



Annual Report

TO: Privacy Advisory Commission

**FROM: Joe DeVries,
Chief Privacy Officer**

**SUBJECT: Impact of Implementing, Tracking
and Reporting Ordinance
N.O. 13540 C.M.S. - Sanctuary
City Contracting and Investment
Ordinance**

DATE: May 25, 2023

Executive Summary

The Sanctuary City Contracting and Investment Ordinance (Ordinance N.O. 13540 CMS) was adopted by the City Council in June 2019 and requires that by April 1 of each year, the City Administrator shall certify compliance with this ordinance by preparing a written report. By May 1 of each year, the City Administrator shall submit to the Privacy Advisory Commission a written, public report regarding compliance with Sections 2.23.030 and 2.23.040 over the previous calendar year.

At minimum, this report must (1) specify the steps taken to ensure implementation and compliance with Sections 2.23.030 and 2.23.040, (2) disclose process issues, and (3) detail actions taken to cure any process deficiencies. After receiving the recommendation of the Privacy Advisory Commission, if any, the City Administrator shall schedule and submit the written report to the City Council for review and adoption.

Background

The Sanctuary City Contracting and Investment Ordinance prohibits the City from contracting with any person or entity that provides the United States Immigration and Customs Enforcement (ICE), United States Customs and Border Protection (CBP), or Department of Health and Human Services Office of Refugee Resettlement (HHS/ORR) with any “Data Broker”, “Extreme Vetting”, or “Detention Facilities” services unless the City Council makes a specific determination that no reasonable alternative exists. The ordinance also prohibits the City from investing in any of these companies and requires the City to include notice of these prohibitions in any Requests for Proposals (RFPs), Requests for Qualifications (RFQs), and any construction or other contracting bids.

As is the case in many government entities, the City uses its existing competitive (non-construction services) procurement processes to require compliance with federal, state and local mandates relative to the use of public funds in the purchase of goods and service. For example,

in the late 1980's the City adopted a policy to prohibit doing business with entities that also contract with companies involved in nuclear arms proliferation. In 2013, the City took a stand against contractors doing business with the State of Arizona due to its adoption of legislation that unfairly targeted persons of Hispanic decent in routine traffic stops.

The Sanctuary City Contracting and Investment Ordinance is a response to efforts implemented during the previous presidential administration by ICE, including its efforts to target Sanctuary Cities with stepped up enforcement efforts and the impact those efforts have had on the Oakland community. There has been strong local interest in these types of ICE raids and deportations both politically and in the media, however, ICE has taken much more drastic steps to gather data on individuals that could ultimately be far more impactful.

Ensuring Compliance

"Schedule I"

The Sanctuary City Contracting and Investment Ordinance (Ordinance N.O. 13540 CMS) is promulgated through "Schedule I" as attached. Any entity wishing to contract with the City of Oakland must self-certify with the Schedule I that they do not have any contracts with ICE, CBP, or HHS/ORR. The Schedule I is submitted along with other contract schedules to the Department of Workplace and Employment Standards (DWES). Staff forward copies of all received Schedule I's to the Chief Privacy Officer. If any contractor cannot self-certify, then a further review of the proposed contract will occur to determine if there are grounds for a waiver.

During the reporting period:

There were no City of Oakland contractors who declined to sign the Schedule I and seek a waiver.

Disclosure of Process Issues

There were no negative process issues during this reporting period and based on past performance, staff believe the disclosure process is working well.

Actions Taken to Cure Deficiencies

There were no identified deficiencies in this reporting period to cure.

Investment Prohibitions

The CPO provided the list of prohibited contractors to the Department of Finance to ensure no new investments are made in any of these firms moving forward. As noted during the development of the ordinance, most of the City's investments are in bonds and there are strict guidelines on how a municipality can invest its dollars. Department of Finance agreed to check

the list of prohibited entities on a semi-annual basis. The Department reported that in the year 2022, no investments in the prohibited entities were made.

Respectfully submitted,



Joe DeVries,
Chief Privacy Officer

For questions, please contact Joe DeVries, Chief Privacy Officer, at (510) 238-3083.