

**FINAL REPORT - CASE NO. 07-07**  
**SAN JOAQUIN REGIONAL TRANSIT DISTRICT**

**SUMMARY**

The 2007-2008 Civil Grand Jury received a citizen complaint alleging an abuse of position of authority and misuse of taxpayer monies by the General Manager/CEO of San Joaquin Regional Transit District (SJRTD). Included in the complaint was the concern of impropriety relating to SJRTD hiring and termination procedures for employees and consultants. The complaint further alleged that the Governing Board of Directors failed in its responsibility to provide proper oversight with regard to the operation of the District. The Grand Jury found that some of the allegations made in the complaint were legitimate.

The Grand Jury noted an excessive use of consultants over long periods of time. This speaks negatively of SJRTD Management's ability to exercise their responsibilities. The investigation expanded to include the misuse of credit cards and purchase cards, improper procurement procedures, poor contract management, and impropriety in the negotiations for the final settlement of the contract for the Downtown Transit Center (DTC) construction project.

There are other areas of SJRTD that deserve scrutiny. This should be the task of the Governing Board of Directors. The Board's "Hands Off" style of management is not in the public interest and does not protect the public purse.

**REASON FOR INVESTIGATION**

The Civil Grand Jury received a complaint containing several issues of concern regarding the San Joaquin Regional Transit District. A preliminary examination revealed there was a solid basis for the complaint. It was determined that there were a multitude of improper management practices that justified a full investigation.

**BACKGROUND**

The San Joaquin Regional Transit District provides public transit services in the Stockton Metropolitan area, as well as intercity, interregional, and rural transit services countywide. The service area population is approximately 545,000.

San Joaquin Regional Transit District operates fixed-route bus service primarily for the City of Stockton, while connecting 12 cities within San Joaquin County. Downtown Stockton is additionally served by Trolley vehicles. Fixed routes operate 365 days a year in the Stockton Metropolitan area. Specialized commuter services connect San Joaquin County with Sacramento, the Bay Area and Bay Area Rapid Transit. Para transit curb-to-curb services are also available for SJRTD customers.

The General Manager/CEO, Assistant General Manager/COO, Assistant General Manager/CFO and four department Directors manage the daily operations of Transportation, Maintenance, Business Analysis and Human Resources. SJRTD employs approximately 340 employees and operates 132 revenue vehicles.

An annual budget (2007) of approximately 42 million dollars includes a Staff Travel allowance of \$127,000 and Career Development allowance of \$70,000. Major sources of revenue are derived from taxpayer funding and grants from the State of California and from the Federal Government.

A 5-member Board of Directors governs SJRTD. The function of this Board is to establish policy, select the General Manager/CEO and Legal Counsel and provide for governance of SJRTD. The General Manager/CEO is responsible for agency adherence to SJRTD programs and policy.

Enabling Legislation includes the San Joaquin Regional Transit District Act as set forth in the California Public Utilities Code, regulations issued by the U.S. Department of Transportation, Federal Transit Administration and the Rules of Procedure, as adopted by the Board of Directors.

In January 2004, a construction contract was signed to build the Downtown Transit Center. Construction was completed in December 2006. This complex features a two level structure, which includes a large boardroom that is extremely well furnished with modern sound and large screen video equipment, several meeting rooms, break rooms and an exercise room with state of the art equipment. The General Manager/CEO's office is on the second level and features a raised platform for the work/meeting area, with a view of Weber Avenue. Behind her desk is another large conference room, furnished with custom chairs and two large flat panel television monitors. The Downtown Transit Center is located at 421 East Weber Avenue downtown Stockton.

## **METHOD OF INVESTIGATION**

The investigation began in November 2007. The Grand Jury toured the Downtown Transit Center and interviewed various members of SJRTD staff, contractors, and consultants. Some witnesses were evasive, self-serving, and deliberately misleading in their testimony and did an inadequate job in providing documents. This made the investigation more difficult and lengthier than it should have been. Numerous documents were examined and conclusive findings were established based on this information and from testimony given during interviews.

## Materials Reviewed

- Contracts of various employees, contractors, and consultants
- SJRTD Web Site
- SJRTD Procurement Manual
- Purchase card agreements, summary statements and receipts from 2004 through January 2008
- Negotiation Memorandum F&H Global Settlement Drafts

## Interviews Conducted

- Members of the Board of Directors
- General Manager/ Chief Executive Officer (CEO)
- Assistant General Manager/Chief Financial Officer (CFO)
- Assistant General Manager/Chief Operations Officer (COO)
- Director of Maintenance
- Director of Transportation
- Procurement Specialist
- Human Resources Analyst
- IT Contract Manager
- Stockton Police Captain

## Site Visited

- SJRTD Downtown Transit Center

## FINDINGS

1. **A security guard, hired as a contract employee by SJRTD, was paid in excess of the specific terms of his contract.** SJRTD's payroll records show that a security guard, hired as a fixed term employee worked a twelve hour day, seven days per week; taking off only two days in the year 2007. The guard worked from January 2007 to July 2007 without a contract at an average monthly compensation of \$7,260. The guard was paid for hours worked beyond the provisions of his contract (exceeding 12 hours per day) and received fuel for his private vehicle at public expense also not provided in his contract. The guard later began using an SJRTD vehicle to make his "rounds" in violation of his contract, which specified that he must furnish his own transportation.
2. **The American Express (AMEX) Credit Cards, held exclusively by the General Manager/CEO and her Administrative Assistant, were often used in violation of procedures outlined in the SJRTD Procurement Manual.** Personal gifts for employees and personal meals are frequently purchased. Gasoline for SJRTD vehicles had been purchased at local retail gas stations for greater than \$3.00 per

gallon, even though SJRTD Facility gas was readily available at \$2.12 per gallon. A cash rebate of approx \$243 from AMEX is unaccounted for. Late fees and finance charges in excess of \$300 have been charged on the AMEX account.

3. **Purchase cards (P-Cards) were often used to purchase meals and other food items, in local restaurants, sandwich shops, grocery stores and coffee houses, in violation of published procedures. “Restaurant expenses are allowable charges for the P-card while traveling.”** Examples include: over \$11,000.00 in food purchases made in 2007, a \$1,038.00 dinner at Mallards restaurant, and an \$800.00 charge made at Starbucks Coffee shop. Meetings were regularly held in local restaurants during the lunch and dinner hours and charged to the P-card.
4. **Purchase cards were used to purchase items for resale to employees at discounted prices in violation of prescribed (P-Card) use.** Regal gift certificates (movie tickets) in increments of \$1,758.00 per purchase, totaling \$8,790.00, were made in 2007. They were purchased to use as gifts for employees for good work and as birthday presents, or they could be purchased by the employees at a discount.
5. **Final negotiations between SJRTD and the design builder firm for the Downtown Transit Center, involved a contract consultant who had a contractual relationship with both parties. This created an appearance of “conflict of interest” that may have affected SJRTD’s standing during the negotiation.** A consultant, who was compensated by both SJRTD and the design builder firm of the Downtown Transit Center, played an integral role in negotiating the final disputed construction settlement agreement between both principals. This is a potential conflict of interest as described in Chapter II section 2.2 of the SJRTD Procurement Manual.
6. **A labor relation consultant was hired to resolve management/union problems at SJRTD. This consultant has continued to be employed after four years even though the labor problem was resolved. The specific requirements of that contract are not being followed or enforced.** The consultant has not furnished, nor has SJRTD supplied, “Deliverables” as defined in the contract, as requested by this Grand Jury.
7. **A consultant was hired to provide training to management employees. It appears this consultant has completed the scope of his initial contract and is currently repeating training assignments completed in the first four years on the job. Such employment results in unnecessary expense to SJRTD, and ultimately, to tax payers.** The consultant has not furnished, nor has SJRTD supplied, “Deliverables,” as defined in the contract. “Strategy Papers,” as required in the contract were not furnished to the Grand Jury as requested. Documents delivered by SJRTD turned out to be extracts from trade publications and letters of recommendation for the consultant. His current compensation is approximately \$9,000.00 per month, plus certain expenses.

8. **The “Events Coordinator” continued to provide services and was compensated after the 2006 employment contract had expired.** A new contract was signed March 13, 2008 and made retroactive to July 1, 2007. Prior payments made in 2007 were charged to the 2006 contract on the invoices. No verification of completed “Deliverables,” as defined in the contract, were furnished to this Grand Jury as requested. After a review of several other employment contracts, it was determined that most contractors did not produce the “Deliverables” specified in their contracts. No evaluation system has been established at SJRTD to determine if all contractors are producing a satisfactory result for the agency. Additionally, there is no system in place to determine if and when the contractor has finished the assigned tasks.
9. **Several employees, consultants, and contractors were hired without the benefit of a competitive hiring process.** In some cases, there appears to be the specter of “nepotism”. As an example, one consultant managed to have his daughter, and daughter-in-law hired and paid by SJRTD for special projects or activities. In another example, a second security guard was hired to share the workload of the first security guard. He was hired without competitive process, and he is related to the first security guard. These practices, while perhaps not outside the authority of the General Manager, have a tendency to create dissension among the current employees who seek career advancement within SJRTD, and who are not allowed an opportunity to fairly compete for positions within the District. These practices may also contribute to labor unrest.
10. **Numerous consultants were hired, some with questionable qualifications for the contracted position, without an overall plan for project execution and management. Furthermore, some of the consultants’ duties overlap some of the responsibilities of fixed-term employees.** For example, two Procurement Specialists, contracts S-2004-020 (dated 6/4/2004) and S-2004-002 (dated 1/27/2004) respectively, contained essentially the same task requirements. However, two individuals were simultaneously employed to do identical assignments.

Also, an Information Technology specialist was converted from independent contractor status in contract S-2005-022 (dated 6/20/2005) to SJRTD fixed-term employee status in contract E-2005-09 (dated 12/01/2005); then converted back to independent contractor status in contract S-2007-016 (dated 8/15/2007). This individual completed the required duties while receiving dual compensation from 12/1/2006 through 3/24/2007.

11. **An automobile was purchased with Federal grant money with the intention of using it as a police patrol vehicle. The necessity and the proper authority were not sufficiently explored before the purchase was made. Prior to SJRTD’s purchase of the vehicle, SJRTD was already under a service contract with the Stockton Police Department, which included the use of a city police vehicle.** The automobile purchased by SJRTD in 2006 was done without Stockton Police Department (SPD) approval as to ownership, operating rules, or responsibility for the vehicle. The vehicle was stored at the SPD corporation yard awaiting installation of

special police equipment. The SPD refused to install all necessary police equipment as it was owned by SJRTD and could not be legally used as a police vehicle. The car has never been put into service. This is a misuse of public funds since the original cost cannot be recovered at this late date.

12. **The General Manager/CEO of SJRTD has failed to provide a summary of the contracts executed under her authority to the board of directors, as required by the SJRTD Procurement Manual.** SJRTD Procurement Manual section 1.3 provides that, “A report summarizing contracts awarded within the General Manager’s authority shall be presented to the Board of Directors on a periodic basis, no less than quarterly.” Failure to provide this timely report deprives the Board of Directors of the data needed to exercise their responsibility to oversee the operation of SJRTD.
13. **The General Manager/CEO has exceeded her authority to award and execute contracts on multiple occasions. The Board of Directors set her spending authority at \$150,000. The Chairperson of the Board must sign contracts exceeding that amount.** Examples of this misuse of authority may be found in contracts S-2004-031 (dated 10/20/2004) and S-2005-015 (dated 5/9/2005) both in the amount of \$200,000. Section 1.3 of the SJRTD Procurement Manual states that “The Board of Directors shall approve the award of contracts and leases for equipment, supplies, materials, services or construction when the amount to be paid by the District exceeds \$150,000. The chairperson of the Board of Directors shall sign contracts and leases that require approval by the Board.” These contracts do not bear the signature of the Chairperson of the Board of Directors.
14. **A purchase card transaction made by the General Manager/CEO and the Maintenance Director in June 2007 appears to have been done with the intent to circumvent the informal bid process.** Two purchase-card transactions in the amount of \$1,784.34 were made on the same date in June 2007 by the General Manager/CEO and Maintenance Director for the same product from the same dealer. Section 4.4 of the SJRTD Procurement Manual describes an “Informal Bidding” process for expenditures exceeding \$2,500. The section also declares that, “The District shall not arbitrarily split contracts or procurements so as to avoid the formal competitive bidding process.” Since the total of the two purchases exceeded \$3,500.00, this appears to be a violation of SJRTD procedure.
15. **SJRTD is not consistent in the use of “retainer agreements” for consultants. The line between salaried employees and those on retainer have been blurred.** Some consultants are consistently paid for *undocumented* services against a retainer and are also paid for *partially* documented services at an hourly rate. Records reveal that these consultants *always* receive the maximum allowable payments, whether or not they provide the required “Deliverables” specified in their contract. For some individuals, payments for “retainer” services are akin to payments typically made to a “salaried” employee.

16. **SJRTD has not effectively used their marketing department to generate advertising revenue on their bus fleet.** SJRTD has adequate staffing in their marketing department, yet bus advertising seems to be minimal. Advertising can be an excellent source of revenue. Other transit districts produce significant revenues from advertising and additional revenue would reduce SJRTD's dependence on taxpayer funds.
17. **Contracts requested from SJRTD by the Grand Jury were not delivered upon our initial requests, and it became necessary for the Grand Jury to petition the Court to issue a subpoena.**
18. **The design of the Downtown Transit Center Construction Project was revised by Change Order after the contract had been awarded to the lowest bidder.** The result of the change reduced the cost of the contract price by \$2,481,474. The contract should have been returned to all original bidders to allow for continued participation in the formal bidding process, possibly saving the public additional dollars.
19. **The General Manager/CEO did not follow SJRTD established procedures for "change orders" during construction of the Downtown Transit Center. To avoid litigation, it became necessary for SJRTD to enter into a negotiated global settlement agreement with the building contractor.**
20. **Thirteen hotel rooms in the cities of Stockton and Lodi were rented to use as meeting rooms at an expense of over \$5,000. in 2007.** The Downtown Transit Center has several large and well-appointed conference rooms capable of accommodating meeting room requirements.

## **RECOMMENDATIONS**

1. Management develop a policy of examining all contracts for compliance before paying invoices to avoid unnecessary expenditures and assure quality of work.
2. The American Express card purchases be subject to greater scrutiny in accordance with "San Joaquin RTD Purchasing Credit Card Procedure." Pay invoices in a timely manner to avoid the addition of interest and late charges. Enforce the policy regarding the purchase of food and gifts to protect taxpayer funds.
3. Comply with regulations outlined in Chapter II Standards of Conduct Section 2.2 "Conflict of Interest," whenever a perceived conflict of interest exists.
4. Make an immediate assessment of all current consultants to determine if their services still benefit SJRTD.
5. Terminate the contract of contractors and consultants when the assignments have been completed by a contractor or consultant.

6. Require verification of the “Deliverables” of all contractors and consultants prior to the payment of invoices.
7. Make and enforce a clear definition for the provisions of “retainer” payments to assure that contracted “Deliverables” are indeed produced and that they provide desired results. Clearly define hourly performance so as not to conflict with the retainer provisions. Examine all contract “Deliverables” for compliance before invoices are paid to avoid unnecessary expenditures and assure quality of work.
8. Establish a written policy to periodically evaluate the achievement of contractors in relation to their assigned task.
9. Set a termination date of all new contracts, to be closely monitored by the General Manager/CEO.
10. Management utilize “Best Practices” in hiring employees that fairly advertise job openings, so that current employees may experience advancement opportunities when available within SJRTD.
11. The Board of Directors and the General Manager establish a periodic review of the ongoing and future tasks of consultants with a goal of coordinating efforts and determining which tasks are better suited for permanent employees.
12. The marketing department of SJRTD aggressively pursue opportunities for advertising from merchants and businesses.
13. Conduct formal training for all Board Members to become familiar with all policies and procedures described in the SJRTD manuals.
14. Enforce sanctions relating to the misuse and abuse of SJRTD funds. (e.g. gasoline purchases, credit card expenses, hotel accommodations, entertainment and food purchases).
15. Adhere to written policy and procedures with regard to “change orders” to insure taxpayer funds are not wasted.

**RESPONSE REQUIRED**

**Pursuant to Section 933.05 of the Penal Code:**

The San Joaquin County Regional Transit District Board of Directors shall report to the Presiding Judge of the San Joaquin County Superior Court, in writing and within 90 days of publication of this report, with a response as follows:



As to each finding in the report a response indicating one of the following:

- a. The respondent agrees with the finding.
- b. The respondent disagrees with the finding, with an explanation of the reasons therefore.

As to each recommendation, a response indicating one of the following:

- a. The recommendation has been implemented, with a summary of the action taken.
- b. The recommendation has not yet been implemented, but will be with a time frame for implementation.
- c. The recommendation requires further analysis, with an explanation of the scope of analysis and a time frame not to exceed six months.
- d. The recommendation will not be implemented, with an explanation therefore.