



## Item 8 - Executive Director's Report

Ryan Welch, Chair  
Francis Upton IV, Vice Chair  
Tanya Bayeva  
Alea Gage  
Vincent Steele  
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Nicolas Heidorn, Executive Director

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TO: Public Ethics Commission  
FROM: Nicolas Heidorn, Executive Director  
Jelani Killings, Lead Analyst, Education and Engagement  
DATE: November 26, 2024  
RE: Executive Director's Report for the December 11, 2024, Meeting

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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. Attached is an overview of Commission Programs and Priorities since the last update.

### Budget

Since the adoption of the FY2024-25 Midcycle Budget in July, the City's fiscal situation has worsened. In October, the City Administrator initiated the implementation of the "contingency budget" adopted with the Midcycle Budget in case the sale of the Oakland Coliseum was not completed, which includes a hiring freeze and other restrictions on department spending. On November 15, Budget staff published a report on FY 24-25 first quarter revenues to the City Council, indicating that:

"immediate action is necessary to maintain the solvency of the General Purpose Fund. Revised estimates regarding the City's fiscal condition at the end of FY 2023-24 show the General Purpose Fund ended in a negative balance. The GPF negative balance has already obligated and intruded into its emergency reserve. ... the City Council will be required to take immediate budgetary action to reduce the General Purpose Fund by at minimum the sum of \$114.9 million (GPF Deficit) and an additional \$27.55 million for a total reduction of \$142.45 million to restore the Emergency Reserve OR declare a Fiscal Emergency."

In November, the Budget Office provided budget reduction targets to each department, which, if enacted, will require further significant cuts to the Commission's budget. No proposed revised midcycle budget has yet been released. **As the PEC has previously warned the Administration and City Council, the Commission is already severely under-budgeted and understaffed. Any further budgetary reductions will almost necessarily require either the severe reduction or elimination of a PEC core service.**

The City Council has agendized consideration of a Resolution amending the FY 2024-25 Midcycle Budget to balance the projected deficit on **December 9, 2024**, prior to this Commission's next regular meeting.

### Enforcement Staffing

On September 20, 2024, Enforcement Chief Simon Russell submitted his resignation from the PEC; his last workday was October 9. With the vacancy, PEC enforcement staffing fell to just one Investigator for a caseload of 141 complaints or cases. To address the PEC's critical understaffing and case backlog in the short term, the PEC has:

- Re-assigned Executive Director Heidorn and Ethics Analyst Van Buskirk, on a limited basis and as time allows, to conduct preliminary reviews of new and recent complaints.
- Hired former PEC Executive Director Whitney Barazoto as a consultant to assist the Enforcement Program on a part-time basis for the remainder of this fiscal year, with an emphasis on continuing work on the Commission's most significant cases.
- Requested and received additional support from the City Attorney's Office to assist with reviewing select complaints and with prosecution in an upcoming administrative hearing.
- Referred a time-sensitive campaign finance complaint that alleged potential Political Reform Act (PRA) violations to the FPPC.
- Requested that the City Administrator approve the Commission's temporary hiring of an additional investigator and two law clerks using Commission salary savings. The request is pending.

In addition to the actions outlined above, staff has also taken steps to fill the Enforcement Chief vacancy as expeditiously as possible. The PEC posted the vacancy on October 3 and solicited applications through October 21. As part of its recruitment efforts, the PEC shared this job opportunity to its distribution list; posted the vacancy online to the PEC's website; advertised (through free and paid listings) the position with the Council on Government Ethics Laws, California Lawyers Association, American Bar Association, Alameda County Bar Association, California District Attorneys Association, California Daybook, California Morning Report, LinkedIn, and Indeed; and shared the posting with leaders in this field, including the Executive Director of the FPPC and of local Ethics Commissions. In total, the PEC received 11 applications and interviewed three finalists. **However, due to the City's fiscal situation, the Administration has instituted a general hiring freeze for filling staff vacancies. The Commission has requested that the City Administrator authorize the Commission to complete the hiring process.**

Although these steps ensure the Commission will continue to review, investigate, and enforce the laws under its purview, prioritizing its most serious complaints, the pace of the Commission's enforcement work will necessarily be decreased until a Chief is hired full-time,

trained, and fully onboarded, which will likely take months. Even returning to full staffing, however, will not address the Commission's structural understaffing. Staff estimates the Commission will need a minimum of 1 Enforcement Chief, 3 investigators, and 1 staff attorney to address its ongoing caseload and to make significant progress in reducing its backlog.

### Measure OO

At the November 2024 election, Oakland voters overwhelmingly passed Measure OO, with 73% voting in favor. The Council will certify the election result in December, likely December 17, at which point Measure OO will go into effect.

Among other changes, Measure OO:

- Clarifies that the PEC's mission includes promoting more inclusive, representative, and accountable democracy.
- Increases the PEC's minimum staffing from one to two Investigators effective July 1, 2026.
- Adopts new qualifications for who can serve on the Commission, including a prohibition on recent candidates for City or OUSD office, political party officials, registered lobbyists, and major donors.
- Permits the PEC to fill a vacancy in a Commission seat filled by a citywide elected official if it has been vacant for more than 120 days.
- Prohibits Commissioners from receiving gifts or having a contractual relationship with an elected official during their tenure or from serving as an officer or employee of a political party during their tenure.
- Modifies the schedule the PEC must set salaries for the City Attorney and City Auditor to every two years instead of every year. As a result, the PEC will next adopt new salaries for the City Attorney and City Auditor in 2026.
- Requires that the City Council consider PEC proposals within 180 days.
- Provides that the PEC may select outside counsel on any matter the City Attorney is conflicted out on.
- Prohibits lobbyists from making gifts to elected officials, candidates, or their immediate family of more than \$50 per year.

### Measure W

In July, the City Council adopted a resolution authorizing the City of Oakland to contract with MapLight to develop the Democracy Dollars software platform. However, contingency provisions included in the FY 2024-25 Midcycle Budget Amendments that went into effect in October included a halt on the execution of unfinalized contracts funded through the General Purpose Fund. However, staff continues moving the contract forward through the approval process so development delays do not jeopardize the future program launch. In November,

PEC staff concluded its negotiations with MapLight over the scope of work and functional requirements for the initial contract, which is now under City Attorney review. Contract finalization involves reviews by the City Attorney, IT, and Contract Administration before City Administrator approval.

In November, volunteers from civic technology group [Open Oakland](#) concluded their exploratory project conducting user testing with mock-ups of potential Democracy Dollars designs and mobile-first webpages simulating the resident experience registering and then assigning their Democracy Dollars. The Open Oakland team and PEC staff gathered feedback on the project and its findings at Open Oakland's Hack Night and meetings with Seattle Democracy Vouchers Program staff, PEC staff and Commission Chair Micik, as well as staff from City communications, community engagement, and the Department of Race and Equity. The project provided a successful model for continued user testing of core program materials with stakeholders in the next year. Project findings will help inform the Democracy Dollars communications strategy and development of outreach materials by PEC staff.

### **Ramachandran/Jenkins Contribution Limit Proposal**

In September, Councilmembers Ramachandran and Jenkins introduced a proposal to increase campaign contribution limits from \$600 to \$900 for general contributors and \$1,200 to \$1,800 for broad-based political committees. The PEC considered the proposal at its September 16, 2024, meeting and adopted comments to provide to the Council. The proposal was subsequently amended to change the proposed increase in general contribution limits to \$800 (from the original proposal of \$900) and to \$1,500 for broad-based political committees (from \$1,800).

The amended proposal was heard by the full Council on October 1 for first reading and was adopted. However, due to a lack of a quorum, the proposal never received a second reading vote, so was not adopted. Although the proposal was not adopted, staff was prepared in the eventuality that it had passed. Led by Ethics Analyst Jelani Killings, staff prepared a draft advisory informing candidates of the change, a revised OCRA guide, and website updates, which were ready to be disseminated to candidates and the public had the law passed.

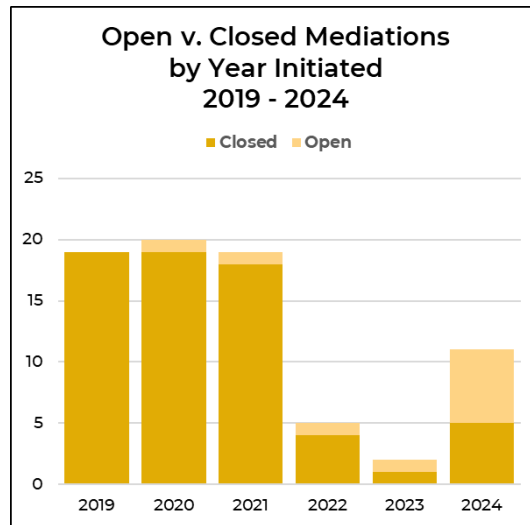
### **Retreat**

The Commission is likely to hold a special meeting in February 2025 for its annual board retreat. At the retreat, the Commission will discuss Commission priorities for the 2025 calendar year.

### **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 currently has 11 open mediations. No new mediations have been opened since the last meeting.

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**Attachment:** Commission Programs and Priorities.

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## PUBLIC ETHICS COMMISSION

### Programs and Priorities 2023/24 (*new additions in bold*)

Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
<b>Lead/ Collaborate (Policy, Systems, Culture)</b>	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"> <li>○ Lead Measure W implementation</li> <li>○ Engage in review of laws PEC enforces</li> </ul>	<ul style="list-style-type: none"> <li>✓ Lobby Registration Act amendment to incorporate new fees and waiver policy</li> <li>✓ Ordinance for one-time LPF for 2024 elections</li> <li>○ Voter Guide Pilot – on hold</li> <li>✓ Mayor Salary Setting Guidance</li> <li>✓ Charter Review Options</li> <li>○ Policy Review: Lobbyist Registration Act– on hold</li> <li>✓ Ethics Commission Network</li> <li>✓ Invite Department Presentations on Records Request Responses</li> </ul>
<b>Educate/ Advise</b>	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"> <li>• Regular ethics training</li> <li>• Information, advice, and technical assistance</li> <li>• Targeted communications to regulated communities</li> <li>• New trainings as needed for diversion</li> </ul>	<ul style="list-style-type: none"> <li>○ Collaboration with Clerk and HR on process improvements for ethics onboarding/exit and Form 700 compliance - ongoing</li> <li>✓ Public Records training</li> </ul>
<b>Outreach/ Engage</b>	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"> <li>• Public Records mediations</li> <li>• Commissioner-led public outreach</li> <li>• Outreach to client groups – targeted training and compliance</li> <li>• PEC social media outreach</li> </ul>	<ul style="list-style-type: none"> <li>✓ Update OCRA, LPF, and LRA guides</li> <li>✓ Update public and stakeholders on Democracy Dollar postponement</li> <li>✓ Update Lobbyist Registration Act educational materials and share with Council</li> <li>✓ Recruit for PEC vacancy</li> <li>✓ Publicize Enforcement Needs</li> <li>✓ <b>Publicize PEC campaign finance tools</b></li> <li>○ Publicize how to file complaints</li> </ul>

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Program	Goal	Desired Outcome	Regular Program Activities	2023/24 Projects
<b>Disclose/ Illuminate</b>	<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"> <li>• Monitor compliance (campaign finance/lobbyist/ticket use)</li> <li>• Proactive engagement with filers</li> <li>• Technical assistance</li> <li>• Assess late fees/refer non-filers for enforcement</li> <li>• Maintain data assets</li> </ul>	<ul style="list-style-type: none"> <li>○ Democracy Dollars Admin System:               <ul style="list-style-type: none"> <li>✓ Approval to Contract</li> <li>✓ Vendor Selected</li> <li>○ Contract Entered</li> <li>○ Work Begun</li> </ul> </li> <li>○ Updates to Ticket Distribution (Form 802) database – on hold</li> <li>✓ Implement LRA Changes</li> <li>○ Integrate Lobbyist App with Payment System</li> <li>○ Public Records Performance Dashboard – on hold</li> <li>✓ Update Open Disclosure 2024</li> <li>✓ Update Show Me The Money</li> <li>○ Digitize Schedule O Form – on hold</li> </ul>
<b>Detect/ Deter</b>	<p>PEC staff proactively detects potential violations and efficiently investigates complaints of non-compliance with laws within the PEC's jurisdiction.</p>	<p>Public servants, candidates, lobbyists, and City contractors are motivated to comply with the laws within the PEC's jurisdiction.</p>	<ul style="list-style-type: none"> <li>• Process and investigate complaints</li> <li>• Initiate proactive cases</li> <li>• Collaborate/coordinate with other government law enforcement agencies</li> </ul>	<ul style="list-style-type: none"> <li>○ Digital complaint form/ mediation request – on hold</li> <li>✓ Improve Enforcement database</li> </ul>
<b>Prosecute</b>	<p>Enforcement is swift, fair, consistent, and effective.</p>	<p>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.</p>	<ul style="list-style-type: none"> <li>• Prioritize cases</li> <li>• Conduct legal analyses, assess penalty options</li> <li>• Negotiate settlements</li> <li>• Make recommendations to PEC</li> </ul>	<ul style="list-style-type: none"> <li>○ Resolve 2016 and 2017 case backlog</li> <li>○ Review/revise policies for release of public information and election-related complaints – <b>on hold</b></li> <li>✓ Develop internal Enforcement staff manual</li> <li>✓ Expand streamline &amp; diversion</li> </ul>
<b>Administration/ Management</b>	<p>PEC staff collects and uses performance data to guide improvements to program activities, motivate staff, and share progress toward PEC goals.</p>	<p>PEC staff model a culture of accountability, transparency, innovation, and performance management.</p>	<ul style="list-style-type: none"> <li>• Annual Report</li> <li>• Budget proposal</li> <li>• Ongoing professional development and staff reviews</li> <li>• Fill staff vacancies</li> <li>• Commissioner onboarding</li> </ul>	<ul style="list-style-type: none"> <li>✓ 2023 – 2025 strategic plan preparation/retreat</li> <li>✓ Develop process for City Attorney and City Auditor Salary Adjustment and adopt resolution for Council</li> <li>○ Increase enforcement capacity - <b>ongoing</b></li> </ul>