



TRINITY COUNTY
OFFICE OF THE COUNTY COUNSEL

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TO: The Honorable Michael B. Harper
Judge of the Superior Court

FROM: Margaret E. Long, County Counsel

CC: Clerk of the Board of Supervisors

SUBJECT: Response to Recommendations of 2016-2017
Grand Jury Financial and Administrative Committee Final Report
Re: FAR 2016-2017-001 County Contracts

DATE: August 22, 2017

A handwritten signature in black ink, appearing to be "MEL", is written over the "FROM" line of the letterhead.

The Grand Jury Financial and Administrative Committee has requested a written response to their final report on the FAR 2016-2017-001 County Contracts. The response of Trinity County Counsel is as follows:

The County does not currently have a County Administrative Officer or an interim/acting County Administrative Officer. By way of Trinity County Resolution No. 2015-128, my office has been temporarily given certain additional responsibilities. In the capacity of County Counsel, please accept the following responses.

Finding #1: *The County Auditor requested clarification from Gallina, LLP, the County's external auditors, to ensure IRS compliance regarding fringe benefits provided to some employees, including County vehicle usage.*

Response: Responding Party has no information on this finding.

Who would?

Finding #2: *On December 21, 2016, the County Auditor issued a memorandum to County Department Heads, BOS and CAO-CC providing clarification of taxable fringe benefits with regard to vehicle usage effective with the January, 2017 pay period.*

Response: Agree.

Finding #3: *The BOS provided a \$10,000 vehicle allowance/stipend to a County employee based on a Staff Report that did not include complete information necessary for the BOS to make an informed decision.*

Response: Disagree wholly. This never occurred.

Finding #4: *County Ordinance 2.56.040 may not be beneficial to the County budget as currently written in its explanation of vehicle use.*

Response: Responding Party has no information on this finding.

Finding #5: *The BOS is not adhering to the terms of the January 16, 2015 contract agreement with Prentice & Epperson LLP with regard to developing specific criteria needed to review and evaluate the performance of "Firm," the definition of which is Prentice & Epperson LLP as County Counsel.*

Response: Disagree wholly. Specific evaluation criteria have been established prior to 2016.

Finding #6: *The BOS is not adhering to the terms of the January 16, 2015 contract agreement and its subsequent amendments in regard to an annual open session review and evaluation of the contract agreement with Prentice & Epperson LLP.*

Response: Disagree wholly. Evaluations of County Counsel, even when contracted, are required to be done in closed session pursuant to Government Code Section 54957. The Grand Jury failed to read the entirety of Government Code Section 54957, which stated in section (4), "for the purpose of this subdivision, the term 'employee' shall include an officer or an independent contractor who functions as an officer."

Finding #7: *The BOS did not adhere to Government Code Section 31000 when a contract agreement with Prentice & Epperson LLP assigning County Counsel to perform additional duties in the absence of a CAO was entered into.*

Response: Disagree wholly. Prentice, Long & Epperson was contracted to provide County Counsel services, which it is qualified to perform, and performs in multiple other Counties. In fact, Prentice, Long & Epperson is the only firm that currently serves as Contract County Counsel in the State of California. Prentice, Long & Epperson has worked, and continues to work, with Counties, such as Sierra and Alpine Counties, where it is given additional responsibilities in the absence of a CAO. Claims of a violation of GC section 31000 are without basis.

Finding #8: *The BOS contracted with Prentice & Epperson LLP designating County Counsel to perform additional duties in the absence of a CAO without establishing an expiration date.*

Response: Disagree wholly. The agreement terminates upon the hiring of a CAO. In addition, the County can terminate the agreement at any time pursuant to the terms of the

agreement. Finally, the agreement terminated at the conclusion of the County Counsel agreement, which is a set date.

Finding #9: *The BOS did not create an alternative plan in the instance a CAO is not recruited.*

Response: It is unclear as to what the Grand Jury is requesting. The County has been in constant recruitment for the CAO since the resignation of Wendy Tyler. If, hypothetically, the BOS decides not to actively recruit, it is assumed they would develop an alternative plan.

Finding #10: *The CAO position qualifications presented to applicants are not uniform nor in alignment with County Code 2.08.020.*

Response: Agree in part. The recruitment material does not include the entirety of CC Section 2.08.020.

Finding #11: *The County's contract agreement with Cooperative Personnel Services for the recruitment of a CAO is current and ending only when a CAO qualified applicant is made an offer and the offer is accepted.*

Response: Agree. CPS HR continues to recruit actively on behalf of the County.

Finding #12: *BOS amended the original contract agreement with Koff and Associates four times after the contract agreement had expired.*

Response: Agree.

Recommendation #1: *Revise County Ordinance 2.56.040 - Vehicles assigned to Department of Transportation and General Services personnel, to explain the term "home" and whether it encompasses a commute to and from if "home" is outside of the County.*

Response: Recommendation requires further analysis.

Recommendation #2: *County Code Chapter 2.56.070.C- Emergency situations and authorization for the use of county vehicles states "The immediate family of County employees who are assigned vehicles are not permitted to ride in County vehicles except with the prior approval of the County Administrative Officer". When an employee of the County is using their own vehicle for County business, in the process of County business, or on the way to their regular place of County business, specify if and when it is allowable for the immediate family of County employees to be permitted to ride in a personal vehicle.*

(Ord. 1234 §1, 1999; Ord.11 83 §3(part), 1993; Ord. 350-1 §1,1976; Ord.350 §4,1975)

Response: Recommendation has been implemented.

Recommendation #3: *Enforce adherence to County Vehicle Usage Procedures and encompassing Ordinances and Codes through training and memorandums and at annual employee evaluations.*

Response: Recommendation has been implemented. County Counsel commends the Auditor for her hard work on this topic.

Recommendation #4: *Ensure all County employees using personal vehicles for County business submit proof of insurance pursuant to County Policy 2002-02(P) at annual employee evaluations or when employees who use personal vehicles for County business, in the process of County business, or on the way to their regular place of County business change the status of ownership of the vehicle used.*

Response: Recommendation requires further analysis and consultation with the Risk Manager.

Recommendation #5: *Promptly complete the Classification and Compensation Study.*

Response: Recommendation has not been implemented, but will be implemented in the near future. County Counsel commends the Human Resources Director for all her work on this matter.

Recommendation #6: *Publish the Classification and Compensation Study and make it available to the public.*

Response: Recommendation has not been implemented, but will be implemented in the future, as required.

Recommendation #7: *Develop a plan of action to implement the results of the Classification and Compensation Study.*

Response: Recommendation has not been implemented, but will be implemented once complete.

Recommendation #8: *Treat the recruitment and hiring of a competent, experienced CAO as a priority. To that end, offer a competitive compensation package.*

Response: Recommendation has been implemented and has been a priority since the resignation of Ms. Tyler.

Recommendation #9: *Develop a procedure/policy that ensures contract renewals are timely and in accordance with contracted work, and confirms contracts are reviewed monthly by the department implementing the contract.*

Response: Recommendation has been implemented.

Recommendation #10: *Develop specific criteria needed to review and evaluate the performance of "Firm," the definition of which is Prentice & Epperson LLP as County Counsel.*

Response: Recommendation has been implemented prior to 2016. It should be noted, however, that the current contract for County Counsel services is not with Prentice & Epperson, LLP.

Recommendation #11: *Provide professional qualifications for the appointment of CAO-CC as described in Government Code Section 31000.*

Response: Recommendation has been implemented prior to 2016.

Recommendation #12: *Establish uniformity between County Code 2.08.020 and the position description of County Administrative Officer.*

Response: Recommendation requires further analysis.