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# **Conflict of Interest (Perceived) in Marysville Joint Unified School District**

## Conflict of Interest (Perceived) in Marysville Joint Unified School District

### **Summary:**

As a result of a citizen's complaint, an investigation by the Yuba County Grand Jury has found that a perceived conflict of interest exists in the Marysville Joint Unified School District (MJUSD).

### **Introduction and background:**

The Grand Jury received a citizen's complaint regarding questionable activity in the MJUSD concerning the hiring procedures for the current Facilities Manager (formerly the MJUSD Senior Project Manager) and how that position was filled. The complaint stated that the Facilities Manager is married to an employee of an architectural company whose firm received a substantial portion of the MJUSD architectural contracts. The Grand Jury discussed this complaint and elected to proceed with an investigation.

After an investigation, the Grand Jury found that the MJUSD Senior Project Manager was hired to act as a liaison with architectural firms, including one that received approximately sixty percent of the MJUSD's architectural contracts. The MJUSD Senior Project Manager has a spousal relationship with an employee of the architectural firm, which is perceived as influential.

The Grand Jury found that the MJUSD allowed established board by-laws to be violated by hiring employees with known affiliations or connections to district contractors, and therefore, appears to have conflict of interest (Board By-Laws 9270). The Grand Jury also found that the MJUSD violated State of California Government Code 1090, Contractual Conflicts of Interest; All Contracts, quoted below:

*“Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.”*

Upon investigation, the Grand Jury found that the MJUSD advertised the Facilities Manager position in one professional trade journal. The MJUSD did not advertise the position in any other public forum. The Grand Jury determined that the MJUSD Facilities Manager is involved in all aspects of the contract bidding process, including preliminary discussions, negotiations, compromises, reasoning or selection of projects, and the drawing of plans or specifications. The Facilities Manager is apparently not involved in the solicitation of contract bids. However, the Grand Jury determined that the Facilities Manager has important discretionary functions in MJUSD's contract bidding process; this not a mere clerical or administrative position. The Grand Jury found that the position of Facilities Manager of MJUSD has no written formal or

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established job duties, job description or responsibilities. It was reported to the Grand Jury that there have been no personnel performance evaluations conducted for the Facilities Manager from the date of hiring to the present. The Facilities Manager formerly reported directly to the previous Superintendent of Business Services, who resigned in December 2013. The Grand Jury also found that the MJUSD Facilities Manager is married to a principal employee in an architectural firm that does substantial business with MJUSD, thus creating at least the appearance of a conflict of interest.

### **Methodology and Approach:**

The Grand Jury interviewed three MJUSD administrators, a manager in the MJUSD, two current board members, the Yuba County Deputy County Counsel and the Yuba County District Attorney. In addition to the interviews, the Grand Jury asked for and received multiple documents related to the investigation and performed public records searches via the internet and accessible databases.

### **Documents:**

#### Public Documents

- Marysville Joint Unified School District 9000 Board Bylaws 9270, accessible at <http://www.mjUSD.k12.ca.us/board/policies>
- Government Code Section 1090 (<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=gov&group=01001-02000&file=1090-1099>)
- Conflict of Interest Form 700 for employees within the MJUSD accessible through the MJUSD website (<http://www.mjUSD.k12.ca.us/board/policies>)
- Project summaries as provided by the Bond Oversight Committee of MJUSD ([http://www.mjUSD.k12.ca.us/district/bond\\_oversight\\_committee](http://www.mjUSD.k12.ca.us/district/bond_oversight_committee))
- MJUSD Budgets for years 2012/2013 and 2013/2014 (<http://www.mjUSD.k12.ca.us/district/budget/>)

The Grand Jury also consulted the following documents that are not available to the public online:

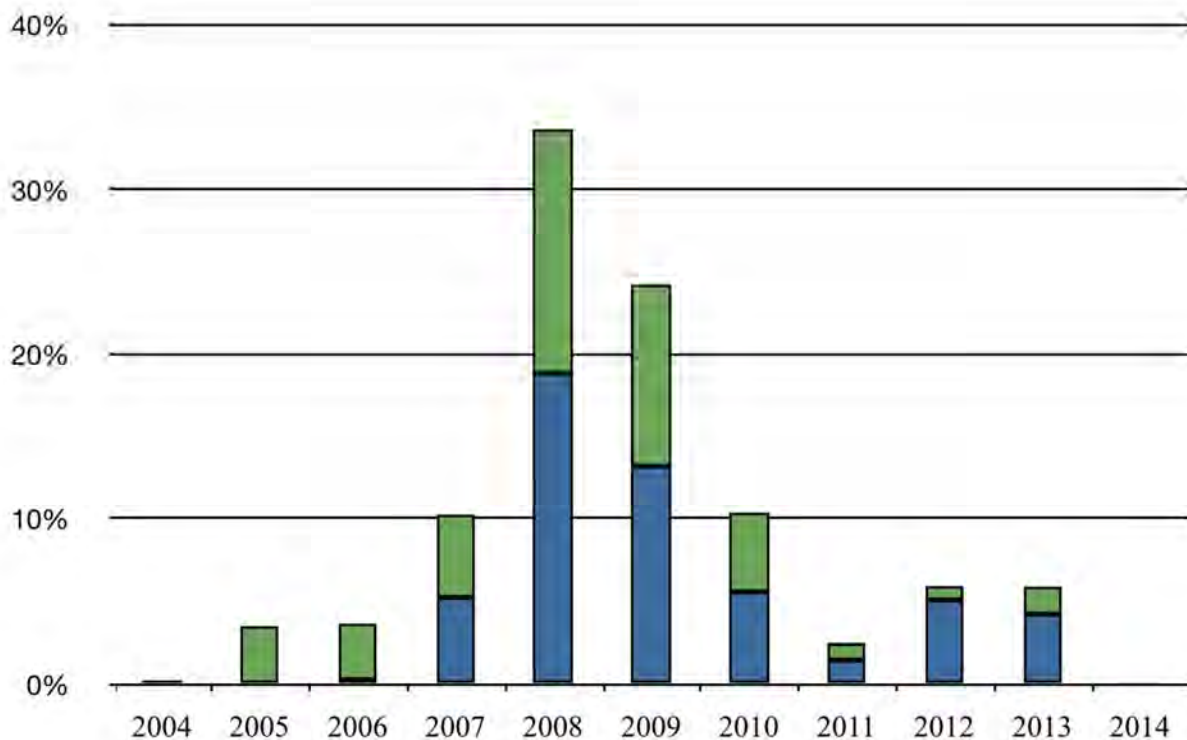
- Legal guidance citing precedent and justification from advisors to the Yuba county Grand Jury
- Measures H and P Account Summary Balance sheets from 2006 to 2014
- Payment histories for Architectural firms doing business with MJUSD

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**Site visits:** The Grand Jury attended one meeting of the MJUSD Bond Oversight Committee and one meeting of the MJUSD Board of Trustees. No other site visits were conducted or deemed necessary.

### Discussion and Narrative:

Through searches of public domain records and testimony by several individuals it was found and confirmed that, at the time of hiring, the current Facilities Manager for MJUSD was married to an employee of an architectural firm doing considerable contractual business with MJUSD. Of \$16,237,028 spent on architectural contracts between 2004 and 2014, the firm in question received \$8,730,340, or about 53.8% of all monies spent on architectural services. Nine other architectural firms received a combined total of \$7,506,688 or about 46.2%. (See Figure 1, below.) The Facilities Manager for MJUSD was hired on May 9, 2007, directly from the architectural firm by the former Superintendent of Business Services. The Facilities Manager's former employer received over half of the monies spent by MJUSD for architectural services for every year from 2007 to 2013. That same firm received just 3.7% of all the money spent by MJUSD for architectural services during the years 2004 – 2006, with over 96% going to other firms.



**Figure 1.** Percentage of MJUSD's total expenditures for architectural services by year. The blue segment of the bars represents the percentage received by the Facilities Manager's former

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employer. The green portion represents the percentage received by nine other architectural firms combined.

It was reported to the Grand Jury during interviews that measures were taken inside the architectural firm to compartmentalize this employee, the spouse of the Facilities Manager, away from all aspects of business relations and contracts with the MJUSD. Whether or not the Facilities Manager's spouse participated in business relationships with MJUSD is not the issue. The spouse obviously has a financial interest in the success of the architectural firm, and there is at least the appearance of a conflict of interest in the Facilities Manager's participation in the process of contracting with that architectural firm.

The MJUSD board of trustees has the final say in who is hired by the District. Of the two board members interviewed, one member knew of the Facilities Manager's spousal relationship with the employee of the architectural firm, and one did not know. Upon recommendation by the former business manager for MJUSD, this individual was hired as Director of Design, and then later promoted to Facilities Manager. The Director of Design was a new position initiated in 2006 by the District, for which no formal written job description existed. This position was classified as having a regular probationary employee on track for permanent status. At that time, the former MJUSD Business Services Superintendent directed the person holding this position's duties. At the time of the Grand Jury investigation, no formal written job description delineating duties or responsibilities had ever existed for this position. The Grand Jury has found that the opening for the position of Director of Design was advertised in a trade journal and that four applicants applied for the job, with two being selected for further consideration. Upon resignation of the prior Facilities Manager, the new Director of Design was promoted into the higher paying vacancy. The position of Director of Design was then eliminated. No yearly employee evaluations have been submitted to the Personnel Department for any of the positions held by the current Facilities Manager.

### Findings:

- F1. **Conflict of Interest:** The Grand Jury finds that the current MJUSD Facilities Manager was hired into a position established in 2007, to act as a contractual liaison with architectural firms, including one that received approximately sixty percent of the MJUSD's architectural contracts and approximately 54% of all expenditures for architectural services. The MJUSD Facilities Manager has had a spousal relationship that is perceived as influential with the architectural firm since the date of hiring. Taken together, these facts manifest the appearance of a conflict of interest.
- F2. **Board By-Law Violations:** The Grand Jury finds that the MJUSD violated established board by-laws by hiring an employee with known affiliations or connections to district contractors and who therefore has a potential conflict of interest. (Board By-Laws 9270)

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- F3. **State Code Infractions:** The Grand Jury finds that the MJUSD violated State of California Government Code 1090, Contractual Conflicts of Interest; All Contracts.
- F4. **MJUSD Advertising Job Vacancies:** The Grand Jury finds that the MJUSD advertised the position of Director of Design in only a single professional trade magazine.
- F5. **Contract Bidding:** The Grand Jury finds that the Facilities Manager of MJUSD (prior MJUSD Director of Design) is involved with all of the aspects of contract bidding; preliminary discussions, negotiations, compromises, reasoning or selection of project, and drawing of plans and specifications, with the exception of solicitation of contract bids. The Facilities Manager of MJUSD had a perceived influence with the contract bids.
- F6. **Job Duties and Descriptions:** The Grand Jury finds that the Facilities Manager's position in MJUSD has no formal written or established job duties, job description or responsibilities.

### **Recommendations:**

- R1. **Conflict of Interest:** The Grand Jury recommends that the MJUSD resolve the perceived conflict of interest between the Facilities Manager and the architectural firm.
- R2. **Board By-Law Violations:** The Grand Jury recommends the MJUSD follow established Board By-Laws regarding district contractors and conflict of interest. (Board By-Laws 9270)
- R3. **State Code Infractions:** The Grand Jury recommends the MJUSD follow established State of California Government Code 1090, Contractual Conflicts of Interest; All Contracts.
- R4. **Contract Bidding:** The Grand Jury recommends that the Board of Trustees or designee of MJUSD not execute any contracts with a contractor perceived as having a conflict of interest.
- R5. **Job Duties and Descriptions:** The Grand Jury recommends that the Superintendent of MJUSD establish formal job duties, descriptions and responsibilities for the position of Facilities Manager.

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### **Request for Responses:**

Pursuant to Penal Code section 933.05, the Grand Jury requests responses as follows:

From the following entities with separate responses:

- Superintendent of MJUSD
- MJUSD Assistant Superintendent, Personnel Services
- MJUSD Board of Trustees

The governing bodies indicated above should be aware that the comment or response of the governing body must be conducted in accordance with Penal Code section 933(c) and subject to the notice, agenda and open meeting requirements of the Brown Act.

