



County of El Dorado

OFFICE OF AUDITOR-CONTROLLER

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August 29, 2003

Honorable Jerald Lasarow
El Dorado County Superior Court
1354 Johnson Boulevard
South Lake Tahoe, CA 96150

Your Honor:

The following is my response to the recently issued 2002-2003 Grand Jury report:

Public Records Act

- F1. Although the complaint was made against the County Counsel it should have been directed to the Auditor-Controller.

Auditor-Controller's Response

I disagree wholly with the finding. The complainant was frustrated with the County Counsel because the County was exerting attorney/client privilege over the information contained on the Remy, Thomas, and Moose invoices related to the general plan litigation.

- F2. The Public Record Act request was submitted in February 1999 but the complaint was made in February 2002, this request had not been satisfactorily answered.

Auditor-Controller's Response

I disagree wholly with the finding. The finding states that "this request had not been satisfactorily answered." Actually, the information provided by the Auditor-Controller to the complainant exceeded the requirements of the California Public Records Act. The complainant was a party to a law suit and seeking a judgement in excess of \$1,300,000 from the County. Since the complainant was involved in significant litigation with the County that was directly related to her California Public Records Act request I sought and received the advice of the County Counsel before my responses were delivered to the complainant. The Auditor-Controller mailed responses to the complainant in February and March 1999, and December 2001.

- F3. On December 31, 2001, the Auditor-Controller furnished an accounting spreadsheet to the complainant showing all payments made to The Firm, but never identified a payment associated with The Firm's start date of summer of 1995.

Auditor-Controller's Response

I agree with the finding. The relevance of the finding is not apparent. The California Public Records Act does not require the County to identify payments to individuals that are suing the County for \$1,300,000. Since my three responses to this individual's information request exceeded the requirements of the California Public Records Act.

- R1. The Auditor-Controller should respond to Public Record Act requests in a timely manner and with accurate information.

Auditor-Controller's Response

I agree with the recommendation. The recommendation was implemented nine years ago. How the Grand Jury determined the need to include this recommendation is a mystery. The Grand Jury has not identified one instance where the Auditor-Controller's Office has failed to comply with a Public Record Act request in a timely manner and with accurate information.

- R2. The Auditor-Controller should not attempt to shift responsibility to other departments.

Auditor-Controller's Response

I agree with the recommendation. The recommendation was implemented nine years ago. How the Grand Jury determined the need to include this recommendation is a mystery. The California Public Records Act does not require the County to distribute records that are attorney/client privileged. The complainant, who was party to a \$1,300,000 law suit against the County, was disappointed with County Counsel's determination that certain records related to the law suit were attorney/client privileged.

City of South Lake Tahoe Transient Occupancy Tax

- F24. On several occasions this committee requested the El Dorado County Auditor-Controller for assistance to investigate the initial complaint filed. The requests were denied.

Auditor-Controller's Response

I disagree partially with the finding and I disagree fully with what the finding intends to imply. At a meeting with the Grand Jury on January 27, 2003, I offered to make an on site revenue review of at least one property management firm of the Grand Jury's choosing that manages vacation rentals within the unincorporated area of the County. I followed this offer up with a letter confirming my offer to "audit" a property management firm. Further, I told individual members of the Grand Jury that they should consider requesting the County Tax Collector perform the requested "TOT audit" because her office has experience conducting the County's "TOT audits".

Conflict of Interest/Employee Evaluations

- R4. The Auditor-Controller should be held accountable for reviewing all financial aspects for all issues that have a major financial impact on the County.

Auditor-Controller's Response

I do not have the authority to implement this recommendation. Former members of the Board of Supervisors, the County Counsel, the former Human Resources Director, and various former CAOs have opposed including the Auditor-Controller in most major financial decisions. In various closed sessions, former Supervisors committed the County to new retirement benefits that will cost the County tens of millions of dollars without any input from the Auditor-Controller. To this day, I am unaware of any meaningful financial analysis that was conducted by any staff member to explain how these benefits were to be paid for. I am willing to implement this recommendation if the Board of Supervisors grants me the authority to do so.

County Fiscal Issues/Procedures

F1. Required funding for CalPERS has dramatically increased due to legislative formulae.

Auditor-Controller's Response

I disagree wholly with the finding. Required funding for COVERS has dramatically increased due to the former Board of Supervisors agreeing to provide to County managers and employees with huge increases in retirement benefits. Also, the annual earnings of CalPERS's investment portfolio have not met CalPERS's expectations in recent years.

F2. The Department of Social Services still has eleven deficit trust funds.

Auditor-Controller's Response

I disagree partially with the finding. All 17 of the Department of Social Services trust funds have a positive balance. The Department of Social Services has numerous trust funds that have positive unlocated differences.

F3. The Auditor-Controller's Office has not been consistent in the reporting of trust funds in deficit condition since 1988.

Auditor-Controller's Response

I disagree partially with the finding. During 1989, the previous Auditor-Controller transmitted a report to the Board of Supervisors that clearly described the lack of reconciliation of the County's trust funds. Twice during 1990, the previous Auditor-Controller transmitted reports to the Board of Supervisors that clearly described the lack of reconciliation of the County's trust funds. Upon receiving these reports, there is no evidence of any action taken by the then Supervisors or then Chief Administrative Officer to address the problem. I am unaware of any other communications regarding the trust fund reconciliation problem that took place from between 1988 and 1994, when I assumed the position of Auditor-Controller.

In June, 1996, I requested the then Director of Social Services, as I did every County Department Head, to verify that all of Social Services trust funds were reconciled. My request was never complied with by Social Services or by a number of other departments. Each year since 1996, the results of the annual request for trust reconciliations gradually improved with the significant exception of Social Services. Almost every year since 1996, the Director of Social Services has committed to having the trust funds reconciled "soon." Since February, 2001, the Board of Supervisors have received several reports describing problems with Social Services trust funds.

F4. Most County departments have Accounting Officers, but not professional accountants who understand the technical scope of the work.

Auditor-Controller's Response

I disagree partially with the finding. It is my opinion, that for many years, the Human Resources Department certified a number of unqualified individuals as eligible for financial management and professional level accounting positions. The past few years, however, in general, the results of recruitments have produced better qualified candidates.

- F5. The Auditor-Controller knew of the alleged trust account deficit since 1995; obviously prior to requesting the Board of Supervisors to authorize covering the account deficit from General Fund monies (\$958,000).

Auditor-Controller's Response

I disagree wholly with the finding. In 1996, 1997, 1998, and 1999, I received written assurances from the Director of Social Services that he would direct his staff to work towards the reconciliation of the trust funds in question. Until early 2001, I was unaware that any of the trust funds contained unreconcilable negative differences. Since February, 2001, this matter has been brought to the Board's attention on many occasions.

- F6. The Board of Supervisors reviewed and agreed to transfer allocated monies during 2002/2003 for the deficit trust funds without a full investigation by the Auditor-Controller.

Auditor-Controller's Response

I disagree wholly with the finding. Hundreds of hours were spent investigating these trust funds in an attempt to reconcile them. Further, prior to the transferring the monies to recognize the \$958,000 deficit balance problem, the County's independent CPA firm and the GAO's Office agreed with the recommendation.

- F7. **All but the Department** of Social Services have deficit trust funds that are now accounted for and balanced.

Auditor-Controller's Response

I disagree wholly with the finding. A number of County Departments have trust funds that are not balanced or accounted for. None of the "problems" are of the magnitude of the problems at the Department of Social Services.

- R2. All financial issues, which have potential impact regarding the County's finances, should receive constant and sedulous attention from the Chief Administrative Officer and the Auditor/Controller's Office.

Auditor-Controller's Response

I agree with the recommendation. However, I believe that neither the Chief Administrative Officer nor I have the authority to implement this recommendation. The Chief Administrative Officer may be aware of attorney-client privileged information that is related to a significant financial matter that is upcoming. At this time, to the best of my knowledge, the Chief Administrative Officer has not been authorized to share this type of information with me. In order for the Chief Administrative Officer to share attorney-client privileged information with me, he would need authorization from the Board of Supervisors.

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- R3. County Counsel and the Auditor-Controller should communicate on matters impacting the future of the County legally and financially with review and execution by the Chief Administrative Officer and the Board of Supervisors.

Auditor-Controller's Response

I agree with the recommendation. However, I believe that neither the County Counsel nor I have the authority to implement this recommendation. The County Counsel may be aware of attorney-client privileged information that is related to a significant financial matter that is upcoming. At this time, to the best of my knowledge, the County Counsel has not been authorized to share this type of information with me. In order for the County Counsel to share attorney-client privileged information with me, he would need authorization from the Board of Supervisors.

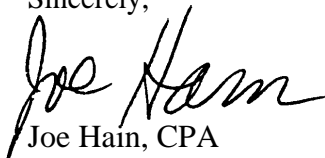
- R4. Director of Human Resources, the Auditor-Controller, and the Chief Administrative Officer should study and recommend to the Board of Supervisors a new job classification series that would encourage the recruitment of more qualified accounting personnel in the Departments.

Auditor-Controller's Response

The recommendation has not yet been implemented, but will be implemented in the future if the Chief Administrative Officer and Director of Human Resources cooperate with the implementation of this recommendation.

If you have any questions, please call me at 621-5456.

Sincerely,



Joe Hain, CPA
Auditor-Controller

cc: Laura Gill, CAO
Board of Supervisors