

Date: Jan. 10, 2012

Item No. 3
File No. 11056

SUNSHINE ORDINANCE TASK FORCE

Compliance and Amendments Committee

AGENDA PACKET CONTENTS LIST*

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| <input checked="" type="checkbox"/> | Allen Grossman v Dennis Herrera and Jack Song |
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Completed by: Chris Rustom

Date: Jan. 6, 2012

***This list reflects the explanatory documents provided**

~ Late Agenda Items (documents received too late for distribution to the Task Force Members)

** The document this form replaces exceeds 25 pages and will therefore not be copied for the packet. The original document is in the file kept by the Administrator, and may be viewed in its entirety by the Task Force, or any member of the public upon request at City Hall, Room 244.

**SUNSHINE ORDINANCE
TASK FORCE**



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ORDER OF DETERMINATION
November 7, 2011

DATE THE DECISION ISSUED
October 25, 2011

*ALLEN GROSSMAN v DENNIS HERRERA & JACK SONG OF THE CITY ATTORNEY'S
OFFICE (CASE NO. 11056)*

FACTS OF THE CASE

Complainant Allen Grossman alleges that City Attorney Dennis Herrera and Jack Song, Deputy Press Secretary for the City Attorney, violated public records laws by 1) failing to fully respond to an Immediate Disclosure Request ("IDR") dated July 13, 2011, as well as the supplement to that request dated August 1, 2011 and 2) failing to respond to a request for public information dated August 1, 2011.

COMPLAINT FILED

On August 4, 2011, Mr. Grossman filed a complaint against Mr. Herrera and Mr. Song, alleging violations of Sunshine Ordinance Sections 67.21(b) and (c) and 67.22 (a) and (b) and California Public Records Act Sections 6253(b) and (c).

HEARING ON THE COMPLAINT

On October 25, 2011, Mr. Grossman presented his case to the Task Force. Mr. Song represented the City Attorney's Office ("CAO").

Mr. Grossman told the Task Force that the CAO has cut the level of service it provides to the Task Force for fiscal years 2009, 2010, and 2011 in accordance with General Fund reductions. The CAO, he said, has stated that the reductions were based on review of the services provided during each respective previous fiscal year, starting with a baseline budget established eight years ago. He said on July 13, 2011, he sent the CAO an IDR requesting a copy of that baseline budget established eight years ago; records showing which departments were included in that budget; and the baseline amounts allocated to each of those departments.

He said Mr. Song responded that copies of supporting documentation for the calculations used by the CAO to establish the baseline budget eight years ago were destroyed pursuant to the CAO's document retention policy. Mr. Song said the policy requires budget

documents to be retained for two years. Later on July 13th, Mr. Grossman said, he sent another IDR again specifically requesting the baseline budget established eight years ago. He said Mr. Song responded on July 15th asking him to clarify his request. He said he responded the same day clarifying he was requesting the baseline budget document itself.

Mr. Grossman said Mr. Song did not respond until July 20th. He told the Task Force that Mr. Song sent copies of letters that the CAO had sent to 59 General Fund departments for various fiscal years. The letters indicated how many work hours the CAO had budgeted to the various departments, but did not indicate how the hours were calculated. The numbers had to have been calculated and approved before each letter was sent off to the departments, Mr. Grossman said. The failure to preserve records showing such calculations, he added, would be a violation of the CAO's own retention policy as well as state law.

Mr. Song said Mr. Grossman asked for baseline budget figures that were used to provide General Fund departments with legal services going back eight years. Mr. Song said that data, notes, and worksheets for the baseline budget eight years ago no longer existed, and that he referred Mr. Grossman to the Controller's web site. He said he provided Mr. Grossman with information showing how much had been appropriated to the Task Force annually between 1997 and 2011. Mr. Song admitted there was a delay in his response to the IDR because he was out of the office. However, he said, he again asked Mr. Grossman if he was still asking for the same document, baseline budget figures for the General Fund departments.

He said Mr. Grossman said he was, and asked for documents that would be responsive. On July 28th, he said, Mr. Grossman asked what happened to the documents that he requested. Mr. Song said that although he had already told Mr. Grossman that the documents from eight years ago did not exist, he responded with copies of all the letters that were sent to various departments advising them of their budget allocations. Mr. Song said all calculations are based on allocations made by the Controller's Office and Mr. Grossman was directed to the Controller's website that had the information.

Mr. Song said he did not know if data, notes, and worksheets exist that support the calculation and approval of the budget for the last two years. He added that he did not know if those documents are considered privileged.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the evidence presented, including correspondence between Mr. Grossman and the CAO, the Task Force found that Mr. Grossman was seeking documentation supporting the budget allocated by the CAO to General Fund departments, including the reduced number of hours provided to the Task Force. The Task Force found compelling Mr. Grossman's reasoning that the budget allocations for each year must be calculated and approved before being presented to each department by the City Attorney, and that such calculations must be kept as a matter of course in the CAO's files. Based on Mr. Song's statements and the CAO's document retention policy, the Task Force further found supporting documentation for the budget for the last two years may exist, possibly in the form of emails, letters, notes, calculations and databases.

DECISION AND ORDER OF DETERMINATION

The Task Force finds Jack Song in violation of Section 67.25(a) for failing to respond in a timely manner to two Immediate Disclosure Requests and Section 67.21(c) for not assisting the requestor by directing him to the proper office for responsive records. The Task Force also finds City Attorney Dennis Herrera in violation of Section 67.26 for not keeping withholding to a minimum. The City Attorney is ordered, within five days of the issuance of this Order of Determination, to produce supporting documentation for the CAO's calculation of each General Fund department's budget for the last two years, and to appear before the Compliance and Amendments Committee on December 13, 2011. The Committee will evaluate the CAO's compliance with this order.

This Order of Determination was adopted by the Sunshine Ordinance Task Force on October 25, 2011, by the following vote: (Johnson/Costa)

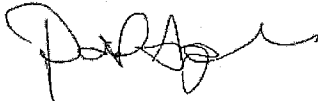
Ayes: Snyder, Knee, Washburn, Costa, Wolfe, Johnson

Excused: Cauthen

Absent: Knoebber, West, Manneh, Chan



Hope Johnson, Chair
Sunshine Ordinance Task Force



David Snyder, Esq., Member, Seat #1*
Sunshine Ordinance Task Force

cc: Allen Grossman, Complainant
Dennis Herrera, City Attorney, Respondent
Jack Song, Deputy Press Secretary, Respondent
Jerry Threet, Deputy City Attorney

*Sunshine Ordinance Task Force Seat #1 is a voting seat held by an attorney specializing in sunshine law.

SOTF hearing reminder: 11056_Allen Grossman v City Attorney's Office

SOTF to: grossman356, Cityattorney, Jack Song

12/09/2011 04:05 PM

This is a reminder that a hearing is scheduled with the Compliance and Amendments Committee of the Sunshine Ordinance Task Force regarding the above titled complaint, to review the status of and to ascertain compliance with the Task Force's Order of Determination.

The Chair of the Compliance & Amendments Committee has asked that I advise you as follows: "In view of the importance to the Task Force of the subject of this complaint and the records sought, please have the person most knowledgeable regarding the preparation of the requested records also attend the hearing."

Date: Tuesday, December 13, 2011

Location: City Hall, Room 406

Time: 4:00 p.m.

Complainants: Your attendance is required at this hearing.

Respondents/Departments: Pursuant to Section 67.21 (e) of the Ordinance, the custodian of records or a representative of your department, who can speak to the matter, is required at the hearing.

To access the agenda please click on the link below. Then click on the file number to access the packet material related to your item.

<http://www.sfbos.org/index.aspx?page=12470>

Chris Rustom
Sunshine Ordinance Task Force
1 Dr. Carlton B. Goodlett Place
City Hall, Room 244
San Francisco, CA 94102-4689
OFC: (415) 554-7724
FAX: (415) 554-7854
SOTF@sfgov.org

**Department of Human Resources****IS Administrator-Supervisor (#1024)**

\$40.42-\$49.14 Hourly / \$7,007.00-\$8,517.00 Monthly / \$84,084.00-\$102,206.00 Yearly

[Email Me when a Job Opens for the above position\(s\)](#)**Definition**

Under general direction, provides direct ongoing supervision to other system administrators working in a large network with mini-computers and/or multiple Local Area Networks (LANs) or in a major data center with multiple and distinct computers, servers and associated networks; develops ad-hoc desk level system instruction and provides ongoing and remedial user training; establishes and performs data and access protection processes; integrates hardware, operating systems and program applications; and performs the most difficult and complex duties of the unit.

Distinguishing Features

The Supervisor IS Administrator is the supervising level in the Administrator series. Positions at this level are distinguished from those in the lower level Administrator classifications by the supervisory responsibilities exercised, and the size and complexity of the systems under their direction. Emphasis is on supervision and performing the more complex work of the unit. Work is performed within a broad framework of general policy. Employee exercises broad judgement in defining work objectives and determining methods and systems to meet objectives. Performance is measured by timely completion of predetermined goals and objectives, as well as the smooth operation of the systems under their authority.

Supervision Exercised

Supervises IS Administrators, technical, clerical and other functional staff in the assigned work unit.

Examples of Important and Essential Duties

: According to Civil Service Commission Rule 109, the duties specified below are representative of the range of duties assigned to this class(es) and are not intended to be an inclusive list.

1. Supervise, assign, review and may participate in the work of subordinates in assigned units.
2. Review and recommend a variety of personnel actions in such areas as performance evaluation, training, selection and disciplinary measures.
3. Monitor and review work in progress, providing technical assistance and guidance.
4. Ensure that subordinates follow appropriate policies and procedures.
5. May monitor, coordinate and assist in developing the assigned work unit budget.
6. Analyze and recommend procedures consistent with departmental directives, policies and regulations that are developed by higher level management staff.
7. Design, install, operate, administer, maintain and upgrade complex operating systems; provide technical assistance to users; consult on feasibility, costs and benefits of additions or enhancements; assist in the transition of data between systems on multiple platforms.
8. Direct help-desk functions; oversee the development and implementation of problem resolutions; coordinate hardware/software repairs; prioritize and schedule service requests.
9. Coordinate system related activities with other departments for multi-departmental system projects; interface with users, engineers, and other analysts to meet the needs of the department.

10. Manage and design the growth of the systems and networks; monitor and enhance complex computer and telecommunications systems to ensure proper functioning.
11. Assist in developing City/County standards for LAN/WAN administration.
12. Review plans for software and hardware equipment and services; oversee request for proposal process; oversee the maintenance inventories; plan for equipment needs; research, evaluate and test hardware and software products; coordinate hardware and software purchases.
13. Research and evaluate software and hardware technologies; plan for future requirements.
14. Assess user training needs; develop training programs and materials; provide instruction on new capabilities.
15. Develop detailed specifications; prepare procedures documentation.
16. Manage and review the performance of contractors and vendors; resolve disputes.
17. Attend meetings; represent the unit on committees as necessary.
18. Perform related duties and responsibilities as assigned.

Knowledge, Skills and Abilities

Knowledge of: On-site broad based technical, operational, programming and analytical problem solving support; installation, maintenance, expansion and upgrading of software, hardware, networks and peripherals; practices and techniques of supervision and project management; training techniques; computer languages; and interactive of macro-based applications; data processing methods; common operating systems and relational database systems; systems analysis and design; functional requirements, structured or procedures analysis; emerging technologies.

Ability to: Manage and direct a group of workers, including the ability to provide counseling and mediation; persuade, convince and train others; decide the time, place and sequence of operations within an organizational framework, as well as the ability to oversee their execution; communicate effectively orally and in writing; establish and maintain good working relationships with peers, vendors and contractors; exercise decisiveness and creativity required in situations involving the evaluation of information against judgmental criteria; conduct cost/benefit analyses; use logic and analysis to solve computer and systems problems; read and understand professional journals and literature; prioritize competing requests for service.

Experience and Training

Any combination of training and experience that could likely provide the required knowledge and abilities may be qualifying. A typical way to obtain this would be:

EXPERIENCE: Five to six years directly related experience that demonstrates the knowledge and ability to supervise and provide technical leadership to IS personnel involved in the system administration and/or data center operations function.

TRAINING: Bachelor's degree preferably in computer science, information systems or related field.

SPECIAL REQUIREMENTS:

Essential duties require the following physical skills and work requirements:

Some positions may require sufficient strength and coordination for lifting, pushing, pulling and/or carrying the weight of computer equipment. May require bending, stooping and/or crawling in order to install or repair computer or printer cables. May require hand/eye coordination and manual dexterity for semi-skilled movements, such as taking apart casings, installing parts, reconnecting computers and data entry. May involve extensive VDT exposure. May require rotational and shift assignment and may be required to travel to and work at a hotsite, which may be located out of state, to resume data center operations after a disaster.

License or Certificate

None

Disaster Service Workers

All City and County of San Francisco employees are designated Disaster Service Workers through state and local law (California Government Code Section 3100-3109). Employment with the City requires the affirmation of a loyalty oath to this effect.

Employees are required to complete all Disaster Service Worker-related training as assigned, and to return to work as ordered in the event of an emergency.

CLASS: 1024
EEOC: 2

EST:

REV:
MEDICAL:

FORMERLY JOB TITLE:

REPLACES JOB TITLE:



Department of Human Resources

Manager III (#0931)

We are currently accepting applications for this position. To apply, please close this pop-up window and then click on the link for Employment Opportunities.

\$47.49-\$60.60 Hourly / \$8,231.00-\$10,504.00 Monthly / \$98,774.00-\$126,048.00 Yearly



[Email Me when a Job Opens for the above position\(s\)](#)

Definition

Under general administrative direction, incumbents in this class function as senior managers operating within a broad policy framework and typically manage a division of a medium/large department. Incumbents assume sole responsibility for a functional area(s) of service; coordinate and implement program planning; and define organizational structure, staffing requirements, resource allocation and identification of future resource needs. Incumbents also interface with all managerial levels of city/county government and outside agencies, and serve as representatives of the division or department in meetings involving administrative systems, policies or procedures; and perform related duties as required.

Distinguishing Features

This class is distinguished from Manager II, by scope, decision-making (type and independence); internal and external organizational impact; level of supervision; working relationships (level and purpose) and budgetary responsibility.

Distinctions between class levels in the management series are based on the program's complexity, sensitivity and/or size, organizational impact, the nature and number of functions/programs managed, decision-making responsibility, level of supervision exercised, nature of positions supervised, and the nature and scope of duties assumed such as hand-on work rather than planning and policy development activities.

Incumbents in this class typically assume responsibility for divisions which provide routine programs and services within a broad functional area. Incumbents in these positions make decisions which typically involve program planning and directing, as well as, organizing new and future resource needs. These decisions directly impact the effective functioning of the division and incumbents develop policies and/or procedures affecting the City infrastructure or the provision and delivery of public services. Inappropriate decisions would negatively affect the health and welfare of a segment of the population or the economic vitality of a segment of City government.

Manager III is distinguished from Manager II by the latter's responsibility for one or more large section(s) or functional areas and responsibility for providing complex, diverse programs or services.

Manager III is further distinguished from Manager IV by the latter's responsibility for assuming division-wide responsibility for multiple functional program areas or complex program areas. This level is also differentiated from Manager IV by the latter's responsibility for complex or multiple functional program areas.

Supervision Exercised

Managers in this class typically manage mid-level staff or line managers.

Examples of Important and Essential Duties

1. Plans, monitors, evaluates, and supervises the operation of a division of a city department; coordinates the work of the various subdivisions; advises and consults with section managers; meets with appropriate staff to identify and resolve problems or conflicts; makes or recommends final decisions regarding policy, operations, and administrative procedures.
2. Develops, implements and maintains procedures, administrative monitoring practices and controls in order to obtain smooth and effective operation of a division; coordinates work activities of one division with other divisions within the department to

prevent delays in required actions or to improve programs or services; assists in the identification, development and implementation of departmental goals, objectives, policies, and priorities; assists in the determination of resource allocation and levels of service according to established policies.

3. Receives and analyzes division and departmental reports; directs the preparation of monthly and annual reports; directs the gathering and analysis of information and reports necessary to document and evaluate processes.

4. Monitors the work of and coaches subordinates to improve performance.

5. Directs the allocation of resources to achieve timely outcomes and measurable goals within budget; adjusts plans and programs to meet emerging or new programs, while continuing to address major departmental priorities.

6. Monitors and evaluates the effectiveness and efficiency of the division's service delivery system, organizational structure, staffing levels, financial systems, and other internal operations; identifies and recommends alternative approaches or improvements; implements revisions, adjustments and changes.

7. May serve as liaison for the Department with a variety of other City/County staff, policy-making officials, and officials of outside agencies; explains and justifies Departmental or administrative procedures, policies, or programs; negotiates and resolves difficult and complex issues and problems.

8. May plan, develop, implement or direct major or complex projects or programs which span a number of the department's established sections or divisions; directs the research of complex, highly technical issues; analyzes alternative solutions or approaches; recommends most effective course of action.

9. Participates in budget development by providing detailed justification and persuasive arguments for proposals or initiatives. Oversees and administers division budget; directs and monitors expenditures in accordance with the approved budget; directs the preparation and maintenance of a wide variety of statistical, fiscal, and operational reports and studies; and provides executive management with an early warning and practical options to potential cost overruns.

Knowledge, Skills and Abilities

Knowledge of: Federal, State, and local rules and regulations pertaining to assigned division, project, or program; principles and practices of management, administration, budgeting, training and personnel management.

Ability to: manage, supervise, train, and coordinate complex functional areas of responsibility and groups of employees; identify, analyze and report upon activities, issues, and problems and recommend appropriate solutions; establish and maintain effective working relationships with departmental staff, representatives of other agencies and the public; present facts clearly and concisely orally and in writing; and make group presentations.

Special Qualifications including specialized knowledge, abilities, education, experience, or license may be established for individual positions.

Disaster Service Workers

All City and County of San Francisco employees are designated Disaster Service Workers through state and local law (California Government Code Section 3100-3109). Employment with the City requires the affirmation of a loyalty oath to this effect. Employees are required to complete all Disaster Service Worker-related training as assigned, and to return to work as ordered in the event of an emergency.

| | | | | |
|-------------|------|----------|---------------------|---------------------|
| CLASS: 0931 | EST: | REV: | FORMERLY JOB TITLE: | REPLACES JOB TITLE: |
| EEOC: 1 | | MEDICAL: | | |



Department of Human Resources



Confidential Chief Attorney II, (Civil & Criminal) (#AB44)

\$80.76-\$98.16 Hourly / \$13,999.00-\$17,015.00 Monthly / \$167,986.00-\$204,178.00 Yearly



Email Me when a Job Opens for the above position(s)

Disaster Service Workers

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CLASS: AB44
EEOC: 1

EST:

REV:
MEDICAL:

FORMERLY JOB TITLE:

REPLACES JOB TITLE:

15

Thank you.

Sincerely,

Adine Varah
Deputy City Attorney
City and County of San Francisco
City Hall, Room 234
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

(415) 554-4670 (tel)
(415) 554-4747 (fax)
Adine.Varah@sfgov.org

Scott Minty

Adine, Here's a spreadsheet showing the FY10 ti...

07/01/2010 11:02:18 AM

From: Scott Minty/CTYATT
To: Adine Varah/CTYATT@CTYATT
Date: 07/01/2010 11:02 AM
Subject: FY10 Time for 0000496

Adine,

Here's a spreadsheet showing the FY10 time for 0000496 - ARTCOM Street Artists Program:



FY10 Time for 0000496.xls

Total time: 50.25 hours / \$9,522.75

PRA/Sunshine Time 11.75 hours / \$2,516.75

Hope this helps,
Scott

January 4, 2012

To: Compliance and Amendments Committee
Re: Complaint # 11056:

Additional records submitted in connection with SOTF Order of Determination dated November 7, 2011:

- (1) Email Scott Minty to Marisa Moret dated "12/16/2011" re "General Fund Budgets".
- (2) DHR Job Classifications for Scott Minty (#1024), Marisa Moret (#AB44) and Susana Martinez (#0931), IS administrator-Supervisor, Managing Attorney and Chief Financial Officer, respectively, in the Office of the City Attorney.
- (3) Example of original dated email: Scott Minty to DCA Nadine Varah dated 07/01/2010 re "FY10 Time for 0000496."



General Fund budgets

Scott Minty to: Marisa Moret

12/16/2011 05:41 PM

History: This message has been replied to and forwarded.

Marisa,

I don't believe I ever heard back from you or Susana confirming that we are reusing the General Fund budget hours from last fiscal year for this fiscal year. Is that the plan?

Please advise.

Thanks,
Scott