



# Response to Grand Jury Report

Report Title: **THE LIBRARY**

Report Date: July 22, 2015

Response by: Wally Clark, County Librarian

## Findings

I (we) agree with the findings numbered: 13

I (we) disagree partially with the findings numbered: 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14

*Attach a statement specifying the findings or portions of the findings that are disputed, and include an explanation of the reasons therefor.*

## Recommendations

Recommendations numbered 1, 2 have been implemented.

*Attach a statement describing the implement actions.*

Recommendations numbered xxx have not yet been implemented, but will be implemented in the future.

*Attach a statement with the schedule for implementation(s).*

Recommendations numbered 5 require further analysis.

*Attach an explanation, and the scope and parameters of the analyses or studies, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.*

Recommendations numbered 4 will not be implemented because they are not warranted or are not reasonable.

*Attach an explanation.*

Recommendations numbered 3, 6, 7, 8 are not under the authority of the County Librarian.

*Attach an explanation.*

Signature: \_\_\_\_\_

Date: 7-22-15

Number of pages attached: 6

## **FINDINGS**

**F1. “The County is not required by any law or regulation to charge the Library A-87 costs. The decision to charge A-87 costs is solely within the authority of the Board of Supervisors. The County Auditor develops and supplies to the County Executive Office the A-87 State Cost Plan. The CEO prepares and recommends the budget to the Board of Supervisors.”**

I (we) disagree partially with this finding. The County Librarian cannot speak to the roles or responsibilities of the Board of Supervisors. The Library does not determine A-87 costs and accepts the information provided by the Auditor-Controller as prescribed in State statute as accurate.

Department budgets are developed by each Department Head and submitted to the Executive Office for review and presented to the Board of Supervisors for consideration.

The County Librarian incorporates by reference the Chief Executive Officer’s response to finding 1.

**F2. “The application of the State Cost Plan to the County budget is the decision of the Board of Supervisors. The staff preparing the budget for the Supervisors’ consideration, and the Board of Supervisors itself, has an obligation to fully understand the difference between direct billing and the purpose and applicability of A-87 costs when charged to the Library budget.”**

I (we) disagree partially with this finding. The County Librarian cannot speak to the roles and responsibilities of the Board of Supervisors. Staff preparing the budget have been trained on the differences between direct billing, building use allowance, equipment use allowance and other operating expenses associated with the applicability of A-87 costs when charged to the Library.

The County Librarian incorporates by reference the Chief Executive Officer’s response to finding 2.

**F3. “The County charges the Library for A-87 use costs for buildings and building improvements even if the County did not spend a dime of the County General Fund. These are charges the Grand Jury finds are inappropriate and unacceptable.”**

I (we) disagree partially with this finding. Any donations or grant funding specifically intended for the construction or improvement of these buildings, are taken into account by the Auditor-Controller before calculating the Library’s Building Use Cost.

The County Librarian incorporates by reference the Auditor-Controller’s response to finding 3.

**F4. The donations from the public for the Fort Bragg Library building and the Federal grant for the Willits Library are used by the County as a basis for computing A-87 costs. The Grand Jury specifically finds these charges as inappropriate and unacceptable.**

I (we) disagree partially with this finding. Any donations or grant funding specifically intended for the construction or improvement of these buildings, are taken into account by the Auditor-Controller before calculating the Library's Building Use Cost.

The County Librarian incorporates by reference the Auditor-Controller's response to findings 3 and 4.

**F5. "Inappropriate and unacceptable A-87 charges for equipment and buildings divert the Library's dedicated funds to the General Fund, reducing the amount the Library has to spend for services to the public."**

I (we) disagree partially with this finding. The Auditor-Controller is responsible for the calculation and administration of A-87 costs. The Library accepts the information provided by the Auditor-Controller as prescribed in State statute as accurate. Staff will work within the rules, regulations and guidelines set before us by the Board of Supervisors, Executive Office, and the Auditor-Controller.

**F6. The Grand Jury concludes from the County Auditor's answers to interview questions and the Grand Jury report from 2013-14, that as far as the acquisitions prior to 1996 are concerned, the County has been and is still collecting A-87 charges for equipment use that are not permitted per the A-87 Handbook.**

I (we) disagree partially with this finding. The County Librarian has no information on this finding. The Auditor-Controller is responsible for the calculation and administration of A-87 costs.

The County Librarian incorporates by reference the Auditor-Controller's response to finding 6.

**F7. "The A-87 charges for fixed and other assets not paid for by the General Fund should be waived. Doing otherwise constitutes a tax levied on all grants, donations, and the Library's dedicated funds until the County General Fund receives the full amount of all external sources of money. The essential characteristics of a tax are defined by Black's Law Dictionary as: "A charge, usually Monetary, imposed by the government on persons, entities, transactions, or property to yield public revenue." The statutory authority of the Board of Supervisors over the Library is "general supervision"; it does not include the power to tax without voter approval."**

I (we) disagree partially with this finding. The County Auditor has stated that donations and grants are not included in determining cost for cost allocation purposes.

**F8. "The State Legislature has passed laws providing that the County Free Libraries are special districts. The State Librarian has consistently maintained that the County Free Libraries are special districts. The Grand Jury finds that the Mendocino County Free Library is a dependent special district."**

I (we) disagree partially with this finding. According to the Auditor-Controller, the County Free Libraries may be considered a “special district” for tax and revenue purposes only. The Mendocino County Library continues to operate under the policy set by the Board of Supervisors and in compliance with State law regarding County Free Libraries.

**F9. “By law, the Mendocino County Free Library, a special district, is entitled to a pro-rata share of the property taxes.”**

I (we) disagree partially with this finding. According to the Auditor-Controller, the County Library may be considered a “special district” for tax and revenue purposes only. Staff will work within the rules, regulations and guidelines set before us by the Board of Supervisors, Executive Office, and the Auditor-Controller.

The County Librarian incorporates by reference the Chief Executive Officer’s response to finding 9.

**F10. Absent adequate explanation of the position taken by some County Officials that the Library is not a special district, the Grand Jury does not see a valid reason for the current Board of Supervisors supporting this position.**

I (we) disagree partially with this finding. According to the Auditor-Controller, the County Library may be considered a “special district” for tax and revenue purposes only. Staff will work within the rules, regulations and guidelines set before us by the Board of Supervisors, Executive Office, and the Auditor-Controller.

**F11. The County Officials’ interpretation of the Education Code §19147, accomplished by changing the statutory language, has resulted in paying the County Librarian from the Library’s dedicated funds rather than the General Fund. Further, County Officials also ignore the companion section, §19148.**

I (we) disagree partially with this finding. All Mendocino County Officers are paid in the same manner and out of the fund in which they work. Paying the County Librarian out of the County Library fund is in compliance with §19147.

Ed. Code § 19147 states: “The salary of the county librarians shall be paid by each of the counties in equal monthly installments, at the same time and in the same manner and out of the same fund as the salaries of other county officers are paid.” Cal Ed Code § 19147

The County Librarian incorporates by reference the Auditor-Controller’s response to finding 11.

**F12. Paying the County Librarian from the Library funds improperly limits the money available for the Library and is contrary to statutory interpretation principles.**

I (we) disagree partially with this finding. As noted in finding 11, paying the Librarian from the Library funds is an appropriate use of funds.



**F13. Measure A sales taxes are being appropriately used to update the library collections, services, providing new programs, and hiring needed staff.**

I (we) agree with this finding.

**F14. "Some responses to Findings and Recommendations of the Grand Jury 2013-14 report do not conform to the standards in the Penal Code §933.05. By conforming to the standards of the Penal Code, public officials would actually inform the public as to the issues at hand."**

I (we) disagree partially with this finding. The Auditor- Controller, as an elected official, is responsible for the accounting methods and procedures and the handling of property tax apportionment. The County Librarian did not participate in the Grand Jury 2013-14 report.

## **RECOMMENDATIONS**

**R1. "All respondents conform to Penal Code §933.05. (F14)"**

This recommendation has been implemented. The responses conform to Penal Code §933.05.

**R2. "The Board of Supervisors and all staff responsible for budget planning and implementation be trained in the difference between direct billing and A-87 costs, including the difference between overhead and use costs, for the Library. (F2)"**

This recommendation has been implemented. As noted in finding 2, County staff responsible for budget planning and implementation have been trained on A-87 costs.

**R3. "The Board of Supervisors with the CEO remove all A-87 charges for equipment from the Library Budget. (F1, F5, F6, F7)"**

This recommendation is not under the authority of the County Librarian. The Library does not direct the Board of Supervisor as elected officials. According to the Auditor-Controller, the Library's A-87 Building and Equipment Use charges are an appropriate use of Library Funds.

**R4. "A-87 costs for building use be based only on those amounts that are documented as actually paid from the County General Fund. (F1, F3, F4, F5, F7)"**

This recommendation will not be implemented because it is not warranted. According to the Auditor-Controller, all A-87 costs for the Library's building use charges are based on amounts paid out of the General Fund.

**R5. "The Board of Supervisors, the County Auditor, and the CEO recognize that insurance proceeds, grants, and donations are not General Fund monies for the purposes of A-87 costs charged to the Library. (F1, F2, F3, F4, F5, F7)"**

This recommendation requires further analysis by the Auditor-Controller. According to the Auditor-Controller, all insurance proceeds, donations or grant funding specifically intended for the construction or improvement of a building, are taken into account before calculating A-87 Building Use Costs.

**R6. “The Board of Supervisors with the County Auditor establish a specific tax rate for the Library as a dependent Special District. (F8, F9, F10)”**

This recommendation is not under the authority of the County Librarian. The Library does not direct the Board of Supervisors or Auditor-Controller as elected officials. The Auditor-Controller, as an elected official, retains full authority to implement accounting methods and procedures and to determine the methodology to record property tax apportionment.

**R7. “The Board of Supervisors with the County Auditor revise the procedures to require the budget to show the Library revenues as a pro-rata share of the property tax. (F8, F9, F10)”**

This recommendation is not under the authority of the County Librarian. The Library does not direct the Board of Supervisor or Auditor-Controller as elected officials. According to the Auditor-Controller, the pro-rata share of property tax is determined by the Auditor-Controller and is already included in the budget as an operating transfer in, line item 827802.

**R8. “The Board of Supervisors pay the Librarian’s salary from the General Fund. (F11, F12)”**

This recommendation is not under the authority of the County Librarian. The Library does not direct the Board of Supervisor as elected officials. According to the Auditor-Controller and as noted in finding 11, the Education Code does not require that the Librarian’s salary be paid out of the General Fund.