

Performance Audit
of
The City's Advertising Policies and Practices

Prepared for the
Board of Supervisors
of the City and County of San Francisco

by the
San Francisco Budget and Legislative Analyst

April 20, 2011

**CITY AND COUNTY OF SAN FRANCISCO
BOARD OF SUPERVISORS**

BUDGET AND LEGISLATIVE ANALYST

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April 20, 2011

Honorable David Campos,
and Members of the Board of Supervisors
City and County of San Francisco
Room 244, City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

Dear Supervisor Campos and Members of the Board of Supervisors:

The Budget and Legislative Analyst is pleased to submit this *Performance Audit of the City's Advertising Policies and Practices*. In response to a motion adopted by the Board of Supervisors on November 9, 2010 (Motion 10-0161), the Budget and Legislative Analyst conducted this performance audit, pursuant to the Board of Supervisors powers of inquiry as defined in Charter Section 16.114 and in accordance with U.S. Government Accountability Office (GAO) standards, as detailed in the Introduction to the report.

The purpose of this performance audit was to evaluate City departments' compliance with the City's advertising policies and oversight of advertising and naming rights agreements. This performance audit evaluated (a) the City's policies for advertising on City-owned property, (b) City departments' monitoring of advertising revenues, and (c) City departments' monitoring of advertising and naming rights agreements.

The San Francisco Municipal Transportation Agency (SFMTA), San Francisco International Airport, Department of Public Works, Real Estate Division, and Convention Facilities Department have agreements with private companies to advertise on City-owned property. Additionally, the Recreation and Park Department has agreements with the San Francisco 49ers to share in Candlestick Park Stadium advertising revenues. In FY 2009-10 these agreements administered by the six City departments generated \$20.9 million in advertising revenues to the City.

Our performance audit contains four findings, summarized in the Executive Summary and detailed in the audit report. Implementation of the performance audit's 15 recommendations would result in estimated increased annual advertising revenues of \$1.35 million.

Board of Supervisors
Budget and Legislative Analyst

- Under the agreement between the Department of Public Works and JC Decaux, JC Decaux is required to install and maintain automatic public toilets in exchange for the right to place commercial kiosks on City-owned property. Under this agreement, JC Decaux pays the Department of Public Works 7 percent of advertising revenues, which is significantly less than the percentage share of advertising revenues in other City departments' advertising agreements, which range from 40 to 70 percent. If DPW were to negotiate amendments to the existing agreement, including offering incentives to JC Decaux, such as an increased number of commercial kiosks, DPW could increase advertising revenues. For example, if JC Decaux were to agree to revenue sharing of at least 25 percent in exchange for an increased number of commercial kiosks, DPW would receive an estimated \$1.1 million in additional advertising revenues per year. A negotiated amendment to the existing agreement would require concurrence from JC Decaux.
- The SFMTA advertising agreement with Titan Outdoor (Titan) for advertising on Municipal Railway (Muni) buses and light rail vehicles allows Titan to also advertise in five City-owned parking garages managed by the SFMTA. However, Titan has not sold any advertising in parking garages since the beginning of the agreement with SFMTA in December 2009. While SFMTA says that the lack of parking garage advertising is due to the slow economy, the Airport has successfully sold advertising in the Airport's parking garages. The Budget and Legislative Analyst estimates that the SFMTA could receive revenues of at least \$250,000 annually from Titan through the sale of advertising in the parking garages.

Written responses from the City Administrator's Office, Department of Public Works, Recreation and Park Department, Real Estate Division, Airport, and Convention Facilities Department are attached to this performance audit report, beginning on page 56. The City Administrator's Office, Department of Public Works, Recreation and Park Department, Real Estate Division, Airport, and Convention Facilities Department agree or partially agree with the recommendations directed to each of the respective departments.

In the written response from SFMTA, which begins on page 57, the SFMTA disagreed with all seven recommendations directed to SFMTA.

The SFMTA disagrees with:

- Recommendation 2.1 to "work with Titan to initiate and maximize the sale of (a) advertisements in parking garages, and (b) digital display and new media advertisements in accordance with the terms of the agreement between SFMTA and Titan"; and

- Recommendation 2.2 to “evaluate advertising sales projections and follow-up with contractors regarding advertising sales in an effort to increase advertising revenues”.

In the written response, the SFMTA Director of Finance and Information Technology states that Titan and Clear Channel are “already working to maximize sales...In challenging economic times, it will always be difficult to sell the maximum amount of advertising”.¹

However, as noted in Section 2 of this report, the agreement between Titan and SFMTA allows Titan to sell advertising in SFMTA's parking garages, but Titan has not sold any advertising in parking garages since the beginning of the agreement in December 2009. While SFMTA says that the lack of parking garage advertising is due to the slow economy, the Airport has successfully sold advertising in the Airport's parking garages.

Further, SFMTA receives monthly advertising sales reports on transit vehicles under the agreement with Titan, but SFMTA does not have information on available advertising locations compared to actual advertising locations, and therefore, cannot verify if Titan is maximizing advertising sales. Also, while SFMTA receives monthly reports from Clear Channel on sales projections for transit shelter advertising space, the number of 1,530 available advertising spaces sold each month varies widely, as noted in Table 2.5 on page 27 of the report. SFMTA should work with Clear Channel and Titan to ensure that the contractors are making all possible efforts to fill vacant advertisement space.

The SFMTA disagrees with:

- Recommendation 4.1 to “conduct routine audits of advertising agreements for compliance with inventory, maintenance, and other requirements and maintain documentation of audits and other monitoring activities”, stating that the SFMTA intends to conduct such audits in accordance with the terms of the agreements.

The Budget and Legislative Analyst notes that SFMTA has never audited the agreement between SFMTA and Titan for transit vehicle advertising nor the agreement between SFMTA and Clear Channel for transit shelter advertising. As noted on page 52 of the report, SFMTA did not conduct an audit of the previous transit shelter agreement between SFMTA and CBS Outdoor between 2000 and 2007,

¹ Under the agreement between SFMTA and Titan, Titan is authorized to advertise on Muni buses and light rail vehicles and in parking garages under SFMTA management. Under the agreement between SFMTA and Clear Channel, Clear Channel installs and maintains transit shelters and commercial kiosks in exchange for the right to advertise on the transit shelters and commercial kiosks.

which was the termination date of the agreement. SFMTA states that under the current transit shelter agreement between SFMTA and Clear Channel, which began in 2007, SFMTA will conduct the first audit in 2012. Further, as noted on page 53 of the report, the vehicle transit advertising agreement between SFMTA and Titan, which began in December 2009, specifies that every year a certified public accounting firm may conduct a verification of advertising sales and revenues reported by Titan. SFMTA advised that this annual revenue verification is not cost-effective.

The SFMTA disagrees with:

- Recommendation 4.3 to “initiate quarterly site visits to inspect the condition of advertisements and associated infrastructure”, stating that various SFMTA staff check these items as part of their regular duties.

Also, as noted in Section 4 of this report, under the agreement between SFMTA and Clear Channel, SFMTA has not required Clear Channel to maintain the minimum number of transit shelters. Also, SFMTA staff do not perform formal or routine site checks to ensure shelters and kiosks are in good condition, as noted on page 45 of this report. Further, SFMTA should more closely check the maintenance of interior advertisements on buses and light rail vehicles and work with Titan to be sure that the advertisements are properly installed, as noted on page 47 of this report.

The SFMTA disagrees with:

- Recommendation 4.2 to “require submission of consistent annual revenue data (with respect to all advertising revenues realized by the SFMTA), which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City”. According to the written response, SFMTA is already implementing these recommendations.

However, as noted on page 53 of this report, although the SFMTA provided documentation of timely payment of advertising revenues under the SFMTA's agreements with Titan and Clear Channel, the SFMTA does not require that BART provide an itemization of advertising sales and revenues, resulting in BART payment of advertising revenues to SFMTA that are inconsistent with the revenue sharing agreement.

The SFMTA disagrees with:

- Recommendation 4.4, recommending that the Executive Director of the SFMTA direct SFMTA's contract management and SFMTA's Graffiti Prevention and Security Program to coordinate efforts to remove graffiti and stickers from the exposed wall in unsold interior advertising spaces on buses. According to the written

response, "SFMTA staff already works on reducing and removing graffiti in and on all vehicles. The SFMTA employs car cleaners whose job is to clean the inside of vehicles, including graffiti".

As noted on page 46 of the report, during site visits to Muni buses the Budget and Legislative Analyst found that many interior paper advertisements, were ripped, and many walls beneath unsold advertisement space marked by graffiti and stickers.

The SFMTA disagrees with:

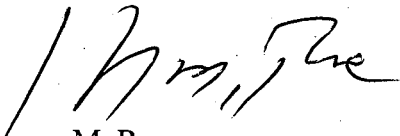
- Recommendation 4.5 to "work with BART to ensure adequate maintenance of advertising agreements in the combined Muni and BART stations". According to the written response from SFMTA, "this is BART's contract and it is BART's property—the SFMTA has no authority and thus the SFMTA has no role in oversight".

However, as noted on page 47 of the report, the Budget Analyst found graffiti, stickers, and dirt on displays in the sections of the combined BART and Muni stations that serve the Muni Metro system. Further, SFMTA is not precluded from identifying inadequate maintenance and then working with BART to ensure adequate maintenance of advertising in the combined Muni and BART stations.

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We would like to thank the finance directors, contract managers, department managers and staff of the SFMTA, Airport, Department of Public Works, Recreation and Park Department, Real Estate Division, and Convention Facilities Department for their assistance with this performance audit.

Respectfully submitted,



Harvey M. Rose
Budget and Legislative Analyst

cc: President Chiu
Supervisor Avalos
Supervisor Chu
Supervisor Cohen
Supervisor Elsbernd
Supervisor Farrell
Supervisor Kim
Supervisor Mar
Supervisor Mirkarimi
Supervisor Weiner
Clerk of the Board

Cheryl Adams
Greg Wagner
Controller
Executive Director, SFMTA
Executive Director, Airport
Director, Public Works
General Manager, Recreation and Park Department
Director, Real Estate Division
Director, Convention Facilities

Performance Audit of San Francisco’s Advertising Policies and Practices

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Executive Summary

San Francisco Advertising Policies and Practices

Several voter-approved initiatives have defined the City's advertising policies, restricting certain types of advertising.

- Proposition G, approved by San Francisco voters in March 2002, prohibits new general advertising signs, or billboards, on public and privately-owned buildings, but does not prohibit the number of general advertisements on City-owned motor vehicles or in the public right-of-way, such as sidewalks and streets.
- Proposition E, approved by San Francisco voters in November 2009, prohibits an increase in the number of general advertising signs on City-owned street furniture, including transit shelters, kiosks, benches and newspaper racks.

The Board of Supervisors have also adopted ordinances restricting alcohol and tobacco advertising on public property.

City Departments' Advertising Revenues

The San Francisco Municipal Transportation Agency (SFMTA), San Francisco International Airport, Department of Public Works, Real Estate Division, and Convention Facilities Department have agreements with private companies to advertise on City-owned property. Additionally, the Recreation and Park Department has agreements with the San Francisco 49ers to share in Candlestick Park Stadium advertising revenues. In FY 2009-10 these six City departments generated \$20.9 million in advertising revenues, as shown in Table 1.

Table 1
San Francisco Advertising Revenues
FY 2009-10

	Advertising Revenues	Percent of Total
Municipal Transportation Authority	\$13,263,256	63.5%
<u>Other City Departments</u>		
Airport	6,351,000	30.4%
Public Works	516,678	2.5%
Recreation and Park	423,056	2.0%
Real Estate	240,000	1.2%
Convention Facilities	84,598	0.4%
Subtotal, Other City Departments	7,615,332	36.5%
Total	\$20,878,588	100%

- SFMTA collects revenues from the following three advertising agreements: (a) the transit shelter agreement between SFMTA and Clear Channel Outdoor (Clear Channel), (b) the advertising agreement for vehicles and parking garages between SFMTA and Titan Outdoor (Titan), and (c) the Memorandum of Understanding between SFMTA and BART (Bay Area Rapid Transit) for revenues generated by advertising in the combined BART and Muni stations.
- The Airport has an agreement with Clear Channel to advertise in the Airport's parking garages, pedestrian tunnels and other Airport locations.
- The Recreation and Park Department has agreements with the San Francisco 49ers to share in Candlestick Park Stadium advertising revenues.
- The Department of Public Works has an agreement with JC Decaux, requiring JC Decaux to install and maintain automatic public toilets on City-owned property in exchange for the right to place public service kiosks on public property. The Department of Public Works also has an agreement with Clear Channel, requiring Clear Channel to install and maintain multi-publication news racks on City-owned property in exchange for the exclusive right to sell advertising on news racks located within a defined advertising zone.
- The Real Estate Division assumed an existing advertising agreement with CBS Outdoor to advertise on 1650 Mission Street, a City-owned building housing the Department of Building Inspection and the Planning Department, when the Real Estate Division purchased the building on May 17, 2007. This is the only billboard advertising on a City-owned building.
- The Convention Facilities Department receives revenues from the Moscone Center management company, SMG, for advertising in the Moscone Center. The Convention Facilities Department also has the right to naming rights revenue under the Bill Graham Civic Auditorium lease agreement with BGCA Management, LLC (BGCA), although BGCA is not currently generating naming rights revenue.

In the absence of a Citywide advertising policy, City departments lack consistent advertising standards in their agreements with private advertising companies

No one City department or organization is responsible for promulgating Citywide advertising guidelines for all types of advertising. As a result, City departments with advertising agreements are not necessarily aware of the City's policies. For example, the Airport proposed an amendment to its existing agreement with Clear Channel to advertise in bus shelters located at the Airport, but withdrew the proposed amendment when the Budget and Legislative Analyst questioned its compliance with voter-approved City policies.

The City needs uniform advertising guidelines to ensure that City departments are complying with City policy and requiring advertisers to meet consistent standards

- Only the SFMTA and Airport include detailed advertising standards in their agreements with private advertising companies. For example, the SFMTA specifically prohibits advertising relating to political activity, use of firearms, pornography, lawlessness or violent activity, and other prohibitions. Because DPW, the Recreation and Park Department, Convention Facilities Department, and Real Estate Division lack formal advertising standards in their respective agreements with private advertising companies, these departments cannot ensure that the private companies either understand or comply with the City's and the department's advertising policies.
- Only the Airport requires specific approval of advertisements prior to installation. The SFMTA requires prior approval of pilot programs or experimental advertisements, but not all advertisements. In contrast, DPW and the Recreation and Park Department place the responsibility of approving advertisements with the private companies and their advertising divisions. Additionally, DPW and the Recreation and Park Department advertising agreements state that the companies must remove "objectionable" advertisements though the term is not defined in either Department's advertising agreements.

The City also lacks formal guidelines for corporate partnerships, even though Departments have considered these alternative sources of funding. For example, when a pet food company donated a vehicle to the Animal Care and Control Department, the Department voluntarily painted the name of the pet food company on the donated vehicle.

Although SFMTA increased annual advertising revenues through negotiation of new advertising agreements, SFMTA does not consistently monitor advertising agreements to maximize revenues

The San Francisco Municipal Transportation Agency (SFMTA) receives advertising revenues from advertising (a) on transit shelters and kiosks, (b) on buses and light rail vehicles, (c) in City-owned parking garages under the jurisdiction of SFMTA, and (d) in combined Muni Metro and BART stations. In the past four fiscal years, total SFMTA advertising revenues increased by \$7.4 million per year, or approximately 126 percent, as shown in Table 2 below. Increases in revenues resulted largely from SFMTA's success in negotiating improved financial terms for agreements between SFMTA and Clear Channel in 2007 and between SFMTA and Titan in 2009.

Table 2
Increase in SFMTA Advertising Revenues
FY 2006-07 to FY 2009-10

	FY 2006-07	FY 2007-08	FY 2008-09	FY 2009-10	Increase/ (Decrease) FY 2009-10 Compared to FY 2006-07	Percent
Transit Shelter Advertising						
Viacom/ CBS	\$293,662	\$148,115				
Clear Channel		3,863,097	7,261,500	7,923,000		
Subtotal	293,662	4,011,212	7,261,500	7,923,000	7,629,338	2,598%
Transit Vehicle Advertising						
Viacom/ CBS	4,757,366	5,714,281	4,329,700			
Titan Outdoor				4,219,066		
Subtotal	4,757,366	5,714,281	4,329,700	4,219,066	(538,300)	(11%)
Muni Metro/BART Station Advertising						
BART	807,322	1,300,348	1,236,209	1,121,190	313,868	39%
Total	\$5,858,350	\$11,025,841	\$12,827,409	\$13,263,256	\$7,404,906	126%

Source: SFMTA

The SFMTA needs to work with Titan to initiate and maximize the sale of advertisements in City-owned parking garages

Although the advertising agreement between SFMTA and Titan provides for advertising in the five City-owned parking garages under SFMTA's management, Titan has not sold any advertising in the parking garages since the beginning of the agreement with SFMTA in December 2009. According to SFMTA, Titan has reported little interest among advertisers in purchasing advertisement space located in parking garages given the poor economic climate. However, the San Francisco Airport's advertising agreement with Clear Channel has resulted in the sale of advertisements in the elevator cores of parking garages and passageways leading to the parking garages, which suggests the feasibility of selling advertisements in the garages. The Budget and Legislative Analyst estimates that SFMTA could receive additional revenues of up to at least \$250,000 annually from the sale of advertising in the parking garages.

SFMTA does not sufficiently monitor advertising revenues

For example, BART gives SFMTA data on monthly advertising revenues in the combined Muni Metro and BART stations, but does not reconcile actual advertising revenue payments received from BART with the monthly advertising revenue data. The Budget and Legislative Analyst estimates that BART either overpaid or underpaid SFMTA in each of the past 10 fiscal years, resulting in net estimated overpayment to SFMTA of \$389,297.

Also, SFMTA receives monthly advertising sales reports from its transit vehicle agreement with Titan, but does not have information on available advertising locations

compared to actual advertising locations, and therefore, cannot verify if Titan is maximizing advertising sales.

Several City departments have advertising agreements, with total revenues of \$7.6 million in FY 2009-10 but not all City departments maximize potential advertising revenues

In FY 2009-10, City advertising revenues were \$20.9 million, of which \$13.3 million or approximately 63.5 percent were SFMTA revenues, and \$7.6 million or approximately 36.5 percent were revenues from Airport, Department of Public Works, Recreation and Park Department, Real Estate Division, and Convention Facilities Department advertising agreements (see Table 1 above).

Under the advertising agreement between DPW and JC Decaux, JC Decaux pays DPW only 7 percent of advertising revenues, which is significantly less than the 40 percent to 70 percent of advertising revenues which the City receives from its advertising agreements administered by other departments

Most City advertising agreements require the contractor to pay to the City the higher of a Minimum Annual Guarantee (MAG) or a percentage of gross revenues of at least 40 percent. For example, under the Airport's agreement with Clear Channel, the Airport receives a MAG or 70 percent of gross advertising revenues, whichever is greater.

The exception is the agreement between DPW and JC Decaux. Under the agreement, which began in 1994 and terminates in 2016, JC Decaux installs and maintains public toilets in exchange for advertising on commercial kiosks. The agreement requires JC Decaux to pay the City approximately 7 percent of gross advertising revenues plus a base payment. In 2009, JC Decaux earned advertising revenues of \$6,687,285, and paid DPW a base payment of \$48,568, plus approximately 7 percent of the earned advertising revenues of \$6,687,285, for total 2009 payment of \$516,678.

If DPW were to negotiate amendments to the existing agreement, including offering incentives to JC Decaux, such as an increased number of commercial kiosks, DPW could increase revenues to the City. For example, if JC Decaux were to agree to revenue sharing of 25 percent in exchange for JC Decaux receiving an increased number of commercial kiosks, DPW would receive an additional estimated \$1.1 million in advertising revenues per year.

The Recreation and Park Department should report regularly to the Recreation and Park Commission on the San Francisco 49ers scoreboard, signage and jumbotron revenues

The Recreation and Park Department receives scoreboard, signage, and jumbotron revenues from the San Francisco 49ers net of (a) the San Francisco 49ers operating costs, (b) commissions paid to the San Francisco 49ers of at least 15 percent, and (c) other fees. The Recreation and Park Department's revenues from the San Francisco 49ers' Candlestick Park advertising and naming rights agreements decreased by \$252,390, or

37.4 percent, from \$675,446 in 2007 to \$423,056 in 2009. Although the San Francisco 49ers' gross advertising revenues have declined, the San Francisco 49ers' operating costs for the scoreboard, signs, and jumbotron have remained high, resulting in decreased revenues to the Recreation and Park Department. Also, the Recreation and Park Department has pursued but has not been successful in discussions with the San Francisco 49ers on granting naming rights to the Candlestick Park Stadium, although voters approved naming rights in 2009.

City departments have not consistently monitored private advertising companies for compliance with their agreements

SFMTA has not ensured that Clear Channel installs and maintains the required number of transit shelters and commercial kiosks

Under the agreement between SFMTA and Clear Channel, Clear Channel is required to maintain at least 1,100 transit shelters and 39 commercial kiosks. Since implementation of the agreement in 2007 Clear Channel has maintained 1,063 transit shelters, or 37 less than required, and 34 commercial kiosks, or five less than required. Installation and maintenance of the shelters and kiosks are part of the total consideration to SFMTA under the agreement with Clear Channel. By not requiring installation and maintenance of the minimum number of shelters and kiosks required by the agreement, the SFMTA is losing the value of these shelters and kiosks. While there are no penalties associated with failing to maintain the maximum number of shelters and kiosks under the current agreement, the additional transit shelters and kiosks represent potential for additional revenues from increased advertising sales for both Clear Channel and the SFMTA.

SFMTA and DPW have not ensured that the private advertising companies adequately maintain their advertising spaces

The City's advertising agreements require that contractors maintain advertisements and related infrastructure in good repair and remove graffiti or repair damage caused by vandalism in a timely fashion. Under the SFMTA transit shelter, vehicle, and station advertising agreements, and DPW public toilet and kiosk advertising agreement, the private advertising firms have not adequately complied with the agreement requirements to remove graffiti and repair vandalism damage in a timely manner. Neither SFMTA nor DPW sufficiently monitor or document the respective contractors compliance with the maintenance agreements' requirements. The Budget and Legislative Analyst found instances of graffiti or stickers in transit stations, transit shelters and commercial kiosks, and torn or missing advertising paper cards in buses. Additionally, the Budget and Legislative Analyst found at least two public toilets on Market Street that had been out of service for at least two weeks.

Introduction

Purpose and Scope of the Performance Audit

The purpose of this performance audit is to evaluate City departments' compliance with the City's advertising policies and oversight of advertising and naming rights agreements. The scope of this performance audit includes an evaluation of the City's policies for advertising on City-owned property, City advertising revenues, and City departments' monitoring of revenues and compliance with City policies and terms of advertising and naming rights agreements.

Audit Methodology

The performance audit was conducted in accordance with Government Auditing Standards, 2007 Revision, issued by the Comptroller General of the United States, U.S. Government Accountability Office. In accordance with these requirements and standard performance audit practices, we performed the following performance audit procedures:

- Conducted interviews with San Francisco Municipal Transportation Agency (SFMTA), Airport, Department of Public Works, Recreation and Park Department, Convention Facilities Department and Real Estate Division staff responsible for administering and monitoring advertising and naming rights agreements.
- Reviewed City codes and regulations, voter adopted policies, and City department policies on advertising.
- Conducted interviews with Planning Department staff responsible for monitoring compliance with the City's limitations on general advertising.
- Conducted field work, including (a) collecting and reviewing City advertising, naming rights, and property management agreements; (b) collecting and analyzing revenue data; (c) reviewing reports on gross advertising revenue, maintenance, and complaints regarding City property with advertisements; (d) inspecting automatic public toilets, kiosks, transit shelters, transit vehicles, transit stations, and City-owned property with advertisements to evaluate compliance with agreement terms; and (e) reviewed practices of comparable jurisdictions and planning or policy organizations.
- Prepared a draft report based on analysis of the information and data collected, containing our initial findings, conclusions and recommendations, and submitted the draft report on March 8, 2011 to representatives from the SFMTA, Airport, Department of Public Works, Recreation and Park Department, Convention Facilities Department, Real Estate Division and the City Administrator.

Conducted exit conferences with the Recreation and Park Department, SFMTA, and Department of Public Works, on March 14, March 15, and March 17, 2011 respectively, and discussed report findings and recommendations applicable to other City departments with representatives from the respective departments. We revised the draft report based on exit conference discussions and new information provided by the City departments, and submitted the final draft report to the respective City departments on March 25, 2011. The final report was submitted to the Board of Supervisors on April 20, 2011.

The City’s Policies for Advertising and Corporate Sponsorship

The City’s policies for advertising on public property or corporate sponsorship, such as establishing naming rights to public stadiums or other venues, have been defined by several voter-approved propositions.

Restrictions on General Advertising on Public Property

City voters have approved propositions, restricting general advertising on City buildings, transit shelters, newspaper racks, public benches, and other public property as follows:

- In March 2002, the San Francisco voters approved Proposition G, adding Planning Code Section 611 to prohibit new general advertising signs, or billboards, within the City. Proposition G prohibited new general advertising signs that were not in place as of March 5, 2002 on public and privately-owned buildings, but did not prohibit the number of general advertisements on motor vehicles or in the public right-of-way.
- In November 2007, the San Francisco voters approved Proposition K, which was a Declaration of Policy (but not a requirement) that the City should not allow any increase in the number of general advertising signs on street furniture, including transit shelters, kiosks, benches and newspaper racks, over the number authorized by City law and through City contracts as of July 1, 2007. Proposition K also stated that the City should not allow an increase in the number of general advertising signs visible to the public on the exterior of City-owned buildings over the number in place as of December 1, 2007.
- In November 2009, the San Francisco voters approved Proposition E, adding Administrative Code Section 420-1 prohibiting an increase in the number of general advertising signs on street furniture, including transit shelters, kiosks, benches and newspaper racks, over the number authorized by City law and negotiated under the provisions of City contracts that were in effect as of January 1, 2008.

Restrictions on Advertising for Tobacco and Alcohol Products

In addition to these voter-approved limits on advertising on City property, the Board of Supervisors has approved Administrative Code provisions restricting advertising for tobacco and alcohol products on public property. Under Section 4.20 of the City’s Administrative Code:

- Advertising of cigarettes, tobacco products or alcoholic beverages is prohibited on any property owned by or under the control of the City and County of San Francisco with the exception of (a) leases, permits or agreements entered into prior to January 16, 2009 that allow such advertisements and (b) City property used for operation of a restaurant, concert or sports venue, or other facility or event where the sale, production or consumption of alcoholic beverages is permitted.
- All leases, permits, or agreements entered into, renewed, or materially amended after January 16, 2009 must specify that advertising of tobacco products or alcoholic beverages is prohibited.

Restrictions on Naming Rights for Candlestick Park Stadium

In November 2004, the voters approved Proposition H, amending the Administrative Code to name the City-owned sports stadium at Candlestick Point as “Candlestick Park” and prohibit future naming rights agreements for Candlestick Park. In July 2004, the City had entered into an agreement with the San Francisco 49ers, which has a lease to the Candlestick Park stadium through 2013, allowing the 49ers to sell naming rights. The 49ers sold naming rights to Candlestick Park to Monstercable prior to the approval of Proposition H, which remained in effect through 2007.

In November 2009, the voters approved Proposition C, which repealed Proposition H. Proposition C allowed the 49ers to enter into a new naming rights agreement for Candlestick Park, subject to Board of Supervisors approval.

City Departments’ Advertising Agreements

Several City departments have agreements with advertising companies that pre-date or are not covered by voter-approved propositions restricting general advertising on City property. The SFMTA, Airport, Department of Public Works, Recreation and Parks Department, Convention Facilities Department and Real Estate Division each oversee at least one advertising agreement. As shown in Table 1 below, City departments’ advertising agreements generated \$20.9 million in revenues in FY 2009-10. SFMTA generates the largest portion of advertising revenues Citywide.

Table 1
San Francisco Advertising Revenues
FY 2009-10

	FY 2009-10 Advertising Revenues	Percent of Total
Municipal Transportation Authority	\$13,263,256	63.5%
Airport	6,351,000	30.4%
Public Works	516,678	2.5%
Recreation and Park	423,056	2.0%
Real Estate	240,000	1.2%
Convention Facilities	84,598	0.4%
Total	\$20,878,588	100%

Source: City Departments

Revenues generated by advertising sales are driven by changes in the economic climate that impact advertisement agreement terms negotiated at the start of the agreement and advertisement sales. Proposition E, approved by the voters in November 2009, restricting new advertising on street furniture, has not had a quantifiable impact on current advertising revenues because it impacts new rather than existing advertising.

Transit Agreements

Currently SFMTA collects revenues from the following three advertising agreements: (a) the transit shelter agreement between SFMTA and Clear Channel Outdoor (Clear Channel), (b) the advertising agreement for vehicles and parking garages between SFMTA and Titan Outdoor (Titan), and (c) the station advertisement agreement between BART (Bay Area Rapid Transit) and Titan.

Agreement between SFMTA and Clear Channel for Advertising on Transit Shelters and Kiosks

The transit shelter advertising agreement between SFMTA and Clear Channel is a 15-year agreement from December 2007 to December 2022, with one five-year option to extend through December 2027, which allows Clear Channel to advertise on designated advertising spaces on up to 1,500 transit shelters and 150 kiosks in exchange for installing and maintaining the transit shelters and kiosks. Under the agreement, SFMTA received a one-time initial payment from Clear Channel of \$5 million. Additionally, SFMTA receives annual payments from Clear Channel, equal to either (a) the greater of 55 percent of advertising revenues or the Minimum Annual Guarantee (MAG), or (b) the Alternative MAG, based on a minimum revenue amount in the prior year which is specified in the agreement.

Agreement between SFMTA and Titan to Advertise on Buses and Light Rail Vehicles

Under the SFMTA agreement with Titan, which is a five-year agreement from July 2009 to June 2014, Titan has the exclusive right to place advertisements on up to 85 percent of the exterior of SFMTA fleet vehicles and in designated spaces on vehicle interiors. Titan may apply advertising wraps to all vehicles except historic streetcars and cable cars, provided wraps cover a maximum of 20 percent of vehicles and do not cover vehicle numbers, SFMTA insignia or windows. Under this agreement Titan may also sell advertisements in five City-owned parking garages. Under the agreement, Titan pays 65 percent of gross advertising revenues to SFMTA, subject to a Minimum Annual Guarantee, equal to \$4.2 million in FY 2010-11 with annual increases through FY 2013-14.

SFMTA Revenues from BART Agreement with Titan to Advertise in Combined Muni and BART Stations

SFMTA also receives revenues from the agreement between BART and Titan to advertise in the combined Muni and BART stations. Per the existing station advertising agreement, Titan has the exclusive right to sell poster advertising in BART trains and stations, including the BART platform levels, MUNI platform levels, and ticket levels of stations within the entire BART system, including those stations located outside of San Francisco. BART administers the contracting and sale of advertising. Under a Memorandum of Understanding (MOU) between BART and SFMTA, enacted in 1986 with no termination date, BART is authorized to sell advertising in the Muni areas of the combined stations, and pays to SFMTA 16.4 percent of BART's revenues from the advertising agreement, less a percentage fee for BART's administrative costs.¹

Airport

The Airport executed an agreement with Clear Channel for advertisements at the Airport on April 1, 2001. The original agreement was for a five-year term, but on October 18, 2002, the Airport and Clear Channel executed an option to extend the agreement term through March 31, 2011. Additionally, Clear Channel has three one-year options, which would extend the term through March 31, 2014. Only the first option year has been exercised; the agreement with Clear Channel currently expires on March 31, 2012. Under the original agreement, Clear Channel was allowed to place advertisements in 85 spaces in the parking garages and rental car center.

Through amendments and Airport resolutions the Airport has authorized changes to the locations, including additions and deletions of advertising space. The number of advertising spaces authorized has been as high as 325 and is currently 247 spaces. Advertisements offered at the Airport include back-lit displays, banners, wraps, and one interactive media on walls, windows at the Terminal lobbies, boarding areas, concourses,

¹ Under this formula, SFMTA actually receives 15.58 percent of BART's advertising revenues: the administrative fee of 5 percent of 16.4 percent equal to 0.82 percent ($5\% \times 16.4\% = 0.82\%$); therefore, 16.4 percent less the 0.82 percent administrative fee equals 15.58 percent.

arrivals baggage carousel levels, AirTrain stations, and above escalators. In addition, there are advertisements in the parking garage connectors and elevator cores.

Candlestick Park

The San Francisco Forty Niners (49ers) entered into a lease agreement with the City and County of San Francisco for use and occupation of the stadium located on Candlestick Park on December 3, 1969. The lease was subsequently amended and expires May, 31 2013. In addition to the lease agreement, the City and County of San Francisco has two separate agreements with the San Francisco 49ers for advertising and naming rights at the stadium.

On June 20, 2002, the San Francisco 49ers entered into an agreement with the City and County of San Francisco for the exclusive right to (a) operate and maintain scoreboards and signage for all San Francisco 49ers football games throughout the term of the agreement and (b) sell year-round advertising on or related to the scoreboards or signage for the entire term of the agreement. The agreement for stadium scoreboards and signage remains in effect throughout the term of the San Francisco 49ers' lease agreement at Candlestick Park.

Automatic Public Toilets and Public Information Kiosks

The Department of Public Works has an agreement with JC Decaux to install and maintain automatic public toilets in exchange for the right to place public service kiosks on public property. The automatic public toilets are self cleaning and may or may not require a charge for its use. The public service kiosks are free standing circular kiosks, the exterior of which is divided into three sections. Two of the sections may display commercial advertising while the third panel provides access to a public service such as public cart, a newsstand, display of a map or location information.

The existing agreement allows JC Decaux to install up to 4.5 public service kiosks per automatic public toilets installed. Currently there are 25 automatic public toilets and 113 public service kiosks, of which 44 display pillar information while 70 kiosks include newsstands.

News Racks

The City and County of San Francisco executed a 20 year term agreement with Clear Channel Outdoor in 2002 to replace single publication news racks with 1,000 multi-publication news racks that are affixed to the sidewalk, street or public right-of-way. Each news rack may contain six to ten boxes for the free distribution or sale of news publications.

According to the Department of Public Works, Clear Channel has currently installed approximately 700 news racks in the City and is required to install 100 new news racks per year for a total of 1,000 news racks in the first 10 years of the agreement. In exchange

for installing and maintaining the news racks, Clear Channel has the exclusive right to sell advertisements on news racks within the Advertising Zone, or any location in San Francisco that is East of Polk Street and North of Berry Street. Clear Channel does not sell advertising space for news racks in any other city.

1650 Mission Street Billboard and Bill Graham Auditorium

The Real Estate Division receives revenues for only one piece of outdoor advertising on City-owned property. The Real Estate Division purchased the building located at 1650 Mission Street on May 17, 2007. As part of the building purchase, the City acquired an existing advertising contract between CBS Outdoor² and the previous owner, G & I Mission, LLC, which is scheduled to expire in March 2011.

On July 1, 2010, the Mayor approved a resolution authorizing a lease of the Bill Graham Civic Auditorium to BGCA Management, LLC for a term of 20 years, through December 31, 2030, with two five-year extension options. In addition to collecting a base rent, the City may collect additional participation rent that includes naming rights revenue from naming the internal arena. No revenue from naming rights has been secured under the new lease. BGCA took over the facility on August 1, 2010, is planning an extensive renovation, and does not intend to seek a naming contract until renovation is complete. Under the current lease, BGCA has 18 months to complete the renovations.

Moscone Center

Convention Facilities receives revenues for backlit advertising panels located within the City-owned Moscone Convention Center, which is managed by SMG. The agreement between the City and SMG does not specifically address the distribution of advertising revenues. Advertising revenues is classified as other income, which SMG is required to remit, in full, to the City on a monthly basis. SMG negotiated the current advertising agreement with ExpoVision in 1995, and the agreement is now under a year-to-year basis.

Corporate Partnerships

Other than naming rights for Candlestick Park, the City does not have formal policies on naming rights or other corporate sponsorships. Several U.S. cities and counties have entered into agreements with private companies, foundations, or individuals to sponsor public facilities, programs, or projects that generate revenues for the city or county.

Naming Rights

Three City departments have agreements that provide for naming rights, although none of these agreements exercise their naming rights option.

² Formerly Viacom Outdoor, which was acquired by CBS Outdoor in January 2007.

Candlestick Park

The 2009 approval of Proposition C by San Francisco voters, which allowed the 49ers to enter into naming rights agreements for Candlestick Park, was a change in policy for the City. As discussed in Section 3 of this report, the 49ers have not moved forward with marketing naming rights. While the ballot statement did not provide specific revenue estimates for a naming rights agreement, the Controller's statement acknowledged that the previous naming rights agreement generated approximately \$700,000 annually for the City. Some California cities have naming rights agreements for stadium and other public venues, generating revenues for the City. For example, the Oracle Arena generates an estimated \$3,000,000 for the Oakland-Alameda County Coliseum Authority.

Bill Graham Civic Auditorium

The City also has a lease agreement with BGCA Management, LLC (BGCA) for the property management of the Bill Graham Civic Auditorium. The agreement requires BGCA pay the City for naming rights revenue associated with naming the internal arena, not the building itself. However, the auditorium is undergoing renovations that must be completed by February 1, 2012. BGCA does not intend to enter into a naming rights agreement until these renovations are completed.

SFMTA

Under its existing agreement with the SFMTA for advertising on vehicle and transit stations, Titan has the authority to design a corporate sponsorship/naming rights program that will maximize revenue for the SFMTA. Any naming rights agreement would need to be reflected in an amendment to the SFMTA-Titan agreement, which would be subject to approval by the SFMTA Board and the Board of Supervisors. Possible naming rights options include corporate vehicle sponsorship, particularly for cable cars and historic streetcars, and naming rights for the West Portal MUNI Station, which is the only SFMTA transit station that does not fall under BART's jurisdiction. All revenue generated in connection with naming rights would be included in the calculation of the annual revenue share under the exiting terms of the agreement.

City of San Diego Corporate Partnership Program

Since the inception of its Corporate Partnership Program in 1999, the City of San Diego has generated over \$20,000,000 in revenues that have supported City programs, equipment and facilities. The following list of partnerships have been developed and implemented under San Diego's Corporate Partnership Program:

- Official Beverage Provider: The Pepsi Bottling Group;
- Official Wireless Provider: Verizon Wireless;
- Official Credit Union: San Diego Metropolitan Credit Union;
- Official Vehicle Partner: General Motors;
- Official Vehicle Partner: McCune Chrysler-Jeep; and,

- Official Fire & Rescue Helicopter Partner: Sunroad Enterprises.

In the above cases, the corporation provided either payments or equipment for use by San Diego's City departments, such as vehicles for use by a City department in exchange for name recognition as the official provider of a service or type of equipment for the City.

City of Los Angeles Programs

The City of Los Angeles has initiated corporate partnerships through the Department of Recreation and Parks and Department of Beaches and Harbors. The City of Los Angeles Department of Recreation and Parks maintains partnerships with the Los Angeles Kings, who sponsor Downtown on Ice in Pershing Square, the Los Angeles Clippers who sponsor a City-operated youth basketball programs, and Coca-Cola, which has a park-wide vending contract. The Los Angeles Department of Beaches and Harbors (Department) has one of the longest standing corporate partnership programs in the country that has included corporate sponsorship of benches, safety signs, WaterBus Boarding Passes, special events, vending machines, and volleyball nets.

San Francisco Practices

Currently San Francisco does not maintain any corporate partnerships. According to the San Francisco Recreation and Park Department, the partnership and resource development staff has discussed the possibility of pursuing corporate partnerships opportunities but has no formal programs or agreements in place associated with sponsorship of park services or equipment.

The Animal Care and Control Department does not maintain any formal corporate partnerships, but is considering doing so. In April, 2010, Pet Food Express donated a vehicle to the Animal Care and Control Department. Without a formal request from Pet Food Express, the Animal Care and Control Department decided to show their appreciation for the donation by placing "Thank you Pet Food Express," on the vehicle. Because the recognition of a private organization is on a motor vehicle rather than public transit, it does not violate any of the City's policies on advertising.

As demonstrated in the case of San Diego, municipal marketing and corporate partnerships have the potential to generate millions of dollars in direct revenues, equipment and services. San Francisco could consider which City departments might benefit from such revenue generating relationships.

Department Accomplishments

The audit team invited the San Francisco Municipal Transportation Agency, Airport, Department of Public Works, Recreation and Park Department, Convention Facilities Department and Real Estate Division to submit written statements describing their accomplishments in relation to advertising agreements in San Francisco. Below are

responses submitted by the SFMTA, the Convention Facilities Department, and the Recreation and Park Department.

San Francisco Municipal Transportation Agency

Transit Shelter Agreement with Clear Channel Outdoor

The Agreement began on December 10, 2007 and continues for a term of 15 years, plus one five-year option to extend at the City's sole discretion. To date, the SFMTA and Clear Channel have accomplished the following

- On-time payments of the Minimum Annual Guarantee (MAG), administrative fee, marketing support and Arts Commission payments for the first three contract years, plus the one-time \$5,000,000 payment at the beginning of the Agreement;
- Agreement with MAG starting at \$6,909,000 for the first year and increasing annually and totaling at least \$306,315,000 over 20 years as compared to annual payments in the \$200,000-\$300,000 range in the previous contract with CBS Outdoor, plus new payments for administrative fee and marketing support;
- Revenue share in the event that Clear Channel exceeds certain revenue targets;
- Obtaining Arts Commission approval for transit shelter, kiosk and other designs;
- Submitting permit applications to the Department of Public Works for the replacement of the first 440 transit shelters;
- Installation of 164 replacement transit shelters and kiosks as of March 11, 2011, including 35 digital shelters and kiosks (the first such shelters in the U.S.);
- Implementation of an electronic database to track calls from the public to the City's 3-1-1 call center relating to maintenance of the transit shelters and kiosks;
- Maintenance of the transit shelters and kiosks twice per week, except for transit shelters and kiosks on Market Street which are maintained three times per week, timely responses to calls for maintenance through the City's 3-1-1 call center.

Agreement for Advertising on SFMTA Vehicles and Other Property with Titan Outdoor

The Agreement began on July 1, 2009 and continues for a term of five years. To date, the SFMTA and Titan have accomplished the following:

- On-time monthly payments of the Minimum Annual Guarantee (MAG) or amounts above the MAG; Titan paid the SFMTA \$4,219,066 in fiscal year 2009-2010, which was \$219,066 above the MAG; Titan has exceeded the MAG in six

of the seven months of FY 2010-11, which is \$670,297 over the MAG for that time period;

- Agreement with MAG starting at \$4,000,000 for the first year and increasing at the rate of five percent per year and totaling at least \$22,102,525 over five years as compared to total annual payments of \$3,285,000 in the previous contract with CBS Outdoor;
- 65% revenue share in the event that Titan exceeds certain revenue targets as compared to 60% in the old contract with CBS Outdoor;
- Agreement allows for new revenue opportunities on other SFMTA property, including garages, facilities and fare media, as well as naming rights and digital advertising; and
- SFMTA Board approval of a program for advertising in parking garages; Titan is currently working to sell this new advertising product.

Conclusion

Average revenues from advertising as a result of these agreements have increased, which has helped deliver Muni services and offset fare increases.

Convention Facilities Department

The Moscone Center's internal advertising displays have generated \$528,541 in net revenues over the past six years, all of which have been deposited directly into the City's General Fund.

Recreation and Park Department

Over the past eight years, stadium naming rights and advertising sold at Candlestick Park have generated over \$3.1 million in General Fund revenue for the Recreation and Park Department. This revenue has helped to support stadium operations and maintenance and has also subsidized recreation programming and park maintenance across the city.

1. The City's Advertising Policies

- **The Planning Code restricts the number of general advertising (such as billboards) on public and private property. The Administrative Code limits advertising on bus and transit shelters, public benches, public information kiosks, and news racks.**
- **No City entity is responsible for promulgating Citywide advertising guidelines for all types of advertising. As a result, City departments with advertising agreements are not necessarily aware of the City's policies. For example, the Airport proposed an amendment to its existing agreement with Clear Channel to advertise in bus shelters, but withdrew the proposed amendment when the Budget and Legislative Analyst questioned its compliance with City policies.**
- **Also, in the absence of uniform guidelines, City departments' procedures for implementing advertising agreements vary significantly. Only the Municipal Transportation Agency (SFMTA) and Airport include advertising standards in their agreements with private advertising companies. Because the Department of Public Works, Recreation and Park Department, Convention Facilities Department, and Real Estate Division lack formal advertising standards in their respective agreements with private advertising companies, these departments cannot ensure that the private companies either understand or comply with the City's and the department's advertising policies.**
- **City departments also lack uniform procedures to ensure that advertisements conform to City requirements. Only the Airport requires approval of advertisements prior to installation. The SFMTA requires prior approval of pilot programs or experimental advertisements, but not all advertisements. In contrast, the Department of Public Works and the Recreation and Park Department place the responsibility of approving advertisements with the private companies and their advertising divisions. Additionally, the Department of Public Works and the Recreation and Park Department advertising agreements state that the companies must remove "objectionable" advertisements though the term is not defined in either Department's advertising agreements.**
- **The City lacks formal guidelines for corporate partnerships, even though Departments have considered these alternative sources of funding. For example, the Animal Care and Control Department voluntarily painted the name of a pet food company on a donated a vehicle. In contrast, the City of San Diego has formal guidelines and policies for its citywide Corporate Partnership Program.**

The City's policies on advertising are included in voter approved propositions amending the Administrative or Planning Codes, as discussed in the Introduction; resolutions or ordinances approved by the Board of Supervisors; internal or department-specific policies; and statements attached to advertising agreements.

Voter Approved Propositions

In 2002, San Francisco voters approved Proposition G, which added Section 611 to the City's Planning Code to prohibit new general advertising within the City to the number permitted as of March 5, 2002. The limit applies to general advertising on the exterior of City-owned buildings. However, the limit on general advertising signs did not apply to advertisements on motor vehicles or in the public right-of-way.

Planning Code Section 611 lists the justifications for restricting the number of general advertising signs in the City, including:

- The increased size and number of general advertising signs in the City can distract motorists and pedestrians traveling on the public right of way creating a public safety hazard;
- General advertising signs contribute to blight and visual clutter as well as the commercialization of public spaces within the City;
- There is a proliferation of general advertising signs visible from, on, and near historically significant buildings and districts, public buildings and open spaces all over the City;
- San Francisco must protect the character and dignity of the City's distinctive appearance, topography, street patterns, open spaces, thoroughfares, skyline and architectural features for both residents and visitors; and,
- There is currently an ample supply of general advertising signs within the City.

San Francisco voters extended the limit on general advertising signs to street furniture with the passage of Proposition E on November 5, 2009. Proposition E added Administrative Code Section 420-1 which states that there shall be no increase in the number of general advertising signs on street furniture, including transit shelters, kiosks, benches and newspaper racks, over the number authorized by City law and negotiated under the provisions of City contracts that were in effect as of January 1, 2008. In addition, the limits shall apply to any successor contracts.

The Municipal Transportation Agency (SFMTA), the Airport, Department of Public Works, Recreation and Park Department, Convention Facilities Department and Real Estate Division appear to be in compliance with the advertising policies in Planning Code Section 611 and Administrative Code Section 420-1, in part because many existing

advertising agreements began before March 5, 2002 and January 1, 2008, and the maximum inventory for advertisements per these agreements have not been reached.

Prohibition of Tobacco and Alcohol Advertising

In 1992, the City added Section 4.20 to the Administrative Code to prohibit advertising of tobacco products. In accordance with Administrative Code Section 4.20 the SFMTA, Department of Public Works, and Airport agreements explicitly prohibit advertisements with tobacco products. The Real Estate Division and Convention Facilities Department do not have formal policies that prohibit advertising of tobacco products.

Administrative Code Section 4.20 was subsequently amended on January 16, 2009 to also prohibit advertising of alcohol products on property owned or under the control of the City. All leases, permits, or agreements entered into, renewed, or materially amended after January 16, 2009 must specify that advertising of tobacco products or alcoholic beverages is prohibited.¹

None of the agreements reviewed for this audit were entered into, renewed, or materially amended after January 16, 2009, and therefore, are not required to include a prohibition of alcohol advertising in its agreements. During field work, advertisements on public service kiosks installed through the Department of Public Works' agreement with JC Decaux and the advertisement on 1650 Mission Street, a City-owned building, included alcohol advertisements as shown in Figure 1.1 below. However, subsequent advertising agreements for street furniture and City-owned buildings must prohibit advertising of alcohol.

Figure 1.1
Alcohol Advertisement on City-owned Property



¹ Administrative Code Section 4.20(d) exempts City agreements or leases for restaurants, special events, sports and other venues in which the sale of alcohol is permitted.

Department Advertising Policies

Not all City departments with advertising agreements with private advertising contractors include Citywide and department-specific advertising standards in their agreements. In addition, City departments' agreements with private companies to advertise on City property do not always define prohibited advertising material, or have adequate procedures for identifying and removing advertisements that violate citywide and/or department-specific policies.

Internal Policies and Compliance

Only the SFMTA and Airport include an advertising policy or standards in their agreements with advertising companies.

SFMTA Advertising Policies

The 2007 SFMTA advertising policy states that no advertisement on SFMTA property shall:

- Be false, misleading or deceptive;
- Concern a declared political candidate or ballot measure scheduled for consideration by the voters in an upcoming election, or an initiative petition submitted to the San Francisco Department of Elections;
- Appear to promote the use of firearms;
- Be clearly defamatory;
- Be obscene or pornographic;
- Advocate imminent lawlessness or violent action;
- Promote alcoholic beverages or tobacco products; or
- Infringe on any copyright, trade or service mark, title or slogan.

Although the SFMTA advised that Clear Channel Outdoor and Titan are obligated, per the terms of their respective agreements, to comply with the SFMTA advertising policies and although SFMTA works with the contractors to resolve any complaints related to advertising policy, SFMTA does not actively monitor, document or report on compliance.

As noted in the Introduction, SFMTA receives revenues from the advertising agreement between Bay Area Rapid Transit (BART) and Titan. BART's Advertising Content Standards are included as an attachment to the BART-Titan lease and complies with City policy by prohibiting advertisements for alcohol and tobacco. According to SFMTA, Titan has been in compliance with BART's Advertising Content Standards, and a Budget and Legislative Analyst review of advertisements in BART-Municipal Railway (Muni) stations indicated that Titan is abiding by the Standards. However, SFMTA does not monitor compliance with the advertising policy through means such as site checks or self-reporting.

Airport's Advertising Standards

The Airport's advertising standards, which are included as an exhibit in its Clear Channel Outdoor agreement, contain restrictions similar to those found in SFMTA's policy. Additionally, the Airport's standards state that advertisements may not:

- Relate to an illegal activity;
- Advertise services in direct competition with the Airport's business objectives;
- Relate to gambling; or
- Contain material that is offensive to the ordinary person.

Other City Departments' Lack of Policies

In contrast, the Recreation and Park Department, Department of Public Works, Convention Facilities Department and Real Estate Division agreements with private companies do not contain formal advertising policies or specifically defined standards. For example, the Department of Public Works agreement with Clear Channel to maintain and advertise on news racks requires the contractor to use "good judgment" but doesn't specifically identify impermissible advertising as in the SFMTA and Airport agreements. Without defined standards in the advertising agreements, the departments' cannot ensure that the advertisers fully understand and comply with City and department policies.

A citywide policy or department specific policies on advertising, similar to those of SFMTA and the Airport, should be developed for all advertising agreements with the City. In addition, the policies should include the restrictions imposed on advertising, such as the prohibition of alcohol and tobacco advertising and the limit on general advertisements in the City. Such a citywide policy or department specific policies would promote consistency and improve enforcement of the City's Administrative and Planning Code.

City Departments' Oversight of Advertising Agreements

The Airport is the only department that requires approval of advertisements prior to the contractor's installation of the advertisement on City property. The SFMTA requires *pilot programs or experimental advertisements* to be submitted and approved by the SFMTA Executive Director/Chief Executive Officer at least sixty (60) days prior to implementation.

The advertising agreements of the Department of Public Works and the Recreation and Park Department place the responsibility of approving advertisements with the advertising contractors, which should use their "best professional" or "good" judgment in selecting advertisements.

SFMTA's internal policy states that the advertising contractor must promptly remove advertisements in violation of its policy upon written demand of the SFMTA Executive Director/Chief Executive Officer. While the Department of Public Works and Recreation

and Park Department advertising agreements state that the contractors must remove advertisements that the Director or General Manager find “objectionable;” the term is not defined in either the Department of Public Works or Recreation and Park advertising agreements.

Development of a citywide or department-specific policy on advertising should define what types of advertisements are objectionable. Further, the City departments should develop policies and procedures for implementing and enforcing such policies on advertising. Departments with fewer advertising spaces, relative to the Airport, should consider requiring approval of all advertising materials prior to their installation and make corresponding amendments to their advertising agreements, if necessary. Departments with relatively more advertising spaces dispersed throughout the City, such as the Department of Public Works, should consider alternative policies and procedures to improve enforcement of citywide and department-specific policies on advertising, including defining “objectionable” in their policies and conducting site visits to ensure compliance.

Role of Planning Department

Enforcement of Planning Code Section 611 is the responsibility of the Planning Department. For the past two years, the Planning Department has been submitting annual reports to the Planning Commission and Board of Supervisors regarding the number of general advertisements in the City; the number of advertisements that are not in compliance with Planning Code Section 611, or lack required permits as of March 5, 2002; and the number of advertisements that were brought into compliance.

The Planning Department has permit authority over any outdoor general advertisements that are not in the public right-of-way, including general advertisements on the exterior of City-owned buildings, such as the advertisement on 1650 Mission Street. The Planning Department reports that all advertisements on City-owned buildings are currently in compliance with Planning Code Section 611. As of the writing of this report, the Planning Department could not confirm that exact number of advertisements on the exterior of City-owned building but estimates that it is less than five. According to the Planning Department, transit shelters, news racks, and public toilets and kiosks in the public right-of-way are not part of their jurisdiction for enforcement.

City Departments' Lack of Awareness and Clarity of Citywide Policies

Real Estate Division Advertising Agreement

The Real Estate Division's existing advertising agreement for a billboard on 1650 Mission Street will end in March 2011, after both options to extend the agreement have been exhausted. The Real Estate Division initially reported that there were no plans to issue a solicitation for a new advertising agreement because the Division understood that

the City was not permitted to enter into a new outdoor advertising agreement, even for space that is currently covered under an existing agreement. However, with the facilitation of the Budget and Legislative Analyst, the Planning Department clarified that the Real Estate Division could enter into successor agreements for advertisements on City-owned buildings with advertisements prior to March 2, 2005.

Airport's Advertising Agreement with Clear Channel

In the summer of 2010, the Airport requested approval from the Board of Supervisors for a third amendment to its advertisement agreement with Clear Channel Outdoor (Clear Channel). The third amendment would have increased the number of advertisements at the Airport, including advertisements on the exterior of up to 87 jet bridges² and on 13 new bus shelters. The Budget and Legislative Analyst questioned the legality of the third amendment relative to San Francisco voter approval of propositions limiting general advertisements, which was never resolved. The Airport is no longer negotiating or seeking approval for a third amendment with Clear Channel.

Need for Guidelines on Corporate Partnerships

As previously mentioned in the Introduction, the City does not maintain corporate partnerships, although the Department of Recreation and Parks has considered it and the Animal Care and Control Department has already voluntarily placed the name of a company on a donated vehicle. The City of San Diego, which has had a Corporate Partnership Program since 1999 developed guiding principles and policies, which included the process for establishing such relationships as well as industries and products not eligible for partnerships with the City of San Diego. San Francisco should develop guidelines for corporate partnerships if departments are considering them as an alternative funding source for services, programs, equipment and facilities.

Need for Centralized Coordination of Citywide Advertising Policy

No City entity is responsible for ensuring that all advertising on City property conforms to the Administrative Code and that City departments comply with Administrative Code limitations on the advertisements on street furniture, including transit shelters, kiosks, and news racks. The City Administrator, who is assigned by the Charter to oversee administrative services within the executive branch of City government; and who, according to the City's website, has overall responsibility for the management and implementation of policies, rules and regulations promulgated by the Mayor, the Board of Supervisors and the voters, is best placed to coordinate Citywide policies on advertising. This would include incorporating various municipal codes requirements into one policy document; developing guidelines for corporate sponsorships; and ensuring that City

² Jet bridges are movable corridors that connect the Airport terminal to the airplanes to allow passengers to directly board and disembark from airplanes.

departments adopt department policies and enter into advertising agreements that conform to Citywide advertising policies.

Conclusion

San Francisco voters have approved propositions that limit the number of advertisements on City-owned buildings and street furniture, including transit shelters, kiosks, benches and newspaper racks. The San Francisco Board of Supervisors have also prohibited tobacco and alcohol advertising on City-owned property, except as allowed by law and within agreements or leases in place prior to January 16, 2009. While the City departments with advertising agreements appear to be in compliance with these citywide advertising policies, most City departments with advertising agreements do not have an internal policy or standards for advertising. Additionally, City departments lack sufficient internal controls for monitoring contractors and their compliance with department-specific and/or citywide advertising policies. Further, some City departments are not aware of or do not understand the impact of Administrative and Planning Code sections on their advertising agreements.

Recommendation

The City Administrator should:

- 1.1 Assume responsibility and work with City departments for coordinating and directing Citywide policy on advertising.
- 1.2 Develop guidelines for corporate sponsorships for City services, programs, equipment, and facilities.
- 1.3 Require that all City departments with advertising agreements develop a department-specific policy on advertising, which includes the prohibition of tobacco and alcohol advertising and City limit on general advertising.
- 1.4 Require those City departments without advertising policies in place to amend their advertising agreements, as necessary, to reflect citywide policies on advertising.

Costs and Benefits

Implementation of all recommendations should be accomplished using existing resources. Developing a citywide policy and/or department-specific policies on advertising that include and highlight the City's limits on new general advertising and prohibition of alcohol and tobacco advertising will help improve overall compliance with the City's Administrative and Planning Code.

2. The Municipal Transportation Agency's Advertising Revenues

- The San Francisco Municipal Transportation Agency (SFMTA) receives advertising revenues from advertising on transit shelters and kiosks, on buses and light rail vehicles, in parking garages, and in combined Muni Metro and BART stations. In the past four fiscal years, total SFMTA advertising revenues increased by \$7.4 million, or approximately 126 percent, from \$5.9 million in FY 2006-07 to \$13.3 million in FY 2009-10. Increases in revenues resulted largely from SFMTA's success in negotiating improved financial terms for agreements with Clear Channel in 2007 and Titan in 2009. However, SFMTA does not closely monitor unsold advertisement space or verify each contractor's advertising sales revenues to ensure maximum revenue payments.
- SFMTA needs to work with Clear Channel and Titan to ensure that the contractors are making all possible efforts to sell vacant advertising spaces. For example, in three separate months in FY 2009-10, Clear Channel sold less than 50 percent of the available transit shelter advertising spaces. The agreement between Titan and SFMTA allows Titan to sell advertising in SFMTA's parking garages, but Titan has not sold any advertising in parking garages since the beginning of the agreement in December 2009. While SFMTA says that the lack of parking garage advertising is due to the slow economy, the Airport has successfully sold advertising in the Airport's parking garages. SFMTA could receive revenues of up to at least \$250,000 annually from the sale of advertising in the parking garages.
- SFMTA does not sufficiently monitor advertising revenues. SFMTA receives advertising revenue information from BART for the advertising agreement between BART and Titan but does not reconcile these revenues to the revenue share paid by BART to the SFMTA. The Budget and Legislative Analyst estimates that BART either overpaid or underpaid SFMTA in each of the past 10 fiscal years, with net overpayment to SFMTA of approximately \$390,000. Also, while SFMTA receives monthly advertising sales reports from its transit vehicle agreement with Titan, SFMTA does not have information on available advertising locations compared to actual advertising locations, and therefore, cannot verify if Titan is maximizing advertising sales.

Revenues from Three SFMTA Advertising Agreements

SFMTA receives revenues from three advertising agreements, as discussed in the Introduction to this report:

- The agreement between SFMTA and Clear Channel Outdoor (Clear Channel) to advertise on transit shelters and kiosks;
- The advertising agreement between SFMTA and Titan Outdoor (Titan) to advertise on buses and light rail vehicles and in parking garages; and
- The advertising agreement between BART and Titan to advertise in combined BART and Muni Metro stations.

Revenues from these advertising agreements are appropriated in SFMTA's operating budget, with the exception of revenue payments to the Port for bus shelters located on Port property under the agreement between SFMTA and Clear Channel.¹

Table 2.1 shows the revenues to SFMTA from current and previous (1) transit shelter agreements, (2) vehicle agreements, and (3) BART/Muni station agreements from FY 2000-01 through FY 2009-10.

Table 2.1
SFMTA Transit Shelter, Vehicle and Station Advertising Revenue
FY 2000-01 through FY 2009-10

Fiscal Year	Transit Shelter		Transit Vehicle		Transit Station	Total
	Viacom/CBS Outdoor	Clear Channel Outdoor	Viacom/CBS Outdoor	Titan Outdoor	Payments from BART	
2000-01	\$213,159		\$7,930,263		\$999,161	\$9,142,583
2001-02	254,389		8,429,600		667,754	9,351,743
2002-03	255,776		9,783,600		639,962	10,679,338
2003-04	258,296		11,154,000		451,236	11,863,532
2004-05 ¹	257,470		3,483,371		479,085	4,219,926
2005-06	306,750		3,830,379		627,454	4,764,583
2006-07	293,662		4,757,366		807,322	5,858,350
2007-08 ²	148,115	3,863,097	5,714,281		1,300,348	11,025,841
2008-09		7,261,500	4,329,700		1,236,209	12,827,409
2009-10 ³		7,923,000		4,219,066	1,121,190	13,263,256
TOTAL	\$1,987,617	\$19,047,597	\$59,412,560	\$4,219,066	\$8,329,721	\$92,996,561

Source: SFMTA

¹ New vehicle advertising agreement with CBS Outdoor began on 7/1/04.

² New transit shelter advertising agreement with Clear Channel Outdoor began on 12/10/07. Revenues do not reflect maintenance cost deductions, annual administrative and marketing payments and payments to the Arts Commission.

³ New vehicle and other property advertising agreement with Titan Outdoor began on 7/1/09.

Specific payment terms and revenue trends associated with each of the three transit advertising agreements are detailed below.

¹ Since the inception of the current transit advertising agreement in 2009, SFMTA has remitted 2.35 percent, or a total of \$453,768, of the advertising revenues paid by Clear Channel to the Port because 2.35 percent of transit shelters are located on the Port's property.

Transit Shelter Agreements

The payment terms under the current transit shelter advertising agreement with Clear Channel, which began on December 10, 2007, are more favorable to the SFMTA than the prior transit shelter advertising agreement with CBS Outdoor/ Viacom. Under the current agreement, Clear Channel is required to pay to SFMTA either a Minimum Annual Guarantee (MAG) amount or alternate MAG amount, depending on the gross revenues in the prior year and specified in the agreement. Under the previous transit shelter agreement with CBS Outdoor, CBS Outdoor paid SFMTA a predetermined annual amount listed in the agreement, regardless of the annual revenues. Table 2.1 above shows the increase in transit shelter revenues under the current agreement between SFMTA and Clear Channel compared to the revenues under the prior agreement between SFMTA and CBS Outdoor.

As shown in Table 2.1 above, the current agreement has resulted in significantly higher revenues. The terms of the current agreement benefited from a good economic climate in Fall of 2007, when the agreement was negotiated. Because of the subsequent decline of the economy, Clear Channel has witnessed lower advertising sales than expected and has consistently paid the MAG amount. As shown in Table 2.2 below, under the agreement between Clear Channel and SFMTA, Clear Channel pays rents and fees to SFMTA each year:

- (1) An amount equal to the greater of the MAG or 55 percent of revenues. Under the agreement, Clear Channel pays a higher Alternative MAG if minimum revenues in the prior year equal an amount specified in the agreement.
- (2) Administrative fees of at least \$500,000, escalated each year by the Consumer Price Index (CPI), and marketing fees of at least \$200,000 annually, escalated each year by the CPI, less maintenance costs.
- (3) \$265,000 to the Arts Commission, escalated each year by the CPI.

Table 2.2
Annual Payments to the SFMTA and Arts Commission Under the Transit Shelter Advertising Agreement with Clear Channel

	Dec 10, 2007- June 30, 2008	FY 2008-09	FY 2009-10
Clear Channel's Net Annual Revenues	\$5,066,083	\$6,915,373	\$9,125,731
SFMTA's Revenue Share	<u>x 55%</u>	<u>x 55%</u>	<u>x 55%</u>
Subtotal, SFMTA's Revenue Share	2,786,346	3,803,455	5,019,152
MAG (Exceeds Revenue Share)	3,863,097	7,261,500	7,923,000
Maintenance Costs	(183,895)	(330,478)	(330,480)
Administrative and Marketing Fee	<u>390,833</u>	<u>720,211</u>	<u>725,984</u>
Total Annual Payment to SFMTA	4,070,035	7,651,233	8,318,504
Payment to Arts Commission	<u>147,958</u>	<u>272,651</u>	<u>274,837</u>
Total SFMTA and Arts Commission	\$4,217,993	\$7,923,885	\$8,593,341

Source: SFMTA

Advertising Agreements for Transit Vehicles and Parking Garages

The current agreement between SFMTA and Titan for advertising on SFMTA transit vehicles is for a five-year term from 2009 through 2014. With the exception of advertisements in five City-owned parking garages unique to the current agreement, the advertisement space and maintenance terms in the current agreement is comparable to the prior agreements between SFMTA and Viacom/CBS Outdoor (CBS Outdoor).

Table 2.3
Transit Vehicle Advertising Agreement Revenues and Payments
FY 2000-01 through 2009-10

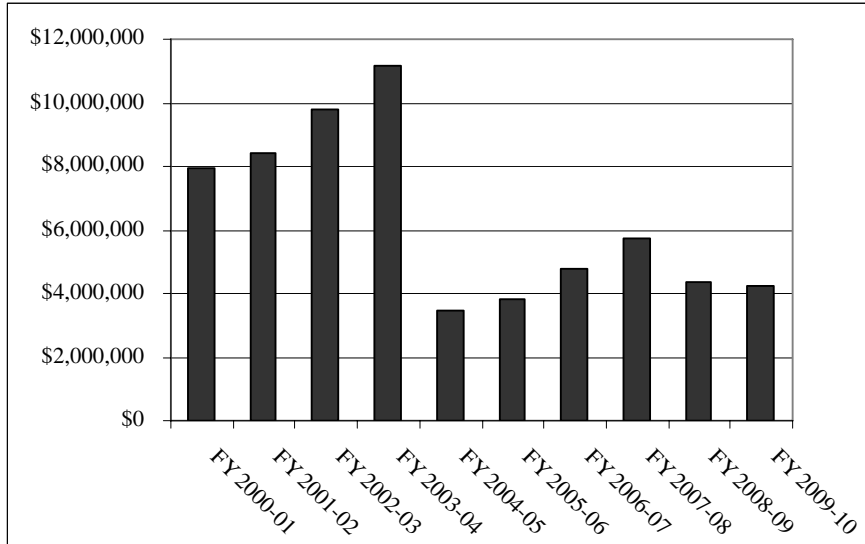
	Year	Net Annual Revenues	Revenue Share to SFMTA ¹	MAG	Annual Payment to SFMTA ²
CBS Outdoor 5-Year Agreement through June 2004	FY 2000-01	\$9,125,069	\$5,931,295	\$7,395,000	\$7,930,263
	FY 2001-02	4,239,439	2,755,636	8,195,000	8,429,600
	FY 2002-03	5,067,367	3,293,789	9,495,000	9,783,600
	FY 2003-04	5,191,458	3,374,447	10,895,000	11,154,000
Subtotal		23,623,333	15,355,167	35,980,000	37,297,463
CBS Outdoor 5-Year Agreement through June 2009	FY 2004-05	5,323,202	3,170,819	2,749,000	3,483,371
	FY 2005-06	5,931,739	3,559,043	2,749,000	3,830,379
	FY 2006-07	7,841,304	4,704,783	2,749,000	4,757,366
	FY 2007-08	9,463,353	5,678,012	2,749,000	5,714,281
	FY 2008-09	7,110,896	4,266,537	2,749,000	4,329,700
Subtotal		35,670,494	21,379,194	13,745,000	22,115,097
Titan Outdoor 5-Year Agreement through June 2014	FY 2009-10	5,930,443	3,854,788	4,000,002	4,219,066
10 year total		\$65,224,270	\$40,589,149	\$53,725,002	\$63,631,626

Source: SFMTA

¹ Revenue share was 65% under CBS Outdoor agreement ending in June 2004, 60% under CBS Outdoor agreement ending in June 2009, and is 65% under the current Titan agreement ending in June 2014.

² Annual Payment to the SFMTA includes payments for digital station displays, adjustments, and employee incentive payments ranging from annual amounts of \$36,269 to \$535,263.

Figure 2.1
Transit Vehicle Advertising Agreement Payments to SFMTA
FY 2000-01 through 2009-10



Source: SFMTA

Parking Garages

The transit vehicle agreement permits Titan to place advertisements on the pillars and walls of the five parking garages in downtown San Francisco². Under the agreement, Titan must present a parking garage advertising plan to SFMTA 90 days prior to implementing the plan, which Titan presented to the August 3, 2010 Board of Directors meeting for the five parking garages administered by the SFMTA, intending to implement the plan in approximately November 2010. Additionally, SFMTA hopes to obtain permission from the Recreation and Park Commission to advertise in the Union Square Garage, administered by the Recreation and Park Department.

However, as of February 2011, or more than one year after the commencement of the current advertising agreement in December 2009, Titan had not been able to sell any advertising in the parking garages. According to the SFMTA, Titan has reported little interest among advertisers in purchasing advertisement space located in parking garages given the poor economic climate. Prior to the start of the current Titan contract, the parking garage operators for the five City-owned parking garages unsuccessfully attempted to sell advertising space directly to local businesses. Under the current agreement with SFMTA, Titan has developed marketing materials to solicit advertising in the parking garages, but parking garage advertising is secondary to Titan's advertising on transit vehicles.

² These five parking garages are located at 123 O'Farrell Street, 833 Mission Street, 255 Third Street, 444 Sutter Street, and 333 Post Street.

The San Francisco Airport's advertising agreement with Clear Channel has resulted in the sale of advertisement in the elevator cores of parking garages and passageways leading to the parking garages, which suggests the feasibility of selling advertisements in the garages. The sale of parking garage advertisements would have positive implications on the revenue share. Given that more than six months have passed since the approval of the parking garage plan, SFMTA should continue to engage in discussions with Titan about how to initiate and maximize the sale of advertisements in parking garages.

Digital Display Revenue

Titan may install digital advertisements on transit vehicles and in parking garages, as long as SFMTA and Titan coordinate on the type, schedule and term of digital advertisements, and SFMTA authorizes experimental projects. No digital displays are currently in place on vehicles or inside parking garages, because of the poor economy and high costs involved with introducing digital advertising according to SFMTA. If Titan were to install digital displays, in addition to the existing revenue share agreement, Titan would receive 75 percent of net revenues and remit the remaining 25 percent of to SFMTA until Titan has recovered infrastructure costs for the digital displays, at which point the revenue allocation would be evenly divided between Titan and SFMTA. Because the sale of digital displays are a source of additional revenues, SFMTA should enter into discussions with Titan about how to initiate the sale of digital display and new media advertisements.

Station Advertising Agreements between BART and SFMTA

The Memorandum of Understanding between SFMTA and BART, which began in July 1986 and has no end date, specifies that BART is responsible for poster advertisements in all BART and Muni stations³ and on BART trains and must pay SFMTA 16.4 percent less a five percent administrative fee, or a total of 15.58 percent, in advertising revenues.

The current station advertisement agreement between BART and Titan began in 2008, and the payment requirements are as follows:

- \$100,000 annually for the BART Management Fee with a 3 percent annual increase;
- \$100,000 for BART's Station Beautification program with a 3 percent annual increase. These funds enable District to offset the impacts of advertising on station aesthetics including furniture, art, and other station beautification projects; and
- The greater of the annual MAG or 65 percent of net revenues.

The previous poster advertising agreement between BART and Viacom, from 2002 through 2008, required that Viacom pay BART the higher of a total of \$19,500,000 in monthly payments or 65 percent of net revenues, over the duration of the agreement. Based on a comparison of the current MAG and payments associated with the former

³ With the exception of West Portal Station, which is owned by the City.

agreement, the current agreement has favorable revenue terms for BART and, in turn, SFMTA.

Although SFMTA Finance staff receives monthly payments from BART records each payment in FAMIS, SFMTA does not compare net revenues from Titan to BART to SFMTA's revenue share. BART provided information to the Budget and Legislative Analyst on net revenues from Titan to BART. However, BART did not provide information regarding payments to the SFMTA.

Based on a comparison of the revenue share amount (15.58%) to the SFMTA payment amount, SFMTA may not be receiving the correct amount of revenue payment information from BART, as shown in Table 2.4. SFMTA should collect net revenue data from BART to ensure correct and accurate revenue share payments.

Table 2.4
Transit Station Revenue and Payments to SFMTA
FY 2001-02 through FY 2009-10

Fiscal Year	BART Revenues Under Advertising Agreement ¹	Expected Payment to SFMTA of 15.58 % of BART Revenues	Actual Payment to SFMTA ²	Payment to SFMTA less 15.58% of BART Revenues
FY 2001-02	\$3,490,737	\$543,857	\$667,754	\$123,897
FY 2002-03	3,346,395	521,368	639,962	118,594
FY 2003-04	3,050,000	475,190	451,236	(23,954)
FY 2004-05	3,747,913	583,925	479,085	(104,840)
FY 2005-06	4,633,289	721,866	627,454	(94,412)
FY 2006-07	6,547,569	1,020,111	807,322	(212,789)
FY 2007-08	7,198,933	1,121,594	1,300,348	178,754
FY 2008-09	5,403,308	841,835	1,236,209	394,374
FY 2009-10	7,134,249	1,111,516	\$1,121,190	9,674
Total	\$44,552,393	\$6,941,263	\$7,330,560	\$389,297

Source: BART and SFMTA

¹ Revenue data provided by BART

² Payment data provided by SFMTA

Unsold Advertising Space

The transit shelter and transit vehicle agreements both require contractors to submit advertising sales data to SFMTA.

Unsold Advertising Space under the Clear Channel Agreement

By the first day of each month, Clear Channel is required to provide a projection of all unsold advertising space on shelters and kiosks anticipated over the next 60 days.

SFMTA provided documentation showing advertising space sales projections for FY 2009-10, shown in Table 2.5.

Table 2.5
Total Available, Sold, and Unsold Transit Shelter Advertising Space
Under the Agreement between SFMTA and Clear Channel
FY 2009-10

Month	Total Advertising Space	Total Sold Advertising Space	Total Unsold Advertising Space	Percent Unsold
July 2009	1,530	416	1,114	72.8%
August 2009	1,530	874	656	42.9%
September 2009	1,530	576	954	62.4%
October 2009	1,530	827	703	45.9%
November 2009	1,530	1,485	45	2.9%
December 2009	1,530	1,252	278	18.2%
January 2010	1,530	360	1,170	76.5%
February 2010	1,530	1,029	501	32.7%
March 2010	1,530	1,351	179	11.7%
April 2010	1,530	1,012	518	33.9%
May 2010	1,530	1,498	32	2.1%
June 2010	1,530	1,498	32	2.1%
Monthly Average	1,530	1,015	515	33.7%

Source: SFMTA

As shown in Table 2.5, the number of advertising spaces sold each month varies widely, with the highest sales projections in May (1,498 spaces) June (1,498 spaces) and November (1,485 spaces) and the lowest sales projections in January (360 spaces) and September (576 spaces). Unsold spaces represent not only potential revenue loss for Clear Channel and, in turn, SFMTA, but may also encourage vandalism. SFMTA should work with Clear Channel to ensure that the contractor is making all possible efforts to fill vacant advertisement space.

Unsold Advertising Space Under the Titan Agreement

Under the current transit vehicle agreement, Titan is required to provide monthly sales activity reports to SFMTA by the 30th day of each month that list (a) the vehicle location of the advertisement, (b) the media type (e.g. interior or exterior advertisement and size), (c) Division yard location where the bus is parked, and (c) advertisement campaign.

While Titan provides this monthly information to SFMTA, the monthly sales activity report does not compare sales in relation to available advertising space. SFMTA should evaluate advertising sales to ensure Titan is making all possible efforts to fill vacant advertisement space.

Titan is also required to submit an annual Summary Report detailing total advertisement sales, revenues, expenditures, documentation of gross and net advertising revenues, total required payments for the previous fiscal year, and the number of advertising contracts by type of advertising space to SFMTA. The first Summary Report for FY 2009-10 was not available for review because it is not due until March 1, 2011.

Naming Rights for SFMTA Vehicles and Transit Stations

The City and County of San Francisco does not have established policies on naming rights, except for the Administrative Code provision authorizing the 49ers to sell naming rights to Candlestick Park (See Section 3). However, several agreements between private advertising companies and City departments, as discussed below and in Section 3, provide for naming rights in certain circumstances.

Under its existing agreement with the SFMTA for advertising on vehicle and transit stations, Titan has the authority to design a corporate sponsorship/naming rights program that will maximize revenue for the SFMTA. Any naming rights agreement would need to be reflected in an amendment to the SFMTA-Titan agreement, which would be subject to approval by the Board of Supervisors. All revenue generated in connection with the program would be included in gross advertising revenues and in the calculation of the annual revenue share under the exiting terms of the SFMTA-Titan agreement.

Possible corporate sponsorship and/or naming rights options include corporate vehicle sponsorship, particularly for cable cars and historic streetcars, and naming rights for the West Portal Muni Station, which is the only SFMTA transit station that does not fall under BART's jurisdiction. Advertising at all other SFMTA transit stations are part of the BART advertising agreement with Titan. SFMTA advised that while its staff has discussed the possibility of corporate sponsorships and/or naming rights with Titan, given the current weak economy, naming rights do not appear to promise potential for revenue for the SFMTA.

Because naming rights represent potential additional revenues to the City, SFMTA should consider developing ideas for the sale of naming rights, such as for the West Portal Station, and discuss naming rights possibilities with Titan for when economic conditions improve. However, the Board of Supervisors would need to approve award of any naming rights.

Conclusion

SFMTA's advertising revenues have increased since 2007 due to the increased revenue share in the new agreements with Clear Channel (2007) and Titan (2009). SFMTA needs to work with Clear Channel and Titan to ensure that the contractors are making all possible efforts to sell vacant advertising spaces. SFMTA also needs to more consistently monitor advertising agreements to ensure that available advertising space is sold and that revenue payments are accurate.

Recommendations

The Executive Director of the SFMTA should:

- 2.1 Work with Titan to initiate and maximize the sale of (a) advertisements in parking garages, and (b) digital display and new media advertisements in accordance with the terms of the agreement between SFMTA and Titan.
- 2.2 Evaluate advertising sales projections and follow-up with contractors regarding advertising sales in an effort to increase advertising revenues.

Cost and Benefits

The Budget and Legislative Analyst estimates that SFMTA would receive additional advertising revenues of up to at least \$250,000 per year if Titan were to sell advertising in the five parking garages administered by SFMTA at rates comparable to advertising rates for transit shelters.

3. Non-Transit Advertising Revenues

- In FY 2009-10, City advertising revenues were \$20.9 million, of which \$13.3 million or 63.4 percent were SFMTA revenues, and \$7.6 million or 36.6 percent were Airport, Department of Public Works, Recreation and Park Department, Real Estate Division, and Convention Facilities Department revenues.
- Most City advertisement agreements require the contractor to pay to the City the higher of a Minimum Annual Guarantee (MAG) or a revenue share of at least 40 percent. For example, under the Airport's agreement with Clear Channel, the Airport receives a MAG or 70 percent of advertising revenues, whichever is greater. Because gross advertising revenues in FY 2009-10 declined due to the economic recession, Clear Channel paid the Airport the MAG of \$6.3 million rather than the lesser amount of \$5.3 million, equal to 70 percent of \$7.5 million in revenues.
- The exception is the agreement between the Department of Public Works and JC Decaux, in which JC Decaux installs and maintains public toilets in exchange for advertising on commercial kiosks, and pays the City only 7 percent of revenues. Additionally, JC Decaux contributes to the Arts Commission based on the number of public toilets and commercial kiosks maintained. Because JC Decaux did not achieve the threshold number of toilets and commercial kiosks within 5 1/2 years of the agreement start date, as specified by the agreement, JC Decaux does not pay the full contribution of \$17,200 to the Arts Commission. If the Department of Public Works were to negotiate amendments to the existing agreement, including offering incentives to JC Decaux such as an increased number of commercial kiosks and extended timelines to install public toilets, the Department of Public Works could increase revenues to the City and contributions to the Arts Commission. For example, if JC Decaux were to agree to revenue sharing of 25 percent in exchange for an increased number of commercial kiosks, the Department of Public Works would receive an additional \$1.1 million in advertising revenues per year.
- The Recreation and Park Department should report regularly to the Recreation and Park Commission on San Francisco 49er scoreboard, signage and jumbotron revenues. Although the 49ers' advertising revenues have declined, their operating costs have remained high, resulting in decreased revenues to the Department. Also, the Recreation and Park Department has pursued but has not been successful in discussions with the 49ers on granting naming rights to the Candlestick Park Stadium, although voters approved naming rights in 2009.

In FY 2009-10, the Airport, Department of Public Works, Recreation and Park Department, Real Estate Division, and Convention Facilities received advertising revenues of \$7.6 million, or 36.6 percent of total Citywide advertising revenues of \$20.9 million.

Airport Advertising Agreement

Under the existing advertising agreement between Clear Channel and the Airport, Clear Channel pays the Airport the greater of the Minimum Annual Guarantee (MAG) or 70 percent of net advertising revenues. 85 percent of advertising revenues received by the Airport are allocated to the Airport's operating budget and 15 percent is transferred to the City's General Fund. Therefore, of the Airport's \$6,351,000 in advertising revenues in 2009-10, \$952,650 was allocated to the City's General Fund. Table 3.1 below summarizes the Airports advertising revenue in the first nine years of its contract.

Table 3.1
Airport Annual Advertising Revenues
2001 through 2010

Year	Net Annual Advertising Revenues	70 Percent Revenue Share to Airport	MAG	Annual Payment to the Airport
April 2001 - March 2002 ¹	\$1,255,206	\$878,645	\$4,050,000	\$2,369,262
April 2002 - March 2003	2,705,591	1,893,914	4,100,000	4,100,000
April 2003 - March 2004	3,758,399	2,630,879	4,300,000	4,300,000
April 2004 - March 2005	6,427,376	4,499,163	4,800,000	4,800,000
April 2005 - March 2006	8,137,768	5,696,437	5,700,000	5,700,000
April 2006 - March 2007	9,751,660	6,826,162	5,850,000	6,826,162
April 2007 - March 2008	9,250,167	6,475,117	6,009,000	6,475,117
April 2008 - March 2009	9,055,968	6,339,178	6,176,000	6,339,178
April 2009 - March 2010	7,577,241	5,304,069	6,351,000	6,351,000
Total	\$57,919,316	\$40,543,564	\$47,336,000	\$48,941,457

Source: Airport

¹ The Board of Supervisors approved Amendments 1 and 2, which retroactively suspended the MAG requirement from September 11, 2001 through March 31, 2002 as part of the Concession Support Program. The program suspended the MAG requirements for 43 Airport concession lessees that experienced declines in businesses due to the reduced levels of air travel since the events of September 11, 2001.

As noted in Table 3.1, beginning in April 2009, Clear Channel's advertising revenues decreased, resulting in the Airport's 70 percent revenue share being less than the MAG. The Airport attributes the decline in revenues to the slow economy but expects revenues to increase in the current year.

Recreation and Park – Candlestick Advertising Agreements

The Recreation and Park Department’s advertising revenues come from agreements with the San Francisco 49ers for scoreboard and signage advertising, including the jumbotron. According to the scoreboard advertising agreement, all revenue and income paid to the San Francisco 49ers from the sale of advertising on or related to the stadium scoreboards and signage must be used to pay for the following, in order of priority: (a) operating costs¹ for the scoreboards and signage; (b) a percentage commission to the San Francisco 49ers; (c) an advertising use fee; and (d) capital repairs for the stadium.

The percentage commission for the San Francisco 49ers is 15 percent for gross scoreboard and signage advertising revenues of up to \$1,500,000, 18 percent for revenues of \$1,500,000 to \$2,000,000, and 20 percent for revenues over \$2,000,000. The maximum advertising use fee to be paid to the City was \$625,000 in the first year of the agreement and increases by four percent annually throughout the term of the agreement. However, the City may accept capital repairs to the Stadium of equal value in lieu of all or any portion of the advertising use fee.

Table 3.2 shows Candlestick Park advertising revenues to the Recreation and Part Department.

Table 3.2
Candlestick Park Scoreboard and Signage Advertising Revenue
2002 through 2009

Year	Scoreboard and Signage Revenues	Operating and Other Cost Deductions	Net Revenues	Scoreboard and Signage Revenues to the City	Jumbotron Revenues to the City	Total Revenues
2002	\$1,641,219	(\$1,033,548)	\$607,671	\$572,546	\$0	\$572,546
2003	2,014,681	(1,215,500)	799,181	650,000	0	650,000
2004	2,044,768	(1,242,889)	801,879	676,000	0	676,000
2005	1,140,790	(812,222)	328,568	328,568	301,110	629,678
2006	1,126,392	(800,250)	326,142	326,142	292,500	618,642
2007	1,193,726	(862,030)	331,696	331,696	343,750	675,446
2008	1,189,079	(929,621)	259,458	259,458	488,350	747,808
2009	\$926,100	(836,379)	89,721	89,721	333,335	423,056
Total	\$11,276,755	(\$7,732,439)	\$3,544,316	\$3,234,131	\$1,759,045	\$4,993,176

Source: Recreation and Park Department

As shown in Table 3.2, scoreboard and signage revenues decreased significantly after 2004, while operating and other cost deductions remained comparatively high (61 percent

¹ Operating costs consists of actual costs for (a) routine operation and maintenance, up to an expenditure cap of \$340,000 in the first year with annual adjustments; (b) suites and tickets provided to advertisers, up to 15 percent of annual gross revenue; and (c) marketing up, to 12 percent of annual gross revenue.

of gross revenues in 2004 compared to 78 percent of gross revenues in 2008). This has resulted in scoreboard and signage revenues to the City decreasing by approximately 43 percent between 2008 and 2009.

Candlestick Park Naming Rights

The City and County of San Francisco first entered into an agreement with the San Francisco 49ers to sell naming rights for the stadium at Candlestick Park on January 31, 1996. From February 1, 1996 to January 31, 2002, the stadium at Candlestick Park was named 3Com Park at Candlestick Point (3Com Park). The Recreation and Park Department received a total of \$4,910,000 from the San Francisco 49ers.

The existing naming rights agreement with the San Francisco 49ers began on July 23, 2004 and will expire when the San Francisco 49ers lease agreement expires, which is currently May 13, 2013. Under the agreement, the San Francisco 49ers has the exclusive right to sell and enter into agreements for the sale of naming rights for the stadium at Candlestick Park. The term of any such agreements can not exceed the term of the San Francisco 49ers naming rights agreement with the City.

No further approval from the City for any proposed naming rights is required unless the agreement does not meet the following requirements: (a) payments made to the City from the naming rights agreement is reasonably estimated to equal at least \$3,000,000 over the term of the agreement and (b) the sponsor is one of the entities identified in the City's naming rights agreement with the San Francisco 49ers. The approved sponsors for naming rights agreements are (1) Wells Fargo Bank, (2) Virgin Airlines, (3) Organic, Inc., (4) Monstercable, and (5) Macromedia, Inc.²

In exchange for this right, the San Francisco 49ers must pay the City fifty percent of net naming rights revenue, or all revenues and income from the sale of naming rights less allowable costs. Such allowable costs include the actual cost of suites and tickets provided to a sponsor in connection with the naming rights agreement, Super Bowl tickets provided to the sponsor, one-time actual costs of travel incurred by the San Francisco 49ers for securing a sponsor, and other operation and maintenance costs related to the naming rights signage.

Under the existing naming rights agreement with the City, the San Francisco 49ers entered into a naming rights agreement with Monstercable and the stadium at Candlestick Park was subsequently called Monster Park from 2004 through 2007. The City received a total of \$2,846,545 from the naming rights agreement, as shown in Table 3.3 below.

² Macromedia, Inc. was acquired by Adobe System, Inc. in 2005.

Table 3.3
Candlestick Park Naming Rights Revenue
2004 through 2007

Year	Net Naming Rights Revenue	Amount Paid to the City
2004	\$1,082,118	\$541,059
2005	1,523,272	761,636
2006	1,568,188	784,094
2007	1,519,512	759,756
Total	\$5,693,090	\$2,846,545

Source: Recreation and Park Department

Proposition C and Naming Rights

The San Francisco 49ers have not entered into a naming rights agreement for Candlestick Park, although the San Francisco voters approved naming rights for Candlestick Park in 2009, reversing a prior voter approved ordinance. As noted in the Introduction, in November 2004, the voters approved Proposition H, amending the Administrative Code to name the City-owned sports stadium at Candlestick Point as “Candlestick Park” and prohibit future naming rights agreements for Candlestick Park. In November 2009, the voters approved Proposition C, which repealed Proposition H. Proposition C allowed the 49ers to enter into a new naming rights agreement for Candlestick Park, subject to Board of Supervisors approval.

The San Francisco 49ers had executed a naming rights agreement with Monstercable prior to the passage of Proposition H, which terminated in 2007. Despite the renewed authority to enter into a naming rights agreement for the stadium at Candlestick Park, the San Francisco 49ers, which has the exclusive right to enter into such agreements, has not exercised this authority. The Recreation and Park Department could not provide the reason for the San Francisco 49ers’ delay in entering into any new naming rights agreement with a corporate sponsor.

Public Toilets and Public Service Kiosks

The Department of Public Works has an agreement with JC Decaux to install and maintain automatic public toilets in exchange for the right to place public service kiosks on public property. The original agreement began in 1994 and was amended through an ordinance of the Board of Supervisors in 1998. The agreement terminates in 2016. The agreement provides for advertising on the public service kiosks.

Under the agreement, JC Decaux pays the Department of Public Works a base payment plus an advertising fee as a percentage of the previous year’s net advertising revenue. The base payment, which was \$25,000 for the first year of the agreement in 1994, is annually adjusted by the percentage change in the CPI. From 1998 through 2004, the percentage of

advertising revenue paid to the Department of Public Works was two percent of advertising revenues. From 2004 through the termination of the agreement in 2016, the percent of advertising revenues to be paid to the City is five percent if the revenue is less than \$25,000 and seven percent if the revenue is \$25,000 or more.

Table 3.4 below summarizes the annual revenue from the Department of Public Works agreement with JC Decaux from 2001 through 2009.

Table 3.4
JC Decaux Annual Advertising Revenues
2001 through 2009

Year	Annual Advertising Revenues	Percent Revenue Share to Public Works ¹	Base Payment	Annual Payment to Public Works
2001	3,900,671	78,013	n/a	78,033
2002	4,669,461	93,388	29,172	122,560
2003	5,123,076	102,462	31,003	133,464
2004	5,251,846	105,037	31,781	136,818
2005	5,708,538	399,598	32,868	432,466
2006	6,429,303	450,051	33,452	483,504
2007	6,629,028	464,032	34,577	498,609
2008	7,419,988	519,399	35,884	555,284
2009	6,687,285	468,110	48,568	516,678
Total	\$51,819,196	\$2,680,090	\$277,306	\$2,957,416

Source: Department of Public Works

¹ The percent revenue share under the current JC Decaux agreement was 2 percent from 2000 through 2004 and 7 percent from 2005 through 2009.

As shown in Table 3.4, annual revenues have steadily increased as a result of (a) increased net advertising revenues to JC Decaux, (b) annual increases in the base payment, and (c) an increase in the percent revenue share from two to seven percent in 2005. However, the Department of Public Works' percent revenue share is significantly lower than SFMTA, Airport, or Real Estate Division advertising agreements.

Annual Revenue to the Arts Commission

In addition to submitting payments to the Department of Public Works, JC Decaux is required to submit payments to the Arts Commission. Under the existing agreement, JC Decaux contributed \$3,000 in 1998 and makes annual contributions adjusted each year by the percentage change in the CPI. In 2009 the contribution was \$4,316.

According to the agreement:

“After completion of the installation of the Automatic Public Toilets and Public Service Kiosks in the Initial Phase, the amount of such Contribution shall be increased to Seventeen Thousand Two Hundred Dollars (\$17,200.00) per year, adjusted as set forth below³ beginning with the first payment following completion of installation of twenty (20) Automatic Public Toilets and ninety (90) Public Service Kiosks in the Initial Phase”.

The “Initial Phase” is defined in the agreement as the installation of 27 public toilets and 121 public service kiosks. Currently, JC Decaux has installed 25 automatic public toilets and 113 public service kiosks. Further, the agreement states that JC Decaux must apply for all permits for the installation of public toilets and public service kiosks within five and a half years of the start date of the agreement. According to Department of Public Works staff, JC Decaux did not complete the installation required in the “Initial Phase” because of opposition from the public to install additional public toilets.

However, if the Department of Public Works and JC Decaux negotiate and mutually agree to amend the permit deadline in the agreement from five and a half years to twenty years from the start date of the agreement, and JC Decaux completes the permit and installation of two more public toilets, then the Arts Commission could receive at least \$17,200 a year in contributions, which would be subject to annual CPI adjustments.

Revenue to the Port

According to a 1999 Memorandum of Understanding (MOU) between the Port and Department of Public Works, three automatic public toilets and seven public service kiosks were approved and installed on Port property. The MOU states that a percentage of the revenue received by the Department of Public Works must be paid to the Port, in proportion to the percentage of public service kiosks in the City that are located on Port property. According to the Port, the Department of Public Works has not remitted payments to the Port since FY 1998-99, in which the Port received \$4,800. From FY 1999-00 to the present, advertising revenue from the JC Decaux agreement have remained with the Department of Public Works. Further, the Port is not clear on how revenues from advertising sales could be related to maintenance and operating costs at the Port.

The Port and Department of Public Works should clarify the terms of the MOU and determine whether the Port should have received a portion of the advertising revenue from JC Decaux. If it is determined that money should have been remitted to the Port, the Department of Public Works should estimate how much revenue should go to the Port. The Department of Public Works would need (a) the number of public service kiosks on Port property per year, (b) the total number of public service kiosks in the City for each year (assuming that public service kiosks continued to be installed in the past 10 years), and (c) the total revenue paid to the Department of Public Works for each year.

³ The agreement provides for annual CPI adjustments.

Non-Revenue Generating News Racks Agreement

The Department of Public Works has an agreement with Clear Channel to install and maintain up to 1,000 pedestal news racks. The agreement is effective from 1999 through 2019, a twenty year term. Unlike the other advertising agreements reviewed for this audit, the agreement between the Department of Public Works and Clear Channel for news racks does not require Clear Channel to share advertising revenues with the City. In addition, Clear Channel is not required to report gross revenues or the cost to install and maintain the news racks to the City. Therefore, the City is unable to determine how much the City (a) is saving by contracting installation and maintenance of the news racks to Clear Channel and (b) could earn in additional revenue if the agreement were to be amended to include revenue sharing from Clear Channel's advertisements.

However, the agreement requires Clear Channel to maintain records and report gross annual revenues upon the City's request, as well as allow the City to audit its records. Despite requests made by the Budget and Legislative Analyst, Clear Channel has not provided documentation of annual gross revenues or maintenance costs.

The Department of Public Works should obtain data on Clear Channel's annual gross revenues and maintenance costs for the news racks. Depending on the results of an analysis of such data, the Department of Public Works should consider amending the existing agreement with Clear Channel to include revenue sharing. Such amendment would require mutual agreement between the Department of Public Works and Clear Channel.

1650 Mission Street Billboard Advertisement

The Real Estate Division receives revenues for only one piece of outdoor advertising on City-owned property. CBS Outdoor pays the Real Estate Division the greater of \$20,000 per month, or 50 percent of gross revenues each quarter for a billboard located on an exterior wall at 1650 Mission Street. The revenues are deposited into the Real Estate Division's Building Fund and are used to pay for building operations.

Since the City acquired the agreement in May 2007, the Real Estate Division has consistently collected the minimum monthly amount of \$20,000, or a total of \$240,000 per year. The advertising records showed that CBS Outdoor makes far below the threshold of \$40,000 per month that would result in remitting a revenue share, as opposed to a MAG payment. In fact, during several months CBS Outdoor did not sell any advertisements.

The agreement will end in March 2011, after both options to extend the agreement have been exhausted. Although City legislation restricts new signage on City-owned buildings, it does not preclude entering into a new agreement for advertising on a building with existing signage. Thus the Real Estate Division plans to begin preparing a competitive process for a new lease for the existing advertising space in January 2011. Given that

restrictions on advertisements for alcohol will apply to a new agreement, the City will not likely receive the same high monthly payments as under the existing agreement.

Moscone Convention Center Advertisements

The Convention Facilities Department receives revenues for backlit advertising panels located within the Moscone Convention Center, under the management agreement between the City and SMG. SMG has a separate agreement with Expovision, Inc. (Expovision) to provide advertising displays in Moscone Convention Center. Under the agreement between SMG and Expovision, Expovision pays to SMG \$40,000 annually or 40 percent of revenues, whichever is greater. The agreement between the City and SMG does not specifically address the distribution of advertising revenues, although advertising revenues are classified as other income, which SMG is required to remit, in full, to the City on a monthly basis

SMG negotiated the current advertising agreement with ExpoVision in 1995, and the agreement is now under a year-to-year renewal process. The terms associated with payment from of the agreement have not changed since the agreement start date. ExpoVission pays SMG 40 percent of gross advertising revenues each month. SMG in turn deposits the funds into the City’s account on a monthly basis, and the funds are deposited in the City’s General Fund.

SMG provided the annual net advertising revenues, as well as the revenue payments to SMG between FY 2004-05 and FY 2009-10, as shown in Table 3.5 below.

Table 3.5
Moscone Convention Center Annual Advertising Revenues
FY 2004-05 to FY 2009-10

Fiscal Year	Gross Annual Advertising Revenues	40 Percent Revenue Share and Annual Payment to Convention Facilities Department
2004-05	\$204,420	\$81,768
2005-06	208,751	83,500
2006-07	220,503	88,201
2007-08	229,661	91,864
2008-09	246,522	98,609
2009-10	211,496	84,598
6-Year Total	\$1,321,353	\$528,541

Source: SMG

The annual revenues from the advertising agreement with ExpoVision result from the sale of advertisements to local business, primarily restaurants. When asked about the possibility of initiating a new, potentially more lucrative advertisement agreement with more favorable terms for the City such as the promise of a higher cost for renting

advertising space and higher revenue share, SMG summarized the advantages of the current agreement and reservations associated with commencing a new agreement.

- When the agreement was initiated in 1995, SMG had a difficult time finding a contractor interested in renting the advertising space. Given the current economic climate, SMG expects similar difficulties with issuing a Request for Proposals for a new agreement.
- Convention organizers prefer convention facilities have limited advertisements that will distract from vendor advertisements. Increasing the advertisement presence at Moscone Center might negatively impact revenues from renting out convention space.
- ExpoVision has established relationship with local businesses, and advertisements for local businesses also serve to inform convention visitors.
- Conflict of interest is a concern with selling advertisements to major clients, such as Oracle and other software companies, which often participate in conventions.
- Currently the Moscone Center is undergoing a major retrofitting, which is scheduled for completion in 2012 and which would negatively impact bids for advertising contracts.

While the Budget and Legislative Analyst notes the potential for increased advertising revenues under a future contract, SMG's reservations appear legitimate.

Conclusion

City departments could increase revenues from existing advertising agreements through negotiated amendments or increased oversight. If the Department of Public Works were to negotiate amendments to the existing agreement with JC Decaux, offering incentives to JC Decaux such as an increased number of commercial kiosks and extended timelines to install public toilets in exchange for an increased percentage share of revenue, the Department of Public Works could increase revenues to the City and contributions to the Arts Commission. The Department of Public Works should also determine if Clear Channel's news rack advertising revenues are high compared to Clear Channel's costs for maintaining the news racks, and if appropriate, should offer Clear Channel incentives, such as extending the advertising zone, to negotiate an agreement amendment providing for revenue sharing.

The Recreation and Park Department could also do more to monitor 49ers scoreboard, signage and jumbotron revenues. Although the 49ers' advertising revenues have declined, the 49ers operating costs have remained high, resulting in decreased revenues to the Recreation and Park Department. The Recreation and Park Department has pursued but has not been successful in discussions with the 49ers on granting naming rights to the Candlestick Park Stadium, although voters approved naming rights in 2009.

Recommendations

The Director of Public Works should:

- 3.1 Negotiate with JC Decaux on a mutually-agreed amendment to the existing agreement for automatic toilets and public service kiosks to increase percent revenue share paid to the Department of Public Works to be consistent with the City's other advertisement agreements structured around a Minimum Annual Guarantee (MAG) and increased percentage rent.
- 3.2 Negotiate with JC Decaux on a mutually-agreed amendment to extend the timeline for acquiring permits to install public toilets and public service kiosks from five and half years from the start of the agreement to twenty years, and facilitate the installation of at least two more public toilets and nine public service kiosks.
- 3.3 Review the Department of Public Works' MOU with the Port and determine the amount of advertising revenue from automatic toilets and public service kiosks that should have been deposited to the Port from FY 1999-2000 through the present. Request the Department of Public Works pay the outstanding balance to the Port.
- 3.4 Obtain data on Clear Channel's annual gross revenues and maintenance costs for news racks. Depending on the results of an analysis of such data, the Department of Public Works should consider amending its existing agreement with Clear Channel to include revenue sharing.

The Director of the Recreation and Park Department should:

- 3.5 Report regularly to the Recreation and Park Commission on the status of marketing (a) naming rights for Candlestick Park Stadium, and (b) scoreboard, signage and jumbotron advertising.

Cost and Benefits

If JC Decaux were to agree to increasing revenue sharing to 25 percent of advertising revenues in exchange for increased commercial kiosks or other incentives, the Department of Public Works would receive an additional \$1.1 million in revenues annually, based on FY 2009-10 advertising revenues of \$6.7 million. JC Decaux would still receive significant revenues per toilet under this proposed increase in revenue sharing. In FY 2009-10, JC Decaux's advertising revenues per toilet were \$246,824. Under the proposed increase in percentage payments to the Department of Public Works of 25 percent of advertising revenues, JC Decaux's advertising revenues per toilet, net of payments to the Department of Public Works, would be approximately \$199,000.

4. Advertising Agreement Monitoring

- SFMTA and the Department of Public Works have not ensured that private advertising firms providing public infrastructure in exchange for advertising rights comply with the terms of the agreements. Since implementation of SFMTA's agreement with Clear Channel in 2007, Clear Channel has maintained 1,063 transit shelters, or 37 fewer transit shelters and 5 fewer commercial kiosks than required. Installation and maintenance of the transit shelters and kiosks are part of the agreement's total compensation. By not requiring the minimum number of transit shelters, the City is losing the value of these transit shelters. Also, under the agreement between the Department of Public Works and JC Decaux, JC Decaux was to install 27 public toilets, in exchange for installing and advertising on 4.5 public service kiosks per public toilet. JC Decaux has installed only 25 public toilets because of opposition from the public on the installation of public toilets. As a result, JC Decaux was unable to install an additional 9 public service kiosks that could have resulted in additional advertising revenue to the City.
- Under the agreement between Clear Channel and SFMTA, Clear Channel is required to replace 1,100 transit shelters and 39 commercial kiosks by December 2012. But as of December 2010, Clear Channel had only replaced 110 transit shelters and five kiosks. Consequently, SFMTA will need to ensure that Clear Channel complete replacement of the remaining 990 transit shelters and 34 commercial kiosks within two years. Also, Clear Channel is required to install 3,000 transit poles by February 28, 2013, which is seven years from the date when the Art Commission approved the new transit pole design. Clear Channel has not yet replaced any poles and will need to complete the entire replacement project in less than two years. Given these delays, without increased monitoring from SFMTA, Clear Channel may not meet the required schedule to replace 1,100 transit shelters and install 3,000 transit stop poles.
- The City's advertising agreements require that contractors maintain advertisements and related infrastructure in good repair and remove graffiti or repair damage caused by vandalism in a timely fashion. SFMTA and the Department of Public Works do not consistently monitor or adequately document compliance with maintenance requirements. Advertising firms have not sufficiently complied with requirements to remove graffiti and repair vandalism damage. The Budget and Legislative Analyst found frequent instances of graffiti or stickers in transit stations, transit shelters and commercial kiosks, and torn or missing advertising paper cards in buses. Additionally, the Budget and Legislative Analyst found at least two public toilets on Market Street that had been out of service for at least two weeks.

City departments' advertising agreements may require that the private advertising firm meet certain inventory requirements or maintenance standards.

Inventory Requirements

A review of all advertising agreements and data provided by SFMTA and the Department of Public Works indicated that Clear Channel and JC Decaux are not meeting inventory requirements for the respective transit shelter agreement and public toilet/ public service kiosk agreement.

Transit Shelter Agreement

Under the agreement between SFMTA and Clear Channel, Clear Channel is required to maintain a minimum of 1,100 and a maximum of 1,500 transit shelters and a minimum of 39 and a maximum of 150 commercial kiosks or commercial signal control covers, in exchange for the exclusive right to advertise on the shelters and kiosks. According to SFMTA, and as shown in Table 4.1 below, Clear Channel only maintains a total of 1,063 shelters and 34 kiosks.

Table 4.1
Total Actual Number of Transit Shelters and Kiosks Maintained by Clear Channel Compared to the Minimum Number Required

Shelter or Kiosk	Number of Shelters or Kiosks			Percent
	Minimum Required Under Agreement	Actual	Actual Less Minimum Required	
Commercial Shelter ¹		697		
Non- Commercial Shelter ²		366		
Subtotal, Shelters	1,100	1,063	(37)	(3.4%)
Kiosks	39	34	(5)	(12.8%)

Source: Transit Shelter Advertising Agreement between SFMTA and Clear Channel

Although some shelters are occasionally temporarily removed and then replaced to accommodate construction in the area, the numbers listed in Table 4.1 above have remained unchanged since the agreement start date of December 2007. According to the SFMTA contract manager for the agreement with Clear Channel, SFMTA has not required Clear Channel to meet the minimum agreement requirements because either (a) existing transit shelters have been removed to meet SFMTA service needs or accommodate private or public construction at the transit shelter location; or (b) new

¹ According to the transit shelter agreement, when used to describe a transit shelter, commercial refers to the authority granted under the agreement and applicable law to display advertising.

² According to the transit shelter agreement, when used to describe a transit shelter, noncommercial refers to a structure that is not permitted to contain commercial advertising under this Agreement.

transit shelters require a lengthy permitting and approval process. However, the Department of Public Works has no record that Clear Channel has initiated the permitting process associated with installing any new transit shelters or kiosks since at least May 2008, the date when the Department of Public Works' online permit application system was implemented.

Also, according to the SFMTA contract manager, the current agreement requires Clear Channel to replace all existing shelters by December 2013, and therefore Clear Channel is primarily replacing existing shelters rather than installing new shelters. The Budget and Legislative notes that Clear Channel should be able to fulfill both the minimum inventory requirements and the shelter replacement requirements listed in the current agreement.

Installation and maintenance of the shelters and kiosks are part of the total compensation to SFMTA under the agreement with Clear Channel. By not requiring installation and maintenance of the minimum number of shelters and kiosks required by the agreement, the SFMTA is losing the value of these shelters and kiosks, equivalent to \$22,700 per shelter and \$18,200 per kiosk. As shown in Table 4.2 below, the estimated value to SFMTA were Clear Channel to manufacture and install the minimum number of shelters and kiosks required by the agreement is \$930,900.

Table 4.2
Estimated Lost Value to SFMTA of Actual Number of Shelters and Kiosks Compared to Minimum Required

	Minimum		
	Shelters	Kiosks	Total
<u>Number</u>			
Actual	1,063	34	1,097
Required	<u>1,100</u>	<u>39</u>	<u>1,139</u>
Actual Less Required	(37)	(5)	(42)
Value per Shelter or Kiosk	<u>x \$22,700</u>	<u>x \$18,200</u>	
Total Estimated Lost Value	(\$839,900)	(\$91,000)	(\$930,900)

Source: SFMTA

While there are no penalties associated with failing to maintain the maximum number of shelters and kiosks under the current agreement, the additional transit shelters and kiosks represent potential for additional revenues from increased advertising sales for both Clear Channel and the SFMTA. Transit shelters also offer the public benefit of seating and protection from poor weather. Because the manufacture and installation of transit shelters and kiosks represent (a) lost value to the City for the transit shelters, (b) additional potential revenue from advertising sales, and (c) a public benefit, SFMTA should require that Clear Channel install and maintain at least the minimum number shelters and kiosks.

Department of Public Works

The Department of Public Works' agreement with JC Decaux allows a maximum of 50 automatic public toilets to be installed in the City, including the 27 automatic public

toilets in the first phase. For every additional automatic public toilet installed greater than 27, JC Decaux would have to annually pay the City \$500 per toilet, in addition to the base payment of \$25,000.

However, all permits for the installation of the automatic public toilets were required to be issued by the Department of Public Works within five and a half years after the start date of the agreement. JC Decaux has only currently installed 25 automatic public toilets in the City, because, according to the Department of Public Works contract manager, JC Decaux did not pursue applying for more permits based on the opposition from the public on the installation of more public toilets. As a result of the lower number of automatic public toilets installed, the City has missed an opportunity to have an additional 25 automatic public toilets installed for public use. Further, with 50 automatic public toilets, or 23 more public toilets than the maximum automatic public toilets in the initial phase, the City could have received an additional \$11,500 in annual revenues (23 toilets times \$500).

Because JC Decaux cannot install more than 4.5 public service kiosks per automatic toilets installed, and did not install the maximum number of public toilets within the permit deadline due to public opposition, JC Decaux could not install the maximum number of public service kiosks in the City per the agreement, or 225 (50 automatic public toilets times 4.5). Each additional public service kiosk could have resulted in additional advertising revenue to the City. Given changing public opinion on the need for public toilets, the Department of Public Works and JC Decaux should mutually explore options to install additional public toilets and public service kiosks, up to the maximum included in the agreement, including amending the agreement to extend the permit timeline.

Maintenance Requirements

Transit Shelter Agreement

Clear Channel is required to inspect each shelter and kiosk at least twice per week. In the course of each inspection, Clear Channel must remove all graffiti, stickers, posters, litter, dust, dirt, and weeds within a five foot radius of the street furniture. Clear Channel is also required to issue a monthly summary of inspection and clean up operations. SFMTA provided a copy of the Maintenance and Cleaning Report for the last quarter of 2010. Table 4.3 below shows the number of incidents reported in December 2010, which shows that approximately 5 percent of maintenance and clean up incidents result from vandalism. The log includes additional fields for the location, date reported or discovered by Clear Channel inspector date when maintenance was performed.

Table 4.3
Transit Shelters' Vandalism, Maintenance, and Other Incidents
September 2010 through December 2010

Vandalism, Hazardous Conditions, Maintenance and Repair Incidents		
Type	Number	Percent
<i>Vandalism and Hazardous Conditions</i>		
Broken Glass	18	0.4%
Shelter Destroyed	3	0.1%
Other Vandalism Hazardous Condition	63	1.4%
Removed Stickers/ Flyers	142	3.3%
Subtotal, Vandalism and Hazardous Conditions	226	5.2%
<i>Maintenance and Repairs</i>		
Replace Ad Can Door	7	0.2%
Electrical Test	3,295	75.8%
Defective Shelter Light	45	1.0%
Other Non-Hazardous Condition	772	17.8%
Subtotal, Maintenance and Repairs	4,119	94.8%
Total	4,345	100.0%

Source: Clear Channel December 2010 Maintenance and Cleaning Report

In addition to routine maintenance, if Clear Channel receives notification of damage from vandalism or graffiti found on or around a shelter or kiosk, Clear Channel must respond to the notification within 48 hours, and must repair, replace or remove any damage that is of a hazardous nature (e.g., broken glass, light sources that need replacing) within 24 hours. According to SFMTA, typically notification is transmitted through the 3-1-1 Call Center. SFMTA provided a copy of the 3-1-1 Call Log for the last quarter indicating that Clear Channel responds to the reports within the required timeframe.

While Clear Channel's Maintenance and Cleaning records and 3-1-1 call records indicate that Clear Channel is meeting the required maintenance terms, SFMTA staff does not perform formal or routine site checks to ensure shelters and kiosks are in good condition.

A review of transit shelters located on Mission and Fillmore Streets over a one-week period revealed examples of graffiti, stickers, litter, and two broken light fixtures. Significantly fewer instances of graffiti and stickers were identified in shelters located in the more affluent Pacific Heights and Cow Hollow neighborhoods than in shelters located in the lower-income Fillmore, Lower Haight and Mission neighborhoods. Figure 4.1 shows examples of the graffiti that were not cleaned during the one-week period. Faint graffiti on the left side of the shelter roof of the transit shelter located at Geary and Fillmore Streets in Figure 4.1 demonstrates that Clear Channel is not fully removing graffiti.

Figure 4.1
Photographs of Maintenance of Two Transit Shelters



Graffiti on Interior Roof of Transit Shelter



Sticker on Interior Pole of Transit Shelter

Vehicle Transit Agreement

Under the vehicle transit advertising agreement between Titan and SFMTA, Titan is required to maintain advertising infrastructure in a “clean, safe, and first-class” condition and to replace infrastructure as needed. Titan is also required to inspect each advertisement at least once per week. In the course of each inspection, Titan must remove all graffiti, stickers, posters, dust and dirt associated with their advertisements. Within 24 hours of notification, Titan is required to repair any damage, including damage from vandalism or graffiti and to repair, replace or remove hazardous damage, including broken glass or protruding edges associated with their advertisements.

Titan is also expected to maintain accurate maintenance and service logs describing the dates and locations of all inspections and the nature of any maintenance or service activity. If Titan conducts the maintenance or service in response to a complaint by the public, the log must include the date and the nature of the complaint. Although the Budget and Legislative Analyst requested copies of entries from the maintenance and service logs, SFMTA did not provide entries and advised that Titan maintains the logs. SFMTA staff does not perform formal or routine site checks to ensure advertisements are current and in good condition.

A review of the content and maintenance of advertisements on the exterior and interiors of buses indicated that advertisements on the exterior rear and sides of buses were recently applied and in good condition with almost no examples of graffiti or dirt.

Many interior paper advertisements, however, were ripped, and many walls beneath unsold advertisement space marked by graffiti and stickers. While Titan is responsible for maintaining the condition of advertisement cars covering the wall, Titan is not required to clean graffiti and stickers off the exposed wall in areas located beneath the paper advertisements which were often uncovered. As shown in Figure 4.2 empty spaces were frequently covered in graffiti and stickers, and graffiti removal attempts appeared

unsuccessful. SFMTA should improve maintenance efforts to keep uncovered interior advertising space clean or ensure that these spaces are covered with paper cards that cover the residue from graffiti and vandalism. SFMTA contract management should, for example, work with SFMTA's Graffiti Prevention and Security Program staff to discuss methods of eliminating the interior graffiti around advertisements.

Figure 4.2
Photographs of Interior Graffiti and Poorly Maintained Paper Cards



Graffiti on Unsold Advertising Space, Bus Interior

Poorly Maintained Paper Cards, Bus Interior

Many of the interior paper cards, which are both advertisements and public service messages, installed in the panels above passenger seats fit poorly into the designated spaces, resulting in a crumpled, messy appearance, particularly on diesel buses, as shown in Figure 4.2. Although many paper cards are public service messages printed by City Departments, installation is the responsibility of Titan. SFMTA should more closely check the maintenance of these interior advertisements and work with Titan to be sure that the advertisements are properly installed.

BART-Muni Station Agreement

Under the agreement between Titan and BART, Titan is responsible for the maintenance or repairs of advertisements in combined BART-Muni stations, and BART is responsible for monitoring the condition and content of the advertisements. SFMTA does not monitor the condition of station advertisements and forwards any comments received by the City to BART.

Unlike the other transit advertising agreements, the agreement between BART and Titan does not require Titan regularly inspect or perform maintenance on advertising. The agreement only states that Titan shall promptly make all replacements, restorations, renewals and repairs. A review of advertisements in six stations that serve both BART and Muni lines revealed incidences of graffiti and stickers, as well as dirt on displays located above the tracks. Figure 4.3 shows graffiti and stickers in the Powell Station,

which, based on field work completed by the Budget and Legislative Analyst, had a higher incidence of vandalism than other stations.

Figure 4.3
Photographs of Graffiti and Stickers, Powell Street Station



Public Service Kiosks and Public Toilets

Per its agreement with the Department of Public Works, JC Decaux is required to continuously maintain the public service kiosks and public toilets as clean, graffiti-free, safe, and in first-class condition at no cost to the City. The automatic public toilets must be cleaned once per day and the public service kiosks must be cleaned once per week. If repairs are required, the repairs must be completed within 24 hours. If an automatic public toilet needs to be replaced, it must be replaced within three months.

However, graffiti, scratches, and stickers were observed to remain on public service kiosks for more than two weeks. Examples of public service kiosks that were not maintained in accordance with the agreement are included in the figures below.

Figure 4.4
Photographs of Graffiti and Stickers on Public Service Kiosks



Additionally, at least two automatic public service toilets were out of service along Market Street and remained so for at least two weeks. Under the existing contract, JC Decaux must pay a fee of \$108 per day after an automatic public toilet remains out of operation after three months.

Figure 4.5
Photographs of Out of Service Public Toilets, Market Street



The agreement with JC Decaux states that, unless less frequent submittals are authorized by the Director of Public Works, JC Decaux must submit a narrative summary of maintenance operations during the preceding quarter within 30 days at the end of each calendar quarter, noting problem areas, corrective actions taken, and the number and cost of repairs attributable to vandalism. In addition, JC Decaux is required to maintain and make available to the City a written complaint log. According to Department of Public Works staff, JC Decaux maintains these logs at their office. However, to improve the Department of Public Works' monitoring of this agreement, the Department of Public

Works needs to require regular submission of the maintenance and complaint logs, and maintain these logs on file. This is consistent with other private advertisers' practices, including Clear Channel's monthly submissions to the Department of Public Works for maintenance of news racks as noted below.

Airport's Advertising Agreement

Clear Channel visually inspects and cleans each panel and piece of advertising equipment in the Airport on a daily basis. Clear Channel must repair or replace damaged advertising equipment within 24 hours of notice by the Airport. During field work, only minor scuffs were found on some advertising equipment, but no graffiti were found. Only one advertising panel in a tunnel connecting Terminal 3 to the Parking Garage appeared to have a malfunctioning back light.

According to the Airport, the Revenue Development and Management Department (RDM), which oversees and monitors the Clear Channel agreement, conducts monthly inspections of the premises and advertising equipment. The Airport Duty Manager's office, along with RDM conducts a quarterly walkthrough of the entire Airport to inspect all advertisements. The Airport does not systematically document these inspections, but contacts tenants if a problem is found.

News Racks

According to the Department of Public Works, Clear Channel has installed approximately 700 news racks in the City and is required to install 100 new news racks per year for a total of 1000 news racks in the first 10 years of the agreement.

Under the agreement between the Department of Public Works and Clear Channel, Clear Channel is required to inspect each news rack at least once per weekday and wash news racks once per week. Clear Channel must remove all graffiti, stickers, unauthorized posters and flyers, litter, dust, dirt and weeds and other rubbish from the news racks. If a news rack is in need of repair or replacement due to damage, vandalism, or graffiti, Clear Channel must exercise its "best effort" to complete the repair within 24 hours, but no later than 10 business days.

The agreement also requires Clear Channel to maintain a log for the current quarter and report monthly to the City maintenance efforts and complaints from news publishers and the public. The Department of Public Works provided maintenance reports for the last quarter of 2010 which included the maintenance route, location of the news rack, news rack number, type of maintenance issue (i.e. graffiti/general cleaning, fix broken door, etc.), and date the issue was resolved. If the issue was not identified during routine maintenance but reported by a news publisher, the name of the news publisher and date of the report is included. When a publisher identifies an issue, they send a request to Clear Channel and the Department of Public Works with the news rack number, location, and specific request(s).

Based on an analysis of the maintenance and complaint logs provided by the Department of Public Works, Clear Channel generally cleans news racks once per week and resolves maintenance issues reported to the Department of Public Works and Clear Channel in approximately 24 hours, or within 10 business days.

The Department of Public Works creates and maintains a separate log of all of the news racks installed by Clear Channel, including the locations and news publishers that have paid the City a distribution fee. A December 2010 report identified over 100 units within news racks that were not designated to a particular news publication, or identified as “empty.” During field work, a couple of units without a designated news publication were unlocked and contained rubbish. One unit contained leaves, dust and rust, while the other unit contained a blanket. The following day, one unit no longer contained a blanket while the other unit continued to have leaves, dust and rust. While it may not be possible to distribute a publication in every news rack, Clear Channel should lock empty units for hygienic and aesthetic purposes.

Figure 4.6
Photographs of Empty News Racks Filled with Debris



Transit Shelter Replacement Program

The current transit shelter agreement specifies that Clear Channel will replace all existing shelters and kiosks with new shelters and kiosks no later than six years from the agreement effective date of December 2007. Figure 4.6 below offers a comparison of the old and new shelters, which feature curved roofs and one open panel to allow access from the rear of the shelter. The new shelters feature touch screen technology that allow interactive advertisements.

Figure 4.7
Photographs Comparing Old and New Shelter Models



Old Shelter Model, Mission and 14th Streets New Shelter Model, Fillmore and Pine Streets

As of December 31, 2010, Clear Channel had replaced 110 shelters and five kiosks. Given that Clear Channel is required to replace a minimum of 1,100 and has only replaced 110, or 10 percent of the minimum shelter inventory, SFMTA should closely monitor the ongoing replacement to ensure that Clear Channel completes the replacements within the next three years.

Transit Stop Poles Installation

The current transit shelter agreement also specifies that Clear Channel install 3,000 transit stop poles with attached signs at transit stops without shelters within seven years of February 25, 2008 the date on which the design receives final approval from the City's Arts Commission. Clear Channel will be responsible for removing existing transit stop poles at locations where they are to be replaced. The installation and removal are to be at no cost to City.

As of December 31, 2010, or three years after commencement of the agreement, Clear Channel had not begun replacing the transit stop poles. SFMTA staff is working with Clear Channel and hopes to initiate a pilot project of installing new poles in 2011. SFMTA should closely monitor the project to ensure that Clear Channel completes the required replacements.

Audits and Verifications of Sales

City Departments are permitted to conduct audits to ensure advertisers are meeting all agreement requirements. SFMTA has not conducted an audit of transit shelter agreements within the past ten years and because the current agreement lasts for 20 years, the SFMTA will conduct the first audit after five years, or in 2012. SFMTA and the Department of Public Works in particular should perform audits of transit shelter and

public toilet agreements given evidence of failure to meet minimum inventory requirements and low advertising sales numbers on transit shelters in certain months.

The vehicle transit agreement specifies that every year a certified public accounting firm selected by the SFMTA may conduct a verification of advertising sales and revenues reported by Titan. SFMTA advised that this annual revenue verification is not cost-effective and that the revenue verification for this agreement will be conducted by the SFMTA's certified public accounting firm, included in the next two-year audit cycle next year, and will cover the first two Contract Years. The prior contractor was audited every year as required in that agreement.

Revenue Payments

Based on an analysis of monthly net advertising revenues and monthly payments remitted by the contractor to the City, SFMTA and Airport provided documentation suggesting that they generally monitor net advertising revenues and that contractors remit payments on a timely basis, although SFMTA does not require that BART provide an itemization of advertising sales and revenues, resulting in SFMTA payments that are inconsistent with the revenue share percentage.

The Department of Public Works provided inconsistent formats of reporting advertising revenue from JC Decaux over the past ten years. For some years, only a summary and copy of the checks submitted to the Department of Public Works were provided. For other years, a cover letter with the full check amount and breakdown of the amount by the base payment and advertising fee as a percentage of advertising revenues were provided. Only three calendar years, 2003 through 2005, included an itemization of JC Decaux's clients, sales per client, annual advertising revenue and percent advertising fee to the City. The Department of Public Works should require JC Decaux submit consistent information with each payment to the City, which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City. Such information would allow the Department of Public Works to monitor JC Decaux's correct and accurate payment of revenue to the City.

According to the advertising agreement at Candlestick Park, the San Francisco 49ers must submit payment of the Advertising Use Fee, along with a detailed statement, on or before April 1 of each calendar year. The detailed statement should include (a) gross scoreboards and signage revenues, (b) operating costs, (c) all commission retained by the San Francisco 49ers, (d) amount deposited into the Capital Repairs Account for that year and (e) the total amount in that account. In addition, the San Francisco 49ers must maintain a record and documents related to the operation and maintenance of the scoreboards and signage, as well as deposits to and expenditures from the Capital Repairs Account. The Recreation and Park Department has provided data for (a) through (e) above for the 2002 through 2009. The Budget and Legislative Analyst Office has yet to receive additional data on actual expenditures from the Capital Repairs Account.

The Real Estate and Convention Facilities Department does not collect advertising revenues and had to contact contractors to obtain this information at the request of the Budget and Legislative Analyst. SFMTA, Department of Public Works, Real Estate Division and Convention Facilities Department should require submission of consistent data including sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City. Such information would allow Departments sufficient information to monitor correct and accurate payment of revenue to the City.

Conclusion

The City's advertising agreements require that contractors maintain advertisements and related infrastructure in good repair and remove vandalism in a timely fashion. SFMTA and the Department of Public Works advertising contractors do not consistently comply with maintenance requirements. Neither SFMTA or the Department of Public Works consistently monitor or adequately document the respective advertising agreements' compliance with maintenance requirements.

SFMTA and the Department of Public Works do not require that the contractors meet the inventory requirements for transit shelters and public toilets in the respective agreements, and as a result the City is not fully benefiting from the additional transit shelters and public toilets. Further, Clear Channel, under the transit shelter advertising agreement with SFMTA, may not meet the required schedule to replace 1,100 transit shelters or to install transit stop poles.

The SFMTA and Airport provided documentation suggesting that they generally monitor net advertising revenues and contractors remit payments on a timely basis. The Department of Public Works provided inconsistent formats of reporting advertising revenue from JC Decaux over the past ten years. The Real Estate and Convention Facilities Department do not collect revenue data from contractors. Requiring contractors submit an itemization of clients for the year, sales per client, annual advertising revenue, base and total payment to the City would provide Departments with sufficient information to monitor accurate payment of revenue to the City.

Recommendations

The Executive Director of SFMTA, the Director of Public Works, the Director of Real Estate, the Director of the Airport, and the Director of Convention Facilities should:

- 4.1 Conduct routine audits of advertising agreements for compliance with inventory, maintenance, and other requirements and maintain documentation of audits and other monitoring activities.
- 4.2 Require submission of consistent annual revenue data, which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City.

The Executive Director of the SFMTA and Director of Public Works should:

- 4.3 Initiate quarterly site visits to inspect the condition of advertisements and associated infrastructure.

The Executive Director of the SFMTA should:

- 4.4 Direct SFMTA's contract management and SFMTA's Graffiti Prevention and Security Program to coordinate efforts to remove graffiti and stickers from the exposed wall in unsold interior advertising spaces on buses.
- 4.5 Direct SFMTA Finance and Contract Management staff to work with BART to ensure adequate maintenance of advertising agreements in the combined Muni and BART stations.

Costs and Benefits

Implementation of all recommendations should be accomplished using existing resources. By monitoring compliance with maintenance and inventory terms of all advertising agreements, City residents will benefit from improved public spaces that include well-lit and functioning street furniture and a reduction in vandalism. Because installation of transit shelters and kiosks is part of the total compensation for the SFMTA agreement with Titan, the value to SFMTA of installing the additional transit shelters and kiosks to meet the minimum agreement requirement is \$939,900.

Response to the Recommendations from the City
Administrator's Office, Department of Public Works,
Recreation and Park Department, Real Estate Division,
Airport, and Convention Facilities Department



OFFICE OF THE CITY ADMINISTRATOR

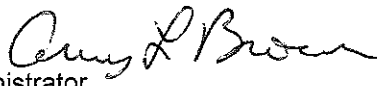


Edwin M. Lee, Mayor
Amy L. Brown, Acting City Administrator

MEMORANDUM

April 1, 2011

TO: Harvey Rose
Budget & Legislative Analyst

FROM: Amy L. Brown 
Acting City Administrator

SUBJECT: Audit Recommendations regarding The City's
Advertising Policies and Practices

Pursuant to your request, this is confirmation that the Office of the City Administrator has received and reviewed the draft audit of The City's Advertising Policies and Practices. As we noted in the response section of the report, we are willing to take the recommended actions. We appreciate your team's work on these issues and the opportunity to review and comment on the report.



Edwin M. Lee, Mayor
Edward D. Reiskin, Director

Office of the Director
1 Dr. Carlton B. Goodlett Place, City Hall, Room 348
San Francisco, CA 94102
(415) 554-6920 ■ www.sfdpw.org



April 7, 2011

Mr. Harvey M. Rose
Budget and Legislative Analyst
San Francisco Board of Supervisors
1 Carlton B. Goodlett Pl, Room 244
San Francisco, CA 94102

Re: Audit and Findings for SF's Advertising Policies and Practices

Dear Mr. Rose:

This letter is confirmation that the Department of Public Works has received and reviewed the draft audit report of *SF's Advertising Policies and Practices* which reviewed DPW's contracts with Clear Channel Outdoor and JC Decaux. We appreciate the recommendations for which our responses are provided in the attached.

Thanks to you and your staff for the work on this project.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Reiskin".

Edward D. Reiskin
Director of Public Works



Recommendation Priority Ranking

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Director of Public Works should:			
3.1	Negotiate with JC Decaux on a mutually-agreed amendment to the existing agreement for automatic toilets and kiosks to increase percent revenue share paid to DPW to be consistent with the City's other advertisement agreements structured around a Minimum Annual Guarantee (MAG) or a revenue share of at least 40 percent.	1	Agree	JC Decaux's contract will expire in 2016. DPW will initiate discussions (by April 15, 2011) with JC Decaux to explore incentives to extend the contract and negotiate shared revenue consistent with the City's Minimum Annual Guarantee (MAG) or 40%. DPW may be unable to successfully negotiate these terms since JC Decaux has little, if any incentive to agree upon such changes.
3.2	Negotiate with JC Decaux on a mutually-agreed amendment to extend the timeline for acquiring permits to install public toilets and kiosks from five and half years from the start of the agreement to twenty years, and facilitate the installation of at least two more public toilets and nine kiosks.	1	Agree	Based on incentives for the city and JC Decaux, DPW will pursue this recommendation if negotiations with JCD to increase shared revenue are successful.

Recommendation Priority Ranking

	Recommendation	Priority	Department Response	Implementation Status/ Comments
3.3	Review DPW’s MOU with the Port and determine the amount of advertising revenue from automatic toilets and kiosks that should have been deposited to the Port from FY 1999-2000 through the present. Request DPW pay the outstanding balance to the Port.	1	Agree	DPW is currently negotiating with the Port.
3.4	Obtain data on Clear Channel’s annual gross revenues and maintenance costs for news racks. Depending on the results of an analysis of such data, DPW should consider amending its existing agreement with Clear Channel to include revenue sharing	2	Agree	<p>DPW will begin discussions with Clear Channel Outdoors by May 2011 to explore incentives for renegotiating the current contract to include shared revenue consistent with the City’s Minimum Annual Guarantee (MAG) or 40%.</p> <p>DPW has requested and CCO agreed to submit revenue reports for the past 5 years no later than 3/31/2011.</p> <p>DPW may be unable to successfully negotiate these terms since Clear Channel Outdoors has little if any, incentive to agree upon changes.</p>

Recommendation Priority Ranking

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Executive Director of SFMTA, the Director of Public Works, the Director of the Airport, the General Manager of the Recreation and Park Department, the Director of Real Estate and the Director of Convention Facilities should:			
4.1	Conduct routine audits of advertising agreements for compliance with inventory, maintenance, and other requirements and maintain documentation of audits and other monitoring activities.	3	Agree	DPW will develop a plan for routine audits of advertising agreements by October 1, 2011
4.2	Require submission of consistent annual revenue data, which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City.	1	Agree	DPW currently receives revenue reports from JCD annually. CCO contract (sec 8.14 and 8.15) requires submission no more than every 5 years however, allows for DPW to inspect CCO books every 12 months DPW has requested and CCO agreed to submit revenue reports for the past 5 years no later than 3/31/2011.
	The Executive Director of the SFMTA and Director of Public Works should:			
4.3	Initiate quarterly site visits to inspect the condition of advertisements and associated infrastructure.	2	Partially Agree	DPW will initiate site visits to inspect condition of advertisement and associated infrastructure every six months (given resource constraints) beginning October 1, 2011.



Edwin M. Lee, Mayor
Philip A. Ginsburg, General Manager

April 4, 2011

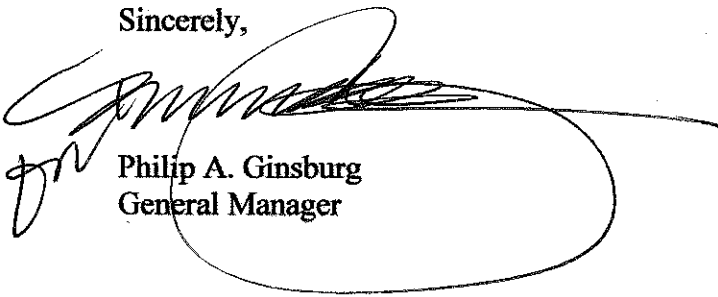
Mr. Harvey M. Rose
Board of Supervisors' Budget
and Legislative Analyst
1390 Market Street, Suite 1150
San Francisco, CA 94102

Dear Mr. Rose:

My staff and I have reviewed your management audit of the city's advertising policies and practices. The Recreation and Park Department accepts the audit's sole recommendation regarding advertising at Candlestick Park. Per the recommendation, department staff will regularly update the Recreation and Park Commission regarding the status of advertising revenue and the marketing of naming rights for the stadium.

Thank you for your work on this important issue.

Sincerely,



Philip A. Ginsburg
General Manager

Recommendation Priority Ranking

Based on the management audit findings, the Budget Analyst has made 18 recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

Priority 1: Priority 1 recommendations should be implemented immediately.

Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to October 1, 2011.

Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to April 1, 2012.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The City Administrator should:			
1.1	Assume responsibility and work with City departments for coordinating and directing Citywide policy on advertising.	2	Agree	
1.2	Develop guidelines for corporate sponsorships for City services, programs, equipment, and facilities.	2	Agree	
1.3	Require that all City departments with advertising agreements develop a department-specific policy on advertising, which includes the prohibition of tobacco and alcohol advertising and City limit on general advertising.	2	Agree	
1.4	Require those City departments without advertising policies in place to amend their advertising agreements, as necessary, to reflect citywide policies on advertising.	2	Agree	

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Director of Public Works should:			
3.1	Negotiate with JC Decaux on a mutually-agreed amendment to the existing agreement for automatic toilets and public service kiosks to increase percent revenue share paid to the Department of Public Works to be consistent with the City's other advertisement agreements structured around a Minimum Annual Guarantee (MAG) and increased percentage rent.	1	Agree	JC Decaux's contract will expire in 2016. DPW can initiate discussions (by April 15, 2011) with JC Decaux to explore incentives to extend the contract and negotiate shared revenue consistent with the City's Minimum Annual Guarantee (MAG) or 40%. DPW may be unable to successfully negotiate these terms since JC Decaux has little, if any incentive to agree upon such changes.
3.2	Negotiate with JC Decaux on a mutually-agreed amendment to extend the timeline for acquiring permits to install public toilets and public service kiosks from five and half years from the start of the agreement to twenty years, and facilitate the installation of at least two more public toilets and nine kiosks.	1	Agree	Based on incentives for the City and JC Decaux, DPW will pursue this recommendation if negotiations with JCD to increase shared revenue are successful.
3.3	Review the Department of Public Works' MOU with the Port and determine the amount of advertising revenue from automatic toilets and public service kiosks that should have been deposited to the Port from FY 1999-2000 through the present. Request the Department of Public Works pay the outstanding balance to the Port.	1	Agree	DPW is currently negotiating with the Port.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
3.4	Obtain data on Clear Channel’s annual gross revenues and maintenance costs for news racks. Depending on the results of an analysis of such data, the Department of Public Works should consider amending its existing agreement with Clear Channel to include revenue sharing.	2	Agree	<p>DPW will begin discussions with Clear Channel Outdoors by May 2011 to explore incentives for renegotiating the current contract to include shared revenue consistent with the City’s Minimum Annual Guarantee (MAG) or 40%.</p> <p>DPW has requested and CCO agreed to submit revenue reports for the past 5 years no later than 3/31/2011.</p> <p>DPW may be unable to successfully negotiate these terms since Clear Channel Outdoors has little if any, incentive to agree upon changes.</p>
	The Director of the Recreation and Park Department should:			
3.5	Report regularly to the Recreation and Park Commission on the status of marketing (a) naming rights for Candlestick Park Stadium, and (b) scoreboard, signage and jumbotron advertising.	2	Agree	Department staff will report to the Commission annually.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Director of Public Works, the Director of Real Estate, the Director of the Airport, and the Director of Convention Facilities should:			
4.1	Conduct routine audits of advertising agreements for compliance with inventory, maintenance, and other requirements and maintain documentation of audits and other monitoring activities.	3	All agree	<p>Real Estate: This can be implemented immediately.</p> <p>Department of Public Works: DPW will develop a plan for routine audits of advertising agreements by October 1, 2011.</p> <p>Convention Facilities and Airport agreed with the recommendation but did not provide any comments.</p>

	Recommendation	Priority	Department Response	Implementation Status/ Comments
4.2	Require submission of consistent annual revenue data, which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City.	1	All agree	<p>Real Estate: This can be implemented immediately.</p> <p>Department of Public Works: DPW currently receives revenue reports from JCD annually. CCO contract (sec 8.14 and 8.15) requires submission no more than every 5 years however, allows for DPW to inspect CCO books every 12 months</p> <p>DPW has requested and CCO agreed to submit revenue reports for the past 5 years no later than 3/31/2011.</p> <p>Convention Facilities and Airport agreed with the recommendation but did not provide any comments.</p>
	The Director of Public Works should:			
4.3	Initiate quarterly site visits to inspect the condition of advertisements and associated infrastructure.	2	Partially Agree	DPW will initiate site visits to inspect condition of advertisement and associated infrastructure every six months (given resource constraints) beginning October 1, 2011.

Response to the Recommendations from the San Francisco Municipal Transportation Agency

Edwin M. Lee | Mayor

Tom Nolan | Chairman

Jerry Lee | Vice-Chairman

Cameron Beach | Director

Leona Bridges | Director

Cheryl Brinkman | Director

Malcolm Heinicke | Director


Bruce Oka | Director

Nathaniel P. Ford Sr. | Executive Director/CEO

MEMORANDUM

DATE: March 29, 2011

TO: Sarah Duffy and Severin Campbell
Budget Analyst's Office

FROM: Sonali Bose
CFO/Director of Finance and Information Technology 

SUBJECT: Advertising Contract Audit

I am transmitting the comments of the San Francisco Municipal Transportation Agency (SFMTA) in response to the draft audit report that your office emailed to us on March 25, 2011. We already provided most of these comments to you in writing following our receipt of the first draft of the report, and we met with you on March 15, 2011 to reiterate these comments. The March 25, 2011 draft of the audit report, however, does not include them. I urge you to include the following comments in your final document as we believe they are important facts:

- This draft does not make it clear that the advertising agreement between BART and Titan Outdoor (Titan) relates to BART's property. The SFMTA receives a share of the advertising profits related to its portion of the stations, but the SFMTA does not have any control over this agreement. BART has sole authority over its property. In addition, any statements that Titan is in compliance with the terms of the agreement come from BART, not the SFMTA. Also, the SFMTA does collect net revenue data from BART, and SFMTA staff has provided copies to your office.
- Advertising revenues have increased dramatically with the new agreements between the SFMTA and Clear Channel Outdoor (Clear Channel) for the transit shelters and the SFMTA and Titan for transit vehicles and other property. The increase is approximately 5,000 percent; leaving out the percentage from the audit report downplays the improvement.
- The draft audit report continues to recommend that departments define "objectionable" in their advertising policies which is a recommendation that, if followed, would lead to First Amendment issues. You have deleted "SFMTA" from this paragraph, but it is still written to indicate that departments with more

advertising space (such as the SFMTA) should follow this recommendation. The SFMTA Advertising Policy was drafted with considerable input from the City Attorney's office and it was carefully crafted to avoid First Amendment problems. The SFMTA continues to advise the Budget Analyst's office to consult with the City Attorney's office before including this recommendation in the audit report.

- The SFMTA does not see how the City Administrator's office should assume responsibility for coordinating and directing City-wide policy on advertising since the SFMTA Board has authority per the Charter. Moreover, the SFMTA already has an advertising policy that has been approved by the SFMTA Board of Directors.
- The SFMTA continues to strongly disagree with the Budget Analyst's conclusion that the contractors have not worked sufficiently hard to sell the maximum amount of advertising. Sales of advertising are the only way for the contractors to earn the money to pay the SFMTA the amounts owed under the contracts and, in the case of Clear Channel, to finance the replacement program, daily maintenance, etc. These are profit-making companies—therefore, they have every incentive to maximize the advertising sales and it does not make sense to say that they are not trying as hard as possible. Clear Channel and Titan are expert in the sale of advertising; SFMTA staff is not. There are many factors that go into sales, particularly the state of the economy and time of the year (some months are more popular for advertisers than others, such as November and December). Any outdoor advertising company can only sell the advertising that others are willing to purchase. In challenging economic times, as well as in months where advertising sales are historically slow, it will always be difficult to sell out the available advertising space.
- The Airport has a history of selling advertising space in its parking garages. The SFMTA and Titan have never sold advertising space in a parking garage. On what is the Budget Analyst's estimate of \$250,000 a year for sale of advertising in garages based? Until such time as some advertising is sold and the market created, there is really no way to tell how much revenue might be created. Further, Titan was not authorized to sell advertising in the parking garages until the SFMTA Board of Directors approved it last summer; Titan did not have this authority at the beginning of the contract term. SFMTA staff discusses the progress with this option with Titan regularly.
- Titan is already working on the sale of digital media, but this type of advertising will not go forward until sales revenues can at least cover the high implementation costs.

- SFMTA staff checks every payment from the contractors to ensure that they are correct. Clear Channel has paid the Minimum Annual Guarantee (MAG) every month and Titan has paid at or above the MAG every month. SFMTA staff is extremely careful to verify SFMTA revenue.
- As already indicated both orally and in written comments, Clear Channel's ability to install the minimum number of transit shelters is related to many factors, most of which are beyond their control. Clear Channel does not have control over transit shelter placements—the City does. There are many transit shelter-related reasons for removing shelters, mostly related to service adjustments and construction. It is not easy, however, to install new transit shelters and kiosks in new locations. There is a very involved process for obtaining encroachment permits from the Department of Public Works and members of the public can, and do, object to new shelter and kiosk placements. Clear Channel is still required to pay the MAG, which they have done. They would be only too happy to install more shelters to finance these payments and their other expenses.
- The Arts Commission approved the designs in March 2008—so the seven year deadline is March 2015 (not 2013—that is the deadline for the shelters). Clear Channel still has four more years to complete this task. The SFMTA is confident that Clear Channel will meet its deadlines.
- Clear Channel has a staff of 20 maintenance workers that are required to clean each shelter at least twice per week. In addition, they are required to respond to 3-1-1 calls in either 24 hours (for hazardous situations, such as broken glass) or 48 hours (for everything else, such as graffiti). On occasion, Clear Channel will clean graffiti and taggers will immediately re-tag. Titan staff monitors the condition of ads in vehicles when they are in the yards to install and remove ads. It is not possible for transit shelters and vehicles, which are used extensively, to be 100% clean all of the time. Clear Channel and Titan have done a better job at maintenance than the prior contractor. Both contractors consistently comply with the terms of their respective contracts.
- Titan has an incentive to ensure advertisements are in good condition to maintain continuing good relationships with advertisers. As a matter of fact, according to SFMTA staff, vehicles with advertisements are generally in better condition than vehicles without in terms of graffiti and cleanliness. Vehicles with advertisements require less SFMTA resources for cleaning than those without advertisements.
- Some of the new shelters feature touch screen technology, not all of them.

- Any additional monitoring requirements for SFMTA staff are contingent on the SFMTA having adequate staffing and resources.

We appreciate the incorporation of these facts into the final audit document.

Recommendation Priority Ranking

Based on the management audit findings, the Budget Analyst has made recommendations which are ranked based on priority for implementation. The definitions of priority are as follows:

- Priority 1: Priority 1 recommendations should be implemented immediately.
- Priority 2: Priority 2 recommendations should be completed, have achieved significant progress, or have a schedule for completion prior to October 1, 2011.
- Priority 3: Priority 3 recommendations are longer term and should be completed, have achieved significant progress, or have a schedule for completion prior to April 1, 2012.

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Executive Director of the SFMTA should:			
2.1	Work with Titan to initiate and maximize the sale of (a) advertisements in parking garages, and (b) digital display and new media advertisements in accordance with the terms of the agreement between SFMTA and Titan.	1	Disagree/SFMTA Already doing this	Titan is already working to maximize sales, including in parking garages—this is the only way in which the contractor can earn revenues for itself, as well as for the SFMTA. The advertising contractors are experts in sales of advertising; SFMTA staff does not have expertise in this area. In challenging economic times, it will always be difficult to sell the maximum amount of advertising. Titan is already working on digital display advertising, but will not go forward until sales revenues can at least cover the high implementation costs.
2.2	Evaluate advertising sales projections and follow-up with contractors regarding advertising sales in an effort to increase advertising revenues.	1	Disagree/SFMTA Already doing this	Both contractors are already working to maximize sales—this is the only way in which they can earn revenues for themselves, as well as for the SFMTA. The advertising contractors are experts in sales of advertising; SFMTA staff does not have expertise in this area. In challenging economic times, it will always be difficult to sell the maximum amount of advertising.

Recommendation Priority Ranking

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Executive Director of SFMTA, the Director of Public Works, the Director of the Airport, the General Manager of the Recreation and Park Department, the Director of Real Estate and the Director of Convention Facilities should:			
4.1	Conduct routine audits of advertising agreements for compliance with inventory, maintenance, and other requirements and maintain documentation of audits and other monitoring activities.	3	Disagree/SFMTA Already doing this	The SFMTA intends to conduct such audits in accordance with the terms of the agreements.
4.2	Require submission of consistent annual revenue data, which should include an itemization of clients, sales per client, annual advertising revenue, percent advertising fee to the City, base and total payment to the City.	1	Disagree/SFMTA Already doing this	The SFMTA already does this.
	The Executive Director of the SFMTA and Director of Public Works should:			
4.3	Initiate quarterly site visits to inspect the condition of advertisements and associated infrastructure.	2	Disagree/SFMTA does not have the resources nor is it value added	Various SFMTA staff checks these items as part of their regular duties.

Recommendation Priority Ranking

	Recommendation	Priority	Department Response	Implementation Status/ Comments
	The Executive Director of the SFMTA should:			
4.4	Direct SFMTA’s contract management and SFMTA’s Graffiti Prevention and Security Program to coordinate efforts to remove graffiti and stickers from the exposed wall in unsold interior advertising spaces on buses.	1	Disagree	SFMTA staff already works on reducing and removing graffiti in and on all vehicles. The SFMTA employs car cleaners whose job is to clean the inside of vehicles, including graffiti
4.5	Direct SFMTA Finance and Contract Management staff to work with BART to ensure adequate maintenance of advertising agreements in the combined Muni and BART stations.	1	Disagree	This is BART’s contract and it is BART’s property—the SFMTA ha no authority and thus the SFMTA has no role in oversight.