



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

NOREEN AMBROSE  
CHAIR

YVONNE LEE  
VICE-CHAIR

DAINA CHIU  
COMMISSIONER

FERN M. SMITH  
COMMISSIONER

LARRY BUSH  
COMMISSIONER

LEEANN PELHAM  
EXECUTIVE DIRECTOR

September 4, 2020

To: Members of the Ethics Commission

From: LeeAnn Pelham, Executive Director

Subject: **Agenda Item 4 – Discussion and Possible Action on Ethics Commission  
Revised Draft Annual Report for 2019-20**

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**Summary** This revised draft *Annual Report for 2019-20* appears on the Agenda to allow further Commission consideration and possible action to adopt the report at its September meeting.

**Action Requested** That the Commission adopt this revised *Annual Report for 2019-20* draft so that it may be finalized for public distribution.

As [reported last month](#), Ethics Commission Bylaws provide that at the end of the fiscal year the Chair, along with the Executive Director, shall submit a written annual report to the Commission for approval, summarizing the activities, accomplishments and budgetary needs of the Ethics Commission. (See Bylaws Article IV - Officers, Section 3: Chairperson). A draft report was provided to the Commission for its consideration at the August 14 meeting. Following its discussion, the Commission unanimously adopted a motion to request that the Chair provide a revised draft for the September meeting in accordance with feedback provided by the Commission.

Subsequently, additional input was provided by Commissioners Chiu and Bush. The attached revised draft has been revised to incorporate the Commission's August feedback as well as the further comments offered by Commissioners Chiu and Bush.

As provided in Bylaws Article IV, Sec. 3, the attached revised draft appears on the September meeting agenda to enable the Commission's further review and possible action to adopt it as the Commission's *Annual Report for 2019-20* should it wish to do so. If so, Staff will finalize the report as adopted for public distribution.



## San Francisco Ethics Commission

### Annual Report July 1, 2019 - June 30, 2020

Chair, Noreen Ambrose  
Vice Chair, Yvonne Lee  
Commissioner Daina Chiu  
Commissioner Fern M. Smith  
Commissioner Larry Bush

LeeAnn Pelham  
Executive Director

September 11, 2020

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## San Francisco Ethics Commission in 2020



The San Francisco Ethics Commission is pleased to issue this report to provide the Mayor, the Board of Supervisors, and all San Franciscans with highlights of activities, challenges, and key accomplishments of the Ethics Commission from Fiscal Year 2019-2020.

Over the past several years, shaped by a strategic *Blueprint for Accountability* that the Ethics Commission adopted in 2016, the Commission has focused on strengthening its effectiveness in promoting transparent and accountable government. A heightened focus on core strategic priorities has been critical to enabling the Commission to achieve its work on behalf of the public it serves. Building on this approach, the Commission has: implemented new tools to provide more meaningful public disclosure; developed new resources to support greater understanding and compliance with the laws; rigorously evaluated the laws and proposed innovative legislation to strengthen the laws' impact in practice; and deepened its capacity to conduct independent audits, investigations, and enforcement that are, and are trusted to be, fair, thorough, and timely.

It is our privilege to provide this report to highlight the achievements that have resulted from these efforts in the past year and the core priorities that will continue to guide the Commission's service to the public in the year ahead.

The COVID-19 pandemic has presented an extraordinary challenge to all in 2020. We are proud of our Staff members, both those called up as Disaster Service Workers, and those who have redoubled their efforts to backfill the work of those positions to maintain the Ethics Commission's services to the public. As we continue to adapt our operations, we will strive to further enhance online access and broaden our remote communications to support awareness of and promote compliance with ethics laws and practices.

In this period of organizational transformation and renewal at the Commission, this vital work reflects the ongoing deep commitment of the Commission and its Staff to work creatively, collaboratively, and energetically to help ensure that, in San Francisco, our public service is worthy of the public trust. We invite your support to help achieve the high ethical standards in local government that San Franciscans demand and deserve.

## Fiscal Year 2019-20 by the Numbers

\$43 million	Campaign expenditures audited from 2018 elections
\$1.4 million	Public funds approved for 12 qualified Supervisorial candidates in the November 2020 election
48	Open investigative matters resolved, including \$25,000 in fines
93%	City Officials who filed their electronic Annual Statement of Economic Interests (Form 700) in June 2020 on time
138	Candidates and committees assisted with filing support & guidance in November 2019 and March 2020 elections
200	Lobbyists registered with the Ethics Commission
621	Quarterly reports filed by 87 registered Permit Consultants
38	Projects reported by 31 registered Major Developers
24	Clients reported by registered Campaign Consultants
\$4.8 million	FY19-20 Ethics Commission operating budget

### Other Filings by City Officials

(Number of other reports filed, by type, July 1, 2019 – June 30, 2020)



[Notification of  
Contract Approvals](#)



[Notification of  
Recusals](#)



[City Behested  
Payment  
Reports](#)



[Gifts of Travel  
Reports](#)

## Mandate and Mission

The Ethics Commission has responsibility for the impartial administration and enforcement of San Francisco laws relating to the provisions of the Charter, statutes and ordinances concerning campaign finance, lobbying, and governmental ethics. Established by San Francisco voters in November 1993, the Ethics Commission serves the citizens of San Francisco, candidates for City office, and City employees, elected and appointed officials through education and compliance guidance, by independently enforcing the laws, and by serving as a repository for public disclosures to support transparency and accountability in City elections and local government decision making.

The Commission acts as filing officer for over 80 different types of public disclosure statements and reports related to governmental ethics, campaign, and lobbying that are filed by City officials, local candidates, political committees, lobbyists, permit consultants, campaign consultants, major developers and major donors; audits certain of these statements for compliance with state and local laws; investigates complaints alleging ethics and political reform law violations; raises public awareness these laws; researches and proposes legislative changes; and provides guidance and advice about the applicability of the City's political reform laws to City candidates, officeholders, officers, employees and the general public.

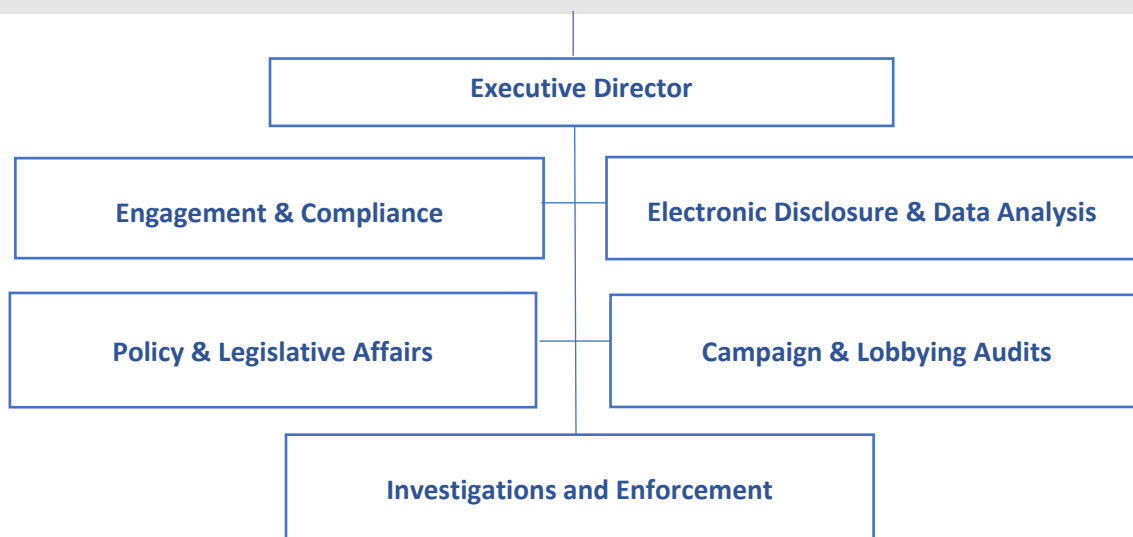
With its sworn responsibility to the public trust, Members of the Ethics Commission are pledged to a high standard of excellence in government accountability. Together with its staff, the Commission works to effectively implement the laws within its jurisdiction, and to ensure those laws are strong, workable in practice, and enforceable.

## Organizational Structure

### Five-Member Ethics Commission

Chair and Vice-Chair are elected annually by Members of the Commission.

Commissioners are appointed by: Mayor (1); City Attorney (1); District Attorney (1); Assessor (1); Board of Supervisors (1)



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## Summary of Key Highlights

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The Ethics Commission has served San Francisco over the past several years by enacting legislation, implementing voter initiatives, enhancing public access to information, and improving enforcement. Key highlights include the following:

- Expanded its role as an industry leader in the public disclosure of campaign finance information, including open data, application programming interfaces (APIs) and data visualizations for deeper public engagement with disclosed information.
- Updated and revitalized the Public Campaign Financing program by conducting a comprehensive review that increased the matching rate for public funds distribution, increased the total amount of funds candidates can qualify to receive, and increased participating candidates' initial spending limits, among other changes, effective January 1, 2020.
- Implemented Proposition F, the "Sunlight on Dark Money Initiative" submitted to the voters in the November 2019 election by five members of the Board of Supervisors, to prohibit political contributions from persons with a financial interest in a land use matter, change disclosure rules for certain political ads, and add additional disclosure requirements for certain committees making independent expenditures.
- Established broad new disclosure requirements and filing process and created implementing regulations to effectively operationalize a comprehensive new *Anti-Corruption and Accountability Ordinance* that was adopted by the Commission, the Board of Supervisors, and the Mayor in 2018.
- Created *Opinion and Advice Regulations* and adopted a significantly revised set of *Enforcement Regulations* to strengthen program effectiveness and provide greater clarity and transparency into these core areas, including provisions to facilitate the handling of Sunshine Ordinance referrals.
- Strengthened the City's Whistleblower protections through implementation of clarifying regulations adopted in March 2016 and legislative amendments to the Whistleblower Protection Ordinance that became effective in January 2019 and coordinated with other departments in developing new training for City supervisors to help ensure effective referrals.
- Implemented the new gift and contribution restrictions and expenditure lobbyist requirements adopted by San Francisco voters through Propositions T (2016) and C (2015).
- Audited 25 committees from the 2018 election cycle with expenditures totaling over \$43 million and collaborated with the Controller's Office to secure external audits of publicly financed candidates to simultaneously reduce the Commission's audit backlog.
- In FY19-20, resolved 48 investigative matters including eight enforcement cases that found violations of law with \$25,000 in total fines levied across a range of campaign finance, ethics, and lobbying-related cases.

- Referred six matters to the City's Bureau of Delinquent Revenues to pursue \$18,150 in unpaid fines and penalties.
- Initiated in late 2019 a process to review and propose revisions to the Commission's existing Fixed Penalty Policy, which was initially adopted in July 2013. While subsequently delayed due to COVID-19 operational priorities, the review process is scheduled to resume this Fall for Commission action in late 2020.
- Continued to implement new online compliance tools and strengthened the foundation for more effective public disclosure through development and implementation of the E-Filing Conversion Project, including a fully electronic framework for the Commission's disclosure programs to facilitate compliance and ensure the public can search and download disclosed data in a more timely fashion.

## Program Mandates and Accomplishments

### Campaign and Government Conduct Code

**Sustained Focus on Policy and Legislation.** To conduct regular, robust policy analysis and evaluation, and identify and develop legislative approaches needed to keep the City's political reform laws strong, workable, and enforceable, a dedicated Policy unit was created by the Commission's Executive Director as part of a 2017 fiscal year departmental restructuring. Once staffed beginning in spring 2017, the Policy division has since enabled the Commission to achieve increased frequency and scope of evaluations of existing policies and programs for needed improvements, and to initiate more regular and timely analysis of emerging issues to identify gaps in the law and needed changes. It also has provided deepened advice support and more consistent compliance guidance for all programs at the Commission. Significantly, creation of a Policy staff also has broadened the Commission's policy evaluation efforts and improved outreach/input to more effectively engage candidates, officials, key stakeholders, and members of the public.

**CFRO.** Local candidate and ballot measure campaigns, general purpose committees, and major donors are regulated by the City's Campaign Finance Reform Ordinance ("CFRO"), which incorporates state campaign finance law and imposes additional reporting requirements and limitations. Commission staff provided filer support, training and guidance to 39 local candidates running for office on the November 5, 2019 election ballot and to 21 ballot measure or general purpose committees active in that election. For the March 3, 2020 election, Commission staff provided filer support and guidance to 58 candidates running for County Central Committee seats and to 20 ballot measure committees.

**ACAO.** The Anti-Corruption and Accountability Ordinance (ACAO), which was approved by the Commission, the Board, and the Mayor in 2018, became operative January 1, 2019. Commission staff have implemented the provisions of the ACAO and continue to provide guidance and advice. The implementation process included comprehensive outreach, and development and automation of new nine new disclosure processes, along with extensive updates to the Commission's website and informational resources, and programming and deployment of publicly-accessible datasets. In 2019, Commission staff completed the review of Campaign and Governmental Conduct Code

Regulations to update and improve existing regulations and to develop regulations to clarify new provisions of the Code created by the Anti-Corruption and Accountability Ordinance. The Commission approved amendments to various regulations that support Article I, Chapter I (Campaign Finance Reform Ordinance), Article III, Chapter II (Government Ethics Ordinance), and Article III, Chapter VI (Behested Payments Disclosures). Together with the City Attorney's office, Staff finalized the version of the regulation amendments approved by the Commission and transmitted it to the Clerk of the Board. The new regulations became operative on July 29, 2019.

**Regulations.** In November, 2019 San Francisco voters adopted Proposition F, the "Sunlight on Dark Money Initiative" submitted by five members of the Board of Supervisors, to amend provisions of the Campaign and Governmental Conduct Code to, among other things, prohibit political contributions from persons with a financial interest in a land use matter and change disclaimer requirements for certain political communications. Commission staff developed regulations and forms necessary to implement these new laws. Litigation was filed challenging the measure, and the case is pending in the appellate court.

In addition to regulations Commission staff developed to implement the Sunlight on Dark Money Initiative, in December 2019 the Commission also adopted amendments to the regulations supporting the Campaign and Governmental Conduct Code to implement provisions of the second public financing ordinance approved by the Commission (File 190660).

### Advice and Opinions

The Commission is charged with interpreting and applying the campaign finance, lobbying and governmental ethics laws under its jurisdiction, requiring that it consider requests for waivers and issue advice and support the Commission's issuance of opinions on matters requiring interpretation. Commission staff continues to be available during the workday to answer public inquiries about City campaign finance, lobbying and governmental ethics laws.

In 2019, new Opinion and Advice Regulations were adopted to improve and standardize the processes by which advice and opinions are provided to City officers, employees, candidates, and other regulated persons.

### Compliance Education and Outreach

During the year, staff provided or participated in various types of information sessions related to matters within the jurisdiction of the Ethics Commission. On an on-going basis staff are available to provide assistance to candidates and campaign treasurers on using the Commission's online electronic filing system. In addition, candidate, treasurer, and lobbyist trainings are available to assist stakeholders in an online format. These trainings and sessions included:

- Training for candidates running for City office;
- Statement of Economic Interests (Form 700) Filer Information Session;
- Statement of Economic Interests (Form 700) Information Session for Filing Officers;
- Ethics Training for members of San Francisco Municipal Executives Association; and
- Briefing for City Department Heads on the new requirements of the Anti-Corruption and Accountability Ordinance.



## Public Financing Program Review

The Commission staff's comprehensive review of the City's Public Campaign Financing program led to Commission approval of two proposed ordinances. The first ordinance streamlined various aspects of the program to better serve program participants. This ordinance (File No. 190287) was sponsored by Supervisor Gordon Mar and was unanimously approved by the Board of Supervisors in May 2019 and became operative in June 2019. The second ordinance (File No. 190660) sought to deepen the program's overall impact by increasing the funds available to participants, increasing the matching rate, and increasing the initial spending limits, among other changes. The new provisions are being implemented for the November 2020 election.

The Commission also reviewed and clarified the Public Campaign Financing regulations and modified the public financing appeals and qualifications procedures.

## Public Financing Qualification and Disbursements

In connection with the November 2019 election, the Commission approved \$307,500 in public financing from the Election Campaign Fund to two Supervisorial candidates during calendar year 2019 it had certified as eligible to receive public funds for that election. As of July 31, 2020, \$1.48 million in public funds had been approved for distribution to 12 qualified Supervisorial candidates in the November 2020 election.

## Annual Statement of Economic Interests (SEI) Filings, Sunshine Ordinance Declaration, and Certificate of Ethics Training

In FY 2019-20, nearly 500 elected officials, members of city boards and commissions, and department heads filed required Statements of Economic Interests (Form 700) electronically with the Ethics Commission. While the Commission historically received and manually processed City officials' required Certificates of Ethics Training and Sunshine Ordinance Declarations on paper, in 2018 the Commission passed a new regulation to harmonize the filing deadlines of those declarations with the submission of the annual Form 700 filing and integrated Ethics Training and Sunshine Ordinance with the Form 700 e-filing system.

In 2020, 93 percent of electronic Form 700 filers filed their statements by the required filing deadline, while 3.5 percent were filed after the June 1 deadline. The April 1 regular deadline was extended to June 1 in 2020 due to the unprecedented COVID-19 public health emergency. For comparison purposes, in 2019, 93 percent of electronic filers submitting their statements timely. Any member of a Board or Commission who has failed to file their required Form 700 and/or required Ethics and Sunshine training certification is subject to the "no-file, no-vote" ordinance proposed by the Ethics Commission that was enacted into law and implemented in FY 2019. That ordinance prevents Board and Commission members from voting on matters if they have failed to file their required Statement of Economic Interests or complete required training in ethics and open government laws until such time that those required statements are filed. Each of the late filers in 2020 subject to disqualification received a disqualification letter. As of August 7, 2020, 18 electronic filers had one or more statements that remained outstanding.

### *Steps to Expand Electronic Filing to All Form 700 Designated Filers*

The Commission also took several actions to expand the electronic filing requirement to all of the City's approximately 3,600 "designated filers" who currently file their Form 700 in paper format with their own department. In response to concerns that had been voiced by several of the City's bargaining units, Commission staff engaged in meetings with those representatives, facilitated by the Department of Human Resources (DHR). On November 22, 2019, the DHR sent a notice to employee bargaining units stating that, following the session held with Staff, the meet-and confer process was formally closed. In January 2020, the Commission adopted regulation amendments to require all designated employees that file the Form 700 to file in an electronic format as prescribed by the Ethics Commission beginning January 1, 2021. The regulations were subsequently adopted by the Board of Supervisors on March 18, 2020.

Full implementation of this project is pending adoption of the City's FY21-22 budget to provide necessary funding to support e-filing, training and client support services to departmental filing officers and designated filers in order to complete the transition to the new disclosure protocol.

### *Other Reporting Requirements Applicable to City Officials and Departments*

Ethics Commission staff also administer a number of disclosure filings that support open and fair City decision making and transparency about taken by City officials.

- City departments filed 102 Notification of Submission of Proposal (Form SFEC-126f2) reports with the Commission, and City officials filed more than 95 Notification of Contract Approval (Form SFEC-126f4) reports with the Commission from July 1, 2019 to June 30, 2020. These public disclosure requirements help support compliance by elected officials with restrictions on contributions from City contractors and help political campaigns determine who may be prohibited from contributing to candidate campaigns.
- City officials filed 57 Notifications of Recusal (Form SFEC-3209b) reports with the Commission from July 1, 2019 to June 30, 2020.
- City officials filed 16 Behested Payments by City Officials (Form SFEC-3610b) reports with the Commission from July 1, 2019 to June 30, 2020.
- City officials filed seven Gifts of Travel (Form SFEC-3216b) reports with the Commission from July 1, 2019 to June 30, 2020.

### *Lobbyist Registration and Reporting*

Currently, 200 lobbyists are registered with the Commission and are required to file monthly disclosure reports disclosing their lobbying contacts, payments promised by clients, and other activities. In calendar year 2019 through September 30, 2019, registered contact lobbyist reported over \$9.8 million as payments promised by clients. Thirteen of the 200 lobbyists are expenditure

lobbyists that registered with the Commission under Proposition C (approved by the voters in November 2015), which imposes registration and reporting requirements on “expenditure lobbyists” that urge the public to lobby City officials.

### Permit Consultant Registration and Reporting

City laws impose registration and reporting requirements on “permit consultants,” who are paid to contact the Department of Building Inspection, the Entertainment Commission, the Planning Department, or the Department of Public Works to facilitate the approval of certain City permits. These permit consultants have been required to register and file quarterly reports with the Commission since 2015 disclosing client information, compensation, City officers and employees contacted, the relevant permits, and certain contribution information. As of June 30, 2020, 87 permit consultants had registered and filed 621 quarterly reports with the Ethics Commission.

### Major Developer Registration and Reporting

Developers of certain City real estate projects with an estimated construction cost of more than \$1,000,000 must also report to the Ethics Commission. Developers have been required to file forms with the Commission disclosing donations to nonprofit organizations that have contacted City officials about their project. As of June 30, 2020, 31 developers were registered with respect to 38 projects.

### Campaign Consultant Registration and Reporting

The Campaign Consultant Ordinance, passed in 1997, requires any individual or entity that earns \$1,000 or more in a calendar year in exchange for providing campaign consultant services to register with the Ethics Commission and file quarterly disclosure statements. The Campaign Consultant Ordinance is the result of a voter referendum and is therefore not subject to changes without additional voter approval. Campaign Consultants are required to report the names of clients, services provided for those clients, payments promised or received, political contributions, gifts made to local officials, and other information. Information regarding all activity is provided via the Campaign Consultant Activity Dashboard on the Commission’s website and made available for download through the City’s [data.sfgov.org](https://data.sfgov.org) open data system. Staff continues to ensure that all consultants who are required to be registered with the Commission file their registration forms and pay their registration fees.

Since 2014, 409 campaign consultants have registered with the Ethics Commission. Campaign consultants reported receiving approximately \$59 million in payments from registered clients. As of June 30, 2020, 28 consultants remained active and 24 clients were registered.

### Technology and Electronic Filing Advances

During FY 19-20, the Commission continued its efforts to improve electronic data access and migrate additional paper forms to electronic format. Automation of forms enabled instant public

access to disclosures via City's open data platform. Under prior paper-based manual processes, public disclosures were significantly delayed (for some reports up to 10 months) due to capacity constraints. Accomplishments include:

- Completed full implementation of a new electronic filing process to support elected officials and City departments compliance with the notice requirements of the City's contractor contribution rules of SF Campaign and Governmental Conduct Code Sec 1.126. New digital filing tools to submit SFEC Forms 126f2 and 126f4 are now in use. Commission staff partnered closely with the Office of the Clerk of the Board to tailor them to support the process for the contract approval notifications required to be filed with the Commission. Both the Clerk's Office and the Commission have communicated broadly with City departments to detail the new electronic filing tools.
- Developed online campaign finance dashboards to summarize contribution and expenditure activity in San Francisco elections and enable powerful research capabilities. Staff maintained the dashboards daily throughout the election periods.
- Automated over 25 electronic disclosure filing processes online since Jan 2018 and developed a temporary online submission process for paper filings in response to the COVID-19 health emergency to enable filers to complete all disclosure requirements online.
- Enabled access to electronically filed Form 700 Statement of Economic Interests records of top San Francisco officials as open data on DataSF.
- Established electronic filing of campaign finance communication disclosures to enable online access to campaign advertisement disclosures.
- Deployed the technology equipment and backend software systems to enable staff to effectively and securely telework. This enabled the Commission to continue normal operations during the closure of the Commission's offices during the COVID-19 health emergency.

## Audit Program

The Commission serves as the filing officer for campaign statements filed by San Francisco candidates and other committees that support or oppose local ballot measures or candidates. Under the law, the Commission is required to conduct mandatory audits of all publicly funded candidates and can select other committees for discretionary audits using objective standards.

During the past year, the Commission continued to make headway on completing audits for committees that were active in the 2018 election cycle. In addition to 14 candidates who received public funding in their campaigns, the Commission also conducted 11 discretionary audits. Together, those 25 committees accounted for over 76 percent of the \$56.4 million in campaign expenditures reported in connection with the 2018 elections. Publicly financed audits from the 2018 cycle were conducted with support from the Controller's Office and engaged external auditors to perform those audits.

The 14 publicly financed candidates from the 2018 election reported spending over \$8.8 million on their campaigns, which represents roughly 16 percent of all campaign expenditures reported for that cycle. The 11 other campaign committees were selected for discretionary audit base on an objective criteria standard from a pool of 168 other committees that were also active in the 2018 election. The \$34.3 million those 11 committee reported accounted for 61 percent of the overall spending reported in the 2018 election cycle.

By comparison, for the November 2016 election, 165 campaign committees reported roughly \$70.7 million in spending on City campaigns. For that cycle, 27 committees were audited: 12 publicly financed committees and 15 discretionary audits. Together, these 27 committees audited represented 80 percent of total 2016 audit pool expenditures.

As of June 30, 2020, audit work for 13 of the 14 publicly financed audits had been completed from the 2018 cycle, as had audit work for 9 of the 11 discretionary audits. Final Audit Reports for these 22 audits are expected to be publicly released in early September.

## Investigations and Enforcement

The Ethics Commission has independent authority to investigate complaints that allege violations of certain state and local laws that relate to campaign finance, conflicts of interest, lobbying, campaign consultants, permit consultants, major developers, and governmental ethics and to levy fines through its administrative enforcement authority for violations of the laws within its jurisdiction. Commission staff work closely with other City offices as warranted that also have responsibilities for ensuring governmental accountability, including the Controller's Office Whistleblower Program, the District Attorney and City Attorney offices, and the Department of Human Resources.

As has been the Commission's practice since early 2016, monthly public reports by the Enforcement Director are placed on the Commission's regular meeting agenda to provide the Commission and public with information about the volume, age, and general nature of the Commission's enforcement caseload. These monthly reports show the number and subject matter area of complaints received and reviewed by Commission investigators, as well as those found to have warranted further investigation.

Over the past year, the Enforcement Division achieved reductions in an historic backlog of enforcement cases while at the same time improving investigative and enforcement procedures to better ensure due process and improved enforcement program effectiveness. To better fulfill the voters' mandate for fair, thorough, and timely investigations, and enforcement of ethics, campaign finance, disclosure, and lobbying laws, improvements included reducing complaint timeframes with a fuller investigative capacity in the division; adoption of prioritization criteria to enable greater focus on the more serious types cases that reflect a fuller breadth of laws; and implementation of revised enforcement regulations to ensure procedures governing the Commission's administrative enforcement procedures are standardized, clear, and more transparent.

During FY 19-20, 81 new complaints were received by the Enforcement Division. During the same period, 75 preliminary review matters were completed by investigators with 20 of the 75

converted into formal investigations. In addition, the Enforcement Division provided consultation to another 45 complainants whose concerns were outside the Commission's jurisdiction to provide assistance in guiding them to other offices that may be able to address their concerns. Also during FY 2019-2020, 48 open investigations were resolved, including by settling eight matters for which the Commission collectively levied \$25,000 in penalties through stipulated agreements for various violations of law.

Beginning in August 2019 the Enforcement Division has worked to revise the Commission's existing Fixed Penalty Policy, initially adopted in July 2013. That Policy covers specified violations generally detectable on the face of campaign finance statements or other filings that establish liability with little or no investigation and therefore are suitable for resolution through a fixed penalty schedule. The existing Policy applies to certain identified violations of the Campaign Finance Reform Ordinance: contribution limit violations by candidates/committees; contribution limit violations by contributors; non-disclosure of required contributor information; candidate self-lending violations; and noncompliant disclaimers on campaign advertisements, mass mailings, and electioneering communications. The new Policy seeks to expand the kinds of cases that can be resolved through this more expedited approach to case resolutions.

### Whistleblower Protection Ordinance

Article IV of the San Francisco Campaign & Governmental Conduct Code requires the Ethics Commission to investigate complaints filed with the Commission alleging retaliation against City officers or employees who have:

- Filed a complaint with the Office of the Controller's Whistleblower Program, Ethics Commission, District Attorney or City Attorney, or the Complainant's department alleging that a City officer or employee engaged in improper governmental activity, misused City funds, caused deficiencies in the quality and delivery of government services or engaged in wasteful and inefficient government practices, or that a City contractor or employee of a City contractor has engaged in unlawful activity in connection with a City contract;
- Attempted to file a complaint as set forth above but, in good faith, did not file the complaint with the appropriate City department or official; or
- Provided any information in connection with or otherwise cooperated with an investigation of a complaint as set forth above.

Effective January 2019, Article IV was amended to provide additional retaliation protections for whistleblowers, establish retaliation protections for City contractors, increase the remedies available for whistleblowers who have suffered retaliation, and establish greater confidentiality protections for whistleblowers' identities (Ordinance 299-18.)

SF Campaign & Governmental Conduct Code Section 4.130 requires the Commission to provide an annual reporting to the Board of Supervisors of certain information regarding complaints alleging retaliation against a whistleblower that are filed with the Commission under Chapter IV. That information for FY19-20 appears below.

Sec. 4.130 Reporting Item	FY19-20 Data
Number of complaints received that alleged retaliation against a whistleblower.	15
Type of conduct complained about.	Various forms of alleged retaliation, such as termination, poor performance review, improper reassignment of duties, and other disciplinary actions.
Number of whistleblower retaliation matters referred to the Civil Service Commission, other City departments, or other government agencies.	0
Number of whistleblower retaliation investigations the Ethics Commission conducted.	12
Findings or recommendations on whistleblower protection policies or practices resulting from the Ethics Commission's investigations.	See above.
Number of disciplinary actions taken by the City as a result of whistleblower retaliation complaints made to the Ethics Commission.	Not tracked.
Number and amount of administrative penalties imposed by the Ethics Commission as a result of whistleblower retaliation complaints made to the Commission.	\$0

## Management, Administrative Operations, and Budget

The Commission's Executive Staff and senior leadership team have worked together to significantly improve operational efficiency and promote organizational accountability by implementing stronger administrative operations. These steps have included:

- establishing a comprehensive business continuity plan that enabled the immediate initiation of fully remote operations that ensured continuity of regular business for those served by the Commission's operations and programs under COVID-19 shelter-in-place public health orders;
- supporting the City's COVID-19 emergency response needs by re-prioritizing project work underway to enable prioritization of Departmental Disaster Service Worker (DSW) deployments by 40 percent of its staff since mid-March, which together reflected over 1,750 hours of Ethics staff time committed to San Francisco's public health emergency response;
- enabling resumption of regular monthly public meetings of the Ethics Commission in July 2020 during a continuing period of restricted in-person public meetings in collaboration with the Department of Technology and SFGovTV with use of the City's online meeting technology that enables remote public participation and enhances public access for those who may have been unable to be physically present at meetings in City Hall or who wish to participate in a language other than English;



- sustaining regular use of the Commission's online subscription list and social media presence to broadly disseminate public announcements and updates about Commission news and activities, including to roughly 2,300 followers on Twitter as of August 2020;
- ensuring thorough job analysis reviews and position description updates so that staff positions in recruitment fully reflect the broad nature of work required and the knowledge, skills, and abilities necessary to succeed in the job;
- initiation of an annual employee goal setting and performance review process to help ensure individual work contributions align with organizational goals, uphold accountable public service, and support staff development, retention, and successful job performance; and
- securing support from the Controller's Office and Department of Human Resources to conduct oversight reviews and identify best practice projects to deepen organizational accountability for operations and functions, including: accounts receivable review; payroll audit; launch of self-service time entry; and Lean Leaders training.

## Budget

The Ethics Commission's current budget is comprised of two main components -- an operating budget, and the Election Campaign Fund. The Commission's annual approved operating budget for FY 19-20 was \$4,802,714 with authority for 24 staff positions.

The Election Campaign Fund is established in the City's Campaign Finance Reform Ordinance Sec. 1.138 and provides a dedicated source of funding for use in providing qualified candidates for the offices of Mayor or Board of Supervisors with a limited amount of public financing for their election campaigns. Under the law, an annual allocation at the beginning of a fiscal year is required based on a formula of \$2.75 per resident of the City and County of San Francisco, up to a cap on the Fund of \$7 million. Funds in the Election Campaign Fund not used in one election must be carried over for use in the following election. Under the law, the Commission's administrative expenses for the public financing program for any election is limited to no more than 15 percent of the total amount of funds in the Election Campaign Fund for that election. Any funds in the Election Campaign Fund in excess of \$7 million must be returned to the General Fund.

## San Francisco Fellows

During the spring of 2020, the Commission benefited from the contributions of four San Francisco Fellows as part of a spring project to help envision new outreach materials and broaden awareness of the Commission's work. The San Francisco Fellows program is designed to foster community stewardship by preparing recent college graduates and young professionals for roles in public service and administration. Participants are competitively selected applicants within five years of earning their undergraduate degree who join a cohort of up to 18 Fellows for an 11.5-month full-time work experience with the City. The Commission appreciates and thanks the following 2020 Fellows for their contribution to the Commission's work: Victoria Bryant; David Exume; Mitzi Chavez Gallardo; and Samantha Serafica.



## Future Initiatives

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Embedded in the mission statement of the Ethics Commission is its commitment to enforce the City's comprehensive set of ethics laws and to proactively recommend new laws, rules and programs that will lead to compliance.

**COVID-19.** As this Annual Report is issued, all departments in City government continue to be impacted by ongoing challenges of operating under the COVID-19 pandemic. Final action on the programmatic priorities contained in the Mayor's proposed City budget for FY21 and FY22 remain under consideration by the Board of Supervisors and must be acted on to ensure a final budget is in place by October 1. The Ethics Commission continues to face additional unique challenges as a small department with core mandates that stretch well beyond its existing limited resources. In the near term, ensuring it provides services and effective guidance to candidates and the public must be a priority through the November 2020 election. The Commission also must develop and provide information as efficiently and seamlessly as possible to promote compliance with the laws within its jurisdiction within fully remote work environments. Continuous improvement of the Commission's core disclosure and oversight functions, including to deepen the impact of its audit, investigative, and enforcement programs, is essential.

**BLA Audit Recommendations.** As it continues work to deepen the impact of its programs, the Commission has prioritized implementation of the recommendations contained in a performance audit issued by the Budget and Legislative Analyst (BLA) on August 10, 2020. Requested by the Board of Supervisors in January 2020 as a priority for FY19-20, the BLA audit assessed a range of Commission functions to look for opportunities to improve the effectiveness and efficiency of those operations. As noted in the Commission's Departmental response that was issued with the audit, the Department is in full agreement with the report's 16 recommendations (see Appendix) and already has taken steps to begin implementing work process enhancements informed by the audit's findings.

**Ongoing Corruption Allegations in City Government.** The need to independently and comprehensively address new policy and legislative initiatives and take new approaches to broaden the impact of the City's ethics laws is only increasing. While these functions also will be impacted by ongoing resource constraints, ongoing media reports that have detailed allegations of corruption, bid rigging, bribes, and malfeasance in office brought to light in 2020 by the Federal Bureau of Investigation, and reviews by the City Attorney and Controller's Office, have underscored the serious and clear need for the City to devote much greater resources to supporting the highest standards of ethical conduct in practice. In its first in a planned series of reports, the Controller's Office June 29 assessment cited potential conflicts of interest and violations of governmental ethics laws, potential vulnerabilities in the City's contracting and procurement processes, underscoring how the 'tone at the top' of one department can have an impact on the ethical atmosphere of public service more broadly. Further Controller assessments are expected and additional recommendations made in those reports that are relevant to the work of the Ethics Commission must be addressed. Over the coming year, the Commission will pursue all available avenues to continue to assess and pursue needed new approaches, including by building on and leveraging relationships with its accountability partners throughout City government.

Informed by these dynamics and upcoming budget decisions that will shape its organizational capacity in the year ahead, the Commission will resume its quarterly policy prioritization process in September to identify and sequence its policy and legislative analysis work for FY21. The Commission will continue to initiate opportunities for the public and stakeholders to share their insights and experiences operating in San Francisco's political, policy, and governmental environments to help surface issues and identify desired public policy outcomes. The Commission invites and welcomes all participation in that process.

## APPENDIX

### Budget and Legislative Analyst Recommendations

Audit Report Issued August 10, 2020

Recommendation  4	<b>Ensure adequate staffing</b> in the Ethics Commission: that the Board of Supervisors request the Mayor's Budget Office to (i) expedite approval of requests to fill vacant positions, and (ii) allocate Ethics Commission salary savings to the work order with the Department of Human Resources to increase Ethics Commission recruitment and hiring.
1	<b>Produce an annual report</b> that communicates the Department's goals, activities, and outcomes to employees and members of the public; include specific performance measures for each function, with a focus on measures that capture outcomes, and establish goals for those measures.
2	<b>Formalize and document procedures to provide training on ethics laws to City employees and officials</b> specifying (a) how training needs will be assessed; (b) training goals; (c) a process for tracking progress towards achieving training goals; and, (d) a process for routinely evaluating, updating, and revising training procedures.
3	Direct the Audit Division to <b>produce a summary of audit findings after each audit cycle</b> and submit to the Director of the Engagement and Compliance Division to inform compliance efforts.
5	<b>Establish overall goals for completing audits</b> as well as goals for review of audit reports by the Executive Director, and <b>report on results</b> in relation to goals after completion of each audit cycle to the Ethics Commission.
6	<b>Approve procedures for a lobbyist audit program and conduct</b> an initial lobbyist audit by end of FY 21.
7	<b>Develop an updated audit manual</b> or standard operating procedure that provides auditors with a step-by-step guide to conduct audits.
8	<b>Establish a formal training program for the Audit Division</b> , which includes: (a) identification of training needs based on discussions with the acting audit supervisor and auditors; (b) training goals for each employee; (c) A process for tracking progress towards achieving training goals; and, (d) a process for routinely evaluating, updating, and revising the training program.
9	<b>Develop a plan</b> to: (a) increase annual case closure rate relative to the number of investigations opened, and (b) resolve open investigations that are more than two-years old; <b>and report on progress quarterly</b> to the Ethics Commission.
10	<b>Enhance investigation case tracking and performance management</b> by: (a) establishing Division goals for completing investigations and interim milestones, such as completing preliminary review reports; (b) tracking additional dates to capture interim milestones; and (c) monitoring performance in relation to goals.

11	<b>Continue to develop the expanded Fixed Penalty Policy</b> , and present for consideration to the Ethics Commission <b>by January 2021</b> in order to enable streamlined resolution of an expanded portfolio of investigations. The presentation should include an evaluation of the portion of investigations that would fall under the expanded Fixed Penalty Policy and the estimated reduction in case timelines in order to better understand the projected relative benefit of this change.
12	<b>Report to the Ethics Commission on the results of using the case prioritization criteria</b> within 18 months after implementation in order to assess which types of cases are closed based on which factor(s). This review would help to ensure that the criteria are achieving the desired intent of focusing the Division's workload on the most significant cases and that they are applied in a standardized fashion for all cases.
13	<b>Formalize and document the existing training program for investigators</b> to ensure new and existing staff have sufficient training. The documented training policy should address the following: (a) how training needs will be identified for new and existing staff; (b) the establishment of training goals; (c) a process for tracking progress towards achieving training goals; and, (d) a process for routinely evaluating, updating, and revising the training program.
14	<b>Report on whistleblower retaliation case outcomes</b> to the Ethics Commission on an annual basis to enhance transparency of these investigations.
15	<b>Establish goals for completing whistleblower retaliation investigations</b> and specify how whistleblower retaliation cases should be prioritized among other cases to ensure timely resolution (in coordination with recommendation 4.2)
16	<b>Document specialized training for whistleblower retaliation investigations</b> and build in mechanisms to verify that trainings occur and that they are useful and effective as needs change over time.