

CITY OF SAN DIEGO CORPORATE PARTNERSHIP DEVELOPMENT PROGRAM

SUMMARY

The 2017/2018 San Diego County Grand Jury (Grand Jury) became interested in the process followed in negotiating and determining the amount of revenue generated by City of San Diego corporate partnerships. At the request of the Grand Jury, the County Office of Audits & Advisory Services (OAAS) completed an audit of the Corporate Partnership & Development (CPD) Program's management processes. The OAAS concluded that there was not reasonable assurance that CPD management practices are proper and adequate. As a result, the City of San Diego is unable to determine the overall success of CPD. Based on the OAAS audit results, the Grand Jury recommends that the San Diego Mayor and City Council update City Council Policy 000-40, "Marketing Partnership Program," to:

- Include all types of agreements considered by the CPD Program.
- Require CPD to keep current and accurate records of all agreements, regardless of which department administers them.
- Require CPD to document actual revenue collected from each sponsor/partner.
- Require CPD's accounting to distinguish between revenue generated from an agreement's net money benefits and non-revenue items.
- Require respondents to Requests for Sponsorship (RFS) to identify potential conflicts of interest.
- Clarify CPD's reporting requirements on the Program.

In addition, the Grand Jury recommends the Mayor and City Council:

- Update the CPD Records Disposition Schedule to have them retain all agreement files for the full term of the agreement, plus five years.
- Ensure that all City employees administering CPD agreements receive adequate training in contract administration.

INTRODUCTION

Based on issues provided by the Grand Jury, the OAAS conducted an audit of the CPD's management processes. OAAS reviewed the origin of CPD, its structure, its roles and responsibilities, its programs and its performance. OAAS conducted interviews with city employees and reviewed records of CAP programs comparing them with applicable City policies and procedures.

DISCUSSION

As a part of its investigations, the Grand Jury became concerned about the procedures followed in negotiating and administering Corporate Partnership agreements. Those concerns included the issues raised by a 2016 report by the City Auditor, which found that decentralized supervision of City agreements led to problems due to inadequate staff training. An investigation of these concerns was beyond the Grand Jury's expertise, so it requested that the OAAS audit the City of San Diego's Corporate Partnership Development Program to determine if it is carrying out its roles and responsibilities and complying with appropriate standards.

The OAAS audit (see Appendix A) evaluated CPD's authority, structure, budget, roles, and responsibilities. The audit analyzed CPD's procedures in place to identify, establish, and manage agreements within the CPD program. OAAS then performed a detailed review of a sample of agreements.

The Marketing Partnership Policy 000-40 (MPP) defines a "Marketing Partnership" as a mutually beneficial business arrangement between the City and a third person, wherein the third person provides cash and/or in-kind services to the City in return for access to the commercial marketing potential associated with the City. The goal of the City is to work with organizations to develop business strategies that produce revenue and deliver non-monetary benefits for San Diegans and/or City employees. An example of a successful Corporate Partnership is the agreement with Toyota Motor Sales. Toyota was granted a variety of benefits including promotional events at City facilities, media exposure and working with the City Lifeguards for Special Events. In return, Toyota provided the San Diego City Lifeguards with 34 reliable and quality vehicles with an option to replace the entire lifeguard fleet upon renewal.

The Marketing Partnership Policy addresses the City's guidelines and responsibilities related to identifying, establishing, and managing corporate partnerships. CPD, which currently has three employees, is responsible for implementing the City-wide program. Additional duties of CPD include coordinating grants, employee discounts, and developing and drafting the City's policies for Naming of City Assets and Donation Acceptance. The Policy requires CPD to report quarterly on all Marketing Partnerships. According to CPD, the program is not under the Purchasing & Contracting Department because the purchasing function involves spending taxpayer funds, while CPD agreements have no purchasing elements. Although CPD agreements are required to contain many of the same legal elements as other City contracts, OAAS found that Policy 000-40 does not require responses to an RFS to disclose potential conflicts of interest.

The OAAS:

- Reviewed City Council policies related to marketing partnerships, donations acceptance, naming of city assets, and records management and retention.
- Conducted interviews to determine the structure and responsibilities of CPD, and its authority to enter into agreements, including Mayoral and City Council approvals.
- Conducted interviews to identify processes for managing agreements, processes for requesting sponsorships, evaluating interested parties, and tracking sponsorship revenue.
- Inspected documents related to the CPD program, including but not limited to, Requests for Sponsorships (RFS), agreements, leases, agreement administration and financial records, and budget committee updates.
- Conducted a review of revenue generated by CPD to verify funds received since program inception.
- Conducted a review to determine whether RFSs were created in accordance with policy.
- Conducted a review of agreements to evaluate the adequacy of terms and alignment of agreement to the Marketing Partnership Policy.

- Conducted a detailed review on a sample of agreements to ensure the adequacy of administration and invoicing practices, and to determine City and sponsor compliance with terms of agreement.
- Reviewed CPDs document management to determine whether all documents related to an agreement are maintained in the files.

The OAAS audit report (Appendix A) discusses in detail the methods, sources and rationale used in the audit. The Grand Jury has reviewed and agrees with the facts, findings and recommendations of the audit, which are summarized below.

FACTS AND FINDINGS

Marketing Partnership Program Policy:

Fact: City Council Policy 000-40, “Marketing Partnership Program,” governs the types of Corporate Sponsorships and promotional and licensing agreements, and the process for negotiating them.

Fact: Policy 000-40 only defines marketing partnerships.

Finding 01: Policy 000-40 does not list all types of sponsorship agreements.

Fact: The different types of partnerships CPD entered into include marketing partnerships, corporate partnerships, and promotional and licensing agreements.

Fact: CPD did not document and maintain a list of all agreements.

Finding 02: The audit was unable to determine whether all agreements under the Program had been identified.

Fact: The MPP requires CPD to track and report quarterly on all marketing partnerships developed by City departments.

Fact: CPD has not prepared quarterly reports for at least five years.

Finding 03: CPD does not comply with the MMP requirement to track and report on all marketing partnerships developed by City departments on a quarterly basis.

Fact: Policy 000-40 does not require sponsors to disclose potential conflicts of interest.

Finding 04: The lack of a requirement for disclosure increases the risk that an agreement could create a conflict of interest, or the appearance of one.

Records Management:

Fact: City Council Policy 000-25, Records Management Program, requires each department head to establish systems for protecting vital records.

Fact: CPD's Records Disposition Schedule classifies CPD project records, including agreements, as routine administrative working files that should be retained no more than five years.

Fact: Some CPD agreements are for terms longer than five years.

Finding 05: The disposition schedule does not require CPD to maintain project records for at least the life of the agreement.

Finding 06: CPD files on some agreements are incomplete.

Accounting for Revenue:

Fact: CPD reports claim that the Program has generated over \$27 million for the City.

Fact: CPD cannot provide data to verify the amount of revenue generated by the Program.

Fact: CPD estimates the revenue generated by some agreements.

Finding 07: CPD lacks a process for determining the net benefits of agreements.

Terms of CPD Agreements:

Fact: Policy 000-40 specifies topics that must be addressed in Requests for Sponsorship.

Fact: One of eight RFSs reviewed did not describe the benefits of participation.

Fact: Seven of eight RFSs did not describe the open and competitive process.

Finding 09: Failure to adequately describe the sponsorship opportunity could reduce the number of potential respondents.

Fact: Policy 000-40 does not require CPD to identify the City department responsible for administering the agreement.

Fact: Five of 15 agreements examined did not accurately identify the responsible department.

Finding 10: Failure to identify the responsible administrative department can result in lack of accountability in managing an agreement, including lost revenue.

RECOMMENDATIONS:

The San Diego County Grand Jury recommends that the San Diego Mayor and San Diego City Council:

18-34: Update City Council Policy 000-40 to:

- **Include all the types of agreements considered by the CPD Program.**
- **Require CPD to keep current and accurate records of all agreements, regardless of which department administers them.**

- **Require CPD to document actual revenue collected from each sponsor/partner.**
- **Require CPD's accounting to distinguish revenue generated from an agreement's net monetary benefits versus the value of non-revenue items.**
- **Require respondents to RFSs to identify potential conflicts of interest.**
- **Clarify CPD's reporting requirements on the Program.**

18-35: Update the CPD Records Disposition Schedule to require CPD to retain all agreement files for the full term of the agreement, plus five years.

18-36: Ensure that all City employees administering CPD agreements receive adequate training in contract administration.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with 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 or head 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 months from the date of publication of the grand jury report.

- (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
Mayor, City of San Diego	18-34 through 18-36	9/3/18
San Diego City Council	18-34 through 18-36	9/3/18