – 'Internal Audit of Library and Cultural Services Department' dated

February 2013;

- Review of selected outside grant audit reports provided by selected County Organizations;
- Review of requirements for preparation of the Single Audit report, as maintained by the California State Controller's Office (SCO.ca.gov); and,
- Review of selected Government Accounting Standards as promulgated by the Government Accounting Standards Board ("GASB").

BACKGROUND

There have been a number of high-profile financial problems involving local government entities documented in the media over the past several years. From a state perspective this includes The City of Bell in Southern California – where there are allegations of massive corruption, and the bankruptcy filings of Vallejo, Stockton and San Bernardino. In Contra Costa County, the State authorities have intervened in the cities of Richmond and Hercules and the West Contra Costa Unified School District. In certain of these instances, the underlying problems were a lack of financial resources, exacerbated by inadequate financial reporting. In other instances, the problems were caused by a lack of controls over the financial operations of the affected organization.

See Appendix 1 for a glossary of key terms used throughout this report.

Internal Controls

County Organizations have a responsibility to the citizens they serve to safeguard their organizations' assets and report the results of their operations. Internal Controls are the policies and procedures established by an organization to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A system of Internal Controls should encompass both the control environment and specific control activities.

The management style and the expectations of management, particularly their control policies, determine the control environment. An effective control environment helps to ensure that established policies and procedures are followed. The control environment includes independent oversight provided by a governing board (including audit committees); independent audit of the organization's finances; management's integrity, ethical values, and philosophy; a defined organizational structure with competent and trustworthy employees; and the assignment of authority and responsibility within the organization.

An effective control environment includes the following:

- **Adequate segregation of duties.**

This requires that different individuals be assigned responsibility for different elements of related activities, particularly those involving authorization, custody, or recordkeeping. For example, the same person who is responsible for an asset's recordkeeping should not be responsible for physical control of that asset. Having different individuals perform these functions creates a system of checks and balances.

- **Proper authorization of transactions and activities.**

This helps ensure that all of an organization's activities adhere to established guidelines unless variances are properly authorized by management.

- **Adequate documents and records which provide evidence that financial statements are accurate.**

- **Controls designed to ensure adequate recordkeeping.**

This includes the creation of invoices and other documents that are easy to use and sufficiently informative; the use of pre-numbered, consecutive documents, such as receipt logs; and the timely preparation of documents and financial reports including actual versus budgeted results.

- **Physical controls over assets and records.**

This helps protect an organization's assets. These control activities may include electronic or mechanical controls (such as a safe, employee ID cards, cash registers, and fireproof files) or computer-related controls dealing with system access privileges or established backup and recovery procedures.

- **Independent checks on performance.**

This includes checks which are carried out by employees who did not do the work being checked and will help ensure the accuracy and reliability of accounting information and the efficiency of operations. For example, a supervisor verifies the accuracy of an accounting clerk's account reconciliations. Internal auditors may also verify that the supervisor performed the required review.

In order to identify and establish effective controls, management must continually assess the risk, monitor control implementation, and modify controls as needed.

Annual Audit Internal Control Reporting

Each year, as part of the annual financial statement audit, the independent auditors evaluate those Internal Controls they feel are necessary for them to issue their audit opinion (this could range from a comprehensive review of controls to no review of controls). The auditors do not look at all Internal Controls (for example, the outside auditors for the City of Richmond did not report on any findings with regard to the library, while a separate internal audit found multiple issues and proposed 29 corrective recommendations). At the conclusion of their audit, the auditors are required to communicate with management as to certain key information involved with the audit (often referred to as “Required Communications”) and communicate any findings with regard to Internal Controls (often referred to as a “Management Letter”).

Since the outside auditors’ review is by its nature limited in scope, when the outside auditors describe an inadequate Internal Control environment, a more detailed or thorough review may be required to determine if even more serious or pervasive issues exist (which, if not corrected, could potentially lead to major financial reporting errors, fraud, or other fiscal problems in the future). In addition, for those organizations that received federal funds in excess of \$500,000, the auditors also issue a report on the organization’s compliance with the grants (often referred to as “Single Audit Report”).

The auditors’ control findings are typically categorized as “Material Weaknesses”, “Significant Deficiencies” and “Other Matters or Findings”. The professional literature provides the following definitions:

- “Material Weakness” is “a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.”
- “Significant Deficiency” is “a deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.”
- “Other Matters or Findings”, while not specifically defined, refers to any additional issues which the independent auditor wishes to communicate to the governing body of the organization.

Both Material Weaknesses and Significant Deficiencies are considered serious conditions by the outside auditors that warrant immediate attention and correction. An organization’s management is required to formally respond to these findings. An entity can receive a “clean” or unqualified opinion on its financial statements and still have problems with its Internal Controls.

Survey and Report Review Results

A detailed survey covering certain Internal Controls was sent by the Grand Jury to selected County Organizations. This survey focused on identifying the size of finance/accounting functions within the organizations, the adequacy of segregation of duties and what impact, if any, recent budgetary constraints may have had on the size of accounting and finance functions. The surveyed County Organizations were Contra Costa County; the cities of Richmond, Pinole, Antioch and Walnut Creek; the Acalanes Unified, West Contra Costa Unified, Mount Diablo Unified and Pittsburg Unified school districts; Pleasant Hill Recreation District; Contra Costa Water District and Kensington Police and Community Services District. A review of the survey responses and reports from the independent auditor for the five most recent fiscal years (2008-2012) identified the following items:

- Three organizations - City of Richmond, Richmond Housing Authority and West Contra Costa USD - received “qualified” audit opinions from the independent accountants in 2011. The qualifications with respect to the City of Richmond and Richmond Housing Authority relate to the Housing Authority’s ability to continue as a going concern due to its current dire financial position. The qualification on the 2011 West Contra Costa USD financial statements related to the improper exclusion in the financial statements of certain trust/agency activities. The West Contra Costa USD corrected the exclusion in 2012.
- In approximately 75% of the entities reviewed, there was communication from the auditors indicating that a significant number of audit adjustments (for example, approximately 120 separate adjustments in the case of Richmond for 2011) were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
- A majority of the entities reviewed had at least one Internal Control issue noted as Material Weaknesses/Significant Deficiencies. The total number of control issues identified for the five-year period ranged from 1 (Contra Costa Water District and City of Antioch) to greater than 125 (City of Richmond). In many instances, the issues identified were recurring.
- A majority of the entities reviewed had at least one grant compliance finding over the past five fiscal years. The total number of findings ranged from 0 (Contra Costa Water District) to greater than 40 (City of Richmond). In many instances, the issues identified were recurring.

- In the smaller cities and special districts there is not a sufficient number of staff to achieve an adequate segregation of duties.

Contra Costa County has an internal audit group that currently formally reports to the County Auditor-Controller and informally to an “Audit Committee” that includes two County supervisors and representatives from the Auditor-Controller’s Office. The internal audit group reviews the various operating County departments on a 2-5 year cyclical basis (more frequently where problems have been identified). The scope and plans for these audits are determined by the Auditor-Controller, with input from the Audit Committee. The professional literature indicates that the internal audit function should have direct reporting responsibility to the governing board of an organization.

Material Weaknesses/Significant Deficiencies

A more detailed view of the number of Material Weaknesses/Significant Deficiencies identified by the independent auditors for the County Organizations reviewed, including the recurring nature of some of the findings, is presented below in Table 1.

Table 1- Summary of Material Weaknesses/Significant Deficiencies -

Entity	Material Weaknesses/Significant Deficiencies by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	1	1	2	0	0	Yes
City of Richmond/Richmond Housing Authority	*	15	18	12	11	Yes
City of Antioch	0	1	0	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	0	0	0	0	No
City of Hercules	(2)	(2)	(2)	(2)	(2)	
Pleasant Hill Recreation	0	0	0	0	0	No
Kensington Police (KPPCSD)	1(1)	0	0	0	0	Yes
Contra Costa Water Dist.	0	0	0	0	0	No
Acalanes USD	0	0	0	1	1	Yes
Mt. Diablo USD	2	2	1	3	1	Yes
West Contra Costa USD	1	2	0	0	0	Yes
Pittsburg USD	2	1	5	11	0	Yes

Legend / Notes –

* Reporting for 2012 not yet completed

- (1) KPPCSD has not completed a timely audit for either 2011 or 2012 due to the credit card charges allegations and investigations. Due to the inability to produce audited financial statements on a timely basis– there is deemed to be a Material Weakness.
- (2) City of Hercules/Hercules RDA – Information based on separate State Controller Office Audit Report of Controls for 2005-2010.

With respect to the school districts, there has been noted improvement in Internal Controls measured by a reduction in auditor findings in the last five years. The Contra Costa Office of Education has regular involvement with the various school districts to assist them in confronting their internal control issues. The County Office of Education has, at times, inserted monitors or consulting experts to assist the districts. The majority of the recent findings relate to identified inadequacies in the controls over cash receipts (most often student/parent donations or contributions) and timely recordkeeping/reconciliation in the area of “Associated Student Funds” – student clubs and organizations for which the school districts have oversight and accounting responsibility.

A number of the organizations reviewed had recurring findings of Material Weaknesses/Significant Deficiencies. The repetition of significant findings from year to year could call into question a management’s or governing board’s commitment to the control environment. Additional background on certain of the information reviewed is as follows:

- **Kensington Police Protection and Community Services District –**

In 2010, the independent auditor identified as an internal control weakness the issue of unsubstantiated credit card purchases. Subsequently, there were allegations of improper credit-card spending. . The District had to incur approximately \$25,000 in costs related to an additional independent, forensic audit of the spending allegations as a result of the lack of functioning of internal controls.

- **The City of Hercules (including the Hercules Redevelopment Agency) -**

An audit by The State Controller’s Office found “control deficiencies were serious and pervasive – in effect, non-existent. In addition, the City Council did not appear to exercise any oversight over the City’s operations.” (SCO Audit Report). The audit (which covered the period 2005-2010) indicates that there were millions of dollars of questionable spending and property transfers by the RDA, misuse of city-issued credit cards, improper budgeting and a lack of competitive bidding on public contracts.

- **The City of Richmond -**

Significant issues were identified in regard to library operations, including inadequate controls over purchases, improper credit card use, significant shrinkage or theft of library materials, unauthorized purchases, lack of control over cash receipts and inadequate controls over fines/billings for lost items. These items could aggregate as much as \$450,000 in losses (2013 City of Richmond Library Internal Audit Report).

- **The City of Richmond/Richmond Housing Authority -**

There are an excessive number of issues noted from an overall perspective. While many of the issues deal with the accuracy and timeliness of financial reporting, there are many which document losses (or potential losses) due to inadequate controls, including: unauthorized city credit card usage, significant levels of uncollectible employee/other loans (which aggregate to approximately \$1 million over the period reviewed), and significant disallowed grant/program costs requiring the city to fund activities initially to be covered under grants (several million dollars).

- **Contra Costa County –**

The Contra Costa County Auditor-Controller department is currently operating at approximately 6-9 headcount below its budgeted headcount level, primarily due to a high level of unplanned retirements (which did not leave time for adequate succession planning) and employee turnover. Additionally, as longer-term employees have retired/left, they have been replaced by less-experienced personnel with an attendant loss of cumulative institutional knowledge.

Internal Audit Reports for the past four years prepared by Contra Costa County internal audit staff identify a number of different internal control issues at the various County operating departments. The majority of issues relate to proper safeguarding of assets and controls associated with ensuring the integrity of financial reporting. The issues at various County departments include:

- A lack of compliance with County credit card guidelines, including personal use, charges for non-permitted items, exceeding transaction authority limits, and missing approvals (primarily for travel) and documentation. According to the internal audit reports there have been instances where the non-compliance resulted in unreimbursed losses.
- Instances where there was a lack of segregation of duties at the operating department level.
- Controls over cash receipts in terms of depositing funds on a timely basis and maintaining adequate control logs over all receipts.
- Concerns with respect to petty cash funds and the timely reconciliation of these funds.
- Controls over various “trust funds” and the timely reconciliation and correction of identified reconciling items, processing disbursement/refunds of such funds and the necessity for proper tax reporting related to certain of these funds.
- Results of periodic inventory observations by the internal audit staff that show both overages and shortages (including items such as medical supplies/pharmacy inventories, fuel inventories, and various supplies).
- Failure to properly and fully reconcile various accounts, many of which show differences between the general ledger system and the related subsidiary systems. This included the

timely resolution (and correction where necessary) of differences identified when reconciliations were performed, rather than just carrying these differences forward. These differences could result in undetected errors or losses and/or inaccurate financial reporting.

- Failure to properly use asset tags to safeguard County equipment and properly certify equipment inventories at fiscal year-ends.

In the case of the County, cities and independent special districts, responsibility for remedy and oversight of findings with respect to Internal Controls lies with management and the related governing board. There is no additional on-going oversight over the County, cities and independent special districts by a supervising entity, similar to the role played by the Contra Costa Office of Education with regard to school districts. According to representatives from the California State Controller’s Office, that organization may intervene in extreme situations including those where state funds are required to be provided as part of a temporary solution to a crisis situation.

In the smaller cities and special districts (such as Kensington Police Protection and Community Services District, Pleasant Hill Recreation District and the City of Pinole) there is not sufficient staff to achieve an adequate segregation of duties. In instances such as these, the professional literature describes the need for additional “compensating controls” – typically a person(s) independent of the day-to-day processes who can exercise a meaningful level of supervisory oversight (including check signatory control for large expenditures). This supervisory oversight could include someone from the related governing board.

Single Audit/Grant Findings

A summary of the Single Audit Report Findings – which focuses on compliance with Federal and State grants, is presented below in Table 2.

Table 2 – Single Audit Report (Grant) Findings (FY2008-2012) -

Entity	Single Audit Report (Grant Findings) Total Grant Issues Identified by Fiscal Year					
	2012	2011	2010	2009	2008	Recurring
Contra Costa County	6	5	3	0	2	Yes
City of Richmond/Richmond Housing Authority	*(1)	12	9	7	11	Yes
City of Antioch	1	0	3	0	0	No
City of Walnut Creek	0	0	0	0	0	No
City of Pinole	0	N/A	0	1	N/A	No
Pleasant Hill Recreation	N/A	N/A	N/A	N/A	N/A	N/A

Entity	Single Audit Report (Grant Findings)					
	Total Grant Issues Identified by Fiscal Year					
Kensington Police (KPPCSD)	N/A	N/A	N/A	N/A	N/A	N/A
Contra Costa Water Dist.	0	0	0	0	0	N/A
Acalanes USD	0	1	0	1	0	Yes
Mt. Diablo USD	1	3	3	2	5	Yes
West Contra Costa USD	0	1	2	1	3	Yes
Pittsburg USD	0	2	2	3	4	Yes

Legend / Notes –

* Reporting for FY12 not yet complete

N/A – Not applicable

- (1) An employee in the City of Richmond has identified issues with a Library Grant, including allegations of improper accounting and this has been acknowledged by the City per media reports. This is not included in the totals for this year. A separate internal audit of the library function revealed multiple Internal Control weaknesses and 29 corrective recommendations.

Single Audit Report Findings represent identified instances of non-compliance with a grant or award. While the report does not necessarily cover all grants and awards – it does cover those the auditor believes are most significant. The impact of non-compliance instances on grants typically ranges from required remediation to repayment of disallowed grant funds. This could potentially involve the loss of the grant or impact the ability to receive future grants. There were a number of instances where costs charged to grants were disallowed and had to be repaid or entities were not able to identify grant disallowances or required repayments. Specific examples include:

- The City of Richmond 2011 Single Audit Report identified multiple instances aggregating in excess of \$200,000 where repayment of grant funds was required. Additionally information suggests that there are Richmond Library grant funds in excess of \$50,000 which were improperly charged to a grant. Many of these instances related to control problems that were identified for multiple, consecutive years by the independent auditors.
- The 2011 financial statement audit report for the Richmond Housing Authority states that “the allowance for HUD disallowed costs was increased to \$2.4 million” and this was one of the reasons for the auditors questioning the ability of this entity to continue as a going concern or financially-viable entity.
- Contra Costa County was unable to identify the level of disallowed grant or program costs for the past two years.

Single Audit Reports are submitted to the California State Controller's Office which notifies the relevant state agency involved in the grant of any issues raised and it is the individual agency's responsibility to resolve the findings with the grant recipient. Granting agencies may also perform their own audits of grant activity and compliance.

Significant differences exist between County Organizations in the level of importance placed on the various auditor findings in regard to Internal Controls and grant compliance and the control environment considered as a whole. The views ranged from "not important at all" to significant importance coupled with immediate efforts to ensure the findings were corrected and were not recurring.

FINDINGS

1. Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls each year as reported by the external auditors.
2. In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.
3. Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), inaccurate or faulty financial reporting and decision-making based on incomplete or inaccurate information.
4. Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.
5. Unresolved problems with grants could potentially result in the loss of future grants and required repayment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).
6. There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.
7. Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.
8. Based on the entities reviewed, the County Board of Supervisors, the City Councils, and the governing boards in the case of school districts and special districts, are not providing adequate oversight over the entities that they govern to ensure that Material Weaknesses, Significant Deficiencies and other deficiencies in regard to Internal Controls and outside grant compliance are being remedied in a timely manner. Most County Organizations do not have an Audit Committee, independent of the organization's financial management, which is chartered to provide financial oversight.

9. A recurring finding by the independent auditors with respect to school districts related to the need for improved controls over “Associated Student Body Funds” – the various student clubs and organizations for which the districts have financial oversight and accounting responsibility. The improved control recommendations involved controls over cash receipts, timely accounting and reconciliation of funds held by the organizations and controls over disbursements. Continued and significant problems in this area could result in both losses and negative publicity (reputational risk).

RECOMMENDATIONS

The Grand Jury recommends that:

1. Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.
2. County Organizations maintain or add audit report results to appropriate financial managements’ performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports, and consider the legality of maintaining or adding such performance goals on audit reports to financial managements’ evaluations.
3. The County Organizations improve direct financial oversight and assessment of the control environment including:
 - a. The Board of Supervisors more actively provide oversight in the case of the County and appoint a formal Audit Committee from among their members to ensure that Internal Control and grant compliance deficiencies are promptly remedied and there are sufficient direct and detailed discussions between the Board and the outside auditors.
 - b. The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens’ committee to ensure that Internal Control deficiencies are promptly remedied.
 - c. The governing boards of school districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied.
 - d. The governing boards of special districts appoint a formal Audit Committee from among their members and provide direct oversight to district operating and financial management to ensure that Internal Control deficiencies are promptly remedied. In instances where the size of the entity precludes an adequate segregation of duties, governing board members need to consider direct involvement in key financial processes.
 - e. The Superintendent of the County Office of Education continue to provide oversight over governing boards of school districts and continue to use the power of this office to compel remediation of Internal Control deficiencies.
 - f. LAFCO (Local Agency Formation Commission) encourage governing boards of special districts to promptly remedy Internal Control deficiencies that are identified.
 - g. The Board of Supervisors have the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of

other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

REQUIRED RESPONSES

Each County Organization needs to respond only in regards to its own practices.

	Findings	Recommendations
Contra Costa County Board of Supervisors	1-8	1,2,3a,3g
City of Antioch	1-8	1,2,3b,3g
City of Brentwood	1-8	1,2,3b,3g
City of Clayton	1-8	1,2,3b,3g
City of Concord	1-8	1,2,3b,3g
Town of Danville	1-8	1,2,3b,3g
City of El Cerrito	1-8	1,2,3b,3g
City of Hercules	1-8	1,2,3b,3g
City of Lafayette	1-8	1,2,3b,3g
City of Martinez	1-8	1,2,3b,3g
Town of Moraga	1-8	1,2,3b,3g
City of Oakley	1-8	1,2,3b,3g
City of Orinda	1-8	1,2,3b,3g
City of Pinole	1-8	1,2,3b,3g
City of Pittsburg	1-8	1,2,3b,3g
City of Pleasant Hill	1-8	1,2,3b,3g
City of Richmond	1-8	1,2,3b,3g
City of San Pablo	1-8	1,2,3b,3g
City of San Ramon	1-8	1,2,3b,3g
City of Walnut Creek	1-8	1,2,3b,3g

	Findings	Recommendations
Acalanes Union High School District	1-9	1,2,3c,3g
Antioch Unified School District	1-9	1,2,3c,3g
Brentwood Union School District	1-9	1,2,3c,3g
Byron Unified School District	1-9	1,2,3c,3g
Canyon School District	1-9	1,2,3c,3g
Contra Costa Community College District	1-9	1,2,3c,3g
John Swett Unified School District	1-9	1,2,3c,3g
Knightsen Elementary School District	1-9	1,2,3c,3g
Lafayette School District	1-9	1,2,3c,3g
Liberty Union High School District	1-9	1,2,3c,3g
Martinez Unified School District	1-9	1,2,3c,3g
Moraga School District	1-9	1,2,3c,3g
Mount Diablo Unified School District	1-9	1,2,3c,3g
Oakley Union Elementary School District	1-9	1,2,3c,3g
Orinda Union School District	1-9	1,2,3c,3g
Pittsburg Unified School District	1-9	1,2,3c,3g
San Ramon Valley Unified School District	1-9	1,2,3c,3g
Walnut Creek School District	1-9	1,2,3c,3g
West Contra Costa Unified School District	1-9	1,2,3c,3g
Contra Costa County Office of Education	1-9	1,2,3e
Local Agency Formation Commission (LAFCO)	1-8	1,2,3f
Kensington Police Protection and Community Services District	1-8	1,2,3d,3g
Pleasant Hill Recreation and Park District	1-8	1,2,3d,3g
Contra Costa Water District	1-8	1,2,3d,3g

Appendix 1 – Glossary of Key Terms

Audit Committee – An operating committee of an organization’s governing board charged with oversight of the organization’s audit and control functions.

Management Letter- The required communication of the independent auditor and those charged with governance of an organization in regards to deficiencies identified during the audit in the system of internal controls. In the Public Sector, these are also commonly referred to as “Reports on Internal Controls over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements performed in Accordance with Government Auditing Standards.”

Material Weakness -A deficiency or a combination of deficiencies, in internal controls such that there is a reasonable possibility that a material misstatement of the entity’s financial statements will not be prevented, or detected and corrected on a timely basis.

Required Communications – The independent auditor is required to formally communicate with those charged with governance in relation to an audit of financial statements. This typically involves a governing board and any audit committee established by such governing board. The communication typically includes the auditor’s responsibilities under generally accepted auditing standards, an overview of the planned scope and timing of the audit and significant findings from the audit.

Significant Deficiency - A deficiency or a combination of deficiencies in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

Single Audit Report – All non-federal government entities that expend \$500,000 or more of Federal awards or grants are required to obtain an annual audit in accordance with the Single Audit Act and rules set forth by the Office of Management and Budget (OMB). This audit, typically done in conjunction with the annual financial statement audit, focuses primarily on grant/award compliance. This report is often titled “Independent Auditors’ Report on Compliance with Requirements that could have a Direct And Material Effect on Each Major Program an on Internal Control over Compliance in Accordance with OMB CircularA-133.”

System of Internal Accounting Controls or Internal Controls – The policies and procedures established by an organization designed to ensure reliable financial reporting, effective and efficient operations, compliance with applicable laws and regulations and the safeguarding of assets against theft and unauthorized use, acquisition, or disposal. A System of Internal Accounting Controls should encompass both the control environment and specific control activities.



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3505
FAX (925) 229-5012

July 25, 2013

Marc Hamaji, Foreperson
2012-13 Contra Costa County Civil Grand Jury
P. O. Box 431
Martinez, CA 94553-0091

Dear Mr. Hamaji:

On behalf of the Martinez City Council, this letter responds to Contra Costa County Grand Jury Report #1311: "Assessing Fiscal Risk." The City Council authorized this response at its meeting on July 24, 2013. In accordance with your request and Section 933.05 of the California Penal Code, the City will respond to each finding and recommendation separately.

Finding #1

Several of the entities reviewed showed Material Weaknesses, Significant Deficiencies and other deficiencies in internal Controls each year as reported by the external auditors.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #2

In several instances, the Material Weaknesses, Significant Deficiencies and other deficiencies were repeated from one year to the next by the external auditors without being remedied.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #3

Weaknesses in Internal Controls could ultimately result in financial losses, loss of public confidence (reputational risk), inaccurate or faulty financial reporting and decision-making based on incomplete or inaccurate information.

City Response: City agrees with this finding.

Finding #4

Several of the entities reviewed showed issues (including Material Weaknesses/Significant Deficiencies) with respect to compliance with grants which they have been awarded.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #5

Unresolved problems with grants could potentially result in the loss of future grants and required repayment of expended grant funds. Where repayment of grant funds is required, unrelated general fund resources are being used. This can result in a loss of public confidence (reputational risk).

City Response: City agrees with this finding.

Finding #6

There is a significant difference among County Organizations as to the level of importance placed on the control and grant compliance findings of the outside auditors and need to remedy, on a timely basis, the issues noted.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #7

Many of the entities reviewed had communications from the auditors indicating that a significant number of audit adjustments were required to the financial statements as prepared by the organization. This may suggest that monthly or interim information prepared during the year was incorrect, potentially impacting budgetary controls and/or information presented to management/governing boards for decision-making or oversight purposes.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #8

Based on the entities reviewed, the County Board of Supervisors, the City Councils, and the governing boards in the case of school districts and special districts, are not providing adequate oversight over the entities that they govern to ensure that Material Weaknesses, Significant Deficiencies and other deficiencies in regard to Internal Controls and outside grant compliance are being remedied in a timely manner. Most County Organizations do not have an Audit Committee, independent of the organization's financial management, which is chartered to provide financial oversight.

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Finding #9

A recurring finding by the independent auditors with respect to school districts related to the need for improved controls over “Associated Student Body Funds” – the various student clubs and organizations for which the districts have financial oversight and accounting responsibility. The improved control recommendations involved controls over cash receipts, timely accounting and reconciliation of funds held by the organizations and controls over disbursements. Continued and significant problems in this area could result in both losses and negative publicity (reputation risk).

City Response: With the information provided in the grand Jury Report #1311, City agrees with this finding.

Recommendations #1

Financial management of the County, all cities, all school districts and all special districts remedy within 12 months the Material Weaknesses, Significant Deficiencies and other deficiencies in Internal Controls reported by the external auditors.

City Response: The recommendation has been implemented. If the City had any material weaknesses, significant deficiencies or any other deficiencies in Internal Controls reported by the the external auditors, they would be addressed and remedied within 12 months.

Recommendations #2

County Organizations maintain or add audit report results to appropriate financial managements’ performance goals to ensure that such individuals are held accountable for promptly remedying deficiencies identified in audit reports to financial managements’ evaluations.

City Response: The recommendation has been implemented. The City already mentions the audit as part of the employee’s evaluation.

Recommendations #3b

The City Councils more actively provide oversight by appointing an Audit Committee from among their members as well as an ad hoc citizens’ committee to ensure that Internal Control deficiencies are promptly remedied.

City Response: The recommendation has been implemented. The City has a Budget/Finance Standing Subcommittee that meets with the external auditor annually to review the CAFR and Audit Internal Control Report. Both reports are presented at a City Council meeting with the external auditor in attendance if there are any questions by the City Council or the public.

Recommendations #3g

The Board of Supervisors has the County internal audit staff report directly to the Board of Supervisors rather than the Auditor Controller. The governing boards of other County Organizations have the internal audit groups of other County Organizations maintain their independence and not report to financial management but instead to the City Council in the case of cities and the governing boards in the case of school districts and special districts.

City Response: The recommendation will not be implemented because the City doesn't have an internal auditor. However, the external auditor reports to the Budget/Finance Standing Subcommittee, and the City Council at a public meeting annually.

Sincerely,

Rob Schroder
Mayor

Cc: City Council
Jeffrey Walter, City Attorney
Phil Vince, City Manager
Alan Shear, Assistant City Manager



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
July 24, 2013**

TO: Mayor and City Council
FROM: Mercy G. Cabral, Deputy City Clerk
SUBJECT: Grand Jury Response to Report #1308, “Encouraging Citizens to Apply for Grand Jury Service”
DATE: July 9, 2013

RECOMMENDATION:

Approve and authorize the Mayor to sign the attached responses to the Grand Jury Report #1308, “Encouraging Citizens to Apply for Grand Jury Service” by the 2012-2013 Contra Costa Grand Jury.

BACKGROUND:

The California Constitution established Grand Juries in each county. With respect to public agencies, Grand Juries are authorized to “investigate and report upon the operations, accounts and records of the officers, departments, functions, and the method of performing the duties of any such city and make such recommendations as it may deem proper. A governing body has 90 days to respond to the presiding judge of the superior court on findings contained in a Grand Jury Report.

In June, Martinez (as well as other public agencies in Contra Costa County) received the attached Grand Jury Report titled “Encouraging Citizens to Apply for Grand Jury Service” (Attachment A) which contained recommendations specific to certain jurisdictions. Accordingly, the attached draft responses (Attachment B) are presented for the City Council’s consideration to transmit to the presiding judge.

FISCAL IMPACT:

Responding to the Grand Jury reports took staff time.

ACTION:

Motion to approve staff’s responses to the Grand Jury Report #1308, and authorize the Mayor to sign staff’s response letter.

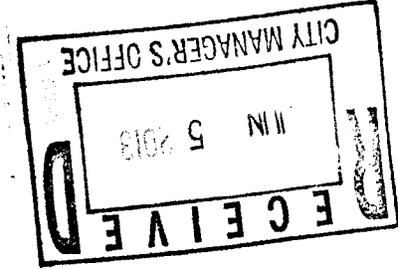
Attachments:

- A. Grand Jury Letter & Report
- B. Draft Letter to Contra Costa County Grand Jury

APPROVED BY:


City Manager

*MUST be
Completed
with consent
Staff report
by: July 18, 2013*



June 3, 2013

Philip A. Vince, City Manager
City of Martinez
525 Henrietta Street
Martinez, CA 94553

Dear Mr. Vince:

Attached is a copy of **Grand Jury Report No. 1308, "Encouraging Citizens To Apply For Grand Jury Service"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

- 1. The recommendation has been implemented, with a summary describing the implemented action.
- 2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
- 3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **SEPTEMBER 3, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,



Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

Contra Costa County Grand Jury Report 1308

ENCOURAGING CITIZENS TO APPLY FOR GRAND JURY SERVICE
There is an imbalance in district applications.

TO: The Board of Supervisors and all Cities and Towns of Contra Costa County

SUMMARY

The Contra Costa County Grand Jury is not a part of County government, nor is it a part of any city or special district governing body. The Grand Jury is a part of the State of California's court system. The Grand Jury has no oversight responsibility related to any activity or function carried out by the Court. Specifically, the Grand Jury cannot write reports and make recommendations related to how the Court chooses to administer any aspect of the Grand Jury process. That process includes activities related to (a) recruiting potential jurors, (b) evaluating applications received from potential jurors, (c) interviewing applicants, and (d) the final selection of jurors for service.

During discussions with several members of the County Board of Supervisors, it was mentioned that it has become increasingly difficult to find citizens willing to volunteer to serve on the numerous boards, advisory committees, councils, etc. that the County has established. This situation was investigated by last year's Grand Jury in Report #1215. Although not established by the County, the Grand Jury is similarly dependent upon finding volunteers from the community willing to serve. In looking at this issue, this Grand Jury has discovered that there has been a significant imbalance in the number of applications received from each of the five Supervisorial Districts. Over the five most recent Grand Jury terms, Districts II and IV have jointly produced 61 applications per 100,000 of population. Over that same period Districts I, III and V combined have produced only 28 applicants per 100,000 of population, or approximately half that of Districts II and IV.

In order to make the Grand Jury a more effective body, it is important that (a) an adequate number of applications be received each year by the Court and (b) that in this group of applications an equitable geographic representation is achieved. The purpose of this report, therefore, is two-fold: First, to make the public and Contra Costa County (CCC) elected officials aware of this imbalance in applications with respect to the five Supervisorial Districts; Second, to make recommendations to CCC and city officials who can be instrumental, in general, in encouraging citizens to volunteer for Grand Jury service and, in particular, in increasing the number of Grand Jury applications from Districts I, III, and V.

METHODOLOGY

The methodology of this investigation can be broadly categorized in four parts.

1. Grand Jury application statistics were organized by Supervisorial District and USPS Zip Code.
2. The California Penal Code was researched for those sections that would apply to the recruitment, selection and seating of civil Grand Juries.
3. Publically available Grand Jury literature and print and electronic media were surveyed.
4. Selected CCC District Supervisors were interviewed to determine the impact of supervisorial activity on the quantity of Grand Jury applications.
5. Reviewed last year's Grand Jury Report #1215

BACKGROUND

California Penal Code Sections 888 through 939.01 cover Grand Jury selection, protocol and service. In CCC, the Grand Jury is composed of nineteen members and serves for one year beginning in June. There are two sources for Grand Jurors. The first source is carry-over jurors from the previous year's Grand Jury. The second source is those who have not served on the previous year's Grand Jury and have volunteered for service on the new Grand Jury.

Application forms for Grand Jury service can be found at some, but not all public venues such as county offices, city offices, libraries and the court houses. Application forms can also be found on the Court's website www.cc-courts.org/Grandjury.

Citizens may apply for Grand Jury service provided that the following qualifications are met.

- Be a US citizen and a resident of Contra Costa County for at least one year.
- Be at least eighteen years of age.
- Possess ordinary intelligence, sound judgment and fair character.
- Possess sufficient knowledge of the English language.
- Never have been convicted of a felony or other high crime.

In recent years, the Superior Court has received an average of 88 applications for Grand Jury service. From the list of applicants, sixty are chosen for interview by Superior Court Judges. From the sixty that have been interviewed, the "final-thirty" are selected. It is from these thirty that the new jurors are chosen by a random process.

This report goes back five terms to the 2008-2009 Grand Jury. Over the five-term period 439 persons applied for Grand Jury service. The data was adjusted to identify the applicants with the current Supervisorial Districts that were established September 9, 2011. The data was then tabulated and analyzed.

Table 1 shows the populations of CCC and its breakdown among the five Supervisorial Districts.

Table 1.				
Contra Costa County Population US Census of 2010				
The areas that now are the 2011 Supervisor Districts	District Population	Population Districts I, III & V	Population Districts II & IV	Percentage of County Population
I	203,347	203,347		19.4%
II	218,917		218,917	20.9%
III	203,711	203,711		19.4%
IV	219,216		219,216	20.9%
V	203,744	203,744		19.4%
Totals	1,048,935	610,802	438,133	
Percentage		58.2%	41.8%	100.0%

Table 1 is based on the 2010 U.S. census. The current Supervisorial Districts average 20% or just under 210,000 inhabitants for each of the five Districts. The variation among Districts is minimal. The most populous District is 219,216 or 20.9% of total CCC population and the least populous is 203,347 or 19.4% of CCC population. For practical purposes the five districts have an even proportion of inhabitants. The Supervisorial District Map is shown in Exhibit 1.

Table 2 shows the distribution of applicants for the past five Grand Juries from the five Supervisorial Districts.

Table 2.				
Grand Jury Applications				
Aggregated Five-Year History 2008-2012				
The areas that now are the 2011 Supervisor Districts	GRAND JURY Applicants	Applicants Districts I, III & V	Applicants Districts II & IV	Percentage of GRAND JURY Applicants
I	58	58		13.2%
II	135		135	30.8%
III	44	44		10.0%
IV	134		134	30.5%
V	68	68		15.5%
Totals	439	170	269	
Percentage		38.7%	61.3%	100.0%

The 439 dots contained on Map 1, represent one dot for each application for Grand Jury service over the most recent five Grand Jury terms. Visually obvious is the concentration of applicants in Central County extending north to south in Districts II and IV.

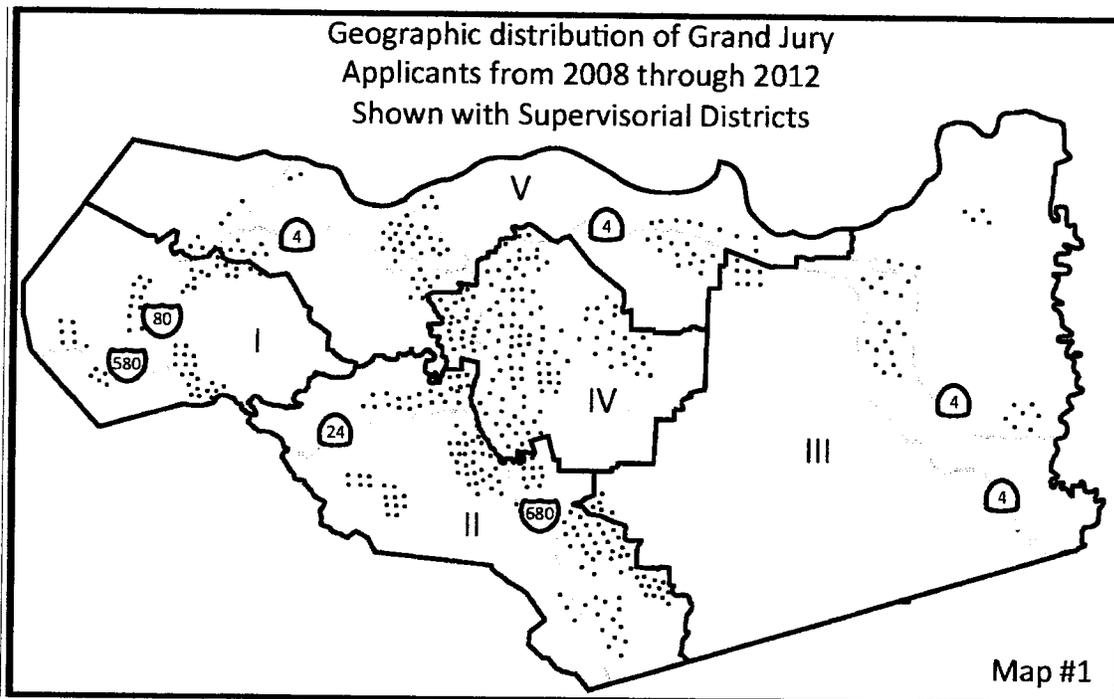


Table 2 and Map 1 show that the number of applicants from districts II and IV are each three times higher than those from districts III and twice as high as those from districts I and V. The populations of Districts I, III and V are not applying for Grand Jury service in nearly the same proportions as those of Districts II and IV. The information in Tables 1 and 2 is combined in

Table 3 where the proportionality of Grand Jury application history is clearly illustrated.

Table 3.					
Grand Jury Applications per Sup. Dist. Population					
Aggregated Five-Year History 2008-2013					
The areas that now are the 2011 Supervisor Districts	District Population	Grand Jury Applicants	Applicants per 100,000 of Population		
			All Districts	Districts I, III & V	Districts II & IV
I	203,347	58	29	29	
II	218,917	135	62		62
III	203,711	44	22	22	
IV	219,216	134	61		61
V	203,744	68	33	33	
Totals	1,048,935	439			
Averages			42	28	61

On average over the past five Grand Jury terms, there have been 42 Grand Jury applications county-wide per 100,000 of population. The disproportional bulk of these applications have come from central-county, the areas now designated as Districts II and IV. The applicant pattern has not significantly varied over the past five Grand Jury terms. The fact that Grand Jury applications in CCC is not proportional to Supervisorial District nor is it representative of population is displayed by Tables 2 and 3 and by Map 1.

Currently, it is difficult to get citizens to apply or volunteer for any type of public service such as board or commission membership. Last year's Grand Jury investigated this problem in Report #1215. The lack of interest in applying to serve on the Grand Jury may be caused by this situation. More balance in applications can be a part of a solution in meeting the requirements of Penal Code Section 899.

Findings

1. There is a persistent imbalance of 2 to 1 in Grand Jury applications between Districts II & IV and Districts I, III & V.
2. The problem is not the size of applicant pool, but the distribution over the five supervisorial districts.

Recommendations

The Grand Jury recommends that:

1. At public events, the Supervisors and their staff actively encourage applications for Grand Jury service.
2. The Supervisors use email and other media they now use to encourage Grand Jury application in their districts.
3. County offices open to the public in all districts display Grand Jury brochures and application forms.
4. City offices in Districts I, III, and V display Grand Jury brochures and application forms.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
Contra Costa County Board of Supervisors	1, 2	1-3
City of Antioch	1, 2	4
City of Brentwood	1, 2	4
City of El Cerrito	1, 2	4
City of Hercules	1, 2	4
City of Martinez	1, 2	4
City of Oakley	1, 2	4
City of Pinole	1, 2	4
City of Pittsburg	1, 2	4
City of Richmond	1, 2	4
City of San Pablo	1, 2	4

COPY FOR INFORMATION ONLY – NO RESPONSE REQUIRED

City of Clayton

City of Concord

Town of Danville

City of Lafayette

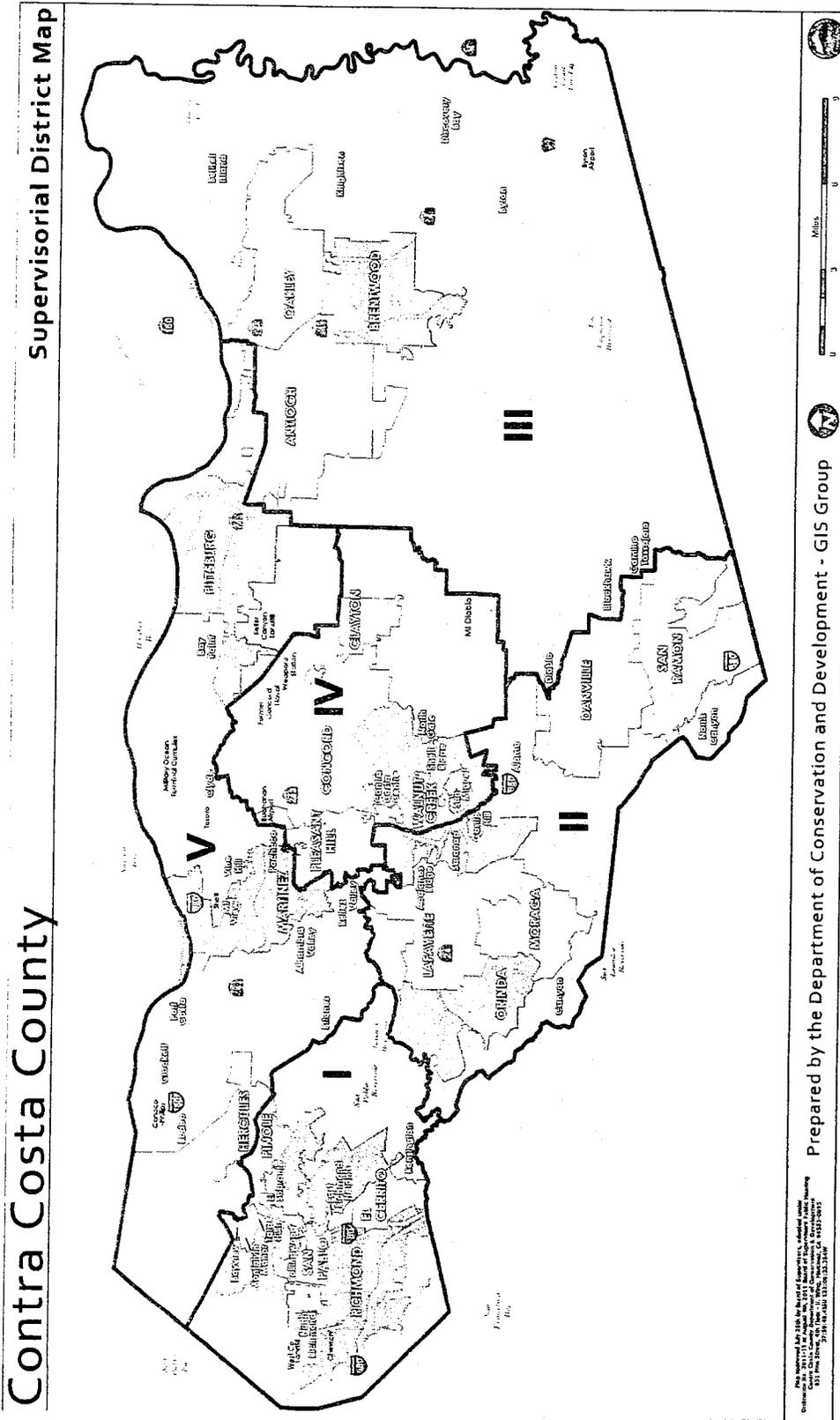
Town of Moraga

City of Orinda

City of Pleasant Hill

City of San Ramon

City of Walnut Creek





City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3505
FAX (925) 229-5012

July 25, 2013

Marc Hamaji, Foreperson
2012-13 Contra Costa County Civil Grand Jury
P. O. Box 431
Martinez, CA 94553-0091

Dear Mr. Hamaji:

On behalf of the Martinez City Council, this letter responds to Contra Costa County Grand Jury Report #1308: "Encouraging Citizens to Apply for Grand Jury Service." The City Council authorized this response at its meeting on July 24, 2013. In accordance with your request and Section 933.05 of the California Penal Code, the City will respond to each finding and recommendation separately.

Finding #1

There is a persistent imbalance of 2 to 1 in Grand Jury applications between Districts II & IV and Districts I, III, & V.

City Response: With the information provided in the grand Jury Report #1308, City agrees with this finding.

Finding #2

The problem is not the size of applicant pool, but the distribution over the five supervisorial districts.

City Response: With the information provided in the Grand Jury Report #1308, City agrees with this finding.

Recommendation #1

City offices in Districts I, III, and V display Grand Jury brochures and application forms.

The recommendation has been implemented. Since 2012 the City has displayed Grand Jury brochures and application forms at City Hall (outside bulletin board and City Clerk's Office) and is posted on the City's website; and will continue to do so. Further it was necessary for the City Clerk to create the brochure, since none was provided by the Grand Jury Secretaries after repeated requests.

We trust the Contra Costa Grand Jury will find these responses helpful to its endeavor. If you have further questions, please contact the City Clerk's Office at (925) 372.3512 or mcabral@cityofmartinez.org.

Sincerely,

Rob Schroder
Mayor

c: City Council
Jeffrey Walter, City Attorney
Phil Vince, City Manager
Alan Shear, Assistant City Manager



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
July 24, 2013**

TO: Mayor and City Council
FROM: Alan Shear, Assistant City Manager
SUBJECT: Grand Jury Response to Getting to Clean Water in Contra Costa County
DATE: July 12, 2013

RECOMMENDATION:

Approve and authorize the Mayor to sign the attached responses to the Grand Jury Report #1305, “Getting to Clean Water in Contra Costa County” by the 2012-2013 Contra Costa Grand Jury.

BACKGROUND:

The California Constitution established Grand Juries in each county. With respect to public agencies, Grand Juries are authorized to “investigate and report upon the operations, accounts and records of the officers, departments, functions, and the method of performing the duties of any such city and make such recommendations as it may deem proper. A governing body has 90 days to respond to the presiding judge of the superior court on findings contained in a Grand Jury Report.

In June, Martinez (as well as other public agencies in Contra Costa County) received the attached Grand Jury Report titled “Getting to Clean Water in Contra Costa County” (Attachment A) which contained recommendations specific to certain jurisdictions. Accordingly, the attached draft responses (Attachment B) are presented for the City Council’s consideration to transmit to the presiding judge.

FISCAL IMPACT:

Responding to the Grand Jury reports took staff time.

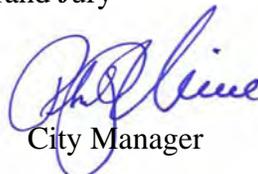
ACTION:

Motion to approve staff’s responses to the Grand Jury Report, and authorize the Mayor to sign staff’s response letter.

Attachments:

- A. Grand Jury Report
- B. Letter to Contra Costa County Grand Jury

APPROVED BY:


City Manager

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

Report 1305

**GETTING TO CLEAN WATER IN
CONTRA COSTA COUNTY**

What's the Plan and Where's the Money?

APPROVED BY THE GRAND JURY:

Date: 5/21/2013



MARTHA WHITTAKER
GRAND JURY FOREPERSON-PRO TEM

ACCEPTED FOR FILING:

Date: 5/29/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1305

GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY

What's the Plan and Where's the Money?

TO: Cities and Towns of Contra Costa County; Contra Costa County Board of Supervisors; Contra Costa Flood and Water Conservation District (collectively "Permittees"), and the Contra Costa Clean Water Program

SUMMARY

The Contra Costa Clean Water Program (CCCWP) is characterized by an inability among the stakeholder organizations to reach agreement regarding exactly what they are trying to accomplish, in what manner, in what period of time, and the consequences of failing to do so. Stakeholders include CCCWP management and Permittees, empowered regulatory bodies, and interested activist community groups. They have different opinions and perspectives of what is important, what should or should not be prioritized, what is urgent, what quantifiable indicators should be used to gauge progress and compliance and what is the real exposure for non-compliance. The result is a stream of public communication and comment that is, at best, contradictory and, at worst, misleading. As a starting point, there needs to be constructive dialogue between each of the Permittees and the appropriate regulatory authorities.

The failure of Proposition 218, the 2012 Community Clean Water Initiative, to receive voter approval was a serious setback for the program. The ballot initiative was intended to, at least partially and for a short period of time, address the imbalance between the current and projected future costs for planned clean water activities that far exceeded available funds. Now the Permittees must determine alternative funding sources.

It is projected that by 2015, with no changes in the current permit requirements, a funding gap of several million dollars will exist. This shortfall could significantly grow if new permit requirements are incrementally more onerous than current requirements, as expected. This funding gap, if not resolved, may result in an inability to conduct critical activities needed to meet permit standards. It may also place some Permittees in a condition of non-compliance, with consequent exposure to fines, other monetary damages and enforcement actions.

As the challenge of finding additional funding is addressed, it is an appropriate time for the Permittees to make an effort to better define and understand their paths forward and develop more detailed plans, timelines, and desired outcomes. These re-evaluations should, at least,

include:

- a) negotiation of more realistic, better-defined compliance terms that take into account differences in participant characteristics;
- b) implementation of more efficient and effective operating practices of the Contra Costa Clean Water Program; and,
- c) identification of ways to make the impacted communities more aware of the importance of the program and the challenges ahead.

METHODOLOGY

In evaluating the stormwater pollution control activities as instituted in Contra Costa County by the Permittees, the following tasks were performed:

- Interviews with selected city managers and selected county officials
- Interviews with CCCWP staff, selected Permittee representatives to the CCCWP (collectively “program personnel”) and regulatory personnel
- Interview with a representative from an environmental Non-Governmental Organization (NGO)
- Review of the stormwater permits applicable in Contra Costa County
- Review of individual Permittee stormwater program budgets
- Review of CCCWP publications and operating data
- Review of Permittee Annual Reports for the most recent year
- Attendance at CCCWP Management Committee Meetings and review of minutes for those meetings and others not attended
- Review of Environmental Protection Agency (EPA) and California State Water Board literature with regard to stormwater programs and requirements
- Review of information prepared (and in some cases sent to voters) as part of the 2012 Community Clean Water Initiative, including a number of different outside consultant reports
- Review of public media articles involving the local storm water program and recent ballot initiative
- Review of informational websites including California Stormwater Quality Association (casqa.org), Bay Area Stormwater Management Agencies Association (basmaa.org) and Contra Costa Clean Water Program (cccleanwater.org)

BACKGROUND

The Federal Clean Water Act (as amended from time to time) established the National Pollutant Discharge Elimination System (NPDES) Permit Program to control water pollution. The program regulates point sources that discharge pollutants into the waterways of the United States. The Permit Program is administered by the individual states - in California, by the State Water Board and a series of Regional Water Quality Control Boards (RWQCB). The various water boards are responsible for issuing NPDES permits governing discharges into specific watersheds and determining and enforcing compliance with the individual permit requirements.

One requirement of amendments to the Clean Water Act in 1987 was that many municipalities were obligated to obtain NPDES permits for discharges of urban runoff from their storm sewer systems into local watersheds. Accordingly, the 19 incorporated cities/towns of Contra Costa County, along with the Contra Costa County Flood Control District and the unincorporated areas of Contra Costa County (collectively the "Permittees"), were required to obtain these NPDES permits. The Permittees are covered by one of two applicable permits as shown in the following table:

San Francisco Permit (Discharge into San Francisco Bay)		Central Valley Permit (Discharge into Delta)
Clayton	Pittsburg	Antioch
Concord	Pleasant Hill	Brentwood
El Cerrito	Richmond	Oakley
Hercules	San Pablo	
Lafayette	San Ramon	
Martinez	Walnut Creek	
Orinda	Moraga	
Pinole	Danville	

The Contra Costa Flood Control and Water Conservation District and Contra Costa County are parties to both permits. For purposes of the discussion in this report, no distinction is made between the two permits.

These parties to the two permits -- the Permittees -- are individually responsible for complying with the requirements of their respective permits. The activities typically include street sweeping, storm drain maintenance and cleaning, litter control, creek cleanup programs, construction site and business inspection and control, and public outreach.

In Contra Costa County, in 1991 the Permittees formed the Contra Costa Clean Water Program (CCCWP) to coordinate certain centralized services or group activities such as training and monitoring programs, and public outreach. The CCCWP also serves as the point organization for the Permittees' interface with the Regional Water Quality Control Boards and is expected to continue to do so in the upcoming permit renegotiations. CCCWP is run by a "management committee" comprised of representatives of each of the Permittees. Each of the Permittees and the CCCWP file an Annual Report detailing their compliance with the permit. Reviews of these reports indicate that, for the most recent period, no instances of non-compliance were reported.

However, in December, 2012, Contra Costa County received a “Notice of Violation” with regard to its stormwater program identifying 9 different violations and 30 required actions. Moreover, in January, 2013, several of the Permittees received “Notices of Deficiency” related to a review by the Water Board of certain sections of the 2012 Annual Reports. County personnel interviewed acknowledged that, the most recent Annual Report notwithstanding, the County is not in compliance under the permits. Additionally, a number of the cities interviewed suggested that they were either on the verge of non-compliance, if not already noncompliant.

Generally, the cities and county fund their storm water permit activities via a Stormwater Utility Assessment (SUA) levied on property owners (exceptions are Brentwood and Richmond which use alternative sources including general fund revenues). CCCWP is funded by the participating cities out of the assessment revenue collected.

According to a report to the CCCWP from SCI Consulting Group, since the implementation of the SUA, “inflation and ever-expanding permit mandates have progressively increased the cost of NPDES permit implementation and drainage system maintenance. All municipalities now charge the maximum authorized by the SUA.”

From a budgetary perspective, over the past two fiscal years the majority of cities are spending more than they collect in assessment revenue. Municipalities are absorbing shortfalls using non-storm water funds, general fund resources or prior years’ reserves. Several city managers indicate that, to the extent general fund monies are required for this purpose; there will be an impact on their city’s ability to provide other services.

The regulatory authorities are aware of and sympathetic to the fiscal challenges faced by cities with respect to the program, but have a somewhat different view as to why the cities face the challenges they do. The regulatory personnel indicate that when the SUA structure was enacted, many of the cities immediately shifted the funding of certain program-eligible activities (such as street sweeping and other elements of public works) out of their general funds to be funded out of the new stormwater assessments. While this may have been beneficial to the cities in the short term, in the long run it removed funds which should have been available for the long-term growth and development of the stormwater program, which all understood would necessarily grow increasingly more complex and rigorous over time.

Some city managers and program personnel indicate that, while still in compliance, they are not necessarily doing everything they need to do to ensure continued future compliance due to funding limitations. In a report by SCI Consulting Group commissioned by the CCCWP, consultants stated “Because of current fiscal difficulties, most municipalities are deferring some required maintenance on infrastructure. Some permit-mandated activities, such as staff training, routine surveillance and inspections and outreach are also being minimized. While these budget balancing reductions will not necessarily compromise permit compliance in the short term, in the long term, they could erode local program effectiveness.”

The current permits have introduced additional requirements including expanded storm water monitoring and increased trash control. It is expected that the renegotiated permits will have additional significant implementation requirements. For example, cities now have a requirement that 40% of all trash be removed from the storm water discharge by mid-2014. This rises to 70% by 2017 and 100% by 2022. The State Water Board has rejected the short-term plan submitted by CCCWP for meeting these requirements.

The exact timing of negotiations and program requirements of the new permits are not fully known at this time. Discussion with program personnel and observation of select CCCWP management committee meetings indicate that there is some disagreement as to what Permittees view as reasonable requirements. However, the Permittees also believe that, individually, they have very limited ability to influence the permit process.

The regulators believe that they must balance the requirements of the legal mandates (including Federal Clean Water Act requirements and California state requirements), the desires of outside advocacy groups (primarily environmental groups such as San Francisco Baykeeper, Natural Resource Defense Council, etc.) and the Permittees. Regulators feel the permits are sufficiently flexible to account for size differentials and, to the extent possible, take into account individual circumstances.

The overall structure of the Clean Water Program, with the resulting multiple layers of bureaucracy between the regulatory authorities and the individual Permittees may be a key contributing factor to the dramatically different perspectives of what needs to be done, how it should be done, and what happens if it is not done. Discussions with representatives of many stakeholder organizations revealed a lack of alignment on these issues. In particular, while regulators indicate that the underlying rules are flexible and enforcement activity is subjective, Permittees indicate they are forced to “interpret” the message and this makes formulation of their stormwater program plans and activities difficult. This is especially true during a time of scarcity of financial resources, and a need to make hard choices between competing demands for those resources.

To address the current and expected future fiscal shortfalls, the municipalities and CCCWP sponsored a county-wide Proposition 218 compliant ballot initiative to increase funding by approximately \$8.7 million per year. According to program personnel, this additional funding level was based on “what the public would accept”; however, consultants to CCCWP estimated future costs to be well in excess of those requested via the ballot measure. The ballot measure failed. In its Annual Report the CCCWP described the results as follows:

“The defeat of the 2012 Community Clean Water Initiative represents a setback for Permittees’ clean water programs in Contra Costa County. Permittees have exhausted their reserves. Many are now relying on other municipal revenues, such as their general funds, to implement MRP (Municipal Regional Permit) compliance. At the same time, reductions in general fund revenues due to significant losses in property and sales tax revenues has resulted in reductions in staffing, salaries and benefits, and community services and programs. Local elected officials are faced with agonizing and unpopular public policy decisions on how to use and allocate their limited resources and revenues to continue to provide critical services (e.g. public safety, road maintenance, public facilities operation and maintenance, natural resource protection).”

Some city managers have referred to the current storm water situation as an “unfunded mandate”. They indicate that specific solutions to the potential funding problems have not been determined. At least one city, El Cerrito, has held some limited public discussion on the issue and has begun to explore potential funding options including a city-specific bond measure. In its 2012 Annual Report, the CCCWP indicates that it does not believe any additional county-wide funding measures would be successful at this time.

Interviews with some city managers and program personnel indicate that, given the fiscal issues

they face, the level of deferred program activities, and both currently known and expected more rigorous future program requirements, the majority of cities in the county will be in non-compliance with the NPDES permits over the next 2-5 years. The impact of non-compliance is not clear at this point. There is a wide range of potential outcomes. In a report prepared as part of the ballot initiative effort, consultants to the CCCWP indicate the following:

“Non-compliance with Permit Requirements exposes the Permittees to fines from the RWQCB as well as to potential third-party lawsuits. All Permittees must demonstrate full compliance or be subject to regulatory actions including:

- Administrative Civil Liability - \$10,000 per day of violation and/or \$10.00 per gallon of discharge
- Cease and Desist Orders for either public or private development projects
- Third-Party lawsuits alleging non-compliance and recommending regulatory actions be taken against the entity until violations have been corrected or negative impacts eliminated.”

One regulatory agency made it clear that, while these statements might reflect the “letter of the law”, they in no way reflect the “spirit of the law” or any intention on the part of that regulatory agency to implement fines of any kind in the near term on Permittees making reasonable efforts to achieve compliance. An interview conducted with a member of a prominent environmental group echoed this position that they do not intend to put undue financial burden or bring third-party lawsuits against Permittees as long as they can demonstrate that concerted and continuous efforts are being made to fulfill the mandates of the permit. The environmentalist clearly stated that while they have in the past and will continue to rigorously monitor various Permittee compliance activities in the future, their approach remains realistic and mindful of the financial and personnel constraints of those Permittees.

Some city managers and program personnel acknowledge the potential for significant monetary fines or other regulatory actions. It is possible that the Regional Water Quality Control Boards will recognize the severity of the fiscal situation and enter into a consent-decree type arrangement which, while not changing the discharge requirements, will allow more time to reach those levels as long as continuous progress can be demonstrated by each Permittee and will not impose onerous fines or penalties.

Observation of discussions at the CCCWP Management Committee meetings and a review of their meeting minutes reflect that they have not developed substantive solutions to the fiscal issues facing the group. The CCCWP Annual Report describes actions which they are currently taking to ameliorate the situation as, “specific actions identified include, but are not limited to:

- Review and analyze alternative CCCWP organizational structures, staffing and consultant support levels, and tasks;
- Review other potential sources of revenue (e.g. increased fees) to fund mandated compliance activities;
- Engage local elected officials, municipal managers, businesses, citizens and other stakeholders in development of effective water quality attainment strategies;

- Identify prioritized actions to reduce the discharge of trash and other pollutants of concern to local creeks, the Delta and bay; and,
- Seek flexibility requirements to allow individual Permittees to focus their limited resources to address local water quality priority problems.”

It is not clear from interviews with program personnel or city managers that these actions have resulted in any significant or concrete changes which go to solve the current set of problems or at least partially ameliorate the current set of problems facing the Permittees.

Attendance at CCCWP Management Committee meetings, as well as a review of the group’s minutes and discussions with city managers and program personnel indicate that there are concerns with how the organization is operating and whether it is really in a position to provide or contribute significantly to resolving the current fiscal situation. City managers in particular believe that the 2012 ballot initiative was mishandled in the way it was conducted, and the public was not educated as to its necessity. Some individual city participants question whether they might be better off trying to resolve their issues independently rather than as a combined group. Discussions with program personnel and a review of the history of local watershed permitting, as contained in the current NPDES permits, show that the regulatory authorities have fostered the creation of larger groups of participants in Contra Costa County that share standard agreements. Doing so removes the necessity of negotiating a series of unique agreements with individual municipalities. This is also true outside of Contra Costa County.

The San Francisco Bay permit expires in 2014 and the Central Valley Permit expires in 2015. Both will require renegotiation of new pollution standards and required activities. It is not clear how successfully the CCCWP (including its various committees) has undertaken the efforts to actively communicate issues and problems in order to influence the structure and requirements of the next permits, including dialogue to understand the possibility and ramifications of potential non-compliance and the regulatory bodies’ likely responses.

While some Permittees have made excellent efforts to educate their constituents as to the nature and magnitude of the problems they face, most have not. Interviews with program personnel indicate that little or no discussion with citizens of either the current or the expected longer-term fiscal issues faced by the stormwater programs have occurred.

FINDINGS

1. In the most recent Annual Reports, Permittees reported compliance with their permits; however, Contra Costa County recently received a “Notice of Violation” with regard to its stormwater program.
2. Many Permittees are currently spending more than the total amounts collected from fees/taxes/assessments etc., designated for stormwater management purposes; any funding shortfalls are covered via supplements from the general fund.
3. Despite the current levels of money being spent on the stormwater control initiatives, many Permittees do not think they are doing as much as necessary to position themselves to meet future compliance requirements.

4. The requirements for compliance are expected to become increasingly demanding and the process of negotiating the terms and conditions of the next permit are unclear.
5. Permittees disagree on what reasonable/practical program requirements should entail.
6. All Permittees are forecasting that the lack of funds needed to undertake the critical activities to reach compliance levels will result in the majority of them being non-compliant in 2-5 years.
7. The CCCWP seems to be doing a reasonable job in terms of its role for centralized activities such as public education, outreach, training and monitoring.
8. As an intermediary between the Permittees and the regulatory bodies, the CCCWP appears to be failing because there is a significant difference between the expectations and views of the regulators and the Permittees. There are dramatically different perspectives of what needs to be done, how it should be done and what happens if it is not done.
9. It is unclear what the impact of non-compliance status will be for a Permittee.
10. The potential future risk associated with funding deficits and non-compliance is not being accurately communicated to citizens by the Permittees.
11. Following failure of the 2012 Community Clean Water Initiative, cities do not appear to have formulated realistic alternative plans.

RECOMMENDATIONS

The Grand Jury recommends that:

1. The permit negotiation process be clarified with roles, negotiating strategies, and negotiation objectives defined.
2. The CCCWP immediately begin to implement more direct communications between the individual Permittees and the regulatory authorities to eliminate the confusion that currently exists between the two parties as to program requirements, solutions for meeting long-term permit compliance and development of mutually agreed-upon plans for the path forward.
3. Permittees immediately quantify a range of future expenditure requirements associated with a range of negotiation outcomes and develop funding plans.
4. Permittees consider identifying funds to disclose to the public “the issues” surrounding the lack of funding to fulfill their NPDES permit requirements, including a discussion of potential, but realistic, impacts of non-compliance.
5. The CCCWP consider immediately beginning to re-align its activities and operating costs with; (a) probable outcomes from the negotiation of the next permit’s compliance requirements; (b) projected available funding; and (c) constituent needs.

6. Before any Permittee makes any effort to approach its citizens with another request for additional funding, all stakeholders reach consensus on a plan for the path forward that includes articulations of reasonable objectives, ways to measure those objectives and reasonable timelines for accomplishment of those objectives.

REQUIRED RESPONSES

	Findings	Recommendations
City of Antioch	1 – 11	1 - 6
City of Brentwood	1 – 11	1 - 6
City of Clayton	1 – 11	1 - 6
City of Concord	1 – 11	1 - 6
Town of Danville	1 – 11	1 - 6
City of El Cerrito	1 – 11	1 - 6
City of Hercules	1 – 11	1 - 6
City of Lafayette	1 – 11	1 - 6
City of Martinez	1 – 11	1 - 6
Town of Moraga	1 – 11	1 - 6
City of Oakley	1 – 11	1 - 6
City of Orinda	1 – 11	1 - 6
City of Pinole	1 – 11	1 - 6
City of Pittsburg	1 – 11	1 - 6
City of Pleasant Hill	1 – 11	1 - 6
City of Richmond	1 – 11	1 - 6
City of San Pablo	1 – 11	1 - 6
City of San Ramon	1 – 11	1 - 6
City of Walnut Creek	1 – 11	1 - 6
Contra Costa County Board of Supervisors	1 – 11	1 - 6
Contra Costa Flood and Water Conservation District	1 – 11	1 - 6
Contra Costa Clean Water Program	1 – 11	1 - 6



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3505
FAX (925) 229-5012

August 29, 2013

Via US Mail and Email: clope2@contracosta.courts.ca.gov

Marc Hamaji, Foreperson
Contra Costa County Civil Grand Jury
P.O. Box 431
Martinez, CA 94553

**SUBJECT: CITY OF MARTINEZ'S RESPONSE TO GRAND JURY REPORT NO. 1305,
"GETTING TO CLEAN WATER IN CONTRA COSTA COUNTY – WHAT'S
THE PLAN AND WHERE'S THE MONEY?"**

Dear Jury Foreperson Hamaji:

In accordance with your request and Section 933.05(a) of the California Penal Code, the City of Martinez (City) is submitting responses to Findings 1-11 and Recommendations 1-6 in the subject Grand Jury Report.

BACKGROUND

The Contra Costa Clean Water Program (CCCWP) consists of Contra Costa County, its 19 incorporated cities/towns, and the District, hereinafter referred to collectively as "Permittees."

In November 1990, the United States Environmental Protection Agency (USEPA) published final stormwater rules implementing the 1987 federal Clean Water Act (CWA) amendments, which established a framework for regulating municipal stormwater discharges under the National Pollutant Discharge Elimination System (NPDES) permit program. The rules prohibit the discharge of pollutants in stormwater unless the discharge is in compliance with a NPDES permit. In response, the Permittees jointly established the CCCWP in 1991 through a Program Agreement, and applied for, and were subsequently issued, joint municipal NPDES permits issued by the San Francisco Bay and Central Valley Regional Water Quality Control Boards (Water Boards). The municipal NPDES permits are reissued approximately every five years.

The permits mandate Permittees to implement stormwater pollution prevention and control programs designed to reduce or eliminate the discharge of pollutants into and from municipal separate storm sewers (MS4s). Permittees conduct many of these mandated activities collectively (referred to as "Group Activities"). Costs for Group Activities are shared among the Permittees in accordance with a cost payment agreement between the District and each individual Permittee. The CCCWP is not itself a legal entity. The District provides staffing to the CCCWP and serves as the fiduciary agent and legal

entity of the CCCWP. The roles and responsibilities of the CCCWP and Permittees are outlined in the Program Agreement, which was last updated and adopted by all Permittees in June 2010. In accordance with the Program Agreement, each City/Town/County/District manager designates one representative to participate on a Management Committee, which is the CCCWP's decision-making body. The following responses are provided on behalf of the CCCWP's Management Committee.

CITY'S RESPONSES TO GRAND JURY FINDINGS 1-11

GRAND JURY FINDING #1

"In the most recent Annual Reports, Permittees reported compliance with their permits; however, Contra Costa County recently received a "Notice of Violation" with regard to its stormwater program."

CITY RESPONSE: Agree; however the City of Martinez **did not** receive a Notice of Violation. Contra Costa County along with the other cities and towns within the County are responsible for implementing their permit and each are individually subject to enforcement from the Water Board.

GRAND JURY FINDING #2

"Many Permittees are currently spending more than the total amounts collected from fees/taxes/assessments etc., designated for stormwater management purposes; any funding shortfalls are covered via supplements from the general fund."

CITY RESPONSE: Agree; however the City of Martinez is currently fully funding their permit implementation with Stormwater assessments collected by the County Assessor on behalf of the City.

GRAND JURY FINDING #3

"Despite the current levels of money being spent on the stormwater control initiatives, many Permittees do not think they are doing as much as necessary to position themselves to meet future compliance requirements."

CITY RESPONSE: Agree. The 9th Circuit Court of Appeal decision in NRDC v. County of LA (9th Circuit, July 13, 2011, No. 10-56017) determined that a municipality is strictly liable for violations of its NPDES permit if its discharges cause or contribute to an exceedance of a water quality standard in receiving waters. This decision potentially places every municipal stormwater discharger in the State of California in immediate non-compliance with their NPDES permit if monitoring data show an exceedance, and exposed to considerable liability, including fines and costly remediation. Permittees, regulators and watershed stakeholders agree compliance with strict numeric water quality standards will require substantial public investment for the redesign and retrofit of existing municipal separate storm sewer systems (MS4s). Currently, stormwater treatment and flow control measures are required on many new and redevelopment projects. Pilot studies and projects are being conducted under current municipal NPDES permits to evaluate the costs and benefits of implementing facilities that treat runoff from existing developed areas. While current funding source is sufficient for exiting water quality compliance requirements, current dedicated funding is insufficient to meet future water quality compliance requirements. Municipalities require federal and state assistance to identify capital funding and new revenue sources necessary for constructing, operating and maintaining stormwater drainage infrastructure improvements.

GRAND JURY FINDING #4

“The requirements for compliance are expected to become increasingly demanding and the process of negotiating the terms and conditions of the next permit are unclear.”

CITY RESPONSE: Agree. Water Board staff determines the process for negotiating the terms and conditions of the next permit in accordance with state law and policy. Through the Bay Area Stormwater Management Agencies Association (BASMAA), CCCWP Permittees have joined with other Bay Area municipalities that are also Permittees under the Municipal Regional Stormwater Permit (MRP) to participate in discussions with Water Board staff regarding the terms and conditions of the next permit.

GRAND JURY FINDING #5

“Permittees disagree on what reasonable/practical program requirements should entail.”

CITY RESPONSE: Partially disagree. Each municipality has different water-quality issues that must be addressed, different pollutant sources, different drainage system characteristics, different availability of funds, and different priorities for use of funds. Each municipality has its own decision-making body. Despite these differences, Permittees, through the CCCWP’s Management Committee, continue to build and maintain consensus regarding permit negotiating positions and successfully identify, develop and implement group permit compliance activities.

GRAND JURY FINDING #6

“All Permittees are forecasting that the lack of funds needed to undertake the critical activities to reach compliance levels will result in the majority of them being non-compliant in 2-5 years.”

CITY RESPONSE: Agree.

GRAND JURY FINDING #7

“The CCCWP seems to be doing a reasonable job in terms of its role for centralized activities such as public education, outreach, training and monitoring.”

CITY RESPONSE: Agree.

GRAND JURY FINDING #8

“As an intermediary between the Permittees and the regulatory bodies, the CCCWP appears to be failing because there is a significant difference between the expectations and views of the regulators and the Permittees. There are dramatically different perspectives of what needs to be done, how it should be done and what happens if it is not done.”

CITY RESPONSE: Disagree. There are significant differences between the expectations and views of the regulators and those of the Permittees; however, this is characteristic of the regulatory process. While a key function of the CCCWP is to act as a liaison between Permittees and federal and state regulators, each month Water Board staff is invited to attend the CCCWP Management Committee meetings to directly communicate to Permittees. In the last 12 months, representatives of the San Francisco Bay Water Board attended just two meetings and a representative of the Central Valley Water Board attended just one meeting.

GRAND JURY FINDING #9

“It is unclear what the impact of non-compliance status will be for a Permittee.”

CITY RESPONSE: Agree. Civil penalties of up to \$10,000 per day plus \$10 per gallon of polluted discharge for each violation may be imposed administratively by the Regional Water Quality Control Boards; fines of up to \$25,000 per day for each violation may be assessed if imposed by the Superior Court. Furthermore, the Clean Water Act provides that any U.S. citizen may file a citizen suit against any person who has allegedly violated an effluent limitation regulation. Citizen enforcers are entitled to measures sufficient to ensure compliance, the imposition of civil penalties of up to \$27,500 per violation per day, and costs of litigation, including reasonable attorney’s fees. Other potential non-compliance enforcement options include, but are not limited to, corrective action notices (e.g., Notice to Comply, Notice of Deficiency, Notice of Violation, etc...), which may require additional water quality monitoring and/or pollution prevention and control measure implementation further impacting funding for stormwater compliance activities.

GRAND JURY FINDING #10

“The potential future risk associated with funding deficits and non-compliance is not being accurately communicated to citizens by the Permittees.”

CITY RESPONSE: Disagree. The CCCWP has consistently communicated that funding deficits for stormwater pollution prevention and control services and facilities will hinder Permittees’ efforts to improve water quality and comply with federal and state mandates; and, that non-compliance with current and future permits, may result in significant fines, costly remediation, and/or third-party lawsuits.

GRAND JURY FINDING #11

“Following the failure of the 2012 Community Clean Water Initiative, cities do not appear to have formulated realistic alternative plans.”

CITY RESPONSE: Agree. Following the failure of the funding initiative, many Permittees are still in the process of evaluating options and alternative plans. Most or all of the available options, including redirecting monies from their General Funds and gas tax, have significant negative consequences.

CITY’S RESPONSES TO GRAND JURY RECOMMENDATIONS 1-6

GRAND JURY RECOMMENDATION #1:

“The permit negotiation process be clarified with roles, negotiating strategies, and negotiation objectives defined.”

CITY RESPONSE: This recommendation is being implemented in cooperation with BASMAA and Water Board staff. BASMAA committees, Water Board staff, and Permittee representatives are attending regularly scheduled meetings to negotiate the terms and conditions of the next permit.

GRAND JURY RECOMMENDATION #2:

“The CCCWP immediately begin to implement more direct communications between the individual Permittees and the regulatory authorities to eliminate the confusion that currently exists between the two parties as to program requirements, solutions for meeting long-term permit compliance and development of mutually agreed-upon plans for the path forward.”

CITY RESPONSE: This recommendation is being implemented in cooperation with BASMAA and Water Board staff. Specifically, BASMAA and Water Board staffs have agreed to a permit negotiation process that includes Permittee representatives. In addition, Permittee representatives and Water Board staff continue to attend regularly scheduled discussions of permit issues in BASMAA committees.

GRAND JURY RECOMMENDATION #3:

“Permittees immediately quantify a range of future expenditure requirements associated with a range of negotiation outcomes and develop funding plans.”

CITY RESPONSE: The recommendation will not be implemented because it is not reasonable. Future expenditure requirements under the current permit were estimated as part of the Engineer’s Report for the 2012 Community Clean Water Initiative, and funding plans are being developed (see response to Finding #11); Estimates of future expenditure requirements associated with a range of future negotiation outcomes is not practical due to the complexity of the issues surrounding the management of municipal stormwater conveyance systems coupled with the number of permit requirements and the fluctuating and unpredictable nature of the regulatory permit process. The CCCWP does not have the resources to provide a meaningful prediction of the outcomes of future negotiations in order to develop future funding plans at this time.

GRAND JURY RECOMMENDATION #4:

“Permittees consider identifying funds to disclose to the public “the issues” surrounding the lack of funding to fulfill their NPDES permit requirements, including a discussion of potential, but realistic, impacts of non-compliance.”

CITY RESPONSE: This recommendation requires further analysis. The CCCWP’s Management Committee will consider preparing a “fact sheet” addressing these issues, which would be posted on the City’s and CCCWP’s website. This action will be considered in August and, if approved, implemented in October 2013.

GRAND JURY RECOMMENDATION #5:

“The CCCWP consider immediately beginning to re-align its activities and operating costs with; (a) probable outcomes from the negotiation of the next permit’s compliance requirements; (b) projected available funding; and (c) constituent needs.

CITY RESPONSE: This recommendation has been partially implemented. In response to item (a) of the recommendation, please refer to the CCCWP’s response to Recommendation #3 above. In response to (b) and (c), the CCCWP continually evaluates its activities and operating costs based on projected available funding and constituent needs.

GRAND JURY RECOMMENDATION #6:

“Before any Permittee makes any effort to approach its citizens with another request for additional funding, all stakeholders reach consensus on a plan for the path forward that includes articulations of reasonable objectives, ways to measure those objectives and reasonable timelines for accomplishment of those objectives.”

CITY RESPONSE: This recommendation will not be implemented because it is not reasonable. It is not within the Permittees’ power or authority to ensure that the objectives, timelines, or provisions of their NPDES permit are reasonable. Tests of reasonableness, if used, are applied by the Water Board pursuant to the applicable provisions of the California Water Code.

The City of Martinez thanks the Contra Costa County Grand Jury for the opportunity to respond to its concerns. Please feel free to contact Tim Tucker, City Engineer at (925) 372-3562 should you need additional information.

Sincerely,

Rob Schroder, Mayor
City of Martinez



CITY OF MARTINEZ

**CITY COUNCIL AGENDA
July 24, 2013**

TO: Mayor and City Council
FROM: Alan Shear, Assistant City Manager
SUBJECT: Grand Jury Response to Outsourcing Municipal Services
DATE: July 18, 2013

RECOMMENDATION:

Approve and authorize the Mayor to sign the attached responses to the Grand Jury Report #1302, “Outsourcing Municipal Services” by the 2012-2013 Contra Costa Grand Jury.

BACKGROUND:

The California Constitution established Grand Juries in each county. With respect to public agencies, Grand Juries are authorized to “investigate and report upon the operations, accounts and records of the officers, departments, functions, and the method of performing the duties of any such city and make such recommendations as it may deem proper. A governing body has 90 days to respond to the presiding judge of the superior court on findings contained in a Grand Jury Report.

In June, Martinez (as well as other public agencies in Contra Costa County) received the attached Grand Jury Report titled “Outsourcing Municipal Services” (Attachment A) which contained recommendations specific to certain jurisdictions. Accordingly, the attached draft responses (Attachment B) are presented for the City Council’s consideration to transmit to the presiding judge. The Grand Jury expects to receive the City’s response by July 26.

FISCAL IMPACT:

Responding to the Grand Jury reports took staff time.

ACTION:

Motion to approve staff’s responses to the Grand Jury Report, and authorize the Mayor to sign staff’s response letter.

Attachments:

- A. Grand Jury Letter & Report
- B. Draft Letter to Contra Costa County Civil Grand Jury

APPROVED BY:


City Manager

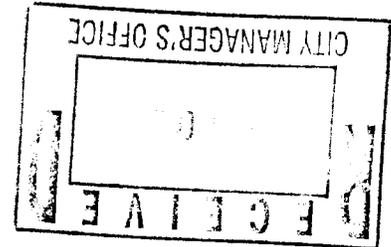
Grand Jury

Contra
Costa
County



Attachment A

725 Court Street
P.O. Box 431
Martinez, CA 94553-0091



April 26, 2013

Philip A. Vince, City Manager
City of Martinez
525 Henrietta Street
Martinez, CA 94553

Dear Mr. Vince:

Attached is a copy of **Grand Jury Report No. 1302, "Outsourcing Municipal Services"** by the 2012-2013 Contra Costa Grand Jury.

In accordance with California Penal Code Section 933.05, this report is being provided to you at least two working days before it is released publicly.

Section 933.5(a) of the California Government Code requires that (the responding person or entity shall report one of the following actions) in respect to each finding:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees with the finding.
- (3) The respondent partially disagrees with the finding.

In the cases of both (2) and (3) above, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be reminded that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to its public release. Please insure that your response to the above noted Grand Jury report includes the mandated items. We will expect your response, using the form described by the quoted Government Code, no later than **JULY 26, 2013.**

It would be greatly appreciated if you could send this response in hard copy to the Grand Jury as well as by e-mail to clope2@contracosta.courts.ca.gov (Word document).

Sincerely,



Marc Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury

**A REPORT BY
THE 2012-2013 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
Martinez, California 94553

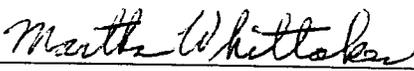
Report 1302

**OUTSOURCING MUNICIPAL
SERVICES**

An Alternative Cost-Efficient Approach

APPROVED BY THE GRAND JURY:

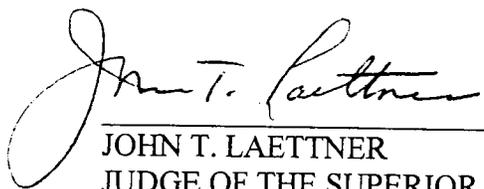
Date: 4-25-13



MARTHA WHITTAKER
GRAND JURY FOREPERSON PRO TEM

ACCEPTED FOR FILING:

Date: 4/24/13



JOHN T. LAETTNER
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report

OUTSOURCING MUNICIPAL SERVICES

An Alternative Cost-Efficient Approach

TO: The Cities of Contra Costa County

SUMMARY

Difficult economic conditions present significant constraints on revenue available for city operations at a time when there continues to be a strong need for services in many communities. Continuation of traditional methods for balancing revenue available for the cost of those services required may no longer be acceptable. City officials should begin to challenge the operational status quo and explore any and all alternative approaches, such as outsourcing, that present opportunities for reducing costs without jeopardizing the quality and scope of services provided.

Outsourcing is not limited to private vendors. Services can also be outsourced to other public entities, particularly in those instances in which the functions are considered to be essential to protecting the well being and quality of life of citizens, such as law enforcement and public safety. Judging the benefits of these types of opportunities requires that even more stringent evaluations are conducted and that proper consideration is given to both quantitative and qualitative factors and all relevant costs.

Cities in Contra Costa County must review the successful application of outsourcing of municipal services in other cities, inside and outside of the County, in order to determine if this practice can become a key component of addressing the service versus cost issue.

METHODOLOGY

Information was obtained from:

- Case study information
- Independent financial analyses
- Information from industry experts
- Interviews of individuals from the public and private sectors

BACKGROUND

Recently, most, if not all, cities in Contra Costa County have been confronted with decreasing revenues, strong demand for services, a deteriorating infrastructure, structural changes (e.g., dissolution of redevelopment agencies) and growing, unfunded future liabilities. In addressing these challenges, many of the cities in the County have taken traditional approaches, such as reductions in the number of personnel delivering a service, deferral of needed services to an unidentified future date, reducing the scope of services provided, or eliminating services completely. It is apparent that most cities cannot deliver the same level of service today as in past years. Even more alarming, there is no reason to believe this trend will change in the near future.

According to numerous studies, including an extensive report by the City of Colorado Springs in 2009 (“Outsourcing Methods & Studies”), outsourcing can be utilized by cities to cut costs and improve the quality of services provided to its citizens. When correctly applied and executed, outsourcing may increase performance, as well as operational efficiency. In addition, it can help free up limited city resources for other critical, public objectives.

Studies and results of outsourcing by cities within the County have shown that outsourcing should be applied carefully and selectively to those areas where significant cost and efficiency gains can be attained. It has been used by cities to solve various problems, ranging from a lack of internal expertise to a need for significant cost reductions. Many cities have found that equipment, maintenance, or labor costs for providing a service have risen faster than budgeted revenues. In such cases, some have found that the use of contractors can be beneficial by shielding cities from some or all of those cost increases.

Other benefits associated with outsourcing are:

- Improving quality by utilizing a service provider with more knowledge and expertise in providing a particular service
- Reducing the need for direct personnel management
- Freeing the city from bureaucratic constraints
- Removing obstructions to the development of more effective processes, resulting in increased innovation and flexibility to deliver services
- Improving accountability for service delivery by allowing the city the freedom to terminate service providers for poor performance

Outsourcing typically involves a competitive bidding process in which Requests for Proposals (RFP) are solicited from qualified service providers. Proposals are then evaluated and a decision is made based on either a cost or a “best value” basis. Performance is monitored and managed in view of predetermined service goals.

Many cities within the County outsource some municipal services, although the extent of outsourcing varies widely. Lafayette and Oakley outsource almost all of their municipal services, while others outsource only a few. Lafayette contracts for street and sidewalk repair, traffic signal maintenance, roadway striping and stenciling, median landscaping, recreational program delivery, and parks maintenance. By doing so, City management is convinced that it is getting the best combination of price, quality, and flexibility.

Other cities have reported successful and cost effective examples of outsourcing of services such as public works, parks and recreation, information technology, janitorial and legal counsel. In addition, there has been an estimate by at least one private contractor that services, such as public works, could be provided at a cost of 20 to 30 percent less than the cost of using city employees for the same services.

The Colorado Springs study suggests that a city's law enforcement function should not be contracted to private sector vendors. However, in this county, opportunities may be available to some cities to provide this service through another public agency in a more cost effective manner and without jeopardizing reliability and quality of delivery. Specifically, the Contra Costa County Sheriff's Department has contracted with several cities to perform this critical function and the results have been excellent.

As an example, the City of Lafayette has contracted for the Sheriff's service for many years and intends to continue this practice. Periodic reviews by the City of the benefits of using this alternative have reinforced the belief that, at least in this case, it is unquestionably the best option. Furthermore, the process that Lafayette followed in performing a comprehensive evaluation of service alternatives can be used by other cities as an example of an approach that fully considers critical qualitative and quantitative factors and takes into account all costs. Above and beyond personnel costs (salaries and benefits), their evaluation included liability exposure expenses, administrative expenses, and capital expenditure requirements. Lafayette expended the necessary effort to determine the best way to provide public protection and safety services to its citizens and continue to make the reasons for their choice available to the public.

Based upon the Colorado Springs study, and the actual results of outsourcing by cities within the County, the success of outsourcing appears to be related to an adherence to generally accepted "best practices". These practices include:

- Outsourcing should not be considered for services where there are insufficient private sector expertise and experience
- The Request for Proposal process should be restricted to experienced and qualified providers
- Track records and the satisfaction level of past clients of potential service providers should be thoroughly checked, including their financial viability
- The outsourcing decision should be based on the fact that the service cannot be

performed more efficiently in-house (a city should fully estimate the current and future internal cost of providing the service and weigh this against the costs of outsourcing from the private sector)

- Outsourcing should not be used for new programs and initiatives with undefined goals and expectations
- There must be adequate oversight to foster accountability and facilitate quality management
- The political viability of outsourcing also needs to be considered, including the needs and demands of public and private sector labor unions

Despite the real and potential advantages of outsourcing, the process within most cities within the County for analyzing and evaluating whether services could, or should be, outsourced appears to be random, sporadic and/or non-existent.

FINDINGS

1. Some studies have concluded that outsourcing certain city services can result in cost and efficiency improvements.
2. Outsourcing is being successfully utilized by many cities within the County, although the extent of outsourcing varies widely.
3. Outsourcing is not a solution for all cost and performance problems and should only be considered after other efforts to optimize operations have been implemented.
4. Recommendations of “best practices” to implement outsourcing initiatives are available for cities to review.
5. Most cities in Contra Costa County do not have a regular and formalized process for evaluating whether each municipal service could effectively be, or should be, outsourced.

RECOMMENDATIONS

The Grand Jury recommends that:

1. Cities within the County review case studies and evaluations of the pros and cons of outsourcing municipal services.
2. Cities identify those services for which outsourcing hold an opportunity for cost savings and efficiency improvements.
3. Cities conduct analyses that estimate the internal cost-of-service and weigh that

against the cost of outsourcing. For meaningful comparison, analyses should include a measure of the costs related to managing employee payroll, pension and health benefits, workers' compensation claims, and other personnel management functions. Cities' governing bodies should consider "identifying funds" to carry out these activities. The analyses should be implemented as a formal process, conducted on an annual basis and provided in a written document.

4. City officials inform residents of the results of those analyses and explain the reasons for action (outsourcing of a service) or in-action (continuation of the use of internal resources).

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
City of Antioch	1-5	1-4
City of Brentwood	1-5	1-4
City of Clayton	1-5	1-4
City of Concord	1-5	1-4
Town of Danville	1-5	1-4
City of El Cerrito	1-5	1-4
City of Hercules	1-5	1-4
City of Lafayette	1-5	1-4
City of Martinez	1-5	1-4
Town of Moraga	1-5	1-4
City of Oakley	1-5	1-4
City of Orinda	1-5	1-4
City of Pinole	1-5	1-4
City of Pittsburg	1-5	1-4
City of Pleasant Hill	1-5	1-4
City of Richmond	1-5	1-4
City of San Pablo	1-5	1-4
City of San Ramon	1-5	1-4
City of Walnut Creek	1-5	1-4



City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

(925) 372-3505
FAX (925) 229-5012

July 2013

Mark Hamaji, Foreperson
2012-2013 Contra Costa County Civil Grand Jury
P. O. Box 431
Martinez, CA 94553-0091

Dear Mr. Hamaji:

On behalf of the Martinez City Council, this letter responds to Contra Costa County Grand Jury Report: "Outsourcing Municipal Services," (Report 1302). The City Council authorized this response at its meeting on July 24, 2013.

According to page 5 of the Report, Martinez is required to respond to Findings 1 through 5 and Recommendations 1 through 4. Pursuant to California Penal Code Section 933.05, the City will respond to each finding and to each recommendation individually.

Findings

1. Some studies have concluded that outsourcing certain city services can result in cost and efficiency improvements.
The City agrees with the finding.
2. Outsourcing is being successfully utilized by many cities within the County, although the extent of outsourcing varies widely.
The City agrees with the finding.
3. Outsourcing is not a solution for all cost and performance problems and should only be considered after other efforts to optimize operations have been implemented.
The City agrees with the finding.
4. Recommendations of "best practices" to implement outsourcing initiatives are available for cities to review.
The City agrees with the finding.
5. Most cities in Contra Costa County do not have a regular and formalized process for evaluating whether each municipal service could effectively be, or should be, outsourced.
Based on the information in Grand Jury Report #1302, the City agrees with the finding.

Recommendations

1. Cities within the County review case studies and evaluations of the pros and cons of outsourcing municipal services.
The City of Martinez has implemented this recommendation.
2. Cities identify those services for which outsourcing hold an opportunity for cost savings and efficiency improvements.
The City of Martinez has implemented this recommendation. However, the ten-year trend of in-house Corporation Yard staffing in Martinez shows the City has downsized the number of Full Time Equivalent (FTE's) in that timeframe, yet service expectations and delivery have remained consistent. So while opportunities for outsourcing may exist, sometimes it does not provide the perceived cost savings and improvements in efficiency.
3. Cities conduct analysis that estimate the internal cost-of-service and weigh that against the cost of outsourcing. For meaningful comparison, analyses should include a measure of the costs related managing employee payroll, pension and health benefits, workers' compensation claims, and other personnel management functions. Cities' governing bodies should consider "identifying funds" to carry out these activities. The analyses should be implemented as a formal process, conducted on an annual basis and provided in a written document.
The City of Martinez will not implement this recommendation because it is not reasonable. The requirement to conduct an annual analysis of all service provision contracts would require time and staff resources that Martinez does not now possess and cannot afford to add.
4. City officials inform residents of the results of those analyses and explain the reasons for action (outsourcing of a service) or in-action (continuation of the use of internal resources).
If analyses are performed, the City of Martinez will inform the residents of the results and explain the reasons for action or in-action. Therefore, this recommendation has been implemented.

Sincerely,

Robert Schroder, Mayor
City of Martinez

Cc: City Council
Philip Vince, City Manager
Jeffrey Walter, City Attorney
Alan Shear, Assistant City Manager
Cathy Spinella, Finance Manager