

Responses to the 2013-2014 Grand Jury Report

Every year, when the annual Santa Cruz County Grand Jury Report is published, designated agencies are requested to respond to the findings and recommendations of the report. These responses may agree, partially disagree, or disagree with the findings, and may indicate that recommendations have already been implemented, will be in the future, or will not be implemented, or that further analysis is required.

Comments may also be added to the responses. When a response agrees with a recommendation, further comments are optional. In case of complete or partial disagreement, or in response to recommendations for action, comments should be provided as part of the response.

For each report, the collected responses are published in a separate file on the [grand jury's section of the county's public website](#). Note: The responses are provided as received, and have not been edited, except for minimal formatting to make them appear correctly on this web page.

Report: [Transparent, Fair, and Cost Effective? A Review of Contracting Practices in Santa Cruz County Government](#)

This report requested responses from the following:

1. County Administrative Office: Findings 1-5; Recommendations 1-7
2. Santa Cruz County Auditor-Controller: Findings 1, 3, 4; Recommendations 3-5
3. Santa Cruz County Board of Supervisors: Findings 1-5; Recommendations 1-7

Findings

- **Finding 1: The loopholes in Santa Cruz County procurement policies such as the Exceptions to the Competitive Process and Sole Source Requests in the PPM allow some professional service contracts to originate, or to be continually renewed, without competition.**
 - Response from County Administrative Office (Susan Mauriello): **Disagree**

The exceptions to the competitive process and sole source are not loopholes but intentional components to the County Procedure Manual.
 - Response from Santa Cruz County Auditor-Controller (Mary Jo Walker): **Partially Disagree**

Although I agree that the Santa Cruz County procurement policies allow some professional services contracts to originate or be continually renewed without competition, I disagree that these should be referred to as "loopholes". There are many good reasons and solid basis for the exceptions to the competitive bidding process. Just a few examples are:

- Contracts less than \$15,000
 - The need to select the contractor based on demonstrated competence and professional qualifications (rather than lowest price) per California Government Code 4526.
 - Contracts for services which by law, some other office or body is specifically charged with obtaining, such as the professional services contract with Harvey Rose Associates that the Grand Jury obtained in 2012.
- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**
- **Finding 2: Based on the documentation that we were provided, the Grand Jury could not determine that the sole source provision was correctly applied.**
 - Response from County Administrative Office (Susan Mauriello): **Disagree**

Documentation the Grand Jury relied on to determine that the sole source provision was correctly applied was requested and an explanation provided. Documentation exists for all sole source contracts either with the Purchasing Division which keeps copies of the sole source documentation for all purchase orders and contracts approved by the Board are maintained by County Departments. As referenced, in Finding #1, exceptions exist to the sole source and competitive process as authorized in the County Procedures Manual.
 - Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**
- **Finding 3: As the result of errors in the CAL categorization, numerous contracts did not receive appropriate Board of Supervisors review.**
 - Response from County Administrative Office (Susan Mauriello): **Disagree**

The Grand Jury analysis does not appear to have considered all Board authorized changes. The CAL included in the Supplemental Budget does not

include the changes that are made in the Errata or Supplemental and Last Day Reports approved by the Board during budget hearings. Changes to the Continuing Agreement List are made in accordance with a concluding action in the Concluding Report on the last day of budget hearings which authorizes the Auditor-Controller to adjust the continuing agreements for changes in appropriations made by the Board during budget hearings and to correct any minor errors. Minor errors include the corrections of miscategorizations of contract types from Section I, II or III based on the actual contract terms originally approved by the Board. An updated CAL which includes all of these authorized changes is provided to the Auditor-Controller and to the Clerk of the Board. Staff have reviewed all variations from the original CAL presented to the Board for FY 2011-12 and forward. The result of the analysis is that all changes were either approved by the Board or if administrative in nature approved by the CAO/ Auditor in accordance with the concluding action authorization. The Auditor-Controller performed a separate analysis and concluded that two contracts may have been listed incorrectly on the CAL. CAO staff will conduct further analysis on the two contracts to verify that they were listed incorrectly and if so, they will be corrected on the final 2014-15 CAL.

- Response from Santa Cruz County Auditor-Controller (Mary Jo Walker):

Disagree

I disagree that numerous contracts did not receive appropriate Board of Supervisors review as the result of errors in the CAL categorization. My analysis indicated that there were just a few contracts that were categorized incorrectly. Nevertheless, I believe County staff could improve the accuracy and clarity of the CAL.

It is difficult to know exactly which contracts the Grand Jury is referring to since we do not have access to their detailed analysis. I presume this Finding refers to the comments on page 8 of the Grand Jury report which stated 41 contracts had funding increases up to 10% were incorrectly listed as Section I instead of Section II. I performed my own analysis of contracts on the FY 2012-13 and 2013-14 final CAL (final version produced by CAO office), and counted 43 contracts with increases of 10% or more classified as Section I. However:

- 5 were approved by the Board of Supervisors before or shortly after the CAL was prepared;
- 10 were multi year contracts approved by the Board and CAL was within maximum amount;
- 8 were less than \$15,000 that did not require Board approval;
- 14 were "widget" contracts (per unit of service) listed with a placeholder amount;
- 1 was two related sub-contracts that were combined;
- 2 were ongoing contracts approved by the Board, and CAL was within maximum amount.

- 1 was listed on the CAL incorrectly, but corrected shortly after the CAL was prepared;
- 2 were listed on the CAL incorrectly;

The report also stated 78 contacts had funding increases greater than 10% that were incorrectly listed as Section II instead of Section III. Again, not having access to the Grand Jury's exact data, my analysis indicated 75 contracts increased by more than 10%:

- 8 were classified as Section III contracts, each approved by the Board of Supervisors;
- 25 were approved or increased by the Board on a regular agenda, and CAL is within 10%;
- 5 were multi year contracts approved by the Board, and CAL was within maximum amount;
- 9 were Community Programs that were increased by the Board during budget hearings;
- 5 were less than \$15,000 that did not require Board approval;
- 3 were two related sub-contracts that were combined, or other programs that were absorbed;
- 12 were "widget" contracts (per unit of service) listed with a placeholder amount;
- 6 were listed on the CAL incorrectly, but corrected shortly after the CAL was prepared;
- 2 were listed on the CAL incorrectly.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Finding 4: The CAL Section II allowable percentage increase has not been changed in more than 20 years. It remains at 10%, a much higher rate than the CPI.**

- Response from County Administrative Office (Susan Mauriello): **Agree**

The CAL Section II 10% limit is not related to the CPI.

- Response from Santa Cruz County Auditor-Controller (Mary Jo Walker): **Agree**

I agree.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Finding 5: It is difficult for the general public to access professional service contracts on the Santa Cruz County website because the website is neither intuitive nor complete.**

- Response from County Administrative Office (Susan Mauriello): **Disagree**

A revamp of the website has occurred over the last four years.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

Recommendations

- **Recommendation 1: The General Services Department should exclude expert and professional services from the Exceptions to the Competitive Process clause of the PPM. (F1)**

- Response from County Administrative Office (Susan Mauriello): **Will not be implemented**

As stated above, expert and professional services are excluded from the competitive process because these contractors have the crucial and needed expertise. An evaluation of skill, experience, qualification to perform a particular scope of work, and exposure to liability are all factors that are measured in the procurement of expert and professional services, in addition to cost. If the County was required to accept only the low bid for expert, specialized services, staff would not be permitted to evaluate these important factors, as well as other intangibles such as skills interfacing with the public, references for prior work, or knowledge of our community's cultural preferences.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Recommendation 2: The policies and procedures manuals of the County Administrative Office should require an RFP process for the renewal of all multiyear professional service contracts. (F1)**

- Response from County Administrative Office (Susan Mauriello): **Will not be implemented**

An RFP is generally required for contracts, however, contracts are excluded

where, as discussed above, it is not cost effective or there is reason to consider a sole source exception.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**
- **Recommendation 3: In the event of a sole source request for a professional service, the County Administrative Office should ensure that criteria identified in the “Justification for Sole Source, Sole Brand, or Standardization” form are strictly applied. (F1, F2)**

- Response from County Administrative Office (Susan Mauriello): **Has been implemented**

Exceptions are processed by a certified Purchasing Agent, and detailed documentation for sole source is provided by the Department for each purchase under this exception. All other contracts are approved by the Board. If an RFP has not been conducted, an explanation for sole source is provided as a part of the staff report, which seeks the Board's approval to enter into a contract or purchase order. Public agencies do collaborate with each other on purchasing, and if one County has conducted a public process for a commonly purchased item within a specified timeframe, another County can use that RFP process to conduct the purchase by competitive bid. Counties and cities also routinely purchase goods or professional services that have been vetted through the State's competitive bidding process. Under this process, a local jurisdiction may choose a vendor or product line through a master contract.

- Response from Santa Cruz County Auditor-Controller (Mary Jo Walker): **Requires further analysis**

I agree with this recommendation, but I do not know whether it will or will not be implemented until the County Administrative Office and the Board of Supervisors respond by September 15, 2014.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**
- **Recommendation 4: The County Administrative Office should list the dollar amount and the percentage change from the prior year for each contract in the CAL. This list should be ranked based on the percentage change. (F3)**

- Response from County Administrative Office (Susan Mauriello): **Requires further analysis**

The contract tracking process is currently under review as part of the implementation of the new financial system and it is unknown at this time whether or how the system can produce data to accommodate the recommendation.

- Response from Santa Cruz County Auditor-Controller (Mary Jo Walker): **Requires further analysis**

I agree with the recommendation that the dollar amount and percentage change from the prior year for each contract be listed on the CAL.

I do not agree with the recommendation that they be ranked based on percentage change because there may be another more useful order in which to list the contracts such as by department or vendor name.

Nevertheless, I do not know whether the Grand Jury's recommendation will or will not be implemented until the County Administrative Office and the Board of Supervisors respond by September 15, 2014.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Recommendation 5: The County Administrative Office should modify Section II of the CAL to use an inflationary index set by the BoS instead of the current 10% allowance. (F4)**

- Response from County Administrative Office (Susan Mauriello): **Requires further analysis**

As stated earlier in finding #4, the 10% allowance is unrelated to the separate CPI. The rationale for the 10% rule is similar to the Public Contracts Code under State law providing authority to approve increases in contract amounts up to 10% without Board approval. CAO staff will analyze alternatives for potential modification of the current procedure.

- Response from Santa Cruz County Auditor-Controller (Mary Jo Walker): **Requires further analysis**

I agree that Section II of the CAL be modified to allow something less than a 10% increase for every contract every year, but I do not agree that it be an inflationary

index because there may be other more appropriate methods that would allow minor increases on the CAL.

I suggest that the 10% allowance be limited either by time or cumulative percent, and when a contract reaches the time or percent limit, it would require the Board of Supervisor renewed approval.

I also suggest that some of the contracts be classified into a new Section to reduce confusion. Many of the contracts that it appears the Grand Jury is questioning are ongoing contracts that do not have a contract maximum, but rather a rate per unit of service. The estimated contract amount listed on the CAL changes every year depending upon the anticipated volume of service needed. I think it would provide greater clarity if those contracts were separately classified.

Nevertheless, I do not know whether the Grand Jury's recommendation will or will not be implemented until the County Administrative Office and the Board of Supervisors respond by September 15, 2014.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Recommendation 6: The Board of Supervisors should set an inflationary index such as the CPI + 3% as the threshold for annual contract review in Section II of the CAL. (F4)**
 - Response from County Administrative Office (Susan Mauriello): **Will not be implemented**

The CPI is used for benchmarking purposes and does not always serve as the basis for contract growth.
 - Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**

- **Recommendation 7: The County Administrative Office should create a central repository containing all County professional service contracts on the Santa Cruz County website that can be easily located and searched by the general public. (F5)**
 - Response from County Administrative Office (Susan Mauriello): **Requires further analysis**

The contract tracking process is currently under review as part of the implementation of the new financial system and it is unknown at this time whether the system can accommodate the recommendation. All contracts approved by the Board are available on the Clerk of the Board website by Agenda date and can be searched by keyword. In addition, the feasibility of posting the final version of the CAL with the Clerk of the Board, or with the Adopted Budget document will be reviewed.

- Response from the Santa Cruz County Board of Supervisors: **Approves the response of the County Administrative Office without further comment.**