

# County of Santa Clara

Office of the County Executive

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(ENDORSED)  
**FILED**  
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Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY Brianne Huelberg DEPUTY



**Date:** August 13, 2024  
**To:** Greta S. Hansen, Chief Operating Officer  
**From:** James R. Williams, County Executive *JRW*  
**Subject:** Responses to the Santa County Civil Grand Jury's Final Report, "Fail to Plan; Plan to Fail"

The Santa Clara County Civil Grand Jury's Final Report, "Fail to Plan; Plan to Fail: County of Santa Clara's Doomed History Book" contained multiple findings and recommendations that require a response from the County of Santa Clara (County), consistent with the provisions of California Penal Code § 933.05. This memorandum contains the response from County Administration.

## ***Finding 1a***

*The County Executive's Office, led by the then-County Executive, violated Board of Supervisors policy commitments to an open competitive procurement process that ensures fairness and equal access to business opportunities.*

## **Response to Finding 1a**

The County agrees with this finding.

## ***Finding 1b***

*The then-County Executive modified and extended an existing grant writing and professional writing contract so it could award a history book project to a specific Contractor despite the fact that the Contractor lacked relevant experience.*

## **Response to Finding 1b**

The County agrees with this finding.

## ***Recommendation 1***

*The County should enforce adherence to its existing provision that requires all County contracts (including non-competitively bid contracts) to be re-bid after five years and expand existing contracting guidelines to explicitly cover contract extensions, defining conditions for when contracts should be bid competitively rather than extended, such as a significant change in scope. This recommendation should be implemented by November 1, 2024.*

Adopted: 08/13/2024

**Response to Recommendation 1**

The County agrees with this recommendation, and it has already been implemented, as it describes standard County procurement protocol and pre-existing County procurement policies. When departments request exceptions to the five-year term limit, they must provide written justification and obtain approval from the Office of Countywide Contract Management (OCCM), and within that process OCCM reviews solicitation methods and any previous exceptions and evaluates whether the request is justified. The ultimate approving entity—generally the Procurement Department or Board of Supervisors—would determine whether there is a significant change in scope. Beginning this fiscal year (2024-2025), OCCM has been integrated within the Procurement Department; a closer synchronization of these processes is anticipated to be one advantage of this change.

**Finding 2**

*The County failed to adequately specify the scope of the Contractor's work on the history book project. This resulted in an unusable manuscript.*

**Response to Finding 2**

The County agrees with this finding.

**Recommendation 2**

*The County should analyze ways it can improve its policies to ensure that contracts include the appropriate specificity regarding terms and conditions to enable the County to pursue legal recourse when those terms and conditions have been violated by the contractor, including but not limited to County Counsel's and County staff's role in this process. This recommendation should be implemented by November 1, 2024.*

**Response to Recommendation 2**

The County agrees with this recommendation, and it has already been implemented, including by way of regular ongoing training within the Office of the County Counsel that specifically addresses review of scopes of work for legal enforceability. When contract terms and conditions are violated, County Counsel and departments weigh the costs and benefits of pursuing any legal action and bring recommendations to the Board accordingly.

**Finding 3a**

*The County approved and awarded a book contract on an hourly wage basis, inconsistent with publishing industry practice, resulting in over \$1 million being spent on a manuscript that was not publishable.*

**Response to Finding 3a**

The County agrees with this finding.

**Finding 3b**

*The County regularly paid invoices without verifying contract performance and without documentation of work done and extended the book contract for a second year without requiring any proof of progress.*

**Response to Finding 3b**

The County agrees with this finding.

***Finding 3c***

*The County failed to clearly delineate project roles and responsibilities, especially for the project manager role.*

**Response to Finding 3c**

The County agrees with this finding.

***Recommendation 3***

*The County should evaluate its current contracting policies for needed safeguards to prevent the situation here, which permitted a County department to place a contract on the consent calendar even though there were multiple aberrations from existing contracting policies and a failure to monitor the contract. Given the independent role of the County Counsel and its existing role in approving contracts, the evaluation should include how County Counsel, in addition to County staff, can play a role in these safeguards. This recommendation should be implemented by November 1, 2024.*

**Response to Recommendation 3**

The County agrees with this recommendation, and it has already been implemented. Current County procurement policies were reviewed in the wake of this incident and the issues identified related to adherence with those policies rather than deficiencies in the policies themselves. In May 2023, the then-County Counsel delivered an internal training to Office of the County Counsel attorneys, in which lessons learned from this procurement instance were discussed, and these lessons have been incorporated into ongoing procurement-related trainings.

***Finding 4***

*The County makes it impractical for members of the public to review contracts like the history book contract, causing the public to rely on whistleblowers and news reporters to understand the County's business.*

**Response to Finding 4**

The County disagrees with this finding. Both the fourth amendment (June 5, 2018, Board of Supervisors meeting; Item No. 78) and the fifth amendment (May 21, 2019, Board of Supervisors meeting; Item No. 57) to the agreement in question were published on the County Board of Supervisors and Boards and Commissions public portal (i.e., posted electronically from a central location on the County's website, [www.sccgov.org](http://www.sccgov.org)) six calendar days in advance of the meetings in accordance with Division A17 of the County Ordinance Code.

***Recommendation 4***

*The County should require the County Executive's Office to implement a practical contract search system for the public to view all contracts, including non-competitive (sole and single source) Board contracts and extensions. This recommendation should be implemented by February 1, 2025.*

**Response to Recommendation 4**

The County agrees with this recommendation, but the timeline is not feasible. The County intends to purchase and implement a new Enterprise Resource Planning (ERP) system to provide one comprehensive procurement system for the entire organization, for which this type of search capability would be a business requirement. But this effort will be a multi-year endeavor requiring considerable resources, identified funding, and an appropriate implementation plan.