



**COUNCIL PRESIDENT  
SCOTT H. PETERS**

CITY OF SAN DIEGO

September 16, 2008

RECEIVED

SEP 19 2008

RECEIVED

SEP 24 2008

SAN DIEGO  
COUNTY GRAND JURY

Honorable Kenneth So  
Presiding Judge  
San Diego County Superior Court  
Main Courthouse, Third Floor  
220 West Broadway  
San Diego, CA 92101

Re: Grand Jury Report entitled "CCDC: What Does it Develop and with Whose Money?"

Dear Judge So:

Pursuant to the California Penal Code Section 933.05 (a), (b) and (c), the San Diego City Council has provided the attached responses to the Grand Jury's report dated June 2, 2008.

In summary, on September 9, 2008, the City Council voted to approve the recommendations contained in Independent Budget Analyst Report Number 08-91 dated September 3, 2008.

A summary of the Council's response to the Grand Jury Report is attached along with the Independent Budget Analyst Report and the resolution adopted by the City Council approving their response.

Sincerely,

Scott H. Peters

SHP/ms

Attachments: Council Response to "CCDC: What Does it Develop and with Whose Money"  
IBA Report 08-91  
Council Resolution No. R-304098

cc: Honorable Mayor  
Councilmembers  
Independent Budget Analyst

**City Council Responses to Findings and Recommendations  
Made in the Grand Jury Report Entitled  
“CCDC: What Does It Develop and With Whose Money?”**

***Finding 1:** Since CCDC is authorizing the expenditure of public Redevelopment Agency funds for contracted services, there should be more oversight by the Redevelopment Agency.*

**Response:** The City agrees with the finding. It is anticipated that recommendations for improvement will be included as part of the current and upcoming audits on SEDC and CCDC. If not, the City will independently move forward with greater oversight in the future.

***Finding 2:** The lack of current audited financial statements opens the Redevelopment Agency to law suits and fines and hinders public oversight of revenues collected and expended, indebtedness and allocations for low and moderate income housing.*

**Response:** The City agrees with the finding; however, the City and the Agency are actively working to expedite the Annual Financial Statements, Agency Annual Reports and submittals to the State.

***Finding 3:** There is no timetable for repayment of these loans to the City.*

**Response:** The City partially disagrees with the finding. California Redevelopment Law – Health and Safety Code 33492.13 provides, among other things, limitations on the duration of redevelopment plans, tax increments, and incurring and repaying indebtedness. Redevelopment plans adopted on or after January 1, 1994, must contain a time limit, not to exceed 45 years from the date of adoption of the plan, to repay indebtedness with tax increment revenues. Redevelopment plans adopted prior to January 1, 1994 may receive tax increment for an additional 10 years from the date of termination of the effectiveness of the redevelopment plan for the purpose of repayment of debt.

In the IBA’s review of the Redevelopment Agency’s FY 2008 Budget, we noted the lack of a specific repayment schedule and recommended that the Agency discuss the development of a plan to repay outstanding debt for each project area. This recommendation was reiterated in IBA Report #07-105 on Redevelopment in San Diego. The topic of repayment was again discussed by the Council/Agency during their review of the Redevelopment Agency’s FY 2009 budget, specifically in regard to the proposed repayment of \$5 million in outstanding loans from the Agency for the Centre City project area, as managed by CCDC. (The IBA would like to note that this amount was revised per Council direction to \$7.5 million.)

Beyond the requirements as identified by Redevelopment Law, staff has stated their intention is to establish specific repayment programs and schedules as part of the 2009/10 budget process. The development of these repayment schedules has been identified as a priority in the IBA's Policy Matrix and will be monitored quarterly.

***Finding 4:*** *This misrepresentation has sometimes misled the public and the media as to the true role of CCDC as an agent, planner and project manager for the Redevelopment Agency.*

**Response:** The City agrees with the finding; however, the City and the Agency are continually working toward eliminating this confusion. The current CCDC web site and publications consistently state that CCDC provides staff services on behalf of the San Diego Redevelopment Agency to facilitate downtown redevelopment.

***Finding 5:*** *A single tiered Redevelopment Agency for all 17 project areas can be operated with greater efficiency than the present three-tiered model.*

**Response:** The City does not have adequate information and analysis to enable it to agree or disagree with the finding. Over the past three years, the Public Safety and Neighborhood Services Committee, Land Use and Housing Committee, and the Redevelopment Agency have discussed several topics associated with redevelopment restructuring. The primary focus has been the Redevelopment Division of the City. Consolidating the three redevelopment operating divisions (CCDC, SEDC, and the City Redevelopment Division) will require additional, extensive review and analysis.

***Recommendation 08-116:*** *Establish a dollar threshold over which any sole source contract, especially for consultant services and legal services, would have to come before the Agency for justification and approval.*

**Response:** The recommendation has been partially implemented through existing procedures. The City, through the City Auditor, is performing audits of the City redevelopment corporations (CCDC and SEDC). The City Auditor will review and make further procedural recommendations and safeguards beyond those described below.

Currently, the Agency approves both the corporations administrative and Agency project budgets. The corporations have operating agreements with the Agency to perform certain services including the retention of consultants. The following cites CCDC policies and procedures relating to these duties.

#### Dollar Thresholds

Section 3 "Contracting Policy for Professional and Technical Services" of the CCDC Cash Disbursement, Purchasing and Contracting Policies and Procedures provides that:

a. Contracts below \$250,000

- (1) As necessary to augment Corporation staff capability, the President is hereby authorized to enter into contracts with consultants for professional and technical services in amounts not to exceed Two Hundred and Fifty Thousand Dollars (\$250,000).
- (2) The President will disclose all contracts executed without Corporation approval at the Corporation Board meeting immediately following contract execution. Information disclosed will be provided in the President's Report.
- (3) Any amendments to Corporation contracts in excess of Two Hundred Thousand Dollars (\$200,000) in any one fiscal year will require Board approval prior to execution.

b. Contracts \$250,000 and above

Contracts in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000) and above must be approved by the Board and the Agency.

c. Annual Budget Amount

In no event shall the total amount expended or obligated for such consultants exceed the amount as may be authorized in the approved Corporation or Project budget.

Also, in July 2008, a new procedure was implemented by CCDC wherein, the Chair of the Budget/Finance and Administration Committee will consider and recommend approval or disapproval of any proposed sole source contract between \$50,000 and \$250,000 prior to the President's execution of the contract.

Consultant Solicitation

The consultant solicitation process and limitations on "sole sourcing" are embodied in Chapter 7 – "Consultant Contracting and Procedures for Request for Qualifications (RFQ) and Request for Proposals (RFP)" of the CCDC Equal Opportunity Handbook/Operations Manual for Business Contracting & Employment provides that:

"A consultant is defined as a firm or individual hired by the Corporation as an independent contractor to perform professional or technical services requiring licensure, certification and/or a particular knowledge or skill. A RFQ or RFP is issued to evaluate and select a consultant.

I. General Policies

A. The Corporation hires consultants for the performance of work, which requires special expertise beyond the capability of staff, when a consultant can provide the service in a cost-effective manner, or when a detached outside perspective is necessary.

B. No Corporation employee nor member of the Board shall have any ownership or financial interest in, either directly or indirectly, or profit from any Corporation contract during the firm's or person's service with the Corporation, or for one full year thereafter.

C. Consultants providing an “on-call” service to the Corporation shall provide said services for a three-year period from the award of the contract by the Corporation. *See Appendix Section F-1 for list of “on-call” services.*

D. Architecture or engineering consultant services shall be subject to California Government Code Section 4525 et. seq.

E. The Corporation may establish lists of pre-qualified consultants to perform specific professional services.

F. Non-competitive RFP’s shall be requested when circumstances indicate that the solicitation of competitive proposals is infeasible. Examples of solicitation of non-competitive proposals can occur when adverse and unavoidable time constraints exist, substantial cost savings result, and availability of required expertise is limited. All other policies shall pertain to the contract such as EO and insurance requirements.

G. If the professional service has not previously been budgeted or a project designated that requires the professional services, then the professional service must be approved by the Budget/Finance Committee prior to issuing a RFQ or RFP.

H. RFQs and RFPs that are on a three-year “as-needed” cycle do not have to have approval from the Board prior to issuing the RFQ or RFP.”

In addition, the Agency is in the process of developing procurement and contracting policies and procedures document to be approved on or before December 31, 2008.

***Recommendation 08-117:*** *Take steps to insure the timely submission of the fiscal Year 2007/2008 Redevelopment Annual Financial Report, and all such future reports, to the Office of the State Controller as required by law.*

**Response:** The recommendation is being implemented. Staff of the Redevelopment Agency and the corporations are working cooperatively with City staff and outside auditors to expedite the Agency Annual Financial Statement and other submittal as required by the State. It is anticipated that the Agency’s FY 2003 through FY 2007 Financial Statements will be completed by the end of the calendar year.

***Recommendation 08-118:*** *Direct staff of the three components entities of the Redevelopment Agency to compile a grid, broken down by project area, which would list all monies owed to the city of San Diego the date the debt was incurred, the fund from which the monies were borrowed and a realistic timetable for repayment.*

**Response:** The recommendation has been implemented in part. The debts of the Agency are accounted for by the City Comptroller. A detailed listing of the principal and interest

balances owed by each project area is updated each fiscal year. The detailed listing includes the fund from which the monies were borrowed. Beginning in fiscal year 2005, a schedule summarizing the changes to principal and interest balances owed by the Agency to the City of San Diego has been included in the Agency's audited financial statements. In addition, a summary of the debt by project area and category is provided on the Agency's annual Statement of Indebtedness filed with the County Auditor and submitted to the State Controller as part of the Agency's annual report pursuant to Health and Safety Code Section 33080.1. The IBA has also provided a summary of the outstanding debt by project area in their reports that discuss Redevelopment Debt (#07-50 and 07-150).

As noted in the response to Finding 3, the balance of the recommendation will be implemented as the Agency establishes repayment programs and schedules as part of the 2009/10 budget process. The development of these repayment schedules has been identified as a priority in the IBA's Policy Matrix and will be monitored quarterly.

***Recommendation 08-119:*** *Identify the true funding mechanism for every approved project at the time of approval.*

**Response:** The recommendation has been implemented. Per existing policies and procedures, Reports to the City Council and/or Redevelopment Agency, associated Council and/or Agency resolutions and routing approval forms include information as to the source of funds for every project and activity under consideration. All of these documents are available to the public.

***Recommendation 08-120:*** *Notify the Centre City Development Corporation to identify the true funding mechanism for every project it publicizes or in which it is otherwise involved.*

**Response:** The recommendation is being implemented. Beyond the procedures discussed in Recommendation 08-119, CCDC is ensuring that all public documents and its website provide accurate information on the source of funds.

***Recommendation 08-121:*** *Direct City Redevelopment Division staff now working on reorganizing the City's component of the Redevelopment Agency to take the additional step of preparing a plan to consolidate all three existing components under one administrative structure.*

**Response:** The recommendation requires further analysis to determine if it is warranted.

In April, the Redevelopment Agency directed the City Redevelopment Division staff to further explore and bring for Agency consideration, the components and costs of an Agency-Employee structure as compared to the current contract with the City of San Diego for staff and administrative services. The many tasks involved in this process are currently underway. Staff was also directed to return to Agency and report on the status of these tasks, the next update is anticipated to occur in October.

Consolidating the three-redevelopment operating divisions, (the City Redevelopment Division, Centre City Development Corporation and Southeastern Economic Development Corporation), requires extensive review and analysis of the operations and effectiveness of each operating division. Further consolidation could be explored following Agency direction regarding implementation of the proposed Agency-Employee model.



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THE CITY OF SAN DIEGO

OFFICE OF THE INDEPENDENT BUDGET ANALYST REPORT

Date Issued: September 3, 2008

IBA Report Number: 08-91

City Council Docket Date: September 9, 2008

Item Number: TBD

Response to Grand Jury Report Titled "CCDC: What Does It Develop and With Whose Money?"

On June 2, 2008 the San Diego County Grand Jury issued a report to the City Council entitled "CCDC: What Does It Develop and With Whose Money?" The stated purpose of the Grand Jury Report is "to explore the relationship between the City of San Diego Redevelopment Agency and the Centre City Development Corporation; to examine the tax increment funding for redevelopment projects; to examine the repayment of funds loaned by the City to the Redevelopment Agency; and to examine allegations that the Centre City Development Corporation sometimes misrepresents its role in financing downtown redevelopment projects."

The Grand Jury Report includes five findings and six recommendations. As required, the City Council must provide comment to the Presiding Judge of the San Diego Superior Court by September 2, 2008. However, due to the legislative calendar of the City Council, the Presiding Judge granted an extension for the City Council's response to September 19, 2008. The IBA submits the attached item to propose a response to the report's findings and recommendations, which were directed to the City Council. If the actions are adopted by the City Council, the Council President will be authorized to deliver the Council's response to the Superior Court.

[Signature of Lisa Celaya]
Lisa Celaya
Fiscal & Policy Analyst

[Signature of Andrea Tevlin]
APPROVED: Andrea Tevlin
Independent Budget Analyst

Attachments



Office of Independent Budget Analyst

202 C Street, MS 3A • San Diego, CA 92101
Tel (619) 236-6555 Fax (619) 236-6556



## **Recommended City Council Responses to Findings and Recommendations in Grand Jury Report “CCDC: What Does It Develop and With Whose Money?”**

### **GRAND JURY FINDINGS**

***Finding 1:** Since CCDC is authorizing the expenditure of public Redevelopment Agency funds for contracted services, there should be more oversight by the Redevelopment Agency.*

**Response:** The City agrees with the finding. It is anticipated that recommendations for improvement will be included as part of the current and upcoming audits on SEDC and CCDC. If not, the City will independently move forward with greater oversight in the future.

***Finding 2:** The lack of current audited financial statements opens the Redevelopment Agency to law suits and fines and hinders public oversight of revenues collected and expended, indebtedness and allocations for low and moderate income housing.*

**Response:** The City agrees with the finding; however, the City and the Agency are actively working to expedite the Annual Financial Statements, Agency Annual Reports and submittals to the State.

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**Response:** The City partially disagrees with the finding. California Redevelopment Law – Health and Safety Code 33492.13 provides, among other things, limitations on the duration of redevelopment plans, tax increments, and incurring and repaying indebtedness. Redevelopment plans adopted on or after January 1, 1994, must contain a time limit, not to exceed 45 years from the date of adoption of the plan, to repay indebtedness with tax increment revenues. Redevelopment plans adopted prior to January 1, 1994 may receive tax increment for an additional 10 years from the date of termination of the effectiveness of the redevelopment plan for the purpose of repayment of debt.

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The development of these repayment schedules has been identified as a priority in the IBA's Policy Matrix and will be monitored quarterly.

*Finding 4: This misrepresentation has sometimes misled the public and the media as to the true role of CCDC as an agent, planner and project manager for the Redevelopment Agency.*

**Response:** The City agrees with the finding; however, the City and the Agency are continually working toward eliminating this confusion. The current CCDC web site and publications consistently state that CCDC provides staff services on behalf of the San Diego Redevelopment Agency to facilitate downtown redevelopment.

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## GRAND JURY RECOMMENDATIONS

*Recommendation 08-116: Establish a dollar threshold over which any sole source contract, especially for consultant services and legal services, would have to come before the Agency for justification and approval.*

**Response:** The recommendation has been partially implemented through existing procedures. The City, through the City Auditor, is performing audits of the City redevelopment corporations (CCDC and SEDC). The City Auditor will review and make further procedural recommendations and safeguards beyond those described below.

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**Response:** The recommendation requires further analysis to determine if it is warranted.

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Corporation), requires extensive review and analysis of the operations and effectiveness of each operating division. Further consolidation could be explored following Agency direction regarding implementation of the proposed Agency-Employee model.

RESOLUTION NUMBER R-304098

DATE OF FINAL PASSAGE \_\_\_\_\_

APPROVING THE CITY COUNCIL'S RESPONSE TO THE  
2007-2008 SAN DIEGO COUNTY GRAND JURY REPORT  
ENTITLED "CCDC: WHAT DOES IT DEVELOP AND WITH  
WHOSE MONEY?"

WHEREAS, on June 2, 2008 the 2007-2008 San Diego County Grand Jury [Grand Jury] filed a report titled "CCDC: What Does It Develop and With Whose Money?" [Report] that requested a response from the Mayor and City Council; and

WHEREAS, under California Penal Code section 933(c), within 90 days after the filing of the report, each public agency which the Grand Jury reviewed, and about which it issued the Report, must comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency; and

WHEREAS, due to the City Council's legislative calendar, the Presiding Judge of the San Diego Superior Court granted a request for an extension of time to submit the City Council's response to the Report to September 19, 2008; and

WHEREAS, the purpose of the Grand Jury Report was to explore the relationship between the City of San Diego Redevelopment Agency and the Centre City Development Corporation, to examine the tax increment funding for redevelopment projects, to examine the repayment of funds loaned by the City of San Diego to the Redevelopment Agency, and to examine allegations that the Centre City Development Corporation sometimes misrepresents its role in financing Downtown redevelopment projects; and

WHEREAS, the Grand Jury requested that the City Council respond to each of the findings and recommendations 08-116 through 08-121 in the Report that relate to the City of San Diego; and

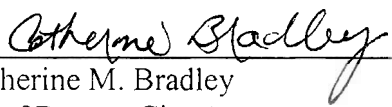
WHEREAS, the Office of the Independent Budget Analyst has proposed a response to the Report as set forth in IBA Report No. 08-91 dated September 3, 2008, for the City Council's consideration; and

WHEREAS, under Charter section 280(a)(1) this resolution is not subject to veto by the Mayor because this matter is exclusively within the purview of the City Council and not affecting the administrative service of the City under the control of the Mayor; NOW, THEREFORE.

BE IT RESOLVED, by the City Council of the City of San Diego, that the Council approves and adopts as its own the response to the to the 2007-2008 San Diego County Grand Jury Report filed June 2, 2008, and titled "CCDC: What Does It Develop and With Whose Money?" as set forth in IBA Report No. 08-91 dated September 3, 2008.

BE IT FURTHER RESOLVED, that the Council President is authorized and directed, on behalf of the San Diego City Council, to execute and deliver the above-described response to the Presiding Judge of the San Diego County Superior Court no later than September 19, 2008.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By   
Catherine M. Bradley  
Chief Deputy City Attorney

CMB:ar  
09/12/08  
Or.Dept:IBA  
R-2009-296