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AUDITOR'S AUDIT FAILURES

BACKGROUND:

The Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters Office is one of five county-wide elected officials for Tulare County. The Auditor-Controller was assigned the duties of the Registrar of Voters in 1997 and the Treasurer/Tax-Collector duties in 2006.

The Auditor-Controller is the principal financial and accounting officer for the County and performs their duties under the legal authority provided within the California Government Code (CGC), Revenue and Taxation Codes, Health and Safety Codes, and Street and Highways Codes. The Auditor-Controller maintains the accounting records of the County government and most special districts. The Auditor-Controller maintains cash balances for all school districts, compiles tax rates and the tax roll. The Auditor-Controller apportions taxes to the various governmental entities and audits County departments. Special audits are performed upon request and revenue estimates are calculated for the County budget.

Duties under this Office as posted under the Auditor-Controller's website include:

1. Provide accurate financial information to the Board of Supervisors (BOS) and the County Administrative Officer so informed decisions can be made.

2. Process payroll and related reports for all county employees and certain contracted special districts.

3. General supervision of the financial information and accounts of all departments, districts, and agencies under the control of the BOS.

4. Establishes accounting policies and maintains the County general ledger.

5. Monitor budgetary and fiscal activities of County funds.

6. Prepare the Countywide Cost Allocation Plan (COWCAP) for the distribution of overhead expenses in accordance with State and Federal guidelines.

7. Distribute cash-aid payments to Social Services recipients.

8. Monitor debt service accounting for all existing County long-term debt and provide required financial data during application for new debt.

9. Audit and pay claims from County vendors.

10. Prepare the annual State Controller's Report for the County.

11. Perform audits, internal control reviews, and special projects as requested by County management and the Audit Committee.

12. Calculate and publish annual property tax rates and prepare special accounting and reporting of the County's valuations and tax distributions to State and other local agencies.

13. Act as Plan Administrator for the Tulare County Defined Contribution Plan.

The Treasurer provides banking services and treasury management for the County and other jurisdictions located or operating within Tulare County, per CGC, Section 27000 et. seq. The other jurisdiction can be banking services and treasury management to Special Districts within Tulare County.

The Tax Collector is to provide efficient collection of property tax revenues as mandated by State, County, and local jurisdictions; to provide services to the residents of Tulare County per CGC, Section 51500 et. seq. and Revenue and Taxation Code, Section 2602.

The Registrar of Voters is charged with conducting fair and impartial federal, State, local, and school elections as mandated by the State of California Election Code, CGC, Section 26802.5, Education Code, Health and Safety Code, Water Code, and the Constitution of the United States.

REASON FOR INVESTIGATION:

California Government Code Section 26909 requires County Auditors annually (in some cases, semi-annually) to audit, or cause to be audited, those special districts within the County over which they have jurisdiction. Previous Tulare County Grand Juries had requested documentation of the County Auditor's receipt of said audits. The net of said requests resulted in the discovery of numerous special districts having failed to submit the required audits over periods spanning several consecutive years. The Grand Jury also discovered multiple instances of required documentation relating to Special Districts' certified resolutions pertaining to the repository of district funds (as specified in section 53952 of the CGC) to be absent from the files of the County Auditor. These discoveries resulted in a Jury Initiated Investigation into the operation of the Office of the Tulare County Auditor/ Controller/Treasurer/Registrar of Voters.

METHOD OF INVESTIGATION:

Staff from the Office of the Tulare County Auditor and a former member of the County's administrative staff were interviewed. Members of the Boards of Directors of various special districts were also interviewed. Documentation was requested and reviewed. The Grand Jury then developed a method by which the Grand Jury could track and log special districts' audit submissions to the County Auditor.

FACTS:

1. At the end of 2015, the Tulare County Auditor reported eleven (11) Special Districts had not filed their audit report with the County by the required due date.
2. Section 26909(a) of the CGC states: "The County Auditor shall either make or contract with a certified public accountant or public accountant to make an annual audit of the accounts and records

of every special purpose district within the county for which an audit by a certified public accountant or public accountant is not otherwise provided."

3. Section 26909(a)(3) of the CGC also explains that the County Auditor is to ensure that the district bears the costs of required audits by stating: "Any costs incurred by the county auditor, including contracts with, or employment of, certified public accountants or public accountants, in making an audit of every special purpose district pursuant to this section shall be borne by the district and shall be a charge against any unencumbered funds of the district available for the purpose."

4. At the end of 2015 a report cites eleven (11) additional special districts in which the audits they submitted led to the finding that the "District(s) was/were not in compliance with various sections of the CGC (sections 53952, 53961 and 61052) or the California Health and Safety Code (section 9077)."

5. As has been noted in previous reports of the Tulare County Grand Jury (2012-2013), section 53952 of the CGC provides that "The governing board of a special district may, by resolution, provide for the establishment of a revolving fund **in an amount not to exceed one thousand dollars ($1,000)** to be used to make change and pay small bills directly. The resolution which establishes the district revolving fund shall designate all of the following:
   a) The purpose for which the fund may be expended.
   b) The officer of the district who shall have authority to make disbursements from the fund and be responsible for keeping account of all receipts and disbursements from the fund.
   c) The necessity for the fund.
   d) The maximum amount of the fund."

CGC Section 53953 likewise requires that "Certified copies of the resolution establishing the revolving fund shall be transmitted to the County Auditor and County Treasurer."

6. Section 61052 of the CGC specifies in pertinent part:
   "(a) Except as provided by Section 61053, the county treasurer of the principal county shall be treasurer of the district and shall be the depositary and have the custody of all of the district's money.
   (b) All claims against a district shall be audited, allowed, and paid by the board of directors by warrants drawn on the county treasurer.
   (c) As an alternative to subdivision (b), the board of directors may instruct the county treasurer to audit, allow, and draw his or her warrant on the county treasury for all legal claims presented to him or her and authorized by the board of directors.
   (d) The county treasurer shall pay the warrants in the order in which they are presented."

7. In its research the Grand Jury a number of instances in which those district complying with the audit requirement were nonetheless non-compliant with other code requirements.

FINDINGS:

F1. While the County Auditor/Treasurer maintains records pertaining to which special districts are in compliance with the provisions of CGC section 26909 and those which are not, the County Auditor has not made a practice of publicizing noncompliance issues.

F2. Failure to strictly adhere to the provisions of CGC Section 53952 have created a situation wherein the County Auditor lacks the financial leverage which would otherwise be provided to enter into contracts with independent certified public accountants or public accountants to conduct the audits necessary to bring non-compliant special districts into compliance.

F3. It appears that there has been no appreciable effort on the part of the Office of the County Auditor with respect to bringing the districts into compliance.

F4. In many cases, the certified resolutions required by CGC Section 53952 are not on file with the Office of the County Auditor and, again, it is not apparent that effort has been expended on the part of the Office of the County Auditor to remedy this situation.

RECOMMENDATIONS:

The Office of the County Auditor exercise due diligence in the execution of duties and responsibilities of the office particularly as it pertains to adherence to CGC sections 27000, 26909, 53952, 53953, 53961, 61052 and 61053.

REQUIRED RESPONSES:

1. Auditor-Controller/Treasurer-Tax Collector/Registrar of Voters Office

2. Tulare County Board of Supervisors

Disclaimer

Grand Jury reports are based on documentary evidence and the testimony of sworn or admonished witnesses, not on conjecture or opinion. However, the Grand Jury is precluded by law from disclosing such evidence except upon specific approval of the Presiding Judge of the Superior Court, or another judge appointed by the Presiding Judge (Penal Code Section 911, 924.1 (a) and 929). Similarly, the Grand Jury is precluded by law from disclosing the identity of witnesses except upon an order of the court for narrowly defined purposes (Penal Code Section 924.2 and 929).

TOWER OF SHAME

BACKGROUND:

At the close of World War II, the citizens of Tulare began working to raise the funds to build their own hospital.

The hospital had been a topic of discussion throughout the community since 1937. Several attempts to pass bond measures failed. Then in January 1946, two consecutive bonds were passed and, with Federal government aid, the Tulare Local Healthcare District was formed. The first hospital board was appointed by the County Board of Supervisors.

The construction of the new $1.1 Million, 86-bed hospital began on May 23, 1949 with a groundbreaking ceremony. Less than two years later, on February 18, 1951, the dedication ceremony for the much-anticipated Tulare District Hospital (TDH) took place.

In December 1989, the hospital broke ground on a $21 Million expansion and renovation project. This project was completed in 1993, which included remodeled patient rooms, lobby, and an expanded ICU and a new pediatric unit.

In 2009, what had been known as TDH changed its name to Tulare Regional Medical Center (TRMC). While remaining a General Acute Care Facility licensed for 112 inpatient beds, services are designed to meet the continuum of healthcare needs. Tulare Local Healthcare District, DBA TRMC is accredited by the Joint Commission on Accreditation of Healthcare Organizations and DNV Healthcare, Inc. Mineral King Toxicology Laboratory, a division of TRMC, is one of only four Toxicology laboratories in California, accredited by the College of American Pathologists.

The issuance of general obligation bonds in an aggregate amount not to exceed $85 Million by the Tulare Local Health Care District (TLHCD) was authorized at an election of the registered voters of the TLHCD held on September 13, 2005. This election garnered approximately 83% of the persons voting on the measure. Pursuant to the laws of the State of California and a resolution of the TLHCD, the TLHCD issued an initial series of such bonds in the amount of $15 Million on August 21, 2007. The TLHCD issued general obligation bonds in two final series authorized in the aggregate amount of $70 Million. Proceeds of the Bonds have been used to pay costs related to the construction and equipping of an expansion and renovation of the District's Hospital located on the southwest corner of Cherry Street and Merritt Avenue in the City of Tulare.

The Bonds represent the general obligation of the TLHCD. The TLHCD is empowered and obligated to cause to be levied ad valorem (property) taxes, without limitation of rate or amount, upon all property within the TLHCD subject to taxation by the TLHCD (except certain personal property which is taxable at limited rates), for the payment of interest on and principal of the Bonds when due. Tulare County will collect all ad valorem taxes due to the TLHCD, and pursuant to agreement will disburse them to the Paying Agent to be applied to the payment of principal of and interest on the Bonds.

Following the issuance of the initial series of bonds in 2007, TLHCD embarked upon Phase I of a facility Master Plan. Phase I includes the construction of a 107,000 square foot tower connecting to the southern wall of the existing hospital building. This tower was designed to include a full basement and house an 11,000 square foot, 24-bed emergency department; a diagnostic department and associated equipment; a 16-bed obstetrics unit; 4 surgery suites; and 27 new private patient rooms.

Subsequent phases of the Master Plan are still conceptual. Phase II of the Master Plan involves the construction of a second tower located to the west of the Phase I tower. Phase II would include a new Central Plant. Completion of Phase II would allow demolition of most of the existing hospital facility. The main Hospital entrance would be reoriented at that time. As this report is written, the design, budget, funding plans and construction time lines for Phase II have not been completed.

REASON FOR INVESTIGATION:

The Tulare County Grand Jury received a citizen complaint alleging willful failure on the part of the TLHCD Board of Directors to disclose details surrounding the expenditure of proceeds from the bonds. Additionally, it alleged gross malfeasance in the management of the construction of Phase 1 and gave impetus to this investigation.

METHOD OF INVESTIGATION:

In response to the concerned citizen's complaint about the TLHCD's issuance and expenditure of $85 Million dollars in tower construction bonds, the Grand Jury investigated expenses related to the Bond Funds. The Grand Jury reviewed numerous documents; including financial statements, District Board Minutes, construction and expense data. The Grand Jury interviewed hospital representatives and district residents.

FACTS:

1. Prior to the initial (2005) bond election, a Bond Oversight Committee was appointed, ostensibly to provide independent oversight of the expenditure of bond funds as well as the management of projects to which bond funds were to be allocated.

2. The Bond Oversight Committee repeatedly requested detailed financial information which was never provided.

3. As of February 1, 2016, the Phase I project, which began with the issuance of bonds in August 2007, has not been completed and its corresponding structures are vacant.

4. Prior to the initiation of Phase I, members of the TLHCD Board of Directors were made aware of the fact that estimates of the total cost of the project exceeded $120 Million and that proceeds from an $85 Million bond issue would be insufficient to complete the project.