

2004-05 Civil Grand Jury Report:

What is the Difference Between a Contract and a Grant?

California Penal Code Sections 933.05(a) and (b) requires the responding party to report for each recommendation of the Civil Grand Jury one of the following actions:

<p>1. Recommendation Implemented</p> <ul style="list-style-type: none"> - Date Implemented - Summary of Implemented Action 	<p>2. Will Be Implemented in the Future</p> <ul style="list-style-type: none"> - Anticipated Timeframe for Implementation 	<p>3. Requires Further Analysis</p> <ul style="list-style-type: none"> - Explanation - Timeframe <p>(Not to exceed six months from date of publication of grand jury report)</p>	<p>4. Will Not Be Implemented: Not Warranted or Not Reasonable</p> <ul style="list-style-type: none"> - Explanation
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For each recommendation below, indicate which action you have taken or plan to take and provide the required information.

Recommendation	Responses Required From:	Response: 1, 2, 3, or 4
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(The Civil Grand Jury indicated that the named departments should reply to those recommendations that are within their jurisdictions.)

<p>1. The Controller's Office and the City Attorney's Office should conduct an analysis of grants made from City fund sources to determine if there is—or ought to be—any legal or functional distinction between contracts and grants.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>The Board of Supervisors' Government Audit and Oversight Committee conducted a public hearing on September 12, 2005, to discuss the findings and recommendations of the Civil Grand Jury and the responses of the Controller's Office, City Attorney's Office, and Ethics Commission to the report. Ed Harrington, Controller, and Robert Bryan, Deputy City Attorney, presented at the hearing. The Controller's Office and the City Attorney's Office will work on this matter. The Committee filed this item.</p>
<p>2. The analysis by the Controller's Office should address the question of whether or not all grants presently reported as grants to for-profit entities are properly categorized as such.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
<p>3. The City Attorney's Office should not approve grants to for-profit entities unless existing policies are revised to permit them. If these policies are revised, they must provide specific justification for grants to for-profit entities.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>

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<p>4. If there is a meaningful or functional distinction between contracts and grants, the Board of Supervisors should pass legislation to define grants.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
<p>5. Such legislation should include Citywide procedures for the application and award process for grants.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
<p>6. Such legislation should define criteria for competitively awarding grants that ensure the most efficient use of public funds. For example:</p> <ul style="list-style-type: none"> • That grantees are capable of performing the work for which the grant is awarded. • That grantees are the most qualified applicant, capable of performing the work for the lowest price. 	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
<p>7. The process of selecting the most competitive grantee must ensure that knowledgeable City officials with no conflict of interest make these decisions transparently.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
<p>8. The posting of contract and grant awards to non-profits on the Controller's website, should indicate if the awarding mechanism was a contract or a grant.</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>

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<p>9. The Ethics Commission should recommend a Charter Amendment to the voters that would remove an exemption for grants from Charter Section 3.2220 regarding conflict of interest of public employees and officials</p>	<p>Board of Supervisors City Attorney Controller's Office Ethics Commission</p>	<p>See above response.</p>
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