



# County of Orange

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County Executive Office

September 13, 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, "Procurement: Big Budget, Low Priority"

Dear Judge Margines:

Per your request, and in accordance with Penal Code 933, please find County of Orange combined response to the subject report as approved by the Board of Supervisors. The respondent is the Orange County Board of Supervisors County Executive Office, Chief Financial Officer, CEO/Information Technology, Human resources, County Procurement Office and the County Purchasing Agent.

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 2015-16 Orange County Grand Jury Foreman**  
Mark Denny, Chief Operating Officer, County Executive Office  
Jessica Witt, Deputy Chief Operating Officer, County Executive Office

**ORANGE COUNTY BOARD OF SUPERVISORS**  
**MINUTE ORDER**  
**September 13, 2016**

Submitting Agency/Department: County Executive Office

Approve proposed response to FY 2015-16 Grand Jury Report "Procurement: Big Budget, Low Priority." - All Districts

**The following is action taken by the Board of Supervisors:**

APPROVED AS RECOMMENDED  OTHER

**Unanimous**  (1) DO: Y (2) STEEL: Y (3) SPITZER: Y (4) NELSON: Y (5) BARTLETT: Y

*Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order*

**Documents accompanying this matter:**

- Resolution(s)
- Ordinances(s)
- Contract(s)

Item No. 34

Special Notes:

Copies sent to:

*CEO – Jessica Witt*  
*Superior Court*  
*Grand Jury*

9/16/16



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.  
Robin Stieler, Clerk of the Board

By:   
Deputy



AGENDA STAFF REPORT

Agenda Item

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ASR Control 16-001049

MEETING DATE: 09/13/16
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): All Districts
SUBMITTING AGENCY/DEPARTMENT: County Executive Office (Approved)
DEPARTMENT CONTACT PERSON(S): Michelle Aguirre (714) 834-4304
Jessica Witt (714) 834-7250

SUBJECT: Procurement Grand Jury Report Response

Table with 3 columns: CEO CONCUR, COUNTY COUNSEL REVIEW, CLERK OF THE BOARD. Values: Concur, No Legal Objection, Discussion 3 Votes Board Majority

Budgeted: N/A Current Year Cost: N/A Annual Cost: N/A

Staffing Impact: No # of Positions: Sole Source: N/A

Current Fiscal Year Revenue: N/A

Funding Source: N/A County Audit in last 3 years: No

Prior Board Action: N/A

RECOMMENDED ACTION(S):

- 1. Approve proposed response to FY 2015-16 Grand Jury Report entitled, "Procurement: Big Budget, Low Priority."
2. Direct Clerk of the Board to forward this Agenda Staff Report with attachments to the Presiding Judge of the Superior Court and the FY 2015-16 Grand Jury no later than September 20, 2016.

SUMMARY:

Approval of proposed response to FY 2015-16 Grand Jury Report entitled, "Procurement: Big Budget, Low Priority," will fulfill the County's required response to the Grand Jury.

BACKGROUND INFORMATION:

On June 30, 2016, the Orange County Grand Jury released a report entitled, "Procurement: Big Budget, Low Priority." The report directed findings and recommendations to the Board of Supervisors and the County Executive Office, including the Chief Financial Officer, CEO/Information Technology, Human

Resources, County Procurement Office, and County Purchasing Agent. Attachment B is the County's proposed response to the Grand Jury's findings and recommendations.

**FINANCIAL IMPACT:**

N/A

**STAFFING IMPACT:**

N/A

**ATTACHMENT(S):**

- Attachment A - Grand Jury Report
- Attachment B - Proposed Grand Jury Response
- Attachment C - Draft Transmittal Letter



**Responses to Findings and Recommendations  
2015-16 Grand Jury Report:**

***“Procurement Big Budget, Low Priority”***

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**SUMMARY RESPONSE STATEMENT:**

On June 30, 2016, the Grand Jury released a report entitled: “Procurement Big Budget, Low Priority.” This report directed responses to findings and recommendations to the Orange County Board of Supervisors, CPO, CPA, Human Resources, County Executive Office, CFO and CEO/IT, which are included below.

**FINDINGS AND RESPONSES:**

**F.1. For several years the Orange County Procurement Office and the County’s procurement functions have not been prioritized to bring about necessary changes to achieve an efficient and cost effective operation despite numerous recommendations from Grand Juries and auditors.**

**Response: Disagrees wholly with the finding.**  
Over the last several years, the County has spent a significant amount of time reviewing and implementing recommendations made in various audits and reports. For example, nine recommendations from the previous Board of Supervisors (Board) Procurement Subcommittee, established in response to the various audits and reports, were adopted and implemented, and 70% of the recommendations from the 2014 Performance Audit review have been implemented or are underway. The current Board Procurement Subcommittee is working towards achieving additional operational efficiencies in procurement policies and practices.

**F.2. Training requirements for new and experienced Deputy Procurement Agents is inadequate. Further, the inconsistent enforcement of training compliance, and confusing training and certification timelines is a high risk practice because it allows untrained and/or uncertified employees to perform procurement tasks.**

**Response: Disagrees wholly with the finding.**

Each Deputy Purchasing Agent (DPA) receives 32 hours of training on procurement principles and the County's Contract Policy Manual (CPM) and must pass a test on the CPM before becoming a DPA. The successful completion of these two elements are followed by the requirement to complete at least ten hours of procurement training annually. Each DPA must pass a recertification exam on the CPM every two years. Hours of annual training required was increased from four to ten hours in 2014. DPAs participating in compliance reviews are provided training prior to taking part in the reviews. Training requirements are consistent for all DPAs and regular training status updates are provided to employees to ensure completion of and compliance with the requirements.

**F.3. The current de-centralized Procurement organizational structure is outdated and not consistent with other large California counties or current procurement Best Practices and deprives the County of the ability to leverage its collective buying power to reduce costs.**

**Response: Disagrees partially with the finding.**

Each County organizes its operations to meet its needs, so organizational structures will vary in consistency. Orange County is currently focusing on standardizing training, tools, and practices for consistency countywide as evidenced by the successful roll-out of OC Expediter, the County's universal purchasing requisition system and National Association of Counties (NACO) achievement award winning tool. In order to leverage County spending, 145 Regional Cooperative Agreements (RCA) are available for all departments to use for commonly purchased items. In addition, the County takes advantage of competitively bid cooperative contracts from regional and national organizations.

**F.4. The County does not appear to have an in-house expert on centralization who could design and implement the transition to centralized procurement.**

**Response: Disagrees wholly with the finding.**

There are a number of resources within the County who have education and/or experience with organizational placement and development.

**F.5. The automated procurement tracking system is outdated and thereby difficult to use and appears to contribute to errors and additional costs.**

**Response: Disagrees partially with the finding.**

The OC Expediter universal purchasing requisition system provides a platform for all County departments to proceed with requisitions in a uniform manner across the organization. This award winning tool, developed in collaboration with OCIT, is now in use by several departments and is on track for use by all departments by the end of calendar year 2017. OC Expediter improves accuracy, increases transparency and offers a variety of benefits to procurement and non-procurement staff.

Additionally, the County Procurement Office (CPO) is working with the Auditor-Controller on the CAPS+ upgrade currently underway and slated to go live on October 7, 2016.

**F.6. Current practices regarding multi-year contract awards that require annual renewal are costly, inefficient, and unnecessary.**

**Response: Disagrees partially with the finding.**

The practices concerning multi-year contract awards are currently being reviewed by the Board Procurement Subcommittee. It is anticipated that the subcommittee will bring recommended changes to the CPM to the full Board for consideration in order to streamline current processes while assuring performance metrics. In the interim, adherence to the current policy contained in the Board adopted CPM is required.

**F.7. Advanced training and professional certification are not encouraged and are not credited in hiring or promotion of employees with procurement duties.**

**Response: Disagrees wholly with the finding.**

Education, training, knowledge, skills and abilities are measured through various competitive assessments designed to objectively measure the qualifications of the candidates.

**F.8. The Request for Proposal (RFP) process has a number of correctable technical operational issues such as inconsistencies in solicitation packets, conflict of interest, uncorrected errors and bidder qualifications**

**Response: Disagrees partially with the finding.**

In 2012, the CPO released a manual titled "Navigating the Request for Proposal (RFP) Process." The manual and its attachments serve as a desk reference guide for facilitating the RFP process. The manual accompanies the RFP policies, procedures, and requirements provided in the CPM. The manual outlines how each RFP procurement may vary depending on the complexity and type of services being solicited. When uncertainty exists as to the various aspects of an RFP, DPAs refer to the CPM and consult with the CPO and/or County Counsel throughout the RFP process. The manual is available on CPO's website and is commonly used by the DPAs as a guideline in navigating through the RFP process. The RFP manual will be revised in the future, as needed, based on revision of the Board adopted CPM.

**F.9. In pursuit of centralizing OCIT services, a cross-agency Working Group developed a program for the pilot phase recently launched which, if successful, may be a model for centralization of Procurement.**

**Response: Disagrees partially with the finding.**

CPO will review the results of the OCIT cross-agency Working Group, as well as other service delivery models including decentralization and hybrid models such as the out stationed Auditor-Controller model.

**F.10. There are Procurement best practices readily available for consideration that could be adopted to improve Orange County Procurement performance.**

**Response: Agrees with the finding.**

CPO received the 2007, 2014, 2015, and 2016 Achievement of Excellence in Procurement Award, which validates that National Purchasing Institute (NPI) recognized CPO is dedicated to developing excellence in procurement processes and procedures, measuring innovation, professionalism and providing benchmarks for continuing performance.

**F.11. The number of contracts annually reviewed for compliance with the Contract Policy Manual is insufficient for a dependable assessment.**

**Response: Disagrees wholly with the finding.**

The CPM requires that contracts be monitored annually on a sample basis. The monitoring of procurement records is completed by reviewing a sampling of each solicitation type identified in the CPM. With the number of records reviewed, a dependable assessment of each procurement type is conducted to identify areas that may require changes to ensure corrective action is taken on active procurements, in addition to ensuring future procurements are done in a manner that is fair, effective, efficient, and in compliance with legal requirements and the CPM.

**F.12. There are no current specific minimum qualifications for County Purchasing Agent or a selection/testing procedure to identify and appoint the most qualified candidate.**

**Response: Disagrees wholly with the finding.**

The County Purchasing Agent (CPA) position is classified as an Administrative Manager III, which requires a competitive assessment directly related to the duties and responsibilities of the position.

**F.13. Orange County does not offer competitive compensation for the Purchasing/Procurement Job Classification Series (and related positions) and pays up to 30% below the average of three like-sized California counties.**

**Response: Disagrees partially with the finding.**

A thorough salary market study is required to determine placement of the Purchasing/Procurement occupational series within the southern California market. The Finding cites outdated salaries for the County of Orange.



**F.14. There has been no action taken on many of the recommendations made by 1997-1998, 2002-2003 and 2013-2014 OC Grand Juries, the 2009 Procurement Policy Study, and the 2014 Performance Auditor and the Internal Auditor.**

**Response: Disagrees partially with the finding.**

A variety of recommendations were made and many have been implemented, are in progress, or are scheduled for future implementation. Other recommendations were found unwarranted or not reasonable and will not be implemented.

**F.15. The Contract Policy Manual – 2012 is outdated.**

**Response: Disagrees wholly with the finding.**

The CPM was revised and adopted by the Board in 2007 and 2012. Revision of the CPM is underway and a recommendation from the Board Procurement Subcommittee is targeted for completion in calendar year 2016. The existing version of the CPM remains in place and in use until a new one is adopted by the Board.

**F.16. There are no consistent hiring standards and qualifications for employees working in Procurement assignments, and most procurement staff are hired by agencies other than County Procurement into job titles outside the Purchasing/Procurement Job Classification Series.**

**Response: Disagrees wholly with the finding.**

The County has hiring standards for all of its positions. Each job bulletin sets forth the qualifications for each selection process.

**F.17. The County lacks approved procedure manuals for procurement functions.**

**Response: Disagrees partially with the finding.**

The CPO has established various manuals to standardize procurement functions including the RFP Manual, RCA Manual, OC Expediter User Guide, and the Procurement Ethics Manual. Additionally, CPO will develop and issue a County Procurement Procedure Manual in 2017; extensive training will follow for all DPAs.

**F.18. Some executive and upper management selections are made without an active recruitment and a testing process to identify the most qualified candidate, but by transferring an existing manager into the position, some without related education or experience.**

**Response: Disagrees wholly with the finding.**

Executive placements and upper management rotations, while not governed by Orange County Recruitment Rules, do include formal interviews and/or analysis to determine candidates' qualifications.

**RECOMMENDATIONS AND RESPONSES:**

**R.1. The CEO, in cooperation with Human Resources, should establish by December 31, 2016 a specific Job Classification and description for County Purchasing Agents which includes professional, minimum qualifications in education, procurement certification, job-related experience, and progressive management duties. (F12, F18)**

**Response:** **The recommendation will not be implemented because it is not warranted.**  
The CPA position is classified as an Administrative Manager III, which requires a competitive assessment directly related to the duties and responsibilities of the position.

**R.2. The CEO, in cooperation with Human Resources, should define a process to base the next County Purchasing Agent appointment on a nationwide recruitment, job related testing, and thorough vetting by January 1, 2017. (F1, F12, F18)**

**Response:** **The recommendation has not been implemented, but will be implemented in the future.**  
CEO and Human Resource Services will define the recruiting plan including a nationwide advertising plan and competitive assessment process at the time of position vacancy.

**R.3. The CEO, in cooperation with Human Resources, should reclassify and transfer all employees in procurement functions to the County Procurement Office, and all future procurement staff be recruited and hired directly into the County Procurement Office and into a job classification within the Purchasing/Procurement Job Classification Series, managed and supervised by the CPO, by March 1, 2017. (F1, F3, F13, F16)**

**Response:** **The recommendation will not be implemented because it is not warranted or reasonable.**  
Purchasing and contract duties are included in the classification specifications of multiple classifications outside of the Purchasing / Procurement occupational series.

The determination to centralize all procurement functions under one authority with recruiting and hiring into the CPO requires additional analysis. The current approach is to standardize training, tools and policies and procedures as the logical preamble to centralization by providing the necessary building blocks.

**R.4. Beginning November 30, 2016, the County Procurement Office should train all employees who have procurement duties immediately upon hire or**

**assignment, and before they are permitted to work independently on procurement tasks. (F1, F2)**

**Response: The recommendation has been implemented.**

All employees designated to assume procurement duties as a DPA are required to complete training and be certified by the CPA and may not handle certain transactions without appropriate certification, training and testing. This is required for all DPAs irrespective of their assigned department.

**R.5. The County Purchasing Agent should enforce standard DPA training requirements and not allow any DPA to work on procurement tasks if their DPA certification has lapsed beginning December 1, 2016. (F2, F7)**

**Response: The recommendation has been implemented.**

The CPA already enforces standard DPA training requirements and does not allow DPAs to conduct procurement tasks when the status is revoked. This has been the practice of the CPA since June 2013.

**R.6. The County Executive Officer should hire a procurement Training Consultant to assess the training needs of procurement staff and submit a plan for training of new and veteran procurement employees by January 15, 2017. (F2, F7)**

**Response: The recommendation has not yet been implemented, but will be implemented in the future.**

This activity will be initiated before January 15, 2017.

**R.7. By October 1, 2016, the CEO should direct agencies to revise the practice of recommending the awarding of multi-year contracts, one year at a time, with possible four - 1 year extensions, by directing agency staff to submit contracts of three to five years; and direct contract managers to exercise the 30-day cancellation clause when warranted by poor vendor performance. (F6)**

**Response: The recommendation requires further analysis.**

The Board Procurement Subcommittee is in the process of reviewing any changes to policies and procedures associated with multi-year contracts. Any recommended changes will be presented to the full Board for consideration. The timing is dependent upon completion of the subcommittee's review; however, it is anticipated that a revised CPM will be presented to the Board by March 31, 2017 consistent with R.13. below.

**R.8. The CEO should authorize OCIT to assist the County Procurement Office in conducting an IT-needs assessment, and submit a plan and timeline for improvement, updating or replacement by March 1, 2017. (F5)**

**Response: The recommendation has been implemented.**

OCIT is already collaborating with CPO on development and deployment of the OC Expediter universal requisition tool. OC Expediter is on track to be fully implemented countywide by the end of calendar year 2017. OC Expediter improves accuracy, increases transparency and offers a variety of benefits to procurement and non-procurement staff. CPO and OCIT will continue to collaborate for future updates and improvements.

**R.9. The CEO, in cooperation with Human Resources, should hire a procurement consultant by December 1, 2016 to review prior Grand Jury, audit and study recommendations, assess the current County procurement system, and design a plan and strategy to transition procurement from a de-centralized organizational structure to a centralized or hybrid structure by July 2017. (F1, F3, F4, F9, F10, F14)**

**Response: The recommendation will not be implemented because it is not warranted or reasonable.**

Over the last several years in response to previous audits and reviews, the CPO has worked to standardize countywide procurement processes and provide training to support this effort. The Board Procurement Subcommittee has contributed to this process. Collaboration between the CPO and OCIT is already underway regarding development and implementation of the OC Expediter universal purchasing requisition system. Further, CPO is working with the Auditor-Controller on upgrade of the CAPS+ system and there are numerous enhancements that will benefit procurement activities. CPO will assist with the training needed for a successful upgrade during FY 2016-17.

**R.10. The County Purchasing Agent should complete annual contract compliance reviews on at least 15% of each County agencies' active contracts, and release/publish the violation findings within 60 days of review, beginning October 1, 2016. (F11)**

**Response: This recommendation will not be implemented because it not warranted or reasonable.**

The County already has a compliance review process in place. The CPM requires compliance reviews to be done on a sample basis. Selected records for review are required to span the range of the procurement process and sample size percentage will vary by department depending upon various factors such as the total number of records available for review. In some cases, the sampling of files reviewed exceeds 15% of the department's active contracts. Since 2015 and continuing into 2016, onsite reviews have been conducted for every department, and annual compliance reviews will continue on an ongoing basis. A final report of the discoveries is

published and provided to the department within 60 days of the conclusion of the review, and an annual discovery report is published and provided to the Purchasing Council.

**R.11. The Chief Purchasing Agent should research procurement best practices, especially Performance Based Contracting, and submit a plan to adopt appropriate practices that would contribute to improved performance by Procurement, by January 1, 2017. (F1, F3, F6)**

**Response: The recommendation will not be implemented because it is not warranted.**  
The CPA has already researched procurement best practices and over the last several years, CPO has received various Excellence in Procurement awards that recognize governmental entities for developing excellence in procurement policy, procedures and best practices. Through the application process for the various awards and CPO attendance at purchasing related conferences and training, the CPO recognizes that performance based contracting is becoming the industry standard. As a result, CPO has implemented the practice of performance based contracting for contracts in which payments based on performance measures is in the County's best interest. The Board has already expressed its desire for performance metrics, and the CPO and Board Procurement Subcommittee will consider performance based contracting during its review of the CPM. Any changes to the CPM related to performance based contracts will be submitted to the full Board for consideration.

**R.12. The CEO, in cooperation with Human Resources, should conduct a salary survey and make recommendations for compensation modifications to make Orange County competitive in the Purchasing/Procurement Job Classification Series by February 1, 2017. (F1, F13)**

**Response: The recommendation has not yet been implemented, but will be implemented in the future.**  
Human Resource Services will conduct a classification maintenance and salary market study and make appropriate recommendations by February 1, 2017.

**R.13. The County Purchasing Agent should complete a report on recommended revisions to the Contract Policy Manual by October 15, 2016 and complete the revisions by March 1, 2017. (F1, F8, F15,)**

**Response: The recommendation has been implemented.**  
The CPA has already submitted recommended revisions to the CPM to the Board Procurement Subcommittee. It is anticipated that revisions will be completed and submitted to the full Board for consideration by March 1, 2017.

**R.14. The County Procurement Office should, by January 15, 2017, lead each County agency through a process to develop function-specific Procurement Procedure Manuals, and all Manuals be reviewed and updated annually. (F1, F2, F8, F17)**

**Response: The recommendation will not be implemented because it is not reasonable.** While the timing associated with this recommendation is not reasonable, CPO will develop and issue a County Procurement Procedure Manual in 2017, which can be used by departments to develop department specific procedure manuals consistent with the County's Procedure Manual and CPM. The CPO and department procedure manuals will be updated, as needed, consistent with any future changes to the CPM.