



BOARD OF SUPERVISORS

RICHARD VALLE
President
Board of Supervisors

November 25, 2020

Honorable Tara Desautels
Presiding Judge of the Superior Court
County of Alameda
1225 Fallon Street, Department One
Oakland, CA 94612

Dear Judge Desautels:

Sections 933 and 933.05 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. In accordance with this statutory directive, I am hereby formally submitting Alameda County's responses to the 2019-2020 Grand Jury Final Report addressing the Alameda Health System and the County General Services Agency.

The County continues to weather unprecedented demands due to the impact of COVID-19. COVID-19 has imposed new and increased services, impacted the manner in which the County delivers services, and limited the human resources available to manage County affairs and provide services. Given the nature of this pandemic and the significant role of counties in combatting COVID-19, our attention has been and will continue to be focused on our pandemic response for the foreseeable future. Consequently, the additional study and research necessary to respond to the Grand Jury report has not been completed. The County will work diligently to complete its analysis and update its response in balance with the demands of the pandemic.

The attached Alameda County responses were approved by the Board of Supervisors at its regular meeting on November 24, 2020. Thank you for your flexibility and understanding.

Very truly yours,

Richard Valle, President
Board of Supervisors

RV/SSM

Attachment

c: Other Members, Board of Supervisors
Rob Warren, Grand Jury Advisor
Susan S. Muranishi, County Administrator
Donna Ziegler, County Counsel



AGENDA _____ November 24, 2020

C O U N T Y A D M I N I S T R A T O R

SUSAN S. MURANISHI
COUNTY ADMINISTRATOR

November 19, 2020

Honorable Board of Supervisors
County Administration Building
Oakland, CA 94612

Dear Board Members:

SUBJECT: ALAMEDA COUNTY'S RESPONSE TO THE 2019-20 GRAND JURY FINAL REPORT

RECOMMENDATION:

- A. Accept and approve Alameda County's Response to the 2019-20 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 Tara Desautels, Presiding Judge, Superior Court of Alameda.

DISCUSSION/SUMMARY:

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 2019-20 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.

VISION 2026:

The Alameda County response to the 2019-20 Grand Jury Final Report aligns with our Vision 2026 operating principle of **Collaboration** and is consistent with our shared visions of a **Thriving and Resilient Population and Safe and Livable Communities.**

Very truly yours,

A handwritten signature in blue ink, appearing to read "Susan S. Muranishi".

Susan S. Muranishi
County Administrator

Attachments

cc: Melissa Wilk, Auditor-Controller
Colleen Chawla, Director, Healthcare Services Agency
Willie Hopkins, Director, General Services Agency
Donna Ziegler, County Counsel

“Alameda Health System: Looming Insolvency of a Critical County Safety Net”

FINDINGS 20-7 THROUGH 20-15

Finding 20-7:

The friction between AHS’s responsibility for operational control and Alameda County’s health service mandate and allegiance to other constituencies continues to frustrate both parties, exacerbate their mutual distrust, and interfere with their ability to communicate and implement long-lasting solutions to AHS’s financial crises.

Response to Finding 20-7:

The Board of Supervisors partially disagrees with this finding. The County is invested in the success of AHS, and upon learning about AHS’s forecasted shortfalls immediately engaged to communicate and implement long-lasting solutions. Both the Auditor and the HCSA Director have engaged in strategies to support the health system financially and programmatically and reported on those efforts at numerous Health Committee meetings throughout 2019 and 2020, including Health Committee meetings on 9/9/19, 9/23/19, 10/14/19, 12/9/19, 3/9/20, and 6/8/20.

Finding 20-8:

AHS’s narrow focus on a balanced operating budget and EBIDA does not adequately represent the actual financial position of AHS.

Response to Finding 20-8:

The Board of Supervisors agrees with this finding. Omission of other obligations and debts obscure the actual financial position of AHS and the transparency of full disclosure is important for the Board of Trustees to navigate their fiduciary responsibilities successfully.

Finding 20-9:

Even with transparent and efficient management, an average annual EBIDA Margin of 3% to 5% is not sufficient for AHS to pay off its outstanding debt and buffer against any future financial crises.

Response to 20-9:

The Board of Supervisors wholly disagrees with this finding. The Board of Supervisors has never required that the entire line of credit balance be paid at once. A margin of 3% - 5% EBIDA would allow incremental savings and incremental decrease of the balance consistent with the long range plan of reducing it by 2034. This current approved agreement requires the net Negative Balance maximum to decrease by only \$5 million per year.

Finding 20-10:

AHS and Alameda County do not agree on whether AHS can establish a cash reserve to pay prior-year liabilities. The lack of a cash reserve exacerbates the long-term financial stability of AHS and its ability to comply with the Permanent Agreement, leading to further distrust between AHS and Alameda County.

ALAMEDA COUNTY RESPONSE TO THE 2019-2020 GRAND JURY FINAL REPORT

Response to Finding 20-10:

The Board of Supervisors agrees with this finding and maintains that overall the issue is cash reserves. It rests largely on federal and state funding, and on AHS's willingness and ability to implement operational improvements.

Finding 20-11:

AHS does not provide its financial reports to county supervisors and staff sufficiently in advance of regularly scheduled meetings between the parties to allow county supervisors and staff time to familiarize themselves with those reports prior to being presented by AHS.

Response to Finding 20-11:

The Board of Supervisors agrees with this finding. Reports have typically been brought directly to the meeting in digital format and presented without prior review, thus limiting the opportunity for substantive and careful feedback and questions. In September 2020, the CEO sent the presentation in advance of the Health Committee meeting.

Finding 20-12:

AHS and Alameda County acknowledge the need for flexibility in the use of Measure A funds to take advantage of matching-fund opportunities. However, they often disagree on how AHS should specifically allocate Measure A funds to support its operations. This disagreement magnifies and exacerbates the distrust between AHS and Alameda County.

Response to Finding 20-12:

The Board of Supervisors disagrees with this finding. According to the Health Authority statute, the Board of Supervisors established the hospital authority for the purpose of "transfer of the management, administration and control of the medical center." Because AHS controls their share of Measure A revenues and manages and administers the operational decisions of the health system, AHS may allocate the Measure A funds to support any hospital services associated with the safety net population and the ordinance allows flexibility in applying the funds. The Measure A ordinance's purpose is to provide "support for emergency medical, hospital inpatient, outpatient, public health, mental health and substance abuse services to indigent, low-income and uninsured adults, children, families, seniors and other residents of Alameda County." The grant of broad flexibility for allocating Measure A funds is by design.

However, it is critical that AHS be able to report exactly how the Measure A funds are applied, including the amounts directed to the various lines of service. An appropriate cost allocation methodology may be employed, or a direct charge methodology, or a combination, as long as all is documented annually. The County has limited ability to agree or disagree with AHS's allocation of Measure A funds because it is unclear how the funds have been spent. It is the unknown that fosters distrust.

Finding 20-13:

Political pressure from some Alameda County supervisors has interfered with AHS operations and efforts to control costs.

Response to Finding 20-13:

The Board of Supervisors disagrees with this finding. The Board of Supervisors has the authority to appoint members of the AHS Board of Trustees, and it is then the responsibility of the Trustees to administer and manage operations. The Trustees have unequivocally taken actions they believe best serve AHS notwithstanding the positions or interests of the County or individual County Supervisors. As the Grand Jury noted, AHS is currently suing the County. When constituents make comments to the Board of Supervisors regarding AHS, those concerns are shared directly with AHS leadership in the interests of open communication and collaboration.

Finding 20-14:

Negotiating separate contracts with 18 different labor unions is both time consuming and expensive for AHS and limits AHS's negotiating flexibility. AHS's negotiations with labor have been further compromised by public support of negotiating labor unions from some county supervisors.

Response to Finding 20-14:

The Board of Supervisors partially disagrees with this finding. Alameda County is supportive of labor and considers labor a strong partner in the provision of health care and other County services. AHS has always had multiple bargaining agreements and AHS leadership are encouraged to view the labor agreements as important partnerships that are critical to the operations of a successful health system. However, negotiating numerous contracts can be both expensive and time consuming. AHS's goal should be to develop better partnerships with labor which will assist with streamlining negotiations. Also see response to Finding 20-13, above.

Finding 20-15:

AHS and Alameda County agree that the governance structure of AHS is problematic and needs to be revisited and strengthened in order for the parties to better understand and respect each other's governance and operational roles.

Response to Finding 20-15:

The Board of Supervisors partially disagrees with the finding. The Board of Supervisors agrees that the governance structure should be revisited and has agreed to do so. The work is underway.

RECOMMENDATIONS

Recommendation 20-6:

If resources prove insufficient to adopt and maintain a balanced AHS budget, AHS and the county must identify and agree on the scope of services and on the least politically damaging way to provide them—by cutting back on services, increasing the county's financial support, or some combination of the two. Both parties then must present a uniform public face in support of that decision.

Response to Recommendation 20-6:

This recommendation will not be implemented because it does not align with the enabling legislation that gave rise to the creation of AHS as a separate health authority, and it does not consider other factors, such as the effectiveness or lack thereof of AHS's revenue generation.

ALAMEDA COUNTY RESPONSE TO THE 2019-2020 GRAND JURY FINAL REPORT

It is within the purview of AHS to determine services consistent with safety net and public hospital obligations and to balance those service lines with revenue sufficient to cover the obligations. Budget balancing is the fiduciary responsibility of the executive leadership overseen by the AHS Board of Trustees.

Further it is the obligation of AHS to bill for services and to maximize revenue to cover costs. There is historical evidence that AHS did not invest appropriately in billing and revenue recovery and over the last four years had worked to improve their billing and revenue capture infrastructure. We are hopeful that the new EPIC system will continue the improvement to recover revenue.

Recommendation 20-8:

AHS must, by September 30, 2020 and in consultation with Alameda County supervisors and staff, develop and regularly report a cash flow statement of sufficient scope and detail to provide an early warning system as to the approach of another cash crisis.

Response to Recommendation 20-8:

This recommendation requires further analysis. This is largely a recommendation for AHS. The Board of Supervisors would be supportive of the implementation of this recommendation.

Recommendation 20-9:

Alameda County and AHS must collaboratively resolve how to pay for AHS's long-term debts with the county.

Response to Recommendation 20-9:

This recommendation has been implemented. The Permanent Agreement represents a plan by which AHS has access to cash flow and decreases the long term line of credit limit incrementally over time.

Recommendation 20-10:

AHS and Alameda County must develop a procedure whereby AHS has the ability to set aside cash to pay prior-year liabilities.

Response to Recommendation 20-10:

This recommendation has been implemented. It is within the ability of AHS to establish a cash reserve. Additionally, the County initiated a dialogue between the County, the State of California Department of Health Care Services (DHCS) and AHS to explore the possibility of prior-year waiver and cost report liabilities deferrals or payment plans. Based upon multiple conversations, State DHCS understands the repayment hardship and is open to discussion of various strategies to mitigate the impact of repayment of all debts at the same time.

Recommendation 20-12:

AHS and Alameda County must agree on how AHS allocates its share of Measure A funds as part of its budget.

Response to Recommendation 20-12:

This recommendation will not be implemented because it is not warranted. It is the responsibility of AHS Board of Trustees and Executive leadership to allocate Measure A across hospital lines of business consistent with the Measure A ordinance. Further, it is the responsibility of AHS to allocate those funds consistent with generally accepted accounting standards including direct charges or cost allocation methodologies. If this is done, AHS will be able to report effectively to the Measure A Oversight Committee as to how the Measure A funds were used. Also, see response to Recommendation 20-6 which is incorporated here by reference.

Recommendation 20-13:

Individual members of the Board of Supervisors must not interfere in the day-to-day operations and management of AHS including labor negotiations and structure of service delivery.

Response to Recommendation 20-13:

The recommendation will not be implemented because it is not warranted or is not reasonable. Individual members of the Board of Supervisors do not cede all rights they possess as citizens, or as elected officials, to comment on or address matters of public concern.

“Alameda County General Services Agency Too Often Fails at Capital Projects”

FINDINGS 20-25 THROUGH 20-29

Finding 20-25:

GSA has a culture of poor communication with its client departments, which contributes to unnecessary delays and increased project costs.

Response to Finding 20-25:

It is not the practice of the Board of Supervisors to micromanage the day-to-day activities of operating departments or the routine communications between operating departments. Accordingly, the Board lacks sufficient information or belief to agree or disagree with this finding. The Board will conduct a performance audit of GSA and update its response following review of the audit findings.

Finding 20-26:

Poorly developed and disseminated Capital Program and procurement procedures result in inconsistent project management within GSA.

Response to Finding 20-26:

It is not the practice of the Board of Supervisors to micromanage the day-to-day activities of operating departments or routine communications between operating departments. Accordingly, the Board lacks sufficient information or belief to agree or disagree with this finding. The Board will conduct a performance audit of GSA and update its response following review of the audit findings.

ALAMEDA COUNTY RESPONSE TO THE 2019-2020 GRAND JURY FINAL REPORT

Finding 20-27:

GSA's redefinition of professional requirements for project managers and its inability to sufficiently staff project manager positions contribute to poor control over the delivery of capital projects.

Response to Finding 20-27:

It is not the practice of the Board of Supervisors to micromanage the day-to-day activities of operating departments or the routine communications between operating departments. The Board relies on the recommendations and expertise of the operating departments and Human Resource Services staff to define the appropriate minimum qualifications for County job classifications. Accordingly, the Board lacks sufficient information or belief to agree or disagree with this finding. The Board will conduct a performance audit of GSA and update its response following review of the audit findings.

Finding 20-28:

GSA's failure to update as-needed professional contracts results in unnecessary bidding, which contributes to unwarranted delays in project delivery.

Response to Finding 20-28:

It is not the practice of the Board of Supervisors to micromanage the day-to-day activities of operating departments. Accordingly, the Board lacks sufficient information or belief to agree or disagree with this finding. The Board will conduct a performance audit of GSA and update its response following review of the audit findings.

Finding 20-29:

Alameda County's failure to prioritize long-range planning and site safety assessments has set county government capital construction on a rudderless course oftentimes guided by litigation and emergency needs.

Response to Finding 20-29:

The Board of Supervisors wholly disagrees. The County maintains a five-year Capital Improvement Plan (CIP) first adopted by the Board in Fiscal Year 2001-2002. The CIP is updated annually to reflect current projects and reflect Board decisions. The CIP identifies the County's capital needs and is the method by which the County utilizes its financial resources, including maintaining and upgrading its diverse facility portfolio.

The GSA Director confirms that Real Estate Master Planning has taken place with all County Agencies/Departments for office space, and Facilities Condition Assessments have been performed for 90 percent of the facilities within the last two years, with the remainder underway. The Board will conduct a performance audit of GSA and update its response following review of the audit findings if warranted.

RECOMMENDATIONS

Recommendation 20-22:

The Alameda County General Services Agency must provide sufficient staff or consultant resources to accomplish its capital program workload efficiently.

Response to Recommendation 20-22:

Whether GSA is adequately staffed requires further analysis. The Board will conduct a performance audit of GSA over the next six months and update its response following review of the audit findings.

Recommendation 20-23:

The Alameda County General Services Agency must improve communication with clients throughout all stages of a project to build a strong and informed project team. GSA should place staff within client departments as needed during the project planning and design stages.

Response to Recommendation 20-23:

The recommendation requires further analysis. The Board will conduct a performance audit of GSA over the next six months and update its response following review of the audit findings.

Recommendation 20-24:

The Alameda County General Services Agency must establish well-defined policies and procedures to guide staff work and to help clients understand the capital project development and bidding processes. Both existing and new staff and managers must be trained in these procedures.

Response to Recommendation 20-24:

The recommendation requires further analysis. The Board will conduct a performance audit of GSA over the next six months and update its response following review of the audit findings.

Recommendation 20-25:

The Alameda County General Services Agency management must provide staff with work plans to track workload, progress, schedules, budgets to timely project completion.

Response to Recommendation 20-25:

This recommendation requires further analysis. The Board will conduct a performance audit of GSA over the next six months and update its response following review of the audit findings.

Recommendation 20-26:

The Alameda County General Services Agency must establish or renew as-needed professional services contracts to ensure that project managers can quickly access a variety of expert services.

Response to Recommendation 20-26:

The recommendation requires further analysis. The Board will conduct a performance audit of GSA over the next six months and update its response following review of the audit findings.

Recommendation 20-27:

The Alameda County Board of Supervisors and the General Services Agency must complete updates to long-range and master plans, such as the Facilities Condition Assessment and Real Estate Master Plan, to better manage competing capital investment demands for staffing and funds.

Response to Recommendation 20-27:

This recommendation will be implemented. The GSA Director advises that an updated Real Estate Master Plan and Facilities Condition Assessment has been conducted within the last two years and that GSA plans to present both the Real Estate Master Plan and Facilities Condition Assessment to the Board by December 2020, to discuss how it will impact the CIP and future project plans. Additionally, the Board will conduct a performance audit of GSA over the next six months and update its response following a review of the audit findings if warranted.