

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 322-1294

December 13, 2012

Dr. Sam Stratton, MD (EMS Medical Director)
Ms. Tammi McConnell, RN (EMS Program Manager)
Committee Members
Emergency Medical Care Committee
EMS Office
405 W. Fifth Street
Santa Ana, CA 92705

Ref: RFP for Ambulance Transport

Dear Committee Members,

In my October 25, 2012 letter (copy attached) presented to EMCC Committee, I objected to the OCFA request that they be empowered to conduct the RFP bidding process for EMS ambulance transport. This objection was based on the following:

1. OCFA Conflict of Interest
2. Case Law Prohibition
3. Prior RFP Award – OC-MEDS Data System

I am now enclosing copies of various recent letters listed below, that have addressed alleged shortcomings regarding RFP bidding practices at the OCFA.

1. December 13, 2012 letter to the OCFA Executive Committee regarding inaccurate response statements to the OCFA Budget & Finance Committee and OCFA Board of Directors regarding RFP requirements.
2. November 15, 2012 letter to the OCFA Board of Directors regarding OCFA Broker/Dealer Work.
3. September 6, 2012 letter to Mr. John Moorlach regarding OCFA Improper Competitive Bidding Practices.
4. August 22, 2012 letter to the OCFA Executive Committee regarding a Follow-up Action Request.
5. July 26, 2012 letter to the OCFA Board of Directors regarding OCFA Competitive Bidding Practices-Union Negotiations.

6. July 24, 2012 letter to the OCFA Board of Directors regarding OCFA Competitive Bidding Practices.
7. July 9, 2012 letter to the OCFA Budget & Finance Committee regarding Competitive Bidding Practices.

The OCFA has lost the public trust in its competitive bidding process. It cannot now be entrusted by the EMCC to handle the RFP for Ambulance Transport. To do so would permit an agency with problems in its RFP process and an inherent conflict of interest in the work to handle the competitive bidding process for Ambulance Transport. Finally, the Butte County court decision appears to prohibit the delegation of the RFP process for this work to the OCFA.

The letters above represent only recent letters addressed to the OCFA regarding their RFP process. I have additional letters regarding the OCFA RFP process that stretch all the way back to late 2011. I am willing to meet with any Committee member to discuss any of the findings addressed in the above letters and other letters addressing the OCFA RFP process, which are not listed above. Finally, I am copying this letter and its attachments to the Orange County Grand Jury.

Sincerely,



Stephen M. Wontrobski

Cc: Mark Refowitz, Director - Orange County Health Care Agency (wo/atts.)
John Moorlach - Orange County Board of Supervisors (wo/atts.)

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

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

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

Dear Committee Members:

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

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

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

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

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

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

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

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

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

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

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

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

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

Three items are very disturbing regarding this matter.

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

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

Your assistance in this matter is appreciated.

Sincerely,



Stephen M. Wontrobski

E:\ocfa\ecr\requirements12-13-

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

November 15, 2012

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

Ref: OCFA Broker/Dealer Work

Dear Board of Directors Members:

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

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

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

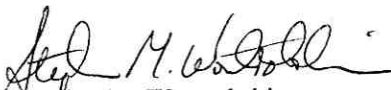
Normally, the OCFA requests, and the Board grants a one year extension for rollover work. I have requested that Scott Brown (OCFA) provide me and the Board with meeting documentation, showing that the OCFA actually requested and the Board approved that open-ended request last year.

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

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

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

Sincerely,


Stephen M. Wontrobski

E:ocfachairmanBoD11-15-12

ATTACHMENT No. 1

PUBLIC COMMENTS

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

MINUTES

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

Recommended Action:
Approve as submitted.

CONSENT CALENDAR

No items.

DISCUSSION CALENDAR

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

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

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

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

4. Annual Statement of Investment Policy and Investment Authorization

Submitted by: Patricia Jakubiak, Treasurer

Recommended Action:

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

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

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

Submitted by: Lori Zeller, Assistant Chief, Business Services Department

Recommended Action:

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

6. Status Update – Orange County Employees' Retirement System

Submitted by: Lori Zeller, Assistant Chief, Business Services Department

Recommended Action:

Receive and file the report.

REPORTS

No items.

COMMITTEE MEMBER COMMENTS

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

Attachment No. 2

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

TO: Budget and Finance Committee, Orange County Fire Authority

FROM: Patricia Jakubiak, Treasurer

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

Summary:

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

Recommended Action:

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

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

Background:

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

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

Impact to Cities/County:

Not Applicable.

Fiscal Impact:

Not Applicable.



INVESTMENT POLICY

TABLE OF CONTENTS

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

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

MINUTES

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

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

CONSENT CALENDAR

No items.

DISCUSSION CALENDAR

2. Monthly Investment Report

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

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

3. Updated Broker/Dealer List

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

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

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

4. Annual Statement of Investment Policy and Investment Authorization

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

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

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

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

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

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

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

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

A lengthy discussion ensued.

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

ATTACHMENT No. 3

PRESENTATIONS

No items.

PUBLIC COMMENTS

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

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

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

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

MINUTES

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

Recommended Action:
Approve as submitted.

CONSENT CALENDAR

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

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

Recommended Action:
Receive and file the report.

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

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

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

TO: Executive Committee, Orange County Fire Authority

FROM: Patricia Jakubiak, Treasurer

SUBJECT: **Updated Broker/Dealer List**

Summary:

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

Committee Action:

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

Recommended Action:

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

Background:

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

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

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

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

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

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

Public Comments:

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

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

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

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

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

Impact to Cities/County:

Not Applicable.

Fiscal Impact:

Not Applicable.

Staff Contact for Further Information:

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

Attachments:

None.

PUBLIC COMMENTS

Chairman Tettemer opened the Public Comments portion of the meeting.

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

Chairman Tettemer closed the Public Comments portion of the meeting.

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

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

MINUTES

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

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

CONSENT CALENDAR

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

Director Diep pulled Agenda Item No. 4 for questions.

2. Monthly Investment Reports

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

3. Updated Broker/Dealer List

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

Minutes

OCFA Executive Committee Regular Meeting

October 27, 2011 Page - 2

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

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

- FTN Financial
- UBS Financial Services
- Wells Fargo

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

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

A lengthy discussion ensued.

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

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

END OF CONSENT CALENDAR

DISCUSSION CALENDAR

No items.

REPORTS

5. Chief's Report

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

Minutes

OCFA Executive Committee Regular Meeting

October 27, 2011 Page - 3

ATTACHMENT No. 4

CONSENT CALENDAR

4. Annual Statement of Investment Policy and Investment Authorization

Submitted by: Patricia Jakubiak, Treasurer

Recommended Actions:

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

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

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

Recommended Action:

Receive and file the report.

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

Submitted by: Jorge Camargo, Assistant Chief/Operations Department

Recommended Action:

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

7. Acceptance of DHS/FEMA Administrative Preparedness Grant

Submitted by: Jorge Camargo, Assistant Chief/Operations Department

Recommended Actions:

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

REPORT FROM THE BUDGET AND FINANCE COMMITTEE CHAIR

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

MINUTES

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

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

CONSENT CALENDAR

4. Annual Statement of Investment Policy and Investment Authorization

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

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

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

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

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

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



INVESTMENT POLICY

TABLE OF CONTENTS

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

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

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 322-1294

October 25, 2012

Committee Members
Emergency Medical Care Committee

Ref: RFP for Ambulance Transport

Dear Committee Members,

At the last Orange County Health Care Agency EMCC meeting on June 22, 2012, the OCFA requested that they be empowered to conduct the bidding process for EMS ambulance transport. I objected to this request. I believe in light of everything that is being alleged regarding the OCFA, that granting this request would be improper. Listed below are reasons for denying this request.

OCFA Conflict of Interest

There is an inherent conflict of interest in having the OCFA administer the EMS competitive bid process. Presently, there is consideration being discussed to privatize part of the OCFA EMS work in order to reduce costs. The OCFA would have an inherent interest in denying EMS providers the ability to even offer recommendations regarding ways to reduce EMS costs that involve limited privatization of OCFA work.

Case Law Prohibition

The Butte court decision maintains that Orange County cannot delegate their responsibility for the handling of a Request for Proposal for ambulance transport to an outside group. The OCFA is a Joint Powers Authority. It is such an outside group.

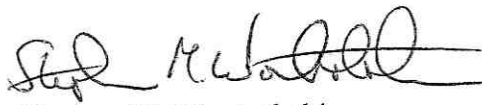
Prior RFP Award – OC-MEDS Data System

Orange County successfully prepared, issued and awarded an RFP for the OC-MEDS Data System. It did not need the services of the OCFA to handle this RFP. All indications are that the bid process and award for this work was competently handled in-house by the OCEMS Office working with the Orange County Health Care Agency Purchasing Department. There is no indication that the OCEMS Office is incapable due to understaffing of handling an RFP for ambulance transport.

In order to eliminate the appearance of an inherent conflict of interest and to work in accordance with the Butte decision, I recommend that the OCEMS Office in conjunction with the Health Care Agency Purchasing Department handle the competitive bid process for ambulance transport.

I am enclosing letters that addressed various matters I raised regarding bidding practices and other items of concern at the OCFA.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen M. Wontrobski", written in a cursive style.

Stephen M. Wontrobski

Cc: Mark Refowitz, Director - Orange County Health Care Agency (wo/atts.)
John Moorlach - Orange County Board of Supervisors (wo/atts.)
Tammi McConnell, Program Manager, Orange County Health Care Agency (w/atts.)

emcc10-25-12

Stephen M. Wontrobski
27132 Sombras
Mission Viejo, CA 92692
(949) 322-1294

September 6, 2012

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

Ref: OCFA Improper Competitive Bidding Practices

Dear Mr. Moorlach

Earlier in the year I had spoken to you regarding the Orange County Fire Authority's refusal to competitively bid their broker/dealer work. I maintained that the work should not be rolled over to two companies, Wells Fargo and UBS, which were alleged to have been engaged in widespread financial wrongdoing. The OCFA said a rollover was proper since everyone in the industry was engaged in financial wrongdoing.

You advised me to contact Shari Freidenrich, who might be able to help me. I did. She was very helpful and supplied a letter suggesting ways that the OCFA could find broker/dealers not engaged in financial wrongdoing. Regretfully, as far as I know, the OCFA failed to do anything, including even contacting Ms. Freidenrich regarding her suggestions.

Since that time I have learned of what I consider additional improper OCFA bidding practices. I have asked the Orange County Grand Jury to look into this matter and also allegations of widespread OCFA fraudulent disability filings. OCERS is conducting its own investigation of these disability filing allegations. However, the OCFA Board of Directors has continually turned down requests to have the OCFA itself investigate this matter.

At the last Orange County Health Care Agency EMCC meeting in July, the OCFA requested that they be empowered to conduct the bidding process for EMS services. I believe in light of everything that is being alleged regarding the OCFA, that at this time granting this request would be improper.

Among other items, there is an inherent conflict of interest in having the OCFA administer the EMS competitive bid process. Presently, there is consideration being discussed to privatize part of the OCFA EMS work in order to reduce costs. The OCFA would have an inherent interest in denying EMS providers the ability to offer

recommendations regarding ways to reduce EMS costs that involve limited privatization of OCFA work.

In order to eliminate this inherent conflict of interest, I suggest that Ms. Freidenrich's Department handle the competitive bid process. I attend every OCERS meeting and I highly respect Ms. Freidenrich's concern regarding protecting the public taxpayer's funds. If her Department could not do the bidding work, perhaps she could offer some alternate suggestions.

I am enclosing my August 22, 2012 letter to the OCFA Executive Committee that addressed various concerns I raised in my public comment to that Committee on the same day.

Finally, I highly respect your work and thank you for your referral to Ms. Freidenrich.

Sincerely,

A handwritten signature in dark ink, appearing to read "Stephen M. Wontrobski", with a stylized flourish at the end.

Stephen M. Wontrobski

Cc: Mark Refowitz, Director - Orange County Health Care Agency

:jmoorlach

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

August 22, 2012

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

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

Dear Mr. Chairman:

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

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

Inaccurate Meeting Minutes

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

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

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

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

Greater OCFA Transparency – Compensation Cost

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

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

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

Allegations of OCFA Disability Filing Abuse

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

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

Integrity of the OCFA Competitive Bidding Practices

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

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

Competitive Bidding Practices – Union Negotiations

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

Production of Public Documents

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

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

Your assistance in the above matters is appreciated.

Sincerely,



Stephen M. Wontrobski

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

July 26, 2012

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

Ref: Orange County Fire Authority (OCFA)
Inaccurate Board of Director Meeting Minutes (5/24/12)

Dear Mr. Chairman:

I object to the approval of the May 24, 2012 Board of Directors meeting minutes as they currently read. They are inaccurate. Specifically, I direct you to the Public Comment Section, under which it is stated:

"Public comments were received from Stephen Wontrobski, Mission Viejo resident, regarding the denial of access to review Worker's Compensation disability claims and reports. He commented on the rise of disability fraud."

This synopsis omits the majority of items that I addressed, and it makes the record a materially misstated and misleading account of my comment.

Specifically, the minutes failed to address the following comments I made in that meeting. I stated that:

1. I had been previously apprised of allegations of fraudulent disability filings.
2. OCFA legal counsel denied me access to all disability documents and reports, including summary reports that do not contain medical records or the names of the disability filers. This was an illegal OCFA denial of public records access, yet the Board has taken no action to rectify this matter.
3. On Monday, May 21, 2012, the OCERS Board directed staff to initiate a review of potential fraudulent disability filings. They are also aware of the allegations of fraudulent disability filings.
4. The OCERS actuarial consultant reported for OCFA Rate Group 8, there are 274 retired members, and that there are 107 disabled members. This equates to a factor of about 40%. In my book this was an alarming figure for the OCFA, a group that prides itself on safety.
5. The OCFA Board of Directors has been apprised of the fraudulent disability filing allegations, but it has done nothing regarding this matter (that I know of).
6. The Board now has a legal and moral obligation to investigate this matter.
7. Senior OCFA management must be questioned to whether they have any knowledge of fraudulent disability filings.
8. The OCFA must inform OCERS of any fraudulent filing information. Failure to do so would implicate the OCFA in a continuing fraud against OCERS.

I request that this letter be included as part of the public record, as part of my public comment on this matter, in order to provide an accurate public record.

Sincerely,


Stephen M. Wontrobski

E:\ocfaminutes7-26-12

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

July 24, 2012

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

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

Dear Mr. Chairman:

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

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

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

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

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

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

Sincerely,


Stephen M. Wontrobski

E:\ocfachairmanexecom7-24-12

The New York Times



July 20, 2012

UBS's Track Record of Averting Prosecution

By JAMES B. STEWART

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

This article has been revised to reflect the following correction:

Correction: July 20, 2012

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

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

July 26, 2012

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

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

Dear Board of Directors Members:

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

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

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

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

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

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

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

Sincerely,


Stephen M. Wontrobski

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

July 9, 2012

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

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

Dear Mr. Chairman:

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

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

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

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

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

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

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

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

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

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

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

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

Sincerely,


Stephen M. Wontrobski