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COUNTY OF MENDOCINO
BOARD OF SUPERVISORS
501 Low Gap Road • Room 1090
Ukiah, California 95482

August 28, 2007

The Honorable Cindee Mayfield, Presiding Judge
Superior Court of California
County of Mendocino
Mendocino County Courthouse
Ukiah, CA 95482

RECEIVED
SEP 10 2007
MENDOCINO COUNTY GRAND JURY
POST OFFICE BOX 629
UKIAH, CA 95482

Re: Response to the 2006-2007 Grand Jury's Final Report:
ARE YOU GETTING WHAT YOU PAY FOR?
A Report on the Board of Supervisors Travel Policy

Dear Judge Mayfield:

Enclosed is the official response to the findings and recommendations contained in the 2006-2007 Grand Jury's Final Report regarding ARE YOU GETTING WHAT YOU PAY FOR? A Report on the Board of Supervisors Travel Policy.

The Mendocino County Board of Supervisors approved this response on August 28, 2007, which meets the statutory 90-day deadline.

Sincerely,

Kendall Smith

Kendall Smith, Chair
Mendocino County Board of Supervisors

KS/dkm

Enclosures

cc: County Executive Office
Grand Jury
File 2007-08-28 GJ-BOS-Travel

THE BOARD OF SUPERVISORS

MICHAEL M. DELBAR
First District

JIM R. WATTENBURGER
Second District

JOHN PINCHES
Third District

KENDALL SMITH
Fourth District

J. DAVID COLFAX
Fifth District

RESPONSE PROCEDURE TO GRAND JURY REPORTS

The governance of responses to Grand Jury Final Report is contained in Penal Code § 933 and § 933.05. Responses must be submitted within 60 or 90 days. Elected officials must respond within sixty (60) days. Governing bodies (for example: the Board of Supervisors) must respond within ninety (90) days. Please submit all responses in writing and digital format to the Presiding Judge, the Grand jury Foreperson and the CEO's office.

Report Title : Are You Getting What You Pay For? **Report Date :** June 7, 2007
A Report on the Board of Supervisors Travel Policy

Response by: Executive Office
Contact : Al Beltrami, Chief Executive Officer

Findings

- I (we) agree with the findings numbered:
1, 4, 6, 7, 16, 18-20, 25-27, 29, 31
- I (we) neither agree or disagree:
2, 3, 5, 8-15, 17, 21-24, 28, 30
- I (we) disagree wholly or partially with the Findings numbered:

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- Recommendations numbered: 1, 5
have been implemented. (attach a summary describing the implemented actions.)
- Recommendations numbered: 3
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)
- Recommendations numbered require further analysis:
(attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- Recommendations numbered: 2, 4
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 08/28/09

Signed: _____

Al Beltrami

RESPONSE PROCEDURE TO GRAND JURY REPORTS

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Report Title : Are You Getting What You Pay For? **Report Date :** June 7, 2007
A Report on the Board of Supervisors Travel Policy

Response by: Board of Supervisors
Contact : Al Beltrami, Chief Executive Officer

Findings

- I (we) agree with the findings numbered:
7, 16, 18, 19, 25, 26, 27, 31
- I (we) neither agree or disagree:
1-6, 8, 9, 10-15, 17, 21, 22, 23, 24, 28, 30
- I (we) disagree wholly or partially with the Findings numbered:
20, 29

(attach a statement specifying any portions of the Findings that are disputed; include an explanation of the reasons therefore.)

Recommendations

- Recommendations numbered: 5
have been implemented. (attach a summary describing the implemented actions.)
- Recommendations numbered: 3
have not yet been implemented, but will be implemented in the future.
(attach a time frame for implementation)
- Recommendations numbered require further analysis:
(attach an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer and/or director of the agency or department being investigated or reviewed; including the governing body of the public agency when applicable. This time frame shall not exceed six (6) months from the date of publication of the Grand Jury Report)
- Recommendations numbered: 1, 2, 4
will not be implemented because they are not warranted and/or are not reasonable. (attach an explanation.)

Date: 08/28/07 Signed: Al Beltrami

ARE YOU GETTING WHAT YOU PAY FOR?

A Report on the Board of Supervisors Travel Policy

June 7, 2007

SUMMARY

Over the last year and half, considerable discussion has taken place among the Board of Supervisors (BOS) regarding various areas of their expense and compensation budget. The most obvious, and receiving the most attention, is the BOS "Travel & Meal Policy". Mendocino County also has a standardized "Travel & Meal Policy" for all County employees. County employees are not allowed reimbursement for commute-to-work mileage; Supervisors receive mileage payment for driving from home-to-work at the County Administration Center on Low Gap Road, or other locations involving official County business.

The 2006/2007 Mendocino County Grand Jury found that Supervisors travel varying distances to work. Claims for unreimbursable meetings, functions/events, and miles not actually driven, have occurred due to the failure of at least two Supervisors to adhere to the BOS travel policy.

In the case of one Supervisor, an incorrect application of the BOS "Travel & Meal Policy" §A(2)(d), resulted in fictitious commute miles being claimed and paid by the County. The amount of money wrongly paid is estimated to be in the thousands. This Supervisor has acknowledged overpayment. The Grand Jury expects these funds will be recovered.

BACKGROUND

While conducting other investigations the Grand Jury became aware of certain faulty interpretations and alleged misuses of the BOS Travel Policy.

It is important to point out that the allocation for 2005/2006 BOS operations (Budget Unit 1010) was \$43,502; the actual amount spent was \$49,205. For 2006/2007 the allocation was increased by approximately \$100,000 in two steps: the first for \$30,000; and the second for \$70,000, shown as Special Departmental Expenses. It was this substantial increase in the BOS budget that prompted the Grand Jury to pursue an investigation of the Supervisors' expense records.

The Travel Policy sections which the Grand Jury believes have been violated are as follows (travel policy attached):

- Section A(2)(d): "Supervisors with meetings "back-to-back" may elect to stay over night rather than drive back and forth and will be reimbursed not to exceed the mileage rate that would have been charged for travel."

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- Section A(3): "Attendance at social and other meetings, which the member would attend regardless of his/her Supervisory position, are not reimbursable. Attendance at retirement or similar functions will not be reimbursed unless the Board has requested a member to attend as their representative."
- Section B(5): "Board members will be reimbursed for official travel to functions or organizations of which the County or an individual Supervisor is an official member. If a Board member wishes reimbursement for meetings for which he or the County is not a member, said reimbursement would have to be determined by a majority vote of the Board of Supervisors."

METHODS

The Grand Jury interviewed County elected officials, management, and staff. It obtained, reviewed, and compared proposed and actual budgets, expense reports, and travel claim forms for all Supervisors serving between July 2005 and January 2007.

FINDINGS

1. The BOS is paid commute mileage to and from their principal residences.

Response (Board of Supervisors) The Board of Supervisors neither agrees nor disagrees with this finding. The Board of Supervisors is reimbursed mileage for official business as outlined in existing and past travel or expenditure policies.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

2. All Supervisors defined the term "reimbursement" as being repaid money previously spent.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

3. All Supervisors indicated that they clearly understood the meaning of Travel

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Policy §A(2)(d).

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

4. The Grand Jury found claims for reimbursement in the following areas:

- Cell phones;
- Telephone and long distance charges;
- Internet service;
- Newspapers;
- Travel (in-county only).

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this finding as the Board does not have knowledge for individual evidence.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

5. As many as three BOS members said they commute to Ukiah two to three times a week.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

6. All BOS members are allocated County reimbursed commute mileage charges range from \$100-\$1,000+ per month per supervisor.

Response (Board of Supervisors): The Board of Supervisors agrees that they are allocated \$144.96 monthly stipend for use of their personal vehicle in addition to 48.5¢ per mile for driving to work and approved County functions, the Board does not agree or disagree with the remainder as it does not have

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knowledge of individual evidence.

Response (Chief Executive Office): The County Executive Office agrees with this Finding with respect to the prior Board Travel Policy.

7. Supervisors also receive a stipend of \$25.00 per month for "County road inspection".

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

8. The Grand Jury heard testimony from two Supervisors that "driving to all meetings", regardless of the meeting's purpose, qualifies for a valid mileage claim.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony. The comment as written is not consistent with County policy.

9. Testimony revealed that some Supervisors have a casual and loosely defined understanding of what is considered to be "official County business", resulting in substantive travel policy abuse.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony. County policy defines "official County business" in writing.

10. Two Supervisors believe that any special event, which could include social

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functions, is considered to be County business and therefore billable to the County.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony. The comment as written is not consistent with County policy.

11. Three Supervisors stated they do not charge mileage when attending special events and/or social occasions.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

12. Three Supervisors said official weekend meetings are rare.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

13. A sample of in-County travel reports for a period of 26 weeks, 1/1/2006 to 6/30/2006, showed the following:

- Two Supervisors had 0 weekend travel days.
- One Supervisor had 1 weekend travel day.
- One Supervisor had 5 weekend travel days.
- One Supervisor had 20 weekend travel days.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge

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of individual evidence.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the evidence.

14. Four Supervisors believe they should only be paid for mileage they have driven on County business.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

15. According to testimony relative to travel policy §A(2)(d), four Supervisors believe that if no actual miles are driven and no expense is incurred for lodging then no reimbursement is due.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony. The comment as written is consistent with County policy.

16. Current mileage reimbursement is 48.5¢ per mile and is also the maximum rate the IRS currently allows.

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

17. Three Supervisors stated that the current mileage reimbursement rate is adequate and two supervisors felt the current mileage rate was not adequate.

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Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

18. The Clerk of the Board processes and authorizes all BOS reimbursement claims and forwards them to the Auditor's Office for payment.

Response (Board of Supervisors): The Board of Supervisors agrees that the Clerk of the Board processes claims for reimbursement and forwards them to the Auditor Office. The Auditor however, exercises authority for final approval of all reimbursement claims pursuant to adopted policies.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

19. The Clerk of the Board is directly subordinate to the BOS and is an at-will employee. This is the only case in the County where a subordinate is vested with the power to authorize personal expenses submitted by a superior.

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding to the extent that the Clerk is directly subordinate to the BOS and is an at-will employee. However, the Clerk does not have the vested authority to authorize personal expenses of individual board members. The authority to authorize expenses is the responsibility of the Auditor.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

20. The Auditor's Office requires a lodging receipt to determine the lesser cost to the County, when making a claim under §A(2)(d).

Response (Board of Supervisors): The Board of Supervisors disagrees with this Finding as there is no evidence of this requirement. Historic practice, from 1992-2007, reflects that Supervisors received payment for mileage they would have traveled in lieu of lodging.

Response (Chief Executive Office): The County Executive Office agrees

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with this Finding.

21. The Grand Jury found that in filling out in-County travel forms, most Supervisors did not consistently indicate destination, agency involved, and purpose of meeting.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual evidence.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the evidence.

22. Individual Supervisors defined "official County business" as ranging from casual conversations with a constituent to scheduled business meetings with government agencies.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

23. Discussion of the BOS travel policy/budget has been described as controversial and difficult for the Supervisors.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

24. The Grand Jury heard testimony that two Supervisors would prefer a stipend in lieu of in-County mileage; an acceptable stipend policy would also be difficult to formulate.

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Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual testimony.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the testimony.

25. A stipend is fully taxable and will bring increased payroll taxes and retirement (8%) costs to both the County and Supervisors. In return, each Supervisor would receive a larger retirement and Social Security benefit.

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

26. All BOS members have access to County-issued credit cards.

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

27. BOS travel claim form (Form No. A/C - 06) is required to be signed, certifying that "under penalty of perjury that the within claim and the items as therein set out are true and correct."

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees with this Finding.

28. Some Supervisors incorrectly applied the BOS "Travel & Meal Policy". Examples include:

- Staying at a private residence in Ukiah while charging for round trips from home to Ukiah;
- Signing the travel claim form when such non-existent trips were listed;

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- Using travel claims for non-existent trips to offset other expenses incurred as a Supervisor;
- Collecting travel money for attending political and social functions;
- Claiming non-supported travel on weekends.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual evidence.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the evidence.

29. There is an average of 22 working days in each month of the year.

Response (Board of Supervisors): The Board of Supervisors agrees with this finding to the extent that the average referenced commonly refers to a standard full time job. Elected positions have been deemed to require evening and weekend work hours that exceed the average number of working days.

Response (Chief Executive Office): The County Executive Office agrees with this Finding with regard to a standard full-time job.

30. In the month of June 2006, a Supervisor claimed 22 round trips between their residence and Ukiah.

Response (Board of Supervisors): The Board of Supervisors neither agrees nor disagrees with this Finding as the Board does not have knowledge of individual evidence.

Response (Chief Executive Office): The County Executive Office neither agrees nor disagrees with this Finding as the CEO does not possess direct knowledge of the evidence.

31. The State Statute used by Grand Juries for recovering monies due the County is California Penal Code §932.

Response (Board of Supervisors): The Board of Supervisors agrees with this Finding.

Response (Chief Executive Office): The County Executive Office agrees

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with this Finding.

RECOMMENDATIONS

The Grand Jury recommends that:

1. the BOS "Travel & Meal Policy" be amended to require receipts be attached to the claim form. (Findings 3, 20)

Response (Board of Supervisors): The Board of Supervisors will not institute this recommendation as it has been addressed within the current Board Travel and Expenditure Reimbursement Policy, section no. 4A(4), adopted June 12, 2007.

Response (Chief Executive Office): This recommendation will be drafted as an amendment to require receipts for itemized claims consistent with the General County Travel Policy and presented to the Board for inclusion in the current Board Reimbursement Policy by September 30, 2007.

2. BOS policies be amended to require a recorded vote granting Supervisors permission to attend special events and other functions not considered to be official County business. (Findings 2-3, 8-14)

Response (Board of Supervisors): The Board of Supervisors will not implement this recommendation as written. Attendance at "special events and other functions not considered official County business" is not reimbursable at the current time and should not be reimbursed. Requiring recorded votes for permission to attend unclaimable events would be time-consuming, intrusive, and inappropriate.

Response (Chief Executive Office): This recommendation will not be implemented as written. The County Executive Office will provide additional language to clarify and delineate permissible reimbursable activities in the definition of "official County business" contained in the current Board Reimbursement Policy for Board review by September 30, 2007.

3. Supervisors submit all BOS authorized travel and other reimbursement claims directly to the County Auditor, rather than the Clerk of the Board office, for final approval. (Findings 18-19, 21-22, 27-28)

Response (Board of Supervisors): This recommendation will be implemented by September 30, 2007. The Board of Supervisors will implement this recommendation in part. Claims will be processed through the

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Clerk of the Board office and forwarded to the Auditor for final approval.

~~Response (Chief Executive Office):~~ This recommendation will be implemented by September 30, 2007. The Clerk of the Board will assist with forwarding claims from Board members to the Auditor's Office, but will not authorize the payment of the claims.

4. Any/all Supervisors that misinterpreted BOS travel policy revise these previous travel claims and return all over-payments to the County. (Findings 3, 8-13, 15, 21-22, 27-31)

Response (Board of Supervisors): The Board of Supervisors defers to the District Attorney or other party charged with regard to the disposition of previous disputed travel claims.

Response (Chief Executive Office): The County Executive Office defers to the elected District Attorney with regard to implementation of this recommendation. The CEO will provide additional language clarifying to the Board for consideration by September 30, 2007.

5. the Auditor's Office require that the purpose of "County business mileage" claimed is clearly stated on the form. (Findings 9, 21-22, 27-28)

Response (Board of Supervisors): The Board of Supervisors will adhere to the standards of reporting as required by the Auditor/Controller.

Response (Chief Executive Office): This recommendation will be implemented by September 30, 2007.

COMMENTS

The BOS should consider removing the "paid commute miles to work" feature now in current travel policy. This unusual perk is not given to other County employees and is certainly not given to the average citizen who commutes to work daily. The BOS should consider replacing all in-County mileage charges, commute miles included, with a flat mileage stipend similar to what is given other elected officials, department heads, and the CEO. The \$145 "vehicle stipend" and the \$25 "road inspection" fee, should be folded into the flat mileage stipend. Eliminating the "commute to work" feature would remove the need for a separate travel policy for BOS members. This egalitarian gesture would be well received by both the public and County employees.

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Response (CEO):

Both the Board of Supervisors and the County Executive Office do not agree with the comments regarding "paid commute miles to work". Although it is an unusual item for reimbursement, the job of Supervisor is unusual. Other County employees may choose where they live and how far they are willing to travel to their work location. District Supervisors are required to live in the districts that they represent. Most live where they resided prior to running for office; all of them are contacted frequently at their place of residence, and perform a certain amount of work at their home office and throughout their districts. After considering the Grand Jury's report, the Executive Office and Board do agree that reimbursing commute miles separately from the stipend for non-commute miles relies on a distinction that may not exist in actual practice.

The former \$145 "vehicle stipend", which was paid *in addition to all* itemized mileage, has been eliminated. The current Board Reimbursement Policy provides for a more inclusive stipend that is *proportional* to district distances and *alternative* to itemizing and claiming official non-commute travel mileage.

The County Executive Office, with Board direction, will review the current stipend levels against previously claimed mileage in order to suggest that the levels be adjusted as appropriate and/or that the stipend substitute for itemizing and claiming both commute and non-commute travel mileage.

RESPONSE REQUIRED

Mendocino County Board of Supervisors
(All Findings; All Recommendations)

Mendocino County Chief Executive Office
(All Findings; All Recommendations)

RESPONSE REQUESTED

Mendocino County Auditor-Controllers Office
(All Findings; All Recommendations)