

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

October 22, 2013

Ms. Tammi McConnell, Program Manager
Orange County Emergency Medical Services
405 W. Fifth Street, Suite 301A
Santa Ana, CA 92705

Ref: October 25, 2013 EMCC Meeting Agenda Item No. 4C

Dear Ms. McConnell:

Attached you will find my:


- a) October 11, 2013 letter to the State EMSA Director.
- b) October 15, 2013 letter to the Orange County Board of Supervisors and associated backup documentation.

Can you please add these documents to the online agenda package for Agenda Item No. 4C, EMCC Correspondence? This will allow the EMCC members and members of the public to view and comment on the correspondence.

The letters and associated documentation support my objection to the OCFA's handling of the RFP for Ambulance Transport.

Since the OCFA refuses to provide me with documents needed to complete my review, I recommend that the Orange County Health Care Agency follow-up on its own regarding whether the OCFA has timely notified the OCEMS of customer complaints as required by Policy # 700.00. I and the public desire greater Health Care Agency oversight and control over OCFA EMS services.

Sincerely,



Stephen M. Wontrobski

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

October 11, 2013

Dr. Howard Backer
State of California
EMSA Director
10901 Gold Center Dr. Suite 400
Rancho Cordova, CA 95670

Ref: Additional Assistance Request
Orange County Fire Authority (OCFA)

Dear Dr. Backer:

In connection with the continuing controversy surrounding the Orange County Fire Authority, I wish to advise you that the residents of Orange County need your Department's assistance. The problems related to the OCFA seem to be spinning out of control. Please read the attached Orange County Register article on the OCFA RFP process for ambulance transport.

Your assistance is requested for the following items:

1. Determination whether the Butte case prohibits Orange County from delegating the RFP for Ambulance Transport to the OCFA.
2. Investigation to determine if customer complaints were actually being forwarded by the OCFA to the Orange County EMS as required by Policy #700.00.
3. Investigation to obtain assurance that all inquiries from the Orange County Health Care Agency (OCHCA) regarding OCFA EMS customer complaints related to patient care were responded back to the OCHCA by the OCFA.

Butte Case Delegation of Authority Prohibition

At an urgently called special meeting of the OCFA Board of Directors on Monday, October 7, 2013, a Board member asked the OCFA attorney whether the Butte case prohibited the OCFA from handling the RFP for Ambulance Transport. The attorney responded that he had not read the case, so he could not offer an opinion. Thus the OCFA Board of Directors was denied an answer on this overriding issue.

On the next day at the Orange County Board of Supervisors meeting, a Board Supervisor asked County Counsel the same question, whether the Butte case prohibited the OCFA from handling the RFP for Ambulance Transport. County Counsel responded by saying, theoretically it did not.

How is the public to interpret this response? Normally, the public is accustomed to receiving an answer of either, "Yes, it does; or No, it does not." The public is at a loss as to what "theoretically" means. Can the OCFA do the RFP or not do it?

Can you please have your attorney speak with our County Counsel and advise Orange County whether the Butte case in your opinion prohibits the OCFA from handling the RFP. The residents

do not want this RFP process to go down the road, and then have a bidder sue the County over this issue, or have your Department advise the County that the Butte case prohibits this RFP delegation, and stop the RFP process in its tracks.

Interestingly, the public pose another very simple question on this matter. Why does it even matter whether the OCFA Purchasing Department or the County Purchasing Department handles this RFP?

Customer Complaints Not Forwarded to the Orange County EMS

Under a Public Records Request, the OCFA has provided me with a binder of documents related to OCFA investigations of customer complaints. Although I have just started the review, I find no documentation so far of these complaints and investigation results being forwarded by the OCFA to the Orange County EMS as required by Policy #700.00. I should be able to give you an additional report on this matter next week.

However, I believe the review of the customer complaint investigation binder should also be simultaneously done by the Orange County EMS. It would probably take one day for a person to review the binder. Hence, I am sending a copy of this letter to the Director of the Orange County Health Care Agency requesting his participation in this matter. And if the Orange County Health Care Agency declines to do the one day review, I request your assistance in having your independent organization do it.

This would be a very simple review, because the investigation documents have already been pulled by the OCFA for my review. Just have the OCFA make a copy of the binder and instruct them to transmit it to the Health Care Agency for their one day staff review.

OCFA Responses to the County EMS Medical Agency Medical Director and Program Manager

This attempted review has produced disturbing results. The Clerk of the OCFA previously verbally advised me that she had pulled about 250 applicable records for my review, but they had to be cleared first by the OCFA attorneys prior to review issuance. The attorneys have informed me there is only one document (copy attached of an e-mail from Mary Cohen) applicable to my public records request. This response is simply unbelievable. It creates a valid impression in the minds of the public that there is a possible OCFA cover-up going on related to this matter.

What the attorney response basically states is: The Orange County EMS Medical Director and Program Manager have never issued in the requested study time period even a single e-mail to the OCFA regarding OCFA EMS complaints and investigations. And the OCFA has never issued an e-mail response on this subject back to the County Medical Director and Program Manager. Again, this is simply unbelievable. Is the OCFA knowingly withholding EMS investigation documents?

The OCFA attorney document production response on this matter needs to be investigated by you and the Orange County Health Care Agency.

Additional Information - HazMat Inspection Disclosure Scandal

At an OCFA Budget and Finance Committee meeting on October 10, 2013, I spoke with the representative of the employee union whose union work was taken away due to alleged OCFA retaliation against a union member's exposing the HazMat Disclosure Inspection scandal. The

Orange County District Attorney is currently investigating this matter. The union representative said members still believe the OCFA retaliated against the union for the member's reporting of the irregularity.

The attached Orange County Register article stated that, "A fire authority internal investigation found the retaliation claims unsubstantiated". In light of everything I have uncovered at the OCFA, I would not have expected anything but this type of response. I place no reliance on findings of the OCFA's own singular internal investigation. The integrity and basic truthfulness of the OCFA have already been compromised and rightfully been brought into serious question.

What is really needed is for the Orange County Grand Jury to investigate and question OCFA members under oath regarding this matter. This would give the union members and public a clearer and more reliable understanding of what actually happened. Currently, the OCFA simply cannot be believed.

Additional Information - RFP E-Mail

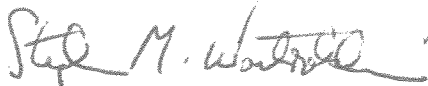
The public believes the now infamous RFP e-mail was not a "very poorly written communication" as alleged by the OCFA. The e-mail basically states that the meeting is being described as a non-RFP meeting, but it would be a meeting to actually discuss the RFP. That is exactly what happened. There was nothing discussed in the meeting but the RFP. That is not a "poorly written" e-mail. That is exactly what happened.

Next, there is a feeling in the new ambulance bidder community, the public, and the Orange County Register that the first meeting billed as a non-RFP meeting "gave current contractors an opportunity to shape bidding rules". Again, that is exactly what happened.

The OCFA accepted without comment a recommendation by an ambulance provider attendee to add a RFP bidder requirement for a non transport 24 hour supervisor. In the minds of the public and other ambulance companies, this was a direct attempt to limit small ambulance provider competition. It was included the very next day as an RFP requirement. The public question how could an ambulance provider's major RFP recommendation be included so fast as an RFP requirement, and without Orange County Health Care Agency consultation and concurrence?

We need your independent opinion and investigation of these matters. Your assistance on these matters is certainly welcome and would be greatly appreciated.

Sincerely,



Stephen M. Wontrobski

e:sacramentobutte10-11-13

Cc: Mark Refowitz (OCHCA)
Dan Smiley (State EMSA Deputy Director)
Orange County Grand Jury

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

October 15, 2013

Members of the Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602

Ref: Orange County Board of Supervisors
Objection to Ambulance Transport RFP Process
Supporting Documentation

Dear OCFA Board of Director Members:

Attached for your information are copies of some of my letters that have addressed alleged OCFA Procurement Department shortcomings. These letters supplemented my oral presentation to the Orange County Board of Supervisors objecting to having the OCFA handle the Ambulance Transport RFP.

Sincerely,



Stephen M. Wontrobski

E:\ocfabodletterbackup10-15-13

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

October 3, 2013

Orange County Board of Supervisors
333 W. Santa Ana Blvd.
Santa Ana, CA 92701

Mr. Mark Refowitz
Orange County Health Care Agency
405 W. 5th Street
Santa Ana, CA 92807

Ref: Orange County Fire Authority (OCFA)
Objection to Ambulance Transport RFP Process
Supporting Documentation

Dear Board Members and Mr. Refowitz:

In my October 1, 2013 letter, I advised you that I would send you copies of some of my letters that have addressed past alleged shortcomings regarding OCFA Procurement Department/RFP Irregularities. Listed below are sample letters arranged in reverse date order that provide information on this issue. This list does not include still other letters and oral OCFA public meeting comments on this issue. The circled numbers on the lower right hand corner of each attached letter page correspond to the numbered attachment listing below. These sample letters show why I maintain that the Board of Supervisors should not authorize the OCFA to administer the Ambulance Transport RFP.

1. September 26, 2013 letter to the OCFA Executive Committee regarding Hazardous Materials Disclosure Inspections – Failure to Investigate.
2. September 7, 2013 letter to the OCFA Executive Committee regarding LSL Audit of Cal Cards, Travel Related Activities and Fuel Usage.
3. August 14, 2013 letter to the OCFA Board of Directors regarding OCFA Broker/Dealer Criminal Wrongdoing/OCFA Procurement Department Irregularity.
4. July 25, 2013 letter to the OCFA Board of Directors regarding OCFA Broker/Dealer Criminal Wrongdoing/OCFA Procurement Department Irregularity.
5. June 27, 2013 letter to the OCFA Board of Directors regarding Technical Reviews – KME Fire Pumper Award.
6. June 27, 2013 letter to the OCFA Executive Committee regarding OCFA Procurement Department Practices – Harbor Pointe AC & Controls.
7. June 21, 2013 letter to OCFA's CPA (LSL) regarding Procurement Department Practices.
8. May 24, 2013 letter to the OCFA Board of Directors regarding Procurement Department Irregularity – High Pointe Blanket Orders.
9. May 23, 2013 letter to the OCFA Executive Committee regarding Irregular Purchasing Department Activity – Janitorial Services (Bright Way Building Maintenance).
10. February 28, 2013 letter to the OCFA Executive Committee regarding Bidding Practices.
11. February 28, 2013 letter to the OCFA Executive Committee regarding Irregular Bidding Practice – Vehicle Replacement.
12. December 13, 2012 letter to the OCFA Executive Committee regarding inaccurate response statements to the OCFA Budget & Finance Committee and OCFA Board of Directors regarding RFP requirements.
13. October 25, 2012 letter to the OCFA Board of Directors regarding Failure to Investigate Alleged Fraudulent Disability Filings.
14. August 22, 2012 letter to the OCFA Executive Committee regarding a Follow-up Action Request.

15. July 26, 2012 letter to the OCFA Board of Directors regarding OCFA Competitive Bidding Practices - Union Negotiations.
16. July 24, 2012 letter to the OCFA Board of Directors regarding OCFA Competitive Bidding Practices – New York Times Article.
17. July 9, 2012 letter to the OCFA Budget & Finance Committee regarding Competitive Bidding Practices.
18. October 31, 2011 Letter to the Orange County Register – Broker/Dealer List.
19. September 25, 2013 e-mail from the OCFA attorney prohibiting me from attending the September 26, 2013 meeting for the Ambulance Transport RFP.

I have also included as Attachment 19, a September 25, 2013 e-mail from the OCFA's attorney, denying me permission to attend the next day's September 26, 2013 meeting for the Ambulance Transport RFP. This e-mail was delivered to me approximately five hours after I was thrown out of the controversial September 25, 2013 RFP meeting by the OCFA, even though I never said a word in that meeting.

What is interesting about my being excluded from both RFP meetings is contrasted to what is discussed in the above July 26, 2012 letter to the OCFA Board of Directors (Attachment 15) regarding OCFA Competitive Bidding Practices - Union Negotiations. This letter gives a very good insight into the relationship between the OCFA and the Firefighters Union. It appears to me to be very tightly intertwined and against the public interest.

The letter states that in the June 27, 2012 Executive Committee meeting, there was discussion regarding OCFA staff meetings regarding OCFA negotiation plans for revisions to the Firefighters Union contract (memorandum of understanding). The Firefighters Union then asked the Executive Committee for approval to attend those private meetings. I thought this was an inappropriate request that would be quickly rejected. To my amazement the Executive Committee approved the request.

I considered this Executive Committee approval against the public interest. I then requested that I be allowed to attend those meetings, so I could monitor the proceedings. I was refused permission to attend those private meetings, even though the Firefighters Union was allowed to attend them. This is still another matter that needs to be investigated.

Once again, I recommend that the Board of Supervisors deny authorization to the OCFA to conduct the Ambulance Transport RFP. The Procurement Department problems seem so widespread at the OCFA; and the OCFA Board of Directors has taken very little action to correct them. Hence, I am forwarding this letter and attachments to the Orange County Grand Jury to see, if these OCFA Procurement Department problems merit their investigation.

Sincerely,



Stephen M. Wontrobski

:RFPsupportingdocuments10-3-13

Cc: Orange County Grand Jury
Dr. Howard Backer (State EMSA Director)
Dan Smiley (State EMSA Deputy Director)

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

September 26, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Referral to Orange County District Attorney and Board of Supervisors
Hazardous Materials Disclosure Inspections

Dear Committee Members:

In prior OCFA meetings, I have asked the OCFA to do a further "best practices" look back audit regarding inaccurate hazardous materials disclosure inspection billings, which the Orange County D.A. is investigating. Internal audit "best practices" require an audit look back of several years to determine if the erroneous billing practice has occurred in prior years. However, the OCFA has declined to conduct such a best practices look back audit.

Still again, I must bring this matter to your attention in order for you to refund hazardous materials disclosure inspection billings for work that may never have been done. As I previously reported in my June 27, 2013 and July 25, 2013 letters to you, the OCFA conducted an audit of hazardous materials disclosure inspections for FY 2005/06 through 2011/12. The audit disclosed apparent additional billing irregularities as follows:

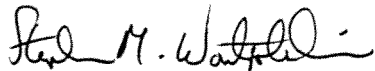
<u>Fiscal Year</u>	<u>Estimated Refund Amount</u>
2005/06	\$383,265
2006/07	\$394,115
2007/08	\$371,270
2008/09	\$164,694
2009/10	\$128,172
2010/11	\$123,673
2011/12	\$183,855

Internal audit "best practices" require a further audit look back of several additional years to determine if the erroneous billing practice has occurred in even more prior years. The current audit has disclosed that there is a high probability (about 100%) that even more additional billing irregularities occurred over the prior years.

Fire Chief Richter provided his reason for not conducting a further "best practices" back audit. Chief Richter stated in the June 27, 2013 Board of Directors meeting that the older year files are in disarray and some could not be currently located. I believe Chief Richter's statement that many files exist, but they are in disarray. However, this is not a legitimate reason to not audit the files that do exist once they are put in proper order.

Since the OCFA has refused to conduct the "best practices" audit and refund any more erroneous billings to businesses, I am referring this matter to the Orange County District Attorney and Orange County Board of Supervisors to let them decide if further action is required regarding this matter.

Sincerely,



Stephen M. Wontrobski

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Cc: Orange County District Attorney
Orange County Board of Supervisors

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

September 7, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602

Ref: LSL Audit
Cal Cards, Travel Related Activities and Fuel Usage

Dear Executive Committee Members:

The LSL Audit of Cal Cards, Travel Related Activities and Fuel Usage points to problems of basic internal controls and lack of filing accountability, which seems to have reached serious proportions. These same similar problems are also very similar in many respects to the OCFA hazmat disclosure audit, which identified: a) the number of billings to businesses for work that was never done, and b) inspection files that were deemed by the Fire Chief to be in "disarray".

I draw your attention to the following key points in the LSL audit as examples to support my assertion.

1. (Ref. Page 3, Monitoring Fuel Tank Usage) LSL noted that:

Fuel "logs are incomplete, not reconciled, and an inaccurate means to properly maintain control over the usage of fuel. The logs do not contain enough data to allow for any meaningful review, and there is no way to determine if the logs are being completed every time fuel is used, or if fuel use is for an unauthorized purpose. "

In other words, there has been no control over the fuel logs and now no way to determine if unauthorized use of fuel has occurred.

2. (Ref. Page 6, Monitoring Fuel Tank Deliveries and Orders) LSL noted that:

"...there are no controls in place to verify the amounts reported dispersed by the vendor was actually received by the Authority."

In other words, there have been no controls over fuel deliveries and no way now to reconcile whether the amounts invoiced by vendors were actually received.

3. (Ref. Page 7, Reconciling Fuel Tank Activities) LSL noted that:

"Reconciliations have not been performed each month or quarter for fire stations and documentation has only been retained for 3 months at a time. These procedures make it very difficult to verify the fuel is being used properly, properly safeguarded, and the amounts paid for have actually been received."

In other words, neither LSL nor the OCFA cannot now determine with a degree of certainty that the fuel was properly used and the fuel amounts paid for have actually been received. Furthermore, is the destruction of records after three months in accordance with the OCFA's Records Retention Policy and Procedure?

4. (Ref. Page 8, Voyager Fuel Cards) LSL noted that:

"The lack of controls makes it difficult to verify there has not been any fraudulent activity related to the voyager cards."

In other words, since there was a lack of controls in place, it is now difficult to determine if fraudulent activity has even taken place.

5. (Ref. Page 11, Monitoring of Purchases) LSL noted that:

"There are no policies and procedures in place or documented in the Standard Operating Procedures document that specify how to verify the purchased items were actually received."

In other words, since "there are no policies in place to inventory items purchased with Cal Cards, then there are no controls in place to verify items are not stolen, taken back, or never received".

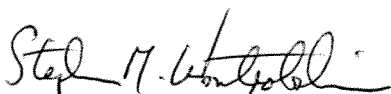
The above examples point to the sweeping lack of controls associated with the use of Cal Cards and fuel usage. These are rudimentary basic internal control issues. However, the audit points to much larger Accounting/Procurement problems that need to be addressed at the Budget & Finance Committee, Executive Committee and Board of Director levels.

Over the last few years at numerous Budget & Finance Committee, Board of Director and Executive Committee meetings, I had commented on and supplied written documentation regarding the serious lack of inquiry, financial controls, and full and complete documentation regarding apparent Procurement Department irregularities and contract awards. In my opinion both the Executive Committee and Board of Directors last year were seriously deficient regarding true OCFA oversight to protect taxpayer funds.

On a positive note, this year I have publicly issued various compliments to the new members of the Board of Directors stating that with the addition of these new Board members, I have finally seen closer scrutiny and questioning of financial commitments. Again, I wish to thank these new Board members for giving the Board greater credibility regarding true OCFA oversight in the eyes of the public. It is my hope that their efforts will encourage other Board members to properly scrutinize, question and speak up in meetings regarding Procurement Department apparent irregularities, award documentation deficiencies, and Accounting Department lax financial controls.

Without such active Board and Committee involvement, the taxpayer winds up receiving CPA audits such as this one.

Sincerely,



Stephen M. Wontrobski

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Mission Viejo, CA 92692
(949) 348-0148

August 14, 2013

Members of the Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92619

Ref: Orange County Fire Authority (OCFA)
Broker/Dealer Criminal Wrongdoing/OCFA Procurement Department Irregularity

Dear Board Members:

This is yet still another letter on the Broker/Dealer Criminal Wrongdoing/OCFA Procurement Department Irregularity.

As previously reported to you for almost two years, I have informed the OCFA of UBS and Wells Fargo wrongdoing, and the need to have them disqualified for broker/dealer work. I now wish to advise you of still additional information I have obtained on this subject pursuant to a review of OCFA records pursuant to a Public Records Request.

On October 24, 2007 OCFA's outside CPA, Diehl, Evans & Company, issued "Independent Accountant's Report on Applying Agreed-Upon Procedures". One of the issues studied in this report was the "Monitoring of Broker/Dealers". In the Executive Summary, the CPA stated:

We recommend that when the OCFA considers contract renewals for the existing Broker/Dealers, the Treasurer should consider whether there have been any censures or fines of sufficient magnitude to prevent a Broker/Dealer from being used on an ongoing basis.

OCFA's Management Response was:

OCFA agrees with this recommendation. The OCFA uses FINRA as an independent check on broker/dealers to affirm that their NASD is still active and that the firm is adhering to securities laws.

By agreeing to renew UBS and Wells Fargo as broker/dealers, the OCFA has violated the recommendation of its outside CPA and its own response to its outside CPA. This information, now known by the public, further damages the credibility of the OCFA. It is also another apparent procurement department irregularity, which needs to be addressed and corrected by the Board.

Accordingly, I request that the Board disqualify UBS and Wells Fargo for future OCFA broker/dealer work.

Sincerely,



Stephen M. Wontrobski

e:ocfabodbroker-dealercpa8-14-13

Stephen M. Wontrobski
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Mission Viejo, CA 92692
(949) 348-0148

July 25, 2013

Members of the Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Broker/Dealer Criminal Wrongdoing/OCFA Procurement Department Irregularity

Dear Board Members:

For almost two years I have informed the OCFA of UBS wrongdoing. This letter is only one of numerous letters I have written concerning UBS wrongdoing and the need to have them disqualified for broker/dealer work. Rather than disqualifying this organization from future OCFA broker/dealer work, the Board/Executive Committee has voted to renew their broker/dealer relationship with the OCFA. This speaks very poorly for the Board in the eyes of the public.

I now wish to advise you of still another action against UBS. According to a July 22, 2013 news article, UBS has pleaded guilty to criminal fraud. UBS has pleaded guilty and has agreed to settle U.S. housing claims for \$745 million related to the alleged miss-selling of mortgage-based securities in the run-up to the financial crisis.

The OCFA can only award work to "responsible bidders". Public Contract Code Section 1103 defines "responsible bidder" as a bidder who has demonstrated the attribute of trustworthiness. I have long maintained that UBS is not a "responsible bidder" as defined by the Code, since it does not possess the needed qualification of "trustworthiness". My July 24, 2012 letter to the Orange County Fire Authority on this subject contains the following quote from the New York Times article on alleged UBS financial wrongdoings: "...In many ways, UBS is in a league of its own given its track record for scandals."

OCFA Board inaction on this subject in my opinion puts the OCFA in a league of its own with regard to inaction and questionable Board oversight with regard to insuring that the OCFA will only conduct business with "trustworthy" organizations, as required by the Public Contracts Code. The Board is in knowing violation of the Public Contracts Code by authorizing work with a non-trustworthy organization.

The public remains baffled when UBS is regarded by the OCFA as trustworthy despite the above criminal fraud and the following examples identified by the New York Times of financial wrongdoing by UBS:

1. It is involved in the Libor scandal.
2. It paid \$780 million in fines and penalties associated with its IRS wrongdoing.
3. It settled SEC charges that it acted as an unregistered broker-dealer and investment advisor to American clients and paid a \$200 million fine.
4. It agreed in May 2011 that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution.
5. In 2008 UBS agreed in an SEC settlement to reimburse clients \$22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities. In addition, UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states.

Based on the above, how can the OCFA regard UBS as trustworthy? By doing so, the OCFA continues to violate the Public Contracts Code, and it itself appears to be involved in wrongdoing. In light of this, how can the public believe the Board is an organization dedicated to the value of strict integrity in business matters and strict adherence to public law? Accordingly, I request that the Board disqualify UBS for future OCFA broker/dealer work.

Sincerely,


Stephen M. Wontrobski

e:ocfabodbroker-dealer7-25-13

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(949) 348-0148

June 27, 2013

Board of Directors Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Procurement Department Practices – KME Fire Pumper Award
Technical Reviews and Failure to Provide Information to Board of Directors Members

Dear Board of Directors Members:

I had previously objected in a January 24, 2013 Executive Committee meeting to the award of fire pumpers to KME (RFP Number DC 1820). From my recent subsequent review of OCFA purchasing documents, I have learned of possible irregularities on this award.

Technical Reviews

The first item that is brought into question is the validity of the OCFA technical reviews associated with the award. I question the validity of various aspects of the technical reviews, and I am available to discuss my findings on the technical reviews. EVG, another bidder for this work, also has questioned the validity of the technical reviews. EVG should also be contacted to be given the opportunity to comment on the technical reviews.

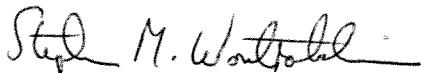
The structure of the bid specifications with an absence of an "or equal" provision and the content of the technical reviews appear to violate the Public Contracts Code. The technical appraisals and scorings need to be investigated, as well as, the EVG criticism of the technical reviews.

Failure to Provide Information to Board of Directors Members

The second item centers on the attached January 24, 2013 letter from EVG protesting the award. There appears to have been intent by OCFA staff to disallow full disclosure on this award to the Executive Committee, bidders and the public. You can see from the attached letter that notice of the proposed award was given to EVG approximately 24 hours prior to Executive Committee presentation. It did not allow EVG sufficient time to fully protest the award. This is troublesome.

However, what is more troublesome is that the Executive Committee and the public were not advised in the January 24, 2013 meeting of the existence of the EVG protest letter. Hence, neither the Executive Committee nor public were given full disclosure and were denied the ability to protest the award based on information contained in the letter. This appears to be a violation of an OCFA full disclosure duty to the Executive Committee and the public. It warrants an LSL investigation as part of its Purchasing Department audit. If violations did occur on this award, the Board needs to cancel the four year extension of this order.

Sincerely,



Stephen M. Wontrobski

E:ocfabodKME6-27-13



January 24, 2013

Ms. Debbie Casper
Mr. Rick Oborny
Orange County Fire Authority
1 Fire Authority Rd.
Irvine, Ca 92602

Re: RFP Number: DC1820

Dear Ms. Casper and Mr. Oborny,

We received notice via email of the intent to award RFP DC 1820 - Fire Pumper - Type I - 1500 GPM Triple Combination to KME yesterday at 4:22pm and that the recommendation will be brought to the executive committee less than 26 hours later.

This letter serves as our request to have this item pulled from the Executive Committee meeting agenda to allow time for additional and proper review for the following reasons:

1. The proposal from Emergency Vehicle Group, Inc./Spartan ERV was the lower bid in both original, and what would have been our revised pricing, had we been asked to make the same price revisions. Spartan ERV has taken no price increases since the bid was submitted and we are still within the window of time we stated our price would be held. *See Table below.*

	EVG - Original	EVG - Revised	KME - Original	KME - Revised**
Unit Cost	466,936.00	466,936.00	461,101.00	466,634.00
Perf. Bond	1,976.00*	(1,976.00)	2,210.00*	(2,210.00)
Warranty Cost	9,815.00	9,815.00	11,815.00	11,815.00
Travel Exp	Included	(4,000.00)	Included	(3,750.00)
Transportation	0.00	0.00	4,000.00	4,000.00
Tire Fee	12.25	12.25	12.25	12.25
Total - Before Tax	476,763.25	470,787.25	476,928.25	476,301.25

*The Performance bond price from EVG was incorrectly listed on staff report. Correct price used in table above and included in both EVG and KME original unit prices.

**The bid required pricing to be held firm for 120 days from bid opening. The Staff report notes that KME took a price increase on December 31, 2012 which is before the 120 requirement. Spartan ERV has taken no price increases and will not increase pricing through 2013.

2. The intent to award was released four months after the bid closed and is being brought to the board for approval just over 24 hours later.

3. EVG received no questions or comments from OCFA as would be expected for being the low bid to discuss experience, qualifications and the technical proposal. We did follow up with OCFA for updates on the process to ensure there were no questions or items we could clarify.
4. Pricing on the staff report that was published was incorrect. KME's revised price was listed as \$509,335.17, but should have been \$513,335.17. Additionally, our performance bond price was listed incorrectly. Our concern is that there could have been additional errors or inconsistencies that resulted in EVG not being recommended for the award.
5. KME's price increases were capped at 3% and our price increases for renewed contracts was capped at 1.5%. This could result in substantial savings had EVG been selected and the multi-year contract renewed.
6. As an Orange County taxpayer residing in an area served by Orange County Fire Authority, as well as an Orange County business owner and employer I am concerned that the vendor providing the lowest proposed price did not receive contact for further review or discussion on clarifications or other criteria affecting the award.

Spartan ERV is a publicly traded company (NASDAQ: SPAR) has the experience and qualifications to build high quality apparatus for OCFA. Two apparatus currently serve the OCFA fleet in the City of Santa Ana and Spartan ERV has served and currently serves the fire department fleets for the City of Chicago, Dallas Fire Department as well as many large and small agencies.

The specifications published were heavily influenced by KME's product and build practices due to the composition of your fleet. Due to this, it would be extremely difficult for any apparatus builder to take zero clarifications except KME. We believe in honest and open dialogue and clarified areas where our construction may differ slightly due to proprietary components not being available and different manufacturing practices. Our intent is build apparatus to your specifications and in the areas we clarified, work together as a partner to find an amicable solution that fits the needs of OCFA best or through further clarification, meet the original specifications.

We value OCFA and appreciate the current and past business and look forward to all future opportunities to partner with you and the OCFA.

We look forward to hearing from you and having the opportunity to discuss our proposal further.

Best regards,



Travis Grinstead
President and Co-Founder

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

June 27, 2013

Executive Committee Members
OCFA
1 Fire Authority Road
Irvine, CA

Ref: Harbor Pointe AC & Controls
OCFA Procurement Department Practices

Dear Executive Committee Members:

In my May 23, 2013 letter, I addressed my concern that certain financial controls appeared to have been violated by the OCFA on the Harbor Pointe AC & Controls blanket orders. In that letter I questioned why \$1,150,000 was committed under those blanket orders without Executive Committee approval. I request a response to that letter.

Since that time I have been able to review additional OCFA Purchasing Department documents. It now appears that additional financial controls were violated.

Harbor Pointe Blanket Orders

The OCFA issued two blanket orders for HVAC services to Harbor Pointe AC & Controls:

1. B.O. 1201 (City Fire Stations) - \$72.00/hour Billing Rate
2. B.O. 1158 (Headquarters and Training Facility) - \$89.00/hour Billing Rate

Both blanket orders were issued without Executive Committee approval based on the following suspect justification language:

This was an informal bid and the amount of the contract did not require it to go to the Executive Committee per OCFA justification memo.

I had previously reported that this justification appeared to violate OCFA internal controls. In addition, the justification why the higher \$89.00 billing rate for maintenance at the headquarters building should not be reduced to the competitively bid rate of \$72.00 per hour for maintenance at the fire stations now needs to be investigated.

The justification given by the OCFA was that more highly qualified and higher paid workers were needed on the headquarters building. However, this justification for the higher paid \$89.00/hr. work for fire stations was not disclosed to the Executive Committee and the public in the recommendation for the combination of the two Harbor Pointe blanket orders. This failure to disclose material award information to the Executive Committee and the public denied both parties the ability to question and possibly reject the given explanation as being unsupportable.

From my own construction industry experience, I question the higher rate justification. From my experience the justification does not appear to make sense. In addition, there are no documents in the file to show that the OCFA's own construction manager was even contacted to obtain his concurrence for the higher rate justification.

The contractor payrolls need to be audited to determine the validity of the assertion. I request that you direct LSL to review the Harbor Pointe payrolls and verify that: a) higher paid individuals were actually employed on the headquarters building work, and b) workers on the fire station repairs were actually lower paid and not used on the headquarters building repairs.

If the higher rate justification is not valid, the headquarters work needs to be rebid.

Your assistance in this matter is appreciated.

Sincerely,



Stephen M. Wontrobski

E:\ocfa\excharborpointe6-27-13

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

June 21, 2013

Mr. Rich Kikuchi
Lance, Solly, Lunghard
203 N. Brea Blvd. #203
Brea, Ca 92701

Ref: Orange County Fire Authority (OCFA)
Procurement Department Practices

Dear Mr. Kikuchi:

In my May 23, 2013 Board of Directors letter, which I copied to you, I addressed my concern that certain financial controls appeared to have been violated by the OCFA on the Harbor Pointe blanket orders. I reviewed the OCFA Purchasing files for those blanket orders on May 23, 2013 in the OCFA Clerk's offices. In my May 23, 2013 letter I questioned why \$1,150,000 was committed under these blanket orders without Executive Committee approval. I request a response to that letter.

Since that time I have been able to review additional OCFA Purchasing Department documents. It now appears that additional financial controls and duty to disclose information to the Executive Committee were violated.

Harbor Pointe Blanket Orders

The OCFA issued two blanket orders for HVAC services to Harbor Pointe AC & Controls:

1. B.O. 1201 (City Fire Stations) - \$72.00/hour Billing Rate
2. B.O. 1158 (Headquarters and Training Facility) - \$89.00/hour Billing Rate

Both blanket orders were issued without Executive Committee approval based on the following justification language:

This was an informal bid and the amount of the contract did not require it to go to the Executive Committee per OCFA justification memo.

I had previously reported to you that this justification appeared to violate OCFA internal controls. In addition, the justification why the \$89.00 billing rate for maintenance at the headquarters building should not be reduced to the competitively bid rate of \$72.00 per hour for maintenance at the fire stations now needs to be investigated. The justification given by the OCFA was that more highly qualified and higher paid workers were needed on the headquarters building.

I questioned two construction project managers in private industry on the validity of the higher rate justification. Both individuals said the justification did not appear to make sense. The contractor payrolls need to be audited to determine the validity of the assertion. I request that you

review the Harbor Pointe payrolls and verify that: a) higher paid individuals were actually employed on the headquarters building work, and b) workers on the fire station repairs were actually lower paid and not used on the headquarters building repairs.

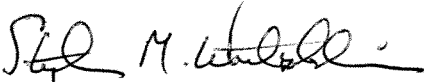
Failure to Provide Information to the Executive Committee

I had previously objected in the January 24, 2013 Executive Committee meeting to the award of fire pumpers (RFP Number DC 1820). From my subsequent review of OCFA purchasing documents, I have learned of possible irregularities on this award.

The first item that is brought into question is the validity of the technical appraisals associated with the award. The technical appraisals and scorings need to be investigated. I am available to discuss my findings on the technical reviews. EVG should also be contacted to be given the opportunity to comment on the technical reviews. The structure of the bid specifications and technical reviews appear to violate the Public Contracts Code.

The second item centers on the attached January 24, 2013 letter from EVG protesting the award. There appears to be intent by staff to disallow full disclosure on this award to the Executive Committee, bidders and the public. You can see from the attached letter that notice of the proposed award was given to EVG approximately 24 hours prior to Executive Committee presentation. This is troublesome. However, what is more troublesome is that the Executive Committee and the public were not advised in the January 24, 2013 meeting of the existence of the EVG protest letter. Hence, neither the Executive Committee nor public were given full disclosure and were denied the ability to protest the award based on information contained in the letter. This appears to be a violation of a full disclosure duty to the Executive Committee and the public. It warrants your investigation as part of your Purchasing Department audit. If violations did occur on this award, the four year extension of this order needs to be cancelled and the work rebid.

Sincerely,



Stephen M. Wontrobski

E:ls16-21-13



January 24, 2013

Ms. Debbie Casper
Mr. Rick Oborny
Orange County Fire Authority
1 Fire Authority Rd.
Irvine, Ca 92602

Re: RFP Number: DC1820

Dear Ms. Casper and Mr. Oborny,

We received notice via email of the intent to award RFP DC 1820 - Fire Pumper - Type I - 1500 GPM Triple Combination to KME yesterday at 4:22pm and that the recommendation will be brought to the executive committee less than 26 hours later.

This letter serves as our request to have this item pulled from the Executive Committee meeting agenda to allow time for additional and proper review for the following reasons:

1. The proposal from Emergency Vehicle Group, Inc./Spartan ERV was the lower bid in both original, and what would have been our revised pricing, had we been asked to make the same price revisions. Spartan ERV has taken no price increases since the bid was submitted and we are still within the window of time we stated our price would be held. *See Table below.*

	EVG - Original	EVG - Revised	KME - Original	KME - Revised**
Unit Cost	466,936.00	466,936.00	461,101.00	466,634.00
Perf. Bond	1,976.00*	(1,976.00)	2,210.00*	(2,210.00)
Warranty Cost	9,815.00	9,815.00	11,815.00	11,815.00
Travel Exp	Included	(4,000.00)	Included	(3,750.00)
Transportation	0.00	0.00	4,000.00	4,000.00
Tire Fee	12.25	12.25	12.25	12.25
Total - Before Tax	476,763.25	470,787.25	476,928.25	476,301.25

*The Performance bond price from EVG was incorrectly listed on staff report. Correct price used in table above and included in both EVG and KME original unit prices.

**The bid required pricing to be held firm for 120 days from bid opening. The Staff report notes that KME took a price increase on December 31, 2012 which is before the 120 requirement. Spartan ERV has taken no price increases and will not increase pricing through 2013.

2. The intent to award was released four months after the bid closed and is being brought to the board for approval just over 24 hours later.



3. EVG received no questions or comments from OCFA as would be expected for being the low bid to discuss experience, qualifications and the technical proposal. We did follow up with OCFA for updates on the process to ensure there were no questions or items we could clarify.
4. Pricing on the staff report that was published was incorrect. KME's revised price was listed as \$509,335.17, but should have been \$513,335.17. Additionally, our performance bond price was listed incorrectly. Our concern is that there could have been additional errors or inconsistencies that resulted in EVG not being recommended for the award.
5. KME's price increases were capped at 3% and our price increases for renewed contracts was capped at 1.5%. This could result in substantial savings had EVG been selected and the multi-year contract renewed.
6. As an Orange County taxpayer residing in an area served by Orange County Fire Authority, as well as an Orange County business owner and employer I am concerned that the vendor providing the lowest proposed price did not receive contact for further review or discussion on clarifications or other criteria affecting the award.

Spartan ERV is a publicly traded company (NASDAQ: SPAR) has the experience and qualifications to build high quality apparatus for OCFA. Two apparatus currently serve the OCFA fleet in the City of Santa Ana and Spartan ERV has served and currently serves the fire department fleets for the City of Chicago, Dallas Fire Department as well as many large and small agencies.

The specifications published were heavily influenced by KME's product and build practices due to the composition of your fleet. Due to this, it would be extremely difficult for any apparatus builder to take zero clarifications except KME. We believe in honest and open dialogue and clarified areas where our construction may differ slightly due to proprietary components not being available and different manufacturing practices. Our intent is build apparatus to your specifications and in the areas we clarified, work together as a partner to find an amicable solution that fits the needs of OCFA best or through further clarification, meet the original specifications.

We value OCFA and appreciate the current and past business and look forward to all future opportunities to partner with you and the OCFA.

We look forward to hearing from you and having the opportunity to discuss our proposal further.

Best regards,

A handwritten signature in black ink, appearing to read "T-Grinstead".

Travis Grinstead
President and Co-Founder

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

May 24, 2013

Board of Director Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92619

Ref: Orange County Fire Authority (OCFA)
High Pointe Blanket Orders

Dear Board Members:

In the May 23, 2013 Board of Directors meeting, I addressed my concern that certain financial controls appeared to have been violated by the OCFA on the High Pointe blanket orders. I reviewed the OCFA Purchasing files for those blanket orders on May 23, 2013 in the OCFA Clerk's offices.

Attached is a worksheet that I compiled from that review. Since I am not conversant with the OCFA internal controls and limits of authority, I am sending that worksheet to the OCFA's CPA, which is auditing the OCFA Procurement Department. They can then determine if financial controls were violated on these two blanket orders.

If the CPA determines that procurement irregularities did occur, it is strongly recommended that the CPA review other blanket orders to determine if similar financial control violations occurred on them.

I am also sending them my May 23, 2013 letter regarding what appears to be a financial control violation on the janitorial services contract. This entailed a unilateral extension of a contract without Executive Committee approval.

Sincerely,



Stephen M. Wontrobski

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HARBOR POINT ACQUISITIONS (BO 1158 + BO 1201)

	RFOTC	C.N.#	Amount	Duration	Rev. Total	FINAL B.O. Amount	B.O.'s Grants Total
10/23/08	P.O. BO1158 (YR.1) (No Ex. C.)	-	50,000	11/1/08-10/31/09	50,000		
8/26/09	"	1	+ 20,000	11/1/08-10/31/09	70,000	70,000	70,000
10/14/09	P.O. BO1158-1 (YR.2)	-	50,000	11/1/09-10/31/10	50,000		
6/30/10	P.O. BO1158-1	1	25,000	11/1/09-10/31/10	75,000		
9/29/10	P.O. BO1158-1	2	25,000	11/1/09-10/31/10	100,000	25,000	25,000
9/20/10	P.O. BO1158-2 (YR.3)	-	50,000	11/1/10-10/31/11	50,000		
8/4/11	P.O. BO1158-2	1	25,000	11/1/10-10/31/11	75,000		
11/1/11	P.O. BO1158-2	2	20,000	11/1/10-10/31/11	95,000	220,000	515,000
10/19/11	P.O. BO1158-3 (YR.4)	-	50,000	11/1/11-10/31/12	50,000		
10/27/11	P.O. BO1158-3	-	50,000	11/1/11-10/31/12	50,000		
9/27/12	P.O. BO1158-3	1	20,000	11/1/11-10/31/12	20,000	70,000	585,000
12/31/12	P.O. BO1158-4 (YR.5)	-	50,000	11/1/12-10/31/13	50,000	50,000	635,000
	170,000 EXTRA FOR YR 4 + PART YR.5						
	BID FOR RFOTC (BO 1158)						

a) THIS WAS AN INFORMAL BID AND THE AMOUNT OF THE CONTRACT DID NOT REQUIRE IT TO GO TO THE EXECUTIVE COMMITTEE PER OCA JUSTIFICATION MEMO.

BID FOR FIRE STATIONS (BO 1201) - \$25,000 FOR 1 YR WITH 4 YR. OPTION (BO 1201)

a) THIS WAS AN INFORMAL BID AND THE AMOUNT OF THE CONTRACT (\$25,000) DID NOT REQUIRE IT TO GO TO THE EXECUTIVE COMMITTEE PER OCA JUSTIFICATION MEMO.

b) ON 8/20/12 EXECUTIVE COMMITTEE APPROVED A CONTRACT INCREASE TO \$175,000 FOR ADDITION OF SIXTH AND FIRE STATIONS.

FIRE STATIONS (BO 1201)

4/10/09	BO BO 1201 (YR1 No Ex. C.)	-	25,000	4/1/09-3/31/10	25,000		
6/23/09	BO 1201	1	25,000	4/1/9-3/31/10	50,000		
9/17/09	BO 1201	2	25,000	4/1/09-3/31/10	75,000		
11/25/09	BO 1201	3	25,000	4/1/09-3/31/10	100,000	100,000	
3/8/10	BO 1201-1	-	25,000	4/1/10-3/31/11	25,000		
7/29/10	BO 1201-1	1	25,000	4/1/10-3/31/11	50,000		
10/12/10	BO 1201-1	2	25,000	4/1/10-3/31/11	75,000		
2/9/11	BO 1201-1	3	25,000	4/1/10-3/31/11	100,000	100,000	
3/15/11	BO 1201-2	-	25,000	4/1/11-3/31/12	25,000		
9/14/11	BO 1201-2	1	25,000	4/1/11-3/31/12	50,000		
1/18/12	BO 1201-2	2	20,000	4/1/11-3/31/12	70,000	145,000	
3/26/12	BO 1201-3	-	50,000	4/1/12-3/31/13	50,000		
6/20/12	BO 1201-3	1	25,000	4/1/12-3/31/13	75,000		
7/17/12	BO 1201-3	2	24,900	4/1/12-3/31/13	99,900		
						175,000	515,000

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

May 23, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602

Ref: Orange County Fire Authority (OCFA)
Irregular Purchasing Department Activity

Dear Committee Members:

I had previously detailed to you in prior written correspondence of OCFA Purchasing Department irregularities. One item I detailed was the OCFA's extending an existing contract after contract expiration without Committee approval. I stated that the unilateral OCFA action to extend a contract without Committee approval was irregular, since the OCFA lacked authorization to do so. The Committee has declined to address and take corrective action regarding this matter in any public meeting.

I wish to advise you that this Purchasing Department irregularity has occurred again. The contract for janitorial services to Bright Way Building Maintenance expired on April 30, 2013. However, the OCFA has unilaterally extended this contract without Committee approval. Hence, I consider the current extension without Committee approval is unauthorized and subjects the OCFA to additional outside scrutiny and criticism.


I request that the Committee instruct the OCFA not to unilaterally extend any contract in the future without Committee approval.

Additionally, in the justification memo for the contract extension, the OCFA lists as a reason for the contract extension is because the contract for janitorial services is "complex in nature". I seriously question whether a janitorial services contract is "complex in nature".

I again request that the Committee instruct the OCFA to be accurate and truthful in its contract justification memos. The credibility of the OCFA has already been brought into serious question by its own actions and outside investigations. This type of questionable contract award justification just adds to that lack of trust.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

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Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

May 23, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602

Ref: Orange County Fire Authority (OCFA)
Irregular Purchasing Department Activity

Dear Committee Members:

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I thank you in advance for your assistance and consideration of this matter.

Sincerely,



Stephen M. Wontrobski

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

February 28, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Bidding Practices

Dear Committee Members:

In addition to the proposed improvements to the RFP bidding process, I request that staff be instructed to follow a "best practice" in bidding and providing complete supporting documentation for purchase order and contract award recommendations to the Committee.

I have previously outlined serious flaws in the OCFA competitive bidding process, and I have given specific recommendations to improve the award process. As far as I know, the OCFA has refused to implement any of them.

I have noticed over almost the last two years, that there were a large number of contracts that are rolled over rather than competitively bid. This is a violation of the Public Contract Code and it must be stopped. In addition, I advised that the OCFA should notify the Executive Committee 90 days in advance, if it intended to roll over an existing contract, so that adequate time was available to bid the work, if the Committee objected to the rollover.


The OCFA refused to implement this recommendation. At last month's Executive Committee meeting, the Committee was advised by OCFA staff that a contract needed to be immediately rolled over, since it was due to expire in less than a week. The result? The Committee had no other choice but to roll over the contract.

OCFA contract award recommendation letters are seriously deficient in very many instances. I have also given my recommendations as to what is to be included at a minimum in an award recommendation letter. These recommendations have also not been implemented by the OCFA. In the past I have even asked Committee members basic questions they cannot answer from the award recommendation letter provided to them. Examples of some of those basic questions are:

1. Who was the bid package sent to?
2. Who refused to bid?
3. Why was a bidder disqualified?
4. Did the bid package request an alternate bid proposal?
5. Were all the bidders allowed to bid on the alternate proposal under which the work was awarded?
6. Did the bid package call for a bid based on a one year duration, rather than a contract duration of three or five years that it later turned into?

The Committee needs to address these matters to insure that the OCFA is in full compliance with the Public Contract Code and that Committee members are aware of just what they are approving.

Sincerely,


Stephen Wontrobski

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Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

February 28, 2013

Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Vehicle Replacement

Dear Committee Members:

I object to the wording contained in the Second Quarter Financial Newsletter in the section entitled "Vehicle Replacement". It states in part:

"Cost containment measures continue with vehicle purchases being deferred whenever possible."

This is completely opposite to what appears to have actually taken place regarding the purchase of four Type I Engines. This purchase for over \$2,000,000 was approved by the Executive Committee in its January 24, 2013 meeting. The engines replace four existing engines that have only approximately 100,000 miles on them. The replaced engines will be continued to be used.

In this meeting there was no mention by staff as to whether the equipment purchase could be deferred. And, there was absolutely no inquiry from Committee members as to whether there was any downside to deferring the equipment purchase. Staff merely stated that this item was in the approved budget, so they went along in purchasing the equipment.

The OCFA has an unfunded liability problem that approaches about \$560,000,000. The equipment purchase could have been deferred as one cost saving item to address this major monetary problem. However, there is nothing in the record that the Committee acted on, that pointed to an absolute need to purchase the engines or whether the purchase could have been deferred. Even more distressing is the total lack of mention that deferring the purchase was actually a staff consideration. Hence, the newsletter comment on cost containment on equipment purchases does not appear to be factual.

In addition, this purchase was approved despite my strong objection as to what appeared to be an irregularity in the award process. I continue to maintain that this was an irregular bid award. It turned a one year bid proposal into an additional four year purchase order for an added +\$8,000,000 without public bidding.

There is nothing in the bid award recommendation or in staff's response to my award objection, which stated all the bidders were given the opportunity to bid on a five year purchase order for approximately \$10,000,000, rather than a one year purchase award for approximately \$2,000,000. This matter still needs to be investigated.

I request that the wording in the newsletter be changed and that the bid award be investigated to determine if a Public Contract Code violation has occurred.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

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- **Human Resources Division.** Expenditures include the annual insurance premiums, which are paid in full each July.
- **Operations Department.** Expenditures exceed 50% due primarily to extraordinary backfill/overtime related to emergency out-of-county assistance-by-hire activities for which reimbursement is anticipated. This item will be considered for a mid-year budget adjustment.

Expenditures as summarized by type:

Expenditures by Type	Budget	YTD Actual	% Expended
S&EB	261,635,980	132,478,936	50.6%
S&S	22,781,447	9,197,170	40.4%
Equipment	88,178	67,292	76.3%
Total	284,505,605	141,743,398	49.8%

Key variances by type include:

- Total S&EB is exceeding 50% due primarily to the emergency backfill/overtime as noted above under the Operations Department.

CIP FUNDS

The following summarizes year-to-date revenues and expenditures for the Capital Improvement Program funds. Overall, revenues and expenditures are on target for the first quarter of the fiscal year. Any variances are noted as follows.

Facilities Maintenance & Improvement

Fund 122	Budget	YTD Actual	Percent
Revenue	157,484	124,964	79.4%
Expenditures	1,691,449	325,392	19.2%

- Revenue from cash contract cities for facilities maintenance is higher than originally estimated. This revenue source results from reimbursement of expenditures that occurred in the prior year. Final reimbursement amounts are not known when the budget is developed; therefore estimates are used and then supplemented with a mid-year adjustment, as appropriate.
- Cost containment measures continue with projects being deferred whenever possible.

Capital Projects

Fund 123	Budget	YTD Actual	Percent
Revenue	102,518	142,966	139.5%
Expenditures	2,201,900	63,863	2.9%

- The expenditure budget includes \$2.2 million for the purchase of the second half of the hangar at Station 41 (Fullerton Airport). Although there have been delays it is anticipated that the project will be completed before the end of June. The noted construction delay is related to the new facility where the tenants currently housed in the second half of the hangar will be relocated.

Communications & Info. Systems Replacement

Fund 124	Budget	YTD Actual	Percent
Revenue	939,555	176,344	18.8%
Expenditures	15,324,465	3,835,863	25.0%

- The expenditure budget includes \$10 million for the Public Safety System project. The contract for the CAD portion of the system has been signed and the purchase order for \$2.8 million was issued in October. Negotiations for the other two parts of the system (fire prevention and incident reporting) are still to be completed.
- The revenue budget includes state reimbursements of \$828,000 for replacement of the 911 telephone system. Negotiations with the vendor are continuing.

Vehicle Replacement

Fund 133	Budget	YTD Actual	Percent
Revenue	2,530,993	820,789	32.4%
Expenditures	9,720,267	1,965,120	20.2%

- Year-to-date expenditure activity includes the lease-purchase financing agreement payments for the helicopters.
- Both the revenue and expenditure budgets include \$960,000 for vehicle purchases under US&R and State Homeland Security grant programs.
- Cost containment measures continue with vehicle purchases being deferred whenever possible.

SUMMARY

For more information. This summary is based on detailed information from our financial system. If you would like more information or have any questions about the report, please contact Stephan Hamilton, Budget Manager at 573-6302 or Tricia Jakubiak, Treasurer at 573-6301.

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

December 13, 2012
Executive Committee Members
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA 92602

Ref: Orange County Fire Authority (OCFA)
Inaccurate RFP Response Statements

Dear Committee Members:

This letter will address answers from Lori Zeller to questions raised by members of the OCFA Budget & Finance Committee and the Board of Directors regarding the RFP process for Broker/Dealer Work. Various answers provided by Ms. Zeller to Committee and Board members are absolutely untrue. I am attaching documents from the OCFA files which support this assertion.

The responses from Ms. Zeller occurred in the October OCFA Budget&Finance Committee meeting and November Board of Directors meeting.

October Budget & Finance Committee Meeting (See my attached November 15, 2012 letter)

In that meeting Ms. Zeller responded to a Committee member question and stated that an open ended extension to the Broker/Dealer work was requested by the OCFA and approved. After the meeting I spoke with two Committee members and they informed me that they did not remember an open ended OCFA extension request; nor did they remember an approval of such request.

These Committee member responses agreed with my own meeting recollections as to what was requested by the OCFA and what was actually approved by the OCFA Executive Committee last year. The documents listed below show that the statements made by Ms. Zeller were untrue.

Attachment 1 – October 2011 Budget&Finance Committee Meeting Agenda and Meeting Minutes

The documents show that no open ended extension was requested by the OCFA to the Budget&Finance Committee or agreed to by them.

Attachment 2 – October 2011 Budget&Finance Committee Meeting Agenda Item No. 4

The documents show that the OCFA requested approval, which was granted, of their "Annual Statement of Investment Policy and Investment Authorization". This policy specifically stated in Paragraph 8.1 that the broker/dealer list was to be approved "on an annual basis". There is absolutely no reference to an open ended approval asserted by Ms. Zeller.

Attachment 3 – October 2011 Executive Committee Meeting Agenda and Meeting Minutes

The documents show that no open ended extension was requested by the OCFA to the Executive Committee or agreed to by them.

Attachment 4 – November 2011 Board of Directors Meeting Agenda and Meeting Minutes

The documents show that the OCFA requested Board approval, which was granted, of their "Annual Statement of Investment Policy and Investment Authorization". This policy specifically stated in Paragraph 8.1 that the broker/dealer list was to be approved "on an annual basis". Again, there is absolutely no reference to an open ended approval asserted by Ms. Zeller.

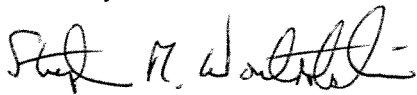
Three items are very disturbing regarding this matter.

1. The credibility of senior OCFA management answers regarding Committee and Board member questions has been seriously damaged.
2. The integrity of the RFP process has again been brought into question and further damaged.
3. It appears that additional senior OCFA managers were knowledgeable of the untrue statements and did nothing to correct the responses given to the Board and Committee members. Specifically in question are the lack of corrective responses by the OCFA Auditor, Jim Ruane, and the OCFA Treasurer, Patricia Jakubiak. As Auditor, Mr. Ruane should have been aware that OCFA policy does not grant an open ended extension to the broker/dealer list. As Treasurer, Ms. Jakubiak presented the "Annual Statement of Investment Policy and Investment Authorization" for Budget & Finance Committee and Board of Director approvals. She had to have known that Ms. Zeller's statements did not reflect OCFA policy and were incorrect.

I request that the Committee look into this matter and that it institute corrective measures in order to regain some of the public trust in the OCFA RFP process.

Your assistance in this matter is appreciated.

Sincerely,



Stephen M. Wontrobski

E:\ocfaexecrfrrequirements12-13-

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

November 15, 2012

Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: OCFA Broker/Dealer Work

Dear Board of Directors Members:

At the last OCFA Budget & Finance meeting on November 7, 2012, I presented additional information regarding the OCFA Request for Proposal (RFP) process regarding broker/dealer work. This RFP issue has continued without abatement for over a year now. It has undermined the integrity of the OCFA RFP/competitive bidding practices.

In the November 7, 2012 Budget & Finance meeting, I maintained that the OCFA was continuing broker/dealer work on a rollover basis without Board authorization. Hence, I concluded the OCFA was acting illegally. Please recall, that this Board gave the OCFA rollover authorization for this work in October of last year. One year has now gone by, and I enquired if the Committee and Board had authorized an extension of this work.

The OCFA responded that no additional authorization was needed, since the Board had granted the OCFA last year an open-ended rollover extension for this work. This took me by surprise, since at that last 2011 October meeting, which I attended, I did not recall that the OCFA had even requested an open-ended extension for this work. Nor, do I recall the Board approving an open-ended extension.

Normally, the OCFA requests, and the Board grants a one year extension for rollover work. I have requested that Scott Brown (OCFA) provide me and the Board with meeting documentation, showing that the OCFA actually requested and the Board approved that open-ended request last year.

In a related matter, I previously requested that the OCFA inform the Board 90 days in advance of work that it intended to roll over. This request was summarily rejected by the OCFA. So with that rejection, the Board has now learned through public comment that this broker/dealer rollover work is continuing without adhering to the competitive bid process. This information should have come in advance to the Board from the OCFA, and not be addressed after the fact by a public comment.

Once again, the Board needs to instruct the OCFA of the need to be apprised in advance of intended rollover work 90 days in advance. In that manner, if the Board rejects an OCFA rollover recommendation, it can instruct the OCFA to competitively bid the work in a timely fashion.

These problems are among others in a series of problems inherent in the OCFA RFP/competitive bid process. The integrity of the OCFA bidding process is in question right now. This has undermined the public trust in the OCFA itself. The Board needs to take charge and correct these and other RFP failures, which have been brought to its attention over the past year.

Sincerely,


Stephen M. Wontrobski

E:ocfachairmanBoD11-15-12

ATTACHMENT No. 1

PUBLIC COMMENTS

Any member of the public may address the Committee on items within the Committee's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person.

MINUTES

1. Minutes for the September 14, 2011, Budget and Finance Committee Meeting
Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:
Approve as submitted.

CONSENT CALENDAR

No items.

DISCUSSION CALENDAR

2. Monthly Investment Report
Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:
Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee meeting of October 27, 2011, with the Budget and Finance Committee's recommendation that the Executive Committee receive and file the report.

3. Updated Broker/Dealer List
Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:
Review the proposed agenda item and direct staff to place the item on the agenda for the Executive Committee Meeting of October 27, 2011, with the Budget and Finance Committee's recommendation that the Executive Committee renew the current Broker/Dealer List to include the following three firms:

- FTN Financial
- UBS Financial Services
- Wells Fargo

4. **Annual Statement of Investment Policy and Investment Authorization**
Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Directors meeting of November 17, 2011, with the Budget and Finance Committee's recommendation that the Board of Directors take the following actions:

1. Review and approve the submitted Investment Policy of the Orange County Fire Authority, to be effective January 1, 2012.
2. Pursuant to Government Code Sections 53601 and 53607, renew delegation of investment authority to the Treasurer for a one-year period, to be effective January 1, 2012.

5. **Agreement for Aircraft Rescue Fire Fighting Services at John Wayne Airport**
Submitted by: Lori Zeller, Assistant Chief, Business Services Department

Recommended Action:

Review the proposed agenda item and direct staff to place this item on the agenda for the Executive Committee meeting of October 27, 2011, with the Budget and Finance Committee's recommendation that the Executive Committee approve and authorize the Fire Chief to execute the submitted Agreement for Aircraft Rescue Fire Fighting (ARFF) Services at John Wayne Airport for the term of December 1, 2011, through June 30, 2016.

6. **Status Update – Orange County Employees' Retirement System**
Submitted by: Lori Zeller, Assistant Chief, Business Services Department

Recommended Action:

Receive and file the report.

REPORTS

No items.

COMMITTEE MEMBER COMMENTS

ADJOURNMENT – The next regular meeting of the Budget and Finance Committee is scheduled for Wednesday, November 9, 2011, at 12:00 noon.

Attachment No. 2

(12)

DISCUSSION CALENDAR - AGENDA ITEM NO. 4
BUDGET AND FINANCE COMMITTEE MEETING
October 12, 2011

TO: Budget and Finance Committee, Orange County Fire Authority

FROM: Patricia Jakubiak, Treasurer

SUBJECT: **Annual Statement of Investment Policy and Investment Authorization**

Summary:

This agenda item is submitted to the Committee in compliance with the Authority's Investment Policy that requires the Statement of Investment Policy to be reviewed and approved annually by the Budget and Finance Committee and the Board of Directors. This item is also being submitted in compliance with Government Code provisions which require the Board of Directors to review and renew the annual delegation of investment authority to the Treasurer for a one-year period.

Recommended Action:

Review the proposed agenda item and direct staff to place the item on the agenda for the Board of Directors meeting of November 17, 2011, with the Budget and Finance Committee's recommendation that the Board of Directors take the following actions:

1. Review and approve the submitted Investment Policy of the Orange County Fire Authority, to be effective January 1, 2012.
2. Pursuant to Government Code Sections 53601 and 53607, renew delegation of investment authority to the Treasurer for a one-year period, to be effective January 1, 2012.

Background:

The Statement of Investment Policy is reviewed annually and revised by the Treasurer, if needed. The proposed Policy is then submitted to the Budget and Finance Committee and Board of Directors for approval every November to become effective on January 1 for the calendar year.

During the past year, there were no significant legislative amendments to the California Government Code regarding investments; therefore, no changes have been made to the proposed Investment Policy which is attached for review and approval, to be effective January 1, 2012 (Attachment).

Impact to Cities/County:

Not Applicable.

Fiscal Impact:

Not Applicable.



INVESTMENT POLICY

TABLE OF CONTENTS

Policy	1
Scope	1
Prudence	2
Objectives	2
Authorization and Delegation of Authority	2
Duties & Responsibilities	3
Ethics & Conflicts of Interest	3
Authorized Financial Dealers and Institutions	4
Authorized Investment Advisors and Investment Managers	5
Authorized and Suitable Investments	5
Unallowable Investments / Restrictions	7
Investment Pools	7
Collateralization	7
Safekeeping and Custody	8
Diversification	8
Internal Control	9
Performance Standards	9
Reporting	10
Investment Policy Adoption	11
Glossary	Glossary - 1

- 7.4. Abide by the Authority's adopted Conflict of Interest Code, which by reference is incorporated into this Investment Policy.
8. **Authorized Financial Dealers and Institutions:** To promote the optimum yield on the investment of Authority funds, investment procedures shall be designed to encourage competitive bidding on transactions from approved financial institutions or broker/dealers.
- 8.1. On an annual basis, the Treasurer shall recommend a list of at least three financial institutions and broker/dealers who are authorized to provide investment services. The list shall be approved by the Budget and Finance Committee and the Executive Committee. All financial institutions and broker/dealers who wish to be considered for the list must meet the following minimum requirements:
- 8.1.1 Must certify that they have read and agree to comply with the investment policies of the Authority.
 - 8.1.2 Must be a primary or regional dealer that qualifies under the Securities and Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule).
 - 8.1.3 Must have an office in California.
 - 8.1.4 Must be experienced in institutional trading practices and familiar with the California Government Code as related to investments for local governmental agencies.
 - 8.1.5 Must have been in business for at least three years.
 - 8.1.6 Must provide current audited financial statements.
 - 8.1.7 Must provide proof of National Association of Security Dealers certification.
 - 8.1.8 Other criteria as may be established in the *Investment Procedures Manual* of the Authority.
- 8.2. All financial institutions in which the Authority's public funds are deposited will supply the Treasurer with the following:
- 8.2.1 Current audited financial statements.
 - 8.2.2 Depository contracts.
 - 8.2.3 A copy of the latest FDIC call report.
 - 8.2.4 Proof that the institution is state or federally chartered.

MINUTES

1. Approval of Minutes for the September 14, 2011, Budget and Finance Committee Meeting

On motion of Director Kelley and second by Director Dahl, the Committee voted to approve the Minutes for the September 14, 2011, Budget and Finance Committee Meeting, as submitted. Director Stephens abstained.

CONSENT CALENDAR

No items.

DISCUSSION CALENDAR

2. Monthly Investment Report

Treasurer Tricia Jakubiak provided an overview on the monthly investment report and current market activity.

On motion of Director Capata and second by Director Stephens, the Committee voted unanimously to direct staff to place the item on the agenda for the Executive Committee meeting of October 27, 2011, with the Budget and Finance Committee's recommendation that the Executive Committee receive and file the report.

3. Updated Broker/Dealer List

Treasurer Tricia Jakubiak provided a brief overview on the Updated Broker/Dealer List.

Public comments were received from Stephen Wontrobski, Mission Viejo resident, in opposition to staff's recommendation of the firms UBS Financial Services and Wells Fargo.

On motion of Vice Chair Dahl and second by Director Swift, the Committee voted unanimously to direct staff to place the item on the agenda for the Executive Committee Meeting of October 27, 2011, with the Budget and Finance Committee's recommendation that the Executive Committee renew the current Broker/Dealer List to include the following three firms:

- FTN Financial
- UBS Financial Services
- Wells Fargo

4. Annual Statement of Investment Policy and Investment Authorization

Treasurer Tricia Jakubiak provided an overview on the Annual Statement of Investment Policy and Investment Authorization.

On motion of Director Swift and second by Director Capata, the Committee voted unanimously to direct staff to place the item on the agenda for the Board of Directors meeting of November 17, 2011, with the Budget and Finance Committee's recommendation that the Board of Directors take the following actions:

1. Review and approve the submitted Investment Policy of the Orange County Fire Authority, to be effective January 1, 2012.
2. Pursuant to Government Code Sections 53601 and 53607, renew delegation of investment authority to the Treasurer for a one-year period, to be effective January 1, 2012.

5. Agreement for Aircraft Rescue Fire Fighting Services at John Wayne Airport

Assistant Chiefs Lori Zeller and Brian Stephens provided updates on the Agreement for Aircraft Rescue Fire Fighting Services at John Wayne Airport.

Public comments were received from John Latta, Business Agent for the Orange County Professional Firefighters Association, Local 3631, in opposition to the new contract.

Public comments were received from Joe Kerr, President of the Orange County Professional Firefighters Association, Local 3631, in opposition to the new contract.

Public comments were received from Stephen Wontrobski, Mission Viejo resident, regarding the reception of Public Comments, and indicated he was being treated unfairly.

A lengthy discussion ensued.

On motion of Director Kelley and second by Director Stephens, the Committee voted unanimously to continue the item to the November 9, 2011, meeting of the Budget and Finance Committee and they directed staff to provide additional information, including concerns with service impacts and Federal Aviation Administration (FAA) requirements.

ATTACHMENT No. 3

(12)

PRESENTATIONS

No items.

PUBLIC COMMENTS

Resolution No. 97-024 established rules of decorum for public meetings held by the Orange County Fire Authority. Resolution No. 97-024 is available from the Clerk of the Authority.

Any member of the public may address the Committee on items within the Committee's subject matter jurisdiction but which are not listed on this agenda during PUBLIC COMMENTS. However, no action may be taken on matters that are not part of the posted agenda. We request comments made on the agenda be made at the time the item is considered and that comments be limited to three minutes per person.

The Agenda and Minutes are now available through the Internet at www.ocfa.org. You can access upcoming agendas on the Monday before the meeting. The minutes are the official record of the meeting and are scheduled for approval at the next regular Executive Committee meeting.

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

MINUTES

1. Minutes from the September 29, 2011, Regular Executive Committee Meeting
Submitted by: Sherry Wentz, Clerk of the Authority

Recommended Action:
Approve as submitted.

CONSENT CALENDAR

All matters on the consent calendar are considered routine and are to be approved with one motion unless a Committee Member or a member of the public requests separate action on a specific item.

2. Monthly Investment Report
Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:
Receive and file the report.

3. Updated Broker/Dealer List
Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:
Renew the proposed agenda item and renew the current Broker/Dealer List to include the following three firms:

- FTN Financial
- UBS Financial Services
- Wells Fargo

CONSENT CALENDAR - AGENDA ITEM NO. 3
EXECUTIVE COMMITTEE MEETING
October 27, 2011

TO: Executive Committee, Orange County Fire Authority

FROM: Patricia Jakubiak, Treasurer

SUBJECT: **Updated Broker/Dealer List**

Summary:

This agenda item is submitted to the Committee to renew the current list of broker/dealers that the Treasurer uses for competitive bidding of investment purchases.

Committee Action:

At its October 12, 2011, meeting, the Budget and Finance Committee reviewed and unanimously recommended approval of this item.

Recommended Action:

Review the proposed agenda item and renew the current Broker/Dealer List to include the following three firms:

- FTN Financial
- UBS Financial Services
- Wells Fargo

Background:

OCFA's Investment Policy encourages competitive bidding on investment transactions from an approved list of broker/dealers. The Policy also requires that the list of broker/dealers be reviewed and updated annually. The Executive Committee approved the last broker/dealer update on November 18, 2010. The list is limited to three firms due to the impracticality of dealing with a large list of broker/dealers when obtaining competitive bids.

To qualify, broker/dealers must meet the following *minimum* requirements:

- Agree to comply with the investment policies of the Authority
- Be a primary or regional dealer that qualifies under the Securities and Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule)
- Have an office in California
- Be experienced in institutional trading practices and familiar with the California Government Code as related to investments for local governmental agencies
- Have been in business for at least three years
- Provide current audited financial statements
- Provide proof of National Association of Security Dealers certification.

To verify qualifications, OCFA requires completion of a "Broker/Dealer Questionnaire & Certification", based on guidelines of the Government Finance Officers' Association. The questionnaire addresses capital adequacy standards, history of SEC complaints, staff qualifications, and references. Both the account representative and the individual in charge of government securities operations must certify the accuracy of their responses to the questionnaire and pledge due diligence in informing OCFA staff of all foreseeable risks in financial transactions conducted with OCFA. They must also certify that they've read OCFA's Investment Policy and that they've implemented a system of controls designed to preclude imprudent investment activities that are in conflict with OCFA's investment objectives, strategies, and risk constraints. A copy of each firm's questionnaire and certification is on file in the Treasurer's Office and available upon request.

In addition to the standard requirements, other factors such as competitiveness of quotes, responsiveness, reputation, and reliability are also considered in the annual review process. This year, all of the firms are recommended for renewal due to the excellent service they've provided over the past year. The current list of firms will include:

- FTN Financial
- UBS Financial Services
- Wells Fargo

In addition to being responsive to the Treasurer's specific requests, these firms provide daily inventory/pricing lists and thorough updates on the economy and fixed income markets. Furthermore, the specific brokers from these firms are familiar with OCFA's Investment Policy and practices, which results in more efficient trading.

Public Comments:

At the Budget and Finance Committee meeting on October 12, 2011, during public comments, an individual opposed the selection of UBS based on the firm's involvement with offshore bank accounts and also opposed the selection of Wells Fargo based on the firm's involvement with selling certain mortgage backed investments.

In February 2009, UBS, the largest bank in Switzerland, agreed to divulge the names of Americans whom authorities suspected of using offshore accounts at the bank to evade taxes. The bank also agreed to close these offshore accounts and pay the US Federal government \$780 million to settle the case. Of the \$780 million that UBS paid, \$380 million represents disgorgement of profits from its cross-border business and the remainder represents US taxes that UBS failed to withhold on the accounts. The figures include interest, penalties and restitution for unpaid taxes.

In August 2011, Wells Fargo agreed to pay \$590 million to settle lawsuits filed by bondholders alleging a Wachovia subsidiary misrepresented the quality of its residential mortgages. Wachovia's auditor, KPMG, also agreed to settle for \$37 million.

The broker dealer relationship which OCFA maintains with both UBS and Wells Fargo is with their government client business, which is a different business unit of the bank from the ones involved in the situations discussed above. OCFA's business dealings with both banks have not been impacted by the events discussed above. Both UBS and Wells Fargo have taken steps to remedy their situations and continue to meet OCFA's requirements for a broker dealer and are therefore still being recommended. Both banks continue to provide very competitive pricing on investment securities and excellent service.

Since the financial crisis of 2008, a number of major financial institutions have been involved in litigation involving different facets of their business and will continue to be in the general course of doing business. For example, on September 2, 2011, the Federal Housing Finance Agency sued 17 different financial institutions for misrepresenting the quality of mortgage backed securities sold to the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. The list includes: Ally Financial, Bank of America, Barclays Bank, Citigroup, Countrywide Financial, Credit Suisse, Deutsche Bank, First Horizon National, General Electric, Goldman Sachs, HSBC North America, JP Morgan Chase, Merrill Lynch, Morgan Stanley, Nomura, Royal Bank of Scotland, and Societe Generale. OCFA will continue to monitor the financial markets and return to the Board for appropriate action if necessary.

Impact to Cities/County:

Not Applicable.

Fiscal Impact:

Not Applicable.

Staff Contact for Further Information:

Patricia Jakubiak, Treasurer
triciajakubiak@ocfa.org
(714) 573-6301

Attachments:

None.

PUBLIC COMMENTS

Chairman Tettemer opened the Public Comments portion of the meeting.

Public comments were received from Stephen Wontrobski, Mission Viejo resident, who expressed his concerns regarding his requests for public records.

Chairman Tettemer closed the Public Comments portion of the meeting.

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

Director Capata reported at the October 12, 2011, meeting of the Budget and Finance Committee, the Committee discussed and voted unanimously to send the Monthly Investment Report and Updated Broker Dealer List to the Executive Committee with the recommendation that the Committee approve the items.

MINUTES

1. Minutes from the September 29, 2011, Regular Executive Committee Meeting

On motion of Director Seymore and second by Vice Chair Kelley, the Executive Committee voted unanimously to approve the minutes from the September 29, 2011, Regular Executive Committee Meeting.

CONSENT CALENDAR

Chairman Tettemer pulled Agenda Item No. 3 for public comments.

Director Diep pulled Agenda Item No. 4 for questions.

2. Monthly Investment Reports

On motion of Director Seymore and second by Director Capata, the Executive Committee voted unanimously to receive and file the reports.

3. Updated Broker/Dealer List

Public comments were received from Stephen Wontrobski, Mission Viejo resident, in opposition to the approval of this item.

Assistant Chief Lori Zeller provided a brief overview on the Updated Broker/Dealer List.

On motion of Director Shawver and second by Director Seymore, the Executive Committee voted unanimously to renew the current Broker/Dealer List to include the following three firms:

- FTN Financial
- UBS Financial Services
- Wells Fargo

4. Renewal of Contract with Nielsen, Merksamer, Parrinello, Gross & Leoni LLP for Government Consulting Services

Director Diep pulled this agenda item for clarification on the renewal option.

A lengthy discussion ensued.

On motion of Director Shawver and second by Vice Chair Kelley, the Executive Committee voted unanimously to:

1. Approve and authorize the Fire Chief to sign the attached consultant services agreement with Nielsen, Merksamer, Parrinello, Gross & Leoni LLP for \$6,000 per month beginning November 1, 2011, and to approve up to two one-year renewal options for the same cost of service, and directed staff to return to the Executive Committee if an increase is needed.
2. Direct staff to request Nielsen, Merksamer, Parrinello, Gross & Leoni LLP provide monthly reports on activities, and report annually in person to the Executive Committee.

END OF CONSENT CALENDAR

DISCUSSION CALENDAR

No items.

REPORTS

5. Chief's Report

Fire Chief Richter indicated OCFA staff is working on a Fire Service Proposal requested by the City of Santa Ana, which would be provided to the Board of Directors at its November 17, 2011, meeting. He also noted the upcoming retirement of Division Chief Ed Fleming, and indicated newly promoted Division Chief Rob Patterson would be assigned to Division 1.

Minutes

OCFA Executive Committee Regular Meeting
October 27, 2011 Page - 3

12

ATTACHMENT No. 4

(12)

CONSENT CALENDAR

4. Annual Statement of Investment Policy and Investment Authorization

Submitted by: Patricia Jakubiak, Treasurer

Recommended Actions:

1. Review and approve the submitted Investment Policy of the Orange County Fire Authority, to be effective January 1, 2012.
2. Pursuant to Government Code Sections 53601 and 53607, renew delegation of investment authority to the Treasurer for a one-year period, to be effective January 1, 2012.

5. FY 2011/12 First Quarter Progress Report on Planning and Development Services Activity

Submitted by: Laura Blaul, Assistant Chief/Fire Marshal/Fire Prevention Department

Recommended Action:

Receive and file the report.

6. Resolution Authorizing Fire Chief to Execute a Cooperative Agreement for the Loan of Federal Excess Personal Property (FEPP)

Submitted by: Jorge Camargo, Assistant Chief/Operations Department

Recommended Action:

Approve and adopt the attached resolution authorizing the Fire Chief, or his designee, to execute the Cooperative Agreement for the Loan of Federal Excess Personal Property between the State of California Department of Forestry and Fire Protection and the Orange County Fire Authority.

7. Acceptance of DHS/FEMA Administrative Preparedness Grant

Submitted by: Jorge Camargo, Assistant Chief/Operations Department

Recommended Actions:

1. Adopt the submitted resolution to accept the Department of Homeland Security/Federal Emergency Management Agency's (DHS/FEMA) Administrative Preparedness Grant in the amount of \$1,097,078.
2. Direct staff to increase FY 2011/12 revenue and appropriations in the General Fund (Fund 121) in the amount of \$1,097,078.

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

Budget and Finance Committee Vice Chair Jim Dahl reported at the November 9, 2011, meeting of the Budget and Finance Committee, the Committee discussed and voted unanimously to send the Hand Crew Program Update, FY 2010/11 Backfill/Overtime Analysis, Approval of the Updated OCFA Advance Life Support (ALS) Paramedic and Basic Life Support (BLS) Medical Supplies Reimbursement Rates, and OCFA Grants Policy to the Board of Directors with the recommendation that the Board approve the items.

MINUTES

3. Minutes from Regular Meeting held on September 29, 2011

On motion of Director Seymore and second by Director Stephens, the Board voted to approve the minutes from the Board of Directors meeting held on September 29, 2011, as submitted. Directors Holloway, Sloan, Ta, and Taylor abstained.

CONSENT CALENDAR

4. Annual Statement of Investment Policy and Investment Authorization

On motion of Director Seymore and second by Director Shawver, the Board voted unanimously to:

1. Review and approve the submitted Investment Policy of the Orange County Fire Authority, to be effective January 1, 2012.
2. Pursuant to Government Code Sections 53601 and 53607, renew delegation of investment authority to the Treasurer for a one-year period, to be effective January 1, 2012.

5. FY 2011/12 First Quarter Progress Report on Planning and Development Services Activity

On motion of Director Seymore and second by Director Shawver, the Board voted unanimously to receive and file the report.

6. Resolution Authorizing Fire Chief to Execute a Cooperative Agreement for the Loan of Federal Excess Personal Property (FEPP)

On motion of Director Seymore and second by Director Shawver, the Board voted unanimously to approve and adopt Resolution No. 2011-16 authorizing the Fire Chief, or his designee, to execute the Cooperative Agreement for the Loan of Federal Excess



INVESTMENT POLICY

TABLE OF CONTENTS

Policy	1
Scope.....	1
Prudence.....	2
Objectives	2
Authorization and Delegation of Authority	2
Duties & Responsibilities	3
Ethics & Conflicts of Interest.....	3
Authorized Financial Dealers and Institutions.....	4
Authorized Investment Advisors and Investment Managers	5
Authorized and Suitable Investments	5
Unallowable Investments / Restrictions.....	7
Investment Pools.....	7
Collateralization.....	7
Safekeeping and Custody.....	8
Diversification.....	8
Internal Control.....	9
Performance Standards	9
Reporting.....	10
Investment Policy Adoption.....	11
Glossary	Glossary - 1

- 7.4. Abide by the Authority's adopted Conflict of Interest Code, which by reference is incorporated into this Investment Policy.
8. **Authorized Financial Dealers and Institutions:** To promote the optimum yield on the investment of Authority funds, investment procedures shall be designed to encourage competitive bidding on transactions from approved financial institutions or broker/dealers.
- 8.1. On an annual basis, the Treasurer shall recommend a list of at least three financial institutions and broker/dealers who are authorized to provide investment services. The list shall be approved by the Budget and Finance Committee and the Executive Committee. All financial institutions and broker/dealers who wish to be considered for the list must meet the following minimum requirements:
- 8.1.1 Must certify that they have read and agree to comply with the investment policies of the Authority.
 - 8.1.2 Must be a primary or regional dealer that qualifies under the Securities and Exchange Commission Rule 15C3-1 (Uniform Net Capital Rule).
 - 8.1.3 Must have an office in California.
 - 8.1.4 Must be experienced in institutional trading practices and familiar with the California Government Code as related to investments for local governmental agencies.
 - 8.1.5 Must have been in business for at least three years.
 - 8.1.6 Must provide current audited financial statements.
 - 8.1.7 Must provide proof of National Association of Security Dealers certification.
 - 8.1.8 Other criteria as may be established in the *Investment Procedures Manual* of the Authority.
- 8.2. All financial institutions in which the Authority's public funds are deposited will supply the Treasurer with the following:
- 8.2.1 Current audited financial statements.
 - 8.2.2 Depository contracts.
 - 8.2.3 A copy of the latest FDIC call report.
 - 8.2.4 Proof that the institution is state or federally chartered.

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692

October 25, 2012

Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Disability Study

Dear Board of Directors Members:

I would like to apprise you that the OCFA has informed me that it has not started an investigation of alleged fraudulent disability filings. It basis this position on the assertion that, "... the OCFA has not been provided any specific information to warrant an investigation." I want to advise you of specific pieces of information that this Board and the OCFA have been made aware of that refutes this assertion.

1. The Orange County Employee Association (OCERS) is conducting its own investigation of this matter.
2. In a Sunday, August 19, 2012, front page article (five pages long), the Orange County Register detailed alleged fraudulent disability filings by fire and police members.
3. Your own OCFA Finance Department presented to you in a prior Board of Director meeting a chart depicting the number of OCFA disability filings. The chart showed that for the years prior to 2005, the number of disability filings remained relatively unchanged for each year. However, for each year after 2005, the number of disability filings has increased at a geometric upward rate, year after year.
4. The OCFA Treasurer informed you in a prior Board of Director meeting, that the number of disability filings were increasing as firefighters approached retirement. This answer should have alerted you that fraudulent disability filings could be occurring. This appears to be the normal practice in fraudulent disability filings. The practice is to file a disability claim with about one year to go before retirement.
5. In a prior OCERS Board of Director meeting, one of the directors questioned why so many firefighter disability claims were being withdrawn this year prior to OCERS Board review. There may be absolutely no connection, but it is strange that the spike in the number of withdrawals has taken place after information was released that a fraudulent disability filing study had started.
6. Your Finance Manager/Auditor is aware of the spike in disability filings. He also presented to you that his Department does three non-routine audits of areas of concern each year. He was looking at areas to audit. Don't you think that when you and he look at the spike year after year in disability filings, that this is a prime area for one of the audit studies?

I believe that action must be taken to regain the public trust in the OCFA. One area that deserves attention is Board of Director involvement in alleged fraudulent disability filings. I request the Board direct the OCFA to hire an outside CPA to review disability filings from 2006 until now.

Your adoption of this recommendation will only lead to an increase in the public's conviction that the OCFA Board of Directors are truly working on behalf of the residents of Orange County.

Sincerely,


Stephen M. Wontrobski

E:ocfaboddisability10-25-12

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

August 22, 2012

Chairman, Executive Committee
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Follow-up Action Request

Dear Mr. Chairman:

For the benefit of new Board members and the OCFA itself, I request that you direct follow-up review and action regarding the following areas of concern:

1. Inaccurate Meeting Minutes
2. Greater OCFA Transparency – Compensation Cost
3. Allegations of Disability Filing Abuse
4. Integrity of OCFA Competitive Bidding Practices
5. Competitive Bidding Practices – Union Negotiations
6. Production of Public Documents

Inaccurate Meeting Minutes

This item was addressed in my (a) July 26, 2012 letter to the Chairman, Board of Directors; (b) August 8, 2012 letter to the Chairman, Budget and Finance Committee; and (c) in my public comment meeting presentations.

In my public comment presentation I maintained, along with another member of the public, that the minutes were incomplete with regard to public comments and consequently were a misleading account of the meeting. Your attorney stated that there was no requirement from Robert's Rules that the meeting minutes provide any detail as to what was even discussed. Consequently, this matter was dropped by the OCFA.

What your attorney actually neglected to address is (a) that the California Civil Code overrides Robert's Rules and (b) the Code is the ultimate guiding legal source on meeting minutes requirements. He never addressed whether the minutes as written complied with the Civil Code. He also failed to mention that there is a definite need for greater OCFA transparency, and that more detailed meeting minutes would satisfy this need.

Simply put, the Board should direct staff to produce accurate and complete meeting minutes as they apply to public comment presentations, and that accompanying public presentation documents be attached to those minutes.

Greater OCFA Transparency – Compensation Cost

This item was addressed in my July 26, 2012 letter to the Board of Directors and in my oral public comment presentation in the July 26, 2012 Board of Director meeting.

The Orange County Grand Jury placed the OCFA at the bottom of the barrel regarding Compensation Cost Transparency. Of the 58 entities studied only five had compensation listings worse than the OCFA.

I and other members of the public request that the Board direct staff to comply with the Grand Jury recommendations in order to achieve greater compensation cost transparency.

Allegations of OCFA Disability Filing Abuse

I have brought this matter to the attention of the OCFA for over a year now, and I have stressed the need in multiple meeting presentations and written letters to the OCFA that an investigation needs to be conducted regarding the allegations. However, the Board has refused to take any action on this matter. Now the OC Register has produced a front page August 19, 2012 expose on this matter. In addition, the Orange County Grand Jury is reviewing the allegations. And the Orange County Employee Retirement System has started an investigation of its own of this matter.

I request that the Board hire an outside CPA firm to conduct an investigation of this matter. For integrity purposes, this matter cannot be assigned to OCFA staff to conduct. It must be done by an outside independent organization.

Integrity of the OCFA Competitive Bidding Practices

I have addressed this item in numerous public comment presentations and written letters, most recently in my July 9, 2012 letter to the Chairman, Budget & Finance Committee and my July 24, 2012 letter to the Chairman, Board of Directors.

The integrity of the OCFA competitive bidding practices has been called into question, and this matter needs to be addressed by the Board. As a place to start, the Board is requested to direct the Treasurer to prepare for Board review the award listing schedule detailed in page two of my July 9, 2012 letter.

Competitive Bidding Practices – Union Negotiations

This item was addressed in my July 26, 2012 letter to the Board of Directors and additional comments on this subject were made in my public comment presentation at the July 26, 2012 Board of Director meeting. Current practices of the OCFA have created a sense of distrust in the integrity of the union negotiations. I request that the Board implement the recommendations outlined in my July 26, 2012 letter in order to establish a high sense of integrity in negotiation and approval of union contracts.

Production of Public Documents

I request that the OCFA produce for my review the non-Hippa protected disability filing documents and reports that I have previously requested. As an example, I request that I be allowed to review disability filing documents and reports that do not contain medical records or employee names. As another example, the OCFA should produce for my review the dispatch summary reports, such as, the one that was held in the hands and discussed by Board of Director members in a prior Board meeting. In that meeting I stated that the summary report the Director members were holding and reviewing was previously stated in writing by OCFA staff and your attorney not to exist.

I request that the Board look into this matter and furnish those documents that the OCFA has stated do not exist. There are many such documents.

Your assistance in the above matters is appreciated.

Sincerely,



Stephen M. Wontrobski

E:\ocfaexecfollowup8-22-12

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

July 26, 2012

Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices – Union Negotiations

Dear Board of Directors Members:

I have maintained since last year, that I have serious concerns regarding the integrity of the OCFA competitive bidding practices. In the Executive Committee Meeting of June 27, 2012, the representative from Firefighters Local requested to meet in private with OCFA staff regarding proposed revisions to the Memorandum of Understanding, which governs firefighter pay, benefits and work rules. The Chairman agreed to this request. I have previously expressed in writing my objection to this request. I maintained this permission created a direct conflict of interest, violated the Public Contract Code, and was a violation of the Brown Act.

What was most disconcerting was the fact that this action further undermined the integrity of the OCFA bidding process, and also undermined the public trust in the OCFA itself. I maintained that I wished to attend any meetings between the OCFA and the union, and that any such proposed meetings must be noticed, so that the public may attend them and provide public input.

I believe that action must be taken to regain the public trust in the OCFA bidding and contract award practices. One area that deserves attention is Board of Director involvement in union contract negotiations and awards.

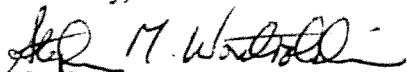
Members of the public view the approval of OCFA union contracts to not really be a truly independent award process. One major criticism centers around the belief that some directors have obtained political contributions from the union and are now approving contract awards to that same union. This has resulted in a lack of public trust regarding the integrity of the approval of union contracts. In order to strengthen the public's view of the integrity of award of OCFA union contracts, I recommend the Board of Directors consider the following:

Provide in the ethics section of the OCFA, that governs the Board of Directors, that any Board of Director member, who has received either directly or indirectly any compensation of any nature totaling over \$250.00 from any OCFA union or affiliate in any calendar year within the last three years, be prohibited from voting on any proposed union contract or be involved in any union contract negotiations.

Your adoption of this measure will only lead to an increase in the public's conviction that the OCFA directors are truly working on behalf of the residents of Orange County.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

E:ocfachairmanBoD7-26-12

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 348-0148

July 24, 2012

Chairman, Board of Directors
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices – New York Times Article

Dear Mr. Chairman:

I have maintained since last year, that I have serious concerns regarding the integrity of the OCFA competitive bidding practices. My concern started last year when the OCFA rolled over the broker-dealer work, rather than rebidding the work. My objection to the rollover was that UBS and Wells Fargo were alleged to have engaged in financial wrongdoing. Despite my continued objections to rolling over the work to UBS and Wells Fargo, the Board of Directors refused to rebid the work. This action by the Board, as well as, other questionable bidding practices by the OCFA have cast a shadow over the integrity of the OCFA bidding system.

The attached New York Times (NYT) July 20, 2012 article on the UBS financial wrongdoing appears now to indicate a lack of proper Board of Directors oversight over the OCTA bidding practices. Despite my constant objection to allowing a rollover of work to UBS, the Board endorsed using UBS for new work. This Board action appeared to members of the public to be an abandonment of the Board's fiduciary responsibility to be a true guardian of the public's funds. In the article, the NYT states that "in many ways, UBS is in a league of its own given its track record for scandals."


The NYT goes on to identify examples of financial wrongdoing by UBS:

1. It is currently involved in the Libor scandal.
2. It paid \$780 million in fines and penalties associated with its IRS wrongdoing.
3. It settled SEC charges that it acted as an unregistered broker-dealer and investment advisor to American clients and paid a \$200 million fine.
4. It agreed in May 2011 that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution.
5. In 2008 UBS agreed in an SEC settlement to reimburse clients \$22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities. In addition, UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states.
6. The federal agency overseeing Freddie Mac and Fannie Mae is seeking \$1 billion in damages for securities law violations.

I request that the Board disqualify UBS for future OCFA broker-dealer work.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

E:ocfachairman@excom7-24-12

The New York Times



July 20, 2012

UBS's Track Record of Averting Prosecution

By JAMES B. STEWART

As the Justice Department weighs the possibility of criminal charges in the unfolding Libor rate-setting scandal, it may want to consider the record of the Swiss banking giant UBS.

At UBS, a series of immunity, nonprosecution and deferred prosecution agreements in recent years — evidently the government's preferred approach to corporate crime — seems to have had scant, if any, deterrent effect. "It's depressing," Representative Peter Welch, Democrat of Vermont, a member of the House oversight committee, told me this week after we discussed UBS's recent transgressions. "The Justice Department has to decide: Is the day of consent decrees and settlements, where you pay a fine, one passed on to shareholders, are those days over? Are the days of jail time here?"

UBS, one of more than a dozen banks being investigated for manipulating interest rates for their own benefit, is hardly the only major global bank with a record of recidivism. Just this week, HSBC apologized after a Senate committee exposed a pattern of money laundering for "drug kingpins and rogue nations." HSBC, which had been cited twice in the last decade for repeatedly violating money laundering laws, remains under civil and criminal investigation.

It was a rival, Barclays, that set off an international furor when it admitted to a wide-ranging conspiracy to manipulate the London interbank offered rate, commonly known as Libor, which is the benchmark for countless interest rate determinations and an estimated \$450 trillion in derivative contracts. It obtained a nonprosecution agreement, in large part because of what the Justice Department called its "extraordinary" cooperation, and agreed to pay American and British authorities a \$450 million penalty. Barclays has had its own problems with accusations of money laundering and paid \$298 million to settle charges that it circumvented United States prohibitions on funneling money to Iran.

But in many ways, UBS is in a league of its own given its track record for scandals. Should UBS be implicated in the Libor rate-fixing conspiracy, it's hard to imagine a better corporate candidate for a criminal indictment — even though it has already been granted conditional immunity from some aspects of the Libor scandal.

As the Justice Department points out in its guidelines for charging a corporation with a crime: "A corporation, like a natural person, is expected to learn from its mistakes," and "a history of similar misconduct may be probative of a corporate culture that encouraged, or at least condoned, such misdeeds, regardless of any compliance programs. Criminal prosecution of a corporation may be particularly appropriate where the corporation previously had been subject to noncriminal guidance, warnings or sanctions."

UBS, with dual headquarters in Zurich and Basel, traces its roots to 1854. Last year it had more than \$26 billion in revenue and nearly 65,000 employees worldwide. It was deemed too big to fail during the financial crisis, and had to be bailed out by the Swiss government after a \$50 billion write-down on mortgage-backed securities.

The bank's recidivism seems rivaled only by its ability to escape prosecution:

¶ UBS obtained a deferred prosecution agreement in 2009 for conspiring to defraud the United States of tax revenue by creating more than 17,000 secret Swiss accounts for United States taxpayers who failed to declare income and committed tax fraud. UBS bankers trolled for wealthy clients susceptible to tax evasion schemes at professional tennis matches, polo tournaments and celebrity events. One UBS banker smuggled diamonds in a toothpaste tube to accommodate a client. In return for the deferred prosecution agreement, UBS agreed to pay \$780 million in fines and penalties and disclose the identities of many of its United States clients. At the same time it settled Securities and Exchange Commission charges that it acted as an unregistered broker-dealer and investment adviser to American clients and paid a \$200 million fine. In October 2010 the government dropped the charges, saying UBS had fully complied with its obligations under the agreement.

¶ In May 2011, UBS admitted that its employees had repeatedly conspired to rig bids in the municipal bond derivatives market over a five-year period, defrauding more than 100 municipalities and nonprofit organizations, and agreed to pay \$160 million in fines and restitution. An S.E.C. official called UBS's conduct "a 'how to' primer for bid-rigging and securities fraud." UBS landed a nonprosecution agreement for that behavior, and the Justice Department lauded the bank's "remedial efforts" to curb anticompetitive practices.

16

¶ In what the S.E.C. called at the time the largest settlement in its history, in 2008 UBS agreed to reimburse clients \$22.7 billion to resolve charges that it defrauded customers who purchased auction-rate securities, which were sold by UBS as ultrasafe cash equivalents even though top UBS executives knew the market for the securities was collapsing. Seven of UBS's top executives were said to have dumped their own holdings, totaling \$21 million, even as they told the bank's brokers to "mobilize the troops" and unload the securities on unsuspecting clients. As Andrew M. Cuomo, who was New York's attorney general then, put it: "While thousands of UBS customers received no warning about the auction-rate securities market's serious distress, David Shulman — one of the company's top executives — used insider information to take the money and run." Besides reimbursing clients and settling with the S.E.C., UBS paid a \$150 million fine to settle consumer and securities fraud charges filed by New York and other states. It again escaped prosecution.

There's more — including UBS's prominent role and big losses in the mortgage-backed securities debacle that helped bring on the financial crisis. The federal agency overseeing Fannie Mae and Freddie Mac sued UBS for securities law violations, accusing it of "materially false statements and omissions." The agency is seeking \$1 billion in damages. (UBS has denied the charges and the case is pending.) UBS hasn't been charged with any civil or criminal misconduct related to mortgage-backed securities.

In the continuing global interest rates investigations, UBS last summer revealed that it had received conditional immunity from the Justice Department and other authorities. It was shown this leniency even though the Justice Department has pointedly said that Barclays, not UBS, was the first bank to cooperate.

Among the dozen or so banks caught up in the investigation, UBS hasn't disclosed what role, if any, it played. But its conditional immunity indicates that UBS confessed and gave evidence against others. A corporation can avoid criminal conviction and fines for antitrust crimes "by being the first to confess participation in a criminal antitrust violation, fully cooperating with the division, and meeting other specified conditions," according to the Justice Department.

The department's antitrust division stresses that it makes only one grant of immunity per conspiracy, so it isn't clear how both Barclays and UBS managed to get it. Libor is set each day based on submissions from major global banks for a variety of currencies. UBS is a member of the banking panels that determine United States dollar, British pound, euro, yen and Swiss franc Libor rates.

UBS said its antitrust immunity was tied only to yen-related rates. That means it could still be prosecuted for antitrust crimes related to other currencies. Barclays obtained antitrust immunity only for a conspiracy involving the euro interbank offered rate, suggesting that the Justice Department is treating the cases as separate conspiracies.

Unlike Barclays, UBS does not have immunity or a nonprosecution agreement from the criminal division, which means it could be charged with the full range of securities and commodities fraud.

When I asked UBS for comment about its record, a spokeswoman said that the bank "acknowledges and takes responsibility for the mistakes and oversights that occurred in our past, and we have learned a great deal. New senior management is fully committed to protecting the firm's reputation, our employees and shareholders from any misconduct by individuals. We continuously work to ensure compliance with the rules, and improve controls to keep mistakes from happening or to detect them as soon as possible, if they do occur."

In the Libor scandal, UBS's conditional immunity applies only to the company, not to individuals. While UBS seems to fit the profile for charging corporations with crime, it remains the case that individuals commit crimes, even if companies are liable for their acts. But so far, the only person from UBS to receive a jail term in connection with any of the bank's multiple scandals and offenses is Bradley Birkenfeld, the original whistle-blower in the huge tax evasion case. Mr. Birkenfeld pleaded guilty to conspiracy to defraud the United States and was sentenced to 40 months in prison.

Another UBS banker, Renzo Gadola, pleaded guilty in the tax fraud case, cooperated, and was granted probation. A third was charged but hasn't been tried and remains a fugitive. In another notorious case, British authorities charged a trader, Kweku Adoboli, with fraud and false accounting after UBS announced it had lost \$2.3 billion in unauthorized trades. He pleaded not guilty and is awaiting trial. And in the municipal securities bid-rigging scandal, three former UBS bankers are facing trial and a fourth pleaded guilty but hasn't been sentenced.

Otherwise, no one at UBS has faced criminal charges, even though two high-ranking UBS officials settled New York and other states' charges of insider trading for dumping their auction-rate securities. One, Mr. Shulman, UBS's global head of municipal securities, who was publicly criticized by Mr. Cuomo, paid \$2.75 million to settle the charges and was suspended as a securities broker for two and a half years. Another, David D. Aufhauser, UBS's general counsel, paid \$6.5 million and was barred from practicing law in New York for two years. Mr. Shulman was suspended by UBS and Mr. Aufhauser left the bank. UBS declined to comment on the reason

for his departure and named him an adviser to the bank.

Neither man admitted or denied guilt, but in both cases, the allegations made by the authorities were incriminating. According to the complaints, Mr. Shulman sold his personal holdings within days of learning the market was in distress. Mr. Aufhauser was on an Acela train to Washington when UBS's chief risk officer e-mailed him to warn that the auction-rate securities market was collapsing. Minutes later, he e-mailed his UBS broker to sell the securities in his account. (A lawyer said Friday that Mr. Aufhauser subsequently reversed the trade and didn't profit from the order.)

Today Mr. Shulman is listed as a "managing member" of BasePoint Capital L.L.C., a private investment firm in Greenwich, Conn. Mr. Aufhauser is a partner at the prominent Washington law firm Williams & Connolly. His biography on the firm's Web site references his experience as "managing director and global general counsel of the UBS AG investment bank."

Both Mr. Shulman and Mr. Aufhauser declined to comment.

Is it any wonder that despite repeated apologies and promises to change, UBS and other banks keep getting in trouble?

Last week New York Times reporters Ben Protess and Mark Scott wrote that the Justice Department was building criminal cases against several individuals and institutions implicated in the Libor scandal, even as rumors swirled that more generous settlements with major banks were in the works. If prosecutions are forthcoming, it will be a welcome sign that banks and their employees will be held accountable for their misdeeds. As the recent wave of scandals suggests, years of leniency have failed to bring the hoped-for results or respect for the law.

"My view is we're well past the day where we can postpone putting guilty people behind bars," said Mr. Welch, the representative from Vermont, who sent a letter this week to Attorney General Eric H. Holder Jr. urging the department to "aggressively prosecute" bank officials who manipulated Libor.

"The whole point of prison terms is to deter conduct in that community, and we know jail sentences are an effective deterrent," Mr. Welch added. "Restoring public confidence means that people who commit crimes spend some time in jail."

This article has been revised to reflect the following correction:

Correction: July 20, 2012

An earlier version of this column misstated the charges against UBS from the federal agency that oversees Fannie Mae and Freddie Mac as fraud, rather than securities violations.

16

Stephen M. Wontrobski
27132 Sombras
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(949) 348-0148

July 9, 2012

Chairman, Budget & Finance Committee
Orange County Fire Authority
1 Fire Authority Road
Irvine, CA

Ref: Orange County Fire Authority (OCFA)
Competitive Bidding Practices

Dear Mr. Chairman:

I have maintained since last year, that the reason stated by the OCFA to not competitively bid the OCFA broker/dealer work was simply not believable. Your Committee has continued to maintain that the OCFA's Treasurer's no-bid justification was correct.

This letter will address my concern regarding the integrity of the entire OCFA bidding process.

- 1) The OCFA Treasurer could not provide one document or note to substantiate her assertion that she: a) searched out a list of potential broker/dealers; and b) could not find any company, that had not been engaged in financial wrongdoing. This twofold assertion (no documentation and assertion that everyone is engaged in financial wrongdoing) in itself has cast a cloud over the integrity of the entire OCFA competitive bidding process.
- 2) In the Executive Committee Meeting of June 27, 2012, the OCFA Treasurer responded to an inquiry from a Committee member regarding the reason the OCFA recommended awarding the actuarial services contract to the highest bidder. The Treasurer asserted in effect that the high bidder was currently doing this work; that they had been a good company to work with; and would do extra work, if requested to do so. This award recommendation was in clear violation of the Public Contract Code, which requires that the work be awarded to the "lowest responsible bidder". The Executive Committee unanimously rejected the award recommendation and instructed that the work be awarded to the low bidder.

It was very encouraging to me to see the Committee rejection, since I could not recall in any of the Committee meetings I attended over the last year, that the Committee ever rejected an OCFA staff bid award recommendation. The Code states that contracts are to be awarded, outside of certain legal exceptions, to the

"lowest responsible bidder". The reasons enumerated by OCFA staff did not fall into this exception category. The award recommendation clearly appeared to me to be against the Public Contract Code. So much so, that I now question whether senior OCFA staff members are aware of the Public Contract Code award requirements and enumerated exceptions. Equally disturbing was the fact that this potential Public Contract Code violation was not even addressed by OCFA legal counsel. These aspects need to be addressed by your Committee, since they bring into question the integrity of the OCFA bidding practices.

- 3) In the Executive Committee Meeting of June 27, 2012, the representative from Firefighters Local 3111 requested to meet in private with OCFA staff regarding proposed revisions to the Memorandum of Understanding, that governs firefighter pay, benefits and work rules. The Chairman agreed to this request. This permission created a direct conflict of interest, violated the Public Contract Code, and was a violation of the Brown Act. This action further undermined the integrity of the OCFA bidding process and served to also undermine the public trust in the OCFA itself.

I want to make it clear, that I wish to attend any meetings between the OCFA and Local 3111. Hence, I maintain that any such proposed meetings must be noticed, so that the public may attend them and provide public input. These meetings cannot be held in secret away from the public view.

As a further assurance to the public that Public Contract Code bidding provisions are being followed, I offer the following recommendation for your consideration.


Direct the OCFA Treasurer to supply your Committee with a listing of awards, and associated justifications, over the last five years that were:

- a) Not bid,
- b) Not awarded to the low bidder, or
- c) Awarded to the existing contractor.

Your Committee can then study the exception listing and implement any needed remedial bid practices. Presently, the integrity of the competitive bidding practices of the OCFA is being questioned by the public. This public perception must be addressed and rectified.

I thank you in advance for your assistance and consideration of this matter.

Sincerely,


Stephen M. Wontrobski

Stephen M. Wontrobski
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E-mail: constructionclaims@yahoo.com

October 31, 2011

Letters
Orange County Register
P.O. Box 11626
Santa Ana, CA 92711

Ref: OCFA
Broker/Dealer List

Dear Sir

At the October 27, 2011 Orange County Fire Authority Executive Committee, I objected to the staff recommendation that the Executive Committee renew the current Broker/Dealer List to include UBS Financial Services and Wells Fargo. I requested that the work be put out for competitive bid. My objection was based on my assertion that:

1. UBS had been involved with IRS taxpayer fraud.
2. Wells Fargo had been alleged to have been engaged in mortgage wrongdoing and was currently being sued by numerous state attorney generals.
3. If the work were put out for bid, UBS and Wells Fargo would be disqualified from being awarded the work due to their wrongdoing involvement.

The Executive Committee asked for staff comment regarding my objection. OCFA staff responded stating that basically all financial institutions of a large size were engaged in wrongdoing, so they recommended that the Committee ignore my objection. The Executive Committee accepted this recommendation, and approved the recommendation without a single member objection.

Since when has it become acceptable for a public agency to accept corporate wrongdoing, because it is such a widespread corporate problem and everyone appears to be doing it?

Sincerely,



Stephen M. Wontrobski

:ocfabrokerdealer2

Subject: Ambulance Services Meeting (9/26/2013)
From: Michael S. Daudt (mdaudt@wss-law.com)
To: constructionclaims@yahoo.com;
Date: Wednesday, September 25, 2013 2:20 PM

Dr. Mr. Wontrobski,

This office serves as general counsel to the Orange County Fire Authority ("OCFA"), and has been authorized to respond to your request to attend tomorrow's ambulance service provider outreach meeting. This meeting will provide general information to ambulance service providers concerning participation in, and the requirements of, the OCFA's upcoming 9-1-1 Ambulance Services Request for Proposals (RFP) process. Only potential bidders and those persons involved in administering the RFP process may attend. The meeting is not open to the public. Therefore, we cannot grant your request to attend.

We appreciate your interest in the Ambulance Services RFP process. You may track this process by reading OCFA's Phase I RFP, which is scheduled to be publicly available as part of the November 21, 2013 Board of Directors agenda package, and the Phase 2 RFP, which will also be presented to the Board in March of 2014. The ambulance provider selections are scheduled for discussion at the May 2014 Board of Directors meeting.

Moving forward, we ask that you kindly refrain from appearing at any OCFA meeting that is not subject to the Brown Act (Cal Gov Code § 54950 *et seq.*), and for which OCFA has not published a notice inviting public participation and input.

Should you have any questions, please feel free to contact me.

Regards,

Michael S. Daudt
Woodruff, Spradlin & Smart
714.415.1059 (Direct)
714.415.1159 (Facsimile)

19