

File No. _____

SOTF Item No. 5

CAC Item No. _____

SUNSHINE ORDINANCE TASK FORCE
AGENDA PACKET CONTENTS LIST

Sunshine Ordinance Task Force

Date: May 2, 2012

Compliance and Amendments Committee

Date: _____

CAC/SOTF

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Completed by: Andrea Ausberry Date April 25, 2012

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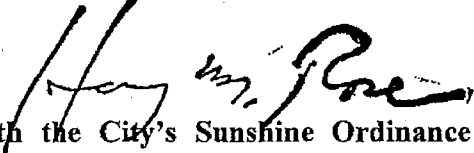
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The complete document is in the file.

**CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS
BUDGET AND LEGISLATIVE ANALYST**

1390 Market Street, Suite 1150, San Francisco, CA 94102
(415) 552-9292 FAX (415) 252-0461

LEGISLATIVE ANALYST REPORT

To: Supervisor Wiener
From: Budget and Legislative Analyst
Date: April 12, 2012
Re: Total Costs of Compliance with the City's Sunshine Ordinance (Project 110150.1)



SUMMARY OF REQUESTED ACTION

Pursuant to your request, the Budget and Legislative Analyst has calculated the costs to the City as a result of having to comply with the City's Sunshine Ordinance and reviewed Sunshine Ordinance Task Force activity as reported in their annual reports. The City's costs to comply with the City's Sunshine Ordinance have been broken down by department and include staff salary and benefits, overtime, and related costs. The costs are broken down by Sunshine Ordinance activities such as attending Sunshine Ordinance Task Force (SOTF) hearings, responding to public records requests and complying with public meeting requirements.

EXECUTIVE SUMMARY

- The City's Sunshine Ordinance, codified in Section 67.1 through 67.37 of the Administrative Code, incorporates and builds on two existing pieces of State law: 1) the Ralph M. Brown Act which establishes State public meeting access requirements; and 2) the California Public Records Act which establishes the public's right to receive documentary public information. The City's Sunshine Ordinance created the Sunshine Ordinance Task Force (SOTF), an oversight body charged with hearing complaints regarding any City departments' alleged lack of compliance with Sunshine Ordinance requirements, including incorporated State law requirements. The SOTF is comprised of eleven voting members appointed by the Board of Supervisors and two non-voting ex-officio members, one appointed by the Mayor and one appointed by the Clerk of the Board of Supervisors¹.
- In order to be in full compliance with the Sunshine Ordinance, City departments are required to use staff time and dedicate resources to (a) make public records available to the requesting parties and (b) address complaints made to the SOTF.
- In order to determine the total costs to the City of complying with the City's Sunshine Ordinance as well as providing an overview of the process and procedures related to the Sunshine Ordinance, the Budget and Legislative Analyst surveyed the 47 City departments that are subject to the City's Sunshine Ordinance to obtain each department's staff time and

¹ The two non-voting SOTF seats are currently vacant.

related costs incurred complying with the Sunshine Ordinance in Calendar Year 2011, with the understanding that these costs are frequently not individually tracked and would likely need to be estimated by the departments.

- The Budget and Legislative Analyst received completed survey responses from 40 out of the 47 departments surveyed, a response rate of 85.1 percent. The surveyed departments that responded are identified in Attachment 3 of this report.
- The City's total net cost as a result of complying with the Sunshine Ordinance in Calendar Year 2011 was estimated by the Budget and Legislative Analyst to be \$4,274,320, which includes costs related to existing State law as well as costs incurred due to the City's Sunshine Ordinance. These amounts cover all reported City department costs of (a) responding to 5,833 formal requests for records, (b) providing information less formally to the public, (c) preparing for and attending Sunshine Ordinance Task Force hearings when complaints are filed against City departments, (d) attending enforcement hearings before the Ethics Commission and (e) meeting all public meeting requirements.
- As shown in Table 1 below, the Budget and Legislative Analyst notes that an estimated \$3,276,645, or 76.7 percent of the \$4,274,320 in total costs identified in this report to comply with the City's Sunshine Ordinance, related to (a) providing access to public meetings and (b) providing City documents to the public pursuant to the Sunshine Ordinance, would continue to exist under current State law even if the City did not have the Sunshine Ordinance.
- After accounting for existing State legislation with which City departments are obligated to comply, regardless of the City's own Sunshine Ordinance requirements, the Budget and Legislative Analyst has estimated the total Calendar Year 2011 net cost to the City to comply with just the City's Sunshine Ordinance as \$997,676, shown in Table 1 below.
- As shown in Table 1 below, the largest category of total net City costs, an estimated \$2,077,880 of the \$4,274,320 in total net City costs for Calendar Year 2011, were incurred responding to public records requests activities.
- Of the estimated \$997,676 in costs incurred in Calendar Year 2011 that were unique to the City's Sunshine Ordinance, the largest category of costs, \$354,905, or 35.6 percent of the \$997,676 in total estimated costs unique to the City, was for Sunshine Ordinance Task Force hearings, enforcement and related tasks. These costs included Sunshine Ordinance Task Force support costs for services provided by the City Attorney and the Clerk of the Board's office and City department staff time expended at hearings. These hearings included complaint and post-decision Sunshine Ordinance Task Force hearings and Ethics Commission hearings on Sunshine Ordinance Task Force decisions.
- The Budget and Legislative Analyst's review of the Sunshine Ordinance Task Force's 2010 and 2011 annual report statistics and discussions with City staff disclosed that multiple hearings and continuances per complaint are common occurrences at Sunshine Ordinance Task Force hearings due to complainants not appearing and/or the Task Force not having a quorum. Of the 78 cases closed in Calendar Year 2011 by the SOTF, each case was heard an

average of 1.9 times by the full Task Force and each case was heard an average of 2.6 times, including hearings at the full Task Force and SOTF committees. Since these hearings often require the presence of City department staff and support services from the City Attorney's Office and the Clerk of the Board of Supervisors Office, additional costs are incurred when there are multiple hearings on a case.

- The 10 City departments that reported the largest costs attributable to the City's Sunshine Ordinance in Calendar Year 2011 are presented in Table 2 below. As can be seen, the Municipal Transportation Agency incurred the highest costs of all departments (\$859,810), followed by the Office of Emergency Management (\$226,994) the Planning Department (\$212,336) and Elections Department (\$151,170).

Table 1: Total Net Estimated Calendar Year 2011 City Costs due to the Sunshine Ordinance

Activity	Total Costs Due to City & State Legislation	Costs Due to State Legislation	Costs Unique to Sunshine Ordinance²
Noticing Requirements	\$275,324	\$275,324	\$0
Purchasing, Maintaining, or Operating Audio and/or Video Recording Equipment For Public Meetings	323,408	\$0	323,408
Costs of Maintaining and Updating Sunshine Ordinance Information on Department Websites	79,093	\$79,093	0
Other costs associated with complying with Sunshine Ordinance public meeting access requirements	73,160	\$73,160	0
<i>Subtotal: Public Meetings Activities</i>	<i>750,985</i>	<i>427,577</i>	<i>323,408</i>
Responding to Formal Sunshine Ordinance Requests For Information	1,400,627	\$1,260,564	140,063
Providing Sunshine-Ordinance Related Information, Separate From Responding to Formal Public Information Requests	649,759	\$649,759	0
Maintaining Index of Records Website	1,184	\$0	1,184
Copying Fees for Providing Public Records Not Recouped	18,351	\$18,351	0
Providing Information to the City Administrator for the Index of Records	7,959	\$0	7,959
<i>Subtotal: Public Records Request Activities</i>	<i>2,077,880</i>	<i>1,928,674</i>	<i>149,206</i>
Clerk of the Board's Support of the SOTF	110,288	\$0	110,288
Department Staff Preparation/Attending Hearings on Complaints Filed with the Sunshine Ordinance Task Force	85,290	\$0	85,290
Department Staff Attendance: Post-Decision Sunshine Ordinance Task Force Enforcement/Compliance Matters	43,354	\$0	43,354
City Attorney Costs Related to Supporting SOTF	100,233	\$0	100,233
Post-Decision Sunshine Ordinance Task Force Enforcement and Compliance Matters	43,354	\$0	43,354
Ethics Commission Costs - Post-Decision Actions	15,740	\$0	15,740
<i>Subtotal: SOTF Hearings, Enforcement and Related Tasks</i>	<i>354,905</i>	<i>0</i>	<i>354,905</i>
Preparing for Sunshine Ordinance-Related Legal Actions	1,752	\$1,752	0
Other Costs of Sunshine Ordinance Compliance	145,230	\$116,184	29,046
City Attorney Costs of Supporting Departments in Sunshine Ordinance-related issues	917,357	\$825,621	91,736
City Attorney Costs for Acting as Supervisor of Records	51,949	\$0	51,949
<i>Subtotal: Miscellaneous Costs</i>	<i>1,116,288</i>	<i>943,557</i>	<i>172,731</i>
TOTAL COSTS	\$4,300,058	\$3,299,809	\$1,000,250
COPYING REVENUES RECEIVED BY DEPTS.	25,738	23,164	2,574
TOTAL NET COSTS (rounded)	\$4,274,320	\$3,276,645	\$997,676

² The Budget and Legislative Analyst assumes that 10% of public records requests and 20% of "Other Costs" were unique to the Sunshine Ordinance in 2011.

**Table 2:
10 Departments that Reported the Largest Sunshine Ordinance Compliance Costs
in Survey Responses
Calendar Year 2011**

Department	Total Estimated Cost
MTA	\$859,810
Emergency Management	226,994
Planning	212,336
Elections	151,170
Public Utilities Commission	143,956
Public Health	134,354
Ethics Commission	131,818
City Attorney	125,827
Controller	124,065
Public Works	107,451
Total	\$2,217,781

Source: Budget and Legislative Analyst Survey of City Departments

SUNSHINE ORDINANCE OVERVIEW AND SURVEY

The Sunshine Ordinance is contained within Section 67.1 through 67.37 of the Administrative Code. The stated purpose of the Sunshine Ordinance is to protect the right of San Francisco residents to know what their government and those acting on behalf of their government are doing. The Sunshine Ordinance incorporates and builds on two existing State laws, the Ralph M. Brown Act which establishes State public meeting access requirements, and the California Public Records Act which establishes the public's right to receive documentary public information.

The SOTF is comprised of eleven voting members appointed by the Board of Supervisors and two non-voting ex-officio members, appointed by the Mayor and the Clerk of the Board of Supervisors. Each appointed member has a term of two years, unless removed earlier by the Board of Supervisors. According to the SOTF bylaws, members of the SOTF serve without compensation and there is no term limit for serving on the SOTF. As with all City appointive boards, commissions and other units of government, all SOTF hearings, which are held monthly, must have a majority of members (six members) of the SOTF present to constitute a quorum. As of April 2011, when the Sunshine Ordinance Task Force amended its bylaws, approval of substantive and procedural matters requires an affirmative vote of a

majority of the members present rather than the majority of all members as is required of City boards and commissions or other units of government³. If a quorum of the Task Force is not present, no official action may be taken, except roll call and adjournment.

The Sunshine Ordinance created an oversight body called the Sunshine Ordinance Task Force (SOTF), the purpose of which is to advise the Board of Supervisors and provide information to other City departments on appropriate ways in which to implement the ordinance. Specific SOTF activities delineated in the Sunshine Ordinance include:

1. Establishing appropriate goals for implementation of the Sunshine Ordinance;
2. Proposing amendments to the Sunshine Ordinance;
3. Reporting annually to the Board of Supervisors on any practical or policy problems encountered in the administration of the Sunshine Ordinance;
4. Receiving and reviewing the annual report of the City's Supervisor of Records (City Attorney);
5. Making referrals to a municipal office with enforcement power under the Sunshine Ordinance, California Public Records Act or Brown Act, whenever it concludes that any person has violated any provisions of the Sunshine Ordinance or the State Acts; and,
6. Issuing public reports from time to time evaluating compliance with the Sunshine Ordinance and related State laws by the City, or any department, office or official thereof.

While the Sunshine Ordinance does not specify how referrals are to be made to a municipal office with enforcement power (#5 above), the Sunshine Ordinance Task Force has developed complaint procedures, detailed below, that allow for members of the public to file complaints with the Task Force which then holds hearings to make determinations on whether or not a Sunshine Ordinance violation has occurred.

In Calendar Year 2011, the SOTF held 10 regular hearings and 9 special hearings⁴. An average of 24.5 agenda items and an average of 15.2 complaints were calendared per hearing.⁵ In Calendar Year 2011, the SOTF received 98 new and individual complaints from 40 complainants, or an average of 2.5 complaints per complainant. Of these 98 complaints, 78 were disposed of by the SOTF. These 78 closed cases were heard by the full SOTF or its committees over a total of 201 hearings, or 2.6 hearings each on average. They were heard by the full SOTF over a total of 150 hearings, on an average of 1.9 hearings each. Table 3 presents the average number of hearings per complaint. The number of hearings per complaint ranged from one to eight, with the majority of complaints having two or three hearings each. See Attachment 1 for details on SOTF hearings.

³ Charter Section 4.104(b) requires affirmative votes by a majority of members of appointive boards, commissions or other units of government for approval of any matter.

⁴ Special hearings are hearings by the SOTF which were not one of the regularly scheduled monthly hearings.

⁵ Hearing information is based on the SOTF's website:

<http://www.sfbos.org/meeting.aspx?page=5233&subpage=2011>

**Table 3: Average Number of Hearings per Sunshine Ordinance Complaint
Calendar Year 2011**

	SOTF Only	SOTF and its Committees
Number Closed Complaints	78	78
Total # Hearings for Closed Complaints	150	201
Average Number Hearings/Complaint	1.9	2.6

Source: Closed complaints reported in the SOTF 2011 Annual Report

In order to comply with the Sunshine Ordinance, it is part of the regular duties of City departments to use staff time and dedicate resources to deliver public records and, on occasion, address complaints filed with the Sunshine Ordinance Task Force. To the extent that hearings at the SOTF or its committees are continued, additional department staff time and costs are incurred.

Charged with the task of determining the total costs to the City of complying with the Sunshine Ordinance and giving an overview of the process related to the Sunshine Ordinance, the Budget and Legislative Analyst surveyed all City departments asking that their costs of compliance with the Sunshine Ordinance for Calendar Year 2011 be submitted, with the understanding that these costs are frequently not individually tracked and would likely need to be estimated. (See Attachment 2 for sample survey)

The Budget and Legislative Analyst also recognizes that provisions of the two State ordinances, the Ralph M. Brown Act and the California Public Records Act, are contained within the Sunshine Ordinance and govern the manner and content of the dissemination of most public information. However, the Budget and Legislative Analyst determined that it was not possible to parse out all of the costs directly attributed to the Sunshine Ordinance versus the two State ordinances contained within it, which exist in their own right, given the nature of records departments typically keep on these matters. Therefore, some portion of the cost of providing access to public meetings as well as providing public documents that are directly attributed to the Sunshine Ordinance in this report would continue to exist under current State law if the Sunshine Ordinance were not in place. In addition, it is likely that without the SOTF, some portion of complaints would be directed to other public bodies, such as the courts, which would in turn incur costs.

Finally, the Budget and Legislative Analyst acknowledges that self-reporting of costs which are typically not tracked in detail on a rolling basis has the possibility of resulting in either inflated or deflated costs based on the nature of the estimating process. Therefore, the Budget and Legislative Analyst cautions that the estimates contained within this report should be considered in light of the process in which they were derived. In addition, seven departments did not return completed surveys and therefore those departments' costs are not accounted for in the final estimates included in this report. All department costs and staff hours reported by survey respondents have been reviewed by the Budget and Legislative Analyst and returned

to departments for clarification in cases when the reported amounts did not seem reasonable or were well above or below responses from other departments.

The Budget and Legislative Analyst received completed surveys from 40 out of 47 departments. Details on total costs attributable to the Sunshine Ordinance, by department, are presented as Attachment 3 to this report.

Based on the survey results and identification of some additional costs by the Budget and Legislative Analyst, the City incurred an estimated \$4,274,320 in Calendar Year 2011 complying with the Sunshine Ordinance. Of that amount, the Budget and Legislative Analyst estimates that \$3,276,645 would have been incurred anyway complying with State legislation if the Sunshine Ordinance were not in place in San Francisco and that \$997,675 of the total estimated costs were unique to the Sunshine Ordinance. Details on these costs, by function are presented in the following sections. Details on costs reported by individual City department are presented in Attachment 3.

PUBLIC ACCESS TO POLICY BODY MEETINGS AND PASSIVE MEETINGS BODIES

The Sunshine Ordinance contains specific requirements in regard to public meetings. These requirements are different for policy bodies and passive meeting bodies. The Administrative Code defines a policy body as (a) the Board of Supervisors, (b) any other board or commission authorized by the Charter, (c) any board, commission, committee, or other body created by ordinance or resolution of the Board of Supervisors or by a policy body, and (d) any standing committee of a policy body, any advisory board, commission, committee or council created by a federal, State, or local grant whose members are appointed by City officials, employees, or agents⁶. A passive meeting body is defined in the Administrative Code as (a) an advisory committee created by a member of a policy body, the Mayor or a Department head, (b) any group whose purpose is to advise the Mayor or any Department head on fiscal, economic, or policy issues, (c) social, recreational or ceremonial occasions sponsored by or for a policy body to which a majority of the body has been invited, (d) a group of employees of the City and County of San Francisco who are developing, modifying, or creating City policies or procedures related to public health, safety, welfare, or homeless services⁷.

The Sunshine Ordinance requires policy body meetings to be open and public, as originally required by the Ralph M. Brown Act⁸. Section 67.6 of the Administrative Code requires that each policy body, except for advisory bodies, must establish by resolution or motion the time and place for holding regular meetings. Policy bodies must post an agenda in an area freely accessible to the public as well as on the internet specifying the time and place of the meeting and containing meaningful descriptions of each item of business of the next meeting at least 72 hours before that meeting. Members of the public must be granted the opportunity to provide testimony concerning any item which is being discussed at the policy body meeting.

⁶ Administrative Code Section 67.3

⁷ Administrative Code Section 67.3

⁸ Government Code Section 54950

In addition, the clerk or secretary of each board and commission must record the minutes for each regular and special meeting, which must be available for inspection and copying upon request no later than 10 days after the meeting. The Administrative Code requires that every policy body, agency or department shall audio or video record every noticed regular meeting, special meeting, or hearing open to the public held in a City Hall hearing room that is equipped with audio and video recording equipment, unless the equipment is not available for technical or other reasons⁹. Any audio or video recording will be considered a public record subject to the California Public Records Act provisions¹⁰ and shall not be erased or destroyed. These recordings must be made available within seventy two hours of the date of the meeting or hearing on the City's website and remain available for at least two years after that date. Any special meetings of a policy body must be accompanied by a written notice at least 72 hours before the meeting, delivered by mail or personally to each member of the policy body and to the local media who have requested such notices.

The Administrative Code provides that all individuals must have access to all gatherings of passive meeting bodies¹¹. Meetings of irregular passive bodies must be preceded by a notice delivered personally, by email, mail, or facsimile at least 72 hours before the time of such meetings to each person who has requested such a notice. If a passive body decides to conduct regular meetings, no notice is required. However, similar to the policy bodies, an agenda must be posted in an area freely accessible to the public as well as on the internet specifying the time and place of the meeting and containing meaningful descriptions of each item of business of the next meeting at least 72 hours before that meeting. Gatherings subject to this requirement include advisory committees or other multimember bodies created in writing, by initiative, or which were formed or exist to serve as a non-governmental advisor to a member of a policy body. Closed sessions of such passive meeting bodies may be held under specific circumstances. However, the Administrative Code specifies that all closed sessions of any policy body covered by the Sunshine Ordinance must be audio or video recorded in their entirety and those recordings must be retained for ten years, or permanently when feasible¹².

As shown in Table 4 below, the 40 departments that responded to the survey report that they incurred costs due to public meeting requirements totaling \$750,985. The Budget and Legislative Analyst notes that these costs, other than the \$323,408 cost of purchasing, maintaining, or operating audio and/or video recording equipment for public meetings, would be incurred if the Sunshine Ordinance were not in place due to the compliance obligations under the Ralph M. Brown Act.

⁹ Administrative Code Section 67.14

¹⁰ Government Code Section 54950

¹¹ Administrative Code Section 67.4

¹² Administrative Code Section 67.8

**Table 4: Summary of Survey Results of Costs of Public Meetings
 Calendar Year 2011**

Sunshine Ordinance Requirement	Annual Cost	Estimated Cost Unique to Sunshine Ordinance
Noticing Requirements	\$275,324	\$0
Purchasing, Maintaining, or Operating Audio and/or Video Recording Equipment For Public Meetings	323,408 ¹³	323,408
Costs of Maintaining and Updating Sunshine Ordinance Information on Department Websites	79,093	0
Other Costs	73,160	0
Total	\$750,985	\$323,408

ACCESS TO PUBLIC RECORDS

Public information is defined in the Sunshine Ordinance as the content of public records as defined by the California Public Records Act¹⁴. According to the California Public Records Act, a public record includes any writing containing information related to the conduct of public business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics¹⁵. The Administrative Code requires that any public record be available for inspection and a single copy provided to any individual upon payment of a reasonable copying charge, not to exceed ten cents per page¹⁶.

The intent of the Sunshine Ordinance is to keep the withholding of records to a minimum¹⁷. No records may be withheld from disclosure in their entirety unless all information contained in the records are expressly exempt by the California Public Records Act or some other statute. Withholding on this basis by a City department must be justified in writing. However, the Sunshine Ordinance¹⁸ requires disclosure of the following type of records which are not subject to disclosure requirements under the California Public Records Act:

- **Drafts and memoranda** (disclosure of draft versions of agreements in the process of being negotiated can be delayed until 10 days prior to the presentation of the agreement for approval by a policy body and disclosure of final draft agreements where the City is offering to provide facilities or services in direct competition with other public or private entities not required by law to make their competing proposals public may be delayed until the draft agreement is presented for approval).

¹³ In their completed survey, the Board of Appeals did not include \$45,000 which the department pays the Department of Technology for its services in broadcasting public meetings in this category but instead included it as "Other Costs". Given the purpose of the cost, this \$45,000 was moved to the "Purchasing, Maintaining, or Operating Audio and/or Video Recording for Public Meetings estimate of costs.

¹⁴ Administrative Code Section 67.20

¹⁵ Government Code Section 6252

¹⁶ Administrative Code Section 67.21

¹⁷ Administrative Code Section 67.26

¹⁸ Administrative Code Section 67.24

- Specific types of **records pertaining to litigation** (pre-litigation claims against the City, any record not attorney/client privileged at the time received/created, and any advice, analysis, opinion or other communication concerning the California Public Records Act, the Ralph M. Brown Act, the Political Reform Act, any San Francisco Governmental Ethics Code, or the Sunshine Ordinance).
- Certain **personnel information** (job pool characteristics and employment and education histories of all successful job applicants, salary information and benefits for every employee, curriculum vitae of any employee, job descriptions for every employment classification, and any memorandum of understanding between the City or department and a recognized employee organization, but always excluding personal contact information, social security number, age and marital status for individual employees).
- Certain **law enforcement information** (names of juvenile witnesses, personal or private information, identity of a confidential source, secret investigative techniques/procedures, information that would endanger law enforcement personnel or the successful completion of an investigation may be excluded if public interest in nondisclosure outweighs the public interest in disclosure).
- **Contracts, bids, proposals, and other records of communications between departments and persons/firms seeking contracts** (Director of Public Health may withhold proposed and final rates of payments for managed health care contracts, in which the City either pays for health care services or receives compensation for providing health care services, if public disclosure would adversely affect the ability to engage in effective negotiations for managed health care contracts if the rates of payment are under three years old).
- **Budgets and Other Financial Information** (no exceptions).

The Administrative Code requires that City departments designate a staff member and an alternate to serve as custodian of public records for the department, responsible for providing information, including oral information, to the public about the department's operations, plans, policies, and positions¹⁹. No City employee is required to respond to a public inquiry on these topics if it takes more than fifteen minutes to provide oral information responsive to the inquiry.

The Custodian must comply with requests for public records within ten days following receipt of that request. The request may be delivered to the office of the custodian orally, in writing by fax, mail, or email. The custodian must justify withholding any record by demonstrating in writing within ten days following receipt of a request that the requested record is exempt under the Sunshine Ordinance.

¹⁹ Administrative Code Section 67.21

The custodian must also assist a member of the public in identifying the existence, form, and nature of any record or information maintained by, available to, or in the custody of that custodian, whether those records are exempt from disclosure. Within seven days following receipt of such a request, the custodian must provide a statement in writing regarding the existence, quantity, form, and nature of records relating to a particular subject or questions with enough specificity to identify records in order for a member of the public to make a request of that document.

The 40 departments that responded to the survey report receiving an estimated 5,833 formal requests for Sunshine Ordinance information in 2011, in which the request was received in writing and directly invoked the Sunshine Ordinance. As shown in Table 5 below, approximately 20,679 hours of City Department staff time were spent responding to formal public record requests at a total estimated cost to the City of \$1,400,627. The Budget and Legislative Analyst notes that most of these costs could continue to be incurred even if the Sunshine Ordinance were not in place due to local government disclosure obligations under the California Public Records Act. The Budget and Legislative Analyst assumes that ten percent of these costs, or \$140,063, is unique to the Sunshine Ordinance since, as discussed above, the Sunshine Ordinance contains some additional disclosures above and beyond those required by the California Public Records Act. However, responding to public records requests, including the disclosure obligations specified under the California Public Records Act, are also included within the Sunshine Ordinance and therefore have been included in the City's estimated costs below.

Table 5: City Department Estimated Costs of Responding to Formal Sunshine Ordinance Public Records Requests, Calendar Year 2011

Total Work Hours	Total Cost	Estimated Cost Unique to Sunshine Ordinance
20,679	\$1,400,627	\$140,063

As shown in Table 6 below, 13,607 estimated hours of City Department staff time were spent providing Sunshine Ordinance-related information separate from formal public information requests at a total estimated cost to the City of \$649,759. These requests include all informal requests for information about public records available, the records request process and other oral requests that do not directly invoke the Sunshine Ordinance. The Budget and Legislative Analyst notes that these costs would also continue to be incurred even if the Sunshine Ordinance were not in place due to local government disclosure obligations under the California Public Records Act. However, like the costs associated with responding to formal requests, responding to public records requests, including the disclosure obligations specified under the California Public Records Act, are also included within the Sunshine Ordinance and therefore have been included in the City's estimated costs below.

Table 6: City Department Estimated Costs of Providing Sunshine Ordinance-Related Information Separate from Formal Sunshine Ordinance Public Record Requests, Calendar Year 2011

Total Work Hours	Total Cost	Estimated Cost Unique to Sunshine Ordinance
13,607	\$649,759	\$0

CITY COPYING FEE REVENUES FOR RECORDS PROVIDED PURSUANT TO THE SUNSHINE ORDINANCE

The Administrative Code allows City departments to charge fees for documents routinely produced, such as meeting agendas, not to exceed one cent per page, plus postage costs²⁰. For documents assembled and copied at the order of a requestor, a fee not to exceed 10 cents per page may be charged, plus postage costs. Copies of video-recorded meetings can be provided at a cost of \$10 or less per meeting. According to the results of our survey, City departments estimated that they received \$25,738 in copying fee revenues in Calendar Year 2011 and incurred \$18,351 in copying fees that were not recouped.^{21,22}

CITY COSTS OF PROVIDING INFORMATION TO THE CITY ADMINISTRATOR FOR THE INDEX OF RECORDS

According to the Administrative Code, the City is required to prepare a public records index identifying various types of information and documents maintained by City departments' boards, commissions and elected officers²³. The City Administrator is responsible for the preparation of this Index of Records. The Index is to clearly and meaningfully describe individual types of records that are prepared and maintained by each department, agency, commission, or public official of the City and be kept up to date in respect to the types of records maintained by these entities and should be sufficient to aid the public in making a request or inquiry. The index does not include copies of actual documents that are available. The Department of Technology advises that department staff spends approximately 15-20 hours annually to maintain the website. Those \$1,184 to \$1,578 in costs are reportedly integrated into the annual subscription all departments pay for general Information

²⁰ Administrative Code Section 67.28

²¹ The Department of Public Health reported \$15,000.02 in copying fees not recouped. However, the Department noted that, when responding to this survey question it included staff time and other costs which may have already been included in other questions within the survey. Therefore, the \$15,000 was removed in order to avoid possible double-counting of costs.

²² The Department of Emergency Management reported \$34,721 in copying fees that were not recouped. However, the Department noted that when responding to this survey question, it included staff time in their estimate. Given that this question was meant to capture copying fees only and that the staff time estimated was not included in the survey question related to informal requests for information, the staff time estimate was moved to that survey question and removed from the question regarding copying fees.

²³ Administrative Code Section 67.29

Technology (IT) services. To be conservative, the Budget and Legislative Analyst used the lower cost in the estimated range, or \$1,184 for this cost, all of which is assumed to be unique to the Sunshine Ordinance.

According to the results of our survey, City departments estimated that they spent a total of \$7,959 providing information to the City Administrator for the Index of Records.

SUNSHINE ORDINANCE-RELATED COMPLAINTS TO THE SUNSHINE ORDINANCE TASK FORCE PRIOR TO FILING A COMPLAINT

The Administrative Code includes provisions that allow members of the public additional recourse, as promulgated by the Sunshine Ordinance Task Forces in its Complaint Procedures, if a request for a public record and/or is not granted or public meeting requirements are not followed. If a request for access to public records is not granted and/or public meetings requirements are not adhered to, the SOTF's Public Complaint Procedure states that the Sunshine Ordinance Task Force Administrator²⁴ must discuss the request with the member of the public and attempt, with the assistance of the City Attorney, to mediate the request. If the member of the public continues to be denied access to the desired record or the public meeting requirement is not met, the SOTF Administrator must advise the member of the public of his/her right to file a petition with the City Attorney's Office and to pursue the SOTF complaint process and send the complainant a packet of information to inform the complaint process. As shown in Table 7 below, a total of \$110,288 was spent by the Clerk of the Board's Office in Calendar Year 2011 supporting the SOTF. The Budget and Legislative Analyst assumes that all of these costs are unique to the Sunshine Ordinance.

Table 7: Summary of Clerk of the Board Costs Incurred Supporting the Sunshine Ordinance Task Force: Calendar Year 2011

	Cost	Estimated Cost Unique to Sunshine Ordinance
Salaries	\$77,121	\$77,121
Fringe	\$31,794	\$31,794
Miscellaneous Expenses	\$337	\$337
Materials and Supplies	\$532	\$532
Services of Other Departments	\$504	\$504
Total	\$110,288	\$110,288

²⁴ The Administrator is a City employee of the Board of Supervisors' Clerk's Office who is tasked with supporting the SOTF.

SUNSHINE ORDINANCE TASK FORCE COMPLAINT PROCESS

If the member of the public decides to pursue the complaint process, a letter or complaint form may be submitted to the SOTF. The responding City department will be sent written notice of the complaint along with a request to respond to the charges in the complaint within five business days. A Deputy City Attorney who advises the City departments may assist the department, board or commission or public official (known as the respondent) in preparing a response to the complaint.

Jurisdiction of the SOTF over a given matter must be determined as soon as possible but never later than 45 days from when a written complaint is received. The Deputy City Attorney assigned to advise the SOTF, is to provide a written opinion to the SOTF on its jurisdiction on the matter and detail the focus of the issues for the SOTF. The SOTF's complaint process calls for complaints to be heard before the SOTF's Complaint Committee in order to determine SOTF jurisdiction over the matter and to focus information requests. However, this process is not currently followed due to the current backlog of cases; complaints are now sent directly to the full SOTF, without this prior review by the committee. Jurisdiction is currently determined at the same hearing that the complaint is first heard before the SOTF. However, the SOTF plans to return to the original complaint process as soon as possible.²⁵ Once jurisdiction has been determined, the complainant may waive the 45-day rule if they choose or request a special hearing within the 45-day period.

Continuances are granted if a request for a continuance is submitted at least three business days in advance of the scheduled hearing. Respondents' agreement is not required for a continuance to be granted. If a request for continuance is submitted less than three business days in advance or more than one request for a continuance is made, the request may be granted by a majority vote of the SOTF members present (not the full SOTF).

Continuances are also granted to departments if submitted at least three business days in advance of the scheduled hearing if the complainant agrees. If the complainant is not in agreement, the request for continuance is not made within three business days, or the respondent is requesting a subsequent continuance, such continuances may be granted by a majority vote of the SOTF members present.

Continuances on individual complaints are frequently made on the day the hearing is meant to be heard, according to City staff, due to complainants not attending the scheduled hearing. If this happens repeatedly, the same complaint can be continued at several SOTF hearings due to a lack of attendance by the complainant. In such situations, City department staff may appear and wait for the complaint to be heard, only to find that the matter is continued. Complaints can also be continued due to the SOTF lacking a quorum and therefore being unable to issue a decision (known as an Order of Determination) on the matter.

²⁵ The Clerk's Office provided this information on current deviations from the SOTF's complaint procedure.

After all testimony is heard by the SOTF, it will vote on an Order of Determination or other directives stating whether the disputed record is public and must be provided and/or whether open meeting laws were obeyed. The complainant and respondent will be notified of the SOTF's Order of Determination in writing. (See Attachment 4 for a Detailed Flowchart of the Complaint Process)

The City departments who responded to the survey reported that they attended a total number of 130 SOTF hearings in Calendar Year 2011. As shown in Table 8 below, the City spent an estimated 1,197 hours preparing for and/or attending hearings concerning complaints filed with the SOTF prior to a decision being rendered. The total estimated cost to the City associated with that time is \$85,290. The Budget and Legislative Analyst assumes that all of these costs are unique to the Sunshine Ordinance.

Table 8: City Department Costs of Preparing For and/or Attending Hearings Concerning Complaints Filed with the Sunshine Ordinance Task Force Calendar Year 2011

Total Work Hours	Total Cost	Estimated Cost Unique to Sunshine Ordinance
1,197	\$85,290	\$85,290

The City Attorney's Office estimates that it incurs \$100,233 in annual costs supporting the SOTF. In addition, the City Attorney's Office estimates that \$917,357 worth of staff time was spent supporting all City departments on Sunshine Ordinance-related matters²⁶.

POST-DECISION SUNSHINE ORDINANCE TASK FORCE ENFORCEMENT AND COMPLIANCE MATTERS

According to the SOTF's Public Complaint Procedure, once an Order of Determination has been sent, a request for reconsideration may be made only if new information exists which was not available at the time of the hearing. The party requesting consideration is to provide proof of that new information when petitioning for reconsideration. If the request is granted, a new hearing on the complaint will be scheduled for the next SOTF meeting.

If a request for reconsideration is not requested or granted and the record is found to be public, the record is to be provided to the complainant within five days of the Order of Determination. The matter is also referred to a SOTF committee for follow-up, either, the Compliance & Amendments Committee (CAC) and/or any committee recommended by the Chair.

²⁶ In order to avoid double-counting and account for all City Attorney costs, any City Attorney time estimated by departments other than the City Attorney in their survey was removed.

If the respondent continues to fail to comply with the Order of Determination, the SOTF may choose to notify the District Attorney, the Attorney General, the Board of Supervisors, or the Ethics Commission, who may take additional measures to ensure compliance with the Sunshine Ordinance. In 2011, 63 cases were forwarded to one of these bodies. SOTF records show that the Ethics Commission is the primary avenue by which complaints are addressed after the SOTF issues its Order of Determination and respondents continue to fail to comply. The Ethics Commission reports receiving eight violation referrals from the SOTF in Calendar Year 2011.

The Ethics Commission estimated its costs of hearing Sunshine Ordinance-related complaints in 2011 between \$15,740 and \$22,460. To be conservative, the Budget and Legislative Analyst has assumed that the lower amount represents the total costs for the Ethics Commission for handling violations referrals in 2011, as shown in Table 9. The Budget and Legislative Analyst assumes that all of these costs are unique to the Sunshine Ordinance.

Table 9: Ethics Commission Estimated Costs Associated with Handling Violation Referrals Concerning Sunshine Ordinance Complaints in Calendar Year 2011

Activity	Cost	Estimated Cost Unique to Sunshine Ordinance
Cost of Handling 8 Cases	\$13,440	\$13,440
Copies	\$200	\$200
Portion of Lexis Subscription	\$2,100	\$2,100
Total	\$15,740	\$15,740

Source: Ethics Commission

City departments that responded to the survey report attending and preparing for 42 post-decision hearings. As shown in Table 10 below, the costs for City Department participation in post-decision Sunshine Ordinance Task Force enforcement and compliance matters, including preparing for and attending post-decision hearings before the SOTF, any of its subcommittees, or the Ethics Commission is \$43,354. The Budget and Legislative Analyst assumes that all of these costs are unique to the Sunshine Ordinance.

Table 10: City Department Costs of Post-Decision Sunshine Ordinance Task Force Enforcement and Compliance Matters Calendar Year 2011

Total Work Hours	Total Cost	Estimated Cost Unique to Sunshine Ordinance
515	\$43,354	\$43,354

If the matter continues to not be settled in a manner which is satisfactory to the complainant, the complainant may choose to pursue further action through litigation outside of the Sunshine Ordinance process.

City departments reported a total of eight legal actions in 2011 related to Sunshine Ordinance matters. As shown in Table 11 below, City departments preparing for Sunshine Ordinance-related legal actions, including responding to writs, results in \$1,752 costs to the City. The Budget and Legislative Analyst assumes that these costs would be incurred even if the Sunshine Ordinance were not in place.

**Table 11: Costs of City Department Preparation for Sunshine Ordinance-Related Legal Actions, Including Responding to Writs
 Calendar Year 2011**

Total Work Hours	Total Cost	Estimated Cost Unique to Sunshine Ordinance
27	\$1,752	\$0

OTHER COSTS DETAILED BY DEPARTMENTS IN SURVEY

City departments were also asked to provide estimates of “any other costs” they believe they incurred due to the Sunshine Ordinance which were not specifically requested in the survey. Table 12 below details those costs.²⁷ The Budget and Legislative Analyst assumes that twenty percent of these costs are unique to the Sunshine Ordinance.

Table 12: Other Costs Incurred by City departments for Compliance with the Sunshine Ordinance, Calendar Year 2011

Activity	Cost	Estimated Cost Unique to Sunshine Ordinance
Committee staffing	\$515	\$103
Police time	1,375	275
Interpreters	340	68
Vendor Costs	143,000	28,600
Total Costs	\$145,230	\$29,046

In addition to the above detailed “other costs” reported in the survey, the City Attorney’s Office reports that a total of \$51,949 was spent in relation to the City Attorney’s role as Supervisor of Records, a role delegated to the Office pursuant to the Administrative Code. This entire cost is assumed to be unique to the Sunshine Ordinance.

²⁷ MTA reported that \$547,000 in Overhead is directly attributable to the Sunshine Ordinance. The Budget and Legislative Analyst concluded that it was not appropriate to include those costs because the MTA’s overhead is not directly related to the City’s Sunshine Ordinance and therefore those costs should not be attributed to the Sunshine Ordinance.

**SUMMARY OF COMMENTS PROVIDED BY CITY DEPARTMENTS ABOUT
COMPLIANCE WITH THE SUNSHINE ORDINANCE**

City departments were also asked to provide any general comments they wished to at the close of the survey. Many departments reported that complying with the Sunshine Ordinance and addressing complaints directed to the SOTF was extremely time-consuming for Department staff. Other Departments noted that additional funding is recommended to account for the time spent complying with Sunshine Ordinance requests. Other comments submitted noted that the complaint process is inefficient for both complainants and staff.

Attachment 1: Summary of Complaints Completed in Calendar Year 2011

Complaint Number	Complaint Committee	Task Force	Compliance and Amendments	Education, Outreach and Training Committee	Status
10034	3			3	Concluded
10036	1	2		2	Ethics Commission
10040		4			Concluded
10042	4				Concluded
10050		4		1	Concluded
10052	1	1	1		Concluded
10053		2			Tabled
10056	2				Concluded
10057	3				Withdrawn
10059		5	2		Board of Supervisors & Ethics Commission
10061	1	1			No Violation
10063		4	1		Ethics Commission
10064	2				Concluded
10065	1	1			Concluded
10067	1	1		1	Concluded
10068		2			Withdrawn
10069		2	1		Ethics Commission
10071	1	1			Tabled
10072		1			Concluded
10074		2	1		Ethics Commission
10075		1			Tabled
11001		2		1	Ethics Commission
11002		1		1	Tabled
11003	1	2			Concluded
11006		1			Ethics Commission, Attorney General, District Attorney, Board of Supervisors
11007		1			Ethics Commission
11010	1	1		1	Concluded
11011	1	1		1	Concluded
11012	1	1		1	Concluded
11013	1	1	1		District Attorney, Ethics Commission
11014	1	1	2		Concluded
11015		2	2		Concluded
11016		2	2		Ethics Commission
11017		2		1	Concluded
11018		2			Concluded

Complaint Number	Complaint Committee	Task Force	Compliance and Amendments	Education, Outreach and Training Committee	Status
11019		1			Withdrawn
11020		2			Concluded
11021		5	1	1	Concluded
11022		2			Concluded
11023		2	1		Mayor, Board of Supervisors, DA, BOS
11025		2			Tabled
11026		2			Concluded
11028		2			Board of Supervisors
11029		1			Tabled
11030		1	2		Board of Supervisors
11031		2			Concluded
11032		2			Concluded
11033		1			Board of Supervisors
11034	1	6		1	Dismissed
11035	1	2			Concluded
11036		1			Concluded
11037		1			Ethics Commission
11042	1	3	2		Ethics Commission
11043		3	1		Concluded
11044		1			Withdrawn
11045		2			Ethics Commission
11046		4		2	Concluded
11047		3		2	Concluded
11048		3			District Attorney, Ethics Commission
11049		3	1		Ethics Commission
11052		1			Withdrawn
11053		1			Withdrawn
11054		2	1		District Attorney, Ethics Commission
11055		1			Concluded
11057		1			Withdrawn
11060		2			Dismissed
11063		3			No action
11066		3			Withdrawn
11067		3			Withdrawn
11070		2			Closed
11072		2			Closed

Complaint Number	Complaint Committee	Task Force	Compliance and Amendments	Education, Outreach and Training Committee	Status
11074		2			Closed
11075		6			Withdrawn
11078		4			No action
11082		5			Withdrawn
11086		1			Withdrawn
Total	29	150	22	19	
Average Per Case		1.95			

**City and County of San Francisco
Survey of Costs of Compliance with City Sunshine Ordinance**

The Budget and Legislative Analyst's Office has been requested by the Board of Supervisors to collect and tabulate all City departments' costs of complying with the Sunshine Ordinance (Administrative Code Chapter 67). Please respond to the survey below regarding your department's specific costs related to its compliance with the Sunshine Ordinance and return to Marisa Rimland Flower of the Budget and Legislative Analyst's Office (marisa.rimland.flower@sfgov.org) by February 3, 2012.

We appreciate your cooperation on this matter. If you have any questions regarding this survey, please contact Ms. Flower at (415) 553-4635 or marisa.rimland.flower@sfgov.org.

1. Please provide the name of person completing survey.

2. Please provide the name and classification of your department's Custodian of Records required by Administrative Code Section 67.22 of the Sunshine Ordinance.

3. For each of the following Sunshine Ordinance-required tasks, please report the number of occurrences in calendar year 2011:

Number of responses to formal requests for Sunshine Ordinance information	Number of hearings your department had to prepare for and/or attend concerning complaints filed with the Sunshine Ordinance Task Force (SOTF), including all initial and continued hearings on the same requests	Number of post-decision SOTF enforcement and compliance hearings for which your department had to prepare and attend, including the full SOTF, any of its subcommittees or Ethics Commission meetings	Number of legal actions against your department for which you had to prepare or respond to complaints, writs, etc.

4. For each of the following Sunshine Ordinance-related tasks, please report 1) the classification that conducted the task, 2) the actual or estimated number of work hours performed by each classification in calendar year 2011 on each task, and 3) if any of the hours were compensated as overtime at time and a half. A number of classifications which commonly respond to Sunshine Ordinance requests and complaints are already presented but please add others for each task if appropriate.

Attachment 2

a) Providing Sunshine Ordinance-related information to the public, separate from responding to formal public information requests (required by 67.21):

Classification (click on box for drop-down menu choices)	Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

b) Responding to formal Sunshine Ordinance requests for information (including time conferring with City Attorney's Office concerning requests):

Classification (click on box for drop-down menu choices)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

c) Preparing for and/or attending hearings concerning complaints filed with SOTF (including all initial and continued hearings on the same complaints) prior to a decision being rendered:

Classification (click on box for drop-down menu choices)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

d) Post-decision SOTF enforcement and compliance matters (including preparing for and attending post-decision hearings before SOTF, any of its subcommittees, or the Ethics Commission):

Classification (click on box for drop-down menu choices)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

e) Preparing for Sunshine Ordinance-related legal actions, including responding to writs:

Classification (click on box for drop-down menu choices)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

5. Based on calendar year 2011, please identify your department's costs for the following (estimates can be made if actual costs were not tracked):

a) What were your department's annual costs in calendar year 2011, if any, for maintaining and updating Sunshine Ordinance information on your website?

b) What were your department's annual costs in calendar year 2011, if any, for providing information to the City Administrator for the Index of Records?

c) What were your annual total copying fee revenues in calendar year 2011 for records provided to the public pursuant to the Sunshine Ordinance?

d) What amount of your department's annual copying fees for providing records to the public pursuant to the Sunshine Ordinance were not recouped in calendar year 2011 from fees?

4. What costs, if any, were incurred by your department in calendar year 2011 for complying with public meeting access requirements of the Sunshine Ordinance, including:

a. Noticing requirements for your policy body (Charter board or commission, advisory boards, committee, etc.)

b. Purchasing, maintaining or operating audio and/or video recording equipment for public meetings for your department's policy body board or commission

c. Other costs

5. Please detail any other costs incurred by the department for compliance with the ordinance in calendar year 2011.

Detail Costs:

6. Provide any other comments about compliance with the Sunshine Ordinance here:

Comments:

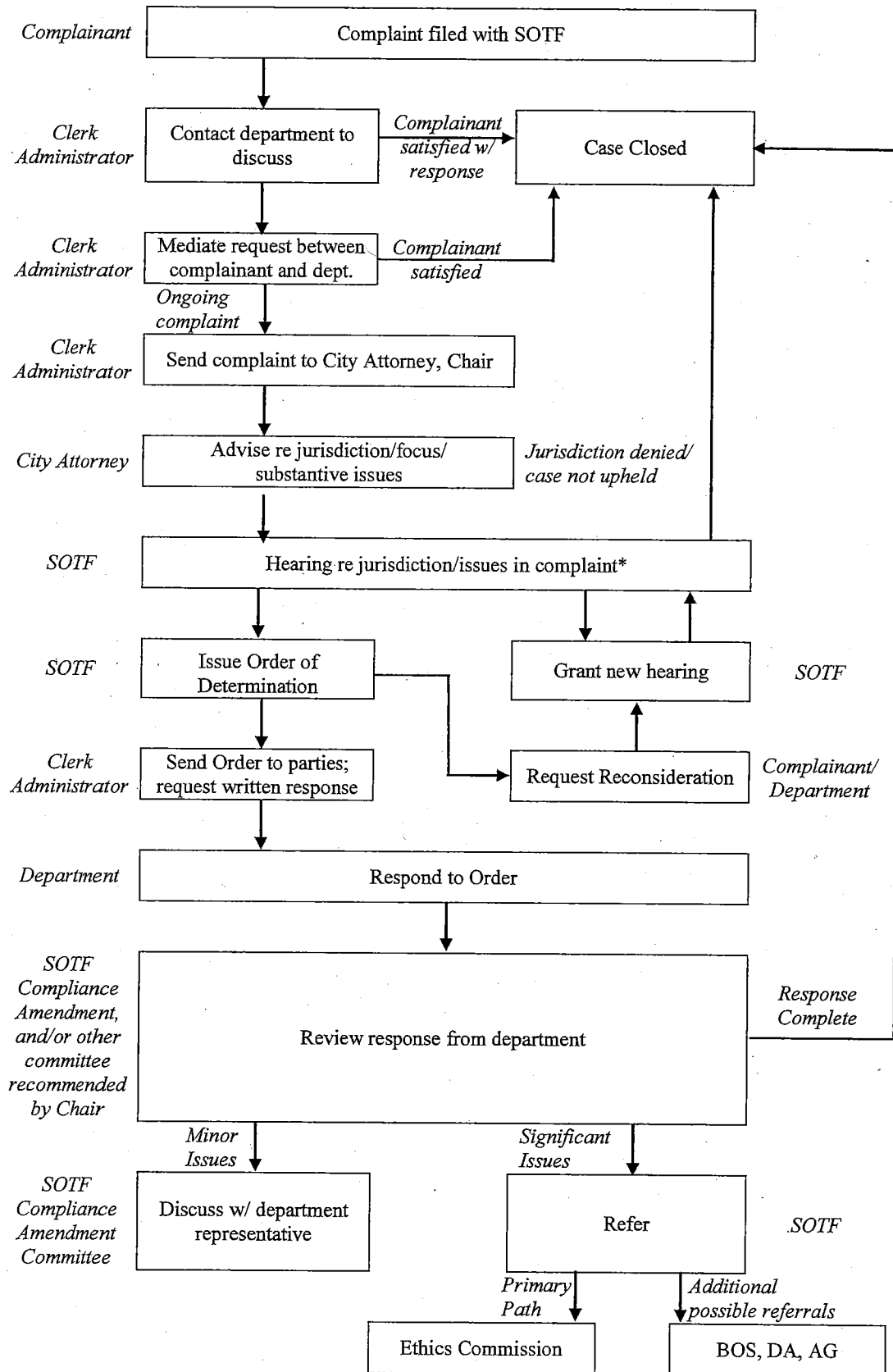
Thank you for your cooperation in filling out the above survey. Please send the completed version to Marisa Rimland Flower at marisa.rimland.flower@sfgov.org

Attachment 3: Sunshine Ordinance Survey Results By City Department

Department	Total Estimated Cost
Administrative Services	\$4,868
Adult Probation	1,697
Airport	98
Arts Commission	77,586
Asian Art Museum	2,029
Assessor-Recorder	871
Board of Appeals	49,697
Building Inspection	52,430
Children and Families Commission	709
Children Youth & Families	507
City Attorney	125,827
Civil Service	48,746
Controller	124,065
District Attorney	20,052
Economic & Workforce Development	16,475
Elections	151,170
Emergency Management	226,994
Environment	83,470
Ethics Commission	131,818
Fire	69,430
Health Service System	0
Human Resources	30,928
Human Rights Commission	2,740
Human Services Agency	27,082
Mayor	48,600
MTA	859,810
Planning	212,336
Police Department	45,428
Port	86,947
Public Health	134,354
Public Library	34,006
Public Utilities Commission	143,956
Public Works	107,451
Recreation & Park	96,227
Rent Board	5,949
Retirement System	12,365
Sheriff	6,785

Department	Total Estimated Cost
Status of Women	543
Technology	82,880
War Memorial	2,120
Total Estimated Costs Per Department	\$3,129, 046¹

¹ The \$3,129,046 summarized here are the results from the Budget and Legislative Analyst's survey and do not contain other estimated costs and offsetting copying fee revenue included in the total cost of compliance with the Sunshine Ordinance, which is estimated to equal \$4,274,320.



* The SOTF complaint procedure calls for jurisdiction to be considered first at a complaint committee hearing. At present, the full SOTF is considering jurisdiction, generally at the same time as it hears to substantive issues in the complaint.

Please email this completed form to: Fred.Brousseau@sfgov.org and
Gabriela.Loeza@sfgov.org

**REQUEST BY A MEMBER OF THE
BOARD OF SUPERVISORS
TO THE BUDGET AND LEGISLATIVE ANALYST**

Supervisor: Scott Wiener

Contact Person (if other than the
Supervisor): _____

Contact Person's Email: scott.wiener@sfgov.org

Contact Person's Telephone No.: 554-6968

Date of Request: December 13, 2011

Nature of Request (Please describe the specific nature of the request.)

The Sunshine Ordinance is one of the most important pieces of legislation in San Francisco. It helps ensure open government and provides citizens with access to information about their government. The Sunshine Ordinance's implementation, effectiveness, and efficiency are critical aspects of San Francisco government. Moreover, the Sunshine Ordinance Task Force, as the entity that implements and oversees the ordinance, plays a key role and must operate effectively. In order to evaluate the effectiveness and efficiency of our implementation of the Ordinance, I request that the Budget and Legislative Analyst calculate the cost to the City, broken down by Department, of complying with the Ordinance. For example, I would like to know how much each Department spends to comply with the Ordinance on an annual basis, including hard costs, staff costs, overtime costs, and so forth. I would also like to know how much each Department spends in attending hearings by the Sunshine Ordinance Task Force, including hard costs, staff costs, overtime costs, and so forth. There may be other costs of compliance beyond these examples. Once we know how much the City spends to comply with the Ordinance, we can work to ensure that we are getting the best value for our investment.

We will follow up within 48 hours to discuss the scope of work, identify specific concerns and estimate the number of initial anticipated hours.

City and County of San Francisco
Survey of Costs of Compliance with City Sunshine Ordinance

The Budget and Legislative Analyst's Office has been requested by the Board of Supervisors to collect and tabulate all City departments' costs of complying with the Sunshine Ordinance. (Administrative Code Chapter 67). Please respond to the survey below regarding your department's specific costs related to its compliance with the Sunshine Ordinance and return to Marisa Rimland Flower of the Budget and Legislative Analyst's Office (marisa.rimland.flower@sfgov.org) by February 3, 2012.

We appreciate your cooperation on this matter. If you have any questions regarding this survey, please contact Ms. Flower at (415) 553-4635 or marisa.rimland.flower@sfgov.org.

1. Please provide the name of person completing survey:

2. Please provide the name and classification of your department's Custodian of Records required by Administrative Code Section 67.22 of the Sunshine Ordinance.

3. For each of the following Sunshine Ordinance-required tasks, please report the number of occurrences in calendar year 2011:

Number of responses to formal requests for Sunshine Ordinance information	Number of hearings your department had to prepare for and/or attend concerning complaints filed with the Sunshine Ordinance Task Force (SOF) including all initial and continued hearings on the same requests	Number of post-decision SOF enforcement and compliance hearings for which your department had to prepare and attend including the full SOF, any of its subcommittees or Ethics Commission meetings	Number of formal actions against your department for which you had to prepare or respond to complaints, writs, etc.

4. For each of the following Sunshine Ordinance-related tasks, please report 1) the classification that conducted the task, 2) the actual or estimated number of work hours performed by each classification in calendar year 2011 on each task, and 3) if any of the hours were compensated as overtime at time and a half. A number of classifications which commonly respond to Sunshine Ordinance requests and complaints are already presented but please add others for each task if appropriate.

- a) Providing Sunshine Ordinance-related information to the public, separate from responding to formal public information requests (required by 67.21):

Classification (check one box or add new classification codes)	Work Hours	Actual or Estimated	Number of Hours (if Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

- b) Responding to formal Sunshine Ordinance requests for information (including time conferring with City Attorney's Office concerning requests):

Classification (check one box or add new classification codes)	Estimated Work Hours	Actual or Estimated	Number of Hours (if Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

- c) Preparing for and/or attending hearings concerning complaints filed with SOTF (including all initial and continued hearings on the same complaints) prior to a decision being rendered:

Classification (check one box or enter new classification)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

- d) Post-decision SOTF enforcement and compliance matters (including preparing for and attending post-decision hearings before SOTF, any of its subcommittees, or the Ethics Commission):

Classification (check one box or enter new classification)	Estimated Work Hours	Actual or Estimated	Number of Hours (If Any) Compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

e) Preparing for Sunshine Ordinance-related legal actions, including responding to writs:

Classification and whether for drop-down menu (none)	Estimated Work Hours	Actual or Estimated	Number of Hours (if Any) compensated as Overtime
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
Choose a Classification		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	
		Choose A or E	

5. Based on calendar year 2011, please identify your department's costs for the following (estimates can be made if actual costs were not tracked):

a) What were your department's annual costs in calendar year 2011, if any, for maintaining and updating Sunshine Ordinance information on your website?

b) What were your department's annual costs in calendar year 2011, if any, for providing information to the City Administrator for the Index of Records?

c) What were your annual total copying fee revenues in calendar year 2011 for records provided to the public pursuant to the Sunshine Ordinance?

d) What amount of your department's annual copying fees for providing records to the public pursuant to the Sunshine Ordinance were not recouped in calendar year 2011 from fees?

4. What costs, if any, were incurred by your department in calendar year 2011 for complying with public meeting access requirements of the Sunshine Ordinance, including:

a. Noticing requirements for your policy body (Charter board or commission, advisory boards, committee, etc.)

b. Purchasing, maintaining or operating audio and/or video recording equipment for public meetings for your department's policy body board or commission

c. Other costs

5. Please detail any other costs incurred by the department for compliance with the ordinance in calendar year 2011:

Detail Costs:

6. Provide any other comments about compliance with the Sunshine Ordinance here:

Comments:

Thank you for your cooperation in filling out the above survey. Please send the completed version to Marisa Rimland Flower at marisa.rimland.flower@sfgov.org

