



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
County Manager



Date: October 2, 2013
Board Meeting Date: October 8, 2013
Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: John L. Maltbie, County Manager

Subject: Response to 2012-13 Grand Jury Report

RECOMMENDATION:

Approve the Board of Supervisor's response to the 2012-13 Grand Jury report entitled: An Inconvenient Truth About the County's Structural Deficit.

BACKGROUND:

On July 22, 2013, the Grand Jury issued the above-referenced report. California law requires the Board of Supervisors to respond to the report's findings and recommendations by no later than October 21, 2013.

Acceptance of this report contributes to the Shared Vision 2025 outcome of a Collaborative Community by ensuring that all Grand Jury findings and recommendations are thoroughly reviewed by the appropriate County departments and that, when appropriate, process improvements are made to improve the quality and efficiency of services provided to the public and other agencies.

DISCUSSION:

I recommend that the Board of Supervisors direct staff to respond as follows to the report's findings and recommendations:

F1. The County's "structural deficit" is created solely because the County chooses not to recognize all anticipated revenues in a given fiscal year.

Response: Disagree. Since FY 2007-08, when the structural deficit began to materialize, the County has conservatively and prudently included one-half of the prior year's Excess ERAF proceeds in calculating its structural deficit projections as this revenue source is subject to formulaic and legislative risk. This is the only major funding source that has been treated this way, largely because historically only three counties in the State receive Excess ERAF. In fact, the legislative risk concerns over the

years was prescient. With the approval of the new school funding formula as part of the state budget, it is anticipated that excess ERAF may be greatly diminished in the very near future. In addition, it was recently learned that one of the three Counties that historically received ERAF—Napa County—is expecting to no longer receive excess ERAF moving forward.

F2. The public is best served when the County includes in the budget all anticipated revenues, and not just some.

Response: Disagree. The public is best served by the adoption and management of a sustainable budget, whereby ongoing funding sources sustain ongoing programs and services.

F3. In practice, the County has not restricted the use of Excess ERAF to one-time expenditures.

Response: Agree. Excess ERAF has been largely used to pay down unfunded liabilities and for one-time IT and capital improvements, but it has also been used to bridge the structural budget gap to maintain essential services and to provide high quality services to the public.

F4. Excess ERAF is not “one-time” money.

Response: Agree in part. See F1 above.

F5. The County can address concerns regarding the potential loss of Excess ERAF by limiting the purposes for which it is spent.

Response: Agree.

F6. The County is in good financial condition since it has not had an actual deficit since at least FY 2003 and its primary government net assets have increased for each of the past 10 fiscal years.

Response: Agree in part. The County would not have had a structural deficit if one hundred percent of Excess ERAF had been included in the budget calculations. However, due to stagnant property tax growth and declining sales tax and interest earnings growth from FY 2008-09 through FY 2010-11, the majority of Excess ERAF received was used to bridge the deficit, as described in the County’s response to finding F3 above.

F7. County officials had the facts in hand prior to the June 5, 2012 election to know that there would be an actual surplus for FY 2012 but did not publicize this fact.

Response: Disagree. In January 2012 the Board was presented with a structural deficit projection of \$50 million by FY 2016-17, and this projection included fifty percent

of Excess ERAF in the budget and the opening of the new Maple Street Correctional Center. This projection also did not include cost of living adjustments for most County employees, which was an unrealistic assumption. All things considered, even with the inclusion of one hundred percent of Excess ERAF, County officials could not have predicted anything better than a structurally balanced budget over the next five years.

F8. County officials had the facts in hand prior to the November 6, 2012, election to know that there was an actual surplus for FY 2012 and that the budget for FY 2013 was balanced, but did not publicize these facts.

Response: Agree in part. By November 2012, the County had an indication that Excess ERAF for FY 2012-13 exceeded \$80 million. However, the County was also aware that the Governor had proposed budget measures that could negatively impact future Excess ERAF. In any event, the Measure A tax was geared towards *maintaining* services, including child abuse prevention, health care for low-income children, seniors and disabled, emergency response (including capital improvements), pre-school and after-school programs and keeping parks open. The Measure A ballot initiative was not intended to relieve the County of its ongoing structural deficit, increase employee compensation, or fund the construction or operations of the Maple Street Correctional Center.

F9. County officials did not adequately inform the public of the County's true financial condition prior to the June 5 or November 6, 2012, elections.

Response: Disagree. See responses to findings F7 and F8.

F10. The public is best served if the Board, as the governing body of the County, as opposed to individual Supervisors, adopts a ballot argument in favor of measures it submits to voters for approval.

Response: Disagree. California law, including the Elections Code, clearly contemplates that the board of supervisors, or any member or members of the board of supervisors, may file a written argument for or against any county measure. This reflects the judgment of the Legislature and voters that the best interests of the County are served when either the Board of Supervisors or individual Supervisors have the unfettered ability to fully express their views for or against measures presented to the electorate. Whether the Board as a whole or individual Supervisors exercise this legislative authority is a case by case determination.

Recommendations:

The Grand Jury Recommends that the County Board of Supervisors do the following:

R1. Report in the budget as "resources" all revenues it anticipates receiving in a fiscal year, including, without limitation, Excess ERAF.

Response: The recommendation has been implemented. The County believes that it is prudent in appropriating anticipated revenues and that given the potentially volatility and at-risk nature of Excess ERAF, that one-half (or approximately \$40 million) is an appropriate level to include in the budget. This was done after considerable public input.

R2. If the Board is concerned that Excess ERAF may be taken away or reduced by the state, it should budget Excess ERAF for only the following purposes:

- a. Capital projects such as acquisition of real property and construction of, or major improvements to, buildings
- b. Payment of County obligations with a finite life, other than bonded indebtedness, such as SamCERA's unfunded liability or other post-employment benefits.
- c. Similar "one-time" expenditures

Response: The recommendation has been implemented. This is consistent with the Board's use of Excess ERAF and consistent with the recent budget action authorizing the County Manager to make additional lump sum pension contributions totaling \$140 million over the next years in addition to setting an inflated annual contribution rate of 38 percent of payroll.

R3. Refrain from stating that the County has or will have a deficit, structural or otherwise, unless it has taken into account all resources, including, without limitation, Excess ERAF, in making its calculation.

Response: The recommendation will not be implemented. A structural deficit or surplus calculation is the difference between ongoing revenues and ongoing expenditures; therefore, one-time revenues will never be part of any structural projection. Because Excess ERAF is at risk, some portion of that revenue should be considered one-time and not be part of the calculation.

R4. Be completely transparent with regard to any claim that the County has or will incur a deficit, structural or otherwise.

Response: The recommendation has been implemented. The County Manager's Office has been forthright with the Board, the public, and with labor, that past structural deficit projections did not include one hundred percent of Excess ERAF and we've clearly delineated the reasons why this revenue source should be treated conservatively and primarily spent on one-time items.

R5. Adopt a procedure with respect to a measure it submits for voter approval that proposes to increase, extend, or impose a tax, fee, or other revenue raising means that:

- a. Informs the public of the most current assessment of the County's deficit or surplus condition after accounting for all anticipated revenues, including Excess ERAF.
- b. Requires the Board to exercise its best efforts to adopt a budget argument in favor of the measure and, if approved, submit the same to the County's Chief Elections Officer for inclusion in the appropriate Sample Ballot.

Response: Recommendation R5a has been implemented. The County agrees that, in connection with consideration of measures proposing to increase, extend, or impose a tax, the Board of Supervisors and the public should continue to fully consider the County's budget and other aspects of its financial situation, including the County's deficit/surplus conditions and the possible availability of Excess ERAF funds bear on the County's financial circumstances.

Recommendation R5b will not be implemented. The County disagrees with the proposal that the Board use its best efforts to adopt an argument in favor of a tax measure. As noted, California law, including the Elections Code, contemplates that the board of supervisors, or any member or members of the board of supervisors, may file a written argument for or against any county measure. The County believes that this reflects the judgment of the Legislature and voters that the best interests of the County are served when the Board of Supervisors as whole or individual Supervisors have the unfettered ability to fully express their views for or against measures presented to the electorate. The determination as to whether the Board as a whole or an individual Supervisor is the argument proponent is a case by case determination.

FISCAL IMPACT:

There is no Net County Cost associated with approving this report.