



San Francisco Ethics Commission

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April 4, 2022

To: Members of the Ethics Commission
From: LeeAnn Pelham, Executive Director
Gayathri Thaikkendiyil, Deputy Director & Chief Operating Officer
Subject: Agenda Item 7 - Discussion and possible action on implementation status report on recommendations of the August 2020 Budget & Legislative Analyst (BLA) Performance Audit of the Ethics Commission

Summary and Action Requested

The attached report provides a status update for the third quarter of Fiscal Year 2021-22 on the implementation of recommendations made by the Budget & Legislative Analyst (BLA) in its August 2020 performance audit of the Ethics Commission. This report is provided for informational purposes only and requires no action by the Commission.

Background

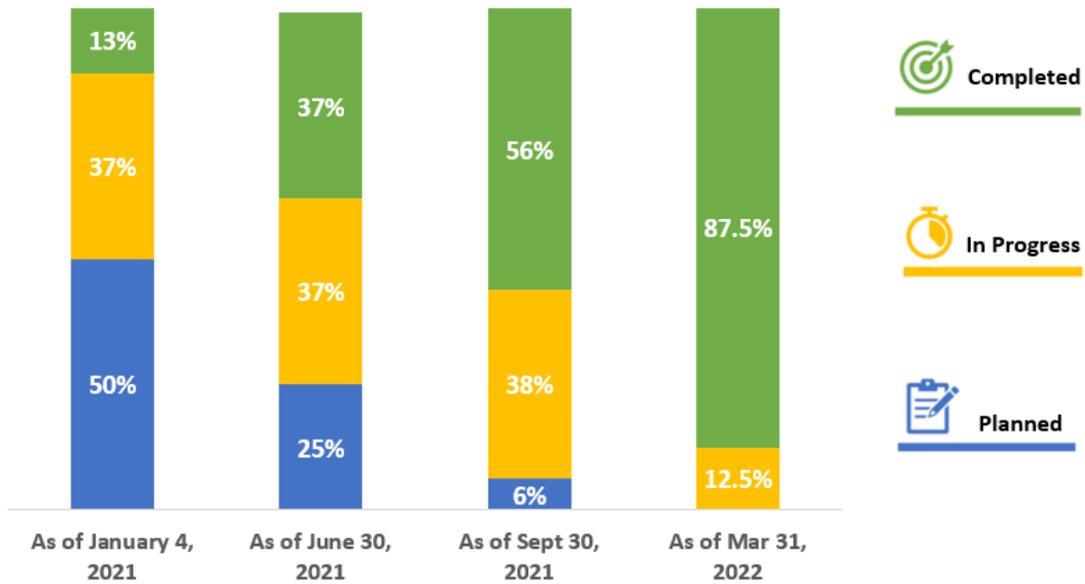
In August 2020, [a performance audit](#) of the Ethics Commission conducted at the request of the Board of Supervisors was completed by the Budget & Legislative Analyst (BLA). The audit assessed a range of Commission functions to look for opportunities to improve the effectiveness and efficiency of those operations. In its response to the audit, the Department fully agreed with the 16 recommendations contained in the report and noted that steps were underway to implement process enhancements informed by the audit’s findings. Following a discussion of the report by the Board of Supervisors’ Government Audit and Oversight Committee on November 19, 2020 (BOS File No. 201158), the Board filed the report without taking further action.

Third Quarter FY22 Update

To provide visibility into ongoing work to fully implement the BLA recommendations, Staff have been providing regular progress reports to the Commission. This status report updates information through March 31, 2022. As illustrated below, as of March 31, 14 (87.5 percent) of the 16 recommendations have been completed. Two others remain in progress and are targeted for completion this fiscal year.

Status of BLA Recommendation	As of Jan 2021	As of June 2021	As of Sept 2021	As of Mar 2022
# Completed	2	6	9	14
# In Progress	6	6	6	2
# Planned	8	4	1	0

Ethics Commission Implementation Status of BLA Performance Audit Recommendations



Further detail on the implementation status of each recommendation as of March 31, 2022 is provided in the attachment. The status reports as of [Jan 2021](#), [June 2021](#), and [Sept 2021](#) are available on our website.

We look forward to answering any questions you may have at the April 8th meeting.

Status of Action on Recommendations of the Budget & Legislative Analyst as of Third Quarter FY22

August 2020 Performance Audit of the Ethics Commission

Attachment to Implementation Report | Ethics Commission Meeting Agenda Item 7, April 8, 2022

Recommendation	Due	Status	Notes	Links
<p>4. Ensure adequate staffing 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.</p>	31-Dec-2020	Completed 	<ul style="list-style-type: none"> • Hiring Plan established 10/13/2020 • Requests to Fill approved by 11/18/2020 • Job announcements posted Dec 10-11, 2020 • Five positions in FY21 Plan filled as of 4/19/2021 • Recruitments completed in Oct 2021 for two additional vacancies that occurred in FY21 	
<p>1. Produce an annual report 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.</p>	30-Jun-2021	Completed 	<ul style="list-style-type: none"> • Draft FY20 Annual report presented at 8/14/2020 Commission meeting • Final Draft FY20 Annual Report adopted at 9/11/2020 Commission meeting • FY20 Annual Report issued 9/11/2020 • Draft FY21 Annual Report presented to the Commission on 6/11/2021 • Revised draft report scheduled for Commission's action on 7/9/2021 • Process for producing reports established in FY21 and reports will be created annually going forward 	FY20 Annual Report
<p>2. Formalize and document procedures to provide training on ethics laws to City employees and officials 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.</p>	31-Dec-2020	Completed 	<ul style="list-style-type: none"> • Ethics FY21 Training Plan formalized and documented 12/24/2020 • Additional resources sought by Commission in FY22 budget were secured, establishing four new <i>Ethics@Work</i> positions to build and execute expanded training and engagement over course of three-year project • New positions targeted for posting by 11/30/21 • Three of the four <i>Ethics@Work</i> positions in recruitment as of March 31, 2022 • <i>Ethics@Work</i> FY23 Training and Outreach Plan to be updated by new team with target date of August 31, 2022 for implementation in Q2 FY23 	Ethics FY21 Training Plan

<p>3. Direct the Audit Division to produce a summary of audit findings after each audit cycle and submit to the Director of the Engagement and Compliance Division to inform compliance efforts.</p>	<p>30-Jun-2021</p>	<p>Completed </p>	<ul style="list-style-type: none"> • Audit Division Summary of 2018 Publicly Financed Candidate Audits provided to Engagement & Compliance 12/29/2020 • Summary of Discretionary Audit Findings for the 2018 Election Cycles provided to Engagement & Compliance 6/1/21 • Process now formalized in annual Audit Division work plan established following April 2021 hiring of Audit and Compliance Review Manager 	
<p>5. Establish overall goals for completing audits as well as goals for review of audit reports by the Executive Director, and report on results in relation to goals after completion of each audit cycle to the Ethics Commission.</p>	<p>30-Jun-2021</p>	<p>Completed </p>	<ul style="list-style-type: none"> • With April 2021 hiring of Audit and Compliance Review Manager, FY22 audit completion goals were established • FY22 Campaign Audit Project Plan details audit completion goals and identifies approaches, deliverables, and time frames for Campaign Audit Program this fiscal year • Project Plan identifies timeframe for information and data gathering, program analysis and design, and development of business processes and procedures for 2019 mandatory audits and initiation of 2020 mandatory audits 	<p>FY22 Campaign Audit Project Plan</p>

<p>6. Approve procedures for a lobbyist audit program and conduct an initial lobbyist audit by end of FY21.</p>	<p>30-Jun-2021</p>	<p>In Progress</p> 	<ul style="list-style-type: none"> • With April 2021 hiring of Audit and Compliance Review Manager, FY22 Lobbying Audit Project Plan established effective 7/1/2021 to identify approaches, deliverables, and timeframes for implementing Lobbying Audit Program • Project Plan targeted completion of information and data gathering, program analysis and design, and development of business processes and procedures by September 30, 2021 • Development process target delayed to December 31, 2021 due to Q1 prioritization of hiring processes necessary to fill Auditor and other positions in the department, which were completed by end of October 2021 • Audit selection, communication, and initiation completed by February 28, 2022 • Audit testing is projected to be completed by June 30, 2022 with audit reporting projected to be completed by September 30, 2022 	<p>FY22 Lobbying Audit Project Plan</p>
<p>7. Develop an updated audit manual or standard operating procedure that provides auditors with a step-by-step guide to conduct audits.</p>	<p>31-Dec-2021</p>	<p>Completed</p> 	<ul style="list-style-type: none"> • With April 2021 hiring of Audit and Compliance Review Manager, evaluation of existing operating procedures was initiated • Audit Programs detailing standardized audit procedures were developed in conjunction with establishment of FY22 Campaign Audit Project Plan and FY22 Lobbying Audit Project Plan • Audit Programs will be revised and updated as necessary beyond FY22 	

<p>8. Establish a formal training program for the Audit Division, 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.</p>	<p>30-Jun-2021</p>	<p>In Progress</p> 	<ul style="list-style-type: none"> • Prioritized for Audit Division's FY22 work plan with an initial targeted completion date of December 31, 2021 • Discussions with Audit team to identify job and professional development training interests have begun. With Auditor vacancy filled effective November 8, processes to identify audit-related training needs for collective team will be prioritized through Q4 	
<p>9. Develop a plan 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; and report on progress quarterly to the Ethics Commission.</p>	<p>31-Dec-2020</p>	<p>Completed</p> 	<ul style="list-style-type: none"> • Established in Enforcement Division Case Closure Plan for FY21 dated 12/28/2020 • FY22 Q1 status report provided in conjunction with report on Recommendation #12 below • Established Enforcement Division FY22 Case Closure Plan in March 2022 	<p>Enforcement FY22 Case Closure Plan</p>
<p>10. Enhance investigation case tracking and performance management 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.</p>	<p>30-Jun-2021</p>	<p>Completed</p> 	<ul style="list-style-type: none"> • Approach for expanded tracking of interim milestones developed in calendar year 2020 and implemented in 2021. Approaches are set forth in the Case Closure Plan, which was updated for FY22. • Funds for development of case management system approved as part of FY22 budget • Tracking methods being refined and expanded with delivery of case management system in collaboration with third party vendor • Staff developed detailed business process summaries and identified tracking elements for design of new system • The anticipated date for launch of new case management system is September 1, 2022 	<p>Enforcement FY22 Case Closure Plan</p>

<p>11. Continue to develop the expanded Fixed Penalty Policy, and present for consideration to the Ethics Commission by January 2021 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.</p>	31-Dec-2020	Completed 	<ul style="list-style-type: none"> • Staff proposal distributed to Interested Persons 12/15/2020 and meetings held 1/5 and 1/7/2021 • Revised proposal presented at 2/12/21 Commission meeting, including predictive analysis of cases potentially subject to treatment under revised Fixed Fine Policy, was adopted by Commission 2/12/2021 • Streamlined Administrative Resolution Program implemented 2/15/2021 and as of 6/30/21 reflects the following: <ul style="list-style-type: none"> -- Six streamlined stipulations presented for Commission action -- 35% of 63 enforcement matters pending appear eligible for SARP resolution 	Adopted Revised Fixed Penalty Policy
<p>12. Report to the Ethics Commission on the results of using the case prioritization criteria 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.</p>	30-Jun-2021	Completed. 	<ul style="list-style-type: none"> • Initially targeted for presentation at the August 2021 Commission Meeting and was delayed due to Q1 prioritization of hiring processes necessary to fill Senior Investigator positions. • Review and assessment of results of using enforcement case prioritization criteria completed in September 2021 • Summary of initial results provided to Commission at monthly meeting 11/12/2021 	Summary of Initial Results

<p>13. Formalize and document the existing training program for investigators 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.</p>	30-Jun-2021	Completed 	<ul style="list-style-type: none"> • Onboarding and training needs for new investigators identified in calendar year 2020 • Expanded onboarding and training for new investigators initiated in April 2021 • Other processes prioritized for FY22 were delayed due to 1) Q1 prioritization of hiring to fill two Senior Investigator vacancies (both filled in October) and 2) vacancy in Enforcement Director position effective October 11, 2021. Implemented expanded onboarding and training developed in April 2021 for new staff hired in October. • With the February 2022 hiring of new Director of Enforcement, established Enforcement Division Training Program Plan in March 2022 	Enforcement Division FY22 Training Program Plan
<p>14. Report on whistleblower retaliation case outcomes to the Ethics Commission on an annual basis to enhance transparency of these investigations.</p>	30-Jun-2021	Completed 	<ul style="list-style-type: none"> • FY21 Whistleblower data included in Commission FY21 Annual Report draft presented at 6/11/2021 Commission meeting • This data will be included in the annual report going forward 	
<p>15. Establish goals for completing whistleblower retaliation investigations and specify how whistleblower retaliation cases should be prioritized among other cases to ensure timely resolution (in coordination with recommendation 10).</p>	31-Dec-2020	Completed 	<ul style="list-style-type: none"> • Established in Enforcement Division Case Closure Plan for FY21 dated 12/28/2020 • Established Enforcement Division FY22 Case Closure Plan in March 2022 	Enforcement FY22 Case Closure Plan
<p>16. Document specialized training for whistleblower retaliation investigations and build in mechanisms to verify that trainings occur and that they are useful and effective as needs change over time.</p>	30-Jun-2021	Completed 	<ul style="list-style-type: none"> • Onboarding and training needs for new investigators identified in calendar year 2020 • Expanded onboarding and training for new investigators initiated in April 2021 • Established in Enforcement Division FY22 Training Program Plan in March 2022 	Enforcement Division FY22 Training Program Plan