



Transmitted via e-mail

January 11, 2013

Ms. Hedi Jalon, Director
California Fire Foundation
1780 Creekside Oaks Dr.
Sacramento, CA 95833

Dear Ms. Jalon:

Review of the California Firefighters' Memorial Fund, Fund 0979

At the request of the Governor's Office, the Department of Finance performed a review of the California Firefighters' Memorial Fund (Fund 0979) administered by the California Fire Foundation (Foundation). The purpose of the review was to determine whether fees collected from sales of the Firefighter License Plates are being used in accordance with the authorizing statutes.

The Foundation's response and our evaluation of the response are included in this report.

Results Summary

The statutes governing the Firefighter License Plate fees do not specify authorized uses or restrictions. However, based on the statute's legislative history, it appears the intent was to use license plate fees for ongoing maintenance of the California Firefighters Memorial and for ceremonies honoring firefighters who have been killed in the line of duty. The Foundation currently uses the Firefighter License Plate fees to cover all Foundation expenses not covered by its other funding sources. While the Foundation's expenditures included personnel and operating costs for memorial ceremonies and scholarships for children of fallen firefighters, the Foundation's expenditures also include charitable contributions to entities that do not appear directly related to the Foundation's mission. As of December 31, 2011, the Foundation reported a fund balance of \$872,628.

Without statutes specifying the fees' authorized uses and restrictions, there is increased risk that Firefighter License Plate fees may not be used as intended or not used primarily for direct program costs. Additionally, the Foundation is a non-profit entity and is not subject to the same reporting requirements that exist for a state agency administering special license plate fees. Finally, because the state administers the collection of revenues through the sale of the Firefighter License Plates, increased transparency and accountability is warranted.

We recommend the Governor's Office propose changes in statute to define the authorized uses and reporting requirements for Firefighter License Plate fees collected and deposited into Fund 0979.

Scope and Methodology

To determine if fees collected from sales of the Firefighter License Plates are used in accordance with the authorizing statutes, we performed the following:

- Reviewed applicable laws, regulations, and criteria to identify authorized fund uses and restrictions.
- Interviewed key personnel at the Foundation and Department of Motor Vehicles (DMV) to gain an understanding of the fund accounting and reporting processes.
- Reviewed the Foundation's audited financial statements and accounting records to determine total revenues received from the Firefighter License Plate fees and total expenditures for Fund 0979.

Fund 0979 receives funding from two primary sources including the Firefighter License Plate fees and voluntary income tax contributions. Our review focused on the Firefighter License Plate fees only. The use of tax return contributions was not included in our review, but certain information is provided for additional context.

Background

The California Fire Foundation is a 501(c)(3) non-profit organization formed in 1987 by the California Professional Firefighters, Inc. The Foundation's mission is to design, build, and maintain the California Firefighter Memorial in Capitol Park as well as provide emergency support to families of firefighters killed in the line of duty, education assistance to children of fallen firefighters, emergency assistance to fire victims, and public education about fire safety.¹

The California Firefighters' Memorial Fund (Fund 0979) was created to generate revenue for the construction of the California Firefighter Memorial and was established under Revenue and Taxation Code section 18802. Revenues deposited into Fund 0979 are derived from contributions designated on annual California income tax returns (tax check-offs) as well as fees from the sale of Firefighter License Plates. The memorial was completed in 2002 and is situated in Capitol Park in Sacramento.

See Exhibit 1 for the distribution of fees collected. In 2011, DMV reported 20,562 outstanding Firefighter License Plates.

Results

As noted above, Fund 0979 was originally created to generate revenues for the construction of the memorial. After the memorial's completion in 2002, the Revenue and Taxation Code was changed to outline new authorized uses for the tax check-off contributions, such as ongoing maintenance of the memorial and other firefighter memorial services. Neither the Vehicle Code section governing the Firefighter License Plate fees nor the Revenue and Taxation Code was amended to include similar restrictions for the license plate fees. However, based on the statute's legislative history, it appears the intent was to also use license plate fees for ongoing maintenance of the memorial and for ceremonies honoring firefighters who have been killed in the line of duty.

¹ Source: <http://www.cafirefoundation.org/go/cff/about-ca-fire-foundation/california-fire-foundation-mission-statement/>

Pursuant to Vehicle Code section 5101.2, license plate fees collected are distributed to Fund 0979, the Environmental License Plate Fund (Fund 0140), and DMV for their administrative costs. However, as noted below, this code section does not outline any authorized uses or restrictions².

Pursuant to Revenue and Taxation Code section 18801, individuals may designate a tax contribution to the California Firefighters' Memorial Fund on their state income tax return. While Revenue and Taxation Code section 18803 limits the type of activities the tax check-offs can fund, the code section is silent relating to the license plate fees.

AUTHORIZED PER STATUTE	FOUNDATION COMPLIANCE RESULTS
<p>AUTHORIZED USES</p> <p><i>Vehicle Code section 5101.2(h)</i> – Except as provided in paragraph (5) of subdivision (d), the revenues derived from the additional special fees provided in this section, less costs incurred by the department pursuant to this section, shall be deposited in the California's Firefighters' Memorial Fund established by section 18802 of the Revenue and Taxation Code.</p> <p><i>Revenue and Taxation Code section 18803(b)</i> – The money transferred to the California Firefighters' Memorial Fund pursuant to Section 18802, and allocated pursuant to paragraph (2) of subdivision (a), shall be used for the following purposes:</p> <ol style="list-style-type: none"> (1) Maintenance and repair of the California Firefighters' Memorial on the grounds of the State Capitol. (2) Ceremonies to honor the memory of fallen firefighters and to assist surviving loved ones, but only from contributions made on tax returns filed on and after January 1, 2004. (3) An information guide detailing survivor benefits to assist the spouses and children of fallen firefighters, but only from contributions made on tax returns filed on and after January 1, 2004. 	<p>Not applicable</p> <p><i>(no authorized uses or restrictions outlined in statute)</i></p> <p>Not included in our review</p> <p><i>(statute applicable to the tax check-off contributions only)</i></p>

Fund Revenues and Expenditures

As noted above, Fund 0979 has two primary funding sources, the Firefighter License Plate fees and the tax check-off contributions. The Firefighter License Plate fees are collected by DMV and the tax check-off contributions are collected by the Franchise Tax Board. The State Controller's Office issues warrants to the Foundation on a quarterly basis for the fees and on an annual basis for the tax contributions. As noted in the Table 1 below, Firefighter License Plate fees account for the majority of the Foundation's total revenue.

Table 1: Total Revenues for the Foundation

Revenues	2010	2011
Firefighter License Plate Fees	\$423,165	\$671,775
Other (including tax check-off contributions)	<u>270,006</u>	<u>421,646</u>
Total Revenue and Support	\$693,171	\$1,093,421

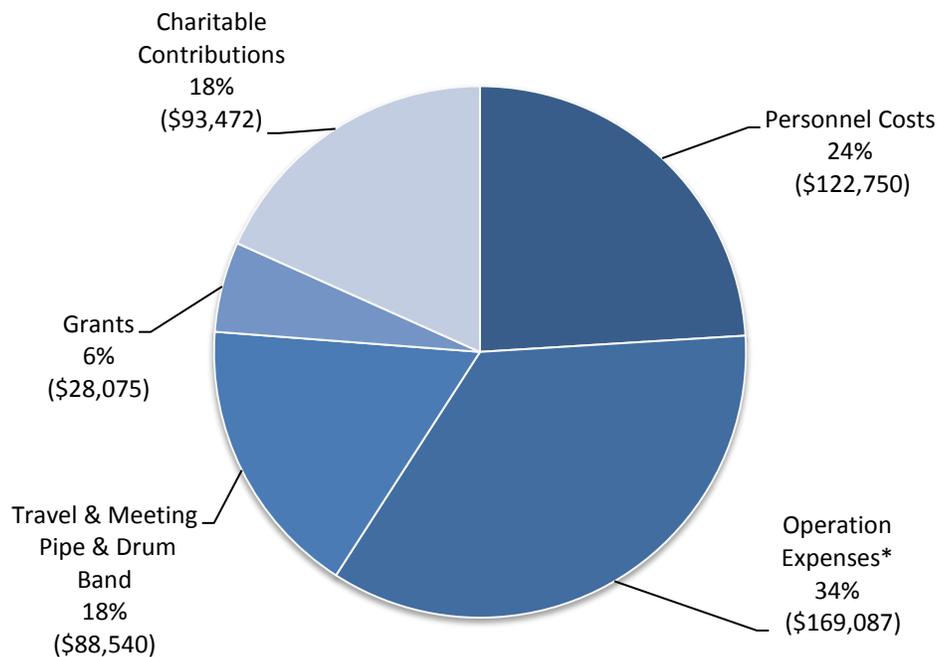
Source: Foundation's audited financial statements and accounting records.

² In 1999, SB 246 (Chapter 988) amended Vehicle Code section 5101.2 to state that the fees would be deposited into Fund 0979 until January 1, 2006 and after that the fees would be deposited into the California Fire and Arson Training Fund; however, in 2003, SBS315 (Chapter 594) amended Vehicle Code section 5101.2 to state the fees would continue to be deposited exclusively in Fund 0979.

As of December 31, 2011, the Foundation reported a fund balance of \$872,628.

Although the Foundation separately accounts for revenues received, it does not separately account for expenditures by funding source. As a result, the Foundation manually designated certain expenditures as Firefighter License Plate expenditures and compiled financial summary data for our review. According to the Foundation, expenditures will be accounted for separately for future periods. For 2011, the Foundation attributed \$501,924 of \$758,279 total Fund 0979 expenditures to the Firefighter License Plate program. As noted in Chart 1, the expenditures included salaries and fringe benefits for the Foundation's director and California Professional Firefighters staff, travel costs for the Pipe and Drum Band, charitable contributions, scholarships to children of fallen firefighters, and operating expenses.

Chart 1: License Plate Fee Expenditures for 2011



Source: License Plate Income spreadsheet provided by Foundation.

* Total operating expenses were determined by combining the following expense categories displayed on the License Plate Income Statement provided by the Foundation: office supplies and expense, communications, media and reproduction, professional services, endowment set-up costs, interest and bank charges, facility, other offices expenses, and depreciation.

Charitable Contributions

The Foundation's charitable contributions were made to various entities including the Firefighters Burn Institute and the National Kidney Association. However, the Foundation also made charitable contributions to other entities that did not appear directly related to the Foundation's mission, such as the 2011 Governor's Cup which benefited the Oakland Military Academy (\$7,500), the Miguel Contreras Foundation (\$5,000), and the Oakland School for Arts (\$5,000). Additionally, the contributions specifically noted the California Professional Firefighters as the recognized sponsoring entity.

When asked about these contributions, the Foundation stated that one of its missions is to invest in local firefighter community outreach efforts and to work with local firefighters throughout the state to identify unmet needs in their communities, and the Foundation felt these contributions fulfilled that purpose. Additionally, when asked why the California Professional Firefighters was recognized as the sponsoring entity for the charitable contributions, the Foundation stated that the Foundation and the California Professional Firefighters are recognized by many organizations as the same organization and if the charitable entity's mission or purpose meets the mission or purpose of the Foundation, the Foundation, instead of the California Professional Firefighters, will make the contribution.

Conclusion

Without statutes outlining the fees' authorized uses and restrictions, there is increased risk that Firefighter License Plate fees may not be used as intended or not used primarily for direct program costs. Additionally, the Foundation is a non-profit entity and is not subject to the same reporting requirements that exist for a state agency administering special license plate fees. Finally, because the state administers the collection of revenues through the sale of the Firefighter License Plates, increased transparency and accountability is warranted.

We recommend the Governor's Office propose changes in statute to define the authorized uses and reporting requirements for Firefighter License Plate fees collected and deposited into Fund 0979.

The results in this report are based on our review of information provided from August 2012 through October 2012. We provided the results to the Foundation's management on November 16, 2012, and as necessary, updated the report to incorporate their responses.

We appreciate the assistance and cooperation of the Foundation. If you have any questions regarding this report, please contact Diana Antony, Manager, or Lisa Negri, Supervisor, at (916) 322-2985.

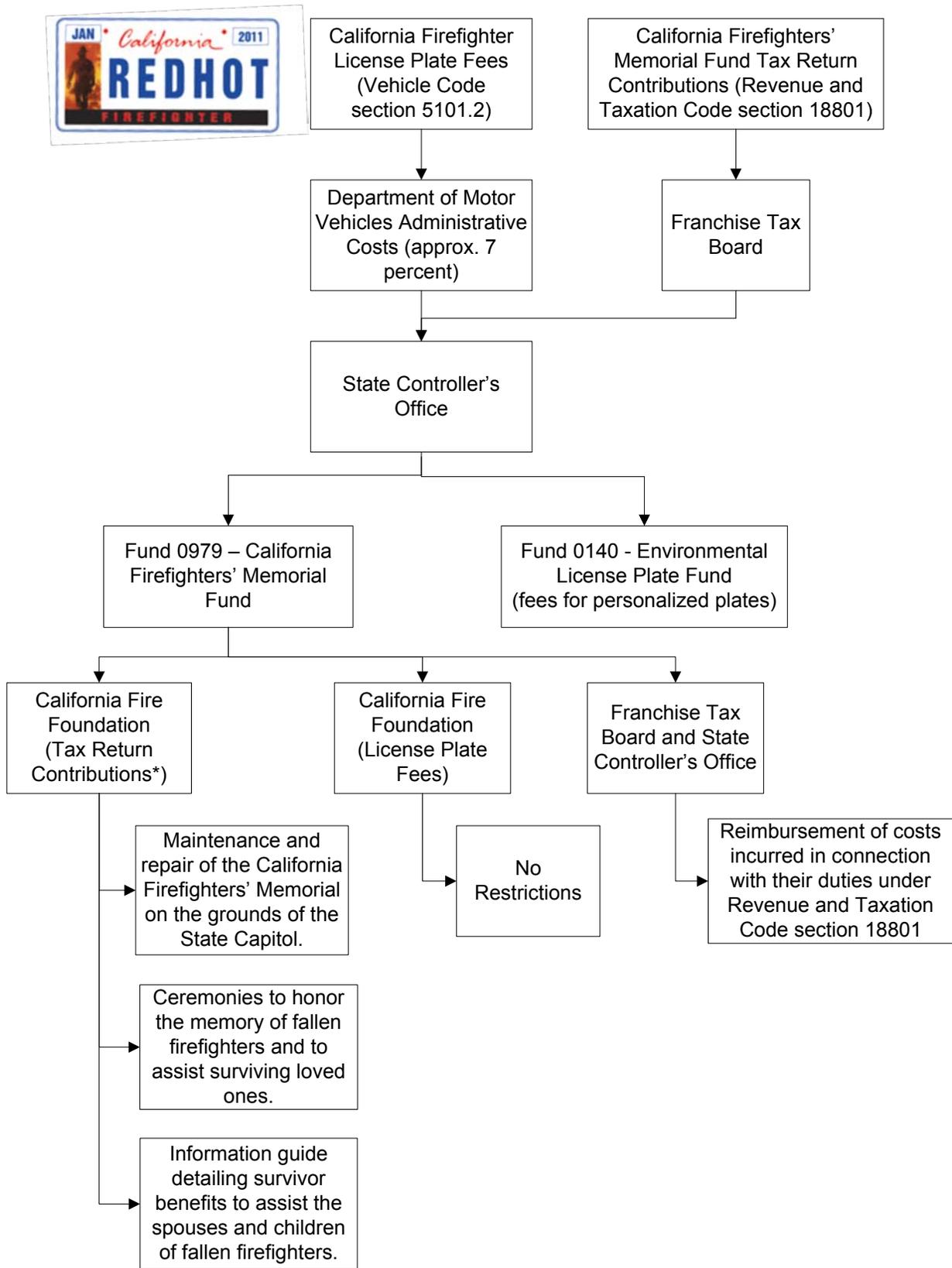
Sincerely,

Original signed by:

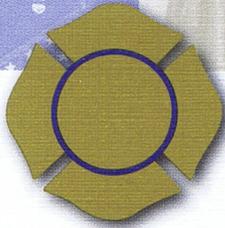
David Botelho, CPA
Chief, Office of State Audits and Evaluations

cc: Mr. Lou Paulson, Chair, Board of Directors, California Fire Foundation
Ms. Teresa Ortiz, Managing Director, California Professional Firefighters
Ms. Irene Chu, Finance Director, California Fire Fighter, Joint Apprenticeship Committee
Mr. Andrew Conway, Chief, Registration Operations Division, California Department of Motor Vehicles
Ms. Kitty Kramer, Program Manager, California Department of Motor Vehicles
Mr. Jeff Mansur, Chief, Financial Services Branch, California Department of Motor Vehicles
Ms. Sue Johnsrud, Director of Operations, Office of the Governor

Exhibit 1 – Distribution of Fees Collected



* For tax contributions made on tax returns filed on or after January 1, 2004.



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Serving firefighters, their families and their communities

Transmitted via email

November 28, 2012

Mr. David Botelho, CPA
Chief, Office of State Audits and Evaluations
California Department of Finance
915 L Street
Sacramento, CA 95814

Dear Mr. Botelho,

Response to Pre-Exposure Draft Management Letter dated November 16, 2012, prepared by the Department of Finance

In our review of the Pre-Exposure Draft Management Letter dated November 16, 2012, prepared by the Department of Finance containing a review of the California Firefighters' Memorial Fund (Fund 0979), we did identify technical and factual corrections that we respectfully submit in response. The technical and factual corrections respond to both misstatements of fact and omission of critical information providing additional context necessary to an accurate analysis. The California Fire Foundation submits the following in response and respectfully requests that our submission accompany any official dissemination of your review.

Fund Revenues and Expenditures

Table 1: Total Revenues for the Foundation

The Pre-exposure Draft Management Letter dated November 16, 2012, prepared by the Department of Finance, Table 1: Total Revenues for the Foundation contains **incorrect** revenue information. The Tax Check-off Contribution amounts are **NOT** included in Table 1 and thus Total Revenue and Support reported in the Draft Management Letter is understated by \$207,455 and \$157,166 in 2010 and 2011 respectively.

Below is the revised Table 1 with corrected total revenue of the Foundation:

Table 1: Total Revenues for the Foundation (Corrected, as per California Fire Foundation's audited Financial Statements provided to the Department of Finance)

Revenues	2010	2011
Firefighter License Plate Fees	\$423,165	\$ 671,775
Other (including tax check-off contributions)	<u>270,006</u>	<u>421,646</u>
Total Revenue and Support	\$693,171	\$1,093,421



Chart 1: License Plate Fee Expenditures for 2011

In the Pre-exposure Draft Management Letter dated November 16, 2012, prepared by the Department of Finance, the expenditure grouping in the Department of Finance’s Chart 1 is incorrect. In Chart 1 presented in the Draft Management Letter, License Plate Program direct expenses are included in operating expenses which results in an overstatement in Operating Expenses. To report the correct expenditure grouping, the Foundation separated the direct program expenses from the operating expenses compiled by the Department of Finance and reported the correct expenditure grouping in the below Table 2 and Chart 1 (corrected). The direct program expenses separated from the operating expenses includes:

	<u>Re-grouped under</u>
Printing & Supplies Costs of Program Materials: \$8,222	Memorial Events & LODD Expense
Endowment Set Up Fee: \$27,966	Endowment Set Up
Professional Services: \$40,200	Program Admin & Support Service

** Note: All memorial events and LODD travel, including Pipe & Drum Band travel, are grouped under “Memorial Events & Line of Duty Death (LODD) Expense.”*

***Memorial Repairs & Maintenance for \$537 reported in Department of Finance’s Draft Management Letter is not program related. Foundation includes this expense in its Operating Expenses in Table 2 and Chart 1 (corrected).*

In addition, the Draft Management Letter utilizes a pie chart (Chart 1) to pictorially represent program expenditures, but that chart only depicts the relationship between expenditure types as a percentage of total expenditures. What the chart lacks is a depiction of the relationship between the license plate program’s expenditures as a percentage of total program revenues. The inclusion of both scenarios (as submitted in our response) provides a more complete picture of how the program’s fee revenue is utilized by the Foundation and therefore, in our view, more fairly represents the activities of the Foundation in furtherance of its mission and consistent with the stated intent of the Legislature.

In view of the above incorrect expenditure grouping and omission of a crucial scenario, the Foundation prepares Table 2, Chart 1 (corrected) and Chart 2 which are shown in Page 3 and Page 4 to present:

(1) Corrected information showing the correct expenditure grouping compared to the Program's total expenditure.

(2) New Information (not reported in the Draft Management Letter) showing the relationship between the Foundation's License Plate Program Fees received and the Program's Expenditures.

Table 2: Comparison of License Plate Program Expenditure to Program's Total Expenditure and Fee Received in 2011 (as per License Plate Income Statement and Expenditure Spreadsheet Provided by Foundation to the Department of Finance)

	License Program Expenditure	(Chart 1 corrected) % to Program's Total Expenditure	(Chart 2) % to Program's Fee Received
License Plate Program Direct Expenses:			
Charitable Contributions	\$ 93,472	18.6%	13.9%
Grants	28,075	5.6%	4.2%
Endowment Set Up Fee (Endowment to provide scholarship and education assistance to Children of Fallen Firefighters)	27,966	5.6%	4.2%
Memorial Events / Line of Duty Death Expenses	95,607	19.0%	14.2%
License Plate Program Admin and Support Services	40,200	8.0%	6.0%
Total License Plate Program Direct Expenses	\$285,320	56.8%	42.5%
Personnel Costs	122,751	24.5%	18.3%
Operating Expenses	93,853	18.7%	14.0%
Total License Plate Program Expenses (A)	<u>\$501,924</u>	100.0%	74.7%
Fee reserved for future continuous support of License Plate Program and Foundation's missions (B)	<u>\$169,851</u>		25.3%
Total Program Fee Received by Foundation in 2011 (A)+(B)	<u>\$671,775</u>		100.0%

As shown in Table 1 (corrected) in page 1 and in the above Table 2, in 2011, License Plate Program Fees account for 61% of Foundation's Total Revenue. In the same year, License Plate Program Expenditures incurred (\$501,924) represent only 46% of Foundation's Total Revenue.

Table 2 above also shows that in 2011, the Foundation only utilized 74.7% of the Program Fees Received to support the License Plate Program's total expenditures. The Foundation was able to transfer into the Program's Reserve 25.3% of the Fees received to continuously support the License Plate Program and the Foundation's mission in the future.

Chart 1 (corrected): License Plate Expenditure as a % to Program's Total Expenditure
 (as per License Plate Expenditure Spreadsheet Provided by Foundation to the Department of Finance)

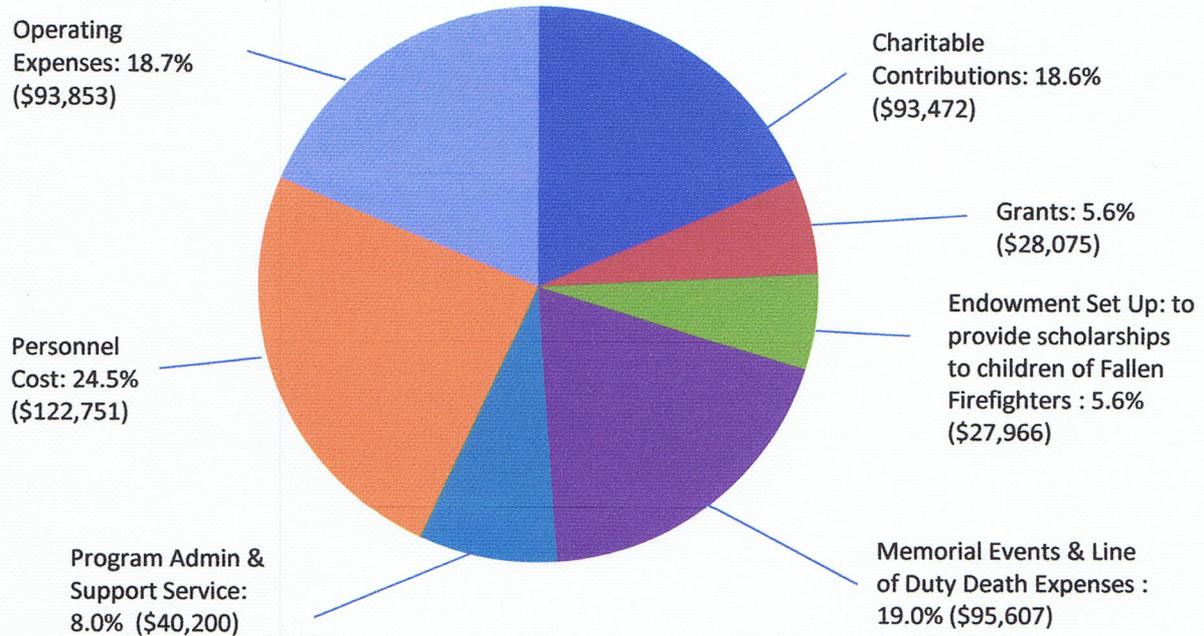
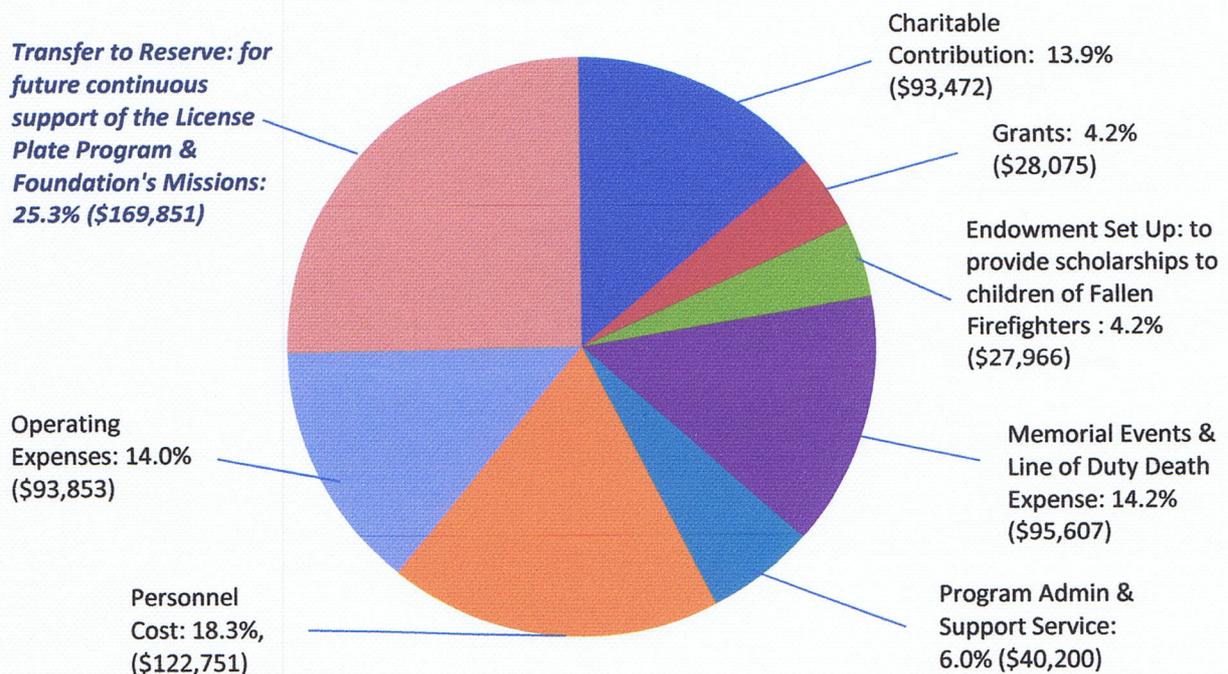


Chart 2: License Plate Expenditure as a % to Program's Fee Received
 (as per License Plate Income Statement and Expenditure Spreadsheet Provided by Foundation to the Department of Finance)



In addition to the corrections provided above, we wish to respond to the recommendation made in your review suggesting changes to the governing statute to define authorized uses and reporting requirements for the Firefighter License Plate fees collected and deposited into Fund 0979.

Your review makes reference to legislative history as it relates to the California Firefighters' Memorial Fund, but only presents a portion of the findings and declarations contained in the various enactments of the legislature with respect to the Firefighter License Plate Program. As recently as 2010, contained in SB 88, the Legislature declared the use of the funds received by the Foundation to be for the purposes of "...emergency assistance and support to the families of fallen firefighters and...victim assistance and public education programs." The measure states that "The California firefighter license plate program was designed and created by California Professional Firefighters" and "...the California firefighter license plate has become a key trademark within the fire service, enabling only active and retired firefighters to buy these plates ... where a portion of the proceeds become a source of support for the families they may one day tragically leave behind."

Although omitted in your review, these statements provide a clear picture of the Legislature's expressed desire for the use of these funds. While, as your letter mentioned, the statute does not delineate specific authorized uses or restrictions, the California Fire Foundation takes great pride in our ability to demonstrate that the funds allocated to the Foundation through the license plate program are expended in absolute compliance with the statute and the Legislature's stated intent. Even with that proud history as a backdrop and acknowledged in your review, the Department of Finance recommends that this program should be subject to more restrictive language – an inference that suggests that the program is operating contrary to the statute or any stated intent of the Legislature. Such an inference is unfounded and, as such, entreats the response from the California Fire Foundation contained herein.

The mission of the California Fire Foundation is closely guarded and adhered to and has a profound effect on the surviving firefighter families of our State's fallen firefighters. It is with great passion and extreme care that the Foundation administers the funds allocated for such a high purpose. We appreciate the opportunity to respond to the Draft Management Letter and are available for further discussion or clarification.

Respectfully yours,

Original signed by:

Lou Paulson, Chair
California Fire Foundation

We reviewed the California Fire Foundation's (Foundation) response dated November 28, 2012, to the draft report and provide the following comments:

Fund Revenues and Expenditures

The Foundation's response included corrections to 2010 and 2011 revenues in Table 1. Based on a review of the Foundation's financial statements, we modified Table 1 to reflect the updated figures.

The Foundation also proposed several expense reclassifications and modifications to Chart 1. We made the following reclassifications:

- Reclassified \$1,155 of the referenced \$8,222 printing and supply expense from Operating Expense to Pipe & Drum Band expense category. The fiscal data provided by the Foundation noted \$1,155 as "Pipe & Drum Band supplies and expenses."
- Reclassified the entire \$537 from Memorial Repair and Maintenance to Operating Expense because the fiscal summary provided by the Foundation noted the repair and maintenance was related to "repairs & maintenance and equipment rental."

No further reclassifications or modifications were made to Chart 1. We provide Chart 1 for report purposes only because our review focused on the Firefighter License Plate fees and the Foundation's financial statements include several other funding sources. Further, the footnote in Chart 1 of our report lists all costs included in Operating Expenses.

Additionally, prior to this review the Foundation did not separately account for the Firefighter License Plate fees and did not have audited financial statements.¹ According to the Foundation, going forward they intend to separately account for the license plate fees. The Foundation should also continue to have audited financial statements and for increased transparency post the audited financial statements to their website.

Report Recommendation

The Foundation disagrees with our recommendation suggesting changes in statute to define authorized uses and reporting requirements. The Foundation states the Legislature's intent is clear and references Senate Bill 88 (Chapter 304, Statutes of 2010). However, as noted in our report the Legislature's intent is not specified in the statutes governing the Firefighter License Plate fees. Therefore, our recommendation remains unchanged. We acknowledge the Foundation's services to families of fallen firefighters, including education assistance to children of fallen firefighters, emergency assistance to fire victims, and public education about fire safety. Our recommendation will help ensure these services continue as intended and allow for increased transparency.

¹ The Foundation's only audited financial statements were the audited consolidated financial statements which comprised financial results for California Professional Firefighters, the Foundation, and other affiliates. In response to this review, the Foundation provided separate audited Foundation financial statements to us.