

Item 13b - PEC Response to Grand Jury Report



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November 28, 2022

The Honorable Charles A. Smiley, Presiding Judge
Alameda County Superior Court
1225 Fallon Street, Department One
Oakland, CA 94612

Dear Judge Smiley,

Thank you for the opportunity to respond to the 2021-2022 Alameda County Grand Jury Final Report, released on June 28, 2022, which includes a review regarding Oakland's use of Form 700. We appreciate the Grand Jury's review and request that the Public Ethics Commission (PEC or Commission) respond to Finding 10 and Recommendation 15. The Commission's responses are as follows:

Finding 10: A transfer of the Form 700 filing duties from the Oakland City Clerk's office to the Public Ethics Commission would require hiring an additional employee; an amendment of the City Ethics Act to identify the Public Ethics Commission as the Filing Officer for Form 700s; and the transfer of the function and payment of the City's contract with the online filing provider, NetFile, from the City Clerk's office to the Public Ethics Commission.

Response: The Public Ethics Commission agrees with the finding.

Moving the Form 700 filing officer duty from the City Clerk's office to the Public Ethics Commission would require an amendment to City ordinance (City Council adoption) or an amendment to the City Charter (ballot measure passed by Oakland voters). Transfer of filing officer duties for campaign finance and lobbyist registration forms from the City Clerk's office to the Commission included amending the municipal code.

Transfer of the Form 700 duties from the City Clerk's office to the Commission would require staff to assume responsibility for administering and maintaining the Form 700 electronic filing system; adding new filers to the system and uploading paper filings; providing technical assistance to filers; reviewing forms as they are submitted; requiring amendments as necessary; monitoring compliance following each filing deadline; reaching out proactively to filers who fail to submit their forms by the deadline; issuing and tracking the state-required late-fee when forms are not timely filed; and, for anyone who is required to file but fails to submit their form, preparing non-filer referrals for Commission and/or FPPC enforcement. An additional Commission staff member would be sufficient to perform these added duties.

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The transfer of filing officer duties should necessarily include transfer of the City's contract with the online filing system provider, NetFile, along with the allotted funds from the City Clerk's office to the Public Ethics Commission to provide Commission staff full authority to effectively manage both the Form 700 and campaign filing systems.

Recommendation 15: The city of Oakland should transfer the Form 700 Filing Officer responsibility to the Public Ethics Commission.

Response: The recommendation has not yet been implemented. While the Public Ethics Commission has requested transfer of this duty in recent years, as stated in our response to Finding 10, the Commission cannot implement this recommendation on its own because moving the Form 700 filing officer duty from the City Clerk's office to the Commission will require an amendment to City ordinance (City Council adoption) or an amendment to the City Charter (ballot measure passed by Oakland voters).

The Commission strongly agrees with Recommendation 15, that the Public Ethics Commission be the filing officer for Form 700's, so that the Commission can fully implement its mission to ensure compliance with Form 700 filing requirements of the CA Political Reform Act and Oakland Government Ethics Act. Both campaign finance and lobbyist registration forms have been transferred from the City Clerk's Office to the Commission; Form 700's are the last remaining forms to be transferred following the Commission's strengthening by City Charter amendment in 2014. The Commission is committed to serving in this role not only to meet state requirements of serving as filing officer but to proactively work with the City and its departments to ensure filers are aware of and fulfilling Form 700 requirements. As filing officer, the Commission wants to use the system as a basis for being able to better reach all Form 700 filers, ensure delivery of Form 700 training, and improve compliance.

Again, we thank the Alameda County Grand Jury for its review and recommendations for the Public Ethics Commission and the City of Oakland. We appreciate the work of the Grand Jury and its staff, as well as its continued support of the Commission's efforts to expand its capacity, enforcement, and education on government ethics in the City of Oakland.

Sincerely,


Arvon J. Perteet (Nov 28, 2022 13:30 EST)

Arvon J. Perteet, Chair
Public Ethics Commission
On behalf of the Commission

cc: Cassie Barner
c/o Alameda County Grand Jury
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