

**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,

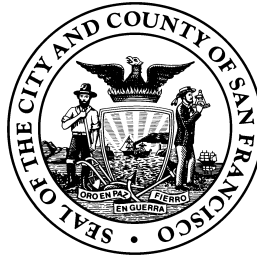
A handwritten signature in cursive script that reads "Kitt Grant".

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:

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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.

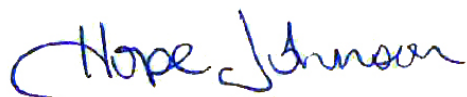
On July 12, 2011, the Task Force's Compliance and Amendments Committee held a hearing to monitor compliance with the Order. The Arts Commission had not provided the requested public information to Mr. Clark, and the Compliance and Amendments Committee recommended the full Task Force refer the matter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

A handwritten signature in blue ink that reads "Hope Johnson". The signature is written in a cursive, flowing style.

Hope Johnson, Chair
Sunshine Ordinance Task Force

Encl.

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

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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

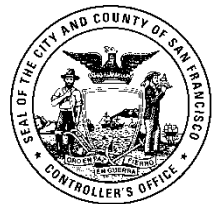


Richard A. Knee, Chair
Sunshine Ordinance Task Force

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

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.

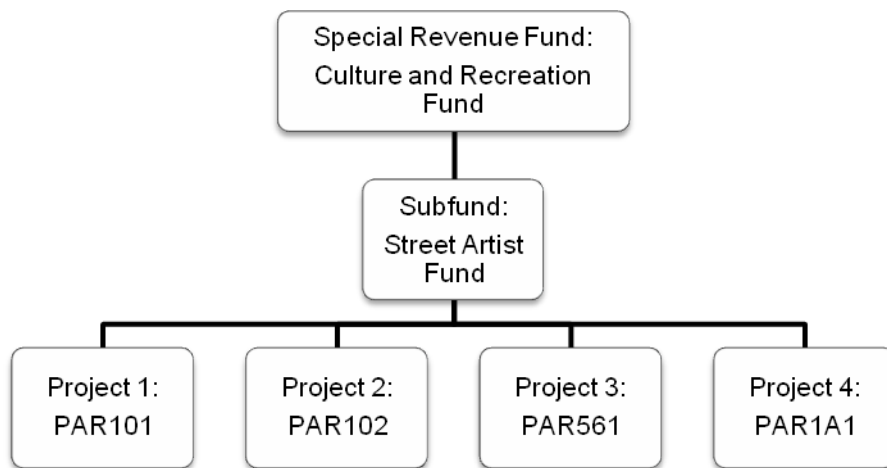
These limitations, as outlined by the Administrative Code, relating to a category four fund, are that interest earned on the principal balance will be credited to the fund, provided that the balance in the fund exceeds \$50,000; any unexpended and unencumbered balances remaining at the close of any fiscal 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.

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

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.

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

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.

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

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 Differenceⁱ	-	-	-	(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

July 6, 2011

PROGRAMS

CIVIC ART COLLECTION
CIVIC DESIGN REVIEW
COMMUNITY ARTS
& EDUCATION
CULTURAL EQUITY GRANTS
PERFORMING ARTS
PUBLIC ART
STREET ARTISTS LICENSES
ARTS COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

WWW.SFARTSCOMMISSION.ORG
ARTSCOMMISSION@SFGOV.ORG

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, 2011 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]”.

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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.

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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.

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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.

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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
<p>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.</p>	<p>SFAC – Street Artists Program</p>	<p>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. <u>Do not concur to take into consideration all surplus balances for street artist license fee program usage.</u> 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</p>

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Recommendations	Responsible Agency	Response
		<p>and each is its own legal entity governed by Charter or Ordinance.</p> <p>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.</p> <p>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.</p>
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	<p>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.</p>

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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


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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.



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 silos⁶ 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

⁷Designated as Creative Space Grants by SFAC.

November 15, 2011

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.

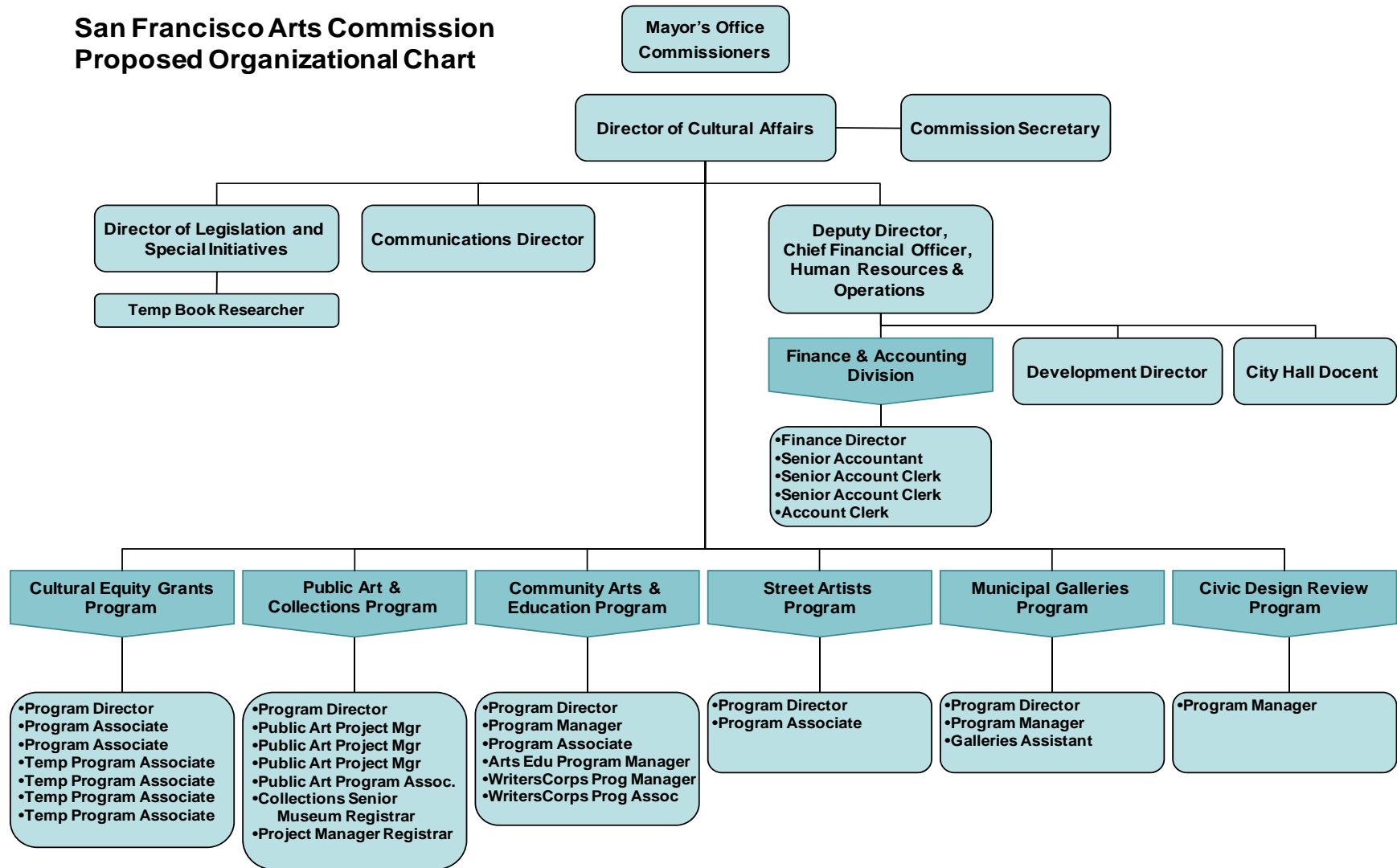
CSA thanks the SFAC's interim director of cultural affairs and her staff for their cooperation and assistance throughout the review. This memorandum is intended to communicate CSA's evaluation of SFAC's current accounting processes, organizational structure, and program-related financial practices. CSA 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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Memorandum to the San Francisco Arts Commission
November 15, 2011

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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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November 15, 2011

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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.

Memorandum to the San Francisco Arts Commission
November 15, 2011

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APPENDIX C: DEPARTMENT RESPONSE



SAN FRANCISCO ARTS COMMISSION

EDWIN M. LEE
MAYOR

November 9, 2011

JD BELTRAN
INTERIM DIRECTOR OF
CULTURAL AFFAIRS

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

PROGRAMS

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

ARTS COMMISSION GALLERY
401 VAN NESS AVENUE
415.554.6080

WWW.SFARTSCOMMISSION.ORG

ARTSCOMMISSION@SFGOV.ORG

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 staff's 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,

A handwritten signature in black ink, appearing to read 'JD Beltran', with a long horizontal stroke extending to the right.

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

Memorandum to the San Francisco Arts Commission
November 15, 2011

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APPENDIX D: RECOMMENDATIONS AND RESPONSES

Recommendation	Response
<p>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.</p>	<p>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.</p>
<p>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.</p>	<p>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.</p>
<p>3. SFAC should institute policies to better track grants received.</p>	<p>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.</p>
<p>4. SFAC should improve program accountability by separately tracking funds used by each program.</p>	<p>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.</p>

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

Recommendation	Response
<p>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.</p>	<p>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.</p>
<p>9. SFAC management should encourage appropriate cooperation and collaboration among programs.</p>	<p>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.</p>
<p>10. The Cultural Equity Grants program should cease funding and administering the four grants that are outside of its legislative scope.</p>	<p>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.</p>

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

OFFICE OF THE DISTRICT ATTORNEY



George Gascón
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 complaint 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

A handwritten signature in black ink, appearing to be "G. Gascón", written over the typed name of George Gascón.

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