

COLISEUM TICKET BONANZA

EXECUTIVE SUMMARY

In April 2017, the City of Oakland's Public Ethics Commission released a report concerning use of free tickets to events at the Oracle Arena and the Oakland-Alameda County Coliseum by Oakland city officials. The ethics commission was extremely critical of the city's distribution policies and practices, and challenged Oakland's elected officials to reform procedures for allocating and using the tickets and enforcing the new rules. The report carefully limited its conclusions to the tickets belonging to Oakland, and did not discuss or make recommendations about the policies and practices of Alameda County or the Oakland-Alameda County Coliseum Authority, both of which control an equal number of tickets to the same events.

The Grand Jury took up the implicit challenge from the ethics commission: to investigate and report on tickets controlled by Alameda County and the Coliseum Authority. Unfortunately, we found many of the same problems, as well as some new ones:

- Expensive tickets seem to be treated as a perk of office or employment: They are often used repeatedly by the same elected or appointed officials and their staff members.
- Although approximately 30% of tickets are given to worthy non-profit organizations for use in fundraising, almost none of the most valuable playoffs and finals tickets go to community groups.
- Many tickets go unreported on Form 802s mandated by the state Fair Political Practices Commission, including tickets for some of the most expensive and desirable events, such as Warriors playoffs, Raiders games and big name concerts.
- Tickets that are reported are supposedly being used for approved public purposes, such as inspecting the facilities. Although not a requirement, no reports are ever generated by officials following their visits, suggesting that the so-called "public purposes" are merely a vehicle for attending exciting games and concerts without having to declare the ticket values as gifts or income.
- No uniform and publicized process for community-based organizations to apply for and receive tickets exists; instead, the allocation is handled on an ad hoc basis by the staff of the officials responsible for distributing them.
- No uniform and publicized process for all of the 6,000+ employees of the county to apply for and receive tickets exists; instead, the vast majority of employees who receive tickets are the staff members of the officials responsible for their distribution.

- Neither the county nor the Oakland-Alameda County Coliseum Authority has a policy to limit or restrict excessive use of tickets by particular individuals, permitting overuse by some, such as appointed authority commissioners, who used the most valuable tickets hundreds of times.
- The only reports filed and posted regarding ticket usage by officials and employees were designed for another purpose – making free tickets non-reportable as gifts and income – and are of limited value in providing meaningful data to enable tracking of ticket usage, and enforcement of ticket distribution policies that need strengthening.
- Ticket reports are inconsistent across the offices responsible for preparing them; the individuals who fill out the forms sometimes omit important data such as dates and numbers of tickets; and at least some of the reports include highly inaccurate information about who is really using the tickets.

The Grand Jury recognizes that some of these problems will disappear naturally over the next few years as our professional sports teams leave the Coliseum complex. Nevertheless, we believe a major overhaul of the procedures and practices for distributing tickets is warranted so long as the facility remains in public ownership.

BACKGROUND

The Oakland-Alameda County Coliseum Complex

The Oakland-Alameda County Coliseum Complex is jointly owned by the city of Oakland and Alameda County. The complex is composed of two parts:

- *Oracle Arena*, an indoor stadium and event facility that seats approximately 19,000 patrons. The Arena is home to the Golden State Warriors, and also hosts many concerts, shows and other sporting events. In addition to floor seating, the Arena contains 72 luxury suites, each seating 20.
- *Oakland-Alameda County Coliseum*, an outdoor stadium seating up to 63,000 patrons. The Coliseum is home to the Oakland Athletics (A's) and the Oakland Raiders, and hosts other sporting events and concerts. It contains 147 luxury suites of varying sizes, seating from 12 to 24 guests.

Although day-to-day management of the complex is handled by AEG Facilities, complex operations are overseen by the Oakland-Alameda County Coliseum Authority, a joint powers authority (JPA) made up of elected officials and citizens from the city and county. The JPA's board of commissioners is made up of two members of the Oakland City Council, two citizens appointed by the city, two Alameda County supervisors, and two citizens appointed by the county.

As part of the lease contracts between the JPA and the home teams, three luxury suites at each facility for each scheduled event are reserved for the JPA (suite M-39 at the Arena; suite L-16 at the Coliseum), the city (suites M-13 and L-53) and the county (suites M-14 and L-54). The Coliseum suites reserved for the JPA, the city and the county each seat 18; the Arena suites seat 20.

County Officials Are Responsible for Distributing Thousands of Tickets Each Year

According to the Coliseum Complex website, in the 19 months between January 1, 2016, and July 31, 2017, the Arena held 172 different events, for which a total of 3,440 tickets to the county's luxury suite, M-14, were available to be distributed by the county, and the same number for the JPA's suite L-16. The numbers for the Coliseum during the same period were 148 events and 2,664 tickets in luxury suites L-54 and L-16. The county also received varying numbers of field level seats for many A's games.

From January 1, 2016, through July 31, 2017, county and JPA officials were each responsible for distributing – to themselves or others – 3,440 luxury suite tickets to events at the Arena and 2,664 luxury suite tickets to events at the Coliseum.

All of the county's tickets were provided to the members of the board of supervisors to use themselves or distribute to others. The process for distribution of the county tickets is more or less as follows: At the beginning of the year, when the schedule of events for at least the first few months is made available, the president of the board of supervisors allocates full suites to some events to individual supervisors, and decides that seats to other events will be parceled out among the supervisors. For example, each supervisor might be assigned the whole Arena box for one or two events, and tickets for the remaining events will be divided evenly, with each supervisor responsible for four tickets per event.

The different districts then assess and fill ticket requests that have come in from organizations and individuals, paying particular attention to requests from non-profits for tickets that can be auctioned or raffled in fundraisers. Tickets are also assigned to the supervisors themselves, or to members of some supervisors' staffs.

The actual tickets are delivered to the office manager for the board of supervisors, who, in turn, distributes them monthly to the supervisors and their staff based on the initial allocation. The

office manager is also responsible for collecting the completed reporting forms and posting them on the county's website.

During the same period, all of the JPA's commissioners, including the two supervisors on the JPA's board, as well as certain other county officials, were entitled to and did occasionally receive tickets for the JPA's luxury suites for their own use or for distribution to others. Unlike the county tickets, the JPA's tickets were available upon request on a first-come, first-served basis in a priority established by the JPA.

California Fair Political Practices Commission Rules Regarding Free Tickets

The Fair Political Practices Commission (FPPC) is a five-member independent, non-partisan commission with primary responsibility for administration of California's Political Reform Act of 1974. Among many other tasks, the FPPC is responsible for ensuring that those who are required to do so – elected officials, staff members, commission members, government administrators, government lawyers, and many others – file a Statement of Economic Interests, known as Form 700, that discloses potential financial conflicts of interest that the filer might face in performance of his or her duties.

In order to be exempt from reporting free tickets as gifts on their Statements of Economic Interests, county and JPA officials and employees must use the tickets for an approved public purpose.

Form 700 requires the filer to disclose gifts valued at more than \$50 received during the year. Those required to file Form 700 are prohibited by Government Code section 89503 from receiving gifts from any single source valued at more than \$470 annually. Reportable gifts include tickets to sporting or entertainment events.

In 2009, the FPPC adopted Regulation 18944.1, specifying a number of circumstances under which persons are exempt from reporting tickets as gifts on their Form 700s. The agency that distributes the tickets must have a written policy identifying the possible public purposes served by their distribution, and must prepare and post a report, known as Form 802, describing the tickets, their value, the recipient(s), and the particular public purpose among those described in the agency policy for which they were given. (See Exhibit A, page 62)

The county and the JPA have both adopted ticket policies that comply with the FPPC regulation, and both prepare and post Form 802 reports on their respective websites regarding tickets to events at the complex. (See Exhibit A, page 62)

The ticket distribution policy adopted by the Alameda County Board of Supervisors on June 21, 2009, states: “the distribution of any ticket or pass by the county to one of its officials, or distributed to a third-party at the request of the county official, must accomplish a ‘public purpose’ of the county.” Appropriate “public purposes” include:

- (1) To obtain oversight of facilities or events that have received county funding or support;
- (2) To review facilities or events that may require county funding or funding in the near future or to gather information about the operation of a facility similar to one presently or potentially operated by the county;
- (3) To promote tourism as a form of economic development;
- (4) To evaluate the ability of a facility, its operator, or a local sports team to attract business and contribute to the local economy;
- (5) To review the ability of a facility or its operator to participate in the county’s job creation goals or job training programs;
- (6) To evaluate the contribution of a facility or an event to the county’s goals for fostering arts, culture, and entertainment opportunities for county residents. . . ;
- (7) To reward a county employee for his or her exemplary service to the public or to encourage staff development;
- (8) To reward a community volunteer for his or her service to the public;
- (9) To promote attendance at a county sponsored event or event held at a county facility in order to maximize potential county revenue from parking and concession sales;
- (10) To reward a school or nonprofit organization for its contributions to the community;
- (11) To reward a student for outstanding scholastic achievement;
- (12) To provide opportunities to those who are receiving services from county agencies consistent with the agency’s goals for the particular population (i.e., for use by juvenile wards in the custody of the chief probation officer . . .); or
- (13) To promote health, motivate and provide expanded opportunities to vulnerable populations in the county such as the disabled, underprivileged, seniors and youth in foster care.

The JPA's ticket distribution policy is different. It states that, in order to fulfill management responsibilities and to serve its public purpose, the JPA has the continuing duty:

- (1) to supervise the managing agent;
- (2) to insure that all duties of the licenses are fulfilled;
- (3) to investigate the efficiencies of the operations of the various sporting and other events that occur at the Coliseum Complex;
- (4) to promote the Coliseum Complex for use by the general public and businesses to maximize revenues;
- (5) to provide opportunities to community groups to utilize the facility;
- (6) to review the performance of food and beverage concessionaires;
- (7) to observe the conduct of the managing agent's employees and subcontractors;
- (8) to provide incentives to city and county employees that provide services to the Authority; and
- (9) to investigate complaints of the Warriors, the Raiders and the A's about the complex.

The policy concludes: "To the extent the authority distributes to an authority official tickets for any of the foregoing purposes, the use of such tickets by such authority official shall accomplish a public purpose of the authority."¹

INVESTIGATION

The Grand Jury started its investigation by creating a database from the Form 802 reports posted by the county and the JPA during the period January 1, 2016, through July 31, 2017. The database included:

- The date of the event;
- The name of the event (game, concert, etc.);
- The number of tickets distributed to the recipient(s);
- The value of each ticket;

¹ "Authority officials" are identified earlier in the policy as "the Commissioners, the Auditor, the Secretary/Treasurer, the Executive Director, the City Administrator, the County Administrator, the County Counsel and the City Attorney. . . ."

- Whether the reporting agency provided the tickets;
- The official who distributed the tickets;
- The ticket recipient(s); and
- The public purpose for which the tickets were given.

After analyzing the data from the reports, the Grand Jury heard from a number of different witnesses, including county officials, individuals associated with the JPA, and employees responsible for preparing the 802 forms, regarding their practices concerning the free tickets. What we found in our investigation was very troubling.

Free Tickets: Public Purpose or Personal Perk?

During the 19 months for which we examined posted 802 forms, thousands of tickets to the county and JPA luxury suites were distributed. All were reported as having served a public purpose; none was reported as income to the recipient. The Grand Jury investigated whether these reported tickets were actually used for the purposes listed.

Failure to support the county's non-profit community-based organizations

Several witnesses told the Grand Jury that the highest and best use of the free tickets to events at the Arena and Coliseum is to give them to community-based organizations (CBOs) in Alameda County so that they can be used for

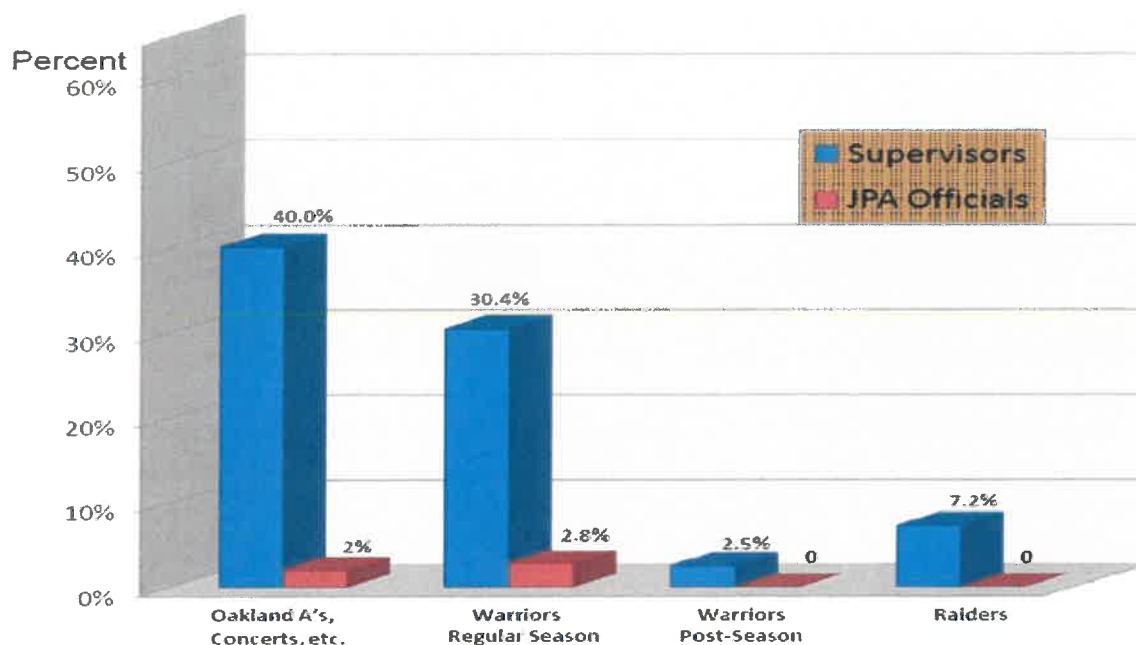
While it is all well and good to espouse a goal of helping worthy groups, the Grand Jury finds that there are no processes in place to make sure it actually happens.

fundraising. Indeed, access to free luxury suite tickets that can be raffled or auctioned would be a lucrative source of funds for revenue strapped non-profit community organizations. This is especially true for high-demand/high-value tickets such as those to Golden State Warriors and Oakland Raiders games. It is spectacularly so for tickets to the Warriors post-season games, when luxury suite tickets sell on the open market for thousands, even tens of thousands, of dollars per seat.

The posted 802 forms report that county and JPA officials made only limited use of the tickets they controlled to support non-profit organizations. The chart below shows the percent of their

tickets that county supervisors and JPA commissioners distributed to non-profits in three distinct categories: (1) concerts, A’s games, and other events with relatively low ticket values; (2) Warriors and Raiders regular season games; and (3) Warriors playoffs and finals games.

Percent of Tickets Allocated to Non-Profit Organizations
January 1, 2016, through July 31, 2017



While county supervisors give non-profits nearly half of the tickets to relatively low-value events – A’s games, Disney-on-Ice performances, concerts, motocross, and the like – there is a very significant drop off in distribution of Warriors and Raiders tickets to non-profits. When it comes to those tickets with the greatest fundraising potential – tickets to the Warriors post-season games – non-profits are nearly entirely left out.

The 802 forms show that, of the 1,001 reported² county tickets to regular-season Warriors games, 304 or 30.4% were distributed by the supervisors to non-profits.³

² The figures in this section were derived from the posted 802 forms for the county and the JPA. As discussed below, both agencies had a serious problem with unreported tickets. While the Arena luxury suites controlled by the county and the JPA each seat 20 patrons, it was often the case that the posted 802 forms accounted for far fewer tickets. In the period the Grand Jury examined, from January 1, 2016, through June 12, 2017, there were 91 Warriors games, so potentially 1,820 tickets (91 times 20) for each luxury suite were available for distribution. The county reported on only 1,408, and the Authority on 1,385.

³ This figure also includes tickets given to reward students. One of the five supervisors was responsible for nearly two-thirds of the giveaways to non-profits and students – 194 out of the 304 regular season Warriors tickets.

For the Warriors tickets to playoffs and finals games, the numbers diminish to practically nothing: only 10 tickets out of 407 (2.5%) went to non-profit CBOs. For Raiders games, community groups received just nine out of 125, or 7.2%. The JPA tickets were even less likely to be offered to deserving community groups. Out of 993 Warriors regular-season tickets, only 28 or 2.8% were given to non-profit organizations. Community groups received no JPA tickets for Warriors post-season games, and none for Oakland Raiders games.

While it is all well and good to espouse a goal of helping worthy groups, the Grand Jury finds that there are no processes in place to make sure it actually happens. Both agencies must develop specific procedures for soliciting and handling ticket requests from CBOs, and must establish and enforce rules for appropriate allocation of tickets to those groups. The excuse we heard that it is impossible to give tickets for playoffs and finals to community groups because it is not known far enough in advance whether a team will make it into the post-season strikes us as disingenuous. The agencies could easily establish a CBO distribution program at the beginning of the season with playoff tickets in mind.

Providing Warriors and Raiders tickets to non-profit CBOs is a valuable use of county resources. To the extent that these tickets are used to raise funds, they fulfill an important public purpose. In that light, an increase in the distribution of these valuable post season tickets would strengthen the claim that a valuable public purpose is being achieved through the county's ticket policy. The Grand Jury recommends that both the county and the JPA adopt new procedures for tracking how non-profits use the tickets. At present it is not possible to measure the extent to which tickets have actually served to generate revenue for CBOs because there is no reporting mechanism. A new procedure requiring organizations that receive tickets to report their fundraising results would provide a means for the county and the JPA to measure the value of their respective ticket distribution policies.

Formal or substantive policy compliance?

A substantial number of Warriors and Raiders tickets were used by county officials themselves, their family members, and their immediate staff. Over the 19-month period covered by this investigation, reporting documents indicate that 22% of all Warriors tickets and 29% of all Raiders tickets were used by three of the county's five supervisors and approximately a dozen of their employees. Use of tickets by supervisors increases dramatically for post-season games.

During the regular season, supervisors and their staff used 16.3% of the 1001 reported tickets, while using 35% of 407 playoff and finals tickets. One or more supervisors or their staff members attended every single one of the 29 Warriors playoff and finals home games during the 2016 and 2017 post-seasons. Ticket use for Oakland Raiders games at the Coliseum follows a similar pattern to that of Warriors ticket use. One or more supervisors or their staff members attended each of the eight Raiders games, using 36% of the 89 reported tickets.

The JPA tickets were even more heavily used by officials and their employees. JPA officials filed Form 802s for 1,385 tickets to Warriors 2016 and 2017 games during the 19 months we examined. According to the forms, the officials themselves and their employees used 74.1% of those tickets – 71.2% of 993 regular game tickets and 80.8% of 392 tickets to post-season games. JPA officials and staff also used 72% of the reported 124 tickets to Raiders games in that period.

In addition to distributing tickets to themselves and their immediate staff, the 802s reveal that the supervisors distributed hundreds of sets of tickets to individuals identified only by first and last names; the relationship of these individuals to the county could not be determined by the Grand Jury.⁴ The individuals in this category received a total of 508 (36%) of the reported tickets to Warriors games during the 19 months under review, and 32 (also 36%) of Raiders tickets. (The JPA did not provide tickets to unidentified individuals with the same frequency; only 82 Warriors tickets were passed out to those who were neither a JPA official nor a staff member.)

The Grand Jury asked whether the public is actually being served when officials, their associates, family, and staff members use free Warriors and Raiders tickets to attend games. The 802 forms filed when the officials themselves attend games nearly always indicate that the tickets are used to exercise some form of oversight of the Arena or Coliseum – to investigate efficiencies, enhance job creation, promote business, and the like. Oftentimes the same officials attend multiple games in a series, and use multiple tickets per game, purportedly for the purpose of overseeing or inspecting the facilities. (JPA officials, e.g., noted on their 802 forms that they used 714 Warriors and 92 Raiders tickets for this oversight purpose.)

⁴ These individuals do not appear to be community volunteers, as the purpose of “rewarding a community volunteer” is used on other 802 forms when tickets were given to individuals and not community groups. Neither are they apparently employees of the county or the JPA, as separate purposes reported on the 802 forms are to “reward” or “incentivize” employees.

When officials distribute tickets to their staffs or their non-county-affiliated associates, the public purpose almost invariably reported on their 802s is “to promote attendance . . . in order to maximize potential revenue. . . .”

Providing oversight is an FPPC-approved public purpose under the ticket distribution policies of both the county and the JPA, and by reporting these purposes on their 802 forms officials who used the tickets have complied with those policies, and are relieved from the obligation of reporting the value of the tickets as gifts on their annual form 700 Statements of Economic Interests. But is that compliance real? Does it have substance in the sense of actually performing or achieving the purported purposes? Is it necessary to have multiple officials attending the same games and repeating the experience multiple times, while bringing along several additional people to assist, in order to inspect the Coliseum and Arena? Is it plausible that they are actually inspecting the building rather than simply enjoying the game?

Written inspection reports have never been prepared by officials attending events, and seldom do officials even make oral reports about facility conditions.

The Grand Jury thinks otherwise. If real inspections were conducted, one would expect some reporting of findings and recommendations, but multiple witnesses told us that written inspection reports have never been prepared by officials attending events, and that seldom do officials even make oral reports about facility conditions. It appears to us that the 802 process is mostly being used as a convenient cover for personal attendance at exciting sporting events.

The Grand Jury recognizes that two officials who receive JPA tickets, the JPA executive director and the Alameda County administrator, have job responsibilities that include oversight of facilities; thus, their attendance at Warriors and Raiders games serves a genuine public purpose. (The Grand Jury learned that the county administrator uses her personal season tickets, rather than the free JPA tickets, for this purpose.)

The public purpose indicated on 802s for the hundreds of tickets distributed to staff of the supervisors and JPA officials and individuals who are associates of the officials – promoting attendance – also lacks substance. How does attendance in the county or JPA luxury suite by John and Jane Doe promote attendance at events that are already consistently sold out – in the Warriors case for over 200 consecutive games? The obvious answer is that it does not. Again,

officials who distribute those tickets to others for “promoting attendance” have formally complied with FPPC rules but those using the tickets have not served any actual public purpose.

Possible Tax Consequence of Free Tickets

In 1980, the Internal Revenue Service issued two private rulings, finding that elected and appointed officials in the district where a stadium is located must report as taxable income the value of tickets received from the professional sports team occupying the stadium, even where the official does not use the tickets himself but

If the public purposes are not legitimate, use of the tickets by officials for those purported reasons might negate the potential working condition fringe benefit exclusion, and instead create a tax liability.

gives them away.⁵ If certain conditions specified by the IRS are met, however, free tickets could be found to be a non-taxable “working condition fringe benefit.”

Although the Grand Jury is not qualified to determine whether the Arena and Coliseum tickets qualify as taxable income to the county employees and other officials who use them, we are concerned that writing “to inspect the facilities” or “to promote attendance” on 802 forms constitutes little more than pro-forma box checking. If the public purposes are not legitimate, use of the tickets by officials for those purported reasons might negate the potential working condition fringe benefit exclusion and, instead, create an income tax liability. Therefore, to the extent they have not already done so, we urge the county and the JPA to assure that tickets have been handled appropriately under the relevant IRS provisions. Failure to withhold taxes for taxable fringe benefits could subject those agencies to substantial fines and penalties.

Are the County’s Ticket Distribution Practices Fair and Equitable?

Tickets go to the same employees time and again

One of the authorized public purposes for distributing the county’s tickets to Arena and Coliseum events is to “[t]o reward a county employee for his or her exemplary service to the public or to encourage staff development.” The 802 forms for the 19 months we investigated list this purpose 166 times for sets of county tickets to Coliseum and Arena events. But the rewards are not being

⁵ See IRS Private Letter Ruling Nos. 8109003 and 8109004, filed October 31, 1980.

spread out evenly throughout the county. More than two-thirds of the times, the employees who are being rewarded are the staff members of the officials responsible for distributing the tickets.

The Grand Jury learned there is no program or mechanism in the county for the average employee to request and receive free tickets. This differs from a worthy system initiated by the Oakland city administrator's office, whereby the office accepts nominations from all city departments for staff members who deserve tickets as a reward for service, and then distributes tickets down the list in an orderly fashion. The Grand Jury strongly recommends that such a system be adopted for all tickets in the county's suite as well as tickets received by county officials for the JPA's suite.

A similar case can be made regarding another public purpose served by the county's ticket distribution policy: "To reward a community volunteer for his or her service to the public."

Rewards are not being spread out evenly throughout the county. More than two-thirds of the times, the employees who are being rewarded are the staff members of the officials responsible for distributing the tickets.

During the period we reviewed, some 245 tickets were awarded to volunteers which, in our opinion, does further a valuable public purpose. As far as the Grand Jury is aware, however, as with the distribution to employees, there is no established system for the equitable

distribution of tickets to the most worthy volunteers. A publicized system where volunteers could apply for or be nominated to receive tickets would enhance the public purpose already being served by the county's ticket distribution policy. The distribution of tickets to non-profits for fund-raising purposes could also benefit from a process where all Alameda County non-profits had an opportunity to apply for this valuable resource, with awards going to the organizations with the most compelling proposals.

Expensive and much-coveted tickets go unreported

While it is reasonable that some of the less-popular events at the Arena and Coliseum might not attract enough interested patrons to fill all of the county's and JPA's luxury box seats, that should not be the case for sold-out events like the Warriors playoffs and finals. In fact, we heard testimony from several people that it was "uncommon" to have unused basketball, football and

big concert tickets. Nevertheless, based on the posted 802 forms, this apparently occurred for more than half the post-season Warriors home games in 2016:⁶

Date	Agency	Event	Reported Ticket Value	Reported Number	Unreported Number
04/16/16	JPA	Warriors Playoffs	\$5,000.00	16	4
04/18/16	JPA	Warriors Playoffs	\$5,000.00	16	4
04/27/16	County	Warriors Playoffs	\$5,000.00	14	6
04/27/16	JPA	Warriors Playoffs	\$5,000.00	14	6
05/01/16	JPA	Warriors Playoffs	\$5,000.00	14	6
05/03/16	JPA	Warriors Playoffs	\$5,000.00	16	4
05/11/16	County	Warriors Playoffs	\$5,000.00	16	4
05/11/16	JPA	Warriors Playoffs	\$5,000.00	14	6
05/16/16	JPA	Warriors Playoffs	\$5,000.00	16	4
05/18/16	County	Warriors Playoffs	\$5,000.00	16	4
05/18/16	JPA	Warriors Playoffs	\$5,000.00	16	4
05/30/16	County	Warriors Playoffs	\$5,000.00	16	4
05/30/16	JPA	Warriors Playoffs	\$5,000.00	16	4
06/02/16	County	Warriors Finals	\$10,000.00	8	12
06/02/16	JPA	Warriors Finals	\$10,000.00	18	2
06/05/16	County	Warriors Finals	\$10,000.00	12	8
06/05/16	JPA	Warriors Finals	\$10,000.00	14	6
06/13/16	County	Warriors Finals	\$10,000.00	11	9
06/13/16	JPA	Warriors Finals	\$10,000.00	16	4
06/19/16	JPA	Warriors Finals	\$10,000.00	14	6

If the tickets were actually used, but not reported on a Form 802, then the FPPC rules have not been followed. If the unreported tickets were not used, then a valuable resource has gone to waste. While the county and the JPA are not allowed to sell unused tickets, the tickets could have been given to non-profit organizations to be auctioned off at market value, which was very high.

⁶ Tickets also went unreported in the 2017 post season, but not to the same extent. Moreover, the numbers were complicated by the fact that one supervisor submitted reports for what appear to be post season games based on the reported ticket values, but failed to fill in the date.

This problem is not limited to the Warriors playoff games. The Grand Jury learned that fully 94 of the events with individual ticket prices of more than \$100 in the period we examined had under-reported ticket numbers for the county luxury suites, with similar unreported numbers for JPA seats.

We also learned that no one at the county or the JPA keeps track of whether the 802 forms that are filed match up with the number of tickets received. We were told that maintaining such a database would be very difficult given the limited employee time that could be devoted to the task.

It is worth noting that, midway through the 2017 Warriors playoffs, the ticket values for playoffs and finals tickets reported on the 802 forms dropped to \$312.50.

Some members of the JPA's Board of Commissioners are abusing the free ticket policy

Of the four non-elected members on the JPA board, the 802 forms showed that all but one used the tickets themselves and shared almost none with others. During the period we examined, the 802 forms showed that one commissioner used 289 sets of tickets (760 total tickets) and never gave a single pair away; another commissioner used 110 sets personally (318 total tickets), giving away only three pairs (one to a fellow commissioner); and a third commissioner used 102 sets (230 total tickets) and gave away none. (The fourth non-elected director went to four Warriors playoff games in 2017, but otherwise did not use tickets or distribute them to others.)

Although none of these three non-elected board members works directly for the county or city – indeed, all are unpaid volunteers – they are engaged in the business of administering a county and city asset. The Grand Jury believes these individuals are taking advantage of a loose and poorly-written policy to reward themselves, rather than share the largesse with other deserving members of the community.

Transparency in the form 802 reporting process

FPPC Regulation 18944.1 requires public agencies that distribute tickets to post the 802 forms, or a summary of them, on their websites. Presumably, this provision was added so that there might be transparency regarding the use of public resources. Unfortunately, the Grand Jury

discovered that the transparency goal was undermined by the careless and perfunctory manner with which some of the forms were prepared.

Many forms did not include the date of the event; some contained what was obviously an incorrect date; some omitted the number of tickets distributed to the identified recipient; and others incorrectly identified the kind of event, such as identifying a Warriors games on a date where the team did not play, but the Arena was instead used for a concert. For these forms, the Grand Jury made educated assumptions in order to re-categorize the data.

The Grand Jury discovered that the transparency goal was undermined by the careless and perfunctory manner with which some of the forms were prepared.

Other reporting errors could not be fixed. In three instances, there were no county 802 forms for Warriors games that were on the official schedule, and for which the JPA had filed forms for its luxury suite tickets. (These were games on November 9, 2016, December 12, 2016, and March 18, 2017.) Similarly, the JPA did not file any 802s for a Warriors game on January 11, 2016, which was on the Complex schedule and for which the county posted forms. It is difficult to believe that these four luxury suites were actually unoccupied at those games, so who used them?

Another serious reporting error involved a county official who was listed as the recipient of 140 JPA tickets to Warriors and Raiders games during the 19 months under Grand Jury review. The Grand Jury learned that these tickets were actually distributed to others, and were never used personally by the official; the mistake resulted from a staff training error.

Finally, some of the forms did not identify a public purpose for the recipient having used the tickets. This omission goes to the very essence of why this reporting system was created.

These examples of inaccurate reporting on filed 802 forms illustrate the lack of serious attention being paid by county and JPA officials to fulfilling their obligation for transparency in the distribution of Coliseum and Arena event tickets.

Other jurisdictions have much better policies and controls for ticket distribution

The Grand Jury obtained copies of the tickets policies for three other California cities that own stadiums leased to professional athletic teams: Los Angeles, Sacramento and San Diego. The Los

Angeles policy appears to have loopholes similar to those in the Alameda County policy, but the Sacramento and San Diego policies are much tighter.

Sacramento and San Diego each appoint a single ticket administrator, responsible for distributing all of the tickets that are retained by these cities as part of their contracts with the teams. City officials must request tickets from the ticket administrator.

Both cities establish priority lists for how ticket recipients are selected by the administrator. The Sacramento policy is the most specific: the ticket administrator must use best efforts to allocate tickets to community groups and tickets for economic development purposes. The policy limits the number of tickets for city employees and council members. Any city official who receives tickets is prohibited from transferring them to anyone other than a family member or one guest. (San Diego's policy has the same prohibition.)

CONCLUSION

The Grand Jury found a myriad of problems with the ways Alameda County and the Joint Powers Authority handle the free luxury suite tickets that they receive under the contracts with the teams occupying the Coliseum Complex. The problems fall into three categories: distribution practices, reporting practices, and uninvestigated potential tax liabilities.

Regarding ticket distribution, the Grand Jury discovered that tickets are repeatedly used by the same officials and employees, and not fairly distributed to other county workers, because there are no policies limiting the number of times individuals can use them, and no system in place to solicit applications from all eligible employees. The most valuable tickets are seldom given to community groups that could use them as important fundraising tools. There is no system in place to accept and rank ticket requests from community groups, resulting in unequal distribution to groups favored by the particular officials responsible for distributing them.

Regarding reporting, while the county and the JPA established ticket policies listing what sound like valid public purposes, in practice, the policies are relied upon as a cover for the same officials and employees to use the tickets over and over again to perform "inspections" that never result in written reports. Neither the county nor the JPA has an enforcement policy to ensure that the stated purposes are being fulfilled; indeed, neither has a system for making sure that all the tickets distributed are even reported. The Grand Jury also discovered that FPPC forms are

sometimes incorrectly prepared. They report the wrong dates, the wrong events, the wrong recipients, and the wrong ticket numbers (and sometimes omitting these items altogether), and occasionally leave off the alleged public purpose for which the tickets were distributed – the whole reason behind the creation of the reporting system.

Finally, the Grand Jury learned that neither the county nor the JPA has ever considered the potential income tax consequences of giving free tickets to elected officials and employees, relying on the fact that those who use them check off one of the approved public purposes on the 802 forms. But IRS rules about taxability of fringe benefits have no relationship to the requirements of a state political disclosure act. While an official can avoid having to disclose the tickets as gifts on a state form by checking off a box that says they were used to “exercise oversight” during an NBA playoff game, the IRS has far more stringent requirements about the business purposes for which tickets are used in order to make them non-taxable.

Although the Warriors and the Raiders will be leaving Oakland over the next few years, they will each spend at least one more full season at the Coliseum Complex. And, even after they depart, the facilities will be used for other events. Thus, it remains essential that the ticket distribution policies and practices of the county and the JPA be improved so that these valuable community resources are not squandered.

FINDINGS

- Finding 18-13:* The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority allow elected and appointed officials and their staff members to attend multiple high-value events for the purpose of “inspecting,” “reviewing,” or “evaluating” the facilities when no reports are ever generated after the events about the conditions observed.
- Finding 18-14:* Free tickets often are used as a perk of office or employment rather than a public asset to be managed and utilized for a public purpose as required by law.
- Finding 18-15:* Some 802 forms are carelessly prepared, and omit or erroneously report important information such as dates of events, number of tickets distributed, the name of the event, the identity of the actual recipient, or the public purpose for which the tickets were used, undermining the goal of transparency required by FPPC regulation 18944.1.
- Finding 18-16:* The 802 forms often do not account for all of the tickets to Arena and Coliseum events in the Alameda County and the Oakland-Alameda County Coliseum Authority’s luxury suites, indicating either that valuable resources have been wasted, or the tickets were used but not accounted for. No one is responsible for ensuring that all tickets to all events have been correctly and accurately reported.
- Finding 18-17:* The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority list reasons for attending events that are vague and lack credibility.
- Finding 18-18:* The ticket policies of Alameda County and the Oakland-Alameda County Coliseum Authority do not contain limitations on the number of tickets that can be used by officials and employees, allowing tickets to be used by the same individuals over and over again.
- Finding 18-19:* Alameda County and the Oakland-Alameda County Coliseum Authority have no defined procedures and practices for offering tickets to worthy community organizations and individuals, or county employees other than those working directly for the officials who distribute them. Distribution practices vary from office to office.

Finding 18-20: Although Alameda County and the Oakland-Alameda Coliseum Authority claim an important public purpose for the tickets is to give them to worthy community-based organizations for use as fundraisers, the 802 forms show that high-value tickets with the biggest fundraising potential are seldom distributed to non-profits or schools, especially the most valuable playoff tickets.

Finding 18-21: Alameda County has insufficiently analyzed whether its distribution of free tickets to elected officials and county employees meets the IRS criteria for exclusion from taxable income, putting the county at risk of sanctions for improper withholding.

RECOMMENDATIONS

Recommendation 18-15: Alameda County and the Oakland-Alameda County Coliseum Authority must revise their respective ticket policies to:

- Establish central ticket distribution systems that accept applications or nominations from all interested employees and worthy community groups who would like to receive tickets, and a policy that distributes the tickets fairly among those individuals and groups.
- Limit appropriately the number of tickets officials and employees can use to attend events in one season.
- Require that officials and employees who use tickets for purposes relating to inspection or oversight of the facilities submit written reports of their findings.
- Track the fundraising results when tickets are given to community-based organizations for that purpose.
- Otherwise conform their policies, where applicable, to the recommendations of the Oakland Public Ethics Commission in its April 2017 report.

Recommendation 18-16: Alameda County and the Oakland-Alameda County Coliseum Authority must provide employees who prepare Fair Political Practices Commission 802 forms training on the proper way to fill out the forms, and on the need for accuracy, and must institute systems to ensure that all distributed tickets are reported on filed 802 forms.

Recommendation 18-17: Alameda County must determine whether the free tickets distributed to salaried officials and employees should be treated as taxable income, requiring appropriate tax withholdings.

RESPONSES REQUIRED

Alameda County Board of Supervisors

Findings 18-13 through 18-21

Recommendations 18-16 through 18-17

Oakland-Alameda County Coliseum Authority

Findings 18-13 through 18-20

Recommendations 18-15 and 18-16

