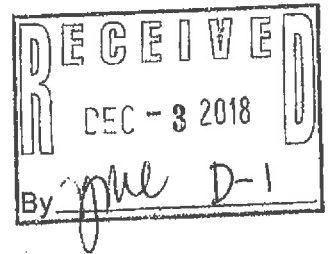




BOARD OF SUPERVISORS



WILMA CHAN
President
Supervisor, Third District

December 4, 2018

Honorable Wynne S. Carvill
Presiding Judge, Superior Court
County of Alameda County
1225 Fallon Street
Oakland, CA 94612

Dear Honorable Wynne S. Carvill,

**SUBJECT: ALAMEDA COUNTY'S RESPONSE TO THE 2017-18 GRAND JURY
FINAL REPORT**

Attached is Alameda County's response to the 2017-2018 Grand Jury final report that was unanimously approved by the Board of Supervisors at its regular meeting today.

Sincerely yours,

Wilma Chan
President, Alameda County Board of Supervisors

Attachment

cc: Other Members, Board of Supervisors
District Attorney
County Administrator
County Auditor-Controller
County Counsel

COUNTY ADMINISTRATOR



November 27, 2018

SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

Honorable Board of Supervisors
Administration Building
Oakland, CA 94612

Dear Board Members,

**SUBJECT: ALAMEDA COUNTY'S RESPONSE TO THE 2017-18 GRAND JURY
FINAL REPORT**

RECOMMENDATIONS:

- A. Accept and approve Alameda County's Response to the 2017-18 Grand Jury Final Report; and
- B. Authorize the Board President to sign a letter on behalf of the Board of Supervisors formally transmitting Alameda County's Response to the Honorable Wynne S. Carvill, Presiding Judge, Superior Court, County of Alameda.

DISCUSSION:

Section 933 of the California Penal Code requires the Board of Supervisors to formally comment on Grand Jury findings and recommendations which pertain to matters under the control and authority of the Board. The 2017-18 Grand Jury Final Report Response comments on the findings and recommendations related to several areas that are under the control and authority of the Board.

FINANCING:

There is no net County cost impact associated with approval of the recommendations.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Susan S. Muranishi".

Susan S. Muranishi
County Administrator

SSM:AC

Attachments

cc: Steve Manning, Auditor-Controller
Donna Ziegler, County Counsel

FINDINGS

Finding 18-13:

The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority allow elected and appointed officials and their staff members to attend multiple high-value events for the purpose of "inspecting," "reviewing," or "evaluating" the facilities when no reports are ever generated after the events about the conditions observed.

Response:

The Board of Supervisors of the County of Alameda (the "Board") agrees that inspecting, reviewing and evaluating public facilities are among the 13 public purposes for which County officials (elected and appointed) and employees may use tickets to attend multiple high-value and other events held at the Oakland Coliseum/Arena pursuant to the County of Alameda ("County") ticket policy, and agrees that neither the County's ticket policy nor State law requires that a report be generated. Oral reports of conditions observed have been made to those with oversight for the facilities.

Finding 18-14:

Free tickets often are used as a perk of office or employment rather than a public asset to be managed and utilized for a public purpose as required by law.

Response:

The Board disagrees that free tickets are often used as a perk of office or employment. State law provides that free tickets used to reward or incentivize public employees for their service is a public purpose, making it not a perk as a matter of law. And the Grand Jury concluded that approximately 30% of tickets are given to worthy non-profits. Tickets were also used for other public purposes set forth in the ticket policy. The Board acknowledges that improved record keeping, training and review of ticket use may be warranted.

Finding 18-15:

Some 802 forms are carelessly prepared, and omit or erroneously report important information such as dates of events, number of tickets distributed, the name of the event, the identity of the actual recipient, or the public purpose for which the tickets were used, undermining the goal of transparency required by FPPC regulation 18944.1.

Response:

The Board agrees that not all 802 forms were completed fully and that requested information may have been inadvertently omitted or erroneously completed in some cases.

Finding 18-16:

The 802 forms often do not account for all of the tickets to Arena and Coliseum events in the Alameda County and the Oakland-Alameda County Coliseum Authority's luxury suites, indicating either that valuable resources have been wasted, or the tickets were used but not accounted for. No one is responsible for ensuring that all tickets to all events have been correctly and accurately reported.

Response:

The Board agrees that the County's records do not contain a completed Form 802 for every ticket the County received to events at the Coliseum and Arena and agrees that no one person is responsible for ensuring that all tickets to all events have been correctly and accurately reported. The Board disagrees that the absence of a completed Form 802 could only mean one of the two options listed above. The grand jury's inferences and conclusions are not the only possible options.

Finding 18-17:

The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority list reasons for attending events that are vague and lack credibility.

Response:

The Board does not agree with this finding. The ticket policy lists a broad scope of 13 public purposes designed to capture the public purpose identified in State law as well as real life reasons why a public purpose is served by giving away free tickets. The reasons listed in the policy are credible public purposes that facilitate County business, economic development, benefit the community and non-profit organizations who serve the community.

Finding 18-18:

The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority do not contain limitations on the number of tickets that can be used by officials and employees, allowing tickets to be used by the same individuals over and over again.

Response:

The County agrees with this finding.

Finding 18-19:

Alameda County and the Oakland-Alameda County Coliseum Authority have no defined procedures and practices for offering tickets to worthy community organizations and individuals, or county employees other than those working directly for the officials who distribute them. Distribution practices vary from office to office.

Response:

The Board agrees with this finding.

Finding 18-20:

Although Alameda County and the Oakland-Alameda Coliseum Authority claim an important public purpose for the tickets is to give them to worthy community-based organizations for use as fundraisers, the 802 forms show that high-value tickets with the biggest fundraising potential are seldom distributed to non-profits or schools, especially the most valuable playoff tickets.

Response:

The Board agrees with this finding but adds that the ticket policy does not prioritize any one public purpose over any other public purpose set forth in the policy, and there are 13 public purposes specified.

Finding 18-21:

Alameda County has insufficiently analyzed whether its distribution of free tickets to elected officials and county employees meets the IRS criteria for exclusion from taxable income, putting the county at risk of sanctions for improper withholding.

Response:

The Board does not agree or disagree with this finding. It is a legal issue and the County declines to comment on privileged and confidential/attorney-client communications.

RECOMMENDATIONS

Recommendation 18-15:

Alameda County and the Oakland-Alameda County Coliseum Authority must revise their respective ticket policies to:

- Establish central ticket distribution systems that accept applications or nominations from all interested employees and worthy community groups who would like to receive tickets, and a policy that distributes the tickets fairly among those individuals and groups.
- Limit appropriately the number of tickets officials and employees can use to attend events in one season.

- Require that officials and employees who use tickets for purposes relating to inspection or oversight of the facilities submit written reports of their findings.
- Track the fundraising results when tickets are given to community-based organizations for that purpose.
- Otherwise conform their policies, where applicable, to the recommendations of the Oakland Public Ethics Commission in its April 2017 report.

Response:

The recommendation will not be implemented because State law defines what "must" be included in a ticket policy. The grand jury's recommendations exceed such requirements. The County will review and update its ticket policy with the grand jury's criticisms and recommendations in mind.

Recommendation 18-16: Alameda County and the Oakland-Alameda County Coliseum Authority must provide employees who prepare Fair Political Practices Commission 802 forms training on the proper way to fill out the forms, and on the need for accuracy, and must institute systems to ensure that all distributed tickets are reported on filed 802 forms.

Response:

This recommendation will be implemented within the next six months.

Recommendation 18-17: Alameda County must determine whether the free tickets distributed to salaried officials and employees should be treated as taxable income, requiring appropriate tax withholdings.

Response:

This recommendation will be taken under advisement.