

City of Oakland Public Ethics Commission



SPOTLIGHT ON OAKLAND'S PUBLIC RECORDS SYSTEM:

A Data-Driven Review of City Agency Performance and Opportunities for Improvement

May 2021

Public Ethics Commission

1 Frank Ogawa Plaza, Room 104
Oakland, CA 94612
www.oaklandca.gov/pec
ethicscommission@oaklandca.gov
(510) 238-3593



REPORT CONTENTS









- EXECUTIVE SUMMARY1**
- OAKLAND’S PUBLIC RECORDS REQUEST PROCESS3**
 - THOUSANDS OF PUBLIC RECORDS REQUESTS SUBMITTED EACH YEAR 3
 - STATE LAW PROHIBITS DELAYS OR OBSTRUCTION 3
 - OAKLAND SUNSHINE LAW 3
 - UPTICK IN REQUESTS FOR MEDIATION 4
- WHAT THE DATA SHOWS5**
 - PUBLIC RECORDS REQUEST PROCESS 5
 - PUBLIC RECORDS REQUESTS INCREASE..... 5
 - DEMAND FOR POLICE, PLANNING, AND FIRE DEPARTMENT RECORDS 6
 - POLICE DEPARTMENT REQUESTS CONSTITUTE LARGEST BACKLOG 7
 - LENGTHY RESPONSE TIMES 7
 - LARGE NUMBER OF OVERDUE REQUESTS 8
 - REQUESTS TAKE MONTHS TO FULFILL..... 8
 - TRACKING MUST IMPROVE 9
 - MEDIATION PROGRAM 9
 - OAKLANDERS DISSATISFIED 10
 - WHAT THE DATA DOES NOT SHOW 10
 - NEED OUTPACES RESOURCES 11
- NEXT STEPS AND OPPORTUNITIES FOR IMPROVEMENT13**
 - CONCLUSION 13
- APPENDIX 1 – REQUESTS BY DEPARTMENT14**
- APPENDIX 2 – REQUEST OUTCOMES BY DEPARTMENT15**
- APPENDIX 3 – MEDIATIONS BY DEPARTMENT16**
- APPENDIX 4 – OAKLAND SUNSHINE LAW (PUBLIC RECORDS SECTION)17**
- APPENDIX 5 – PUBLIC ETHICS COMMISSION22**
- ACKNOWLEDGMENTS23**

EXECUTIVE SUMMARY

The Oakland Sunshine Ordinance is an indispensable component of the City’s commitment to open government. In simplest terms, sunshine (exposing and making accessible things, acts, actions, plans and the like for all to see) is critical to good government because being honest and truthful about government activities is the best way to cultivate and ensure public trust. The right to access and inspect public documents is vital to healthy democracy and serves as a critical tool, which enables individuals to fully participate in the public arena, keep government more efficient, and fight corruption. When requests for public records are unanswered or unaddressed for months or longer, public confidence in our local government diminishes, the community is deprived of information needed for informed decision-making, and people are frustrated, inconvenienced, and possibly harmed legally, economically or politically.

Oakland led the nation in municipal transparency policy by adopting its local Sunshine Ordinance in 1997. The City’s Sunshine Ordinance, which builds upon the rules imposed on municipal governments by the State of California’s Public Records Act (CA PRA), imposes additional transparency requirements on the City of Oakland by requiring a quicker response time for certain public records and the release of more City documents than is required under the CA PRA. Despite these requirements, the number of appeals for mediation of unfulfilled public records requests to the Public Ethics Commission (PEC or Commission) from members of the public continues to rise.

In response, the Commission formed an ad-hoc subcommittee in May 2020 to review the City’s system of responding to public records requests and identify opportunities for improvement. The PEC assessed Oakland’s current performance to develop an ongoing accountability tool to monitor department progress going forward. The subcommittee analyzed data from Oakland’s online public record request system (NextRequest); reviewed mediation requests filed with the Commission; reached out to City staff tasked with responding to public records requests; and surveyed community members and users of the public records request system to ask how Oakland is doing and what the City could do to improve its service. Highlights from the Commission’s findings include:

	46% increase in public records requests in 2020		105 average days to close a request
	Police, Planning, and Fire department records 83% of requests		63% of requests fulfilled
	64% of requests fell into overdue status		25% took over 90 days to close
	56% received an initial response within 10 days		70% of users surveyed dissatisfied with service

A comparison of performance by the 14 City departments receiving 100 or more requests between 2018 and 2020 follows capturing a general picture of where the system is working and where there is the greatest need for improvement. The report concludes with opportunities for collaboration between City administration and the Commission to improve responsiveness and ensure that City staff are well-trained and have the resources and tools needed to respond to public records requests.

OAKLAND'S PUBLIC RECORDS REQUEST PROCESS

Thousands of Public Records Requests Submitted Each Year

The City of Oakland receives thousands of requests for public records each year. Under California law, a “public record” includes any writing containing information related to the conduct of public business “prepared, owned, used, or retained” by a local agency regardless of its physical form or characteristics.¹ Since going online in 2013, Oakland’s public records request system has received almost 50,000 requests for public information. These tens of thousands of requests came from a diverse array of people: Oakland residents and homeowners, journalists, attorneys, local businesses, and contractors, to name a few. Each request represents a piece of information that someone needed for a personal, professional, or civic purpose.

Oakland’s public record regulations are set out in both state and local law. The Ralph M. Brown Act and California Public Records Act (CA PRA) are state laws that govern access rights to public information; however, cities and counties are free to require a greater right of access than state law demands, often known as “Sunshine” laws. Oakland’s Sunshine Ordinance, passed in 1997, is an indispensable component of Oakland’s commitment to open government intended to guarantee the public access to information that enables them to monitor how their government functions.

State Law Prohibits Delays or Obstruction

The California Public Records Act requires government agencies to respond within ten days to a request for public information. Section 6253 of the CA Government Code requires a response “within ten days from receipt of the request plus an additional 14 days if it invokes a specific exemption.” The ten-day period begins as soon as the agency receives the request. Notably, while the code states that a response shall be made within ten days, it does not require an agency to provide responsive records within that time period; rather, it requires an agency to respond whether the record exists and whether the agency needs an extension to produce the record.

Importantly, CA PRA does not “permit an agency to delay or obstruct the inspection or copying of public records.” Even if the record at issue does not exist, does not reasonably describe an identifiable record, or is exempt from disclosure, the agency must still respond. Furthermore, if the record exists, City employees must assist persons who request inspection or copies of public records. They must help identify records being sought. Even if a request is unclear to the agency, the agency must work together with the requestor to identify the records being sought by suggesting other documents that might help the requestor. When responding to a request, the agency must describe the “information technology and physical location” of the records being requested.

Oakland Sunshine Law

The Oakland Sunshine Ordinance works in concert with the CA PRA to ensure that public, non-confidential information is made available promptly to those who request it. Generally, the Sunshine Ordinance favors the disclosure of records, and any refusal to disclose a record must be justified in writing. One of the unique features of the Oakland Sunshine Ordinance is its provisions that require “immediate disclosure” of certain records. Any person may request the immediate disclosure of a record that has been previously distributed to the public, such as past meeting agendas and agenda packages. The agency must provide a copy of the document immediately, but in no case longer than three business days. If additional time is necessary to respond, the requestor must be notified within

¹ California Government Code § 6252(e).

that three business-day period and provided a determination of whether the documents will be disclosed within seven days of the request.

Uptick in Requests for Mediation

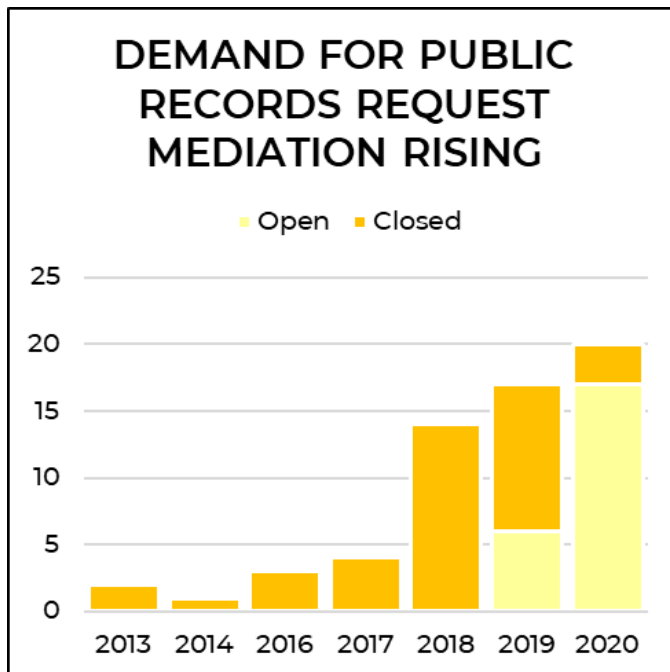
The Sunshine Ordinance also provides for mediation before the PEC when a requestor is unsatisfied with the response from a City agency. During mediation, Commission staff attempt to resolve the dispute. Nevertheless, the mediator's recommendations are not binding on any party and the Commission does not have the authority to impose penalties for violations of the Sunshine Ordinance.

Over the last three years, the Commission's enforcement unit observed an uptick in mediation requests for unfulfilled requests for City records. In 2020 alone, the public submitted a record 20 mediation requests to the PEC. The increase in Sunshine matters highlighted the challenges Oakland residents face when seeking public information.

The determinations set forth in this report were based on the following indicators related to public records request compliance and quality of service:

- Volume of requests,
- Number of open versus closed requests,
- Number of requests receiving a response within ten days,
- Number of overdue requests,
- Average number of days to close a request,
- Number of requests fulfilled, and
- Number of requests requiring PEC mediation.

This report utilizes the data collected by the City of Oakland's online public records request system², Next Request. The indicators listed above were compiled for the 14 City departments receiving 100 or more requests between 2018 and 2020.³ The comparison is intended to capture a broad sense of where the system is working and where there is the greatest need for improvement to provide City leaders with basic performance benchmarks to assist underperforming departments and build accountability where improvement is needed.



² The data used for this report comes from the City of Oakland public records request portal (<https://oaklandca.nextrequest.com>) retrieved by PEC staff from <https://oaklandca.nextrequest.com/api/v2> on 3/25/2021. Only public records requests entered in the NextRequest system were used for this analysis. NextRequest includes both requests entered by requestors and requests received by staff outside of the NextRequest system and then entered by staff. Requests made outside NextRequest that have not been entered by staff are not included in these calculations.

³ Aggregation by department is based on normalized department names assigned by PEC Staff. Requests to individual council members have been combined under "City Council."

What the Data Shows

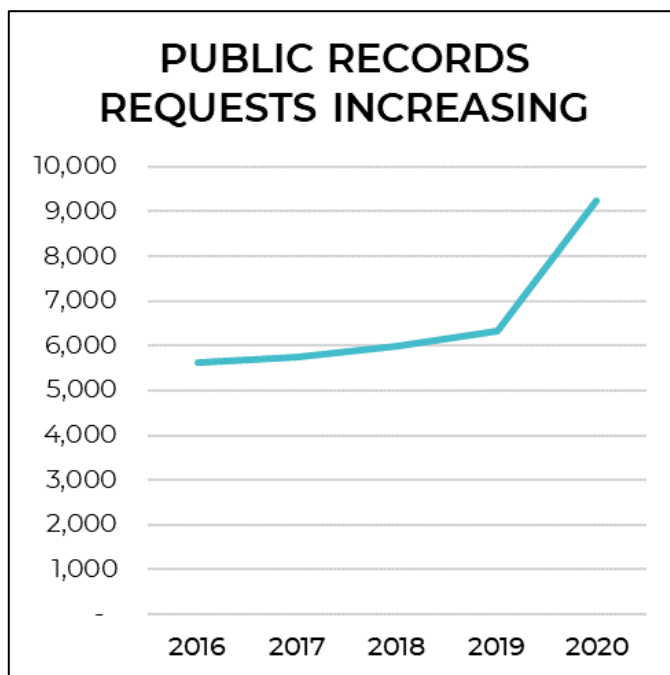
Public Records Request Process

To improve the City’s process for managing and tracking public records requests, the City of Oakland partnered with the civic technology non-profit Code for America in 2013. A pilot system created by Code for America fellows went live in 2013 and subsequently evolved into the City’s current system, NextRequest. NextRequest enables users to submit a request for public records as well as search through previous records requests and City responses. City staff use NextRequest to manage and track department responses to public records requests.

Public Records Requests Increase

The City of Oakland has received almost 50,000 public records requests since going live online in 2013.⁴ In 2020 alone, over 9,000 public records requests were submitted, a 46 percent increase over 2019.⁵ The performance benchmarks were compiled from data for public records requests submitted between April 1, 2018 and December 31, 2020.⁶

As public records requests increase, the number of requests processed (recorded as closed) each year is also increasing. Just over half (56 percent) indicated that an initial response went to the requestor within the required ten days. While half of public records requests were closed within 20 days or less, nearly two-thirds fell into



QUICK FACTS	
Requests reviewed for report	19,949
Initial response within ten days	56 percent (11,184)
Overdue requests	17 percent (3,293)
Closed requests	80 percent (16,032)
Requests fulfilled	63 percent (10,180)
Requests fulfilled with redactions	46 percent (4,660)
Requests ever overdue	64 percent (12,773)
Average days to close	105 days
Requests for mediation	51

⁴ Members of the public are not restricted to making requests for public records using the online system, as requests are often made in-person, by phone, mail and email. While best practice dictates that staff enter and track requests received by these other means through the NextRequest system, there is no way to ensure that City staff records all incoming requests that are received via phone, mail, email, or in person.

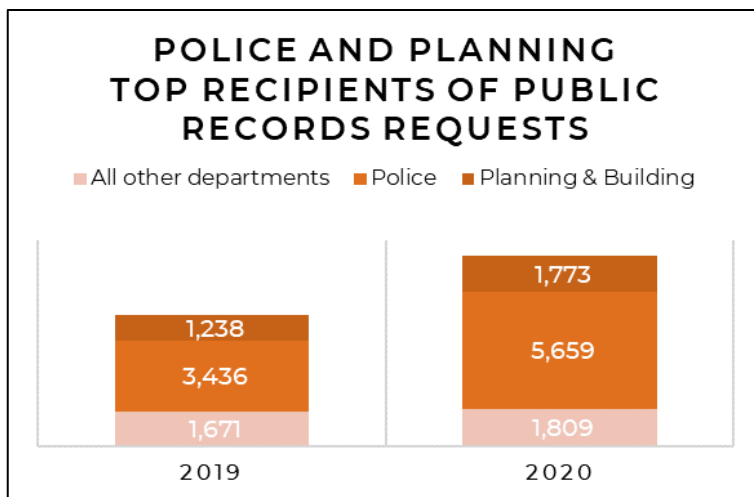
⁵ Because the number of requests made outside of NextRequest and not entered in the database is unknown, the increase in requests may reflect more requests generally, greater adoption of the NextRequest system by the public and/or City staff, or a combination of factors.

⁶ The city transitioned to the NextRequest system in early 2018. Not all attributes used for this report are available for records closed prior to March 19, 2018. Therefore, comparisons use only data for public records requests submitted between April 1, 2018 and December 31, 2020.

overdue status. Requests that take months to close stretch the number of days to close to 105 on average. Sixty-three percent of closed requests were designated as fulfilled (meaning a document or information was provided to the requestor). Of fulfilled requests, nearly half included redacted information.

Demand for Police, Planning, and Fire Department Records

Recent demand for public records is concentrated in three departments: The Police Department (58 percent), Planning and Building (19 percent), and the Fire Department (6 percent). Requests to most other departments have been stable or growing at a much slower rate. In addition to receiving the largest number of requests overall, the Police Department also accounts for most open public records requests (88 percent).



DEPARTMENT/AGENCY	PERCENTAGE OPEN REQUESTS	PERCENTAGE ALL REQUESTS
Police Department	87.83%	58.43%
Planning & Building	0.10%	18.88%
Fire Department	1.36%	5.51%
Public Works	0.23%	2.31%
Finance Department	0.26%	2.21%
Department of Transportation	0.51%	1.94%
City Administrator	2.68%	1.58%
City Clerk	0.36%	1.26%
City Attorney	0.05%	1.11%
Housing & Community Development	0.00%	1.10%
Animal Services	0.15%	1.05%
City Council	1.61%	0.90%
Office of the Mayor	0.26%	0.55%
Contracts & Compliance	1.99%	0.51%
Human Resources	0.26%	0.48%
Rent Adjustment Program	0.87%	0.32%
Health & Human Services	0.15%	0.28%
Economic & Workforce Development	0.20%	0.26%
Parks & Recreation	0.43%	0.24%
Cannabis/Special Activity Permitting	0.15%	0.24%
City Auditor	0.03%	0.24%
Public Ethics Commission	0.03%	0.20%
Police Commission	0.46%	0.16%
Information Technology	0.03%	0.15%
Library Services	0.00%	0.06%
Race & Equity	0.00%	0.03%
Department of Violence Prevention	0.00%	0.01%

Police Department Requests Constitute Largest Backlog

Public records requests are summarized by department below. Notably, the largest backlog of open requests is concentrated in the police department, indicated in yellow.

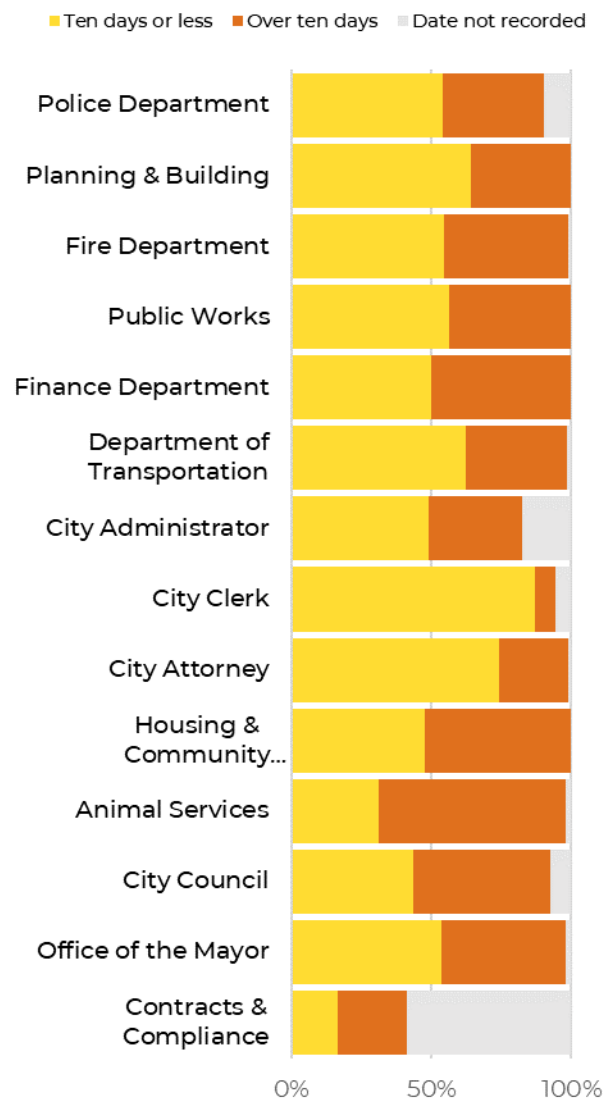
PUBLIC RECORDS REQUESTS BY DEPARTMENT



Lengthy Response Times

As noted earlier, both state and local law require agencies respond to a public records request within ten days. If the agency is unable to provide the requested record within ten days, the agency must request an extension and provide an explanation. As shown in the graph below, many departments are failing to respond to requestors within the mandated period.⁷

INITIAL RESPONSE WITHIN 10 DAYS



⁷ The number of records that do not include a date for first response to the request is indicated by the gray areas in the chart.

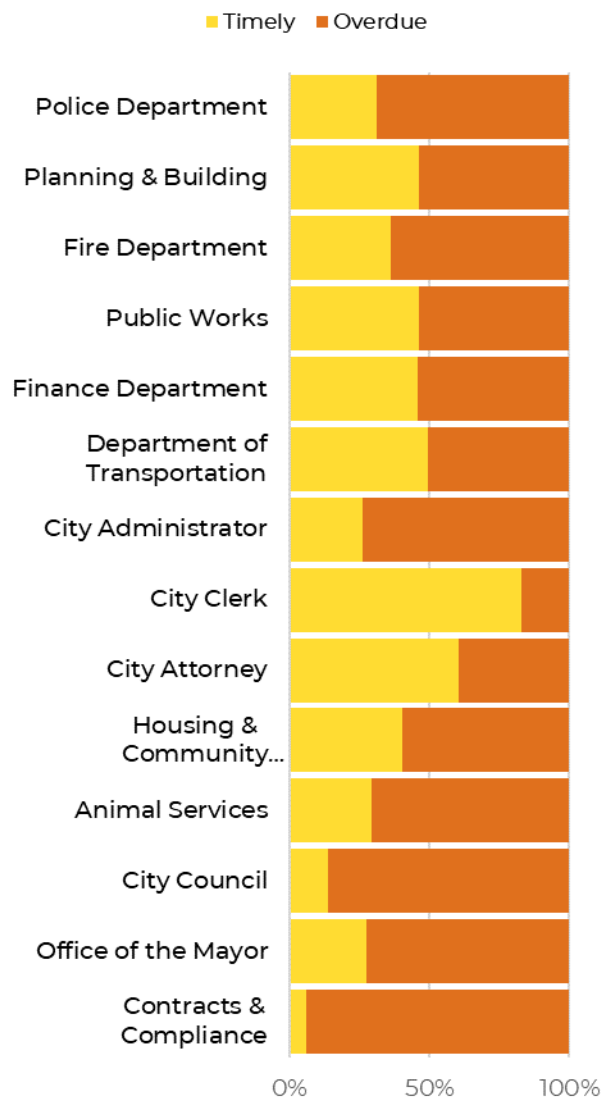
Large Number of Overdue Requests

NextRequest provides the agencies with tools to track numerous requests and any deadlines to respond. Further, NextRequest alerts assigned staff when responses are overdue. Although the default due date is ten days from the receipt of the request, the due date may be revised by staff when an extension is requested. The chart below shows requests that fell into overdue status.

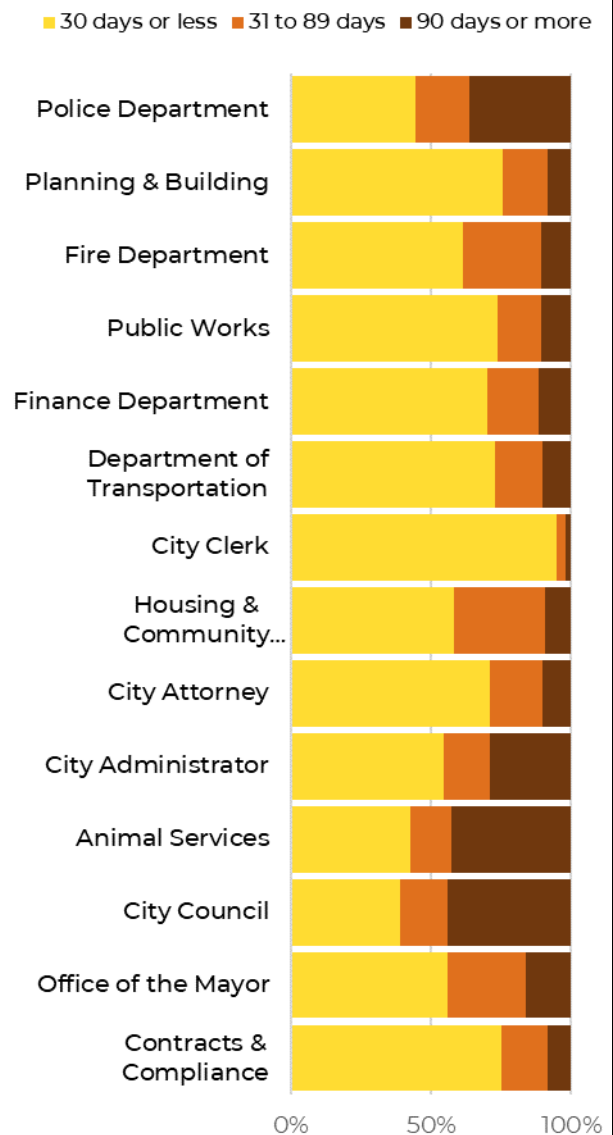
Requests Take Months to Fulfill

The chart below sets forth the number of calendar days that it takes departments to fulfill a request. Additional analysis accounting for request size and complexity is needed to identify specific issues impacting response times. In addition, the closure of City offices and remote working arrangements necessitated by the COVID-19 pandemic likely contributed to extended processing times during 2020.

TIMELY V. OVERDUE REQUESTS



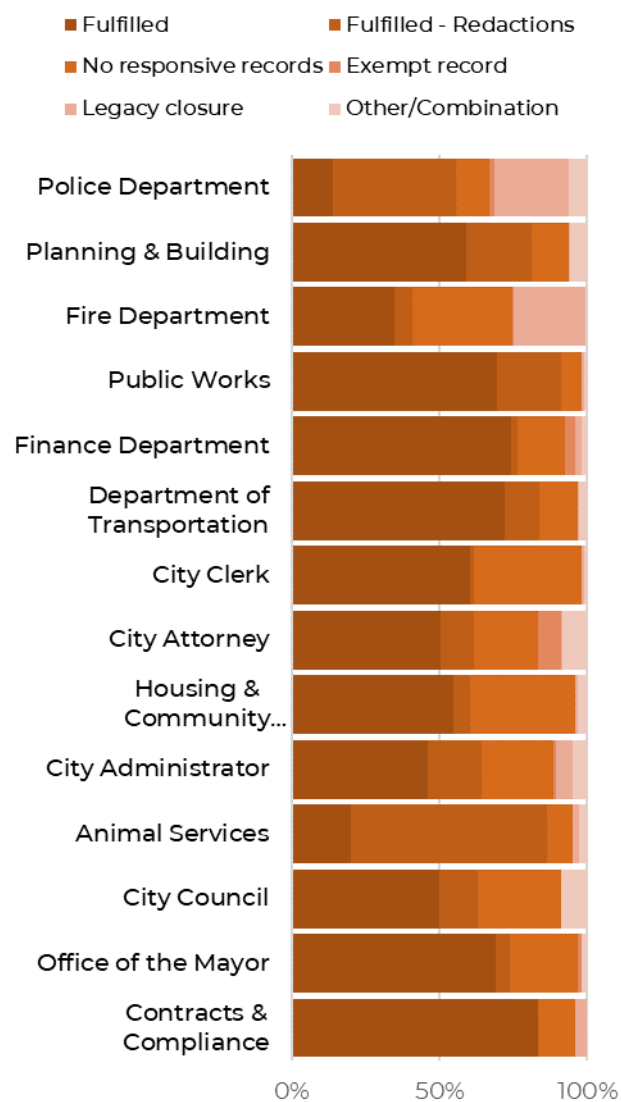
DAYS TO CLOSE REQUEST



Tracking Must Improve

The graph below provides an overview of outcomes when agencies responded to public records requests based on “closure reasons” entered by City staff. Note that the designations (e.g., “Fulfilled,” “Fulfilled-Redactions,” “No responsive records”) do not confirm that the requestor was satisfied by the results or that the agency provided responsive information.⁸

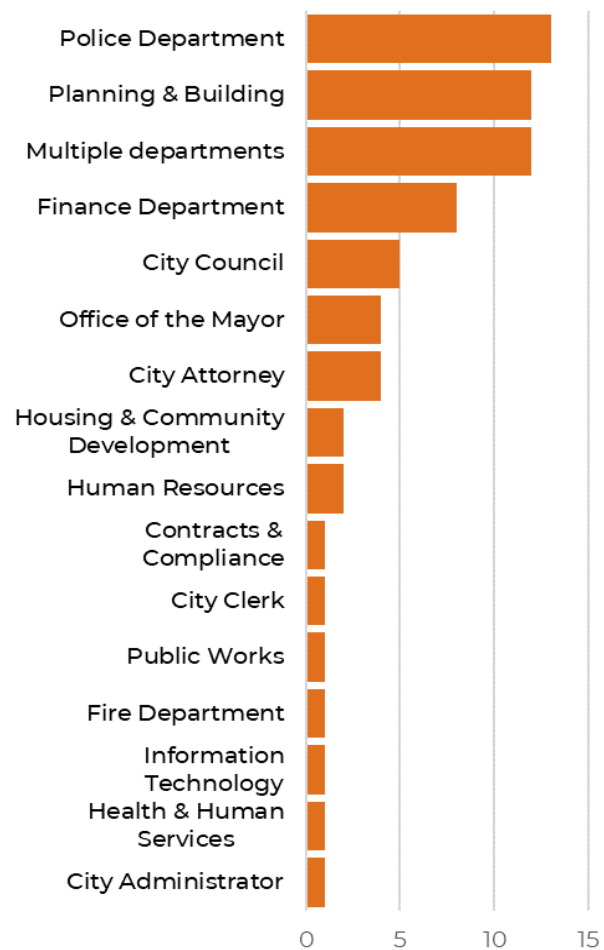
OUTCOMES BY DEPARTMENT



Mediation Program

The chart below shows the distribution of mediation requests by department. Pursuant to the Sunshine Ordinance, the Commission’s mediation program seeks to resolve matters between any person whose request to inspect or copy public records has been denied, delayed, or not completely fulfilled and the department that controls the records. A summary of the mediation is provided to the Commission and staff can also recommend further Commission action.

PUBLIC RECORDS MEDIATIONS BY DEPARTMENT 2013 - 2020

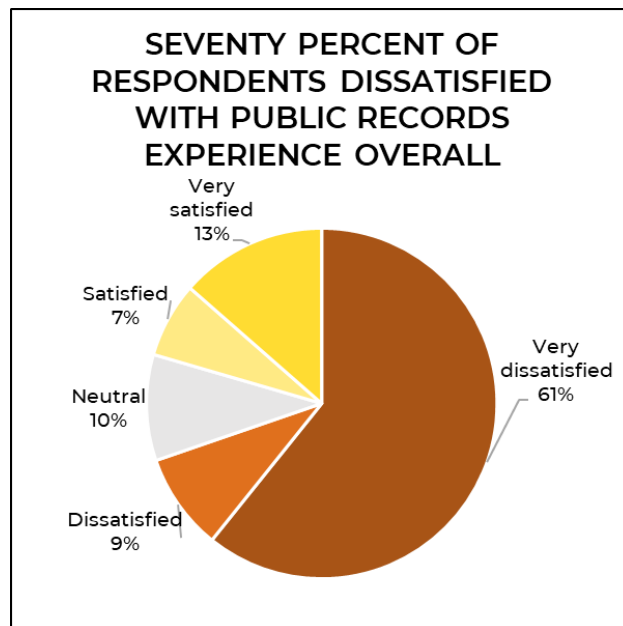


⁸ Outcome categories were assigned based on the entry “closure_reason.” “Legacy closure” indicates a request carried over from the earlier system, RecordTrac, used by staff when it was determined the requestor was no longer interested or no longer needed the record. “Other/Combination” was used when records did not clearly fall into one of the main categories.

Oaklanders Dissatisfied

In addition to analyzing the internal data, the Commission also sought input from the community to understand the public's view of how Oakland responds to public records requests and obtain suggestions on how the City can improve. The PEC circulated a user satisfaction survey to over 14,000 NextRequest users and posted the survey on the Commission's website and social media. The PEC received almost 1,000 responses within two days with the following results:

- While 69 percent of respondents reported using the NextRequest system, many also reported making requests by other means such as email (40 percent), in person (18 percent), and by phone (18 percent).
- Crime/incident reports, arrest reports or other police records (67 percent) and land use, permit or other property records (27 percent) were the most common type of records requested – consistent with the NextRequest data.
- Nearly two-thirds of requestors stated they had not received a response to their request within ten days.
- A paltry 28 percent reported receiving information that satisfied their request and over half reported receiving no documents or information. The low level of satisfaction with request results highlights the disconnect between public expectations and the City's perception of fulfilled or closed requests as well as the need for methods to verify that responsive records were produced or that no such records exist.
- Only 11 percent found it easy to get the information they sought, and the majority (59 percent) described it as very difficult.
- 70 percent of users described themselves as dissatisfied with their experience requesting records overall.



I requested police records to prove that my car was stolen when it received three handicapped parking tickets, that was months ago, and I still can't clear the tickets because I have not received the police reports.—User satisfaction survey respondent

What the Data Does Not Show

It is important to note that, as currently collected, the NextRequest data does not easily identify important factors, such as the size or complexity of requests that may entail different lengths of time to produce. While the law requires that a request be responded to within ten days, in practice, it often takes much longer to search for documents. For example, it may take an agency longer to produce a

document if a submitted request is very broad (uses terms such as “any and all” or covers records spanning decades), involves several City departments, or requires legal review and redaction.

Departments also vary greatly in terms of size, staffing levels, and complexity of records. On one hand, some departments store records electronically that are in high demand, which may make timely response easier. Other departments produce large amounts of physical records that are much more time-consuming to search and inspect.

In addition, overlapping responsibilities can cause delay: One department may be the custodian of a particular record but require approval from another prior to disclosure. For instance, some records must be reviewed by the City Attorney's office for redaction or legal disclosure (in other words, need to be assessed on a case-by-case basis). In other instances, a department may be the “owner” of a record but still require technical assistance from the City's IT Department to search and identify responsive electronic records, such as email correspondence. These contextual factors must be considered when assessing performance and mapping effective paths to improvement.

Questions Remain

While the data analysis for this report provides a broad overview of the City's public records request performance, it is preliminary. Important questions remain unanswered, including:

- How can the City make data from NextRequest more easily accessible both internally and to the public?
- How can the City ensure essential attributes, such as the first staff response date, closure date, and reason for closure, are included for every record?
- How can the City identify records requests that constitute an immediate disclosure request under the Sunshine Ordinance?
- How can the City track the record custodian, in addition to the department liaison, who can speak to any bottlenecks present in the process?
- How can the City track when an extension is requested and whether the record was delivered within the time frame of the extension?
- How can the City ensure extension requests include why an extension was necessary?
- How can the City categorize requests to identify the most frequently requested records and the level of complexity of each request?
- When a request involves more than one department, how can the City better track where the response lies and determine processing time by agency?

Need Outpaces Resources

Government transparency relies on City staff who are well-trained on City policy and equipped with processes and tools to support timely and efficient responses. The Commission surveyed City staff tasked with responding to public records requests to account for City staff perspectives.

In addition to the NextRequest online system, City staff reported receiving requests by several other methods including email (64 percent), in person (29 percent), and by phone (21 percent), among others. As noted above, City staff must enter any incoming requests into the NextRequest system.

However, responding to incoming public records requests is not the primary duty for most of the City staff tasked to respond. Many City staff (57 percent) spend fewer than eight hours per week processing requests. Not surprisingly, all respondents affirmed the importance of responding to public records requests. One City worker stated, "it's important to be a transparent and responsive government," and another affirmed public records requests "handled correctly and timely, create increased community trust in our City Government."

Staff respondents noted the challenges they face when trying to meet the obligations tied to public records requests. Several respondents stated that the ten-day response time was not practical given their resources. Staff respondents also pointed out the length of time spent determining the custodian of a requested record and difficulties when the person in direct possession of the requested records puts the task "on the back burner" and must be repeatedly reminded about the request. One commenter advocated a centralized public records department to shift the work away from staff whose core duties are demanding and peripheral to records as one way to address complaints that "staff is untrained... or unresponsive."

As noted above, when requested, PEC staff mediate between records requestors and specific department staff to determine whether the records can be produced. Lack of compliance attributed to under staffing and staff turnover is addressed and acknowledged in the mediation process as well.

*Staff is habitually late and rarely deliver records on time, but not for lack of effort. The amount of requests consumes workdays and weekends for some employees and contributes to work-flow bottlenecks in other areas. It's inefficient for everyone.—
Respondent to survey of City staff.*

Ninety-three percent of staff survey respondents reported receiving training on both the legal responsibilities associated with public records requests and using the NextRequest system. When asked whether additional training would be helpful, staff suggested regular check-ins for records liaisons, in-depth written guides, and more resources that help staff address complex and sensitive requests, including determining what information is subject to redaction. Providing technological tools to process documents that commonly require redaction should be explored. The City's campaign finance reporting software, for example, automatically redacts bank account numbers and other personal information from campaign statements available online for public inspection.

While generally satisfied with the ease of the NextRequest system, staff suggested easier navigation and search tools to help both staff and the public retrieve information and documents already in the system. If the search interface is improved for public and staff users, workload could be reduced. Staff also suggested better tools to communicate with requestors, such as automated updates to notify requestors as staff works on the response.

NEXT STEPS AND OPPORTUNITIES FOR IMPROVEMENT

All the above data and user input suggests that the Commission should dig deeper to understand the issues specific to each department and identify the best solutions to improve outcomes. Clearly, the system is not meeting the needs of Oaklanders who are requesting public records. The data that is currently available through NextRequest provides a good initial assessment of City performance on public records; more work is needed to further illuminate the challenges and leverage opportunities for overall performance improvement.

From here, the Commission recommends the following steps to continue its work and collaborate with City leaders and staff to ensure that Oakland's public records request system is effective and complies with state and local law:

1. Partnership with NextRequest and the City's IT Department to create a tool, such as a report card-style performance evaluator, so that staff and the public may monitor the City's records request performance and express areas of concern to City administration;
2. Creation of a training team made up of PEC, City Attorney, and City Administration staff to conduct an orientation for new public records requests liaisons at the start of their service in addition to ongoing regular training;
3. Continuing analysis of available data and ongoing discussions with departments and City administrators to better understand specific workflows and issues common to high-volume and/or underperforming departments;
4. Collaboration between PEC staff, the City Attorney's office, and Next Request to resolve questions and address gaps in the data identified by this report. It will be helpful to understand how staff uses the system, and whether data entry problems, training needs, or technical issues within the system contribute to incomplete information;
5. Identification of City staff who will lead and manage the public records system and be responsible for aligning practices across departments, supporting public records liaisons, coordinating training, monitoring performance, identifying problems, and allocating additional resources.

CONCLUSION

Overall, this report shows what many Oaklanders already know: that the City must do better to comply with the spirit and the letter of state and local law. The PEC is committed to collaborating with City administration to improve systemic processes and culture using data, education, and operational tools to achieve better outcomes. The steps identified above will help the Commission, and ultimately the City, better understand the changes needed to achieve real progress in this area. In this spirit, the Commission will stay focused on this work and asks for continued partnership from all the contributors to this report thus far. Together, we can develop a more effective public records response system, and reputation, for Oakland.

APPENDIX 1 – REQUESTS BY DEPARTMENT

Department/Agency Name	Requests Reviewed	Open	Closed	Average Days to Close	Median Days to Close	Response in Ten days or less	Ever Overdue
Animal Services	210	6	204	129	49	65	149
Cannabis/Special Activity Permitting	47	6	41	288	96	25	30
City Administrator	315	105	210	109	25	155	233
City Attorney	222	2	220	35	8	165	88
City Auditor	47	1	46	41	20	33	27
City Clerk	251	14	237	9	1	219	43
City Council	179	63	116	120	68	78	155
Contracts & Compliance	102	78	24	51	18	17	96
Department of Transportation	386	20	366	39	11	241	195
Department of Violence Prevention	2	-	2	20	20	1	1
Economic & Workforce Development	52	8	44	53	23	20	37
Finance Department	441	10	431	39	15	221	240
Fire Department	1,098	53	1,045	40	18	601	704
Health & Human Services	55	6	49	49	12	23	28
Housing & Community Development	220	-	220	40	20	105	131
Human Resources	95	10	85	43	18	62	57
Information Technology	30	1	29	204	135	11	26
Library Services	12	-	12	3	1	11	1
Office of the Mayor	110	10	100	66	25	59	80
Parks & Recreation	48	17	31	82	26	21	43
Planning & Building	3,765	4	3,761	29	13	2,422	2,030
Police Commission	32	18	14	139	34	29	26
Police Department	11,653	3,435	8,218	165	44	6,282	8,045
Public Ethics Commission	40	1	39	13	4	39	4
Public Works	461	9	452	39	14	260	248
Race & Equity	6	-	6	100	59	2	4
Rent Adjustment Program	64	34	30	216	64	17	52
Total	19,943	3,911	16,032	2,161	838	11,184	12,773

DATA SOURCE: Next Request, City of Oakland public records request portal, requests submitted between April 1, 2018 and December 31, 2020. Retrieved by PEC staff from <https://oaklandca.nextrequest.com/api/v2> on 3/25/2021.

APPENDIX 2 – REQUEST OUTCOMES BY DEPARTMENT

Department/Agency	Fulfilled	Fulfilled - Redactions	No responsive records	Exempt record	Legacy closure	Other/ Combination	Total
Animal Services	41	135	18		5	5	204
Cannabis/Special Activity Permitting	18	9	13			1	41
City Administrator	97	38	51	2	12	10	210
City Attorney	111	25	48	17	1	18	220
City Auditor	22		12			12	46
City Clerk	143	3	87		2	2	237
City Council	58	15	33			10	116
Contracts & Compliance	20		3		1	-	24
Department of Transportation	264	43	48		2	9	366
Department of Violence Prevention	1	1				-	2
Economic & Workforce Development	31		11	1		1	44
Finance Department	321	8	69	15	10	8	431
Fire Department	363	63	356	4	255	4	1,045
Health & Human Services	41	1	7			-	49
Housing & Community Development	120	13	78		2	7	220
Human Resources	52	11	18	1		3	85
Information Technology	12	1	10	1		5	29
Library Services	3		9			-	12
Office of the Mayor	69	5	23	1		2	100
Parks & Recreation	19	2	8		1	1	31
Planning & Building	2,217	845	462	4	26	207	3,761
Police Commission	13		1			-	14
Police Department	1,142	3,433	929	121	2,096	497	8,218
Public Ethics Commission	24	9	5	1		-	39
Public Works	315	98	31		3	5	452
Race & Equity			6			-	6
Rent Adjustment Program	17	4	7			2	30
Total	5,534	4,762	2,343	168	2,416	809	16,032

DATA SOURCE: Next Request, City of Oakland public records request portal, requests submitted between April 1, 2018 and December 31, 2020. Retrieved by PEC staff from <https://oaklandca.nextrequest.com/api/v2> on 3/25/2021.

APPENDIX 3 – MEDIATIONS BY DEPARTMENT

Department/Agency	2013	2014	2016	2017	2018	2019	2020	Total
Multiple departments				1	4	4	2	11
Planning & Building			1			1	9	11
Police Department		1	2		1	4	1	9
Finance Department					7		1	8
City Council				2		2	1	5
Office of the Mayor	1					2	1	4
City Attorney	1				1	1	1	4
Housing & Community Development					1	1		2
Human Resources						1	1	2
Information Technology							1	1
Fire Department							1	1
City Clerk						1		1
Contracts & Compliance							1	1
Health & Human Services				1				1
Total	2	1	3	4	14	17	20	61

APPENDIX 4 – OAKLAND SUNSHINE LAW (PUBLIC RECORDS SECTION)

2.20.180 Definitions.

Whenever in this Article the following words or phrases are used, they shall mean:

- A. "Agency" means an agency of the city of Oakland.
- B. "Department" means a department of the city of Oakland or a department of the Port Department of the city of Oakland.
- C. "Public information" means the content of "public records" as defined in the California Public Records Act (Government Code Section 6250 et seq.) whether contained in public records or in oral communications.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.18, 1997)

2.20.190 Release of documentary public information.

Release of public records by a local body or by any agency or department, whether for inspection of the original or by providing a copy, shall be governed by the California Public Records Act (Government Code Section 6250 et seq.) in any particulars not addressed by this Article. The provisions of Government Code Section 6253.9 are incorporated herein by reference.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.19, 1997)

2.20.200 Release of oral public information.

Release of oral public information shall be accomplished as follows:

- A. Every Agency director for the city and Redevelopment Agency, and department head for the Port shall designate a person or persons knowledgeable about the affairs of the respective agency or department, to facilitate the inspection and copying of public records and to provide oral public information about agency or department operations, plans, policies, and positions. The name of every person so designated under this section shall be filed with the City Clerk and posted online.
- B. It shall be the duty of every designated person or persons to provide information on a timely and responsive basis to those members of the public who are not requesting information from a specific person. It shall also be the duty of the person or persons so designated to assist members of the public in identifying those public records they wish to obtain pursuant to Government Code Section 6253.1. This section shall not be interpreted to curtail existing informal contacts between employees and members of the public when these contacts are occasional, acceptable to the employee and the department, not disruptive of his or her operational duties and confined to accurate information not confidential by law.
- C. Public employees shall not be discouraged from or disciplined for the expression of their personal opinions on any matter of public concern while not on duty, so long as the opinion is not represented as that of the agency or department and does not materially misrepresent the agency or department position. Nothing in this section shall be construed to provide rights to public employees beyond those recognized by law or agreement, or to create any new private cause of action or defense to disciplinary action.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.21, 1997)

2.20.210 Public review file—Policy body communications.

Every local body specified in Section 2.20.030(E)(1) shall maintain a communications file, organized chronologically and accessible to any person during normal business hours, containing a copy of any letter, memorandum or other writing which the clerk or secretary of such local body has distributed to, or sent on behalf of, a quorum of the local body concerning a matter that has been placed on the local body's agenda within the previous thirty (30) days or is scheduled or requested to be placed on the agenda within the next thirty (30) days. Excepted from the communications file shall be commercial solicitations, agenda and agenda-related material, periodical publications or communications exempt from disclosure under the California Public Records Act or this chapter. Multiple-page reports, studies or analyses which are accompanied by a letter or memorandum of transmittal need not be included in the communications file provided that the letter or memorandum of transmittal is included in the communications file.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.22, 1997)

2.20.220 Non-exempt public information.

Notwithstanding any right or duty to withhold certain information under the California Public Records Act or other law, the following shall govern specific types of requests for documents and information:

- A. Drafts and Memoranda. No completed preliminary drafts or memoranda shall be exempt from disclosure under Government Code Section 6254(a) if said completed preliminary draft or memorandum has been retained in the ordinary course of business or pursuant to law or agency or department policy. Completed preliminary drafts and memoranda concerning contracts, memoranda of understanding or other matters subject to negotiation and pending a local body's approval need not be subject to disclosure until final action has been taken.
- B. Litigation Material. Unless otherwise privileged or made confidential by law, records of all communications between a local body's representatives and the adverse party shall be subject to public inspection and copying, including the text and terms of any settlement agreement, once the pending litigation has been settled or finally adjudicated.
- C. Personnel Information. None of the following shall be exempt from disclosure under Government Code Section 6254(c):
 1. Job pool information, to the extent such information is compiled for reporting purposes and does not permit the identification of any particular individual. Such job pool information may include the following:
 - a. Sex, age and ethnic group;
 - b. Years of graduate and undergraduate study, degree(s) and major or discipline;
 - c. Years of employment in the private and/or public sector;
 - d. Whether currently employed in the same position for another public agency;
 - e. Other non-identifying particulars as to experience, credentials, aptitudes, training or education entered in or attached to a standard employment application form used for the position in question.
 2. The professional biography or curriculum vitae of every employee who has provided such information to the city, Redevelopment Agency or the Board of Port Commissioners excluding the home address, home telephone number, social security number, date of birth, and marital status of the employee.
 3. The job description of every employment classification.
 4. The exact gross salary and paid benefits available to every public employee.

5. Any adopted memorandum of understanding between the city or Board of Port Commissioners and a recognized employee organization.
- D. Law Enforcement Information. The Oakland Police Services Agency shall cooperate with all members of the public making requests for law enforcement records and documents under the California Public Records Act or other applicable law. Records and documents exempt from disclosure under the California Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law after the District Attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first. Information may be redacted from such records and documents and withheld if, based upon the particular facts, the public interest in nondisclosure clearly outweighs the public interest in disclosure. Such redacted information may include:
 - a. The names of juvenile witnesses or suspects;
 - b. Personal or otherwise private information related or unrelated to the investigation if disclosure would constitute an unwarranted invasion of privacy;
 - c. The identity of a confidential source;
 - d. Secret investigative techniques or procedures;
 - e. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation; or
 - f. Information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely.
2. The Oakland Police Services Agency shall maintain a record, which shall be a public record and which shall be separate from the personnel records of the agency, which reports the number of citizen complaints against law enforcement agencies or officers, the number and types of cases in which discipline is imposed and the nature of the discipline imposed. This record shall be maintained in a format which assures that the names and other identifying information of individual officers involved is not disclosed directly or indirectly.
- E. Contracts, Bids and Proposals. Contracts, contract bids, responses to requests for proposals and all other records of communications between the city, Redevelopment Agency and Board of Port Commissioners and individuals or business entities seeking contracts shall be open to inspection and copying following the contract award or acceptance of a contract offer. Nothing in this provision requires the disclosure of a person's net worth or other proprietary financial information submitted for qualification for a contract until and unless that person is awarded the contract. All bidders and contractors shall be advised that information covered by this subdivision will be made available to the public upon request.
- F. Budgets and Other Financial Information. The following shall not be exempt from disclosure:
 1. Any proposed or adopted budget for the city, Redevelopment Agency and the Port Department, including any of their respective agencies, departments, programs, projects or other categories, which have been submitted to a majority of the members of the City Council, Redevelopment Agency or Board of Port Commissioners or their standing committees.
 2. All bills, claims, invoices, vouchers or other records of payment obligations, as well as records of actual disbursements showing the amount paid, the payee and the purpose for which payment is made, other than payments for social or other services whose records are confidential by law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.23, 1997)

2.20.230 Immediate disclosure request.

- A. Notwithstanding any other provision of law and subject to the requirements of this section, a written request to inspect or obtain copies of public records that is submitted to any department or agency or to any local body shall be satisfied no later than three business days unless the requestor is advised within three business days that additional time is needed to determine whether:
1. The request seeks disclosable public records or information;
 2. The requested records are in the possession of the agency, department or local body;
 3. The requested records are stored in a location outside of the agency, department or local body processing the request;
 4. The requested records likely comprise a voluminous amount of separate and distinct writings;
 5. Reasonably involves another agency, department or other local or state agency that has a substantial subject matter interest in the requested records and which must be consulted in connection with the request; or,
 6. There is a need to compile data, to write programming language or a computer program or to construct a computer report to extract data.
- B. All determinations made pursuant to Section 2.20.230(A)(1)-(6) shall be communicated in writing to the requestor within seven days of the date of the request. In no event shall any disclosable records be provided for inspection or copying any later than fourteen (14) days after the written determination pursuant to 2.20.230(A)(1)-(6) is communicated to the requestor. Additional time shall not be permitted to delay a routine or readily answerable request. All written requests to inspect or copy documents within three business days must state the words "Immediate Disclosure Request" across the top of the first page of the request and on any envelope in which the request is transmitted. The written request shall also contain a telephone number, email or facsimile number whereby the requestor may be contacted. The provisions of Government Code Section 6253 shall apply to any written request that fails to state "Immediate Disclosure Request" and a number by which the requestor may be contacted.
- C. An Immediate Disclosure Request is applicable only to those public records which have been previously distributed to the public, such as past meeting agendas and agenda-related materials. All Immediate Disclosure Requests shall describe the records sought in focused and specific language so they can be readily identified.
- D. The person seeking the information need not state a reason for making the request or the use to which the information will be put.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.24, 1997)

2.20.240 Minimum withholding.

No record shall be withheld from disclosure in its entirety unless all information contained in it is exempt from disclosure by law. Any redacted, deleted or segregated information shall be keyed by footnote or other clear reference to the appropriate justification for withholding. Such redaction, deletion or segregation shall be done personally by the attorney or other staff member conducting the exemption review.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.25, 1997)

2.20.250 Justification for withholding.

Any withholding of information shall be justified, in writing, as follows:

- A. A withholding under a permissive exemption in the California Public Records Act or this ordinance shall cite the legal authority and, where the exemption is based on the public interest in favor of not disclosing, explain in practical terms how the public interest would be harmed by disclosure.
- B. A withholding on the basis that disclosure is prohibited by law shall cite the applicable legal authority.
- C. A withholding on the basis that disclosure would incur civil or criminal liability shall cite any statutory or case law supporting that position.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.26, 1997)

2.20.260 Fees for duplication.

- A. No fee shall be charged for making public records available for inspection.
- B. No fee shall be charged for a single copy of a current meeting agenda.
- C. A fee may be charged for: 1) single or multiple copies of past meeting agenda or any agenda-related materials; 2) multiple copies of a current meeting agenda; and, 3) any other public record copied in response to a specific request.
- D. The agency, department or the city may, rather than making the copies itself, contract at market rate to have a commercial copier produce the duplicates and charge the cost directly to the requester.
- E. No charge shall be made for a single copy of a Draft or Final Environmental Impact Report and Environmental Impact Statement.
- F. All fees permitted under this section shall be determined and specified in the city of Oakland Master Fee Schedule, as amended.
- G. Nothing in this section shall be interpreted as intending to preempt any fee set by or in compliance with State law.

(Ord. 12483 (part), 2003; Ord. 11957 § 00.27, 1997)

APPENDIX 5 – PUBLIC ETHICS COMMISSION

The Public Ethics Commission (Commission) fosters transparency, promotes open government, and ensures compliance with ethics laws through a comprehensive approach that emphasizes prevention, enforcement, and collaboration. The Commission consists of seven Oakland residents who volunteer their time to participate on the Commission. Three members are appointed by the Mayor, City Auditor, and City Attorney, subject to City Council veto, and four members are recruited and selected by the Commission itself.

The Commission was created in 1996 with the goal of ensuring “**fairness, openness, honesty and integrity**” in City government and specifically charged with overseeing compliance with the following laws and policies:

- Oakland Government Ethics Act
- Oakland Campaign Reform Act
- Conflict of Interest Code
- City Council Code of Conduct
- Sunshine Ordinance
- Limited Public Financing Act
- Lobbyist Registration Act
- Oakland False Endorsement in Campaign Literature Act

Some of these ordinances grant the Commission specific powers of administration and enforcement. The citizens of Oakland have also entrusted the Commission with the authority to set the salary for Oakland City Council Members and the duty to adjust the salary by the Consumer Price Index annually. The Commission administers compliance programs, educates citizens and City staff on ethics-related issues, and works with City staff to ensure policies are in place and are being followed. The Commission also is authorized to conduct investigations, audits and public hearings, issue subpoenas, and impose fines and penalties to assist with its compliance responsibilities.

Beyond prevention and enforcement, the Public Ethics Commission enhances government integrity through collaborative approaches that leverage the efforts of City and community partners working on similar or overlapping initiatives. A collaborative approach recognizes that lasting results in transparency and accountability are achieved not through enforcement alone, but through a comprehensive strategy that aligns all points in the administration of City government – including clear policies and process, effective management and provision of staff resources, technology that facilitates the process, and public engagement. This policy review is an example of such a collaborative approach.

The Commission meets on the first Monday of every month at 6:30 p.m. in City Hall, and meetings are open to the public and broadcast locally by KTOP, Oakland's cable television station.

ACKNOWLEDGMENTS

The Commission thanks the ad-hoc subcommittee chair Michael MacDonald and members Jill Butler, Avi Klein, and Joe Tuman for conducting the review and initial drafts for this report. The Commission thanks its staff, including Lead Analyst Suzanne Doran and Enforcement Chief Kellie Johnson for their work drafting the report and compiling the supporting data. Thanks also go out to the City Attorney's Office and NextRequest for their cooperation and assistance providing the raw data that made this performance review possible, and Oakland resident and data scientist Richard K. Belew for acting as pro bono technical consultant.