SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT

MEMORANDUM

TO: Board of Directors **DATE:** September 15, 2022

FROM: Harriet Richardson, Inspector General

SUBJECT: For Action: Performance Audit of the Organizational Structure of BART's Financial Operations

Attached is the performance audit, "Organizational Structure of BART's Financial Operations," which the Office of the Inspector General presented at the Audit Committee meeting on September 13, 2022, and will present to the Board of Directors on September 22, 2022, for discussion and requested action.

We recommend that the Board of Directors:

- Accept the Audit Committee's recommendation to adopt a CFO structure, and
- Direct either the Audit Committee or a newly created committee to discuss options and make recommendations to the Board of Directors for implementing the CFO structure.

If you have any questions, please contact Harriet Richardson, Inspector General, at 510.464.6132.

August 26, 2022

Harriet Richardson, Inspector General
Bay Area Rapid Transit
2150 Webster Street, RM 410
Oakland, CA 94612

Dear Ms. Richardson:

Enclosed is the final audit report presenting the results of our performance audit of the organizational structure of financial operations within the San Francisco Bay Area Rapid Transit District (BART). This report was prepared on behalf of the independent Office of the BART Inspector General by Sjoberg Evashenk Consulting and includes our findings and recommendations. We provided a draft of this report to representatives of BART and input provided was considered and incorporated where appropriate prior to finalizing the report.

Respectfully submitted,

George J Skiles

George Skiles, Partner
Sjoberg Evashenk Consulting, Inc.

Bay Area Rapid Transit
Office of the Inspector General

Performance Audit of the Organizational Structure of BART's Financial Operations

August **2022**

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REPORT HIGHLIGHTS

RESULTS

BART's organizational structure is unique among peer transit agencies in that it bifurcates management responsibilities between two independent Board appointees. The Controller-Treasurer manages specific financial operations (accounting, treasury, and risk management) and the General Manager manages all other District operations—including other financial operations such as budgeting, financial planning, capital planning, and others. While most of those we interviewed described positive working relationships between the offices, management recognized that there are opportunities for improvement. This audit concludes that consolidating financial operations under a Chief Financial Officer that reports directly to the General Manager will better position BART to address these opportunities and meet the challenges ahead.

BACKGROUND

The San Francisco Bay Area Rapid Transit District (BART) is a heavy-rail public transit system that connects the San Francisco Peninsula with cities across five counties in the East and South Bay. The California Public Utilities Code Section 28500 *et seq.*, known as the San Francisco Bay Area Rapid Transit District Act (or BART Act) places all responsibility for the District's financial operations under two offices: the Controller-Treasurer, primarily, and the General Manager.

The Board of Directors appoints both the Controller-Treasurer and the General Manager; both officers report to and are accountable to the Board; and each manages financial-related functions independent of each other. The Controller-Treasurer manages accounting, treasury, and risk management functions, and the General Manager manages operating and capital budgets, financial planning, financial reporting, grant administration, funding strategies, revenue forecasting, financial analysis, and other financial-related functions.

KEY OBSERVATIONS

- Both the Controller-Treasurer and the General Manager fulfilled their respective roles and responsibilities as defined in the BART Act and Code of Ordinances, as they relate to the financial operations of the District.
- Our review of 11 peer transit agencies found that each centralized key financial operations under a Chief Financial Officer (CFO) or an equivalent executive position that reports directly to a Chief Executive Officer (CEO), and that most centralized general accounting, budgeting, revenue, treasury, and grant administration within the same office. In no case were accounting, treasury, or risk management functions not under the purview of the CEO.
- The work of the Controller-Treasurer and the General Manager are—both in practice and as required in the BART Act and Code of Ordinances—interdependent in ways that do not exist among any of the other Board-appointed offices. Because of this, the organizational independence that currently exists between the Controller-Treasurer and the General Manager may prove to be an organizational weakness rather than a strength.
- We find that a structure that unifies rather than bifurcates financial-related functions is most likely to provide the flexibility, agility, and innovation required of BART—and all transit agencies—over the next decades. In fact, over the last 30 years, the role of CFOs in the public sector has evolved beyond basic accounting, finance, control, reporting, and compliance tasks to roles that create value by helping improve program and operational performance. Today, municipalities and special districts throughout California have established and rely on CFOs—as do all of the transit systems benchmarked in this study—demonstrating the shift away from siloed accounting and treasury functions toward holistic and strategic financial performance management.
- By its very nature, risk management is inextricably linked to both the fiscal operations of BART and to the business operations of BART, including the core functions of BART overseen by the General Manager.

KEY RECOMMENDATION

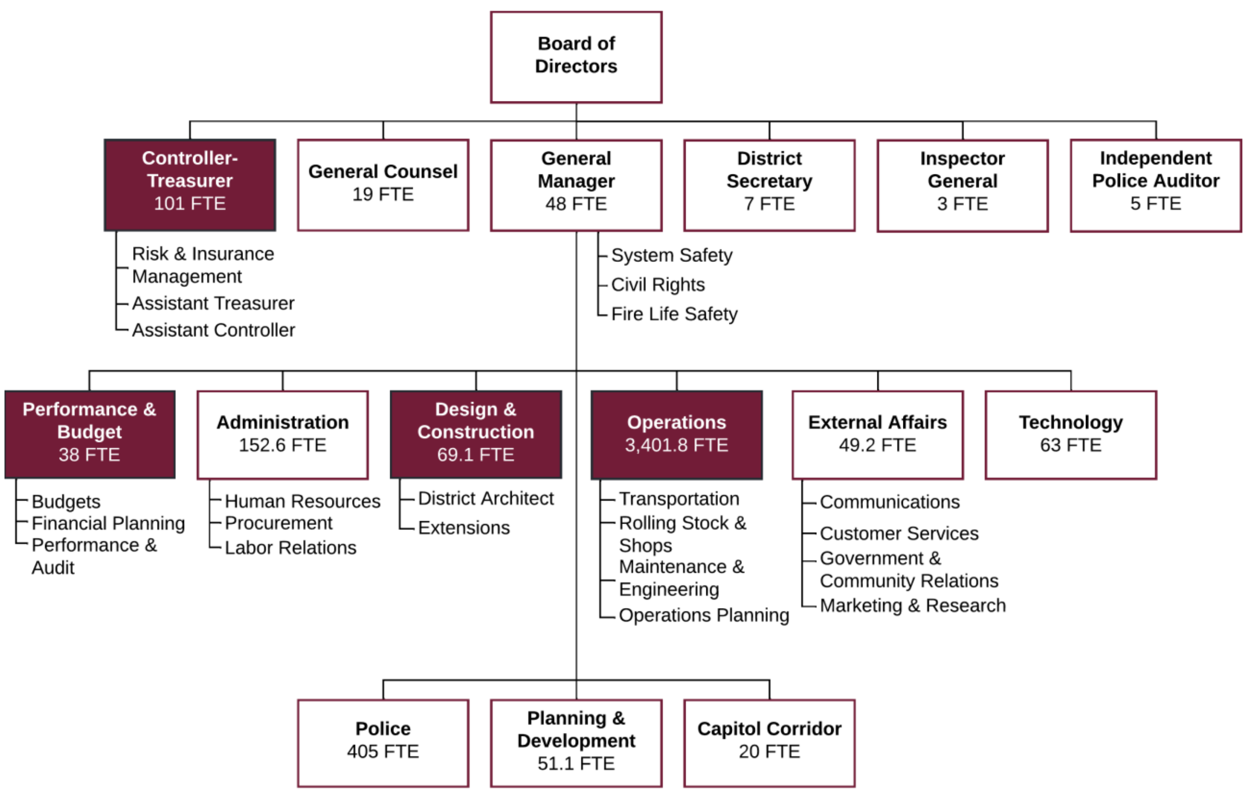
We recommend that the Board of Directors modify the organizational structure of BART to allow for the creation of a Chief Financial Officer within the span of control of the General Manager. This can be achieved by seeking legislation to amend the BART Act or by revising the Code of Ordinances. Details of such options are presented in this report.

Introduction and Background

The San Francisco Bay Area Rapid Transit District (BART or District) is a heavy-rail public transit system that connects the San Francisco Peninsula with cities across five counties (San Francisco, San Mateo, Alameda, Contra Costa, and Santa Clara) in the East Bay and South Bay. BART's mission is to "provide safe, reliable, clean, quality transit service for riders." With a Fiscal Year 2022 operating budget of $1 billion and a capital budget of $1.4 billion, BART employs nearly 4,430 full-time equivalent (FTE) positions, augments permanent FTEs with various outsourced service providers, and, with an average (pre-pandemic) daily ridership of 421,000 passengers, operates the largest heavy-rail public transit system in the Western United States.

Established pursuant to California Public Utilities Code Section 28500 *et seq.*, known as the San Francisco Bay Area Rapid Transit District Act (or BART Act), BART is a special purpose district that is governed by a nine-member Board of Directors.

EXHIBIT 1: BART DISTRICT-WIDE ORGANIZATION CHART



Source: BART district-wide organizational chart.

The chief executive and administrative officer of the District is the General Manager, a position appointed by and responsible to the Board of Directors. The General Manager is responsible for general oversight and leadership to ensure the development and delivery of BART's programs and projects, as well as coordination and consultation with BART's internal and external stakeholders. In addition to the General

Manager, BART's executive structure includes five other officers that report directly to the Board: the Controller-Treasurer, General Counsel, District Secretary, Independent Police Auditor, and Inspector General. With the exception of these five offices or departments, the bulk of the District's operations report directly to the General Manager, including nine executive-level officers; these include the Assistant General Managers over Operations, Administration, Design & Construction, Technology, External Affairs, and Performance & Budget; Chief of Police; Chief Officer of Planning & Development, and Managing Director of the Capital Corridor Office. This organizational structure is depicted in Exhibit 1.

The BART Act (Section 28810-28836) places all responsibility for the District's financial operations under two offices: the Controller-Treasurer, primarily, and the General Manager. Exhibit 1 highlights where in the organization significant financial-related functions are performed. The roles and responsibilities of both the Controller-Treasurer and the General Manager are described below.

The General Manager

The General Manager serves as the District's Chief Executive Officer, overseeing a variety of departments and operations. At the direction and control of the Board, the General Manager is responsible for the acquisition, construction, maintenance, and operation of the facilities of the District; the preparation of all plans and specifications for the construction of the works of the District; the administration of the business affairs of the District; the reporting of the finances and administrative activities of the District for the preceding year; and installation and maintenance of a system of auditing and accounting, which shall completely and at all times show the financial condition of the District. In addition to this, the General Manager is statutorily responsible for administering the personnel system adopted by the board and, except for officers appointed by the board, to appoint, discipline or remove all officers and employees (Section 28834(d) of the BART Act).

Under the purview of the General Manager, the Executive Office of Performance & Budget (Performance & Budget) is responsible for operating and capital budgets, financial planning, grant administration, funding strategies, internal audit, and performance improvement. Traditionally, within Performance & Budget:

- The Budget unit manages the District's operating and capital budgets, position control, fund tracking and grant compliance, and budget-to-actual reporting;
- Financial Planning develops the Short-Range Transit Plan, performs long-term forecasting, tracks fare revenue, evaluates fare-setting, tracks capital spending, leads fare policy and the Clipper® program, and implements financial strategy and analysis; and
- Performance & Audit performs internal audit and performance evaluation reviews designed to ensure District compliance, enhance overall operations, and promote and advance efficiency, effectiveness, and economy through continuously monitoring, managing, and improving business performance across BART.

In addition to these three functions, Performance & Budget established a Funding Strategy unit in September 2021 to take a more proactive and strategic view of capital forecasting and grant development and advocacy. Their intent was to better forecast revenue needs and target funding sources, including grant opportunities, that could meet those needs. The Funding Strategy unit also develops the Capital

Improvement Program. Additionally, the Executive Office issues annual Silicon Valley Rapid Transit operating & capital cost obligation estimates and annual budget estimates of the San Francisco Municipal Transportation Agency's (SFMTA) share of the joint station maintenance agreement costs.

Separately, two District executive offices (Design & Construction and Operations) house numerous Financial Analysts who have an important role in providing analytical and financial support of capital projects, internal operations, and external agreements. Other duties include performing budget monitoring activities, monthly reporting and forecasting, and serving as custodians for contracts, such as professional services contracts. These Financial Analysts typically use financial data to accurately report real-time expenditures to help BART managers oversee operations.

The Controller-Treasurer

While the BART Act establishes a Controller and a Treasurer as positions, it permits the Board of Directors to combine the positions. Board Resolution No. 1958 combined the offices of the Treasurer and Controller into the single Office of the Controller-Treasurer. Because the powers and duties of the Controller were generally not specified by the BART Act, the Board of Directors adopted Resolution No. 5018, a statement of policy concerning the Office of the Controller-Treasurer. Per the BART Code of Ordinances, the Controller-Treasurer is responsible for District accounting functions, treasury operations, and risk management. The Office is organized into three divisions.

- ✓ The Controller is responsible for accounting functions, such as accounts payable, timekeeping and payroll, general ledger and financial reporting, accounts receivable, annual external audits, grant billings and collections, purchase card (Go Card) administration, and other typical accounting functions. The BART Act is vague regarding the role of the Controller, stating only that "the person appointed controller shall have been actively engaged in the practice of accounting for not less than seven (7) years next preceding his appointment." The Controller-Treasurer assigns this responsibility to the Assistant Controller, who:
    - Formulates, develops, and implements policies and procedures that maintain and improve the District's financial position;
    - Develops new sources of funding and financial forecasts to identify and plan for future cash flow needs and to ensure that the District has adequate funding to meet ongoing and project commitments;
    - Manages and updates the District's Financial Stability Policy, Investment Policy, and Debt Service Policy and develops a means for the establishment of adequate operating and working capital reserves to support the District's operations; and
    - Serves as the Trustee of the Retiree Health Benefit Trust, Survivor Benefit Trust, and Pension Liability Trust.

  The Controller-Treasurer also reviews Executive Decision Documents (EDD) and certifies as to funding availability.

- ✓ The Treasurer is the custodian of the District's funds and, according to the BART Act, is responsible for the payment of warrants approved by the General Manager, accounting of all receipts and disbursements, and managing relations with third-party custodians. While the Controller-Treasurer also signs warrants along with the General Manager, the Controller-Treasurer generally assigns treasury functions to the Assistant Treasurer. BART's investment policies include the following investment objectives:

  - Preservation of Capital – The investment portfolio should be structured to minimize the probability of a loss of principal value through adequate diversification of investments across a variety of security offerings, maturities, and financial institutions.
  - Liquidity – Funds shall be invested only until the date of anticipated need or for a lesser period. The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated.
  - Yield generation of the best available return on investment without compromise of the first two objectives.

  The Assistant Treasurer is also responsible for revenue collection (e.g., fare revenue collected through cash, credit card, Clipper Card, and other transactions, as well as sales tax allocations); the prudent, suitable, and advantageous investment of funds held by the District; cash management; and debt issuance and debt service.

- ✓ The Director of Risk & Insurance Management is responsible for assessing the District's risk appetite; formulating and implementing risk management strategies; making risk retention and transfer decisions; managing, designing, and procuring various lines of insurance and self-insurance programs; establishing and enforcing insurance requirements for District contractors; receiving, managing, and resolving claims filed against the District; overseeing the District's third-party administrator; and managing BART's Owner-Controlled Insurance Program (OCIP) for large construction and other high-dollar projects.

  A fundamental purpose of risk management is to reduce costs to an organization by ensuring the organization possesses adequate financial resources to pay all costs associated with damages caused by the organization to others or caused by others to the organization. There are three basic ways an organization can ensure it is properly insured:

  - Retain risk and "self-fund" its insurance program. This means that the organization can fully rely on its own funds to pay for damages as they occur.
  - Transfer risk and be "fully-insured," which means, that the organization is either unable to, or otherwise elects not to, set aside a fund to pay for damages, and thus purchases insurance on the open market.
  - Opt for a hybrid approach by maintaining a limited fund set aside to pay for damages and purchasing insurance to pay for a defined portion of costs as they arise. This is the more typical approach.

Recognizing that the powers and duties of the Controller-Treasurer are generally not specified in the BART Act, the Board adopted legislation that further defined the role of the Controller-Treasurer. Specifically, the Code of Ordinances (Section 1-303) memorializes the policy of the Board of Directors as it relates to the Office of the Controller-Treasurer and its relationship to the General Manager.

- While the Board requires a close working relationship between the General Manager (and all District executive offices) and the Controller-Treasurer, the Controller-Treasurer is directly responsible to the Board.
- The Controller-Treasurer has full authority over the District's independent audit, revenue collection, cash management, risk management, and the selection and retention of all finance department personnel, and serves as the trustee to the Retiree Health Benefit Trust, Survivor's Benefit Trust, and Pension Liability Trust.
- The Controller-Treasurer and the General Manager must work collaboratively to oversee capital finance.
- While the Controller-Treasurer is free to raise matters directly with the Board, the officer may rely on the General Manager as the official representative of the Board.
- The General Manager and the Controller-Treasurer will ensure that the other will have full access to information and copies of documents provided to the Board and be informed of the activities of the others' operations.
- The Controller-Treasurer, General Manager, and the Board are responsible to maintain complete candor and a free exchange of information.

Financial Reporting to the Board of Directors

The General Manager and Controller-Treasurer both post financial-related information on the organization's website, https://www.bart.gov/about/financials. Based on a review of the Board agendas, the General Manager presents quarterly financial reports to the Board of Directors. The General Manager signs the reports and notes in the report if anyone had any questions to contact the Assistant General Manager for Performance and Budget. The reports contain no reference to the Controller-Treasurer or Director of Finance. These reports are placed on the consent calendar of Board of Director meetings. The reports contain information on operating revenues, financial assistance and allocations, operating expenses (labor and non-labor), year-end forecast, ridership information, and other performance metrics. Likewise, on a quarterly basis, the Controller-Treasurer issues a report that provides pension-related and retiree health information, as well as information on accounts receivable, district financing, cash investments, bonds, and reserves.

Scope and Methodology

The San Francisco Bay Area Rapid Transit District (BART), independent Office of the BART Inspector General, hired Sjoberg Evashenk Consulting, Inc., to conduct a performance audit of the organizational structure of BART's financial-related functions and activities. The objective of this audit was to determine:

1) The extent to which the current organizational structure of the Office of the Controller-Treasurer assures its independence;
2) How BART's current financial structure compares with best practices and other large transit agencies;
3) The advantages and disadvantages of consolidating finance functions and modifying reporting structures into a single department; and
4) Whether the responsibilities of the Risk Management function are appropriately placed within the Office of the Controller-Treasurer.

To address these audit objectives, we performed the following audit procedures:

- Reviewed relevant governing documents, including the BART Act and the San Francisco Bay Area Rapid Transit District Code of Ordinances.
- Interviewed BART personnel to understand roles, responsibilities, activities, functions, insights, and perceptions on the functions of the Office of the Controller-Treasurer, independence, how others use or rely on the Office of the Controller-Treasurer, and reporting structure. This included interviews with the General Manager; Acting Controller-Treasurer; the Assistant General Managers over Performance & Budget, Design and Construction, and Operations; and subordinate management and/or staff personnel involved in District financial operations.
- Obtained and reviewed organizational materials that provide insight into the structural organization of financial-related functions within BART as well as critical roles, responsibilities, activities, or financial-related processes. Such material included the following:
  - Budgetary documents, including budget-to-actual reports provided to BART departments and programs, budget performance reports, and General Manager quarterly financial reports;
  - Policies and procedures; organization charts, program descriptions, and position descriptions;
  - Quarterly reports to the Board, financial audit reports, investment performance reports, and internal analyses of BART fiscal operations;
  - Financial-related policies, including BART's financial stability policy, debt policy, and investment policy.
- Identified those organizational units throughout BART that are responsible for carrying out financial-related functions, including the assigned responsibilities, the role and purpose of each unit, the rationale for the current decentralization of financial-related functions, and perspectives

regarding the practicality or benefits of consolidation.

- Conducted benchmark research of peer transit agencies. Identified transit agencies sufficiently similar to BART using a variety of sources, including the National Transit Database information captured in the Florida Transit Information System (FTIS) database, as well as comparable agencies used by BART staff when conducting informal comparisons.

  This research focused on understanding the organizational structure of peer transit agencies; identifying the financial-related functions for which executive management is responsible; determining how such functions are centralized or decentralized in the agency; evaluating the extent to which enabling legislation governs the organizational structure and/or role of executive management responsible for fiscal operations, including whether Chief Financial Officer (CFO) positions within peer transit agencies are typically appointed by and report to the governing body; and evaluating the type of financial-related reporting provided to the governing bodies of peer transit agencies. In conducting the research, we reviewed best practices literature, including publications of the Association of Government Accountants and the California Society of Municipal Finance Officers, and reviewed the organizational structures of the following 11 agencies:

  - Metropolitan Atlanta Rapid Transit Authority (MARTA)
  - Chicago Transit Authority (CTA)
  - Dallas Area Rapid Transit (DART)
  - Los Angeles County Metropolitan Transportation Authority (LA Metro)
  - New York Metropolitan Transportation Authority (MTA)
  - Orange County Transportation Authority (OCTA)
  - San Diego Metropolitan Transportation System (MTS)
  - Southeastern Pennsylvania Transportation Authority (SEPTA)
  - Tri-County Metropolitan Transportation District of Oregon (TriMet)
  - Central Puget Sound Regional Transit Authority (Sound Transit)
  - Washington, D.C., Metropolitan Transportation Authority (WMATA)

- Evaluated the potential pros and cons of the existing organizational structure, as well as altering the existing organizational structure to a more centralized model.

This performance audit was performed between October 2021 and January 2022. On March 4, 2022, a draft of this report was provided to the Office of the Inspector General, President and Vice President of the Board of Directors, General Manager, and the Acting Controller-Treasurer for review and discussion. An Exit Conference was held on March 11, 2022, to discuss the audit findings and recommendations. We considered responses and feedback provided by BART management and incorporated this feedback where applicable in the final report.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Conclusions & Recommendations

Our interviews with management responsible for fiscal operations and key stakeholders—e.g., management, staff, and Board Directors that rely on the Controller-Treasurer and Performance & Budget—revealed both a general satisfaction with the current structure of BART's fiscal operations and a recognition that opportunities exist to enhance service delivery to the primary stakeholders of the Controller-Treasurer and Performance & Budget: other BART departments, the Board of Directors, and the public. Overall, most staff we interviewed were supportive of the current structure because of the positive working relationship between the Controller-Treasurer and Performance & Budget offices. In fact, stakeholders found the appointed Controller-Treasurer to be a team player and have worked well with the interim Controller-Treasurer and his predecessors. Staff indicated they have excellent relations and work collaboratively with the Controller-Treasurer. However, structures based on relationships can be problematic in the long term. Finally, independent audit reports also suggest that the District's financial operations are subject to adequate and effective internal controls, with no material weaknesses or findings presented in published reports over the past three years.

Despite this, the manner in which BART has structured its financial operations is unusual and may not be as effective as it could be under an alternative organizational structure. In public agencies, financial management, budgeting, treasury, and financial planning functions are generally consolidated under one single department, reporting to a CFO or equivalent. The CFO, in return, generally reports to the head of the agency with a dotted line reporting relationship to oversight boards and committees.

At BART, the agency's financial management structure is unique in comparison to other transit agencies of similar size. A key difference is the disconnect between budget and financial planning, which are housed under the purview of the General Manager, and accounting operations, which is housed within the Office of the Controller-Treasurer. We evaluated whether this fragmented structure creates a barrier to the organization in accomplishing a coordinated and well-planned strategy to achieve financial performance goals and objectives.

Overall, this audit concludes that consolidating the financial operations into a single department is likely to be advantageous as BART streamlines operations and addresses opportunities for improvement during a time of financial uncertainty caused by the pandemic. This, and the fact that the previous Controller-Treasurer recently retired and the Board of Directors has yet to appoint a permanent replacement, suggests that the Board is currently presented with a window of opportunity to transition financial operations to a centralized model under a CFO. Below, we provide answers to the four questions this audit was intended to address:

1. **To what extent does the current organizational structure of the Office of the Controller-Treasurer assure its independence?**

   We assessed the independence of the Office of the Controller-Treasurer by identifying the criteria for this Office, as established in the BART Act and Code of Ordinances, and compared actual practices against these criteria.

- The General Manager is responsible for the acquisition, construction, maintenance, and operation of the facilities of the District, as well as the administration of the business affairs and the personnel system of the District, as required by Section 28830 of the BART Act.
- The General Manager prepares and submits to the Board, as soon as practical after the end of each fiscal year, a complete report of the finances and administrative activities of the District for the preceding year, as required by Section 28834(e) of the BART Act; in fact, the General Manager prepares quarterly reports to this effect for submittal to the Board.
- The General Manager caused to be installed and maintained a system of auditing and accounting which completely and at all times shows the financial condition of the District, as required by Section 28834(j) of the BART Act.
- The Controller-Treasurer is the custodian of the funds of the District, makes payments upon warrants authorized by the General Manager, keeps an account of all receipts and disbursements, and contracts with and authorizes the custodian bank to receive and hold any securities acquired by the District, as required by Sections 28817 and 28818 of the BART Act.
- The General Manager and Controller-Treasurer appeared to maintain a close working relationship and effective communication while recognizing their individual and professional responsibility to the Board of Directors, as required pursuant to Section 1-303(1) of the Code of Ordinances.
- The Controller-Treasurer exercised full authority over the District's accounting functions, independent audit, revenue collection, cash management, risk management, and the selection and retention of all finance department personnel, subject to budgetary restrictions, labor agreements, and human resource policies; worked cooperatively with the office of the General Manager to oversee capital finance; and served as the trustee to the Retiree Health Benefit Trust—as required pursuant to Section 1-303(2) of the Code of Ordinances—as well as to the District's Survivor's Benefit Trust and the Pension Liability Trust.
- Based on input from Board Directors and the Acting Controller-Treasurer, the Office of the Controller-Treasurer has and continues to be free to raise any matter directly with the Board as required pursuant to Section 1-303(3) of the Code of Ordinances.
- The Controller-Treasurer regularly relies on the General Manager as the official representative of the Board, as permitted pursuant to Section 1-303(3) of the Code of Ordinances.
- The General Manager appears to have ensured that the Controller-Treasurer has full access to information concerning BART activities, including documents sent to the Board at the time of distribution to the Board, and likewise, the Controller-Treasurer appears to have ensured that the General Manager is informed of related activities of the Office of the Controller-Treasurer, as required pursuant to Section 1-303(4) of the Code of Ordinances.
- The Controller-Treasurer recognizes that there must and can be complete candor between their Office and the Board and the General Manager, and that the Controller-Treasurer feels free to answer questions asked by the Board as whole or its individual members, without

referring to the General Manager beforehand, as required pursuant to Section 1-303(5) of the Code of Ordinances.

We found that both the Controller-Treasurer and the General Manager fulfilled their respective roles as they relate to the financial operations of the District. The independence of the Office of the Controller-Treasurer, as envisioned in the BART Act and Code of Ordinances, was not impaired or compromised in carrying out these duties. More important, however, we do not believe independence is necessary for a well-functioning Controller-Treasurer, nor do we find independence in such an office to be a common or best practice. In fact, the organizational independence that currently exists between the Controller-Treasurer and the General Manager may prove to be an organizational weakness rather than a strength.

We do not find that the BART Act or the Code of Ordinances require the type of organizational independence currently implied in the organizational structure. We find no reference in the BART Act that requires the independent functioning of the Controller-Treasurer outside the purview of the General Manager. Rather, the BART Act allows for the offices of the Controller, Treasurer, and General Manager to be consolidated in one person (Section 28813), suggesting that the functions of each office need not be independently managed. The independent functioning of the Controller-Treasurer, while not explicitly required in the Code of Ordinances, is implied in Section 1-303(2). Specifically, the Code of Ordinances states that the Controller-Treasurer has full authority over the District's independent audit, revenue collection, cash management, risk management, and all finance personnel—suggesting that the General Manager has no purview over such functions.

Despite this singular provision in the Code of Ordinances, it appears that the organizational independence of the Office of the Controller-Treasurer, as reflected in the organizational chart, is predicated on the fact that the position is appointed by the Board of Directors. Similar to all other Board-appointed officers (e.g., General Manager, District Counsel, Inspector General, Independent Police Auditor, and District Secretary), the Controller-Treasurer is housed in a separate organizational department outside of the General Manager’s span of control, reporting directly to the Board. This is a typical structural and reporting relationship for certain appointed offices such as the Inspector General, District Counsel, Independent Police Auditor, and District Secretary, where the function of each office is intended to serve as staff or counsel to the Board or is intended to provide independent oversight and scrutiny of executive operations. While the Office of the Controller-Treasurer provides some support to the Board (e.g., booking travel for Board Directors) and exercises some oversight of internal controls implemented throughout BART (e.g., through the annual independent audits), the Office of the Controller-Treasurer does not serve as staff to the Board, nor does it provide independent oversight of the District’s operations. Instead, the Controller-Treasurer carries out functions necessary to the daily operations of the District; other than the General Manager, the other appointed offices do not. The Controller-Treasurer is, at its core, an operational department of the District.

In practice, the organizational placement of the Controller-Treasurer does not actually achieve the independent functioning or operation of the Office of the Controller-Treasurer—not in the same way that the Inspector General, District Counsel, Independent Police Auditor, and District Secretary operate independently from the General Manager and one another. The work of the Controller-Treasurer and the General Manager are—both in practice and as required in the BART Act and Code of Ordinances—interdependent in ways that do not exist among any of the other Board-appointed offices. Because of this, the organizational independence that currently exists between the Controller-Treasurer and the General Manager achieves one key purpose: it bifurcates interrelated financial responsibilities and activities into two separate offices, different reporting structures, and separate lines of accountability. As discussed in our answer to Question #3, this may prove to be an organizational weakness rather than a strength.

Not only does the BART Act not require the offices of the General Manager, Controller, and Treasurer to function independently of one another, neither does it require that the Controller or Treasurer report directly to the Board or receive direction solely from the Board. In fact, the BART Act repeatedly stipulates that the General Manager shall carry out the administration of the business affairs of the District, "subject to the direction and control of the [Board]," but it places no such stipulation relating to the Board's relationship to the Controller-Treasurer. Instead, the BART Act is silent on the nature of the reporting relationship between the Controller-Treasurer and the Board. The Code of Ordinances, however, provides additional clarity regarding this relationship, allowing the Controller-Treasurer to "rely on the General Manager as the official representative of the Board …" (Section 1-303(3)).

The BART Act is also silent on the organizational placement of the Controller-Treasurer. While the current organization chart places the Controller-Treasurer outside of the span of control of the General Manager, such placement is not required. The Board, at its sole discretion, could place the position as a subordinate Office to the General Manager.

While the BART Act does not codify the organizational placement or the nature of any reporting relationships of either the Treasurer or the Controller to the Board, it is also important to note that trends in the corporate and public sectors have been to increase accountability of both CEOs and CFOs for all financial activity within an organization. For instance, the Sarbanes-Oxley (SOX) Act of 2002, adopted because of several accounting scandals in the early 2000s (e.g., Enron, Tyco, WorldCom), requires the CEO to certify as to certain facts related to the entity's financial activity, fiscal health, and financial reporting. In doing so, the Act reduced the ability of CFOs to operate fully outside the purview of the CEO. As we address in the answers to the following questions, similar trends have been observed in the public sector. For example, CFOs have been used to increasingly centralize the management of fiscal operations, and to make financial oversight and strategic insight more central in executive decision-making. Increasing the CEO's purview into, and responsibility for, fiscal activity of the public or private organization for which they are responsible is consistent with this trend. Segregating such fiscal operations from CEO / General Manager responsibilities—i.e., ensuring independence between the two—runs counter to this trend.

2. How does BART's current financial structure compare to best practices and other large transit agencies?

Our review of 10 transit agencies throughout the nation revealed that most employ a centralized organizational structure for all financial-related activities, including general accounting, investments, revenue collection, capital finance, grant administration, payroll, accounts receivable, accounts payable, operating budget, capital improvement program (CIP) planning and analysis, revenue forecasting and modeling, debt issuance and service, financial analysis, risk management, and similarly related financial functions. While most transit agencies centralized such functions under a CFO, some maintained a decentralized approach. Below, we describe the prevalence of centralized versus decentralized financial structures among transit agencies in our benchmark sample, how peer agencies approach centralization and decentralization, and how this compares to BART's organizational structure.

BART's peer transit systems do not structure their financial operations in a manner similar to BART. Our benchmarking efforts included an evaluation of the organizational structure of 10 transit systems, as described in our methodology. All 10 agencies centralized financial operations under a CFO or an equivalent executive position that reports directly to the Chief Executive Officer and, often, is responsible to both the Chief Executive Officer and to the governing Board. This includes the following transit systems.

- Metropolitan Atlanta Rapid Transit Authority (MARTA)
- Dallas Area Rapid Transit (DART)
- Los Angeles County Metropolitan Transportation Authority (LA Metro)
- Orange County Transportation Authority (OCTA)
- San Diego Metropolitan Transportation System (MTS)
- Chicago Transit Authority (CTA)
- Southeastern Pennsylvania Transportation Authority (SEPTA)
- Tri-County Metropolitan Transportation District of Oregon (TriMet)
- Central Puget Sound Regional Transit Authority (Sound Transit)
- Washington, D.C., Metropolitan Transportation Authority (WMATA)

Based on available information, we determined that New York MTA is not sufficiently comparable to BART.

As shown in the following table, based on our benchmarking efforts, agencies' centralization of key financial functions typically centered around accounting/comptroller, treasury/revenue, and budgets/grants under the CFO. Accounting typically would include accounts receivable, accounts payable, payroll/timekeeping, and financial reporting. Treasury/revenue functions would include cash collection, including fare revenue, investment, and debt management. Budget and grants would include operating and capital budget preparation, and grant application, management and/or accounting. Aside from these common divisions, there were some differences in other functions under the CFO. Four organizations had capital finance, four had procurement and contracts, three entities had business planning and analysis, and four had risk management functions reporting to the CFO. Six other agencies had a variety of "other" responsibilities within the office of the CFO, including information technology, real estate, and other operations. Despite some differences in division names, they all performed similar financial functions.

EXHIBIT 2. SPAN OF CONTROL OF CHIEF FINANCIAL OFFICERS IN PEER TRANSIT AGENCIES

Functions	MARTA	CTA	DART	LA Metro	OCTA	SEPTA	TriMet	MTS	Sound Transit	WMATA
Accounting/Comptroller	X	X	X	X	X	X	X	X	X	X
Revenue/Fare/Treasury	X	X	X	X	X	X	X		X	X
Budgets/Grants/OMB	X	X	X	X	X	X	X	X	X	X
Capital Finance		X			X	X	X			
Procurement/Contracts					X	X	X	X		
Risk Management			X				X	X	X	
Business Planning & Analysis			X		X				X	
Other	X			X	X	X			X	X

Note: Based on limited available information, we could not identify the specific divisions or sections reporting to the New York MTA's CFO.

Under the CFO structure, the CFO was the conduit to the board through the chief executive. Almost all the organizations issued regular financial reports (monthly or quarterly) to the Board, which were typically presented as consent items. Some examples of reports that CFOs provide to their Boards include:

- Chicago CTA—monthly financial reports that cover cash & liquidity, revenue, expenses, and ridership metrics.
- Dallas DART—regular financial reports on a monthly, quarterly, and annual basis. Monthly reports are typically submitted to the Board as memo correspondence. Quarterly reports are generally submitted as briefing topics for discussion. Annual reports are formally accepted by the Board's Audit Committee.
- New York MTA—monthly reports compare budget results to forecasts. The MTA is required by the NY State Comptroller's Regulation 4, Section 202.5(c), to report "each quarter, until implemented or rescinded, the status of each gap-closing initiative with a projected value equal to or greater than $1 million in any given fiscal year, including milestones, impact on staffing, current implementation status, actual savings or revenues to date and projected annual savings or revenues in comparison to Budget and Plan projections."
- Orange County, CA, OCTA—issues a monthly Investment and Debt Report; quarterly Budget Status Report, Procurement Status Report, Environmental Mitigation Program Endowment Report, and Grant Status Report; and annual Financial Statements, Update on Loan Agreements, and Sales Tax Forecast.
- Portland TriMet—uploads monthly and quarterly financial reports with narrative provided on the quarterly reports. It provides Annual Financial Audit Reports and periodic Financial Forecast Reports to the Finance & Audit Committee and occasionally to the full board. Except for the Annual Financial Audit and Budgets (Proposed/Approved/Adopted), which require Board action, any other financial reporting is provided in Board briefing sessions. The TriMet Strategic Financial Plan and the Business Plan provides financial objectives and goals. Each year, TriMet issues a report of Finance and Administrative Activities.

- San Diego MTS—monthly operating budget updates. These reports are always a discussion item. Additional reports provided are pension investment updates, and actuary reports.
- Sound Transit—issues Quarterly Financial Performance Reports. These reports cover revenues and financing sources, budget information, transit specific revenues and expenses, and capital project budget to actuals.
- Washington D.C. WMATA—issues Quarterly: Financial Management Report, Cash Flow Update Memo, Pension Plan Performance Memo, and Fare Evasion Report. Annual: Proposed Budget Book, Approved Budget Book, Annual Comprehensive Financial Report,[1] Single Audit Report, Study and Capital Allocation Documentation, Annual Parking Report, and Dedicated Revenue Funding Report.

There are several benefits of centralizing responsibility for financial matters under a CFO position. One key benefit is that there is greater accountability when one executive is responsible for all financial matters. A CFO structure reduces the risk of uncertainty of the Board not knowing which executive or manager to turn to for information or financial leadership.

In terms of certification requirements, not all CFOs were required to be a Certified Public Accountant (CPA). The Dallas DART required its CFO to hold a CPA designation in order to develop, implement, and monitor strategic financial plans to carry out DART's goals and objectives. Requirements varied for the CFO position in other transit systems. Portland TriMet preferred but did not require that CFO candidates have a Master's degree and be a CPA. The current director holds a Master of Business Administration (MBA) degree and is a Certified Government Financial Manager (CGFM).[2] Likewise, CFO requirements for San Diego MTS include possessing an MBA from an accredited college or university with 10 years of extensive operational experience in the finance and accounting field.

While most peer agencies employ a centralized financial structure, BART was the only transit entity with an independent Controller-Treasurer or finance office outside of the span of control of the chief executive and a separate finance/budget office under the executive. This structure exists partly because the legislation that created BART established the Controller and Treasurer as appointed positions and, it appears, this has historically been interpreted to require an organizational structure with two co-equal but separate and independent executives, one responsible for BART's fiscal operations and one responsible for BART's administrative operations. We believe that this structure uniquely provides the independence of the Office of the Controller-Treasurer, ensuring accountability to the Board. However, our benchmarking analysis revealed an alternative organizational structure that we believe is just as likely to ensure the Controller-Treasurer's responsibility and accountability to the Board.

[1] Formerly known as the Comprehensive Annual Financial Report (CAFR).

[2] The CGFM this is a certification acquired by passing a certification exam administered by the Association of Government Accountants that tests knowledge in various areas of governmental accounting, reporting, budgeting, and financial management.

As reported above, most common among benchmark transit agencies is to have all the key financial-related functions report to a CFO. In the fall 2015, BART undertook a recruitment for the Controller-Treasurer position. The recruitment announcement described the Controller-Treasurer as the CFO of the organization:

> Under policy direction from the Board of Directors, the Controller-Treasurer plans, organizes, directs, and administers the functions of the Finance Department, including Financial Accounting, Treasury Services, Risk Management, Payroll, and related activities and provides advice and financial information to District staff and the Board of Directors regarding District financial activities. This position functions as the Chief Financial Officer for the District and is responsible for the management and oversight of finance, disbursement, investment, debt administration, cash collection and revenue services, controllership, payroll, and risk management.

As described below, the recruitment further specified key skills and requirements for the position that are ideal and consistent with a CFO.

- Experienced professional who is willing to exercise independent judgment and initiative while always keeping the best interests of the District as a priority.
- Experienced in pension obligations and the ability to manage debt and bonds, as well as having experience in re-financing debt are highly desirable.
- Skilled finance manager, a creative problem-solver, adept at utilizing technology effectively, and bring a demonstrated customer service orientation.
- Value input from a variety of sources and ensure that all stakeholders feel respected and heard but make firm independent recommendations to the Board.
- Demonstrate the ability to build and maintain positive working relationships with District staff, the Board of Directors, members of the public, and members of the financial community.
- Attend every meeting of the Board of Directors and may be called upon to offer professional advice within their scope of duties.
- Effectively communicate complex financial information to a wide variety of stakeholders in a transparent manner.
- Having a Certified Public Accounting (CPA) license, Certified Management Accountant (CMA) license, or a Chartered Financial Analyst (CFA) charter, and/or a Master's degree in Business Administration, Finance, Public Administration or a related field is desired.

The recruitment brochure and job description are not in line with the actual role of the Controller-Treasurer because key financial functions are outside the purview of the position. The General Manager is responsible for developing the operating and capital budgets, financial analysis, and key quarterly financial reporting to the Board. The brochure described a role envisioned for a CFO for the District.

3. **What are the advantages and disadvantages of consolidating finance functions and modifying reporting structures into a single department?**

As reported, BART has a decentralized financial structure that is not common in the benchmarked transit systems. Realigning key financial functions and modifying reporting structures under a single department would align the District with industry best practices and it would better position the District to address the challenges ahead. Public transit systems throughout the nation face challenges spurred by the pandemic, such as changes regarding ridership, revenue, capital projects, equity, service levels, and workforce development. Navigating the future of public transportation will require flexibility, agility, and innovation.

To illustrate the potential advantages of consolidating finance functions within BART, we sought to understand some of the key challenges observed by management and staff within the organization, specifically as they relate to BART's fiscal operations. It is evident that BART's financial operations are currently impacted by high turnover and staffing shortages in the Office of the Controller-Treasurer, as well as a need for enhanced collaboration between the Office of the Controller-Treasurer and other executive offices regarding key financial-related functions, such as accounts payable, Go Card processing, and the availability of up-to-date financial data. While we do not believe that consolidation of all financial functions is necessary to address these and other challenges, we do believe that the unified, strategic approaches undertaken by BART peer organizations provide an example of the potential benefits consolidation could bring. For instance, one reason for the high turnover and staffing challenges faced by the Controller-Treasurer is that many of the positions within the Office are entry-level positions; staff looking for opportunities to grow in the careers are forced to look at other BART departments for those opportunities. Existing bidding provisions in a collective bargaining agreement, employee classification structures, and other factors related to human resources management also contribute to high employee turnover within the Office of the Controller-Treasurer. Creating a consolidated CFO office could be an opportunity for BART to design an executive office with more opportunity and greater incentives for financial staff.

Likewise, a consolidated CFO office under the General Manager may be more likely to achieve enhanced collaboration with peer executive offices than would a fully independent Controller-Treasurer. For instance, with the CFO reporting to the chief executive, the General Manager could direct management and staff throughout the organization to implement policies, strategies, or practices in order to promote greater collaboration among executive offices. With the Controller-Treasurer operating independently of the executive, the General Manager cannot issue agency-wide directives that impact financial-related policies, strategies, or practices, and the accounting, treasury, and risk management functions of the District could remain at risk of being siloed from BART executive offices. This could result in barriers to overcoming potential misalignment between BART operations and fiscal management (e.g., fiscal policies and practices lagging behind organizational objectives and strategies, competing or conflicting priorities, lack of synchronicity in continuous process improvement initiatives).

Beyond some of these historic challenges, however, it is important to ask—as did the General Manager during the course of this audit—given the challenges faced by public transit agencies nationally as a result of the pandemic, which organizational structure makes the most sense for BART over the next

50 years? Which structure is more likely to provide the flexibility, agility, and innovation required over the next decade? Which structure is more likely to effectively execute clear strategic objectives in a cohesive and unified manner? While the current structure appears to have been effective in the past, has the world of finance changed substantively since the mid-1950s when the offices of the Controller and Treasurer were first established in the BART Act?

In many ways, the answers to these questions were reflected in federal legislation more than 30 years ago. The Chief Financial Officers Act of 1990, and ensuing legislation, required federal agencies to establish CFO positions and increase focus on an organization's financial controls, financial system modernization, transparency, annual performance planning and reporting, strategic planning, budget analysis and decision-making.[3] Although BART is a special district and is not subject to the federal requirements to establish a CFO, the rationale and benefits of a CFO position are applicable and worthy of consideration. Research literature notes that over the last 30 years, since enactment of the CFO Act of 1990, the role of federal CFOs in the public sector has evolved beyond "basic accounting, finance, control, reporting and compliance tasks" to roles that create "value by helping improve program and operational performance." Today, municipalities and special districts throughout California have established and rely on CFOs—as do all of the transit systems benchmarked in this study—demonstrating this shift. CFOs today view financial operations less as discrete functions—accounting, treasury, risk management, budgeting, etc.—but instead focus on a broader framework of financial management that includes the organization's strategic direction and alignment, risk management and monitoring, operational efficiencies, attitude toward quality and compliance, governance, responsiveness in change management, and performance management.

This evolution is continuing. In fact, the CFO Vision Act of 2020 seeks to further modernize the CFO Act to require CFOs to bear primary responsibility for budget formulation and execution because, in part, CFOs should have a unique enterprise-wide view of program spending and program performance. CFOs are integral to decision-making, strategic planning, and day-to-day performance management of an organization—transitioning from a back-office role or siloed function of an organization to the board room.

Per the California Society of Municipal Finance Officers, the CFO of a public agency is the corporate officer primarily responsible for managing the financial risks of the business or agency. This officer is also responsible for budgeting, financial planning, record-keeping, cash flow management, higher management, and communicating financial performance and forecasts to the community. The title may vary, such as Finance Director or Treasurer, from agency to agency, but the CFO typically reports to the chief executive officer of a public agency—the City Manager, Executive Director, General Manager, etc.

A coherent organizational structure is important to organize workflow and responsibilities, enable decision-making, manage expectations, and provide consistency. A CFO with responsibility for all financial activity provides an organization with broad financial leadership and direction. We noted that

[3] See also CFO Act of 1990: Driving the Transformation of Federal Financial Management issued by the United States Government Accountability Office.

some District Financial Analysts raised concerns about the compartmentalized nature of their work. A CFO can encourage broader communication and information sharing in the organization by centralizing critical financial-related information and reporting and promoting cross-departmental collaboration and knowledge-sharing. This would better position the CFO to expand its role beyond being a steward of District financial assets or ensuring effective and efficient financial operations and controls, and allowing the CFO to help shape the District's overall strategies and direction and to serve as a catalyst within the organization. This would ensure that all financial activities in an organization are carried out in a manner consistent with the organization's strategic goals and objectives and increase both the responsibility and accountability over all financial operations. Ultimately, as functions and responsibilities are diffused throughout an organization, so is knowledge and information, which may diminish transparency and accountability.

The creation of a CFO position could be achieved by seeking legislative modifications to the BART Act or through Board Resolution. We find at least three options available to the Board should it elect to consolidate financial operations under the General Manager. Below, we present a few options, and the pros and cons of each.

1. The Board could seek legislative modifications to the BART Act to eliminate the Controller and Treasurer as Board-appointed officers. In doing so, the General Manager could implement a CFO structure in a manner similar to other peer transit agencies, appoint selected candidates to the office of CFO, and establish an organizational structure that would include all financial-related functions, including accounting, revenue collection, and investments. In doing so, the Board would also need to amend the Code of Ordinances. As noted in response to Question #1, the Code of Ordinances states that the Controller-Treasurer has full authority over the District's independent audit, revenue collection, cash management, and risk management (Section 1-303(2)), suggesting that the General Manager has no purview over such functions. This could be as simple as amending Section 1-303(2) to state that the CFO will be responsible for the District's accounting, independent audit, revenue collection, treasury, investment, cash management, budget, and risk management, as well as any other financial-related functions and programs of the District that the General Manager delegates to the office.

   Of the three options presented here, this approach would result in an organizational arrangement that is aligned with the approaches taken by peer transit agencies and best practices, and it would achieve the benefits of a CFO structure outlined in this report without the potential disadvantages presented by other alternatives.

2. The Board could adopt a resolution placing the Office of the Controller-Treasurer (or, separately, the Controller and Treasurer) within the span of control of the General Manager and requiring the position(s) to report to the General Manager or an officer appointed by the General Manager (such as a CFO). This would effectively allow the General Manager to create a CFO position and consolidate financial-related functions, while retaining the powers of the Board to appoint individuals to and remove individuals from the position(s) of Controller and/or Treasurer. While the BART Act does not codify the organizational placement or the nature of any reporting relationships of either the Treasurer or the Controller to the Board, it firmly establishes a degree of accountability

to the Board—by law, the Board may, by a majority vote, remove a person from the offices of Treasurer or Controller (Section 28811). This level of accountability can also be achieved through an alternative organizational structure in which the Controller-Treasurer is appointed by the Board but positioned within the span of control of the General Manager.

Like the prior option, this provides for a centralized fiscal operating structure, but it presents potential disadvantages. Specifically, while the offices of the Controller and Treasurer (or Controller-Treasurer) could be organizationally placed under the purview of the General Manager—as the CFO, subordinate to the CFO, or elsewhere in the organization—it would not empower the General Manager to appoint or remove the Controller or Treasurer from office. The individuals would report to the General Manager or to his or her appointed officer but would serve at the pleasure of the Board. This could create the potential that the persons appointed Controller-Treasurer could receive competing direction from Board directors, the Board as a whole, the General Manager, and/or a General Manager appointed officer. While it is feasible that this could occur with all District officers, the Controller-Treasurer's direct responsibility to the Board could strain the reporting relationships between the Officer, the Board, and the General Manager.

This potential risk may be reduced by implementing certain mitigating provisions within the Code of Ordinances, such as requiring the General Manager to recruit and nominate for Board appointment potential candidates for Controller-Treasurer. This would clarify reporting relationships between the Controller-Treasurer and General Manager, and delineate the lines of accountability and responsibility among and between the Controller-Treasurer, General Manager, and the Board. In fact, some municipalities have implemented similar arrangements, such as requiring CFOs, who are required to report on financial related matters to the governing body on a quarterly or more frequent basis, to be selected by chief executives and approved or ratified by the governing body. Yet, unlike these local governments, the Board's ability to appoint and remove the Controller-Treasurer could create dual lines of accountability and responsibility with the General Manager and the Board.

In many cases, the Controller-Treasurer's dual responsibilities to the Board and General Manager will be in sync, but it is plausible that circumstances may arise when they are not. In such circumstances, the General Manager's authority over financial related matters could be compromised, even though their responsibility and accountability for such matters will remain intact. That is, the General Manager could be responsible for financial-related matters without the effective authority to manage such activities. While it may be possible to mitigate this concern by carefully delineating through Board resolution the responsibilities of the CFO and the relationships of the CFO to the General Manager and the Board, the potential for conflict will remain an inherent risk.

3. Finally, the Board could adopt a resolution consolidating the offices of the Treasurer, Controller, and General Manager into one position, a Chief Executive, as permitted in the BART Act (Section 28813). This would make the General Manager responsible for all financial-related functions and, given the General Manager's power to appoint other officers of the District (Section 28834(d) of the BART Act), it would allow the officer to appoint a CFO.

This would enable the centralization of financial functions within the District, but with a potentially significant disadvantage. Specifically, the BART Act requires the person appointed as Controller to have been actively engaged in the practice of accounting for at least seven years preceding the appointment (Section 28810 of the BART Act). While the BART Act does not define what is meant by being "actively engaged in the practice of accounting," it appears that applying such a requirement to the General Manager would reduce the pool of qualified candidates. For this reason, we do not find this option to be tenable.

Such disadvantages remain limited to specific options available to the Board and can be avoided through consideration of alternative options. The only disadvantage we find relevant to each option presented above, and likely to other options available to the Board, is the potential impact such a change could have on staff and morale. Staff may find it challenging to understand and accept potential change, particularly one that could be significant for some staff. While this is a reasonable concern, it alone should not dissuade consideration of a proposed organizational shift that could benefit the organization in the long term.

4. Are the responsibilities of the Risk Management function appropriate for its continued placement within the Office of the Controller-Treasurer?

Finally, regardless of the creation of a single finance office or a CFO, we find no reason to believe Risk Management must be independent from BART operations and housed within an independent Office of the Controller-Treasurer. Risk management is a fundamentally strategic activity that cannot be effectively performed in a silo. Rather, we find that by its very nature, Risk Management is inextricably linked to both the fiscal operations of BART and to the business operations of BART, including the core functions of BART overseen by the General Manager.

A fundamental purpose of risk management is to reduce unanticipated impacts to an organization's operations by ensuring the organization possesses adequate financial resources to pay all costs associated with damages caused by the organization to others (general and other liability costs), or losses caused by others to the organization. How an organization achieves this is highly dependent on the financial condition of the organization, cash flow, revenue forecasting, the ability to retain sufficient reserves while maintaining operations, etc. Because of this, an essential function of any chief executive is to manage risk within their organization, to maintain a risk tolerance that balances risk mitigation and risk acceptance in a manner that best ensures the effective and efficient operation of the organization, and to minimize the likelihood that an event would occur that could severely impede the organization's mission. This could be partly achieved through sound policies and procedures, effective internal controls, robust monitoring and performance measurement, business continuity planning, and other efforts.

At the same time, the essential function of the Risk Manager is to understand the risk appetite of the organization—as established by its Board and Chief Executive—and to devise a cost-effective approach to insuring risk. The purpose of this function is to mitigate the effect that certain events, if they were to occur, would have on the organization. BART's financial condition moving forward, including strategic approaches taken by the General Manager to optimize revenues, will impact risk retention/transfer analyses performed by the Controller-Treasurer, and the need for interoffice collaboration will be significant. Furthermore, while other departments, such as Safety and Operations, also administer risk management activities, there is no established process within BART to aggregate all contractor claims and workers compensation data to help identify root causes so strategies can be developed to prevent them in the future. A robust risk management process requires organization-wide collaboration and a strategic focus. This function is not independent in any manner from the operations of the District that are subject to the management and oversight of the General Manager.

The BART Act is silent on the role or function of Risk Management within the District, or where in the organizational structure Risk Management should reside. The BART Act does not delineate Risk Management as a responsibility or function of any of the General Manager, Controller, or Treasurer positions. The Code of Ordinances does place Risk Management within the Office of the Controller-Treasurer, or Director of Finance, recognizing the foundational link between the role of Risk Management and the financial health of the District. However, by placing Risk Management within the Office of Controller-Treasurer, and by segregating the Controller-Treasurer to a separate and independent function, the General Manager does not have a direct relationship with the Risk Manager and decision-making that directly affects how the General Manager manages risk throughout the District.

Recommendation

Based on the results of this analysis, we recommend that the Board of Directors modify the organizational structure of BART to allow for the creation of a Chief Financial Officer within the span of control of the General Manager. It is reasonable to expect the process and effects of reorganization to take time, but making the change now will assist with BART's continuous improvement efforts and better position the District for its next 50 years of operation.