

Pioneer Cemetery District

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West Line Street Cemetery
160 Pioneer Lane

August 30, 2018

Honorable Brian J. Lamb
Inyo County Superior Court
168 North Edwards Street
Post Office Drawer U
Independence, CA 93526

FILED

SEP 14 2018
INYO CO. SUPERIOR COURT
PAMELA M. FOSTER, CLERK
BY

Re: Pioneer Cemetery District's Response to 2017/2018 Inyo County Grand Jury Report Regarding Inyo County Special Districts, dated June 15, 2018

Dear Judge Lamb,

We are writing as the governing body of the Pioneer Cemetery District in response to the 2017/2018 Inyo County Grand Jury Report Regarding Inyo County Special Districts, dated June 15, 2018 (the "Report"). In the Report, the Grand Jury made four findings and four corresponding recommendations. The first two findings and recommendations pertained to specific districts other than Pioneer Cemetery District, and therefore do not require a response by Pioneer Cemetery District. All districts are required to respond to the Grand Jury's third and fourth findings and recommendations. Pursuant to California Penal Code sections 933 and 933.05, we submit the following response to the Grand Jury's third and fourth findings and recommendations.

Response to Finding and Recommendation No. 3

Finding 3:

Districts had positional errors in classifying a worker as an employee or an independent contractor.

Recommendation 3:

All Districts are recommended to visit the IRS website <https://www.irs.gov/newsroom/understanding-employee-vs-contractor-designation>.

Pioneer Cemetery District's Response:

The report does not specify which districts the Grand Jury believed had positional errors classifying workers. Although all districts were asked to respond to this finding and recommendation, it is unclear whether the Grand Jury believes there were classification errors at Pioneer Cemetery District.

We reviewed the IRS publication "Understanding Employee vs. Contractor Designation." We understand there are numerous factors to consider when making the determination as to whether an individual should be classified as an employee or independent contractor. In broad terms, a general rule is that an individual is an independent contractor if the payer (Pioneer Cemetery District) only has the right to control or direct the *result* of the work, but the worker is left to determine the manner and methods of achieving the desired result. By contrast, if Pioneer Cemetery District dictates the result as well as the manner and methods of achieving the result, the individual is more likely to be classified as an employee. Categories to consider are – Behavioral Control, Financial Control and Relationship of the Parties.

Pioneer Cemetery District has three regular full-time employees including the District Administrator and two Groundskeepers. Pioneer Cemetery District answers to a three-member Board (the "**Cemetery Board**"), which is appointed by the County Board of Supervisors. Pioneer Cemetery District generally provides the tools, supplies and training for workers' tasks. Each of the three workers are compensated by a regular hourly wage. Each of the three workers are provided with employee benefits, such as insurance, pension plan, vacation pay and sick leave. There is an expectation that the relationship will continue indefinitely, rather than be limited to a specific project or period of time. Services regularly performed by each worker are key aspects of Pioneer Cemetery District's regular business.

Based on these factors, Pioneer Cemetery District classified its three regular full-time workers as employees. We believe this classification is correct.

Occasionally, Pioneer Cemetery District hires individuals or companies to perform special projects such as repairing roads, trimming trees, or performing repairs to the pump or motor for Pioneer Cemetery District's well. This is done on an irregular, as-needed basis. In such instances, Pioneer Cemetery District specifies the result for which it is retaining their services, but relies on the individual's or company's expertise to accomplish that result. These type of services have historically been obtained on a contract basis, and we believe those classifications have been correct.

If and when Pioneer Cemetery District has need to retain services of other or additional services in the future, Pioneer Cemetery District will carefully evaluate the status of those workers based on the principles set forth in the IRS's publication, and appropriately designate each worker.

Response to Finding and Recommendation No. 4

Finding 4:

There is a countywide need for people to serve as board members and volunteers especially for Emergency Medical Technicians to serve on ambulances.

Recommendation 4:

All districts use more expansive outreach that includes newspaper, radio, mailings and the internet to improve resident participation.

Pioneer Cemetery District's Response:

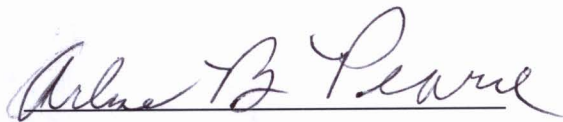
Pioneer Cemetery District is governed by a three-member board, whose members are appointed by the County Board of Supervisors. Cemetery District Board members are compensated one hundred dollars per meeting, but are considered volunteer positions. Board members serve a term of four years. Pioneer Cemetery District does not generally have other volunteer staffing needs. Pioneer Cemetery District does not staff Emergency Medical Technician or ambulance positions.

All Cemetery District Board positions are currently fully staffed. As a Cemetery Board member's term expiration approaches, the Pioneer Cemetery District's District Administrator notifies the Board of Supervisors. The Board of Supervisors publishes notices of vacancies in the local newspaper and on the radio. They have not historically had difficulty filling these positions.

Staffing of the Cemetery District Board is the role of the Board of Supervisors. We believe Pioneer Cemetery District's limited involvement in that process (notifying the Board of Supervisors prior to expiration of current members' terms) has been appropriate and effective. Given the responses received to the Board of Supervisor's radio and newspaper notifications, Pioneer Cemetery District has not historically deemed it necessary or advisable to incur additional expense to supplement the Board of Supervisor's notifications by other means, such as mailings. Since this Cemetery District Board has oversight responsibilities for Pioneer Cemetery District, it seems that recruitment and appointment for Cemetery Board Positions is appropriately the responsibility of the Board of Supervisors.

We hope this information is useful. Please feel free to contact us with any questions or concerns you may have.

Sincerely,



Arlene B. Pearce, Chairperson



Terri L. Dean, District Administrator