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Hall of Justice and Records
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Redwood City, CA 94063-1655

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RECEIVED

JUL 24 2018

City Manager

July 19, 2018

City Council
City of Pacifica
170 Santa Maria Avenue
Pacifica, CA 94044

Re: Grand Jury Report: "Cooperative Purchasing – A Roadmap to More Effective City Procurement"

Dear Councilmembers:

The 2017-2018 Grand Jury filed a report on July 19, 2018 which contains findings and recommendations pertaining to your agency. Your agency must submit comments, within 90 days, to the Hon. V. Raymond Swope. Your agency's response is due no later than October 17, 2018. **Please note that the response should indicate that it was approved by your governing body at a public meeting.**

For all findings, your responding agency 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 therefore.

Additionally, as to each Grand Jury recommendation, your responding agency 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 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 months from the date of publication of the Grand Jury report.
4. The recommendation will not be implemented because it is not warranted or reasonable, with an explanation therefore.

Please submit your responses in all of the following ways:

1. Responses to be placed on file with the Clerk of the Court by the Court Executive Office.
 - Prepare original on your agency's letterhead, indicate the date of the public meeting that your governing body approved the response address and mail to Judge Swope.

Hon. V. Raymond Swope
Judge of the Superior Court
c/o Charlene Kresevich
Hall of Justice
400 County Center; 2nd Floor
Redwood City, CA 94063-1655.

2. Responses to be placed at the Grand Jury website.
 - Copy response and send by e-mail to: grandjury@sanmateocourt.org. (Insert agency name if it is not indicated at the top of your response.)
3. Responses to be placed with the clerk of your agency.
 - File a copy of the response directly with the clerk of your agency. Do not send this copy to the Court.

For up to 45 days after the end of the term, the foreperson and the foreperson's designees are available to clarify the recommendations of the report. To reach the foreperson, please call the Grand Jury Clerk at (650) 261-5066.

If you have any questions regarding these procedures, please do not hesitate to contact Paul Okada, Chief Deputy County Counsel, at (650) 363-4761.

Very truly yours,



Rodina M. Catalano
Court Executive Officer

RMC:ck
Enclosure

cc: Hon. V. Raymond Swope
Paul Okada

✓ Information Copy: City Manager



COOPERATIVE PURCHASING—A ROADMAP TO MORE EFFECTIVE CITY PROCUREMENT

ISSUE

How can cities in San Mateo County save taxpayer money by adopting cooperative procurement practices?

SUMMARY

The 20 cities in San Mateo County (the Cities) spent \$425 million and the County of San Mateo (the County) \$300 million on goods and services in FY 2015-16, for an estimated total in purchasing of \$725 million.¹² The Cities and the County could spend millions less – without increasing costs – by increasing the use of “piggyback³” contracts and cooperative purchasing agreements. The Cities and the County could save the most money, an estimated annual savings between 5 and 15 percent, through cooperatively purchasing goods and services with the County’s Procurement Division for a total annual savings between \$35 million and \$108 million.

All of the Cities procure goods and services through decentralized purchasing systems in which individual municipal departments are authorized to identify the need for a good or service, conduct the appropriate selection process, and place a purchase order, under the supervision of their city’s finance department and or city manager. Decentralized purchasing systems successfully allow cities to procure goods and services at fair market prices while minimizing labor costs associated with centralized procurement departments by assigning purchasing functions to individual departments.

However, the Grand Jury found that while city employees receive training on municipal purchasing guidelines and policies, many employees who conduct purchasing operations as a secondary responsibility are not trained and or instructed to negotiate optimum prices by leveraging market power.⁴

Further, in exchange for minimizing labor and related costs, the Cities have forfeited the benefits associated with a centralized purchasing system. Under a centralized purchasing system, trained and experienced purchasing agents, located in a central purchasing department, are responsible

¹ California State Controller’s Office, *Schedule of Total City Expenditures by Major Object Classification*, Accessed On: October 2017 <https://bythenumbers.sco.ca.gov/City-Expenditures/Schedule-of-Total-City-Expenditures-by-Major-Objec/q6pc-n5bp>.

² San Mateo County Civil Grand Jury, “San Mateo County Procurement Division Recommendations Follow-Up” *Superior Court of California San Mateo County*, June 21, 2017: 2. http://www.sanmateocourt.org/documents/grand_jury/2016/procurement.pdf

³ A form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered by another entity. Generally, the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own.

⁴ Clifford McCue, Jack Pitzer “Centralized vs. Decentralized Purchasing: Current Trends in Governmental Procurement Practices” *Journal of Public Budgeting, Accounting, and Financial Management* (Vol 12, Issue: 3) 2000: 400. <https://www.emeraldinsight.com/doi/pdfplus/10.1108/JPBAFM-12-03-2000-B003>.

for all purchasing functions. Due to centralized purchasing authority, purchasing agents are better able to identify goods and services with a high potential for savings and then leverage their experience, greater knowledge of markets, and their municipality's market power to negotiate better terms, including lower prices, with vendors.

This report identifies ways the Cities can attain the cost-saving benefits of centralized purchasing systems while retaining the benefits of a decentralized purchasing system.

Three approaches can improve decentralized purchasing systems without increasing staffing and operations costs:

- (1) Increase the use of "piggybacking" to access beneficial terms of contracts previously entered by public entities.
- (2) Utilize cooperative purchasing agreements to allow Cities to obtain volume discounts among themselves, even without County participation.
- (3) Collaborate with the County's Procurement Division to negotiate lower prices for common goods and services.

If these changes resulted in even a conservative five percent average savings on procurements, the County could save more than \$15 million and the Cities collectively could save more than \$21.25 million per year.

GLOSSARY and ABBREVIATIONS

California Association of Public Procurement Officials (the CAPPO): The CAPPO is a nonprofit organization dedicated to maintaining the highest standards of professional behavior and ethical conduct in public purchasing. As the oldest public procurement association in the United States, CAPPO works to provide tools to buyers in the public sector that will help them develop their professional skills for their benefit and the benefit of their agencies.

California Department of General Services (the DGS or General Services?): The DGS serves as business manager for the state of California. The DGS provides a variety of services to state agencies, including procurement and acquisition solutions.

Centralized Procurement: Centralized procurement means that a single department controls and manages the purchasing for the whole organization. Ideally a manager oversees the purchasing department regarding what materials need to be purchased and in what quantity.⁵

City-County Procurement Cooperation (C-CPC): C-CPC is a term for practices, if adopted, that will allow Cities and the County to save millions of dollars on procurement each year.

Cooperative Purchasing Agreements: A type of procurement in which multiple purchasing entities collaborate in purchasing to increase their market power, thereby gaining access to lower prices.

⁵ Effia Soft, "Centralized vs. Decentralized Purchasing" *Effiasoft.com* Accessed on May 20, 2018 <https://effiasoft.com/centralized-vs-decentralized-purchasing>.

All 20 cities in San Mateo County (the Cities): the Town of Atherton, the City of Belmont, the City of Brisbane, the City of Burlingame, the Town of Colma, the City of Daly City, the City of East Palo Alto, the City of Foster City, the City of Half Moon Bay, the Town of Hillsborough, the City of Menlo Park, the City of Millbrae, the City of Pacifica, the Town of Portola Valley, the City of Redwood City, the City of San Bruno, the City of San Carlos, the City of San Mateo, the City of South San Francisco, and the Town of Woodside.

Decentralized Procurement: Purchasing control and authority is granted to local branches or departments. They have the authority to purchase items necessary as per their requirements.⁶

Piggyback Contracts: A form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered by another entity. Generally, the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, thereby gaining economies of scale that they would otherwise not receive if they competed on their own.⁷

San Mateo County Finance Officers Group (the SAMFOG): The SAMFOG is an informal professional group for municipal finance officers in San Mateo County to share information and resources.

County of San Mateo Procurement Division (the PD): The PD provides procurement services to all county departments and acts as a regulatory mechanism to help County departments obtain maximum value for each dollar spent while maintaining compliance with all relevant county, state and federal laws, ordinances, and policies.

Volume Discount: A Volume Discount is an incentive offered to a buyer that results in a decreased cost per unit of goods or materials when purchased in greater numbers. Sellers often offer a volume discount to entice buyers to purchase in larger quantities. The seller can move more goods or materials, and the buyer receives a more favorable price for the goods.⁸

BACKGROUND

The 20 cities in San Mateo County together purchased approximately \$425 million of in goods and services in FY 2015-16, representing an estimated 35 percent of their General Fund spending.^{9,10} In a time defined by rising labor costs, exploding pension program payments, and other municipal budget constraints, spending on goods and services still represents a significant portion of a city's discretionary spending.¹¹

⁶ Effia Soft, "Centralized vs. Decentralized Purchasing" *Effiasoft.com*

⁷ Principles and Practices of Public Procurement "Use of Cooperative Contracts for Public Procurement" *California Association of Public Procurement Officials* Accessed on August 28, 2017: 1. <http://c.ymcdn.com/sites/www.cappo.org/resource/collection/FBBFC7BF-369D-43DE-B609-3D41BA05D10E/Cooperative%20Contracts.pdf>.

⁸ "Quantity Discount" *Investopedia*, Accessed on: May 20, 2018 <https://www.investopedia.com/terms/q/quantity-discount.asp#ixzz5F2r4B9Sp>.

⁹ California State Controller's Office, *Schedule of Total City Expenditures by Major Object Classification* (2017).

¹⁰ *ibid.*

¹¹ Interviews with City Finance Officials.

While every city in the County operates its own purchasing system, all cities share common practices and operations.¹² These commonalities stem from shared state and federal regulatory requirements, adherence to generally accepted best practices, and similar economic pressures.¹³ By identifying systemic purchasing challenges and common solutions, cities have the potential to achieve consequential cost savings.

In addition to benefiting from cost savings, the effective and efficient purchasing of goods and services is essential to the proper function of municipal government. When purchasing fails to achieve the highest standard of excellence, the quality and variety of services fall and the potential for wasting taxpayer money increases.

Advantages of Decentralized Procurement Practices

In decentralized purchasing systems, individual departments are responsible for: (a) identifying the need for a good or service, (b) conducting the appropriate vendor selection process, and (c) placing a purchase order for the good or negotiating a contract for services.¹⁴ In contrast, under a centralized purchasing system, individual departments still identify the need for a good or service, but a central purchasing department is responsible for conducting the appropriate selection process, negotiating with the vendor, and purchasing the good or service.¹⁵

Although these processes might appear identical—a city entity identifies goods and services for purchase, competitively bids the product, and purchases it from a vendor—fundamental operational differences and outcomes exist between these two systems.

Historically, limited supply chains and less competitive markets for goods and services required municipalities to rely on specialized purchasing agents for competitive purchasing.¹⁶ These purchasing agents, working in central purchasing departments, could negotiate directly with producers to secure lower prices for goods and services.¹⁷ Specialized purchasing roles also gave agents substantial expertise and experience in their field that today's employees cannot accumulate.¹⁸

However, as the market for goods and services has grown more competitive (a result of globalization, the internet, lower transportation costs, and gains to economic productivity) prices have fallen, leading many to believe that the need for specialized purchasing agents has

¹² Interviews with City Finance Officials, Grand Jury Review of City Procurement Documents.

¹³ Interviews with City Finance Officials.

¹⁴ Clifford McCue, Jack Pitzer "Centralized vs. Decentralized Purchasing: Current Trends in Governmental Procurement Practices" (2000): 4.

¹⁵ *ibid.*

¹⁶ "Centralized vs. Decentralized Purchasing: Current Trends in Governmental Procurement Practices" *Journal of Public Budgeting, Accounting, and Financial Management* (2000).

¹⁷ Money Matters "Centralized & Decentralized Purchase: Suitability, Merits and Detriments" *Accountlearning.com* Accessed on March 28, 2018. <https://accountlearning.com/centralized-decentralized-purchase-suitability-merits-demerits-differences>.

¹⁸ *Ibid.*

diminished.^{19,20} Additionally, the high cost of labor in the San Francisco Bay Area, coupled with the economic contractions in 2002 and 2008, has placed pressure on public entities to reduce costs by consolidating positions.²¹ Under these pressures, decentralized purchasing became the norm throughout the San Mateo County and California.²²

Common Practices in Decentralized Purchasing Systems

In its investigation, the Grand Jury learned that the cities in San Mateo County generally regulate their decentralized purchasing systems through three primary mechanisms--graduated purchasing authority levels, competitive bidding requirements, and budget controls.

All of the Cities delegate purchasing authority to different levels of city employees based on the size of the purchase; higher ranking employees must approve costlier purchases.²³ While the exact purchasing authority levels vary between cities, Figure 1 is an example of the allocation of purchasing authority levels for the City of San Mateo. This graduated purchasing authority system, which is like those in other cities, gives individual departments the power to make smaller purchases quickly at market prices, while subjecting larger purchases to increasing scrutiny.

FIGURE 1

Award Authorization and Competitive Bidding Requirement Levels for the City of San Mateo²⁴

Purchase Levels	Authority Required to Approve Purchase	Competitive Bidding Requirement
Purchases over \$100,000	City Council	Formal Bid Procedure (RFP)
Purchases between \$50,000 and \$99,999	City Manager	Open Market Procedures
Purchases between \$25,000 and \$49,999	Department Head	Open Market Procedures
Purchase under \$25,000	Division Manager	Open Market Procedures

The Cities also regulate decentralized purchasing systems through competitive bidding requirements.²⁵ These requirements are meant to ensure fair market prices by requiring purchasers to obtain multiple vendor bids and to select the lowest responsible bidder.²⁶ As with purchasing authority, competitive bidding requirements follow a graduated approval system

¹⁹ Michael Sposi, “The Effect of Globalization of Market Structure, Industry Evolution and Pricing” *Federal Reserve Bank of Dallas, Globalization and Monetary Policy Institute 2013 Annual Report*, May 31, 2013: 24. <https://www.dallasfed.org/~media/documents/institute/annual/2013/annual13f.pdf>

²⁰ Clifford McCue, Jack Pitzer “Centralized vs. Decentralized Purchasing: Current Trends in Governmental Procurement Practices” (2000) 400.

²¹ Ibid.

²² Interview with City Finance Officials.

²³ Grand Jury Review of City Procurement Documents.

²⁴ Grand Jury Review of City Procurement Documents.

²⁵ Grand Jury Review of City Procurement Documents.

²⁶ Qualified bidder with the lowest or best bid price, and whose business and financial capabilities, past performance, and reputation meet the required standards.

based on size of purchase. For smaller purchases of commodity items where competition already exists between vendors (e.g., paper products and other office supplies), the Cities allow for purchases on the open market without multiple bids. However, for larger purchases where generally less competition exists between vendors, stricter bidding requirements apply. Competitive bidding requirements range from requiring informal bids and formal bids to issuing a Request for Proposals.

Departmental budget controls are another regulatory check on decentralized purchase systems.²⁷ Budget controls require city finance officials to confirm that any proposed purchase fits within a department's budget prior to authorizing a purchase order. As a result of these controls, a department proposing to make a substantial purchase is incentivized to seek the lowest responsible price.²⁸

DISCUSSION

The Limitations of Decentralized Purchasing Systems

While the Cities' decentralized purchasing systems have technically achieved the goals of obtaining fair market prices while minimizing labor costs, such decentralized purchasing approaches are not designed to use the Cities' collective marketing power, together with that of the County,²⁹ to obtain optimum prices and terms.

In modern supply chains, few goods and services have fixed prices. Rather, prices are generally negotiable, with outcomes contingent on factors like the quantity being purchased, the potential for future sales, the present level of market demand, the vendor's available stock, and profit margins.³⁰ Often, the given market price—the price quoted on a store shelf or business' website—does not represent this variance.³¹

In the private sector, dedicated buyers with deep expertise and experience take advantage of that knowledge and their firms' market power to negotiate lower prices.³² Depending on the particular good, buyers can often negotiate prices 30 to 40 percent below "market." For some goods, like software, savings upwards of 50 percent are attainable.³³

²⁷ Grand Jury Review of City Procurement Documents.

²⁸ Interviews with City Finance Officials.

²⁹ Market Power represents a firm's or, in this case, city's capacity to negotiate prices better than the going market price. Market power can be exerted through negotiation, buying in bulk, buying "higher" (e.g. buying from a wholesaler) in the supply chain, etc.

³⁰ Henry Hazlitt, "How Should Prices Be Determined" Foundation for Economic Education, February 1, 1967. Accessed On: June 6, 2012 <https://fee.org/articles/how-should-prices-be-determined>.

³¹ Krishna, Aradhna, Richard Briesch, Donald Lehmann, and Hong Yuan (2002), "A Meta-Analysis of the Impact of Price Presentation on Perceived Savings." *Journal of Retailing* 78 (2), 101–18. <https://www8.gsb.columbia.edu/researcharchive/articles/969>.

³² Severin Borenstein "Understanding Competitive Pricing and Market Power in Wholesale Electricity Markets" *The Electricity Journal* July 2000: 50. <<http://faculty.haas.berkeley.edu/borenste/mba212/Elecjo00mktPower.pdf>>

³³ Seeking Alpha Editorial Board "Chart: Software Companies - Gross Profit Margins" *seekingalpha.com* May 7, 2006. Accessed On: June 12, 2018 <https://seekingalpha.com/article/10166-chart-software-companies-gross-profit-margins>.

The Cities' shift from centralized to decentralized purchasing systems evolved over time on a local basis, with individual cities responding to the immediate needs and available resources. Regardless of a particular city's path towards decentralized purchasing, cities lost the expertise necessary to negotiate these kinds of savings. Apart from some employees in public works and engineering departments, most purchasing activities are a secondary responsibility for the employees responsible for their department's procurement function.³⁴ While these employees all receive training on municipal purchasing guidelines and policies, they often lack training and familiarity with advanced procurement practices.³⁵ For many cities, training employees in purchasing practices found in a centralized purchasing department is prohibitively expensive.³⁶

This loss of purchasing expertise has real financial consequences. For instance, most of the Cities' employees are unaware of and untrained in the use of cooperative purchasing databases.³⁷ Cooperative purchasing databases, like the California Department of General Services' (DGS's) State Contracts Index Listing and State Leveraged Procurement Agreements, are databases of pre-negotiated contracts for common goods and services, for prices lower than market.³⁸ By not piggybacking on these pre-negotiated contracts, the Cities miss the opportunity to purchase a wide range of products at lower prices.

Employees in decentralized systems often do not identify commonly purchased goods that other departments are also buying and so miss the opportunity to negotiate lower costs which could be obtained by purchasing the items in bulk for multiple departments.³⁹ While finance officers do track purchases on a departmental level, only the City of San Mateo has a staff position dedicated to tracking the cost, type, quantity, and frequency with which all city departments are purchasing products.⁴⁰ In cities that fail to track products purchased across multiple departments, finance officers cannot identify goods (like office supplies, furniture, automobile parts) and services (like translators), that could be purchased in bulk through a volume discount contract. In effect, each individual department pays for goods and services at a price that is higher than could be achieved through purchasing at the municipal level.⁴¹

Conversely, in centralized purchasing systems a dedicated staff of purchasing agents specializes in securing the lowest prices for goods and services.⁴² Purchasing agents have the training, resources, time, and specialization to identify the best vendors and negotiate below-market prices through leveraging their city's market power.⁴³ Purchasing agents have the authority and capacity to unlock low prices by buying in bulk, authorizing long term contracts, and negotiating volume discounts. Centralized purchasing agents also have acquired specific purchasing

³⁴ Interviews with City Finance Officials.

³⁵ Interviews with City Finance Officials.

³⁶ Interviews with City Finance Officials.

³⁷ Interviews with Finance Officials.

³⁸ Procurement Division "Leveraged Procurement Agreements (LPAs) *California Department of General Services* Accessed on April 5, 2018. <<http://www.dgs.ca.gov/pd/Programs/Leveraged.aspx>>

³⁹ Money Matters "Centralized & Decentralized Purchase: Suitability, Merits and Detriments" 2018.

⁴⁰ Interview with City Finance Officials.

⁴¹ Ibid.

⁴² Clifford McCue, Jack Pitzer "Centralized vs. Decentralized Purchasing: Current Trends in Governmental Procurement Practices" 2000.

⁴³ Ibid.

knowledge over the course of their careers, knowledge which enables them to access lower prices through hidden markets.⁴⁴

Cooperative Purchasing Solutions

In the course of its investigation, the Grand Jury learned that each City could adopt three practices which would improve its decentralized purchasing system without increasing staffing and operations costs: (1) utilizing piggybacking to access pre-negotiated contracts, (2) collaborating with other Cities to purchase goods through the use of cooperative purchasing agreements, and (3) collaborating with San Mateo County's Procurement Division to negotiate lower prices for common goods and services.

1. Utilize Piggyback Contracts

Piggybacking on pre-negotiated contracts with favorable pricing allows Cities to benefit from those terms without changing their purchasing practices. Per the California Association of Public Procurement Officials, Piggybacking (a "Piggyback Cooperative") is:

A form of intergovernmental cooperative purchasing in which an entity will be extended the same pricing and terms of a contract entered by another entity. Generally, the originating entity will competitively award a contract that will include language allowing for other entities to utilize the contract, which may be to their advantage in terms of pricing, **thereby gaining economies of scale that they would otherwise not receive if they competed on their own** (Emphasis added).⁴⁵

Piggyback contracts are widely used by public entities in California and nationwide.⁴⁶ Piggyback contracts can be to the benefit of both the vendor and the public entity that negotiated the original cost (the originating entity), as well as any other public entities that ultimately utilize the contract (piggybacking entities). Benefits can accrue to the vendor by increasing the potential volume of sales under the agreement, which results in increased product sales.

The Grand Jury's investigation revealed that although some Cities have used piggyback contracts in the past, the practice is currently underutilized.⁴⁷ In fact, the Grand Jury found during its interviews that City employees at the departmental level were generally unaware of: (a) the existence of piggyback contracts, (b) the possible cost savings from piggyback contracts, (c) the numerous piggyback contract databases, and (d) how to use a piggyback contract in a decentralized purchasing system.

When asked why they did not make greater use of piggyback contracts, officials from seven of the Cities expressed concerns about compatibility with their City's legal

⁴⁴ Interview with City Finance Officials.

⁴⁵Principles and Practices of Public Procurement "Use of Cooperative Contracts for Public Procurement" *California Association of Public Procurement Officials* (2017) 1.

⁴⁶Interviews with City Finance Officials.

⁴⁷Interviews with City Finance Officials.

requirements.⁴⁸ They also expressed concern that the time necessary to train department-level employees to use piggyback contracts and, subsequently, the time spent selecting the best contract, would be costlier than potential savings. Those officials were also concerned that existing piggyback contracts would not reflect their city's purchasing policies, such as environmental and local purchasing preference requirements.⁴⁹

While these concerns are legitimate, approaches to piggyback contracting, such as the one illustrated below, are available:

- The City's Finance Office identifies the most commonly purchased goods and services across all city departments.
- The City Finance Office, in conjunction with city attorneys, searches piggyback contract databases for compatible contracts on the most common goods and services and evaluates whether such contracts would follow the city's purchase preference requirements.
- Once compatible contracts have been identified and confirmed with vendors, the City Finance Office disseminates an internal list of preferred vendors for the specific goods and services covered by these contracts, in accordance with the municipality's preferred vendor requirements.
- Individual city departments conduct normal purchasing activities, using the list of preferred vendors when applicable.

2. Utilize Cooperative Purchasing Agreements

The Cities generally provide comparable services to residents using similar resources and procedures.⁵⁰ Accordingly, they often purchase nearly identical goods and services. Yet, by purchasing common goods and services individually, each city can only leverage its own market power to negotiate lower prices. Were the Cities to collaborate with one another in their purchases of common goods and services, they would increase their purchasing power and facilitate the negotiation of lower prices.

Cooperative purchasing agreements, in which multiple public entities collaborate in purchasing to increase their market power, are not new to the Cities.⁵¹ They have successfully achieved significant cost savings in the past through cooperative purchasing agreements. Most notably, in 2015, all of the Cities, together with the County, jointly entered into a cooperative purchasing agreement with Turbo Data Systems Inc. for common parking ticket citation and adjudication services. In this arrangement, the Cities paid the County to hire a consultant, issue a request for proposal (an RFP), and evaluate the responses with a committee consisting of representatives from Belmont, Burlingame, Daly City, San Mateo, and South San Francisco.⁵² This committee, on behalf of all member agencies, selected Turbo Data Systems as the best candidate.

⁴⁸ Interviews with City Finance Officials.

⁴⁹ Interviews with City Finance Officials.

⁵⁰ Interviews with City Finance Officials.

⁵¹ Interviews with City Finance Officials.

⁵² Grand Jury Review of City Procurement Documents.

By utilizing a collaborative purchase agreement when selecting Turbo Data systems, Cities realized an estimated savings approaching 35 to 40 percent of original costs.⁵³ Before negotiations, Turbo Data charged processing fees of \$1.28 for electronic citations and \$1.35 for hand-written citations. These rates were lowered to \$0.50 and \$0.80 for electronic and hand-written citations, respectively.⁵⁴ Based on the number of citations issued, the County saved approximately \$17,000 per year under the new agreement. A city's approximate savings varied with the number of citations but were consistent with the County's rates. For smaller cities which lacked the market power to achieve the pre-contract rates achieved by the County, savings exceeded 45 percent.⁵⁵

Moreover, by paying a nominal sum to San Mateo County to conduct the RFP process, cities were able to produce a superior RFP at a significantly lower cost than had each city issued its own request.⁵⁶

The Turbo Data Systems cooperative purchasing agreement serves as model of what these agreements can achieve. When asked why they did not make greater use of cooperative purchasing agreements, City officials responded that they had difficulty identifying goods and services to collaboratively purchase. They attributed this difficulty to the limited communication channels among city finance officers and the deprioritization of the purchasing function in finance departments.⁵⁷ For instance, while the San Mateo County Finance Officer Group (SAMFOG), which consists of all City finance officials, meets on a bimonthly basis, procurement is rarely discussed. Despite these difficulties, city officials recognized that cooperative purchasing agreements have earned Cities significant savings.

To help expand the use of cooperative purchasing agreements, the Grand Jury asked city officials to identify commonalities between goods and services that could be purchased cooperatively. Finance officials reported that goods and services best suited for cooperative purchase are:

- Common: products which are purchased by multiple or all Cities
- Homogeneous Products that are substantially similar
- Discrete: Products that are measurable in individual units such that they can be individually purchased
- Foreseeable: Products whose purchase can be predicted, allowing the Cities time to negotiate and prepare a cooperative purchasing agreement

3. Collaborate with the County's Purchasing Division

The highest potential for cost savings, while maintaining the Cities' decentralized purchasing systems, can be achieved through collaboration with the County of San Mateo (City-County

⁵³ Grand Jury Review of City Procurement Documents.

⁵⁴ Ibid.

⁵⁵ Grand Jury Review of City Procurement Documents.

⁵⁶ Interviews with City Finance Officials.

⁵⁷ Interviews with City Finance Officials.

Procurement Cooperation or C-CPC).

Unlike the Cities, the County maintains a hybrid centralized/decentralized purchasing system, which includes a dedicated procurement division. Under the County's system, the County of San Mateo's Procurement Division (PD) is generally responsible for purchases of goods that are greater than \$5,000, while individual departments retain responsibility for smaller purchases.⁵⁸ The PD employs a staff of specialized buyers to fulfill its purchasing functions. In FY 2015-2016, the County spent more than \$300 million on goods and services.⁵⁹

Collaborating with the County's Procurement Department (PD) provides a unique opportunity for C-CPC to maximize cost savings for all parties.

As described above, specialized purchasing agents in centralized purchasing departments have the training, experience, and resources to identify superior vendors and negotiate lower prices using their entity's market power. Were the Cities to collaborate with the PD in their purchases of common goods and services, they could increase their purchasing power and thereby facilitate even greater savings than from their own intercity cooperative purchasing agreements.

This example demonstrates one way the Cities could collaborate with the PD:

- The PD coordinates with City finance officers to identify the common goods and services used by participating entities.
- The PD competitively negotiates and awards contracts for those goods and services that allow for the Cities to piggyback on the contract.
- During negotiations, PD purchasing agents implement volume-discounting, such that the participation of any of the Cities thereafter unlocks lower prices for all parties.
- Once the PD finalizes these contracts, City finance officers disseminate internal lists of preferred vendors under these agreements, in accordance with the Cities' preferred vendor requirements, to their respective departments.
- To minimize impact on City employees, and thereby increase transition costs, authorized city employees should be able to buy goods and services in a method similar to their current systems.

For instance, buyers would search the County Purchasing System for the desired goods, generate a purchase order through the system, and that pending order would be sent to the appropriate city purchasing authority for review and approval.

Upon approval, the County Purchasing System executes the order, sending it to the vendor. The County Purchasing System also tallies the order for discounts, recording and reporting to the City the initial savings from negotiated prices and additional volume discounts.

⁵⁸ Interview with County Finance Officials.

⁵⁹ San Mateo County Civil Grand Jury, "San Mateo County Procurement Division Recommendations Follow-Up" (2017) 2.

The Cities and County can implement these processes, without substantially changing their existing procurement processes.⁶⁰ City finance departments already create preferred vendor lists and disseminate them to departments. The PD's purchasing agents already conduct negotiations with vendors to unlock volume-based discounts. Indeed, the increased cost savings are unlocked by combining preexisting and previously independent operations as to maximize the negotiating power of all parties involved.

Given that the Cities and the County spend over \$725 million per year, and assuming only a 1 percent average cost saving, for example, municipalities in San Mateo County would save upwards of \$7 million. In a review of the federal government's Strategic Sourcing,⁶¹ the Government Accountability Office found that, "when strategic sourcing was used, annual savings was along the lines of 5-20 percent."⁶² While the mechanisms by which federal government's Strategic Sourcing achieved savings is equivalent to C-CPC, Strategic Sourcing's larger scale means C-CPC is unlikely to achieve 20 percent savings. The Grand Jury estimates that a 5-15 percent annual savings spread is achievable through C-CPC.

When the 5-15 percent annual average savings spread is applied to C-CPC, projected savings are between \$15 million and \$45 million for the County and \$21.25 million and \$63.75 million for the Cities, for a total savings of \$108.75 million.

There is precedent for C-CPC within the County and throughout California. As previously discussed, the Cities and the County have already achieved significant savings through cooperatively purchased goods and services. Because of this cooperation, the Cities and the County are familiar with cooperative purchasing agreements and piggyback contracts. As such, C-CPC would not be introducing new purchasing methods, but rather be introducing a formal mechanism by which the Cities and County could expand and formalize the use of cooperative purchasing practices to achieve greater savings.

Other counties and the State of California have successfully adopted similar C-CPC practices. For instance, in 1999 Los Angeles County created a cooperative purchasing program with the cities with its jurisdiction for the purchase of recycled paper goods.⁶³ Under this program, cities could join Los Angeles County in purchasing recycled paper such that participating entities benefitted from greater purchasing power. Per the Los Angeles County Procurement Program website, 26 cities participate in the program, with the City of Los Angeles and County of Los Angeles alone saving \$84,000 and \$40,000 per year, respectively.⁶⁴ Similarly, Alameda County uses cooperative purchasing with cities to achieve its Strategic Vision for environmental

⁶⁰ Interviews with City Finance Officials.

⁶¹ Strategic Sourcing is the term for cooperative purchasing between federal agencies overseen by the Office of Federal Procurement Policy.

⁶² Charles Clark, "Government Doesn't use Bulk-Purchasing Initiative Enough, Auditors Say" *Government Executive* October 4, 2014. Accessed On: May 15, 2018. <<https://www.govexec.com/contracting/2012/10/government-doesnt-use-bulk-purchasing-initiative-enough-auditors-say/58590/>>

⁶³ Department of Public Works "Los Angeles County Procurement Programs" *The County of Los Angeles* Accessed on April 20, 2018 <https://dpw.lacounty.gov/epd/awards/procurement.cfm>.

⁶⁴ Ibid.

sustainability and economic growth.⁶⁵ Specifically, Alameda County invites public entities within its jurisdiction to piggyback on green contracts, in order to achieve lower prices, defray the higher costs associated with sustainable materials, and promote environmental sustainability among public agencies.⁶⁶ To facilitate this C-CPC, Alameda County opens its Procurement Department and Contracts Team to support and facilitate local public agencies piggybacking on sustainable contracts.⁶⁷ While both Los Angeles County and Alameda County leveraged cooperative purchasing to achieve environmental objectives, the success of these programs underscores the effectiveness of City-County Procurement Cooperation for achieving cost savings.

However, there are barriers to collaboration between the Cities and the County. The Grand Jury has already issued three reports (in 2004, 2015, and 2017), identifying dysfunction within the County's procurement system. Among other issues, the 2016-2017 Grand Jury identified that the PD's subordination to a Deputy Director of Human Resources, is inconsistent with best practices set forth by the Institute for Public Procurement and the California Association of Public Procurement Officials and inconsistent with the operational practices of 45 California Counties.⁶⁸ The 2016-2017 Civil Grand Jury concluded that the Procurement Division manager lacked sufficient independent authority to implement the changes necessary to improve County procurement. Moreover, as of the date of this writing, the County's Procurement Division manager position is vacant with the County's most recent director having left for employment with another public entity.

While the PD is not functioning well now, the County can take steps to improve the PD's function. Revising the County's purchasing process to allow effective cooperation between the Cities and the County will not only grant access to aforementioned savings, but also lower current operational costs. To that end, the Grand Jury has identified nine checkpoints along the pathway toward City-County Procurement Cooperation. The first three checkpoints are steps the County can take to prepare for C-CPC. The remaining checkpoints are actions the PD needs to take in order to implement C-CPC.

⁶⁵ "Strategic Vision 2026" *The County of Alameda*, Accessed on April 20, 2018
<http://www.acgov.org/government/strategic.htm>.

⁶⁶ "Piggybacking" *The County of Alameda*, Accessed on: April 20, 2018
<https://www.acgov.org/sustain/what/purchasing/bids/piggyback.htm>.

⁶⁷ Stop Waste "Piggybacking for Green Purchasing" *The County of Alameda*, Accessed on: April 20, 2018
<https://www.acgov.org/sustain/documents/PiggybackingResources.pdf>.

⁶⁸ San Mateo County Civil Grand Jury, "San Mateo County Procurement Division Recommendations Follow-Up": 5-6.

Checkpoints on the Pathway toward City-County Procurement Cooperation

- 1. Move the PD into an Appropriate Department** Per the CAPPO, “the placement of the procurement (division) should be operationally distinct from other departments and divisions within the entity.”⁶⁹

When subordinate to another department, procurement lacks the authority and credibility to effectively regulate the entity’s procurement system and/or effectively negotiate with vendors.

“In the Grand Jury’s opinion, these bureaucratic layers reduce the authority and effectiveness of the procurement function.”⁷⁰

The PD would be more appropriately located as a direct report to the County Manager.⁷¹
- 2. Hire Experienced Buyers** Implementation of C-CPC requires the PD to be staffed with buyers who have procurement management experience.

Procurement management experience is essential for (a) implementing structural changes required for C-CPC, (b) managing current PD buyers, and (c) negotiating deep discounts with vendors.
- 3. Develop and Insert Piggyback Language into County Contracts** Piggyback contracts are the vehicles through which the Cities and the County can combine their purchasing power, gain access to deep discounts, and save millions of dollars.

The PD must develop and insert piggyback language into procurement contracts where applicable.
- 4. Create and Distribute to the Cities a Register of Open Contracts** For the Cities to piggyback on the County’s contracts, the Cities must first be aware of available contracts.

⁶⁹ “Use of Cooperative Contracts for Public Procurement” *California Association of Public Procurement Officials* (2017): 1.

⁷⁰ Ibid. 5.

⁷¹ Ibid. 8.

The PD should create and distribute to city finance officers a searchable register of open contracts, including:

- the goods and services
- the vendor
- the terms and conditions
- other pertinent information

5. Identify the Goods and Services with the Highest Potential Savings in Conjunction with the Cities.

To focus the PD's efforts and secure the greatest savings for the Cities and the County, the PD needs to identify the goods and services with the highest potential savings.

To this end, the PD should survey the Cities to identify (a) the most commonly purchased category and classes of goods and services and (b) the goods and service with the highest potential discounts.

6. Ensure County Purchasing Software Can Track Key Indicators

Volume discounts on goods and services are predominately earned through "steps" (e.g., the first 100 purchases are discounted at 10 percent, purchases 101-200 are discounted at 15 percent, and purchases 200+ are discounted at 20 percent.

To achieve discounts, purchasing software must be able to track key indicators. These indicators include:

- Purchases, by vendor
- Purchases, by category
- Purchases, by date
- Purchases, by buyer
- Vendor Performance

The PD should ensure their current procurement system can track these performance indicators.

7. Ensure County Purchasing Software Can Accommodate City Purchases

To effectively track purchases such that the County can accurately distribute rebates to the Cities, the PD must track the number and variety of purchases by City.

Operational costs can be minimized by allowing City employees to place purchase orders to vendors through the PD procurement system.

The PD should ensure their current procurement system can accommodate this purchasing arrangement.

8. Negotiate Discounted Contracts for those Goods and Services

City participation in C-CPC requires County negotiated contracts to offer a better deal than the Cities could achieve on their own.

Once the goods and services with the highest potential for savings have been identified, the PD's buyers should negotiate leveraged contract with vendors, achieving maximum savings through discounting.

9. Distribute and Report Discounts to the Cities on a Consistent Basis

In a volume-based discount contract, discounts are based on the total sales in a given accounting period. Often, discounts take the form of a rebate; however, the exact specifications will depend on the product and the contract.

The PD should develop the tools to effectively report and distribute discounts to cities.

While implementing the changes necessary to allow C-CPC will come at a cost, the benefits accrued from crossing these checkpoints will go to great lengths to address the current "dysfunction" in the PD, in addition to the potential savings from C-CPC.⁷² The County's Purchasing Compliance Committee identified in "Purchasing Redesign Report, Procurement of Goods" 48 deviations from best practices and issued 84 recommendations for improving the County's procurement process. Notable findings included:

1. "It is unclear who is supposed to monitor the purchasing process."⁷³
2. "Departments and Purchasing Unit staff sometimes go around purchasing procedures but there is no way to know when this happens; when it is discovered there is no follow up or action taken and is not clear who should take that action or when."⁷⁴
3. "Staff often do not know that processes, rules, and regulations exist."⁷⁵
4. "Written documents such as handbooks, reference tools and other materials have not been updated, sometimes for more than 10 years"⁷⁶
5. "There are no methods to monitor if the County is receiving the best value or if purchases are consistent from one department to another (maybe one department is paying more than another for the same item)."⁷⁷
6. "There is no system in place to know if/when current processes either save the County money or lose money."⁷⁸
7. "No data is collected and used to monitor performance of the overall purchasing process."⁷⁹
8. "We have no way of knowing if we are being fiscally responsible."⁸⁰

⁷² San Mateo County Civil Grand Jury, "San Mateo County Procurement Division Recommendations Follow-Up": 4.

⁷³ Ibid. 18.

⁷⁴ Ibid. 18.

⁷⁵ Ibid. 18.

⁷⁶ Ibid. 20.

⁷⁷ Ibid. 19.

⁷⁸ Ibid. 19.

⁷⁹ Ibid. 20.

⁸⁰ Ibid. 19.

From the Grand Jury's prior reports and the County's Purchasing Compliance Committee's report, it is eminently clear that the Purchasing Division requires significant reform. The Grand Jury recommends that the County develop and study a plan to achieve the Checkpoints on the Pathway towards City-County Procurement Cooperation within current plans to improve the Purchasing Division.

The Grand Jury recognizes that the implementation of C-CPC will require upfront investment by the County before significant savings can be achieved. To the extent the County determines the cost of implementing this plan would result in greater cost to the County not recouped by cost savings, the County could propose a cost sharing fee for those Cities accessing the collective purchasing program. City officials expressed pleasure with the RFP cost sharing arrangement for the Turbo Data Systems contract and expressed willingness to participate in cost sharing arrangements when those contracts would allow their city to access greater savings.

As the County continues to improve the PD, beginning with a Controller's Office Audit to be completed by December 31, 2018,⁸¹ achieving these nine checkpoints may unlock C-CPC and tens of millions of dollars in potential savings each year.

FINDINGS

- F1. All 20 of the cities in the County purchase goods and services through decentralized purchasing systems.
- F2. Decentralized purchasing systems successfully allow the Cities to procure goods and services at fair market prices while minimizing labor costs.
- F3. The creation of a centralized purchasing department to provide the organization with advanced procurement services and guidance can be cost prohibitive.
- F4. While city employees receive training on municipal purchasing guidelines and policies, many employees who conduct purchasing operations as a secondary responsibility are not trained or instructed to negotiate optimum prices by leveraging market power.
- F5. City employees who conduct purchasing operations as a secondary responsibility often do not identify commonly purchased goods that other departments also purchase and so miss the opportunity to negotiate lower costs which could be obtained by purchasing the items in bulk for multiple departments.
- F6. Cooperative purchasing practices allow multiple public entities to collaboratively purchase goods and services, thereby gaining economies of scale that they would otherwise not have.
- F7. Cooperative purchasing practices are compatible with decentralized purchasing systems and can allow the Cities to leverage their collective market power, without changing existing purchasing systems.

⁸¹ Ibid. 27.

- F8. Adoption of cooperative purchasing practices, including piggyback agreements and cooperative purchasing agreements, can enable all Cities to obtain lower prices on goods and services.
- F9. Each city has limited communications with each other regarding procurement best practices, shared purchasing challenges, and purchasing solutions.
- F10. The County of San Mateo's Procurement Division is the only remaining public centralized purchasing department at the City and County level within San Mateo County.
- F11. Collaboration between the Cities and the Procurement Division through cooperative purchasing practices could achieve significant cost savings for both the Cities and the County.
- F12. The Procurement Division presently lacks the operational capacity to fully collaborate with the Cities.
- F13. There are no formal channels for communication between the County and the Cities regarding procurement cooperation opportunities.

RECOMMENDATIONS

The 2017-2018 San Mateo County Civil Grand Jury recommends that each City undertake the following by no later than February 1, 2019:

- R1. Increase the use of cooperative purchasing practices, including piggyback contracts and joint procurement agreements.
- R2. Share with other Cities and the County Procurement Division their procurement needs in order to identify opportunities for cooperative procurements between the Cities and the County.

The 2017-2018 San Mateo County Civil Grand Jury recommends that the County of San Mateo do the following by no later than February 1, 2019:

- R3. Increase the use of cooperative purchasing practices, including the development and insertion of piggyback language into County contracts, with the Cities.
- R4. Share with the Cities the County's procurement needs to identify opportunities for further cooperative purchasing.
- R5. Relocate the County's Procurement Division into an appropriate reporting structure, such that the Procurement Division shall report directly to the County Manager.

The 2017-2018 San Mateo County Civil Grand Jury recommends that the County of San Mateo do the following by no later than July 1, 2019.

- R6. Develop and study a plan to achieve the Checkpoints on the Pathway towards City-County Procurement Cooperation within current plans to improve the Purchasing Division, including:
- a. Hire experienced buyers.
 - b. Create and distribute to the Cities a register of open contracts.
 - c. Ensure the County's purchasing software can track key indicators.
 - d. Ensure the County's purchasing software can accommodate city purchases.
 - e. Identify, in conjunction with the Cities, the goods and services with the highest potential savings.
 - f. Negotiate discounted contracts for those goods and services.
 - g. Distribute and report discounts to the Cities on a consistent basis.

REQUESTS FOR RESPONSES

Pursuant to Penal Code Section 933.05, the Grand Jury requests the following to respond to the foregoing Findings and Recommendations referring in each instance to the number thereof:

- The City Councils of The Town of Atherton, the City of Belmont, the City of Brisbane, the City of Burlingame, the Town of Colma, the City of Daly City, the City of East Palo Alto, the City of Foster City, the City of Half Moon Bay, the Town of Hillsborough, the City of Menlo Park, the City of Millbrae, the City of Pacifica, the Town of Portola Valley, the City of Redwood City, the City of San Bruno, the City of San Carlos, the City of San Mateo, the City of South San Francisco, and the Town of Woodside to respond no later than 90 days after the date of this Grand Jury Report.
- San Mateo County Board of Supervisors to respond no later than 90 days after the date of this Grand Jury Report.

Each City Council and the County Board of Supervisors should respond to the findings and recommendations with respect to their own policies, procedures, and operations, not in regards to the Cities and the County as a whole.

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted subject to the notice, agenda, and open meeting requirements of the Brown Act.

METHODOLOGY

Documents

The Grand Jury reviewed the following documents:

- Purchasing Policy Manuals or equivalent documents from: the Town of Atherton, the City of Belmont, the City of Brisbane, the City of Burlingame, the Town of Colma, the City of Daly City, the City of East Palo Alto, the City of Foster City, the City of Half

Moon Bay, the Town of Hillsborough, the City of Menlo Park, the City of Millbrae, the City of Pacifica, the Town of Portola Valley, the City of Redwood City, the City of San Bruno, the City of San Carlos, the City of San Mateo, the City of South San Francisco, and the Town of Woodside.

- The California Association of Public Procurement Officials, Inc.:
Best Practices: Global Procurement Best Practices
- The Turbo Data Contract between San Mateo County and Turbo Data Systems Inc.
- Memo to the Burlingame City Council: Turbo Data Contract Recommendation
- Memo to the San Mateo County Board of Supervisors: Turbo Data Contract Recommendation

Interviews

- The Grand Jury conducted interviews with City Procurement Officers, City Management, County Procurement Officers, and County Management.

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