

# Item 12 - M2020-17 Mediation Summary;



Michael B. MacDonald, Chair  
Jerett Yan, Vice-Chair  
Avi Klein  
Jessica Leavitt  
Ryan Micik  
Arvon Perteet  
Joe Tuman

Whitney Barazoto, Executive Director

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TO: Whitney Barazoto, Executive Director  
FROM: Jelani Killings, Ethics Analyst  
DATE: December 27, 2021  
RE: *In the Matter of the Information Technology Department (Case No. M2020-17);*  
Mediation Summary

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## I. INTRODUCTION

On November 24, 2020, the Commission received a request for mediation alleging that the City's Information Technology Department (ITD) and the City Administrator's Office (CAO) failed to disclose records in response to a public records request made by the Requester on November 6, 2020. On December 4, 2020, Staff initiated its mediation program pursuant to the Oakland Sunshine Ordinance.

Because the responding department determined that there were no responsive documents per the request, Staff closed the mediation without 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.<sup>1</sup> The CPRA requires each agency to make public records promptly available to any person upon request.<sup>2</sup>

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 his or her request by Commission Staff.<sup>3</sup> 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.<sup>4</sup>

Once the Commission's mediation program has been 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.<sup>5</sup>

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<sup>1</sup> Oakland Municipal Code § 2.20.010(C); California Government Code § 6250 et seq.

<sup>2</sup> Government Code § 6253(b).

<sup>3</sup> O.M.C. § 2.20.270(C)(1).

<sup>4</sup> O.M.C. § 2.20.270(F).

<sup>5</sup> Complaint Procedures § IV (C)(5).

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### III. SUMMARY OF FACTS

On November 6, 2020, the City received, via web, the following public records request (No. 20-7893):

This is a public records request. Please observe local and state laws.

Please provide the grant agreement and/or contract, if they are separate documents, for Oakland Public Education Fund for a project known as "Digital Inclusion Committee". The project is described in a city document found here. <https://cao-94612.s3.amazonaws.com/documents/Attachment-A-CARES-Act-Relief-Fund-Supplemental-November-6-2020.pdf>

Subsequently, the public records request was assigned to the Information Technology Department as the responsible departments in NextRequest and a message was sent from the CAO to the Requester stating:

Thank you for submitting a request for public records through the City of Oakland's NextRequest system. Your request will be delivered to the appropriate City Departments or Officials.

The City of Oakland is committed to transparency and to providing you with a full and timely response to your request. If we need to clarify your request in order to provide a complete response, we will contact you directly or post a reply in NextRequest.

If you have any questions, you may contact the department liaison assigned to your request.

On November 6, 2020, an internal message was sent from CAO staff to the ITD stating:

Hi Cynthia & Tyehimba - per source document provided by requester (pg 2), ITD is the responsible department for this item re: COVID Broadband/Digital Resilience. Please confirm, thank you

On November 16, 2020, the Requester sent a message via NextRequest stating:

It appears that the updated report has another line item description for this contract/grant. Please provide the grant and contract with Oakland Public Education Fund for either "digital inclusion committee" and/or "technological equipment" for this project, whichever scope of work the grant/contract entails.

On November 18, 2020, the Requester sent an additional message stating:

There was supposed to be a response to this two days ago.

On November 24, 2020, the Commission received a complaint alleging that the ITD and CAO had failed to respond to the public records request No. 20-7893.

On December 4, 2020, Staff initiated its mediation program and notified the ITD of the mediation request.

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On December 10, 2020, Rose Rubel from the CAO was assigned as the new point of contact for the public records request. Subsequently, the City's Open Government Coordinator intervened with an internal message stating:

why is this being reassigned to City Admin? Page 2, section 4 of the document shows this matter assigned to IT

On December 10, 2020, Cynthia Perkins from the ITD was assigned as the new point of contact for the public records request.

On December 23, 2020, a number of staff members from the ITD were removed from the request and the CAO was added to the request again. Subsequently, CAO staff responded:

Cynthia: My understanding from both CAO and Mayor's Office staff is that ITD was the lead for this project/agreement.

On December 23, 2020, ITD was confirmed as the responsive department and assigned the public records request.

On December 24, 2020, the ITD closed the request stating:

These documents do not exist. An agreement was never executed for the digital inclusion committee.

On October 26, 2021, Staff followed up with the Requester regarding their public records request and informed them that the mediation would be closed. The Requester had no further inquiries and acknowledged closure of the request.

#### **IV. RECOMMENDATION**

Because the Information Technology Department indicated that they had no responsive documents for the public records request, and because the Requester had no further inquiry for responsive documents, Staff closed the mediation without further action.