DATE:    May 28, 2013
TO:      Finance and Government Operations Committee
FROM:    Orry P. Korb, County Counsel
SUBJECT: Semi-Annual Report on the 24/7 Whistleblower Program

RECOMMENDED ACTION
Accept semi-annual report from the Office of the County Counsel relating to the status of the 24/7 Whistleblower Program established by the Board on April 13, 2010 for the reporting and investigation of improper government activity.

FISCAL IMPLICATIONS
There is no impact to the General Fund as a result of this action.

REASONS FOR RECOMMENDATION
Section 3.50.4 of the Board of Supervisors’ Policy Manual provides that the Office of the County Counsel shall be responsible for the 24/7 Whistleblower Program (“Program”) and for reporting at least twice per year to the Board the number of complaints received, a synopsis of each complaint, investigative findings and disposition.

An analysis of the complaints received and handled during the reporting period October 16, 2012 to April 30, 2013 is attached to this transmittal.

CHILD IMPACT
The recommended action will have no/neutral impact on children and youth.

SENIOR IMPACT
The recommended action will have no/neutral impact on seniors.

SUSTAINABILITY IMPLICATIONS
The recommended action will have no/neutral sustainability implications.

BACKGROUND
At its April 13, 2010 meeting, the Board adopted Policy Resolution No. 2010-211 adding Section 3.50 to the Board of Supervisors’ Policy Manual directing the establishment of a process for the receipt, acceptance, investigation, documentation and monitoring of reports of
improper government activity in accordance with County of Santa Clara Ordinance Code, Division A25, sections A25-750 to A25-753. On April 27, 2010, the Board adopted an amendment to Chapter VII of Division A-25 to establish a central intake system through the Office of the County Counsel to receive, accept, screen, document, analyze, investigate and track whistleblower complaints.

County Counsel implemented the Program, assigning responsibility to an Assistant County Counsel and specified staff members to develop a telephone-based system to receive and process whistleblower complaints along with an online system developed in cooperation with the Information Services Department. An anonymous telephone reporting service was established allowing callers to speak with specified staff members during business hours and to leave confidential messages at a voicemail address during non-business hours, accessible only by members of the County Counsel team. A web-based reporting system was created including a form to be completed and submitted online by complainants and then automatically directed by email to a specified member of the team. Finally, an internal protocol for handling complaints was enacted, calling for all complaints to be forwarded to the Assistant County Counsel for screening and referral for investigation, for records to be retained confidentially in County Counsel’s document system, for maintenance of a record of complaints handled, and for coordination with the Employee Services Agency (ESA) where many of the complaints are investigated.

Before this reporting period, 267 whistleblower complaints were received through the whistleblower program since its inception, which is an average of about 53 complaints per 6-month period. During the present reporting period, which started October 16, 2012, and ended April 30, 2013, County Counsel received 47 contacts. Twenty-three (or 49%) were complaints concerning personnel matters; eighteen were non-personnel complaints, one of which alleged a financial impropriety that was referred to the Board’s Management Auditor, Harvey M. Rose Associates, LLC; and six were determined not to be County whistleblower matters because the complaint concerned entities other than the County, the complaint failed to provide sufficient information to conduct an investigation, or the contact did not constitute a complaint.

This reporting period evidenced an 18 percent increase in the number of complaints/contacts received as compared with the last reporting period. A continuing trend in the Program is that the greatest number of complaints concern personnel matters, often involving employees complaining about co-workers or supervisors.

During this reporting period, County Counsel continued working with ESA to investigate and close pending complaints concerning personnel matters and to quickly address new complaints. For example, with ESA consent, County Counsel continues to coordinate the investigations of referrals made directly to County agencies and departments. Eight complaints that were received during prior reporting periods were closed during this reporting period.

CONSEQUENCES OF NEGATIVE ACTION

The semi-annual report of the 24/7 Whistleblower Program will not be accepted.
ATTACHMENTS:

- Whistleblower Program Report - October 16, 2012 - April 30, 2013  (PDF)