

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Hearing Room 1
Wednesday, July 12, 2023
6:30 p.m.



Effective March 1, 2023, all City of Oakland boards and commissions will conduct in-person meetings. Please check www.oaklandca.gov for the latest news and [important information about the City's return to in-person meetings.](#)

Commissioners: Ryan Micik (Chair), Charlotte Hill (Vice-Chair), Alea Gage, Arvon J. Perteet, Vincent Steele, and Francis Upton IV.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Lead Analyst; Chris Gonzales, Commission Assistant; Ana Lara-Franco, Commission Analyst; Simon Russell, Enforcement Chief.

City Attorney Staff: Trish Shafie, Deputy City Attorney.

PUBLIC ETHICS COMMISSION REGULAR MEETING AGENDA

- 1. Roll Call and Determination of Quorum.**
- 2. Staff and Commission Announcements.**
- 3. Open Forum.**
 - Please state your name each time you make public comment if you wish it to be included in the meeting minutes.
 - The Commission urges members of the public not to make complaints or ask the Commission to investigate alleged legal violations at public meetings since public disclosure of such complaints or requests may undermine any subsequent investigation undertaken. Contact staff at ethicscommission@oaklandca.gov for assistance filing a complaint.

GUEST PRESENTATION

- 4. Detecting and Preventing “Pay-to-Play” Corruption in Local Elections.** Bridget Cervelli, Mina Koyama, and Teddy Sherbin from the UC Berkeley Goldman School of Public Policy graduate program will share highlights from their report on the role of the Oakland Public Ethics Commission (PEC) in preventing "pay-to-play" influence in local elections and government decision. ([Presentation Slides and Report](#))

ACTION ITEMS

- 5. Approval of Commission Meeting Draft Minutes.**
 - a. June 14, 2023, Regular Meeting Minutes ([Meeting Minutes](#))



6. **Public Ethics Commission Annual Report.** The Commission will review and consider approval of the annual report summarizing the PEC’s activities in 2022. ([PEC Annual Report](#))
7. **Measure W Implementation Update; Postponement of Democracy Dollars for 2024 Election Cycle.** Commission staff provides a summary of Measure W implementation updates since the last regular Commission meeting. The Commission will also review and consider staff recommendations to: (1) postpone the distribution and use of the Democracy Dollars vouchers for the November 2024 election; and (2) direct Staff to consider and provide options to the Commission for establishing a limited public financing program for the 2024 election cycle only, similar to the 2022 LPF Program. ([Staff Memo](#))

DISCUSSION ITEMS

8. **Reports on Subcommittees and Commissioner Assignments.** Commissioners may discuss subcommittee assignments, create a new subcommittee, or report on work done in subcommittees since the Commission’s last regular meeting. Commissioners may also discuss assignments, efforts, and initiatives they undertake to support the Commission’s work.
 - a. **Measure W Implementation Subcommittee** (ad hoc, created December 14, 2022)
– Arvon Perteet (Chair), Ryan Micik, Francis Upton IV.
 - b. **Measure W Equity and Outreach Subcommittee** (ad hoc, created on March 8, 2023)
– Charlotte Hill (Chair), Alea Gage, Vincent Steele.
 - c. **Transparency and Public Records Subcommittee** (ad hoc, created March 8, 2023) -
Francis Upton IV (Chair) and Arvon Perteet.

INFORMATION ITEMS

9. **Disclosure and Engagement.** Lead Analyst Suzanne Doran provides a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting. ([Disclosure Report](#))
10. **Enforcement Program.** Enforcement Chief Simon Russell provides a summary of the Commission’s ongoing enforcement work, including overall caseload status, informal complaint intake, and enforcement-related litigation. ([Enforcement Report](#))

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11. **Executive Director’s Report.** Executive Director Nicolas Heidorn reports on overall priorities and PEC activities, such as budget, staffing, and PEC legislative and policy initiatives not covered in other staff reports. ([Executive Director’s Report](#); [M2020-10 Mediation Summary](#); [M2021-13 Mediation Summary](#); [M2022-05 Mediation Summary](#))
12. **Future Meeting Business.** Commissioners and staff may propose topics for action or discussion at future Commission meetings.

The meeting will adjourn upon the completion of the Commission’s business.

A member of the public may speak on any item appearing on the agenda. All speakers will be allotted a maximum of three minutes unless the Chair allocates additional time.

Members of the public may submit written comments to ethicscommission@oaklandca.gov.

The following options may be available to observe this meeting:

- **Television:** KTOP channel 10 on Xfinity (Comcast) or ATT Channel 99, locate City of Oakland KTOP – Channel 10
- **Livestream online:** Go to the City of Oakland’s KTOP livestream page here: <https://www.oaklandca.gov/services/ktop-tv10-program-schedule> click on “View”
- **Online video teleconference (via ZOOM):** Click on the link to join the webinar: <https://us02web.zoom.us/j/84356782713> Please note: the Zoom link and access number are to view/listen to the meetings only, not for participation.
- **Telephone:** Dial (for higher quality, dial a number based on your current location): US: +1 669 900 6833 or +1 346 248 7799 or +1 253 215 8782 or +1 312 626 6799 or +1 929 205 6099 or +1 301 715 8592 Webinar ID: 843 5678 2713
International numbers available: <https://us02web.zoom.us/j/84356782713>

Should you have questions or concerns regarding this agenda, or wish to review any agenda-related materials, please contact the Public Ethics Commission at ethicscommission@oaklandca.gov or visit our webpage at www.oaklandca.gov/pec.

Nicolas Heidorn

6/30/23

Approved for Distribution

Date

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This meeting location is wheelchair accessible. Do you need an ASL, Cantonese, Mandarin or Spanish interpreter or other assistance to participate? Please email ethicscommission@oaklandca.gov or call (510) 238-3593 Or 711 (for Relay Service) five business days in advance.

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郵 ethicscommission@oaklandca.gov or 或致電 (510) 238-3593 或711 (電話傳達服務)。

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Detecting and Preventing “Pay-to-Play” Corruption in Local Elections

Goldman School Policy Team

Bridget Cervelli

Mina Koyama

Teddy Sherbin

Special thanks to Oakland PEC staff:
Suzanne Doran, Lead Analyst
Simon Russell, Enforcement Chief

Agenda

- Problem Statement
- Background
- Research Methodology
- Findings & Recommendations
 - Transparency
 - Awareness
 - Implementation
- Next Steps & Conclusion

Problem Statement

What is “pay-to-play”?

Key barriers to preventing it in local elections:

- Transparency
- Awareness
- Implementation

Background



Public Ethics
Commission

CITY OF
OAKLAND

Oakland Campaign
Reform Act (OCRA)

Background



Levine Act + SB 1439

Research Methods

A newly developing landscape

11 commissions

4 interviews

2 statewide agencies



Mixed Methods

...the shadowy world of
Pay-to-Play

“...Everybody hates us!”

- anonymous PEC staffer



Transparency



Data is
EVERYTHING!

Transparency - Recommendations

Build Collectively...

Network

Network

Network



Transparency - Recommendation



Claim that data!

PEC managed database of regulated agent disclosure.

Transparency - Recommendation

Talk to the people!

Public Outreach



Awareness - Findings

Transparency

- Legal mandates allow for consistent awareness

Awareness

Implementation



Awareness - Findings

Transparency
Awareness
Implementation

- Education teams broaden awareness with active, relevant material



Awareness - Findings

Transparency
Awareness
Implementation

- Engaging and entertaining ethics trainings encourage engagement

 <p>1:30</p>	 <p>4:40</p>	 <p>1:35</p>	 <p>7:00</p>
<p>The Advice Line ft. Attorney of the Day NYC COIB 1.3K views • 4 years ago</p>	<p>Miss Use of Position NYC COIB 1.3K views • 2 years ago</p>	<p>Public Service Announcement: The Advice... NYC COIB 1.1K views • 5 years ago</p>	<p>Unboxing: The COIB Plain Language Guide NYC COIB 1.3K views • 4 years ago</p>

Awareness - Recommendation

Transparency
Awareness
Implementation

- Enhancing online materials to increase accessibility and clarity



Awareness - Recommendation

Transparency

- Mandate contribution certification from campaigns

Awareness

Implementation



Implementation - Findings

Transparency

Awareness

Implementation

- Oakland's campaign contribution restriction amounts fall within the median range.
- Auditing, whether thoroughly or randomly, is an effective deterrent against "pay to play" corruption.
- Oakland's Public Ethics Commission is comparatively understaffed.

Implementation - Findings

Transparency

Awareness

Implementation

- Oakland’s campaign contribution restriction amounts fall within the median range.

Contribution limits per person



*Oakland allows candidates to receive larger contributions if they accept a spending limit
 †Some cities have different limits for typically high- or low-budget campaigns

Implementation - Findings

Transparency
Awareness
Implementation

- Oakland’s campaign contribution restriction amounts fall within the median range.

Contribution limits per committee



*Oakland allows candidates to receive larger contributions if they accept a spending limit
 †Some cities have different limits for typically high- or low-budget campaigns

Implementation - Findings

Transparency

Awareness

Implementation

- Oakland's campaign contribution restriction amounts fall within the median range.

Strict with contractors

Relaxed with developers

Average with lobbyists

Implementation - Findings

Transparency

Awareness

Implementation

- Auditing, whether thoroughly or randomly, is an effective deterrent against “pay to play” corruption.

Audit all campaigns	Audit random campaigns	No formal auditing
<ul style="list-style-type: none"> ● Los Angeles ● San Francisco 	<ul style="list-style-type: none"> ● FPPC ● San Diego 	<ul style="list-style-type: none"> ● Oakland ● Long Beach ● Sacramento

Implementation - Findings

Transparency
Awareness
Implementation

- Oakland’s Public Ethics Commission is comparatively understaffed.

	Min	Max	Oakland
Administration	1	8	1
Analyst	0	2	2
Education	0	12	1
Enforcement	1	10	1
Auditing	0	7	0

Implementation - Recommendation

Transparency

Awareness

Implementation

- Review legislative options to strengthen the Public Ethics Commission.
 - Law-mandated periodic audit
 - Charter-mandated staffing/funding
 - Public input on law coverage

Next Steps & Conclusion

Other forms of “pay-to-play” corruption

Behested payments

Independent expenditures

Gift giving

Questions?

Detecting and Preventing “Pay-to-Play” Corruption in Local Elections

Goldman School Research Team

Bridget Cervelli

Mina Koyama

Teddy Sherbin

Acknowledgements:

We would like to express our gratitude to our partners at the Oakland Public Ethics Commission, Suzanne Doran, Acting Executive Director/Lead Analyst, and Simon Russell, Chief of Enforcement, for this opportunity. Their guidance and knowledge were instrumental in shaping this report and throughout the research process. We are also grateful to our academic advisor, Meredith Sadin, for her unwavering support, feedback and assistance. Thank you to our interviewees, whose invaluable insight and expertise shaped much of this report:

David Tristan, Executive Director and Heather Holt, Deputy Executive Director, Los Angeles City Ethics Commission

Sharon Spivak, Executive Director, City of San Diego Ethics Commission

Michael Canning, Acting Policy and Legislative Affairs Manager, San Francisco Ethics Commission

Sean McMorris, Transparency, Ethics & Accountability Program Manager, California Common Cause

Dave Bainbridge, General Counsel for the Fair Political Practices Committee (FPPC)

Whitney Barozoto, former Executive Director of Oakland Public Ethics Commission

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Executive Summary

This report will focus on the role of the Oakland Public Ethics Commission (PEC) in preventing "pay-to-play" influence in local elections and government decisions. It is a culmination of mixed methods research conducted in partnership with a research team from the Goldman School's Master's in Public Policy program, including interviews with other ethics commissions, document analysis, and regular check-ins with the Oakland PEC. This analysis identifies effective best practices and policies that could help Oakland overcome shortages in staffing and budget with efficient, effective, proven tactics employed by peers in the field.

The principal policy outlining the regulatory parameters of financial influence in Oakland elections, intended to prohibit "pay-to-play" interference, is the Oakland Campaign Reform Act (OCRA). The research team identified three areas that could help the enforcement of OCRA and enhance protections against undue financial influence: transparency in data, awareness from regulated parties, and barriers to implementation and enforcement.

Transparency

"[Transparency and publicly-accessible data are] important since enforcement agencies will not catch a lot of violations unless the public or press reports on them. Transparency also keeps the filing parties honest because publicly-accessible data increases the likelihood of violations being exposed."

Sean McMorris, Transparency, Ethics & Accountability Program Manager, California Common Cause

Through public engagement and access to clear and comprehensive data, transparency increases oversight and accountability, making it easier for the public and the press to provide oversight in partnership with ethics commissions. Significant public engagement and access to data can support effective regulation, facilitate public engagement in local politics, and elicit the political will to make policy changes.¹

Recommendations

- **Propose creating a publicly-accessible, PEC-regulated database for mandated disclosure by contractors and other regulated agents.**
- **Begin a public engagement campaign to determine priorities for changes and reforms.**
- **Develop a network of ethics commissions to learn collectively, share pathways to success, and identify obstacles and harms.**

¹ Payne, Marsco, Richardson. (2021). *Top Ten Transparency Upgrades for Ethics Commissions*. Campaign Legal Center.
<https://campaignlegal.org/document/top-ten-enforcement-upgrades-ethics-commissions>

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Policy Awareness

For effective regulation, a widespread understanding of policy restrictions and changes by those subject to their limits is essential. Regulated parties must understand the law to fulfill their reporting and disclosure obligations.

Recommendations

- **Require contribution certification from both donors and recipient campaigns.**
- **Enhance online materials with policy updates, online ethics advice, and case studies to increase accessibility and clarity of training materials.**

Implementation

Effective implementation of the ideals behind OCRA, SB 1439, and other ethics laws requires creativity. Many other jurisdictions regulate "pay-to-play" behaviors differently than Oakland does. The diversity of implementation styles leaves many lessons for effectively eliminating "pay-to-play" corruption in local elections.

Recommendations

- **Conduct public outreach to understand which regulations the community desires.** Oakland's campaign contribution restrictions are relatively average. While Oakland law is stricter on contractors, other cities often regulate developers and lobbyists more strictly regarding "pay-to-play" and campaign finance. Outreach programs can identify whether the public believes existing restrictions are sufficient.
- **Consider mandating an annual random audit of campaigns to deter OCRA violations.** Whether thoroughly or randomly, auditing is an effective deterrent against "pay-to-play" corruption. Oakland's Public Ethics Commission is comparatively understaffed, while other commissions have employees dedicated to auditing, education, data management, and more. Random audits can be conducted with minimal staffing and are effective deterrents to violating campaign finance laws.

Problem Statement

The Oakland Campaign Reform Act (OCRA) contains campaign contribution and expenditure regulations. Among these regulations are those aiming to prevent "pay-to-play" corruption, or its appearance, in local elections. Since its passage, enforcing OCRA has been challenging due to a lack of transparency in data, low policy awareness from regulated bodies, and barriers to implementation and enforcement.

Transparency

While Oakland has a public-facing data source that tracks campaign contributions,² no publicly-available data source identifies contractors and bidders in negotiation with Oakland. OCRA requires contractors to submit a Schedule O Form as a part of their initial contract bid, acknowledging that they understand OCRA campaign contribution limits. None of these interactions, nor any subsequent data, are publicly accessible or consistently shared with the Oakland PEC, which makes monitoring and enforcement burdensome. This means the PEC rarely receives the essential data needed to operate effectively, let alone the public.

Policy Awareness

Another challenge is that contractors and officials may lack awareness of regulatory policy or urgency to comply. Regulations vary between local jurisdictions and state law, and these discrepancies create plausible deniability for contractors and campaigns breaking the law, as they may not know they are accountable. This problem is compounded by the lack of publicly-accessible data identifying regulated agents and their financial contributions. Often, contractors do not self-identify through the Schedule O form, creating a gap in the knowledge needed to enforce these laws effectively and limiting the information the PEC can provide to the public.

Implementation

Finally, SB 1439 is inconsistent with local laws, likely requiring different information to enforce effectively. This inconsistency introduces a lack of clarity on implementing SB 1439. There are differences in scope and timeframe between local laws and this new state-wide mandate that are difficult to plan for after a significant period of understaffing and an inadequate budget. Identifying how SB 1439 may complement local laws and turning potential conflicts into strategy moving forward will help the Oakland PEC make a seamless transition to implementation.

Introduction

The Oakland Public Ethics Commission (PEC) is an independent commission charged with ensuring fair and unbiased government practice. This report will focus on their role in preventing

² *City of Oakland—Electronic Filing System*. (n.d.). Retrieved April 29, 2023, from <https://public.netfile.com/pub2/Default.aspx?aid=COAK>

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"pay-to-play" influence in local elections and government decisions. To that end, the Commission is responsible for enforcing three main sets of local anti-corruption ordinances: the Oakland Campaign Reform Act (OCRA), the Government Ethics Act (GEA), and the Lobbyist Registration Act (LRA). With the passage of Measure W, the Oakland Fair Elections Act, the Public Ethics Commission (PEC or Commission) is planning for a transition of growth in staffing, structure, and responsibilities as administrator of a redesigned public financing program.

These laws attempt to prevent corruption or its appearance in contracting decisions by disallowing those seeking to do business with the government from influencing decision-makers in their favor by contributing to their campaigns, what is called "pay-to-play." This includes OCRA's "contractor ban," which prohibits campaign contributions from any agent negotiating a contract with the City of Oakland or Oakland Unified School District. Regulations also extend to public officials and recipients of campaign contributions, who shall not be permitted "to make, participate in making or in any way attempt to use their official position to influence a governmental decision in which the contributor has a financial interest" [OMC §3.12.330].

Local laws support and are buoyed by disclosure and reporting requirements mandated in the California Political Reform Act,³ a state-wide mandate enforced by the Fair Political Practices Committee (FPPC). On March 20, staff published an advisory regarding a new statewide law aimed at further combatting "pay-to-play" politics.⁴ SB 1439 imposes new obligations upon Oakland elected officials, including the possibility of fines for noncompliance.⁵

Background

As a leader in social justice and civic involvement, Oakland is rich in dialogue and action regarding authentic democracy. As part of this, the City tries to ensure the campaign process provides Oaklanders with meaningful opportunities to participate in selecting its City leadership. However, money is often a prerequisite for winning office; local candidates with the most financial support typically win. Many candidates must rely on donors to provide the financial resources to run an effective campaign. This reliance on money means winners are selected - and policy may be shaped - by those who can contribute to political campaigns.

Campaign data shows less than half of campaign funds come from Oakland residents. Only a tiny fraction of Oaklanders contribute to candidates for political office, and that fraction is more

³ *Local Candidates, Superior Court Judges, Their Controlled Committees, and Primarily Formed Committees for Local Candidates*. (2020). Fair Political Practices Commission, State of California. https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/TAD/Campaign%20Manuals/Manual_2/Final_Manual_2_Entire_Manual.pdf

⁴ *Public Ethics Commission Regular Meeting Agenda*. (2023). City of Oakland Public Ethics Commission. <https://cao-94612.s3.amazonaws.com/documents/Complete-Merged-Agenda-4-12-23.pdf>

⁵ Spivak, S. (2022). *New Law Extends Recusal Requirements and Prohibits Certain Contributions for Local Elected Officials*. San Diego Ethics Commission. https://www.sandiego.gov/sites/default/files/221114_press.pdf

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concentrated in the whitest and wealthiest neighborhoods within the City. This system results in clear inequities in participation for people of color and low-income communities.⁶

Oakland Campaign Reform Act (OCRA)⁷

After co-hosting a public forum on Money in Politics in October 2015, the Commission's Campaign Finance subcommittee drafted proposed amendments to the Oakland Campaign Reform Act (OCRA) as part of a first round of amendments intended to strengthen the Commission's enforcement authority, clarify language, and align the ordinance with the revised City Charter and the California Political Reform Act. In October 2016, the Commission approved the subcommittee's proposed amendments, which passed the City Council unanimously in November 2016.⁸

Since then, OCRA has contained an extensive prohibition on contributions by individuals negotiating contracts with the City of Oakland or Oakland Unified School District. The contractor ban applies to any contract that requires City Council or School Board approval. It prohibits contractors from contributing to candidates for local office during contract negotiations and for 180 days after the completion or termination of negotiations. OCRA requires all potential and current contractors to execute a declaration acknowledging the prohibition on contractor contributions. It also requires that the City Clerk make a list of current contractors available for public inspection.

Current processes do not provide the transparency necessary to proactively identify all the individuals affected by the ban and ensure compliance. This makes the detection of potential violations difficult and time-consuming. It also means that elected officials and candidates cannot easily identify prohibited contributors, increasing the chance of violating the law by inadvertently accepting their contributions.

SB 1439

On September 29, 2022, Governor Newsom signed SB 1439 (Glazer), a bill that extends the Levine Act's protections against so-called "pay-to-play" decision-making to local elected officials and those appearing before them.⁹ As a result, jurisdictions that did not previously restrict contributions from contractors and developers toward elected officials will now be subject to new restrictions.

⁶ *Race for Power: How Money in Oakland Politics Creates and Perpetuates Disparities Across Income and Race*. (2020). Oakland Public Ethics Commission.

<https://cao-94612.s3.amazonaws.com/documents/Report-Draft-Race-for-Power-9-2-20-FINAL.pdf>

⁷ *Oakland Campaign Reform Act (OCRA)*. (n.d.). City of Oakland. Retrieved April 29, 2023, from

<https://www.oaklandca.gov/resources/oakland-campaign-reform-act-pec>

⁸ *Annual Report*. (2016). Oakland Public Ethics Commission.

<https://cao-94612.s3.amazonaws.com/documents/oak063643.pdf>

⁹ *UPDATE: Local California Elected Officials Prohibited from Voting On Campaign Contributors' Projects*.

(n.d.). Manatt. Retrieved April 29, 2023, from

<https://manatt.com/insights/newsletters/california-government-update/local-california-elected-officials-prohibited-from>

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The bill will bar local elected officials and candidates from accepting or soliciting contributions over \$250 from anyone affiliated with a group with a pending license, permit, or contract until 12 months after a final decision. In addition to the contribution restriction, contractors going before a local agency have to disclose during the proceeding if they made contributions over \$250 within the past 12 months. Elected and appointed officials in local government must also disclose such contributions.

An official may learn during proceedings that they received prohibited contributions from a party or participant with a financial interest in a decision. In this case, they may either recuse themselves from the decision or return the contribution within 30 days. Similarly, during proceedings and for 12 months after, officials must refuse contributions from such parties or return them within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest.¹⁰

SB 1439 regulates those seeking licenses, permits, and entitlements for use, which largely broadens the regulated class in Oakland, but OCRA still restricts those seeking contracts with the city more tightly. By comparison, San Francisco and Los Angeles already prohibit contributions from these classes, so the \$250 limit does not apply in these cities.

[Table 1](#) provides a quick comparison of the essential differences between OCRA and SB 1439.

¹⁰ *Local Governing Board Members Will Now Have Conflict of Interest in Campaign Donors Appearing Before Their Agencies.* (n.d.). BB&K Law. Retrieved April 16, 2023, from <https://www.bbklaw.com/news-events/insights/2022/legal-alerts/10/local-governing-board-members>

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Table 1. OCRA vs. Levine Act quick comparison

	Oakland Law (e.g. OCRA)¹¹	State Law (e.g. Levine Act)¹²
Standard campaign contribution restrictions	<ul style="list-style-type: none"> - Individuals up to \$600 - Organizations up to \$1,200 	Individuals and organizations both up to \$5,500
Regulated bodies	<ul style="list-style-type: none"> - Candidates and Elected officials - Contractors “negotiating certain contracts with the City of Oakland or Oakland Unified School District Board,” and for “180 days after the completion or termination of negotiations on the contract.” 	<ul style="list-style-type: none"> - Candidates and Elected officials - Contractors and developers with the city while decisions are pending on a “license, permit, or other entitlement for use,” and for 12 months after a decision is made.¹³
Process for determination of violation	<ul style="list-style-type: none"> - Informal discretionary auditing - Public complaint - Screening for compliance under state law 	<ul style="list-style-type: none"> - Formal auditing, random and discretionary - Whistleblowing/public complaint
Enforcement	<ul style="list-style-type: none"> - Can refer criminal violations to courts or FPPC - Penalties and fines from the Commission may not “exceed \$5,000 per violation or three times the amount of the unlawful contribution or expenditure, whichever is greater.” 	<ul style="list-style-type: none"> - A criminal violation is a misdemeanor. - Penalties up to the “greater of ten thousand dollars (\$10,000) or three times the amount the person failed to report properly or unlawfully contributed.”
Path to reconciliation	<ul style="list-style-type: none"> - Candidate must recuse themselves from the case. 	<ul style="list-style-type: none"> - If in violation, candidate can return donation within 30 days (14 days if proceedings are ongoing) from when the officer learns about the contribution and relevant proceeding. - Candidate may also recuse themselves from negotiations, if

¹¹ *Oakland Campaign Reform Act Guide 2022*. (2022). Oakland Public Ethics Commission. <https://cao-94612.s3.amazonaws.com/documents/OCRA-Guide-2022-FINAL-REVISED-4-20-22.pdf>

¹² 2022 Political Reform Act. (2022). *Fair Political Practices Commission, State of California*. https://www.fppc.ca.gov/content/dam/fppc/NS-Documents/LegalDiv/The%20Political%20Reform%20Act/PriorYearVersions/2023/2023_Act.pdf

¹³ SB 1439, 84308 Campaign contributions: Agency officers. Retrieved April 28, 2023, from https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB1439

		possible.
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Methods

This report aims to identify how best to detect and prevent "pay-to-play" interference, or its appearance, in Oakland's local elections. In partnership with the Oakland Public Ethics Commission, the research team leveraged mixed methods and qualitative approaches, conducting in-depth interviews and document analyses to identify best practices. This process was iterative, as the research, meetings with staff from Oakland PEC, and analysis refined and informed the next steps.

The team identified four areas of inquiry that would guide research and analysis to help the Oakland PEC increase its ability to eliminate "pay-to-play" election interference:

1. How do Oakland's local policies regulating campaign contributions compare with laws in other cities?
2. What changes to local contracting and/or campaign finance regulation may help address "pay-to-play" influence more effectively in Oakland's local elections and comply with SB 1439?
3. How can the City of Oakland ensure that an easily accessible, accurate list of current contractors is available for inspection by the public, as well as key stakeholders such as candidates and Commission staff?
4. How can the City of Oakland raise awareness among agents subject to campaign contribution regulations and effectively ensure that persons prohibited are aware of the law?

The following objectives were set to answer these questions:

1. Determine how the City of Oakland currently tracks (or does not track) City contractors, as defined in OCRA,
2. Identify best practices to produce the transparency, policy awareness, and implementation needed to effectively realize the ideals behind OCRA and SB 1439,
3. Identify the next steps and/or a strategic plan for developing a publicly accessible database maintained by the Oakland Public Ethics Commission where regulated class disclosures and public financial records are centralized, and
4. Provide recommendations based on the research and analysis designed to answer Oakland's questions.

Background Research

The project's first phase was to conduct background research on the current landscape of commissions and agencies similar to Oakland's PEC. The research team included statewide public ethics agencies and interest groups to provide a broad perspective. The full list of organizations contacted is below.

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Ethics Agencies

- City and County of San Francisco Ethics Commission*
- City of Berkeley Fair Campaign Practices Commission
- City of Long Beach Ethics Commission†
- City of San Diego Ethics Commission†
- Fair Political Practices Commission*
- Los Angeles City Ethics Commission*
- Orange County Ethics Commission†
- Sacramento Ethics Commission
- San Jose Board of Fair Campaign and Political Practices

Interest Groups

- Common Cause*

**Conducted oral interview*

†Provided written answers

The team developed an interview protocol based on background research on the Oakland PEC's current policies, practices, enforcement and reports. It was expanded based on common themes picked up in early interviews. The final protocol can be found in [Appendix C](#).

Interviews were conducted over Zoom or in writing and are confidential, aside from informing analysis. Zoom interviews were audio-recorded and transcribed using otter.ai. The team identified recurring themes and patterns in the data through thematic analysis. The coding process began with open coding, which involved identifying preliminary themes and concepts in the data.

The team then leveraged selective coding, analyzing the most significant themes and their relationships. The team developed a more comprehensive understanding of the phenomenon under investigation by identifying overarching patterns. Ultimately, the codes corresponded to the following themes:

- Unique aspects or origin story of agency
- Patterns of corruption and violation
- Role of the public and government transparency
- Operation and implementation
- Enforcement
- Aspirations for the future
- Obstacles and setbacks
- Successes
- Data
- Independent expenditures
- Matters to research or look into further
- Examples
- Policy awareness and education

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- Unintended consequences
- Pushback
- Scope of regulated class and timeframe
- Other crucial points

The team adopted several strategies to ensure rigor and trustworthiness in the analysis. The team triangulated results by analyzing data from multiple sources, including interviews with local agencies, state agencies, and document analysis. Through the iterative process in the analysis, the team continuously revisited the data to ensure interpretations were grounded.

Findings and Recommendations

Findings have been organized by the three key problems identified in the problem statement: a lack of transparency in data, low policy awareness from regulated bodies, and barriers to implementation and enforcement. For each problem, the team attempts to offer insights and themes pulled from the data and provide some recommendations for solving them. This survey of California's "pay-to-play" prevention regulation will provide insight into what works well for others and might work for Oakland.

Transparency

Transparency is a founding principle at the core of ethics commissions throughout California. Ethics commissions are the “watchdogs for the public interest,” ensuring compliance with policy and facilitating public access to vital information about how their local government operates.¹⁴ The Oakland PEC states, in their guiding principles,

“Our objective is to make sure Oakland public officials and government decision-making processes operate in a fair and unbiased manner, to promote transparency in Oakland government, and to promote public trust in our local political system.”¹⁵

This objective is a theme raised time and again in commission publications, and detailed explicitly their 2014 report, *Toward Collaborative Transparency*,

“Transparency, and particularly transparency in Oakland, is one of the most challenging government issues to define, adopt, and practice. This is because government transparency relies on various elements: willing government leaders, supportive technology, appropriate legal framework and guidance (state and local), established city employee capacity and culture, and an informed and engaged public and press... At its most basic level, transparency is about trust.”
(pp. 29-30)

¹⁴ Payne, K., Marsco, D., & Richardson, V. (2021, December 6). Top 10 transparency upgrades for Ethics Commissions. Campaign Legal Center. Retrieved March 1, 2023, from <https://campaignlegal.org/document/top-10-transparency-upgrades-ethics-commissions>

¹⁵ Public Ethics Commission. City of Oakland Public Ethics Commission. (n.d.). Retrieved March 1, 2023, from <https://www.oaklandca.gov/boards-commissions/public-ethics-commission>

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Transparency allows for collaborative growth among commissions

There is an inherent tension in the role of ethics commissions as an enforcement agency that must seek resources from the public officials they regulate. These government entities are often responsible for determining their budget, among other things, and can influence commission operations with narrow or inadequate funding, which means that commissions are often underfunded and understaffed.¹⁶

Commissioners and staff can be uniquely isolated in their roles. They are independent government agents representing the public's interest, so they must carefully avoid any appearances of influence from or favor to the regulated community.¹⁷ There is often the perception that they function exclusively to enforce penalties for wrongdoing leading to a difficult dynamic to navigate with the regulated class. As one interviewee said, "Everybody hates us!"

The research team found a desire among commission staff and representatives from Common Cause and the FPPC for increased engagement and insight into the operations, policies, and development happening with their professional peers. Whitney Barazoto, Oakland PEC's former Executive Director, speaks to how information from other commissions was vital in the early days,

"...in terms of the laws and the enforcement, we had nothing. I was trying to staff it up and to grow it, so I was looking constantly at the other Commissions and mostly LA, San Francisco, and San Diego."

Sean McMorris, Transparency, Ethics & Accountability Program Manager for Common Cause, emphasized the value of shared information between commissions and statewide organizations like the FPPC. Common Cause California has worked extensively to support the creation of ethics commissions throughout the state. In his interview, McMorris emphasized how valuable examples from other commissions' operations and development were in that process and beyond,

"We get called by different Commissions to weigh in on certain matters; it would really be nice to have kind of a centralized place where people could keep documents or pick each other's brains or have best practices."

One way this need is currently filled is through reports that list good policies or practices among ethics commissions, such as the Campaign Legal Center's *Top 10 Enforcement Upgrades for Ethics Commissions* and *Top 10 Transparency Upgrades for Ethics Commissions*.¹⁸

¹⁶ Payne, K., Marsco, D., & Richardson, V. (2021, December 6). Top 10 transparency upgrades for Ethics Commissions. Campaign Legal Center. Retrieved March 1, 2023, from <https://campaignlegal.org/document/top-10-transparency-upgrades-ethics-commissions>

¹⁷ Principles for designing an Independent Ethics Commission. Campaign Legal Center. (2018, May 17). Retrieved March 1, 2023, from <https://campaignlegal.org/document/principles-designing-independent-ethics-commission>

¹⁸ Payne, K., Marsco, D., Caputo, D., & Richardson, V. (2022, December 1). *Top ten enforcement upgrades for ethics commissions*. Campaign Legal Center. Retrieved March 1, 2023, from <https://campaignlegal.org/document/top-ten-enforcement-upgrades-ethics-commissions>

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Transparent data allows the public to augment commission supervision

Ironically, the inadequate funding and staff shortages (raised by many of the commissions) led the Los Angeles City Ethics Commission to develop what was, in the early 90s, the only in-house electronic filing system for campaign finance regulation. With a centralized, navigable database of public financial and disclosure data, the public has been able to monitor information beyond the capacity of regulators. Public engagement and data access have been vital for resource-limited commissions unable to obtain sufficient support from local government.¹⁹

Los Angeles emphasized that their need for increased capacity and support led them to establish their in-house system, a process they figured out along the way with little to no previous experience building such a database.

“...it was really a survival mechanism in terms of the limited resources we had; what can we do to make the work less burdensome? I can still vividly remember sitting at my desk and saying, Why am I entering all this information in an internal database that nobody's ever going to come downtown to see...? How do we make this easier for the public to access it? ...we created our own electronic filing system for the campaign finance program. We created our own electronic filing system for the lobbying program, ... we created our own filing and database for developers and contractors. Since then, it has been a holistic approach; creating laws that address pay-to-play public trust issues, but also bolstering them with disclosure and public access to data, preventing the perception from the public that money's having an influence on making this information available.”

Sean McMorris emphasized how public engagement and access to clear and comprehensive data serves as an essential resource even for the FPPC to overcome many of the same obstacles as local commissions:

“...(Publicly accessible data) in and of itself will increase transparency but also oversight and accountability, because now it's not just the Ethics Commission that's having to provide the oversight. The public and the press will do so as well. At the state level, the Fair Political Practices Commission, which enforces California's massive Political Reform Act, (relies on public engagement with data). They are experts. They know their stuff, but they are very understaffed and underfunded.”

One challenge for ethics commissions is fulfilling their function as a source for public records in an understandable format that increases public understanding of their significance. San Francisco tackled this problem by developing a searchable, sortable, and usable system for presenting public disclosures. Systems like those developed by Los Angeles and San Francisco provide easy access to unfiltered databases and curated, searchable dashboards. Both were cited in the 2021 report by the Campaign Legal Center, *Top 10 Transparency Upgrades for Ethics Commissions*.²⁰ LeeAnn Pelham, executive director of the San Francisco Ethics

¹⁹ Los Angeles Ethics Commission interview, San Francisco Ethics Commission interview

²⁰ Payne, K., Marsco, D., & Richardson, V. (2021, December 6). Top 10 transparency upgrades for Ethics Commissions. Campaign Legal Center. Retrieved March 1, 2023, from <https://campaignlegal.org/document/top-10-transparency-upgrades-ethics-commissions>

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Commission, was interviewed about their dashboard with an intuitive presentation of disclosure data for public review.

“The SFEC believes that disclosure should be accessible, meaningful, and useful. Meaningful public disclosure is not achieved by giving the public discrete sets of data. ... (It should) connect the dots and make sense of campaign disclosures, lobbying data, and economic interest data.”²¹

Publicly accessible data typically acts as a check on willfully illegal behavior. At the same time, flagged violations allow actors who unintentionally violate a regulation to correct their mistake, as McMorris from Common Cause describes in his interview.

“(Publicly accessible data) is very important, not just for enforcement, but for oversight, also for accountability. ...For (those)... who fall under the purview of these laws, ...the likelihood of getting caught is higher if data is well organized and public. ...And on the flip side, they also now have a way to better comply with the laws... They may find out later by looking at this database, oh, I, I shouldn't have taken that. And then they can amend it and give it back. But if they don't know until they get in front of a hearing, they're out of luck.”

Interviews and literature agree that transparency functions to enable effective regulation, facilitate public engagement, and, importantly, garner the political will to make policy changes.²² Informed constituents, press, and community organizations can provide political pressure to push policy or charter mandate changes.

Recommendations

Propose creating a publicly accessible, PEC-regulated database for mandated disclosure by contractors and other regulated agents.

“What we do really well is help the public understand what's happening at City Hall. We process tens of thousands of disclosure forms every year, and it's all on our website. It's all publicly available. We create ways for the public to access the information that hopefully generates a move to change existing city policies or promote new laws.”

David Tristan, executive director Los Angeles City Ethics Commission

Development of a database for tracking agents bidding and currently contracted with Oakland would enable the PEC and city residents to utilize corresponding financial data effectively. This is a foundational need for efficient operation and fulfillment of legal obligations. The city has to provide constituents access to data, and contractors must disclose their status.²³ This added transparency is essential for adequate regulation of financial influence and provides the public with the information they need to understand the current policy better.

²¹ Id.

²² Marsco, D. (2022, December 1). *Ethics commissions across the country are using innovation to fight corruption*. Campaign Legal Center. Retrieved March 1, 2023, from <https://campaignlegal.org/update/ethics-commissions-across-country-are-using-innovation-fight-corruption>

²³ (2017). (rep.). *Toward Collaborative Transparency*. Retrieved March 1, 2023, from <https://cao-94612.s3.amazonaws.com/documents/oak044914.pdf>.

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Neither the Oakland Public Ethics Commission nor Oakland residents currently have access to comprehensive data listing current and potential contractors and their agents.²⁴ This makes it difficult to enforce OCRA campaign contribution limits and provide the public with the information they are entitled to. The database could include information about entities seeking licenses, permits, or land entitlements, allowing for monitoring the regulated class as expanded under the new statewide law, SB 1439.

Currently, contractors engage with the city through the Workplace and Employment Standards Department, where they are required to submit a Schedule O Form acknowledging that they understand OCRA campaign contribution limits as a part of their initial contract bid.²⁵ Viewing open contracting opportunities requires registering as a contractor with an iSupplier account that the city must approve.²⁶

Recent amendments to OCRA stipulated in the *Oakland Fair Elections* ballot measure, stipulate that contractor disclosure statements should be made directly to the Oakland PEC, making a PEC-managed, publicly accessible database of disclosures the logical next step.²⁷

The Oakland PEC is currently working with Open Oakland on their campaign finance database, *Open Disclosure Oakland*.²⁸ Open Oakland continuously accepts new projects, and creating a database for contractor disclosures would complement their current work with the PEC. A preliminary version of the OpenOakland Project Exploration: Contractor Database has been completed with citations and information from this report. It is located in [Appendix A](#).²⁹ [Appendix B](#) contains examples of contractor disclosure forms from Los Angeles that Oakland could model theirs on.

Begin a public engagement campaign to determine priorities for changes and reforms
With a regular process of policy review that includes public feedback and engagement, Oakland PEC could ensure they are in tune with the public interest, build trust with the community and harness the insight of community members to find solutions that are innovative and responsive to Oaklanders' needs.³⁰ Los Angeles has a legal mandate to review the effectiveness of their

²⁴ Oakland Public Ethics Commission, (March 2023). Informal interview.

²⁵ The Charter of the City of Oakland. (n.d.). Retrieved April 16, 2023, from https://cao-94612.s3.amazonaws.com/documents/A-Oakland-City-Charter_2022-04-15-204856_hoik.pdf.

²⁶ (n.d.). iSupplier RFQ User Guide (PDF). Retrieved from https://cao-94612.s3.amazonaws.com/documents/Bid_Quote_Withdrawal_UserGuide.pdf.

²⁷ Oakland Fair Elections Act Ballot Measure to reform Oakland City Charter, 2022. https://cao-94612.s3.amazonaws.com/documents/RESO-89316-Campaign-Reform-filed-materials_2022-07-30-033124_scna.pdf

²⁸ <https://www.opendisclosure.io/>

²⁹ A live version of the document is also available: https://docs.google.com/document/d/1_4Q5pfR3TIClqZc4OfPZjKfL0OD0bukc2FY4UbgxEE/edit?usp=sharing

³⁰ *Partnering with Community-Based Organizations for More Broad-Based Public Engagement*, Institute for Local Government, <https://www.ca-ilg.org/post/partnering-community-based-organizations-more-broad-based-public-engagement>

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policies regularly. They generate this report internally regularly but also based on public input whenever called for, as Executive Director David Tristan described:

“We’re currently in the middle of some very heated lobbying ordinance proposals that we have tried to change since 2007. The past several attempts have died in the council committee. One of the big reasons it progressed much further this time is neighborhood councils have made a substantial impact by weighing in on the importance of the proposals. Mainly, because neighborhood councils are an arena where lobbying has been happening for years. One reason for the involvement this time was that a person attended a neighborhood council and lobbied on behalf of a particular issue while appearing to be a member of the community when in fact he was a lobbyist. They realized this when they verified it by going to our site to view our lobbyist disclosure information. This created an uproar in this and many neighborhood councils and resulted in support of the proposed changes, including requiring verbal disclosure of lobbyists at neighborhood council meetings.”

Los Angeles invests in public trust by effectively incorporating their feedback into their policy change agenda. Their ongoing process for collecting public input includes:

- soliciting feedback on particular issues on their website and via email,
- collecting community impact statements from Neighborhood Councils, and
- holding town hall and one-on-one meetings.³¹

With the recent passage of Fair Elections Oakland (Measure W), the PEC will begin outreach to citizens to inform them about Democracy Dollars, Oakland’s new public financing system.³² This is a great opportunity to build relationships with the public and lasting relationships with community-based organizations invested in Measure W, which largely expanded and empowered the PEC. These organizations, like Oakland Rising, would make excellent community partners for a long-term campaign of public engagement, given their deeply rooted connections to a diversity of Oakland residents, as they describe in their objectives,

“We are building on-going political infrastructure while advancing progressive racial justice education and policy with voters who are often left out of the political process. Running 2-3 voter outreach campaigns per year, we reach tens of thousands of low-income, immigrant and voters of color in English, Spanish, Cantonese and Mandarin. Our base includes over 59,000 supportive voters — 25% of Oakland’s electorate.”³³

Building relationships with community-based organizations sets the stage for developing a long-term plan for community engagement that is responsive to a broader base of Oaklanders, including communities not often heard from in local government. The engagement of Community groups like Oakland Rising, the League of Women Voters, and the Community Democracy Project on Fair Elections Oakland (Measure W) and their commitment to increasing public engagement in local government makes now an ideal time to reach out to them for

³¹ <https://ethics.lacity.org/policy/>, Item 6 Action [Continued Review of Key Campaign Finance Laws](#)

³² <https://fairelectionsoakland.org/>

³³ <https://www.oaklandrising.org/flex-people-power/>

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ongoing collaboration.³⁴ Oakland PEC can work with organizations in an exploratory sense to determine potential partnerships, then work together to develop outreach and engagement plans that make sense. One approach to determining community partners comes from the International Association for Public Participation (IAP2):

“The best way to determine the right fit is by having an exploratory discussion to assess how the group’s focus matches the audiences, topics and activities the local public agency is contemplating for engagement. If after meeting with a community organization, it turns out that there is not an immediate fit for a partnership, valuable information about that part of the community’s perspective will still have been gained.”³⁵

Develop a network of ethics commissions for connection and information sharing

Ethics commissions in California stand to benefit from developing a network of shared learning and development as a means of overcoming obstacles by sharing information and support.³⁶ Tristan describes how Los Angeles provides a similar function in an ad-hoc manner,

“This area of law that we work in is constantly changing. To address these constant changes, requires novel development of laws which don’t have precedents. Jurisdictions reach out to us and say, have you looked at this... how did you handle it?”

Former PEC Executive Director, Whitney Barazoto, has been working on a project, still in development, that would help establish this kind of network. She described her vision for the end product:

“Here’s what everyone’s doing with campaign finance, here. And then I’d like to have an enforcement section and also a public engagement section because I feel like all the Commissions could really benefit from shared insight, knowledge, and expertise... So I wanted to try and grow that... And just give everyone a place for professional development.”³⁷

To build up a network of support and information sharing in the meantime, Oakland could look to the model initiated by The National Neighborhood Indicators Partnership (NNIP), a learning network coordinated by the Urban Institute that connects independent partner organizations in more than 30 cities.³⁸ The NNIP began in the early 1990s with a local group of organizations

³⁴ The Institute for Local Government is the nonprofit 501(c)(3) research and education affiliate of the League of California Cities, the California State Association of Counties and the California Special Districts Association. Their mission is to promote good government at the local level with practical, impartial and easy-to-use resources for California communities.

³⁵ Partnering with Community-Based Organizations for More Broad-Based Public Engagement, Institute for Local Government.

https://www.ca-ilg.org/sites/main/files/file-attachments/partnering_with_comm_based_orgs_final.pdf?1497553496

³⁶ Marsco, D. (2022, December 1). Ethics commissions across the country are using innovation to fight corruption. Campaign Legal Center. Retrieved March 1, 2023, from

<https://campaignlegal.org/update/ethics-commissions-across-country-are-using-innovation-fight-corruption>

³⁷ Barazoto welcomes feedback and input from other commissions. Her email is wbarazoto@comcast.net.

³⁸ Hendey, L., Cowan, J., Kingsley, G., & Pettit, K. (2016, May 27). NNIP’s guide to starting a local data intermediary. Urban Institute. Retrieved from

<https://www.urban.org/research/publication/nnips-guide-starting-local-data-intermediary>

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and institutions working to create a collaborative network engaged in neighborhood-level data collection and analysis. They worked in partnership with the Urban Institute to promote knowledge sharing, develop standardized methodologies, and increase the capacity of local communities to use data effectively. The NNIP has continued to grow and are actively engaged with local communities, policymakers, and stakeholders to ensure that data is appropriately used in the service of community initiatives.³⁹

Pilot Phase: During the initial phase, the Urban Institute worked with a small group of local partners to test the feasibility of the partnership. They focused on developing standardized methodologies for collecting, analyzing, and sharing neighborhood-level data across multiple cities.

Oakland has hosted summits before for practitioners throughout CA with great success. For the development of a network at this level, planning, development, and responsibility should be determined collectively and responsive to individuals' capacity, but Oakland could certainly initiate such a project with a summit modeled on their event in 2016.⁴⁰

Policy Awareness

Widespread awareness of regulatory policy and updates is essential to establish compliance among the regulated community.⁴¹ Regulated parties can't fulfill their reporting and disclosure obligations if they don't understand the law, and claims that violations are due to ignorance undermine the PEC's ability to hold parties accountable. The problem is further compounded by the fact that data identifying regulated contractors and associated agents is not reasonably accessible to either the public or the PEC for adequate identification of agents subject to regulation.⁴²

Clear communication of election laws, penalties, and enforcement are major components of building trust with the public. As Heather Holt, Deputy Executive Director of the Los Angeles City Ethics Commission, describes:

"If the public is going to have confidence that its government is acting in its best interest, there have to be some tight controls so that the public can believe that what's being done at City Hall is trustworthy. Even if you disagree with the policy perspective, you can feel confident in the process."

Legal mandates allow for consistent awareness

Oakland has been operating with a drastically under-resourced enforcement division for some time. There have been only two Enforcement employees since 2016 and only one since late

³⁹ Id.

⁴⁰ Id.

⁴¹ Interviews with Oakland PEC, Los Angeles City Ethics Commission, San Francisco Ethics Commission, Common Cause, FPPC

⁴² Interview with Oakland PEC

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2022, who is currently handling around 70 cases.⁴³ San Francisco, as a point of comparison, has eight staff members working on enforcement with a caseload-to-staff ratio of 7:1 compared to Oakland's 70:1.⁴⁴ This makes it difficult to be consistent with consequences, decreasing the credibility of the threat of enforcement for noncompliance. It also makes it next to impossible to build public trust and confidence.⁴⁵

One interviewee spoke to the importance of legally binding policy to ensure compliance:

"We have a lot of mandates. Just about everything we do is required by law. A lot of what doesn't get done in other departments are great ideas, but it's not the law. What we do is legally backed."⁴⁶

Mandated disclosure by regulated parties and recipients can provide additional checks on disclosure obligations. Los Angeles Ethics Commission requires that campaigners collect both a Contributor Certification Form from single donors and an Aggregate Contribution Verification for any contributors making multiple donations or with many agents. This process provided an additional check for regulated contributors to learn of restrictions they must comply with and a method of confirmation that any willful deception was not accidental, as well as confirmation of compliance by campaigners, as David Tristan, Executive Director of Los Angeles City Ethics Commission described in his interview,

"We use it to ensure that the contributor is signing under penalty of perjury, but also it's a way for the committee to show that they are trying to comply with the requirements by obtaining these forms."

Both of these forms, as well as guidance for curing any prohibited donations, are clearly outlined in [Los Angeles' Candidate Guide](#).⁴⁷ Examples of both the Contributor Certification Form and the Aggregate Contribution Verification Form can be found in [Appendix D](#).

Education teams broaden awareness with active, relevant material

Public ethics policies and practices are frequently updated and require clear, accessible, and consistent guidance and implementation to effectively inform the regulated community and general public of current policy and practices.⁴⁸ San Francisco Ethics Commission has a new team dedicated to achieving just that called Ethics at Work, which Acting Policy and Legislative Affairs Manager Michael Canning describes in the following passage:

⁴³ Russell, S. (2023). Item 8 -Enforcement Report.

<https://cao-94612.s3.amazonaws.com/documents/Item-8-2023-May-PEC-Enforcement-Report.pdf>

⁴⁴ Id.

⁴⁵ Fagan , S., & Memmott , K. (2021). Oregon's Ethics Commission and Laws Could Be Better Leveraged to Improve Ethical Culture and Trust in Government . Secretary of State, Oregon Audits Division. Retrieved from <https://sos.oregon.gov/audits/Documents/2021-14.pdf> .

⁴⁶ Anonymous quote, interview (2023)

⁴⁷ <https://ethics.lacity.org/wp-content/uploads/2023-Candidate-Guide-CD6-Special.pdf>

⁴⁸ <https://ethics.lacity.org/education/>

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“We have a new Ethics at Work training division that is focused on developing materials and providing training to city officials and others subject to Commission rules. And that’s a project that our division that just got staffed up ... so they’ve been starting to roll out more materials now. Because that’s really our ultimate goal; to cut off violations before they happen and address things proactively.”

Educational materials should be clear, regularly updated, and provide step-by-step guidance to maintain compliance tailored to each regulated community, including consequences for violations as well as curing methods for violators where appropriate.⁴⁹ Hawaii State Ethics Commission’s revamped homepage is highlighted in the Campaign Legal Center’s Top 10 Transparency Updates as a model for clarity and access. Their previous page contained the same information, but they spent excessive time directing people to information. Color coding, graphics, and intuitive link chains create access and clarity for a user-friendly experience that expands access and increases website engagement. They were able to make all website changes in-house with existing IT support, and the new design increased public and stakeholder engagement and saved commissioners time previously spent trying to navigate callers to their desired information.⁵⁰

Engaging and entertaining ethics trainings encourage engagement

Ethics trainings are known for being unappealing and dry, but they don’t have to be. The New York City Conflicts of Interest Board (COIB) has been using social media and a sense of humor to provide engaging, on-demand education videos to great effect. They have expanded their educational reach via social media and demystified complicated conflict of interest laws with digestible, enjoyable content.⁵¹

The Ohio Ethics Commission provides another example of how engaging online material expands the reach and digestibility of educational materials. They maintain a trove of webinars and e-newsletters that present all stakeholders with understandable information and highlight aspects of the material that community members care about, like “Building a Culture of Integrity,” which breaks down Ohio Ethics Laws. Their material has even been picked up as teaching aids by law schools and compliance attorneys.⁵²

While traditional policy training can be tedious, case studies of policy violations and enforcement actions are matters of public interest and make excellent anecdotal teaching tools. Publishing details of closed cases and formal requests for advice inherently capture the public

⁴⁹ O’Brien, T. (2020). AUDIT REPORT: Ethics, Board of Ethics and Clerk and Recorder’s Office. In City and County of Denver Auditor. https://denver.prelive.opencities.com/files/assets/public/auditor/documents/audit-services/audit-reports/20/ethics_february2020.pdf

⁵⁰ Id.

⁵¹ Id.

⁵² Id.

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interest and get the attention of the regulated community.⁵³ Historically, Oakland has provided such information in press releases and their newsletter, *Public Trust*, but has not produced an issue since 2020. Los Angeles also includes detailed summaries of significant enforcement matters that are instructive in helping people voluntarily comply with the law. Deputy Executive Director Heather Holt said:

“...it's not a fun way to learn, but a press release about an enforcement matter can be very educational. Similarly situated people might think, Oh, that guy just got fined \$10,000 for doing what I've been doing for the last three months. Maybe I need to change direction.”

This allows regulated parties to reconsider their conduct if they were either unaware they were violating policy or thought they could get away with violations..⁵⁴

Recommendations

Enhance online materials to increase accessibility and clarity

Democracy Dollars can ignite civic engagement among a diversity of residents typically shut out of political influence. This could be an opportune time to increase the commission's recognition and understanding. Ideally, outreach will be with people who have not previously had little ability to donate financially. The PEC and these groups can create a mutual feedback cycle to provide valuable information and priorities to each other and improve the accessibility and clarity of the PEC's website and existing training materials.

Resuming regular production of the PEC newsletter, *Public Trust*, provides a tangible, updated resource to point community members to while conducting outreach to the public about Democracy Dollars and building connections with community groups. This would be an excellent place to begin detailing stories of outstanding cases, policy updates, and training materials. It can also be a way for readers to provide feedback on the problems they see and their needs for policy change. This kind of project can go a long way toward enhancing public trust.

Mandate contribution certification from campaigns

Currently, Oakland suggests that campaigns use a contributor verification card, which they provide in the appendix of the Oakland Campaign Reform Act Guide ([Appendix E](#) in this report).⁵⁵ However, considering the historical and current lack of accountability for contractor disclosure reports, Oakland should require that campaigns certify every donation, providing additional checks that contributors understand the law and comply with restrictions.

⁵³ Fagan, S., & Memmott, K. (2021). Oregon's Ethics Commission and Laws Could Be Better Leveraged to Improve Ethical Culture and Trust in Government . Secretary of State, Oregon Audits Division. Retrieved from <https://sos.oregon.gov/audits/Documents/2021-14.pdf>.

⁵⁴ Interview with the Los Angeles Ethics Commission:

⁵⁵ Public Ethics Commission 2018 Public Ethics Commission Oakland Campaign Reform Act Guide. (2022). <https://cao-94612.s3.amazonaws.com/documents/Oakland-Reform-Act-Guide-2018.pdf>

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Oakland should also adopt an aggregated contribution certification form similar to Los Angeles's Aggregate Contribution Verification in [Appendix D](#). It is too common for wealthy developers to make multiple donations to a single candidate, such as when 11 West Partners used "shell" companies to make multiple donations to Oakland's former Mayor, Libby Schaff while seeking to purchase City-owned land.⁵⁶

Implementation

A goal of this analysis is to improve the implementation of the ideals behind OCRA, SB 1439, and all other such ethics laws. Many other jurisdictions regulate "pay-to-play" behaviors differently than Oakland does. The diversity of implementation styles leaves many lessons for effectively eliminating "pay-to-play" corruption in local elections.

Oakland's campaign contribution restriction amounts fall within the median range. Currently, the Oakland Campaign Reform Act limits campaign contributions from individuals, organizations, and broad-based political committees. Following the passage of Measure W, contributions are limited to \$600/1200 in 2024, which is relatively strict compared to other regions. [Table 2](#) compares Oakland's contribution limits with several other jurisdictions in California.

Table 2. Standard Contribution limits by jurisdiction.

	Person	Committee
Oakland ⁵⁷	\$600	\$1200
FPPC ⁵⁸	\$5,500	\$5,500
Long Beach ⁵⁹	\$400	\$400
Los Angeles ⁶⁰	\$800-1,300*	\$800-1,300*
Sacramento ⁶¹	\$1,800-3,600*	\$6,000-12,000*
San Diego ⁶²	\$750-1,350*	\$0

⁵⁶ PEC case #18-19

⁵⁷ City of Oakland. "Campaign Contribution Limits." Accessed June 27, 2023.

<https://www.oaklandca.gov/resources/oakland-campaign-contribution-limits-2>.

⁵⁸ *Contribution Limits: City and County Candidates*. (n.d.). Retrieved April 16, 2023, from

<https://www.fppc.ca.gov/learn/Contribution-Limits-City-and-County-Candidates.html>

⁵⁹ *City of Long Beach Campaign Ethics Guide*. (n.d.). Retrieved April 16, 2023, from

<https://www.longbeach.gov/globalassets/city-clerk/media-library/documents/elections/elections-home/campaign-ethics-guide-2019>

⁶⁰ *2022 Contributor Guide*. (n.d.). <https://ethics.lacity.org/wp-content/uploads/Contributor-Guide-2022.pdf>

⁶¹ *2.13.050 Contribution limitations*. (n.d.). Retrieved April 16, 2023, from

https://library.qcode.us/lib/sacramento_ca/pub/city_code/item/title_2-chapter_2_13-article_iii-2_13_050

⁶² <https://www.sandiego.gov/ethics/faqs/contrib#contrib2>

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San Francisco ⁶³	\$500	\$0
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**Varies depending on office.*

OCRA also restricts contributions from those who contract or seek a contract with the City or Unified School District. This law indirectly impacts lobbyists by preventing contributions from those “authorized to represent the entity before the City,” which may include lobbyists.

Other cities are more explicit and broad in regulated classes prohibited from contributing to campaigns. For example, Los Angeles’s Campaign Financing Ordinance Section 49.7.16 forbids donations from a) lobbyists and lobbying firms, b) bidders, sub-contractors, principals, or underwriting firms, and c) restricted developers, each as defined in various other parts of their code. San Francisco’s Campaign Finance Reform Ordinance similarly prohibits contributions from contractors, persons with pending land use matters, lobbyists, and lobbying firms. In both cities, lobbyists and lobbying firms are restricted from contributing to officials who are members of an entity with which the lobbyists are registered.

Table 3. Further restrictions by jurisdiction and regulated class.

	Contractors	Developers	Lobbyists
Oakland	Cannot donate	None but may be impacted by contractor ban	None but may be impacted by contractor ban
FPPC	Restricted to \$250	Restricted to \$250	None, unless breaches conflict of interest
Long Beach	None	None	None
Los Angeles	Cannot donate	Cannot donate	Restricted from contributing to members of entities they are registered to lobby with
Sacramento	None	None	None
San Diego	None	None	None
San Francisco	Cannot donate	Cannot donate	Restricted from contributing to members of entities they are registered to lobby with

⁶³ <https://sfethics.org/guidance/campaigns/contributors/san-francisco-ethics-commission-contributor-guide>

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These more explicit policies, combined with transparent and thorough tracking of data, seem to lead to fewer cases of violations. One analyst praised the quality of the campaign contribution limitations, stating that “in election campaign contributions, we don’t see as much [“pay-to-play” corruption].”

SB 1439 and the Levine Act present a middle ground on prohibitions and act as the base for cities that do not provide stricter prohibitions. They prohibit contributions greater than \$250 from any participant who may have a financial interest in an ongoing negotiation for a license, permit, or other entitlement for use and for 12 months following the conclusion of negotiations. Per Section 84308(a)(5), “[l]icense, permit, or other entitlement for use” means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

The maximum fine for violating these prohibitions in Oakland is \$5,000 or three times the contribution made in error, whichever is greater. San Francisco and Los Angeles have the same enforcement capabilities as Oakland. San Diego’s enforcement cap is \$5,000 but does not allow for treble damages, which can be limiting.

Auditing, whether thoroughly or randomly, is an effective deterrent against “pay-to-play” corruption

“Audits are a significant aspect of Commission work, assisting enforcement as campaign committees understand that the Commission will be reviewing their records.”

Table 4. Jurisdictions by auditing policy.

Audit all campaigns	Audit random campaigns	No formal auditing
<ul style="list-style-type: none"> ● Los Angeles ● San Francisco 	<ul style="list-style-type: none"> ● <i>FPPC*</i> ● San Diego 	<ul style="list-style-type: none"> ● <i>Oakland</i> ● Long Beach ● Sacramento

**FPPC also has a formal discretionary audit process*

While not all jurisdictions perform regular audits of campaign committees, those that do attest to their effectiveness in deterring “pay-to-play” corruption. While the full San Francisco and Los Angeles audits require notable resourcing, some jurisdictions perform audits at random. San Diego staffs one auditor and can get to “most campaign committees” through their randomly selected audits. They explain their selection process as follows:

During every odd numbered year, the ethics commission schedules a random drawing of committees involved in the prior election cycle at a meeting open to the public. At the random drawing, the commission selects 100% of all candidate and ballot measure committees that raised over \$100,000; 75% of all candidate and ballot measure committees that raised between \$50,000 and \$99,999; and

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25% of committees that raised between \$15,000 and \$49,999. Committees that raised less than \$15,000 are not included in the audit pools.

In addition to the committees chosen in the random selection process, the commission may audit committees as a result of a complaint that results in a formal investigation.⁶⁴

Oakland’s Public Ethics Commission is comparatively understaffed

“And we have 37 staff members to do all of that. So it is very difficult for us to stay ahead of our audit mandate or to stay ahead of our enforcement mandate. ... It’s tough to be an agency that essentially has the responsibilities of all three branches of government rolled into 37 people.”

Heather Holt, Deputy Executive Director, Los Angeles City Ethics Commission

Table 5. Ethics Commission Staffing (as of April 15, 2023).

	Oakland	Long Beach	Los Angeles	San Diego	San Francisco
Total Staff	7	5	37	6	34
Admin	1*	3	8	2	6
Analysts	2	1	0	0	2
Auditors	0	0	7	1	4
Enforcement	1	1	10	1	8
Education	1	0	12	1	4
Data	0	0	0	0	4
Other Staff	0	0	0	1 for legislation	6 for engagement and compliance

*Acting director is also the lead analyst.

Oakland and several other cities include minimum staffing requirements for its Public Ethics Commission in its charter. This includes one “Executive Director; Enforcement Chief; Ethics Investigator; Ethics Analyst I; Ethics Analyst II; Administrative Assistant I.” (Charter Section 603(g)(2)).⁶⁵ Per Measure W, the PEC should hire “additional adequate staff necessary to properly administer the Democracy Dollars Program ... including but not limited to one full-time Democracy Dollars Program Manager and three Full Time Equivalent positions.” It also allows for the prioritization of these funds elsewhere where deemed necessary. Los Angeles and San Francisco have more resource-intensive ethics requirements and, thus, larger staffs.

⁶⁴ *Selection for an Ethics Commission Audit | Ethics Commission | City of San Diego Official Website.* (n.d.). Retrieved April 16, 2023, from <https://www.sandiego.gov/ethics/faqs/audit>

⁶⁵ *The Charter of the City of Oakland.* (n.d.). Retrieved April 16, 2023, from https://cao-94612.s3.amazonaws.com/documents/A-Oakland-City-Charter_2022-04-15-204856_hoik.pdf

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Oakland currently has a single staff member devoted to enforcement. By comparison, San Francisco dedicates eight staff members to enforcement, though six positions are filled at the time of writing. Los Angeles currently staffs ten enforcement investigators. San Francisco staffs four auditors, and Los Angeles staffs seven which is enough to audit most or all campaign committees. In comparison, San Diego randomly selects committees to audit and staffs one auditor, one enforcement officer, and four attorneys for other services.

Recommendations

Mandate an annual random audit of campaigns to deter OCRA violations

Oakland could consider extending the mandated functions of Commission staff to auditing campaign funds. The Commission should require a certain amount of staff depending on the extent of the auditing.

A thorough audit of campaign committees will ensure that few large offenders can go unnoticed. In Los Angeles, audits are conducted at the end of the election cycle for “all committees controlled by a candidate who receives public matching funds or a candidate who raises or spends at least \$100,000 in an election.”⁶⁶ San Francisco also has similar requirements. Oakland would likely need at least three auditors on staff to implement this type of audit program.

Alternatively, Oakland could audit through random selection, as San Diego and the FPPC do. In San Diego, random selections are made every odd year from the prior year’s election. This gives them enough time to conduct many audits before the next election cycle. They audit a substantial percentage of campaigns with only a single auditor.

Review legislative options to restrict donations from common offending classes

Oakland should also evaluate whether ethics laws regulate all intended classes. San Francisco and Los Angeles prohibit lobbyists from donating to candidates for entities they are registered to lobby with. They also restrict developers seeking permits or other planning entitlements from “making contributions to the Mayor, the City Attorney, a City Council member, a candidate for one of those offices, or a City committee controlled by one of those individuals.”⁶⁷ The Public Ethics Commission should do analysis and public outreach to determine the desire for this type of reform.

Next Steps

Campaign finance is only one risk point for “pay-to-play” corruption. Ethics agencies that have successfully addressed this risk factor focus on other vectors, such as behested payments and

⁶⁶ *Audits—Ethics Commission*. (2018, November 15). <https://ethics.lacity.org/audits/>

⁶⁷ *Developer Contribution Ban Goes Into Effect - Ethics Commission*. (2022, June 8). <https://ethics.lacity.org/news/developer-contribution-ban-goes-into-effect/>

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gift giving. Los Angeles has a zero gift limit for lobbyists, a \$100 gift limit for certain restricted sources doing activity with the city, and a state gift limit. They also restrict behested payments further than the state does. Oakland may consider various tactics for addressing these risks.

Other cities identify the risks independent expenditures introduce. Oakland already has a relatively reasonable policy, but they may consider analyzing other cities' approaches to understand how they compare.

Conclusion

"Pay-to-play" corruption is a complex issue to address. Its existence and even its appearance can damage trust in the democratic process. The Oakland Campaign Reform Act (OCRA) is a reasonably average-strength ethics law that could benefit from enforced resourcing, including in staffing, technology, and operations. Analyzing data from the angles laid out in the problem statement revealed several themes.

Strong data management can provide more effective **transparency** to the Commission and the public, improving accountability to the law.

Proactive education and outreach raise **awareness** and give regulated persons the best opportunity to adhere to the law.

Effective **implementation** and enforcement require creativity, but policies from other jurisdictions represent a valuable comparison of how Oakland can proceed.

Oakland should create a publicly accessible, PEC-regulated database for mandated disclosure by contractors and other regulated agents. Oakland should also consider mandating an annual random audit of campaigns to deter OCRA violations. This approach is effective enough and relatively easier to staff. The PEC should conduct public outreach to understand which other regulations the community desires.

Oakland is not alone in working to address "pay-to-play" corruption. There is a broad landscape of alternative solutions they can explore. This type of corruption can be controlled with comprehensive and transparent data systems, involvement from the public and regulated parties, and legislation that disincentivizes the pursuit of corrupt behavior.

Appendices

Appendix A - OpenOakland Project Exploration Worksheet

Instructions

1. **Make a copy of this doc** and make it shareable so “Anyone with the link” is set to “Comment” (or “Edit” if you’d like people to be able to contribute directly).
2. Complete the worksheet with your team (if you have one).
3. Share your draft worksheet in [Slack’s](#) #oo-general channel to get feedback from brigade members.

Why is this worksheet important?

The goal of the project exploration worksheet is to support the development of OpenOakland projects that actively work toward our mission of bridging technology and community for a thriving and equitable Oakland. Completing this worksheet is a requirement for becoming an OpenOakland project. It’s designed to help you identify and develop the following:

- Alignment with OpenOakland’s mission and values
- A clearly defined issue and a constituency
- A plan to validate the issue and audience
- Ideas for sharing decision-making with those most impacted by the project
- Clear goals and identified outcomes for the project
- Exploration of potential *unintended* outcomes, such as possible harms or other negative impacts, particularly to historically marginalized and underrepresented groups

It also provides a starting point for discussion amongst brigade members so that we can support each others’ efforts and hold ourselves and each other accountable.

Project Info

Your name and email

Add your answer here.

Any members of your team

Add your answer here.

Project nickname

You can change this later. For now, we just need something to refer to it by.

Add your answer here.

Questions:

What issue does your project focus on?

Describe what you know about the issue and how the issue might contribute to inequities in Oakland.

The need for a publicly accessible database of potential and current contractors with the City of Oakland and potentially entities seeking license, permit or land entitlements. This is essential for the public and Oakland Ethics Commission to identify which campaign contributions come from the regulated community. Neither the Oakland Public Ethics Commission nor Oakland residents currently have access to comprehensive data about who the aforementioned entities are, which is essential to ensure compliance with Oakland Campaign Reform Act (OCRA) limits on campaign contributions and to provide the public with the information they are entitled to.⁶⁸ Including information about entities seeking license, permit or land entitlement would allow for monitoring the regulated class as expanded under the new statewide law, SB 1439.⁶⁹ Currently, contractors engage with the city through the Workplace and Employment Standards Department where they are required to submit a Schedule O Form acknowledging that they understand OCRA campaign contribution limits as a part of their initial contract bid. None of these interactions, nor any subsequent data, are publicly accessible. Viewing open contracting opportunities requires registering as a contractor with an “iSupplier” account that the city must approve. However, iSupplier is not the only entry point for negotiations with the city, so the data contained is incomplete, and the law is difficult to enforce. Recent amendments to OCRA stipulated in the Oakland Fair Elections ballot measure stipulate that contractor disclosure

⁶⁸ Oakland, CA Code of Ordinances, Chapter 3.12 - THE CITY OF OAKLAND CAMPAIGN REFORM ACT (https://library.municode.com/ca/oakland/codes/code_of_ordinances?nodeId=TIT3MUEL_CH3.12THOACAREAC)

⁶⁹ An act to amend Section 84308 of the Government Code, relating to the Political Reform Act of 1974. Senate Bill 1439, 2022.

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statements should be made directly to the Oakland PEC, making a PEC managed, publicly accessible database of contractor disclosures the logical next step.⁷⁰

How does this project support OpenOakland's mission and values?

Read these on [OpenOakland's website](#).

This project would present information that is currently inaccessible to the public, despite their right to know, in an objective manner. This will build partnerships between the public and the Oakland Public Ethics Commission, who benefit from public engagement in their work to regulate financial influence on local elections.

Who is impacted by this issue?

Describe the people in as much detail as possible. Try to move beyond demographics and think about underlying experiences, behaviors, needs, and goals.

Many of Oakland PECs most significant cases are with contractors that Oakland constituents know well, such as large developers who are all over the news, and problematic programs like Shotspotter. This level of transparency will empower Oaklanders to follow up on contractors that have harmed their communities, identify the names of contributors who are restricted under their contract, and monitor the whole of their influence on local campaigns.

How do you know this is an issue for this group?

What empirical data or anecdotal evidence do you have that this issue exists for this audience?

A significant portion of the Oakland PEC's caseload comes from the reports of concerned citizens who have followed up on contractors' contribution activity.

⁷¹How might this project impact the following communities?

Thinking specifically and intentionally about historically marginalized and underrepresented groups helps us mitigate potential harms and unintended consequences.

- Black, Indigenous, and other communities of color
- Women and LGBTQ+ people
- People with physical, cognitive, or other disabilities
- Non-native English speakers

⁷⁰ Oakland Fair Elections Act Ballot Measure to reform Oakland City Charter, 2022. (https://cao-94612.s3.amazonaws.com/documents/RESO-89316-Campaign-Reform-filed-materials_2022-07-30-033124_scna.pdf)

⁷¹ <https://data.oaklandca.gov/stories/s/hpdg-bimb>

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Many of these contracts that violate contribution limits come from unethical contractors whose work directly impacts low-income communities of color.¹ This includes developers trying to build housing more profitable than the affordable and deeply affordable housing that Oakland desperately needs, as well as harmful contractors like ShotSpotter, currently under investigation in Portland, Oregon for violating city lobby codes⁷², and fined by Oakland PEC for their violations here.⁷³ ShotSpotter is police tech that calls officers out to detected gunshots, but multiple studies have found it to be unreliable, sending police on high alert into communities, increasing high-intensity interactions that are especially deadly in communities of color.⁷⁴

Whom might you partner within these communities to inform the work?

We strongly encourage direct collaboration with community partners (and have found that the most successful projects tend to be produced in partnership with those impacted by a project).

There are many community organizations that have supported Measure W's passage who Oakland PEC would like to partner with on community outreach regarding Democracy Dollars, which would naturally include an intro to the PEC and could easily include this project. We are looking to increase outreach through partnership with community organizations to facilitate deeper public partnership. Organizations we have our eye on are worked closely on Measure W and include Oakland Rising, (which includes Asian Pacific Environmental Network, Causa Justa : Just Cause, Community United for Restorative Youth Justice (CURYJ), East Bay Alliance for a Sustainable Economy, Ella Baker Center for Human Rights, Mujeres Unidas Y Activas, Parent Voices Oakland and St. Mary's Center), Oakland's Community Democracy Project and the League of Women Voters, Oakland.

⁷²<https://www.opb.org/article/2023/02/17/portland-oregon-shot-spotter-shotspotter-gunshot-detection-technology-police/>

⁷³ <https://www.oaklandca.gov/resources/public-ethics-commission-enforcement-actions>

⁷⁴ <https://cancelshotspotter.com/#research>

What other stakeholders do you need to consider, and do you have existing connections with them?

Will you be reliant on a government agency for specific data, input, or approvals? Are there other groups or communities that may be impacted by your project, and how might you include them in your design/build process? Is there anyone you can lean on for support or input?

We have a legal mandate to collect and manage this information, thus authority to initiate such a project. We are well connected with the City Administrator and all other government agencies and city officials by virtue of our position as an independent government regulatory commission.

What specific outcomes do you hope to achieve?

Instead of focusing on what you want to build, first describe how you hope to impact the particular community, institution, or individual(s) that you're targeting. What will change as a result of this work?

Create the access to information about government contractors necessary for Oakland PEC to effectively fulfill their public mandate to maintain transparency and enforce campaign limits on the entirety of the regulated community. Prepare for compliance with SB 1439 by including information about entities seeking license, permit or land entitlement. Empower the public with details about entities included under government contracts so that they can monitor the entirety of the influence of contractors whose projects impact their communities.

How do you hope to achieve these outcomes?

Problems can often be solved in many different ways, so we want to think carefully about why we're choosing a specific approach. Describe the solution, tool, or experience you hope to develop. Include as much detail as you need.

Developing a publicly accessible database of potential and current contractors with the City of Oakland and potentially entities seeking license, permit or land entitlements. This could potentially be connected to

Acknowledgments

This document has evolved from input, expertise, and experiences from many people and organizations, including: OpenOakland's West Oakland Air Quality team and the West Oakland Environmental Indicators Project, OpenOakland membership and leadership, Darlene Flynn and others on the City of Oakland's Race & Equity team.

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Appendix B - Contractor Disclosure Forms

FORM 50	<h1>Bidder Certification</h1>	Los Angeles City ETHICS COMMISSION
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This form must be submitted with your bid or proposal to the City department that is awarding the contract noted below. If you have questions about this form, please contact the Ethics Commission at (213) 978-1960.

Original Filing **Amendment:** Date of Signed Original _____ Date of Last Amendment _____

Reference Number (Bid, Contract, or RAMP)	Awarding Authority (Department awarding the contract)
Bidder Name	
Address	
Email Address	Phone Number

Certification

I certify the following on my own behalf or on behalf of the entity named above, which I am authorized to represent:

A. I am applying for one of the following types of contracts with the City of Los Angeles:

1. A goods or services contract with a value of more than \$25,000 and a term of at least three months;
2. A construction contract with any value and duration;
3. A financial assistance contract, as defined in Los Angeles Administrative Code § 10.40.1(h), with a value of at least \$100,000 and a term of any duration; or
4. A public lease or license, as defined in Los Angeles Administrative Code § 10.40.1(i), with any value and duration.

B. I acknowledge and agree to comply with the disclosure requirements and prohibitions established in the Los Angeles Municipal Lobbying Ordinance if I qualify as a lobbying entity under Los Angeles Municipal Code § 48.02.

I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that the information in this form is true and complete.

Name	Signature
Title	Date

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FORM 55	<h2>Prohibited Contributors (Bidders)</h2>	Los Angeles City ETHICS COMMISSION
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This form must be completed in its entirety and submitted with your bid or proposal to the City department that is awarding the contract. Failure to submit a completed form may affect your bid or proposal. If you have questions about this form, please contact the Ethics Commission at (213) 978-1960.

Original Filing **Amendment:** Date of Signed Original _____ Date of Last Amendment _____

Reference Number (Bid, Contract, or RAMP): _____	Date Bid Submitted: _____
Contract Description (Title of the RFP or City contract solicitation and description of the services to be provided): _____	
Awarding Authority (Department awarding the contract): _____	
Bidder Name: _____	
Bidder Address: _____	
Bidder Email Address: _____ Bidder Phone Number: _____	

Schedule Summary

Please complete all three of the following:

1. SCHEDULE A – Bidder’s Principals <i>(check one)</i> The bidder has one or more PRINCIPALS , as defined in LAMC § 49.7.35(A)(6). At least one principal is required for entities. <i>(If you check “Yes”, Schedule A is required.)</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
2. SCHEDULE B – Subcontractors and Their Principals <i>(check one)</i> The bidder has one or more SUBCONTRACTORS on this bid or proposal with subcontracts worth \$100,000 or more. <i>(If you check “Yes”, Schedule B is required.)</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>
3. TOTAL NUMBER OF PAGES SUBMITTED (including this cover page): _____		

Certification

I certify the following under penalty of perjury under the laws of the City of Los Angeles and the state of California:
 A) I understand, will comply with, and have notified my principals and subcontractors of the requirements and restrictions in Los Angeles City Charter § 470(c)(12) and any related ordinances; B) I understand that I must amend this form within ten business days if any information changes; C) I am the bidder named above or I am authorized to represent the bidder named above, and my name appears below; and D) The information provided in this form is true and complete to the best of my knowledge and belief.

Name _____	Signature _____
Title _____	Date _____

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FORM
55

Prohibited Contributors (Bidders)

Los Angeles City
ETHICS COMMISSION

Schedule A - Bidder's Principals

Please identify the names and titles of all the bidder's principals (attach additional sheets if necessary). Principals include a bidder's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the bidder of at least 20 percent and employees of the bidder who are authorized by the bid or proposal to represent the bidder before the City.

Name: _____ Title: _____ Address: _____

Check this box if additional Schedule A pages are attached.

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FORM 55	Prohibited Contributors (Bidders)	Los Angeles City ETHICS COMMISSION
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Schedule B - Subcontractors and Their Principals

Please identify all subcontractors whose subcontracts are worth \$100,000 or more. Separate Schedule B pages are required for each subcontractor who meets the threshold.

Subcontractor's Name
Subcontractor's Address

Please check one of the following options:

This subcontractor has one or more principals. Yes* No

** Each principal's name and title must be identified below. Attach additional sheets if necessary. Principals include a subcontractor's board chair, president, chief executive officer, chief operating officer, and individuals who serve in the functional equivalent of one or more of those positions. Principals also include individuals who hold an ownership interest in the subcontractor of at least 20 percent and employees of the subcontractor who are authorized by the bid or proposal to represent the subcontractor before the City.*

Name: _____ Title: _____
Address: _____
Name: _____ Title: _____
Address: _____
Name: _____ Title: _____
Address: _____
Name: _____ Title: _____
Address: _____
Name: _____ Title: _____
Address: _____
Name: _____ Title: _____
Address: _____

Check this box if additional Schedule B pages are attached.

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Appendix C - Interview protocol

Regarding "pay-to-play" corruption in local elections- interview questions:

Thank you for taking the time to answer some of these questions regarding "pay-to-play" influence on local elections. As part of our MPP program at UC Berkeley's Goldman School, we, Minami Koyama, Theodore Sherbin and Bridget Cervelli, are working with Oakland's Public Ethics Commission on an analysis of local policy regulating campaign contributions and their larger work attempting to eliminate "pay-to-play" practices in Oakland's local elections.

Your answers will remain confidential and used only for a best practices analysis based in part on interviews we are doing with commissions and similar agencies throughout California. In our data analysis, interviews will be viewed by our three group members and faculty advisor.

Please don't hesitate to reach out with any questions or requests. We will send you a copy of our finished analysis upon completion in early May.

- Bridget Cervelli bridget_cervelli@berkeley.edu
- Theodore Sherbin teddy.sherbin@berkeley.edu
- Minami Koyama minami_koyama@berkeley.edu

Please feel free to skip any questions or provide any additional information we neglected to ask.

1. Is "pay-to-play" corruption something that you see as a significant problem in local elections?
 - a. How extensive is this problem in ____?
 - b. Are there notable patterns or characteristics to how this issue shows up most often in your community?
2. Will you please give a brief overview of the organization/commission you are a part of and its role in regulating "pay-to-play" influence in local elections?
 - a. Will you please summarize the local policies that have guided your work in this endeavor?
 - i. Have there been any major changes to these policies in the past few years? If so, did those changes impact the prevalence (or absence) of "pay-to-play" practices and influence?
 - ii. How about major changes to (the commission/agency) and how you operate? If so, did those changes impact the prevalence (or absence) of "pay-to-play" practices and influence?
3. What enforcement powers does the commission have?
 - a. Are these powers sufficient to prevent or address policy violations effectively?
 - b. Would you change anything about your current authority as a (commissioner) to determine and/or impose consequences for violations?

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4. Key/important points and context to understand about your commission, policy, political climate or anything else that impacts what you are able to do and how you are able to operate?
5. Do you think current local policies are sufficient to eliminate "pay-to-play" corruption in local elections?
 - a. Are there notable gaps in policy remedies? Ways that it has failed to address this kind of corruption?
 - b. How expansive are your local policies in their inclusion of individuals or organizations that are subject to these campaign finance regulations?
 - c. Do you think this is broad or narrow enough to capture the sources most responsible for this kind of corruption?
6. Which aspects of your local policy most empower you to effectively address "pay-to-play" influence on local elected officials?
 - a. How would you change current policies to be more effective in eliminating "pay-to-play" corruption?
 - b. What about changes that would help you to ensure comprehensive policy implementation?
7. What are a few of the most common ways that prohibited financial influence plays out in practical terms?
 - a. Can you provide any specific examples?
 - b. Are there patterns to the kind of organizations who most frequently violate?
 - c. Are their particular sectors harmed by these practices in your community?
8. How publicly accessible is the information about contractors, campaign contributions, policy violations, etc.?
 - a. What kind of community engagement do you encounter (if any) in the process of identifying and regulating "pay-to-play" practices?
 - b. What are some impacts these practices have on the local community that may be hard for people to understand or recognize?
9. Do you see this corruption as more of a problem from those seeking to purchase political influence, or from elected officials willing to sell it?
 - a. Do you think the pursuit of "pay-to-play" practices is prioritized appropriately in trying to eradicate government corruption?
10. Do you think that parties subject to these regulations understand and comply with those limits? If so, how do you make sure of this?
 - a. If non-compliance is an issue, is ignorance of the law proffered in explanation?
 - b. Is there anything that would help you keep track of/ensure regulated parties understand policies they are subject to?

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11. Do you have a system in place to identify and track individuals or organizations and campaign contributions that would be subject to limitations/regulation under current policies?
 - a. If so, is that system effective/comprehensive/transparent? If not, how do you detect violations?
 - b. If you could envision a database that would provide a clear picture of the information necessary to effectively monitor compliance and identify violations of current policies, what would that look like?

12. What role, if any, do you have in implementing SB 1439?
 - a. Have you received any guidance on this?
 - b. Do you have clarity regarding how SB 1439 will interact with local policies/practices?
 - c. Are there significant differences between local policy and SB 1439? Especially regarding the scope of parties subject to regulation and the extent of the regulatory period?
 - d. Do you have any concerns about the impact of SB 1439?

13. Do you have any interest in connecting with similar commissions/enforcement agencies in California? Do you think a network of connection with such agencies would be helpful for you in your work?

Appendix D - Los Angeles Sample Contribution Forms

Contributor Certification (Required)

Complete this portion if the contribution is from an INDIVIDUAL	<p>I certify that this contribution is from my personal funds.</p> <p>Name: _____</p> <p>Residence Address: _____ <small>Street/PO Box City State Zip Code</small></p> <p>Job Title: _____</p> <p>Employer / Name of Company: _____</p> <p><i>Your residence address is required for the candidate to receive a match of public funds. You may provide a different contact address instead, but it cannot be matched.</i></p> <p>Contact Address: _____ <small>Street/PO Box City State Zip Code</small></p>
Complete this portion if the contribution is from a BUSINESS*	<p>I certify that this contribution is from business funds.</p> <p>Business Name: _____</p> <p>Business Address: _____ <small>Street/PO Box City State Zip Code</small></p>

I certify the following:

- This contribution is not being made under a false name, is not being made under another person's name, has not been reimbursed, and will not be reimbursed.
- This contribution does not cause me to exceed my contribution limit of \$XXX. I understand that all contributions I make to this candidate or committee must be cumulative. I understand that a contribution from another individual or entity whose contribution activity I control, such as a business that I own or control, must be aggregated with this contribution, and both contributions will be treated as a single contribution from me.
- I am a United States citizen or a lawfully admitted permanent resident (i.e., green card holder).
- I am not a lobbyist or lobbying firm that is prohibited from contributing under Los Angeles City Charter § 470(c)(17).
- I am not a bidder, sub-contractor, principal, or underwriting firm that is prohibited from contributing under Los Angeles City Charter § 470(c)(12) or 609(e).
- I am not a planning applicant, owner, or principal that is prohibited from contributing under Los Angeles Municipal Code § 49.7.37.

I certify under penalty of perjury under the laws of the City of Los Angeles and the state of California that all of the information in this contributor certification is true and correct.

Name

Date

Signature

Title (if signing for a business)

* If the contributor is a limited liability company (LLC), please select and complete one of the following:

The LLC qualifies as a recipient committee.
 Name of committee: _____ Name of principal officer: _____

The LLC qualifies as a major donor committee or an independent expenditure committee.
 Name of responsible officer: _____

The LLC does not qualify as a committee.
 Name of individual primarily responsible for approving contribution: _____

Contribution amount: \$800 \$500 \$250 \$100 Other: \$ _____

Contribution type: Cash (\$30 maximum) Check made payable to [committee name] Credit card

Name on Card: _____ Exp. Date: _____

Card Number: _____ Security Code: _____

Billing Address: _____

Email: _____ Phone: _____

[A disclaimer may be necessary if this qualifies as a campaign communication.]



Aggregate Contribution Verification

City law limits the amount that a single person may give to a single candidate for City and Los Angeles Unified School District Board of Education office. See Los Angeles City Charter §§ 470(c)(3)-(4), 803(b)(3), 803(c); Los Angeles Municipal Code § 49.7.3. To safeguard these limits, contributions made by two persons must be aggregated and treated as a contribution from a single person when one of the persons exerts a certain level of control over the other. Los Angeles Municipal Code § 49.7.4.

Candidate Name: _____

Committee Name & ID: _____

This verification addresses the following contributions:

	Contributor Name	Date of Contribution	Amount of Contribution
A			
B			

1. Please explain the nature of the relationship between Contributor A and Contributor B:

2. Please identify all other persons who controlled or participated in either contributor's decision to make the contributions:

3. Please select one of the following boxes:

Contributor A and Contributor B were related as follows at the time the contributions were made (check all that apply):

- One of the contributors controlled the other's contribution activity.
- One of the contributors is a sole proprietorship owned by the other contributor.
- One of the contributors is a business entity (partnership, corporation, LLC, etc.) in which the other contributor owned an investment interest of 50% or more or held a majority of the voting rights.

(continued)

Item 4 - Presentation Slides and Report

- The contributors are a sponsored committee and its sponsoring organization.
 - The contributors are business entities, and the same individuals make up a majority of both entities' boards of directors or officers.
 - The contributors are business entities, and the same individuals hold a majority of the ownership or voting rights in both entities.
 - The contributors are business entities in a parent-subsiary relationship, and at least one of them is not publicly traded.
 - One of the contributors is a business entity, and the other contributor is an individual who is personally prohibited from making a contribution, participated in the entity's decision to make the contribution, and owns an investment interests of at least 20% in the entity.
 - One of the contributors is a committee, and the other contributor is an individual who is personally prohibited from making a contribution, participated in the committee's decision to make the contribution, and provided at least 20% of the committee's funding (either alone or in conjunction with other prohibited individuals).
- Contributor A and Contributor B were not related as defined in Los Angeles Municipal Code § 49.7.4 at the time the contributions were made.**

I declare under penalty of perjury under the laws of the City of Los Angeles and the state of California that the statements in this document are true and complete.

Date: _____ Signature: _____

Name (printed): _____

Title / Position: _____

I am:

- Contributor A or Contributor A's representative
- Contributor B or Contributor B's representative

Item 4 - Presentation Slides and Report

Appendix E - Oakland's Suggested Contributor Card

Public Ethics Commission

Oakland Campaign Reform Act Guide 2022

APPENDIX III: SAMPLE CONTRIBUTOR CARD

[Insert Name of Candidate Committee and FPCC ID#]

Individual Contributor Verification Card

Amount of the Contribution: \$ _____ Date of the Contribution: _____

Type of contribution (check one): Monetary ____ In-kind ____

If in-kind contribution, please specify items contributed/services rendered: _____

Contributor Name (Print): _____
Street Address (no P.O. Boxes): _____
City/State/Zip: _____
For donors of at least \$100 (cumulatively), the following information is required:
Occupation: _____ Employer: _____
(If self-employed, provide the name of the business)

Please verify that your contribution is not a prohibited contribution by marking the box next to each item below:

- I am not contributing more than \$900 for this election. I understand that, for purposes of contribution limits, my personal contributions are aggregated with the contributions of a business in which I own a majority interest, and that contributions from multiple entities also are aggregated when the conditions are such that the entities:
- 1) share the majority of members of their board of directors;
 - 2) share three or more, or a majority of, officers;
 - 3) are owned or controlled by the same majority shareholder(s);
 - 4) are in a parent-subsidiary relationship; or
 - 5) one entity finances, maintains, or controls the other entity's contributions or expenditures [OMC 3.12.080].
- I am not contracting or proposing to contract with the City or OUSD, currently or within the past 180 days, on a contract requiring approval by City Council, and I do not hold any of the following positions with an entity doing so:
- 1) board chair, president, chief executive officer, chief operating officer, chief financial officer, or the functional equivalent of one or more of those positions;
 - 2) owner with ownership interest of 20% or more; or
 - 3) employee, independent contractor, or agent of the entity who is authorized to represent the entity before the City or OUSD regarding the contract [OMC 3.12.140].

Signature required of all contributors:
I certify that this contribution is not prohibited under Oakland's Campaign Reform Act as specified above.
X _____
Contributor Signature _____ Date _____

CITY OF OAKLAND
PUBLIC ETHICS COMMISSION
One Frank Ogawa Plaza (City Hall)
Regular Commission Meeting
Hearing Room 1
Wednesday, June 14, 2023
6:30 p.m.

DRAFT



Commissioners: Ryan Micik (Chair), Charlotte Hill (Vice-Chair), Alea Gage, Arvon Perteet, Vincent Steele, and Francis Upton IV.

Commission Staff to attend: Nicolas Heidorn, Executive Director; Suzanne Doran, Lead Analyst; Chris Gonzales, Commission Assistant; Ana Lara-Franco, Commission Analyst; Simon Russell, Enforcement Chief.

City Attorney Staff: Trish Shafie, Deputy City Attorney.

PUBLIC ETHICS COMMISSION REGULAR MEETING MINUTES

1. Roll Call and Determination of Quorum.

The meeting was called to order at 6:50 p.m.

Members present: Micik, Hill, Gage, Upton IV.

Members absent: Perteet and Steele.

Staff present: Nicolas Heidorn, Suzanne Doran, Chris Gonzales, Garrett Micheels, Simon Russell.

City Attorney Staff: Tricia Shafie.

2. Staff and Commission Announcements.

Chair Micik announced that he would be leaving the meeting to provide public comment regarding the PEC Democracy Dollars budget at the concurrent City Council meeting and would request a recess at that time. The agenda will be adjusted so that Items 6 and 7 related to Measure W implementation would be discussed first, following Open Forum. After Item 6 and 7, the regular agenda will resume with Item 4, and so on.

Executive Director Heidorn stated he would be leaving the meeting to attend the concurrent City Council meeting discussion regarding the PEC budget.

In addition, Item 10 - dismissal letter 23-13 will be pulled from the agenda. Heidorn also noted the PEC annual retreat is planned in August 2023.

Micik moved that the meeting be recessed so he could leave the meeting to provide public comment at the concurrent City Council meeting, and Upton IV seconded to approve going into a recess.

Ayes: Micik, Hill, Gage, Upton IV.

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Absent: Perteet, Steele.

Noes: None.

Vote: Passed 4-0.

The meeting recessed at 7 pm.

Hill announced the meeting would continue to be recessed for an additional 15 minutes.

The meeting resumed at 7:30 pm.

3. Open Forum.

Public Comment: None.

A full recording of public comments is available in the meeting video. Video recordings are posted on the meeting webpage, which may be found at www.oaklandca.gov/pec.

GUEST PRESENTATION

4. Mediation Process: Takeaways and Suggested Improvements.

Former Commission Law Clerk Chris Nardi shared an overview of his research regarding public records request mediations in Oakland and practices in other California cities as part of his internship project with the Commission.

ACTION ITEMS

5. Approval of Commission Meeting Draft Minutes.

Gage moved, and Upton IV seconded to approve the May 10, 2023 minutes.

Ayes: Micik, Hill, Gage, Upton IV.

Absent: Perteet, Steele.

Noes: None.

Vote: Passed 4-0

Public Comment: None.

DISCUSSION ITEMS

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6. Measure W Implementation - Oakland Fair Elections Act.

Suzanne Doran, Lead Analyst, provided an update regarding staff activities to advocate for additional funding for a Democracy Dollars pilot program in 2024. The mayor's proposed budget allocates \$525,000 for the startup of the program but postpones full implementation until the 2026 election. Following the last meeting, staff met with the Council budget team, individual council members, and the mayor's staff. The budget team's amendments include funding to unfreeze the Democracy Dollars program manager position and an additional \$155,000 in discretionary funds, which may be used for a one-time Limited Public Financing-style program in 2024. CM Kalb proposed an amendment to conduct a pilot program for the At-large council seat only. However, the proposal did not include specific funding, or the additional staffing indicated in PEC estimates. Staff indicated that implementing an LPF-style program is feasible and avoids elimination of public financing in the upcoming election. Staff requested Commissioner input on whether to initiate the process to enact an LPF program for 2024, including drafting legislation and working with supportive Council members. The Commissioners indicated support for implementing an LPF program, since it does not appear a pilot will be funded.

Public Comment: None.

7. Reports on Subcommittees and Commissioner Assignments.

a. Measure W Implementation Subcommittee (ad hoc, created December 14, 2022) – Arvon Perteet (Chair), Ryan Micik, Francis Upton IV.

Upton IV reported the subcommittee met with staff on June 5, for an update on the Council's proposed budget amendments. The subcommittee discussion was supportive of pursuing a one-time Limited Public Financing-style program for 2024 in the absence of funding for a pilot if the proposed budget amendments are passed by City Council. The subcommittee will work with staff to draft the required legislation so it can be brought before Council by September.

b. Measure W Equity and Outreach Subcommittee (ad hoc, created on March 8, 2023) – Charlotte Hill (Chair), Alea Gage, Vincent Steele.

Hill reported the subcommittee met in June to continue working on the outreach plan and discussed outreach related to the Democracy Dollars budget, such as the Op Ed published on the San Francisco Chronicle. Hill noted the subcommittee would evaluate the timing and need for outreach related to Measure W once the budget and likely postponement of the full program is decided by Council.

c. Transparency and Public Records Subcommittee (ad hoc, created March 8, 2023) - Francis Upton IV (Chair) and Arvon Perteet.

Upton IV reported the subcommittee met with staff in June and received an update on the

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PEC's mediation program and discussed how data can be used to analyze department responses to mediation public record requests. The subcommittee also reviewed and provided feedback on questions that will be used when inviting city departments to make future presentations before the commission.

Public Comment: None.

8. Enforcement Case Confidentiality and Election-Related Complaints.

Enforcement Chief Simon Russell presented an informational report about the Enforcement Unit's current laws and practices regarding case confidentiality and the processing of complaints relating to ongoing elections. When the discussion concluded, Micik recommended that the Commission include a continuation of this discussion at its upcoming retreat.

Public Comment: None.

INFORMATION ITEMS

9. Disclosure and Engagement.

Lead Analyst Doran provided a summary of compliance with disclosure requirements, education and advice, general outreach, and data illumination activities since the last regular Commission meeting. Lead Analyst Doran noted the recruitment process for a commission vacancy will start in the Fall and there will be opportunities for community engagement in summer months.

Public Comment: None.

10. Enforcement Program.

Enforcement Chief Simon Russell provided a summary of the Commission's ongoing enforcement work, including overall caseload status, informal complaint intake, and enforcement-related litigation. Russell noted dismissal letter 23-13 was pulled from the agenda. He introduced new Ethics Investigator, Garrett Micheels, who joined the PEC in May 2023 to fill the vacant investigator position until recruitment for the permanent position is completed.

Public Comment: None.

11. Executive Director's Report.

Executive Director Nicholas Heidorn gave an update on the PEC budget, the status of the lobbyist registration fee proposal, and the mediation program. The mediation cases backlog has been reduced from 26 cases to 14. Additionally, Councilmember Ramachandran proposed

Item 5 - Meeting Minutes

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a budget amendment to add one more investigator to the PEC.

Public Comment: None.

12. Future Meeting Business.

Micik stated that for the next meeting the commission will discuss the retreat in August as well as to continue discussing Measure W and the budget.

Public Comment: None.

The meeting adjourned at 9:35 p.m.



ANNUAL REPORT 2022

Photo: Greg Linhares, City of Oakland

Public Ethics Commission

Email: ethicscommission@oaklandca.gov

Website: www.oaklandca.gov/pec

Tel: (510) 238-3593

1 Frank H Ogawa Plaza, Room 104
Oakland, CA 94612



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A SEA CHANGE FOR OAKLAND CAMPAIGN FINANCE

At the end of 2022, the Public Ethics Commission (PEC or Commission) stands poised to reshape Oakland's electoral playing field - opening new pathways enabling more Oaklanders to run for office and creating incentives for greater engagement and participation by residents in the electoral process. The passage of Measure W by Oakland voters in November 2022 augmented the responsibilities, structure and staffing of the Commission as administrator of a completely re-designed public campaign financing program. While the Commission invested a good deal of its energy into legislative reform in 2022, it also continued fulfilling its role as educator, compliance officer, data illuminator, investigator, and enforcer of Oakland's government integrity laws.

2022 Highlights

- **Campaign finance redesigned** - With the passage of Measure W, the Oakland Fair Elections Act (OFEA) took effect creating a new paradigm for financing campaigns administered by the PEC that will equip all Oaklanders with campaign "cash" to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior political involvement.
- **Increased accountability for elected officials' use of free event tickets** - The City Council adopted the PEC's proposed Ticket Distribution Policy Ordinance, which provides clear instructions for the distribution and use of City tickets, expands the list of public purposes for which City tickets may be distributed, and updates the policy to align with state rules, including a prohibition on disproportionate use of City tickets by elected and high-level officials.
- **New training available on-demand** - New trainings covering changes to the City's new ticket distribution policy; open meeting requirements under the Sunshine Ordinance; and the PEC's administrative hearing process were delivered in-person and made available for viewing on-demand via the PEC website and City employee-training portal.
- **Campaign data illuminated** - The Commission launched updated online tools, www.OpenDisclosure.io and [Show Me the Money](#), that consolidate and visualize campaign data from the City's campaign filings database to provide more meaningful public disclosure of campaign spending for the 2022 election.
- **Enforcement Program maintains productivity** - The Enforcement Unit resolved 28 cases, imposed \$22,600 in penalties, and opened 12 proactive investigations in addition to evaluating 18 complaints of alleged violations.

The year 2022 will go down in history as a year of legislative sea-change that transformed the landscape for Oakland candidates and initiated a new era for resident participation in our local electoral process. This report summarizes these and other Commission accomplishments in 2022.

LEAD AND COLLABORATE

The Commission leads by example and employs collaborative approaches to facilitate changes in City laws, policies, systems, and technology to ensure fairness, openness, integrity, and innovation.

Expanding Equity and Participation in the Campaign Process

The Commission is heading into a major transition with the passage of Measure W, which redesigned Oakland's public financing program to a system of Democracy Dollars (similar to Seattle's [Democracy Voucher](#) Program) that will equip all Oaklanders with campaign "cash" to contribute to campaigns, thereby incentivizing candidates to engage across demographics regardless of wealth and history of prior political involvement. The new Oakland Fair Elections Act (OFEA) and associated Charter Amendments enacted by Measure W were designed to address recommendations in the Commission's 2020 **Race for Power** report and is among the Commission's major policy accomplishments.

Measure W replaces the Limited Public Financing Act with the Oakland Fair Elections Act and a newly designed public financing program to be administered by the Public Ethics Commission. Measure W also included important amendments to the Oakland Campaign Reform Act (OCRA), including revising contribution and campaign spending limits and increasing transparency in political

MISSION AND ACTIVITIES

The Public Ethics Commission was created in 1996 to ensure fairness, openness, honesty, and integrity in City government. The PEC's work is governed by local ordinances in three main areas: campaign finance, transparency, and ethics. The Commission's authority and ability to do its work is guided by the provisions outlined in the City Charter, as amended in 2014, as well as in each relevant ordinance, listed as follows:

- Government Ethics Act
- Conflict of Interest Code
- Oakland Campaign Reform Act
- Lobbyist Registration Act
- Sunshine Ordinance
- Limited Public Financing Act
- False Endorsement in Campaign Literature

The Commission's activities, and the six-person staffing structure are organized by the following ethics compliance framework to ensure a strong, effective, and fair ethics commission:

Lead/Collaborate - Lead by example and facilitate City policy, management, and technological changes to further the Commission's mission.

Educate/Engage - Provide education, advice, technical assistance, and formal legal opinions to promote awareness and understanding of the City's campaign finance, ethics, and transparency laws.

Disclose/Illuminate - Facilitate accurate, effective, and accessible disclosure of government integrity data, such as campaign finance reporting, conflicts of interest/gifts reports, and lobbyist activities, all of which help the public and PEC staff monitor filings, view information, and detect inconsistencies or noncompliance.

Detect/Deter - Conduct investigations and audits to monitor compliance with the laws within the Commission's jurisdiction.

Prosecute - Enforce violations of the laws within the Commission's jurisdiction through administrative or civil remedies.

communications. Much work lies in the years ahead to implement the Democracy Dollars Program including staffing up and setting up the administrative processes, technology, outreach plan, and new policies to support the Program. While the Commission did not receive the necessary funds to distribute Democracy Dollars in the 2024 election in the 2023 - 2025 Budget due to a historic fiscal deficit, in addition to taking steps to ensure a successful Democracy Dollars launch for the 2026 election Commission staff are already educating candidates and officials so they can comply with Measure W's new campaign rules that went into effect on January 1, 2023.

Increased Accountability Added to City Ticket Policy

In 2022, the Commission's proposed policy for the distribution of free event tickets, such as tickets to City-sponsored events, events at City facilities or pursuant to City contracts, and events for which tickets are provided to the City for promotional purposes was adopted by the City Council and took effect in June. Oakland's prior policy was outdated in relation to state and local law and also created problems identified in the PEC's 2017 report, **Ensuring Ethical and Transparent Distribution of City Tickets**. The report found issues with both the policy and the process of ticket distribution and use, including large numbers of tickets (especially high-value tickets) going to elected officials, late or no disclosure regarding ticket use as required by state law, and inappropriate transfers of tickets to family members. Following the report, the California Fair Political Practices Commission (FPPC) amended state regulations in 2019 to tighten restrictions on the quantity of tickets that could be used by City officials, among other changes. The new policy enacted by ordinance aims to provide clear instructions for the distribution and use of City tickets, to expand the list of public purposes for which City tickets may be distributed, and to update the policy to align with state rules. It also articulates the PEC's prevention and enforcement responsibilities consistent with other ordinances under the Commission's jurisdiction.

Other PEC Legislation

In November 2022, Oakland voters also approved Measure X, Good Governance Charter Reform, which added setting the salaries of the City Auditor and City Attorney to the Commission's duties and adjusted the formula for the Commission to set City Councilmember salaries.

Standardizing Ethics Compliance Processes

Throughout 2022 Commission staff engaged in a cross-departmental effort to develop citywide processes to ensure that departments are uniformly communicating ethics training and Form 700 requirements to employees and consultants hired by their departments. Commission staff collaborated with the Department of Human Resources to add new features into the NeoGov personnel management platform to make sure all employees are properly notified, and department SPOC's (single point of contact) can monitor employee compliance. The database designation enables more effective noticing and tracking of Form 700 and ethics training compliance going forward. PEC ethics training assets were integrated with the City's NeoGov Learn platform so staff can utilize features to assign training, notice employees, and track compliance ahead of future Form 700 filing deadlines.

EDUCATE AND ENGAGE

Prevention activities consist of education, outreach, and online information to facilitate compliance with government integrity laws. The Commission educates and advises candidates for local elective office, elected officials, appointed officials, City staff, lobbyists, people doing business with Oakland, City residents, businesses, and organizations.

Advice and Assistance

In 2022, Commission staff responded to 305 requests for information, advice or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues, fielding an average 25 requests per month. Just over half of requests for advice and assistance came from treasurers, candidates, and law firms seeking to comply with campaign finance disclosure laws. Other questions come from lobbyists, City staff and officials, as well as members of the public regarding lobbyist disclosure rules, misuse of public resources, gift restrictions, and conflicts of interest rules, to name a few.



305 requests for information, advice, or technical assistance



800+ training participants



1,298 views of training content

Ethics Training

Commission staff provided ethics training through various avenues to reach over 800 participants, including the following target audiences:

- Elected officials (4) and their staff participated in an ethics check-in and training focused on the new Ticket Distribution Policy;
- New employees (450) received an ethics overview presentation at the City’s monthly orientation session, and, additionally, staff conducted a live ethics training at the Oakland Parks, Recreation, and Youth Development Department’s Summer Orientation reaching nearly 100 new employees;
- One hundred forty-nine City employees completed the PEC’s comprehensive Government Ethics Training for Form 700 Filers, 89 through the City’s online learning management system and another 60 attended four live trainings conducted by PEC Staff via Zoom;

Information, Advice, and Technical Assistance 2022

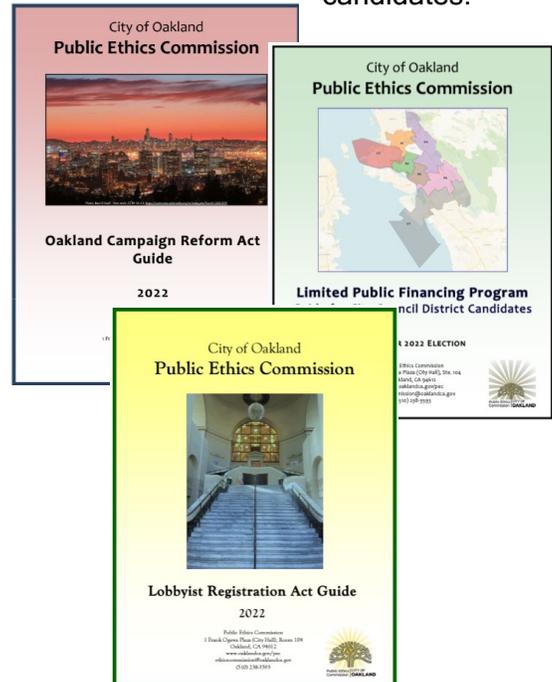


- City staff supervisors (85 in total) received a higher-level ethics training at the City’s Supervisor Academy;
- Board and Commission members and staff received introductory ethics trainings, for a total of two Commissions and all board liaisons; and
- The Commission’s YouTube channel reached 1,298 viewers in 2022: 1,070 viewers watched the PEC’s ten-minute ethics introductory video; another 57 viewers watched the one-hour Ethics Training for Form 700 Filers video; and 210 viewers watched training segments on specific topics such as open meeting rules, gift rules, conflicts of interests, misuse of City resources, and post-employment restrictions.

Campaign Finance Training

Commission staff proactively connected with candidates and committees early, often, and ongoing throughout the 2022 election season, including orientations for candidates as they initiated their campaign filings, as well as monthly reminders and trainings. PEC staff partnered with the Fair Political Practices Commission to provide a joint, comprehensive candidate and treasurer training on both state and local campaign rules, reaching 11 local candidates/committees. A recording was made available on the Commission website and provided to all new candidates. Commission staff also provided public financing training to candidates and their campaign staff in August to promote participation in the 2022 Limited Public Financing (LPF) program for District City Council candidates.

Seven candidates and/or campaign representatives attended the training, representing all but one of the City Council candidates certified to appear on the 2022 ballot.



Publications

Commission staff published three updated comprehensive guides intended to assist the regulated community in complying with local laws:

- Oakland Campaign Reform Act Guide
- Limited Public Financing (LPF) Guide
- Guide to the Lobbyist Registration Act

Community Outreach

The Commission conducted outreach to ensure Oakland residents and the regulated community know about the Commission and that the Commission is responsive to their complaints and questions about government ethics, campaign finance, or transparency concerns. During the fall months, Commissioners and staff presented at five Neighborhood Council meetings to share the Commission’s work and highlight opportunities to apply for Commissioner vacancies.

DISCLOSE AND ILLUMINATE

The Commission’s Disclosure Program aims to help candidates, lobbyists and City officials submit required disclosure reports and ensures Oaklanders can easily access campaign finance, lobbyist, and ethics-related data and information that is accurate, user-friendly, and understandable. The goal is for the public and the PEC to be able to monitor filings, view information, and detect inconsistencies or noncompliance. This program utilizes a collaborative transparency approach, which reaches beyond the traditional minimum of providing copies of filings. The Commission proactively shares data in user-centered formats, invites participation and feedback, and facilitates shared discussion around community needs.

Illuminating Ethics Data

The Commission collects, reviews, and provides public access to ethics-related data. As part of this responsibility, Commission staff works to put the information into formats that can be searched and displayed in easy-to-use data visuals made available for public viewing and more meaningful public disclosure. Election-focused disclosure projects in 2022 included:

- [Show Me the Money](#), an app hosted on Oakland’s open data platform, builds maps showing the source of campaign contributions to candidates, top contributors, and fund raising and spending patterns over time. The tool allows users to build interactive comparisons of campaign donors and expenditures.
- [Open Disclosure](#), a campaign finance website built through a partnership between Commission staff and Open Oakland, visualizes the flow of money in Oakland elections in an easy to understand, interactive format. OpenDisclosure is a nonpartisan tool developed by volunteer developers from civic tech group OpenOakland with advice and oversight from Commission staff and includes a notification system that sends subscribers alerts about new campaign reports, summaries of how much money candidates raise locally and from out-of-state donors, as well as top spenders on local ballot issues. OpenDisclosure gained nearly 6,500 new users and generated over 21,000 pageviews in 2022. Since first launching Open Disclosure in 2014, the site has reached 39,535 users with 163,293 views of OpenDisclosure content.



1,300+ disclosure filings processed

Over 50,000 views of disclosure content

10 public records mediations completed

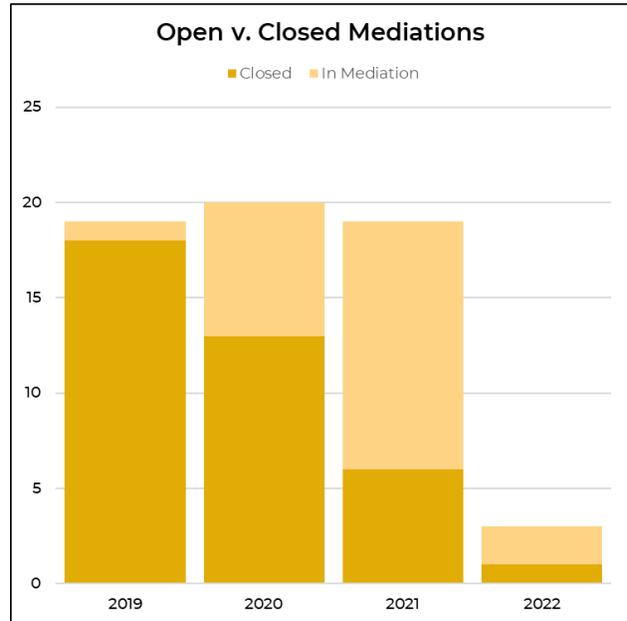


Mediation Program

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediations of public records requests made by members of the public to City departments for records within the department’s control. The Commission received five new requests for mediation in 2022. Ten mediations were completed in 2022.

Online Engagement

In 2022, Commission staff continued producing monthly social media content highlighting PEC policy areas, activities, and topics of interest to specific client-groups ending the year with 1,766 followers.



COMPLIANCE AND DISCLOSURE

As Filing Officer, the Commission collects, reviews, and provides public access to ethics-related data.

CAMPAIGN FINANCE data includes candidate and ballot-measure campaign committee information, including contributions to and expenditures made by the committee during the election cycle. Oakland had 103 active political committees as of December 2022. Two Oakland elections were conducted in 2022, a special election on June 7 and the general election on November 8, 2022. There were six campaign statement deadlines, and PEC staff processed and reviewed almost 1,000 campaign-related filings disclosing approximately \$7 million in campaign contributions during 2022.

POLITICAL CONTRIBUTIONS SOLICITED BY CITY OFFICIALS required to file a Statement of Economic Interests (Form 700) must be disclosed to the Public Ethics Commission within 30 days when a political contribution of \$5,000 or more is made by a person or entity that contracts or proposes to contract with the official’s department. Three solicited contributions totaling \$235,000 were disclosed in support of ballot measures on the November 2022 ballot.

LOBBYING activity reports identify who is lobbying City officials and for what purpose. In 2022, 75 lobbyists registered with the City of Oakland representing approximately 110 clients. Oakland lobbyists reported \$823,464 in payments from clients and a total of 1,197 contacts with City officials during 2022. PEC staff provides outreach and assistance to lobbyists to ensure compliance with registration and reporting requirements. Staff processed and reviewed 283 quarterly lobbyist activity reports in 2022.

BEHESTED PAYMENTS reports show who is donating to a nonprofit organization at the request or solicitation of an elected official. Elected officials who solicit such payments are required to file a Form 803 to report these payments if they amount to \$5,000 or more. In 2022, elected officials reported 15 behested payments totaling \$ \$1,935,000 benefiting local non-profits and programs.

STATEMENTS OF ECONOMIC INTERESTS (Form 700) are filed with the City Clerk’s office but are of high interest to the PEC in ensuring compliance with ethics laws that require reporting of personal financial information by City officials. Commission staff checks for elected official compliance with filing deadlines and provides education and advice regarding Form 700 filing.

ENFORCEMENT

The Commission conducts investigations, holds public hearings, issues subpoenas, and imposes fines and penalties as provided for by ordinance. City ordinances give the Commission the authority to impose penalties for violations of ethics laws, campaign finance laws, and lobbyist registration requirements. The Commission also can mediate or recommend “cure and correction” for violations of public records and open meetings laws, respectively.



51 open complaints and investigations

28 cases resolved

\$22,600 in penalties

Incoming Cases

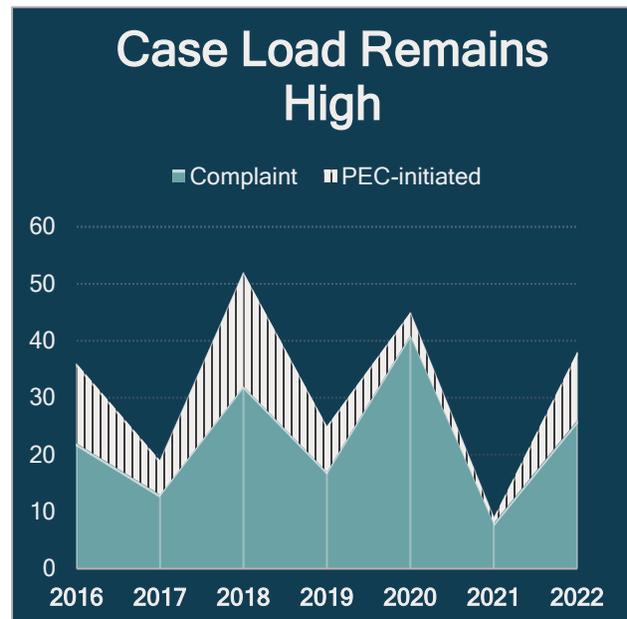
Commission staff received a total of 18 allegations of potential violations under campaign finance, conflicts of interest, transparency, and other ethics-related laws, in 2022. Enforcement staff also received several informal complaints and initiated its own “pro-active” complaints. Enforcement staff opened four investigations in 2022 based on informal complaints and eight investigations based on pro-active complaints. At year-end, there were 51 open enforcement complaints and cases.

Backlog Reduced

In 2022, an Enforcement priority was resolving outstanding cases or complaints from 2016-2017. Significant progress was made towards this goal, as well as resolution of cases from 2018-2021, while maintaining a steady resolution rate on new cases in 2022. However, despite increases in both case closures and fines imposed by the Commission over the last several years, the Commission has not been able to keep pace with incoming complaints. This is due to a structural issue: the PEC’s lack of adequate Enforcement staff resources and capacity to match demand for service. Without increased staffing, the PEC’s increasingly disproportionate complaint to staff ratio will continue to result in cases that remain on the docket far longer than they should.

Enforcement Outcomes

By year end, the Commission resolved 28 cases as follows:



- Three fines, with \$22,600 in total penalties;
- Ten cases closed without enforcement action;
- Fifteen complaints dismissed (10 for lack of jurisdiction, 2 for insufficient evidence to support investigation; 1 due to another agency already investigating; 1 referred to another agency; and 1 withdrawn by complainant).

Training Hearings Officers

Another Enforcement goal for 2022 was to train more Commissioners as hearing officers to be available in cases that Enforcement staff are unable to settle. PEC staff put together a Hearing Officer training in the fall of 2022 that continues to be available to Commissioners interested in serving as hearing officers. The training provides an overview of hearing procedures, due process for quasi-judicial boards, scheduling procedures, preliminary hearing requirements, credibility determinations, and an overview of findings of facts, penalties, and final orders.

Enforcement staff anticipate increased need for hearing officers in the short- and medium-term as current investigations are completed. The new training program helps ensure that hearings on matters will not be delayed due to a lack of available hearing officers. The training is also available to the public online from the Commission's website and YouTube Channel.

2022 Enforcement Actions Summary

In the Matter of Jason Overman, Case no. 18-14. The Commission found that Respondent, Jason Overman, a private lobbyist, violated the Oakland Campaign Reform Act's contractor contribution ban by making campaign contributions to City of Oakland elected officials, candidates, or their controlled committees. The Commission approved a financial penalty in the amount of \$2,600.

In the Matter of Justin Berton (Case No. 18-45). The Commission found that the Respondent, Justin Berton, the Director of Communications for Oakland Mayor Libby Schaaf, violated the Government Ethics Act's misuse of city resources provision by posting four links to newspaper editorials that endorsed the Mayor's re-election in 2018 to the mayor's official Nextdoor public agencies/elected officials' account. The Commission approved a financial penalty in the amount of \$1,000.

In the Matter of Rebecca Kaplan, Case no. 20-40. The Commission found that the Respondent, Rebecca Kaplan, the City Council At-Large member, violated the Government Ethics Act section Form 700 reporting and conflict of interest provisions by failing to disclose her ownership interest in an Oakland condo and voting on matters affecting a park development project next door to her property. The Commission approved a financial penalty in the amount of \$19,000.

ADMINISTRATION

Staff

Commission staff are responsible for the Commission’s day-to-day operations, including investigations and enforcement casework, education and advice, data collection and illumination activities, and law and policy projects. While most City offices remained closed to the public due to orders in response to the on-going COVID pandemic, Commission staff continued to provide services seamlessly without in-person contact. Staff continue to participate in ongoing professional development, including opportunities through the Council of Government Ethics Laws, International Association for Public Participation, and the City of Oakland covering topics such as reducing bias, inclusive engagement, continuing education in legal subjects, filing officer duties, and advanced data analysis and visualization.

2022 saw major leadership changes as the Commission’s Executive Director for the past ten years, Whitney Barazoto, stepped down in June 2022. Enforcement Chief Kellie Johnson was promoted to the Executive Director position in August. However, after Ms. Johnson’s resignation in November, the Commission’s Lead Analyst Suzanne Doran was appointed Acting Director in the interim. A new recruitment for Executive Director was underway at the end of 2022.

Other significant staff transitions include the promotion of Ethics Investigator Simon Russell to Enforcement Chief and the promotion of Administrative Assistant Ana Lara-Franco to the newly-budgeted Administrative Analyst position, both in November 2022.

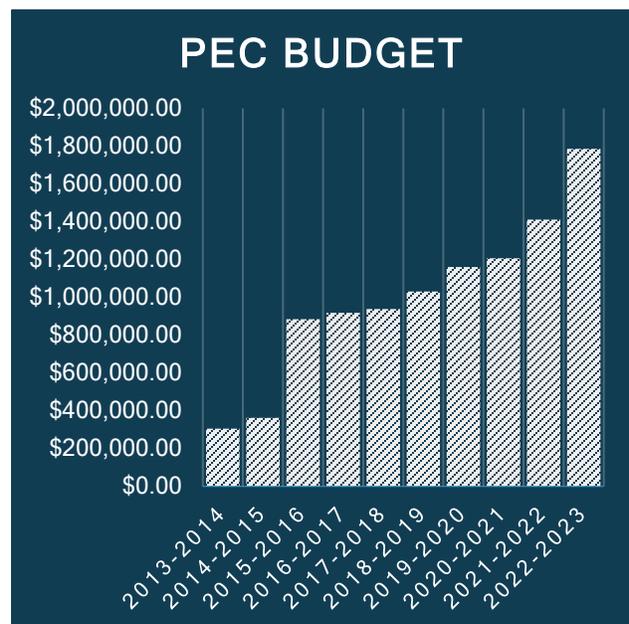
Budget

The adopted budget for the Commission was \$1,411,407 for Fiscal Year 2021-22 and \$1,786,115 for Fiscal Year 2022-23. In June 2021, the City Council approved a budget that included the addition of one new position for the PEC to begin in July 2022. The addition provides increased staff capacity for administrative support to the Enforcement Team, including complaint intake, communications, complaint database management, case tracking, agenda and

7 volunteer Commissioners

7 fulltime staff

\$1,786,115
2022-2023 budget



hearing preparation for enforcement cases, and other related tasks.

Public Funds for Candidates

The Limited Public Financing (LPF) program provides District City Council candidates with some public funds by way of reimbursements for qualified expenditures to be used for campaign expenses. The goal of the program is to help ensure that all individuals have a fair and equal opportunity to participate in the elective and governmental process. The 2022 program began with a training in August and ongoing interaction with candidates in facilitating program requirements and distributing public funds. Five candidates participated and received some or all of the \$35,400 that was available to each candidate, for a total disbursement of \$159,038 for the 2022 election.

Public Meetings

On September 16, 2021, the Governor signed AB 361 which amended provisions of the Brown Act to allow local legislative bodies to continue to meet by teleconference so long as the body adopts certain findings in compliance with the new law. The Commission's public meetings in 2022 continued to be held online and accessible to the public via Zoom to comply with restrictions imposed by the ongoing COVID pandemic. With the lifting of the emergency order by the State of California at the end of February 2023, all public meetings including Board and Commission meetings are required to be held in-person and will resume again per State law.

2022 COMMISSIONERS

Arvon J. Perteet, Chair

Commission Appointee 1/22/2021 - 1/21/2024



Arvon J. Perteet is the Global Legal Response and Fraud Investigations Manager at Square, Inc. Arvon's teams are responsible for conducting investigations related to external fraud against Square and Square's merchants and responding to legal requests, both civil and criminal in nature. Prior to working at Square, Arvon was an Assistant District Attorney in the Independent Investigations Bureau at the San Francisco District Attorney's Office investigating and prosecuting cases involving officer involved shootings, use of excessive force, and in-custody deaths.

Arvon was an Assistant United States Attorney in the Northern District of California in the Asset Forfeiture Unit for eight years, and he was a Deputy District Attorney in the Contra Costa County District Attorney's office for two years. His legal career also included time at a small insurance defense firm in the Bay Area. Arvon is a graduate of Golden Gate University School of Law, and a graduate of Morehouse College in Atlanta, Georgia. Arvon is an Oakland native.

Michael B. MacDonald, Vice Chair

Commission Appointee 1/22/2020 - 5/28/2022



Michael MacDonald is an Assistant City Clerk at the City of Berkeley. In that role, he supervises a variety of functions within the department with a focus on municipal elections, campaign filings, conflict of interest requirements, and regulations for City advisory commissions.

Prior to serving in municipal government, Michael spent three years as a District Representative under two California State Senators serving as lead representative for K-12 education, transportation, housing, and homelessness issue areas by working closely with the Senator, constituents, district organizations, local governments, and state agencies. Before moving to Oakland in 2018, Michael co-founded the Diversity Collective Ventura County Community Resource Center, a non-profit LGBTQ community center that strives to build a community in which LGBTQ people can be healthy, equal, and complete members of the community.

Michael is a CSU graduate with a Bachelor's Degree in Political Science. He lives in downtown Oakland with his partner.

Ryan Micik, Vice Chair

Commission Appointee 6/11/2021 - 6/30/2022

City Attorney Appointee 7/1/2022 - 1/21/2024



Ryan Micik operates a political research and communications consulting practice. His clients have included government reform advocacy organizations and other nonprofits, private companies, and candidates for all levels of government office, from school board to president. Among other services, he assists clients with mastering complex issues; navigating local, state, and federal public records laws; and developing messaging and strategy. He formerly served as deputy director of Maryland StateStat, a government performance management and accountability initiative. In that role, he engaged with state agencies to improve service delivery, increase government efficiency and responsiveness, and reduce waste.

Ryan earned a BA in Political Science from UC Berkeley, where he was active in progressive and AAPI organizations and won awards for radio journalism. He is a former member of the Alameda County Democratic Central Committee. He resides in Grand Lake.

Charlotte Hill

Commission Appointee 1/22/2022 - 1/21/2025



Charlotte Hill is a political scientist at UC Berkeley, where she researches the impact of electoral and voting reforms on political participation. She regularly advises organizations focused on improving democracy policy and increasing voter turnout. Before entering academia, Charlotte held senior communications roles for the nonpartisan political reform organization RepresentUs and the international petition platform Change.org. She recently served as the vice president of the San Francisco Elections Commission, where she helped oversee local election administration.

Charlotte grew up in Northern California and has lived in the Bay Area since 2006. She holds a BA, an MPP, and a PhD in Public Policy from UC Berkeley.

Jessica Leavitt

City Attorney Appointee 9/15/2021 - 5/21/2022



Jessica Leavitt is Senior Corporate Counsel with NetScout Systems, Inc., where she focuses on compliance issues. She previously worked at the City of Oakland as both a Deputy City Attorney and as an investigator for the Citizens' Police Review Board. She also worked as a Special Assistant to the Chief Trial Counsel of the State Bar of California and served on a number of local and state boards.

Jessica is a native Oaklander and holds a BA from Claremont McKenna College, a JD from UC Hastings, and a Master's degree in Information Science from the University of Michigan.

Joseph Tuman

Mayoral Appointee 1/22/2020 - 1/21/2023



Joseph Tuman is a full-time university professor at San Francisco State University in First Amendment law, public speaking, critical thinking and argumentation, and debate. He has also taught at St. Mary's College, the New School for Social Research in New York, and Paris II Law School in France.

Joseph received his BA in Political Science from UC Berkeley with Great Distinction and Highest Honors and his JD from Boalt Law. His law work included comprehensive evidence review and sorting of internal documents produced by tobacco companies related to advertising and marketing campaigns targeting children for class-action lawsuits filed by different states. He has served as a political analyst for major television networks and newspapers and is an author and senior editor of numerous books and academic journals.

Joseph was born in Dallas, Texas, and raised in the San Joaquin Valley. He has lived in Oakland since 1984 and ran twice for Mayor of Oakland.

Francis Upton IV

City Auditor Appointee 4/20/2022 - 1/21/2025



Francis Upton IV is a software executive with deep technical experience, particularly in data-related issues and software development productivity. He is currently a founder and the Chief Technology Officer at SnapStrat, Inc.

Previously he was VP of Architecture and Governance at Talend, a leading provider of data integration technology. Before that, he founded Oakland Software where he led the development of advanced data transformation technology which was sold to Talend. Other work has included senior engineering and management positions at various technical startups and at computer manufacturers Digital Equipment Corporation and Hewlett-Packard, where he worked on operating systems, distributed transaction systems, and was a leading contributor to an International Standard. Francis has a long history of significant volunteer contributions to open source projects, notably with the Eclipse Foundation and the Jenkins CI System.

He holds a BA in Liberal Studies from Antioch University and has completed most of the course requirements towards an MS degree in Computer Science at Stanford. Francis was born and raised in Orange County, California, and has been an Oakland resident for over 25 years, currently living in Glenview. He is the proud father of two daughters attending OUSD schools.



Item 7 - Staff Memo

Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon J. Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
Suzanne Doran, Project Lead/Analyst
DATE: June 30, 2023
RE: Measure W Implementation Update and Consideration of the Postponement of the Distribution and Use of Democracy Dollars Vouchers for the 2024 Election.

In 2022, Oakland voters passed Measure W, the Oakland Fair Elections Act, which, among other changes, replaced Oakland's reimbursement-based Limited Public Financing (LPF) Program with the Democracy Dollars Program, a voucher-based public financing program modelled off of Seattle's pioneering program. Measure W assigns the Public Ethics Commission (PEC or Commission) as the administrator of this re-designed public financing program; since the passage of Measure W, the Commission has been planning the implementation of this ballot measure, which will entail a significant growth in staffing, structure, and responsibilities for the Commission. This memorandum provides an update on Measure W implementation activities since the last Commission meeting.

Most significantly, in June, the City Council adopted the Fiscal Year (FY) 2023-2025 Budget, which eliminates funding for Democracy Dollars vouchers for the 2024 election, along with other reductions in Program resources and staffing for the Program contemplated by Measure W. Because there are insufficient resources to implement the Program this upcoming election cycle, *Staff is recommending that the Commission adopt a motion:*

1. *Postponing the distribution and use of Democracy Dollars vouchers for the November 2024 election; and*
2. *Directing Staff to consider and provide options to the Commission at a subsequent meeting for establishing a limited public financing program for the 2024 election cycle only, similar to the 2022 LPF Program.*

Measure W – Democracy Dollars Program Budget

Measure W sets aside minimum staffing and funding for the Commission to administer the Democracy Dollars Program, including in the FY 2023-2025 Budget. This includes a Program Manager and three additional employees; \$4 million over two years in voucher public funding to distribute to candidates; \$700,000 in one-time startup costs; and \$350,000 in ongoing administrative costs. The Budget Office estimated an \$8 million cost over two years to fully fund the Democracy Dollars program.

However, Measure W permits the City to reduce these minimum set-asides if the City Council declares that the “City is facing an extreme fiscal necessity.” In May, the Mayor released her Proposed Budget, which significantly reduced funding for Democracy Dollar Program over Measure W requirements, including eliminating funding for vouchers for the 2024 election and new Program staffing, but providing \$525,000 in initial funding to begin Measure W implementation.

In May and June, Chair Micik, Vice Chair Hill, and PEC Staff met with Councilmembers and their staff to advocate for the implementation of a pilot of the Democracy Dollars Program limited to Council District offices only in 2024. PEC Staff estimated the scaled-down pilot would require three staff positions and cost \$3.2 million over two years, or a 60% reduction over the full Program cost. If the City Council did not provide funding for a pilot, PEC Staff advocated that, at minimum, the Program Manager position be funded to plan and oversee Measure W implementation work in the upcoming fiscal year.

On June 26, the City Council declared that the City was facing an extreme fiscal necessity and adopted the FY 2023-25 Budget which, as to the PEC, maintains the funding levels provided in the Mayor’s Proposed Budget, except that the Adopted Budget also funds the Measure W Project Manager position and provides the Commission with \$155,000 in additional discretionary funding.

Under Measure W, the Commission is required to vote on a delay in implementing the Democracy Dollars Program. The Measure provides that, in the first election cycle following voter approval of Measure W:

“The Commission may, by a vote of at least five (5) of its members, delay the implementation of the [Democracy Dollars] Program as provided by this ordinance. In making this determination, the Commission should consider all possible alternatives to avoid delaying Program implementation in its entirety, including but not limited to partial implementation by issuing only mailed Democracy Dollars, or limiting the Program to certain races, or changing Program components.”

Because the Adopted Budget does not provide any funding for Democracy Dollars vouchers, nor sufficient staffing or resources to administer the full Program or a pilot, PEC Staff recommends that the Commission vote to postpone the distribution and use of Democracy Dollars vouchers for the 2024 election cycle, while continuing to build out the technology, policy, and staffing infrastructure to successfully implement the Program in subsequent elections. The PEC has made a good faith effort at proposing viable alternatives, including a pilot limited to City Council District elections, where only paper vouchers would have been mailed to registered voters; however, the Adopted Budget does not include the funding or staff for undertaking such a limited pilot.

Staffing – As described above, the Adopted Budget funds the Measure W Program Manager position, effective August 1, 2023. This position will be critical to the PEC’s work in planning and rolling out the Democracy Dollar Program for 2026 -- including developing the database

to distribute, process, and track vouchers – as well as implementing Measure W’s non-Democracy Dollars campaign finance and transparency rule changes that went into effect on January 1 of this year, including new campaign contribution limits and additional on-ad disclosure requirements for independent expenditure committees that will be in effect for the 2024 election.

PEC Staff is working with Human Resources to fill this critical position as quickly as possible.

LPF Alternative?

Because Measure W repealed the LPF Program, which was enacted by the City Council in 1999, and because the FY 2023-2025 Budget does not include funding for Democracy Dollars vouchers, the 2024 election will be the first election in two decades where City Council District candidates do not have access to public financing. This would be contrary to the goals of Oakland voters who passed Measure W to strengthen, rather than eliminate, public financing.

One potential option that the Commission may consider is bringing back an LPF-style public financing program for Council District candidates as a stopgap for the 2024 election only, so that there is no break in the availability of public financing in Oakland. The Adopted Budget includes \$155,000 in discretionary funding for the Commission, which is the same amount that was budgeted in FY 2021-2023 for the LPF Program. **Staff recommends that the Commission direct Staff to consider and provide options to the Commission at a subsequent meeting for establishing a limited public financing program for the 2024 election cycle only, similar to the 2022 LPF Program.**

Item 9 - Disclosure Report



Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon J. Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
Ana Lara Franco, Commission Analyst
Suzanne Doran, Lead Analyst
DATE: June 30, 2023
RE: Disclosure and Engagement Monthly Report for the July 12, 2023, Meeting

This memorandum provides a summary of major accomplishments in the Public Ethics Commission's (PEC or Commission) Disclosure and Engagement program activities since the last monthly meeting. Commission staff disclosure activities focus on improving online tools for public access to local campaign finance and other disclosure data, enhancing compliance with disclosure rules, and conducting data analysis for PEC projects and programs as required. Engagement activities include training and resources provided to the regulated community, as well as general outreach to Oakland residents to raise awareness of the Commission's role and services and to provide opportunities for dialogue between the Commission and community members.

Filing Officer – Compliance

Campaign finance disclosure – July 31 marks the semi-annual campaign finance deadline for activity between January 1 and June 30. All Oakland registered committees must file. All committees received deadline notifications, and staff is reaching out to new candidates to ensure they are prepared to file their reports electronically.

The semi-annual statement covers the first period since new contribution limits took effect January 1, 2023. PEC staff routinely screen campaign statements for contribution limit violations. Campaign filers received an advisory to review their contributions for compliance before the upcoming semi-annual campaign statement deadline, so any necessary refunds could be made and recorded on the campaign statement. Violations are subject to forfeiture of the excess contribution amount and may result in additional enforcement penalties.

Campaign statements are available to view and download at the PEC's [Public Portal for Campaign Finance Disclosure](#).

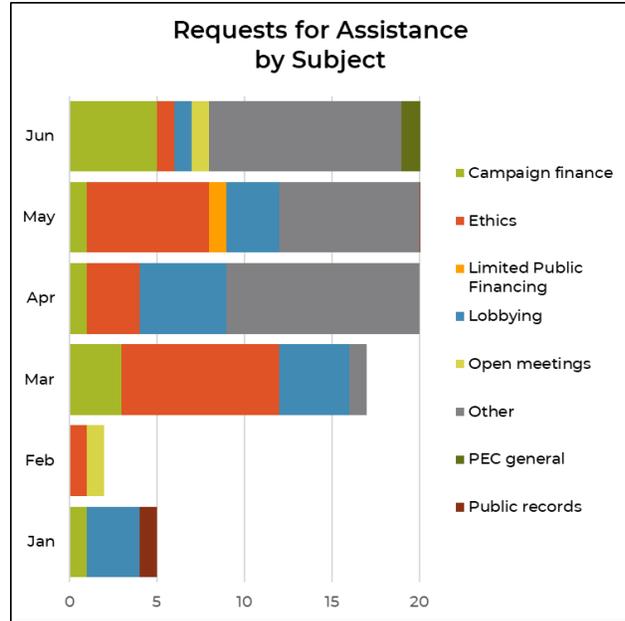
Lobbyist Registration and Reporting Program – The Oakland Lobbyist Registration Act (LRA) requires lobbyists to submit quarterly reports disclosing their lobbying activities to ensure that the public knows who is trying to influence City decisions.

July 30 is the upcoming deadline for quarterly lobbyist activity reports covering the period from April 1 through June 30, 2023. Lobbyist registration and activity reports may be viewed online at the [PEC’s Lobbyist Dashboard and Data webpage](#).

Advice and Engagement

Advice and Technical Assistance – In the month of June, Commission staff responded to 22 requests for information, advice, or assistance regarding campaign finance, ethics, Sunshine law, or lobbyist issues, for a total of 87 in 2023 to date.

Candidates and Campaigns – The nomination period for candidates seeking to qualify for the November 2023 Special Election ballot commences on July 17 and ends on August 11. Commission staff provided the Office of the City Clerk with materials to include with the candidate nomination packet including our candidate checklist and information on changes to campaign finance rules resulting from Measure W. As part of campaign education efforts, staff issues regular advisories to ensure that candidates and committees are aware of local rules during this election season. In June, staff issued an advisory reminding candidates of new contribution limits.



New Employee Orientation – Staff continues to make presentations at the City’s monthly New Employee Orientation (NEO) providing new employees with an introduction to the PEC and overview of the Government Ethics Act (GEA). On June 21, Staff trained a total of 39 new employees on GEA provisions.

Online Engagement

Website – In June, staff prioritized updates to content related to campaign rules, so the most up-to-date information is available for candidates running in the November 2023 Special Election. Staff created a “[What’s New](#)” webpage to summarize recent changes to laws and regulations in PEC jurisdiction, and updated “[Starting Your Campaign](#),” “[Contribution Limits](#),” and “[Campaign Communication Rules](#)” webpages to reflect changes effected by Measure W. Social media posts are highlighting these pages. Additionally, a new section to highlight disclosure tools was added to the Commission homepage.

Social Media – Each month Commission staff posts social media content to highlight specific PEC policy areas, activities, or client-groups. June posts focused on June agenda topics and new campaign finance rules.

Item 10 - Enforcement Report



Ryan Micik, Chair
 Charlotte Hill, Vice Chair
 Alea Gage
 Arvon Perteet
 Vincent Steele
 Francis Upton IV

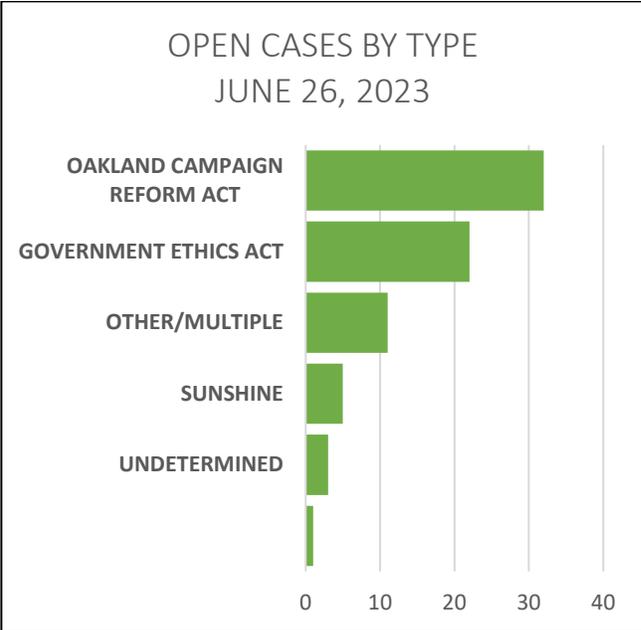
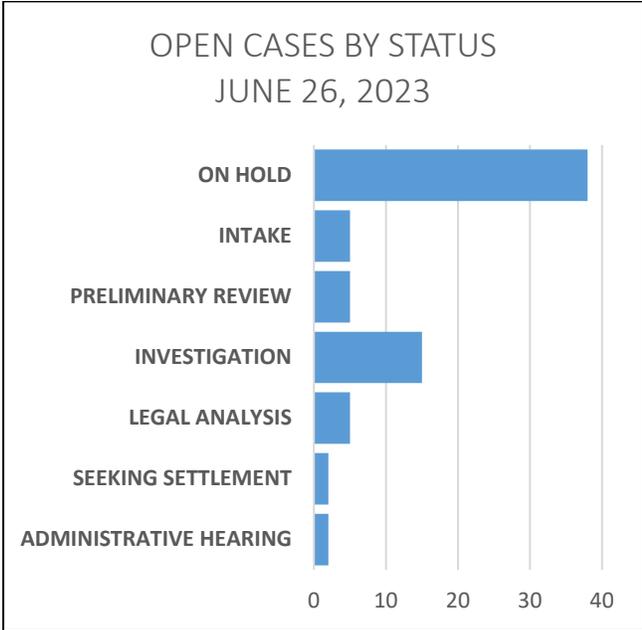
Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
 FROM: Simon Russell, Enforcement Chief
 DATE: June 26, 2023
 RE: Enforcement Unit Program Update for the July 12, 2023, PEC Meeting

Current Enforcement Activities:

Since the Enforcement Unit Program Update submitted to the Commission on June 1, 2023, Commission staff received 1 formal complaint, which is under preliminary review. Enforcement also received 11 informal complaints, seven of which were rejected; and four of which are awaiting a decision as to whether to reject them or escalate them to preliminary review.

This brings Enforcement’s caseload to 74 matters at all stages, from preliminary review through to investigation, settlement negotiations or administrative hearing. That includes 38 cases or complaints that are now “On Hold.” It does not include informal complaints awaiting a decision as to whether to reject them or escalate them to preliminary review.



Legal Actions/Litigation Update

Since the last litigation update included with the Enforcement Unit Program report on April 26, 2023, the following public court actions have been submitted or scheduled by or on behalf of the Enforcement Unit:

1. *City of Oakland Public Ethics Commission v. Mike Hutchinson* (Alameda County Superior Court case no. 22CV012418). On May 3, 2023, the PEC filed a “Notice of Motion and Motion for an Order to Show Cause re: Contempt (C.C.P. 1209) and Monetary Sanctions.” A hearing in the matter is scheduled for June 29, 2023, at 2:30 p.m. in Department 518

Except where otherwise noted, no allegations have yet been proved or admitted in any of the above matters, and the existence of these cases and associated litigation should not be taken as an indication that the potential respondent(s) necessarily violated any laws. This information is being provided for the PEC’s informational purposes only.



Item 11a - Executive Director's Report

Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon J. Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Nicolas Heidorn, Executive Director
DATE: June 30, 2023
RE: Executive Director's Monthly Report for the July 12, 2023, PEC Meeting

This memorandum provides an overview of the Public Ethics Commission's (PEC or Commission) significant activities not included in other program reports since the last regular meeting. The attached overview of Commission Programs and Priorities includes the ongoing goals and key projects for 2023 for each program area.

Budget

In June, Commission staff met with Councilmembers and their staff to request that the Proposed Budget be amended to provide a pilot of the Democracy Dollars program limited to just Council Districts in 2024. Staff also advocated for additional staff resources, regardless of whether a pilot is funded, given the increased demand in all program areas.

On June 26, the City Council adopted the Fiscal Year 2023-2025 Budget. The adopted Budget does not fund the full Democracy Dollars Program or a pilot, but does provide for one additional staff and additional resources to begin the work of Measure W implementation. Budget highlights for the PEC include:

- Maintains existing PEC staffing;
- Cuts Democracy Dollars voucher funding;
- Provides \$525,000 in Measure W startup costs;
- Funds the Measure W Program Manager position beginning August 1, 2023;
- Provides \$50,000 in one-time funding for candidate education; and
- Provides \$155,000 in discretionary spending.

Lobbyist Registration Fee & Late Filing Penalties

At its April meeting, the Commission authorized PEC staff to request that the City Council include the following fees in the Master Fee Schedule to take effect January 2024:

1. An annual lobbyist registration fee of \$500.
2. A late filing fee of \$10 per day after the filing deadline until the form is filed for lobbyist registration and lobbyist reports.

Both proposed fees were included in the Master Fee schedule, which the City Council adopted on June 20.

Prior to the fee's implementation in January of 2024, staff will bring back to the Commission a proposed amendment to the Lobbyist Registration Act reflecting the adopted fee and a proposed registration fee waiver policy for lobbyists that are employees or representatives of 501(c)(3) nonprofit organizations and/or community-based organizations that can demonstrate hardship.

City Attorney and City Auditor Salary Adjustment

In 2022, the voters adopted Measure X, which among other provisions assigns to the Commission the responsibility of setting the salaries of the City Attorney and City Auditor to “provide for competitive compensation and equitable alignment” for these offices. At its April meeting, the Commission adopted adjusted salaries for the City Attorney and City Auditor for the first time. The Commission raised the City Attorney’s salary from \$243,618.72 to \$306,990.63 and the City Auditor’s salary from \$181,203.12 to \$213,137.51.

On June 20, the City Council introduced for first reading an amendment to the Salary Ordinance to adopt the respective salaries set by the Commission. Final passage (i.e. second reading) of the Ordinance will occur on July 18.

Proposed Ordinance for City Attorney Concurrent Enforcement Jurisdiction

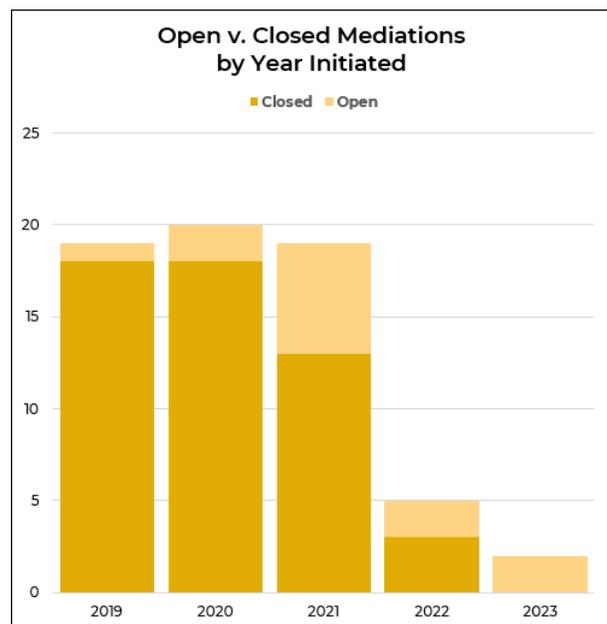
In June the City Attorney proposed an ordinance to the City Council which would grant her office authority to enforce any City law, which might include those laws where the City Charter or City Ordinance specifically designate the Commission as the enforcement body. The proposed ordinance specifies that the City Attorney’s enforcement powers would be in addition to any potential existing administrative remedy.

In consultation with the Chair, PEC Staff shared concerns with this proposal with the City Attorney. Among other complications, concurrent jurisdiction could undermine the Commission’s intended role as the lead enforcement agency of the City’s ethics and transparency laws and might result in the Commission and City Attorney enforcing the same law against the same party in different ways. In response to these concerns, and working with PEC Staff, the City Attorney amended the proposed ordinance to clarify that, as to laws the PEC enforces, the proposed ordinance “neither augments nor amends” the authority already granted to the City Attorney to enforce those laws; in other words, the ordinance maintains the existing enforcement status quo as to PEC-enforced laws.

The City Council introduced for first reading the proposed ordinance, as amended. Final passage (i.e. second reading) of the Ordinance will occur on July 18.

Mediation Program

Pursuant to the Oakland Sunshine Ordinance, the Commission conducts mediation of public records requests made by members of the public to City departments for records within the department’s control. The PEC has 13 open mediations, down from 16 last month, and 24 the month before. Thirteen mediations have been completed this year, including three this month.



Item 11a - Executive Director's Report

Following a mediation, Commission staff provides a written summary of the mediation to the Commission and can also make recommendations for further Commission action. Mediation summaries for the following three mediations, conducted by staff and subsequently closed this past month, are attached:

1. In the Matter of the Planning and Building Department (Case No. M2020-10)
2. In the Matter of the Police Department (Case No. M2021-13)
3. In the Matter of the City Clerk and Public Works Department (Case No. M2022-05)

Additional Attachment: Commission Programs and Priorities.

Item 11a - Executive Director's Report
PUBLIC ETHICS COMMISSION
Programs and Priorities 2023

Program	Goal	Desired Outcome	Program Activities	2023 Major Projects
Lead/ Collaborate (Policy, Systems, Culture)	PEC facilitates changes in City policies, laws, systems, and technology and leads by example to ensure fairness, openness, honesty, integrity, and innovation.	Effective campaign finance, ethics, and transparency policies, procedures, and systems are in place across City agencies	<ul style="list-style-type: none"> ○ Lead Measure W implementation 	<ul style="list-style-type: none"> ○ Public Records Performance Tool ○ Lobby Registration Act amendment to incorporate new fees and waiver policy ✓ GSPP project re contractor pay-to-play restrictions and improving disclosure
Educate/ Advise	Oakland public servants, candidates for office, lobbyists, and City contractors understand and comply with City campaign finance, ethics, and transparency laws.	The PEC is a trusted and frequent source for information and assistance on government ethics, campaign finance, and transparency issues; the PEC fosters and sustains ethical culture throughout City government.	<ul style="list-style-type: none"> • Regular ethics training • Information, advice, and technical assistance • Targeted communications to regulated communities • New trainings as needed for diversion 	<ul style="list-style-type: none"> ○ Develop Measure W/ Democracy Dollars training resources for candidates ○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance ✓ Public Records training
Outreach/ Engage	Citizens and regulated community know about the PEC and know that the PEC is responsive to their complaints/questions about government ethics, campaign finance, or transparency concerns.	The PEC actively engages with clients and citizens demonstrating a collaborative transparency approach that fosters two-way interaction between citizens and government to enhance mutual knowledge, understanding, and trust.	<ul style="list-style-type: none"> • Public Records mediations • Commissioner-led public outreach • Outreach to client groups – targeted training and compliance • PEC social media outreach 	<ul style="list-style-type: none"> ○ Develop content to reflect Measure W changes and Democracy Dollar Program ○ Develop Democracy Dollars Community Engagement plan ○ Review and update mediation procedures/staff manual
Disclose/ Illuminate	<p>PEC website and disclosure tools are user-friendly, accurate, up-to-date, and commonly used to view government integrity data.</p> <p>Filing tools collect and transmit data in an effective and user-friendly manner.</p>	<p>Citizens can easily access accurate, complete campaign finance and ethics-related data in a user-friendly, understandable format.</p> <p>Filers can easily submit campaign finance, lobbyist, and ethics-related disclosure information.</p>	<ul style="list-style-type: none"> • Monitor compliance (campaign finance/lobbyist/ticket use) • Proactive engagement with filers • Technical assistance • Assess late fees/refer non-filers for enforcement • Maintain data assets 	<ul style="list-style-type: none"> ○ Democracy Dollars admin system development ○ Democracy Dollars performance tracking and public data development ○ Updates to Ticket Distribution (Form 802) database

Item 11a - Executive Director's Report

Program	Goal	Desired Outcome	Program Activities	2023 Major Projects
Detect/ Deter	PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.	Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.	<ul style="list-style-type: none"> • Process and investigate complaints • Initiate proactive cases • Collaborate/coordinate with other government law enforcement agencies 	<ul style="list-style-type: none"> ○ Digital complaint form/mediation request ○ Improve Enforcement database
Prosecute	Enforcement is swift, fair, consistent, and effective.	Obtain compliance with campaign finance, ethics, and transparency laws, and provide timely, fair, and consistent enforcement that is proportional to the seriousness of the violation.	<ul style="list-style-type: none"> • Prioritize cases • Conduct legal analyses, assess penalty options • Negotiate settlements • Make recommendations to PEC 	<ul style="list-style-type: none"> ○ Resolve 2016 and 2017 case backlog ○ Review/revise policies for release of public information and election-related complaints ○ Develop internal Enforcement staff manual
Administration/ Management	PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.	PEC staff model a culture of accountability, transparency, innovation, and performance management.	<ul style="list-style-type: none"> • Annual Report • Budget proposal • Ongoing professional development and staff reviews • Fill staff vacancies • Commissioner onboarding 	<ul style="list-style-type: none"> ○ 2023 – 2025 strategic plan preparation/retreat ✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council

Item 11b - M2020-10 Mediation Summary



Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Jelani Killings, Ethics Analyst
DATE: June 8, 2023
RE: *In the Matter of the Planning and Building Department (Case No. M2020-10); Mediation Summary*

I. INTRODUCTION

On June 15, 2020, the Commission received a request for mediation alleging the Planning and Building Department failed to respond to a public records request made by the Requester on May 28, 2020. Staff initiated its mediation program on June 18, 2020, pursuant to the Oakland Sunshine Ordinance.

Because the Planning and Building Department provided the Requester with the responsive records and the Requester is satisfied, this mediation was closed with no further action.

II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.¹ The CPRA requires each agency to make public records promptly available to any person upon request.²

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of their request by Commission Staff.³ A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.⁴

Once the Commission's mediation program has concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

Item 11b - M2020-10 Mediation Summary

III. SUMMARY OF FACTS

On May 28, 2020, the City received the following records request via NextRequest (20-2856):

This is a request under The Public Records Act. Please provide me the exact locations for all pending and installed cell antennas and cell towers within the 94602 zip code that includes my house at 4549 Lincoln Avenue since Jan 1, 2018. For those locations within 1 mile of my home, please provide documentation for each location that includes type of technology employed (4G or 5G), installation or permit approval date, and associated application forms, records, reports, and communications between the City and telecom companies.

Please expedite under the Sunshine Act.

Thank you

That same day, the request was assigned to the Planning and Building Department.

On June 5, 2020, Planning and Building's public record liaison requested an extension stating:

Additional time is required to answer your public records request. We need to search for, collect, or examine a large number of records (Government Code Section 6253(c)(2)).

On June 15, 2020, the Commission received a mediation request from the Requester, stating that the Planning and Building Department did not provide the requested records in a timely manner. Staff initiated its mediation program on June 18, 2020 and notified the department of the mediation request.

On October 8, 2020, a new point of contact was assigned to the public records request in NextRequest. On October 26, 2020, the Information Technology Department was also added to the request.

On November 1, 2020, the public records liaison provided a link to the Requester stating:

Hello and thank you for your request. Please see below the PC agendas/ Report archives. Also, staff have been assigned to do additional research on your request.

<https://www.oaklandca.gov/boards-commissions/planning-commission/meetings>

On November 20, 2020, a new point of contact was assigned to the public records request in NextRequest. That same day, the Planning and Building Department was removed from the request.

On December 10, 2020, the point of contact was changed twice in NextRequest. In addition, an internal message was sent stating:

Public Works does not have any information regarding this request.

On December 23, 2020, the request was closed in NextRequest stating:

Item 11b - M2020-10 Mediation Summary

These documents do not exist.

On April 6, 2023, Staff reached out to the Requester to determine whether they were satisfied with the response from the department. On April 10, 2020, Staff spoke with the Requester by phone and was told that they wanted to continue with the mediation process since they had not received any documents in response to their request.

On April 11, 2020, Staff reached out to the Planning and Building Department asking them to review the request again to see if they could locate any responsive records since the Requester was still interested in receiving them and believed that some should exist.

Two hours later, Planning and Building staff responded:

This request was submitted and completed while I was in a different unit within the department. That being said, I would have handled the request differently, as there was no need to add the IT department or Public Works to the request. This is information that the Planning & Building Department has, though not in the exact form requested.

Sander v. State Bar of California 58 Cal. 4th 300 ruled that, in part, the City is required to produce non-exempt responsive records, but as a matter of law it is not required to create a new record, in this case a list, by changing the substantive content of an existing record or replacing existing data with new data. We can provide a list of permits that were issued for that zip code for the time listed, but the requester will be required to organize and extrapolate the data from those records on their own.

I believe the easiest way to handle this would be for the requester to submit a new request at <https://oaklandca.nextrequest.com/>. I will extract the data available and provide it under the new request.

On April 27, 2023, Staff created a new public records request in NextRequest on behalf of the Requester (23-4030):

Please provide me the exact locations for all pending and installed cell antennas and cell towers within the 94602 zip code that includes my house at 4549 Lincoln Avenue since Jan 1, 2018. For those locations within 1 mile of my home, please provide documentation for each location that includes type of technology employed (4G or 5G), installation or permit approval date, and associated application forms, records, reports, and communications between the City and telecom companies.

On May 1, 2023, the request was closed in NextRequest stating:

While the City is required to produce non-exempt responsive records, as a matter of law it is not required to create a new record, in this case a list, by changing the substantive content of

Item 11b - M2020-10 Mediation Summary

an existing record or replacing existing data with new data. Sander v. State Bar of California 58 Cal.4th 300.

While the City can attempt to produce records, the requester will be required to organize and extrapolate the data from those records on their own.

Please use the searchable online database of records at [Oakland Online Portal \(accela.com\)](https://accela.com). There you may use search parameters to view records based on different criteria, including location. If after your search you would like additional information, please provide exact addresses or record numbers in a new request.

That same day, Staff followed up with the Planning and Building Department stating:

It looks like you closed this request earlier today, pointing the requester to accel.com. I thought we discussed that the Planning & Building Department could produce a list to the requester for the specified zip code (that they would then have to filter down on their own). Did I misunderstand your email below? Thank you!

Within the hour, Planning and Building staff responded:

Thank you for your email. The response provided was the standard response when someone is requesting a large amount of data that is available by using our publicly available online search. As I was responding to outstanding requests I didn't catch that this is the one we had previously discussed. I apologize for the oversight. I ran a report for telecom cases for the dates indicated and have released it via the NextRequest portal.

Subsequently, the request was re-opened in NextRequest and an excel file was released. The request was then closed again stating:

The Excel file uploaded contains all Telecom cases for the time frame requested. You may sort by zip code in column G.

Staff reached out to the Requester on May 8, 2023, and May 16, 2023, to determine whether they were satisfied with response from the department. The requester responded on May 16, 2023, stating:

Unfortunately, I've been unable to enlarge the document so that I can read it, it is incredibly small. Do you have a program to adjust it or can it be sent to me in a different way? I have an older Mac.

The next day, Staff uploaded the spreadsheet to Excel online and provided the link to the requester along with a PDF version of the spreadsheet.

Item 11b - M2020-10 Mediation Summary

On June 7, 2023, Staff followed up with the Requester informing them that the mediation would be closed. Within the hour, the Requester responded that he was provided the records that he needed and that he appreciated the help.

IV. RECOMMENDATION

Because the Planning and Building Department provided the Requester with the responsive records, satisfying the Requester's mediation request, the mediation has been closed with no further action.

Item 11c - M2021-13 Mediation Summary



Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Chris Nardi, Law Clerk
Jelani Killings, Ethics Analyst
DATE: May 26, 2023
RE: *In the Matter of the Police Department (Case No. M2021-13); Mediation Summary*

I. INTRODUCTION

On June 21, 2021, the Commission received a request for mediation alleging the Police Department had unlawfully failed to respond to a public records request made by the Requester on June 9, 2021. Staff initiated its mediation program on June 21, 2021, pursuant to the Oakland Sunshine Ordinance.

The Police Department provided the Requester with records on July 16, 2021, August 12, 2021, and May 23, 2023. Additionally, the Police Department committed to resume proactive disclosure of the requested records. Because the Requester is satisfied with that response, this mediation was closed with no further action.

II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.¹ The CPRA requires each agency to make public records promptly available to any person upon request.²

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of their request by Commission Staff.³ A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.⁴

Once the Commission's mediation program has concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

III. SUMMARY OF FACTS

On June 9, 2021, the City received the following records request via NextRequest (21-5120):

Replace missing Daily Patrol Logs

****Immediate Disclosure Request****

OPD has published daily "patrol logs" for major (UCR Part I) crimes via a [resource available on Box.com](https://app.box.com/folder/8881131962) since 2016. There have been no PDFs of the patrol logs posted since Oct 14, 2020.

Bruce Stoffmacher, <BStoffmacher@oaklandca.gov> said in email to me in November 2020: "we are in process of transitioning from box.com to a new system so there may be a delay with patrol log updates." No new system has been announced, more than six months later.

Previous attempts

I have contacted Bruce Stoffmacher <BStoffmacher@oaklandca.gov> and Mr. Peterson (Oakland CIO) <APeterson@Oaklandca.gov> regarding this drop of data.

Data request

I seek a republishing of all patrol logs regarding incidents since October 1, 2020.

"Immediate" request

The fact that this data was previously published means that this PRR seeks "public records which have been previously distributed to the public," and therefore subject to **immediate request** as specified in Section 2.20.230.C of [Oakland's Sunshine Ordinance](https://library.municode.com/ca/oakland/codes/code_of_ordinances), requiring a response within **three days**. A sample form as was available from Sept 2020 is attached.

Machine-readable format

Please make this data in computer-readable format, such as those provided by Oakland's own `data.oaklandca.gov` resource (eg. CSV, JSON) and **not** only as PDF documents.

On June 10, 2021, a public records liaison for the Police Department emailed Bruce Stoffmacher to determine whether he held responsive records. The public records liaison requested a response by June 14, 2021.

On June 16, 2021, a public records liaison for the Police Department emailed the Policy and Publication Unit to determine whether they held responsive records. The public records liaison requested a response by June 21, 2021. An employee of the Policy and Publication Unit responded later that day:

Item 11c - M2021-13 Mediation Summary

I don't know that the Police Department still publishes a daily log. Regardless, the Policy and Publication Unit does not have access to archives nor are we involved with the archiving or publishing of these logs.

On June 21, 2021, the Commission received a mediation request from the Requester alleging that the Police Department had unlawfully failed to respond to their public records request. Staff initiated its mediation program that same day and notified the Police Department of the mediation request.

Later that day, a public records liaison followed up with Bruce Stoffmacher. A different public records liaison for the Police Department contacted the PAB Watch Commander requesting information and responsive records because an employee of the PIO's office indicated, "the Patrol Unit keeps the log stored on the computer at the patrol desk." The Police Department subsequently posted the following messages on NextRequest:

We have forwarded your request to the Research and Planning department. You will be updated as soon as we receive a response.

The Policy and Publication unit has replied and has no responsive documents for this request.

We have forwarded your request to the Watch Commander. You will be updated as soon as we receive a response.

Later that day, a public records liaison for the Police Department emailed Staff:

We are working diligently to find the stored Patrol logs from 10/1/20 to 06/09/21.

We are awaiting a response from the Watch Commander. We have also updated the requester. We will update the requester once we have responsive documents to disclose.

On June 22, 2021, a public records liaison for the Police Department followed up with the PAB Watch Commander.

On June 25, 2021, the Police Department posted the following message on NextRequest:

Your request is in the final review phase. We appreciate your patience.

On July 26, 2021, the Police Department released 70 PDFs to the Requester. It subsequently stated:

We uploaded some of the responsive results. We will upload more next week.

On July 27, 2021, the Requester posted the following message on NextRequest:

Your release yesterday, of only 70 RANDOM days of the approx 280 missing days from Oct 2020 until the present day, is obviously very incomplete. The fact that it took six weeks to produce these does not make me optimistic for how long it will take you to produce the missing days.

Item 11c - M2021-13 Mediation Summary

But much worse is this FORMAT for their release: as presented on the NextRequest webpage they seem to require MANUAL clicking on each link for download!? This is in contrast to their previous publication via Box.com that allowed orderly retrieval of ALL documents as part of a single download.

Also: The NextRequest interface does not allow me to enter these comments as a reply?! See attached screen shot.

On August 12, 2021, the Police Department uploaded a ZIP file containing patrol logs from October, November, and December of 2020. It then stated:

We uploaded Oct 2020 through Jun 2021 Daily Logs.

It subsequently closed out the request, stating: “We released all of the requested documents.”

On April 26, 2023, Staff reached out to the Requester to determine whether they were satisfied with this response to their request. The Requester responded later that day, indicating that they were still missing records that were responsive to their request. Moreover, the Requester asserted that the Police Department had not yet resumed proactively posting the patrol logs to their website.

Staff contacted a public records liaison for the Police Department later that day regarding the missing records and discontinued proactive disclosure of the patrol logs. The public records liaison notified Staff the next day that they were working on the request and should have an informed response by the next week.

Staff followed up with that public records liaison on May 5, 2023, inquiring whether a separate public records request that housed years of patrol logs was intended as a replacement for the Box.com folder. The public records liaison responded 15 minutes later, indicating it was not a replacement for the Box.com folder.

Staff followed up with that public records liaison on May 10, 2023. They responded 4 hours later, stating that the Records Division had accidentally missed uploading some files to NextRequest in 2021. They indicated that the missing files would be uploaded by May 15, 2023. They also stated that they had escalated the matter of proactive disclosure up the chain of command.

Staff followed up with that public records liaison on May 18, 2023, and May 22, 2023. They responded later on May 22, 2023, indicating that they had accidentally missed the previous emails. They explained:

I will be training 2 new people on different functions every 6 weeks, for the next 5 to 6 months.

I am also The Acting Records manager until we find a replacement.

The public records liaison indicated that they would provide an update the next day.

On May 23, 2023, the Police Department released 252 PDFs to the Requester. Some of these PDFs had already been released to the Requester. However, with this release of additional PDFs, the Police

Item 11c - M2021-13 Mediation Summary

Department released to the Requester all requested patrol logs. The Police Department subsequently posted on NextRequest:

NEW OPD Daily Log page:

<https://www.oaklandca.gov/resources/opd-daily-log>

The next day, a public records liaison for the Police Department notified Staff:

Yes, we uploaded the missing data yesterday.

OPD has resumed uploading the documents at the below link; I sent the link to the requester as well.

OPD Daily Log page:

<https://www.oaklandca.gov/resources/opd-daily-log>

Later that day, Staff reached out to the Requester to determine whether they were satisfied with this response to their request. On May 25, 2023, the Requester notified Staff that they were interested in receiving additional patrol logs. Staff told the Requester that they should open a new public records request for these additional patrol logs. Staff subsequently notified the Requester that their mediation was closed.

IV. RECOMMENDATION

Because the Police Department provided the Requester with all responsive records and resumed proactive disclosure of those records, satisfying the Requester's mediation request, the mediation has been closed with no further action.

Item 11d - M2022-05 Mediation Summary



Ryan Micik, Chair
Charlotte Hill, Vice Chair
Alea Gage
Arvon Perteet
Vincent Steele
Francis Upton IV

Nicolas Heidorn, Executive Director

TO: Public Ethics Commission
FROM: Chris Nardi, Law Clerk
Jelani Killings, Ethics Analyst
DATE: May 26, 2023
RE: *In the Matter of the City Clerk and Public Works Department (Case No. M2022-05);*
Mediation Summary

I. INTRODUCTION

On October 20, 2022, the Commission received a request for mediation alleging the City Clerk and Public Works Department were unlawfully delaying responding to public records requests made by the Requester on September 19, 2022, and October 7, 2022. Staff initiated its mediation program on October 20, 2022, pursuant to the Oakland Sunshine Ordinance.

Because the City Clerk and City Attorney provided the Requester with 9 PDF files and City Hall camera footage from October 21–31, 2022, and the Requester is satisfied with these releases, this mediation was closed with no further action.

II. SUMMARY OF LAW

One of the primary purposes of the Oakland Sunshine Ordinance is to clarify and supplement the California Public Records Act (CPRA), which requires that all government records be open to inspection by the public unless there is a specific reason not to allow inspection.¹ The CPRA requires each agency to make public records promptly available to any person upon request.²

Any person whose request to inspect or copy public records has been denied by any City of Oakland body, agency, or department, may demand mediation of their request by Commission Staff.³ A person may not file a complaint with the Commission alleging the failure to permit the timely inspection or copying of a public record unless they have requested and participated in the Commission's mediation program.⁴

Once the Commission's mediation program has concluded, Commission Staff is required to report the matter to the Commission by submitting a written summary of the issues presented, what efforts were made towards resolution, and how the dispute was resolved or what further efforts Commission Staff would recommend to resolve the dispute.⁵

¹ Oakland Municipal Code § 2.20.010(C); Government Code § 7920.000 et seq.

² Government Code § 7922.530(a).

³ O.M.C. § 2.20.270(C)(1).

⁴ O.M.C. § 2.20.270(F).

⁵ Complaint Procedures § IV (C)(5).

Item 11d - M2022-05 Mediation Summary

III. SUMMARY OF FACTS

On September 19, 2022, the City received the following records request via NextRequest (22-6909):

Hello,

I would like to file a Public Record request for all the footage of cameras covering Frank Ogawa Plaza and City Hall entrances and exits, as well as adjacent street parking outside City Hall for the date of Friday August 12th, 2022 for the hours of 3pm-7pm. I would also like to file a Request for all keycards for City Employees for this entire day as well. I would also like to file a request for the timestamp of the final application for Mayor that day as well from City Councilmember Sheng Thao.

This date, at 5pm is the final filing deadline for Oakland Mayoral Candidates. I have one eye witness account that City Councilmember Sheng Theo did not make it into City Hall before the hard stop at 5pm. There were other candidates who were turned away from City Hall and not allowed to file for the same reason. This is unfair to these candidates and Oakland voters that a City Employee can let themselves into the building and knowingly file late for the election.

As this election is in less than 70 days, it is important for the integrity of the election process that this request be honored expeditiously.

Many thanks for your attention to this matter.

On September 29, 2022, the City Clerk's office provided the Requester with 4 PDF documents, including election documents submitted by Sheng Thao and emails mentioning her name.

On October 3, 2022, the Public Works Department provided the Requester with 2 PDF documents of key card access logs.

On October 7, 2022, the City received the following records request via NextRequest (22-7692):

This is a formal request for public records pursuant to the California Public Records Act. I am seeking the following documents/records:

1. All documents/records that relate to concerns that the time stamp machine in the City Clerk's office was defective, broken or otherwise not operating in an accurate or reliable manner on August 12, 2022, including, but not limited to all documents of any type that were stamped with that machine on August 12, 2022.
2. All documents/records that relate to concerns that the time stamp machine in the City Clerk's office was defective, broken or otherwise not operating in an accurate or reliable manner from July - August 11, 2022, including but not limited to emails or other correspondence with City employees/officials that the time stamping machine was having issues and orders for repair or replacement of the time stamping machine [I am not requesting all documents stamped by the machine during this time period].
3. All documents/records that relate to concerns that the time stamp machine in the City Clerk's office was defective, broken or otherwise not operating in an accurate or reliable manner after August 12, 2022, including but not limited to emails or other

Item 11d - M2022-05 Mediation Summary

correspondence with City employees/officials that the time stamping machine was having issues and orders for repair or replacement of the time stamping machine [I am not requesting all documents stamped by the machine during this time period].

On October 19, 2022, the City Attorney's office stated the following on request 22-6909:

We have identified video footage responsive to this request but have been unable to upload the files in their original format. We are working with an outside vendor to convert the files and will upload them upon receipt. We hope to be able to upload the files by Friday, October 21, 2022. We will provide another update if that date changes.

Later that day, the City Clerk's office released two documents to the Requester on request 22-7692.

On October 20, 2022, the Commission received a mediation request from the Requester, alleging that the City Clerk's office and Public Works Department had unlawfully delayed responding to these requests. Later that day, Staff initiated its mediation program and notified both departments of the mediation request.

On October 21, 2022, the City Clerk's office released four PDF packets of various forms submitted by mayoral candidates to the Requester on request 22-7692. That same day, it released one of the packets related to Sheng Thao to the Requester on request 22-6909.

On October 24, 2022, the City Clerk's office released five additional PDF packets of forms submitted by mayoral candidates to the Requester on request 22-7692.

On October 31, 2022, the City Attorney's office released a Sharepoint folder of City Hall camera footage to the Requester on request 22-6909.

On December 15, 2022, the City Clerk's office closed both requests. It noted that all responsive documents had been provided on request 22-6909. On request 22-7692, it noted that personal information had been redacted under Government Code Section 6254(c).

On May 1, 2023, Staff reached out to the Requester to see if they were satisfied with these responses to their public records requests. The Requester replied later that day, saying that they were unable to view the video footage because it required proprietary software to view.

Staff subsequently reached out to the City Attorney's office and followed up on May 5, 2023. The City Attorney's office responded to Staff on May 9, 2023, stating that they had provided the viewer software to the Requester. However, the Sharepoint link provided by the City Attorney's office no longer worked, so the City Attorney's office committed to re-upload the files.

The Requester asked Staff for an update on May 15, 2023. Staff contacted the City Attorney's office for an update. Later that day, the City Attorney's office released a ZIP file containing the videos and viewer software on request 22-6909. Staff then contacted the Requester to confirm that they were now able to download the viewer software and view the videos.

Item 11d - M2022-05 Mediation Summary

Staff followed up with the requester on May 18, 2023, and May 25, 2023. On May 25, 2023, the Requester notified Staff that they were having technical problems downloading the files and running the video player. Staff provided technical assistance to the Requester. The Requester notified Staff on May 26, 2023, that they were successfully able to view the videos. Staff subsequently notified the Requester that their mediation was closed.

IV. RECOMMENDATION

Because the City Clerk and City Attorney's offices provided the Requester with several additional records, satisfying the Requester's mediation request, the mediation has been closed with no further action.