

**BOARD OF SUPERVISORS RESPONSE TO
GRAND JURY REPORT NO. 1007:
FIRST 5 COMMISSION
Can We Count on Accountability and Oversight?**

FINDINGS

1. The First 5 Commission of Contra Costa County is an independent, stand alone, decision-making agency, fully State funded and established by County ordinance. The Commission is neither a County department nor a Special District.

Response: The respondent partially disagrees with the finding. The Commission also receives funding from other, non-governmental sources as well.

2. The Commission's funds are received from the State and disbursed through the County Treasurer's office.

Response: The respondent partially disagrees with the finding. The Commission also receives funding from other, non-governmental sources as well.

3. The Commission's Sustainability and Special Reserve Funds are invested under the management of the County Treasurer.

Response: The respondent agrees with the finding.

4. The Commission's payroll is processed by the County and employees participate in the County's health and retirement benefit programs.

Response: The respondent agrees with the finding. In addition, it should be noted that Commission employees participate in a number of other benefit programs in addition to health and retirement. The benefits provided to First 5 employees do not necessarily correspond to those provided to County employees.

5. Grand Jury research revealed that, unlike First 5 Contra Costa, more than half of the First 5 Commissions in California operate as units of county government.

Response: The respondent agrees with the finding. Of the 58 California counties, 32 have dependent Commissions which were established as an agency of the county. Twenty-six counties have commissions that are independent and do not operate as units of county government.

6. The Commission utilizes multiple contracts to meet its goals. Some of these contracts are awarded as a result of a Request for Proposal (RFP) process. An examination of the RFP documents and procedures revealed the process to be efficient and effective.

Response: The respondent agrees with this finding. Although the County does not directly administer the First 5 Commission, county representatives do sit on the Commission and have observed the use of RFP's to award contracts.

7. Since Commissioners who have a financial interest in a contract are allowed to be present during the discussion and vote on the contract, there is potential for improper or undue influence of Commissioners.

Response: The respondent disagrees with the finding. Although there is always a *potential* for improper or undue influence, the respondent is unaware of any instance of this occurring. Under current law, Commissioners are required to recuse themselves if they have any financial interest in a contract under consideration. As of March 2010, in addition to recusing themselves, Commissioners now also leave the room. Additionally, the respondent provides yearly training by County Counsel to insure Commissioners are aware of their responsibilities and an assigned Deputy County Counsel observes all Commission meetings and advises Commissioners as appropriate on steps to take to avoid any appearance of conflict of interest.

8. The Commission's Executive Committee meets monthly with the Executive Director. It is comprised of four members, two of whom are employed by agencies that receive significant funds from First 5 Contra Costa.

Response: The respondent partially disagrees with this finding. The respondent agrees that this year the Commission's Executive Committee is made up of four members, two of whom are employed by agencies that receive funds from First 5 Contra Costa. However, Executive Committee membership changes every year, and may not always include representatives from organizations which receive First 5 funds. Neither of these members receives funds exceeding seven percent of the total budgeted First 5 program expenditures. First 5 had a 2009/10 Fiscal Year budget totaling \$17.2 million of which \$1,148,153 and \$448,302 respectively is received by the two agencies.

9. The Grand Jury investigation revealed that neither employees nor management clearly understand the First 5 Commission's policies and procedures related to employee complaints and grievances as well as other provisions specified in the Employee Handbook.

Response: The respondent neither agrees nor disagrees with the finding. The respondent is not familiar with the research conducted by the Grand Jury nor has any direct knowledge of the level of understanding of Commission policies and procedures held by Commission employees.

However, respondent understands that First 5 employees are routinely encouraged to reference the Handbook for best practices and contact human resources staff or supervisors with any questions.

First 5 Contra Costa's policies and procedures related to employee disputes are clearly outlined on pages 15-16 in the First 5 Contra Costa Employee Handbook.

Each First 5 employee has a copy of the Employee Handbook that details all organizational policies, including how to raise any complaints or grievances that may arise (employees are required to sign in writing that they have received a Handbook).

When the Handbook is updated, an announcement is made regarding changes via email and when needed, discussed at staff meetings. The Handbook was extensively revised last year and all staff were trained on the updates. In addition, all new staff receive a comprehensive orientation which includes an overview of the Employee Handbook.

First 5 staff are required to sign a confirmation that they received and read updates to the Handbook. Confirmations are then placed in each staff person's employee file.

10. The Grand Jury investigation revealed that neither employees nor management receive regular, appropriate training regarding best or preferred employment practices.

Response: The respondent neither agrees nor disagrees with the finding. The respondent is not familiar with the research conducted by the Grand Jury nor has any direct knowledge of the amount of training received by Commission employees.

11. There is no requirement that the First 5 Commission change auditors from time to time. However, to enhance accountability it is prudent that the audit firm be changed periodically. First 5 has engaged the same independent auditor for more than five years.

Response: The respondent agrees with the finding. While there is no data that indicates that changing the audit firm enhances accountability, the respondent agrees that periodically engaging in a new selection process for an audit firm is a best practice and should be followed. It should be noted that the First 5 Commission already has plans in place to issue a request for proposal to seek an independent auditor after the current contract expires.

RECOMMENDATION

1. The Board of Supervisors shall appoint commissioners not affiliated with agencies most likely to be awarded significant funding, thereby minimizing perceptions of impropriety.

Response: The recommendation will not be implemented because it is not warranted. Appointees to the First 5 Commission are specified under Health and Safety Code Section 130140(a)(1). This statute requires two members of the

Commission to be persons responsible for specified county health and/or social service functions. The County ordinance provides the Board of Supervisors guidelines to ensure a diverse but relevant membership on the Commission that should be sufficient to discourage conflict of interest. The required composition of the Commission means that some members may be from agencies that seek or receive funding. A First 5 Commissioner may legally have a financial interest in a contract and is required to disclose the interest and recuse him or herself. As of March 2010, in addition to recusing themselves, Commissioners also leave the room.

The Board of Supervisors has asked its Internal Operations Committee to review the composition of the membership of the First 5 Commission and make recommendations to the Supervisors regarding future appointees in order to ensure an appropriate balance of representation on the Commission.

2. First 5 Commissioners having financial interests in contracts before the Board of commissioners shall recuse and physically remove themselves from meetings while the contracts are being considered.

Response: This recommendation has already been implemented. The Contra Costa County Counsel's Office has provided annual training to First 5 Commissioners. The Commission members have always recused themselves when a conflict has arisen. During the March 2010 training Commissioners agreed to implement a policy for recusal which includes physically leaving the room.

3. First 5 Commission shall select a new independent auditor through a competitive bid process.

Response: The respondent is unable to respond to this finding as the selection process is retained and controlled by the Commission, not the Board of Supervisors. However, it is understood that the First 5 Commission has plans in place to release a Request for Proposals for a new independent auditor once the current contract expires. The respondent agrees that a competitive bid process for the selection is a best practice that should be followed.

4. First 5 Commission shall provide annual training to all employees on Employee Handbook procedures and provisions.

Response: The respondent is unable to respond to this finding as the training of Commission staff is controlled by the Commission, not the Board of Supervisors.

5. The Board of Supervisors shall pursue inclusion of the First 5 Commission as a unit of County government.

Response: This recommendation will not be implemented as it is not warranted. First 5 Contra Costa was established under Health and Safety Code Section 130140.1(1) which allows the County to establish the Commission as a "legal public

entity separate from the county". There is no evidence to suggest that changing the structure would improve the services provided by the Commission or reduce the possibility of a conflict of interest. In fact, in 2004 Alameda County converted their program, Every Child Counts, from a county program to a stand alone commission. Of the 58 California counties, 32 have dependent Commissions which were established as an agency of the county. Twenty-six counties have commissions that are independent and do not operate as units of county government.

When First 5 Contra Costa was established it was felt that the current structure would be more response to the community, provide opportunities for innovation, and create partnerships for advocacy, financial stability, and access to preschool with other organizations.

The Board of Supervisors will request First 5 Contra Costa to report annually to the Family and Human Services Committee. This standing referral will allow the Board to increase oversight of the Commission through regular reports regarding the budget, strategic plan, and steps taken to strengthen administration of the program.