File No. 120793

Committee Item No. 3
Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Government Audit and Oversight **Date** October 11, 2012

Board of Supervisors Meeting **Date** _____

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☐	☐	**Ordinance**
☐	☐	**Legislative Digest**
☐	☐	**Budget and Legislative Analyst Report**
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☐	☐	**Award Letter**
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OTHER **(Use back side if additional space is needed)**

☒	☐	Civil Grand Jury Report "Where There's Smoke..."
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Completed by: Alisa Miller **Date** October 5, 2012
Completed by: _____ **Date** _____

An asterisked item represents the cover sheet to a document that exceeds 25 pages.
The complete document can be found in the file.

[Board Response - Civil Grand Jury Report - Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy]

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2011-2012 Civil Grand Jury report entitled "Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

WHEREAS, Under California Penal Code Section 933 et seq., the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on the findings and recommendations contained in Civil Grand Jury Reports; and

WHEREAS, In accordance with Penal Code Section 933.05(c), if a finding or recommendation of the Civil Grand Jury addresses budgetary or personnel matters of a county agency or a department headed by an elected officer, the agency or department head and the Board of Supervisors shall respond if requested by the Civil Grand Jury, but the response of the Board of Supervisors shall address only budgetary or personnel matters over which it has some decision making authority; and

WHEREAS, The 2011-2012 Civil Grand Jury Report entitled "Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" is on file with the Clerk of the Board of Supervisors in File No. 120793, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, The Civil Grand Jury has requested that the Board of Supervisors respond to Finding Nos. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as

Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 contained in the subject Civil Grand Jury report; and

WHEREAS, Finding No. 1 states: "The City, through SF AC and GFTA, devotes public resources to art and cultural programs in more generous amounts, per capita, than any other municipality in the United States;" and

WHEREAS, Finding No. 9 states: "The Civic Art Collection is a vast assemblage of tangible art and artifacts, representing a substantial cultural and financial asset of the City and County;" and

WHEREAS, Finding No. 10 states: "Promotion of the Collection as an attraction of the City is limited;" and

WHEREAS, Finding No. 13 states: "The inventory and cataloging function of the SFAC is delegated to at least a single paid staff member and two interns which is insufficient;" and

WHEREAS, Finding No. 17 states: "The maintenance budget for the Collection is grossly inadequate to the task of preservation of the Collection;" and

WHEREAS, Finding No. 18 states: "Art maintenance is more appropriately an operating rather than capital cost as it is a day-to-day responsibility of SF AC;" and

WHEREAS, Finding No. 19 states: "Art maintenance is inappropriately treated as a capital expense by City government;" and

WHEREAS, Finding No. 23 states: "SF AC has not given the support and maintenance of the Cultural Centers the priority the Charter requires;" and

WHEREAS, Finding No. 24 states: "SF AC has not addressed the long-term funding, stability and safety needs of the Cultural Centers;" and

WHEREAS, Finding No. 27 states: "The District Attorney has failed to respond to Sunshine Complaint No. 11023;" and

WHEREAS, Finding No. 34 states: "For general operating and SF AC Gallery exhibition expenses, SF AC relies on public funds that are designated by Charter for 'maintenance of a symphony orchestra ...;'" and

WHEREAS, Finding No. 35 states: "Since 1935, SF AC has chosen the San Francisco Symphony as recipient of those funds;" and

WHEREAS, Finding No. 36 states: "SF AC is without legal or practical recourse if SFS revoked its annual contribution of 40% of those funds given to SFAC;" and

WHEREAS, Finding No. 37 states: "The manner in which SFAC funds its operations by a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter amendment;" and

WHEREAS, Finding No. 38 states: "GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses;" and

WHEREAS, the Recommendation No. 1 states: "To improve the governance of the department, increase the number of at-large Commissioners to eight members, through Charter amendment;" and

WHEREAS, the Recommendation No. 2 states: "As an alternative, establish a Citizens Advisory Committee of seven members, appointed by the Mayor, to provide expert guidance in governance and administration, aid in nongovernmental fundraising, and increase the community stature of the department;" and

WHEREAS, the Recommendation No. 3 states: "Encourage the creation of a non-profit organization dedicated to raising funds to meet program and operational needs;" and

WHEREAS, the Recommendation No. 8 states: "Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection;" and

WHEREAS, the Recommendation No. 9 states: "Re-designate maintenance and conservation of the Collection as an operating expense of the SF AC rather than a capital budget item;" and

WHEREAS, the Recommendation No. 10 states: "Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the *existing* Collection located in the City, at San Francisco International Airport, and at other City properties;" and

WHEREAS, the Recommendation No. 11 states: "Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors;" and

WHEREAS, the Recommendation No. 12 states: "Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection;" and

WHEREAS, the Recommendation No. 13 states: "Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property;" and

WHEREAS, the Recommendation No. 14 states: "Complete a SF AC-Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere;" and

WHEREAS, the Recommendation No. 15 states: "SF AC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers;" and

WHEREAS, the Recommendation No. 17 states: "Move the Street Artists Program to the Office of Small Business;" and

WHEREAS, the Recommendation No. 18 states: "The District Attorney respond to Sunshine Complaint No. 11023;" and

WHEREAS, the Recommendation No. 22 states: "The Arts Commission/Symphony Agreement comply with the intent of the Charter, and the full amount of the tax revenues go toward Symphony operating expenses;" and

WHEREAS, the Recommendation No. 23 states: "Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SF AC;" and

WHEREAS, in accordance with Penal Code Section 933.05(c), the Board of Supervisors must respond, within 90 days of receipt, to the Presiding Judge of the Superior Court on Finding Nos. 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38 as well as Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23 contained in the subject Civil Grand Jury report; now, therefore, be it

RESOLVED, That the Board of Supervisors reports to the Presiding Judge of the Superior Court that it {agrees/disagrees} 1, 9, 10, 13, 17, 18, 19, 23, 24, 27, 34, 35, 36, 37, and 38, for reasons as follows_____; and, be it

FURTHER RESOLVED, That the Board of Supervisors reports that it {agrees/disagrees} Recommendations 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 22, and 23, for reasons as follows_____; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Mayor to cause the implementation of accepted findings and the recommendation through his/her department heads and through the development of the annual budget.

City and County of San Francisco
Civil Grand Jury 2011-2012

WHERE THERE'S SMOKE...

The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy

June 2012

Superior Court of California, County of San Francisco
Civic Center Courthouse
400 McAllister Street, Room 008
San Francisco, CA 94102
(415) 551-3605

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THE CIVIL GRAND JURY

California state law requires that all 58 counties impanel a Grand Jury to serve during each fiscal year (Cal. Const., Art. I, § 23; Cal. Penal Code, § 905). In San Francisco, the presiding judge of the Superior Court impanels two grand juries. The Indictment Grand Jury has sole and exclusive jurisdiction to return criminal indictments. The Civil Grand Jury scrutinizes the conduct of public business of county government.

The function of the Civil Grand Jury is to investigate the operations of the various officers, departments and agencies of the government of the City and County of San Francisco. Each civil grand jury determines which officers, departments and agencies it will investigate during its term of office. To accomplish this task the grand jury is divided into committees which are assigned to the respective departments or areas which are being investigated. These committees visit government facilities, meet with public officials, and develop recommendations for improving City and County operations.

The 19 members of the Civil Grand Jury serve for a period of one year from July 1 through June 30 the following year, and are selected at random from a pool of 30 prospective grand jurors. During that period of time it is estimated that a minimum of approximately 500 hours will be required for grand jury service. By state law, a person is eligible if a citizen of the United States, 18 years of age or older, of ordinary intelligence and good character, and has a working knowledge of the English language.

Applications to serve on the Civil Grand Jury are available by contacting the Civil Grand Jury office:

- by phone (415) 551-3605 (weekdays 8:00 a.m. - 4:30 p.m.).
- in person at the Grand Jury Office, 400 McAllister St., Room 008, San Francisco, CA 94102.
- by completing an online application (available at http://www.sfsuperiorcourt.org/index.aspx?page=312), and mailing it to the above address.

CITY AND COUNTY OF SAN FRANCISCO
CIVIL GRAND JURORS
2011-2012
(AS OF DATE OF PUBLICATION)

Umung Varma, Foreperson

Helen Blohm	Sharon Gadberry	Mort Raphael
Mark Busse	Ossie Gomez	Jack Saroyan
Mario Choi	Arlene Helfand	Earl Shaddix
Matthew Cohen	Lewis Hurwitz	Jack Twomey
Kay Evans	Todd Lloyd	Gregory Winters
Allegra Fortunati	Jean Ninos	Sharon Yow

WITNESSES

With regard to witnesses who provide testimony to the Civil Grand Jury to aid it in its investigation, **California Penal Code § 929** provides that:

> As to any matter not subject to privilege, with the approval of the presiding judge of the superior court or the judge appointed by the presiding judge to supervise the grand jury, a grand jury may make available to the public part or all of the evidentiary material, findings, and other information relied upon by, or presented to, a grand jury for its final report in any civil grand jury investigation provided that the name of any person, or facts that lead to the identity of any person who provided information to the grand jury, shall not be released. Prior to granting approval pursuant to this section, a judge may require the redaction or masking of any part of the evidentiary material, findings, or other information to be released to the public including, but not limited to, the identity of witnesses and any testimony or materials of a defamatory or libelous nature.

The intention of the California State Legislature in enacting **Penal Code § 929** is to encourage full candor in testimony in Civil Grand Jury investigations by protecting the privacy and confidentiality of those who participate in an investigation of the Civil Grand Jury.

REQUIRED RESPONSES

California Penal Code § 933(c) provides deadlines for responding to this report:

> No later than 90 days after the grand jury submits a final report on the operations of any public agency . . . the governing body of the public agency shall comment to the presiding judge of the superior court on the findings and recommendations pertaining to matters under the control of the governing body, and every elected county officer or agency head for which the grand jury has responsibility . . . shall comment within 60 days to the presiding judge of the superior court . . . on the findings and recommendations pertaining to matters under the control of that county officer or agency head and any agency or agencies which that officer or agency head supervises or controls. In any city and county, the mayor shall also comment on the findings and recommendations. All of these comments and reports shall forthwith be submitted to the presiding judge of the superior court who impaneled the grand jury.

California Penal Code § 933.05 provides for the manner in which responses to this report are to be made:

> (a) For purposes . . . as to each grand jury finding, the responding person or entity shall indicate one of the following:
> (1) The respondent agrees with the finding.
> (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
> (b) For purposes . . . as to each grand jury recommendation, the responding person or entity shall report one of the following actions:
> (1) The recommendation has been implemented, with a summary regarding the implemented action.
> (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
> (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.
> (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

EXECUTIVE SUMMARY

News articles, recent critical Controller audits, and a citizen complaint compelled the Civil Grand Jury to investigate the San Francisco Arts Commission. The Jury focused on the Commission's role in the weaknesses others found in departmental operations and finances, and the shabby state of the Civic Art Collection. The Jury also looked at the unfulfilled San Francisco Charter obligations toward the Neighborhood Cultural Centers, the mismanagement of the Street Artists Program, and the odd giveback to the Commission of property taxes intended for the maintenance of the San Francisco Symphony.

The Jury found that the Commission's current make-up of 11 active arts professionals out of the 15 members, as required in the Charter, fosters a focus on arts programming to the neglect of general administration, operations, and finances. Added to that, a lack of sufficient orientation and training of the Commissioners limits their ability to raise questions and make informed evaluations of Commission staff and budgets. We also found that the Civic Art Collection remains only partially inventoried, continues to suffer neglect, and lacks any systematic policy or plan for de-accessioning (removing art works from the collection). Additionally, the Neighborhood Cultural Center facilities and security do not appear to be an active priority of the Commission, as the Charter mandates. The lack of interest in the Street Artists Program by the Commission has led to lower earnings and a diminished sense of well-being for the Street Artists. Finally, the agreement between the Symphony and the Commission, requiring the Symphony to give back to the Commission 40% of the property tax monies assessed for the maintenance of a symphony orchestra violates Charter provisions.

The Jury recommends that the Charter provisions establishing the Commission be changed to include eight at-large Commissioners with backgrounds in finance, management, and fundraising. Alternatively, the Mayor could create a Citizens Advisory Committee to provide expert guidance in governance and administration to the Commission, to increase the community stature of the department, and to aid in non-governmental fundraising. Another recommendation is to allocate and to earmark $1 million from the Hotel Tax Fund for the inventory, maintenance, storage, de-accessioning, exhibiting and installation of the existing Civic Art Collection. In addition, the City should annually allocate another amount equal to 1% of the value of the Civic Art Collection from the Hotel Tax Fund for its continuing maintenance and care. The Jury also recommends that the Commission hold public hearings and develop an action plan on the state of the Cultural Centers facilities and their funding and safety issues. The City and the Street Artists Program would be better served by moving its administration to the Office of Small Business. Lastly, the giveback provision in the Arts Commission/Symphony Agreement for Charter-

designated funds meant for the maintenance of a symphony orchestra needs to be terminated immediately.

BACKGROUND

The 2011-2012 San Francisco Civil Grand Jury (Jury) first became aware of the San Francisco Arts Commission's (SFAC) troubles in an April 16, 2011 *New York Times* article "City's Art Is a Victim of Neglect, Damage, and Loss."[1] Subsequently, the Jury learned of the sudden resignation of the Director of Cultural Affairs, the Commission's Chief Executive Officer. Additionally, four San Francisco Controller's audits conducted between 2010 and 2012[2] faulted the SFAC for not providing Neighborhood Cultural Centers with clear guidelines for adherence to terms and provisions in grant and lease documents. In July 2011, another Controller's audit found that the SFAC's Street Artists Program (Program) needed to introduce improvements to its internal controls and accounting practices. In November 2011, an even more damning financial management review conducted by the Controller[3] took SFAC to task for numerous operational and financial weaknesses. In the same month, the Jury received a citizen complaint about the management of the Street Artists Program. Further investigation found a report from the Sunshine Task Force reprimanding the Street Artists Program again, stating that its Manager "willfully" violated the Sunshine Ordinance[4] regarding access to public records. In response to these articles, reports, and citizen complaint, the Jury undertook an investigation of the San Francisco Arts Commission because, "Where There's Smoke...."

Besides the problems raised by the Controller, the Jury has uncovered more fundamental areas in need of correction. First, the Charter provision outlining SFAC composition and structure handicaps its governance. Secondly, the City's 4,000-plus objects of art, valued at $90 million, in the Civic Art Collection (Collection) have yet to be completely inventoried, adequately maintained, or displayed. As well, the SFAC is not fulfilling its Charter obligations to the Cultural Centers. Moreover, the Street Artists Program is a poor fit within the SFAC. Finally, the contractual relationship between the SFAC and the San Francisco Symphony (SFS) needs reconsideration. Proper attention to these areas will lead SFAC to a more prominent place in the highly regarded cultural fabric of San Francisco and to a sharper focus on their core priorities as outlined in the Charter.

The Arts are vital to San Franciscans, an important component in the City's identity, and one of its major attractions to businesses and visitors alike. To quote an unidentified journalist, "San Francisco, without the rich flavoring of its cultural institutions, would only be a lovelier Des Moines."[5] San Francisco was the first in the nation to support arts and culture using hotel tax revenue,[6] the first to establish a neighborhood arts program,[7] and the first to institute a program aimed at supporting cultural equity.[8]

To put San Francisco's support for the arts in perspective, it is important to realize that our City is the most generous in the country for its size. The City established two primary programs for sustaining the arts and mainly funded by the Hotel Tax Fund[9] (an occupancy tax levied on local hotels and motels). One is SFAC. The other is Grants for the Arts (GFTA),[10] which provides general operating funds to a broad and diverse spectrum of over 200 local arts groups and activities, including approximately $2.7 million to six arts organizations with budgets over $19 million (San Francisco Opera, Symphony, Ballet, Museum of Modern Art, the Exploratorium, and the American Conservatory Theater). The City's arts spending compares very favorably to that of other urban centers:

City	Spending on Arts	Population	Per Capita
SF (SFAC & GFTA)	$22,000,000[11]	805,235	$26
New York	$149,000,000[12]	8,175,133	$18
Chicago	$30,000,000[13]	2,695,598	$11
Los Angeles	$10,000,000[14]	3,792,621	$3

Table 1. Appropriations for the Arts

The above budget figure for San Francisco does not include separate Hotel Tax Fund allocations for the Yerba Buena Gardens, the Fine Arts Museums, the Asian Art Museum, and the War Memorial & Performing Arts Center, which total almost $20 million.[15]

In another comparison, San Francisco distributed 378 grants to artists and arts organizations ranging from $1,000 to a high of approximately $2,600,000 (to the San Francisco Symphony), mainly from the City's 2010-11 Hotel Tax Fund, including the Cultural Equity Grants Program and the GFTA. As a comparison, during the same period the Los Angeles Department of Cultural Affairs awarded only 266 grants, ranging from $1,000 to a meager $225,000 (to the Sony Pictures Media Program).[16] As you can see, the City should be proud of the amount of money it dedicates to the arts. But how the Commission chooses to spend its annual appropriation is another matter.

METHODOLOGY AND APPROACH

The Jury interviewed more than thirty individuals, including former and current Commissioners, SFAC staff at all levels, street artists, private arts funders, SFS staff, the staff of the Cultural Center, the staff from other City Departments, and journalists. We toured San Francisco General Hospital, Laguna Honda Hospital, four Cultural Centers, the SFAC Gallery, the art collection storage areas, various City-owned arts installations, and Justin Herman Plaza.

We also attended meetings of the full Commission and its subcommittees. Jurors reviewed: California Fair Political Practices Commission regulations;[17] the Charter, the San Francisco Administrative and Police Code provisions; other San Francisco ordinances and published guidebooks; SFAC contracts; grant and lease agreements; and memorandums of understanding (MOUs). We also examined other SFAC documents, including: Commissioner orientation materials; meeting attendance documentation; SFAC's Commission bylaws; specific program policy and procedure publications; studies; grant application guidelines; annual reports; and plans, budgets, and personnel reports. We also studied the 2006 Arts Task Force report,[18] Grants for the Arts program publications, audits from the Office of the Controller, Sunshine Ordinance Task Force documents, Civil Grand Jury citizen complaints, websites of City departments, and other private and public organizations.

We note that many of the programs and responsibilities of SFAC are set forth in detail in the San Francisco Administrative Code,[19] but SFAC's website and policy documents have failed to keep up with changes and renumbering of that code. In one instance, an Administrative Code reference in its Loan Terms and Procedures policy publication refers to an ordinance (SF Admin Code section 1.16) that was renumbered sixteen years ago. This is one example of a number of inaccuracies that degrade the usefulness of the website.

DISCUSSION

I. SFAC Governance

The City's 1932 Charter, retained in the 1996 Revision under section 5.103, outlines the structure and duties of the Arts Commission:

> The Arts Commission shall consist of fifteen members appointed by the Mayor, pursuant to Section 3.100, for four-year terms. Eleven members shall be practicing arts professionals including two architects, a landscape architect, and representatives of the performing, visual, literary and media arts; and four members shall be lay members. The President of the Planning Commission, or a member of the Commission designated by the President, shall serve ex officio. Members may be removed by the Mayor.
>
> The Commission shall appoint and may remove a director of the department. The Commission shall encourage artistic awareness, participation and expression; education in the arts; assist independent local groups with the development of their own programs; promote the employment of artists and those skilled in crafts, in the public and private sectors; provide liaison with state and federal agencies to ensure increased funding for the arts from these agencies as well as represent arts issues and

> policy in the respective governmental bodies; promote the continued availability of living and working space for artists within the City and County; and enlist the aid of all City and County governmental units in the task of ensuring the fullest expression of artistic potential by and among the residents of San Francisco.

The Charter also speaks to further specific, mandatory, responsibilities of SFAC:

> In furtherance of the foregoing the Arts Commission shall:
>
> 1. Approve the designs for all public structures, any private structure which extends over or upon any public property and any yards, courts, set-backs or usable open spaces which are an integral part of any such structures;
> 2. Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of art owned by the City and County;
> 3. Promote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural life of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations; and
> 4. Supervise and control the expenditure of all appropriations made by the Board of Supervisors for the advancement of the visual, performing or literary arts.

Additional duties and responsibilities imposed upon SFAC under the Charter[20] include administering and disbursing *ad valorem* tax revenues (property taxes) to maintain "a symphony orchestra" and for City and County-owned Neighborhood Cultural Centers in

> an amount sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds, and for the purchase of objects of art, literary productions, and other property, and for their expansion and continuance in the City and County of San Francisco.

SFAC must also consult annually with the Department of Children, Youth and Their Families (DCYF) on the allocation of resources within that agency's budget.[21]

As outlined in the SFAC bylaws, each regular Commissioner is a member of at least one committee. In order to execute their responsibilities, Commissioners shall:

a. Unless excused, attend all regular and special meetings of the Commission and the meetings of committees of which they are members.
b. Be knowledgeable about general issues of concern to the San Francisco art community.
c. Strive to increase the resources of the Commission.
d. Act as liaisons to the Board of Supervisors, the Mayor and other members of City Commissions.
e. Act as advocates for the Arts to government and the business community.[22]

The established committees include: Civic Design Review, Community Arts, Education and Grants, Executive Committee, Street Artists Committee, and the Visual Arts Committee. In practice, each Commissioner tends to serve on at least two of these committees. Of importance here, the Executive Committee is tasked, according to the bylaws, with "reviewing and recommending overall Commission policy, long range and strategic planning, program evaluation, general budgeting and financing of programs and facilities."[23]

In interviews with past and present Commissioners, as well as with staff, there is disagreement about what the Commissioners' responsibilities are. Generally most agreed that they relied heavily on executive management to ensure appropriate program execution, as called for in the rules governing commissions. As noted in the Charter, the Commission has authority over the hiring and firing of the Director of Cultural Affairs (Director), and on that one point the interviewees agreed. It was also noted that much of a Commissioner's attention is focused at the committee level on art program policy, content and budget plus, for some, a tendency to cater to arts organizations over the interests of the broader public. Commissioners with backgrounds and experience in specific art forms certainly bring greater knowledge of and appreciation for the activity and needs of artists and arts organizations, which is helpful in guiding a number of Commission programs. However, the Arts Commission is a creation of government, charged with a broad scope of program responsibilities, much expanded and more complex since the Commission's inception in 1932, and with the need for greater accountability and service to City residents generally, rather than to the narrower interests of the arts community. While many appointees have served on Boards or are leaders of non-profits, few Commissioners have had significant experience in government. One interviewee even noted the inherent tension between government and the arts, one heavily regulated and rule-bound, the other freer and "more creative."

The comparatively small number of four At-Large Commissioners is also a limiting factor. It does not provide the Commission with the capacity to establish, implement, and evaluate the needed comprehensive policies and procedures that lead to, and ensure fiscal responsibility, or a well-managed department. The At-Large Commissioners are also involved in programmatic activities and do not focus solely on governance. The small number also limits the Commission's

ability to meet the needs of the general public for awareness of the wide array of art opportunities that are available and in which the public can participate. The Jury did review a publication about art opportunities for children, but saw little aimed at adults. Though At-Large Commissioners might bring a wider array of talents and experiences, they are not charged to be monitors of administration or represent a larger public interest.

It needs to be said that both members of the Commission and other interviewees placed much blame for the negative Controller reports on the performance of the prior Director. That Director held his position for three and a half years, from January 2008 until July 2011. In interviews with the Commissioners and staff, the Jury learned that he took actions contrary to established departmental policy, such as unauthorized transfer of funds between budget categories, and made major program and personnel changes without Commission input. However, the Jury also found earlier criticisms of SFAC's lack of financial controls in the 2006 audits of the Neighborhood Cultural Centers. None of these reflects extreme impropriety, but rather a lack of attention to best practices and procedures vis-à-vis City policy and regulations and little or no follow-up to ensure continuing compliance. Another instance of lack of diligence can be found in the Street Artists Program audit[24] which found that, prior to 2008-09, program fees were not adequately covering their overhead costs to the Commission, a point not discovered by staff or by any Commissioner, until the prior Director rectified it.

Thus, the Commission itself bears some responsibility for not adequately monitoring the former Director's performance and for allowing the continuation of improper practices clearly identified in earlier audits. It seems, for the Commission as a whole, much less attention is given to governance matters, such as the creation and evaluation of administrative policy and performance and the impact of SFAC programs and expenditures in fulfilling the expectations of the general public.

In recent times, the Commission President resigned and a replacement has been elected, an Executive Director was hired, the position of deputy director was reconstituted, and two new Commissioners were appointed. Only this year have Commissioners agreed to institute regular performance evaluations of the Director. This offers promise in moving forward and attending to identified problems. These actions alone do not address the need to improve the performance of the Commission itself, a main factor leading to the difficulties.

Part of the problem is a lack of orientation received by the Commissioners. According to SFAC staff, Commissioners, at the beginning of their appointment are given a small packet of materials, including Ethics Commission forms, Sunshine Task Force requirements, and SFAC By-Laws, plus in past years, an orientation by SFAC staff on the work of the department. Evidently, Commissioners are given no training in the larger legal and fiscal environment in which the Commission operates.

Further, there is a clear need for additional monies to support SFAC's programs. SFAC receives most of the funding for its $10 million budget from the City General Fund.[25] It also receives nearly one-half-million dollars ($489,175) in additional funds from a variety of public and private funders and $1.5 million for its Art Enrichment Program (where 2% of capital funding for public construction is set aside for public art).[26] The Jury believes that SFAC has compelling fundraising needs but is hampered by failing to create a strong development program and by legal restrictions on governmental agencies for raising outside funds. However, both the Public Library and the Department of Recreation and Park (Rec & Park) have established non-profit organizations to increase public support for their programs. Likewise, SFAC could enlist prominent members of the community who believe in its programs and who would willingly tell the SFAC story. Major arts organizations in San Francisco demonstrate what can be done as they are able to consistently raise substantial portions of their budgets from donations and private grants. Adding people of broad community stature as Commissioners, or in honorary positions, with clear fund development assignments would enhance SFAC's ability to generate funding from private, community sources.

The challenges facing SFAC call for a more flexible, broader-based governance structure. This structure must be capable of accommodating not only Charter-driven demands for community arts programs, but also successfully leading these programs through changing times. It must ensure sufficient funding as well as provide the leadership to increase SFAC's status as an integral partner in our cultural fabric as was intended by the Charter.

Finally, SFAC staff must be criticized for not correcting simple, but important matters of office policy and procedure. The Jury experienced a failure of prompt attention to telephone calls and filling of requests for materials in the course of its investigation. On multiple occasions and at all levels of the organization, the Jury has been hampered by unanswered phone and email messages, and substantial delays in delivery of written materials. While it is true that the few paid employees are extremely busy, the unresponsiveness encountered in this investigation is not what an organization that prides itself as a community service should project.

A. Findings

F1. The City, through SFAC and GFTA, devotes public resources to art and cultural programs in more generous amounts, per capita, than any other municipality in the United States.

Responses are requested from the Mayor, the Board of Supervisors, Director of Grant for the Arts, the Arts Commission, and the Director of Cultural Affairs.

F2. SFAC Commissioners have not taken responsibility to adequately ensure administrative excellence in the department they govern.

Responses are requested from the Mayor and the Arts Commission.

F3. Commissioners focus on programs at the expense of general administration and the larger interests of the public.

Response is requested from the Arts Commission.

F4. SFAC has not developed materials that create awareness among the general public of the array of art opportunities available to them.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F5. SFAC has not created a high-profile community identity for itself as an important contributor to San Francisco's cultural heritage.

Responses are requested from the Arts Commission, the Fine Arts Museums, California Academy of Sciences, and the War Memorial and Performing Arts Center Commission.

F6. SFAC has only made a limited effort at fundraising.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F7. As a particularly community-oriented government agency, SFAC office practices need substantial improvement.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F8. SFAC's website and published materials are out-of-date.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and City Attorney.

B. Recommendations

R1. To improve the governance of the department, increase the number of at-large Commissioners to eight members, through Charter amendment.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, the Director of Cultural Affairs, and City Attorney.

R2. As an alternative, establish a Citizens Advisory Committee of seven members, appointed by the Mayor, to provide expert guidance in governance and administration, aid in non-governmental fundraising, and increase the community stature of the department.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, and the Director of Cultural Affairs.

R3. Encourage the creation of a non-profit organization dedicated to raising funds to meet program and operational needs.

Responses are requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, the Arts Commission, and the Director of Cultural Affairs.

R4. Improve the orientation and training of Commissioners to provide them with a clear understanding of their administrative responsibilities and roles in budgeting, personnel management, city processes, and their role as ambassadors to the public to increase awareness of art opportunities in the community.

Responses are requested from the Controller, Arts Commission, the Director of Cultural Affairs, and the Mayor's Appointments Secretary.

R5. Furnish the means for each Commissioner to conduct an annual self-assessment to evaluate personal and commission performance in order to promote a focus on the full array of Commission responsibilities.

Responses are requested from the Mayor, the Arts Commission, the Director of Cultural Affairs, and City Attorney.

R6. Update the SFAC website and materials to conform to current law and policy.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and City Attorney.

II. SFAC and the Civic Art Collection

In the April 18, 2011 article published in the *New York Times*, *Bay Citizen* reporters described the management by the San Francisco Arts Commission of the 4,000-plus art objects in the San Francisco Civic Art Collection to be slipshod. The authors further asserted that a substantial part of the Collection was missing, lost, damaged or otherwise unaccounted for. The more lurid descriptions of neglect and losses to the Collection described in the *Times* article were not substantiated by the Jury's investigation. Nonetheless, the Jury found a number of important issues involving the Collection. These issues require attention, action and leadership from the

Commission in obtaining resources and setting policy to preserve this valuable cultural asset of the City in the near and long term.

One of the core obligations of SFAC, imposed upon it by Charter, is to:

> Approve the design and location of all works of art before they are acquired, transferred or sold by the City and County, or are placed upon or removed from City and County property, or are altered in any way; maintain and keep an inventory of works of art owned by the City and County; and maintain the works of art owned by the City and County...[27]

A collection inventory remains incomplete years after its initiation. Although the deadline for the completion is projected to be within the next eighteen months, this task is not a high priority for SFAC. From interviews and budget documents, the Jury learned that the SFAC only recently filled the collections manager position, after being vacant for at least five years. The Commission places a higher value on its Public Art Program (also known as the Art Enrichment Program), in the creation and accession of new pieces, and other programs than in conserving, maintaining, cataloguing, and exhibiting the works currently in the Collection.

A. Collection Overview

Under the Charter and the San Francisco Administrative Code, SFAC is mainly responsible for acquiring and "accessioning," placing and maintaining all art in public buildings, public spaces, and in and on other City properties.[28] The portion of the Collection at San Francisco International Airport is estimated to be worth $40 million. The generally accepted total value of the entire Collection is $90 million. The Collection ranges in size and scope from items of pottery and jewelry to public statuary and monuments to the massive sculptures found in front of the Main Library and the Hall of Justice. Pieces of the Collection can be found in the structures of public parking garages, as part of the doors and elevators of the Courthouse, in Union Square, and in patient rooms and public spaces at Laguna Honda Hospital. Art works have been loaned to museums and City agencies and departments for exhibition; all others not displayed or loaned are stored in confidential locations on City property. Values ascribed to individual works reflect only their worth at the time of acquisition. SFAC has not sought subsequent appraisals of the Collection.

The Collection is not a well-publicized City attraction. An iPhone app has been created to guide the curious to Collection works in public spaces, but it is limited in scope and not complete. The Jury believes that the Collection deserves much greater promotion by SFAC than is currently done. SFAC's website requires rebuilding, and staff has requested funds to hire an outside contractor for that purpose. Employing other means of promotion of, and education around, the Collection requires further exploration by SFAC.

B. Inventory

There exists no current or complete inventory of the Collection. SFAC has undertaken the task of inventorying the Collection but, according to staff, the resources devoted to that task are not adequate for its expeditious accomplishment. Although the Jury was told that the inventory is to be completed in eighteen months, it is unclear what resources are committed to the task. Confusion among SFAC executives as to which staff members or even how many of them are assigned to the inventory raises doubts for the Jury as to the true level of SFAC's commitment to the inventory project.

To its credit, SFAC has obtained and maintains an industry-standard data program for the Collection, which, if kept current, will provide a reliable tracking system for this vast assemblage of City-owned art works.

C. Collection Loan Program

Previously SFAC administered a loan program of Collection pieces to various City departments, officeholders and executives for display in their facilities and offices.[29] That program, according to the SFAC website, has been suspended indefinitely. Inventory controls supporting previous loans have been inadequate. Return or retrieval of loaned art has been unsystematic, and program rules not enforced. As an example, accurate records of art loaned to San Francisco General Hospital are not available. Tracking of loaned art is only partially computerized.

D. Accession and De-accession

A substantial portion of the SFAC budget, the Public Art – Art Enrichment Fund ($1,479,446 in the 2011-2012 Budget),[30] is devoted to programs under which art is commissioned and accessioned. SFAC does possess the authority to sell or exchange art in the Collection when "it would be advantageous to the City and County...."[31] Yet, there is no organized disposal or "de-accessioning" program in place to move pieces out of the Collection despite detailed provisions for doing so.[32] Currently, de-accessioning only occurs when a piece becomes too difficult for SFAC to preserve or maintain. No process or policy exists to provide for disposition of works that are incompatible with the character of the Collection or otherwise surplus.

E. Maintenance of Public Art

SFAC has done an admirable job of finding and fostering art and artists in the City. What SFAC has not done is allocate or seek funds from the City adequate to maintain what it has acquired. The budget for FY2011/2012 maintenance and repair is $75,000.[33] While this is nearly a one-third increase over the previous year, it is still woefully inadequate for the task. Most, if

not all, of the funds have already been expended, with the vast majority going for graffiti abatement. SFAC staff describes "industry" practice as allocating 1% of a collection's value annually to maintenance and preservation. Other estimates of the costs to repair works already in the Collection have ranged from $1 million to $10 million. In lieu of public support, staff has resorted to seeking private funds to supplement the maintenance budget and in wresting contributions from other department budgets to preserve the Collection pieces benefitting their operations and attractions. SFAC now requires that gifts of art to the Collection be accompanied by a 20-year maintenance endowment.

Art, monuments, and statuary on property belonging to Rec & Park may not be a direct maintenance responsibility of the SFAC. SFAC has been maintaining and repairing Rec & Park statuary and monuments for as long as can be remembered by both agencies' staffs. SFAC does so without contribution or compensation from Rec & Park. Neither believes that Rec & Park has any responsibility for maintaining works of art (including statuary and sculptures) sited on their properties. In interviews, neither SFAC nor Rec & Park staff seems to be aware that art in the parks may be Rec & Park's responsibility to maintain.[34]

There is a conflict in local law between the provisions of the Charter, as revised in 1996 at section 5.103.2, and the Administrative Code at section 2A-150.1(a). The Charter imposes a general duty on the SFAC to maintain all art belonging to the City and County. The Administrative Code, in a more recent amendment, carved out exceptions to the duty of SFAC to maintain all of the City's art by excluding art on properties of the San Francisco Unified School District, the M.H. de Young Memorial Museum, the California Palace of the Legion of Honor, the California Academy of Sciences, and Recreation and Park Commission.

The Charter is the constitution of the City and is generally the last word where it describes duties of City agencies. The Administrative Code and the other bodies of local law that make up the Municipal Code provide the "how" to the Charter's "what" in City governance. The conflict between the Charter and the Administrative Code is, we believe, more apparent than real, regarding maintenance of statuary and monuments on Rec & Park properties. The duty to maintain its art in parks should rest with its owner - Rec & Park, as that burden was, as far as can be determined, placed later in time.

The Jury further believes that this result is the more equitable, appropriate, and fiscally responsible interpretation of City law. Rec & Park, while clearly not currently well-funded, is a much larger agency with a significantly larger budget and non-governmental resources (through the San Francisco Parks Alliance, among others). SFAC is a much smaller agency with a miniscule discretionary General Fund budget. Most of the money in SFAC's budget is committed to program grants before it is even appropriated by the Mayor and Board of Supervisors.

SFAC has assisted Rec & Park in repairing and maintaining art and statuary located on Rec & Park properties. Interviews informed the Jury that most of the $75,000 allocated for maintenance of the Civic Art Collection in the current (2011-2012) fiscal year was spent on a single, frequently defaced, monument in the Panhandle of Golden Gate Park. Bearing that cost is not fair to SFAC's accomplishment of its larger mission; to preserve, conserve and maintain the entire Collection. It is not an equitable policy either. Rec & Park can choose to do nothing to protect its monuments and statuary with no financial consequence to its own budget. While SFAC may possess the expertise to maintain and conserve the works of art, large and small in the Collection, it chronically lacks the financial wherewithal to do so. If Rec & Park wants SFAC to continue to care for its works, it should pay for it from its own budget. Rec & Park is doing just that as it has agreed to pay SFAC $250,000 toward the restoration of the murals at Coit Tower - which still does not cover the full costs of repair. Full payment should be the standard for all work done by SFAC for Rec & Park's art.

SFAC is seeking a large increase in maintenance funds for the conservation and repair of the Civic Art Collection. The increases sought are still not adequate to the task. Art maintenance funds, for reasons not made clear to the Jury, are deemed to be capital maintenance expenses by the Mayor and Board of Supervisors and are subject to review and approval by the Capital Planning Committee. The Jury believes that maintenance of the Collection is more appropriately a normal operating expense of the SFAC as it executes its Charter mandates. The Civic Art Collection requires a dedicated stream of adequate funding not subject to the vagaries of capital expenditure procedures.

GFTA/Hotel Tax Fund gives grants for operating expenses to a wide variety of public and private organizations to make San Francisco more attractive to visitors. If maintenance of the Collection is, as the Jury believes, an operating expense of the SFAC, GFTA/Hotel Tax Fund monies should be made available for the maintenance and conservation of this singular asset of the City.

F. Findings

F9. The Civic Art Collection is a vast assemblage of tangible art and artifacts, representing a substantial cultural and financial asset of the City and County.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, and the Director of Cultural Affairs.

F10. Promotion of the Collection as an attraction of the City is limited.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, and the Director of Cultural Affairs.

F11. There is only a partially complete inventory of the Collection.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F12. No appraisal of the Collection, at its present value, has been undertaken.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F13. The inventory and cataloging function of the SFAC is delegated to at least a single paid staff member and two interns which is insufficient.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, and the Director of Cultural Affairs.

F14. Public access to the Collection has diminished due to SFAC's suspension of its art loan program to other City agencies and departments.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F15. Despite inadequate maintenance funding, commissioning and accessioning of new art continues under the Public Art Program.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F16. De-accessioning of art in the Collection is infrequent and underutilized.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

F17. The maintenance budget for the Collection is grossly inadequate to the task of preservation of the Collection.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, and the Director of Cultural Affairs.

F18. Art maintenance is more appropriately an operating rather than capital cost as it is a day-to-day responsibility of SFAC.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Capital Planning Committee, the Arts Commission, and the Director of Cultural Affairs.

F19. Art maintenance is inappropriately treated as a capital expense by City government.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Capital Planning Committee, the Arts Commission, and the Director of Cultural Affairs.

F20. Without a clear legal mandate to do so, SFAC has assumed responsibility for maintaining art on Recreation and Park Department properties.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

F21. SFAC spends most of its current maintenance funding repairing works on Rec & Park property.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

G. Recommendations

R7. The Collection Loan Program remain suspended until the inventory and appraisal of the Collection is complete, and a tracking system for loaned art is developed and in operation.

Responses are requested from the Arts Commission and the Director of Cultural Affairs.

R8. Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Arts Commission, and the Director of Cultural Affairs.

R9. Re-designate maintenance and conservation of the Collection as an operating expense of the SFAC rather than a capital budget item.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Capital Planning Committee, the Arts Commission, and the Director of Cultural Affairs.

R10. Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the *existing* Collection located in the City, at San Francisco International Airport, and at other City properties.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Arts Commission, and the Director of Cultural Affairs.

R11. Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Arts Commission, and the Director of Cultural Affairs.

R12. Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Arts Commission, and the Director of Cultural Affairs.

R13. Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property.

Responses are requested from the Mayor, the Board of Supervisors, City Attorney, the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

R14. Complete a SFAC - Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere.

Responses are requested from the Mayor, the Board of Supervisors, City Attorney, the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

III. Neighborhood Cultural Centers

In 1967, San Francisco became the first municipality in the nation to establish a Neighborhood Arts Program. Within SFAC, Community Arts and Education (CAE) supports the City's four neighborhood and two virtual cultural centers in furthering cultural and community revitalization and development through grants to non-profit organizations. Currently, the brick-and-mortar neighborhood centers, located in underserved communities, include the African American Art and Cultural Complex (in the Western Addition), the Bayview Opera House, the Mission Cultural Center for Latino Arts, and SOMArts. The virtual centers, Queer Cultural Center and Asian Pacific Islander Cultural Center, are sub-grantees of SOMArts. General Fund money for CAE is supplemented by the Youth Arts Fund (Transit Advertising Funding), Hotel Tax Fund, GFTA, and work orders from the Library, Department of Public Works, and DCYF. CAE's total FY2012 budget is $3.7 million of which $2.0 million or 54% goes directly to the

Cultural Centers. Over the years, this figure has flat-lined, despite increasing costs and more severe capital needs.

The Cultural Centers act as community anchors and collectively provide free or low-cost arts classes and studio space for children, youth (as part of after-school and summer arts programs), and adults. The Centers also provide artist and curatorial residencies and free or low-cost venues for performances, exhibitions, and professional development services and other community organizations. They also provide technical services for fairs and festivals, case management services for "at risk" youth, and fiscal sponsorships for community artists and arts organizations.

CAE authority lies in the Charter at section 5.103, which describes, among other requirements, Commission responsibility to:

> [p]romote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural love of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations....

Under "Cultural, Educational, and Recreational Appropriations" the Charter[35] requires the Board of Supervisors to annually appropriate "[t]o the Arts Commission, for the City and County–owned Community Cultural Centers, an amount *sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds*...." (Emphasis added.)

Further, in each of the lease agreements for the Cultural Centers themselves, the City is obligated to "repair and maintain the structural portions of the Building...." The 2006 Arts Task Force report noted the City's failure to meet its Charter responsibilities to support neighborhood arts. Some of its findings included: "the cultural centers ... are in advanced states of neglect" and recommended that the City "develop and implement financing plans for long-overdue capital improvements, seismic upgrades, and life-safety upgrades to City-owned arts facilities" and the creation of "more substantial and stable support for the neighborhood Cultural Centers." The City never fully instituted these recommendations. The City and County Capital Planning Committee lists over $100 million of facility needs for the Cultural Centers and their plan describes the current state of affairs as:

> Building deficiencies, seismic issues, and other needs remain unaddressed at the city's cultural centers. The severity of these facility needs, the cost of renovating the existing sites, and the possibility of relocating to other sites requires additional review and analysis.[36]

In recent years, some repairs and interior upgrades to floors, walls, and stages have been completed. Construction of ramps and renovation of bathrooms to meet ADA requirements has been undertaken. Repairs to heating and ventilating systems have been completed at some of the Centers. Funding for these repairs came from the Mayor's Office on Disability, the American Recovery and Reinvestment Act through the Public Utilities Commission, the Capital Planning Committee, and a very small SFAC fund for facilities maintenance. Major needs such as roofing (particularly at the Mission Cultural Center), elevator repair, and seismic upgrades have not been done. In 2012, SFAC submitted FY13 and FY14 funding requests of $1,676,700 to the Capital Planning Program for improvements to the Cultural Centers. The Capital Planning Committee came back with recommended funding for $1,519,154. Cultural Center staff have also begun looking for capital improvement loans and grants from private sources. Year-to-year lease agreements at the Cultural Centers have hampered the ability of lessees to secure private, often multi-year, funding due to the uncertainties inherent in these short-term leases.

Security is also a major concern, particularly in the immediate environment of the Bayview Opera House. Two separate incidents reported in the news, the shooting of a child nearby and an assault against a construction worker at the Opera House, have jeopardized the use of this Cultural Center as a venue for classes and events. Burglaries and vandalism have also occurred at the Centers.

A. Findings

F22. The Cultural Centers are a primary responsibility of the Arts Commission under the Charter.

Responses are requested from the Mayor, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

F23. SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

F24. SFAC has not addressed the long-term funding, stability and safety needs of the Cultural Centers.

Responses are requested from: the Mayor, the Board of Supervisors, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

B. Recommendations

R15. SFAC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

Responses are requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts, and the Director of the Department of Children, Youth, and their Families, the Police Department, the Capital Planning Committee, and the Department of Public Works.

R16. SFAC enter long-term leases with their Cultural Center operators.

Responses are requested from the Mayor, the City Attorney, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

IV. Street Artists Program

The Street Arts Program (Program) arose from a 1972 political movement led by artists (specifically handicraft workers) who were being arrested for selling their hand-made goods illegally on the public sidewalks. They organized, brought their suggested program to the ballot with Proposition L in 1975, and achieved legitimacy by majority vote. The ordinances governing the Program are found in the San Francisco Police Code,[37] under the rationale that the Street Artists' activities are conducted on public property, streets, and sidewalks.

There are currently about 400 licensed Street Artists paying $664 each in annual fees. This represents a 90% increase from 2000, compared to a Consumer Price Index increase of 34% during the same period. Current program revenue is approximately $262,000. This funds two full time administrative positions, Program overhead at SFAC, inspectors to enforce product policies,

legal costs and some other non-Program overhead costs at SFAC and the City. The Program does not rely on General Fund monies. Estimated annual contributions to the San Francisco economy from Street Artist sales is $2-3 million, generating approximately $175,000 to $262,500 in sales tax revenue to the City. Street Artists derive no other benefit from the City beyond the use of designated sidewalk space to sell their art. There are approximately 375-380 selling spaces, a decrease from 433 in 2008, accessible to artists at Fisherman's Wharf, the Cliff House, the Union Square area/Downtown, Justin Herman Plaza, and the Castro. United Nations Plaza is not used by Street Artists because of crime. During the Holidays, from November 15 through January 15, more spaces are made available at the Union Square area/Downtown and Harvey Milk Plaza in the Castro. SFAC has published program policies, procedures and regulations in the "Bluebook" which is made available both in print and on-line at the SFAC website to new applicants and to the Commissioners.

Prior to applying for a selling certificate from SFAC, applicants must obtain a business license from the City and have a current Resale License issued by the State of California. According to Program guidelines, Street Artists must make, create, and produce their own art and be its only on-site seller. Applicant art is then screened and certified by a committee of experts, who are appointed by the Mayor. After screening, applicants pay their license fee and are issued a certificate, which describes and limits the types of goods/crafts that the Artist is qualified to sell. At present, the Program certifies artists' wares in 38 distinct categories of arts and crafts, from hand-made crafts to computer-enhanced photography. All Street Artists are self-employed and most make their living solely from sales as Program licensees.

The Jury undertook the investigation of the Program when it received a citizen complaint on November 2, 2011. The 10-page complaint described past and present problems with the Street Artists Program Manager, the Arts Commission's then-President and SFAC in general. During review of this complaint, the Jury discovered the following:

- An audit report issued by the Office of the Controller on July 12, 2011, cited a need for improvement of the Program's internal controls and accounting practices. This audit found unjustified expenses allocated to the Program and concluded that the charges resulted in increased Street Artist certificate fees.
- In a June 28, 2011 report from the Sunshine Ordinance Task Force, it was alleged that the Program Manager had "willfully" violated two provisions of the Sunshine Ordinance[38] in handling public records requests from two Street Artists. The Task Force also found that the Program Manager resorted to a practice known as "sand-bagging" the requestors, i.e., burying requested information in a huge volume of superfluous texts. In the end, the Task Force filed a petition with the Ethics Commission urging it to impose a fine and/or penalty on the Program Manager for the willful violations. Also, a "Notice of Failure to Comply with Order of Determination" (Complaint No. 11023) was filed with the District Attorney's office for appropriate action on February 3, 2012.

- Both legal expenses incurred due to the alleged misconduct of the Program Manager as well as copying expenses for requested documents were charged to the Street Artist Fund. These expenditures account for much of the recent fee increases, striking the Jury as unfair and possibly having a chilling effect on complaints against City staff.
- The Jury learned that a Street Artists Liaison Committee, originally formed in 2010, was terminated a year later by SFAC. Formal communications between the Street Artists and its parent committee were thus cut off.
- SFAC has never had a current or former Street Artist as a Commissioner.

Jury interviews with staff, Commissioners, and Street Artists revealed a lack of regular inspections and enforcement of the rules by Program staff. SFAC considers the Program self-policing. The statement "they take care of themselves" was heard from Commissioners. It is routine for newly-appointed Commissioners to be assigned to the Street Artists subcommittee because of lack of interest from more senior Commissioners. This institutionalized neglect has real consequences.

One consequence of that neglect is that, as estimated by practicing Street Artists, a quarter of items displayed do not meet the requirements for artist-made products. The Street Artists have formed their own volunteer management teams and elect Market Managers at Fisherman's Wharf and Justin Herman Plaza. The Market Managers run a lottery for selling spaces, enforce product rules, communicate Street Artists' concerns to the Program Manager, and generally keep the peace among group members. The Market Managers and lottery helpers are allowed first choice of selling spaces as compensation for their extra work in support of the Program.

As other indicators of neglect and lack of interest in the Program, the Jury was told that SFAC makes no effort to promote the Program and is not allowed to use Street Artists fees to do so. Funds from other accounts have never been used for this purpose, although, we were told much later that an upcoming 40th Year celebration of the Program, originally not scheduled, will be funded by up to $12K from General Fund money. Also, according to our interviewees, very few new selling spaces have been developed at the initiative of SFAC. This task is not considered part of SFAC responsibility. Once the Board of Supervisors designates an area for Street Artists' use,[39] non-Street Artists cannot use the area for any other kind of sidewalk vending or street performance. Street Artists may, but rarely do, call upon the San Francisco Police Department to remove unlicensed vendors from designated Street Artists spaces. Beat officers are reluctant to take the time and trouble to process such violations and seem unfamiliar with Street Artists ordinances and regulations. The Market Manager tries instead to work with the non-certificated vendors and direct them away from the Street Artists' spaces.

There is no current memorandum of understanding between Rec & Park and SFAC for the use of Justin Herman Plaza, which is under Rec & Park's domain. Rec & Park may lease Justin Herman Plaza for other commercial uses and does so with little notice to the Street Artists who

sell there. With the Plaza occupied by tenants of Rec & Park, the Street Artists are sometimes left to fend for themselves and lose significant business and income when displaced. Although Justin Herman Plaza has not yet been rented out during the upcoming America's Cup races and events, Street Artists are justly afraid that they may be shut out from their usual venues during this prime event. A complicating factor is that a host of public and private entities manage the Embarcadero and adjacent public spaces. Rec & Park, the San Francisco Port Commission, the Department of Public Works, the Real Estate Division, and Boston Properties all claim interests in Justin Herman Plaza and its surrounds.

In light of the above, the Jury questions whether SFAC is the best agency to administer the Street Artists Program. There are similar programs in other City departments, including Rec & Park and the Real Estate Division, both of which issue permits to street vendors for non-food items in flea and farmers' markets. We discovered that the Real Estate Division program has on-site managers, a component missing in the SFAC program. The Jury also considered the Office of Small Business (OSB) as a potential home for the Street Artists who are, after all, small businesspersons. That agency's mission is to "foster, promote, and retain small businesses in San Francisco"[40] by marketing their contributions and developing assistance programs, among other initiatives. Rec & Park and the Real Estate Division expressed no interest in taking on the Street Artists. OSB appeared intrigued by the proposition and evinced a willingness to do the necessary work to help the Program succeed. The Program is a creature of ordinance and not the Charter. Its relocation would only require amendment of the Police Code to designate a new host department.

A. Findings

F25. The SFAC routinely assigns new Commissioners to the Street Artists Committee due to the lack of interest of other Commissioners.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and the Street Artists Program Manager.

F26. The Street Artists Program is a self-funding enterprise that is funded by fees from the Street Artists.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and the Street Artists Program Manager.

F27. The District Attorney has failed to respond to Sunshine Complaint No. 11023.

Responses are requested from the Mayor, Board of Supervisors, District Attorney, Sunshine Task Force, the Arts Commission, and the Director of Cultural Affairs.

F28. The Street Artists annual fees since 2000 have increased in large part due to the costs of defending the Program Manager for violations of the Sunshine ordinances from the Street Artists.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, City Attorney, the Controller, and Street Artists Market Managers.

F29. The Street Artists depend on volunteer managers for the bulk of on-site supervision and program operations.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and the Street Artists Market Managers.

F30. The Street Artists Program Manager is currently under investigation by the DA for violations of the Sunshine ordinance.

Response is requested from the District Attorney.

F31. There has been no current memorandum of understanding between SFAC and the Rec & Park Department concerning the use of Justin Herman Plaza since 1991.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, City Attorney, the Recreation and Park Commission, the Recreation and Park Director, and the Street Artists Market Managers.

F32. A Street Artist has never served as a Commissioner for SFAC.

Responses are requested from the Mayor, the Arts Commission, the Director of Cultural Affairs and the Street Artists Market Managers.

F33. Selling spaces have declined from 433 in 2008 to 375-380 spaces currently.

Responses are requested from the Arts Commission, the Director of the Street Artists Program, the Director of Cultural Affairs, and the Street Artists Market Managers.

B. Recommendations

R17. Move the Street Artists Program to the Office of Small Business.

Responses are requested from the Mayor, Board of Supervisors, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Office of Small Business, the Small Business Commission, and the Street Artists Market Managers.

R18. The District Attorney respond to Sunshine Complaint No. 11023.

Responses are requested from the Mayor, Board of Supervisors, District Attorney, Sunshine Task Force, Arts Commission, and the Director of Cultural Affairs.

R19. Legal expenses for the Sunshine Ordinance defense be paid from an account, other than the Street Artist Fund.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, City Attorney, and the Controller.

R20. Appoint a current or former Street Artist to whichever Commission oversees them.

Responses are requested from the Mayor, the Executive Director of the Office of Small Business, the Small Business Commission, the Arts Commission, the Director of Cultural Affairs, and the Street Artists Market Managers.

R21. Develop new spaces for the Street Artists.

Responses are requested from the Arts Commission, the Director of Cultural Affairs, and the Street Artists Market Managers.

V. Symphony Fund

The San Francisco Symphony (SFS) celebrates its centennial this year and from all signs is robust, successful and world-renowned. This was not the case in 1935 when the country was in the Great Depression and the Symphony was near bankruptcy. The voters of San Francisco, at the urging of the Board of Supervisors, agreed to tax themselves at a rate of one-half cent per $100 of assessed property valuation "for the purpose of maintaining a symphony orchestra." That tax money was to be granted to SFAC to disburse for the stated purpose.[41] The 1996 revision of the Charter retained that provision in section 16.106, subdivision 2, but lowered the levy to one-eighth of one-cent. That rate currently raises approximately $2 million per year.

In election materials authorized in 1935 by the Board of Supervisors to promote this Amendment, it was stated:

> San Francisco's sponsorship of cultural musical activities at admission prices within reach of the masses has become a fixed policy of the city government and the municipality has received national and international commendation for its attitude toward music during more than twenty years. Recently the effect of economic conditions has interfered with private endowments of major musical enterprises throughout the world, necessitating the addition of public funds to whatever private endowments

> can be obtained. This Charter Amendment No. 3 is to provide sufficient financial backing to continue the major music educational enterprises which have added to San Francisco's fame as a cultural center throughout the civilized world and particularly to guarantee the continuance of a symphony orchestra, including 85 expert musicians, which represents the axis around which all major musical activities of the community revolve.[42]

While investigating SFAC, the Jury discovered the existence of a multi-year Agreement between SFAC and SFS requiring the SFAC, pursuant to the Charter, to grant approximately $2 million per year to SFS. The Agreement provides for the performance of four series of 12 concerts each during its four-year period by SFS; the donation of 34 tickets for each series to SFAC; provision of an additional 20 tickets on an "as-available" basis; giving of 24 more tickets to the Mayor and Board of Supervisors; and, other ticket grants to SFAC for its Cultural Centers.

Within the Agreement is a provision for a "Promised Contribution to Arts Commission" which is described as 40% of the tax allocation distributed to SFS under the Charter provision described above. In the course of its investigation, the Jury found that no person currently employed by either SFS or SFAC knew how or why this giveback provision of the Agreement came to be. SFS personnel, solely as a matter of oral history, recall that prior to 1994, SFS gifted SFAC with a portion of the ticket revenues from some concert series "co-produced" by SFS and SFAC. In 1994, SFS and SFAC executed the first of these tax giveback agreements. The current Agreement runs from 2010 through 2014. SFAC and its counsel acknowledge that the donation provision of the current Agreement is entirely a gift and is revocable at the pleasure of SFS. SFAC personnel described dire consequences should that SFS revoke that gift as it is relied upon for a substantial part of their general operating budget and to fund exhibitions at the SFAC Gallery.

The concert ticket provisions of the Agreement are also shrouded in the mists of time. Distribution of free tickets to public agencies and officials is subject to regulation by the Fair Political Practices Commission (FPPC) of the State of California.[43] Once SFAC receives tickets to SFS events it must account for them and publish that accounting on its website. SFAC failed to start doing so until December 2011, although it did adopt a ticket policy in November of 2009 as was required by State regulation. How thorough that accounting is remains questionable.

A. Charter Obligation of the SFAC to Support a Symphony Orchestra

Since 1935,[44] SFAC has received property tax revenues for the maintenance of a symphony orchestra and has disbursed those monies to the SFS. As property values have climbed, the revenues received and distributed have grown apace. The current amount is just under $2 million in the current fiscal year. The Charter does not provide for any other use of these revenues, including any requirement for a particular number of concert programs. The SFS has always

been the recipient of the tax revenues earmarked "to maintain a symphony orchestra" and disbursed to it by SFAC.

SFS, a private non-profit organization, has a current budget in excess of $67 million. It provides more than 220 concerts per year in a variety of venues but primarily at Davies Symphony Hall, a City-owned building managed by the War Memorial Commission. In contrast, the current budget of SFAC amounts to a little over $10 million. On top of the money given to SFS from property tax revenues, GFTA awards the Symphony approximately $600,000 for operating expenses.

B. San Francisco Symphony Donations to the Arts Commission

The Agreement between SFS and SFAC binds the Symphony to provide twelve (12) concerts per year, provide free tickets to SFAC, the Mayor, the Board of Supervisors, and designee sub-organizations under the SFAC. In that Agreement, SFS promises to donate 40% of the property tax money it receives for its maintenance to SFAC for "use for any Arts Commission purpose...." There is no ordinance or other local law governing the use or redistribution of the money received by SFAC, given to SFS, and then given back to SFAC for non-symphony orchestra purposes. The gifted money is cryptically described in the current SFAC budget[45] as "Other Non-operating Revenue."

SFAC does nothing that could or would qualify as consideration or compensation for the approximately $800,000 that SFS contributes back to it under the Agreement. SFS could decide to decline to give that money back to SFAC without legal consequence. Due to its status as a gift, nearly 8% ($800,000) of SFAC's $10 million budget is therefore subject to the whim and generosity of a non-governmental agency.

The provision of free tickets by SFS to SFAC is described in detail in section 5E.(1-4) of the Agreement. FPPC regulations require identification of persons or organizations receiving donated tickets from public agencies; disclosure of the purpose for the donation; and, whether or not the recipient will declare the ticket as income. There are also recordkeeping and publication requirements. SFAC did adopt the required ticket policy in November of 2009, but it was not actually implemented until December of 2011, after a question was raised by the Jury regarding the practice. The completeness and reliability of current reporting by SFAC is made suspect by the absence of any past accounting for free tickets received from SFS. Staff at SFAC is not knowledgeable about their own ticket policy and its reporting requirements.

C. Findings

F34. For general operating and SFAC Gallery exhibition expenses, SFAC relies on public funds that are designated by Charter for "maintenance of a symphony orchestra...."

Responses requested from the Mayor, the Board of Supervisors, the Controller, the City Attorney, the Arts Commission, and the Director of Cultural Affairs.

F35. Since 1935, SFAC has chosen the San Francisco Symphony as recipient of those funds.

Responses are requested from the Mayor, the Board of Supervisors, the Controller, the City Attorney, the Arts Commission, and the Director of Cultural Affairs.

F36. SFAC is without legal or practical recourse if SFS revoked its annual contribution of 40% of those funds given to SFAC.

Responses requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, the Arts Commission, and the Director of Cultural Affairs.

F37. The manner in which SFAC funds its operations by a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter amendment.

Responses requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, the Arts Commission, and the Director of Cultural Affairs.

F38. GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.

Responses requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, and the Director of Grants for the Arts.

F39. Until December 2011, SFAC was out of compliance with City and State regulations and Arts Commission policy governing the gifting of donated Symphony tickets to public officials and other organizations.

Responses requested from the City Attorney, the Arts Commission, and the Director of Cultural Affairs.

D. Recommendations

R22. The Arts Commission/Symphony Agreement comply with the intent of the Charter, and the full amount of the tax revenues go toward Symphony operating expenses.

Responses requested from the Mayor, the Board of Supervisors, the Controller, City Attorney, the Arts Commission, and the Director of Cultural Affairs.

R23. Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SFAC.

Responses requested from the Mayor, the Board of Supervisors, the Controller, the Arts Commission, the Director of Cultural Affairs, and the Director of Grants for the Arts.

R24. SFAC properly report the disposition of the concert tickets given to it by SFS in compliance with City and State regulations.

Responses requested from the City Attorney, the Arts Commission, and the Director of Cultural Affairs.

CONCLUSION

Since 1932, SFAC has been mandated the important, and valuable, role of supporting and promoting public art. Despite the stress of under-funding and short staffing for decades, SFAC has been able to carry out much of its mission with distinction. In recent years, however, SFAC has been plagued by a series of negative reports that have tarnished its reputation and promise. Improper administrative practices were allowed to continue without corrective action from Commission members. The City's large art collection was inadequately maintained and not fully inventoried. Neighborhood Cultural Centers were found in need of major capital improvements. The Sunshine Task Force charged the management of the Street Artist Program with improper behavior. A contract with the San Francisco Symphony appears to be inappropriately drawn.

New executive management has been hired and two new Commissioners appointed. SFAC staff is conducting a review of its practices and procedures, and planning for the future is under discussion. Staff morale seems improved in the few short months the new Director of Cultural Affairs has been in office. These steps hold promise, yet the problems discussed above must be adequately addressed for SFAC to gain and maintain the arts leadership position its mandate calls for. A Commission that can assist in promoting this work is what is needed.

The Jury has offered a series of recommendations that speak to correcting the major problems we found. Most importantly, the Jury believes that SFAC's governing body needs to reform and expand its composition to increase capacity for general administrative oversight, as

well as to improve its stature in the community so it can, among other things, increase its fundraising potential. This should provide the attention to detail that has been missing.

San Francisco takes pride in its cultural legacy and the SFAC has a rightful place at the table along with the City's other major cultural institutions. Now is the time to put out the fire of neglect that has smoldered for far too long.

ENDNOTES

[1]Andy Wright and Reyhan Harmanci, "City's Art Is a Victim of Neglect, Damage and Loss," *New York Times*, April 19, 2011.

[2]Office of the Controller, City and County of San Francisco, City Services Auditor, *San Francisco Arts Commission: SOMArts Properly Used Grant Funds But the Arts Commission Needs to Clarify Provisions of the Grant Agreement*, January 5, 2010.

Office of the Controller, City and County of San Francisco, City Services Auditor, *San Francisco Arts Commission: The Mission Cultural Center for Latino Arts Properly Used Grant Funds But the Arts Commission Needs to Clarify Provisions of the Grant Agreement*, January 5, 2010.

Office of the Controller, City and County of San Francisco, City Services Auditor, *San Francisco Arts Commission: The African American Art and Culture Complex Properly Used Grants Funds and the Arts Commission Needs to Clarify Provisions of the Grant Agreement*, January 5, 2010.

Office of the Controller, City and County of San Francisco, City Services Auditor, *San Francisco Arts Commission: Bayview Opera House, Inc., Did Not Comply With Some Grant Agreement Provisions and Needs to Improve Its Internal Controls*, April 23, 2012.

[3] Office of the Controller, City and County of San Francisco, City Services Auditor, *Results of the Financial Management Review of the San Francisco Arts Commission*, November 15, 2011.

[4] San Francisco Administrative Code, Chapter 67, *Sunshine Ordinance of 1999*.

[5] Marjorie Beggs, *Grants for the Arts: The First 50 Years*, 2011, p. 39.

[6] *Ibid.*, p.6.

[7] *Ibid.*

[8] Helicon Collaborative, *San Francisco Arts Commission Cultural Equity Grant Program Review*, Dec. 2011, p. 1.

[9] San Francisco Business and Tax Regulations Code, Chapter 7, § 501, *et seq.*

[10] Grants for the Arts/Hotel Tax Fund, Office of the Mayor.

[11] Rounded figures from City and County of San Francisco, *Budget Summary, 2011-12*.

[12] Rounded 2011-2012 figure supplied by staff at New York City Department of Cultural Affairs.

[13] Rounded 2011-2012 figure supplied by staff at City of Chicago Department of Cultural Affairs and Special Events.

[14] Rounded 2011-2012 figure supplied by staff at City of Los Angeles Department of Cultural Affairs.

[15] City and County of San Francisco, *Consolidated Budget and Annual Appropriation Ordinance* (Ord. 147-11), 2011-12 & 2012-2013.

[16] City of Los Angeles, Department of Cultural Affairs, http://www.culturela.org, as accessed on 5/18/2012.

[17] California Code of Regulations, Title 2, § 18944.1.

[18] *San Francisco Task Force Report*, 2006.

[19] San Francisco Administrative Code, Chapter 2A, Article VIII, §§ 2A-150 to 2A-150.01; Chapter 3, §§ 3.19 and 3.19A; Chapter 10, §§ 10.100.28-10.100.34.

[20] Charter of the City and County of San Francisco (1996 Rev.), §§ 16.106.1-16.106.8.

[21] *Ibid.*, § 16.108(m)(3).

[22] *San Francisco Arts Commission Bylaws Adopted March 7, 2005*, p. 6.

[23] *Ibid.*, p. 11.

[24] City and County of San Francisco, Office of the Controller, City Services Audit, *San Francisco Arts Commission: The Street Artists Program Should Improve Its Internal Controls and Accounting Practices*, July 12, 2011.

[25] *Consolidated Budget and Annual Appropriation Ordinance* (Ord. 147-11), 2011-2012 & 2012-2013.

[26] San Francisco Administrative Code, Chapter 3, § 3.19.

[27] Charter of the City and County of San Francisco, § 5.103, subdivision 2.

[28] San Francisco Administrative Code, §2A.150.1, subdivisions (c) through (h).

[29] San Francisco Arts Commission, Policy CO00, "Loan Terms and Procedures."

[30] *Consolidated Budget and Annual Appropriation Ordinance* (Ord. 147-11), 2011-2012 & 2012-2013.

[31] San Francisco Administrative Code, § 2A.150.1(c).

[32] San Francisco Administrative Code, §2A.150.1, subdivisions (c) through (h).

[33] *Consolidated Budget and Annual Appropriation Ordinance* (Ord. 147-11), 2011-2012 & 2012-2013.

[34] San Francisco Administrative Code, § 2A-150.1subdivisions (a) and (b).

[35] Charter of the City and County of San Francisco (1996 Rev.), § 16.106, subdivision 8.

[36] From the Capital Planning Program website, www.onesanfrancisco.org, as accessed on 5/18/2012.

[37] San Francisco Police Code, Article 24, §§ 2400-2411.

[38] San Francisco Administrative Code, Chapter 67, *Sunshine Ordinance of 1999.*

[39] San Francisco Police Code, Article 24, § 2400, "*Sec. 8. Designation of Sales Areas*"

[40] From the San Francisco Office of Small Business website, http://sfgsa.org/index.aspx?page=4201, as accessed on 5/18/2012.

[41] Charter Amendment 3, to the 1932 Charter, § 75; May 2, 1935, Special Election.

[42] *Ibid.*

[43] California Code of Regulations, Title 2, § 18944.1.

[44] Charter of the City and County of San Francisco (1996 Rev.), § 16.106.2.

[45] *Consolidated Budget and Annual Appropriation Ordinance* (Ord. 147-11), 2011-2012 & 2012-2013.

RESPONSE MATRIX

Pursuant to **Penal Code § 933.05**, the Civil Grand Jury requests responses as follows:

I. SFAC Governance

	Findings								Recommendations					
Respondent	F1	F2	F3	F4	F5	F6	F7	F8	R1	R2	R3	R4	R5	R6
Mayor's Office ✓	X	X							X	X	X		X	
Board of Supervisors ✓	X								X	X	X			
Arts Commission ✓	X	X	X	X	X	X	X	X	X	X	X	X	X	X
Director of Cultural Affairs ✓	X			X		X	X	X	X	X	X	X	X	X
Controller ✓											X	X		
City Attorney ✓								X	X		X		X	X
Fine Arts Commission					X									
California Academy of Sciences					X									
War Memorial Commission ✓					X									
Director of Grants for the Arts ✓	X													
Mayor's Appointment Secretary ✓												X		

II. SFAC and the Civic Art Collection

	Findings												
Respondent	F9	F10	F11	F12	F13	F14	F15	F16	F17	F18	F19	F20	F21
Mayor's Office	X	X			X				X	X	X		
Board of Supervisors	X	X			X				X	X	X		
Arts Commission	X	X	X	X	X	X	X	X	X	X	X	X	X
Director of Cultural Affairs	X	X	X	X	X	X	X	X	X	X	X	X	X
Recreation and Park Commission												X	X
Director of Recreation and Park												X	X
City Administrator										X	X		
Controller										X	X		
Capital Planning Committee										X	X		

	Recommendations							
Respondent	R7	R8	R9	R10	R11	R12	R13	R14
Mayor's Office		X	X	X	X	X	X	X
Board of Supervisors		X	X	X	X	X	X	X
Arts Commission	X	X	X	X	X	X	X	X
Director of Cultural Affairs	X	X	X	X	X	X	X	X
Recreation and Park Commission							X	X
Director of Recreation and Park							X	X
City Administrator		X	X	X	X	X		
Controller			X	X	X	X		
Capital Planning Committee			X					
City Attorney							X	X

III. Neighborhood Cultural Centers

	Findings			Recommendations	
Respondent	F22	F23	F24	R15	R16
Mayor's Office	X	X	X	X	X
Board of Supervisors		X	X	X	
Arts Commission	X	X	X	X	X
Director of Cultural Affairs	X	X	X	X	X
Controller				X	
City Attorney				X	X
Executive Director of Bayview Opera House	X	X	X	X	X
Executive Director of African American Art and Cultural Complex	X	X	X	X	X
Executive Director of Mission Cultural Center for Latino Arts	X	X	X	X	X
Executive Director of SOMArts	X	X	X	X	X
Director of Department of Children, Youth & Families				X	
Police Department				X	
Capital Planning Committee				X	
Department of Public Works				X	

IV. Street Artists Program

	Findings								
Respondent	F25	F26	F27	F28	F29	F30	F31	F32	F33
Mayor's Office			X					X	
Board of Supervisors			X						
Arts Commission	X	X	X	X	X		X	X	X
Director of Cultural Affairs	X	X	X	X	X		X	X	X
Street Artists Program Manager	X	X							X
District Attorney			X			X			
Sunshine Task Force			X						
City Attorney				X			X		
Controller				X					
Recreation and Park Commission							X		
Director of Recreation and Park							X		
Street Artists Market Managers				X	X		X	X	X

	Recommendations				
Respondent	R17	R18	R19	R20	R21
Mayor's Office	X	X		X	
Board of Supervisors	X	X			
Arts Commission	X	X	X	X	X
Director of Cultural Affairs	X	X	X	X	X
Small Business Commission	X			X	
Director of Small Business	X			X	
District Attorney		X			
Sunshine Task Force		X			
City Attorney			X		
Controller			X		
Street Artists Market Managers	X			X	X

V. Symphony Fund

	Findings						Recommendations		
Respondent	F34	F35	F36	F37	F38	F39	R22	R23	R24
Mayor's Office	X	X	X	X	X		X	X	
Board of Supervisors	X	X	X	X	X		X	X	
Arts Commission	X	X	X	X		X	X	X	X
Director of Cultural Affairs	X	X	X	X		X	X	X	X
Controller	X	X	X	X	X		X	X	
City Attorney	X	X	X	X	X	X	X		X
Director of Grants for the Arts					X			X	

APPENDIX

Glossary of Terms

Accession/De-accession: the formal acceptance or disposal of works of art into or out of a collection

Arts Commission/Commission: the Governing Body of the SFAC consisting of fifteen (15) members appointed by the Mayor

GFTA: Grants for the Arts- the disbursing agency for grant monies from the Hotel Tax Fund

Hotel Tax Fund: the fund established to receive monies from the Transient Occupancy Tax levied on hotels and motels in the City and County under the authority of the Business and Tax Regulation Code, Chapter 7, section 501, *et seq.*

Program: the Street Artists Program of the San Francisco Arts Commission

SFAC: San Francisco Arts Commission- the City Department

Sunshine Ordinance: San Francisco Administrative Code, Chapter 67, Sunshine Ordinance of 1999 adopted to ensure transparency in city government

Bibliography

Andy Wright and Reyhan Harmanci. "City's Art Is a Victim of Neglect, Damage and Loss." *New York Times*, April 19, 2011.

Beggs, Marjorie. *Grants for the Arts: The First 50 Years, 2011*. Grants for the Arts of the San Francisco Hotel Tax Fund.

City and County of San Francisco *Arts Task Force Report*. 2006.

City and County of San Francisco, Arts Commission. *Policies and Guidelines for the Civic Art Collection.*

---. *Maintenance of Public Art at San Francisco General Hospital, Policies, Procedures.*

---. *Street Artists Program Procedures, Criteria, Regulations, Maps.*

---. *Annual Report 2011 on District-Based Programming and Impact*. 2011.

---. Arts Commission By-Laws. March 7, 2005.

City and County of San Francisco, City Administrator. *Guidebook for New Department Heads and Senior Managers.*

City and County of San Francisco. *Grants for the Arts Annual Report*. 2010-2011.

City and County of San Francisco, Office of the Controller, City Services Auditor. *San Francisco Arts Commission: SOMArts Properly Used Grant Funds But the Arts Commission Needs to Clarify Provisions of the Grant Agreement*. January 5, 2010.

---. *San Francisco Arts Commission: The Mission Cultural Center for Latino Arts Properly Used Grant Funds But the Arts Commission Needs to Clarify Provisions of the Grant Agreement*. January 5, 2010.

---. *San Francisco Arts Commission: The African American Art and Culture Complex Properly Used Grant Funds and the Arts Commission Needs to Clarify Some Provisions of the Grant Agreements*. November 10, 2010.

---. *Results of the Financial Management Review of the San Francisco Arts Commission.* November 15, 2011.

---. *San Francisco Arts Commission: Bayview Opera House, Inc., Did Not Comply With Some Grant Agreement Provisions and Needs to Improve Its Internal Controls*. April 23, 2012.

City and County of San Francisco Municipal Code

---. Charter.

---. Administrative Code.

---. Police Code.

---. Business and Tax Regulations Code.

City and County of San Francisco, Sunshine Ordinance Task Force - *The Street Artists Program.*

Cowen, Tyler. *Good & Plenty: The Creative Successes of American Arts Funding*. New Jersey: Princeton University Press, 2006.

Eskenazi, Joe. "Inefficient By Design, San Francisco's Commissions Are Uncountable -- And Unaccountable." *SF Weekly*. July 27 – August 2, 2011.

Florida, Richard. *The Rise of the Creative Class And How It's Transforming Work, Leisure, Community and Everyday Life*. New York: Basic Books, 2002.

Goldbard, Arlene. *New Creative Community: The Art of Cultural Development*. Oakland, CA: New Village Press, 2006.

Helicon Collaborative. *San Francisco Arts Commission Cultural Equity Grant Program Review*. December 2011.

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September 24, 2012

Hon. Judge Feinstein
Presiding Judge
San Francisco Superior Court
400 McAllister Street – Room 008
San Francisco, CA 94102-4512

Re: **City Attorney Office's response to the June 2012 Civil Grand Jury Report released on July 26, 2012 and entitled, *"Where There's Smoke ... The Need to Strengthen the Art[s] Commission's Stewardship of San Francisco's Cultural Legacy"***

Dear Judge Feinstein:

In accordance with Penal Code Sections 933 and 933.05, the Office of the City Attorney submits the following response to the June 2012 Grand Jury Report entitled, *Where There's Smoke ... The Need to Strengthen the Art[s] Commission's Stewardship of San Francisco's Cultural Legacy."* The Grand Jury requested that this office respond to the report.

For each Civil Grand Jury finding for which you ask a response from the City Attorney's Office, you asked that we either:

1. agree with the finding; or
2. disagree with it, wholly or partially, and explain why.

For each Civil Grand Jury recommendation for which you ask a response from the City Attorney's Office, you asked that we report either:

1. that the recommendation has been implemented, with a summary explanation of how it was implemented;
2. that the recommendation has not been implemented, but will be implemented in the future, with a time frame for implementation;
3. the recommendation requires further analysis, with an explanation of the scope of that analysis and a time frame for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or

4. that the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is.

The Civil Grand Jury Report regarding the San Francisco Arts Commission ("SFAC"), is divided into five Report Categories: I - SFAC Governance, II - SFAC and the Civic Art Collection, III - Neighborhood Cultural Centers, IV - Street Artists Program, and V- Symphony Fund. Of the 39 findings and 24 corresponding recommendations in the Report, you have asked for the City Attorney's Office to respond to finding numbers 8, 28, 31, and 34 – 39, and recommendations number 1, 3, 5, 6, 13 - 16, 19, 22, and 24. The following City Attorney's Office responses are grouped by Report Category and then by number within each category.

I. SFAC Governance

Finding #8.

SFAC's website and published materials are out-of-date.

City Attorney's Office Response To Finding #8.

Agree. The City Attorney's Office understands from the Arts Commission that the Arts Commission is currently reviewing and updating its website and printed materials.

Recommendation #1.

To improve the governance of the department, increase the number of at-large [lay member] Commissioners [from four] to eight members, through Charter amendment.

City Attorney's Office Response To Recommendation #1.

The City Attorney's Office does not have the authority to implement Recommendation #1. Whether to modify the composition of the 15 member San Francisco Arts Commission under Charter Section 5.103 (Arts Commission) is a policy decision for Board of Supervisors and the voters. The City Attorney's Office will assist the Board of Supervisors in preparing a Charter amendment if requested.

Recommendation #3.

Encourage the creation of a non-profit organization dedicated to raising funds to meet [SFAC] program and operational needs.

City Attorney's Office Response To Recommendation #3.

The City Attorney's Office does not have the authority to implement Recommendation #3. Recommendation #3 may require further analysis by the Arts Commission to determine whether the private philanthropic community is interested in establishing a private, non-profit charitable organization dedicated to supporting SFAC program and operational needs. The City Attorney's Office will assist the SFAC in implementing or responding to this recommendation if requested.

Recommendation #5.

Furnish the means for each Commissioner to conduct an annual self-assessment to evaluate personal and commission performance in order to promote a focus on the full array of Commission responsibilities.

City Attorney's Office Response To Recommendation #5.

Recommendation #5 requires further analysis. The Mayor appoints, and may remove, the Arts Commissioners under the Charter. (*See* Charter § 3.100(17), and § 5.103 (Arts Commission). The Mayor's Office would have the discretion regarding whether, and how, to evaluate the performance of the Arts Commissioners. The City Attorney's Office has no authority over the evaluation of Commissioners, but will assist the SFAC or the Mayor with such a process if requested.

Recommendation #6.

Update the SFAC website and materials to confirm to current law and policy.

City Attorney's Office Response To Recommendation #6.

The City Attorney's Office has no authority to manage or update the SFAC website, but will continue to provide legal advice to the SFAC regarding compliance with applicable laws and policies.

II. SFAC and the Civic Art Collection

Recommendation #13.

Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property.

City Attorney's Office Response to Recommendation #13.

This recommendation, if implemented by the SFAC and Recreation and Park Commission in the form of an interdepartmental agreement, would remain subject to the Arts Commission's powers and duties regarding artwork on City property under Charter Section 5.103(2). The Charter does not vest exclusive jurisdiction in the Recreation and Park Department over its property, including any artwork on such property. *See* Charter Section 4.113. Instead, Charter section 5.103 vests in the Arts Commission the authority to maintain works of art on Recreation and Park property. The Charter, rather than the Administrative Code, dictates the respective jurisdiction of those departments over maintenance of artwork on City property.

San Francisco Administrative Code Section 2A.150.1(b) gives the Arts Commission discretion "to enter into agreement[s] with the Recreation and Park Commission, upon such terms as may be mutually agreed, for the cataloging, care and maintenance of any or all of the above media located on properties under the jurisdiction of the Recreation and Park Commission." But that section does not supersede the Charter imposed obligation of the Arts Commission to

maintain works of art on Recreation and Park property or expend appropriations made in support of the visual arts. (*See* Charter Section 5.103(2) and 5.013(4).)

Moreover, with respect to any conflict between the 1996 Charter, as amended, and the now outdated San Francisco Administrative Code Section 2A.150.1(a), which provides that the Arts Commission has jurisdiction over the "cataloguing, care and maintenance of all sculptures, statutes, murals, paintings, and other art media belonging to the City and County of San Francisco" that are not on property under, among others, the Recreation and Park Commission, the City Attorney's Office, following consultation with the Arts Commission and the Recreation and Park Commission, will recommend to the Board of Supervisors appropriate updates to those Administrative Code provisions to make them consistent with current Charter provisions.

Recommendation #14.

Complete a SFAC – Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere.

City Attorney's Response to Recommendation #14.

Please see response to Recommendation #13. The business terms of any interdepartmental agreement regarding allocation of funds for maintenance of artwork are a policy matter for the departments, subject to available City funding and the budgetary and fiscal provisions of the Charter. The City Attorney's Office will assist the departments with preparation of such agreements if requested and will continue to advise the departments on any legal issues arising out of interdepartmental agreements.

III. Neighborhood Cultural Centers

Recommendation #15.

SFAC hold public hearings about the Cultural Centers and their short-and-long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

City Attorney's Response to Recommendation #15.

Recommendation #15 to hold public hearings regarding the Cultural Centers is a policy matter for the SFAC. The City Attorney's Office has no authority over the SFAC's decision whether to hold hearings on particular topics.

Recommendation #16.

SFAC enter long term leases with their Cultural Center operators.

City Attorney's Response to Recommendation #16.

Recommendation #16 is a policy matter for the SFAC, subject to any required Board of Supervisors approval under Charter Section 9.118 (Contract and Lease Limitations). If the SFAC elects to pursue long term leases with the Cultural Centers, subject to any Board of Supervisors approval requirements under Charter Section 9.118, the City Attorney's office will assist in drafting such leases and in approving them as to form.

IV. Street Artists Program

Finding #28.

The Street Artists Annual Fees since 2000 have increased in large part due to the costs of defending the Program Manager for violations of the Sunshine ordinances from the Street Artists.

City Attorney's Office Response to Finding #28.

Disagree. The City Attorney's Office understands that the costs of administering and enforcing the Street Artists Program have increased since 2000 primarily because of the increasing cost of salary and fringe benefits for City employees on the SFAC staff, rather than being primarily attributable to any other costs, including City Attorney costs.

Finding #31.

There has been no current memorandum of understanding between SFAC and the Recreation and Park Department Concerning the use of Justin Herman Plaza since 1991.

City Attorney's Office Response to Finding #31.

Agree. The City Attorney's Office is not aware of the existence of any such agreement.

Recommendation #19.

Legal expenses for the Sunshine Ordinance defense be paid from an account other than the Street Artists Fund.

City Attorney's Office Response to Recommendation #19.

This recommendation will not be implemented by the City Attorney's Office. Billing legal expenses to a particular fund is a policy matter for the SFAC and Board of Supervisors. Under the Street Artists Ordinance, the fees for a Street Artist Certificate "shall be equal to, but not greater than, the fees necessary to support the costs of administering and enforcing the provisions of the Street Artist Ordinance." (S.F. Police Code § 2404.2 (Fee Setting Procedure).) In other words, the Ordinance contemplates that the program will be self-supporting. The SFAC may lawfully expend monies in the Street Artist Fund to pay for legal expenses relating to the administration of the Street Artist Program, including responding to issues arising out of the Sunshine Ordinance.

V. Symphony Fund

Finding # 34.

For general operating and SFAC Gallery exhibition expenses, SFAC relies on public funds that are designated by Charter for "maintenance of a symphony orchestra."

City Attorney's Office Response to Finding #34.

Disagree. This Office is informed by the SFAC that, in compliance with the Charter, the SFAC provides the entire amount mandated under Charter Section 16.106(1) for "maintenance of a symphony orchestra" to the San Francisco Symphony.[1] The SFAC uses funds from a variety of other sources, including general fund revenues, grants, and gifts from a variety of individuals and organizations (including any gift from the San Francisco Symphony), for its general operating expenses and SFAC Gallery exhibition expenses.

Finding #35.

Since 1935, SFAC has chosen the San Francisco Symphony as recipient of those funds [allocated to the Arts Commission under Charter Section 16.106(1))].

City Attorney's Office Response to Finding #35.

Agree.

Finding #36.

SFAC is without legal or practical resources if [the San Francisco Symphony] revoked its annual contribution of 40% of those funds given to SFAC.

City Attorney's Office Response to Finding #36.

Disagree. In the absence of a donation from the Symphony or other donor for assistance with SFAC operating expenses, the SFAC could request a supplemental appropriation from the Board of Supervisors and the Mayor. In the absence of more specific facts and circumstances, the City Attorney's Office is not able to speculate as to the merits of any particular claim by the City against a donor.

---

[1] Charter Section 16.106(1) provides that the Board of Supervisors "shall annually" appropriate "[t]o the Arts Commission, the revenue from a tax of one-eighth of one cent ($0.00125) per one hundred dollars ($100) of taxable assessed valuation in the City and County for maintaining a symphony orchestra[.]" (Charter §16.106 (Cultural, Educational, and Recreational Appropriations).)

Finding #37.

The manner in which SFAC funds its operations by a giveback donation from the [San Francisco Symphony]monies, creates, at least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter Amendment.

City Attorney's Office Response to Finding #37.

Disagree. Our office understands that the SFAC, in compliance the Charter, appropriates all funds it receives under that section to the Symphony for the purpose of "maintaining a symphony orchestra." (Charter §16.106 (Cultural, Educational, and Recreational Appropriations).)

Under Section 5.100 of the Charter, the SFAC "may accept and shall comply with the terms and conditions of" gifts, including the gift from the San Francisco Symphony. (Charter §5.100). In the absence of any gift restriction precluding the SFAC's use of the Symphony's gift for general operating expenses, the SFAC may use that gift for such purposes.

How the City funds the SFAC operations as part of its budget process is a budgetary and policy matter over which the City Attorney has no authority.

Finding #38.

GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.

City Attorney's Office Response to Finding #38.

Agree. The City Attorney's Office understands from GFTA that it currently funds the Symphony over $600,000 annually.

Finding #39.

Until December 2011, SFAC was out of compliance with City and State regulations and Arts Commission policy governing the gifting of donated Symphony tickets to public officials and other organizations.

City Attorney's Office Response to Finding #39.

Agree.

Recommendation #22.

The Arts Commission/Symphony Agreement comply with the intent of the Charter and the full amount of the tax revenues go toward Symphony operating expenses.

City Attorney's Office Response to Recommendation #22.

The City has implemented this recommendation. This Office has been informed by the Arts Commission that, in compliance with Charter Section 16.106(1), the SFAC expends all funds

it receives under that section to the Symphony for the purpose of "maintaining a symphony orchestra." (Charter §16.106 (Cultural, Educational, and Recreational Appropriations).)

Under Section 5.100 of the Charter, in turn, the SFAC "may accept and shall comply with the terms and conditions of loans, gifts, devises, bequests or agreements donating works of art or other assets to their department without action of the Board of Supervisors so long as acceptance of the same entails no expense for the City and County beyond ordinary care and maintenance." (Charter §5.100 (Arts and Culture Departments - General).) By this language, the Charter vests in SFAC the authority to accept gifts from individuals and organizations, including gifts of funds from organizations such as the Symphony.

The San Francisco Symphony is a private, nonprofit organization that is not owned or operated by the City.

Recommendation #24.

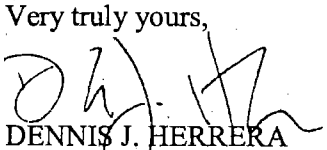
SFAC properly report the disposition of the concert tickets given to it by SFS [the San Francisco Symphony] in compliance with City and State regulations.

Response by the City Attorney's Office to Recommendation #24.

The City Attorney's Office does not have authority to implement Recommendation #24 but will continue to advise the SFAC regarding its ticket distribution reporting obligations.

We hope this information is helpful.

Very truly yours,



DENNIS J. HERRERA
City Attorney

cc: Civil Grand Jury Office (c/o – Mario Choi, Foreperson Pro Tem)
Buck Delventhal, Chief of the Government Division
Jesse Smith, Chief Assistant City Attorney
Therese Stewart, Chief Deputy City Attorney
Adine Varah, Deputy City Attorney

POLICE DEPARTMENT
CITY AND COUNTY OF SAN FRANCISCO
THOMAS J. CAHILL HALL OF JUSTICE
850 BRYANT STREET
SAN FRANCISCO, CALIFORNIA 94103-4603

EDWIN M. LEE
MAYOR

GREGORY P. SUHR
CHIEF OF POLICE

September 25, 2012

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California
County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

I am pleased to offer the San Francisco Police Department's (SFPD) response to the 2011-2012 Civil Grand Jury report entitled "Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy." The SFPD's response to the report's findings and recommendations are set forth in the accompanying attachment.

The SFPD appreciates the work done by the Civil Grand Jury as it relates to the City's cultural commitment. The SFPD's main priority is to ensure the safety of our community, and we look forward to working in partnership with the San Francisco Arts Commission and the many Cultural Centers to implement the recommendations put forth in this report.

I thank the 2011-2012 Civil Grand Jury for its efforts in improving San Francisco government, the public's safety, technology, and the overall quality of life in our city, and I am grateful for the opportunity for the SFPD to participate in these initiatives.

Sincerely,

GREGORY P. SUHR
Chief of Police

/cf
Attachment
c: Mario Choi, Foreperson Pro Tem, Civil Grand Jury
Government Audit Clerk, Office of the Clerk of the Board

SAN FRANCISCO POLICE DEPARTMENT
RESPONSE TO THE CIVIL GRAND JURY REPORT
"Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy"

September 25, 2012

III. Neighborhood Cultural Centers

B. Recommendations

R15. SFAC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

Response: Agree. The San Francisco Police Department will work the SFAC and with local Cultural Centers to ensure the security of those using these centers, as well as the individual facilities, buildings, and surrounding areas. By working in collaboration with stakeholders, the SFPD will take an active participative role in developing an action plan to address crime and violence issues in-and-around all Cultural Centers. Concentrated efforts will be made to those centers situated in high-crime areas such as the Bayview Opera House through the use a variety of methods and resources, including but not limited to:

- Foot patrols in immediate area whenever possible.
- Officer interaction with community members as community partners (reading programs, mentoring, seasonal events and celebrations, etc.).
- Coordination with Cultural Centers for increased security for scheduled events.
- Deployment of regularly assigned officers to community assignments. This will establish key community partnerships by having the same officers assigned to the areas each and every day.
- The assignment of district station captain as the primary point of contact for cultural center directors.

CIVIL GRAND JURY REPORT

Pertinent to SFPD Section III: Neighborhood Cultural Centers

R11. Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Arts Commission, and the Director of Cultural Affairs.

R12. Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.

Responses are requested from the Mayor, the Board of Supervisors, the City Administrator, the Controller, the Arts Commission, and the Director of Cultural Affairs.

R13. Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property.

Responses are requested from the Mayor, the Board of Supervisors, City Attorney, the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

R14. Complete a SFAC - Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere.

Responses are requested from the Mayor, the Board of Supervisors, City Attorney, the Arts Commission, the Director of Cultural Affairs, the Director of Recreation and Park, and the Recreation and Park Commission.

III. Neighborhood Cultural Centers

In 1967, San Francisco became the first municipality in the nation to establish a Neighborhood Arts Program. Within SFAC, Community Arts and Education (CAE) supports the City's four neighborhood and two virtual cultural centers in furthering cultural and community revitalization and development through grants to non-profit organizations. Currently, the brick-and-mortar neighborhood centers, located in underserved communities, include the African American Art and Cultural Complex (in the Western Addition), the Bayview Opera House, the Mission Cultural Center for Latino Arts, and SOMArts. The virtual centers, Queer Cultural Center and Asian Pacific Islander Cultural Center, are sub-grantees of SOMArts. General Fund money for CAE is supplemented by the Youth Arts Fund (Transit Advertising Funding), Hotel Tax Fund, GFTA, and work orders from the Library, Department of Public Works, and DCYF. CAE's total FY2012 budget is $3.7 million of which $2.0 million or 54% goes directly to the

Cultural Centers. Over the years, this figure has flat-lined, despite increasing costs and more severe capital needs.

The Cultural Centers act as community anchors and collectively provide free or low-cost arts classes and studio space for children, youth (as part of after-school and summer arts programs), and adults. The Centers also provide artist and curatorial residencies and free or low-cost venues for performances, exhibitions, and professional development services and other community organizations. They also provide technical services for fairs and festivals, case management services for "at risk" youth, and fiscal sponsorships for community artists and arts organizations.

CAE authority lies in the Charter at section 5.103, which describes, among other requirements, Commission responsibility to:

> [p]romote a neighborhood arts program to encourage and support an active interest in the arts on a local and neighborhood level, assure that the City and County-owned community cultural centers remain open, accessible and vital contributors to the cultural love of the City and County, establish liaison between community groups and develop support for neighborhood artists and arts organizations....

Under "Cultural, Educational, and Recreational Appropriations" the Charter[35] requires the Board of Supervisors to annually appropriate "[t]o the Arts Commission, for the City and County–owned Community Cultural Centers, an amount *sufficient for the purpose of maintaining, operating, providing for the security and superintending of their facilities and grounds*...." (Emphasis added.)

Further, in each of the lease agreements for the Cultural Centers themselves, the City is obligated to "repair and maintain the structural portions of the Building...." The 2006 Arts Task Force report noted the City's failure to meet its Charter responsibilities to support neighborhood arts. Some of its findings included: "the cultural centers ... are in advanced states of neglect" and recommended that the City "develop and implement financing plans for long-overdue capital improvements, seismic upgrades, and life-safety upgrades to City-owned arts facilities" and the creation of "more substantial and stable support for the neighborhood Cultural Centers." The City never fully instituted these recommendations. The City and County Capital Planning Committee lists over $100 million of facility needs for the Cultural Centers and their plan describes the current state of affairs as:

> Building deficiencies, seismic issues, and other needs remain unaddressed at the city's cultural centers. The severity of these facility needs, the cost of renovating the existing sites, and the possibility of relocating to other sites requires additional review and analysis.[36]

In recent years, some repairs and interior upgrades to floors, walls, and stages have been completed. Construction of ramps and renovation of bathrooms to meet ADA requirements has been undertaken. Repairs to heating and ventilating systems have been completed at some of the Centers. Funding for these repairs came from the Mayor's Office on Disability, the American Recovery and Reinvestment Act through the Public Utilities Commission, the Capital Planning Committee, and a very small SFAC fund for facilities maintenance. Major needs such as roofing (particularly at the Mission Cultural Center), elevator repair, and seismic upgrades have not been done. In 2012, SFAC submitted FY13 and FY14 funding requests of $1,676,700 to the Capital Planning Program for improvements to the Cultural Centers. The Capital Planning Committee came back with recommended funding for $1,519,154. Cultural Center staff have also begun looking for capital improvement loans and grants from private sources. Year-to-year lease agreements at the Cultural Centers have hampered the ability of lessees to secure private, often multi-year, funding due to the uncertainties inherent in these short-term leases.

Security is also a major concern, particularly in the immediate environment of the Bayview Opera House. Two separate incidents reported in the news, the shooting of a child nearby and an assault against a construction worker at the Opera House, have jeopardized the use of this Cultural Center as a venue for classes and events. Burglaries and vandalism have also occurred at the Centers.

A. Findings

F22. The Cultural Centers are a primary responsibility of the Arts Commission under the Charter.

Responses are requested from the Mayor, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

F23. SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.

Responses are requested from the Mayor, the Board of Supervisors, the Arts Commission, the Director of Cultural Affairs, the Executive Director of the Bayview Opera House, the Executive Director of the African American Art and Cultural Complex, the Executive Director of the Mission Cultural Center for Latino Arts, and the Executive Director of SOMArts.

NOTES SUBMITTED BY OPS

P. 20 R15

The San Francisco Police Department will work with our cultural centers in a wide variety way including, but not limited to:

- Foot patrols in immediate area whenever possible.
- Officer interaction with community members as community partners (reading programs, mentoring, seasonal events and celebrations, etc...).
- Coordination with cultural centers for increased security for scheduled events.
- Deployment of regularly assigned officers to community assignments. This will establish key community partnerships by having the same officers assigned to the areas each and every day.
- The assignment of district station captain as the primary point of contact for cultural center directors.

SUNSHINE ORDINANCE TASK FORCE

City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. (415) 554-7724
Fax No. (415) 554-7854
TDD/TTY No. (415) 554-5227

September 18, 2012

Honorable Judge Katherine Feinstein
Presiding Judge of the Superior Court
Room 008
400 McAllister Street
San Francisco, CA 94102

Re: Sunshine Ordinance Task Force response to 2011-2012 Civil Grand Jury Report on the Arts Commission, "Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy"

Dear Judge Feinstein,

Pursuant to Penal Code Section 933.05, the Sunshine Ordinance Task Force (SOTF) submits a response to Finding 27 and Recommendation 18 of the Civil Grand Jury Report.

Finding 27: The District Attorney has failed to respond to Sunshine Complaint No. 11023

Agree: On May 18, 2011, the SOTF found the Arts Commission in violation of Sunshine Ordinance Section 67.24(c)(6) for not disclosing the reason for any performance-based increase in compensation for a staff member, and 67.21(e) for not sending a knowledgeable representative to the meeting. The Mayor, the Board of Supervisors, members of the Arts Commission oversight committee on the Arts Commission were notified of the Arts Commission's continued disregard of the requirements of Section 67.21(e).

On July 12, 2011, the Task Force's Compliance and Amendments Committee held a hearing to monitor compliance with the Order. The Arts Commission had not provided the requested public information to the Complainant, and the Compliance and Amendments Committee recommended the full Task Force refer the matter to the District Attorney for failure to comply with the Order. The Task Force approved notice of this matter to the District Attorney's Office at its regularly scheduled hearing on July 26, 2011.

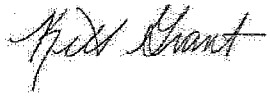
The San Francisco District Attorney's Office was notified of the Arts Commission failure to comply with the SOTF's Order of Determination on February 3, 2012 (Order of Determination and Referral letter enclosed).

Recommendation 18: The District Attorney respond to Sunshine Complaint No. 11023

The Office of the District Attorney responded to the SOTF's referral for enforcement of its Order of Determination, Sec. 67.30(c), on August 23, 2012, stating the Office of the District Attorney became aware of Complaint No. 11023 upon review of the Civil Grand Jury report, "Where There is Smoke…The Need to Strengthen the Art Commission's Stewardship of San Francisco Cultural Legacy." The Office of the District Attorney also, stated that their office will not pursue a criminal investigation concerning the complaint (Office of the District Attorney letter enclosed).

We appreciate the work and effort of the Civil Grand Jury in its preparation of its report. If there are any further questions, please feel free to contact the Sunshine Ordinance Task Force, 415.554.7724 or sotf@sfgov.org.

Kind regards,



Kitt Grant, Chair
Sunshine Ordinance Task Force

Cc: Mario Choi, 2011-2012 Civil Grand Jury Foreperson
San Francisco Board of Supervisors
Angela Cavillo, Clerk of the Board of Supervisors

Encl:

SUNSHINE ORDINANCE
TASK FORCE

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TDD/TTY No. (415) 554-5227

February 3, 2012

District Attorney George Gascón
San Francisco District Attorney's Office
Hall of Justice
850 Bryant Street, Room 322
San Francisco, CA 94103

Re: Sunshine Complaint No. 11023, William Clark v. Arts Commission
Notice of Failure to Comply with Order of Determination

The Sunshine Ordinance Task Force ("Task Force") hereby provides notification of Street Artist Program Director Howard Lazar's failure to comply with the Order of Determination ("Order") issued on June 18, 2011 in Sunshine Ordinance Complaint No. 11023, William Clark v. Arts Commission.

This notification is provided in request for appropriate action pursuant to:

(1) Sunshine Ordinance Section 67.21(e) which provides that "[u]pon the determination that the record is public, the Sunshine Task Force shall immediately order the custodian of the public record to comply with the person's request" and "[i]f the custodian refuses or fails to comply with any such order within 5 days, the Sunshine Task Force shall notify the district attorney or the attorney general who may take whatever measures she or he deems necessary to insure compliance with the provisions of this ordinance," and

(2) Sunshine Ordinance Section 67.30(c) which provides that "the Task Force shall make referrals to a municipal office with enforcement power under this ordinance or under the California Public Records Act and the Brown Act whenever it concludes that any person has violated any provisions of this ordinance or the Acts."

Background

William Clark filed a complaint with the Task Force on March 6, 2011 alleging the San Francisco Arts Commission failed to provide public records and information responsive to his request made February 21, 2011.

Task Force Hearings on Complaint

On May 18, 2011, the Task Force held a hearing on the complaint. The Task Force found respondents in violation of the Sunshine Ordinance and ordered disclosure of the requested public information no later than June 24, 2011. A description of the hearing, violations found, and the Task Force decision are described in the attached Order.

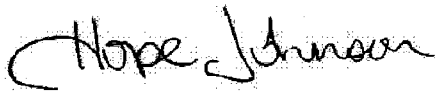
On July 12, 2011, the Task Force's Compliance and Amendments Committee held a hearing to monitor compliance with the Order. The Arts Commission had not provided the requested public information to Mr. Clark, and the Compliance and Amendments Committee recommended the full Task Force refer the matter to the District Attorney for failure to comply with the Order.

The Task Force approved notice of this matter to the District Attorney's Office at its regularly scheduled hearing on July 26, 2011. At that time, Mr. Lazar was still not in compliance with the Order. Please be advised that, in addition to the violations noticed herein, there have been multiple other violations found by the Task Force against Mr. Lazar.

The Task Force reminds the District Attorney's Office that both the Director of Cultural Affairs and the President of the Arts Commission have resigned amid serious allegations since the date this notice was approved.

Thank you for your attention to this matter. Copies of the Order and the San Francisco City Controller's July 12, 2011 and November 15, 2011 Reports on the Arts Commission are attached.

Please confirm receipt of this notice to the Task Force Administrator at sotf@sfgov.org or (415) 554-7724. The Administrator is also available to provide any additional information needed.



Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

cc: William Clark, Complainant
Tom DeCaigny, Respondent
Howard Lazar, Respondent
Jerry Threet, Deputy City Attorney

SUNSHINE ORDINANCE
TASK FORCE

City Hall
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San Francisco 94102-4689
Tel. No. (415) 554-7724
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ORDER OF DETERMINATION

June 18, 2011

DATE THE DECISION ISSUED
May 18, 2011

WILLIAM CLARK V ARTS COMMISSION (CASE NO. 11023)

FACTS OF THE CASE

Complainant William Clark alleges that the San Francisco Arts Commission ("Commission" or "Respondent") failed to provide public records and public information responsive to his February 21, 2011, request.

COMPLAINT FILED

On March 16, 2011, Mr. Clark filed a complaint against the Arts Commission.

HEARING ON THE COMPLAINT

On May 18, 2011, Mr. Clark presented his case to the Task Force. The Respondent was not present and no one in the audience presented facts or evidence in support of the Respondent. Howard Lazar, Street Artists Program Director for the Commission, had informed the Task Force that he would not be able to attend the meeting.

Mr. Clark told the Task Force that he sent Luis Cancel, the Commission's Director of Cultural Affairs, and Mr. Lazar an email requesting public documents and oral information as to when and why Commission employee Evelyn Russell had her job code changed from 1426 Senior Clerk/Typist to 3541 Curator 1. He said he went to the Department of Human Resources and learned that the transfer involved a substantial pay increase for Ms. Russell. He said he has copies of emails that suggest Ms. Russell's qualifications were manipulated to qualify her as a curator but her work at the Commission is that of a Clerk/Typist. He said he received an email from Mr. Lazar on March 14, 2011, stating that several documents were available for pickup and the copying charge was $3.40. He said Mr. Lazar stated in one of the documents that he was withholding some of the records under California Public Records Act Sections 6254(c) to protect personnel, medical or similar files and 6254(k) to protect records exempted or prohibited from disclosure, and Sunshine Ordinance Section 67.1(g) because of the right to privacy. None of the documents, he said, explained why Ms. Russell's job code was changed and he has not received a verbal explanation. He said Sunshine Ordinance Section 67.24(c)(6) requires the Arts Commission to provide him with the information he requested and by not following the law, Mr. Lazar had violated Section 67.21(b) of the Sunshine Ordinance. He added that street artists are entitled to the information because their fees are helping pay the Commission staff's salaries.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Judging from the evidence presented, the Task Force finds that it does not have any evidence to contradict the fact that Ms Russell received a promotion and its associated compensatory package, and the basis of that fact is subject to disclosure.

DECISION AND ORDER OF DETERMINATION

The Task Force finds that the agency violated Sunshine Ordinance Sections 67.24(c)(6) by not disclosing the reason for any performance-based increase in compensation for a staff member, and 67.21(e) by not sending a knowledgeable representative to the meeting. The Mayor, the Board of Supervisors, members of the Arts Commission oversight committee on the Arts Commission are to be notified of the Arts Commission's continued disregard of the requirements of Section 67.21(e), which is to send a knowledgeable representative to Task Force hearings.

The Commission shall release the records requested within 5 business days of the issuance of this Order and shall appear before the Compliance and Amendments Committee on July 12, 2011.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on May 18, 2011, by the following vote: (Snyder/Wolfe)
Ayes: Snyder, Manneh, Washburn, Costa, Wolfe, Johnson, Knee
Absent: Cauthen
Excused: Knoebber, Chan, West

Richard A. Knee, Chair
Sunshine Ordinance Task Force

c: William Clark, Complainant
Luis Cancel, Respondent
Howard Lazar, Respondent
Jerry Threet, Deputy City Attorney

City and County of San Francisco

Office of the Controller – City Services Auditor

SAN FRANCISCO ARTS COMMISSION:

The Street Artists Program Should Improve Its Internal Controls and Accounting Practices

July 12, 2011

CONTROLLER'S OFFICE
CITY SERVICES AUDITOR

The City Services Auditor was created within the Controller's Office through an amendment to the City Charter that was approved by voters in November 2003. Under Appendix F to the City Charter, the City Services Auditor has broad authority for:

- Reporting on the level and effectiveness of San Francisco's public services and benchmarking the city to other public agencies and jurisdictions.
- Conducting financial and performance audits of city departments, contractors, and functions to assess efficiency and effectiveness of processes and services.
- Operating a whistleblower hotline and website and investigating reports of waste, fraud, and abuse of city resources.
- Ensuring the financial integrity and improving the overall performance and efficiency of city government.

The audits unit conducts financial audits, attestation engagements, and performance audits. Financial audits address the financial integrity of both city departments and contractors and provide reasonable assurance about whether financial statements are presented fairly in all material aspects in conformity with generally accepted accounting principles. Attestation engagements examine, review, or perform procedures on a broad range of subjects such as internal controls; compliance with requirements of specified laws, regulations, rules, contracts, or grants; and the reliability of performance measures. Performance audits focus primarily on assessment of city services and processes, providing recommendations to improve department operations.

We conduct our audits in accordance with the Government Auditing Standards published by the U.S. Government Accountability Office (GAO). These standards require:

- Independence of audit staff and the audit organization.
- Objectivity of the auditors performing the work.
- Competent staff, including continuing professional education.
- Quality control procedures to provide reasonable assurance of compliance with the auditing standards.

Audit Team: Elisa Sullivan, Audit Manager
Nicholas Delgado, Associate Auditor

City and County of San Francisco

Office of the Controller - City Services Auditor

San Francisco Arts Commission: The Street Artists Program Should Improve Its Internal Controls and Accounting Practices

July 12, 2011

Purpose of the Audit

Pursuant to a request from the San Francisco Arts Commission (SFAC), as well as the Chair of the Street Artists Program Liaison Committee, the City Services Auditor assessed whether the Street Artists Program (Program) was administered in accordance with the San Francisco Administrative Code.

Highlights

The Program, under the direction of the SFAC, provides artists who develop handcrafted wares with the ability to sell their work throughout the City. The Program employs a Director and a Program Assistant to run the Program, while the SFAC provides accounting support and oversight.

Based on the sample of fee revenue transactions tested, the audit found that the Street Artists Program accurately recorded the fees collected from the Program's participants. However, the Program and SFAC need to correct some deficiencies in its internal control processes and accounting practices to improve its operations. The audit found that:

- The Program does not have adequate segregation of duties in its revenue collection process.
- The Program does not perform a reconciliation of revenue received to revenue recorded within the City's financial system.
- The Program does not have a formal process to invalidate certificates and monitor artists who submit payments that result in returned checks.
- The Program does not have formal written procedures for the process used to deposit payments received.
- The Program uses a manual approach to collect and record its fee revenue transactions.
- The SFAC Accounting section overlooked some fund balances held when calculating its certificate fee rate.
- The SFAC Accounting section did not consistently allocate overhead expenditures to the Program.
- The SFAC Accounting section charged the Program for management and supervision charges that were unsupported by any SFAC policy resolution and were not communicated to the Program's participants.

Recommendations

The audit report includes 13 recommendations for the Program and SFAC to improve their internal controls and accounting practices. Specifically, the Program and SFAC should:

- Ensure that more than one person performs the receipt processing and bank deposit tasks.
- Implement a procedure to reconcile receipts to the deposit, and to the financial system.
- Develop written policies of consequences for artists submitting bad checks, and improve its monitoring.
- Implement its planned internet based payment system.
- Ensure that all surplus balances are considered when calculating fees.
- Perform a true-up of actual overhead charges at year end.
- Perform an analysis of management's time spent on the Program and allocate charges accordingly.

Copies of the full report may be obtained at:
Controller's Office • City Hall, Room 316 • 1 Dr. Carlton B. Goodlett Place • San Francisco, CA 94102 • 415.554.7500
or on the Internet at http://www.sfgov.org/controller

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CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

July 12, 2011

San Francisco Arts Commission
25 Van Ness Avenue, Suite 240
San Francisco, CA 94102

Dear Commissioners:

The Office of the Controller, City Services Auditor, presents its audit report of the San Francisco Arts Commission (SFAC) Street Artists Program (Program). The audit objective was to determine whether the Program has been administered in accordance with the San Francisco Administrative Code. Specifically, the audit examined internal controls over the collection of certificate fees and disbursements, and the reasonableness of administrative and overhead charges.

The audit team concluded that the Program needs to correct some deficiencies in its internal control processes, including a lack of adequate segregation of duties and reconciliation of fee revenue. The Program also has deficiencies in its accounting practices that could have resulted in adjusted certificate fee rates to the Program participants. For example, the Program did not utilize fund balances maintained in inactive project accounts, which could have been used to keep Program certificate fees from increasing; and did not properly allocate overhead charges to the Program in prior years, which would have raised certificate fee rates. The audit includes 13 recommendations for the SFAC Program to improve its operations.

The SFAC's response to the audit is attached as Appendix B. We appreciate the assistance and cooperation that the SFAC Program staff and staff in other City departments provided to us during the audit.

Respectfully submitted,

Tonia Lediju
Director of Audits

cc: Mayor
Board of Supervisors
Civil Grand Jury
Budget Analyst
Public Library

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LIST OF ABBREVIATIONS AND ACRONYMS

CFO	Chief Financial Officer
CSA	City Services Auditor
FAMIS	Financial Accounting and Management Information System
SFAC	San Francisco Arts Commission

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INTRODUCTION

Audit Authority

This audit was conducted under the authority of the Charter of the City and County of San Francisco (City), Section 3.105 and Appendix F, which requires that the City Services Auditor (CSA) of the Office of the Controller conduct periodic, comprehensive financial and performance audits of City departments, services, and activities. This audit was also conducted pursuant to a request from the San Francisco Arts Commission (SFAC), in addition to the Chair of the Street Artists Program Liaison Committee.

Background

The Street Artists Program (Program), under the direction of the San Francisco Arts Commission, provides artists who develop handcrafted wares with the ability to sell their work in a designated number of legal vending spaces on streets throughout the City. This is done through an application and certification process for which the Program charges fees approved by the City's Board of Supervisors (Board).

The certification process is conducted year-round, with the Program administering a formal screening of each applicant's work to ensure that the handcrafted wares created by the artist satisfy criteria set forth by the Program's Advisory Committee. Those artists successfully completing the application and screening processes and paying the street artist certificate fee are issued computer-generated certificates authorizing the artist to display and sell their crafts in the designated areas.

Once issued a certificate, the artist may participate in a lottery system whereby certified artists are chosen for the available selling areas in each of three separate locations within San Francisco: Fisherman's Wharf, Downtown and Cliff House. These lotteries are held under the supervision of the Street Artists Program Director and are administered by a Lottery Committee composed of street artists. Each lottery is held multiple times during each week.

The Program was established through Proposition" L"

On November 4, 1975, voters passed "Proposition L" establishing San Francisco Police Code, Article 24, the Street Artist Ordinance (Ordinance). The Ordinance defined the procedure to obtain a Program issued certificate which included the submission of an application, an examination

process before an advisory board to determine whether the crafts made by the applicant are indeed of his or her own creation, and finally the issuance of a certificate and payment of the certificate fees. For the November 8, 1983, General Election, voters passed "Proposition K," supplementing the original Ordinance, "Section 6. Certificate Fee; Period," by including an option for street artists to purchase an annual certificate, as well as including language indicating that the certificate fee may be increased when necessary to finance SFAC management of the Program.

On December 21, 1984, Ordinance #511-84 amended Article 24, by adding Sections 2404.1 and 2404.2 increasing the fee for a street artist certificate and setting a procedure for establishing fees. The new section requires the SFAC to annually report to the Office of the Controller certificate fee revenue earned and those costs related to the administration of the Program. The new section also required the SFAC to report the anticipated costs for the ensuing fiscal year and the fee imposed to recover those costs.

Various legislation has been enacted by the Board of Supervisors increasing the Street Artist Certificate Fee

Through the establishment of the Ordinance, it was stipulated that every person applying for a street artist certificate must pay both the application/examination fee, as well as the certificate fee should the application be approved. As previously detailed, the Board of Supervisors may increase these fees as necessary to finance the management of the Program.

Exhibit 1 details each of the fees imposed on street artists and their enacting legislation throughout the history of the Street Artists Program since 1975, including those ordinances amending the San Francisco Police Code Article 24.

EXHIBIT 1 Street Artists Program Certificate Fee History

Adopted Legislation [c]	Fiscal Year	Quarterly Fee	Annual Fee
Proposition "L"	1975-76	$ 20.00	$ 0.00[a]
Proposition "K"	1983-84	20.00	80.00
511-84	1984-85	40.00	160.00
295-88	1988-89	57.50	230.00
216-91	1991-92	87.50	350.00
240-03[b]	2003-04	93.40	373.60
240-03[b]	2004-05	99.10	396.40
240-03[b]	2005-06	104.80	419.20
103-08	2008-09	133.07	532.28
152-09	2009-10	154.16	616.64
189-10	2010-11	166.02	664.08

Notes:

[a] Prior to fiscal year 1983-84, the original Street Artist Ordinance did not allow for the purchase of an annual certificate.
[b] Ordinance 240-03 included legislation that resulted in a tiered increase to the Certificate Fee for the three fiscal years from 2003-04 through 2005-06.

Source: San Francisco Administrative Code

The Street Artists Program Fund as defined within the City's fund groupings

On December 18, 2000, the Board of Supervisors approved Ordinance 316-00 repealing the San Francisco Administrative Code (Administrative Code), Article XIII, and adopted a new Article XIII, Sections 10.80-1 through 10.100-366 relating to special funds. Within this Ordinance, the Board approved Article XIII, Section 10.100-32, Art Commission Street Artist Fund, establishing the Street Artist Fund as a category four fund, for the purpose of receiving all fees received by the Street Artists Program. The section also stipulated that the fund is to be "expended solely for the purposes of supporting the operation of the San Francisco Street Artists Program."

The Street Artist Fund (Program subfund) was established as a subfund in the City's Financial Accounting and Management Information System (FAMIS) under the Culture and Recreation Fund, a special revenue fund under the SFAC. This special revenue fund accounts for revenues received from a variety of cultural and recreational funds. The purpose of a special revenue fund is to account for the proceeds of specific revenue sources (other than expendable trusts or major capital projects) that are legally restricted to expenditures for specific purposes and are segregated outside of the City General Fund.

According to the Administrative Code, special revenue funds are subject to certain limitations with regard to appropriation, interest earnings, carry-forwards and automatic closure.

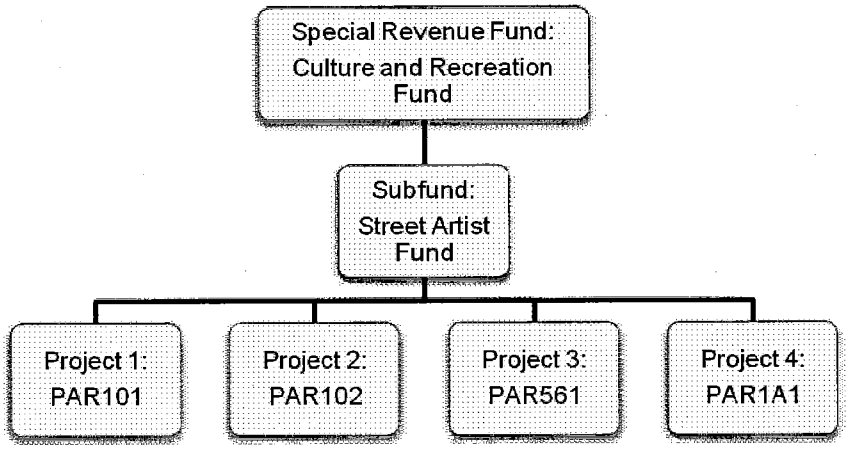
These limitations, as outlined by the Administrative Code, relating to a category four fund, are that interest earned on the principal balance will be credited to the fund, provided that the balance in the fund exceeds $50,000; any unexpended and unencumbered balances remaining at the close of any fiscal year will be accumulated in the fund and carried forward from year to year; and that the Office of the Controller may close the fund or account and return any balance remaining in the fund to the General Fund, if no expenditures are made for two fiscal years. As a category four fund, the Street Artist Fund is governed by each of these limitations.

The Street Artists Program subfund is comprised of four projects as part of its accounting structure

The Program subfund is further comprised of four projects which had previously been used in varying capacities by the SFAC Accounting section to record Program activity. After fiscal year 2000-01, the SFAC exclusively used one of the four to record revenue and expenditures.

Exhibit 2 details the Street Artists Program subfund structure under the Culture and Recreation Fund, Special Revenue Fund within the City's FAMIS.

EXHIBIT 2 Street Artists Program Subfund Structure



Source: City and County of San Francisco Financial Accounting and Management Information System

Exhibit 3 details the Street Artists Program operating activity for fiscal year 2004-05, through fiscal year 2009-10 including revenue, expenditures, and the carry-forward fund balance as stipulated by the Administrative Code for the active Street Artist Subfund Project, PAR102.

EXHIBIT 3 Street Artists Program Operating Activity Over Six Fiscal Years – PAR102

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Revenue	151,817	173,520	165,128	179,352	206,112	246,040
Carry Forward	(112,506)	(116,763)	(113,405)	(136,782)	(142,671)	40,422 [c]
Expenditures	156,074	170,162	188,505	185,241	195,238	244,700
Net Income(Deficit)	(116,763)	(113,405)	(136,782)	(142,671)	(131,797)	41,762

Notes:

[a] Prior to fiscal year 1983-84, the original Street Artist Ordinance did not allow for the purchase of an annual certificate.

[b] Ordinance 240-03 included legislation that resulted in a tiered increase to the Certificate Fee for the three fiscal years from 2003-04 through 2005-06.

[c] During the 2008-09 and 2009-10 fiscal years, the Office of the Controller Budget Analysis Division performed a consolidation of all Street Artist Subfund Projects within FAMIS into PAR102. This resulted in a transfer of a carry forward cash position of approximately $173,000 from three inactive projects into the active Program Project PAR102 causing the fiscal year 2009-10 carry forward balance to be a positive balance in contrast to the prior fiscal year's Net Deficit. See finding 2.1 for additional details regarding the consolidation of Subfund Projects.

Source: City's FAMIS Reports

During the 2009 and 2010 calendar year, several inquiries were made by individuals involved with the Street Artists Program requesting documentation supporting expenditures and missing fee revenue. Additionally, statements have been made alleging ineffective oversight of the Program resulting in errors and poor administration of the Program. As a result, on February 2, 2009, during acceptance of the fiscal year 2009-10 budget for the Street Artists Program, the SFAC approved a motion to request that the Office of the Controller conduct a financial review of the Street Artists Program.

Objectives

The main objective of the audit was to determine whether the Program has been administered in accordance with the San Francisco Administrative Code. Specifically, the objectives were to determine whether:

- The Street Artists Program has adequate internal controls and policies and procedures to administer the Program and properly account for the revenue received and expenditures incurred by the Program.
- Program fees are accurately assessed, reported, properly accounted for, and adequately tracked and monitored.
- Expenditures charged to the Program, including administrative overhead and management supervision charges are in line with the Program's

intent, as well as the San Francisco Administrative Code.

Scope and Methodology

The original scope of the audit covered the period from July 1, 2008, through June 30, 2010. However, during the audit, the audit team expanded the scope to include a review of operating fund activity from fiscal year 1994-95 through 2009-10.[1]

To conduct the audit, the audit team:

- Reviewed key documents about the Program's duties, structure and history, such as the applicable policies and procedures and municipal codes governing the administration of the Program.
- Interviewed SFAC and Controller's staff and management personnel.
- Reviewed and inspected the adequacy of the Program's procedures for collecting, recording and reviewing fees paid by Program participants and tested, on a sample basis, fees collected from Program participants and other revenues recorded by the Program to determine the accuracy and completeness of revenue recorded.
- Reviewed and inspected the adequacy of the Program's procedures for incurring, recording and reviewing expenditures and tested, on a judgmental basis, expenditures reported as incurred by the Program to determine the reasonableness and propriety of expenses charged to the Program.
- Conducted an analytical assessment of revenue recorded for reasonableness and accuracy.

Sample Selection Process

The audit team used a sample selection process to test revenue collected by the Program during the period July 1, 2008, through June 30, 2010. This sample selection was based on a non-random sampling model. After obtaining a data extract of all revenue transactions recorded for both fiscal years subject to testing, the audit team developed an understanding of the method used by the Program to record revenue. It was noted that the Program recorded revenue in batch totals comprised of up to 28 payments, as several payments received are totaled and deposited and recorded into the City's FAMIS. As such, the audit team

[1] Electronic data from FAMIS were not available for review prior to fiscal year 1994-95.

selected one revenue transaction as recorded in FAMIS, per month for a total of 12 transactions. The audit team then obtained supporting documentation for each of the 12 revenue transactions and randomly selected 3 underlying payments for testing. The audit also tested a sample of non-recurring transactions such as journal entries, and returned check fees recorded against the revenue account. Through this process, the audit team selected 79 payments, and non-recurring items for testing; 39 from fiscal year 2008-09 and 40 from fiscal year 2009-10.

This performance audit was conducted in accordance with generally accepted government auditing standards. These standards require planning and performing the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for the findings and conclusions based on the audit objectives. We believe that the evidence obtained provides a reasonable basis for the findings and conclusions based on the audit objectives.

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CHAPTER 1 – The Street Artists Program Should Improve Its Internal Controls over Its Revenue Collection Process

Summary

Based on the sample of revenue transactions selected for testing from fiscal years 2008-09 and 2009-10, the audit found that the Street Artists Program effectively and accurately recorded all fees collected from the Program's participants.

The audit also found that although the Street Artists Program has made recent changes to improve its internal controls over the revenue collection process, such as no longer accepting fee payments in cash, it still needs to correct some deficiencies in its internal control processes. These deficiencies include a lack of adequate segregation of duties and reconciliation of revenue, as well as inadequate monitoring and oversight of transactions.

Together these findings indicate that the Program potentially:

- Does not mitigate the opportunity to commit fraud or theft.
- Allows artists who have issued checks with insufficient funds to maintain the term of their membership.
- Reduces the efficiency of processing transactions through dated procedures.

Finding 1.1

The Street Artists Program does not have adequate segregation of duties.

Program personnel may perform incompatible activities during the course of their daily responsibilities

Based on the auditor's review of internal controls in place, as well as the testing of transactions processed during fiscal years 2008-09 and 2009-10, Program personnel performed their duties in line with written protocols and requirements as documented in the Program procedural manual. However, the audit identified areas of inadequate segregation of duties and incompatible activities performed by Program personnel. The Program employs two individuals: a Program Director and a Program Assistant. Some procedures employed by the Program demonstrate

improper segregation of duties between the two personnel, including the following:

- The Program Assistant is responsible for retrieving payments from the mail, receiving payments in person, and processing the payments. Additionally, in the event of the Program Director's absence or unavailability, the Assistant is also required to deposit these payments.

- The Program Assistant does not immediately restrictively endorse checks when received; the checks are subsequently endorsed by the Program Director when preparing the deposit.

- The Program Director, as well as the Program Assistant, may collect fees and issue receipts. It was also noted that the Program Director also prepares the "Receipts Processing Form," which is forwarded to the SFAC Accounting section, prepares the deposit slip, handles all checks in preparation for deposit, and records the range of receipts issued, the amount of the deposit and deposit slip number in the SFAC's Accounting section deposit ledger.

A fundamental element of internal control is the segregation of certain key responsibilities and functions including those related to the receipt of revenue. The basic idea underlying segregation of duties is that no employee or group of employees should be in a position both to perpetrate and to conceal errors or fraud in the normal course of their duties. As the Program only employs two individuals, this results in overlapping and inadequate segregation of duties.

Maintaining practices with inadequate segregation of duties may result in errors or fraudulent activity. Specifically, as the deposit is not prepared on a daily basis, the practice of not immediately restrictively endorsing checks exposes the Program to the threat of an unauthorized endorsement should the checks be misplaced or lost before being deposited. Additionally, in the event that the Program Director is absent and a deposit required, the Program Assistant would follow the process used by the Program Director to conduct the deposit. Allowing one individual

control over the entire revenue collection process allows for the opportunity to commit fraud or theft.

The objective of internal control over cash receipts is to obtain control over amounts received at the time of receipt. Separating the ability to receive, process and deposit payments of the Program will result in much greater internal control in this particular area. To achieve this control, certain duties should be handled by more than one member of Program's personnel. Given the limitations of staff the Program is subject to, certain procedures should be enacted to ensure efficient internal controls.

Recommendations

The Program should implement the following procedures:

1. One employee, preferably the Program Assistant, or a SFAC clerk should the Assistant be absent, should make a control list of all daily receipts, and immediately restrictively endorse all checks received as "for deposit only."

2. The Program Director should continue to prepare the deposit and ensure it is completed on a timely basis. In the event that the Program Director is not available when a deposit is required, a separate individual not involved in the receipts process, such as an SFAC clerk should prepare the deposit.

Finding 1.2

The Street Artists Program did not perform a reconciliation of revenue received to revenue recorded within the City's Financial System.

No reconciliation of revenue is performed by the SFAC Accounting section

Based on the audit team's testing of the sample of revenue transactions from the fiscal years 2008-09 and 2009-10, the Program accurately deposited and tracked daily transactions and the SFAC Accounting section properly recorded the revenue in the City's FAMIS. However, the audit found that the revenue received and deposited by the Program is not reconciled to the revenue recorded by the SFAC Accounting section to ensure that all revenue received was properly recorded to the Program.

As previously discussed, the Program currently employs only two individuals, the Program Director and the Program Assistant. The Program Assistant is responsible for processing all payment transactions and the Program Director is responsible for preparing the deposit to the

financial institution and forwarding the completed deposit documentation, including the deposit receipt and deposit slip and deposited check copies, to the SFAC Accounting section for recording. In observing the processes currently employed, the audit found that no reconciliation of the deposit total once completed in comparison to that which is posted to the City's FAMIS is performed. Instead, the current review process utilized involves the SFAC Chief Financial Officer (CFO) reviewing and approving individual transactions and their supporting documentation as posted by the accounting staff into the City's FAMIS.

A reconciliation between the Program Assistant's records, the actual deposit amount, and that which is recorded in FAMIS would help to identify errors, fraud or theft. Sound accounting practices require that checks and balances are in place which can identify errors or instances of fraud or theft over the recording of revenue.

Additionally, through the auditor's testing of revenue recorded, it was noted that a journal entry was made by the SFAC Accounting section to reclassify revenue earned by the Program incorrectly recorded into the SFAC City Hall Docent Tour Program. The revenue represented a deposit recorded by the Program on November 12, 2008 totaling $2,741.40. According to the SFAC Accounting Staff, the error was identified as a result of her review of transactions she previously posted during the week, not through a formal review process.

The audit also found, per inspection of the FAMIS Approval History, that the transaction erroneously recorded was approved by the SFAC CFO indicating that the current review process was not able to uncover the error. As the SFAC Accounting section performs no reconciliation of Program revenue reported and that which is recorded, errors appear likely to go unidentified.

Recommendations

3. The Program should implement a procedure in which the current control list of all receipts prepared by the Program Assistant is used to reconcile the daily cash receipts to the actual deposit slip and the revenue recorded within FAMIS. This reconciliation should be done by the CFO.

Finding 1.3

The Street Artists Program does not have a formal process to invalidate certificates and monitor artists who submit payments that result in returned checks.

Artists are not subject to formal consequences for returned payments

Currently, the Street Artists Program has an informal method for and is inconsistent in levying consequences on street artists whose checks for certificate fees are returned due to insufficient funds. Additionally, no separate record of all artists with returned and currently outstanding certificate fees is maintained by the Program. Instead, the Program mails a returned check notification to the artist once a check is returned and places a copy of the notice in the artist's folder. This notice informs the artist that if fees are not received by a date determined by the Program, typically within 30 days of the returned check, the artist's certificate will be null and void and the artist will not be allowed to participate in the lottery process. According to the Program Director, this notice is generally not reviewed until the artist returns to pay for a certificate for the subsequent period and thus the consequences are not consistently enforced.

Since the Program issues certificates to artists upon receipt of the form of payment rather than when the payment clears the bank, to prevent artists who issue checks with insufficient funds from actively participating in selling their crafts, the Program must have a formal method and policy in place to track, monitor and enforce invalid certificates for artists who submit checks returned for insufficient funds.

As a result of the Program's informal practices, street artists may be selling their crafts with invalid certificates and retaining the ability to participate in the Program lottery for the term of the certificate. Additionally, if the Program does not recover the costs for the returned checks, the Program loses revenue for the certificate fees as well as incurs the burden of the returned check charges levied by the Office of the Treasurer and Tax Collector (Treasurer). As the Treasurer makes two attempts to deposit a check before rejecting the payment, the total potential loss is $100 as the charges total $50 per deposit attempt. This amount is charged to the Street Artists Program and is intended to be further levied on the individual artist who submitted the check for payment. However, according to the Program Director, the Program has not recovered costs resulting from returned checks from several artists due to the informal methods employed by the Program, in addition to

artists abandoning the Program without covering their insufficient fund checks.

Recommendations

The Program should:

4. Develop written policies in which it outlines the possible repercussions for artists submitting checks returned for insufficient funds, including associated penalty fees and description of the certificate invalidation process. This information should be documented and distributed to artists upon acceptance into the Program.

5. Improve its tracking and monitoring of artists with returned checks by developing a report which identifies the artist, amount of the check returned, associated penalty fees, outstanding balance and status of certificate invalidation. The Program should consider publishing or distributing this report to artists and/or the Lottery Committee.

6. Improve enforcement of artist certificate invalidation by implementing a process in which artists actively participating in selling their crafts are compared to the report of artists with returned checks to identify artists who are selling their crafts without a valid certificate.

Finding 1.4

The Street Artists Program does not have formal written procedures for the process used to deposit payments received.

Based on the auditor's review and inspection of internal control processes and procedures, the auditor identified that the Street Artists Program has formal written policies and procedures that govern the day to day transactional level activities with respect to cash receipts and the licensing of street artists. However, the Program does not have written policies and procedures to govern the process used to prepare the deposit to the Program's bank account. As the Program Director is solely responsible for preparing the deposit, should a deposit be required while the Director is absent, additional personnel outside of the cash receipts process, such as other SFAC supervisory personnel, must be aware of the procedures in place to prepare the deposit.

An organization handling revenue should have as part of their internal controls, written policies and procedures that will guide staff on how to perform their duties, and conduct the day to day operations of the organization. The lack of formal written policies may result in personnel performing deposits outside of the appropriate method and may result in errors. Formal written policies are essential to ensure that staff can effectively perform their duties and safeguard receipts in adherence with documented guidelines.

Recommendations

7. The Program should develop comprehensive written policies and procedures that incorporate all steps of the receipt process that will guide staff on how to perform their duties and identify personnel responsible for completing the deposit when the Director is absent.

Finding 1.5

The Street Artists Program uses a manual approach to record fee revenue transactions.

As discussed in the Introduction, the Program receives fees for applications and Program issued certificates. These fees, previously collected in cash, are collected through mail or in person via check or money orders and are manually processed individually by the Program Assistant.[2] This manual process incorporates the use of a Receipt Tag system to track all revenue transactions as they are received. This system is outdated as it requires manual creation of all receipts and payment records by the Program Assistant. Additionally, payments received by the Program are physically taken to the bank for deposit.

The use of up to date payment systems could potentially eliminate the use of receipt tags and deter any scrutiny regarding the accuracy of receiving and recording transactions from the public. Additionally, it increases the Accounting section's ability to efficiently and effectively record daily transactions and provides management with complete and accurate financial information on a timelier basis, thus allowing additional time to perform other duties as required. Conversely, the use of a manual process increases the risk of errors being made in revenue

[2] In June 2009, the San Francisco Arts Commission passed Resolution No. 0601-09-158 effectively eliminating the acceptance of cash for all street artist application and certification fees.

transaction cycle, may cause delays in processing, and allows for the opportunity to commit fraud or theft.

The Program is scheduled to implement an internet based payment system.

According to the Street Artists Program Director, as well as the Director of Accounting and Banking Services for the Office of the Treasurer and Tax Collector, the Program is currently in the testing phase of establishing a web-based payment system that will allow the Program to accept payments for all certificate and application fees through the internet which in turn will be automatically recorded in the Program's bank account. However, as the Program Director does not anticipate all Program participants to pay via the internet based payment system, the Program will continue to accept payment via check and money order. The web-based system was expected to be active prior to the end of the 2010-11 fiscal year.

Recommendations

8. The Program should implement its planned internet based payment systems which will allow for the acceptance of credit and debit cards, and for automatic recording of revenue into the Program's bank account.

CHAPTER 2 – The San Francisco Arts Commission Needs to Improve its Accounting Practices for the Street Artists Program

Summary

Based on the auditor's analytical review performed of the Street Artists Program Accounting structure, as well as detailed testing of a sample of expenditures charged to the Program, the San Francisco Arts Commission Accounting section has deficiencies in its accounting practices that could have resulted in adjusted certificate fee rates to the Street Artists Program participants.

Specifically, the Accounting section:

- Did not utilize excess fund balances, ranging from $40,000 to $90,000, maintained in inactive Program project accounts across several fiscal years, to keep Program certificate fees from being raised.
- Did not consistently allocate overhead charges to the Program in the past, which could have raised certificate fee rates.
- Assessed management supervision charges to the Program in fiscal year 2009-10 without any formal SFAC adopted policy change.

Finding 2.1

The San Francisco Arts Commission Accounting section overlooked some fund balances held when calculating its certificate fee rate.

The Street Artists Program Subfund contained surplus revenue which could have been used to keep Program participant certificate fees from increasing

The SFAC Accounting section maintained three inactive Program subfund projects, PAR1A1, PAR561, and PAR101, for eight years through fiscal year 2007-08, containing a net balance of $173,466, which should have been used to potentially keep Street Artist certificate fees from increasing.[3] During this period, the SFAC Accounting section used a separate subfund project, PAR102, to account for the Program's operating revenues and expenditures. Although this subfund project consistently operated in a deficit position for the past 10 years, the

[3] A depiction of the Program subfund is provided in the Introduction, Exhibit 2.

positive fund balance of $173,466 in the inactive subfund projects kept the overall subfund solvent.[4]

Consolidation of Subfund Projects

During the 2008-09 and 2009-10 fiscal years, according to the Director of the Office of the Controller Budget and Analysis Division (Division), a special project was undertaken by the Division to clean out and consolidate inactive projects within SFAC accounts, which included the consolidation of those inactive projects within the Street Artists Program subfund.

The consolidation of the inactive projects was done in two journal entries initiated by the Office of the Controller with the explicit consent of the SFAC CFO, the first taking place in March 2009 and the second in December 2009. These entries fully consolidated and closed out the remaining three inactive projects into the active Street Artists Program project, thus eliminating the negative fund balance in the active subfund project.

As explained in the Introduction of the report, the San Francisco Police Code, Article 24, states that the Board of Supervisors may increase the certificate fee rate when necessary in order to finance the costs of the SFAC in administering and enforcing the provisions of the ordinance governing the Program.

According to the CFO, he was aware of the inactive subfund projects and the balances held within when he inherited those projects upon his hiring, but he could neither use nor consolidate those balances without the assistance of the Office of the Controller. Additionally, the CFO contends that as a result of the 1995 FAMIS conversion in which project balances were transferred from the previous batch version of FAMIS to online FAMIS, some errors may have occurred and potentially, some of the inactive projects may not belong to the Street Artists Program. However, as the fiscal officer for the SFAC, the CFO should have researched the inactive subfund projects and directed the Office of the Controller to consolidate the appropriate balances into PAR102 and to close out the inactive accounts.

The net cash position within the inactive Projects may

Based on an analytical test of the project balances and activity recorded within the active project, including the

[4] See Exhibit 3 for actual balances for PAR102.

have been used to keep the Certificate Fees for Program participants from being raised

recalculation and estimation of fee rates based on actual expenditures and actual subfund balances, the audit found the certificate fee rate for the fiscal year 2009-10 appears accurate. However, because the SFAC overlooked the balances in inactive project accounts, it unnecessarily raised the Street Artist certificate fee rate for three fiscal years, from fiscal year 2003-04 through 2005-06, during the period when additional balances were held in inactive Projects.[5] If the Program had used the additional balances held in the inactive project accounts to calculate its certificate fees, it may not have had to raise the certificate fee from the 1992 fee amount until fiscal year 2006-07. However, the audit found that in 2006-07, the fee would have had to increase dramatically by over $115. By contrast, the Program's actual fee increases during the three years in question were gradual.

Recommendations

The Program should:

9. Take into consideration all surplus balances when calculating the Street Artists Program certificate fee to ensure that all funds available to the Program are used to fund the Program's expenditures. As an alternative, the Program could hold a small reserve to keep the fee from fluctuating year to year. In this case, the Program should decide upon and document the amount to hold.

Finding 2.2

The San Francisco Arts Commission Accounting section did not consistently allocate overhead expenditures to the Street Artists Program.

The SFAC Accounting section did not fully develop and implement its overhead allocation method until FY 2008-09

The San Francisco Arts Commission Accounting section did not fully develop and implement an overhead cost allocation methodology until fiscal year 2008-09; as a result, it undercharged the Program in previous fiscal years. The Accounting section also potentially overcharged the Program by $4,000 because it used estimated charges instead of actual charges.

According to the Director of the Office of the Controller, Budget and Analysis Division, for the purpose of allocating overhead costs, any reasonable methodology can be used

[5] Through Ordinance 240-03, the San Francisco Arts Commission raised the certificate fee for Program participants during the fiscal years 2003-04, 2004-05 and 2005-06. See Exhibit 1 in the introduction for additional details.

by a department to allocate costs internally. However, prior to fiscal year 2008-09, the San Francisco Arts Commission Accounting section charged the Street Artists Program a flat amount of $8,000 for overhead expenditures, resulting in the Program not fully reimbursing the SFAC for the Program's share of costs incurred.

The SFAC revised its allocation methodology during the 2008-09 fiscal year

During fiscal year 2008-09, at the request of the Director of Cultural Affairs, SFAC senior management developed the overhead cost allocation methodology and allocated costs to each of its programs and divisions equitably. This basis was applied to all SFAC programs for the fiscal year, however, it was not charged to the Street Artists Program as it was not included in the annual budget approved by the Board of Supervisors. As a result, a flat amount of $8,000 was again charged to the Program.

The SFAC allocated costs to the Program based the newly developed methodology during the 2009-10 fiscal year

For the 2009-10 fiscal year, a preliminary estimate of the total overhead costs to be incurred by the SFAC was allocated to all SFAC programs to recover each program's share of administrative expenditures. These costs were determined using the methodology developed by SFAC senior management during the fiscal year 2008-09. This amount totaled $38,348 for the Street Artists Program and was approved by the Board of Supervisors and included in the 2009-10 Program budget.

Some costs were not properly allocated.

Based on a review of the SFAC's fiscal year 2009-10 overhead allocation methodology, and a review of actual overhead costs charged to the Street Artists Program, the audit found that while the bases used by the SFAC were properly developed, the actual administrative charges incurred by the Program were at least $4,000 less than the allocation made by the SFAC Accounting section.

According to the SFAC CFO, and based on the audit's recalculation of the SFAC's preliminary estimate of anticipated overhead charges, the SFAC developed several criteria for allocating administrative costs to its programs including charges based on headcount, square-footage, and actual amounts billed. Using these criteria as a basis, the audit recalculated the allocations using actual costs incurred by the SFAC. This included the recalculation of allocations for Accounting staff salaries and benefits, Department of Technology and Department of Human Resources services, as well as rental expenses. Through

the recalculation of the allocations, the audit found that by only using estimated totals and not subsequently reviewing actual costs incurred, the SFAC overcharged the Program by at least $4,000, approximately 11% of the total overhead allocation.

The majority of the $4,000 overcharge consisted of Accounting staff charges. Currently, the SFAC utilizes an estimated amount of documents processed by the Accounting section, including purchase orders, cash receipts, payroll and journal entries, and uses the ratio of each program's total in relation to the entire SFAC's total as an allocation base for accounting overhead charges. Although this is an acceptable method of allocating accounting costs, this method does not take into consideration the nature, level of difficulty or time spent on each document, rather only considers the total number of transactions processed. Such an allocation for personnel services could be based on time studies and functional time sheets to provide a more accurate assessment of accounting time spent on the Program.

Recommendations

The SFAC should:

10. Consider changing its cost allocation criteria for accounting expenditures based on actual time spent on the Program according to time keeping records.

11. Perform a true-up of overhead charges to the Program during the year end close to allocate actual costs instead of estimates.

Finding 2.3

The San Francisco Arts Commission Accounting section charged the Street Artists Program for management and supervision charges that were unsupported by any SFAC policy resolution and were not communicated to the Program's participants.

Management and supervision charges were allocated to the Program based on arbitrary allocation bases and were not discussed with street artists

During the 2009-10 fiscal year, as part of the accounting year end close, the SFAC charged the Street Artists Program $18,875 in "management and supervision charges," which were unsupported by any official SFAC adopted policy resolution and were not communicated to the Program's participants during any public hearings or committee meetings. These charges were based on calculations decided upon by the SFAC management staff,

but were not supported by time studies or time sheets. To generate the revenue necessary to fund the management and supervision charges, individual Program participants incurred a cost of approximately $50 per participant.

In contrast to the overhead charges discussed in Finding 2.2, which were discussed at length with the Program participants at the Street Artists Committee meeting on January 14, 2009, the SFAC allocated the management charges to the Program without advance notice and without discussion during any public hearings or meetings in which Program participants could express their opinions regarding the cost.

According to the SFAC CFO, the SFAC levied the management charges in an effort to recover costs associated with management and supervision of the Street Artists Program by the Director of Cultural Affairs and the Director of Programs. These charges were allocated to the Program based on a management decision and were not included in the fiscal year 2009-10 Street Artists Program budget approved by SFAC and the Board of Supervisors.

These charges were based on arbitrary amounts determined as reasonable by the SFAC management staff and were not charged to any other SFAC program

The management charges allocated to the Program were recorded in the City's FAMIS through a department initiated journal entry approved by the CFO. According to the CFO, through the approval of the SFAC management staff, the charges were calculated as 5 percent of 110 percent of the total salaries and benefits for both the SFAC Director of Cultural Affairs and Director of Programs.

The audit found that both the 10 percent salary and benefit supplemental and 5 percent allocation rate are not supported by time studies, time sheets, or other documentation providing evidence for the use of these amounts as a basis. Rather, the percentages were chosen by SFAC management, and determined to be reasonable given the estimated amount of time spent on the Program by supervisory personnel. Additionally, according to the CFO, no other SFAC program or division is allocated the supervision charges.

The supervision charges appear reasonable if properly allocated

As explained in the Introduction, the San Francisco Police Code allows the increase of certificate fees when necessary to finance SFAC management of the Program. Through a review of SFAC Committee and Street Artists

Committee meeting minutes, the audit found that the SFAC Director of Cultural Affairs attends meetings and actively participates in the management of the Program. As these charges represent those costs related to administering and enforcing the Program, the allocation of such costs are considered reasonable if done with an appropriate basis.

Recommendations

The SFAC should:

12. Perform a detailed analysis of management's time spent on the Street Artists Program and develop a reasonable methodology based on supportable costs.

13. Include management and supervision costs in the budget approval process for discussion during public hearings and committee meetings.

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APPENDIX A: Street Artists Program Fee Estimation

	Fiscal Year	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
I.	Actual Revenue [a]	$ 133,523	$ 133,914	$ 127,625	$ 135,870	$ 151,817	$ 173,520	$ 165,128	$ 179,352	$ 206,112	$ 247,169
II.	Estimated Artists [b]	381	383	365	364	383	414	394	428	387	401
III.	Actual Fee Rate [c]	$ 350.00	$ 350.00	$ 350.00	$ 373.60	$ 396.40	$ 419.20	$ 419.20	$ 419.20	$ 532.28	$ 616.64
IV.	Auditor Fee Rate [d]	350.00	350.00	350.00	350.00	350.00	350.00	465.70	432.96	504.20	610.48
V.	Revenue [e]	133,523	133,914	127,625	127,287	134,046	144,876	183,445	185,239	195,239	244,700
VI.	Carry Forward [f]	150,757	124,282	102,191	59,289	52,378	30,350	5,064	4	2	3
	Net Revenue	**284,280**	**258,196**	**229,816**	**186,576**	**186,424**	**175,226**	**188,509**	**185,243**	**195,241**	**244,703**
VII.	Expenditures [g]	159,998	156,005	170,527	134,198	156,074	170,162	188,505	185,241	195,238	244,700
	Net Income/(Deficit)	**$ 124,282**	**$ 102,191**	**$ 59,289**	**$ 52,378**	**$ 30,350**	**$ 5,064**	**$ 4**	**$ 2**	**$ 3**	**$ 3**
	Change in Expenditures [h]		(3,993)	14,522	(36,329)	21,876	14,088	18,343	(3,264)	9,997	49,462
	Fee Difference [i]	-	-	-	(24)	(46)	(69)	47	14	(28)	(6)

Notes:

[a] Represents the actual revenue earned by the Street Artists Program.

[b] Estimated Artists is the auditors calculation of anticipated Program participants given the actual revenue generated and fee charged by the Program. This total is calculated by dividing Actual Revenue (I) by the Actual Fee Rate (III).

[c] Represents the actual fee rate approved by the Board of Supervisors and charged by the Street Artists Program.

[d] Auditor Fee Rate is estimated using the fee set during the period when the surplus of cash was maintained by the Program as a basis ($350 during fiscal year 2000-01). This fee rate was utilized until the auditor estimates the Program would have exhausted the revenue surplus (2006-07) as a result of expenditures being incurred in excess of revenues (VII > V + VI). Once the revenue surplus was exhausted, a new fee rate was calculated sufficient to cover all expenditures incurred (VII - VI ÷ II) and maintain the fund in a cash neutral position. The fee rate was calculated using the estimated total of Program participants during a given year (II).

[e] Represents estimated revenue generated based on the Auditor Fee Rate and estimated number of Program participants as described above in footnote b.

[f] The carry-forward balance for the fiscal year 2000-01 includes the surplus held in inactive Subfund Projects consolidated into the active Street Artists Program Project account as explained in Finding 2.1.

[g] Represents actual expenditures incurred by the Program during the given fiscal year.

[h] Represents the actual year over year change in expenditures incurred by the Program.

[i] Represents the difference in the Actual Fee Rate charged by the Program (III) and the Auditor Fee Rate estimated (IV).

Source: Auditor's schedule of fee estimates; FAMIS

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APPENDIX B: DEPARTMENT RESPONSE

SAN FRANCISCO ARTS COMMISSION

EDWIN M. LEE
MAYOR

LUIS R. CANCEL
DIRECTOR OF
CULTURAL AFFAIRS

PROGRAMS
CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
PERFORMING ARTS
PUBLIC ART
STREET ARTISTS LICENSES

ARTS COMMISSION GALLERY
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July 6, 2011

Ms. Tonia Lediju
Director of Audits
Office of the Controller
City Hall Room 316
San Francisco, CA 94102-4694

Re: Response to Draft Audit Report of Arts Commission's Street Artists Program

Dear Ms. Lediju:

We are in receipt of the June 23, 2001 e-mail from Ms. Elisa Sullivan, Audit Manager, accepting most of the changes we requested on the audit draft in our letter to you of June 22, 2011. However, we still strongly disagree with one of the statements of the audit's "Table of Contents" and the findings of Chapter 2, as we stated earlier:

"TABLE OF CONTENTS", Finding 2.3., "The San Francisco Arts Commission Accounting section charged the Street Artist Program for management and supervision charges that were unsupported by any policy resolution and were not communicated to the Program's participants". **WE DISAGREE WITH THIS STATEMENT.** Proposition "K" passed by the voters of November 8, 1983, states: "The Board of Supervisors may increase the certificate fee when necessary in order to finance the costs of the ***Art Commission*** [emphasis added] in administering and enforcing the provisions of this ordinance." Please note that the Prop K's mandate states "Art Commission", not "Street Artists Program"; it follows that "administering" the ordinance would ***require*** the ***Arts Commission's*** management and supervision and would include the Arts Commission's costs for such management and supervision. Therefore, a policy resolution by the Arts Commission is not required given the authority of Proposition "K", the people's mandate.

CITY AND COUNTY OF
SAN FRANCISCO

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Page 17, **"CHAPTER 2" – The San Francisco Arts Commission Needs to Improve its Accounting Practices for the Street Artists Program; Summary".** In the sentence "Did not utilize excess fund balances ranging from $40,000 to $90,000, maintained in inactive Program project accounts across several fiscal years, to keep Program certificate fees from being raised," please insert the words **"deposited by the Controller and"** between "$90,000" and "maintained". The fund balances were not deposited nor initiated by the Arts Commission in the inactive project accounts which belonged to other programs. To have done so, the Arts Commission would have acted in a manner inconsistent with the provisions of Ordinance No. 151-99, "STREET ARTISTS FUND" which state in Sections 10.117-123 (a) "Establishment of Fund" and (f) "Accumulation of Monies in Fund" that "all fees received by the San Francisco Arts Commission for the Street Artists Program" are required to be deposited in the special fund of the Street Artists Program, and that "The balance remaining in the Street Artist Fund at the close of any fiscal year ... shall be ... accumulated in" the Street Artists Program's Special fund."

The accounting section of the Arts Commission was never informed by the Controller that any of the Street Artist fees had been deposited by the Controller in certain inactive project accounts that did not belong to the Street Artists Program's special fund. Furthermore, the Commission's accounting section had no reason to presume that Street Artist fees had been so deposited or to investigate whether the funds in such inactive accounts belonged to the Street Artists Program. And, above and beyond all of this, **such fees *should not* have been deposited at all into such inactive accounts, as this would have been contrary to the provisions of the Ordinance No. 151-99.**

Similarly, in **"Finding 2.1"**, in the sentence "The SFAC Accounting section maintained three inactive Program subfund projects ...containing a net balance of $173,466, which should have been used to potentially keep Street Artist certificate fees from increasing," please insert the words **"transferred into these projects by the Controller without the Arts Commission's knowledge"** between the word "$173,466" and the words "which should have been used".

Page 19, second paragraph: Thank you for making the point that "... However, the audit found that in 2006-07, the fee would have had to increase dramatically by over $115. By contrast, the Program's actual fee increases were *gradual* [emphasis added]".

With the advice of the City Attorney, it was the Arts Commission's intent to not adversely impact the street artists by imposing a dramatic, sharp fee increase on them but, out of consideration to them, to raise the fee gradually.

Also, on Page 19, bottom-of-the-page statement: Thank you for making the point that "The San Francisco Arts Commission Accounting section did not fully develop and implement an overhead cost allocation methodology until fiscal year 2008-09; as a result, it *undercharged* [emphasis added] the Program in previous years."

Page 22, top-of-the-page paragraph: From the sentence "During the 2009-10 fiscal year ... the SFAC charged the Street Artists Program $18,875 in 'management and supervision charges', which are unsupported by any official SFAC adopted policy resolution or mandate ...", **please eliminate the words "which are unsupported by any official SFAC adopted policy resolution or mandate".** As we stated previously, the voter-mandated Proposition "K" of 1983 clearly requires the Arts Commission to administer and enforce the provisions of the Street Artists Ordinance, and that the fees may be increased by the Board of Supervisors "in order to finance the costs of the Art Commission" in such administration and enforcement. We feel that it is debatable as to whether the Commission was required to issue a policy resolution on the administrative costs of fulfilling the mandate of Proposition "K".

Finally - and most importantly - please see our response to **Recommendation 9 of the "Audit Recommendation and Response Form".** Recommendation 9 states: "Continue to take into consideration all surplus balances when calculating the Street Artists Program certificate fee to ensure that all funds available to the Program are used to fund the Program's expenditures. The Program could hold a small reserve to keep the fee from fluctuating year to year. ..." While we concur with the recommendation of holding a small reserve to keep the fee from fluctuating, we do not agree to take into consideration all the Program fund surplus balances that the Controller wrongfully combined with other program funds such as POPs Equipment account, Transfer to Friends Administration account, and Civic Collection account. Each account belongs to a different program with embedded project; each is its own legal entity governed by Charter or ordinance.

To consider using such mixed funds would, in our understanding, be illegal, as it would not be consistent with the provisions of the Street Artist Fund created by Ordinance No. 151-99 which requires "***all* fees** [emphasis added] received by the San Francisco Arts Commission for the Street Artists Program" to be deposited into the Street Artists Fund, and *not* deposited into other accounts belonging to other programs.

Sincerely,

Luis R. Cancel
Director of Cultural Affairs

Cc: All Arts Commissioners
Director of Finance Kan Htun
Director of Programs Jill Manton
Director of Grants San San Wong
Street Artists Program Director Howard Lazar

AUDIT RECOMMENDATIONS AND RESPONSES

Recommendations	Responsible Agency	Response
1. One employee, preferably the Program Assistant, or an SFAC clerk, should the Assistant be absent, should make a control list of all daily receipts, and immediately restrictively endorse all checks received as "for deposit only."	SFAC – Street Artists Program	Concur. Will start from July 1, 2011
2. The Program Director should continue to prepare the deposit and ensure it is completed on a timely basis. In the event that the Program Director is not available when a deposit is required, a separate individual not involved in the receipts process, such as a SFAC clerk should prepare the deposit.	SFAC – Street Artists Program	Partially concur. With the Program Director's substantial workload in managing and enforcing the Street Artists Ordinance, a daily deposit is not foreseeable; rather a twice-a-week deposit will start in the new fiscal year 2011-12.
3. The Program should implement a procedure in which the current control list of all receipts prepared by the Program Assistant is used to reconcile the daily cash receipts to the actual deposit slip and the revenue recorded within FAMIS. This reconciliation should be done by the CFO.	SFAC – Street Artists Program	Partially concur. Current control list of the program receipts are recorded daily in the Accounting Receipt register and the total revenue are always agreed. But, the recommended reconciliation procedure will be implemented in the fiscal year 2011-12 and will be done and recorded by the accounting employees supervised by the Director of Finance.

Recommendations	Responsible Agency	Response
4. Develop written policies in which it outlines the possible repercussions for artists submitting checks returned for insufficient funds, including associated penalty fees and description of the certificate invalidation process. This information should be documented and distributed to artists upon acceptance into the Program.	SFAC – Street Artists Program	Concur. The program will seek the City Attorney clarification as to whether such polices would require a vote by the Full Arts Commission.
5. Improve its tracking and monitoring of artists with returned checks by developing a report which identifies the artist, amount of the check returned, associated penalty fees, outstanding balance and status of certificate invalidation. The Program should consider publishing or distributing this report to artists and/or the Lottery Committee.	SFAC – Street Artists Program	Partially concur. However, the program will seek clarification from the City Attorney as to whether the report to artists and/or the Lottery Committee would be a breach of confidentiality, if it includes the amount of the check returned, associated penalty fees, outstanding balance.
6. Improve enforcement of artist certificate invalidation by implementing a process in which artists actively participating in selling their crafts are compared to the report of artists with returned checks to identify artists who are selling their crafts without a valid certificate.	SFAC – Street Artists Program	Concur.

Recommendations	Responsible Agency	Response
7. The Program should develop comprehensive written policies and procedures that incorporate all steps of the receipt process that will guide staff on how to perform their duties and identify personnel responsible for completing the deposit when the Director is absent.	SFAC – Street Artists Program	Concur. This would be added to the Program's current operating manual as soon as possible.
8. The Program should implement its planned internet based payment systems which will allow for the acceptance of credit and debit cards, and for automatic recording of revenue into the Program's bank account.	SFAC – Street Artists Program	Concur. Will commence on July 19, 2011. In addition, the internet based payment system's procedures will be added to the Program's current operating manual

Recommendations	Responsible Agency	Response
9. Take into consideration all surplus balances when calculating the Street Artists Program certificate fee to ensure that all funds available to the Program are used to fund the Program's expenditures. As an alternative, the Program could hold a small reserve to keep the fee from fluctuating year to year. In this case, the Program should decide upon and document the amount to hold.	SFAC – Street Artists Program	Partially concur to the fact of holding a small reserve to keep the fee from fluctuating year to year and documented the amount to hold. **Do not concur to take into consideration all surplus balances for street artist license fee program usage.** To have done so, the Arts Commission would have acted in a manner inconsistent with the provisions of Ordinance No. 151-99. The Title Street Artist Program Fund was incorrectly created by the Controller office prior to online FAMIS system was introduced to the Arts Commission in fiscal year 2000-01. Prior to FY 2000-01 all financial and accounting functions were processed and recorded by the Controller's Office under the supervision of the Controller's Fund Accountant. The Arts Commission had accounting staff had to prepare receipts and payments manually and submitted to the Controller's Fund Accountant for processing and recording revenue and expenditure. At that time, the Street Artist Program Fund was wrongly combined with other program funds by the Controller's Office, such as, POPs Equipment account, Transfer to Friends Administration account, and Civic Collection account. The auditor's Exhibit 2 on Page 4 is incomplete and the actual Street Artist Program Fund set up by the Controller is mixed up with other programs. Each different program and embedded project has its own legal entity and governed by separate respective Charter or Ordinance. To take into consideration all different program funds surplus balances wrongly mixed up by the Controller at the time of conversion to online FAMIS system and used for the Street Artist License fee would be in violation of Prop K of 1983 and would need the City Attorney opinion, if legal challenges incurred. All along the establishment of the Street Artist Program, all license fee revenue is recorded and expended in one and separate Street Artist account only. To take into consideration all other fund balances that the Controller wrongly combined with other program funds and used for Street Artist license fee increase would be illegal. Each account belongs to a different program with embedded project

Recommendations	Responsible Agency	Response
		and each is its own legal entity governed by Charter or Ordinance. The Arts Commission CFO position was created and operated with effect from FY 2009-10 onwards. To review, clean and close inactive projects of the City, and to make adjustments and year end closing of Fund balances are undertaken by the Controller's Budget & Analysis Division headed by Mr. Wing Leung, (job class 0931), assisted by Fund Analysts (job class 1657). Ms. Agnes Cervantes, Fund Analyst was assigned for the Arts Commission funds. Mr. Wing Leung was retired on 03/20/2010 and Ms. Agnes Cervantes was retired on 01/09/2010, and the reconciliation and closing of inactive Fund balances were ceased from that time. The finding stating the Arts Commission's CFO is aware of inactive projects and to initiate consolidation is wrong. It is the Controller's function to initiate and work with the agency. Such function is currently being undertaken by the Controller's office.
10. Consider changing its cost allocation criteria for accounting expenditures based on actual time spent on the Program according to time keeping records.	SFAC – Street Artists Program	Partially concur. The current allocation method of statically recorded each type of document gave weighted average to the nature of time taken to process the documents for each program in the agency. Accounting staff are processing daily over hundreds of documents from all programs in the agency. To record time taken for each program in a day will be cumbersome. The cost and benefit for doing this way will not be viable in practice. In cost accounting principle, the overhead cost is defined as a cost which cannot be identified directly with a cost center. Therefore, each element of cost has to be allocated with the reasonable allocation basis. The allocation based on actual time spent on Program will be tested in FY 12 as recommended and will be reviewed its cost benefit analysis after a year.

Recommendations	Responsible Agency	Response
11. Perform a true-up of overhead charges to the Program during the year end close to allocate actual costs instead of estimates.	SFAC – Street Artists Program	Partially concur. The current overhead charge to the Program is based on the BOS approved budget. The actual cost will be known after the year end account is closed at the end of August each year. At that time new fiscal year already begins and practically the overhead charges cannot be charged to previous year that have been closed already. But, will recalculate the actual allocation again as recommended at the year end close. Any variance (over or under charges) will be adjusted in the next year account only.
12. Perform a detailed analysis of management's time spent on the Street Artists Program and develop a reasonable methodology based on supportable costs.	SFAC – Street Artists Program	Partially concur. The Head of the Department and Director of Program's time spent on the Street Artist Program will be test recorded with effect from FY 12 and applied the supervision cost allocated on the time sheet recorded monthly. Will see it practicality and benefits over the current 10% basis.
13. Include management and supervision costs in the budget approval process for discussion during public hearings and committee meetings.	SFAC – Street Artists Program	Concur. Will include in the Committee agenda in FY 12.

APPENDIX C: REBUTTAL TO RESPONSE

To provide clarity and perspective, the Controller's Office, City Services Auditor (CSA) Division, has prepared this response to the San Francisco Arts Commission's (Arts Commission) written response regarding the audit report. CSA maintains that the findings described in the audit report and related conclusions are complete and accurate based on the documents and correspondence provided by the Street Artists Program to perform the audit.

Finding 2.1: The San Francisco Arts Commission Accounting section overlooked some fund balances held when calculating its certificate fee rate

The Arts Commission's response letter contends that the Accounting section of the Arts Commission was never informed by the Controller that any of the Street Artists Program fees had been deposited in certain inactive project accounts over 10 years ago and that later the Controller wrongfully combined the inactive project funds into the Street Artists Program fund.

As noted in our report, the Arts Commission's CFO became aware of the inactive project accounts shortly after he was hired about 10 years ago, but he failed to complete the process to correct these accounts at that time. The CFO provided the audit team with copies of emails that show that in October 2000, he contacted the Controller's Office to request that interest for the Street Artists Program Fund be accounted for in an active project account instead of one of the inactive project accounts. In that email he stated, "We are working on the process of clean-up and close-out inactive projects for the Arts Commission." During the same time, he successfully worked with the Controller's Office to close out other inactive funds and abnormal balances in the Public Arts Fund. Subsequently, in 2009, the Controller's Office Budget and Analysis Division (BAD) contacted the CFO by email to inquire about the status of the Street Artists Program inactive projects so that they could be closed out, and BAD shortly thereafter completed the consolidation. Although the CFO worked with BAD to correct the fund over a year ago, it is not clear why he accepted the consolidation of the inactive project accounts into the Street Artists Program if he believed it was incorrect.

Finding 2.3: The San Francisco Arts Commission Accounting section charged the Street Artists Program for management and supervision charges that were unsupported by any SFAC policy resolution and were not communicated to the program's participants

The Arts Commission's response letter contends that a policy resolution is not required because the Street Artists Ordinance states that the Board of Supervisors may increase the certificate fee to finance the costs of the Arts Commission in administering the ordinance. The Arts Commission is not being consistent in its process for including its costs in the charges to the Street Artists Program. General overhead charges for fiscal year 2009-10 were submitted to and approved by the Board of Supervisors, included in the 2009-10 program budget, and discussed at length with program participants at a Street Artists Committee meeting. By contrast, the management and supervision charges, which are also considered overhead charges, were not specifically approved by the Board of Supervisors, were not specifically included in the 2009-10 program budget and were simply charged at year-end as other current expenses. We believe our recommendation to include

management and supervision charges in the budget approval process is reasonable and consistent with the Arts Commission's practice regarding costs it charges the Street Artists Program.

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

REVIEW MEMORANDUM

TO: JD Beltran, Interim Executive Director of Cultural Affairs

FROM: Tonia Lediju, Director of Audits, City Services Auditor Division

DATE: November 15, 2011

SUBJECT: **Results of the Financial Management Review of the San Francisco Arts Commission**

EXECUTIVE SUMMARY

The Office of the Controller, City Services Auditor Division (CSA), reviewed the financial management of the San Francisco Arts Commission (SFAC). The review evaluated the organizational structure of SFAC finance personnel, assessed the financial practices of SFAC's programs, and evaluated the grants-making process, including procedures for issuing payments. The review found several operational and financial weaknesses upon which SFAC needs to improve. This memo contains 12 recommendations to help SFAC improve its financial and operational practices.

BACKGROUND

SFAC, established by the 1932 Charter of the City and County of San Francisco (City), is the city agency that promotes the arts in San Francisco. SFAC programs are designed to integrate the arts into all aspects of city communities. SFAC has the following nine programs and projects:

- City Hall Docent Tours
- Civic Art Collection
- Civic Design Review
- Community Arts and Education
- Cultural Equity Grants
- Public Art: Art Enrichment
- Arts Commission Gallery
- Street Artists
- San Francisco Symphony – Municipal Concerts

These programs are supported by SFAC's development and accounting sections. Exhibit 1 shows the fiscal year 2010-11 budgets of the seven SFAC general fund and special revenue fund programs that are budgeted through the City's Consolidated Budget and Annual Appropriation Ordinance.

EXHIBIT 1 San Francisco Arts Commission Program Budget Summary

Program	Fiscal Year 2010-11 Budget
Community Arts and Education	$3,672,024
Cultural Equity	2,089,774
San Francisco Symphony – Municipal Concerts*	1,981,515
Street Artists	262,313
Public Art	165,090
Civic Collection	83,775
Gallery	25,000
TOTAL	**8,279,491**

*SFAC and the San Francisco Symphony Orchestra, through a contract, partner to produce a concert series that is intended to appeal to youth, families, and the diverse demographics of the City. This includes the Summer and the Symphony concert series.

Source: City and County of San Francisco Consolidated Budget and Annual Appropriation Ordinance for the fiscal year ending June 30, 2012.

Over the past four years, SFAC has undergone several management changes. Three directors of cultural affairs have been appointed in succession, and the deputy director position was eliminated. Eliminating the deputy director position was a significant change as managers and staff had to begin to report directly to the director of cultural affairs. SFAC recently appointed an interim director of cultural affairs, and is in the process of restructuring by reinstating the deputy director position and eliminating a director of programs position instituted by the previous director of cultural affairs. CSA agrees with the restructuring, and believes it will benefit SFAC.[1]

METHODOLOGY

To conduct this review, CSA:

- Surveyed all SFAC employees to assess the organization.
- Researched SFAC's legislative requirements.
- Analyzed employee records to ensure that only active employees are paid and properly included on payroll and staff lists.
- Interviewed several program personnel, including a majority of SFAC's program directors.
- Tested samples of SFAC's expenditures, including grant, stipend, and administrative expenses, in the City's accounting system.

[1] The organizational structure proposed by SFAC management is detailed in Appendix A of this memorandum.

Of 105 expenditures recorded against SFAC's Administrative Fund, the review examined 10 (9.5 percent). The review summarized and assessed all of SFAC's grant programs, and analyzed historical grant award data. In relation to grants, the review examined:

- 23 (8 percent) of 282 Cultural Equity Grants (CEG) program grant payments, including those related to both organization and individual grants.
- 4 (11 percent) of 38 Community Arts and Education (CAE) program grant payments.
- 10 (12 percent) of 81 stipend payments issued from the CEG program.
- 4 (24 percent) of 17 Community Arts & Education WritersCorps, Youth Art Festival, and project support payments.

Of the 105 expenditures recorded against SFAC's Administrative Fund, all ten tested expenditures appeared to be for discretionary purposes inconsistent with the purposes intended by sources of the fund. Of the 23 CEG program grant payments tested, one payment was made after expiration of the grant period, one grant was incorrectly coded, and one grant was made that was not subject to a competitive process. Of the sample of 4 CAE grant payments tested, 1 grant amount was not adequately documented.

The review period was July 1, 2010, through August 15, 2011.

RESULTS

Finding 1: SFAC Uses Some Accounting Policies That Diverge from City Policies and Best Practices, and Should Improve Written Policies and Procedures for Its Programs

Recommendation 1: SFAC should include overhead charges as part of the City's regular annual budget process to ensure that funds are used for their intended purposes.

SFAC improperly accounts for discretionary spending and overhead by not including a clear budget for administrative expenditures charged to SFAC's administrative account in the City's annual budget process. This administrative account is primarily funded from the budgets of the various SFAC programs, which allocate specific amounts based on the needs of each program. SFAC uses an overhead cost allocation methodology from this account to charge each program a share of administrative expenditures. This includes costs such as rent, accounting services, information technology support, and human resources services. According to SFAC's finance director, once the allocations are combined into the administrative account, the funds are not restricted to specific purposes. This account does not operate under a budget that can be monitored throughout the fiscal year. Instead, the fund has been used for some overhead costs and discretionary expenses with the approval of the immediately prior director of cultural affairs. During the review period these expenditures totaled $269,000 and included:[2]

- Catering expenses
- Consulting services
- Furniture and fixture purchases and installations
- Grant payments

[2] The expenditures listed are in alphabetical order. The review did not determine the value of each category.

- Overhead expenses

Because SFAC charges its programs to recover the costs for administrative expenditures, the use of this account for discretionary spending is improper and not according to the account's intended purposes. Moreover, there is a risk that one program may be heavily subsidizing another program's discretionary spending.

CSA recommends that SFAC collaborate with the Office of the Controller's Budget Analysis Division and Accounting Operations and Systems Division during the current fiscal year to ensure that overhead charges and recoveries are included in the annual budget process and that funds are used for their appropriate and intended purpose.

Recommendation 2: SFAC should follow the authorized vendor and employee reimbursement procedures from the Office of the Controller, and implement payment restrictions over the use of the revenue held in Intersection for the Arts.

SFAC's fiscal accounts with the Intersection for the Arts (IFTA) circumvent the City's policies for vendor selection and restrictions on employee reimbursements. SFAC currently holds contracts with IFTA for three fiscal sponsorship accounts that are not subject to the City's codes and regulations. SFAC maintains these three accounts with IFTA to receive grants, donations, and contributions from the general public, government entities, foundations, and corporate entities that are not made directly to the City. The revenue received by IFTA is used to provide additional funds to the SFAC Gallery, WritersCorps, and general SFAC programs. According to SFAC program managers, the use of some of the funds recorded by IFTA can be restricted based on donor intent. However, unrestricted funds are used for general operating expenditures and SFAC programs, SFAC receptions and retreats, employee reimbursements for travel and meals, and, according to a program director, payments to vendors not approved by the City. SFAC circumvents city vendor and employee reimbursement policies by using the IFTA account in these ways.

CSA recommends that SFAC implement restrictions over the use of the revenue held in IFTA accounts, and implement procedures consistent with those required by the Office of the Controller for all payments, including those for vendors and employee reimbursements.

Recommendation 3: SFAC should institute policies to better track grants received.

The Development section of SFAC does not delineate the process to track and monitor grants once they are awarded to SFAC, including the process of reconciling actual grant funds received to the grant agreement. The Development section is charged with identifying and procuring additional funding for SFAC programs. According to the development director, the focus of the Development section includes those SFAC programs and initiatives that are not in the city Charter and that do not have dedicated funding sources such as from the general fund or special revenue funds. The Development section, upon receiving grant funds and allocating them based on donor intent, has no method to formally track and monitor the receipt of grants or reconcile the funds to grant awards and amounts recorded by the SFAC's Accounting section in the City's Financial Accounting and Management Information System (FAMIS). As a result, there is an increased risk that grants may go uncollected or may be received for amounts less than originally intended.

CSA recommends that the Development section work with other SFAC programs to which grant funds are ultimately paid to institute better policies to track and monitor the receipt of grant funds and to reconcile actual funds received to grant awards and funds recorded by the Accounting section.

Recommendation 4: SFAC should improve program accountability by separately tracking funds used by each program.

The CEG program and SFAC's Accounting section charge funds intended for the CAE program to the CEG program. The City's Annual Appropriation Ordinance requires separate FAMIS project accounts for the CAE and CEG programs as the budget sources are delineated for specific purposes. As part of a management decision made in fiscal year 2007-08, a grant award program operated by the CAE program was transferred to CEG, but funded out of CAE-budgeted funds. This results in a lack of transparency in SFAC's revenue sources and uses.

CSA recommends that the Accounting section work with SFAC management and the Office of the Controller's Budget and Analysis Division to ensure that expenditures are properly charged against appropriations approved by the Board of Supervisors.

Recommendation 5: SFAC should ensure that all programs have up-to-date program policies and procedures manuals that are in line with SFAC protocols and best practices.

Some SFAC programs lack an up-to-date manual of program-related policies and procedures. The purposes of such manuals include ensuring that all applicable SFAC program-related protocols are being applied, that similar transactions are treated consistently, and that reports are produced in the form desired by management.

CSA recommends that each SFAC program develop a program-specific policies and procedures manual. At a minimum, each manual should include:

- An organization chart of the program.
- Job descriptions, outlining duties and responsibilities.
- Descriptions of methods, procedures, and guidelines to be followed, including explanations and examples of principal transactions.
- Any other documents or forms for which uniformity of use is desired.

Finding 2: SFAC's Operations Require Better Management of Its Human Resources Functions

To understand SFAC's operational culture, CSA surveyed all departmental employees. The survey questionnaire consisted of 56 statements in seven sections.[3] In six of the sections, employees were asked to indicate whether they *strongly agree*, *agree*, *disagree*, *strongly disagree*, *don't know*, or considered the statement *not applicable*. For the seventh section, which was on the SFAC's general control environment, employees were asked to respond *yes* if the control described was in place or *no* if the control was not in place, but still had the option to indicate *do not know* or *not applicable*. There also was an open-ended item in each section that

[3] See Appendix B for the complete list of statements included in the survey.

asked respondents to explain any negative responses. Of the 39 questionnaires distributed, CSA received 26 completed surveys (a 66 percent response rate) from:

- 15 manager-level employees
- 6 administrative support staff
- 5 direct service staff
- 4 temporary employees
- 1 grant recipient

Respondents came from all programs. Most respondents were full-time employees (81 percent) and had been with the organization for five years or longer (42 percent).[4]

The following recommendations highlight areas of concern identified by CSA's analysis of the survey responses. Percentages indicate the number of respondents who gave the stated response as percentage of the total number of respondents who answered the question rather than choosing *don't know* or *not applicable*.

Recommendation 6: SFAC should ensure that employees are informed of appropriate and safe methods of reporting misconduct and that it trains its managers on how to respond to reports of misconduct.

Alleged retaliation and lack of training and information regarding recommended methods for reporting human resources problems prevents employees from reporting misconduct. Surveyed employees consistently reported that they did not feel that they could report misconduct or a human resources issue without retaliation. Over one-third (35 percent) of respondents indicated that they felt that staff could not report misconduct without fear of retribution. One response stated, "I certainly don't feel safe or comfortable lodging a complaint," while another stated, "historically, we've all been terrified of retribution (since 2008) because we all witnessed it in action." Multiple respondents indicated a lack of training and awareness about a safe venue for reporting perceived problems.

CSA recommends that SFAC provide training to all current and new employees on safe venues for reporting misconduct, including the process of redressing complaints and ways to communicate with the Department of Human Resources (DHR), the City Attorney's office, the Ethics Commission, and the City's Whistleblower hotline. Further, SFAC should train its managers on how to appropriately handle reports of misconduct.

Recommendation 7: SFAC should work with the Department of Human Resources to better align actual job duties and official job classifications for its employees.

Employees reported little to no relationship between the duties they perform and those in their official job classification descriptions. A large majority (62 percent) of respondents indicated that job classification specifications often do not match the employee's responsibilities and workload.[5] For instance, one response identified a case in which a person hired as an intern continued to work for SFAC for over three years, taking on responsibilities that far exceeded

[4] Thirty-five percent had been with the organization between two and four years and 23 percent had been with the organization less than two years.
[5] Job classification specifications are written by the City's Department of Human Resources and outline the minimum requirements, describe job duties, and specify the level of compensation for a job class.

those of an intern, with no change in classification or compensation to reflect the increased responsibilities. Other respondents indicated that they consistently work more than 40 hours a week, with one citing a lack of recognition by management that the job carries official obligations outside the normal work day. Several employees cited a lack of opportunity for advancement. One employee went further, stating that even opportunities to move laterally between SFAC programs appear limited due to the lack of cooperation between programs.
CSA recommends that SFAC work with its client services representative at DHR to align job classifications with the staffing needs of SFAC. Specifically, SFAC should ask DHR to conduct a job analysis study or other effort to confirm whether each SFAC employee is working within the parameters of his or her job classification.

Recommendation 8: SFAC should ensure that employees receive adequate training, professional development, and evaluations. Specifically, SFAC should use uniform policies and procedures for a systematic, consistent performance review process across all programs. Further, SFAC should revise its professional development policies to ensure that all employees have equitable opportunities and resources to attend training. Finally, SFAC should sufficiently train its employees on its operations.

Employees responding to the survey noted inconsistency in employee performance evaluations, inequity in and unavailability of professional development opportunities, and insufficient training in certain operational areas. More than one-third (37 percent) of respondents indicated that roles and responsibilities were not clearly defined, with three respondents explaining further in their open-ended responses that job descriptions or roles and responsibilities were unclear.

Three respondents indicated that resources for professional development, such as reimbursement of travel and registration expenses to attend trainings, varied from program to program or were unfairly distributed. In addition to methods of reporting misconduct, areas where respondents feel staff is poorly informed include the budget process and certain financial processes involving SFAC's various funding sources.

CSA recommends that SFAC review its policies and procedures for performance reviews, and ensure that it has a systematic, consistent process aligned with city policies in which SFAC:

- Clearly communicates the performance planning and review process to each employee.
- Establishes annually and follows up on at least semi-annually a performance plan for each employee.
- Gives written performance evaluations on a known and regular schedule to all employees, no less than annually.
- Clarifies expectations when an employee's job duties or supervisors change.
- Requires supervisors to provide informal feedback, and encourages employees to seek informal feedback throughout the process.

Further, CSA recommends that SFAC ensure that all employees have equitable opportunities and resources to attend trainings. Finally, SFAC should work with employees to identify areas where improved training would increase employees' understanding of operations such as how the City and SFAC make budget decisions and how SFAC programs are funded.

Recommendation 9: SFAC management should encourage appropriate cooperation and collaboration among programs.

The survey found that a culture of mistrust and an environment in which employees work in silos[6] prevent teamwork, collaboration, and cooperation among programs and between the programs and SFAC. Several survey respondents expressed personal or observed feelings of mistrust of both the management and administration of SFAC and between various programs.

For instance:

Responses indicate that teamwork is not encouraged.

- 61 percent of respondents believe that SFAC does not foster teamwork among its program and project staff.
- Nine open-ended responses indicate that programs operate in "silos" with little to no cooperation or collaboration with other departments.

Respondents reported doubts about management's decisions and noted a lack of transparency.

- 39 percent of respondents believe that management does not use resources wisely.
- 36 percent reported that management does not make good expenditure decisions.
- Two open-ended responses specifically cited a lack of transparency in budget and decision-making processes.

CSA recommends increasing transparency of all decision-making, budgeting, and funding processes by communicating to all employees how decisions are made, what the various funding sources are for SFAC's programs, and what impact each funding source has on the expenditures it funds. This could be achieved through procedure manuals, training sessions, and staff meetings. Management should consider incorporating staff feedback into these processes. Further, SFAC management should encourage appropriate cooperation and collaboration among programs.

Finding 3: The Cultural Equity Grants Program Lacks Adequate Oversight

Recommendation 10: The Cultural Equity Grants program should cease funding and administering the four grants that are outside of its legislative scope.

The SFAC CEG program funds grants that are not in line with its voter-approved, enabling legislation. As a result, the CEG program is not in compliance with the City's Administrative Code. Administrative Code Chapter 68 established the Cultural Equity Endowment Fund from an allocation of hotel tax revenues. These funds are to be used to move SFAC's funding toward cultural equity opportunities. Section 68.3 establishes the four grant programs for which funds from the Cultural Equity Endowment Fund shall be expended as the:

- Cultural Equity Initiatives Program (CEI)

[6] "Silos," in this context, refers to a style of management where employees work in small groups that operate almost as though they are separate entities. In a silo-style work environment, there is no reciprocal exchange of information or resources.

- Program for Commissions to Individual Artists (IAC)
- Project Grants to Small and Mid-size organizations (OPG)
- Facilities Fund (CRSP)[7]

However, the CEG program operates eight grant categories, four of which are not cited in the Administrative Code:

- Native American Arts & Cultural Traditions (NAACT)
- Innovations in Strengthening the Arts (ISA)
- Arts & Communities: Innovative Partnerships (ACIP)
- Arts for Neighborhood Vitality grant categories (ANV)

These programs are funded by a variety of sources including the general fund, Grants for the Arts, and the Arts Commission Administrative Fund, as well as the Cultural Equity Endowment Fund. During fiscal year 2010-11, approximately $97,000 in grants was funded by the Cultural Equity Endowment Fund for programs not provided for in the Administrative Code.

CSA recommends that, to ensure compliance with the law, the CEG program and SFAC senior management cease all funding from the Cultural Equity Endowment Fund to grant categories not listed in the Administrative Code, and cease administering grants in these categories until and unless the Administrative Code is changed to include the additional categories. SFAC should work with the Mayor's Office and Board of Supervisors to seek such a change.

Recommendation 11: The Cultural Equity Grants program should improve its grantee awarding process to ensure that no recipient receives simultaneous grants and that a competitive process exists.

The CEG program does not have adequate restrictions to limit the number of simultaneous grant awards applicants may receive in a fiscal year and does not have a competitive process for every grant it issues. At least 55 grant recipients received simultaneous grants in the same fiscal year, for a total of 122 grants, during the period from July 1, 2006, through June 30, 2011, a period in which 738 grants were awarded. The total number of applicants, awards, and multiple grant award recipients for fiscal year 2010-11 are shown in Exhibit 2 below.

EXHIBIT 2 Cultural Equity Grants Program: Applicants, Awards, and Simultaneous Grants Fiscal Year 2010-11

Type	Count	Amount
Grant Requests	284	$4,386,198
Grants Awarded	172	2,385,421
Multiple-Award Recipients*	14	644,363

*Grantees that received two or more simultaneous grants in fiscal year 2010-11. The 14 grantees received 35 CEG program grants.

Source: SFAC CEG Applicant and Award Data

[7]Designated as Creative Space Grants by SFAC.

The CEG program has some limitations on grant recipients receiving multiple grants in the same year, but these limitations are inconsistent. The CEG program's fiscal year 2010-11 grant guidelines indicate that a grant recipient cannot receive multiple grants for the same project across its grants programs, but can receive additional grants for different projects. However, this limitation is difficult to enforce, so there is some risk that the same recipient may use multiple grants for one project. Further, restrictions are in place to prohibit a recipient from receiving more than one grant from the CEI, OPG, and IAC programs at the same time. However, there is no prohibition of simultaneously receiving grants from all other grants programs, including CRSP, ACIP, ANV, ISA, and NAACT, for different projects.

CEG also operates two grant programs, ISA and ANV, that are not subject to a peer panel review process. As detailed in the CEG program grant guidelines, all other grant programs administered by the CEG program require grant applications to be evaluated by a peer panel, the results of which are open to the public. The panelists are intended to "reflect the diversity of San Francisco," and "have general knowledge about the various disciplines and issues, and have experience that aligns with the purpose of the grant category." Instead, the ISA grant program only requires a proposal meeting with the CEG program director and a proposal packet that is evaluated by the director of cultural affairs and the CEG program director. The method for awarding grants from the ANV grant program only includes an SFAC staff review.

Exhibit 3 details the ten grant recipients that have received the most funding during July 2006 through June 2011, and whether the funding was awarded through a competitive or non-competitive process.

EXHIBIT 3 **Cultural Equity Grants Program: Top 10 Grant Recipients Fiscal Years 2006-07 Through 2010-11**

Grantee	Competitive	Non-Competitive	Grants Awarded	Amount Awarded
Center for Cultural Innovation		X	7	$477,000
Galeria de la Raza	X		12	236,950
Queer Cultural Center	X		6	215,750
Queer Women of Color Media Arts Project	X		6	212,000
Dance Brigade	X		6	211,500
Chinese Culture Foundation of San Francisco	X		7	196,250
Women's Audio Mission	X		7	184,100
Croatian American Cultural Center	X		9	182,750
Radar Productions	X		6	179,000
Flyaway Productions	X		5	176,600

Source: SFAC CEG Applicant and Award Data

The CEG program's mission intends grants to be awarded through a competitive process and to reach as many community programs and projects as possible. Because there are few limitations on who may receive grants, the CEG program issues awards in a category based on its staff's discretion rather than panel-based scoring of applications. As a result, there is greater risk that the CEG program unfairly limits the number of grants awarded to community programs and projects.

CSA recommends that, to ensure that grant awards are in line with the CEG program's mission and are available to a larger pool of applicants, the CEG program change its policies and procedures to ensure that all applicants are subject to the same application process and that no applicant may receive simultaneous grants in more than one CEG program.

Recommendation 12: The Cultural Equity Grants program should implement a system to adequately monitor its grants including application, selection, award, and payment details.

The CEG program does not have a systematic, centralized grant tracking and reporting tool to monitor grants awarded. Currently, the CEG program uses various summary schedules and stand-alone electronic spreadsheets to track different aspects of grants, including application, panel review, award, and reporting details. Because the CEG program does not track and monitor its grants with reliable tools, the risk of having inaccurate and outdated information is increased. With a centralized tool, CEG program staff could streamline grant administration and easily track information, plan and schedule grant-making activities, and project cash flow needs. If the CEG program had all grants information in one tool, grants would more likely be properly managed, tracked, and reported on.

Although both the CEG and CAE programs do not use a grant-reporting tool to monitor grants, the CEG program is a better candidate for such a tool because the program awards significantly more grants as well as grants to outside applicants, while the CAE program only awards grants to six cultural centers in San Francisco.

CSA recommends that the CEG program and SFAC management research the various grant management systems on the market, and implement a system that will sufficiently track all aspects of grants, including application, selection, award, and payment details.

CSA thanks the SFAC's interim director of cultural affairs and her staff for their cooperation and assistance throughout the review. This memorandum is intended to communicate CSA's evaluation of SFAC's current accounting processes, organizational structure, and program-related financial practices. CSA has identified certain operational and control deficiencies that merit the attention of management. Although improvement is needed, SFAC has made recent progress in the organizational areas discussed in this memorandum.

cc: Ben Rosenfield, Controller
Irella Blackwood, Audit Manager
Nicholas Delgado, Associate Auditor
Kathleen Scoggin, Associate Auditor
Vivian Chu, Associate Auditor

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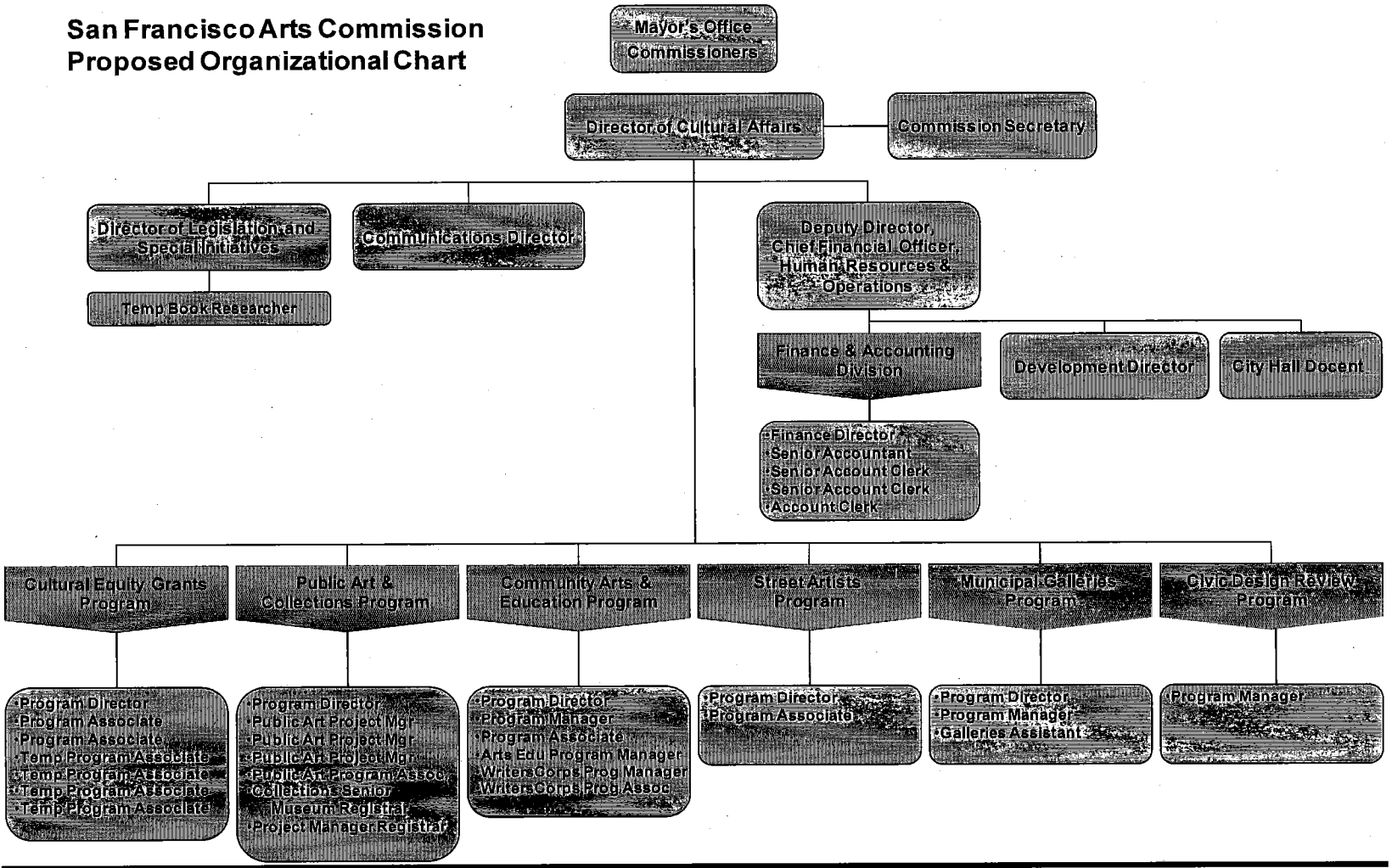
APPENDIX A: ARTS COMMISSION PROPOSED ORGANIZATION CHART



Source: New organization structure proposed by San Francisco Arts Commission management.

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APPENDIX B: SURVEY QUESTIONS

CSA administered a survey with the following main questions to assess employees' knowledge of the systems, processes, strategic planning, and shared values at SFAC. Respondents were asked to respond to each statement with *strongly agree, agree, disagree, strongly disagree, don't know*, or *not applicable*, with the exception of the items under General Control Environment. For those items, respondents could choose between *yes, no, don't know*, and *not applicable,* with a positive response indicating that the control was in place.

Directions and Context

1. SFAC's mission statements and fundamental values are clearly communicated by management.
2. The current programs and projects undertaken by SFAC successfully ensure that the arts are incorporated into the civic infrastructure for the City's residents.
3. My program has clear expectations and goals that help SFAC effectively achieve its mission.
4. SFAC has a clear strategic direction for the next 3 years.
5. The programs and projects undertaken by SFAC effectively address the needs of the community and are well connected with the community they are meant to serve.
6. SFAC effectively ensures that the community has sufficient input into the development of programs and services provided.

Programs and Services

7. SFAC 's management has effectively developed and implemented our programs and projects.
8. Our programs are very focused on getting the best results and providing the best experience for clients, the community and other audiences.
9. Our programs effectively address the needs of the community.
10. Our programs efficiently accomplish our responsibilities in a timely manner.

Contribution to and From Society

11. SFAC and its programs are well supported by the art community as well as the general public.
12. SFAC and its programs use what is learned to advocate for cultural and artistic change or structural change (e.g., governmental policy change) to increase the inclusion of art in the community's infrastructure.
13. SFAC and its programs make positive contributions to society beyond the direct contribution of our services to the community.

Organizational Culture and Practices

14. SFAC and its programs are managed so they are focused on continually improving services and how responsibilities are fulfilled.
15. SFAC and its programs learn from successful projects and build new knowledge to further develop the quality of services that enrich the community.
16. The practices used by SFAC foster teamwork among its program and project staff.
17. SFAC manages change well.

18. SFAC management uses practices that provide for a systematic review and evaluation of our services.
19. Each SFAC program has adequate and appropriate policies in place that provide a clear framework for action for staff.

Management Decisions

20. SFAC uses my program's resources wisely.
21. Management provides the appropriate materials and equipment for staff to perform their job.
22. Management makes good expenditure decisions.
23. Management has adequate processes for budgeting, monitoring and reporting on SFAC's finances.
24. Management monitors the inappropriate use of equipment and resources for personal purposes.
25. Management distributes work across its Programs appropriately.
26. Management facilitates communication with other City departments for efficiency.
27. Tasks are performed according to each employee's job classification.
28. Management makes good staffing decisions such as training, special assignments and projects and advancement.
29. All SFAC staff conduct business in an ethical, honest and fair manner.
30. Management ensures adherence to all relevant City legislation applicable to SFAC.
31. Staff can report misconduct or potential violations without fear of retribution.
32. Management effectively manages SFAC's human resources.
33. Management ensures staff have a healthy and safe workplace.

General Control Environment

34. My program has written policies and internal operating procedures that been approved by SFAC senior management.
35. My program's procedures are formally documented, kept current and are readily available for daily use by all staff.
36. Management has implemented a formal record retention policy in line with City administrative codes.
37. SFAC has a code of ethical conduct that has been made available to all staff.
38. Roles and responsibilities are clearly defined in writing and are communicated by management.
39. Management understands the knowledge and skills required to accomplish key tasks.
40. Management has established back-up plans for sudden or significant changes in personnel.
41. Management is actively involved in and encourages staff training.
42. SFAC finance and accounting activities are under the supervision of a knowledgeable accounting supervisor.
43. Management uses budgets or spending plans to review SFAC's financial performance.
44. Management periodically reports on the status of actual financial performance in comparison to the budget prepared.
45. Management has established performance goals for key programs and projects and compares actual performance with goals and objectives.

46. Management has made available an organizational chart that clearly defines the lines of management authority and responsibility.
47. Management actively follows up on complaints from contractors/clients/community members.
48. Management cooperates with external audits.

People

49. We have committed, motivated and energized staff.
50. We have staff with appropriate knowledge and skills.
51. Our directors/program managers are good managers.
52. Our coordinators/team leaders are good team leaders.
53. We have enough volunteers.
54. We have the volunteers with the skills and experience we need.
55. Our employees are as well off working for us as they would be if they were working for other organizations.
56. We have committed and motivated commission members.
57. We have a commission with appropriate knowledge and skills.
58. Our commission leads the organization.

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APPENDIX C: DEPARTMENT RESPONSE

SAN FRANCISCO ARTS COMMISSION

EDWIN M. LEE
MAYOR

JD BELTRAN
INTERIM DIRECTOR OF
CULTURAL AFFAIRS

PROGRAMS

CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
PUBLIC ART
STREET ARTISTS LICENSES

ARTS COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

WWW.STARTS.COMMISSION.ORG

ARTS@SFGOV.ORG

November 9, 2011

Tonia Lediju, Director of Audits
City Controller's Office
City Hall, Room 476
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Re: SFAC Response to Draft Financial Management Review

Dear Ms. Lediju:

Attached please find the San Francisco Arts Commission's written response to your Controller's team draft financial management review of the Arts Commission's organizational structure, financial practices, administrative and personnel practices, and grant making processes. Additionally, my staff has prepared comments and factual corrections to the draft report, which are attached as a separate document for your review.

As you noted in the 'Background & Methodology' section of the report, the agency has undergone considerable management changes over the past several years. Of note, four months ago, the prior director departed and I was appointed Interim Director and have since been overseeing the agency. Your review period covered July 2010 through August 15, 2011, and hence many of the administrative structures, accounting policies, and financial and granting practices reviewed were those of the prior administration, and are now being brought into compliance with your office's close guidance.

We thank you for your staffs time researching and developing this report, and for the opportunity to comment. We feel affirmed in requesting your help in reviewing the practices of this agency, and your report provides the agency with an excellent roadmap towards taking the necessary steps to develop a more stable and fiscally responsible agency. If you would like to discuss any of SFAC's feedback, please feel free to contact either me at 252-3281 or Rebekah Krell, Deputy Director, at 252-4665.

Sincerely,

JD Beltran
Interim Director of Cultural Affairs

CITY AND COUNTY OF
SAN FRANCISCO

Cc: Rebekah Krell, Deputy Director of the San Francisco Arts Commission
Irella Blackwood, Audit Manager, Office of the Controller
Nicholas Delgado, Auditor, Office of the Controller

25 VAN NESS AVE. SUITE 240, SAN FRANCISCO, CA 94102 TEL. 415.252.2590 FAX 415.252.2595

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APPENDIX D: RECOMMENDATIONS AND RESPONSES

Recommendation	Response
1. SFAC should include overhead charges as part of the City's regular annual budget process to ensure that funds are used for their intended purposes.	Concur. The CFO is working with staff from the Controller's Budget and Analysis Division on a reorganization of the budget, which will include ensuring overhead charges are incorporated into the regular annual budgeting process. Currently, the Deputy Director and the Finance Director are having weekly meetings with a team from the Controller's Office to effect this budget reorganization. The budget reorganization will be built into the base budget for the upcoming fiscal year, 2012-13.
2. SFAC should follow the authorized vendor and employee reimbursement procedures from the Office of the Controller, and implement payment restrictions over the use of the revenue held in Intersection for the Arts.	Concur. The Interim Director and Deputy Director are reviewing the use of revenue held in Intersection for the Arts accounts and will explore processes that will ensure the agency implements payment procedures that implement restrictions over the use of revenue held in IFTA accounts, and implement procedures consistent with those required by the Office of the Controller for all payments including those for vendors and employee reimbursements.
3. SFAC should institute policies to better track grants received.	Concur. The Development Director's role and responsibilities at the agency will be expanded to include creating, implementing, and managing accountability policies to better track grants received, programmatic deliverables, and reporting procedures to ensure compliance with all philanthropic entities as well as for internal controls.
4. SFAC should improve program accountability by separately tracking funds used by each program.	Concur. The newly re-instated Deputy Director position is responsible for acting as a liaison between the accounting and finance teams, and the program directors and staff, and will work to ensure tracking of funds and improved accountability, on both programmatic and financial levels.

Recommendation	Response
5. SFAC should ensure that all programs have up-to-date program policies and procedures manuals that are in line with SFAC protocols and best practices.	Concur. The Interim Director will direct all Program Directors to review policies and procedures and ensure manuals are up-to-date and in line with the Agency's protocols and best practices. She will also enforce the creation of manuals where none currently exist.
6. SFAC should ensure that employees are informed of appropriate and safe methods of reporting misconduct and that it trains its managers on how to respond to reports of misconduct.	Concur. The Interim Director meets with all Program Directors as a group twice a month, and will dedicate one of the regularly scheduled meetings to providing training on how to respond to reports of misconduct. Training may also be provided at a monthly all-staff meeting, and senior management will arrange a session for a speaker from the City's Whistleblower Complaints Program in order to train and educate all employees in the process of reporting misconduct.
7. SFAC should work with the Department of Human Resources to better align actual job duties and official job classifications for its employees.	Concur. The Interim Director and Deputy Director have conducted 1-on-1 interviews with every employee to discuss roles, responsibilities, and concerns and have compiled a list of all outstanding HR issues as well as created a resolution plan. The Interim Director and Deputy Director also have already been engaged in strategy meetings with senior management and staff to develop and implement an office-wide plan to appropriately align job duties and official job classifications for the agency's employees.

Recommendation	Response
8. SFAC should ensure that employees receive adequate training, professional development, and evaluations. Specifically, SFAC should use uniform policies and procedures for a systematic, consistent performance review process across all programs. Further, SFAC should revise its professional development policies to ensure that all employees have equitable opportunities and resources to attend training. Finally, SFAC should sufficiently train its employees on its operations.	Concur. The Interim Director and Deputy Director will work together with all of the Program Directors to ensure SFAC institutes a systematic, consistent annual performance review process. Senior management will revise professional development policies to ensure equitable opportunities and resources to attend trainings and other professional development activities. Senior management will utilize the monthly all-staff meetings as an opportunity to provide training to staff on the agency's universal technology and operations.
9. SFAC management should encourage appropriate cooperation and collaboration among programs.	Concur. The Interim Director is committed to creating a more cohesive agency, and already schedules bi-weekly Program Director meetings to foster cooperation and collaboration between programs. Also, to that end, an all-staff retreat is planned for next month in order to formulate working on ways to improve cooperation and collaboration throughout the department, better positioning SFAC to work inter-departmentally.
10. The Cultural Equity Grants program should cease funding and administering the four grants that are outside of its legislative scope.	Concur. The Interim Director recognizes that administration of the Cultural Equity Grants Program has grown increasingly complicated, expensive, and onerous in recent years, and supports eliminating grant categories outside of the agency's legal mandate in order to decrease administration, streamline funding procedures and ensure the maximum amount of money possible goes directly to the arts community. The Interim Director will begin working with the Commission immediately in order to accomplish this goal.

Recommendation	Response
11. The Cultural Equity Grants program should improve its grantee awarding process to ensure that no recipient receives simultaneous grants and that a competitive process exists.	Concur. The Interim Director will work with CEG program staff to revise policies in order to ensure that inappropriate funds are not granted to identical recipients and that funds are being distributed as widely and equitably as possible, and that a competitive process is mandatory for disbursing all CEG funds.
12. The Cultural Equity Grants program should implement a system to adequately monitor its grants including application, selection, award, and payment details.	Concur. The CEG Program Director will research the available grant management system options and work with staff to implement a grant reporting and accountability tool that will sufficiently track all aspects of the grant process, thereby streamlining administrative functions.

CITY AND COUNTY OF SAN FRANCISCO

George Gascón
District Attorney

OFFICE OF THE DISTRICT ATTORNEY

EVAN H. ACKIRON
Assistant District Attorney

DIRECT DIAL: (415) 551-9560
E-MAIL: evan.ackiron@sfgov.org

August 23, 2012

Via Facsimile And US Mail: (415) 554-7854

Hope Johnson, Chair
Sunshine Ordinance Task Force
City Hall
1 Dr. Carlton B. Goodlett Place, Room 244
San Francisco, CA 94102

Re: **Sunshine Complaint No. 11023**

Dear Ms. Johnson:

I write concerning Sunshine Complaint No. 11023 relating to Street Artist Program Director Howard Lazar's alleged failure to comply with the Order of Determination issued on June 18, 2011. The Office of the District Attorney became aware of this compliant upon review of the Civil Grand Jury report dated June 2012, entitled "Where There is Smoke . . . ." Our office is not pursuing a criminal investigation concerning this complaint.

Very truly yours,

GEORGE GASCÓN
District Attorney

EVAN H. ACKIRON
Assistant District Attorney

WHITE COLLAR CRIMES DIVISION
732 BRANNAN STREET · SAN FRANCISCO, CALIFORNIA 94103
RECEPTION: (415) 553-1752 · FACSIMILE: (415) 551-9504

sfac

San Francisco Arts Commission

Edwin M. Lee
Mayor

Tom DeCaigny
Director of
Cultural Affairs

Programs:
Civic Art Collection
Civic Design Review
Community Arts & Education
Cultural Equity Grants
Public Art
SFAC Galleries
Street Artist Licensing

25 Van Ness Avenue, Ste. 345
San Francisco, CA 94102
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City and County of
San Francisco

September 24, 2012

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

The following is in response to the 2011-2012 Civil Grand Jury report, "Where There's Smoke . . . The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy".

I want to thank the Civil Grand Jury for taking the time to look deeply into the Arts Commission and for their advocacy on behalf of appropriate funding for the arts in San Francisco. I'm proud to report that we have already taken significant steps to correct many of the recommendations of the Jury, and we will put this critical information to use as we move forward with our community engagement and planning process, which will begin this fall.

The aforementioned plan deliverables will include a ten-year capital plan to address the long-term needs of the Civic Art Collection and Cultural Centers, as well as a review of all legislation pertaining to the Arts Commission. This process will enhance the Arts Commission's programs and resources to better serve the community and to ensure a more vibrant and healthy arts ecosystem.

Thank you for your time, and please don't hesitate to contact me with any questions.

Sincerely,

Tom DeCaigny
Director of Cultural Affairs

The San Francisco Arts Commission's (SFAC) response to the Civil Grand Jury's findings and recommendations is as follows:

I. SFAC Governance

Finding F1: The City, through SFAC and GFTA, devotes public resources to art and cultural programs in more generous amounts, per capita, than any other municipality in the United States.

Response: Disagree (partially). The SFAC has not reviewed data of the per capita arts budgets of every other municipality in the United States and so is not in a position to agree or disagree with the finding. While San Francisco does devote more funding per capita than many other major U.S. Cities (such as Los Angeles), a comprehensive study of all municipalities has not been undertaken.

Finding F2: SFAC Commissioners have not taken responsibility to adequately ensure administrative excellence in the department they govern.

Response: Disagree (wholly). Arts Commissioners have acknowledged a number of areas for improvement over the past year, and governance at the SFAC continues to improve as a result. Some governance improvements over the past year include: regular quarterly financial reports to the SFAC Executive Committee; a new draft 360 performance review instrument for the Director of Cultural Affairs to be implemented annually (and at six months for the new Director); monthly leadership team meetings between the Commission President, Vice-President and Director of Cultural Affairs; new program as well as accounting policies and procedures manuals for all programs reviewed at the committee and full commission level; and regular annual meetings of the nominating committee to nominate officers and review performance of the Commission as a whole.

Finding F3: Commissioners focus on programs at the expense of general administration and the larger interests of the public.

Response: Disagree (partially). The purpose of the Executive Committee of the Commission, which meets monthly, is to focus on general administration issues and interests of the public not addressed by a specific committee. All meetings of the Commission are properly noticed as is required by law so that members of the public are welcome to express their interests and concerns before the Commission. San Francisco is home to many diverse communities and a diverse arts and culture ecosystem. The SFAC aims to be responsive to the greatest community need, and our upcoming community engagement and planning process will outreach to a broad cross-section of the San Francisco public to properly assess the areas of greatest need.

Finding F4: SFAC has not developed materials that create awareness among the general public of the array of art opportunities available to them.

Response: Disagree (partially). The Arts Commission regularly updates its website and participates actively in social media outlets (Facebook and Twitter - @SFAC), as well as publishes a series of electronic monthly newsletters that highlight specific agency programs as well as agency-wide activities and important deadlines. Members of the public are able to sign up for the newsletter via our website. Furthermore, the Arts Commission maintains a poster series along Market Street that promotes a range of arts activities in the City, and creates an annual report summarizing the diverse work of the Arts Commission. We are always open to new marketing ideas and look forward to piloting new communications strategies as part of our planning process in 2012-13.

Finding F5: SFAC has not created a high-profile community identity for itself as an important contributor to San Francisco's cultural heritage.

Response: Disagree (wholly). All of our programs have received local as well as national attention. For example, the Arts Commission's Public Art program is responsible for creating millions of dollars in new public art annually, and has a national reputation as one of the best public art programs in the country. In June 2012, two recent works from the City's Civic Art Collection were recognized by Americans for the Arts Public Art Network as two of the best 50 public art projects in the country. The Cultural Equity Grants program, the first of its kind in the country, supports hundreds of San Francisco individual artists and small to mid-size arts organizations, and has also been recognized as a leading program in the field. San Francisco's reputation as a vibrant, creative, and artistically interesting City draws millions of visitors each year, and that reputation is supported in large part by the "behind-the-scenes" work of the SFAC.

While the SFAC is cautious not to spend precious taxpayer dollars for purposes of self-promotion, we recently secured the pro bono branding and marketing services of local design firm studio1500. studio1500 redesigned the SFAC's logo and brand platform free of charge, and we launched the new look in a poster series along Market Street in April 2012. The new brand will be the basis for an improved website to be developed in 2013 after the SFAC completes a comprehensive community needs assessment.

Finding F6: SFAC has only made a limited effort at fundraising.

Response: Disagree (wholly). The SFAC has been awarded $4,970,462 in competitive grant dollars from private foundations as well as state and federal public agencies over the past four fiscal years. In 2010, the SFAC also launched ArtCare, a fundraising initiative in partnership with the SF Art Dealer's Association focused on raising private funds for care of the City's Civic Art Collection. In addition, specific programs of the SFAC such as WritersCorps and the SFAC Galleries, solicit funds from donors through annual campaigns

and fundraising events. Moreover, the SFAC has actively sought and fostered partnerships with numerous other city agencies, such as the Public Utilities Commission, to increase revenue streams for its programming.

Finding F7: As a particularly community-oriented government agency, SFAC office practices need substantial improvement.

Response: Disagree (partially). Since the Civil Grand Jury began their investigation, the SFAC has instituted a number of new office policies and procedures. These new policies and procedures include: a new staff point person (Communications Director) for all public information and Sunshine Ordinance requests; regular bi-weekly all staff meetings and management team meetings to improve internal communication. The agency has also improved its processes for public meetings by providing more explanatory documents.

Finding F8: SFAC's website and published materials are out-of-date.

Response: Disagree (partially). We are currently conducting a review of our website and printed materials to ensure all items are up-to-date.

Recommendation R1: To improve the governance of the department, increase the number of at-large Commissioners to eight members, through Charter amendment.

Response: This recommendation cannot be implemented by the SFAC. Whether or not to modify the composition of the Commission under the Charter is a policy decision for the voters.

Recommendation R2: As an alternative, establish a Citizens Advisory Committee of seven members, appointed by the Mayor, to provide expert guidance in governance and administration, aid in non-governmental fundraising, and increase the community stature of the department.

Response: The recommendation will not be implemented by the SFAC. Currently, there are two vacancies on the Commission. We look forward to working with the Mayor's Office to fill both with qualified candidates, and believe that a Commission of 15, experienced in arts policy, governance, administration, and fundraising, will provide adequate oversight and guidance to the agency. We do not believe the creation of an additional governmental body is necessary or productive.

Recommendation R3: Encourage the creation of a non-profit organization dedicated to raising funds to meet program and operational needs.

Response: The recommendation requires further analysis by the Director of Cultural Affairs and the Commission. Creation of a non-profit organization, or "Friends of the San

Francisco Arts Commission" dedicated to fundraising for the agency, cannot legally be undertaken by staff and so there would need to be sufficient interest and resources in the philanthropic community to create and maintain a separate entity. The SFAC will explore this recommendation as part of our community engagement and planning process in October-December 2012.

Recommendation R4: Improve the orientation and training of Commissioners to provide them with a clear understanding of their administrative responsibilities and roles in budgeting, personnel management, city processes, and their role as ambassadors to the public to increase awareness of art opportunities in the community.

Response: The recommendation has been partially implemented and will be completely implemented by January 2013. The Director of Cultural Affairs and Commission President are working with staff to ensure Commissioners receive adequate training in their roles and responsibilities, including a thorough understanding of City processes and procedures, the agency's budget, revenue sources, and related legislation, as well as agency policies and programming. The two new Commissioners have completed orientation meetings with staff and the President and Director of Cultural Affairs have met, or are scheduled to meet, with all other current Commissioners in the coming months. Additionally, a Commission retreat will be held in the next six months that will include additional training on the City budget and other policy-related matters.

Recommendation R5: Furnish the means for each Commissioner to conduct an annual self-assessment to evaluate personal and commission performance in order to promote a focus on the full array of Commission responsibilities.

Response: The SFAC cannot implement this recommendation. All Commissioners are Mayoral appointees, and instruction to complete a self-assessment would come at the Mayor's direction.

Recommendation R6: Update the SFAC website and materials to conform to current law and policy.

Response: The recommendation will be implemented by January 2013. All of the materials on the website are updated regularly, and we are in the process of reviewing any out-of-date information. We look forward to beginning a redesign of the website later this year.

II. SFAC and the Civic Art Collection

Finding F9: The Civic Art Collection is a vast assemblage of tangible art and artifacts, representing a substantial cultural and financial asset of the City and County.

Response: Agree.

Finding F10: Promotion of the Collection as an attraction of the City is limited.

Response: Disagree (wholly). The Arts Commission promotes the Civic Art Collection to the extent we can within the bounds of our limited resources. Examples include, but are not limited to:

- Issuing press releases at the completion of every new artwork and garnering significant press coverage;
- Issuing press releases at the completion of every major art restoration project – recent projects garnering press include the Voulkos sculpture restoration (story made the front page of *The San Francisco Chronicle*), the Haring sculpture restoration (this story made the front page of the *Bay Area Reporter)*, and Coit Tower;
- Listing with images of every commissioned art enrichment project published on our website;
- Garnering national recognition of programs and projects with achievement awards from Americans for the Arts' Public Art Network;
- Completing numerous episodes of Culture Wire (available online and at sfgov tv) about the collection;
- Screening 20-minute Culture Wire episodes about the Civic Art Collection in Terminal 2 at SFO ran for several months as in-flight entertainment on Virgin America Airlines;
- Exhibiting mid-century artworks from the Civic Art Collection (approximately 120 works) were loaned and exhibited at SFO Museums, International Terminal;
- Fielding routine requests for artwork loans from the collection to numerous prestigious institutions, most recently the DeYoung Museum, Whitney Museum of American Art (New York City), SFMOMA, Palm Springs Art Museum;
- Producing a forthcoming book which includes highlights of the Civic Art Collection and its history to be published in Spring 2013;
- Producing a "Guide By Cell" audio tour of the public art collection at SFO's new Terminal 2;
- Launching Smart Phone Apps to publish the collection in progress with multiple media partners.

Finding F11: There is only a partially complete inventory of the Collection.

Response: Disagree (partially). The SFAC has always had a complete accounting of artworks under the SFAC's jurisdiction in the Civic Art Collection. Each object, dating back to 1875, has been assigned a catalogue number (known as an accession number) and each object has both digital and paper records in the archive. Given the widespread nature of the collection, inventories have historically been conducted in segments. This is in line with

collection management best practices. The SFAC now endeavors to undertake a "wall to wall" inventory, dedicating the resources necessary to complete a comprehensive inventory of the collection within 18 months.

Finding F12: No appraisal of the Collection, at its present value, has been undertaken.

Response: Disagree (partially). There is a substantial cost involved in appraising artworks, anywhere from $300 - $1000 per object depending on complexity. Segments of the Civic Art Collection are appraised at regular intervals for insurance purposes. For example, the collection at SFO was recently appraised at the expense of the airport, as they maintain their own insurance policy for the artwork. Data from segments of the collection is used to then estimate rough value for the entire collection. Individual artworks are appraised as necessary - for example when loaned to other institutions, at request of the insurer, and before undertaking major restoration. Also, large-scale, architecturally integrated public artworks and monuments cannot be appraised similar to standard artwork, as there is generally no resale value. These works are assessed for replacement value. The SFAC documents the original purchase price and/or commission budget for every artwork in the collection.

Finding F13: The inventory and cataloging function of the SFAC is delegated to at least a single paid staff member and two interns which is insufficient.

Response: Disagree (wholly). The Civic Art Collections staff consists of one full-time, paid Senior Registrar; one full-time, paid Collections Project Manager; one part-time (.5 FTE), paid Collections Program Associate; and a fluctuating number of interns (usually 1-2). These employees manage the documentation, cataloguing, inventory, maintenance and conservation of the collection, in addition to other collections related tasks. In addition, we are in the process of interviewing for a temporary, paid specialist to focus solely on inventory of the collection over the next 18 months.

Finding F14: Public access to the Collection has diminished due to SFAC's suspension of its art loan program to other City agencies and departments.

Response: Disagree (wholly). No artworks have been or will be recalled from loan as a part of the suspension of the loan program. Therefore, there is no change to the amount of artworks on loan and no diminishment of public access to the collection. The suspension applies to new loan projects, where an agency exchanges what they already have for different work. The suspension has no effect on the volume of work currently on view.

Finding F15: Despite inadequate maintenance funding, commissioning and accessioning of new art continues under the Public Art Program.

Response: Agree. By City law (Section 3.19 of the Administrative Code), two percent of the gross estimated cost of all construction projects on City property is required to be set aside for art enrichment funds, for the creation of new public art.

Finding F16: De-accessioning of art in the Collection is infrequent and underutilized.

Response: Disagree (partially). De-accession from the collection is a necessarily intricate and time consuming undertaking. The Arts Commission has very strict guidelines regarding de-accession, which can only be undertaken under specific circumstances. These guidelines are in keeping with collections management best practices. The Commission averages 3-4 de-accessions annually. As a result of the collection inventory over the next 18 months, we may identify parts of the collection that will be appropriate for de-accession.

Finding F17: The maintenance budget for the Collection is grossly inadequate to the task of preservation of the Collection.

Response: Agree. We believe an on-going source of revenue must be dedicated to the task of preserving the collection, and are currently undergoing an analysis to propose options.

Finding F18: Art maintenance is more appropriately an operating rather than capital cost as it is a day-to-day responsibility of SFAC.

Response: Disagree (partially). We agree that maintenance of the collection is an ongoing responsibility and operating cost that the Arts Commission has not had the resources to implement. However, the collection is a capital asset for the city. Just like other capital assets (such as buildings) require major maintenance and capital improvements, so do objects in the collection.

Finding F19: Art maintenance is inappropriately treated as a capital expense by City government.

Response: Disagree (wholly). As stated above, the City defines the collection as a capital asset.

Finding F20: Without a clear legal mandate to do so, SFAC has assumed responsibility for maintaining art on Recreation and Park Department properties.

Response: Disagree (partially). The Arts Commission has been maintaining work on Recreation and Parks property since its inception in 1932. The legal mandate to do so, as stated in the report, is Charter Section 5.103, which tasks the Arts Commission with maintaining the art owned by the City. Administrative Code 2A.150.1.A&B states:
(a) **Cataloging, Care and Maintenance of Public Art Media.** The cataloging, care and maintenance of all sculptures, statues, murals, paintings and other art media belonging to

the City and County of San Francisco, other than and excepting those located on properties under the jurisdiction and control of the San Francisco Unified School District, the M. H. de Young Memorial Museum, the California Palace of the Legion of Honor, the California Academy of Sciences and the Recreation and Park Commission, shall be under the jurisdiction of the Arts Commission. (b) **Agreement with Recreation and Park Commission.** The Arts Commission shall be authorized to enter into agreement with the Recreation and Park Commission, upon such terms as may be mutually agreed, for the cataloging, care and maintenance of any or all of the above media located on properties under the jurisdiction of the Recreation and Park Commission.

Finding F21: SFAC spends most of its current maintenance funding repairing works on Rec & Park property.

Response: Disagree (partially). SFAC efforts at graffiti abatement largely take place on Recreation and Parks Property. Over the last three years however, larger scale maintenance and restoration projects have been undertaken throughout the City on multiple properties overseen by Recreation and Parks, Municipal Transit Agency, Moscone Center, SFO, SF Police Department, SF Fire Department, and the Department of Public Health.

Recommendation R7: The Collection Loan Program remain suspended until the inventory and appraisal of the Collection is complete, and a tracking system for loaned art is developed and in operation.

Response: The recommendation has already been implemented; as stated, this is the current status of, and our future plan, for the program. The loan program is currently suspended. A tracking system is already in place - a function of the inventory project is to analyze and recommend required resources for the program to function adequately moving forward.

Recommendation R8: Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection.

Response: The recommendation will be implemented in the future. Currently, we are interviewing candidates for the position that will be solely focused on conducting an inventory of the collection, which we anticipate will be completed within the next 18 months. Appraisal of the collection continues as warranted under conditions described in Finding #12.

Recommendation R9: Re-designate maintenance and conservation of the Collection as an operating expense of the SFAC rather than a capital budget item.

Response: This recommendation will not be implemented. The SFAC has been advised to continue to interact with the Capital Planning Committee regarding the maintenance needs of the Civic Art Collection and related funding requests.

Recommendation R10: Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the *existing* Collection located in the City, at San Francisco International Airport, and at other City properties.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars intended for Grants for the Arts or any other City entity or project is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The SFAC would welcome additional Hotel Tax fund revenue (or revenue from another source) for the management of the collection, but not at the expense of existing funding to the broader arts community.

Recommendation R11: Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The Arts Commission would welcome additional Hotel Tax fund revenue (or revenue from another source) for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors, but not at the expense of existing funding to the broader arts community.

Recommendation R12: Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.

Response: This recommendation cannot be implemented by the SFAC. The reallocation of Hotel Tax fund dollars is a policy decision for the Mayor's Office and the Board of Supervisors, to be determined during the annual budget process. The SFAC would welcome additional ongoing Hotel Tax fund revenue (or revenue from another source) for the maintenance and care of the collection.

Recommendation R13: Clarify ownership and maintenance responsibilities for art and statuary on Rec & Park property.

Response: This recommendation will be implemented within the year. The SFAC looks forward to working with the Recreation and Parks Department (RPD) to clarify ownership and maintenance responsibilities for art on RPD property via an MOU between the agencies.

Recommendation R14: Complete a SFAC – Rec & Park agreement to ensure compensation for maintenance of art in the City's parks is adequate to support that task and does not impair conservation and maintenance elsewhere.

Response: This recommendation requires further analysis. As stated above, the SFAC will work with the Recreation and Parks department to create an agreement between the two agencies clarifying responsibility for maintenance of art on RPD property. However, allocation of financial resources to the tasks will be a policy decision for the Mayor and Board of Supervisors during the City's annual budget process.

III. Neighborhood Cultural Centers

Finding F22: The cultural centers are a primary responsibility of the Arts Commission under the Charter.

Response: Agree.

Finding F23: SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.

Response: Disagree (partially). Historically, the SFAC has been underfunded for Cultural Center capital needs, resulting in long-term deferred maintenance on the buildings. Every year, the SFAC requests support from the Capital Planning Committee to address major capital and life safety needs of the buildings, such as roof and HVAC system repairs. Beginning in FY11, the SFAC has seen a significant increase in City support, including upgraded HVAC and lighting systems at the African American Art & Culture Complex (AAACC), Mission Cultural Center for Latino Arts (MCCLA), and SOMArts Cultural Center through a funding program of the Public Utilities Commission. In FY12, allocated capital funding to Bayview Opera House (BVOH) included:

- $500,000 to the restoration and repair of the south wall;
- $590,000 to support ADA and barrier removal projects in conjunction with a larger renovation and site redesign from Mayor's Office on Disability;
- $400,000 from Housing (former Redevelopment Agency);
- $100,000 from Mayor's Office of Community Initiatives; and
- $250,000 from the Public Utilities Commission.

Plans for that renovation of BVOH are currently under way with a planned ground breaking in 2013. FY12 to FY14 will see significant increases in support for the Cultural Centers from the Capital Planning Committee including:

- $227,563 to MCCLA for a new roof
- $214,760 to MCCLA for improvements to the ventilation and cooling system
- $100,507 (increase from $78,000) in the maintenance and repair budget for the Centers
- $159,005 for AAACC for an electrical upgrade
- $281,666 for AAACC for a new roof
- $370,822 for SOMArts for a new roof

Furthermore, the Mayor's Office on Disability has committed the following in the FY12 to FY14:

- $75,000 for AAACC for completion of ADA access to the second floor restrooms;
- $960,000 for SOMArts for an ADA barrier removal project including the front entrance at Brannan Street and access to the second floor;
- $800,000 for MCCLA for ADA barrier removal for the first floor, upper floor accessible bathrooms, and a lift to the mezzanine level.

These investments will have a tremendous impact on improving the facilities, and the SFAC strategic planning process will provide a 10-year capital plan.

Finding F24: SFAC has not addressed the long-term funding, stability and safety needs of the Cultural Centers.

Response: Disagree (partially). In order to provide stable, long term funding to the Cultural Centers, the SFAC has met required reductions to the General Fund allocation by reducing spending in SFAC administrative areas and providing consistency to the Cultural Centers grants allocations. In FY11, the SFAC assigned a program manager to provide increased oversight of the Cultural Centers program to assure that all compliance requirements are fully met and to increase the professional development of the Cultural Centers' staff and their board of directors. The safety of the buildings is of utmost concern. The Cultural Center grants allow for funds to be utilized to support security guards, security equipment, or to pay stipends for ambassador safety programs. Maintenance and repair funds may be used to increase surveillance or other technical safety needs, if required by the Centers and if funds are available. The SFAC adapts requirements to allow youth programs to take place outside of the Cultural Centers if there are short-term safety concerns for the participants. The long-term funding issues will be addressed in the upcoming community engagement and planning process.

Recommendation R15: SFAC hold public hearings and develop an action plan about the Cultural Centers and their short and long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

Response: This recommendation will not be implemented. All legislated reporting requirements, financial audits, Controller's audits and California Cultural Data Project reports are reviewed at the CAEG committee level and submitted for review to the full Commission on a monthly basis. These meetings are publicly noticed and follow all Sunshine requirements. The CAEG committee also reviews fundraising plans and facility and life safety requirements for each of the Centers. Members of the public are welcome to attend and provide public comment.

The Cultural Centers house independent not-for-profit organizations that are responsible for the day-to-day operations and programs of the building. As required in the legislation, the Centers must hold six community support board meetings. Therefore, the issues raised in this recommendation would be better addressed site by site as each neighborhood and facility has distinct constituents. In addition, it is not appropriate for the City to hold community meetings that may impact an independent not-for-profit. The forthcoming SFAC strategic planning process will include extensive community engagement opportunities and produce a 10-year capital plan that will include the life safety system needs of the facilities.

Recommendation R16: SFAC enter long-term leases with their Cultural Center operators.

Response: This recommendation requires further analysis. The SFAC has taken a conservative leasing practice that correlates the issuing of an annual lease with the issuing of an annual grant allocation. A shift to a long-term lease would potentially also mean a shift to a longer-term grant agreement. SFAC staff meets annually to review the leases with the City Attorney's office to assure the leases are current and reflect accurately the individual needs of the sites. The SFAC has been in conversation with the City Attorney regarding long-term leases and the advisability of entering into a 5 to 9.9 year lease agreement. The SFAC strategic planning process will review this recommendation within the next 6 months.

IV. Street Artists Program

Finding F25: The SFAC routinely assigns new Commissioners to the Street Artists Committee due to lack of interest of other Commissioners.

Response: Agree. The perceived "lack of interest" is due to reluctance on the part of some Commissioners to hear cases of street artist violations and to suspend or revoke certificates (licenses).

Finding F26: The Street Artists Program is a self-funding enterprise that is funded by fees from the Street Artists.

Response: Agree. The law requires the Street Artist fees be used exclusively to cover the costs of managing and administering the program.

Finding F27: The District Attorney has failed to respond to Sunshine Complaint No. 11023.

Response: The SFAC is not in a position to agree or disagree with this finding, because it pertains exclusively to actions taken (or not) by the District Attorney's Office.

Finding F28: The Street Artists annual fees since 2000 have increased in large part due to the costs of defending the Program Manager for violations of the Sunshine ordinances from the Street Artists.

Response: Disagree (wholly). The primary reason fees have increased is the growing cost of salary and fringe benefits for City employees, as well as a re-assessment of the true costs of the program to include the cost of administrative overhead and management and supervision. Additionally, the fees have increased because of City Attorney costs. Street Artists program staff relies on City Attorney advice when responding to public information requests, public documents requests, and complaints submitted to the Sunshine Ordinance Task Force, and not in defending the Program Director.

Finding F29: The Street Artists depend on volunteer managers for the bulk of on-site supervision and program operations.

Response: Disagree (wholly). In addition to paid program staff and paid advisory committee members, there is only one volunteer "manager" who was elected by street artists who sell in only one area of the Street Artists Program: Justin Herman Plaza. Although he coordinates a lottery system for artists to obtain spaces in which to sell at the Plaza, he has no authority in managing or enforcing the provisions of the Street Artists Ordinance which include examining the wares of street artists, licensing the artists, inspecting the artists' wares, and enforcing the regulations governing their selling activities.

Finding F30: The Street Artists Program Manager is currently under investigation by the DA for violations of the Sunshine Ordinance.

Response: Not requested.

Finding F31: There has been no current memorandum of understanding between SFAC and the Rec & Park Department concerning the use of Justin Herman Plaza since 1991.

Response: Agree.

Finding F32: A Street Artist has never served as a Commissioner for SFAC.

Response: Agree.

Finding F33: Selling spaces have declined from 433 in 2008 to 375-380 spaces currently.

Response: Disagree (partially). While the number of year-round (not winter holiday) spaces has declined since 2008, the current number of year-round spaces is 414 (not 375-380).

Recommendation R17: Move the Street Artists Program to the Office of Small Business.

Response: This recommendation will not be implemented by the SFAC. The SFAC does not have the authority to transfer its responsibility for licensing the street artists to any other department. Furthermore, there is a petition on record, signed by hundreds of street artists, requesting the program remain under the purview of the SFAC.

Recommendation R18: The District Attorney respond to Sunshine Complaint No. 11023.

Response: The SFAC is not in a position to respond to this recommendation because it pertains exclusively to actions to be taken (or not) by the District Attorney's Office.

Recommendation R19: Legal expenses for the Sunshine Ordinance defense be paid from an account, other than the Street Artist Fund.

Response: This recommendation cannot be implemented. Current law requires the Street Artists program to generate license fee revenue sufficient to fully recover the costs of administering the program, which includes the cost of the City Attorney.

Recommendation R20: Appoint a current or former Street Artist to whichever Commission oversees them.

Response: This recommendation cannot be implemented by the SFAC. The Mayor, and not the SFAC, appoints both Arts Commissioners and Street Artists Advisory Committee members.

Recommendation R21: Develop new spaces for the Street Artists.

Response: This recommendation has been implemented over the past 32 years. Of the current 414 year-round spaces plus 60 additional winter holiday spaces (obtained

annually) for the artists, the SFAC obtained 298 of the spaces for the artists from 1980 to the present.

Furthermore, the Street Artists Program Director has spoken at meetings with Planning Department personnel and Fisherman's Wharf business representatives to ensure that 9 spaces on Jefferson Street will remain for the artists upon completion of the Jefferson Street renovation.

V. Symphony Fund

Finding F34: For general operating and SFAC Gallery exhibition expenses, SFAC relies on public funds that are designated by Charter for "maintenance of a symphony orchestra . . . "

Response: Disagree (wholly). The SFAC appropriates the entire Charter mandated set-aside for the "maintenance of a symphony orchestra" to the San Francisco Symphony on an annual basis, in compliance with City law. The San Francisco Symphony optionally chooses to gift monies equal to approximately $800K annually to the SFAC, to be used for whatever purpose the SFAC chooses, as stipulated in the long-standing agreement between the two organizations. The SFAC uses grants and gifts from a number of sources, including a gift from San Francisco Symphony, to fund the SFAC Galleries program (salaries, fringe benefits, exhibition and other program expenditures) as well as SFAC general operating expenses.

Finding F35: Since 1935, SFAC has chosen the San Francisco Symphony as recipient of those funds.

Response: Agree.

Finding F36: SFAC is without legal or practical recourse if SFS revoked its annual contribution of 40% of those funds given to SFAC.

Response: Disagree (wholly). If the San Francisco Symphony did not make an annual gift to the SFAC, then the SFAC could approach the Mayor's Office and Board of Supervisors for an additional appropriation of General Fund dollars. We will defer to the City Attorney on the subject of what, if any, legal recourse would be available should the written agreement pertaining to San Francisco Symphony's annual gift be revoked.

Finding F37: The manner in which SFAC funds its operations by a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter amendment.

Response: Disagree (wholly). The SFAC complies with Charter Section 16.106 and appropriates all funds for a municipal symphony orchestra as required by law. The Arts Commission also has the authority to accept gifts, including gifts from the San Francisco Symphony, under section 5.100 of the City Charter.

Finding F38: GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.

Response: Not requested.

Finding F39: Until December 2011, SFAC was out of compliance with City and State regulations and Arts Commission policy governing the gifting of donated Symphony tickets to public officials and other organizations.

Response: Agree.

Recommendation R22: The Arts Commission/Symphony Agreement comply with the intent of the Charter, and the full amount of the tax revenues go toward Symphony operating expenses.

Response: Recommendation has been implemented. The SFAC complies with Charter Section 16.106 and appropriates all funds for a municipal symphony orchestra as required by law. The SFAC also has the authority to accept gifts, including gifts from the San Francisco Symphony, under section 5.100 of the City Charter.

Recommendation R23: Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SFAC.

Response: This recommendation cannot be implemented by the SFAC. The decision to redirect Hotel Tax Fund money allocated to Grants for the Arts is a policy decision for the City Administrator, the Mayor's Office and the Board of Supervisors, in collaboration with Grants for the Arts.

Recommendation R24: SFAC properly report the disposition of the concert tickets given to it by SFS in compliance with City and State regulations.

Response: This recommendation is in the process of being implemented. As of December 2011, the SFAC has followed State and City procedures for tracking and reporting all ticket distribution. The SFAC is currently conferring with the City Attorney to ensure all forms are in compliance.

CITY AND COUNTY OF SAN FRANCISCO
OFFICE OF THE CONTROLLER

Ben Rosenfield
Controller

Monique Zmuda
Deputy Controller

October 1, 2012

Honorable Judge Feinstein
Presiding Judge
San Francisco Superior Court
400 McAllister Street – Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

The following attachment is provided in response to several reports from the 2011-2012 Civil Grand Jury regarding the City's Arts Commission, Municipal Transportation Agency, and Employee Retirement System. For ease of administration, they have been provided in the format used to track implementation of Civil Grand Jury recommendations.

Please extend my thanks to the Civil Grand Jury for their service. Thank you for your time, and do not hesitate to contact me with any questions or comments at (415) 554-7500.

Sincerely,

Ben Rosenfield
Controller
City and County of San Francisco

Status of the Recommendations
by the Civil Grand Jury
2010-11

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

1. Recommendation Implemented	2. Will Be Implemented in the Future	3. Requires Further Analysis	4. Will Not Be Implemented: Not Warranted or Not Reasonable
- Date Implemented - Summary of Implemented Action	- Anticipated Timeframe for Implementation	- Explanation - Timeframe *(Not to exceed six months from date of publication of Grand Jury report)*	- Explanation

For each recommendation below, indicate one of the four actions you have taken or plan to take in the "Action Plan" column and provide the required explanation in the "2012 Response Text" column.

CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	*Better MUNI Service Needed, Without Switchbacks*	F7. MUINI has failed to fully implement basic technological improvements in the system.	Office of the Controller	Partially agree	The SFMTA has worked to implement various technological improvements and upgrades to existing systems. These investments, of course, are financially constrained given limited resources available for service, maintenance, infrastructure, and other priority needs.
2011-2012	Better MUNI Service Needed, Without Switchbacks	F8. MUNI's newest and most advanced control centers lack adequate operating personnel and cannot communicate directly with MUNI drivers.	Office of the Controller	Agree	The newest control centers lacks some key functionality and has been understaffed. Plans are in place and underway for improvements in both areas.
2011-2012	Better MUNI Service Needed, Without Switchbacks	F9. MUNI has failed to conduct and publish monthly rider surveys as recommended in the FY 2008 and 2010 quality review.	Office of the Controller	Agree	The quality review recommendation for monthly surveys is not a requirement. MTA does do a significant amount of public outreach and opinion-testing through hearings and comment cards. Other survey efforts are also performed such as the annual city survey and MTA's own rider surveys performed to comply with Federal requirements. While the monthly rider surveys suggested in the FY 2008 and FY 2010 quality reviews are not a requirement, the SFMTA reports that they will commence monthly surveys later this fiscal year.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	Better MUNI Service Needed, Without Switchbacks	R2. Contact and learn from comparable transit systems that do not resort to switchbacks as a regular solution to their problems	Office of the Controller	2. Will be implemented in the future	The Controller's Office is engaged in a multi-year effort with the Municipal Transportation Agency (MTA) to improve MTA services. This effort, the Transportation Effectiveness Project (TEP) includes a variety of service improvements to address operating issues and to speed up MUNI service throughout the system. Addressing switchbacks along with other line management challenges are part of the TEP. In addition, the Controller's Office conducts quarterly benchmarking reports comparing San Francisco to other jurisdictions. MUNI services will be included in this benchmarking effort in upcoming fiscal quarters.
2011-2012	Better MUNI Service Needed, Without Switchbacks	R3. The Controller audit MUNI funds to determine if there are additional resources that may be available to rectify delays and scheduling problems.	Office of the Controller	1. Recommendation implemented	The Controller's Office conducts annual performance audits of the Municipal Transportation Agency and financial audits of selected issues and contracts. All audits include work to determine if MTA resources are being used effectively and efficiently and if funds could be better used. In addition, MTA has had multiple efforts in the last three fiscal years to identify new revenue sources and operating support. Finally, as noted above, MTA is engaged in a service improvement program (the TEP) whose central goal is to speed travel time throughout the system. This audit and project focus is ongoing.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R3. Encourage the creation of a non-profit organization dedicated to raising funds to meet program and operational needs.	Office of the Controller	4. Will not be implemented	Many civic functions such as Recreation and Park and the Library benefit from non-profits formed to further their purposes. The Art Commission could similarly benefit. However this action is not within the Controller' Office authority. We would assist with appropriate city accounting and financial arrangements should a non-profit be formed to support the Art Commission.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R4. Improve the orientation and training of Commissioners to provide them with a clear understanding of their administrative responsibilities and roles in budgeting, personnel management, city processes, and their role as ambassadors to the public to increase awareness of art opportunities in the community.	Office of the Controller	3. Requires further analysis	Complete and ongoing training is helpful for commissions to effectively discharge their duties, although we have not undertaken a review of the SFAC's training program. The Controller's Office can assist with training in public financial management and oversight roles for Commissioners, if requested by the SFAC. Comparable training has been provided by the Controller's Office to other City commissions, non-profit boards, and other public bodies.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F18. Art maintenance is more appropriately an operating rather than capital cost as it is a day-to-day responsibility of SFAC.	Office of the Controller	Diasgree	Art maintenance expenditures could appropriately be treated as an operating expense up to certain thresholds determined by standard accounting practices. The City's standard practice is to include planning for maintenance of capital assets through the City's capital planning process. Ultimately all uses -- whether for maintenance, capital, or operating expenditures -- draw from the same funding sources and are adopted in the City's annual budget.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F19. Art maintenance is inappropriately treated as a capital expense by City government.	Office of the Controller	Diasgree	Art maintenance expenditures could appropriately be treated as an operating expense up to certain thresholds determined by standard accounting practices. The City's standard practice is to include planning for maintenance of capital assets through the City's capital planning process. Ultimately all uses -- whether for maintenance, capital, or operating expenditures -- draw from the same funding sources and are adopted in the City's annual budget.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R9. Re-designate maintenance and conservation of the Collection as an operating expense of the SFAC rather than a capital budget item	Office of the Controller	Disagree	Art maintenance expenditures could appropriately be treated as an operating expense up to certain thresholds determined by standard accounting practices. The City's standard practice is to include planning for maintenance of capital assets through the City's capital planning process. Ultimately all uses -- whether for maintenance, capital, or operating expenditures -- draw from the same funding sources and are adopted in the City's annual budget.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R10. Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the existing Collection located in the City, at San Francisco International Airport, and at other City properties.	Office of the Controller	4. Will not be implemented	This action is not in the authority of the Controller. Appropriation of funds is the authority of the Mayor and Board of Supervisors under the budgetary and financial provisions of the Charter.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R11. Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors.	Office of the Controller	4. Will not be implemented	This action is not in the authority of the Controller. Appropriation of funds is the authority of the Mayor and Board of Supervisors under the budgetary and financial provisions of the Charter
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R12. Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.	Office of the Controller	4. Will not be implemented	This action is not in the authority of the Controller. Appropriation of funds is the authority of the Mayor and Board of Supervisors under the budgetary and financial provisions of the Charter.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R15 SFAC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers	Office of the Controller	3. Requires further analysis	This action is not in the authority of the Controller.]We would be willing to assist the SFAC in analysis needed to prepare a productive public hearing process.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F28. The Street Artists annual fees since 2000 have increased in large part due to the costs of defending the Program Manager for violations of the Sunshine ordinances from the Street Artists	Office of the Controller	Disagree	Confirming this finding would require further analysis of the Street Artist Program's revenues and expenses, although generally speaking rising labor and benefit (and not legal) costs have been the dominant drivers of the City's expenditures in recent years.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R19. Legal expenses for the Sunshine Ordinance defense be paid from an account, other than the Street Artist Fund.	Office of the Controller	Disagree	Legal expenses are an operating cost of the Street Artist Program and are appropriately paid from the special revenue fund that supports the Program. This is standard public accounting practice for simliarly-funded City programs. The Mayor and the Board of Supervisors have the authority, through the City's annual budget process, to provide a General Fund subsidy to the program, to cover legal or other costs.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F34 For general operating and SFAC Gallery exhibition expenses, SFAC relies on public funds that are designated by Charter for "maintenance of a symphony orchestra...."	Office of the Controller	Disagree	While the SFAC receives approximately $800,000 annually from the SF Symphony, this amount is legally distint from the Charter-required allocation of property tax funds to the SF Symphony.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F35. Since 1935, SFAC has chosen the San Francisco Symphony as recipient of those funds.	Office of the Controller	Agree	This is a correct statement.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F36. SFAC is without legal or practical recourse if SFS revoked its annual contribution of 40% of those funds given to SFAC.	Office of the Controller	Disgree	If the SF Symphony revoked its gift to the SFAC, the SFAC would have the ability to request funds from other sources through the City's budget process, ultimately driven by decisions of the Mayor and Board of Supervisors.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F37. The manner in which SFAC funds its operations by a giveback donation of SFS monies creates, at the least, an appearance of fiscal impropriety and violates the intent of the 1935 Charter amendment.	Office of the Controller	Disagree	The City's budget is in compliance with Charter Section 16.106 that requires an annual appropriation for a municipal symphony. The SFAC is in compliance with the acceptance of gifts, granted by Charter Section 5.100.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	F38. GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.	Office of the Controller	Agree	This is a correct statement.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R22. The Arts Commission/Symphony Agreement comply with the intent of the full amount of the tax revenues go toward Symphony operating expenses.	Office of the Controller	1. Rec implemented	The City's budget is in compliance with Charter Section 16.106 that requires an annual appropriation for a municipal symphony. The SFAC is in compliance with the acceptance of gifts, granted by Charter Section 5.100.
2011-2012	When There's Smoke . . . The Need to Strengthen the Art Commission's Cultural Legacy	R23. Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SFAC.	Office of the Controller	4. Will not be implemented	This action is not in the authority of the Controller. The Controller's Office monitors and acts to maintain the Hotel Tax Fund's compliance with Charter and Code requirements. Grants for the Arts has programmatic authority over their grants and allocations.

Status of the Recommendations
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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F1. The San Francisco Employees' Retirement System Pension Fund is currently underfunded by more than $2 billion.	Office of the Controller	Agree	As of the most recent San Francisco Employees' Retirement System (SFERS) actuarial valuation (July 1, 2011), the SFERS unfunded actuarial liability was $2,285.6 million.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F2. The San Francisco Employees' Retirement System Board did not complete a "failure analysis" subsequent to the funding loss suffered in 2008-09.	Office of the Controller	Disagree	The Board and SFERS actuaries conducted extensive discussions and analysis subsequent to Fiscal Year (FY) 2008-09 and changes to actuarial assumptions were debated and acted upon. The Board considers the impacts of various return scenarios on an annual basis, and transmits these to the City for use in the City's budget planning.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F3. The City must pay increasing contributions to the Fund due to underfunding.	Office of the Controller	Agree	At the February 2012 meeting of the SFERS Board, SFERS consulting actuaries provided projections using various investment return scenarios. Those scenarios anticipate that City contribution rates are likely to rise at least through FY 2014-15 when SFERS recognizes its final installment of deferred losses associated with FY 2008-09 under the Plan's five-year smoothing policy. Whether City contributions must continue to rise after FY 2014-15 as a percentage of payroll will depend on future investment returns along with the results of annual reevaluations of other actuarial assumptions.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F4. The increases in pension contributions by the City are growing at a faster rate than expenditures on most other City services since 1999.	Office of the Controller	Agree	I agree, although the City had no required pension contributions to SFERS in FY 1998-99 due to surplus funding of the Plan at that time. Thus it is not possible to calculate a growth rate on percentage terms from that base year. Looking at more recent 3-year growth between FY 2008-09 and FY 2011-12, the City's growth in employer share contributions to SFERS was from $112 million in FY 2008-09 to $385 million in FY 2011-12, for an average annual growth of 50.8%. This is indeed a much faster growth rate than on other expenditures, such as salaries (0.1% average annual growth over this period) or health benefits for active employees (5.9% average annual growth).

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F5. The Fund can artificially reduce the City's estimated liabilities by increasing its investment return assumptions for future years.	Office of the Controller	Disagree	Fund investment return assumptions are set by the SFERS Board, and I disagree with characterizing any decision by the SFERS Board as "artificial." Board decisions regarding investment return assumptions are made in public after hearing recommendations from professional actuaries. The Board has a fiduciary duty to Plan beneficiaries and as such has a responsibility to maintain the long-term health of the Plan.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F6. The unrealistically high assumed investment return rate of 7.66% is driven by concern for the mandated member and City contributions, with little regard for prudent management.	Office of the Controller	Disagree	Fund investment return assumptions are set by the SFERS Board. Board decisions regarding investment return assumptions are made in public after hearing recommendations from professional actuaries. The Board has a fiduciary duty to Plan beneficiaries and as such has a responsibility to maintain the long-term health of the Plan.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	F7. Studies show that public funds with low-risk investment policies perform as well as or better than those with high-risk policies.	Office of the Controller	Requires further research	I do not have personal knowledge as to the accuracy of this finding.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R1. San Francisco Employees' Retirement System Board address the $2 billion dollar underfunding of the San Francisco Employees' Retirement System Pension Fund by forming a high-level task force with City officials, a panel of experts, community groups, and the public to develop courses of action.	Office of the Controller	4. Will not be implemented	This recommendation implies that the challenge of addressing the underfunding of the plan is unknown to the System and that an approach toward closing this gap is not in place. Neither implication is true. The funding status of the plan has been the subject of a great deal of attention by the SFERS Board, the Mayor, Board of Supervisors, plan beneficiaries, and the electorate in the past two years. The Charter and

Status of the Recommendations
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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R2. Adopt a realistic and consistent formula for estimating the assumed expected investment return rate.	Office of the Controller	1. Rec implemented	I believe this recommendation has already been implemented within the framework of the existing SFERS Board processes. The SFERS Board will continue to consider changes to their assumed expected investment return rate on a regular basis under its existing procedures.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R3. The San Francisco Employees' Retirement System Board undertake an in-depth investigation and "failure analysis" study of its investment policy and report its findings to its members and to the public.	Office of the Controller	1. Rec implemented	I believe this recommendation has already been implemented. While the term "failure analysis" is not used by SFERS, I believe the intent behind this recommendation of reviewing investment policies and reporting to the public is being implemented within the framework of the existing SFERS Board processes. The SFERS Board will continue to consider changes to their investment policies on a regular basis under its existing procedures.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R4. Investigate, quantify and address all the major risks in the portfolio and make this information public.	Office of the Controller	1. Rec implemented	I believe this recommendation has already been implemented. The SFERS Board Strategic Plan, adopted at the Boards October 12, 2011 meeting, discusses an investment risk management initiative, which has been implemented by SFERS with regular monthly public reports since February 2011 that include a discussion of investment risk exposures in the SFERS portfolio.
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R5. Investigate less volatile and risky investment policies that would attain sufficient returns for the San Francisco Employees' Retirement System Pension Fund.	Office of the Controller	1. Rec implemented	This recommendation has been implemented. This recommendation has been implemented by SFERS to the extent that a range of investment options are discussed and implemented by the Plan.

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CGJ Year	Report Title	Finding or Recommendations	Response Required	Action	2012 Response Text
2011-2012	Investment Policies and Practices of the San Francisco Employees' Retirement System	R6. Replicate the Stanford, Upjohn, and The New York Times evidence-based comparison studies using San Francisco data, to apply their findings to the San Francisco Employees' Retirement System Pension Fund.	Office of the Controller	3. Requires further analysis	SFERS actuarial consultants produce various benchmarks and comparisons as part of the analyses they provide the SFERS Board. I cannot tell whether a replication of the precise studies cited would be a cost-effective use of resources.

Maria Su, Psy.D.
EXECUTIVE DIRECTOR

Edwin M. Lee
MAYOR

September 26, 2012

Honorable Katherine Feinstein
Superior Court of California
County of San Francisco
Grand Jury
400 McAllister St, Room 008
San Francisco, CA 94102

Re: DCYF's Responses to the 2011-2012 Civil Grand Jury of San Francisco Report titled "Where There's Smoke...The Need to Strengthen the Arts Commission's Stewardship of San Francisco's Cultural Legacy"

Dear Judge Feinstein:

Thank you for the opportunity to respond to the report entitled, "Where There's Smoke...The Need to Strengthen the Arts Commission's Stewardship of San Francisco's Cultural Identity" which was released on July 26, 2012. The report highlighted the need for stronger oversight in the operations and governance of the Commission, while being mindful of all the complicated requirements and limitations that it has. In this difficult economic climate it is even more important for us to ensure that our limited funds are used effectively and to provide the most impact for the children, youth and families of San Francisco.

Section III. Neighborhood Cultural Centers
Recommendation #15: *SFAC hold public hearings about the Cultural Centers and their short- and long-term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.*

DCYF **supports** the recommendation for SFAC to hold public hearings on ways City departments and other key stakeholders can participate in the development of short- and long-term sustainability plans for these valuable Cultural Centers and the programs they implement. DCYF currently provide funding support to several Cultural Centers in the City for afterschool and youth services as well as summer programming.

Once again thank you for your focus on this very important topic. I hope that this report will result in improvements that will benefit the community. If you have any questions regarding DCYF's responses please do not hesitate to contract me.

Sincerely,

Maria Su
Executive Director

CC: Grand Jury Office
Board of Supervisors
Angela Calvillo, Clerk of the Board of Supervisor
Mario Choi, Foreperson pro Tem, 2011-2012 Civil Grand Jury
Naomi Kelly, City Administrator
Ben Rosenfield, Controller

ONESF
Building Our Future

CAPITAL PLANNING PROGRAM

EDWIN M. LEE
Mayor

NAOMI M.KELLY
City Administrator

BRIAN STRONG
Director of Capital Planning

October 1, 2012

Honorable Katherine Feinstein, Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102

Dear Judge Feinstein,

Please find the requested response to the June 2012 Civil Grand Jury report, "Where There's Smoke ... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy."

Finding 18. *Art maintenance is more appropriately an operating rather than a capital cost as it is a day-to-day responsibility of the Arts Commission.*

Agree. Regardless of funding source, we consider routine art maintenance an operating cost. However, failure to conduct routine maintenance impacts the lifecycle of capital assets leading to quicker deterioration of the asset and increased capital costs.

Finding 19. *Art maintenance is inappropriately treated as a capital expense by City government.*

Disagree. The Capital Budget process provides a small amount of supplemental funding for routine maintenance. This funding relationship allows CPC Staff to work with the SFAC to identify maintenance needs, obtain fiscal support for maintenance, and extend the life of their assets.

Recommendation 9. *Re-designate maintenance and conservation of the Collection as an operating expense of SFAC rather than a capital budget item.*

This change in policy is beyond the authority of the Capital Planning Committee to implement. If implemented, the CPC would likely continue to be involved in maintenance and conservation funding issues due to the impact of maintenance on capital assets.

Recommendation 15. *SFAC hold public hearings about the Cultural Centers and their short-and-long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.*

It is beyond the authority of the CPC to hold public hearings for the SFAC. However, we will continue to work with the SFAC to identify needs and funding options for SFAC assets in both the 10-Year Capital Plan and the Capital Budget.

Thank you for the opportunity to respond and please do not hesitate to contact me if you have additional questions.

Sincerely,

Brian Strong
Director, Capital Planning Program

cc:
Naomi Kelly, Chair, Capital Planning Committee
Civil Grand Jury Office
Angela Calvillo, Clerk of the Board of Supervisors

SMALL BUSINESS COMMISSION
OFFICE OF SMALL BUSINESS

CITY AND COUNTY OF SAN FRANCISCO
EDWIN M. LEE, MAYOR

October 4, 2012

Ms. Angela Calvillo, Clerk of the Board
Board of Supervisors
City Hall room 244
1 Carlton B. Goodlett Place
San Francisco, CA 94102-4694

Re: July 26, 2012, Civil Grand Jury Report: "Where There's Smoke ... The Need to Strengthen the Arts Commission's Stewardship of San Francisco's Cultural Legacy"

Dear Ms. Calvillo:

The Office of Small Business has been asked to respond to recommendations R17 and R20. The Office of Small Business has been asked to respond with an "agree or disagree". The Office of Small Business and it Small Business Commission will not be providing an affirmative to one direction or another, but instead will provide a response that may provide guidance to Mayor, Board of Supervisors and the Arts Commission who may want to action on these two recommendations.

The Small Business Commission mission statement:
By championing "business-friendly" policies, marketing the contributions of the small business sector, and developing appropriate assistance programs, the SBC and Office of Small Business work to support and enhance an environment where small businesses can succeed and flourish. The SBC reviews pertinent small business legislation and policy matters and makes recommendations to the sponsor of the legislation, including the Mayor, Board of Supervisors, or other City Agencies.

Recommendation R17.
Move the Street Artist Program to the Office of Small Business

The Street Artist program is not in the City's Charter, Article V: Executive Branch – Arts and Culture. Regulating Street Artist is under Article 24 of the San Francisco Police Code. Street Artist: Article 24 Police Code

The Office of Small Business and the Small Business Commission believe it is a policy matter for either the Mayor or the Board of Supervisors on making the determination as to the agency to manage the Street Artist program. The Office of Small Business (OSB) is in agreement that OSB is a logical department for the Street Artist program to reside, as Street Artist are required to have a business registration to obtain a permit to operate and are therefore small businesses.

The current Street Artist program operates under the Police Code. The Police Code contains both a peddlers permit and street artist permit. Both are very similar to each other in regards to where and how the businesses sell their merchandise, which is selling on the public sidewalk or walkway. The Office of Small Business advises small business on the license and permitting requirements needed to operate their business. The OSB sees clients that are interested is selling their merchandise/art on the public right-of-way that are both legitimate street artist/ crafts people or business that want to sell pre-manufactured merchandise. Nearly all are interested in conducting their business in the locations currently designated for the Street Artist program only. It is OSB staff observation and feedback received from both businesses in the Street Artist program and consumers that there is an increasing number of non-artist businesses operating in this program. The more appropriate license for these businesses is the peddlers permit and therefore need to be conducting business in another location.

There is great value in maintaining the Street Artist program and OSB will explore the possibility in partnering with SFMade, Sharon Arts Studio, and other arts and arts/craft institutions and organizations to maintain the integrity of the program.

There has been a reduction in the number of Street Artist spaces as indicated on page 21 of the report. It is of this offices judgment that demand is exceeding space allocation. To maintain the integrity of the Street Artist program, OSB will look at how the needs of both the Street Artist program and businesses more appropriate for a peddlers permit can be met. OSB will be very diligent and work out a procedure with SFPD to remove unlicensed vendors.

Recommendation R20:
Appoint a current or former Street Artist to whichever Commission oversees them.

Both the Arts Commission and the Small Business Commission are Chartered commissions. To ensure a dedicated seat on either commission would require a specified seat designation and a change to each commission's charter. Any change to the charter requires voter approval.

Small Business Commission:

The Small Business Commission has seven seats, 4 appointed by the Mayor, 3 appointed by the Board of Supervisors. Seat assignments are designated are: *At least five of the individuals appointed to the Commission shall be owners, operators, or officers of San Francisco small businesses. One of the individuals appointed to the Commission may be*

either a current or former owner, operator, or officer of a San Francisco small business. One member of the Commission may be an officer or representative of a neighborhood economic development organization or an expert in small business finance.

The SBC has clearly demonstrated its commitment and attention to the needs of San Francisco's small businesses. Should the Street Artist program move to the Office of Small Business, it is not necessary to have an absolute designated seat or assigned appointment of a current or former Street Artist to the Small Business Commission. To fulfill its responsibilities to the artists and maintain oversight and management of the program, the Street Artist program will be assigned to one of the Small Business Commission standing committees. Staff will provide the committee at every meeting a regular reports on staffing, budget, management and operations the program. These reports will become a standing monthly item for the committee report to the full commission. If at any time but no earlier than 16 months, the SBC does determine that this is not meeting the needs of the program and the businesses, it will take under consideration formalizing a means to appoint a current or former Street Artist to the Commission.

Arts Commission:

It is not within in the purview of the Office of Small Business and the Small Business Commission for make a formal recommendation as to the appointment of a current or former Street Artist to the Commission. That said, it is known that there is frustration from many of the small businesses in this program, that the program does not receive the recognition due. Therefore the Office of Small Business encourages the Arts Commission to take steps to remedy this frustration.

Sincerely,

Regina Dick-Endrizzi
Director, Office of Small Business

Cc: Tom DeCaigny, Director Arts Commission
Kate Howard, Mayor Budget Office
Jason Elliott, Mayor's Office

Response to Grand Jury, SF Art Commission, Street Artists Program
John Tunui to: alisa.miller@sfgov.org 09/27/2012 03:01 PM
Cc: Licouris Alyssa, Howard Lazar

History: This message has been replied to.

Response to the Grand Jury.

From:

Respondent John Tunui,
Street Artist's Market Manager at Justin Herman Plaza. (2011 & 2012)

FINDINGS

F 28.

"The Street Artist's annual fees since 2000 have increased in large part due to the costs of defending the Program Manager from violations of the Sunshine Ordinances from the Street Artists."

I partially DISAGREE with the finding.

According to the Clark brothers, they and Michael Addario were the only people that requested information by asserting the Sunshine Ordinance, in some cases running up to thousands of dollars per year.

However, much of the costs were frivolous requests by Michael Addario for Street Artist's private information (such as Social Security Numbers, personal phone numbers and addresses, performance history etc) which are a blatant abuse of the Sunshine Ordinance.

Furthermore, the costs relating to the Sunshine Ordinance matters were NOT due to "defending the Program Manager fro violations of the Sunshine Ordinance," they were due to the cost of the City Attorney in advising the Arts Commission and the Program Director on furnishing documents (many of which required redaction of specific confidential details) to Sunshine requests and on advising the Program Director on preparation of Arts Commission responses to be delivered at Sunshine Task Force hearing.

F 29.

"The Street Artists depend on volunteer managers for the bulk of the on-site supervision and program operations."

I AGREE with the finding.

The Program depends on one volunteer manager, (elected by the artists), for the privilege of one (prime) space at Justin Herman Plaza. The Manager's duties include supervising lottery and coordinating with Rec. & Park Department to accommodate other events at the plaza. The main

Program operations of on-site inspection of the artists' wares and enforcement of the Street Artist Ordinance at the plaza (and other locations around the city) are administered by the Program staff.

F 31.

"There has been no current memorandum of understanding between SFSA and the Rec. & Park Department concerning the use of Justin Herman plaza since 1991."

I partially DISAGREE with the finding.

The definition of Memorandum Of Understanding (MOU) according to Wikipedia:

"It is often used in cases where parties either do not imply a legal commitment or in situations where the parties cannot create a legally enforceable agreement."

In a less stringent term, an MOU is like a 'gentleman's agreement' and in our case we were 'grandfathered' and since (before) 1991 we've been selling at the plaza with this understanding. The MOU is not, and was never a lease, and yet in its absence we've been selling for the past 21 years.

Currently at the plaza are three companies with a lease agreement: Park Wide (bicycle rental) with seven day access, the 49ers trailer shop (Monday to Friday) and Alicia's food cart, which operate about 4 or 5 days a week. However, in their contract, they must vacate the plaza to another event, such as the Canon Project Imagination, that rented the Loading zone for Monday, September 24. As a result the 49ers shop got bumped off.

The same situation will happen to all groups using the plaza, say for example if the America's Cup rented the plaza. In other words, we're given the same treatment as our co-tenants who are paying clients of Rec. & Park, even (with or) without an MOU or rental agreement of our own. Having an MOU with Rec. & Park does not preclude other events from renting the plaza – we did not have exclusivity to the plaza since 1991 or prior.

F 32.

"A Street Artist has never served as a Commissioner for SFAC."

I AGREE with the finding.

F 33.

"Selling spaces have declined from 433 in 2008 to 375 – 380 spaces currently."

I partially DISAGREE with the finding.

Since 2008, the number of spaces at the plaza have increased by about 30 (BART 9, 10, 11, 12, 13, 14, 15, 16, 17, CAFÉ 109, 108, 107, 106, 105, 104, 103, 102, 101, LOADING ZONE 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and Spaces 21 A & 21 B.). We lost space 13 A, but gained Space 11 A.

While the total number of spaces decreased in other locations, the plaza artists progressively worked with the Arts Commission and neighboring businesses to add selling spaces.

Some spaces, such as the ones in the Castro are underutilized to the point where the Castro neighborhood is thinking of availing it to another group.

RECOMMENDATIONS

R 17.

"Move the Street Artists Program to the Office of Small Business"

This Recommendation will not be implemented because it is not warranted or reasonable. Here's a quote from the Clark Brothers:

" ... the present Street Artist Ordinance was a Charter amendment approved by the voters as Proposition "L' on the November 5, 1975 Municipal Ballot.

Proposition "L" did not contain any language giving the Board of Supervisors the authority to amend the Ordinance.

Therefore, Proposition "L" cannot be amended except by a vote of the people.

After the passage of Proposition "L", it was codified into the San Francisco Police Code as Section 2400 of Article 24.

All of the provisions of Article 24 may be amended by the Board of Supervisors except for Section 2400.

Section 2400 (Proposition "L") designates the Arts Commission as the City department responsible for administering the Street Artist Program and issuing Street Artist Certificates.

In order to transfer that responsibility to any other City department including the Office of Small Business, it would require a ballot measure to be placed on the San Francisco Municipal Ballot and be approved by the voters."

R. 20.

"Appoint a current or former Street Artists to whichever Commission oversees them."

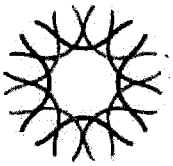
The recommendation requires further analyses. A Street Artist may serve on the full Arts Commission, but not on the advisory board, to avoid conflict of interest.

R 21.

"Develop new spaces for the Street Artists."

At Justin Herman Plaza, this recommendation has been implemented and will continue to look at adding new spaces. This can only be achieved by working in a friendly and cohesive relationship with our neighbors – the Hyatt Hotel, Boston Properties, Noah's Bagels, the bike rental company, Rec. & Park, the Ferry Building, One Market, SF Port Authority etc, etc. Our neighbors value our presence at the plaza, especially as recently as Tuesday, September 18, 2012, when they saw Street Artists chase the encampment from the bocce courts back to the Federal Reserve building.

File 120792 GAO Clerk COB, Leg Dep Cpage



CALIFORNIA
ACADEMY OF
SCIENCES

August 8, 2012

The Honorable Katherine Feinstein
Presiding Judge of the Superior Court
County of San Francisco
400 McAllister Street, Dept. 206
San Francisco, California 94102-4514

Re: Response to 2011-2012 San Francisco Civil Grand Jury Report "Where There's Smoke..." Dated June 2012

Dear Judge Feinstein:

In the City and County of San Francisco's Civil Grand Jury Report dated June 2012, and entitled "Where There's Smoke..." (the "Report"), the California Academy of Sciences ("Academy") was requested to respond to Finding No. 5 which reads as follows:

F5 SFAC has not created a high-profile community identity for itself as an important contributor to San Francisco's cultural heritage.

Academy Response

The Academy values its relationship with the City and other cultural institutions in San Francisco and the surrounding Bay Area. As a member of the City's cultural community, the Academy is very aware of the importance of the work of the San Francisco Art Commission ("SFAC") and believes that the SFAC is, in fact, an important contributor to the City's cultural heritage. The Academy coordinated successfully with the SFAC over a five-year period commencing in 2005 on the implementation and design approval of two works of art for the California Academy of Sciences' Public Art Project, including the commission of renowned artist Maya Lin for the artworks. Appropriate signage is displayed with each piece of artwork referencing the collaboration between the Academy and the SFAC on the Academy's Public Art Project which was also well marketed within the City.

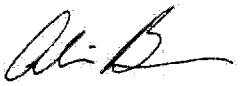
As noted in the Report, the SFAC is not generally responsible for art located at the Academy. As the Academy is located in Golden Gate Park, the Academy's primary City interface is with the San Francisco Recreation and Parks Department and Commission. Our work with the SFAC has been limited to coordinating the design of the Academy building and the exterior public art at the Academy. As noted above, that interaction has been very positive.

55 Music Concourse Drive, Golden Gate Park, San Francisco, California 94118

The Academy agrees that a high profile community identity for the SFAC, and for the City's cultural institutions that it supports, is a worthy goal. The Academy would be pleased to cooperate with the SFAC and other institutions on efforts to reinforce the SFAC's community identity.

Please feel free to contact me should you have any questions or need additional information.

Sincerely,



Alison Brown
Chief of Staff and CFO

cc: City and County of San Francisco, Civil Grand Jury
Jill Manton, San Francisco Arts Commission, Director of Legislation and Initiatives

55 Music Concourse Drive, Golden Gate Park, San Francisco, California 94118

Board of Trustees

Fine Arts Museums of San Francisco

de Young
Legion of Honor

August 15, 2012

The Honorable Katherine Feinstein
Presiding Judge of the Superior Court of California
County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

I have received and read with great interest the report of the 2011–2012 Civil Grand Jury Report "Where There's Smoke . . . The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy." The report presented a fair, accurate and detailed assessment of the San Francisco Arts Commission's organization and management. As the President of one of the City's oldest arts organizations, I have an avid and vested interest in the vitality of all San Francisco's arts institutions. I have also served on the SFAC, so I have had the opportunity to study this Commission closely.

The Fine Arts Museums were asked to respond to Finding 5, "SFAC has not created a high-profile community identity for itself as an important contribution to San Francisco's cultural heritage." I agree with this finding wholeheartedly. Public visibility has not been a primary goal of the Commission, and perhaps it would serve them well to have a higher profile in the community.

Although the report did not specifically ask for the Museums' response to your findings about the Arts Commissions' governance, I do strongly agree that the Commission would benefit by having Commissioners with backgrounds in finance, management and fundraising in addition to Artist/Commissioners.

I am so pleased that the City and State convene Grand Juries each year to look behind the scenes of San Francisco's public business, and I support the Juries' role in effecting positive and productive change in our chartered organizations.

Sincerely,

Diane B. Wilsey
President
Board of Trustees

/mab

cc: Mario Choi, Foreperson Pro Tem
2011 – 2012 Civil Grand Jury

de Young

Golden Gate Park
50 Hagiwara Tea Garden Drive
San Francisco, CA 94118-4501

Tel 415.750.3669
Fax 415.750.7686

www.thinker.org

September 29, 2012

The Honorable Katherine Feinstein
Presiding Judge
Superior Court of California, County of San Francisco
400 McAllister Street, Room 008
San Francisco, CA 94102-4512

Dear Judge Feinstein:

Attached please find our response to the 2011-2012 Grand Jury report, to "Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy".

MCCLA appreciates the scope of the Grand Jury investigation, findings and recommendations, in particular to those pertaining to the Neighborhood Cultural Centers. We also thank the panel for their detailed interview, and to your office for granting us the opportunity to reply.

I will be attending the October 11, 2012 Government Audit and Oversight Committee hearing, as MCCLA's representative.

Sincerely,

Jennie E. Rodriguez
Executive Director

Mission Cultural Center for Latino Arts
Response to the Civil Grand Jury Report - 9/30/12

FINDINGS

F.22 **The Cultural Centers are a primary responsibility of the Arts Commission under the Charter.**

- **Agree.**

F23 **SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.**

- **Partially Disagree.**

As years have gone by, and with the increase in programming and participants, the facilities have sustained the normal wear and tear, and have required increased maintenance and repairs. When / if these are not done on a regular or on a timely basis, (electrical, roof leaks, heating, surveillance camera systems, etc.) they can impact on the Center's operations and programming. Although the amounts assigned for these improvements are never sufficient for all the facilities needs, the SFAC makes sure that issues pertaining to emergency needs and systems are quickly resolved, and that a DPW facilities manager is always assigned to inspect our facilities. During 2011-2012 additional funding was procured by the SFAC for capital improvements. In the case of MCCLA the heating and ventilation system, that for many years was improperly functioning, was replaced. It is our understanding that additional funding from the Public Utilities Commission and the City's Capital funding program will be used for planning and carrying out a series of much needed capital improvements to include the completion of the HVAC system and the replacement of our roof. There will also be additional funding from the Mayor's Office on Disability, to make MCCLA fully ADA accessible.

F24 SFAC has not addressed the long-terms funding, stability and safety needs of the Cultural Centers

- **Partially Agree.**

It is our understanding that when these facilities were originally acquired / assigned to the SFAC, not much thought was put into their immediate or future maintenance and repair needs. Much is done with the few resources available. It has been a main goal for the SFAC to to further define the needs and "make the case" for the appropriate funding and support of the cultural centers. MCCLA is aware of the SFAC efforts to procure and commit funding from various sources (PUC, Capital Improvements Office, and the Mayor's Office on Disability), and to provide a certain level of technical support and professional development through conferences, workshops and training.

B. RECOMMENDATIONS

R15. Hold public hearings about the Cultural Centers and their short-and long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers

Partially agree.

The SFAC grant agreement requires Cultural Centers to hold 6 public community meetings. Issues pertaining to the Centers programming, fundraising and outreach are included and discussed at these public meetings. The Centers also present their annual plans and budgets, mid year and final reports, to the SFAC's Culture and Education and Grants Committee in an open meeting. However, the importance of the cultural centers within the neighborhood arts framework, and the sheer number of community and artists served, justify keeping constant active awareness from the general public. Often times the scope of work of the cultural centers is not fully understood even by the arts community, who sometimes question our level of support from the City. A comprehensive public meeting every two years or so, to include all Community Centers, would be appropriate to this effect. This public hearing would benefit the cultural centers in making our work better known and in garnering the necessary support from the arts community and the community at large.

R16 SFAC enter long-term leases with their Cultural Center operators

Agree.

The SFAC renews grant and lease agreements with the cultural centers on an annual basis. Both the grant and the lease agreements are tied up, meaning, that if centers loose their grant they will also lose their lease agreement, having to vacate the premises. Every year Centers submit a management and programming plan and a budget to the SFAC for approval. The plan is followed by a mid year report, a financial audit, a cultural data project report, and a final report.

MCCLA considers its long term relationship with the SFAC has been strong and fruitful. Although the possibility of eviction for non compliance has not been an issue, the Center considers a longer lease agreement would be most reasonable, and afford the Center a better standing in terms of funding considerations. Being the funding for facility repairs and improvements a challenge for both the SFAC and MCCLA, the granting of a longer lease would facilitate the process. It is very difficult to approach funders (for these improvements) if the "tenant" does not have at least a 5 year lease, as required from any other small business. A longer lease would provide MCCLA (and the SFAC) a greater degree of support, facilitating the seeking of funds for maintenance, repairs, and capital improvements.

The SFAC has contemplated the possibility of longer leases (5-20 years) for the Centers for many years now. We understand the SFAC will undergo a strategic planning process this fiscal year where the lease process will be revisited. The SFAC will also continue to consult with the City Attorney's office about this possibility. MCCLA considers a 5 year lease to be most reasonable.

San Francisco War Memorial and Performing Arts Center

Owned and Operated by the
City and County of San Francisco

War Memorial Veterans Building
Herbst Theatre/Green Room
War Memorial Opera House
Louise M. Davies Symphony Hall
Harold L. Zellerbach Rehearsal Hall

401 Van Ness Avenue, Suite 110
San Francisco, California 94102
Telephone (415) 621-6600
FAX (415) 621-5091

September 17, 2012

The Honorable Katherine Feinstein
Presiding Judge of the Superior Court
County of San Francisco
400 McAllister Street, Dept. 206
San Francisco, CA 94102-4514

RE: **Response to 2011-2012 San Francisco Civil Grand Jury Report "Where There's Smoke..." dated June 2012**

Dear Judge Feinstein:

In the City and County of San Francisco's Civil Grand Jury Report dated June 2012, and entitled "Where There's Smoke...The Need to Strengthen the Arts Commission's Stewardship of San Francisco's Cultural Legacy," the War Memorial and Performing Arts Center was requested to respond to Finding No. 5 which reads as follows:

F5 SFAC has not created a high-profile community identity for itself as an important contributor to San Francisco's cultural heritage.

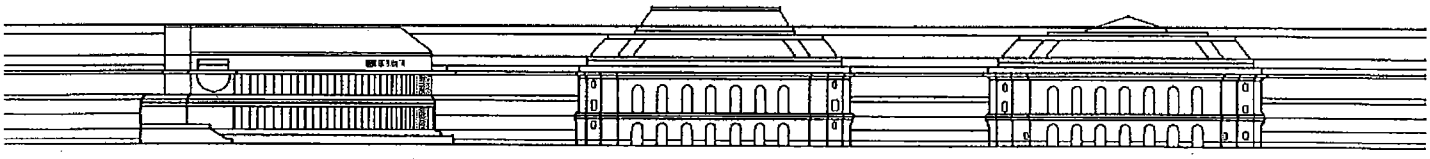
War Memorial Response

The War Memorial and Performing Arts Center has had and continues to have a strong and successful relationship with the San Francisco Arts Commission. While the SFAC is not directly responsible for art located at the War Memorial, in our varying associations with SFAC as discussed below, SFAC has demonstrated itself as an important contributor to San Francisco's cultural heritage, and the War Memorial supports and would be pleased to participate in efforts to further strengthen the SFAC's identity as such.

The War Memorial has had associations and partnerships with SFAC on a number of high profile projects including:

- City-wide Temporary Exhibitions: City-wide temporary exhibitions coordinated by SFAC, with sculpture placements on the War Memorial premises, including the 1998 exhibition of sculptures by the late artist Keith Haring, 2012 exhibition of sculptures by Jun Kaneko, and a potential upcoming future exhibition of works by Fernando Botero. To the extent that SFAC has sufficient funds to do so, the War Memorial hopes to participate in future City-wide exhibitions.

- Evaluation and Conservation of War Memorial Artwork: The War Memorial has relied upon the SFAC as an important resource for assistance in evaluating, conserving and maintaining artwork owned or under the jurisdiction of the War Memorial. The Arts Commission has provided historical evaluation and conservation consultation on the 1915 Pan Pacific International Exposition murals currently stored by the War Memorial; on-going conservation consultation regarding the Henry Moore sculpture in front of Davies Symphony Hall; and periodic consultation on other artwork.



- San Francisco Veterans Memorial Project: In 2010, the War Memorial selected the SFAC to manage the artistic coordination of the "San Francisco Veterans Memorial Project," a collaborative effort of the War Memorial and San Francisco veterans to fulfill the original plan for the installation of a veterans memorial in the courtyard between the Opera House and Veterans Building. The Arts Commission conducted a nation-wide "call to artists," managed the artist review and selection process, handled the contractual process with the selected artist, and will be providing project oversight assistance during the 2013 construction phase in advance of the targeted dedication of the veterans memorial on November 11, 2013.

Since 1995, the San Francisco Arts Commission Gallery has been located in the War Memorial Veterans Building in the San Francisco Performing Arts Center. The Gallery has on its own initiative worked with other Veterans Building occupants, including the San Francisco American Legion Posts and a variety of arts organizations using the Herbst Theatre, to integrate their displays and exhibits with other building activities.

We are very pleased that the SFAC is scheduled to relocate all of its programs to the Veterans Building in 2015, following the two-year seismic renovation of the building. SFAC has been an active partner in our design phase for this major project. We look forward to this relocation providing many more opportunities for partnerships between the War Memorial and SFAC.

The SFAC's community identity is important to all of the City's cultural and arts institutions as well as to the many arts organizations and artists in the City. The War Memorial and Performing Arts Center looks forward to a continued relationship with the SFAC to assist in furthering this goal.

Sincerely,

Elizabeth Murray

Elizabeth Murray
Managing Director

cc: City and County of San Francisco, Civil Grand Jury
Jill Manton, San Francisco Arts Commission, Director of Legislation and Initiatives

GFTA and City Administrator Responses as requested to Civil Grand Jury Report titled "Where There's Smoke..."

A. Findings

F1 (page 8) **The City, through SFAC and GFTA, devotes public resources to art and cultural programs in more generous amounts per capita, than any other municipality in the United States**.
Response: A comprehensive nationwide survey, which would be time-consuming and expensive, has never been done to our knowledge. Never the less, after many years of reviewing data in a less formal way we can say with confidence that SF does devote more per capita to the **private non-profit arts** (i.e., those not having formal governmental ties and independently governed by a duly constituted board of directors) than any other city of its size.

F. Findings

F18 (page 15) **Art Maintenance is more appropriately an operating rather than a capital cost as it is a day-to-day responsibility of the SFAC.**
Response from GFTA and City Administrator: The respondent neither agrees nor disagrees with the finding, believing that the determination of what is or is not a capital expense should be left to the discretion of the Department and Mayor's Office.

F19 (page 16) **Art Maintenance is inappropriately treated as a capital expense by City government**.
Response from GFTA and City Administrator: Please see response to F18 above.

G. Recommendations

R8 (page 16) **Human and material resources adequate to the task be devoted to the rapid completion of the inventory, appraisal, and cataloging of the Collection**.
Response from GFTA and City Administrator: This recommendation is in the purview of the Art Commission and the Mayor's budget staff.

R9 (page 16) **Re-designate maintenance and conservation of the Collection as an operating expense of the SFAC rather than a capital budget item**.
Response from GFTA and City Administrator: Please see response to R8 above.

R10 (page 16) **Redirect and dedicate $1 million, over two years, of the Grants for the Arts/Hotel Tax Fund on a one-time basis to the Arts Commission to fund the inventory, maintenance, storage, de-accessioning, exhibition and installation of the *existing* Collection located in the City, at San Francisco International Airport, and at other city properties.**
Response from GFTA and City Administrator: The Recommendation should not be implemented for the following reasons:
1. It is inappropriate for one City agency to subsidize the unrelated costs of the work of another City agency. It may be that it is appropriate for the Arts Commission to request that funds be budgeted for the Collection, but these funds should not come from Hotel Tax already designated for a specific use, e.g., GFTA, the War Memorial, etc. GFTA is already underfunded by more than $3M.
2. An important part of GFTA's mission is to be "consistent, stable source of funding" for San Francisco's nonprofit arts organizations, and as such it is essential to over 200 organizations annually. It is impossible to "redirect and dedicate" any portion over a two-year period (much less

a portion amounting to over 11% of the grant budget) without compromising the mission of GFTA and destabilizing the arts community.

R11 (page 17) **Designate Hotel Tax Funds from the initial $1 million for the development of educational print, on-line and phone app materials to showcase the existing Civic Art Collection located in the City, at San Francisco International Airport, and at other City properties to make the Collection more accessible to City residents and visitors**.
Response from GFTA and City Administrator: Implementing this recommendation may be worthwhile but, for the reasons stated above, funding cannot come from GFTA's scarce resources.

R12 (page 17) **Designate Hotel Tax Fund monies of 1% of the value of the Collection (up to $900,000) on an annual basis for the maintenance and care of the Collection.**
GFTA and City Administrator Response: There is no objection to this with this caveat: the money should come from the unallocated (General Fund) portion of the Hotel Tax, not from scarce Hotel Tax dollars already designated for other specified uses.

C. Findings

F38 (page 28) **GFTA funds the San Francisco Symphony for over $600,000 annually for operating expenses.**
GFTA and City Administrator Response: The respondent agrees with this finding.

D. Recommendations
R23 (page 29) **Redirect Hotel Tax Fund money allocated to the SFS by GFTA to the SFAC.**
GFTA and City Administrator Response: This recommendation will not be implemented. General operating support funding is allocated to SFS by GFTA for the following purpose: To produce a season of orchestral concerts in such a manner as to favorably advertise and publicize the City of San Francisco. This purpose is separate and apart from any funding SFS receives from the Arts Commission or any other funding source and should not be conflated with or substituted for funds for any other purpose.

BAYVIEW
OPERA HOUSE
Ruth Williams
Memorial Theatre

1968
San Francisco Landmark #8

2011
National Register of
Historic Places

Governor's Award for
Historic Preservation

4705 Third Street
San Francisco, CA 94124
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Non-profit 501(c) (3)
Tax ID# 94-3136172

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Barbara Ockel

September 26, 2012

Superior Court of California, County of San Francisco
Civic Center Courthouse
400 McAllister Street, Room 008
San Francisco, CA 94102
(415) 551-3605

To Whom It May Concern:

Bayview Opera House, Inc. (BVOH) appreciates this opportunity to respond to the Civil Grand Jury investigation regarding the San Francisco Arts Commission, specifically, the findings regarding the city-owned cultural centers.

Founded in 1989 to manage programs from its historic 1888 Ruth Williams Memorial Theatre, BVOH is a 501(c) (3) organization with a mission to serve as the focal point for Art and Culture in the Bayview Hunters Point community by providing accessible diverse, and high-quality arts education, cultural programs and community events in a safe environment. The values that underpin the pursuit of our mission include high standards of excellence in arts education and programming, fostering a sense of community, and cultivating relationships that are respectful, inspirational and inclusive.

Plagued by unemployment, poverty, disinvestment, contamination and few opportunities, residents in Bayview Hunters Point are confronted by one of the highest homicide rates in the Bay Area, underscoring the need for safe havens such as BVOH. Our D2D Program targets residents aged 3-19 in one of the most violent and economically challenged neighborhoods in San Francisco.

We feel that the San Francisco Arts Commission is exemplary in its support of access to art for underserved communities such as the Bayview community that we serve. The secure funding base and provision of a building is essential for what we do and provides a valuable stable home base from which to expand both funding sources and services.

With best regards,

Barbara Ockel

Barbara Ockel
Executive Director

Bayview Opera House (BVOH) Response to the 2011-12 San Francisco Civil Grand Jury - Cultural Centers Findings:

F22: The cultural centers are a primary responsibility of the Arts Commission under the Charter.
Agree. The SFAC owns the physical buildings and are the primary funder of the cultural center, and therefore their functioning falls under the responsibility of the Arts Commission.

F23: SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.
Disagree. While it is true that building maintenance and upgrades have not always been what would have been ideal, the situation is continuously improving and past deficiencies not necessarily the fault of the Arts Commission. The Bayview Opera House experienced a major façade upgrade in 2007, followed by support for major interior upgrades in 2010 that were financed through a grant awarded to our organization, but that would not have been possible without intense collaboration and cooperation by the SFAC. The project culminated in the donation of a historic preservation easement to SF Architectural Heritage, a non-profit dedicated to the preservation of historic resources, in March 2011. The nomination to the National Register was paid for by a grant from the city's Historic Preservation Fund that the BVOH applied for, and Arts Commission staff actively supported our application for this funding. The exemplary cooperation between different city departments that was necessary for both the easement and the nomination to go through was made possible only through the tireless efforts of the San Francisco Arts Commission's staff and commissioners.
Furthermore, I personally witnessed an impassioned plea by Jill Manton from the SF Arts Commission to the city's Capital Commission for additional funding to maintain the cultural centers for fiscal year 2011-2012, which was rejected, except for the funding that BVOH was allocated. They then took action to work with other entities in addition to the city to successfully secure more funding for the current fiscal year. They have secured additional funding from the Public Utilities Commission for BVOH upgrades, in addition to more successful lobbying for city funds, particularly the Department on Disability.

F24: SFAC has not addressed the long-term funding, stability and safety needs of the Cultural Centers.
Disagree. The cultural centers are all run by independent non-profits that should be capable of addressing their own long-term funding needs. Most non-profits are not in the position to be provided annually with large amount of unrestricted funding as well as a free building space. While as our landlord they should watch over the safety and adequacy of their buildings and help with securing funds to address those needs, it should not be their responsibility alone. That said, the Arts Commission should be, and I believe, is planning to do more to educate their contracted non-profits in fundraising,

leadership and organizational development and set a certain standard that organizations must meet in order to maintain the privileges afforded to them.

Recommendations:
R15: SFAC hold public hearings and develop an action plan about the Cultural Centers and their short and long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.
Disagree. SFAC already has a system of committees and review procedures in place that ensure adequate review. Public hearings, more often than not, serve merely as a way for a few individuals to amplify their (mostly critical) voices and make it seem that theirs is a majority opinion. Such meetings are often combative in tone, and do not produce a constructive outcome. Furthermore, the centers needs are quite different in nature, dependent on their surrounding communities, and it is much more productive to hold local meetings where residents are likely to participate.

Bayview Opera House, Inc. (BVOH) agrees with the following SFAC statement:
"The SFAC's CAEG monthly committee meetings provide publicly noticed meetings that follow all Sunshine requirements where all legislated reporting requirements, financial audits, Controller's audits and California Cultural Data Project reports are reviewed on the committee level and submitted for review to the full Commission. The committee also reviews fundraising plans and facility and life safety requirements for each of the Centers. Members of the public are welcome to attend and provide public comment.
The Cultural Centers house independent not-for-profit organizations that are responsible for the day-to-day operations and programs of the building. As required in the legislation, the Centers must hold six community support board meetings. Therefore, the issues raised in this recommendation would be better addressed site by site as each neighborhood and facility has distinct constituents. In addition, it is not appropriate for the City to hold community meetings that may impact an independent not-for-profit. The SFAC strategic plan will address the creation of a long term capital plan which will include the life safety system needs of the facilities."

R16: SFAC enter long-term leases with their Cultural Center operators.
Agree. Long-term leases would be helpful in demonstrating stability of the organization to outside funding sources. Guidelines for benchmarks that cultural centers must fulfill to qualify were sent to center directors in January 2011. These guidelines are helpful in preparing for eventual long-term leases. It seems reasonable to us that certain criteria of stability and successful operation should be met before long-term leases are awarded.

AFRICAN AMERICAN
ART & CULTURE
COMPLEX

Where There's Smoke...

Responses to Civil Grand Jury Recommendations and Findings

III. Neighborhood Cultural Centers

A. Findings

F22. The Cultural Centers are a primary responsibility of the Arts Commission under the Charter.

Agree. The African American Art and Culture Complex (AAACC) believes that the City's Cultural Centers are one of the primary responsibilities of the Arts Commission, and are a critical piece in providing free and low cost access to programming and venues to the neighborhoods they serve. The AAACC is a central hub of the Western Addition Community and has provided a much-needed focus and support for the children and families living there. Additionally, the Center, as prescribed in the City Charter (Section 5.103), has "support[ed] an active interest in the arts and...remain[s] a vital contributor to the cultural love of the City and County". The AAACC recommends that closer oversight is provided by the Board of Supervisors to ensure that the Arts Commission is adequately allocating funds to each Cultural Center.

F23. SFAC has not given support and maintenance of the Cultural Centers the priority the Charter requires.

Partially Agree. While the AAACC recognizes that the SFAC has been extremely underfunded for capital needs, it does not believe the SFAC has adequately prioritized the support and maintenance of the Cultural Centers as indicated in the Charter. Although basic repairs were addressed during the AAACC's 2008 renovation, other major facility needs remain unaddressed. Center Directors have been needing to spend a large amount of time, aggressively focused on facility improvement projects to make sure they happen, when more of their time should be spent in accordance with the mission of the Centers: work within the community, raising funds, promoting the arts and developing high quality programming. The AAACC Executive Director spent around 40% of her time securing almost $3 million in funds for capital improvement, as well in project and facility management during the process.

There are a number of upgrades needed due to the long-term deferred maintenance on the building. Plans are forthcoming for new second floor bathrooms, an industrial sink on the third floor, an electrical upgrade and a new roof. The Center desperately needs new windows and is looking for ways to get this funded.

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SAN FRANCISCO, CA 94102
Phone 415.922.2049
Fax 415.922.5130
WWW.AAACC.ORG

F24. SFAC has not addressed the long-term funding, stability and safety needs of the Cultural Centers.

Partially agree. The AAACC believes the SFAC looked to address long-term funding and stability of the Cultural Centers through the implementation of the Cultural Data Project (CDP). The CDP helps to improve financial management; streamlines reporting/application processes, giving a clearer picture of the Center's assets, contributions, and needs; and facilitates better access to grant making resources. This project has also helped Cultural Center leadership highlight major gaps in funding. With those gaps highlighted, the SFAC and Cultural Center leadership are better able to find necessary resources to address losses during the global financial crisis. Over the past few years, SFAC has decreased funding to Cultural Centers while the maintenance costs have been on a continual rise. In terms of safety, the AAACCis still looking to the SFAC to help secure the valuable staff, art, and resources on site. The AAACC hires reliable security staff for events and daily activities, but cannot provide their continuous presence due to financial challenges.

B. Recommendations

R15. SFAC hold public hearings about the Cultural Centers and their short and long-term funding (for programs and facility maintenance), facility, safety needs to develop an action plan to secure the Cultural Centers.

Partially Disagree. Forums for public comment are already in existence for those who would like to comment on any topic related to the Centers and the AAACC does not believe additional opportunities are needed at this time. However, a comprehensive action plan regarding funding, facilities and safety would be appreciated.

Additionally, the Cultural Centers are run by independent 501c3 organizations and it would therefore not be appropriate for the SFAC to hold hearings which could impact them. Community input on the Centers' role, function and effectiveness is needed, though, especially as the Centers receive so much public funding. The receptacle for input is already set up through the required community support board meetings, which should be happening six times per year, and which meetings are taking place at the AAACC.

R16. SFAC enter long-term leases with their Culture Center Operators.

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COMPLEX

Partially agree. Long-term leases would understandably help facilitate opportunities for Cultural Centers to receive funding for capital projects, though the AAACC has not yet run into a challenge with funding projects as a result of the current one-year lease policy.

Submitted by Tamika Chenier
Interim Executive Director
African American Art and Culture Complex
September 27, 2012

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SOMARTS
cultural center

Honorable Katherine Feinstein, Presiding Judge
Superior Court of California, County of San Francisco
Civic Center Courthouse
400 McAllister Street, Room 008
San Francisco, CA 94102
(415) 551-3605

To Whom It May Concern:

Thank you to Mario Choi and to the 2011-12 San Francisco Civil Grand Jury for providing this detailed report on the San Francisco Arts Commission, with specific attention paid to the community resource that is the city's cultural centers. I have reviewed the recommendations for the cultural centers and generally concur with the findings and recommendations in the report.

Within the past year, the San Francisco Arts Commission has made significant progress in advocating for funding to support and maintain the cultural center facilities, and in working with the centers to successfully execute critical building systems repairs. The SFAC has notified SOMArts that much needed roof repair and an ADA barrier removal project, will take place from 2012-14. These projects are critical to protect the city's investment in this facility, and to ensure that SOMArts is safe and accessible to all San Franciscans.

Over the past four years, cultural center representatives have attended numerous meetings of SFAC committees including the Community Arts, Education and Grants Committee, the Executive Committee and the Full Commission to call attention to decreases in staff and funding allocated to facility maintenance and to advocate for long-term leases. This report calls attention to these important issues and is concurrent with positive change already happening under the SFAC's new leadership.

Thank you again for your time and attention.

Sincerely,

Lex Leifheit
Executive Director, SOMArts

SOMARTS
cultural center

Response to the 2011-12 San Francisco Civil Grand Jury: Cultural Centers

Findings:

F22: The cultural centers are a primary responsibility of the Arts Commission under the Charter.

Agree. SOMArts provides an annual management and programming plan to the Arts Commission as well as a mid-year report, final report, cultural data project report and monthly updates in writing and at the monthly center directors meetings. In addition to reporting, SOMArts staff communicate regularly with the arts commission to ensure that we are understanding and meeting their goals for the South of Market Cultural Center within the larger context of all city arts facilities and that it remains a vital contributor to the cultural health of the City and County as well as a resource for communities, organizations and neighborhood artists.

F23: SFAC has not given the support and maintenance of the Cultural Centers the priority the Charter requires.

Agree. Until 2012-13, there was a trend of overall funding to the cultural centers decreasing and one of the areas most significantly affected was funding for building systems repair and maintenance. It is critical that the city protects its investment in these buildings by supporting maintenance and repair that will prevent more serious repairs needed down the road. Since January 2012, SOMArts has experienced significant improvement in response time for facilities requests and several important repairs have been completed including:

-repair of a water leak that was preventing a vacant office space from being used at a time when affordable space is scarce in SoMa. The space is now occupied by the Asian Pacific Islander Cultural Center.

-replacement of the loading-dock door, which is used daily and critical for large community events

-replacement of a hot water heater used by tenant organizations

F24: SFAC has not addressed the long term funding, stability and safety needs of the Cultural Centers.

Agree. In order to address long-term funding, stability and safety needs of the cultural centers, the Arts Commission must align goals and reporting for the cultural centers with the goals and reporting for its other programs so that it can communicate the impact of the centers both externally and internally. This is essential as the Arts Commission embarks on a strategic plan that will address long-held opinions and concerns within the broader community regarding the allocation of the Hotel Tax Fund.

Recommendations:

R15: SFAC hold public hearings and develop an action plan about the Cultural Centers and their short and long term funding (for programs and facility maintenance), facility, and safety needs to develop an action plan to secure the Cultural Centers.

Disagree. SOMArts agrees with the SFAC statement: "The SFAC's CAEG monthly committee meetings provide publicly noticed meetings that follow all Sunshine requirements where all legislated reporting requirements, financial audits, Controller's audits and California Cultural Data Project reports are reviewed on the committee level and submitted for review to the full Commission. The committee also reviews fundraising plans and facility and life safety requirements for each of the Centers. Members of the public are welcome to attend and provide public comment.

The Cultural Centers house independent not-for-profit organizations that are responsible for the day-to-day operations and programs of the building. As required in the legislation, the Centers must hold six community support board meetings. Therefore, the issues raised in this recommendation would be better addressed site by

site as each neighborhood and facility has distinct constituents. In addition, it is not appropriate for the City to hold community meetings that may impact an independent not-for-profit. The SFAC strategic plan will address the creation of a long term capital plan which will include the life safety system needs of the facilities."

R16: SFAC enter long term leases with their Cultural Center operators.
Agree. The SFAC's current year-to-year leasing practice is a barrier to successful capital campaign fundraising from individual donors and private foundations. Within the nonprofit sector, benchmarks have been established for the granting of long-term leases. Recommendations for benchmarks to grant long-term leases to the cultural centers were sent to the former Director of Cultural Affairs in January 2011, these included:

Income vs. Expenses: Cultural Center must have no more than 5% expenses exceeding revenue for 3 consecutive years, not including capital improvements.

Revenue sources: Cultural Center must demonstrate 50% match of earned and contributed income to SFAC funds for 3 consecutive years.

Board stability: 33% turnover or less for 3 consecutive years. Observance of term limits.

Staff stability: 33% turnover or less for key employees (those who avg 20hrs/wk per year or more) for 3 consecutive years

Reporting & Programming: Audits and other SFAC-required reports turned in within 2 weeks of deadline for 3 years. Management and Programming Plan approved by Commission for three consecutive years.

Debt: No increase on lines of credit allowed during this period leading up to long-term lease.

Lease: Must be in compliance with terms of existing lease.

Reserve funds: Organization must establish a reserve fund of no less than two months of operating expenses (averaged).

BOARD of SUPERVISORS

City Hall
Dr. Carlton B. Goodlett Place, Room 244
San Francisco 94102-4689
Tel. No. 554-5184
Fax No. 554-5163
TDD/TTY No. 544-5227

DATE: July 26, 2012

TO: Members of the Board of Supervisors

FROM: Angela Calvillo, Clerk of the Board ACC

SUBJECT: 2011-2012 Civil Grand Jury Report

We are in receipt of the San Francisco Civil Grand Jury (CGJ) report released July 26, 2012, entitled: **Where There's Smoke…The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy."** (Attached)

Pursuant to California Penal Code Sections 933 and 933.05, the Board must:

1. Respond to the report within 90 days of receipt, or no later than October 24, 2012.
2. For each finding:
   - agree with the finding or
   - disagree with the finding, wholly or partially, and explain why.
3. For each recommendation:
   - agree with the recommendation or
   - disagree with the recommendation, wholly or partially, and explain why.

Pursuant to San Francisco Administrative Code Section 2.10, in coordination with the Committee Chair, the Clerk will schedule a public hearing before the Government Audit and Oversight Committee to allow the Board the necessary time to review and formally respond to the findings and recommendations.

The Budget and Legislative Analyst will prepare a resolution, outlining the findings and recommendations for the Committee's consideration, to be heard at the same time as the hearing on the report.

Attachment

c: Honorable Katherine Feinstein, Presiding Judge (w/o attachment)
Mario Choi, Foreperson, 2011-2012 San Francisco Civil Grand Jury (w/o attachment)
Mayor's Office
Ben Rosenfield, Controller
Cheryl Adams, Deputy City Attorney (w/o attachment)
Rick Caldeira, Deputy Clerk

Orig: Joy
COB, Lap Dep
GAO
Clerk
cpage

BDS-11
(cep)

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO
CIVIL GRAND JURY

#120792

July 23, 2012

Angela Calvillo
Clerk of the Board
City Hall, Room 244
San Francisco, CA 94102

RECEIVED
BOARD OF SUPERVISORS
SAN FRANCISCO
2012 JUL 23 PM 12: 04

Dear Ms. Calvillo,

The 2011 – 2012 San Francisco Civil Grand Jury will release its report entitled, "Where There's Smoke...The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy, " to the public on July 26, 2012. Enclosed is an advance copy of this report. Please note that by order of the Presiding Judge of the Superior Court, Hon. Katherine Feinstein, this report is to be kept confidential until the date of release.

California Penal Code section 933.5 requires the responding party or entity identified in the report to respond to the Presiding Judge of the Superior Court within a specified number of days. You are required by code to respond to this report no later than October 24, 2012. For each finding of the Civil Grand Jury, the response must either:

1) Agree with the finding; or
2) Disagree with it, wholly or partially, and explain why.

Further, as to each recommendation made by the Civil Grand Jury, the responding party must either indicate:

1) That the recommendation has been implemented, with a summary explanation of how it was implemented;
2) That the recommendation has not been implemented, but will be implemented in the future, with a timeframe for implementation;
3) That the recommendation requires further analysis, with an explanation of the scope of that analysis and a timeframe for the officer or agency head to be prepared to discuss it (less than six months from the release of the report); or
4) That the recommendation will not be implemented because it is not warranted or reasonable, with an explanation of why that is. (California Penal Code sections 933, 933.05)

400 McAllister Street, Room 008
San Francisco, CA 94102-4512
Phone: 415-551-3605

Please provide your responses to the findings and recommendations in this report to Judge Feinstein, with an informational copy sent to the Grand Jury Office at the below address.

Very truly yours,

Mario Choi, Foreperson Pro Tem
2011 – 2012 Civil Grand Jury

400 McAllister Street, Room 008
San Francisco, CA 94102-4512
Phone: 415-551-3605

Print Form

Introduction Form

By a Member of the Board of Supervisors or the Mayor

Time stamp
or meeting date

I hereby submit the following item for introduction (select only one):

☒ 1. For reference to Committee: Government Audit and Oversight Committee
An ordinance, resolution, motion, or charter amendment.

☐ 2. Request for next printed agenda without reference to Committee.

☐ 3. Request for hearing on a subject matter at Committee:

☐ 4. Request for letter beginning "Supervisor inquires"

☐ 5. City Attorney request.

☐ 6. Call File No. from Committee.

☐ 7. Budget Analyst request (attach written motion).

☐ 8. Substitute Legislation File No.

☐ 9. Request for Closed Session (attach written motion).

☐ 10. Board to Sit as A Committee of the Whole.

☐ 11. Question(s) submitted for Mayoral Appearance before the BOS on

Please check the appropriate boxes. The proposed legislation should be forwarded to the following:

☐ Small Business Commission ☐ Youth Commission ☐ Ethics Commission

☐ Planning Commission ☐ Building Inspection Commission

Note: For the Imperative Agenda (a resolution not on the printed agenda), use a different form.

Sponsor(s):

Clerk of the Board

Subject:

Board Response - Civil Grand Jury Report - Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy

The text is listed below or attached:

Resolution responding to the Presiding Judge of the Superior Court on the findings and recommendations contained in the 2011-2012 Civil Grand Jury report entitled "Where There's Smoke... The Need to Strengthen the Art Commission's Stewardship of San Francisco's Cultural Legacy" and urging the Mayor to cause the implementation of accepted findings and recommendations through his/her department heads and through the development of the annual budget.

Signature of Sponsoring Supervisor: Madeleine Licavoli

For Clerk's Use Only:

120793