

# SACRAMENTO PUBLIC LIBRARY AUTHORITY'S RESPONSE TO GRAND JURY REPORT ENTITLED "THE BUSINESS OF BOOKS"

August 6, 2008

## Introduction

This constitutes the response by the Governing Board of the Sacramento Public Library Authority (the "Board") to the Final Report prepared by the 2007-2008 Sacramento County Grand Jury, entitled "the Business of Books" (the "Report").

## Preliminary Statement

The Board expresses its appreciation to the 2007-2008 Sacramento County Grand Jury for the extensive time and effort that the Grand Jury devoted in the conduct of the investigation and preparation of the Report. The Board appreciates the Grand Jury's dedicated service.

The Grand Jury has requested a response to its Report. This response addresses the findings and recommendations made with respect to the Sacramento Public Library Authority (the "Authority" or "Library"). Our response does not address the Grand Jury's narrative leading up to its Findings and Recommendations both because we are required to respond only to the Findings and Recommendations and because, as we discuss more below, we are not able to agree or disagree with the Report's narrative because of the restraints the law places on us.

As the Authority's governing body, state law requires us to respond to the Grand Jury's Report within ninety days after receiving it.<sup>1</sup> This deadline imposes certain constraints in the type of response we are able to give. The Grand Jury listened to over 40 witnesses, and reviewed over 1,500 documents and issued over 70 subpoenas. We cannot possibly recreate such an exhaustive investigation in so short a period of time.

Our response also is limited by the resources available to us. The law does not give us a right of access to the names and testimony of the witnesses interviewed by the Grand Jury, or to the specific documents and records that were reviewed and considered by the Grand Jury in reaching its findings and recommendations.<sup>2</sup> Thus, we have had no opportunity to evaluate the testimony or the exhibits that the Grand Jury considered.

Because we have not heard the Grand Jury's witnesses and seen the Grand Jury's evidence, we don't have enough information to be able to agree or disagree with many of the Grand Jury's findings and recommendations, particularly the more subjective ones. Where the Grand Jury concludes, for example, that the Library Director's "management style discourages" free and open communication with subordinates

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<sup>1</sup> Penal Code, section 933(c).

<sup>2</sup> In *McClatchy Newspapers v. Superior Court* (1988) 44 Cal. 3d 1162, the Supreme Court held that grand juries may not disclose raw evidentiary materials, including transcripts of testimony, underlying their final public reports.

(Finding 2B) or the Library Director and her executive team “lack appreciation” of the Finance Department staff’s skills, knowledge and contributions (Finding 2L), we are not in a position to agree or disagree, because we do not know all the things the Grand Jury considered before arriving at these conclusions. Other examples of findings that are subjective include Findings 2C, 2G, 2H and 2-I. Moreover, where the Grand Jury finds that the Library Director was “unable to demonstrate” her working knowledge to the Grand Jury (Finding 2A), the Library Director “could not demonstrate” management controls were in place (Finding 5B) and the Grand Jury was “unable to determine” if reimbursements were made (Finding 4C), we are not in a position to agree or disagree, and must therefore disagree, because we were not privy to the proceedings of the Grand Jury.

The Grand Jury is authorized to report on the operations, accounts, records, departments, functions and the method or system of performing the duties of a joint powers authority and make such recommendations as it sees fit. (Penal Code, section 925a.) The Report includes a recommendation that the Board consider removing the Library Director. This recommendation results in another limitation on our response. While the Grand Jury can – and should – speak freely about the Library Director’s management style, and critique her management skills, we cannot, and will not, participate in a public discussion of what must for us be a private personnel issue. Our interpretation of the law is that personnel evaluations must be conducted in a way that protects the privacy rights of the employee. All persons in California have a constitutionally protected right of privacy (California Constitution, Article I, section 1). As such, when public agencies make personnel decisions, they do so in a way that protects the privacy rights of their employees. The Board is the employer of the Library Director. We must, therefore, respect her privacy rights, and we will do so in this Response. All discussions by the Board about the Library Director’s performance will be conducted in closed session, consistent with the Brown Act. (Government Code, section 54957.)

The Penal Code, however, doesn’t allow us to respond in any other way than to say either that we agree with a finding or that we disagree. (Penal Code, section 933.05(a).) We have stated when we agree or disagree with a finding. However, there will be times in this Response when we state we are required to disagree with a finding or recommendation because we cannot discuss personnel issues or the finding is subjective. We do not mean to suggest in such responses that we condone conduct which is contrary to good public administration, or that we are criticizing the work of the Grand Jury. Instead, our responses simply are the products of limited choices the law permits us.

## Findings and Recommendations

### Grand Jury’s Finding 1.

**The Joint Powers Agreement (JP A) incorrectly vests excessive discretion for Library operations and issues in one position, that of Library Director.**

### Board’s Response.

We disagree with this finding.

The Joint Exercise of Powers Agreement, as amended and effective July 1, 2007, establishes a “Governing Board” and the Governing Board appoints the Library Director who, pursuant to the Joint Exercise of

Powers Agreement (“JPA”) is the chief executive officer of the Authority and is responsible for the administration of the Authority. (JPA, section 8.)

It is not unusual in California that the governing board or legislative body of a local public entity appoints no more than two persons – its manager and its attorney. For example, although county free libraries are under the general supervision of the county board of supervisors and the State Librarian, the supervisors must appoint a qualified county librarian with a demonstrated knowledge of the principles and practices of public administration and who is responsible for managing the library subject to the general rules established by the supervisors. (Education Code, sections 19140, 19160, 19167.) The county librarian reports annually to the board of supervisors, and he or she must authorize and approve all claims against the county free library fund. (Education Code, sections 19169, 19176.) County librarians meet annually with the State Librarian to discuss questions pertaining to the supervision and administration of the county free libraries. (Education Code, section 19168.)

There are five other public libraries in California that are joint powers authorities (Belvedere-Tiburon, San Mateo, Santa Clara, Santa Cruz and Sonoma). The boards of all five of these joint powers authorities appoint the library director or chief executive officer and an attorney, just as our Board does.

This organizational structure is not unique to libraries. The great majority of California’s 480 cities have adopted so-called “Council/Manager” forms of government pursuant to Government Code, section 34851 et seq.; in those cities, the city manager is hired by the Council and reports directly to the Council. All other employees are retained by the city manager and report to the Council through the City Manager, with the exception of the city attorney, who is also appointed directly by the council (or, in a few cities, elected).

Finally, many special districts in California have a similar government structure. Regional parks districts appoint a general manager (Public Resources Code, sections 5538, 5549) as do transit districts (Public Utilities Code, sections 102000-102700 [Sacramento Regional Transit District]; sections 24926-24929 [Alameda/Contra Costa Transit District]; sections 28830-28836 [Bay Area Rapid Transit District]; sections 30330-30336 [Southern California Rapid Transit District]), public utility districts (Public Utilities Code, sections 11501 et seq. [Sacramento Municipal Utility District] and community services districts (Government Code, section 61050, section 61051, including the Rancho Murieta Community Services District).

**Grand Jury’s Recommendation 1A.**

***Amend the JPA to redefine that position of Chief Executive Officer (CEO). That position should define a person with proven business expertise and credentials to operate a business enterprise the size of the Sacramento Public Library system. This is similar to the way in which hospitals used to be headed by a physician and are now led by a professional in Hospital Administration.***

**Board’s Response.**

*The Board will not implement Recommendation 1A.*

*The Board does not have the power to amend the joint powers agreement. The Sacramento Public Library Authority is a “joint powers authority.” The joint powers authority was created when*

*Sacramento County and six cities in the County entered into a "joint exercise of powers agreement" to create the Sacramento Public Library Authority. The "joint exercise of powers agreement" was approved by the Board of Supervisors of the County and the city councils of the six cities. The "joint exercise of powers agreement" establishes a "Governing Board" and the Governing Board appoints the Library Director who, pursuant to the Joint Exercise of Powers Agreement ("JPA") is the chief executive officer of the Authority and is responsible for the administration of the Authority. (JPA, section 8.) The Governing Board cannot amend the JPA, as is recommended. Only the parties to the 2007 JPA can amend it.*

*The JPA requires that the Library Director meet the qualifications of a county librarian provided in Education Code, section 19142, which requires graduation from a graduate library school, among other things. Accordingly, the position description for Library Director requires that applicants have a master's degree in Library Science and at least eight years of professional public library administration. In addition, it requires that applicants have demonstrated skills in managing financial responsibilities of an organization. Applicants should also possess "well-grounded business acumen" and be able to prepare and administer the Library's budget.*

*On May 2, 2008, the Authority issued a "request for proposals" for a consultant to conduct a performance audit. At its June 16, 2008, the Board selected MGT of America to conduct the performance audit. The scope of work for the audit includes interviews with focus groups and others to identify key issues and expectations for the Library; a review of the Library's departments, including Facilities, Finance, Human Resources, and Information Technology; a review of work processes and products and established policies and procedures; a review of staffing deficiencies or surpluses with recommendations for how to correct them; a review of state and national benchmarks for comparable libraries; and a comparison of each department's cost of services to customer service output. The work will conclude with recommendations on how to improve efficiency and effectiveness of service with real, constructive solutions. The report is due to the Board by December, 2008.*

*Following receipt of the performance audit, the Board will forward any recommendations contained in the audit regarding the powers and duties of the Library Director to the parties to the 2007 JPA (the County and six cities).*

**Grand Jury's Recommendation 1B.**

***Amend the position of Deputy Director for Public Services to create a position of Deputy Director, Library Services. Seek a person for this position with specific Library Science skills to oversee topical and program initiatives critical to a successful library program. This person should report to the redefined CEO.***

**Board's Response.**

*The recommendation will not be implemented.*

*Recommendation 1B is related and tied to Recommendation 1A. Because the Board will not implement Recommendation 1A, it will not implement Recommendation 1B.*

*Notwithstanding, following receipt of the performance audit which is due in December 2008, the Board will consider implementing any recommendations in the performance audit that relate to this position.*

**Grand Jury's Finding 2A.**

As CEO of the Library Authority, the Library Director is responsible for all policies and procedures for the Library's operations. The Library Director has been unable to demonstrate, to this Grand Jury, a working knowledge of, or responsibility for, current policies, and procedures for day-to-day operations.

**Board's Response.**

We agree that the Library Director is responsible for implementing all policies and procedures adopted by the Board regarding the Library's operations. We are required to disagree with the remainder of this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2B.**

The Library Director's management style discourages free and open communication with subordinates.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2C.**

The Library Director eschews written notes and periodic reports, preferring to operate in an "ad hoc" and anecdotal management style inconsistent with managing a major publicly funded enterprise. The Library Director delegates responsibility and authority to senior managers without proper oversight.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2D.**

The Library Director failed to adequately supervise her subordinates.

### Board's Response.

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

### Grand Jury's Finding 2E.

The Library Director failed to require adequate record keeping and recurring reports from the executive team.

### Board's Response.

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

### Grand Jury's Finding 2F.

The Library Director failed to see the gravity of situations as they arose. Furthermore, when the magnitude of the problems evolved, she took inadequate action to resolve them. Some examples are:

#### All City Hagginwood

- A finance clerk notified her superiors of the conflict of interest and over-billing issues. Ten months passed before any action was taken. The solution selected by the Library Director was to publish a request for a new maintenance contract. Nothing was done at this point to review billings or the actions of individuals who had a conflict of interest in assigning repair work.
- The prior company, All City, co-owned by a Library employee and his wife now operating under a different name, Hagginwood, was awarded the new contract. The Library Director and the Deputy Director of Administrative Services believed there was no conflict of interest, even though they knew of the employee's continuing involvement. Apparently, no thought was given to the possibility that other Library employees might be involved.
- Several months later, when the over-billing was reported in *The Sacramento Bee*, the Library Director hired an investigative firm. The investigative firm reported on the involvement of another library employee and the extent of monies lost due to over-billing.

#### Implementation of Eden Software

- The Library Director hired a new Finance Director, who was unfamiliar with Eden system, and expected him to implement the new accounting system after being on the job only a few months. There were no accounting department policies and procedures in place at that time.

- With the Finance Director devoting his time to the implementation of Eden, routine accounting work fell behind.
- The Finance Director excluded Finance Department staff from most of the Eden training provided in the initial contract.
- The Finance Department was understaffed to take on the transition to the Eden system and also to continue to provide daily accounting services to the Library.
- An Accounts Manager was hired to oversee the accounting staff and prepare for the audits. Work fell further behind, making it necessary to hire temporary outside accounting help.
- What was costing \$90,000 annually for the City to serve as the Library's fiscal agent ended up costing the Library over three times that amount. Four years later Eden is still not fully implemented.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2G.**

The "All City/Hagginwood Scandal" would have been a much smaller fiscal incident had members of the Library executive team been more receptive to alerts by a finance Clerk. One executive team member stated the Library Director didn't think the Hagginwood over-billing was "of substance".

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2H.**

The Library Director relies on a five or six member executive team to set the direction of the Library. This narrow management style fails to make use of the extensive professional talent and expertise of the Library staff.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2-I.**

Library branch managers have Master's Degrees in Library Science. (The exception to this practice

is found at the smaller, more remote library branches.) These highly educated employees are, for the most part, ignored in the decision making process for Library issues. Their expertise was seldom sought and often shunned.

**Board's Response.**

We agree that Library branch managers are very valued employees of the Library and their educational attainments add value to the Library and its mission to serve the public. Beyond this we can express no opinion; as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2J.**

When serious problems arose within the Library system, the Library Director failed to communicate these issues in a timely manner to Governing Board members.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2K.**

The Library Director has been aware for some time of low morale among Library employees, as evidenced by the petition of no confidence presented to the Governing Board. Correcting the morale problem has not been given the sustained priority necessary to be effective.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 2L.**

Finance Department personnel possess skills and expertise beyond that for which they are used. The Library Director and executive team lack appreciation of the skills, knowledge, and contributions of the Finance Department staff.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.



### Grand Jury's Recommendation 2.

*In view of the numerous serious management problems currently afflicting the Library, the Governing Board should seriously consider removing the current Library Director for the following causes:*

- *Fiscal mismanagement*
- *Failure to adequately track and implement financial controls or other management initiatives*
- *Lax oversight of subordinates*
- *Abuses of credit card and travel policies by the Director and the executive team*
- *Chronic, long-standing, unresolved morale problems*
- *Unclear cash management policies and procedures*

### Board's Response.

*This recommendation requires further analysis.*

*The Grand Jury's Report recommends the Board consider termination of the Library Director and lists specific reasons why the Board should consider terminating the Director. As such, it concerns a personnel matter.*

*As noted in our Preliminary Statement, any Board evaluation of the Library Director and any discussion of discipline or dismissal can only occur in closed session. As is the practice of the Board, it will evaluate the Library Director in closed sessions and will consider any personnel matters affecting the Library Director in closed session.*

### Grand Jury's Finding 3.

The JP A failed to create any system of independent checks and balances in the Library for the benefit of the Governing Board when considering issues and rendering decisions.

### Board's Response.

We disagree with this finding.

Pursuant to the JPA, the Board appoints the Library Director and legal counsel. Inasmuch as the Library Director and Authority Counsel are independent of each other, the JPA does provide a person who can report directly to the Board if there is a concern regarding the conduct of the other. The JPA does not specifically provide for standing committees of the Board but clearly provides authority for the Board Chair to establish such committees. (JPA, section 4.) The Board Chair has appointed committees in the past. (See Response to Finding 8.)

As discussed in our response to Finding 1, the structure of the JPA is similar to the organizational structure of County libraries, all other library joint powers authorities, most of California's 480 cities and numerous special districts.

### Grand Jury's Recommendation 3.

*The Governing Board should define specific measurable guidelines to operate the Library along established business principles to include:*

- *Criteria for the safeguard and proper use of public funds*
- *Management accountability and reporting systems*
- *Efforts to recoup outstanding balances owing to the Library*

### Board's Response.

*The Board will implement Recommendation 3 following receipt and consideration of the recommendations in the performance audit which is due in December 2008, and if determined to be necessary and appropriate. Barring unforeseen circumstances, Recommendation 3 will be implemented no later than June 30, 2009. New or revised policies, procedures and/or guidelines will consider the recommendations of the performance audit.*

*The Library has made efforts to recoup monies owed to the Library. The efforts to recover monies begin with the Library staff. Once the amount owed reaches a certain amount, as noted in the Grand Jury's Report, the Library has contracted with Unique Management Services since 2000 to collect overdue fines, materials and other monies. The Library filed suit in 2007 (Sacramento Public Library Authority v. Hagginwood Services, Inc., et al., Sacramento Superior Court Case #07AS04830) to recover monies from Hagginwood Services, Inc and other defendants and has obtained a default judgment. The Board intends to enforce it.*

### Grand Jury's Finding 4A.

The Department of Human Resources should have required that employee evaluations be performed on a timely basis. Some Library employees have not been evaluated in as many as five years.

### Board's Response.

The Board agrees that the Department of Human Resources should ensure that employees are evaluated on a regular basis.

### Grand Jury's Finding 4B.

Three members of the executive team were aware the Director of Human Resources was abusing the credit card system. Her immediate supervisors knew about these abuses. The Director of Human Resources received no reprimands.

### **Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Director of Human Resources' performance. She has a right to have personnel issues addressed privately.

Moreover, the Board is not privy to whether the Director of Human Resources received a reprimand or not. Under the JPA, the Board hires only the Library Director and the Authority Counsel. The JPA vests the authority to hire other employees, which includes the Director of Human Resources, in the Library Director.

### **Grand Jury's Finding 4C.**

At the time of this Grand Jury investigation, the Library Director and at least eight members of the management team were issued Library credit cards. The Library Director and the Director of Human Resources took up to two years to reimburse the Library for personal expenses charged to their Library credit card. From the incomplete documents provided, this Grand Jury was unable to determine if all reimbursements have been made for personal expenses.

### **Board's Response.**

The Board agrees with the first sentence of Finding 4C. The Board agrees that the Library Director took more than two years to reimburse the Library for an overpayment to her by the Library. The Board also agrees that the Director of Human Resources took eight months to reimburse the Library for the amount determined to be due for personal expenses charged to her Library credit card. As noted in our Preliminary Statement, we are required to disagree with the third sentence. The Board intends to strengthen the existing credit card policy (see Response to Recommendation 13) and notes that that policy no longer allows use of Library credit cards for any personal use.

### **Grand Jury's Recommendation 4.**

*The Governing Board should seriously consider having the Director of Human Resources removed for lack of leadership in establishing and implementing personnel policies, repeated abuses of the Library travel and credit card policies, and her dilatory reimbursements of personal expenses.*

### **Board's Response.**

*The recommendation will not be implemented.*

*Under the JPA, the Board hires only the Library Director and the Authority Counsel. The JPA vests the authority to hire other employees, which includes the Director of Human Resources, in the Library Director. (JPA, section 8.c.vii.) It is the Library Director who has the authority to remove employees appointed by her. The Board does not have the power to have the Director of Human Resources removed, and this recommendation will, therefore, not be implemented.*

#### Grand Jury's Finding 5A.

The Library Director and many members of the management team failed to adequately safeguard public funds. They neglected to give high priority to financial management.

#### Board's Response.

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

#### Grand Jury's Finding 5B.

The Library Director could not demonstrate that any adequate, verifiable management controls were in place for fiscal and operational activities at the Library.

#### Board's Response.

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

#### *Grand Jury's Recommendation 5.*

*The Governing Board should create a standing committee of Governing Board members for direct financial oversight of Library operations to ensure proper safeguarding and accounting for the expenditure of public funds.*

#### *Board's Response.*

*The Board will implement this recommendation. The Board Chair appointed a Budget/Audit Committee at the Board's November 29, 2007 meeting, which operates as a standing committee. However, to eliminate any ambiguity, the Board Chair will clarify the scope of the Budget/Audit Committee's jurisdiction to include all financial matters at its September 2008 meeting.*

#### Grand Jury's Finding 6A.

The Library Director approved several consultant contracts which omitted important details, such as the date of the contract, the "do not exceed" amount, and appropriate signatures.

#### Board's Response.

The performance audit that is underway will address the Library's contract approval practices. Lacking information as to the parties to the consultant contracts, the Board cannot agree or disagree with Finding 6A, so our response must be considered a disagreement.

### Grand Jury's Finding 6B.

This Grand Jury subpoenaed all the Library's consultant contracts. While several were forwarded, others could not be located by the Library.

### Board's Response.

The Board has no access to the documents and testimony relied upon by the Grand Jury to support Finding 6B. Lacking information as to which contracts were provided and which were not, the Board cannot agree or disagree with Finding 6B, so our response must be considered a disagreement. However, the performance audit will address various administrative practices, including a review of the Library's current system for document retention and retrieval.

### *Grand Jury's Recommendation 6.*

*The Governing Board should create more direct oversight and reporting procedures for the approval of consultant contracts for services at the Library.*

### *Board's Response.*

*The Authority's procedures for approval of professional consultant contracts for services were adopted by the Board in September 2005. The Board will implement Recommendation 6 following receipt and consideration of the performance audit which is due in December 2008, and if determined to be necessary and appropriate. Barring unforeseen circumstances, Recommendation 6 will be implemented no later than June 30, 2009.*

### Grand Jury's Finding 7A.

The Governing Board failed to appoint an independent Treasurer or Auditor to oversee the actions of the Library Director and the senior management staff.

### Board's Response.

The Board disagrees with Finding 7A.

The 2007 JPA provides that the Board shall appoint the Authority Treasurer and Authority Auditor who shall be from the employees of the Authority. One employee may hold both positions, as provided in Government Code, section 6505.6. (JPA, section 9.) The 2007 JPA does not authorize the Board to appoint a Treasurer and Auditor who are "independent" and not employees of the Authority.

On July 26, 2007, by Resolution No. 07-33, the Board appointed Rick Teichert, Deputy Director of Administrative Services, as the Authority Treasurer and Authority Auditor for the period ending June 30, 2008. On June 16, 2008, by Resolution No. 08-29, the Board appointed Rick Teichert, Deputy Director of Administrative Services, as the Authority Treasurer and Authority Auditor for the period from July 1, 2008 pending the Board's response to the Report or through its February, 2009 Board meeting.

### Grand Jury's Finding 7B.

The first recommendation of the Sinclair report was to "Appoint a Library Authority staff member as the Auditor-Controller, substituting for the City Auditor-Controller." The Governing Board failed to implement this recommendation. Several other equally valid recommendations of the retained consultant were also ignored by the Governing Board.

### Board's Response.

The Board disagrees with Finding 7B.

The recommendation of the Sinclair Report ("Financial Management System Organizational Assessment, Sacramento Public Library Authority," prepared by Sinclair & Associates, and dated September 25, 2003) was that the 1993 JPA should be amended to appoint the Library Authority Finance Director as "Controller" for the Authority. (Sinclair Report, Chapter 3.) The 1993 JPA provided in Section 10 that the "Auditor-Controller of the City of Sacramento shall be the Treasurer and Auditor-Controller of the Authority." The Sinclair Report recommendation required an amendment of the 1993 JPA. In fact, the 1993 JPA was amended in 2007 and as amended it provides for appointment of a staff member as the Treasurer and Auditor. Following the July 1, 2007 effective date of the 2007 JPA, the Board appointed Rick Teichert, Deputy Director of Administrative Services, as the Authority Treasurer and Authority Auditor.

The finding that other recommendations in the Sinclair report were ignored is too vague for the Board to respond.

### Grand Jury's Recommendation 7.

*Parties to the JPA should amend it to require the Treasurer and the Auditor be separate individuals to remove any possible conflicts of interest.*

### Board's Response.

*Recommendation 7 will not be implemented because it is not warranted.*

*The provisions of the 1993 JPA and the 2007 JPA are consistent with Government Code, sections 6605.5 and 6505.6, respectively. Section 6605.5 provides that, as here, where a separate legal entity is created by a joint powers agreement, the joint powers agreement must designate the treasurer of one of the parties to the agreement to have custody of all monies and act as the treasurer and auditor. Section 10 of the 1993 JPA designated the Auditor-Controller of the City of Sacramento as the Treasurer and Auditor-Controller of the Authority. Section 6505.6 provides an alternative, which is that a joint powers authority may appoint "one of its officers or employees to either or both" the positions of treasurer and auditor. Section 9 of the 2007 JPA requires the Board to appoint the Treasurer and Auditor from the Authority's employees, and allows but does not require the Board to appoint the same person to both positions. The 2007 JPA does not, therefore, need to be amended if the Board elects to appoint separate individuals to the two positions.*

*Notwithstanding, the Board will ask the consultant conducting the performance audit for its comments regarding Recommendation 7.*

### **Grand Jury's Finding 8.**

The Governing Board gave the Library Director broad latitude and required little accountability from the Director beyond regularly scheduled agenda meeting reports.

### **Board's Response.**

The Board disagrees with Finding 8.

The powers and duties of the Library Director, who is the chief executive officer, are provided in the JPA. The parties to the joint powers agreement, consisting of the County of Sacramento, the City of Citrus Heights, the City of Elk Grove, the City of Galt, the City of Isleton, the City of Rancho Cordova and the City of Sacramento, decided, in adopting the 2007 JPA, what the powers of the Library Director would be. As an "at will" employee, the Library Director is directly and solely accountable to the Board. As a public entity subject to the Ralph M. Brown Act, Government Code, section 54950, the Board can only provide direction to the Library Director at regularly scheduled and publicly noticed meetings of the Board. As discussed in our response to Finding 1A, the management structure established by the 1993 JPA and the 2007 JPA – with the Library Director being the chief executive officer to implement policy made by the Board – is consistent with the structure of county libraries, other library joint powers authorities and most other local entities in California.

In the last several years, the Board Chair has appointed four ad hoc committees. A Labor Committee has been appointed twice (late 2004/early 2005 and in the autumn of 2006) to provide direction for on-going labor negotiations. A Membership/Governance Review Committee was appointed in April 2005 to look at the possibility of expanding the membership of the Authority. In November 2007, the Chair appointed a Bylaws Committee to make recommendations for revisions to the Bylaws, and a Budget/Audit Committee to review the 2005/06 audit prior to presentation to the Board and assist in the selection of an auditor for the 2006/07 and 2007/08 audits. The Chair has also generally appointed a Director's Performance/Salary Review Committee each year to make recommendations to the Board on compensation for the Library Director; the most recent committee was appointed in January 2008.

### **Grand Jury's Recommendation 8.**

*The Governing Board should publish an annual report which shall include a budget summary, year-end accomplishments, and future plans.*

### **Board's Response.**

*This recommendation will be implemented.*

*The Authority's fiscal year is July 1 through June 30 and the Board must adopt a budget within 90 days of July 1 each year. (2007 JPA, section 11.a.) The budget is adopted at a public meeting and any changes to it are made in public. The adopted budget includes information regarding plans for the fiscal year.*

*The Board will publish an annual report, following the close of the 2008-09, 2009-10 and 2010-11 fiscal years and will then assess whether it should publish such reports in future years, given the Library's resources..*

**Grand Jury's Finding 9A.**

Several members of the Library management staff failed to comply with numerous deadlines set forth in subpoenas requesting Library documents.

**Board's Response.**

The Board considers the work of this and every Grand Jury to be an important part of the system of governance in our State. However, it is unable to agree or disagree with Finding 9A because the Finding does not specify which members of management staff the Grand Jury believes failed to comply with deadlines in subpoenas so our response must be considered a disagreement. Our disagreement does not mean to suggest that we condone any failure to comply with any Grand Jury deadline or subpoena.

**Grand Jury's Finding 9B.**

On several occasions, the Library Director and senior management failed to comply with Grand Jury subpoenas, instead deciding on their own to summarize the requested material. This required second subpoena for the original material in its entirety.

**Board's Response.**

The Board is unable to agree or disagree with Finding 9B because the Finding does not specify which members of management staff the Grand Jury believes failed to comply with subpoenas so our response must be considered a disagreement. Our disagreement, however, should not be taken to mean the Board condones failures, if any, to comply with the Grand Jury's subpoenas.

**Grand Jury's Finding 9C.**

The Library Director and staff, with in-house counsel available, impeded this investigation by narrowly interpreting subpoena language, oftentimes failing to provide all documents and supporting materials.

**Board's Response.**

The Board does not condone any interference with the work of a grand jury. Although the Grand Jury's report does indicate that it interviewed the current Chair and two other members of the Board, because of the confidentiality of all Grand Jury communications, the Board as a body has no knowledge of the subpoenas received by Authority staff, who responded to them or what documents were provided. Lacking such information, the Board's response must be considered a disagreement with Finding 9C.



**Grand Jury's Recommendation 9.**

*The Governing Board should have Library Authority Counsel as a full-time position, given the volume and complexity of Library operations.*

**Board's Response.**

*This recommendation requires further analysis.*

*The position of Authority Counsel was established by the Board in October 2004 and is specified to be a full-time or part-time position. At that time, the Board approved Resolution 04-34, designating the position of Authority Counsel as a full-time position. Although the Board has established the position of Authority Counsel as a full-time position, it has to date funded the position for less than full-time work. The Board appointed the current Authority Counsel in October 2004 for work that would be less than full-time.*

*The Board will consider whether full-time legal services are warranted, given the needs of the Authority for legal counsel as well as the impact on the Authority's budget. A decision to increase the Authority Counsel to full-time would have impacts on the Board's budget for 2008/2009. The Board will consider whether it needs full-time legal services no later than November 10, 2008.*

**Grand Jury's Finding 10.**

**The Governing Board failed in its oversight of the Library, the Library Director, and the Library executive team pursuant to the obligations set forth in the Joint Powers Agreement of 1993, as amended in February, 2007.**

**Board's Response.**

The Board disagrees with Finding 10.

The Joint Exercise of Powers Agreement creating the Sacramento Public Library Authority ("Authority") was first entered into as of August 31, 1993. It has been amended once, effective July 1, 2007. All the powers of the Authority are vested in the Board. (2007 JPA, section 4.d.) Under both the 1993 Joint Exercise of Powers Agreement and the 2007 amendment the Board was given the authority to appoint the Library Director and legal counsel, both of whom serve at the pleasure of the Board. (1993 JPA, sections 10 and 11; 2007 JPA, sections 8 and 9). The Library Director, in turn, was given the authority to hire, supervise, and dismiss all authorized staff of the Authority (1993 JPA, section 11; 2007 JPA, section 8).

The Board exercises "oversight" over the Library when the Board meets. All its meetings occur in public, unless authorized as closed sessions pursuant to the Ralph M. Brown Act. The Board considers and acts on a variety of matters at its meetings. Its agendas are posted on its website.

As noted, the Library Director hires all Authority staff, other than Authority Counsel. The Board has no direct responsibility or control over the executive team or any other employees of the Authority other than the Library Director and Authority Counsel.

**Grand Jury's Recommendation 10.**

*The Governing Board should create its own oversight of Library operations by establishing stronger internal controls.*

**Board's Response.**

*The Board will implement Recommendation 10 following receipt and consideration of the recommendations in the performance audit which is due in December 2008, and if determined to be necessary and appropriate. Barring unforeseen circumstances, Recommendation 10 will be implemented no later than June 30, 2009. The Board agrees that it is always good governance to have good, strong internal controls.*

**Grand Jury's Finding 11.**

An Accounting Policies and Procedures Manual was to have been implemented under the 2003 Financial Management System Assessment. Three Finance Officers later, this still has not occurred. Further, there is no complete personnel policies manual.

**Board's Response.**

The Library has a number of internal policies and procedures, some adopted by the Board and some implemented at the staff level. Similarly, there are Board approved personnel policies and personnel policies implemented at the staff level. The Board agrees that there is no "Accounting Policies and Procedures Manual" and no manual that contains all personnel-related policies.

**Grand Jury's Recommendation 11.**

*The Governing Board should require complete and comprehensive policy and procedure manuals for both the Finance Department and for personnel practices.*

**Board's Response.**

*The Board will implement Recommendation 11 following receipt and consideration of the recommendations in the performance audit which is due in December 2008, and if determined to be necessary and appropriate. Barring unforeseen circumstances, Recommendation 11 will be implemented no later than June 30, 2009.*

**Grand Jury's Finding 12A.**

The City served as the fiscal agent of the Library until 2003-2004 and was prepared to continue [sic] do so. After the decision was made to transfer these responsibilities to the Library, many problems ensued in the Library's Finance Department.

**Board's Response.**

The Sinclair Report recommended that the Library Authority transition fiscal services from the City of Sacramento to the Library. (Sinclair Report, Chapter 4.) The Board adopted the Sinclair Report and its implementation plan on September 25, 2003. The Board agrees with Finding 12A's conclusion that there were problems in the Finance Department following the transfer of certain functions from the City of Sacramento to the Authority. The Board agrees that the City of Sacramento was prepared to continue to serve as the fiscal agent but notes that the cost to the Library would significantly increase.

**Grand Jury's Finding 12B.**

The Finance Director is an "at will" employee and serves at the pleasure of the Library Director. In the last five years there have been four different Finance Officers/Directors.

**Board's Response.**

The Board agrees with Finding 12B.

**Grand Jury's Finding 12C.**

The Eden system has been described as a good software system and has many capabilities. Although purchased in 2004, it has not yet been fully implemented.

**Board's Response.**

The Board agrees with Finding 12C.

**Grand Jury's Finding 12D.**

The Finance Director hired to oversee implementation of the Eden system failed to provide his staff adequate training during the initial training period provided by the original contract.

**Board's Response.**

The contract with Eden Systems, Inc. provided for training of Finance Department personnel. Whether the training was "adequate" is subjective; the Board cannot, therefore, either agree or disagree with Finding 12D.

**Grand Jury's Recommendation 12.**

*Fully staff the Finance Department to ensure proper accounting procedures. Include sufficient compensation to attract and retain a Finance Director with the appropriate knowledge, experience, and skills.*

**Board's Response.**

*The Board will implement Recommendation 12 following receipt and consideration of the recommendations in the performance audit which is due in December 2008. Barring unforeseen circumstances, Recommendation 12 will be implemented no later than June 30, 2009. However, if the performance audit concludes that the current staffing in the Finance Department is adequate, the Board will not authorize additional positions. Any recommendation regarding compensation for the Finance Director will occur as part of the Board's annual budget process and will be based on recommendations of the performance audit and Library staff.*

**Grand Jury's Finding 13A.**

The Library Director, responsible for fiscal policies, failed to ensure that proper policies and qualified personnel were in place. Furthermore, when some policies were in place, she failed to see that the Library staff adhered to these policies.

**Board's Response.**

We disagree with this finding. The Board is responsible for adoption of fiscal policies and the Library Director is responsible for recommending such policies and implementing them. As we stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance with respect to fiscal policies. She has a right to have us address such issues privately.

**Grand Jury's Finding 13B.**

The Library Director and members of the executive team failed to implement appropriate policies and procedures in a timely manner. The lack of such policies, and the failure to provide proper oversight, resulted in the misuse and loss of public funds.

**Board's Response.**

We disagree with this finding. The Board is very concerned about any misuse or loss of public funds. However, as we stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Finding 13C.**

The Library Director and several members of the senior management team ignored credit card policies and travel procedures.

**Board's Response.**

We are required to disagree with this finding because, as stated in our Preliminary Statement, we cannot publicly discuss our views about the Library Director's performance. She has a right to have us address such issues privately.

**Grand Jury's Recommendation 13.**

*Strengthen current credit card policies and travel procedures. Ensure appropriate oversight of projected expenses and tighter controls authorizing expenditures.*

**Board's Response.**

*The Board will implement Recommendation 13 no later than September 30, 2008.*

**Grand Jury's Finding 14.**

Procedures for cash management at Library branches are inconsistent. Some branches retain cash until it accumulates in an amount up to \$2,000 before the cash is transferred to the Finance Department for accounting and deposit. No one has been assigned the responsibility of auditing branch library cash accounts.

**Board's Response.**

The Board agrees with the first and second sentences of Finding 14. It is the Director of Finance's responsibility to audit branch library cash accounts but such audits have not been consistently performed.

**Grand Jury's Recommendation 14.**

*Establish standard procedures for all branches regarding cash management.*

**Board's Response.**

*The Board will implement Recommendation 14 following receipt and consideration of the recommendations in the performance audit which is due in December 2008, and if determined to be necessary and appropriate. Barring unforeseen circumstances, Recommendation 14 will be implemented no later than February 28, 2009.*