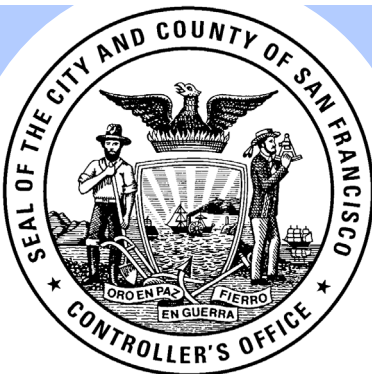


# Public Integrity Review

Presentation to the  
Government Audit and Oversight Committee  
Board of Supervisors



CITY & COUNTY OF SAN FRANCISCO

Office of the Controller

November 18, 2021

# Public Integrity Reports to Date

2

June 2020

1<sup>st</sup>  
Public Integrity  
Review

—  
San Francisco  
Public Works  
Contracting

September 2020

2<sup>nd</sup>  
Public Integrity  
Review

—  
Gifts Through  
Non-City  
and  
*Friends Of*  
Organizations

November 2020

3<sup>rd</sup>  
Public Integrity  
Review

—  
San Francisco's  
Debarment  
Process

January 2021

4<sup>th</sup>  
Public Integrity  
Review

—  
City Commissions'  
and Boards' Ethical  
Standards for  
Contract Award  
Processes

April 2021

5<sup>th</sup>  
Public Integrity  
Review

—  
San Francisco's  
Refuse Rate-  
Setting Process

August 2021

6<sup>th</sup>  
Public Integrity  
Review

—  
12-Month Status  
Update

September 2021

7<sup>th</sup>  
Public Integrity  
Review

—  
Department of  
Building  
Inspection's  
Processes

# Public Integrity Recommendations to Date

3



**4** have been implemented via a **mayoral executive directive**.

**4** have resulted in **approved legislation and amendments to city law**.



**2** have resulted in **legislation introduced at the Board of Supervisors**.

Other departmental actions taken, results, and impacts so far include **revised procedures and policies**.



# Findings of 2<sup>nd</sup> Public Integrity Review

**Gifts to Departments Through Non-City Organizations Lack Transparency and Create "Pay to Play" Risk**

*Issued September 24, 2020*

# Background on Non-City Organizations

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- Nonprofit or third-party (non-city) organizations provide financial and/or programmatic support to city departments to improve delivery of government services, meet philanthropic goals, support the training and development of city employees, or provide other support services to a city department.
- *Friends of* organizations are generally distinguished by the fact that they are intended to financially support the department with which they are associated and charitable donations are their primary revenue source, and thus are spent on the City.
- The assessment focused on the relationship between Public Works and the San Francisco Parks Alliance (Parks Alliance) because of the criminal investigation of Mohammed Nuru, who, when he was the Public Works director, allegedly solicited donations from private companies or individuals, directed these donations to the Parks Alliance subaccounts for Public Works, and influenced procurement decisions from the subaccounts.

# Background on San Francisco Parks Alliance

- The Parks Alliance is a nonprofit organization that works with 200 groups and city agencies. In 2019 it received grants and contributions of \$18.9 million and spent \$17.7 million.
- The table below shows the departments with which the Parks Alliance works in its role as a *Friends of* organization and some other key facts about the organization.

<i>Friends of Organization</i>	Department Supported	Donors Publicly Reported?	Reported Purpose & Use	City Funding Received <sup>1</sup> 7/1/15-6/30/20
San Francisco Parks Alliance	Public Works	Yes <sup>2</sup>	Support department projects and programs, including community events, recreation programs, and staff appreciation programs	\$11.9 million
	Recreation and Park	Yes <sup>2</sup>		

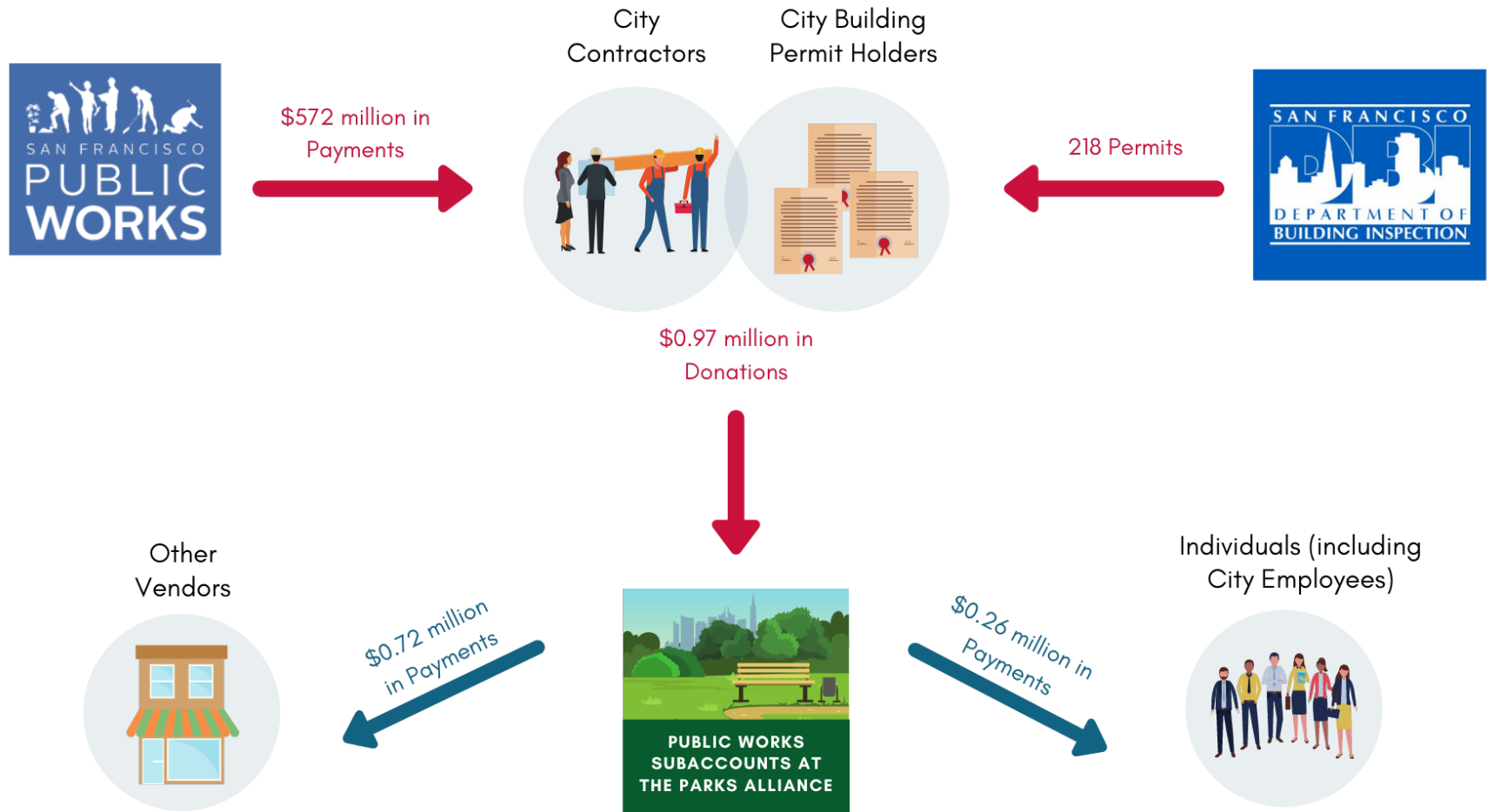
<sup>1</sup> City funding may not be directly for or associated with role as a *Friends of* organization.

<sup>2</sup> Anonymous donors reported, sometimes as funds or matching gifts.

# Flow of Funds Between the City & Public Works Subaccounts

7

The City pays or grants permits to some parties that donated to the Parks Alliance, whose Public Works subaccounts were used to pay individuals, including city employees, and vendors.



# Flow of Funds Between the City & Public Works Subaccounts

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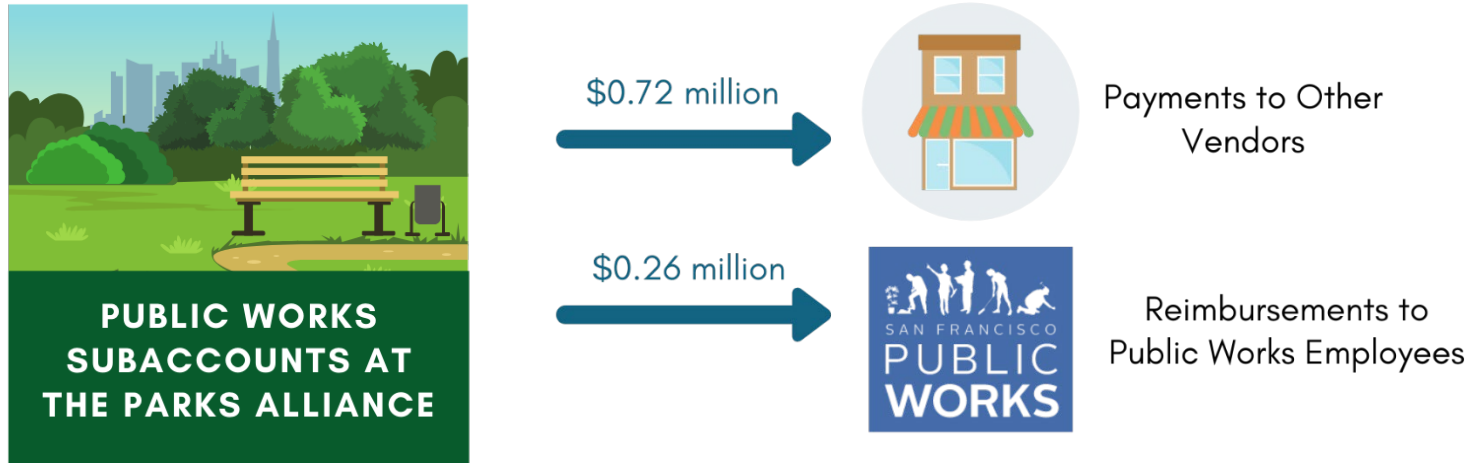
Donations to the Public Works Subaccounts at the Parks Alliance Could Give the Appearance of "Pay to Play"





# Flow of Funds Between the City & Public Works Subaccounts

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- Public Works used the Parks Alliance's Public Works subaccounts to make payments on its behalf.
- Public Works employees used personal funds to pay upfront costs for City-sponsored events, then were reimbursed from the subaccounts.

## Non-City Organizations Lack City Oversight

- Because the City does not consistently impose requirements for non-city organizations, a lack of transparency and inconsistent practices exist among Public Works and the Parks Alliance, and potentially among the other city departments that report having relationships with non-city organizations.
- The Public Works subaccounts at the Parks Alliance operate like a city account, although they are outside of the City’s procurement and financial system and not subject to the City’s accounting and procurement policies and procedures.

Policy, Process, or Reporting Requirement Involving the City	San Francisco Parks Alliance		Friends of the San Francisco Public Library
	Public Works	Recreation and Park	Public Library
Memorandum of Understanding Defining Its Relationship With City	No	Yes*	Yes
Gift Reporting to Board of Supervisors, Including Formal Process for Accept and Expend	No	Yes	Yes
Existing Agreement to Comply With San Francisco Sunshine Ordinance, Section 67.29-6	No	No	Yes

\* Recreation and Park and the Parks Alliance set up memorandums of understanding for individual projects.

## No Restrictions Exist on Department Heads' Solicitation of Behested Payments

- Mr. Nuru solicited funds from interested parties, including businesses that had contracts with Public Works or held city building permits. When parties with a city contract or permit donate to non-city organizations, it can create a “pay-to-play” relationship.
- The City does not require *appointed* department heads to file a behested payment form (Form SFEC-3610(b)).
- The City needs to better comply with restrictions on and reporting requirements for acceptance of gifts from outside sources.

## Donors of All Gifts Accepted by the City Should Be Disclosed; Anonymous Donations Are Already Prohibited by Law and Should Not Be Accepted


- To avoid the real and perceived risk of facilitating “pay-to-play” relationships, any donations that will be used to benefit a city department or city employees should be publicly reported in a manner that permits public transparency.
- Besides being a violation of the City's Sunshine Ordinance, accepting anonymous donations puts the City at risk of taking payments from donors with a financial interest in the City's business (and who may expect favorable treatment in return).

## Public Works Subaccounts Funded Staff Appreciation


- Public Works used its Parks Alliance subaccounts to fund employee events. The City's practice of avoiding staff appreciation costs in departmental budgets likely contributed to Public Works' reliance on the subaccounts.
- The City does not usually promote staff appreciation through departmental funds. Such appreciation may increase employee morale and recognize good work in an environment where it is often impossible to grant additional pay.

# Status of Recommendation Implementation

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Recommendation	Status
<p>1. The City should amend the San Francisco Campaign and Governmental Conduct Code to prohibit non-elected department heads and employees from soliciting donations from interested parties (to be further defined in legislation) of their department, unless specifically authorized by the Board of Supervisors. Those authorized to solicit donations must file Form SFEC-3610(b) for behested payments. Consequences for failure to report should be enforced.</p>	<p> <b>In Progress</b></p> <p>The Mayor issued an <a href="#">Executive Directive 20-02</a> requiring all department heads to comply with the City's behested payment reporting requirements, including the filing of Form SFEC-3610(b).</p> <p>The Ethics Commission proposed <a href="#">legislation BOS 201132</a> (<i>sponsors: Supervisors Haney, Peskin, Chan</i>), which is pending with the Board of Supervisors. The Ordinance would amend the Campaign and Governmental Conduct Code to expand the definition of "interested party" to include city contractors and persons seeking to influence city officers and employees, and to prohibit department heads, commissioners and designated employees from soliciting behested payments.</p>
<p>2. The Ethics Commission should expand the definition of who is considered an "interested party" so that it includes all city contractors.</p>	

# Status of Recommendation Implementation




Recommendation	Status
<p>3. The City should require departments and non-city organizations to formalize their relationships through memorandums of understanding that are posted to departmental websites and include:</p> <ul style="list-style-type: none"><li>a. A requirement to adhere to city law on the acceptance of gifts, including the Administrative Code, Section 10.100-305, or other sections that apply to the department.</li><li>b. An agreement to comply with the Sunshine Ordinance, Section 67.29-6.</li><li>c. A clause granting the Controller audit authority and access to the organization's records.</li><li>d. Regular public reporting on these funds to occur not less than annually, at the donor or payee recipient level, and posted on the recipient department's website.</li><li>e. A requirement to report donations, including grants, on the organization's website</li><li>f. Clearly defined roles regarding expenditures, including prohibitions against spending directed or controlled by the recipient.</li></ul>	<p> <b>In Progress</b></p> <p>The Mayor issued an <a href="#">Executive Directive 20-02</a> requiring all departments to formalize through an MOU any relationship they have with a non-city organization that receives donations on behalf of the department, where such agreement does not already exist.</p> <p>The City Attorney drafted a template to formalize MOUs for departments to use. The Public Library previously had an MOU with the Friends of the Library and is working with the City Attorney and Controller to amend it to incorporate the Controller's required disclosure obligations and recordkeeping and auditing provisions. The Airport previously had an MOU with the San Francisco Aeronautical Society and is working with the City Attorney and Controller to amend it to incorporate the Controller's required disclosure obligations and recordkeeping and auditing provisions.</p> <p>The following departments and associated non-city organizations now have formalized MOUs: Recreation and Park Department and San Francisco Parks Alliance. The following departments have pending MOUs with non-city organizations: the Airport Commission, Animal Care and Control Department, Department of Public Health, Human Rights Commission, and Public Defender's Office.</p>

# Status of Recommendation Implementation

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Recommendation	Status
<p>4. Departments should comply with the Administrative Code, Section 10.100-305, or other sections specifically related to the department, by uniformly obtaining advance acceptance of any gifts from outside sources greater than \$10,000 for the department through non-city organizations, including explicit authorization for uses of these funds for employee recognition or appreciation.</p>	<p> <b>In Progress</b></p> <p>The Mayor issued an <a href="#">Executive Directive 20-02</a> requiring all departments to ensure compliance with the Administrative Code, Section 10.100-305, or other applicable sections of Administrative Code Chapter 10, Article XIII.</p> <p>The Controller will update its Accounting Policies &amp; Procedures on gifts and donations to implement Administrative Code Section 10.100-305, which requires departments to report all gifts, including those worth less than \$10,000, to their Controller’s fund accountant. The Controller will upload the updated policies and procedures by August 20, 2021. The Controller also presented gift/donation updates to department heads and financial officers at the monthly chief financial officer meeting of February 16, 2021.</p> <p>The Controller's Financial System (SF Financials) has the functionality to assist with gift reporting, and Controller staff will provide citywide training to departments on how to record gift and grant transactions. Departments must adopt and enforce their own policies to ensure compliance and citywide transparency.</p>

# Status of Recommendation Implementation

Recommendation	Status
<p>5. The City should require annual certification from department heads that all gifts of goods, services, and funds have been approved by the Board of Supervisors and reported on time, as required.</p>	<p> <b>In Progress</b></p> <p>The Mayor issued an <a href="#">Executive Directive 20-02</a> requiring all departments to ensure compliance with the Administrative Code, Section 10.100-305, to certify in their annual reports that all gifts they received in the preceding fiscal year were approved by the Board of Supervisors, if required, and were reported in a timely manner.</p> <p>Additional joint efforts by the Controller and Ethics Commission are underway to determine departments' compliance with the Administrative Code, Section 10.100-305(c), and whether additional steps should be taken to ensure compliance.</p>
<p>6. The City should make it easier for departments to use city funds for employee recognition and appreciation events and provide explicit (line-item) appropriations for this purpose.</p>	<p> <b>In Progress</b></p> <p>The Mayor's Consolidated Budget and Annual Appropriation Ordinance provides funding for employee appreciation events. The Controller is determining the next steps to implement this recommendation.</p>
<p>7. The Controller should, on a sample basis, annually audit organizations that both give gifts to the City and have a financial interest with the City, including a contract, grant, permit, permit application, or other entitlement.</p>	<p> <b>In Progress</b></p> <p>The Controller's Audits Division has relevant audits and assessments in its fiscal year 2021-22 work plan.</p>



# Status of Recommendation Implementation

Recommendation	Status
8. Departments should comply with the Sunshine Ordinance, Section 67.29-6, for their non-city organizations by not accepting any donation through anonymous donors or for which they cannot identify the true source.	<p> <b>In Progress</b></p> <p>The City Attorney has provided existing guidance on the Sunshine Ordinance, Section 67.29-6, to departments that receive donations from non-City organizations and through its Good Government Guide. This guidance concerns non-City organizations' disclosure of their donors (the "agreement requirement"). Departments' MOUs will now explicitly require non-city organizations to comply with the Sunshine Ordinance, which, in turn, should increase compliance with this recommendation. The Controller's Audits Division will verify this in future years.</p>
9. The City should amend the Sunshine Ordinance, Section 67.29-6, to clearly define "financial interest" so that it is aligned with the City's updated "interested party" definition.	<p> <b>In Progress</b></p> <p>The Ethics Commission is analyzing the disclosure requirement contained in section 67.29-6 and will determine next steps to implement changes to the term "financial interest" in conjunction with other city stakeholders.</p>
10. For all recommendations made as part of this assessment that require reporting, the City should review and strengthen its consequences for noncompliance.	<p> <b>In Progress</b></p> <p>The Ethics Commission is determining the status of the City's compliance, how to improve departmental compliance, and what consequences will adequately deter noncompliance.</p>

## Upcoming Reviews

Upcoming reports will address the following topics:

- San Francisco Environment
- San Francisco Public Utilities Commission
- Citywide Ethics

## Public Integrity Tips

- Investigators from the Controller's Office staff the tip line consider every allegation of wrongdoing raised by city employees and members of the public.
- To report suspected public integrity abuses, please contact the Public Integrity Tip Line. You can provide information by:
  - e-mail at [publicintegrity@sfgov.org](mailto:publicintegrity@sfgov.org)
  - phone at (415) 554-7657