



County of Orange

County Executive Office

March 22, 2016

Honorable Charles Margines
Presiding Judge of the Superior Court of California
700 Civic Center Drive West
Santa Ana, CA 92701

Subject: Response to Grand Jury Report, "Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency"

Dear Judge Margines:

Per your request, and in accordance with Penal Code 933, please find the County of Orange response to the subject report as approved by the Board of Supervisors, acting as the Governing Body of the Orange County Public Financing Authority and the South Orange County Public Financing Authority.

If you have any questions, please contact Jessica Witt of the County Executive Office at 714-834-7250.

Sincerely,

Frank Kim
County Executive Officer

Enclosure

cc: **FY 2014-15 Orange County Grand Jury Foreman**
Mark Denny, Chief Operating Officer, County Executive Office
Jessica Witt, Deputy Chief Operating Officer, County Executive Office



Responses to Findings and Recommendations
2014-15 Grand Jury Report:

“Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency”

SUMMARY RESPONSE STATEMENT:

On June 29, 2015, the Grand Jury released a report entitled: “Joint Powers Authorities: Issues of Viability, Control, Transparency, and Solvency.” This report directed responses to various Joint Powers Authorities. The responses below are associated with the findings and the recommendation for the Orange County Public Financing Authority and the South Orange County Public Financing Authority as the Orange County Board of Supervisors acts as the governing body of each.

FINDINGS AND RESPONSES:

F.4. Vertical Joint Powers Authorities with a single controlling entity, such as a city council, have the potential to use this organizational structure as a shell company to avoid other legal constraints on the controlling entity and to obfuscate taxpayer visibility.

Response: *Disagrees wholly with the finding.* The Orange County Public Financing Authority (OCPFA) and the South Orange County Public Financing Authority (SOCPFA) were established to provide for the financing of public capital improvements. The OCPFA and SOCPFA operate in accordance with the California Government Code, commencing with Section 6500 (The Joint Exercise of Powers Act). The Orange County Board of Supervisors (Board) acting as the governing body of the OCPFA and SOCPFA, considers and approves the issuance of debt at a public meeting that is agendized and noticed. Prior to Board consideration, debt issuance is publicly agendized, reviewed and approved by the Public Financing Advisory Committee (PFAC). PFAC is an advisory committee made up of five public members appointed by each Board member, the Auditor-Controller, Treasurer-Tax Collector, and County Executive Officer.

F.5. Vertical Joint Powers Authorities in which the controlling entity transfers assets from itself to a Joint Powers Authority for the purpose of

obtaining additional funding, or signs a long-term lease to a Joint Powers Authority to obtain assets are avoiding transparency and are not acting in the best financial interest of the taxpayers.

Response: *Disagrees wholly with the finding.* The OCPFA and the SOCPFA are transparent in the debt issuance process, as described in the response to F.4. and in post bond issuance financial reporting and compliance. OCPFA and SOCPFA debt are reported in the Long Term Obligations Note to the Basic Financial Statements, the Supplemental Information Section of the Comprehensive Annual Financial Report (CAFR), and the Annual Financial Transactions Report to the State Controller.

SOCPPFA debt issued, under the Marks-Roos Act, is reported annually to the California Debt and Investment Advisory Commission (CDIAC). SOCPFA debt issued, under the Marks-Roos Act, refunds pools of two or more Community Facilities Districts (CFDs) for interest rate savings, achieving economies of scale through one debt issuance instead of administrative cost of multiple debt issuances. For example, the interest rate savings and decreased administrative cost of refunding provided direct annual savings to the taxpayers in the Ladera Ranch CFDs refunded through SOCPFA in 2014.

Continuing Disclosure Annual Reports (CDAR) in accordance with each bond continuing disclosure certificate, are posted on the Electronic Municipal Market Access (EMMA) website, at www.msrb.emma.org, as well as the County of Orange website at [Orange County, California - Continuing Disclosure Reports](http://ocgov.com/gov/ceo/deputy/finance/public/continuing_disclosure_reports) (http://ocgov.com/gov/ceo/deputy/finance/public/continuing_disclosure_reports)

RECOMMENDATIONS AND RESPONSES:

R.3. All Joint Powers Authorities should take the following actions to insure transparency to the taxpayers: (1) have an annual outside audit, (2) post the complete audit on their city website as a separate Joint Powers Authority, (3) send the audit to the County Controller and the State Auditor, and (4) ensure the required reports are filed annually to the County and the State. (F.4., F.5.)

Response: *The recommendation will not be implemented because it is not warranted or is not reasonable.* Debt issued by the OCPFA and SOCPFA (excluding CFDs) is already included in the County of Orange CAFR, prepared by the Auditor-Controller, filed with the State Controller and is posted to the County's web site. Other required reports as described in F.5. above, are filed annually with the State Controller, CDIAC, and Municipal Securities Rulemaking Board (MSRB) on EMMA.