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FRESNO COUNTY GRAND JURY
FINAL REPORTS AND RESPONSES

RESPONSES TO REPORT #2

From

**THE FRESNO COUNTY
BOARD OF SUPERVISORS**

and

**THE FRESNO COUNTY
ADMINISTRATIVE OFFICE
CAO - PAUL NERLAND**

County of Fresno
Board of Supervisors
RESPONSE TO THE
2023-24
FRESNO COUNTY GRAND JURY
FINAL REPORT #2



**Toward Lasting Improvement:
A Review of Fresno County Vacant Property and Real Estate Practices**

Please find below the Fresno County Board of Supervisors' response to the 2023-24 Grand Jury Final Report No. 2 findings and recommendations. The County thanks the Grand Jury for its investigation and recommendations related to Fresno County's vacant property and real estate practices.

FINDINGS

- F1. Fresno County owns marginal real estate that has little apparent purpose to the County, is not regularly maintained, and is poorly tracked.**

Response:

The Board of Supervisors supports the County Administrative Officer's (CAO) responses to all Findings within this report. As indicated within the CAO's consolidated response to this report, leadership had already become aware of the shortcomings inherited from previous leadership and is actively working on corrections. This report confirms what current leadership is aware; however, it did give us additional details that is very helpful in addressing the issues, for which a dedicated temporary position has been developed and filled.

- F2. Fresno County's current ability to track, manage and plan for its current and future real estate needs is problematic given the county's size and complexity and has likely led to ownership of unnecessary property, less than timely processes, and financial loss.**

Response:

The Board of Supervisors partially agrees with the finding. See No. 1.

- F3. The challenges the County faces in reforming its real estate practices appear to be systemic and long-held and will require cultural change and ongoing commitment to accomplish.**

Response:

The Board of Supervisors partially agrees with the finding. See No. 1.

- F4. The current staffing level and organizational structure are likely less robust than that required to plan for, fully monitor, or oversee, the County's real estate holdings.**

Response:

The County is currently assessing the needs and staffing levels and is dedicated to ensuring they are appropriate.

F5. Fresno County apparently lacks a comprehensive strategic plan to guide the management of its real estate assets, nor does it appear to have a comprehensive deferred capital maintenance plan adequately funded to fully maintain the County's buildings over time.

Response:

The Board of Supervisors agrees with the finding. See No. 1.

F6. The system currently used by the County to collect and maintain property data is inadequate given the number of identified errors and incompleteness of property history and other information.

Response:

The Board of Supervisors agrees with the finding. See No. 1.

F7. The processes for leasing property for County use as well as the process of leasing property to others are poorly tracked, fragmented, and likely create the opportunity for error and mistake.

Response:

The Board of Supervisors agrees with the finding. See No. 1.

RECOMMENDATIONS

R1. Develop a deliberate strategy for institutional change in how real estate is viewed, robust enough to effect lasting change which would start with the creation of a real estate/property strategic plan.

The Board of Supervisors and the County Administrative Officer should accomplish this by November 30, 2024. (F3, F4, F5)

Response:

The Board of Supervisors supports the CAO's responses to all Recommendations within this report. There is a need to create a real estate/property strategic plan, and the County will develop a plan by November 30, 2024.

R2. Review and reconcile all County owned real estate, so that an accurate, complete database is established that will aid in management and decision-making which would include the following:

- 1. Systematically enter all tax-exempt property transfers by the Assessor's Office.**
- 2. Acquire deed reading software.**

The Chief Administrative Officer, in conjunction with the Chief Operating Officer and the Director of Internal Services-Chief Information Officer, the Director of the

Department of Public Works and Planning, and the Assessor-Recorder should accomplish this by November 30, 2024. (F2, F4, F6)

Response:

The Board of Supervisors agrees with the need to maintain a complete real estate/property database for all county owned property. By November 30, 2024, the County will develop policies that will allow for the sharing of information between departments and to ensure the database is updated on a timely manner following any real estate transaction.

The County will also evaluate software improvements to assist county departments in expediting land use decisions and locating deeds.

R3. Select or develop a robust data tool that will provide a foundation for planning and management to include at least the following data items:

- 1. Assessor's Parcel Number**
- 2. Building address**
- 3. Description of property**
- 4. Date of acquisition**
- 5. Property size: - Acres**
- 6. Current use of property**
- 7. Fresno County need (Mandatory, Not Needed)**
- 8. Used or vacant?**
- 9. If Vacant -> Year Vacated**
- 10. Condition of land or building (e.g., not suitable for building not suitable for building occupancy, refurbishing, open land, reserved open space)**
- 11. Leasable for County income-generating property (Yes or No)**
- 12. If Leasable -> Lease Number Reference**
- 13. Maintenance information, including responsibility**
- 14. Is the property not available for use? If so, why?**
- 15. Information on upgrades, remodeling**
- 16. Insurance coverage**
- 17. Environmental risks such as asbestos, underground storage tanks or soil contamination**
- 18. Demolition costs**
- 19. Funding source and restrictions**
- 20. Fresno County Department**

The Chief Administrative Officer, the Chief Operating Officer, the Director of Internal Services-Chief Information Officer and other departments as necessary should accomplish this by December 31, 2024. (F2, F6)

Response:

The Board of Supervisors agrees with the recommendation. The County will review and update the real estate/property database to consolidate all necessary information to allow for improved planning and management of county owned property by December 31, 2024.

R4. Standardize management and tracking of County owned properties leased to others which would:

- 1. Provide an overview of leases in the annual property management report in R6 below.**
- 2. Standardize a procedure for cash receipts related to lease payments that all departments can use.**
- 3. Implement policies to insure lease payments are made on a timely basis and what steps to follow when payments are not being made.**

The Chief Administrative Officer in conjunction with the Chief Operating Officer, the Director of Internal Services-Chief Information Officer, the Director of the Department of Public Works and Planning, and the Auditor-Controller/Treasurer-Tax Collector should accomplish this by October 31, 2024. (F7)

Response:

The Board of Supervisors agrees with the recommendation. The County will improve the management and tracking of leased properties and ensure financial compliance with the agreements. The County will implement these changes by October 31, 2024.

R5. Standardize management and tracking of properties owned by others and leased to the County which would:

- 1. Develop an updated Fresno County property lease list which would include a unique identifier that would tie to the Controller's lease listing report, so an easy comparison can be made between the Controller's required report and the ISD lease report.**
- 2. Review and reconcile all E-contracts for property leases to the ISD list to determine conflicts and resolve issues.**
- 3. Use E-contracts to its advantage by including full, official documentation of leases, and implement a procedure by which the system is regularly updated.**
- 4. Maintain a timeline matrix of all leases to be used in visioning the County's future footprint, strategic planning, and asset management.**

The Chief Administrative Officer, in conjunction with the Chief Operating Officer, the Director of Internal Services -Chief Information Officer, and the Auditor-Controller/Treasurer-Tax Collector should accomplish this by October 31, 2024. (F7)

Response:

The Board of Supervisors agrees with the recommendation to improve the management and tracking of property leased to the County. The County will do so by October 31, 2024.

R6. Develop a Property/ Real Estate Management Report and create processes and controls that will regularly (at least annually) put property history, current status, condition and progress toward goals before the Board of Supervisors and senior managers.

The Board of Supervisors, the County Administrative Officer, and the Chief Operating Officer, should accomplish this by December 31, 2024. (F1, F2, F3, F6, F7)

Response:

The Board of Supervisors agrees with the recommendation. The County will develop an annual report to be submitted to the Board, which will be implemented by December 31, 2024.

- R7. Create a property disposal policy that clearly establishes responsibility for property inventory and discourages the accumulation of un-needed real estate.**

The Board of Supervisors and Chief Administrative Officer should accomplish this by October 31, 2024. (F1, F2, F4)

Response:

The Board of Supervisors agrees with the recommendation. The County will create a policy that establishes responsibility for property inventory, discourages the accumulation of unused or underutilized real estate and ensures compliance with state law by October 31, 2024.

- R8. Develop and use Geographic Information Systems (GIS) mapping to post all property owned and leased by Fresno County to the Fresno County website.**

The Chief Administrative officer, the Chief Operating Officer, the Director of Internal Services-Chief Information Officer, and the Director of the Department of Public Works and Planning should accomplish this by November 30, 2024. (F1, F2, F6, F7)

Response:

The Board of Supervisors agrees with the need to create a GIS mapping system that has a layer of all County owned and leased property. This will be accomplished by November 30, 2024.

- R9. Develop a 3-year Capital Plan (at a minimum) for all major Fresno County projects with the input of all departments.**

The Board of Supervisors and the County Administrative Officer should accomplish this by September 30, 2024. (F3, F5)

Response:

The Board of Supervisors agrees with the need to create a capital plan. The County will engage outside planning experts for the creation of a comprehensive facilities master plan. The County does not anticipate completing the capital plan by September 30, 2024; however, the County will issue a Request for Proposal or Request for Quotation for this item by September 30, 2024.

- R10. Implement a Fresno County Building Assessment/ Needs Matrix to be reviewed yearly to help set building and property priorities.**

The County Administrative Officer in conjunction with the Chief Operating Officer, the Director of Internal Services-Chief Information Officer, and the Director of Public Works and Planning should accomplish this by December 31, 2024. (F1, F2, F3, F4)

Response:

The Board of Supervisors agrees with the need to implement a property needs assessment policy. The County will complete by December 31, 2024.

- R11. Establish standardized guidelines for space acquisitions beyond individual department preference that offers consistent quality of space and parking to all county employees based on their needs.**

The Board of Supervisors, in conjunction with the County Administrative Officer and department heads should accomplish this by December 31, 2024. (F1, F2, F3, F4)

Response:

The Board of Supervisors agrees with the need to create guidelines for space acquisition. The County will complete by December 31, 2024.

This concludes the Board of Supervisors' comments on the Findings and Recommendations of the Fresno County Grand Jury Report No. 2.



County of Fresno

COUNTY ADMINISTRATIVE OFFICE
PAUL NERLAND
COUNTY ADMINISTRATIVE OFFICER

July 9, 2024

The Honorable Houry A. Sanderson, Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, CA 93724-0002

RE: Grand Jury Report No. 2 “Toward Lasting Improvement: A Review of Fresno County Vacant Property and Real Estate Practices”

Dear Judge Sanderson:

The Grand Jury’s report reflects findings and recommendations regarding County Vacant Property and Real Estate Practices. I thank the Grand Jury for their diligence and am responding to Finding F1 – F7 and Recommendations R1 – R11 as requested by the Grand Jury. Given this report requests responses from several County departments (Auditor-Controller/Treasurer-Tax Collector, Assessor-Recorder, Chief Operating Officer, Director of Internal Services, and Director of Public Works and Planning), I have prepared a consolidated response for all the aforementioned departments as detailed below:

FINDINGS

F1. Fresno County owns marginal real estate that has little apparent purpose to the County, is not regularly maintained, and is poorly tracked.

The County partially agrees with the finding as leadership had already become aware of the shortcomings inherited from previous leadership and is actively working on corrections. This report confirms what we already know; however, it did give us additional details that is very helpful in addressing the issues, for which a consultant has been retained.

F2. Fresno County’s current ability to track, manage and plan for its current and future real estate needs is problematic given the county’s size and complexity and has likely led to ownership of unnecessary property, less than timely processes, and financial loss.

The County partially agrees with this finding. See No. 1

- F3. The challenges the County faces in reforming its real estate practices appear to be systemic and long-held and will require cultural change and ongoing commitment to accomplish.**

The County partially agrees with this finding. See No. 1

- F4. The current staffing level and organizational structure are likely less robust than that required to plan for, fully monitor, or oversee, the County's real estate holdings.**

The County is currently assessing the needs and staffing levels and is dedicated to ensuring it is appropriate.

- F5. Fresno County apparently lacks a comprehensive strategic plan to guide the management of its real estate assets, nor does it appear to have a comprehensive deferred capital maintenance plan adequately funded to fully maintain the County's buildings over time.**

The County agrees with this finding. See No. 1

- F6. The system currently used by the County to collect and maintain property data is inadequate given the number of identified errors and incompleteness of property history and other information.**

The County agrees with this finding. See No. 1

- F7. The processes for leasing property for County use as well as the process of leasing property to others are poorly tracked, fragmented, and likely create the opportunity for error and mistake.**

The County agrees with this finding. See No. 1

RECOMMENDATIONS

- R1. Develop a deliberate strategy for institutional change in how real estate is viewed, robust enough to effect lasting change which would start with the creation of a real estate/property strategic plan.**

The Board of Supervisors and the County Administrative Officer should accomplish this by November 30, 2024. (F3, F4, F5)

The County agrees with the need to create a real estate/property strategic plan and will develop a plan by November 30, 2024.

R2. Review and reconcile all County owned real estate, so that an accurate, complete database is established that will aid in management and decision-making which would include the following:

- 1. Systematically enter all tax-exempt property transfers by the Assessor's Office.**
- 2. Acquire deed reading software.**

The Chief Administrative Officer, in conjunction with the Chief Operating Officer and the Director of Internal Services-Chief Information Officer, the Director of the Department of Public Works and Planning, and the Assessor-Recorder should accomplish this by November 30, 2024. (F2, F4, F6)

The County agrees with the need to maintain a complete real estate/property database for all county owned property. By November 30, 2024, the County will develop policies that will allow for the sharing of information between departments and to ensure the database is updated on a timely manner following any real estate transaction.

The County will also evaluate software improvements to assist county departments in expediting land use decisions and locating deeds.

R3 Select or develop a robust data tool that will provide a foundation for planning and management to include at least the following data items:

- 1. Assessor's Parcel Number**
- 2. Building address**
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- 16. Insurance coverage**
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- 18. Demolition costs**
- 19. Funding source and restrictions**

20. Fresno County Department

The Chief Administrative Officer, the Chief Operating Officer, the Director of Internal Services-Chief Information Officer and other departments as necessary should accomplish this by December 31, 2024. (F2, F6)

The County agrees with the recommendation and will review and update the real estate/property database to consolidate all necessary information to allow for improved planning and management of county owned property by December 31, 2024.

R4 Standardize management and tracking of County owned properties leased to others which would:

- 1. Provide an overview of leases in the annual property management report in R6 below.**
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The County agrees with the recommendation to improve the management and tracking of leased properties and to ensure financial compliance with the agreements. The County will implement these changes by October 31, 2024.

R5 Standardize management and tracking of properties owned by others and leased to the County which would:

- 1. Develop an updated Fresno County property lease list which would include a unique identifier that would tie to the Controller's lease listing report, so an easy comparison can be made between the Controller's required report and the ISD lease report.**
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Controller/Treasurer-Tax Collector should accomplish this by October 31, 2024. (F7)

The County agrees with the recommendation to improve the management and tracking of property leased to the County and will implement by October 31, 2024.

- R6 Develop a Property/ Real Estate Management Report and create processes and controls that will regularly (at least annually) put property history, current status, condition and progress toward goals before the Board of Supervisors and senior managers.**

The Board of Supervisors, the County Administrative Officer, and the Chief Operating Officer, should accomplish this by December 31, 2024. (F1, F2, F3, F6, F7)

The County agrees with the recommendation to issue an annual report to the Board of Supervisors and will implement by December 31, 2024.

- R7 Create a property disposal policy that clearly establishes responsibility for property inventory and discourages the accumulation of un-needed real estate.**

The Board of Supervisors and Chief Administrative Officer should accomplish this by October 31, 2024. (F1, F2, F4)

The County agrees with the recommendation and will create a policy that establishes responsibility for property inventory, discourages the accumulation of unused or underutilized real estate and ensures compliance with state law by October 31, 2024.

- R8 Develop and use Geographic Information Systems (GIS) mapping to post all property owned and leased by Fresno County to the Fresno County website.**

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The Board of Supervisors and the County Administrative Officer should accomplish this by September 30, 2024. (F3, F5)

The County agrees with the need to create a capital plan and will engage outside planning experts for the creation of a compressive facilities master plan. The County will issue the Request for Proposal or Request for Quotation for this item by September 30, 2024.

R10 Implement a Fresno County Building Assessment/ Needs Matrix to be reviewed yearly to help set building and property priorities.

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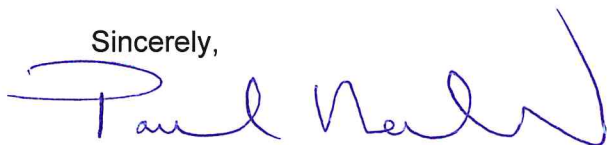
R11 Establish standardized guidelines for space acquisitions beyond individual department preference that offers consistent quality of space and parking to all county employees based on their needs.

The Board of Supervisors, in conjunction with the County Administrative Officer and department heads should accomplish this by December 31, 2024. (F1, F2, F3, F4)

The County agrees with the need to create guidelines for space acquisition and will complete by December 31, 2024.

This concludes the County Administrative Officer's comments on the Findings and Recommendations of the Fresno County Grand Jury Report No. 2, June 2024.

Sincerely,



Paul Nerland
County Administrative Officer
County of Fresno



FRESNO COUNTY GRAND JURY
FINAL REPORTS AND RESPONSES

REPORT #3

GONE PHISHING:

How the City of Fresno
Fell Victim to a \$613,737.00 Scam



The Fresno County Civil Grand Jury

2023 - 2024

GONE PHISHING: HOW THE CITY OF FRESNO FELL VICTIM TO A \$613,737 SCAM

Phishing: Malicious emails cyber criminals send hoping to gain access to money or to important data and systems.

source: www.fresno.gov/information/services/cybersecurity-tips/

Summary

This report investigated and assessed the internal controls and management practices of the City of Fresno (City) Finance Department and made recommendations for improvement. This investigation was prompted by a “phishing scam” that occurred in 2020 and resulted in a loss of over \$600,000 to the City. Over the past four years, little information has been released to the public. An independent CPA firm, Price Paige & Company, was contracted to evaluate the City’s Finance Department effectiveness of internal controls. Their “Report on Internal Control - Accounts Payable and Disbursements” was issued on November 16, 2023. However, it did not directly address many of the concerns raised in this report.

To determine if recommendations are needed, it was necessary to 1) examine the Finance Department’s internal controls and practices in place at the time of the “phishing scam”, 2) determine how existing internal controls at the time failed to prevent the loss, 3) review how internal controls and policies have been changed/improved since that time, and 4) assess the probability of similar losses in the future.

Methodology

The relevant and material facts cited in this report were collected during Grand Jury interviews of both current and former City employees. These interviews, along with the Jury’s examination of City records and documents, agreed with the facts being reported. The jury also interviewed a representative of the CPA firm contracted by the City to

evaluate the Finance Department's internal controls. This evaluation included assessing the reliability of financial reporting, the safeguarding of City assets, and compliance with current laws and regulations.

The “Phishing” Scam

In 2020, the City was the victim of a brazen fraud that resulted in a loss of \$613,737. If established city policy had been followed, this loss would not have occurred. Instead, policies designed specifically to guard against this kind of fraud were not followed which made it possible for two large payments, made over the course of several months, to be sent to a false bank account.

In December 2018, the Fresno City Council approved a contract for the construction of a new police substation in southeast Fresno (note: the total cost of the project and the name of the contractor doing the work is a public record). Construction began in April 2019. The contractor had requested that installment payments be made by physical checks. On January 6, 2020, the City Finance Department received an email from a perpetrator who identified as an “accounting specialist” for the construction company. The perpetrator requested a change to the installment payments method. Instead of physical checks, the construction company was now asking to receive payments via an Automated Clearing House (ACH) fund transfer (note: according to city staff, a vendor requesting a change of payment method from check to ACH is not common). The Finance Department, assuming the perpetrator was an actual construction company employee, emailed an ACH form to the perpetrator who promptly completed and returned the form by email. The fraudulent emails appeared to come from the legitimate contractor, but they did not.

Investigative Notes: the jury observed the domain extension of the fraudulent email addresses ended in “.us.” However, the legitimate contractor’s email address ended in “.com.” Even though an early response by the City to one of these fraudulent email addresses was returned as “undeliverable”, the fraud was not detected. The jury also observed that, during the multiple attempts to deceive City staff, the perpetrators gave multiple bank account numbers located in different states. This, too, did not alert city staff to the fraud.

On January 30, 2020, the Finance Department authorized an electronic fund transfer (EFT) of \$324,473 to be sent to the new account they believed belonged to the legitimate contractor. Five weeks later, on March 5, the Finance Department authorized an additional \$289,264 EFT payment bringing the total of fraudulent payments to \$613,737.

Upon learning of the fraud, City officials made unsuccessful attempts to recover the fraudulent payments. The City conducted an internal investigation and determined that there was no evidence of criminal actions committed by City employees. During this time, COVID 19 policies were in effect and management of this incident was difficult. When City Finance Department staff alerted the Fresno Police Department of the fraud, a criminal investigation was promptly initiated. The FBI became involved when it was suspected that the perpetrators may be from out-of-state. It was later learned that the perpetrators belonged to an international organized crime ring. Other municipal governments throughout the nation were also defrauded in a similar manner.

At no time did the perpetrators submit fraudulent invoices. Based on a review of documents and interviews, it appears they simply scoured the internet for large construction contracts being awarded by local governments. Using real data gleaned from the City Council agendas and minutes, they were able to identify this particular contract, used what information was publicly available, and initiated a successful phishing scheme on unsuspecting city employees.

Glossary

ACH	Automated Clearing House. Allows electronic money transfers between banks. A type of EFT (electronic funds transfer). An ACH requires additional steps in the verification process and transfers funds more securely.
A/P	Accounts Payable. Refers to the business department or division that is responsible for making payments owed by the agency to suppliers and other creditors
CPA	Certified Public Accountant. A licensed accounting professional.
EFT	Electronic Funds Transfer. A way to move money across an online network, between banks and people. EFT payments are frequently used in place of paper-based payment methods, like checks and cash.
Prenote (Prenotification)	A zero-dollar test to verify the accuracy of bank account information (routing number, account number, and account type).

Investigation

Internal Control Policies In Place at the Time of the Scam.

At the time of the incident, the City's Finance Department had relevant internal control policies/practices in place. Some policies were not formally written and were communicated to staff through an informal and undocumented training process.

Ultimately, the policies (both written and unwritten), if followed, would have prevented this loss from occurring. For example:

- A Any time an established city vendor requested the City start making payment via electronic funds transfer (EFT) or a new bank account number is used, the Finance Department will first authenticate that the Automated Clearing House (ACH) form submitted by the vendor is actually from the vendor of record. Next, a zero-dollar pre-notification is sent by the Finance Department to the recipient bank to verify the bank information matches the information inputted into the City's financial system. A successful "prenote" would confirm that the new bank routing and account numbers match.

- B At the close of the business day, procedure requires a different staff member to review all "large disbursements" to confirm/verify payment details. When a vendor was being paid via a new method or account number, the successful processing of a "prenote" would also be confirmed.

Failure of the Existing Internal Controls

The Finance Department's two relevant "policies" described above failed for the most basic of reasons: the authentication of the ACH form did not happen, and the end of day large disbursements confirmation procedure was not performed.

The ACH Authentication Did Not Happen

An initial prenote was attempted but failed (indicating that the account number being used did not belong to the legitimate vendor). In light of the initial pre-note failure, Department policy required a second pre-note attempt. However, contrary to policy, no second attempt was made, and the bank account information was not verified. Notably, in an attempt to process a successful pre-note, the perpetrators had utilized multiple bank account numbers located in different states. Unfortunately, these multiple accounts did not create a sense of suspicion on the part of city staff.

The Final Safeguard: The End of Day Check Register Review Was Not Implemented.

The routine “end of day” check register review procedure, intended as a safeguard inspection of larger payments, would have revealed that the required prenote process had not been executed successfully. This discovery would have stopped this payment and any future payments from being sent. The procedure was not implemented.

Review of Finance Department Policy Regarding Electronic Payment Procedures

The Finance Department Electronic Funds Transfers procedure was largely unwritten at the time of the incident. The primary goal of the policy is to ensure EFTs are initiated, executed, and approved securely based on a legitimate ACH form. The jury noted the City’s preferred method of payment to vendors is EFT. When new vendors are entered into the City’s financial system, and no EFT is requested, they are set up to receive a paper check by default. In this case, the legitimate contractor had specifically requested payment via paper check.

Training for the handling of these important money transfers was conducted verbally, and it appears that not all Finance Department employees were properly trained.

The Finance Department placed no dollar limits or enhanced accounting controls when ACH changes were recently made. The unwritten procedures (in effect at the time of the scam) specified the authority needed to approve payment change requests, required the use of a prenote to verify new account information, required that two staff members were needed to make payment method changes, and that staff contact the vendor by telephone to confirm that their payment method change request is legitimate.

The Grand Jury noted from multiple interviews that It is not common for vendors to request payment changes from physical check to EFT. As noted previously, suspicions should have been raised when the perpetrators asked for multiple ACH forms for different bank accounts located in different states.

The City's Response to the Incident

According to witness interviews, the incident resulted in serious reflection and introspection within the Finance Department. Awareness of the potential for future fraud has been significantly heightened.

In response to the phishing scam, the Finance Department adopted another critical step in its authentication policy. City staff will continue to contact vendors by phone to verify all ACH change requests, but now they must only use the telephone number already on file in

the City's data system (entered at the time of the Vendor contracting). Employees are now expressly forbidden to rely on the phone number provided on the ACH request form.

An independent CPA firm was contracted to evaluate the City's Finance Department effectiveness of internal controls, the reliability of financial data, safeguarding of assets, and compliance with laws and regulations. At the time of this report, the CPA's recommendations for improvements were being considered by the city. The Grand Jury concurs that the Finance Departments internally updated procedures appear appropriate for preventing this type of fraud from occurring again if they are competently implemented by city staff.

The Probability of Similar Losses in the Future

The addition of the new internal control procedure (contacting vendors by telephone using only the phone number already on file) is an improvement. However, this additional safeguard can/will fail for the same reasons as in 2020: internal control policies must be followed by department staff. Without strict observation and enforcement of new and existing internal controls, there is a high probability of similar losses in the future.

Despite multiple ACH/EFT forms, multiple bank account numbers in different states, and different email address domain endings, conspicuous red flags within the Finance Department were apparently not noticed. Ultimately, an increase in vigilance and a recognition that the City of Fresno is engaged in an ongoing cybersecurity arms race with sophisticated criminals will be key to their success. Future attacks will most likely involve the use of AI (Artificial Intelligence) and voice recognition software.

More importantly, the Grand Jury believes most errors and mistakes happen because the employees work in complex systems with a myriad of rules and procedures. Human error is the starting point of an investigation but rarely its conclusion. Therefore, the Jury encourages the City to develop human error prevention and reduction strategies to protect themselves from falling victim to fraudulent activities (see Recommendations).

The Grand Jury is satisfied the current Finance Department staff is dedicated to fulfilling its mission “*to ensure the city’s financial integrity . . . and to guide fiscal policy and advocate for sound business processes*” (www.fresno.gov/finance).

Findings

California Penal Code §933(a) mandates that a grand jury report issue findings and recommendations.

- F1 The Finance Department did not identify, or appropriately act upon, indications of fraud in this specific phishing attack.
- F2 The Finance Department policies, if correctly followed, would have prevented this fraud from occurring.
- F3 Upon learning of the fraud, City officials immediately began to ascertain the magnitude of the loss, the reasons why the loss occurred, and the steps to ensure a fraud of this nature would not occur again.
- F4 Today, the Finance Department staff appears to be following policy and exhibiting sound business practices.

Recommendations

- R1 By December 31, 2024, the Fresno City Council should adopt a written city-wide policy specific to indicators of fraud similar to the *Department of Defense, Inspector General's* website ([Fraud Detection Resources \(dodig.mil\)](https://www.dodig.mil)).
- R2 By December 31, 2024, the Fresno City Council should ensure only the vendor provided data contained in approved contract documents is utilized when engaging in any financial transaction.
- R3 By December 31, 2024, the Fresno City Council should ensure changes to a vendor's bank account are verified and reviewed by multiple staff members.
- R4 By December 31, 2024, the Fresno City Council should adopt a city-wide written procedure for changing ACH payments including dollar limits and appropriate accounting controls.
- R5 By December 31, 2024, the Fresno City Council should ensure that changes to an existing vendor payment method (i.e., physical check to electronic fund transfers) is approved by the Director of Finance.
- R6 By December 31, 2024, the Fresno City Council should ensure that only the Director of Finance is authorized to bypass the prenote process.
- R7 By March 1, 2025, the Fresno City Council should develop a single, current, authoritative source of Finance Department written policies (including those listed in R1 - R6) for which its employees are held responsible.
- R8 By March 1, 2025, the Fresno City Council should enjoin the Finance Department, to the extent possible, to avoid relying on "understood" or verbal policies.

- R9 By March 1, 2025, the Fresno City Council should contract with an outside firm to conduct penetration “phishing” tests that identify vulnerabilities in the system.
- R10 By March 1, 2025, the Fresno City Council should direct the city manager to provide a written report to the council addressing all the recommendations made in the independent CPA’s “Report on Internal Control - Accounts Payable and Disbursements” (issued on 11/16/2023).
- R11 By June 30, 2025, the Fresno City Council should ensure all city-wide finance/fiscal affair managers and supervisors attend annual human error prevention and reduction strategy training.

Required Responses

The following responses are required pursuant to Penal Code Sections 933 and 933.05 from the following governing body within 90 days:

- The Fresno City Council (F1-F4, R1-R11)

Invited Responses

The following responses are invited pursuant to Penal Code Sections 933(a) and 933.05 from the following elected official within 60 days:

- The Mayor of Fresno (F1-F4, R1-R11)

Disclaimer

Reports issued by the Civil Grand Jury do not identify individuals interviewed. Penal Code Section 929 requires that reports of the Grand Jury not contain the name of any person or facts leading to the identity of any person who provides information to the Civil Grand Jury.



FRESNO COUNTY GRAND JURY
FINAL REPORTS AND RESPONSES

RESPONSES TO REPORT #3

From
MAYOR DYER
and the
THE CITY OF FRESNO



OFFICE OF THE MAYOR AND CITY MANAGER

June 06, 2024

Honorable Houry A. Sanderson, Presiding Judge
Fresno County Superior Court
1100 Van Ness Avenue
Fresno, California 93724-0002

Re: Responses to Grand Jury 2023-24 Report No. 3

Dear Judge Sanderson:

As Mayor, I appreciate the opportunity as an “Invited Respondent” to address the Fresno County Civil Grand Jury’s (Grand Jury) Report No. 3 regarding the review and assessment of the City of Fresno’s (City) Finance Department, along with several recommendations for improvement. First and foremost, I would like to convey deep appreciation to the Grand Jury for focusing its attention on the City’s internal controls and management practices, prompted by a 2020 phishing scam.

For the benefit of the Grand Jury and the general public I would be remiss if I didn’t point out that Fresno is a Charter City under a ‘Strong Mayor’ form of government. In Fresno, the mayor is the chief executive officer elected at-large and is responsible for the proper and efficient administration of all City affairs. In the Strong Mayor form of government, the City Council is the legislative body. The council’s powers and duties include consideration of land use decisions, as well as other actions taken by ordinance and resolution at publicly noticed City Council meetings.

With this in mind, I would like to offer clarification as it relates to any potential misunderstanding outlined in Report No. 3 regarding the appropriate body to act on recommended improvements. For example, the Finance Director reports to the City Manager and it is the Administration not the City Council who has authority to implement and approve new administrative orders and policies. For this reason, together with City Manager Georgeanne White, who directs the day-to-day operations for City departments, we are offering this joint response.

It is also important to note the fraudulent activity occurred in 2020, under a previous Administration and during the height of the COVID-19 work-from-home era. Upon being made aware of the incident, we took immediate action and worked with the appropriate authorities, including the Federal Bureau of Investigation, which was investigating the Fresno case, as well as other similar cases across the country perpetrated by the same suspects. Additionally, a new

Controller and Finance Director was hired in 2022. Furthermore, in 2023 the City upgraded its financial software, with special attention to putting rigorous controls in place.

Again, we are appreciative of the Grand Jury's time and attention in interviewing various staff at the City and we are pleased to note "The Grand Jury concurs that the Finance Department's internally updated procedures appear appropriate for preventing this type of fraud from occurring again if they are competently implemented by City staff." Please see the following responses to the specified findings and recommendations, which the Grand Jury invited responses within the next 60-days, but no later than August 3, 2024.

FINDINGS: Pursuant to the Grand Jury's request, the Respondents offer the following responses to the four findings (F1-F4).

F1: The Finance Department did not identify, or appropriately act upon, indications of fraud in this specific phishing attack.

RESPONSE: Respondents agree with this finding.

F2: The Finance Department policies, if correctly followed, would have prevented this fraud from occurring.

RESPONSE: Respondents agree with this finding.

F3: Upon learning of the fraud, City officials immediately began to ascertain the magnitude of the loss, the reasons why the loss occurred, and the steps to ensure a fraud of this nature would not occur again.

RESPONSE: Respondents agree with this finding.

F4: Today, the Finance Department staff appears to be following policy and exhibiting sound business practices.

RESPONSE: Respondents agree with this finding. Additionally, policies and training have been enhanced and those are being adhered to as well.

RECOMMENDATIONS: Pursuant to the Grand Jury's request, the Respondents offer the following responses to recommendations R1-R11.

R1: By December 31, 2024, the Fresno City Council should adopt a written city-wide policy specific to indicators of fraud similar to the Department of Defense, Inspector General's website (Fraud Detection Resources (dodig.mil)).

RESPONSE: The City's Information Services Department maintains www.fresno.gov/information/services/cybersecurity-tips/

R2: By December 31, 2024, the Fresno City Council should ensure only the vendor provided data contained in approved contract documents is utilized when engaging in any financial transaction.

RESPONSE: This practice has already been implemented and incorporated into procedure documentation whereby staff solely utilize contact information provided by the vendor during initial vendor setup, when communicating on any payment changes.

R3: By December 31, 2024, the Fresno City Council should ensure changes to a vendor's bank account are verified and reviewed by multiple staff members.

RESPONSE: This practice is currently in place where a multi-layered approval process is required, involving multiple staff members' approval for any changes to vendor bank account information.

R4: By December 31, 2024, the Fresno City Council should adopt a city-wide written procedure for changing ACH payments including dollar limits and appropriate accounting controls.

RESPONSE: The Finance Department has written procedures that rely on best practice accounting controls when processing EFT/ACH payments.

R5: By December 31, 2024, the Fresno City Council should ensure that changes to an existing vendor payment method (i.e., physical check to electronic fund transfers) is approved by the Director of Finance.

RESPONSE: The Finance Director has approved procedures for payment method changes, ensuring that the methodologies and practices designed incorporate appropriate controls for safeguarding assets, when appropriately executed. This includes having multiple staff within the Finance department involved in the approval process for these types of changes.

R6: By December 31, 2024, the Fresno City Council should ensure that only the Director of Finance is authorized to bypass the prenote process.

RESPONSE: City procedures no longer allow for bypassing the prenote process for account verification.

R7: By March 1, 2025, the Fresno City Council should develop a single, current, authoritative source of Finance Department written policies (including those listed in R1 - R6) for which its employees are held responsible.

RESPONSE: The Finance Department has developed written procedures for critical accounting controls and staff training occurs to ensure consistent understanding and application.

R8: By March 1, 2025, the Fresno City Council should enjoin [instruct] the Finance Department, to the extent possible, to avoid relying on "understood" or verbal policies.

RESPONSE: The Finance Department has developed written procedures for critical accounting controls and staff training occurs to ensure consistent understanding and application.

R9: By March 1, 2025, the Fresno City Council should contract with an outside firm to conduct penetration "phishing" tests that identify vulnerabilities in the system.

RESPONSE: Network penetration testing has been conducted once a year by a 3rd party since at least 2006. This exceeds the once every two-year industry best practice. Additionally, the city conducts internal testing as well.

The City conducts two phishing campaigns per year, exceeding the one time per year industry standard.

R10: By March 1, 2025, the Fresno City Council should direct the city manager to provide a written report to the council addressing all the recommendations made in the independent CPA's "Report on Internal Control - Accounts Payable and Disbursements" (issued on 11/16/2023).


RESPONSE: The City Council Finance and Audit Committee received an update on the "Report on Internal Control – Accounts Payable and Disbursements" at the most recent meeting on May 13, 2024, and will continue to receive progress updates at subsequent meetings.

R11: By June 30, 2025, the Fresno City Council should ensure all city-wide finance/fiscal affair managers and supervisors attend annual human error prevention and reduction strategy training.


RESPONSE: Cyber Security awareness training is provided annually to all existing staff, and new staff as part of the onboarding process. The City's Cybersecurity Division also assigned ad-hoc training as appropriate, in addition to dual authentication, training, videos and tips on the City's website. This Division aims to keep cybersecurity on top of the minds of all employees to enhance our digital defenses with routine emails to all City employees. The May 2024 topic, for example, was Phishing, and pointed out that while the City maintains systems to help protect the City's networks and computers, it is the employees who are the most important line of defense. As mentioned previously, in 2022, the City also upgraded its financial software, with improved controls in place.

Again, we appreciate the Grand Jury's interest and attention to the long-term financial health of the City of Fresno. Please do not hesitate to contact us with any questions or concerns.

Sincerely,



Jerry P. Dyer
Mayor



Georgeanne A. White
City Manager