



CITY OF OAKLAND

INTER OFFICE MEMORANDUM

TO: Edward D. Reiskin
City Administrator

FROM: Asha Reed, City Clerk
Office of the City Clerk

SUBJECT: City's Response to the 2021-22
Alameda County Grand Jury Report
on Fair Political Practices
Commission (FPPC), Form 700 Filing
Procedures

DATE: November 15, 2022

EXECUTIVE SUMMARY

Below, please find the response to the 2021-2022 Alameda County Civil Grand Jury Report ("Report") regarding the collection and filing of Fair Political Practices Commission (FPPC), Form 700 documents from the City of Oakland ("City"). The City welcomes the constructive feedback on its Form 700 procedures, and for the opportunity to respond.

RESPONSE TO FINDINGS

Grand Jury Finding 22-9: *The Oakland City Clerk's Office is not meeting the minimum requirements of the Filing Officer under the Political Reform Act. The issues of non-compliance with the rules regarding Form 700s are long standing and structural, resulting from inadequate funding. An inefficient system of communication of critical information to the filing Officer and limited staffing.*

City Response: The City agrees with this finding.

City Explanation: The Office of the City Clerk (Sometimes referred to as the "Office") agrees that the issues of noncompliance with respect to Form 700 responsibilities are due to inadequate funding and staffing. Throughout the entire pandemic up to April 2022, the Office of the City Clerk has been severely understaffed resulting in the suboptimal oversight of form 700 filings and the Office struggling to complete other mandated duties. The record reflects that the Office of the City Clerk has endured more than 15 years of budget and staffing reductions, as well as consistent delays (exceeding 12 months) in the recruitment and filling of vacant positions. These reductions and delays have had and continue to significantly impact the department. Since 2020, up until February 2022, the office has operated with 47% of its administrative staff vacant. In addition to their own roles and responsibilities, staff within the Clerk's Office have performed the work of numerous vacant positions.

In the 2021-2023 budget cycle, due to mandated reductions, this Office was required to cut the positions of Receptionist and Records Manager and add those duties to the already full-time workloads of the remaining funded positions.

The Office of the City Clerk has established a plan to begin addressing the issue of non-compliance with Form 700 filings. In February 2022, the City authorized the Office of the Clerk to fill 3 of 4 vacant positions enabling the office to strengthen its organizational capacity to perform mandated duties. Prior to the Grand Jury's request, the Office of the City clerk had established a corrective action plan. Before the Grand Jury had concluded its inquiry the Office had: 1) Identified all non-filers that were not referred to the FPPC; 2) Initiated the process of

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transferring all non-filers to the FPPC; and 3) Began clearing the backlog to re-establish the first and most critical tiers of compliance and are well into this work as well as other recommendations provided to the Grand Jury that are highlighted in this report.

Grand Jury Finding 22-10: *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 function and payment of the City's contract with the online filing provider, NetFile, from the City Clerk's office to the Public Ethic Commission.*

Mayor & City Council

City Response: The City disagrees with the finding.

City Explanation: The Office of the City Clerk remains committed, as exemplified by the tremendous amount of work our office has done to address the errors and strategically strengthen support for this work. Form 700 filing coordination should be maintained by the Office of the City Clerk with adequate staffing to ensure continuous support. Consistent with the finding of the Grand Jury and the budget reductions to this office, the recommendation should not be to fund additional staffing in a different, undesignated department, but to fund additional staffing in the City Clerk's Office which has requested it for over 15 years. The Office of the City Clerk only requires the support of two (2) analysts at a cost of \$164,122 to the Elections and Compliance Unit to ensure the office's ability to perform this work efficiently and timely. The City Clerk requests the opportunity to finally receive adequate funding and staffing to become and remain compliant with Form 700 responsibilities. It's also important to note that Kellie Johnson, the previous Executive Director to the Public Ethics Commission did not want to take on the duty as filing officer.

[Section 3.16.020 of the Oakland Municipal Code](#) designates the Office of the City Clerk as the official filing officer for employees, members and consultants. The designation of filers by department directors are management decisions subject to the administrative authority of the City Administration, and this responsibility includes more than just designating the PEC as the filing officer. The failure to comply with filing requirements and violations of Form 700 reporting requirements constitutes discipline to city employees, which may only be performed by city employees pursuant to the charter.

The City agrees with the Grand Jury report, that sufficient staffing is critical and essential to establishing and maintaining compliance with Form 700 filings. Furthermore, the City recognizes that a number of structural changes are necessary across the City to create an infrastructure that sustains compliance work. Furthermore, the City agrees that there is a need for full organizational cooperation which will require alignment and collaboration from all. In addition, the City notes that the pressing immediate needs are: to stabilize filing oversight of filing activities to immediately increase compliance for the forthcoming filing season; and for the Office of the City Clerk and the Public Ethics Commission to collaborate to ensure comprehensive training, coordination, and ongoing support to staff and boards filers is immediately provided. The City Clerk and Public Ethics Commission will collaborate on

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processes and resources necessary to achieve full compliance with FPPC, Form 700 filing requirements.

Grand Jury Finding 22-11: *Grant funding has been used to fund staffing to support critical services in the City of Oakland.*

Mayor

City Response: The City agrees with the finding.

City Explanation: The City has applied for and received funding for City services. Funds received are allocated and appropriate via Council Resolution.

Grand Jury Finding 22-12: *The City of Oakland's shared electronic Human Resources platform is not used in the Form 700 process but could be customized to assist in the sharing of information between departments.*

Mayor

City Response: The City agrees with the finding.

City Explanation: The City Clerk proposed this idea to the Grand Jury after discussions with Human Resources. Neo-Gov ("Human Resources platform") can match new hires to the Conflict-of-Interest Code to provide early identification of new employees and employee promotions to ensure filing timely filing within the 30 day start period as well as provide notification of employee separation for leaving office filings. Making Form 700 a mandatory part of the employee onboarding and separation checklist ensures timeliness and puts the city ahead of the current manual processes. The Office of the City Clerk had proactively initiated this collaborative process with Human Resources, prior to the Grand Jury Report.

Grand Jury Finding 22-13: *The city of Oakland's new employee checklist does not include Form 700 filing requirements to the employee.*

Mayor

City Response: The City agrees with the finding.

City Explanation: Currently there is no universal onboarding standard. Instead, each department determines its own onboarding process. This issue could be solved once Neo-Gov is used as the onboarding and separation standard for all staff within the organization.

Grand Jury Finding 22-14: *The Grand Jury commends the hard work of those individuals within the Oakland City Clerk's office who are responsible for the Form 700 process. The problems with the Form 700 process are the result of structural limitations, limited staffing, and inadequate interdepartmental communication.*

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City Response: The City agrees with this finding.

City Explanation: Despite the many challenges, including structural limitations, being significant understaffing, and lack of consistent, interdepartmental partnership over the years, the City Clerk's office remains committed to being transparent and compliant with Form 700 filing procedures, as well as all other mandated duties within.

RESPONSE TO RECOMMENDATIONS

Recommendation 22-15: *The City of Oakland should transfer the Form 700 Filing Officer responsibility to the Public Ethics Commission.*

Mayor & City Council

City Response: The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.

City Explanation: Form 700 should be maintained by the Office of the City Clerk with adequate and continuous support. The Cost and resources required to transfer the Form 700 to the Public Ethics Commission is greater than the cost of hiring one (1) additional staff member to the PEC. In order to ensure a smooth transition, it would be necessary that staff in the Office of the City Clerk train staff in the PEC. This would put an additional strain on an already understaffed department, taking key staff away from important work. As mentioned, previously, the Office of the City Clerk is asking for two (2) Administrative Analyst, at a cost of Additionally, Section 3.16.020 of the Oakland Municipal code designates the Office of the City Clerk as the official filing officer for designated employees, members and consultants. The Office of the City Clerk as always is committed to working collaboratively with the Public Ethics Commission.

Recommendation 22-16: *The city of Oakland should hire an experienced grant writer with knowledge of state and local funding streams to secure funding for Form 700 services.*

Mayor

City Response: The recommendation requires further analysis.

City Explanation: The City will see what funding opportunities exist for these services, and if opportunities exist the City will pursue funding.

Recommendation 22-17: *On its shared electronic Human Resources platform, the city of Oakland should add a field to the employee information section that indicates whether the employee is a required Form 700 filer and require that the field be updated upon hiring, promotion, demotion, or separation.*

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City Response: The recommendation has not yet been implemented but will be implemented in the future.

City Explanation: It will take time and training for Human Resources to format Neo-Gov to the Conflict-of-Interest Code. The Office of the City Clerk's goal is for this change to be implemented within the next six (6) months, and requests that Human Resources actively and collaboratively work towards achieving this goal within the allotted timeframe.

Recommendation 22-18: *The City of Oakland should ensure that the Filing Officer is able to access a current list of Form 700 designated employees through the shared electronic Human Resources platform.*

Mayor

City Response: The recommendation has not yet been implemented but will be implemented in the future.

City Explanation: The Office of the City Clerk's goal is for this change to be implemented within the next six (6) months, and requests that Human Resources to actively and collaboratively work towards achieving this goal within the allotted timeframe.

Recommendation 22-19: *The City of Oakland should add the notification of Form 700 status on the new employee checklist.*

Mayor

City Response: The recommendation has not yet been implemented but will be implemented in the future.

City Explanation: The City of Oakland needs to implement a city-wide standard for onboarding and separations to ensure all mandated requirements are fulfilled.

For questions, please contact Sophia Uwadiae, Executive Assistant, at (510) 238-3122 and suwadiae@oaklandca.gov.

Respectfully submitted,

Asha Reed, City Clerk
City Clerk's Office