



THE CITY OF SAN DIEGO

DATE: September 8, 2010

TO: Honorable Members of the Audit Committee

FROM: Eduardo Luna, City Auditor

SUBJECT: **Proposed Responses to Grand Jury Reports**

This past spring, the San Diego County Grand Jury filed two reports related to “Ethics in Government” and “San Diego City’s Financial Crisis.” Both reports had findings and recommendations directed to the Audit Committee and City Auditor. Specifically, on May 27, 2010, the San Diego County Grand Jury filed the report, Ethics In Government: Codes Of Ethics, Internal Controls, Fraud Hotlines. The Grand Jury report reviewed fraud hotline practices, internal control processes, and codes of ethics by various government entities within the County. Altogether, the report had 18 findings and 21 recommendations to various local government entities. Specifically, the report had four findings regarding the City of San Diego’s fraud hotline program and made three recommendations for the Audit Committee and the City Auditor. The response to this report is due October 1, 2010.

On June 8, 2010, the San Diego County Grand Jury released the report, San Diego’s City Financial Crisis: The Past, Present, and Future. This Grand Jury report reviewed financial issues facing the City and the causes of the current financial condition; and proposed strategies for mitigating the City’s deficits. The report had 27 findings and 15 recommendations for the Mayor, City Council, and/or San Diego City Employees’ Retirement System Board of Administration. Specifically, the report had one finding and two recommendations directed to the Audit Committee and City Auditor. The response to this report is due December 1, 2010.

In responding to each Grand Jury finding, the City is required to either 1) agree with the finding or 2) disagree wholly or partially with the finding. Responses to Grand Jury recommendations must indicate that the recommendation 1) has been implemented; 2) has not yet been implemented, but will be in the future; 3) requires further analysis; or 4) will not be implemented because it is not warranted or is not reasonable. Explanations for responses are requested when applicable.

On pages two to four, the City Auditor recommends a proposed Audit Committee response to all four of the findings and the three of the recommendations pertaining to the Ethics in Government grand jury report. Upon receipt of Audit Committee feedback, the proposed response will be docketed for City Council consideration during the last week of September in order to provide a timely response to the Superior Court.

On pages five and six, the City Auditor recommends a proposed Audit Committee response to the one finding and both recommendations pertaining to the City Financial Crisis grand jury report. Subsequent to Audit Committee review, the responses will be forwarded to the Independent Budget Analyst for inclusion in the larger response to be considered by the Rules Committee and City Council.

PROPOSED RESPONSE TO GRAND JURY REPORT ON ETHICS ON GOVERNMENT

On May 27, 2010, the San Diego County Grand Jury released the report, Ethics In Government: Codes Of Ethics, Internal Controls, Fraud Hotlines. The report had four findings regarding the City of San Diego's fraud hotline program and made three recommendations.

FINDINGS

Finding 05: **The City appears to have no integrated comprehensive Code of Ethics designed, for example, for classified employees and parties dealing with the City and addressing basics such as fraud, waste, abuse and conflict of interest. However, the City Auditor publishes, on the departmental web page, explicit definitions of fraud, waste and abuse, accessed either as a separate link or through the City Employee Fraud Hotline Policy and Procedures Manual.**

Proposed Response: Partially disagree

The City has a Employee Code of Conduct Handbook that was prepared by the Mayor's Office of Ethics and Integrity in 2007.¹ This handbook is available and applicable to all City employees on the City's intranet, under the Human Resources Department web page (policies and procedures). The Code of Conduct Handbook includes the following ethics-related guidance:

- Obligation to Citizens
- Honesty and Integrity
- Avoidance of the Appearance of Impropriety
- Use of City Resources
- Responsibility of Public Service
- Statement of Economic Interest
- Future Employment
- Favoritism
- Product Endorsement
- Participation in Political Activities
- Telephone Usage
- Electronic Mail and Internet Usage

¹ The Office of Ethics and Integrity was disbanded during Fiscal Year 2009.

- Improper Use of Position
 - Ethics Pledge (Unclassified Employees)
 - Gifts/Favors
 - Incompatible Collateral/Outside Employment
- Use of Confidential Information
 - Conflict of Interest
 - Ethics Training

The Code of Conduct Handbook also has guidance on unlawful harassment, non-discrimination, and whistleblower protection. The handbook has information on how to report improper conduct and where to seek advice.

Based on the City Auditor's review of the Code of Conduct Handbook, the Mayor's Office should update the handbook to reflect that the Office of Ethics and Integrity is no longer in existence and update contact information. Further, the Mayor should ensure that the handbook is distributed to all City employees on an annual basis and that unclassified employees sign the ethics pledge.

Finding 06: The City has an effective charter-based internal audit and hotline process managed by the City Auditor and resulting in identification of significant recoverable funds and cost savings.

Proposed Response: Agree

Concur with the Grand Jury that the City has effective charter-based audit function that has resulted in the identification of potentials savings and increased revenues. Between July 1, 2008 and December 30, 2009, the City Auditor issued 40 audit reports with 274 recommendations and identified \$7.4 million in potential monetary recoveries and cost savings for the City. This translates to a return on investment of \$3 to \$1.

Finding 07: Investigations and audits by the City Auditor, whether initiated by City Hotline calls or otherwise, often result in savings due to prevention and increased efficiency, not quantified in dollars.

Proposed Response: Agree

The City Auditor substantiated investigations and audits have identified recommendations to increase efficiencies and increase savings in the delivery of government services.

Finding 08: The City Hotline phone number is not posted on the Home page of the City website.

Proposed Response: Agree

As of the date of the Grand jury report, the fraud hotline number was not posted on the City's homepage. On August 17, 2010, a City Auditor Fraud Hotline link button was posted on the City's website homepage – <http://www.sandiego.gov/>.

RECOMMENDATIONS

The 2009/2010 San Diego County Grand Jury made three recommendations regarding the City of San Diego. Specifically, the San Diego County Grand Jury recommended that the City Audit Committee and the City Auditor of the City of San Diego:

10-63: Consider collecting and posting an integrated comprehensive Code of Ethics designed for classified employees and parties dealing with the City and addressing basics such as fraud, waste, abuse and conflict of interest.

Proposed Response: Implemented

This recommendation has been implemented, but should be updated to reflect that the Office of Ethics and Integrity is no longer in existence and include updated contact information. Further, the Mayor should ensure that the handbook is distributed to all City employees on an annual basis and that unclassified employees sign the ethics pledge.

10-64: Consider posting the City Hotline phone number on the Home page of the City website, on the City Television Network (Channel 24), and post prominently the phone number in City workplaces.

Proposed Response: Partially Implemented

Specifically, the Fraud Hotline already is displayed on the City Television Network on a rotational basis. Further, Fraud Hotline posters were distributed and posted to City workplaces in 2008. However, in FY 2010-11, the Office of the City Auditor will work with the General Services Department on developing an alternative method for posting the Fraud Hotline number in all City workplaces. Finally, on August 17, 2010, the Fraud Hotline link was added to the home page of the City website.

10-65: Consider including a non-binding recommendation regarding disposition in City Auditor staff reports of cases involving fraud, waste, abuse and conflicts of interest.

Proposed Response: Implemented

The City Auditor's fraud hotline investigative reports include recommendations for corrective actions regarding case disposition.

PROPOSED RESPONSE TO GRAND JURY REPORT OF SAN DIEGO'S CITY FINANCIAL CRISIS

On June 8, 2010, the San Diego County Grand Jury released the report, San Diego's Financial Crisis: The Past, Present, and Future. The report had one finding and two recommendations to the Audit Committee and City Auditor.

Finding 20: Performance audits of the major City departments may identify operational efficiencies and expenditure reductions.

Proposed Response: Agree

Between July 1, 2008 and December 30, 2009, the City Auditor issued 40 audit reports with 274 recommendations and identified \$7.4 million in potential monetary recoveries and cost saving for the City. This translates to a return on investment of \$3 to \$1.

10-128: Conduct a performance audit of SDCERS' administration of the City's pension system.

Proposed Response: Agree to implement

This recommendation is planned to be implemented in Fiscal Year 2010-11. Aside from the Grand Jury report, Council members Tony Young and Carl DeMaio requested that the City Auditor audit SDCERS' administration of the City's pension system. The SDCERS administration of the City's pension system is a high-risk activity that merits outside review. As result, the City Auditor added this audit to the FY 2010-11 Annual Audit Work Plan.

10-132: Evaluate each department of the City to determine potential cost savings, operations efficiencies, and revenue enhancements.

Proposed Response: Requires Further Analysis

Based on the results of the Citywide Risk Assessment, the City Auditor issues an Annual Audit Work Plan that documents proposed audits based on financial risk factors. Performance audit objectives can include reviewing the efficiency and effectiveness of government resources; assessing the reliability of financial information; assessing compliance with applicable laws and regulations, determining the attainment of goals and objectives; and assessing if government assets are appropriately safeguarded. Performance audits are conducted on department specific components, for example the Public Utility Department's Bid-2-Goal program, as opposed to auditing an entire department. Comprehensive audits of entire departments would require significant commitment of audit resources.

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This recommendation requires further analysis because implementation would significantly impact the FY 2010-11 Annual Audit Workplan and would necessitate the involvement of the Audit Committee. Depending on the time frame for the review, additional audit resources may be needed. I will request that the Audit Committee Chairman place this issue on a future audit committee agenda.

Respectfully Submitted, _____



Eduardo Luna

City Auditor

cc: Honorable Mayor Jerry Sanders
Honorable City Council Members
Jay M. Goldstone, Chief Operating Officer
Wally Hill, Assistant Chief Operating Officer
Mary Lewis, Chief Financial Officer
Ken Whitfield, City Comptroller
Jan Goldsmith, City Attorney
Andrea Tevlin, Independent Budget Analyst