



Grand Jury <grandjury@scgrandjury.org>

Grand Jury Report Responses

1 message

David Brown <David.Brown@santacruzcounty.us>
To: "grandjury@scgrandjury.org" <grandjury@scgrandjury.org>

Wed, Sep 25, 2019 at 12:03 PM

Hello Grand Jury,

Please find the response packets to the following Grand Jury Reports attached for your review and records:

- 2018–2019 Detention Facilities Inspection Report
- Santa Cruz County Probation: Officers Inadequately Equipped and At Risk
- Santa Cruz County's Public Defense Contracts: How Complex Contracts Misled County Leaders

Please don't hesitate to let me know if you have any questions or concerns.

In appreciation,

Dave

David Brown

Senior Administrative Analyst

County Administrative Office

County of Santa Cruz

O: (831) 454-3490

C: (831) 227-1661

My pronouns are: he/him/his

8 attachments

 **BOS Response to Detention Facilities Inspection.pdf**
285K

 **Probation Report BoS Response Packet - Final - Clean.pdf**
322K

 **Probation Report CAO Response Packet - final.pdf**
274K

 **SHF Response to Probation Report.pdf**
253K

Probation Report CPOResponsePacket -_Final 7-25-2019.pdf



**The 2018–2019 Santa Cruz County Civil Grand Jury
Requests that the
Santa Cruz County Administrative Officer
Respond to the Findings and Recommendations
Specified in the Report Titled
Santa Cruz County’s Public Defense Contracts
How Complex Contracts Mised County Leaders
by September 25, 2019**

When the response is complete, please

1. Email the completed Response Packet as a file attachment to grandjury@scgrandjury.org, and
2. Print and send a hard copy of the completed Response Packet to

The Honorable Judge John Gallagher
Santa Cruz Courthouse
701 Ocean St.
Santa Cruz, CA 95060

Instructions for Respondents

California law PC §933.05 (included [below](#)) requires the respondent to a Grand Jury report to comment on each finding and recommendation within a report. Explanations for disagreements and timeframes for further implementation or analysis must be provided. Please follow the format below when preparing the responses.

Response Format

1. For the Findings included in this Response Packet, select one of the following responses and provide the required additional information:
 - a. **AGREE** with the Finding, or
 - b. **PARTIALLY DISAGREE** with the Finding and specify the portion of the Finding that is disputed and include an explanation of the reasons therefor, or
 - c. **DISAGREE** with the Finding and provide an explanation of the reasons therefor.
2. For the Recommendations included in this Response Packet, select one of the following actions and provide the required additional information:
 - a. **HAS BEEN IMPLEMENTED**, with a summary regarding the implemented action, or
 - b. **HAS NOT YET BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE**, with a timeframe or expected date for implementation, or
 - c. **REQUIRES FURTHER ANALYSIS**, with an explanation and the scope and parameters of an analysis or study, and a timeframe for that analysis or study; this timeframe shall not exceed six months from the date of publication of the grand jury report, or
 - d. **WILL NOT BE IMPLEMENTED** because it is not warranted or is not reasonable, with an explanation therefor.

If you have questions about this response form, please contact the Grand Jury by calling 831-454-2099 or by sending an email to grandjury@scgrandjury.org.

Findings

F1. The County Administrative Office lacks the resources necessary to be the sole administrator of major contracts such as the public defense contracts.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

The County Administrative Office (CAO) has the resources appropriate for a department its size. This includes the ability to administer the 58 contracts that the CAO oversaw in Fiscal Year (FY) 2018-19. In administering the public defense contracts, the CAO accounts for quality of service and stakeholder requirements using data and other resources available to the office.

F2. Negotiating multi-year, fixed price contracts for public defender services without anticipating the possibility of falling caseloads has cost the County several millions of dollars and created a windfall for public defense contractors.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

Negotiating multi-year, fixed price contracts allows for fiscal predictability while maintaining above adequate services for the County's indigent clients.

While caseloads could be one potential factor in compensation, it is not the only variable that drives cost of service. Other factors have to be considered in assessing a complex service system such as hours per case, the increase in specialty court assignments, the increase in use of digital evidence, and changes to the State and local criminal justice system.

Simply because caseloads have decreased slightly, it does not follow that the public defense contracts could have been cheaper.

F3. No one person or department within County government knows exactly how much total compensation the County pays to the public defense contractors, because payment records commingle some fee payments with cost reimbursements.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

Payment records in the County financial system can be sorted by vendor. The County's financial system, ONESolution, can provide reports on how much was paid to any one person, company or legal entity. Payment history is maintained electronically going back to 1998.

F4. The County's portrayal of its public defense services is not transparent.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

This finding stems from the Grand Jury's claim that, "Allowing Mr. Biggam to appear to be the Public Defender makes his contract and County government less transparent."

Mr. Biggam's firm has held the County contract for public defense services for over 30 years. Every year the County publishes, and has a hearing for, the budget that supports the entire public defense system of the County, including the contract for main public defense services. Additionally, the contract and all subsequent extensions and amendments were approved by the Board.

As the Grand Jury report states, we agree that Mr. Biggam's status leads to no specific harm or confusion by clients or the public.

The Grand Jury claims that a 1978 memo from County counsel proves that Mr. Biggam is not the Public Defender. The scope of the memo speaks only to the firm's ability to provide services outside Santa Cruz County, and says nothing as to whether Mr. Biggam is, or is not, the Public Defender.

F5. The County's accounting for separate overhead subsidies has for years caused the County to understate the compensation of the County's public defense contractors in line-item budgets and in reports to the Board of Supervisors.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

The budget for the Public Defender includes all costs associated with the required services.

F6. The County's duty to fund public defense services does not require the County to provide public defense contractors with free office space.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

F8. The County's contract policies and standard forms are not integrated with each other, are difficult to use, are not available to the public, are incomplete, and in some cases are poorly written.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

The County's policies and procedures are updated twice per year through an open and transparent Board process, and County staff are regularly trained on contracting policies and standard forms.

F9. The County's public defense contracts violated written County policies without consequences.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

The primary Public Defender contract was originally written many years ago. Over the years, the County policies have changed, and although the contract has been revised there may be elements of updated contract requirements that are not included.

However, no County policies were violated. The County does have a standard Independent Contractor Agreement (ICA) that is the preferred medium for professional service agreements. When contracts deviate from this standard, the contract is reviewed by the County Risk Manager and County Counsel, and approved by the Board. Multi-year contracts such as the ones for public defense services are approved annually on the Continuing Agreements List (CAL). The County retains the right to enter into various types of agreements with vendors that provide the desired services.

F10. Standard forms are an excellent way to implement some County policies, but they must be used to be effective.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

F11. County leaders misinterpret the meaning of County Counsel's approval of a contract "as to form."

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

County leaders understand that County Counsel is not providing legal advice on a contract when it is "Approved as to form".

F12. The County lost potentially valuable information when the County destroyed copies of contracts with, and reports submitted by, the public defense contractors.

AGREE

PARTIALLY DISAGREE – explain the disputed portion

DISAGREE – explain why

Response explanation (required for a response other than **Agree**):

The Auditor-Controller's Office complies with *Accounting Standards & Procedures for Counties* record retention policies as issued by the State Controller. There is a potential benefit to permanently keeping all forms of documentation the County produces, however, the risk-benefit analysis performed at the State level provides the Auditor-Controller with guidance for record retention.

Recommendations

R1. The Board of Supervisors should within the next 60 days instruct the County Administrative Officer to transfer responsibility for initiating and administering any major contract for delivery of services to County residents to a department or comparable organizational unit with the human resources to actively manage the contract. (F1)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The CAO will continue to have responsibility for initiating and administering contracts within the office's responsibilities, including public defense services.

R2. The Board of Supervisors should condition approval of any future proposal to pay a public defense contractor additional compensation, whether because a case involves special circumstances or otherwise, upon the presentation of evidence demonstrating that in the absence of additional compensation, the total compensation paid to the contractor would be inadequate. (F2)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

In order for special circumstances to be awarded there is an established process:

“The Public Defender shall petition the Court making the appointment for a determination as to the existence of extraordinary circumstances. Specific authorization for extraordinary compensation or expenses by the Court shall be presented and approved by the Board of Supervisors prior to the expenditure of funds. Extraordinary compensation shall be billed at a rate authorized by the Superior Court for 4th party appointments.”

Additional compensation for special circumstances cases are approved at the discretion of the Board of Supervisors.

R3. In the interest of transparency, the County Administrative Officer and the Auditor-Controller should work with Lawrence Biggam, the Watsonville landlord, and the Watsonville janitorial and utility providers to implement within the next six months an arrangement by which the County pays Mr. Biggam the amounts due to the Watsonville vendors and Mr. Biggam pays the Watsonville vendors. (F3)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The leased space across from the Watsonville courthouse provides valuable access for County staff to both the courthouse and the Watsonville City Hall. Currently, the County allocates that space to the Public Defender. In the future, that space could be used by any number of County agencies as the County looks to provide more services in south county.

The Auditor-Controller will review these payments to determine the correct IRS year-end reporting.

R4. In the interest of transparency, the Board of Supervisors should instruct the County Administrative Officer to prepare and present for approval a document directing County staff (a) to use the term “public defense” instead of “public defender” to refer to the services that private defense contractors and Criminal Defense Conflict Program panel attorneys provide, (b) to refrain from referring to a public defense contractor or any member of their staff as a public defender, deputy public defender, or other “defender,” and (c) to refer to Budget Unit 59 using a word that the County Administrative Officer has determined does not suggest that Budget Unit 59 is a department. (F4)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

A & B) As the Grand Jury report states, we agree that Mr. Biggam’s status leads to no specific harm or confusion by clients or the public, and that implementing this recommendation would only cause more confusion and obstacles to the County’s organizational review effort currently underway.

C) The County does not believe that changing the name of budget unit 59 will add clarifying value. The narrative of the budget clearly explains that the services are contracted.

R5. The Board of Supervisors should instruct the County Administrative Officer to prepare and present for approval a request to the County's public defense contractors and the Criminal Defense Conflict Program panel attorneys, with respect and no suggestion of criticism, to refrain from referring to themselves or any peer as a public defender, deputy public defender, or other "defender." (F4)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

As the Grand Jury report states, we agree that Mr. Biggam's status leads to no specific harm or confusion by clients or the public, and that implementing this recommendation would only cause more confusion and obstacles to the County's organizational review effort currently underway.

R6. The Board of Supervisors should instruct the County Administrative Officer to prepare and present for approval a policy that the County will not reimburse contractors for the cost of separate overhead items such as liability insurance, employee health insurance, or office space as one of the County's obligations to the contractor. (F5, F6)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County will retain the right to negotiate the terms of agreement, including all forms of payment, that provide for critical services to County residents.

R7. The Board of Supervisors should instruct the County Administrative Officer to prepare and present for approval a policy that the County will not provide goods or services to contractors in lieu of cash. (F5, F6)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The County's Purchasing Policy Manual Section 1.0 provides for the ethical standards for purchasing activities.

R8. The County Administrative Office and the Auditor-Controller should find a way to present the actual cost of the compensation paid to each public defense contractor on the County budget, beginning with the 2019–2020 fiscal year. (F5)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The budget for the Public Defender includes all costs associated with the required services.

The Auditor-Controller's Office has finalized the Budget for FY 2019-20 per instructions approved by the Board at the end of their weeklong public budget hearings held in June 2019. The budget document has been placed on the Board's agenda to be approved in September 2019.

The CAO will consider changes to this format when it presents its next two-year budget in FY 2021-23.

R9. The Board of Supervisors should instruct the County Administrative Officer to require, within the next 60 days, the public defense contractors to sign a customary use agreement with the County and, in the case of the alternative public defense contractors, pay reasonable compensation to the County for the use of the space. (F6)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

Within six months, the County will determine if it is necessary to require a customary use agreement for the office space in Watsonville, and study the alternative contractors' use of the space.

R11. The Board of Supervisors should within the next 90 days instruct the County Administrative Officer to work with the Auditor-Controller, the Purchasing Agent, and County Counsel to propose a timeline for revising the County's policies and procedures generally, including the implementation of the recommendations in this report concerning contract rules that Board of Supervisors decides to implement. (F8–F12)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The Board approves changes to the County's policies and procedures twice per year. The CAO will evaluate the specific recommendations contained in the report, and make any necessary changes by the end of FY 2019-20.

R12. The Policies and Procedures Manual should include a statement identifying the policies and procedures that have been promulgated by the authority of the Board of Supervisors, citing the source of the authority for the Board of Supervisors to adopt the policies and procedures, and describing in reasonable detail the procedure for amending or revising the policies and procedures. (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

This statement will be added in the December update to the policies and procedures manual.

R13. The County should present the online version of the Policies and Procedures Manual in a manner comparable to the online version of the County Code. (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

County Code is an important public resource, and therefore exists on the internet. The Policies and Procedures Manual is an internal management document for use by County employees. It is available on the County's intranet to all staff.

The County's policies and procedures are updated twice per year through an open and transparent Board process, and County staff are regularly trained on contracting policies and standard forms.

R14. The Policies and Procedures Manual should include a “readability policy” (i.e., a statement that County policies and contracts should be understandable by the County employees who can reasonably be expected to have to use or understand them) to appear at the beginning of the Policies and Procedures Manual and apply to each Title of the Policies and Procedures Manual. (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

Standard practice for the Policies and Procedures Manual should include consistent numbering, clear indexing and headings to facilitate user access. County departments are expected to train their staff to work effectively with County policies and procedures that pertain to job duties.

Semi-Annual modifications of the Manual allow County Management the opportunity to make changes as needed.

R15. A County readability policy should include a requirement to the effect that (a) each paragraph of a policy or contract must have a unique reference number, (b) each paragraph of a policy or contract must have a descriptive heading, (c) each paragraph of a policy or contract should address only one idea, (d) any requirement of a policy or contract to do something must identify a party or person as being responsible for doing the thing, and (e) the organization of any policy or contract should be predictable. (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The County Board of Supervisors approves changes to the Policies and Procedures Manual twice per year. The CAO will review any related recommended changes and determine if they can be implemented in the sections the CAO has authority over, either as part of the December 2019 or June 2020 update.

R16. The County Administrative Office and the Auditor-Controller should work with the Purchasing Agent and County Counsel to rewrite the provisions of Policies and Procedures Manual Title I Section 300 in accordance with a County readability policy and move the provisions into an appropriate place or places in the Policies and Procedures Manual Title III Section 100. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County Board of Supervisors approves changes to the Policies and Procedures Manual twice per year. The CAO will review any related recommended changes and determine if they can be implemented in the sections the CAO has authority over, either as part of the December 2019 or June 2020 update.

R17. The County Administrative Office should work with the Purchasing Agent and County Counsel to integrate the Policies and Procedures Manual with the County's contract templates, including department-specific templates. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County has a standard Independent Contractor Agreement (ICA). Department deviations from this standard are reviewed by the Risk Manager and County Counsel, and approved by the Board. The County maintains extensive contracting and purchasing rules that are updated and adapted frequently to changing circumstances. Department staff are trained on County policies and changes to those policies, and retain subject-matter expertise in their field to ensure that County contracts are reasonably negotiated.

R18. The County Administrative Office should work with the Purchasing Agent and County Counsel to ensure that the County's contract templates and contract rules are consistent with each other. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County has a standard Independent Contractor Agreement (ICA). Department deviations from this standard are reviewed by the Risk Manager and County Counsel, and approved by the Board. The County maintains extensive contracting and purchasing rules that are updated and adapted frequently to changing circumstances. Department staff are trained on County policies and changes to those policies, and retain subject-matter expertise in their field to ensure that County contracts are reasonably negotiated.

R19. The County Administrative Office should work with the Purchasing Agent and County Counsel to include in the Policies and Procedures Manual a section that contains most of the County's rules concerning the form and substance of a contract and that identifies the locations of any additional rules concerning the form and substance of a contract. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

Title I, Section 300 of the Policies and Procedures Manual contains this information.

R20. The County's contract rules should identify, or have a procedure for identifying, an individual who, with respect to each contract, will be responsible for ensuring that the County's contract rules are followed. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

Department heads are responsible for ensuring compliance with County contracting rules, and vendor compliance to the contract. The contract system has the capability to name a contract manager, and it is up to the department head to utilize that field to delegate responsibility.

R21. The County's contract rules should (a) provide for a checklist of the County's rules concerning the form and substance of a contract, which should remain in the contract's electronic file, on which the person responsible for the contract, with respect to each such rule, certifies that the contract complies, states that the rule is inapplicable with an explanation why, or explains how the contract does not comply and why and (b) require the CAO Analyst to confirm that the checklist is complete, that any exceptions are appropriate, and that the reasons for any exceptions are sufficiently documented. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County has a standard Independent Contractor Agreement (ICA). Department deviations from this standard are reviewed by the Risk Manager and County Counsel, and approved by the Board.

County Counsel approves County contracts as to form.

The contract substance cannot reasonably be standardized due to the wide variety of contracts that are managed by County departments.

The County maintains extensive contracting and purchasing rules that are updated and adapted frequently to changing circumstances. Department staff are trained on County policies and changes to those policies, and retain subject-matter expertise in their field to ensure that County contracts are reasonably negotiated.

R22. The County's contract rules should include a policy (a price justification policy) that (a) applies to appropriations above an amount to be specified in the price justification policy (e.g., more than \$300,000), (b) defines acceptable ways to evaluate cost, (c) requires that, when a contract is forwarded to the CAO Analyst, the department also submit a memo demonstrating that using one of the acceptable ways to evaluate cost establishes that the cost is justified, and (d) if possible, records the CAO Analyst's acceptance of the cost justification memo on the SCZCM1000 Report. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County maintains extensive and specific guidelines on price and necessary approvals, which are available to all County staff. Any contract over \$100,000 requires a formal Request for Proposals (RFP) process approved by the Board. For most services, anything over \$5,000 usually requires at least three quotes and a written justification for the selection of the vendor.

R23. The County's contract rules should require that, for each service contract, the appropriate department has a written plan for measuring the performance of the contract that includes, as appropriate (a) one or more reports that the contractor will submit to the County, (b) other ways that the County will measure performance, (c) a description of how the department will analyze the performance data, and (d) a description of how the department will use the analysis. (F8)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County has been moving towards outcome-based contracting. This is already prevalent in the County's CORE, Human Services, Health Services, and Probation department contracts. Although this form of contracting is not appropriate for every contract type, the County agrees that outcomes should form the basis of most service agreements. The County is working to bring this form of contracting, where appropriate, to other County departments.

The County also recently adopted a two-year operational plan and budget, and is currently engaged in performance measurement and program budgeting, which will bring more performance data to County programs and contracts.

R24. The County's contract rules should require that, with respect to any contract that provides for payments for different purposes, the department work with the Controller's Office, at the time of contract initiation and each amendment or renewal, to agree upon a set of code phrases to distinguish one payment from the other, require the contractor to identify the appropriate code phrase on the contractor's invoices, and instruct the Controller's staff to include the appropriate code phrase in the description of the payment. (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe (not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The Auditor-Controller agrees with the importance of setting up distinguishing identifiers in the form of object codes or project codes prior to issuing a contract's first payment. However, the responsibility for coding should lie with the department submitting the invoice, not the contractor. Contractors should not be relied upon to interpret our internal account coding. We will work with the departments to establish a more standardized description format and will implement changes as possible throughout FY 2019-20 and fully in FY 2020-21.

R25. The duties of the Clerk of the Board with respect to contracts should include, in addition to verifying that all required signatures are present, confirming that the agreement is properly dated, that each page is numbered, and that there are no blank spaces in the document (other than for initials). (F8)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

The Clerk of the Board will not have expanded responsibility in regards to contracts. County departments are responsible for ensuring that contracts are properly formatted, and guidance will be provided to departments through trainings and updates to the Policies and Procedures Manual.

R26. The County should change County Counsel's certification on a contract from "Approved as to Form" to a phrase that is less likely to mislead anyone about the function of County Counsel, such as "County Counsel has advised the initiating department with respect to this Agreement." (F11)

HAS BEEN IMPLEMENTED – summarize what has been done

HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE – summarize what will be done and the timeframe

REQUIRES FURTHER ANALYSIS – explain scope and timeframe
(not to exceed six months)

WILL NOT BE IMPLEMENTED – explain why

Response explanation, summary, and timeframe:

"Approved as to Form" is an industry standard, and the County does not believe that the current language misleads staff as to the function of County Counsel.

R27. The County's contract rules should require the County to retain all records pertaining to the services of a contractor until such time as the County's record retention policies permit the destruction of all of the records. (F12)

- HAS BEEN IMPLEMENTED** – summarize what has been done
- HAS NOT BEEN IMPLEMENTED BUT WILL BE IMPLEMENTED IN THE FUTURE** – summarize what will be done and the timeframe
- REQUIRES FURTHER ANALYSIS** – explain scope and timeframe (not to exceed six months)
- WILL NOT BE IMPLEMENTED** – explain why

Response explanation, summary, and timeframe:

The County retains all records pursuant to State law and State Controller guidelines.

Penal Code §933.05

1. For Purposes of subdivision (b) of §933, as to each Grand Jury finding, the responding person or entity shall indicate one of the following:
 - a. the respondent agrees with the finding,
 - b. the respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
2. For purpose of subdivision (b) of §933, as to each Grand Jury recommendation, the responding person shall report one of the following actions:
 - a. the recommendation has been implemented, with a summary regarding the implemented action,
 - b. the recommendation has not yet been implemented but will be implemented in the future, with a timeframe for implementation,
 - c. the recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or director of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of the publication of the Grand Jury report, or
 - d. the recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
3. However, if a finding or recommendation of the Grand Jury addresses budgetary or personnel matters of a County department headed by an elected officer, both the department head and the Board of Supervisors shall respond if requested by the Grand Jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected department head shall address all aspects of the findings or recommendations affecting his or her department.
4. A Grand Jury may request a subject person or entity to come before the Grand Jury for the purpose of reading and discussing the findings of the Grand Jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.
5. During an investigation, the Grand Jury shall meet with the subject of that investigation regarding that investigation unless the court, either on its own determination or upon request of the foreperson of the Grand Jury, determines that such a meeting would be detrimental.
6. A Grand Jury shall provide to the affected agency a copy of the portion of the Grand Jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. **No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.**

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