

Proposed Response to Grand Jury Report:

“San Diego Continues To Lose Money On Stadium Management”

IBA Report 18-30

City Council

October 16, 2018

Item: 334



Independent Budget Analyst



Report Background

- The Grand Jury filed this report May 22, 2018.
- It focuses on sales of naming rights and suites at SDCCU stadium.
- It includes 11 findings and 4 recommendations directed to the Mayor and City Council.
 - Grand Jury Findings are numbered 01-12, but the report does not include a Finding 07.
- An extension of the original due date (Aug 21, 2018) was requested/granted.
 - The response is now due to the Superior Court Presiding Judge by Nov 16, 2018

Prescribed Grand Jury Responses

- For each Finding:
 - Agree
 - Disagree wholly or partially
- For each Recommendation:
 - Has been implemented
 - Has not yet been implemented, but will be
 - Requires further analysis
 - Will not be implemented because it is not warranted or is not reasonable

Findings 01 and 02

Finding 01: The Chargers' departure gave the City an opportunity to recoup revenue on Stadium advertising and suite sales.

Proposed Response: Agree

Finding 02: Stadium staff could have sold the Stadium advertising.

Proposed Response: Partially Disagree

- Stadium staff lack expertise in marketing and negotiating advertising and naming rights – and training staff would have diverted resources.
- Staff time was better used in booking additional revenue producing events at the stadium – FY18 booking revenue was \$3.7M higher than budgeted.

Findings 03 and 04

Finding 03: Stadium staff could have sold the suites.

Proposed Response: Partially Disagree

- Stadium staff lack expertise in marketing and negotiating advertising and naming rights – and training staff would have diverted resources.
- Staff time was better used in booking additional events at the stadium.

Finding 04: The City gave away revenue it could have retained.

Proposed Response: Disagree

This assumes the City's existing staff, which lacks advertising and suite sales expertise, could have generated greater advertising and suite sales revenues than the professionals the City contracted with.

Findings 05 and 06

Finding 05: The City allowed work on the contract before its effective date.

Proposed Response: Agree

- Fox Sports started work on advertising and naming rights prior to the effective date of the contract.
- However, no costs to the City were incurred during the process, and no commitments between Fox Sports and the City were binding/finalized – so City risk was limited.

Finding 06: The City allowed Stadium suites to be sold before it authorized the sales.

Proposed Response: Disagree

While suites were marketed prior to the City's agreement with the Bowl Association, no suites were sold before its execution.

Findings 08

Finding 08: The City needs rules on contracts that allow private parties to issue RFPs on the City's behalf.

Proposed Response: Disagree

- The City might chose a third party to issue an RFP, based on specific circumstances and expertise.
- However, the solicitation Fox Sports made for naming rights was not a City RFP.

Findings 9 and 10

Finding 09: The City had the time and expertise to issue its own renaming RFP in time for the Stadium events of Sept 2017.

Proposed Response: Disagree

The City negotiated with Qualcomm to renew its naming rights up to their June 2017 expiration. At that point, insufficient time was left for the City to initiate a Request for Sponsorship process that could have been completed before the college football season began.

Finding 10: The City needs rules on third parties judging responses to RFPs.

Proposed Response: Disagree

In some cases, a third party's special expertise would be valuable for judging RFP responses; and the same rules apply to that third party as apply to City employees.

Findings 11 & 12

Finding 11: The Fox Sports and Bowl Association contracts did not conform to the requirements for sole source status.

Proposed Response: Disagree

The City Attorney and Purchasing and Contracting Department both reviewed the contracts and found them to comply with the City's sole source process.

Finding 12: The City needs rules on valuing revenue-generating contracts

Proposed Response: Partially Disagree

These rules are important, but a number of them already exist, including the following Council Policies:

- 700-10 (Disposition of City-Owned Real Property)
- 700-12 (Disposition of City Property to Nonprofit Organizations)
- 700-41 (Use of the RFP Process for Lease of City-Owned Land)
- 900-20 (Naming of City Assets)

Recommendation 18-16

Establish policies and procedures for City contracts with private parties in which the private party will issue a Request for Proposal on the City's behalf and include rules on when the private party can participate in judging the responses to that RFP.

Proposed Response: ***The recommendation will not be implemented because it is not warranted.***

Recommendation 18-16 (con't)

- Third parties generally do not issue RFPs on behalf of the City.
 - However, if a third party were to issue an RFP or sit on a selection panel, the same rules would apply to that party as apply to City employees.
- The criteria under which the City might chose a third party to issue an RFP and/or sit on a selection panel would be based on expertise.
- Further, the solicitation Fox Sports made for naming rights was not a City RFP, and the process did not apply in this case.

Recommendation 18-17

Establish policies and procedures for selling the naming rights for City assets leased to private parties.

Proposed Response: ***The recommendation has been implemented.***

Naming rights are either permitted per lease agreements or as specified in Council Policy 900-20 (Naming of City Assets).

Recommendation 18-18

Establish policies and procedures for valuing revenue-generating contracts.

Proposed Response: ***The recommendation has been implemented.***

- The City already has multiple policies governing this, including Council Policies 700-10 (Disposition of City-Owned Real Property), 700-12 (Disposition of City Property to Nonprofit Organizations), 700-41 (Use of the RFP Process for Lease of City-Owned Land) and 900-20 (Naming of City Assets).
- If a particular valuation falls outside the expertise of City staff, an outside contractor with relevant expertise is hired to perform the valuation.

Recommendation 18-19

Require the Bowl Association to follow standard government accounting practices in its monthly and annual income statements.

Proposed Response: ***The recommendation has been implemented.***

This is already required in the agreement between the Bowl Association and the City.

Previous & Next Steps

- The Smart Growth & Land Use Committee reviewed the proposed response at its Sep 19, 2018 meeting.
 - It moved the proposed response to the full City Council.
- Requested Council Actions
 - Approve and adopt the proposed response.
 - Authorize the Council President to execute and deliver the response to the Superior Court by Nov 16, 2018.