**City of Long Beach**
***Working Together to Serve***

***Memorandum***

**Date:** August 20, 2020

**To:** Ethics Commissioners

**From:** City Auditor Laura Doud

**Subject:** City Employee Ethics Survey and Ethics Program Performance Audit

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Enclosed are the final reports for two projects that my Office embarked on after voters approved the Ethics Commission. Both projects were meant to better understand the City's ethical culture and climate, and to devise improvements to the City's ethics program, including policies and procedures.

1) Employee Ethics Survey – My Office partnered with the Ethics Compliance Initiative (ECI) to conduct this large-scale survey to understand how City employees view ethics at work, and to identify ethics-related risks that may need to be addressed. The online survey was made available to over 4,500 City employees, of whom 1,500 responded, yielding a strong response rate of 33% and a margin of error of +/-2.1% at the 95% confidence level.

2) Performance Audit of the City's Ethics Program – We also partnered with a government-sector management consulting firm, Harvey M. Rose Associates, to conduct a performance audit that assessed the City's ethics and compliance activities and efforts, including ethics-related policies, training, legal compliance, oversight, and whistleblower and other complaint processes. The audit benchmarked the City's program components to those from other jurisdictions and assessed the program components according to 11 identified ethics standards and best practices. Attached to this report is the City Manager's Management Response which outlines their input and opinion on the audit findings and recommendations.

I am committed to working with all of you, as well as with many other stakeholders, to create an organizational structure that prioritizes ethical decision-making and nurtures an ethical culture. I appreciate the assistance and participation of the various City Departments, as well as the Mayor and City Councilmembers, in this audit. Lastly, I want to thank the employees who participated in the Ethics Survey; their input provided us with insightful information.

CC: Thomas B. Modica, City Manager
Rebecca G. Garner, Administrative Deputy City Manager
Amy R. Webber, Deputy City Attorney
JT Nagayama, City Clerk Analyst

# *City of Long Beach 2019 Employee Ethics Survey: Summary of Key Results*

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# About ECI and The ECI Survey Model

The Ethics Research Center is the research arm of the Ethics & Compliance Initiative. The Ethics & Compliance Initiative (ECI) is a best practice community of organizations that are committed to creating and sustaining high quality ethics & compliance programs. With a history dating back to 1922, ECI brings together ethics and compliance professionals and academics from all over the world to share techniques, research and, most of all, exciting new ideas. Learn more at ethics.org.

ECI research shows that ***high-quality*** ethics and compliance (E&C) ***programs*** (**HQPs**) drive a ***strong ethics culture*** and both of these ultimately impact ethics outcomes, including pressure, observed misconduct, reporting and retaliation. As such, the Ethics & Compliance Initiative Survey includes questions that uncover the interplay of these three areas. Responses by City of Long Beach employees are presented overall.


ECI's framework utilizes concepts expressed in the US Federal Sentencing Guidelines for Organizations (FSGO) (amended 2018) as well as globally accepted standards and elements of HQPs. HQPs go beyond the FSGO standards of an effective program and as such have a greater impact on ethics outcomes. To learn more about HQPs visit ethics.org/HQP

# The Ethics & Compliance Initiative Survey

## Background

This report summarizes the responses of the City of Long Beach ("City") employees to the Ethics & Compliance Initiative Survey conducted by ECI. The purpose of the survey was to:

- Implement an assessment of ethics and compliance at the City
- Identify strengths, opportunities and potential vulnerabilities based on City employee perspectives
- Provide a baseline for comparison against future surveys and assessment efforts

## Methodology

- Data collection: February 26, 2019 to March 22, 2019
- All employees except non-career employees were invited to participate in the voluntary and confidential survey
- The survey was conducted online on a secure website and via paper for those employees without a City email
- Additional information on methodology can be found on the FAQ slide (slide 8)

## Response Rates

- 4,562 employees were invited to participate
- 1,501 employees responded, yielding an overall response rate of 32.9%
- The margin of error* at the 95% confidence level for the survey is: +/- 2.1
    - This means there is 95% certainty that the results from this administration of the survey are within 2.1 percentage points (plus or minus) of the actual results were all employees to respond. In surveys, ECI seeks margins of error less than or equal to +/- 3.0.

*The **margin of error** (MoE) provides a sense of how accurate the sample survey results are vis-à-vis what the actual results would be were responses obtained from *all* employees in the population. Smaller MoEs are preferable. The **confidence level** is the probability that the actual results fall within the MoE. As an example, in this survey the MoE is +/-2.1. If 50% answers Yes to question X, we are 95% confident that the actual result falls in the range of 47.9% and 52.1%. There is a low (5%) probability (one in 20) that the actual result is outside the MoE and that the sample survey result is not reflective of the actual result give or take the MoE.

# The Ethics & Compliance Initiative Survey

## Primary Areas of Focus

### 1|WELL-IMPLEMENTED PROGRAMS MEASURES: Higher-quality Ethics & Compliance (E&C) programs lead to stronger ethics cultures and improved ethics outcomes

High-quality E&C programs are comprised of key resources that inform employees and prepare them for ethics-related issues that they may encounter in their workplace. Effective resources are practical, valuable and useful to employees as they make ethics-related decisions. As the "quality" of an E&C program improves, E&C becomes more embedded within the organizational culture and business strategy. A stronger ethics culture ultimately improves desirable ethics outcomes such as reduced pressure on employees to compromise standards.

### 2|ETHICAL ELEMENTS OF COMPANY CULTURE: A strong ethics culture is key to achieving desired ethics outcomes

The strength of an organization's ethics culture is measured through multiple indicators of employee behavior at various levels throughout an organization. These behaviors exhibit an enterprise-wide approach to ethics by the organization and demonstrate and promote a commitment to ethics on a daily basis. A strong ethics culture involves commitment, modeling and the right conduct by leadership, direct supervisors and all employees.

### 3|TARGET OUTCOMES: Ethics outcomes are measured by employee perspectives, actions and behaviors

The impact of high-quality E&C programs and strong ethics cultures are improved ethics outcomes. They reflect measurable, manageable actions undertaken by employees and the organization. The four major desired ethics outcomes measured by ECI include:

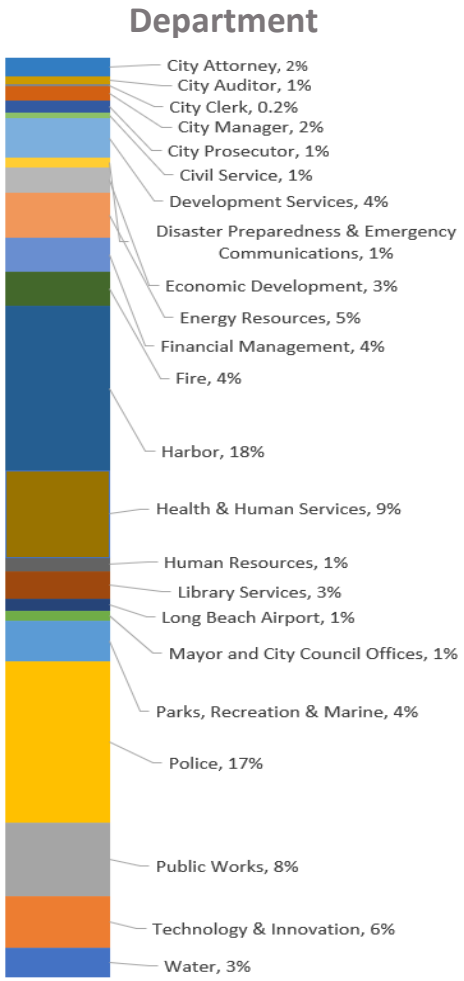
↓ **DECREASED PRESSURE** for employees to violate ethics standards;
↓ **DECREASED OBSERVED MISCONDUCT** amongst employees;
↑ **INCREASED REPORTING** of observed misconduct by employees; and
↓ **DECREASED RETALIATION** perceived by employees for reporting misconduct.

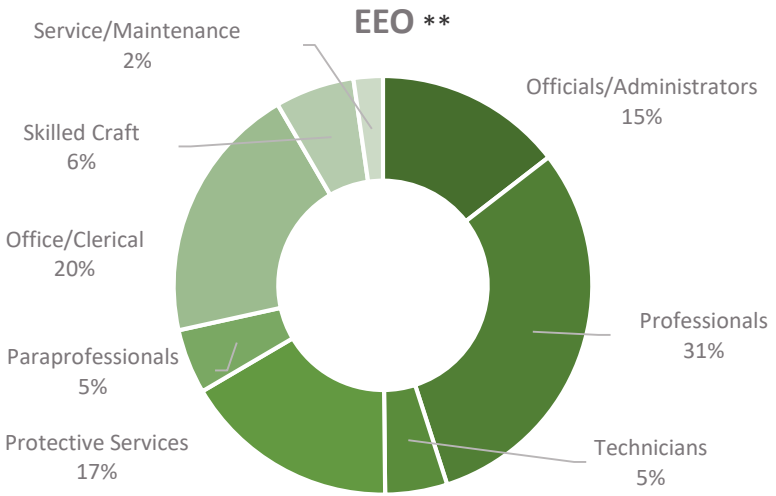
# Response Rate

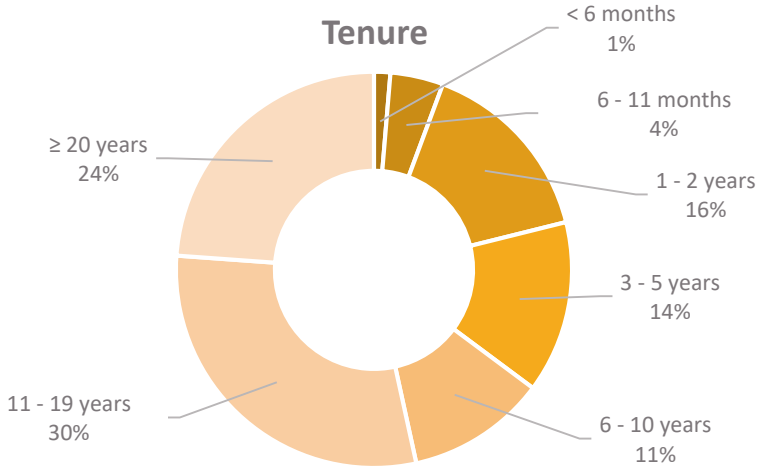
| Department | Total Population | # of Survey Respondents | Response Rate |
|---|---|---|---|
| City of Long Beach (CLB) Overall | 4562 | 1501 | 32.9% |
| City Attorney | 63 | 30 | 47.6% |
| City Auditor | 14 | 14 | 100.0% |
| City Clerk | 15 | 3 | 20.0% |
| City Manager | 55 | 24 | 43.6% |
| City Prosecutor | 37 | 19 | 51.4% |
| Civil Service | 23 | 9 | 39.1% |
| Development Services | 172 | 65 | 37.8% |
| Disaster Preparedness & Emergency Communications | 74 | 16 | 21.6% |
| Economic Development | 70 | 41 | 58.6% |
| Energy Resources | 201 | 73 | 36.3% |
| Financial Management | 129 | 56 | 43.4% |
| Fire | 483 | 55 | 11.4% |
| Harbor | 504 | 269 | 53.4% |
| Health & Human Services | 313 | 142 | 45.4% |
| Human Resources | 44 | 22 | 50.0% |
| Library Services | 83 | 45 | 54.2% |
| Long Beach Airport | 96 | 20 | 20.8% |
| Mayor and City Council Offices | 46 | 17 | 37.0% |
| Parks, Recreation & Marine | 212 | 66 | 31.1% |
| Police | 1108 | 262 | 23.6% |
| Public Works | 477 | 121 | 25.4% |
| Technology & Innovation | 121 | 83 | 68.6% |
| Water | 222 | 49 | 22.1% |

# Demographics of Respondent Population

The percentages below show the unweighted* demographic characteristics of City employees who participated in the survey.




* See the Frequently Asked Questions (slide 8) for additional information about weighting.
** Equal Employment Opportunity job categories.

# Frequently Asked Questions

## How are the data weighted?

When reporting results for CLB overall, data in this report are weighted based on City department. These weighting adjustments assign a weight to each survey respondent group depending on whether each group is under- or over-represented in the survey results in comparison with each group's proportional representation in the population. Respondent groups that are under-represented are assigned a weight greater than 1 and groups that are over-represented are assigned a weight less than 1. The weights adjust the responses so that the proportional makeup of the groups in the sample matches their proportional makeup in the population. In this way, the survey results more accurately portray employee sentiment.

## What is statistical significance testing and why is it important?

Statistical significance testing was conducted to ensure that the percentage differences shown are actual differences based on statistical analysis. There might be a large difference between percentages (e.g., 50% vs. 40%) that *is not* statistically significant or a small difference (e.g., 30% vs. 28%) that *is* statistically significant. Statistical significance testing confirms whether a difference is a valid difference. This standard provides a parameter against which the reader can assess percentage differences by department. Statistically significant differences are noted by an asterisk.

## What does the margin of error mean?

The margin of error (MoE) provides a sense of how accurate the sample survey results are vis-à-vis what the actual results would be were responses obtained from all employees in the population. The smaller the MoE, the closer the sample survey results are likely to be to the actual results. The confidence level is the probability that the actual results fall within the MoE. Using a 95% confidence level, we are 95% certain that the sample survey results are the same as the actual results give or take the indicated number of percentage points (i.e., the MoE). As an example, in this survey the MoE is +/-2.1. If 50% answers Yes to question X, we are 95% confident that the actual result falls in the range of 47.9% and 52.1%. There is a low (5%) probability (one in 20) that the actual result is outside the MoE and that the sample survey result is not reflective of the actual result give or take the MoE.

# Survey Highlights – City of Long Beach Overall

## Strengths

TARGET OUTCOMES

- Overall, 11% of employees feel pressure to compromise the City's Ethics Guide, the City's policies or the law.
- 18% or less of City employees observed each of the specific types of misconduct asked about in the survey; while a range of 22%-90% reported their observations depending on the specific type of misconduct.
- 27% of City employees have perceived retaliation for reporting misconduct they observed.

## Opportunities

HIGH-QUALITY PROGRAMS MEASURES

- 27% of City employees perceive that all five E&C program elements are present and 15% agree that five or six program effectiveness measures are present.
- About one-in eight (13%) City employees agree that all four programs-based actions and conditions by the City that incentivize them to act ethically are present.

ETHICAL ELEMENTS OF COMPANY CULTURE

- 61% of City employees perceive a strong ethics culture in their work environment. They perceive a strong:
  - Senior leadership ethics culture (49%),
  - Supervisor reinforcement ethics culture (70% ), and
  - Coworker commitment ethics culture (72%).

TARGET OUTCOMES

- Of those who observed misconduct (general), 55% reported it.
- Seventy-eight percent (78%) of City employees did not report misconduct they observed because they did not believe corrective action would be taken.

# Survey Highlights – Respondent Demographics

## Strengths

HIGH-QUALITY PROGRAMS MEASURES

- Employees with a tenure of two years or less had consistently positive results.
  - Employees with a tenure of less than 1 year are more likely to agree that a culture that incentivizes them to act ethically is present (Less than 6 months 50%, 6 months to less than 1 year 48%, vs. City 32%).
- Employees aged 18-29 years old are more likely to perceive that E&C program elements are present (38% vs. City 27%).

ETHICAL ELEMENTS OF COMPANY CULTURE

- In general, employees in Management positions and those who supervise others have positive perceptions of the overall Ethics culture:
  - Top Management and Middle Management had positive results for Overall Ethics Culture (91% and 71% respectively, vs. City 61%).

TARGET OUTCOMES

- Protective Services employees were less likely to feel pressure to compromise standards (6% vs. City 11%).

## Opportunities

HIGH-QUALITY PROGRAMS MEASURES

- Compared to their Male employee counterparts, Female employees are less likely to perceive that E&C program elements are present (Female 20% vs. Male 32%, City 27%).

ETHICAL ELEMENTS OF COMPANY CULTURE

- While White employees had overall positive results, Black employees had consistently negative results. Black employees were the only Racial/Ethnic group with statistically significant negative results and are less likely to perceive a strong ethics culture in their work environment (51% vs. City 61%):
  - Supervisor reinforced ethics culture (60% vs. City 70%), and
  - Coworker commitment ethics culture (61% vs. City 72%).

TARGET OUTCOMES

- Three Job Categories-Office/Clerical, Skilled Craft, and Service/Maintenance-all had statistically significant negative results.
  - Skilled Craft employees and Service/Maintenance employees are more likely to perceive a pressure to compromise standards (21% and 26% vs. City 11%).
  - Skilled Craft employees and Office/Clerical employees were significantly more likely have observed misconduct (42% and 41%, vs. City 30%).

# Open-ended Comments

## Primary Themes and Illustrative Comments

One open-ended question was asked in the survey: *What additional comments, thoughts or feedback do you have for us about the ethics culture at the City?*

A total of 244 participants wrote responses. Of those, 25 entered no comment, none or n/a. Of the remaining 219 who wrote comments, most mentioned more than one issue (theme). The top five themes and the Sub-themes below were mentioned 50 or more times. The next most written about theme was mentioned only 30 times. Positive comments were provided 28 times. These sample, unedited excerpts are included to help illustrate specifics about each theme.

**Standards not upheld** (87 mentions): Includes mentions of Double standards, Cover-ups and Lack of accountability*

- When mistakes, violations, or problems are reported to top management from line employees, very rarely does management take corrective action.
- Absolutely feel that certain representatives are held to a different standard under the guise of "supervisorial" or "management discretion".
- Lack of managements' ability to enforce policies and procedures consistently and in unison create a hostile environment which brooded misunderstanding that management favors one person/group over another.

**Favoritism** (66 mentions): Includes mentions of Cronyism, Favoritism (unspecified) and Favoritism toward management

- There's definitely a lot of favoritism in the department. Therefore, sound judgement, ethics, and integrity is out the door.
- Upper management seem to protect their own and don't bother with handling issues reported regarding supervisor and management conduct against non-supervisor/management personnel.
- Promotions are based upon who you know, who likes you, and not on your qualifications and contributions.

**Ethics insufficiency** (61 mentions): Includes Ethical fading (a drag on ethical behavior; ignoring, minimizing or failing to recognize the ethical nature or implications of a decision or action) and Unethical behavior

- I feel that many have been doing things a certain way that they may not even realize they are violating ethic culture. I also feel that it can be challenging for new employees and supervisors to address these concerns as there does not appear to be much support to establish methods to rectify and to have everyone follow same ethical guidelines.
- When there is clearly sexual harassment, deal with it. … Don't play the game of wait and see what happens. It emboldens the alleged perpetrator.

**E&C Program issue** (56 mentions): Includes Ethics training, Program resources issue/failing and Speak-up culture issue

- There is not enough information on how to report ethics violations and there is very little repercussions for the serious violations of employee privacy when it comes to personnel.
- I have been an employee within the city for [REDACTED] years. Over those years I have only attended one training course of Code of Ethics. It would be nice to have formal training every couple of years. We are asked to sign that we have received a the Code of Ethics annually, and it is not fair to have management not training all employees on what they are actually signing.

**Leadership issue** (50 mentions): Includes Leadership failing and Lack of leadership

- When top management has blatantly violated ethics policy, repeatedly,…, and continues to operate with perceived impunity it sets the example for what is acceptable conduct. It destroys morale and corrupts the dignity of civil service….
- I have witnessed people demoted or passed over for promotions who have spoke up, and the choice positions given to persons who "go Along" with the Bosses agenda. Seniority and promotion rules are continually bent to advance their agenda.
- I think our top management is often only concerned about themselves, especially when it comes to their salary. There is frequently zero communication from top management to its employees, which causes employees to feel devalued, confused and not part of any process. Rumors and misinformation are rampant as employees try to figure out what is happening on their own.



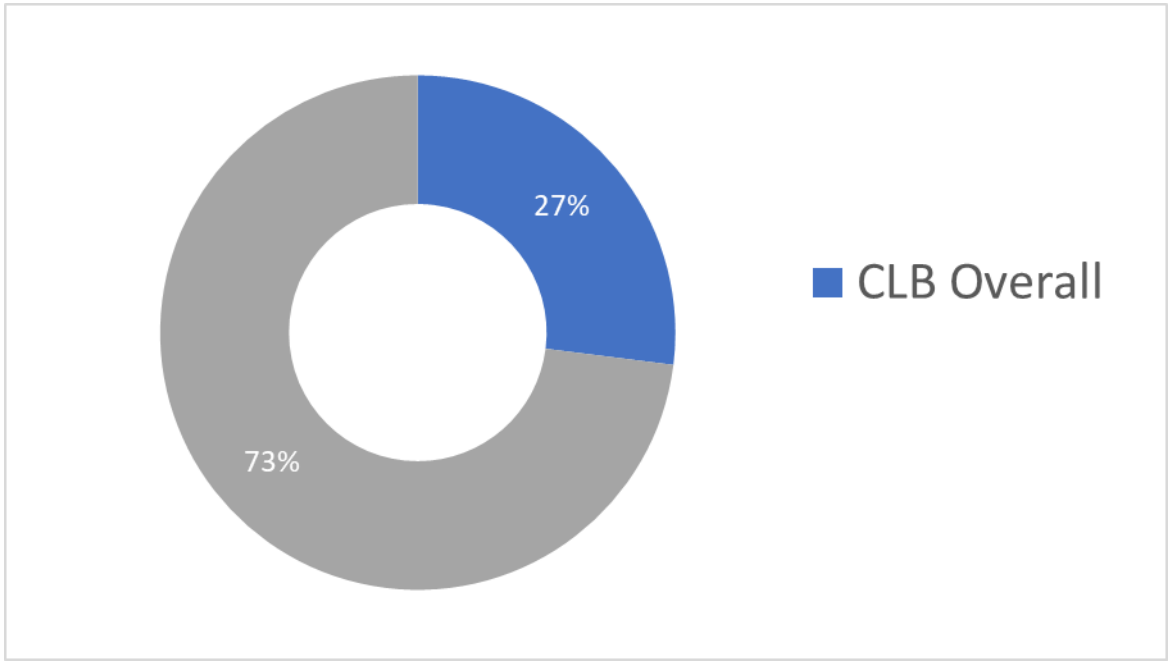
* Capitalized letters identify Sub-themes. For example; Double standards, Cover-ups and Lack of accountability are three sub-themes.

# 1|High-Quality Ethics & Compliance Program Measures

*Higher-quality E&C programs lead to stronger cultures and improved ethics outcomes*

# Program Elements

Overall, about one-in-four City employees (27%) perceive that *all* five program elements are present in the City.




* The question numbers shown in this report are those used in the paper survey.
Note: The percentages in the figure are based on a roll-up of five questions and indicate whether employees perceive that *all* five E&C program elements are present in the City.

**Employee Perception of Ethics & Compliance Program Elements Presence**

The first step in implementing a High-Quality E&C Program (HQP) is ensuring widespread awareness of formal E&C program elements that help support employees in their decisions and conduct at work. The ideal would be for all employees to know about all program elements.

To obtain insight into the degree to which employees are aware of *all* the program elements, a roll-up was created to show the percentage of employees who indicated "Yes," they are aware of all five of the following program elements.

1a.* Written standards of workplace conduct

1b. Orientation or training on standards of ethical workplace conduct

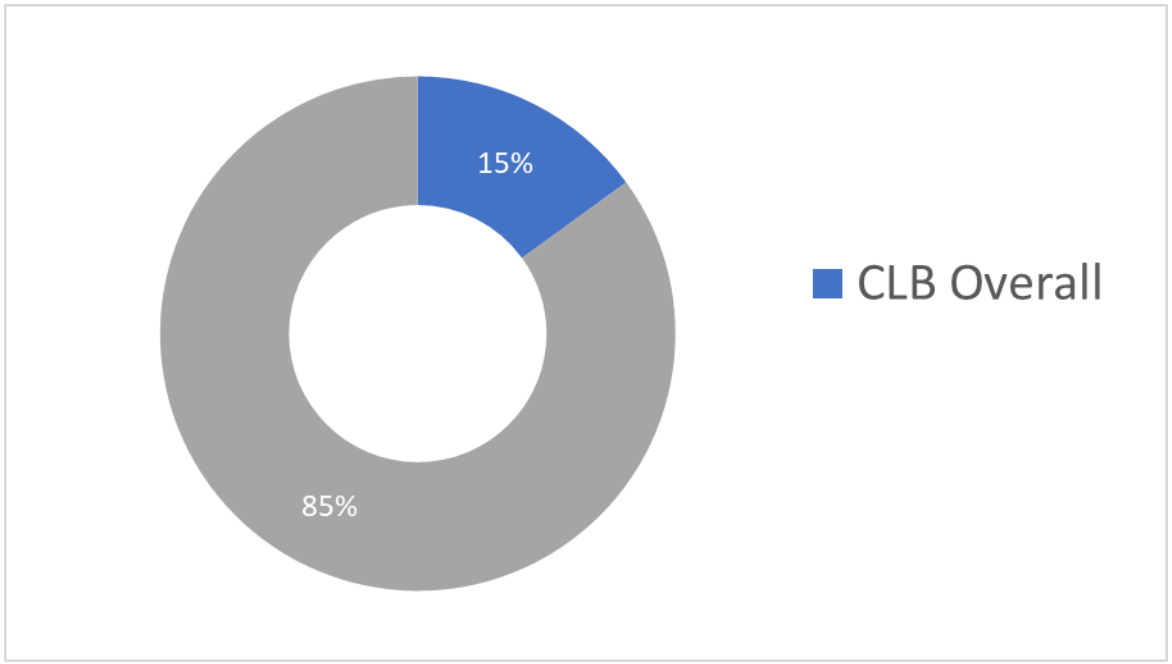
1c. A means for employees to get advice about workplace ethics issues

1d. A means for an employee to confidentially or anonymously report violations of ethics standards

1e. Evaluation of ethical conduct as part of regular performance appraisals

# Program Effectiveness

Overall, 15% of employees agree that five or six program effectiveness measures are present.




Note: The percentages in the figure are based on a roll-up of six questions reporting whether employees agree that five or six measures that indicate the presence of an effective E&C program are present in the CIty.

**Program Effectiveness**

An effective program is one in which employees use and benefit from the available E&C resources. Ethical conduct is reinforced and employees feel greater certainty about right behavior when making decisions.

The graph shows a roll-up of the percentage of employees who agree five or six of the six E&C measures are present. The higher the percentage, the more effective the program.

24. Employee seek guidance from resources in uncertain ethics situations [Most of the time or Every time]

16. Employees feel prepared to handle uncertain ethics situations [Well-prepared or Very well-prepared]

18. The City rewards employees who get good results even if they use questionable practices [Disagree or Strongly disagree]

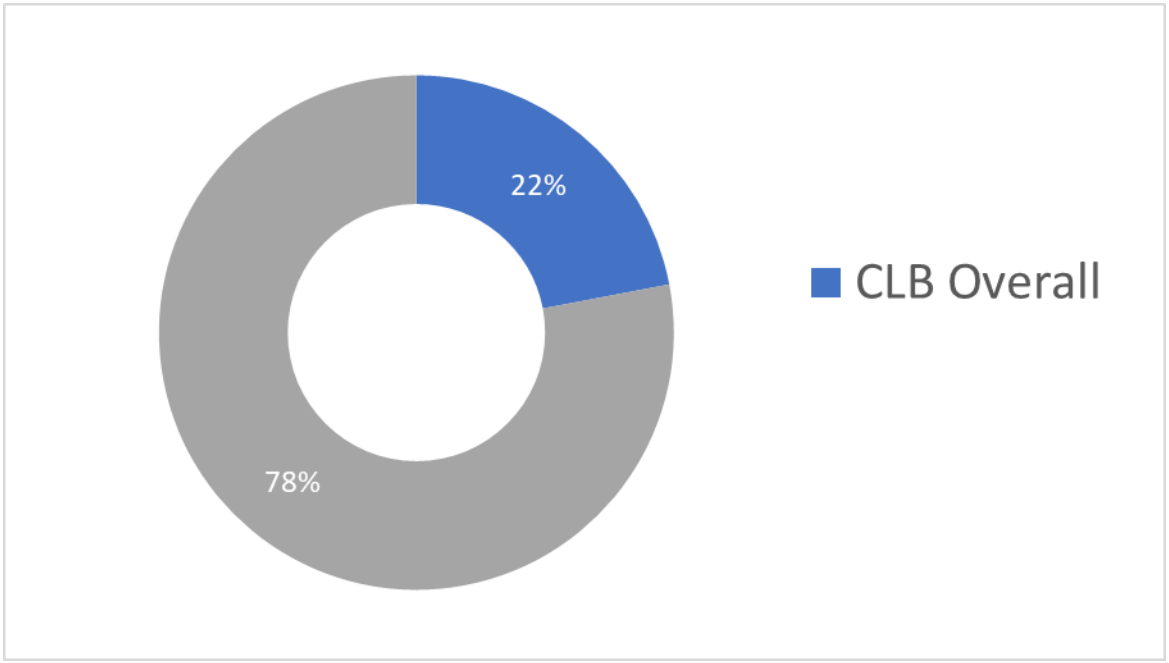
19. Employees can question management decisions without fear of retaliation [Agree or Strongly agree]

20. The City gives recognition to employees who do the right thing [Agree or Strongly agree]

11. Supervisor provides positive feedback for ethical behavior [Agree or Strongly agree]

# Utility of Resources

Overall, 22% of employees agree that the City's Ethics Guide and Ethics Training are or were useful in the workplace.




Note: The percentages in the figure are based on a roll-up of the five questions asking about the use of City-provided resources and show the percentages of employees who find or found the resources useful.

**Utility of Resources**

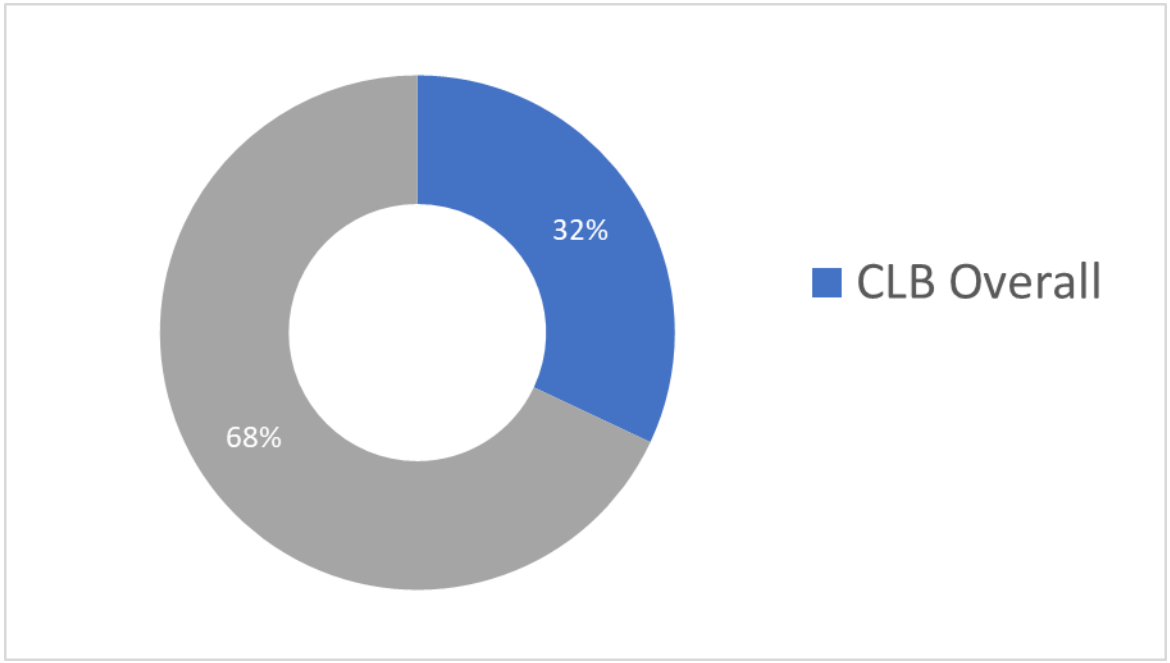
Organizations provide resources to guide employees' ethical decision-making. The most useful resources are practical and relevant to employees' everyday work.

A roll-up of five questions was created to show the percentage of employees who find or found the City's E&C resources useful in their work.

2. The City's Ethics Guide is effective in guiding decisions and conduct at work [Effective or Very effective}
3. Employees feel the ethics training they receive is valuable [Agree or Strongly agree]
4. Employee has been able to apply what was learned in ethics training to their job [Agree or Strongly agree]
35. Employees who observed misconduct found the City's Ethics Guide helpful in deciding what to do about the misconduct they observed [Helpful or Very helpful]
36. Employees who observed misconduct found the City's Ethics Training they participated in helpful in deciding what to do about the misconduct they observed [Helpful or Very helpful]

# Integrity Incentives – Culture-based

Overall, 32% of employees agree that all four culture-based actions by employees that incentivize them to act ethically are present.




Note: The percentages in the figure are based on a roll-up of four questions that indicate whether employees agree four culture-based incentive indicators are present in the City.

**Culture-based Integrity Incentives**

Employee behavior can influence (incentivize) employees to act ethically.

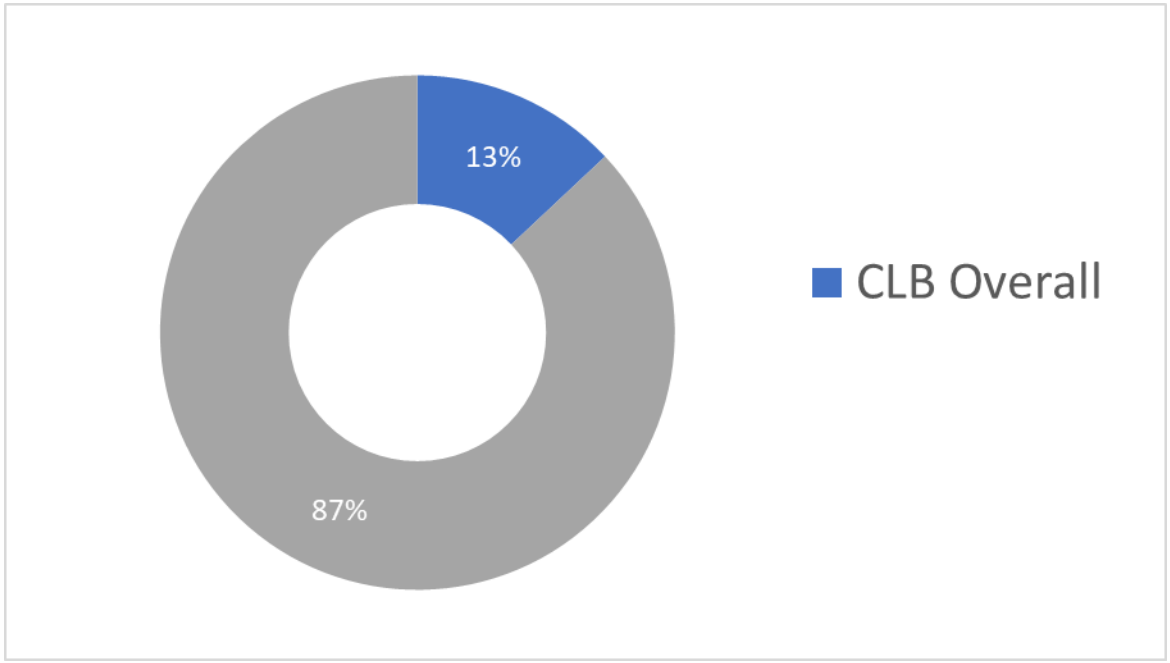
The roll-up in this slide shows the percentage of employees who agree that various groups of employees act in ways to encourage ethical conduct from them; that is, four behaviors that incentivize employees to act ethically are present.

7a, b, and c. Top management, My direct supervisor, My coworkers talk(s) about the importance of workplace ethics and doing the right thing [Agree or Strongly agree]

11. Supervisor provides positive feedback for ethical behavior [Agree or Strongly agree]

# Integrity Incentives – Programs-based

Overall, about one-in-eight employees (13%) agree that all four programs-based actions by the City that incentivize them to act ethically are present.




Note: The percentages in the figure are based on a roll-up of four questions that indicate whether employees agree four programs-based, incentive indicators are present in the City.

**Programs-based Integrity Incentives**

An organization's priorities and practices can influence (incentivize) employees to act ethically.

The roll-up in this slide shows the percentage of employees who agree that several incentives to act ethically are present; that is, four actions and conditions that incentivize employees to act ethically are present.

20. The City gives recognition to employees who do the right thing [Agree or Strongly agree]

27. When it comes to doing the right thing, the City emphasizes the law and regulations [Agree or Strongly agree]

28. When it comes to doing the right thing, the City emphasizes the City's values and principles [Agree or Strongly agree]

18. The City rewards employees who get good results even if they use questionable practices [Disagree or Strongly disagree]

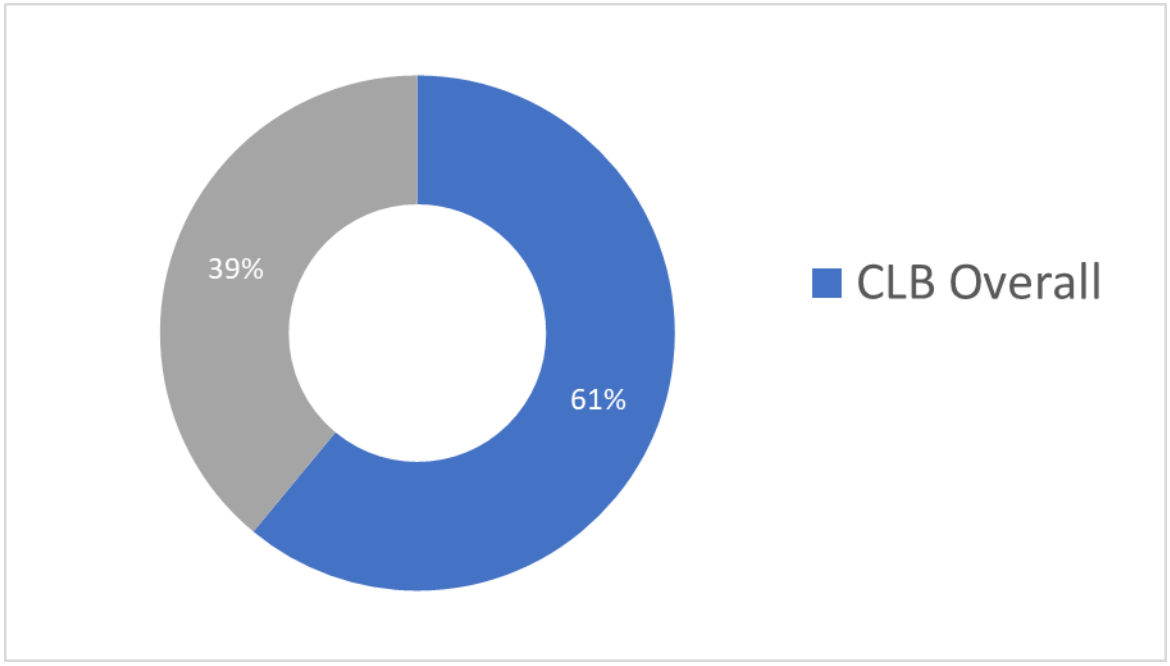
# 2|Ethics Culture

*A strong ethics culture is key to achieving desired ethics outcomes*

# Overall Ethics Culture

Employee Perceptions of the Strength of the City's Ethics Culture

Overall, 61% of employees perceive a strong ethics culture in their work environment,




Note: The strength of the City's overall ethics culture is determined by looking at results from 17 survey questions and designating those respondents who agree or strongly agree that all 17 ethics-related actions (see sidebar for complete list of questions) are present as being in a strong ethics culture. The percentages in the figure are the percentage of employees who score as being in a strong ethics culture.

**Ethics Culture**

ECI research shows that a strong ethics culture decreases misconduct and contributes to other favorable ethics outcomes.

An ethical environment is formed and created through the perception that employees at all levels are engaging in ethical actions and behaviors. Respondents who agreed or strongly agreed that all 17 of the following ethics-related actions are present are designated as being in a strong ethics culture. [All questions: Agree or Strongly agree]

7a, b, and c. Top management, My direct supervisor, My coworkers/peers talk(s) about the importance of workplace ethics and doing the right thing in the work we do

8a, b, and c. Overall, Top management, My direct supervisor, My coworkers/peers set(s) a good example of ethical workplace conduct

10a and b. I trust that Top management, My direct supervisor will keep their promises and commitments

43a, b, and c. Top management, My direct supervisor, Non-management employees would be held accountable if caught violating the City's Ethics Guide

5 and 9. I am satisfied with the information I get from Top management, My direct supervisor about what is going on in the City

11. My direct supervisor gives positive feedback for ethical behavior

14b and c. My direct supervisor, My coworkers/peers support(s) me in following the City's Ethics Guide

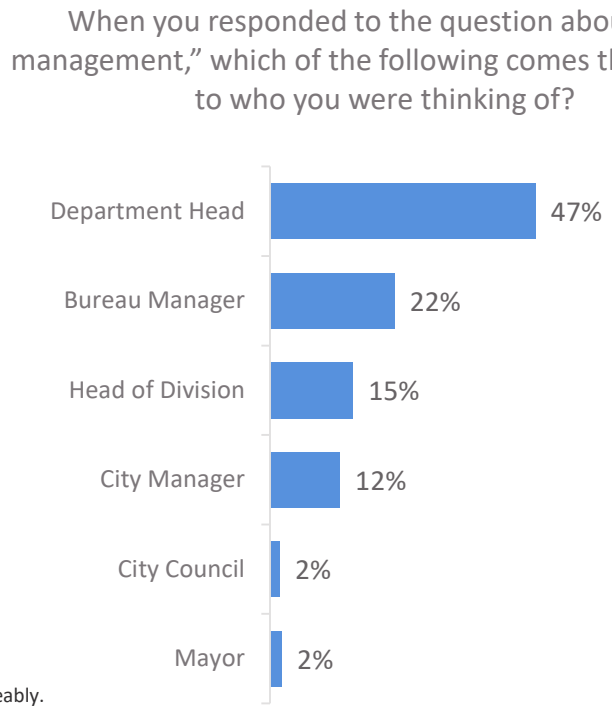
12c. My coworkers/peers carefully consider ethics when making work-related decisions

# Who Is Senior Leadership (Top Management)?

## Understanding Survey Findings about Top Management.*

In the survey, participants were asked one question about top management behavior and then were asked a follow-on question asking who they had in mind when answering the previous question. Respondents were offered six choices (see below). Nearly half identified their department head as "top management." Participants were then directed to keep that individual or group in mind when answering the remainder of the questions in the survey about top management.

When reviewing the findings about top management, keep in mind that a plurality of employees (47%) are answering with their department head in mind and 22% are considering their bureau manager. In aggregate, 69% of respondents considered a manager relatively near to their level in the organization when responding to the survey questions.

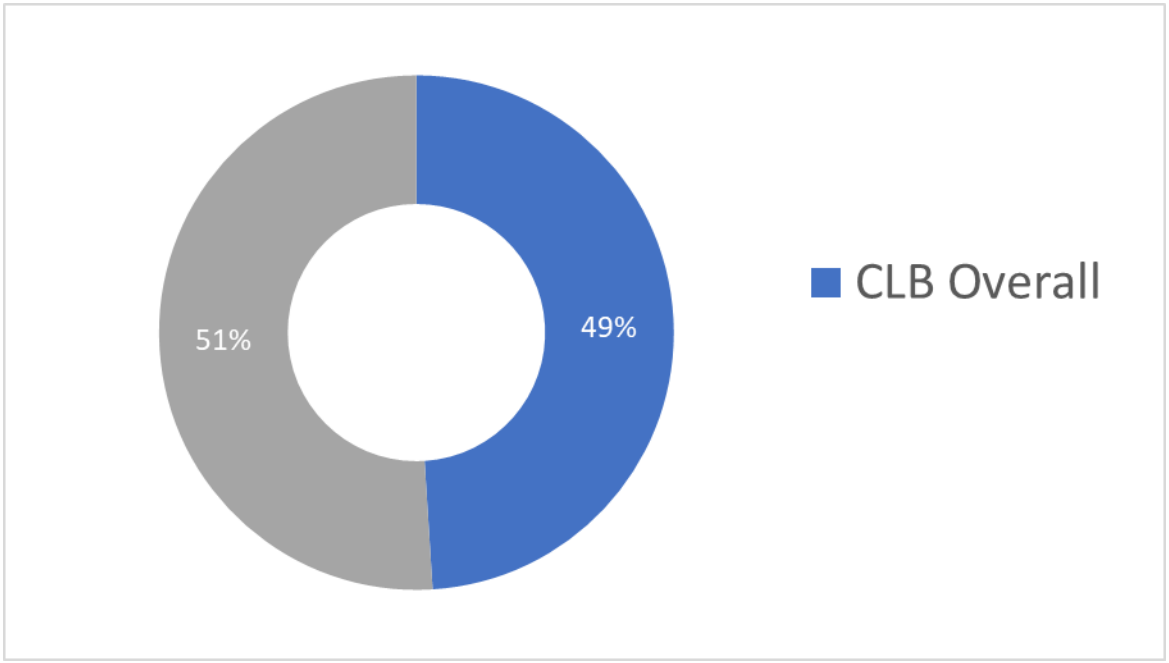



* Top Management and Senior Leadership are used interchangeably.

# Top Management

Employee Perceptions of the Strength of the
Senior Leadership Ethics Culture

Overall, 49% of employees perceive a strong senior leadership ethics culture in their work environment.




Note: The strength of the senior leadership ethics culture is determined by looking at results from five survey questions and designating those respondents who agree or strongly agree that all five ethics-related actions (see sidebar for complete list of questions) are present as being in a strong senior leadership ethics culture. The percentages in the figure are the percentage of employees who score as being in a strong senior leadership ethics culture.

* Top Management and Senior Leadership are used interchangeably.

**Senior Leadership (Top Management)* Ethics Culture**

A strong senior leadership ethics culture is formed and created through the perception that top management is engaging in ethical actions and behaviors.

Respondents who agreed or strongly agreed that all five of the following ethics-related actions are present are designated as being in a strong senior leadership ethics culture. [All questions: Agree or Strongly agree]

7a. Top management talks about the importance of workplace ethics and doing the right thing in the work we do

8a. Overall, top management sets a good example of ethical workplace conduct

10a. I trust that top management will keep their promises and commitments

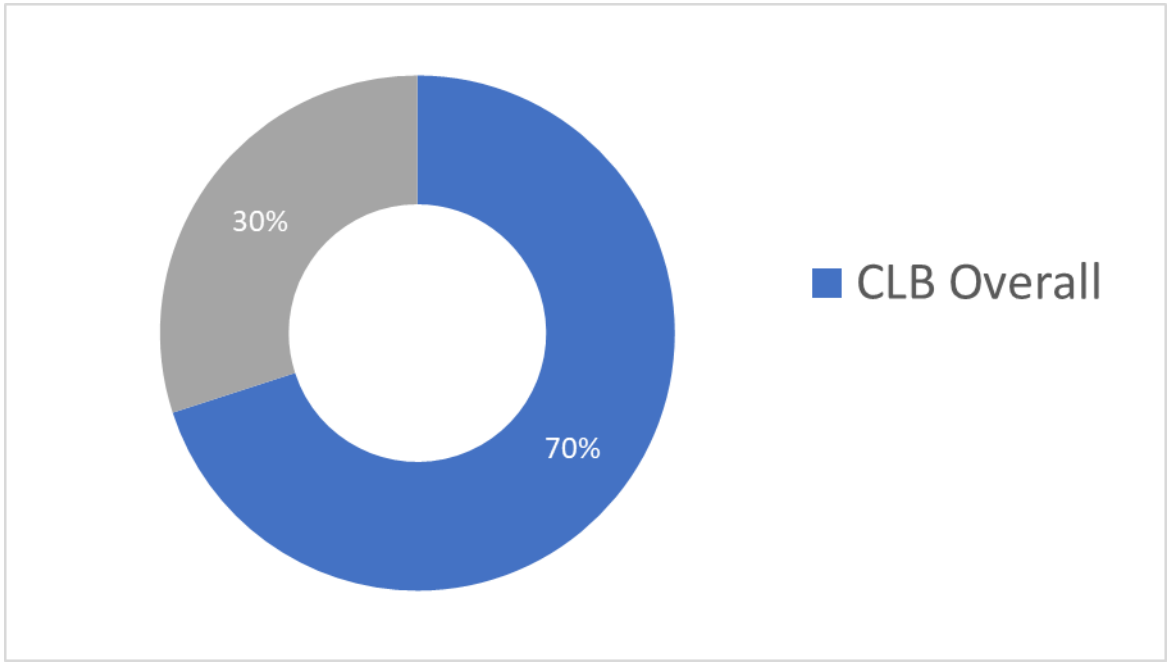
43a. Top management would be held accountable if caught violating the City's Ethics Guide

5. I am satisfied with the information I get from top management about what is going on in the City

# Supervisor Reinforcement

Employee Perceptions of the Strength of the
Supervisor Reinforcement Ethics Culture

Overall, 70% of employees perceive a strong supervisor reinforcement ethics culture in their work environment.




Note: The strength of the supervisor reinforcement ethics culture is determined by looking at results from seven survey questions and designating those respondents who agree or strongly agree that all seven ethics-related actions (see sidebar for complete list of questions) are present as being in a strong supervisor reinforcement ethics culture. The percentages in the figure are the percentage of employees who score as being in a strong supervisor reinforcement ethics culture.

**Supervisor Reinforcement Ethics Culture**

A strong supervisor ethics culture is formed and created through the perception that supervisors are engaging in ethical actions and behaviors.

Respondents who agreed or strongly agreed that all seven of the following ethics-related actions are present are designated as being in a strong supervisor reinforcement ethics culture. [All questions: Agree or Strongly agree]

7b. My direct supervisor talks about the importance of workplace ethics and doing the right thing in the work we do

8b. Overall, my direct supervisor sets a good example of ethical workplace conduct

10b. I trust that my direct supervisor will keep his or her promises and commitments

43b. My direct supervisor would be held accountable if caught violating the City's Ethics Guide

9. I am satisfied with the information I get from my direct supervisor about what is going on in the City

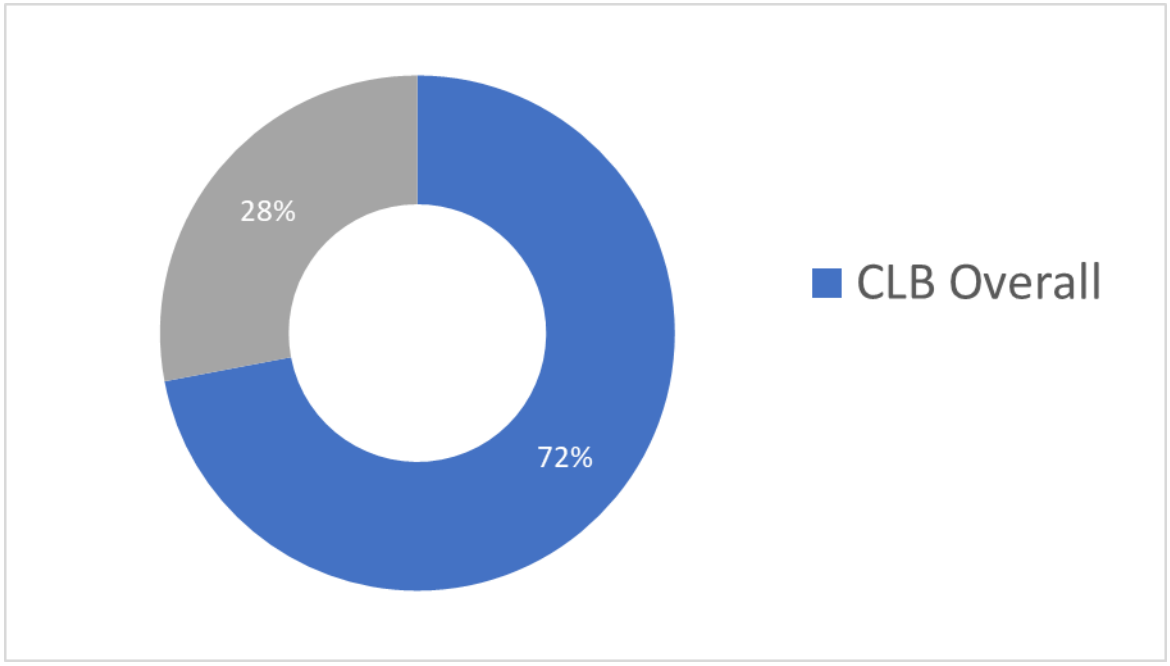
11. My direct supervisor gives positive feedback for ethical behavior

14b. My direct supervisor supports me in following the City's Ethics Guide

# Coworker Commitment

Employee Perceptions of the Strength of the
Coworker Commitment Ethics Culture

Overall, 72% of employees perceive a strong coworker commitment ethics culture in their work environment.




Note: The strength of the coworker commitment ethics culture is determined by looking at results from five survey questions and designating those respondents who agree or strongly agree that all five ethics-related actions (see sidebar for complete list of questions) are present as being in a strong coworker commitment ethics culture. The percentages in the figure are the percentage of employees who score as being in a strong coworker commitment ethics culture.

**Coworker Commitment Ethics Culture**

A strong coworker commitment ethics culture is formed and created through the perception that coworkers/peers are engaging in ethical actions and behaviors.

Respondents who agreed or strongly agreed that all five of the following ethics-related actions are present are designated as being in a strong coworker commitment ethics culture. [All questions: Agree or Strongly agree]

7c. My coworkers/peers talk about the importance of workplace ethics and doing the right thing in the work we do

8c. Overall, my coworkers/ peers set a good example of ethical workplace conduct

43c. Non-management employees would be held accountable if caught violating the City's Ethics Guide

14c. My coworkers/peers support me in following the City's Ethics Guide

12c. My coworkers/peers carefully consider ethics when making work-related decisions

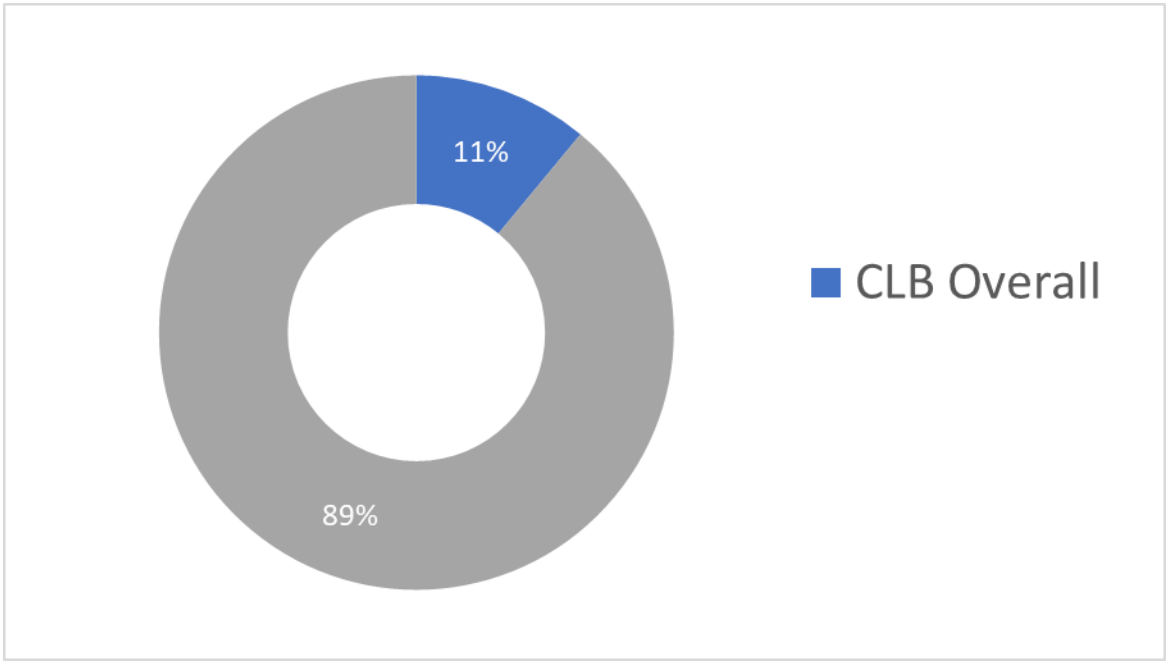
# 3|Target Outcomes

*Ethics outcomes are measured by employee perspectives, actions and behaviors*

# Pressure to Compromise Standards

Perceived Pressure

Overall, 11% of employees feel pressure to compromise the City's ethics standards.




Note: The figure shows the percentage of employees who indicated they felt pressured to compromise the City's Ethics Guide, the City's policies, or the law. A higher value is less favorable.

**Ethics Outcomes**

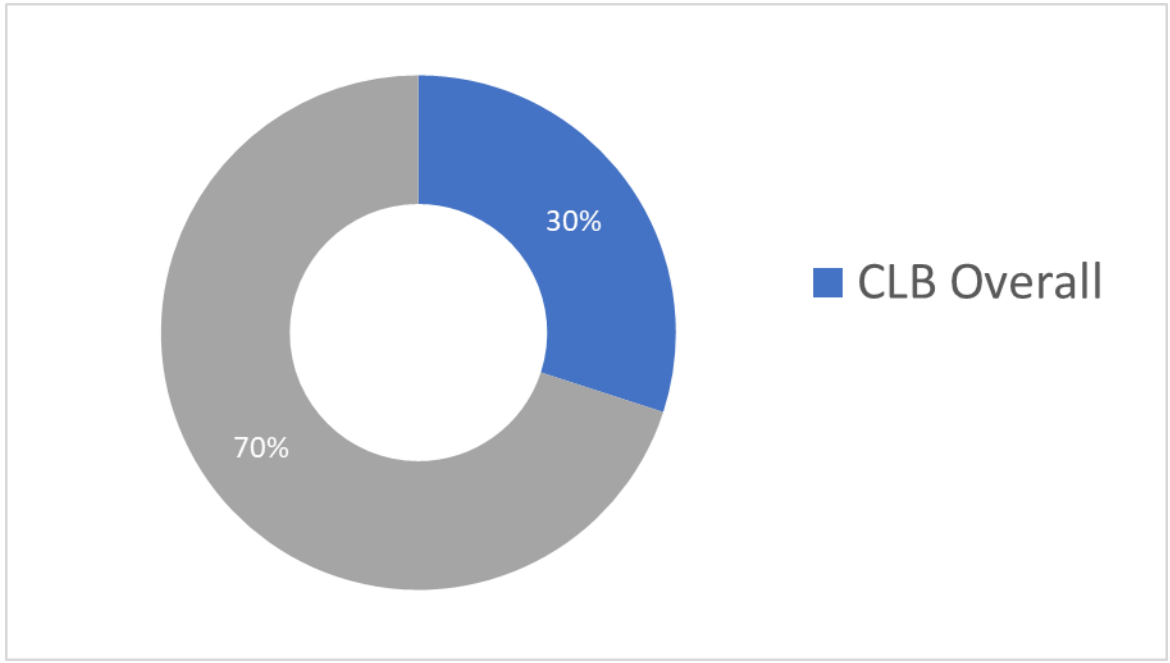
*Pressure* to compromise standards is an important warning sign of future workplace misconduct.

22. Do you ever feel pressured by others to compromise the City's Ethics Guide, the City's policies, or the law?

# Observed Misconduct – General

Observed Misconduct - General

Overall, 30% of employees observed misconduct in the previous 12 months.




Note: The figure shows the percentage of employees who indicated they observed conduct they thought violated the City's Ethics Guide, the City's policies, or the law during the past 12 months. A higher value is less favorable.

**Ethics Outcomes**

*Misconduct* is primarily interpersonal, such as abusive behavior, versus an administrative or compliance type of violation such as falsifying an expense report or violating contract terms.

Observed misconduct is the most fundamental indicator of the state of integrity in the workplace. Identifying the prevalence of misconduct can provide insight on the health of an organization's culture.

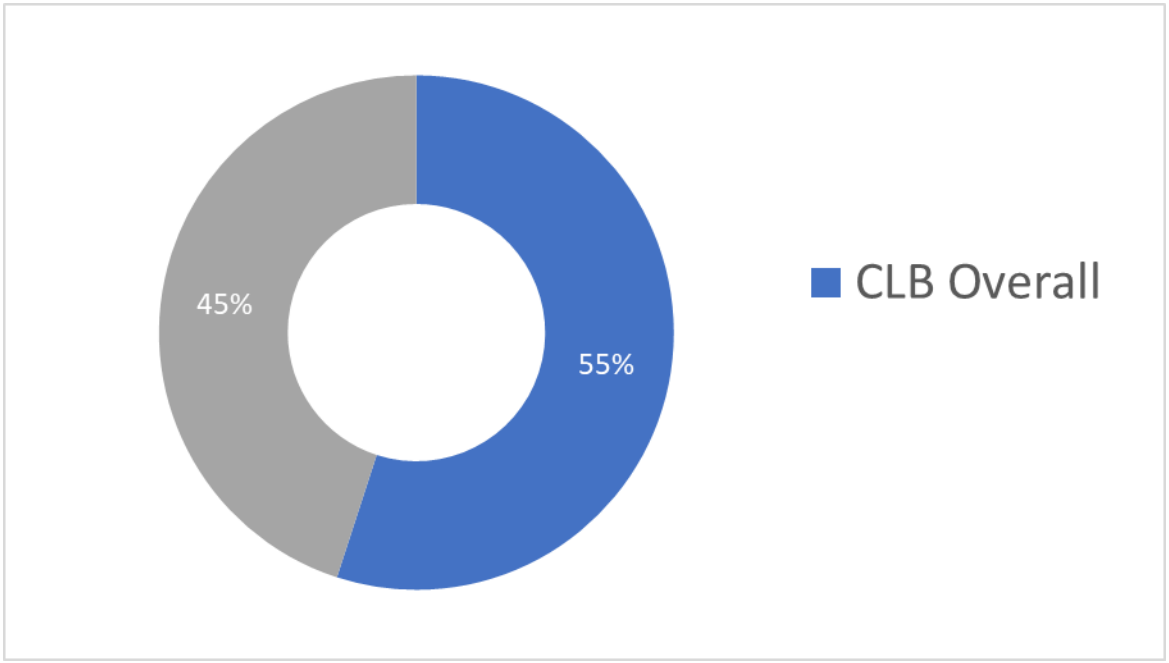
29. During the past twelve months, did you personally observe conduct you thought violated the City's Ethics Guide, the City's policies, or the law?

Note: ECI asks employees about their observations of misconduct in two ways. First, employees are asked, in general terms, if they observed any misconduct in the past 12 months and, if so, whether they reported it. Then employees are asked if they observed specific types of behaviors that fall under the umbrella of misconduct in the past 12 months. These questions are asked in order to provide two perspectives on how employees view misconduct.

# Reported Misconduct – General

Reported Misconduct – General

Overall, 55% of employees reported misconduct they observed.




Note: The figure shows the percentage of employees – of the subset who observed misconduct – who reported their observation to management or another appropriate person.

**Ethics Outcomes**

*Reporting* is pertinent as organizations that lack knowledge about the events taking place within are left only with an ability to react to crises and not an ability to avoid them. The more misconduct occurs and goes unreported, the greater the ethics risk an organization faces.

30. Did you report your observation of the conduct that you thought violated the City's Ethics Guide, the City's policies, or the law to management or to another appropriate person?

# Observed and Reported Misconduct – Specific Behaviors

18% or less of City employees observed each of the specific types of misconduct asked about in the survey; while a range of 22%-90% reported their observations depending on the specific type of misconduct.

| Specific Behaviors | Observed | Reported |
|---|---|---|
| **Abusive or intimidating behavior towards employees** | 18% | 52% |
| **Lying to employees** | 13% | 34% |
| **Failure to properly follow the performance evaluation process** | 11% | 39% |
| **Misreporting of actual time or hours worked** | 11% | 49% |
| **Improper hiring practices** | 10% | 26% |
| **Behavior that places an employee's personal interests over the interests of the City (a conflict of interest)** | 10% | 34% |
| **Wasting, mismanaging, or abusing the City's resources** | 9% | 30% |
| **Discrimination against current employees based on race, color, gender, age, religion, sexual orientation, or similar categories** | 8% | 34% |
| **Engaging in anti-competitive behavior (e.g., bid rigging, collusion, favoritism)** | 8% | 28% |
| **Retaliation for reporting misconduct** | 7% | 38% |
| **Misuse of the City's services or property** | 7% | 35% |
| **Improperly withholding or giving merit increase(s)** | 6% | 33% |
| **Excessive or inappropriate use of social media** | 6% | 22% |
| **Breaching employee privacy** | 6% | 32% |

Note: The table shows the percentage of employees who observed the specific behavior and – of the subset who observed the behavior – reported their observation to any of the nine possible reporting locations. A higher observation value is less favorable, whereas a higher reporting value is more favorable.

**Ethics Outcomes**

*Specific Types of Misconduct: Observation and Reporting*

31a through ff. Have you personally observed any of these behaviors among the City of Long Beach employees in the past 12 months? [Yes]

32a through ff. If you answered "Yes," you observed the specific behavior, where did you report you observation?

Response Options:

- I did not report
- City Auditor's Fraud Hotline
- My supervisor
- Higher management
- City Attorney
- City Manager
- Human Resources
- Other responsible person, including ethics officer
- An office or person separate from the City
- Other

# Observed and Reported Misconduct – Specific Behaviors (Continued)

| Specific Behaviors | Observed | Reported |
|---|---|---|
| Violating the City's policies relating to e-mail and/or Internet use | 5% | 23% |
| Delivery of services that fail to meet specifications or expectations | 5% | 54% |
| Violating employee wage, overtime or benefit rules | 5% | 42% |
| Sexual harassment | 4% | 33% |
| Violations of health and/or safety regulations | 4% | 47% |
| Falsification or misrepresentation of financial reports or records | 3% | 43% |
| Lying to customers, vendors, or the public | 3% | 41% |
| Misuse of the City's confidential information | 3% | 52% |
| Entering into contracts that lack proper terms, conditions, or approvals | 3% | 34% |
| Inappropriate alteration of the City's documents or records | 2% | 53% |
| Giving or accepting bribes, kickbacks, or inappropriate gifts | 2% | 37% |
| Violation of environmental regulations | 2% | 52% |
| Abusing substances, such as drugs and/or alcohol at work | 1% | 65% |
| Stealing the City's money, property, or products | 1% | 31% |
| Violating contract terms with businesses or suppliers | 0.50% | 90% |
| Breaching citizen or business privacy | 0.40% | 28% |
| Falsifying expense reports | 0.30% | 79% |
| Other type of misconduct not already listed | 7% | 56% |

Note: The table shows the percentage of employees who observed the specific behavior and – of the subset who observed the behavior – reported their observation to any of the nine possible reporting locations. A higher observation value is less favorable, whereas a higher reporting value is more favorable.

**Ethics Outcomes**

*Specific Types of Misconduct: Observation and Reporting*

31a through ff. Have you personally observed any of these behaviors among the City of Long Beach employees in the past 12 months? [Yes]

32a through ff. If you answered "Yes," you observed the specific behavior, where did you report you observation?

Response Options:

- I did not report
- City Auditor's Fraud Hotline
- My supervisor
- Higher management
- City Attorney
- City Manager
- Human Resources
- Other responsible person, including ethics officer
- An office or person separate from the City
- Other

# Satisfaction after Reporting – Reporting Locations

| How satisfied were you with the City's response to your report of the behavior at the following locations? (Rolled up) | CLB Overall |
|---|---|
| City Attorney | 7 of 10* |
| My supervisor | 114 of 243 |
| Human Resources | 33 of 79 |
| City Manager | 1 of 4 |
| Other responsible person, including ethics officer | 20 of 53 |
| Higher management | 37 of 102 |
| An office or person separate from the City | 13 of 42 |
| City Auditor's Fraud Hotline | 3 of 18 |
| Other | 23 of 67 |

* The results in the table are based on a roll-up of a subset of employees who observed at least one specific form of misconduct and reported it/them. The table shows the counts who indicated that they were either satisfied or very satisfied after reporting to the indicated individual/location, and the total counts of observers who reported to that individual/location.
Presenting the results this way provides a more nuanced picture than would be presented if results were shown as percentages. For example, neither 70% (7 of 10) reporting to the City Attorney nor 25% (1 of 4) reporting to the City Manager convey the finding that these are lightly used resources by those who report observed misconduct. And, as good as 70% appears compared with 25%, both are based on small numbers of reporters and should be considered in that light. The 243 who observed misconduct and reported to their supervisor merits more attention as the consequences of that experience affect so many more employees.

**Ethics Outcomes**

*Satisfaction with an organization's response to reporting* is associated with an increased likelihood of future reporting of observed misconduct.

Employees who report may not see their desired outcome happen; however, ECI research has found that if they feel that the organization listened to them, treated them respectfully and reached a fair conclusion, they are more likely to be satisfied afterwards than if they feel the reporting, investigative and adjudicating process was not "procedurally just."

33. If you reported to a location, how satisfied were you with the City's response to your report of the behavior? [Satisfied or Very satisfied]

# Reasons for Dissatisfaction

In line with findings from ECI's research and work from client assessments, the primary reason for City employees to be dissatisfied after reporting was belief that corrective action was not taken.

| Reasons for Dissatisfaction | CLB Overall |
|---|---|
| **Dissatisfied - Corrective action wasn't severe or complete enough. (n=100)*** | 77% |
| **Dissatisfied - The City chose not to pursue the claim. (n=75)** | 71% |
| **Dissatisfied - I do not know if any action was taken. (n=137)** | 70% |
| **Dissatisfied - I do not think the investigative process was fair. (n=90)** | 70% |
| **Dissatisfied - I disagree with the results of the investigation. (n=86)** | 68% |

Note: The results in the table shows the percentages of employees – of the subset who observed misconduct (general and/or specific), reported misconduct and were dissatisfied after reporting – who cited the listed reason as a reason for their dissatisfaction. A higher value is less favorable.
* 'N size' is the number of respondents who were dissatisfied on which the percentages are calculated. 'N sizes' vary due to employees selecting the "Don't know" response and not being included in the calculation.

**Ethics Outcomes**

ECI has found in its research and client work that the primary *reasons employees are dissatisfied after reporting* an observation of misconduct are related to:

- Lack of a response and/or insufficient corrective action,
- Doubts about confidentiality, and
- Fear of or perceived retaliation for reporting.

34. Think of the incident you were most dissatisfied with, were any of the following a reason that you were dissatisfied? [Yes, No]

# Reasons for Not Reporting

In line with findings from ECI's research and work from client assessments, the top reasons City employees do not report misconduct stem from doubts that corrective action would be taken, doubts about confidentiality and fear of retaliation.

| Reasons for Non-Reporting | CLB Overall |
|---|---|
| I did not believe corrective action would be taken. | 78% |
| I did not believe I could report anonymously. | 63% |
| I feared retaliation from management. | 61% |
| I feared retaliation from my supervisor. | 40% |
| I feared retaliation from my coworkers. | 31% |
| I did not think it was significant enough to report. | 39% |
| I did not believe it was my responsibility. | 34% |
| I would have to report it to the person involved. | 31% |
| I did not know whom to contact. | 30% |
| The issue had already been addressed by someone else. | 22% |
| I thought someone else would report it. | 21% |
| I did not want to get someone fired. | 20% |
| I was retaliated against in the past for reporting at the City. | 20% |
| It was to my advantage to not report the misconduct. | 20% |
| I resolved the issue myself. | 16% |

Note: The figure shows the percentage of employees – of the subset who observed misconduct (general and/or specific) and did not report at least one of their observations – who cited the listed reason as a reason for not reporting. A higher value is less favorable.

**Ethics Outcomes**

ECI has found in its research and client work that the primary *reasons employees do not report the misconduct they observe* are related to:

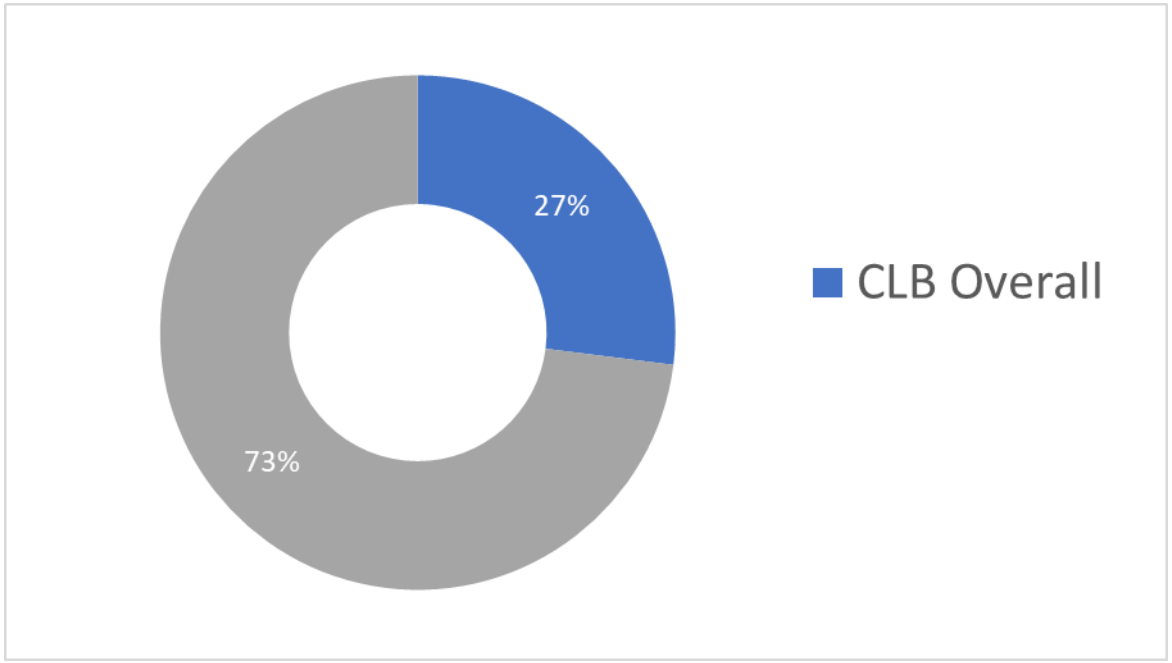
- Lack of a response and/or insufficient corrective action,
- Doubts about confidentiality, and
- Fear of or perceived retaliation for reporting.

41a through o. Keeping in mind the most serious incident you did not report, please indicate whether each of the following items influenced your decision not to report. [Yes, No]

# Retaliation for Reporting

Perceived Retaliation

Overall, 27% of employees perceived retaliation for reporting misconduct they observed.



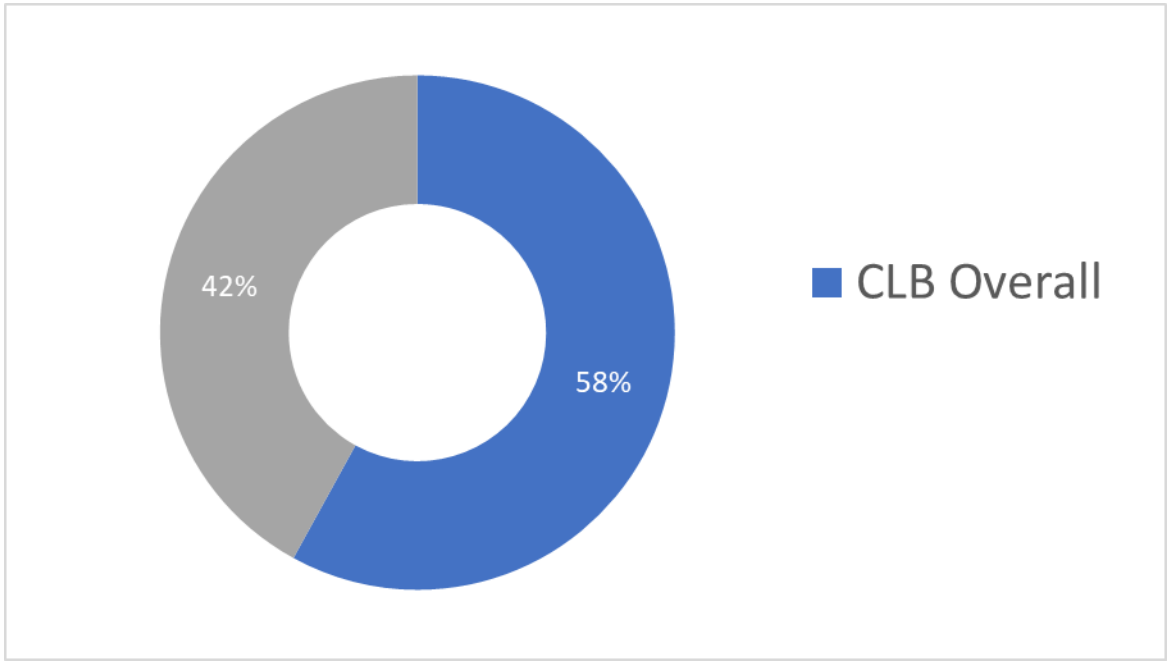

Note: The figure shows the percentage of employees – of the subset who observed and reported misconduct – who indicated that they perceived retaliation as a result of their report of misconduct. A higher value is less favorable.

**Ethics Outcomes**

*Retaliation* dampens future reporting. Whether perception or reality, it's pertinent that an organization investigate all employee reports of retaliation.

37. Keeping in mind the most serious incident of misconduct you reported: Did you experience retaliation by your superiors or coworkers as a result of your report of misconduct? [Yes, No]

# Reported Retaliation




Overall, 58% of employees reported the retaliation they perceived for reporting misconduct.

Note: The figure shows the percentage of employees – of the subset who observed misconduct, reported misconduct and perceived retaliation – who indicated that they reported the retaliation they perceived to management or to another appropriate person.

**Ethics Outcomes**

*Retaliation* is a form of misconduct. Unreported retaliation can compound negative consequences for an organization already responding to an initial report of misconduct.

38. Did you report the retaliation to management or to another appropriate person? [Yes, No]

# Types of Retaliation

In line with findings from ECI's research and work from client assessments, the primary types of retaliation City employees experience relate to exclusion of both a personal and/or professional nature.

| Types of Retaliation (n=76)* | CLB Overall |
|---|---|
| **My direct supervisor or management excluded me from decisions and work activity.** | 67% |
| **Other employees gave me a cold shoulder (intentionally ignored me).** | 58% |
| **I was given an unfavorable work assignment(s).** | 43% |
| **I was not given promotions or raises.** | 38% |
| **I was relocated or reassigned.** | 31% |
| **I was verbally abused by my supervisor or someone else in management.** | 26% |
| **I was verbally abused by other employees.** | 26% |
| **I was demoted.** | 13% |
| **I almost lost my job.** | 9% |
| **My hours or pay were cut.** | 7% |
| **I experienced physical harm to my person or property.** | 4% |
| **I experienced online harassment.** | 3% |
| **Other form of retaliation.** | 43% |

Note: The results in the table shows the percentages of employees – of the subset who observed misconduct (general and/or specific), reported misconduct and perceived retaliation – who cited experiencing the listed type of retaliation. A higher value is less favorable.
*: 'N size' is the number of respondents who perceived retaliation on which the percentages are calculated.

**Ethics Outcomes**

*Types of Retaliation*

40a through m. You indicated that you experienced retaliation for reporting misconduct. What form of retaliation did you experience? [Mark all that apply]

# Suggested Next Steps

The following are suggested ways to focus on opportunities revealed by the survey findings:

1. BUILD A HIGH-QUALITY E&C PROGRAM:
   - ✓ Raise awareness of program resources and increase use of advice resources (materials, locations offering advice and persons that provide advice and assistance);
   - ✓ Integrate ethical decision-making into "business" strategy;
   - ✓ Develop a SPEAK-UP CULTURE; create environments where employees can raise small and large concerns to others early on; and
   - ✓ Implement systems that RECOGNIZE ETHICAL SUCCESSES of employees who go above and beyond normal expectations.
2. STRENGTHEN ETHICS CULTURE by helping the highest levels of management be more visible in their demonstration of ethical conduct.
   - ✓ Enlist managers in developing action plans in response to the survey findings;
   - ✓ Use processes that cascade E&C strategies down through the employee hierarchy.
3. RAISE AWARENESS of reporting mechanisms and increase employees' understanding of the reporting process. Increase actions that:
   - ✓ Reinforce that addressing misconduct is important;
   - ✓ Affirm that corrective action will be taken;
   - ✓ Demonstrate that the reporting, investigative, and disciplinary processes are thorough and fair; and
   - ✓ Train supervisors in skills to recognize reports made to them, and steps to take in response to reports.
4. REDUCE RETALIATION in response to reports of misconduct.

The following are based on findings from the open-ended comments:

5. Strengthen adherence to MERIT-BASED POLICIES to hire, promote and assign work responsibilities.
6. HOLD EMPLOYEES ACCOUNTABLE for ethical conduct, and publicize, perhaps in anonymized form through case studies, events and ethical dilemmas and actions taken to address them.
7. Reinforce the City's commitment to high ethical standards to COUNTER ETHICAL FADING*; implement strategies that resonate with employees' job functions and that are readily achievable and visible to others.

* Ethical fading is a drag on ethical behavior; ignoring, minimizing or failing to recognize the ethical nature or implications of a decision or action.

# Performance Audit of the City of Long Beach Ethics Program

**Submitted to the City Auditor of Long Beach**

**Harvey M. Rose Associates, LLC**

HMR
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**August 20, 2020**

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HMR

August 20, 2020

Ms. Laura Doud, City Auditor
Mr. James Lam, Assistant City Auditor
City Auditor's Office
City of Long Beach
441 W. Ocean Boulevard, 8th Floor
Long Beach, CA 90802

Dear Ms. Doud and Mr. Lam:

Harvey M. Rose Associates, LLC is pleased to submit this performance audit report on the City of Long Beach's Ethics Program. This report presents our audit findings, conclusions and recommendations pertaining to the City's ethics program including recommendations pertaining to the role and operations of the City's new Ethics Commission.

Thank you for the opportunity to serve the City Auditor's Office and the City of Long Beach. Please contact us at any time if you have questions or would like further information about the contents of this report.

Sincerely,

Fred Brousseau
Principal

## TABLE OF CONTENTS

# Executive Summary

An ethics program for an organization such as a municipality should clearly set forth what is right and wrong for its officials, employees, and other stakeholders. To be effective, an organization's ethics program must be clearly communicated to all staff and officials, demonstrably supported by executive management, and its results measured and used to continually improve the program.

Responsibility for the ethics program in the City of Long Beach is dispersed primarily among the City Attorney, City Auditor, and Human Resources Department, with the City Manager assuming responsibility for some ethics matters for departments reporting to that office. The City Clerk is responsible for administering mechanisms for City officials and employees to comply with State and local laws pertaining to financial, gift, and lobbying disclosure requirements as well as reporting compliance with mandatory ethics training requirements for elected and appointed officials. The City Clerk does not have authority to enforce these State and local requirements in instances of non-compliance.

In the November 2018 election the voters of Long Beach approved a ballot initiative that established an Ethics Commission for the City, with its responsibilities and authority to be determined by the City subsequent to the election. The Ethics Commission's performance was not in the scope of this audit as it was not yet functioning during the field work phase of this audit.

We evaluated the City's ethics program relative to eleven standards identified through our review of best practices and ethics programs in other jurisdictions. The eleven standards and a summary of our findings about the City's ethics program compared to each standard is as follows.

1. ***Clearly Established Oversight and Delegation of Responsibilities***
   Management of and accountability for all elements of the City's ethics program has not been delegated to a centralized authority to ensure the program's overall effectiveness for all City employees and elected and appointed officials.

2. ***Easily Accessible Comprehensive Written Ethics Policies and Procedures***
   There is no single City document covering all aspects of the City's ethics program to provide all City officials, employees, and the public with information about the City's ethics rules and regulations, methods of obtaining advice on ethical matters, processes for filing complaints about suspected

ethical misconduct, and related matters. Information about aspects of the program is available in documents prepared by the City Attorney, the City Auditor, and the Human Resources Department but, even taken together, they do not serve as a comprehensive guide to all aspects of the City's program.

The City Auditor's Employee Ethics Culture Survey conducted in 2019 found a low rate of employee awareness about the ethics program and a high rate of employee dissatisfaction with resources and information available about the program compared to rates at other organizations.

3. ***Written Policies and Procedures Outlining Ethics Program in the City's Municipal Code***

   The Municipal Code contains the City's Codes of Ethics but little other information about the City's ethics program, its rules and regulations, enforcement mechanisms, and other key information found in municipal codes in some surveyed cities. Inclusion of such information in the Municipal Code for all employees and elected and appointed officials would give the ethics program greater visibility and stature, and ensure that implementation of the program is consistently applied throughout the City.

4. ***Clear Definition of "Ethics"***

   The City's current ethics program documentation does not provide a sufficiently detailed definition of ethics that can be used by all City officials, employees, and other stakeholders to ensure a common understanding of the types of behavior expected by the City. An official definition of ethical conduct should be comprehensive, incorporating not only areas such as conflicts of interest but also areas such as accountability and transparency in City operations, inclusivity, citizen engagement, and prohibitions of discrimination and sexual harassment.

5. ***Clearly Identified Pathways to Report Alleged Violations, Anonymously or Not***

   There are numerous ways that City officials, employees, and the public can file complaints about suspected ethical misconduct. However, information about these pathways are not all documented and made available to City officials, employees, and stakeholders, reducing the likelihood of all potential cases of misconduct being reported.

   The City Auditor's Employee Ethics Culture Survey found that employees were reluctant to report suspected ethical misconduct due to discomfort with reporting to their department superiors or to uncertainty about the confidentiality of reporting. Documenting and communicating the multiple

pathways available in the City for reporting, including anonymous processes, could address this concern.

***6. Advice and Information Available on Ethics-Related Issues***

Though the City has published sources for information on some ethical matters, it lacks a publicized central source of information for City officials, employees, and the public to receive advice and information on all ethical matters such as if certain observed behavior constitutes ethical misconduct and how to file complaints.

In providing reasons for not reporting suspected misconduct in the City Auditor's Employee Ethics Culture Survey, respondents cited a number of concerns and misunderstandings about how the reporting process works, including a fear that reporting would not be anonymous, belief that the behavior observed was not serious enough to qualify as an ethical violation, and fear of retaliation. Readily available ethics advice would help clear up such misunderstandings and encourage complaint filing where warranted. The City Auditor's Employee Ethics Culture Survey reported that the lack of advisory services about ethics matter is one of five factors contributing to lack of employee awareness about the ethics program.

***7. Establish and Publish Disciplinary Actions and Penalties for Violations***

The City does not have a published compendium of State and local disciplinary actions and penalties that can be imposed for ethical misconduct violations. Publishing such information in readily accessible City documents and website(s) would make the seriousness of the ethics program clearer to all City stakeholders and would alert potential violators of the consequences of violating State and City ethics law and regulations.

The City Auditor's Employee Ethics Culture Survey found that many employees lacked awareness about penalties and corrective actions that can be imposed when ethical violations are found and disagreed with the corrective actions taken as the result of investigations.

**8. *Publish Annual Reports with Violations and Case Outcomes***

Other than the City Auditor's annual report on the results of its fraud, waste and abuse investigations, the City does not otherwise report the number and outcomes of ethical misconduct investigations. Without Citywide reporting on ethics complaints and outcomes, City management, employees and the public do not have the full perspective on the extent of complaints and potential ethical violations across the City, the effectiveness of the Citywide ethics program, and areas that could be improved.

As mentioned above, the City Auditor's Employee Ethics Culture Survey found many employees lack awareness of the ethics program and corrective actions taken when ethical misconduct is found. Publishing annual summary information about investigations and results could help improve awareness of the ethics program and ramifications for officials and employees found to have engaged in ethical misconduct, while still ensuring that the identity of whistleblower and other complainants remains confidential as mandated by State law.

9. ***Implement Proactive Measures and Checks for Effectiveness***
   There are limited proactive measures or checks to curb or identify acts of ethical misconduct in place in the City. Although a number of departments report practices in place to prevent and/or detect ethics violations, these practices are not consistently applied across the City and their effectiveness has not been proven.

10. ***Required and Regular Ethics Trainings for All Employees and Elected and Appointed Officials Including Sexual Harassment and Discrimination Training***
    Compliance with all ethics-related training requirements for City officials and employees are not compiled and published for review by the Mayor, City Council, and City Manager to communicate the importance of the training and to assure upper management and elected officials that compliance with ethics-related training requirements is occurring.

    Training is a key component of an effective ethics program. As of the field work phase of this audit, most City employees were only required to receive ethics training as part of their onboarding process, with no further requirements as long as they worked for the City. Sexual harassment training has to date been required by the State for supervisory employees only but, as of January 2020, all employees will be required to attend one hour of such training every two years.

11. ***Retaliation Protection***
    Information about retaliation protection is not well covered in the City's current ethics program documentation. The City's Ethics Guide for Long Beach City Staff and Officials does not cover the topic at all; the City Auditor's Fraud Hotline website provides a summary of Whistleblower Act protections but only pertaining to fraud, waste, and abuse cases; and the HR Department policies state that retaliation is prohibited but does not provide information to employees about how instances of retaliation are handled in the City or to whom they should be reported. As mentioned above, employees expressed a reluctance to report suspected ethical misconduct in the City Auditor's Employee Ethics Culture Survey, with potential retaliation being one of the reasons for such reluctance.

This report contains detailed recommendations for improvements in the areas addressed above so that the City can better meet the eleven standards reviewed. A number of our recommendations are directed to the new Ethics Commission and its future staff.

We also reviewed the City's compliance with State and local ethics disclosure and training requirements as part of this performance audit. The City Clerk administers mandated financial, gift, and lobbyist contact disclosure requirements as well as reporting compliance with State-mandated training requirements for elected officials. However, the City Clerk has no enforcement authority when City officials and employees do not comply with these requirements.

We found that 21.6 percent of City officials and employees, who are required to make financial disclosures to identify any potential conflicts of interest with their decision-making responsibilities, had not done so as of March 2019. In addition, we found that 16.2 percent of City officials and employees required to attend ethics training by State law had not done so as of early 2019. Without any City penalties or enforcement mechanisms in place, there are no repercussions at the City level for these requirements.

For disclosure requirements pertaining to receipt of gifts and lobbyist contacts, we found that information is reported as required but that the City does not have mechanisms in place to ensure that all gifts received and all contacts with lobbyists are being reported.

Our recommendations in this report address the findings above pertaining to financial, gift, and lobbyist contract disclosure requirements and reporting compliance with mandatory training requirements for City officials and employees.

# Introduction

Harvey M. Rose Associates, LLC was retained by the City Auditor of the City of Long Beach to conduct an independent performance audit of the City's ethics program.

## Audit objectives and scope

The purposes of the audit were to determine:

(1) if an acceptable Citywide ethical program exists,

(2) if appropriate ethics education is provided to City staff, and

(3) if effective mechanisms are in place to report ethical misconduct and, if so, if such reports are properly investigated.

Specific audit objectives were:

- To identify operational components of an effective public sector ethics program,
- To assess the City's ethics program against best practices, laws, industry standards, and practices in other cities,
- To assess and incorporate into our audit findings, conclusions, and recommendation the results of the City Auditor's Employee Ethics Culture Survey, conducted in 2019 by the third-party Ethics and Compliance Initiative (ECI). To determine whether the City of Long Beach should adopt any changes to its ethics program to improve the City's ethical culture.

The scope of the audit included all elements of the City's ethics program: ethics policies and procedures, codes of conduct, ethics training, ethics culture, fraud reporting and investigations, entities responsible for ethics oversight, and compliance with ethics laws.

## Methods

Tasks performed for this performance audit included:

(1) Review of the City's Code of Ethics and Ethics Guide, relevant City Charter and Municipal Code sections, administrative regulations, City Auditor's fraud hotline policies and procedures, and relevant department policies and procedures.

(2) Interviews with representatives of the offices of the City Auditor, City Attorney, City Clerk, City Manager, and City Prosecutor, and the departments of Human Resources (HR), Police, Harbor, and Water.

(3) Collection and review of information on ethics program best practices prepared by organizations such as the Institute for Local Government and the Institute of Internal Auditors and as documented in performance audits in other cities including Denver and Palo Alto.

(4) Conducted a risk assessment based on our review of key City documents, best practices, and interviews.

(5) Collection of information and interviews with representatives of other cities to benchmark their ethics commissions and programs against the City of Long Beach.

(6) Administration of an electronic survey of all City of Long Beach departments to obtain information about how the City's ethics program is managed at the department level including department-specific ethics training requirements, policies and procedures, and caseload and outcome measures.

(7) Reviewed and incorporated into our audit findings the results of the Employee Ethics Culture Survey conducted in 2019 by ECI for the City Auditor's Office.

As noted above, the results of three surveys were used as evidence for this performance audit. To avoid confusion, the following titles are used for the three surveys throughout the body of this report.

(1) **City Department Audit Survey**: survey conducted by our audit team of all City departments to collect information about their approach and procedures to implementing the City's ethics program.

(2) **Audit Benchmarking Survey of Other Cities**: survey conducted by our audit team of ethics program policies, procedures, resources, and structures in other cities.

(3) **City Employee Ethics Culture Survey:** survey conducted by ECI on behalf of the City Auditor's Office separate from but simultaneous with this performance audit. The survey was distributed to all 4,562 City employees and responses were received from 1,501, for a response rate of 32.9 percent. ECI specializes in independent research about workplace integrity, ethical standards, and compliance processes and practices in public and private institutions.

This performance audit was conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS).

# Background: City Ethics Policies and Practices

Ethics are defined as a system of moral principles that define good and bad and what is expected of a group. A municipality's ethics program should clearly set forth what is right and wrong for elected officials, appointed commissioners and committee members, employees, interns, volunteers, and contractors and vendors. For the program to be effective, it must be clearly communicated to all staff and officials and demonstrably supported by executive management.

## City's Code of Ethics in Municipal Code

The City of Long Beach's Code of Ethics is codified in the Municipal Code, Chapter 2.07. It requires that every City employee, elected official, City commission or committee member, and redevelopment board or committee member pledge, in writing, to follow these eight principles:

A. To place the best interests of the City above all other interests.
B. To uphold all laws, regulations, and policies.
C. To take no action for the purpose of benefiting the official or employee personally.
D. To make every effort to avoid a conflict of interest.
E. To avoid disclosure of confidential information obtained in the performance of their duties or in their official capacity.
F. To exercise prudence and good judgment at all times.
G. To be fair, impartial, and unbiased in the decision-making process.
H. To treat each other and the public with respect.

## City Ethics Program and Documentation

Responsibility for the ethics program in the City of Long Beach is dispersed primarily among the City Attorney, City Auditor, and Human Resources Department, with the City Manager assuming responsibility for some ethics matters for departments that reports to that office in areas such as employee travel expense reimbursement, use of City credit cards, controlling employee salary increases, controlling distribution of gift tickets, and employee collateral employment controls. These controls are not necessarily in place Citywide because the City's Charter does not delegate authority to the City Manager over all departments. Specifically, the following departments are exempt from City Manager authority: Harbor, Water, Civil Service, and Legislative, and those headed by elected officials: the City Attorney, City Prosecutor, and the City Auditor.

The City Clerk is responsible for administering mechanisms for City officials and employees to comply with State and local laws pertaining to financial, gift, and lobbying disclosure requirements as well as reporting compliance with mandatory ethics training requirements for elected and appointed officials. The City Clerk does not have authority to enforce these State and local requirements in instances of non-compliance, but the offices of the City Attorney and City Prosecutor both could potentially become involved in cases of non-compliance with State financial, gift, and lobbying disclosure requirements.

Though the Code of Ethics is broad in scope, there is no one document in the City of Long Beach that includes all rules, policies, and procedures addressing implementation of the Code of Ethics. Instead, there are three key documents that together cover many topics and collectively can be considered documentation of the City of Long Beach's ethics program. These documents are:

1) the City Attorney's *Ethics Guide for Long Beach City Staff and Officials* provides details on the laws and City practices for ten ethics-related topics,

2) personnel policies prepared by the HR Department covering sexual and other forms of harassment and discrimination laws and protections, and

3) the City Auditor's internal Fraud Hotline policies and procedures document and public Fraud Hotline website ("Report Fraud"), which covers reporting practices and procedures for issues involving City fraud, waste, and abuse.

We also reviewed pertinent sections of the Charter (Section 51.1) and City Administrative Regulation 32-1, both of which prohibit favoritism and nepotism among City employees and officials, and Personnel Policy 1.7, which limits City employees from engaging in collateral employment without written approval of their department head or appointing authority.

**Topics in the City's Ethics Guide Prepared by the City Attorney**

The ten areas covered in the Ethics Guide for Long Beach City Officials and Employees prepared by the City Attorney's office are:

1. Ethics
2. Accepting Gifts
3. Financial Disclosure
4. Use of City Tickets
5. Political Activities
6. Brown Act
7. Public Records Act
8. Restrictions on Public Mailings

9. "Revolving Door" Restrictions
10. Fraud Prevention and Reporting Policy

**Anti-Discrimination and Harassment Policies Enforced by the HR Department**

HR Department Policies 2.1 and 2.2 cover discrimination complaints and unlawful harassment complaints, respectively. They both provide policy statements, definitions, procedures for filing complaints, and related information. These policies are available online for all employees and the public.

Not all jurisdictions include sexual harassment and discrimination as part of their ethics program; however, based on the definition of ethics above that it establishes what is good and right behavior and what is expected of a group, we have included these areas as part of the City of Long Beach's ethics program for this audit. In addition, these areas of ethical behavior was identified as part of the City's ethics program in the City Auditor's Employee Ethics Culture Survey.[1]

If the City does not choose to include sexual harassment and discrimination as part of their ethics program, implementation of this audit's recommendations pertaining to these areas could still be beneficial to City employees and residents as they would result in more information being made available about how to file sexual harassment and discrimination complaints, more advisory services made available for employees and the public in these areas, and more management reporting summarizing the number of sexual harassment and discrimination investigations and their results for review by City managers and the public.

[1] City Auditor's City Employee Ethics Culture Survey, Ethics and Compliance Initiative.

**Fraud, Waste and Abuse Reporting and Investigating by the City Auditor's Office**

The City Auditor's Office's internal Fraud Hotline Policies and Procedures is a comprehensive document that describes the authority, mission, and detailed procedures for accepting and processing complaints filed through the hotline. The document includes forms and templates and timeframes for investigations. While the procedures manual is an internal document for City Auditor's Office staff, the Office also has brochures and website pages available to all employees and the public with definitions of City fraud, waste and abuse, details on complaint and investigation procedures, statistics on investigations completed, and forms that can be completed to file a complaint. For our analysis of the City's ethics program documentation, we reviewed both the Fraud Hotline procedures manual available to City Auditor's Office staff and the pertinent pages of the City Auditor's website available to City employees and the public as part of the documentation of the City's ethics program.

The City Auditor reports an increase in the number of complaints received by the City Auditor's Office over the five-year period from 38 in Fiscal Year 2013-14 to 74 in FY 2017-18. However, an average of 26.6 complaints per year, or 53.9 percent of all complaints filed, were in areas outside the purview of the City Auditor. The most frequent areas of complaint investigated were theft, fraud, and misuse of City resources.

Since the City's ethics program is decentralized and not all complaints are filed with the City Auditor, we requested that the City provide Citywide statistics on the number of complaints filed per year and their outcomes. However, such statistics are not collected or reported by any City agencies at this time.

## Report Structure

This report is divided into two primary sections: 1) Analysis of City of Long Beach's Ethics Program Relative to Best Practices and Other Jurisdictions, and 2) Compliance with Ethics Disclosure and Training Requirements. The first section analyzes the City's program relative to eleven standards developed from best practices, using our review of the City's core ethics program documents, interviews with staff, our City Department Audit Survey, our Audit Benchmarking Survey of Other Cities, and the City Auditor's Employee Ethics Culture Survey as evidence for the analysis. A brief discussion of the creation of an Ethics Commission in the City of Long Beach pursuant to a ballot initiative adopted by the voters in November 2018 is presented prior to Section 1.

# Creation of a City of Long Beach Ethics Commission

In the November 2018 election, City of Long Beach residents voted to approve Measure CCC, a proposal to create a seven-member Ethics Commission to administer and implement provisions of the Charter, statutes, and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics. Upon approval of the Ethics Commission, the staffing and management functions required are to be specified in the City's Municipal Code, with the City Council tasked with setting the Ethics Commission's budget.

*Selection of Ethics Commission Members*. The Mayor and City Auditor are to each appoint two members of the Ethics Commission. The Mayor's appointments are to be individuals who have represented local civic organizations with a demonstrated history of involvement in governance. The City Auditor's appointments are to have a background in public policy or public law, governmental ethics or open government matters, campaign finance, auditing of compliance with ethics laws, and protection of whistleblowers or technology as it relates to open government. The remaining Ethics Commission members are to be by appointment by vote of at least three members of the Commission.

*Term of Office*. Commission members are to serve four-year terms, with no Ethics Commission member able to serve for more than two consecutive terms.

*The Ethics Commission will have the following duties and responsibilities*:

1) to provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, conflicts of interest and governmental ethics;
2) to make recommendations to the Mayor and the City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council concerning the effectiveness of these laws;
3) to assist departments in developing their conflict of interest codes as required by state law;
4) to advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process;
5) to develop an educational program to familiarize newly elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists, with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government; and
6) such other duties as may be established by this Charter or the Municipal Code.

We have included recommendations in this report for certain City ethics program duties and responsibilities to be delegated to the new Ethics Commission. Such delegations would be consistent with the sixth duty and responsibility identified above for "other duties" that may be established by the City's Charter or Municipal Code.

Highlights of the makeup, staffing, and areas of responsibility for ethics commissions and boards from other cities surveyed as part of our Audit Benchmarking Survey of Other Cities are presented in Appendix 1 for eight of the ten cities surveyed. Ethics program information was collected for all ten cities from their respective websites and eight of those cities participated in full verification and clarification interviews, all of which is summarized in Appendix 1. Though information was collected about their ethics programs, the cities of San Diego and Sacramento did not participate in full follow-up interviews.

# 1. Analysis of City of Long Beach Ethics Program Relative to Best Practices and Other Jurisdictions

We reviewed and evaluated the City's ethics program documentation and information collected from internal and external sources and analyzed them relative to practices in ten surveyed jurisdictions and best practices identified in four sources:

1. the Six Elements of a Formal Ethics Program by ECI for their National Business Ethics Survey covering 1994-2005,
2. Global Business Ethics Surveys, also published by ECI,
3. Chapter 8 of the Federal Sentencing Guidelines[2], and
4. the International Professional Practices Framework (IPPF), standards prepared by the Institute of Internal Auditors for audit professionals.

From these sources, we developed the following eleven standards, or criteria to evaluate the City of Long Beach's ethics program:

1. Established Oversight & Clear Delegation of Responsibilities
2. Easily Accessible Comprehensive Written Ethics Policies & Procedures[3]
3. Written Policies & Procedures Outlining Ethics Program Rules in Municipal Code
4. Clear Definition of "Ethics"
5. Clearly Identified Pathways to Report Alleged Violations, Anonymously or Not
6. Provide Advice & Information on Ethics-Related Issues
7. Establish & Publish Disciplinary Actions & Penalties for Violations
8. Publish Annual Reports with Reported Violations & Outcomes
9. Implement Proactive Measures & Checks for Effectiveness
10. Required & Regular Ethics Trainings for All Staff & Elected/Appointed Officials, Including Sexual Harassment & Discrimination Training
11. Retaliation Protection

[2] The U.S. Sentencing Commission's organizational sentencing guidelines (Chapter 8 of the Sentencing Guidelines Manual) recognizes that organizations, like individuals, can be found guilty of criminal conduct. Chapter 8 outlines seven key criteria for establishing an "effective compliance program" capable of reducing the prospect of criminal activity at the organizational level. The Chapter 8 guidelines are applicable to corporations, partnerships, labor unions, pension funds, non-profit entities, and government entities.

[3] This best practice is detailed in two sources: (1) Ethics Resource Center, 2015, National Business Ethics Survey (1994-2005), and (2) U.S. Sentencing Commission, 2018, Sentencing of Organizations (Chapter 8, §8B2.1).

The City's specific ethics policies and procedures that we reviewed are documented in three separate sources: 1) the Ethics Guide for Long Beach City Officials and Employees, prepared by the City Attorney's Office and focused on conflict of interest, gifts, and training requirements for City officials and employees, 2) anti-discrimination and harassment policies and procedures, prepared by the HR Department, and 3) the Fraud Hotline policies and procedures, prepared by the City Auditor's Office. A pertinent Charter section and Administrative Regulation regarding favoritism and nepotism and a personnel policy regarding collateral employment were also reviewed. Finally, a number of undocumented practices were reported to us; however, because they are not documented, they may not be known or practiced by all City employees.

Other evidence used to evaluate the City's ethics programs include the City Department Audit Survey and the Benchmark Survey of Other Cities conducted for this audit. We also incorporated the results of the City Auditor's Employee Ethics Culture Survey conducted by the third-party, ECI. Though ECI maintains a benchmark of other entities' ethics culture survey responses as part of its Global Business Ethics Survey (GBES), primarily private sector businesses from throughout the world, we did not use that data for comparison to the City of Long Beach survey results since the type of employers in the benchmark database are not similar to the City of Long Beach.

### *Standard #1: Clearly Established Oversight and Delegation of Responsibilities*

**Finding: There is no clear source of authority and accountability for the City's ethics program. Roles and responsibilities are dispersed among the City Attorney, City Auditor, HR Department and, for administrative functions, the City Clerk and City Manager. As a result, no one entity in the City provides needed management oversight to ensure ethics program effectiveness. The creation of a new City of Long Beach Ethics Commission in 2019 provides an opportunity to centralize program oversight and accountability.**

Administration of the City of Long Beach's ethics program is dispersed primarily among the City Attorney, City Auditor, and the HR Department, each of whom receive complaints of ethics violations and conduct investigations of certain types of allegations. The HR Department annually informs departments to ensure that employees comply with city disclosure requirements regarding collateral employment or business activity, and maintains a database of approval forms submitted by employees for secondary employment or business activity. The City Clerk's Office serves as the repository for mandated financial disclosure and conflict of interest reporting and the City Manager oversees ethics-related practices in City departments that report to the City Manager, but neither of these offices serve in an investigatory or enforcement capacity. Further, by the City Charter, the City Manager does not have authority over a number of departments and City bodies: the Water, Harbor, Civil Service and Legislative departments and the offices headed by elected officials: the City Attorney, the City Prosecutor, the City Auditor, and the Mayor and City Council.

Documentation about the role and procedures of the three departments with investigatory authority - the City Attorney, the City Auditor, and the HR Department - varies. The HR Department's investigatory role for harassment and discrimination complaints and the City Auditor's role for investigating complaints of fraud, waste, and abuse are clearly described in those departments' procedures documents and online. The City Attorney's Office's role is less clearly described in the Ethics Guide for Long Beach City Officials and Employees prepared by the City Attorney's Office, although it does state that the City Attorney's Office can be contacted for further information. What is not clear in City documentation is which agency or individual is ultimately responsible for ensuring that the Ethics Guide and ethics program as a whole is upheld Citywide. Although these three departments with investigatory roles and the two offices with administrative roles, the City Clerk and the City Manager, all play key roles in supporting the ethics program, there is no centralized system or body in place to monitor, evaluate, and be accountable for the effectiveness of the City's ethics program as a whole.

Through our audit interviews and our departmental survey, we found a lack of consistency in ethics program policies, procedures, and practices among City departments and inconsistent understandings of what is required by the City's Ethics Guide. The City needs to clarify who is

responsible for what or, better yet, establish a centralized authority to ensure program consistency and effectiveness. The current structure does not guarantee that an acceptable ethics culture is in place, known, and understood by all employees and City officials, or that its effectiveness is being monitored by management and modified when needed. Further, there is inconsistency across City departments regarding complaint intake, tracking, and investigation; and there is no written guidance regarding discipline for ethics violations identified by City departments.

The City of Long Beach's newly established Ethics Commission provides a new entity well positioned to assume a coordinating role for all ethics-related agencies and initiatives in the City to help increase the ethics program's visibility and effectiveness.

The City Auditor's Employee Ethics Culture Survey reports that the effectiveness of the City's ethics program is low. This conclusion is based on a series of questions posed to City employees in which only 15 percent of employees registered awareness of the City's ethics program. Awareness was measured by the number of employees reporting that they use and benefit from City ethics-related resources such as ethics advice provided by the City, available tools to prepare employees to handle ethical violations, and the City encouraging and rewarding ethical behavior among employees.

**Lessons from our Audit Benchmarking Survey of Other Cities**

We did not find that the ethics commissions and boards in our ten surveyed cities operate as coordinators or central ethics program authorities. However, since nine of the ten cities have staff dedicated to their ethics program, more centralized ethics-related staff work is occurring in these cities. We view a centralized coordinating role for the new Long Beach Ethics Commission as a feature that could add significant value to the management of Citywide ethics practices and policies, and could be considered as some of the "other duties" allowed under Article XXIV of the City Charter.

The Long Beach Ethics Commission will need staff assigned to help fulfill this role, either using existing City staff on a part-time basis or hiring their own dedicated staff. With the exception of the City of Sacramento, nine of the ten surveyed jurisdictions reported having between three and 28 full-time staff positions to support their ethics commissions/boards. These staff members are responsible for a variety of tasks, including:

- Preparing annual reports analyzing and summarizing commission activities, violations, and their outcomes,
- Providing ethics advice to City staff and elected officials,
- Updating the ethics sections of the municipal code and other City documents,
- Conducting investigations on complaints received, and

- Completing research as requested by ethics commission members.

The exact number of staff positions needed will depend on the functions and responsibilities assigned to the Long Beach Ethics Commission but given the size of Long Beach relative to the cities surveyed for this audit and the possible number of functions that will be assigned to the Ethics Commission, it appears likely that three full-time positions could be utilized once the Commission begins fulfilling all its duties.

The staff tasks above should provide value to the City by ensuring that complaints are addressed in a timely, appropriate, and consistent manner, and that the outcome of Ethics Commission activity is accessible to city employees and the public. This could help address the finding in the City Auditor's Employee Ethics Culture Survey in which a high proportion of employees expressed dissatisfaction with the results of City ethics investigations and, as stated above, low program awareness and a poor rating of ethics program effectiveness.

The Ethics Commission staff could also enable regular reporting on ethics-related cases by publishing summary statistics and reports on their website and in annual published reports as part of the Commission's "other duties" as specified in the City Charter. Since the Ethics Commission members are volunteers and meet only periodically, having dedicated ethics program staffing would guarantee a more effective ethics program.

One staffing alternative the City could consider is to contract with the California Fair Political Practices Commission (FPPC) for certain Ethics Commission functions. The FPPC is now making itself available to local jurisdictions for contract investigation services on campaign finance matters. The City would pay FPPC for investigatory staff on an hourly basis plus expenses for this service.

**Recommendations**

**Recommendation #1:** The Mayor and City Council should delegate authority to the City's new Ethics Commission to assume a centralized coordinating role for all City ethics program activities covering all City elected and appointed officials and all City employees, including those in departments that, by the Charter, do not report to the City Manager. The Ethics Commission should assist the Mayor and City Council in setting ethics policy, to conduct investigations, and to receive and publish annual Citywide ethics activity and performance reports and other pertinent ethics program information on its website.

**Recommendation #2:** With input from the City Attorney, City Auditor and HR Department, the City Manager should propose a level of staffing and, possibly, FPPC contractor assistance and a baseline budget for consideration by the Mayor and City Council to support the new Ethics Commission in its centralized coordination efforts covering all elected and appointed officials and all City employees, including those in departments that by the Charter do not report to the

City Manager. This new reporting should cover Citywide ethics activities and investigations of certain complaints of ethics violations.

**Recommendation #3:** With input from the City Attorney, City Auditor and HR Department, the Ethics Commission staff should work with the City Attorney and City Manager to: 1) replace the current Ethics Guide with an expanded Citywide ethics program document covering all City elected and appointed officials and all City employees, including those in departments that by the Charter do not report to the City Manager. This new document should be made available on the Ethics Commission website, containing information in the current Ethics Guide plus identification of pathways to report alleged violations, how to obtain information and advice on ethics issues, inclusion of sexual harassment and discrimination policies, details on whistleblower protection from retaliation, and any newly adopted ethics ordinances or regulations, and 2) begin posting on the Ethics Commission website annual reports, links to Municipal Code sections, and other documents related to the City's ethics rules and laws, and descriptions of ongoing and new initiatives undertaken by the Ethics Commission.

***Standard #2: Easily Accessible Comprehensive Written Ethics Policies and Procedures***

**Finding: The City does not have a single document containing information about all aspects of the City's ethics program covering all City elected and appointed officials and employees. Such information is available in three sets of documents prepared by the City Attorney, the City Auditor and the HR Department, but none of them is comprehensive, they do not cross-reference each other, and they do not have a consistent approach to information provided.**

The City's Ethics Guide for Long Beach City Officials and Employees, HR Department policies, and the City Auditor's Fraud Hotline website are all readily available and easily searchable online. However, there is no one comprehensive City document or website containing all of the information from these sources in one place that constitutes a single comprehensive guide to the City's ethics program. The HR Department and City Auditor's Fraud Hotline documents and website do not classify themselves as part of the City's ethics program and do not cross reference the Ethics Guide or each other.

The Ethics Guide prepared by the City Attorney references the Fraud Hotline operated by the City Auditor but makes no mention of the HR Department's anti-harassment and anti-discrimination policies and procedures, both of which should be considered key components of the City's ethics program.

While many ethics rules and procedures are explicitly stated in the City Attorney's Ethics Guide, titling it as a "guide" could suggest that the guidance contained is optional. Other than the misnomer, the City's Ethics Guide does cover ten important topics, identified in the Background section of this report.

In the City Auditor's Employee Ethics Culture Survey completed this year, only 22 percent of employee respondents provided a positive assessment of the utility of program resources available, referring largely to the Ethics Guide and ethics training provided by the City. By producing an easily accessible comprehensive set of written ethics policies and procedures, employees should find greater utility in ethics program resources provided by the City. This is a best practice, as detailed in two sources: (1) Ethics Resource Center, 2015, National Business Ethics Survey (1994-2005), and (2) United States Sentencing Commission, 2018, Sentencing of Organizations (Chapter 8, §8B2.1).

**Lessons from our Audit Benchmarking Survey of Other Cities**

The website for the new Ethics Commission would be the ideal place to aggregate all rules, requirements, and general information regarding ethics in the City. Many of the ethics commissions in the ten jurisdictions that participated in our benchmarking survey have comprehensive websites with annual reports, links to pertinent municipal code sections, other

documents related to ethics rules and laws, identification of the pathways available to report alleged violations, and descriptions of ways to seek information and advice. The cities of Atlanta and Los Angeles, and the City and County of San Francisco are examples of jurisdictions with comprehensive websites maintained by their ethics commissions or boards.

**Recommendation**

**Recommendation #4:** The Mayor and City Council should direct staff to include in the new consolidated ethics program document and website (see Recommendation #3) explanations of the entire ethics program including: a) the various ways all City elected and appointed officials and employees can obtain advice, b) how to submit an ethics complaint, specifying which City agency is responsible for handling each type of complaint, c) penalties, d) retaliation protections, and e) related information.

### *Standard #3: Written Policies and Procedures Outlining Ethics Program in the City's Municipal Code*

**Finding: The Municipal Code does not contain information outlining the structure and high-level procedures for the City's ethics program, as is found in municipal codes in other cities. Inclusion of such information would give the ethics program greater stature and ensure that implementation of the program throughout the City is consistent with a codified set of core principles and procedures.**

The City of Long Beach's Municipal Code contains the Code of Ethics, or set of principles that all employees and elected and appointed officials are required to pledge, in writing, that they will follow. It also contains regulations pertaining to lobbyists and a "revolving door" policy restricting former City elected and appointed officials and employees from lobbying City decision makers for one year after they leave City offices or employment. Otherwise, the Municipal Code does not contain specific policies and procedures governing other elements of the City's ethics program such as conflicts of interest, gifts, and discrimination, nor does it cover high level procedures to follow if violations are identified or suspected. Favoritism and nepotism regulations are addressed in the City's Charter and Administrative Regulations.

Inclusion of the ethics program's overarching principles and authority in the City's Municipal Code would provide comprehensive documentation of the City's program and an official source that could be turned to by City employees and officials and members of the public to ensure a consistent understanding of all aspects of the program. Because it would be adopted by the City Council to be included in the Code, it would also communicate the importance of the ethics program by the City's elected policy makers.

**Lessons from our Audit Benchmarking Survey of Other Cities**

This format of the City of Long Beach's Code of Ethics in the Municipal Code contrasts with many of the jurisdictions in our benchmarking survey. For many of those cities, their municipal codes include statements not only on the broad ethical values of the jurisdictions, but also specific rules and requirements of City staff and elected officials regarding the functional areas for which those cities' ethics commissions or boards are responsible such as campaign finance, lobbying, conflict of interest, and others. Some of these municipal codes also include the various types of penalties that can be assessed, identification of who is in charge of assessing penalties and monitoring compliance, and details on retaliation prohibitions pertaining to whistleblowers.

Ethics-related topics in municipal codes are organized in a variety of ways in the ten cities surveyed. For example, the cities of Seattle and Los Angeles, and the City and County of San Francisco include a code of ethics and/or a section on the ethics commission or board in their municipal codes. Within those codes of ethics or ethics commission sections, there is information about how the commissions are structured, their roles and responsibilities and functional areas

in their purview, and details about the complaint system, due process provisions, and penalties that the commissions can impose when violations are found. Specific rules around each of the commission's or board's functions in areas such as lobbying are not included in those sections, but, rather, are detailed in separate chapters of the municipal codes.

Alternatively, we found all ethics-related topics consolidated under a single section of municipal codes in the cities of Austin, Atlanta, and Chicago. In those jurisdictions, their codes of ethics go beyond the structure of their ethics commission or board, complaint procedures and penalties, and also include the specific rules and regulations for each of the functional ethics areas that fall under the ethics commissions. For example, the City of Chicago's code has an entire chapter on governmental ethics with details on their code of conduct, the City's ethics pledge, whistleblower protections, conflict of interest definition and requirements, gift protocols, ethics training, sexual harassment, financial disclosures, lobbyist registration, the Board of Ethics, campaign financing, and penalties for violations.

Both formats are acceptable as long as there are clear details at least outlining the pertinent rules and regulations. It is easier, however, to quickly identify the various ethics-related rules and regulations under one consolidated chapter of the municipal code. The new Long Beach Ethics Commission should consider how they would like to organize the various rules and regulations for ethics matters in the City's Municipal Code, review this issue with the City Attorney, and prepare amendments to the Code for adoption by the City Council.

Measure CCC, which authorized the creation of the City of Long Beach's Ethics Commission, states that the powers and duties of the Ethics Commission will concern "campaign financing, lobbying, conflicts of interest, and governmental ethics" and "other duties". There should be a section in the Municipal Code that addresses at least each of these areas as well as other areas considered part of "other duties" in the City's ethics program, even if not under the jurisdiction of the new Ethics Commission.

**Recommendation**

**Recommendation #5:** The Mayor and City Council should direct the City Attorney to work with the Ethics Commission to develop their priorities and suggestions for inclusion in a new cohesive section of the City's Municipal Code covering: 1) the City's ethics principles and high level rules and regulations, 2) the nature of the authority delegated to the Ethics Commission for ethics program oversight, specifying that it covers all City elected and appointed officials and City employees, including those that do not report to the City Manager, 3) hearings and investigations, 4) statements of the City's broad ethical values and specific requirements pertaining to campaign finance, lobbying, conflicts of interest, sexual harassment, and discrimination. Finally, this expanded Municipal Code ethics section should specify various

penalties that can be imposed, who can impose them, and who is responsible for enforcing compliance.

***Standard #4: Clear Definition of "Ethics"***

**Finding: Absence of a clear definition of ethics in any of its official documents leaves the City without a commonly understood and agreed upon foundation for its ethics program.**

It is unclear how the City of Long Beach defines "ethics" as the foundation for its ethics program. The absence of one comprehensive ethics document contributes to this issue. The Code of Ethics on page 1 of the Ethics Guide (and codified in the Municipal Code) suggests that the City's definition is broader than the topics covered in the Ethics Guide. Enhancing and expanding on the areas covered in the Code of Ethics by spelling out specific topics such as accountability and transparency of City operations and management, inclusivity, community engagement, respect for all employees and citizens, and other topics would provide more clarity about what is meant by ethical behavior in the City of Long Beach. Discrimination and harassment, for example, would logically fall under the Code of Ethics principle "to be fair, impartial, and unbiased in the decision-making process" and "to exercise prudence and good judgement at all times." However, the issues of harassment and discrimination are covered in the separate HR Personnel Policies but not explicitly mentioned in the Ethics Guide. The separate HR Department policies do provide clear definitions of harassment and discrimination but make no reference to being part of the City's broader ethics program.

The City Auditor's Fraud Hotline policies and procedures and website specify what is and is not in the Hotline's purview. This can be considered a definition of ethics but as it relates to fraud, waste, and abuse only. The City Auditor's Fraud Hotline website also presents a set of topics that are considered fraud, waste, and abuse and identifies others that are not part of the City Auditor's purview and should be pursued elsewhere.

**Lessons from our Audit Benchmarking Survey of Other Cities**

It is critical that the new Ethics Commission defines what is meant by "ethics", specifies which areas of "ethics" it will preside over, and establishes itself as part of a broader ethics system, rather than represent the Ethics Commission as the sole actor responsible for all ethics practices and policies in the City of Long Beach.

None of the ten cities in our benchmarking survey have delegated responsibility for all ethics-related topics to their ethics commission or board. Instead, their functions are limited to those topics specified in their respective municipal codes. These ethics commissions are considered part of a broader system, which can be confusing, given the name of the commissions.

All ten of the jurisdictions surveyed reported having several city agencies responsible for monitoring compliance with ethics-related issues. The key actors usually include the HR departments for personnel issues, the offices of equal employment opportunity regarding sexual harassment and discrimination issues, city clerks for financial disclosure form collection, and city

auditor offices or inspectors general for fraud waste, and abuse, while whistleblower programs were typically housed in either a city auditor's office and/or directly with their ethics commission. Because there are ethics-related issues overseen by actors outside of the ethics commissions in the surveyed jurisdictions, it is often unclear how other jurisdictions define "ethics".

Despite the common feature of several agencies working to monitor and improve ethical behavior in these cities, limited to no coordination across these agencies was reported. The new Long Beach Ethics Commission should consider a more holistic and coordinated approach to creating and maintaining an ethical climate in the City of Long Beach. The Ethics Commission is well-positioned to create a more cohesive system.

**Recommendation**

**Recommendation #6:** The Mayor and City Council should direct the City Attorney to prepare a definition of "ethics" to spell out more details of what is expected of City employees and officials, addressing areas such as accountability and transparency in all City management and operations, inclusivity, respect for all employees and citizens, to be included in the new ethics section of the Municipal Code (see Recommendation #5) and the consolidated Citywide ethics document and website (see Recommendation #3) to both serve as a foundation for the work of the new Ethics Commission and to ensure a common understanding of ethics by all City officials, employees and the public.

***Standard #5: Clearly Identified Pathways to Report Alleged Violations, Anonymously or Not***

**Findings: Considered a best practice, the City of Long Beach provides multiple pathways for employees and the public to report suspected ethical misconduct. This gives complainants alternatives if they are reluctant to file a complaint with an immediate supervisor, manager or any other specific individual entity. However, the City's various pathways are not all documented or communicated to employees.**

**Only 55 percent of surveyed City of Long Beach employees reported suspected misconduct, according to the City Auditor's Employee Ethics Culture Survey conducted in early 2019. Explanations for this reluctance to report suspected misconduct include employees believing their complaints would not remain anonymous, fear of retaliation from supervisors, management, or coworkers, and not knowing whom to contact.**

The City of Long Beach's Ethics Guide, the HR and City Auditor's Fraud Hotline policies and procedures and website, staff interviews, and our City Department Audit Survey revealed that there are numerous paths for reporting ethics violations in the City of Long Beach. Besides the City Auditor's Fraud Hotline, complaints depending on type can be reported within each department or to: the City Attorney, the HR Department (through its Equal Employment Opportunity division for harassment and discrimination complaints), the Internal Affairs unit of the Police Department, and the Citizen Police Complaint Commission. Harassment and discrimination complaints can also be filed with federal and State offices, according to HR Department policies.

Though having numerous pathways to report ethics violations is considered a best practice as employees or the public may be reluctant to go to a single source for reporting a complaint, the multiple pathways in place in the City are not clearly identified in a City code or document. Our City Department Audit Survey found that most departments do not have department-level written policies and procedures for ethics-related issues and, therefore, employees and members of the public must rely entirely on word-of-mouth instructions or the core sources that codify the City's ethics program: the Ethics Guide, HR Department policies and procedures, and the City Auditor's Fraud Hotline policies and procedures and website.

Except for reference to the Fraud Hotline operated by the City Auditor's Office for reporting suspected City fraud, waste, and abuse, the Ethics Guide does not provide information on where City employees and officials can otherwise report alleged violations. There is reference to contacting the City Attorney's Office for advice or "additional information" but this language does not make clear if this covers filing a complaint or if any such inquiries for advice will be treated confidentially. There is no reference to contacting the HR department or Equal Opportunity Office for advice or filing complaints about sexual harassment or discrimination.

Though the City Manager reports that all departments have Administrative Officers who are prepared to receive, investigate, or refer filed complaints to other departments, there is no reference to this pathway to report alleged ethical violations in the Ethics Guide and, as mentioned above, no departments provided any departmental written policies and procedures describing this pathway in our City Department Audit Survey.

As mentioned, there is no information in the Ethics Guide on how or where to file a discrimination or sexual harassment complaint; those procedures are covered in separate HR Department policies. The HR Department policies refer to Employment Opportunity Counselors in all departments who, like the Administrative Officers described above, are reportedly able to receive and process discrimination and sexual and other harassment complaints. This pathway for filing complaints is also not described in the Ethics Guide and was not reported by any department in our City departmental survey.

The City Auditor's Fraud Hotline internal policies and procedures describe the pathways for filing City fraud, waste, and abuse complaints and the City Auditor's Fraud Hotline website provides clear information about the process, including a complaint form that can be completed and submitted online. The City Auditor receives many calls for suspected misconduct that do not meet the criteria of City fraud, waste, and abuse. In such cases, the City Auditor's staff refers the calls on to more appropriate agencies. This is a useful practice and it is likely that any City department receiving a complaint would refer it on to more appropriate agencies if the recipient agency was not the appropriate entity for conducting an investigation. Flexibility in where complaints can be filed and documented procedures to ensure that all agencies follow an established protocol for forwarding complaints received to the most appropriate agencies for investigating the matter will enhance the effectiveness of the City's ethics program.

According to the City Auditor's Employee Ethics Culture Survey conducted by ECI, only 55 percent of Long Beach City employees who observed misconduct reported it. Of the respondents, 63 percent reported one of their most common reasons for not reporting misconduct was that they did not believe their filings would remain anonymous). Other common reasons included employees fearing retaliation from their supervisors, management, or coworkers, and not knowing whom to contact. Clearly, there is room for improvement in employees' understanding of how the various reporting processes in the City protects their anonymity and the multiple pathways available for filing reports, particularly if they do not want to report to their supervisors or management.

**Lessons from our Audit Benchmarking Survey of Other Cities**

Similar to the City of Long Beach, our benchmarking survey revealed that there were several pathways to report alleged ethics violations in each of the ten jurisdictions surveyed. However, many of the ethics commissions in the ten cities surveyed had either an online complaint form or a confidential phone line/hotline advertised prominently on their websites. For example, the City of Austin's Ethics Review Commission has a complaint form requesting information about the person filing the complaint, the accused individual, the section of the charter or ordinance violated, date of alleged violation, description of actions that occurred, evidence, and witnesses. In addition, an instruction sheet is provided alongside the complaint form to guide users on the type of information that would be helpful for the Ethics Review Commission. Both the complaint form and instruction sheet clearly state that the Ethics Review Commission has jurisdiction to hear only complaints alleging violations of certain city regulations involving city boards, campaign finance, conflict of interest and recusal, ethics and financial disclosure, and lobbyist regulation. The Ethics Review Commission's complaint filing process is separate from the Austin City Auditor's Fraud Hotline which has jurisdiction to review complaints of City fraud, waste and abuse; for example, theft of city resources, personal use of city equipment or supplies, or violations of city procurement or contract fraud.

**Recommendation**

**Recommendation #7:** The Mayor and City Council should direct the Ethics Commission and City Manager to include in the comprehensive City ethics document and website (see Recommendation #3) descriptions of the various pathways for all elected and appointed officials, employees and the public to file complaints of suspected ethical misconduct including details on the various departments that can receive complaints, protocols for referring them to other departments better equipped to investigate the subject matter, and the roles of supervisors, department heads, and Administrative Officers and Employment Opportunity Counselors in each department who can receive complaints about ethical misconduct including sexual harassment and discrimination complaints.

***Standard #6: Provide Advice and Information on Ethics-Related Issues***

**Finding: The City does not have a clear, documented approach to providing advice and information on ethics issues to employees and the public. This should be a key component of the ethics program. The City Auditor's Employee Ethics Culture Survey found a low awareness of the ethics program among City employees who identified the difficulty of obtaining information about the program as one of five measures contributing to low awareness.**

Making ethics advisory services available can help educate employees and the public about an organization's ethics program while communicating that the organization takes its ethics program seriously.

For financial disclosures and other ethics-related processes managed by the City Clerk, the Long Beach Ethics Guide states that staff and officials may contact the City Clerk or City Attorney with questions. There is also a general statement in the Ethics Guide to contact the City Attorney with questions about all other Ethics Guide content and a statement that the California FPPC is available to provide advice about financial disclosure requirements.

The City's HR policies indicate how harassment and discrimination complaints can be filed but do not provide a specific means to obtain advice on these matters.

The City Auditor's Fraud Hotline policies and procedures do not provide information on how to obtain general advice but the City Auditor's "Report Fraud" website page does provide a telephone number for information.

In reporting the low overall rate of only 27 percent of City employee survey respondents reporting awareness of all elements of the City's ethics program, the City Auditor's Employee Ethics Culture Survey reports that the inability to obtain advice about workplace ethics issues is one of five factors that reduces employee awareness of the City's ethics program. The City also received a low mark from respondent employees for program effectiveness, with only 15 percent of respondents stating the ethics program was effective. .

Finally, in providing reasons for not reporting suspected misconduct, survey respondents cited a number of concerns and misunderstandings about how the reporting process works, including a fear that the reporting would not be anonymous, belief that the behavior observed was not serious enough to qualify as an ethical violation, and fear of retaliation. Such fears and misconceptions could be addressed if the employees had reliable advisors with whom to discuss these concerns and to help them determine whether to file a complaint.

**Lessons from our Audit Benchmarking Survey of Other Cities**

Almost all benchmarked jurisdictions surveyed for this audit reported that they provide an advice hotline/phone line, where employees, elected officials, and members of the public can request formal and informal advice from ethics commission staff on whether certain future actions would violate the cities' ethics codes.[4] This is considered a preventative tool that grants staff and elected officials an opportunity to avoid future pitfalls. Such hotlines reportedly cannot be used for actions already committed. There would be some level of liability if the City of Long Beach were to implement an advice line such as this. For example, if the staff of the new Ethics Commission issued formal written advice to employees or elected officials clearing a future activity, but the activity is subsequently deemed a violation, the formal written advice could potentially pardon the employee or elected official, as they were simply following official advice. Certain standard disclaimers on the nature of "advice" would need to be established, similar to what is currently in place and included with any such advice provided by the City Attorney's Office.

Some complainants might contact the parties identified in the HR and Fraud Hotline policies and website on their own initiative for advice prior to filing a complaint, but other employees might not be inclined to solicit such advice. Ideally, it should be made clear in City ethics program documents that such advisory services are available and confidential, and how to access them.

**Recommendation**

**Recommendation #8:** The Mayor and City Council should: 1) direct staff to create an advice and referral hotline staffed by Ethics Commission support staff or possibly a contractor to respond to questions by City elected and appointed officials, staff, contractors and the public about ethical issues and complaint procedures, and 2) direct the City Attorney to provide ongoing support for this function as needed and to routinely provide standard disclaimers that with such advice, as is their current practice for other legal advice.

[4] The cities that offered an advice line or function included San Francisco, Oakland, Los Angeles, San Diego, Atlanta, Chicago, and Jacksonville. As of April 2019, Seattle does not have an advice line.

***Standard #7: Establish and Publish Disciplinary Actions and Penalties for Violations***

**Findings: The City of Long Beach does not have a published list of penalties or disciplinary actions that can be imposed for cases of ethical misconduct. In addition to State authorized penalties for violations of ethics laws, some cities have established and codified their own penalties for violations. The absence of such fines in the City of Long Beach leaves employees and the public uncertain about the impact and consistency of outcomes resulting from filing complaints of suspected ethical misconduct.**

**The level of employee satisfaction after reporting suspected ethical misconduct was found to be lower for City employees than for employees at comparison organizations according to the City Auditor's Employee Ethics Culture Survey conducted in early 2019. One reason given by employees for their dissatisfaction was their belief that the corrective actions taken were not severe or complete enough.**

Establishing and publishing penalties and procedures for ethical violations is considered a best practice because it makes the ethics program more transparent and provides a greater assurance of consistency in the enforcement of the program.

Neither the Municipal Code, the Ethics Guide, HR Department's policies, nor the City Auditor Fraud Hotline policies and procedures and website identify specific disciplinary actions or the range of enforcement mechanisms and penalties that may be imposed for violations of ethics-related rules and laws. It would be beneficial to explicitly state up to what dollar amount staff and City officials could be fined or otherwise sanctioned (e.g., employee suspension or termination for sexual harassment) for each type and level of ethical violation along with who and/or which agency is authorized to enforce these penalties. This would be useful for employees and would also help ensure that disciplinary action is assigned consistently, regardless of the seniority or organizational location of the accused.

In the City Auditor's Employee Ethics Culture Survey, City employees reported satisfaction rates of less than 50 percent after reporting suspected ethical misconduct to most locations such as their supervisors, the HR Department, and "higher management". Lower and higher satisfaction rates were reported for some offices such as the City Attorney's Office, the City Auditor's Office, and the City Manager's Office, but the total number of respondents that had reported to those offices was very low. Asked for reasons for their dissatisfaction, the majority of City employee respondents reported that the corrective actions weren't severe or complete enough (77 percent), the City chose not to pursue the claim (71 percent), and, in cases where investigations were conducted, the majority of employees disagreed with the results (68 percent).

Overall, the City Auditor's Employee Ethics Culture Survey results discussed above indicates a lack of awareness about what the corrective actions might be when employees file their claims, a lack of clarity about what constitutes ethical misconduct subject to investigation, and how investigations are conducted. Having these provisions of the City's ethics program clearly established and published, including specific disciplinary actions that could be taken, could help manage expectations and alleviate the high rate of dissatisfaction among employees who have filed claims of possible ethical violations.

**Lessons from our Audit Benchmarking Survey of Other Cities**

In our benchmarking survey, all ethics commissions and boards were authorized to penalize City employees found to be in violation of ethics rules and regulations. The penalties were diverse and could range from a warning letter to fines of up to $5,000 per civil violation. Warning letters are an official statement from the ethics commission outlining its finding of a violation, and penalties issued, if any, and can also include recommendations for further disciplinary actions.

**Recommendation**

**Recommendation #9:** The Mayor and City Council, with input from the Ethics Commission and the City Attorney, should specify and publish in the expanded ethics section in the Municipal Code (see Recommendation #5) penalties and disciplinary actions that can be imposed by the Ethics Commission and other City parties for all types of ethics violations, consistent with provisions of State and local law.

***Standard #8: Publish Annual Reports with Violations and Case Outcomes***

**Finding: The City of Long Beach does not publish its caseload of Citywide ethics complaints and outcomes. The City Auditor publishes its Fraud Hotline activity annually, but this does not include the results of complaints disposed of by other departments and entities for all cases. Without Citywide reporting on ethics complaints and outcomes, City management, employees and the public do not have the full perspective of the extent of complaints and ethical violations, the effectiveness of the Citywide ethics program and areas for improvement.**

Even though the City Manager reports that many complaints are filed at the department level, annual statistical compilations on ethics-related complaints and/or investigations and outcomes are not published, either for individual departments or on a Citywide basis. In fact, in our attempt to collect the Citywide ethics complaints and violation caseload through our City Department Audit Survey, a number of departments reported that they do not track the number of ethics violations complaints filed within their department or reported that no complaints were filed within the most recent five years.

Annual reports are useful documents for employees and the public to learn about the work of their ethics commission or board and to obtain an overview of complaints and outcomes Citywide. They can also serve as a tool for management to examine accountability, consistency, and effectiveness. Annual reports can help the public and City employees deduce whether individuals who violate the City's ethics rules and regulations are consistently penalized. The new Ethics Commission should consider preparing an annual report to showcase its work each year and the outcomes of complaints filed.

As discussed above, in the City Auditor's Employee Ethics Culture Survey, over half of employee respondents expressed dissatisfaction with the results of their reporting ethical violations to all of the more frequently cited reporting locations (e.g., "my supervisor", "other responsible person", "higher management"). Two of the key reasons for the dissatisfaction were: 1) the complainant never found out if any action was taken on their filing, and 2) the City chose not to pursue the claim. Publishing an annual compilation of violations and outcomes would give employees more information about case results, even at a summary level, and should improve their satisfaction with reporting ethical misconduct. An annual publication could also include explanations of how the investigation process works, an area where many City employees also expressed a lack of knowledge.

**Lessons from our Audit Benchmarking Survey of Other Cities**

The ethics commissions or boards of the cities of Atlanta and Oakland and the City and County of San Francisco each publish annual reports containing information about the functions under their purview including their role, staff size and functions, annual budget appropriations, total number of ethics complaints filed by type, total number of advice requests by type, summary outcomes of complaints, overview of new initiatives and priorities for the upcoming year. While the City of Seattle Ethics Commission does not prepare an annual report, it does maintain separate webpages dedicated to summarizing enforcement actions, campaign donations, and lobbyist disclosures, all areas under its jurisdiction. None of the annual reports produced by these cities report on total complaints filed Citywide such as those filed and resolved at the department level, or on sexual harassment or discrimination complaints since those areas are not under the jurisdiction of these cities' ethics commissions.

To ensure consistency in disciplinary actions imposed for the same violations, the surveyed jurisdictions recommended: (1) consulting with the HR department and other ethics-related agencies on penalties issued for similar violations; and (2) reviewing penalties issued by the ethics commission in the past for similar violations prior to deciding on penalties. Compliance with State and City mandated training could also be included in this publication.

None of the surveyed jurisdictions publish Citywide reports or statistics on all ethics complaints, violations and outcomes, as some might need to remain confidential to protect the complainant and/or subject. However, we recommend that the City of Long Beach implement a system where all key actors are required to collaborate and jointly report Citywide ethics activities, providing general information on suspected violations reported, number of investigations, and investigation outcomes, while still ensuring that the identity of whistleblower and other complainants remains confidential as appropriate[5].

**Recommendation**

**Recommendation #10:** The Mayor and City Council should direct the Ethics Commission and its staff to annually publish a single public report containing information on the role of the Ethics Commission, staff size and functions, annual budget appropriations, total number of ethics complaints filed Citywide and summarized outcomes by type, including complaints filed and resolved at the department level, and total number of advice requests by type, training statistics, and an overview of new initiatives and priorities for the upcoming year.

[5] California Government Code Sect. 53087.6 mandates that the identity of all local government whistleblowers remain confidential.

***Standard #9: Implement Proactive Measures and Checks for Effectiveness***

**Finding: There are limited proactive measures or checks for acts of ethical misconduct in place in the City. Although a number of departments reported practices in place to prevent and/or detect ethics violations, these practices are not consistently applied across the City and their effectiveness has not been proven.**

Although there is no Citywide mandate that proactive measures be taken, the City Auditor is mindful of the risk of fraud, waste, and abuse when assessing risk and conducting audits as required by Generally Accepted Government Auditing Standards. In addition, although not stated as such in the HR Department policies, required staff training could be considered a proactive measure regarding discrimination and harassment activities in the City.

**Proactive Practices Reported by City Departments**

A number of City departments reported in our City Department Audit Survey that they have measures in place to proactively detect unethical behavior or to reinforce the importance of all employees adhering to the City's Code of Ethics. While some of these measures appear to strengthen the City's ethics program, such as the requirement by some departments that their employees annually sign a statement reaffirming their adherence to the City's Code of Ethics, other departments make this requirement only periodically or not at all. Centralized management oversight of the program should be established to encourage consistent Citywide implementation and periodic assessment of proactive practices.

**City Council, Appointed Commissioners, and Employee Attestations**

One Citywide proactive measure is found in the City's Municipal Code requirement that, prior to assuming office or employment, every City employee, elected City official, City commissioner or committee member, and other board members shall pledge, in writing, to follow the City's Code of Ethics. Beyond that, City departments reported various individual attestation requirements. Although these attestations can be considered proactive measures since they reinforce the importance of proper ethical behavior and the specific behaviors expected in the Code of Conduct, they are not consistently applied. Some departments require annual attestations and some only require attestation upon hiring. Form 700 disclosure requirements for certain City officials and employees, discussed in Section 2 of this report, are not included in these required attestations.

The City Council does not have a process for *periodic* attestations that records adherence to the City's Code of Ethics. The Municipal Code does require that such an attestation be filed in writing by the City Councilmembers upon election or appointment. Councilmembers and appointed officials are required to file Form 700 financial disclosures every year. Though not a practice identified in our audit Benchmarking Survey of Other Cities, the City of Long Beach could

proactively establish a requirement that City Councilmembers and appointed officials issue blanket statements at each City Council or commission meeting that they have no conflicts of interest pertaining to any votes taken or items on the agenda. Though elected and appointed officials should recuse themselves in such instances under existing laws, compliance with these laws is difficult to determine. Requiring attestations as described above would serve as a proactive further assurance that City officials do not have conflicts of interest on matters under their jurisdiction.

Members of the City Council and appointed commissioners (assuming they receive some type of compensation, salary, or stipend) are required by State law to attend two hours of ethics training biennially ("AB 1234" training). The Mayor's Office and City Clerk's Office are responsible for administering these requirements. Compliance with this requirement is discussed in Section 2 of this report.

**Contract Provisions and Purchasing Controls Related to Ethics Standards**

The City's standard language in its non-design professional service agreements require that contractors affirmatively state that they have not colluded with other firms in submitting their bids and that they do not have conflicts of interest in the selection of any subcontractors. While these are good proactive measures to avert unethical behavior by vendors, contract language could be further strengthened with standard language requiring that vendors affirm that they will adhere to the City's Code of Ethics and that they have not violated the Ethics Code in their interactions with the City or provided any gifts or gratuities to any City officials or employees.

The Financial Management Department does not report having policies and procedures in place to ensure that its own Buyers are acting in compliance with ethical requirements regarding bidding and vendor selection. Oversight of other departments' purchases and vendor selections are reportedly in place, but such oversight is not in place for staff within the Financial Management Department. The City's Director of the Financial Management Department noted that the Department was in the process of updating all its contract templates, and was transitioning to a new financial system, which is intended to incorporate additional controls into the purchasing process.

We received contradictory information from different City officials regarding whether the City requires contractors to file Form 700 (Statements of Economic Interests). The California FPPC notes on California Form 805 (Agency Report of Consultants) that consultants that make or participate in making government decisions must file Form 700 within 30 days of assuming office. The Director of Financial Management reported to us that there is no City requirement for contractors to file Form 700 with the FPPC. However, the City Clerk asserted that the City does require consultants (if appropriate) to file Form 700 with the FPPC (but they are not required to file with the Clerk) unless the head of the department with whom the consultant is contracting

waives the requirement in writing. We also reached out to the City's Purchasing Agent for clarification on this matter; however, we did not hear back as of the writing of this report.

**Favoritism and Nepotism**

City Charter Section 51-1 and Administrative Regulation 32-1 define and ban nepotism in the City. However, there are no proactive processes in place to have new employees or new elected officials and commissioners report any members of their "immediate family" already in City employment. Such practices were not found in our Audit Benchmarking Survey of Other Cities, but implementing nepotism reporting requirements would establish a simple proactive measure to help stem any such conflicts for elected and appointed City officials since they would have made a specific affirmation indicating their status regarding immediate family in City employment rather than a passive assumption that they have read and are familiar with Charter Section 51-1 and Administrative Regulation 32-1.

**Lessons from Audit Benchmarking Survey of Other Cities**

Proactive measures to detect ethics violations were generally not reported by benchmark jurisdictions surveyed for this audit, with the exception of the City of San Diego. The general feedback we received was that proactive measures were time-consuming and did not often yield results. However, the City of San Diego's Ethics Commission staff reported an auditing program for campaign finance in which staff audits 75 percent of campaigns that raise over $150,000 and 50 percent of campaigns that raise $50,000 to $100,000. Two similar examples include the City of Los Angeles and the City and County of San Francisco's Ethics Commissions, which are authorized to conduct campaign audits and have audit staff dedicated to this effort. As the Long Beach Ethics Commission will oversee campaign finance, proactive measures similar to these should be considered.

**Recommendations**

**The Mayor and City Council should:**

**Recommendation #11:** Amend the Municipal Code to require that signed attestations of compliance with the City's Code of Ethics be prepared by all City employees annually and filed with the new Ethics Commission, whose assigned staff should track and report compliance.

**Recommendation #12:** Direct all City departments to provide ethics training to all staff at least once a year, with documentation of such training provided to Ethics Commission staff to review and report compliance.

**Recommendation #13:** Adopt a policy that all Councilmembers attest to the absence of any conflict of interest at each City Council meeting. Such an attestation could be accomplished through an efficient or automated process, such as a roll call vote.

**Recommendation #14:** Direct the City Manager to amend Administrative Regulation 32-1 to require that newly elected officials and City staff sign a statement indicating whether they have any members of their "immediate family" on staff at the City with each such statement updated and restated annually.

**Recommendation #15:** Consider directing the Ethics Commission and its staff to conduct proactive audits on select campaign contributions and expenditures.

**The City Manager should:**

**Recommendation #16:** Direct the Financial Management Department to amend its contract boilerplate language to include mandatory provisions that contractors must state that they will comply with the City's Ethics Code to prevent conflicts of interest with City officials and employees, and that they and their company employees do not have financial or family relationships with City officials or employees involved in their contract selection or contract administration processes, with such documentation maintained in bidder files.

**Recommendation #17:** Direct the Financial Management Department to establish procedures to periodically conduct independent reviews of its own staff buyers' activities to ensure that they are not engaged in ethical misconduct pertaining to selecting vendors and contractors.

**Recommendation #18:** Direct the Financial Management Department to establish procedures to implement the State requirement that consultants submit financial disclosures in cases when their consulting engagements put them in decision-making positions.

### *Standard #10: Required and Regular Ethics Trainings for All Employees and Elected and Appointed Officials Including Sexual Harassment and Discrimination Training*

**Findings: Besides State mandated biennial ethics training for elected and certain appointed officials and employees, the City of Long Beach requires that all new staff receive ethics training as part of their onboarding process. Beyond that, no further ethics training is required of all City employees no matter how long they work for the City. However, some City departments require that their employees attend ethics training annually, though other departments have no such requirement.**

**Sexual harassment training is also required by the State for supervisory employees and, as of January 2020, the City will be required to have all employees attend one hour of such training every two years. Compliance with these current training requirements are not compiled and published for review by the Mayor, City Council, and City Manager.**

Elected officials, commissioners, and advisory board members are required by State law to participate in two hours of ethics training every two years of service, as detailed in the Ethics Guide. Attendance for these individuals at these mandated trainings is tracked by the City Clerk.

The HR Department's discrimination and harassment policies do not describe related State-mandated training requirements. Though presently undergoing changes, State law in the past required that all supervisors in organizations with 50 or more employees receive sexual harassment training on a regular basis. As of January 1, 2020, all supervisory employees at organizations with five or more employees must have two hours of training and all other employees must have one hour of training on the topic of sexual harassment within six months of being hired and thereafter for all employees once every two years. The City Manager's Office reports that the City has historically sent more employees than required to these trainings under prior State mandates. None of the old or new sexual harassment training requirements are spelled out in the Ethics Guide. The HR Department reports that they will be rolling out the new requirements to City staff; however, the plans for that and how compliance will be monitored and reported were not made available to the audit team as of the writing of this report.

As part of the City's onboarding process, all new hires are required to receive training on the City's Code of Ethics, accepting gifts, political activities, sexual harassment, discrimination, and related policies. However, after the onboarding process, no further or ongoing ethics training has been required for all City staff other than what is described above for certain employees. Attendance at these onboarding sessions is recorded by means of sign-in sheets and compilations of attendance are not published on a regular basis. Since field work for this audit was completed, we have been informed that the City now includes a training segment on ethics as part of biennial harassment training, which will be required by State law for all employees as of January 2020. If this practice continues, it will mean that all employees will receive some ethics training in

addition to what they receive as part of their onboarding process. The City HR Department reported at the exit conference for this audit that the onboarding process was being revised to include more on sexual harassment and discrimination.

In our City Department Audit Survey, some respondents reported that they reinforce the initial ethics training with additional training, periodic announcements, informal discussions at staff meetings, or annual pledges to acknowledge adherence to City ethics policies. However, about half of City departments do not require or encourage additional training beyond what is required or available Citywide according to our City Department Audit Survey. Further, there is no coordinated effort to ensure consistency across departments for the frequency or content of additional training related to ethics issues other than information produced by the City Attorney's Office several years ago (the Ethics Guide and an ethics information video). A factor that may partially explain these variances is that authority over departments in the City is dispersed between the City Manager, each elected official that heads a department, the Mayor and City Council, and the Harbor and Water commissions. However, our audit team also found variances among departments overseen by the City Manager.

A low rate of employee awareness about the City's ethics program was reported in the City Auditor's Employee Ethics Culture Survey. For the City overall, only 27 percent of employees responding to the survey reported an awareness of the City's ethics program. Awareness was measured by familiarity with the City's ethics training and four other elements of the program. The absence of further ethics training requirements after employee onboarding may explain why survey respondent employees reported a low rate of awareness of training and other elements of the City's ethics program. Monitoring attendance at the onboarding sessions is not a robust process. Employees are required to sign in, but attendance statistics are not compiled and published in an annual management report, resulting in limited management oversight of compliance.

**Lessons from our Audit Benchmarking Survey of Other Cities**

Many jurisdictions in our benchmarking survey reported that they do not have ethics training requirements beyond training received during employee onboarding/orientation and the State-required trainings. One exception was the City of Chicago which requires all City staff and elected officials complete an online ethics training designed by their Ethics Board each year. Because the annual trainings are completed online, the Ethics Board is able to easily track compliance. The City of Chicago also requires annual lobbyist ethics training for all registered lobbyists, and quadrennial ethics training for all elected officials and Department executive staff. While the City of Chicago appears to be the exception, these practices better ensure that City employees, officials, and lobbyists are well-versed in the City of Chicago's ethical standards. We recommend that the new Ethics Commission in Long Beach adopt similar ethics training requirements.

**Recommendation**

**Recommendation #19:** The Mayor and City Council should require that ethics training for all City staff and officials regardless of whether they report to the City Manager or another authority, be required on a regular basis and that compliance be tracked and reported to the Mayor, City Council, City Manager, and Ethics Commission annually. Similarly, attendance at State-mandated sexual harassment training for certain City employees every other year should be tracked by staff and reported to the Mayor, City Council, Ethics Commission, and City Manager annually.

***Standard #11: Retaliation Protection***

**Finding: Although critical to encouraging employees to report suspected cases of ethical misconduct, information about retaliation protection is not well documented in the City's ethics program documentation. The City's Ethics Guide does not cover the topic at all; the City Auditor's Fraud Hotline website provides a summary of Whistleblower Act protections; and the HR Department policies state that retaliation is prohibited but does not provide information to employees about how instances of retaliation are handled in the City or to whom they should be reported.**

The City Auditor's Employee Ethics Culture Survey shows that many employees choose to not report suspected ethical misconduct for fear of retaliation. This includes fear of retaliation from management, from the employees' supervisors, and from coworkers. Others expressed concern that their report would not be treated anonymously, also implying a fear of retaliation. Establishing and communicating strong retaliation protection measures in the City should help alleviate employee concern that is preventing some employees from filing claims of ethical misconduct.

The new Ethics Commission's webpage and previously recommended comprehensive City ethics program documents would be ideal places to provide information on the City's retaliation protection policies and State whistleblower protection laws, including scenarios in which these policies and regulations apply.

**Lessons from our Audit Benchmarking Survey of Other Cities**

The cities of Chicago, Los Angeles, San Diego, Seattle, and Oakland, and the City and County of San Francisco each have specific retaliation protections either in their municipal codes or as part of their Whistleblower Protection programs. It is helpful to see specific examples as to what could constitute retaliation, such as the Seattle Ethics and Elections Commission's Whistleblower Protections Code and San Francisco's Protection of Whistleblower's section[6] of its Campaign and Governmental Conduct Code, which specifies protections for City employees and presents specific penalties that a violator could face.

The new Ethics Commission should create descriptions of scenarios that could constitute retaliation and specify the types of penalties and disciplinary actions that would be issued in response to retaliation. The Ethics Commission should also specify who is covered under its retaliation protections and determine whether they would like to extend these protections to City contractors as well.

[6] San Francisco Campaign and Government Conduct Code, Article IV.

**Recommendation**

**Recommendation #20:** The Mayor and City Council should direct the City Attorney to work with the Ethics Commission and draft a Citywide retaliation protection policy for adoption by the Council, including descriptions of scenarios that could constitute retaliation and specifying the types of penalties and disciplinary action that would be issued in response to retaliation.

# 2. Compliance with State Financial Disclosure and Other Ethics Requirements

The State of California mandates that local elected and appointed officials and certain managers:

- make financial disclosures,
- attend a certain number of hours of ethics and sexual harassment/discrimination training upon election or appointment and every two years thereafter,
- report certain gifts received,
- limit certain types of political activity, and
- avoid conflicts of interest in decision making for their areas of responsibility.

Elected and some appointed officials must also adhere to the Brown Act, which generally restricts their decision-making to public forums only. Finally, City law prohibits former City officials and employees from lobbying elected and appointed officials and City employees for one year after leaving their City position.

Tracking compliance with the requirements above is primarily delegated to the City Clerk, who tracks filing and disclosure requirements, makes deadlines and requirements known to appropriate officials and employees, and posts certain disclosure documents on the City Clerk's website. The City Clerk has no enforcement power regarding these requirements but can report non-compliance to other bodies such as the California FPPC for lack of compliance with financial disclosure requirements. The City Attorney and City Prosecutor could both play an enforcement role in cases of non-compliance with financial and gift disclosure, lobbying, and "revolving door" regulations.

Details on the City of Long Beach's methods to ensure compliance with these various State and local requirements are provided below.

***Financial Disclosures: Form 700 Filings***

**Finding: Of the 1,285 City positions required by State law to file financial disclosure forms, 277, or 21.6 percent, filed late or not at all as of March 2019. Though nearly half of those were leaving their positions with the City, they are still obligated to submit these disclosures. While the City Clerk tracks compliance with these filings, the Office does not have authority**

**to enforce compliance, nor does the City impose any fines or penalties for failure to comply, as some cities do.**

California's Political Reform Act, a part of the California Code of Regulations, requires that all City and State officials[7] and staff who manage public investments, make governmental decisions, and/or influence governmental decisions submit the financial disclosure Form 700 annually to the California FPPC. The goal of this requirement is to proactively identify any conflicts of interest and prevent public officials from using their political office for personal financial gain. In the City of Long Beach, City officials and relevant staff must file these Form 700 financial disclosures with the City Clerk by April 1st each year and within 30 days of assuming or leaving an office or position. The form requests information on an individual's investments, real property, income, loans, business positions, and gifts received. Beyond the State laws requiring financial disclosures, the City of Long Beach has not enacted additional requirements or penalties regarding the submission of the Form 700 financial disclosure form.

As of March 2019, 277 or 21.6 percent of the total 1,285 City positions (whether hired staff, elected, or appointed) required to submit the financial disclosure Form 700 for the prior calendar year filed late or did not file at all, as shown in Exhibit 2.1 below.[8] Because an individual can occupy more than one Form 700-eligible position, the total 1,285 positions represent 1,097 individuals across 60 City departments including boards, commissions, departments, the Mayor's Office, and the City Council. Among the 277 positions out of compliance with Form 700 filing requirements, 146 represented cases where the individual filed late, while the remaining 131 cases included filers who did not file at all. Board and commission members have a lower compliance rate than City department staff, with 71.4 percent compliant compared to 82.2 percent for City departments.

Exhibit 2.1 below includes further details on compliance with the State requirement to submit Form 700 financial disclosures in the City of Long Beach. The data we received from the City Clerk included City staff and officials' names, their City department or board/commission affiliation, the filing type (whether the individual was assuming, leaving, or a candidate for office), the due date for filing, and the filing status of that individual.

[7] This applies to all public officials who manage public investments, whether an elected, appointed, or holdover position.

[8] These statistics are based on data provided by the City Clerk of the City of Long Beach in March 2019. Relevant City staff and officials are required to submit their financial disclosure Form 700 to the City Clerk by the State-mandated deadline. March 1st is the deadline for state officials and staff while April 1st is the deadline for their local government counterparts.

**Exhibit 2.1. Filing Status of Form 700 Filers as of March 2019**

| Form 700 Eligible Positions | Filed | Filed Late | Has Not Filed | Total Positions |
|---|---|---|---|---|
| Boards and Commissions | 319 | 65 | 63 | 447 |
| City Department | 689 | 81 | 68 | 838 |
| Total Positions | 1,008 | 146 | 131 | 1,285 |
| **% of Total Positions** | **78.4%** | **11.4%** | **10.2%** | **100.0%** |
| % of Boards and Commissions Positions | 71.4% | 14.5% | 14.1% | 100.0% |
| % of City Department Positions | 82.2% | 9.7% | 8.1% | 100.0% |

Source: City of Long Beach, City Clerk's Office as of March 2019.

Most of the 131 instances in which the Form 700 was not filed at all involved individuals who were leaving office, as shown in Exhibit 2.2 below. As previously mentioned, individuals leaving a Form 700 status position are required to submit their Form 700 within 30 days of leaving that position. The City Clerk is required to report non-compliant individuals to the California FPPC each year. The FPPC may choose to conduct an investigation of the non-compliance. The City Clerk, however, is not authorized to assess fines or penalties for non-compliance. The California FPPC can assess a fee of $10 each day the filing has not been completed for a maximum total fine of $100. The City could establish its own authority to impose fines separate from the State, but to date the City Council has not adopted any ordinances to establish such authority.

**Exhibit 2.2. Filing Type of Form 700 Filers who did not File as of March 2019**

| | Currently Holding a Position | Assuming a Position | Candidate for a Position | Leaving a Position | Grand Total |
|---|---|---|---|---|---|
| Boards and Commissions | 11 | 14 | | 38 | 63 |
| City of Long Beach | 9 | 10 | 1 | 48 | 68 |
| **Total Positions** | **20** | **24** | **1** | **86** | **131** |
| % of Total Positions | 15.3% | 18.3% | 0.8% | 65.6% | 100.0% |

Source: City of Long Beach, City Clerk's Office as of March 2019.

There was a more even distribution across filing types in violation of the State's financial disclosure rules for the 146 cases where individuals filed late, as shown in Exhibit 2.3 below. 28.8 percent were leaving office, 34.9 percent were assuming or starting the position, 2.1 percent were candidates for an eligible position, and the remaining 34.2 percent were individuals already in the position and late in submitting their annual financial disclosure Form 700 to the State. The City Clerk does not have the authority to assess fines or penalties in these cases and can only

report non-compliant individuals to the California FPPC. Though allowed by State law, the City of Long Beach has not established its authority to impose its own fines on elected and appointed officials and employees who are not compliant with these filing requirements.

**Exhibit 2.3. City of Long Beach Staff and Officials who Filed their Required Form 700 Late, by Type, as of March 2019**

| | Annual | Assuming | Candidate | Leaving | Grand Total |
|---|---|---|---|---|---|
| Boards and Commissions | 19 | 24 | | 22 | 65 |
| City of Long Beach | 31 | 27 | 3 | 20 | 81 |
| **Total Positions** | **50** | **51** | **3** | **42** | **146** |
| | | | | | |
| % of Total Positions | 34.2% | 34.9% | 2.1% | 28.8% | 100.0% |

Source: City of Long Beach, City Clerk's Office as of March 2019.

Based on audit interviews, both the City Clerk and City staff have confirmed that the City Clerk's office sends several reminders to filers to encourage compliance. However, the City Clerk is not mandated or authorized to penalize those who do not file Form 700 files in a timely manner; this is the role of the California FPPC, which has the authority to issue fines for non-compliance. Since the new Ethics Commission might oversee conflicts of interest, the Mayor and City Council should consider legislation to amend the City Ethics and Municipal Codes specifying local fines for those out of compliance with financial disclosure filings. The City of Los Angeles and the City and County of San Francisco both granted their Ethics Commission the authority to issue penalties for non-compliance with Form 700 filing deadlines as well as other violations of ethics laws and regulations.

**Completeness of Submitted Financial Disclosure Forms**

We reviewed the Form 700s posted on the City's Clerk's website for all elected officials for FY 2016-17 to discern 1) whether forms were complete, and 2) whether the information requested was adequate to enable monitoring and identification of conflicts of interest. While many City officials and staff are required to file Form 700s, only the Form 700s of nine City Council Members, the Mayor, City Manager, City Auditor, and the City Attorney are required to be posted online.

Of these 12 filings, three disclosed no information about investments, real property, other income, or gifts, possibly because they had none of these to report. Gifts were the main disclosure while many had no disclosures about investments. To accurately verify these Form 700 disclosures, the City would need access to the filers' tax returns or other documentation with more details. While there is a separate Form 800 for gift disclosures, officials do file an attachment with the Form 700 outlining gifts received.

**Recommendation**

**Recommendation #21:** The City's Ethics Commission should consider recommending to the Mayor and City Council for their adoption amendments to the City's Ethics Code and Municipal Code specifying local fines and/or other penalties for non-compliance with financial disclosure filing and training requirements.

***Gift Disclosures***

**Finding: State law requires that gifts, or items that confer a personal benefit to public officials and employees for which they have not paid must be disclosed in public documents. Further, State and City law sets limits on the value of gifts that can be accepted. As with financial disclosure requirements, the City Clerk administers the disclosure process for City officials but has no enforcement authority for gift disclosures. There is no clear way to determine if all gifts have been properly disclosed; comparisons between cities of gift disclosure rates is not meaningful.**

The California FPPC defines a "gift" as "any payment or other benefit that confers a personal benefit for which a public official does not provide payment or services of equal or greater value."[9] All gifts meeting this definition must be reported. The FPPC also specifies that Form 700 filers may not accept gifts totaling more than $500 from a single source during a calendar year. On the other hand, the City of Long Beach's Ethics Guide requires public disclosure on California Form 700 of gifts: (a) received from a single source with a total value of at least $50 during a calendar year, or (b) if the donor is a source described in the agency's Conflict of Interest Code.[10]

There are two ways that city and State officials[11] and staff who manage public investments, make governmental decisions, and/or influence governmental decisions can disclose gifts received. The first is a part of the financial disclosure Form 700, where individuals can complete the Schedule D[12] form for gifts, and the Schedule E[13] form for travel payments, advances, and reimbursements.

[9] California Fair Political Practices Commission, 2019, Limitations and Restrictions on Gifts, Honoraria, Travel and Loans.

[10] City of Long Beach Ethics Guide.

[11] This applies to all public officials who manage public investments, whether an elected, appointed, or holdover position.

[12] California Form 700, Schedule D requests the name of the individual or entity that provided the gift, their address, description of the business activity as well as the date, value, and description of the gift.

[13] California Form 700, Schedule E requests the name of the person or entity that provided the gift, their address, a description of the business activity, along with the date and the amount of the gift. Schedule E also requires that individuals specify whether the money received was a gift or income, and what the gift is in response to.

Similar to Form 700, the information submitted should cover the full preceding calendar year. For example, Form 700s are due on April 1st for City officials and staff. So, forms submitted on April 1, 2019 should cover all gifts received during calendar year 2018.

The second method of reporting gifts is by disclosing them on California Forms 801, 802, and/or 803 that are required to be submitted throughout the calendar year as compared to a full accounting of gifts for a full year on Form 700 Schedules D and E.

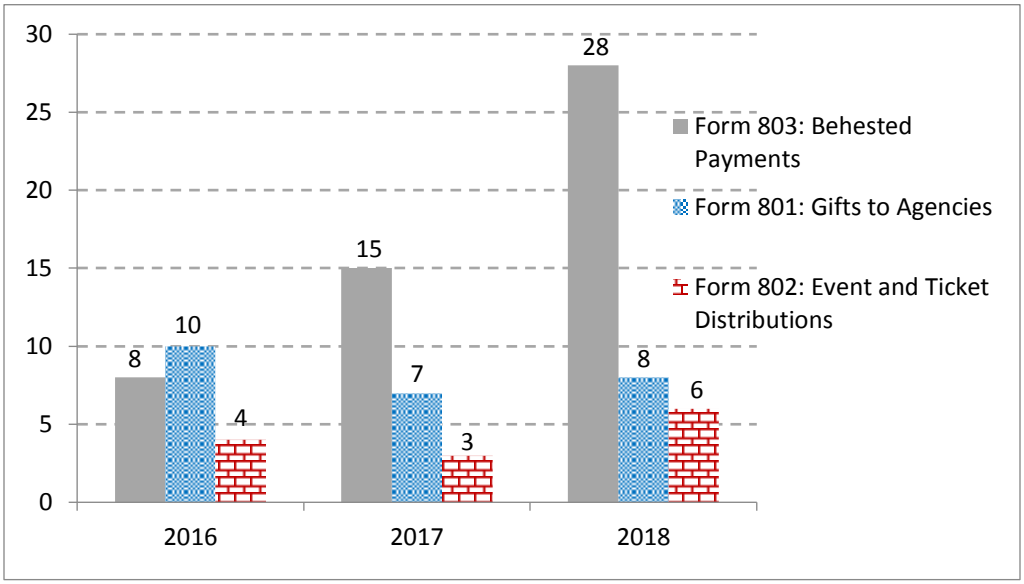
Form 801 is used to report certain payments used for public agency purposes that is paid by a third party. As an example, Form 801 would be required for a City official receiving reimbursement of travel expenses for performing official City business. Form 802 is used to specify each event for which the City distributed tickets to events, and the purpose of each ticket distribution. Finally, Form 803 is used to report a behested payment, which is when a State or local official or a member of the California's Public Utilities Commission solicits a donation to an organization that is used for legislative, governmental, or charitable purposes. This is considered distinct from a campaign contribution or gift, and there are no limits on behested payments. However, officials must report behested payments if they total $5,000 or more from a single source during a calendar year within 30 days of the date they are made.

**Gift Disclosures Reported in the City of Long Beach**

While not all gift disclosures reported on Forms 801, 802, and 803 are required to be posted online, the City Clerk advised that the submitted gift disclosure forms available for viewing on their website represent all Form 800s submitted to the City Clerk. Only those gifts to agencies of $2,500 or more in value during one calendar year and behested payments of $5,000 or more from a single source during one calendar year are required to be posted online, according to State law. As shown in Exhibit 2.4 below, the number of behested payment disclosures published online for the City of Long Beach more than tripled from 2016 to 2018, while the number of disclosures of gifts received by agency officials and staff and ticket distributions has remained fairly unchanged.

There is no clear way to verify how many gift disclosures should have been submitted. However, to better understand how the volume of gift disclosures submitted in the City of Long Beach compares to comparable cities, we reviewed gift disclosures (Forms 801, 802, and 803) posted online in the cities of San Jose, Santa Ana, and San Francisco. Unfortunately, many cities do not maintain webpages with comprehensive information on all gift disclosure forms submitted. Information on the Form 801, gifts to agencies, is particularly hard to find online.

**Exhibit 2.4. City of Long Beach: Gift Disclosures Published Online as of April 5, 2019**




Source: City of Long Beach, City Clerk online records of Form 800 series filing submissions as of April 5, 2019.

Compared to selected cities with information available online, it is not possible to draw a meaningful conclusion about the reasonableness of the City of Long Beach's volume of reported gifts. For example, for gifts to agencies reported on Form 801, we found that the City of San Jose had 44 gift disclosures in 2018 and 37 in 2017, compared to the City of Long Beach's eight and seven gift disclosures for the same years, respectively. This would appear to indicate that the City of Long Beach's reports are low; however, other information is needed before drawing that conclusion, such as the nature and value of the gifts, the number of donors, and other factors.

A more useful approach than comparing the number of disclosures is for the City to periodically review the gift disclosures and determine whether the donors reported had business with the City during the period when they were providing the gifts and whether the gift recipients recused themselves from decision-making or approvals pertaining to the donor. Similarly, trips made by elected and appointed officials and publicly disclosed in the press or City documents could be checked periodically to determine how they were paid for and if the payment was provided and reported as a gift. These types of periodic checks could be functions performed by staff dedicated to the new Ethics Commission.

**Recommendations**

**The City's Ethics Commission should:**

**Recommendation #22:** Set a timeline for City staff and officials to submit all applicable gift disclosure forms within 10 calendar days of gift receipt.

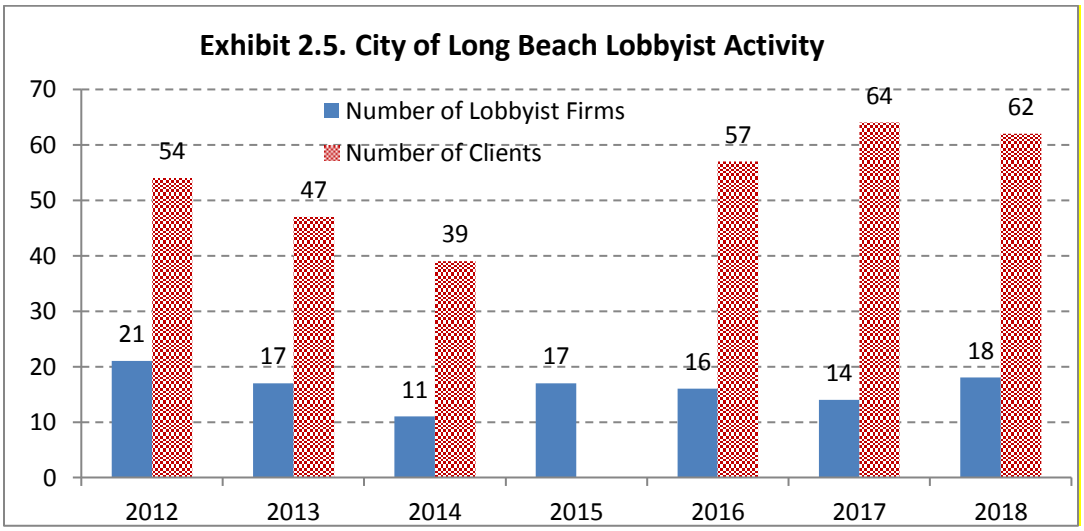
**Recommendation #23:** Direct new Ethics Commission staff to periodically review gift disclosures and review donors against City approvals for contracts, development projects, and other privileges to ensure that gift recipients have not been involved in decision-making pertaining to those donors.

***Lobbyist Tracking***

**Finding: City law requires that lobbyists register with the City Clerk's Office. In 2018, 18 firms registered with the City Clerk. There are no mechanisms in place in the City to determine if all active lobbyists have registered as required.**

Rules pertaining to lobbying in the City of Long Beach are detailed in the City's Municipal Code Title 2, Chapter 2.08. The Code requires that all lobbyists register with the City Clerk's Office within 15 days of qualifying as a lobbyist, as defined in the Code, and every year thereafter by January 15. Lobbyists are required to report the name of their clients, the lobbyist's employer (e.g., law firm name or consultancy name in cases where a law firm or consulting firm is hired to lobby for a particular client), and the name of the City staff and/or official they had contact with during the reporting period.

A review of active lobbyists based on filings with the City Clerk's Office as of January 30, 2019 showed that 18 firms registered in 2018, representing 62 clients. This number has not varied too widely since 2012, as shown in Exhibit 2.5. As can be seen, data on the number of clients in 2015 was not available from the City Clerk's Office.




Source: City Clerk, City of Long Beach Lobbyist Activity Reports for calendar years 2012-2018.
Note: Data was not available from the City Clerk for 2015.

The City Clerk's Office has extensive information on its website about lobbyist registration requirements, including semi-annual reports on lobbyist activity, registration forms, links to the lobbyist ordinance, and answers to frequently asked questions.

While the City of Long Beach does have a system in place to share information about reported lobbyist activities, there are no strategies currently in place to verify that all active lobbyists are registering as required by State law and the City of Long Beach's Lobbyist Ordinance. The City Clerk does not engage in enforcement activities as their mandate is limited to collecting and reporting information. Furthermore, it would be difficult to independently track all official lobbyist interactions with City officials.

One approach to ensure that all lobbyist activity is being reported as required would be for the City Clerk (or other City agency tasked with enforcement, such as the Ethics Commission) to complete a monthly or quarterly review of at least a sample of Mayor and City Council members' visitor sign-in sheets that each visitor typically signs. A review of City Council members' official calendars would be another option for enforcement. This would likely require adoption of an ordinance to mandate that such calendars be classified as public records and must be made available for review, as some other cities have done, and a requirement that elected officials record all meetings with lobbyists on their public calendars.[14] A protocol for such review would also be needed between the City Clerk's Office or the Ethics Commission and the City Council and the Mayor's Office.

[14] City and County of San Francisco and City of Santa Clara, for example.

The City of Long Beach Municipal Code Title 2, Chapter 2.09 and the Ethics Guide detail restrictions around the "Revolving Door", stating that "for one year after leaving City service, no former City official shall, for compensation, engage in direct communication with any department, agency, or board on which he or she served during the 12-month period preceding his or her departure from City service."[15] Any violation of this rule will result in a misdemeanor charge. However, neither the City's Municipal Code nor the Ethics Guide identifies who is charged with monitoring and/or enforcing this rule.

**Recommendations**

**Recommendation #24:** The Mayor, City Council, City Clerk and City Manager should: 1) collaborate to establish and codify in the City's recommended core ethics document a protocol to allow Ethics Commission support staff to regularly review a sample of Mayor and City Council visitor sign-in sheets and calendars to identify all lobbyists interacting with the City's elected officials and ensuring they are registered, and 2) request that the City Attorney prepare necessary ordinances to allow for the Mayor's and City Councilmembers' calendars to be treated as public records available for review by staff.

**Recommendation #25:** The Mayor and City Council should delegate authority for enforcing the City's "revolving door" regulations to the Ethics Commission to be administered by their support staff, with this codified in the City's recommended core ethics document or the Municipal Code, as deemed appropriate by the City Attorney.

***Ethics Training***

**Finding: State law mandates biennial ethics training for elected and certain appointed officials and employees. According to the City Clerk's Office, 38 of the total 235 individuals (16.2 percent) required to complete ethics training, are out of compliance as of early 2019. Of the total 38 people, 22 had not completed ethics training since 2015, with two as far back as 2012. While the City's Ethics Guide states that non-compliance will result in dismissal from the board or commission, there is currently no enforcement mechanism.**

As discussed in Section 1, all elected officials, commission and advisory board members are required to participate in two hours of ethics training every two years by State law ("AB 1234" training). The City Clerk's Office makes information about the training available and keeps participation records provided by all participants. The City's Ethics Guide states that failure to meet this requirement will result in dismissal from the official's board or commission.

[15] City of Long Beach Municipal Code, Title 2, Chapter 2.09.020.

Based on data provided by the City Clerk, 16.2 percent, or 38 of the total 235 individuals required to complete ethics training, are out of compliance as of early 2019. Of the total 38 people, 22 had not completed ethics training since 2015, with two as far back as 2012. As previously mentioned, the City Clerk does not have the authority to penalize individuals for non-compliance but does report those who are out of compliance with the California FPPC. However, the California FPPC does not have any compliance or enforcement responsibility on ethics training violations. Similarly, the City Clerk's office is not authorized to penalize those out of compliance. The Mayor and City Council should consider new rules authorizing either the new Ethics Commission or the City Clerk's Office to penalize individuals who are out of compliance with State and local-level ethics training requirements (see Recommendation #21).

### *Sexual Harassment and Discrimination Training*

Separately required sexual harassment and discrimination training, also discussed in Section 1, is not tracked by the City Clerk, but is maintained by the HR Department. As mentioned earlier, State training requirements for sexual harassment and discrimination issues are changing in 2019 and 2020. The HR Department reports that they keep copies of sign-in sheets for City officials and employees' attendance at sexual harassment training. These sheets were not reviewed as part of this audit and a tally of attendance is not compiled by the Department.

This finding pertains to training and reporting on compliance with training requirements addressed in Recommendation #19.

| | Jurisdiction | Structure | Oversight Areas/ Functions | No. of Staff[1] | Organizational Independence | Conducts Investigations | Completes Annual Reports | Authority to Issue Disciplinary Actions |
|---|---|---|---|---|---|---|---|---|
| 1 | Austin | Ethics Review Commission<br>▪ 11 Members appointed by City Council<br>▪ Four-year term<br>▪ Chair, Vice-chair, and Secretary positions elected annually by majority vote of Commission | ▪ Campaign Finance<br>▪ Conflict of Interest and Recusal<br>▪ Regulation of Lobbyist<br>▪ Limits on Campaign Contributions and Expenditures | n.a. | ▪ Law Department houses Ethics and Compliance Team | ▪ Complaints filed with City Clerk within two years of action, and not directly with Commission | Yes (first in 2017) | Yes, can issue:<br>▪ Letter of notification[2] when violation is unintentional<br>▪ Letter of admonition when violation is minor or unintentional but more serious<br>▪ A reprimand when a violation has been committed intentionally<br>▪ A recommendation of removal from office or suspension[3] from office for a serious or repeated violation<br>▪ A letter of censure[4] when serious or repeated violations occurred intentionally |

[1] This represents total number of people and not total full-time equivalent (FTE) positions, unless stated otherwise.
[2] This includes advice on how to avoid future violations.
[3] This includes a recommendation on the length of the suspension.
[4] This letter will be published in local newspaper with largest general circulation.

| | Jurisdiction | Structure | Oversight Areas/Functions | No. of Staff | Organizational Independence | Conducts Investigations | Completes Annual Reports | Authority to Issue Disciplinary Actions |
|---|---|---|---|---|---|---|---|---|
| 2 | Atlanta | Board of Ethics<br>▪ Created in 1984; updated in 2002 to include an Ethics Officer position; Ethics Office opened in 2003<br>▪ 7 members nominated by legal, business, civic, and educational groups. Nominees appointed by the Mayor and confirmed by a majority vote by the City Council<br>▪ Three-year term<br><br>Ethics Officer appointed by the Board of Ethics for a period not to exceed six years. Ethics Officer leads staff to conduct investigations, prepare reports, conduct trainings, and support the Board of Ethics in performing their mandated functions. | Municipal Code, Article VII, Division 2 (Standards of Conduct), Section 2-804<br><br>Oversight Areas:<br>▪ Gratuities and gifts<br>▪ Contract participation<br>▪ Doing business with the city<br>▪ Financial disclosure<br>▪ Honoraria<br>▪ Conflict of Interest<br>▪ Outside employment<br>▪ Post-employment cooling off period<br>▪ Representing private interests before city agencies<br>▪ Representing private interests in matters adverse to the | Ethics Officer + 4 staff | Both the Board of Ethics and the Ethics Office are independent of the City Manager, City Council, and the Mayor. Neither reports to City Council, the Mayor, or City Manager. | Yes, investigates alleged violations of the Ethics Code and holds hearings. | Yes – Publishes annual reports (available online since 2007).<br><br>They also publish all ethics violations on their website, complete with the name of the person involved, the issue, and the penalty issued. | Yes, can issue:<br>▪ Administrative sanctions of more than $1,000<br>▪ Public reprimands<br>▪ Prosecution by the city solicitor in municipal court and, upon conviction, to a fine of up to $1,000 per violation and up to six months imprisonment, whether the official or employee is elected or appointed, paid or unpaid.<br>▪ For employees, can recommend one more additional disciplinary actions outlined in Municipal Code Section 114-502<br>▪ For individuals other than employees and officials, can recommend to the Purchasing Director suspension of a contractor and/or disqualification or debarment from contracting or subcontracting with the City |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | City<br>▪ Solicitations<br>▪ Travel, meals, and refreshments<br>▪ Tickets<br>▪ Use of city property<br>▪ Use of confidential information<br>▪ Whistle-blowers<br><br>Has limited jurisdiction over campaign-related issues. There are no laws governing campaign finance or lobbyists. State law governs campaign contributions, campaign expenditures, lobbyist registration, lobbyist gift reports, and vendor gift reports. | | | | | |

| | Jurisdiction | Structure | Oversight Areas/Functions | No. of Staff | Organizational Independence | Conducts Investigations | Completes Annual Reports | Authority to Issue Disciplinary Actions |
|---|---|---|---|---|---|---|---|---|
| 3 | Chicago | Board of Ethics<br>▪ 7 members appointed by the Mayor and confirmed by City Council<br>▪ Board members serve staggered 4-year terms without pay and can be removed only for cause, with written approval of remaining Board meetings | ▪ Financial disclosures<br>▪ Lobbyist Registration<br>▪ Campaign Financing<br>▪ Substantive Code of Conduct Provisions | 8 staff led by an Executive Director, who is appointed by the Mayor and confirmed by City Council. | The Mayor, with the consent of the remaining board members, may remove any member of the board for incompetency, substantial neglect of duty, gross misconduct or malfeasance in office or violation of any law. | The Board does not conduct investigations. This function rests with the Office of the Legislative Inspector General. | Yes, available online for FY 1999-2000 through FY 2008-09 | Yes, can issue:<br>▪ Fine or<br>▪ Written recommendations for discipline<br><br>The Board can also seek settlement of a matter, which may or may not include one of the disciplinary actions above. |
| 4 | Jacksonville | Ethics Commission<br>▪ 9 members<br>▪ One member is appointed by each of the following: City Council, the Mayor, the Sheriff, Public Defender, State Attorney, and Chief Judge of the Circuit Court. The remaining 3 are appointed by a majority vote of the Commission.<br>▪ Three-year terms, staffed so that no more than three members' terms shall expire in any one year.<br>▪ No person can serve more than 2 consecutive terms | ▪ Conflicts of interest<br>▪ Whistle-blower Protection (managed by the Inspector General)<br>▪ Gifts<br>▪ Lobbying<br>▪ Ethics Education | 5 staff, including an Executive Director | The Commission and its staff do not report to the Mayor or City Council. The appointment of Commission members is spread across various agencies, some beyond the City government, which may help establish and maintain independence. | Yes, the Commission conducts investigations with the assistance of the General Counsel. | Yes, available online starting in 2012. | Yes, can issue:<br>▪ Public reprimand and/or<br>▪ Civil penalties of up to $500.<br>▪ Rescind or void any contracts, grants, subsidy, license, permit, franchise, use, certificate, development order, or other benefit. |

| | Jurisdiction | Structure | Oversight Areas/Functions | No. of Staff | Independence | Conducts Investigations | Completes Annual Reports | Authority to Issue Disciplinary Actions[5] |
|---|---|---|---|---|---|---|---|---|
| 5 | City of Los Angeles | Ethics Commission<br>▪ Created in 1991<br>▪ Five part-time commissioners<br>▪ Five-year terms, staggered<br>▪ The Mayor, City Attorney, Controller, President of the City Council, and the President Pro Tempore of the City Council each appoint one member of the Ethics Commission | ▪ Campaign<br>▪ Contracts<br>▪ Ethics<br>▪ Lobbying<br>▪ Provides advice on ethics issues<br>▪ Educates on ethics issues | 27 staff, led by an Executive Director | All Commission members are appointed by the Mayor, the City Council, and the President Pro Tempore of the City Council. | Yes, Commission staff conducts investigations on alleged violations. | Does not appear to publish cross-cutting annual report. They do publish quarterly lobbying activity summaries and finance details for local elections. | Yes, the Commission's Executive Director can issue:<br>▪ Administrative enforcement actions such as settlements, public accusations<br><br>Commission can issue:<br>▪ Cease and desist orders<br>▪ Orders to file reports, statements or other documents required by law<br>▪ Orders to pay the greater of $5,000 per violation or three times the amount of money at issue. |
| 6 | San Francisco | Ethics Commission<br>▪ Five members<br>▪ One member is appointed by each of the following: Mayor, Board of Supervisors, District Attorney, and the Assessor.<br>▪ Six-year terms, staggered<br>▪ No person can serve more than one full six-year term. | ▪ Campaign Finance<br>▪ Conflicts of Interest<br>▪ Lobbying<br>▪ Campaign consultants<br>▪ Major developers with estimated construction costs of more than | 28 staff led by an Executive Director | All positions are elected Department agencies, and fall under the purview of the Mayor, City Council, and City Administrator. | Conducts audits, investigations, and enforcement proceedings | Yes, available online for 1996 through 2015. | Yes, can issue:<br>▪ An order to cease and desist<br>▪ An order to file any reports, statements or other documents or information required by law<br>▪ Monetary penalty of up to $5,000 for each violation or three times the amount which the person |

[5] All enforcement orders since 1993 can be accessed through the Commission's Public Data Portal: https://ethics.lacity.org/data/campaigns/contributions/

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| | | | $1,000,000<br>▪ Permit Consultants<br>▪ Whistleblower Hotline<br>▪ Improper Government Activities Ordinance | | | | | failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater. This would be paid to the General Fund. |
| 7 | Seattle | Seattle Ethics and Elections Commission<br>▪ Created in 1991 to replace Fair Campaign Practices Commission and Board of Ethics.<br>▪ Seven members<br>▪ The Mayor and City Council each appoint three Commissioners<br>▪ The Commission selects the seventh member<br>▪ Three-year terms, staggered<br>▪ Commissioners can be re-appointed at the end of their term; no term limit is specified. | ▪ Ethics Code<br>▪ Elections Campaign Code<br>▪ Publish Election Pamphlet<br>▪ Promulgate, amend, and rescind rules and regulations in accordance with the City's Administrative Code<br>▪ Lobbying Code<br>▪ Whistleblower Code | 7 staff, including an Executive Director appointed by the Commission, and confirmed by City Council. | Six of the total seven Commission members are appointed by the Mayor and/or County Council. However, Commission members do select their own Executive Director, who if appointed for a second term, reappointment does not have to be approved by City Council or the Mayor. | Yes, staff investigates complaints while the Commission holds hearings, makes findings, and monitors compliance. | No comprehensive annual report but the Commission does publish all lobbyist disclosures, advisory opinions, annual report on elections, and campaign contributions on their website. | Yes, can issue:<br>▪ Fines up to $5,00 per violation plus costs and restitution.<br>▪ Recommendations for disciplinary actions, such as suspension or discharge. |

| | Jurisdiction | Structure | Oversight Areas[6] | No. of Staff | Independence | Conducts Investigations | Completes Annual Reports | Authority to Issue Disciplinary Actions |
|---|---|---|---|---|---|---|---|---|
| 8 | Oakland | Public Ethics Commission<br>▪ Created in 1996<br>▪ 7 members<br>▪ 3 members are appointed by the Mayor, City Attorney, and City Auditor, subject to veto by the City Council<br>▪ 4 members are recruited and selected by the Commission<br>▪ Three-year terms, with a two-term limit | ▪ Campaign Finance<br>▪ Financial Conflicts of Interest by Public Officials<br>▪ Lobbyist Registration and Reporting<br>▪ Post-Government Employment<br>▪ Misuse of City Resources<br>▪ Gifts and Honoraria given to Public Officials<br>▪ Public Meetings and Public Records<br>▪ City Ticket | 6 staff, led by an Executive Director | Measure CC was adopted by Oakland voters in November 2014 to enable greater independence[7] and enforcement authority, mandate minimum staffing, and expand the role[8] of the Commission. Executive Director of Public Ethics Commission staff reports to the Commission, and not to the Mayor, City Council, or City | Yes, completes investigations and audits. | Yes, report available online for 2017 | Yes, can issue:<br>▪ Criminal penalty of a misdemeanor charge[10]<br>▪ Administrative penalties up to $5,000 per violation, or up to three times the amount the person failed to report properly or unlawfully contributed, expended, gave or received, whichever is greater; and<br>▪ Warnings to or require remedial measures<br>▪ Commission, City Attorney, or any individual residing within the City can sue for injunctive relief to enjoin |

[6] The Public Ethics Commission oversight functions is bolstered by several acts including the Government Ethics Act, Oakland Campaign Reform Act, Limited Public Financing Act, Oakland Sunshine Ordinance, False Endorsement in Campaign Literature Act, Conflict of Interest Code, and the Lobbyist Registration Act.

[7] Previously, all seven members of the Commission were appointed in some fashion by the Mayor and/or County Council. Now only 3 of the total 7 Commission members are appointed by the Mayor, City Auditor, and City Attorney.

[8] The Commission's role was previously limited City regulations and policies including the Sunshine Ordinance, Conflict of Interest Code, Code of Ethics, Campaign Finance Reform Ordinance, and the Public Records Act. The Commission is now responsible for educating City officials, employees, and the public on ethics issues, providing oversight on nepotism, Limited Public Financing Act, False Endorsement in Campaign Literature Act, governmental ethics ordinance, Lobbyist Registration Act, whistleblower retaliation, and other Oakland laws concerning campaign finance lobbying, transparency, and over governmental ethics issues.

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| | | | Distribution Policies<br>▪ Ethics Training for all Form 700 Filers Every Two Years<br>▪ Adopt, Amend, and Rescind rules and regulations | | Administrator.<br><br>Annual Budget:[9] $850,663 to $882,832 | | | violations or compel compliance |

Source: Phone interviews with Ethics Commissions and Boards; and review of the websites of listed Ethics Commissions and Boards. City of Jacksonville shared responses to questions over e-mail in lieu of interview.

[10] If any person knowingly or willfully violates any provision of this Act (City of Oakland, Government Ethics Act).
[9] Based on FY 2014-15 salary figures and cited in City of Oakland November 2014 Measure CC Text.

CITY OF LONG BEACH

**Memorandum**

Date: July 30, 2020

To: Laura Doud, City Auditor

From: Thomas B. Modica, City Manager

Subject: **Audit of Ethics Program – Management Response and Action Plan**

Thank you for the opportunity to comment on the Performance Audit of the City's Ethics Program, as well as for the additional time afforded to us to respond due to the COVID-19 crisis. Our Management Response and Action Plan is attached.

We agree with the City Auditor's recommendations and believe their implementation will further promote ethics within the City organization. Ethics is important to me personally, and I am fully committed to the implementation of any additional programs and/or changes to strengthen our ethics programs and to further set an expectation of a strong ethical culture for our entire organization.

Much attention has been paid to ethics over the past two years, and there are numerous policies, procedures, and programs relating to ethics in place. These are summarized in the attached documents prepared for the Ethics Commission. The summaries include functions typically included in an ethics program (such as the code of ethics, investigations, and ethics training), and other functions and business and HR practices that are important in ensuring ethical behavior. All management level employees now receive ethics training every two years pursuant to our Ethics Guide as an adjunct to the Sexual Harassment Training (provided by the City Attorney). In addition, a basic ethics overview has already been incorporated into training provided by the Financial Management Purchasing Division to approvers of purchasing transactions in Munis, which includes many City employees in a position to influence purchasing decisions.

It should be noted that many of the recommendations may not be implementable for an extended period of time. Not only is the Ethics Commission in its formative stage, but the City's current fiscal situation may not allow us to staff the Commission to an optimal level. The recommendations on the performance audit constitute a significant workload that existing staff are not able to address. Staffing the full level of the recommendations will likely require two to three full-time staff, support from the City Attorney and potentially outside counsel, and a training budget. Given the $30 million structural deficit projected for FY 21, it will be very difficult to achieve full staffing to accomplish the full recommended plan. City staff are committed to supporting the Ethics Commission and will propose dedicated staffing as part of the Proposed FY 21 Budget in line with the resources available for City Council consideration, and work on an implementation schedule that aligns with the resources available.

Several of the recommendations refer to investigations and enforcement of potential ethical violations. The initial review by the City Attorney was that the Ethics Commission does not current have investigation powers under Measure CCC, and those responsibilities likely reside with other entities either local, state or others or under other areas of the City Charter. However, Measure CCC does refer to "other duties established by the Charter or Municipal Code." It is recommended that the City Attorney prepare a formal opinion of the powers of the Ethics Commission, and what additional powers can be provided under the Municipal Code and what powers would require future City Charter amendments to provide clarity and options for the Mayor and City Council to consider.

I would like to thank the City Auditor and her staff for working with us in a collaborative and professional manner. We are always open to suggestions for improvement.

If you have any questions, please contact me at (562) 570-5091.

ATTACHMENTS

CC: CHARLES PARKIN, CITY ATTORNEY
DOUGLAS P. HAUBERT, CITY PROSECUTOR
LINDA F. TATUM, ASSISTANT CITY MANAGER
KEVIN JACKSON, DEPUTY CITY MANAGER
TERESA CHANDLER, DEPUTY CITY MANAGER
REBECCA G. GARNER, ADMINISTRATIVE DEPUTY CITY MANAGER
AMY R. WEBBER, DEPUTY CITY ATTORNEY

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| **ALIGNMENT WITH BEST PRACTICE STANDARDS** | | | | | | |
| **Standard #1: Clearly Established Oversight and Delegation of Responsibilities** | | | | | | |
| 1 | The Mayor and City Council should delegate authority to the City's new Ethics Commission to assume a centralized coordinating role for all City ethics program activities covering all City elected and appointed officials and all City employees, including those in departments that, by the Charter, do not report to the City Manager. The Ethics Commission should assist the Mayor and City Council in setting ethics policy, to conduct investigations, and to receive and publish annual Citywide ethics activity and performance reports and other pertinent ethics program information on its website. | | Agree | Mayor and City Council | On November 6, 2018, Long Beach voters approved Measure CCC, which creates in the City Charter an Ethics Commission for the purpose of monitoring, administering, and implementing governmental ethics in the City, which would include all City elected and appointed officials and all City employees, including those in departments that report to the City Manager as well as those that do not. The newly-formed Commission is responsible for the impartial and effective administration and implementation of the provisions of the Charter, statutes and ordinances concerning campaign financing, lobbying, conflicts of interest, and governmental ethics. Its primary duties are to (1) Provide support to agencies and public officials in administering the provisions of the Charter and other laws relating to campaign finance, lobbying, conflicts of interest, and government ethics; (2) Make recommendations to the Mayor and City Council concerning campaign finance reform, lobbying, governmental ethics and conflicts of interest and to report to the Council concerning the effectiveness of these laws; (3) Assist departments in developing their conflict of interest codes as required by state law; (4) Advocate understanding of the Charter, City ordinances and the roles of elected and other public officials, City institutions and the City electoral process; (5) Develop an educational program to familiarize newly | In progress. |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| | | | | | elected and appointed officers and employees, candidates for elective office and their campaign treasurers, and lobbyists with City, state and federal ethics laws and the importance of ethics to the public's confidence in municipal government; and (6) other duties as may be established by the City Charter or the Long Beach Municipal Code.<br><br>The Commission is currently in a formative stage. Delays in onboarding of the remaining three commissioners were experienced due to the COVID-19 pandemic. The first Commission meeting with all seven members took place on July 15, 2020. The Commission will commence the duties as outlined by Measure CCC shortly thereafter. The Commission, as currently established per Measure CCC and the City Charter, does not have investigative powers. | |
| 2 | With input from the City Attorney, City Auditor and HR Department, the City Manager should propose a level of staffing and, possibly, FPPC contractor assistance and a baseline budget for consideration by the Mayor and City Council to support the new Ethics Commission in its centralized coordination efforts covering all elected and appointed officials and all City employees, including those in departments that by the Charter do not report to the City Manager. This new reporting should cover Citywide ethics activities and investigations of certain complaints of ethics violations. | | Agree | City Manager | Staffing for the Ethics Commission will be considered in the context of the FY 21 budget preparation process, currently underway. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. | August 1, 2020 |
| 3 | With input from the City Attorney, City Auditor and HR Department, the Ethics Commission staff should work with the City Attorney and City Manager to: 1) replace the current Ethics Guide with an expanded Citywide ethics program document covering all City elected and appointed | | Agree | Ethics Commission | Progress toward this recommendation will be dependent, in large part, to available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable | December 2021 |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| | officials and all City employees, including those in departments that by the Charter do not report to the City Manager. This new document should be made available on the Ethics Commission website, containing information in the current Ethics Guide plus identification of pathways to report alleged violations, how to obtain information and advice on ethics issues, inclusion of sexual harassment and discrimination policies, details on whistleblower protection from retaliation, and any newly adopted ethics ordinances or regulations, and 2) begin posting on the Ethics Commission website annual reports, links to Municipal Code sections, and other documents related to the City's ethics rules and laws, and descriptions of ongoing and new initiatives undertaken by the Ethics Commission. | | | | future. A tentative date of December 2021 is given. | |
| **Standard #2: Easily Accessible Comprehensive Written Ethics Policies and Procedures** | | | | | | |
| 4 | The Mayor and City Council should direct staff to include in the new consolidated ethics program document and website (see Recommendation #3) explanations of the entire ethics program including: a) the various ways all City elected and appointed officials and employees can obtain advice, b) how to submit an ethics complaint, specifying which City agency is responsible for handling each type of complaint, c) penalties, d) retaliation protections, and e) related information. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |
| **Standard #3: Written Policies and Procedures Outlining Ethics Program in the City's Municipal Code** | | | | | | |
| 5 | The Mayor and City Council should direct the City Attorney to work with the Ethics Commission to develop their priorities and suggestions for inclusion in a new cohesive section of the City's Municipal Code covering: 1) the City's ethics principles and high level rules and regulations; 2) the nature of the authority delegated to the Ethics Commission for ethics program oversight, specifying that it covers all City elected and appointed officials and City employees, including those that do not report to the City Manager; 3) | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

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| | hearings and investigations; and 4) statements of the City's broad ethical values and specific requirements pertaining to campaign finance, lobbying, conflicts of interest, sexual harassment, and discrimination. Finally, this expanded Municipal Code ethics section should specify various penalties that can be imposed, who can impose them, and who is responsible for enforcing compliance. | | | | | |
| **Standard #4: Clear Definition of "Ethics"** | | | | | | |
| 6 | The Mayor and City Council should direct the City Attorney to prepare a definition of "ethics" to spell out more details of what is expected of City employees and officials, addressing areas such as accountability and transparency in all City management and operations, inclusivity, and respect for all employees and citizens, to be included in the new ethics section of the Municipal Code (see Recommendation #5) and the consolidated Citywide ethics document and website (see Recommendation #3) to both serve as a foundation for the work of the new Ethics Commission and to ensure a common understanding of ethics by all City officials, employees and the public. | | Agree | Mayor and City Council | A definition of City "ethics" is a policy determination by the City Council, taking into consideration existing State law and regulations, community values, and expectations for ethical conduct of our leaders and employees. City ordinances on the issue may not conflict with State law. The completion date for this item will depend on when it is referred to the City Attorney for action by the City Council and by staffing and availability to complete this task in light of this year's fiscal constraints. | Undetermined |
| **Standard #5: Clearly Identified Pathways to Report Alleged Violations, Anonymously or No** | | | | | | |
| 7 | The Mayor and City Council should direct the Ethics Commission and City Manager to include in the comprehensive City ethics document and website (see Recommendation #3) descriptions of the various pathways for all elected and appointed officials, employees and the public to file complaints of suspected ethical misconduct including details on the various departments that can receive complaints, protocols for referring them to other departments better equipped to investigate the subject matter, and the roles of supervisors, department heads, and Administrative Officers and Employment Opportunity Counselors in each department who can receive | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| | complaints about ethical misconduct including sexual harassment and discrimination complaints. | | | | | |
| **Standard #6: Advice and Information Available on Ethics-Related Issues** | | | | | | |
| 8 | The Mayor and City Council should: 1) direct staff to create an advice and referral hotline staffed by Ethics Commission support staff or possibly a contractor to respond to questions by City elected and appointed officials, staff, contractors and the public about ethical issues and complaint procedures, and 2) direct the City Attorney to provide ongoing support for this function as needed and to routinely provide standard disclaimers that with such advice, as is their current practice for other legal advice. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |
| **Standard #7: Establish and Publish Disciplinary Actions and Penalties for Violations** | | | | | | |
| 9 | The Mayor and City Council, with input from the Ethics Commission and the City Attorney, should specify and publish in the expanded ethics section in the Municipal Code (see Recommendation #5) penalties and disciplinary actions that can be imposed by the Ethics Commission and other City parties for all types of ethics violations, consistent with provisions of State and local law. | M | Agree | Mayor's Office | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. The Commission, as currently established per Measure CCC and the City Charter, does not have investigative powers. | December 2021 |
| **Standard #8: Publish Annual Reports with Violations and Case Outcomes** | | | | | | |
| 10 | The Mayor and City Council should direct the Ethics Commission and its staff to annually publish a single public report containing information on the role of the Ethics Commission, staff size and functions, annual budget appropriations, total number of ethics complaints filed Citywide and summarized outcomes by type, including complaints filed and resolved at the department level, and total number of advice requests by type, training statistics, | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| | and an overview of new initiatives and priorities for the upcoming year. | | | | | |
| **Standard #9: Implement Proactive Measures and Checks for Effectiveness** | | | | | | |
| 11 | Amend the Municipal Code to require that signed attestations of compliance with the City's Code of Ethics be prepared by all City employees annually and filed with the new Ethics Commission, whose assigned staff should track and report compliance. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. Meet and Confer will be required. | December 2021 |
| 12 | Direct all City departments to provide ethics training to all staff at least once a year, with documentation of such training provided to Ethics Commission staff to review and report compliance. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. | December 2021 |
| 13 | Adopt a policy that all Councilmembers attest to the absence of any conflict of interest at each City Council meeting. Such an attestation could be accomplished through an efficient or automated process, such as a roll call vote. | | Agree | Mayor and City Council | Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney. | Undetermined |
| 14 | Direct the City Manager to amend Administrative Regulation 32-1 to require that newly elected officials and City staff sign a statement indicating whether they have any members of their "immediate family" on staff at the City with each such statement updated and restated annually. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |
| 15 | Consider directing the Ethics Commission and its staff to conduct proactive audits on select campaign contributions and expenditures. | | Agree | Mayor and City Council | The Commission, as currently established per Measure CCC and the City Charter, does not have auditing powers, but may be able perform proactive reviews. The Commission is currently in a formative stage, and, at this time, is not positioned, nor staffed, to conduct reviews. | Undetermined |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
|---|---|---|---|---|---|---|
| 16 | Direct the Financial Management Department to amend its contract boilerplate language to include mandatory provisions that contractors must state that they will comply with the City's Ethics Code to prevent conflicts of interest with City officials and employees, and that they and their company employees do not have financial or family relationships with City officials or employees involved in their contract selection or contract administration processes, with such documentation maintained in bidder files. | | Agree | City Manager | The Financial Management Department will be directed to work with the City Attorney to include all mandatory provisions, as appropriate, in City procurement contracts to comply with the relevant sections of the City's Ethics Code and State law and regulations. | In progress |
| 17 | Direct the Financial Management Department to establish procedures to periodically conduct independent reviews of its own staff buyers' activities to ensure that they are not engaged in ethical misconduct pertaining to selecting vendors and contractors. | | Agree | City Manager | The Financial Management Department will be directed to add to its procedures a requirement that Buyers AND decentralized City employees participating in a decision-making capacity in a vendor selection certify they have no known financial or family relationships with the respondents with which they are evaluating for each competitive solicitation. This additional requirement will provide for timely and accurate certifications each time solicitations are completed, not just annually and after the fact. | In progress |
| 18 | Direct the Financial Management Department to establish procedures to implement the State requirement that consultants submit financial disclosures in cases when their consulting engagements put them in decision-making positions. | | Agree | City Manager | The Financial Management Department will be directed to strengthen and more broadly implement the existing process to ensure compliance with the State requirements. There currently is a process directing operating departments to obtain appropriate documentation before contracting with professional services consultants to comply with the State requirements for financial disclosure. | In progress |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
|---|---|---|---|---|---|---|
| **Standard #10: Required and Regular Ethics Trainings, Including Sexual Harassment and Discrimination Training** | | | | | | |
| 19 | The Mayor and City Council should require that ethics training for all City staff and officials regardless of whether they report to the City Manager or another authority, be required on a regular basis and that compliance be tracked and reported to the Mayor, City Council, City Manager, and Ethics Commission annually. Similarly, attendance at State-mandated sexual harassment training for certain City employees every other year should be tracked by staff and reported to the Mayor, City Council, Ethics Commission, and City Manager annually. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. Attendance at State-mandated sexual harassment training is tracked, though not currently reported to the City Council or the Ethics Commission. | December 2021 |
| **Standard #11: Retaliation Protection** | | | | | | |
| 20 | The Mayor and City Council should direct the City Attorney to work with the Ethics Commission and draft a Citywide retaliation protection policy for adoption by the Council, including descriptions of scenarios that could constitute retaliation and specifying the types of penalties and disciplinary action that would be issued in response to retaliation. | | Agree | Mayor and City Council | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |
| **COMPLIANCE WITH STATE FINANCIAL DISCLOSURE AND OTHER ETHICS REQUIREMENTS** | | | | | | |
| **Financial Disclosures: Form 700 Filings** | | | | | | |
| 21 | The City's Ethics Commission should consider recommending to the Mayor and City Council for their adoption amendments to the City's Ethics Code and Municipal Code specifying local fines and/or other penalties for non-compliance with financial disclosure filing and training requirements. | | Agree | Ethics Commission | Progress toward this recommendation will be dependent, in large part, on available staffing. Given the current fiscal environment, Commission staffing may be less than optimal for the foreseeable future. A tentative date of December 2021 is given. | December 2021 |
| **Gift Disclosures** | | | | | | |
| 22 | Set a timeline for City staff and officials to submit all applicable gift disclosure forms within 10 calendar days of gift receipt. | | Agree | Ethics Commission | Staff agrees with the sentiment of this recommendation, though the actual implementation will require further | Undetermined |

# MANAGEMENT RESPONSE AND ACTION PLAN

## Performance Audit of the City's Ethics Program

| No. | Recommendation | Priority | Agree or Disagree | Responsible Party | Action Plan / Explanation for Disagreement | Target Date for Implementation |
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| | | | | | discussion with the City Council, Ethics Commission, and City Attorney. | |
| 23 | Direct new Ethics Commission staff to periodically review gift disclosures and review donors against City approvals for contracts, development projects, and other privileges to ensure that gift recipients have not been involved in decision-making pertaining to those donors. | | Agree | Ethics Commission | Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney. | Undetermined |
| **Lobbyist Tracking** | | | | | | |
| 24 | The Mayor, City Council, City Clerk and City Manager should: 1) collaborate to establish and codify in the City's recommended core ethics document a protocol to allow Ethics Commission support staff to regularly review a sample of Mayor and City Council visitor sign-in sheets and appointment calendars to identify all potential lobbyists interacting with the City's elected officials and ensuring they are registered, and 2) request that the City Attorney prepare necessary ordinances to allow for the Mayor's and City Councilmembers' calendars to be treated as public records available for review by staff. | | Agree | Mayor, City Council, City Clerk and City Manager | Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney. | Undetermined |
| 25 | The Mayor and City Council should delegate authority for enforcing the City's "revolving door" regulations to the Ethics Commission to be administered by their support staff, with this codified in the City's recommended core ethics document or the Municipal Code, as deemed appropriate by the City Attorney. | | Agree | Mayor and City Council | Staff agrees with the sentiment of this recommendation, though the actual implementation will require further discussion with the City Council, Ethics Commission, and City Attorney. | Undetermined |
| **Ethics Training** | | | | | | |
| N/A | See recommendations #19 and #21. | | | | | |

**Priority**

H – High Priority - The recommendation pertains to a serious or materially significant audit finding or control weakness. Due to the seriousness or significance of the matter, immediate management attention and appropriate corrective action is warranted.

M – Medium Priority - The recommendation pertains to a moderately significant or potentially serious audit finding or control weakness. Reasonably prompt corrective action should be taken by management to address the matter. Recommendation should be implemented no later than six months.

L – Low Priority - The recommendation pertains to an audit finding or control weakness of relatively minor significance or concern. The timing of any corrective action is left to management's discretion.

CITY OF LONG BEACH

# Long Beach Ethics Program Summary

**July 2020**

**Ethics Handbook Topics (City Attorney)**

- Ethics
- Accepting Gifts
- Conflicts of Interest
- Financial Disclosure
- Use of City Tickets
- Political Activities
- Brown Act
- Public Records Act
- Restrictions of Public Mailings
- "Revolving Door" Restrictions
- Fraud Prevention and Reporting Policy

**Ethics Training for Elected Officials and Commissioners (AB 1234)**

- Training required
- Online system to track and document
- May not take office until this is completed

**Form 700**

- Online system with reminders and tracking
- Long Beach helped create the law and implement the online system

**Code of Ethics for All Employees:**

- Adopted by the City Council on February 6, 2003

**Ethics Information for New Employees**

- Online Onboarding (Prior to Start Date)
- First week of employment
- New Employee Orientation (City Manager's Office and City Attorney's Office)

**Proactive Steps and Policies (Applicable to 15 City Manager-led Departments)**

- Pre-Approval of Travel for Gift Detection
- Reimbursement of Travel Expenses (Receipts rather than Per Diem)
- Travel Expenses for Elected Officials (Handled by Legislative Department)
- City Decisions Affecting a Personal Property (Elected Official Maps)
- Limits on City Credit Cards
- Limiting Salary Increases
- Fraud Hotline and Fraud Awareness Materials in Partnership With City Auditor
- Tickets to Events (Form 802)
- Mass Mailings (199 Rule)
- Alcohol and Drug Use

- Gifts (City Manager Policy Stricter than State Law)
- City Council “Divide by Nine” Discretionary Funds ($38.6 million since FY 12)
- Collateral Employment Forms
- Sexual Harassment / Discrimination Training
- Ethics Training
- City Purchases over $25,000 (Revolving Door / Potential Conflicts)

**Investigation of Complaints (Multiple Avenues Available)**

- City Auditor
- FPPC
- Internal Affairs
- Citizen’s Police Complaint Commission
- Department Investigations
- Human Resources
- City Attorney
- Police Department (Criminal)
- District Attorney:  Public Integrity Unit

**Budget Allocated**

- City Auditor’s Office
- City Attorney
- City Manager’s Office
- City Clerk
- Human Resources
- Police Department
- Departments

**Materials / Policies / Municipal Code / Charter Sections**

- See attached list of policies, municipal code sections and Charter sections
- Electronic copies of policies attached

CITY OF LONG BEACH

# ETHICS PROCEDURES

**JULY 2020**

The City has a number of policies, procedures and practices in place to ensure ethical behavior and to proactively take steps to identify and rectify potential ethical dilemmas. The following is a description of the training City employees receives, the practices City staff take to proactively prevent or detect potential conflicts of interest or potential ethical violations, and the investigatory resources available to the City to follow up on complaints.

## TRAINING AND INFORMATION

### Ethics Handbook

The City of Long Beach City Attorney's Office has for many years compiled an Ethics Guide for Long Beach City Officials & Employees. This 31-page document, which was updated in March 2015, is prominently featured on the homepage of the City Attorney's Office website and is an easy to follow guide for employees, elected officials, appointed officials, and commissioners on the City's expectations for ethical behavior as well as guidance on areas including:

- Ethics
- Accepting Gifts
- Conflicts of Interest
- Financial Disclosure
- Use of City Tickets
- Political Activities
- Brown Act
- Public Records Act
- Restrictions of Public Mailings
- "Revolving Door" Restrictions
- Fraud Prevention and Reporting Policy

To view the document, please see the attachment, or click here to view it online.

### Ethics Training for Elected Officials and Commissioners (AB 1234)

State law AB 1234 (2006) outlines the requirements for ethics training for elected officials, as well as the process for reimbursement of travel expenses for the Mayor and Council. Mandatory ethics training is coordinated by the City Clerk's office in coordination with the City Attorney and is a requirement for all elected officials, commission and advisory board members prior to start of service. The process for the ethics training is described in the Ethics Guide for Long Beach City Officials & Employees. The City Clerk keeps electronic records of the trainings and ensures that all applicable officials receive the appropriate training, and the Clerk has the ability to detect if a covered individual has not completed the required training.

CITY OF LONG BEACH

## Authorities, Boards, Commissions and Committees Handbook

The City Clerk's Office has assembled a handbook provided to each new member of an Authority, Board, Commission or Committee that outlines duties and responsibilities. This document was adopted by the Long Beach City Council in February 2008 and was recently updated on July 10, 2018. This handbook also covers the City's ethics requirements, Form 700 filing requirements, provides the written Ethics Pledge, and outlines the requirements for the AB 1234 training. A copy of the handbook is attached.

## Form 700

The City Clerk's Office administers the City's FPPC Form 700 compliance. The Clerk's Office has an automated system that tracks, allows online submission for most of the required filers, keeps the required records, and has tools to help ensure compliance with the FPPC filing requirements. The City Manager and Appointing Authorities determine which new or existing positions are required to file Form 700 based on the FPPC guidance. Reviews are conducted biennially and are approved by the City Council. All Form 700 filers are provided with instructions on how to file and what must be reported. The City's Ethics Guidebook provide guidance on Form 700, specifically calling out gifts and how they must be handled. This includes "Frequently Asked Questions" to help filers understand the nuances of the FPPC requirements and what constitutes a reportable gift. The City Clerk has records of all Form 700 filings, and the system sends automatic reminders to filers of upcoming filing deadlines.

## Online Onboarding

Each new employee is required to complete the City's online onboarding system (SterlingOne) prior to the first day of employment. In addition to that onboarding system, employees also receive the following:

### *Payroll and HR Forms (During First Week of Start Date)*

Each new employee meets with a Department Personnel Payroll Assistant (PPA) to complete payroll and human resources forms and written acknowledgement of policies. Each employee is required to sign a Code of Ethics Statement prior to assuming office or employment. The PPA ensures this form is completed. New employees are also requested to view the Ethics training video and employees are given a copy of the Ethics Guide for Long Beach City Officials and Employees.

### *New Employee Orientation*

The Human Resources Department offers a New Employee Orientation (NEO) training for new hires. Departments schedule employees for the orientation. The NEO is offered on a bi-monthly basis and provides four hours of training by various speakers. The training provides employees with information on City policies. The City Attorney's Office provides training on Ethics and includes the following topics: code of ethics; accepting gifts; and political activities. The following HR policies are covered during New Employee Orientation (NEO):

- Policy 1.7 Collateral Employment - Business Activity
- Policy 1.10 Alcohol & Drug Use
- Policy 1.11 City Computer, E-mail and Internet Use
- Policy 2.2 Unlawful Harassment
- Policy 2.1 Discrimination Complaints
- Policy 7.9 Workplace Threat & Violence
- AR 36-1 Occupational Health and Safety Program (Employee Responsibility)

### Code of Ethics for All Employees

On February 6, 2003, the City Council adopted a Code of Ethics, which applies to City employees, officers and commission members. Each new employee signs a document acknowledging the City's ethics pledge, and the Human Resources Department (HR) keeps records of these documents in the online onboarding system. The Assistant City Manager speaks to new employees at the New Employee Orientation (NEO) and as part of the introduction underscores the importance of ethical behavior when working for the City of Long Beach. Later in the day during that same training, a Deputy City Attorney provide ethics training to new employees (see previous section on Onboarding)

## PROACTIVE STEPS AND POLICIES (APPLICABLE TO 15 CITY MANAGER DEPARTMENTS)

### Pre-Approval of Travel for Gift Detection

Travel expenses and acceptance of free or discounted travel is an area of potential conflict. The City Manager requires that any travel requiring an overnight accommodation be pre-approved by the City Manager. Administrative Regulation (AR) 4-1 outlines the process for City Manager Departments requesting travel. Departments wishing to travel need to both fill out a travel request form as well as create a memo for signature outlining what the travel is for, and the cost of the travel. It is through this method that the City Manager's Office flags any travel that is requested but is at no or reduced cost to the City. Each of these requests are scrutinized and questions are asked as to who is covering the cost, what the reason for that is, and whether it is acceptable for the City to accept. The Assistant City Manager (ACM) confers with the City Attorney's Office to determine whether the City can accept the gift, and if so how the City appropriately records the gift. Acceptance of free or reduced travel seldom occurs, and when it does the ACM approves and directs the requesting Department to record the travel on FPPC Form 801, or on the filers individual Form 700, as applicable. Travel not in keeping with a specific business purpose, or a gift that can or should not be accepted by the City is not approved. This is an ongoing process – for example, Departments submitted 464 travel request forms for review and approval thus far in 2018. Of those, 9 were identified as requiring a Form 801, or 1.9% of requests.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Reimbursement of Travel Expenses (Receipts rather than Per Diem)

Reimbursement of travel expense is another area for potential abuse. To counteract potential abuse, the City Manager requires that all travel requiring an overnight stay receive pre-approval prior to travel, and an estimate of the potential travel expenses. Expenses are either pre-paid through check (for items like registration) or a travel agency, or paid for through a personal credit card subject to reimbursement for eligible expenses. An employee must submit for reimbursement after the travel has been completed, and the City Auditor requires itemized receipts for each reimbursable item to ensure that reimbursement only occurs for eligible expenses. Unlike some other agencies who use a "per diem" approach to expenses such as meals, Long Beach requires itemized expenses so we can determine actual cost of items to be reimbursed and that City funds are not used for items like alcohol, personal expenses, meals not related to the person travelling, etc. Those forms are approved by the employee's manager and the Administrative Officer prior to submittal to the City Auditor. The City Auditor reviews expense reimbursement and often requests additional information or rejects certain reimbursements. Employees who notice any potential unethical behavior notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor's Office.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Travel Expenses for Elected Officials (Handled by Legislative Department)

Travel expenses for the Mayor and City Council are handled by the Legislative Department, and not by the City Manager. While they are encouraged to use the City Manager's Administrative Regulation for travel reimbursement, they are not required to as the City Manager does not have the authority to require it. It is our understanding that the Mayor's Office processes the travel reimbursement requests from each of the City Council offices in accordance with AB 1234, and each member of the Legislative Department is responsible for agendizing the required AB 1234 report on a City Council agenda prior to the payment of the reimbursement by the City Auditor. Further information on this process should be obtained by the Legislative Department and the City Auditor.

## City Decisions Affecting a Personal Property (Elected Official Maps)

One area of potential ethical risk is a City official making a decision that has the potential to affect their own personal wealth. State law prohibits an employee, elected or appointed official or commissioner from making, participating in making, or attempting to influence any government decision if it is reasonably foreseeable that the decision will have a material financial effect on any economic interests or those of an immediate family member. This provision is covered in the Ethics Guide for Long Beach City Officials & Employees. It is the responsibility of the individual to disclose whether they have a financial interest and abstain from any decision-making in that instance. Employees who notice any potential unethical behavior notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor's Office. The most likely area where this would occur in a City typically involves an elected official's primary residence, where that official may vote on an agenda item that would affect their property value. As a proactive

measure, the City staff have printed copies of maps of the homes of the Mayor and City Council, with a 500-foot radius identified on the map. Copies of these are available in the City Manager's Office and the Development Services Department. If City staff believe a project may fall into that radius, City staff is able to proactively consult the map and have a discussion with the City Attorney's Office on whether a conflict of interest may exist and how to remedy it. The City Attorney's Office routinely consults with elected and appointed officials, as well as employees on these types of potential financial conflict issues, and provides advice where appropriate. When necessary, the City Attorney obtains both formal and informal opinions on these matters directly from the FPPC.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Limits on City Credit Cards

The issuance of City credits cards is another potential area for fraud or ethical violations. Unlike some other cities, Long Beach severely restricts who has access to a City credit card. Other municipal agencies may issue cards to the City Manager, Assistant City Manager, Department Directors, and at times the Mayor and City Council. None of those individuals in Long Beach have access to a City credit card. In 2018 the City initiated a new Purchasing Card system, and in consultation with the City Auditor, developed controls to detect fraud and/or potential misuse. Cards are only issued to certain specified individuals within a department (usually those who have a job requirement to purchase a large quantity of items). Under the program, no City executives or elected officials have access to a City Purchasing Card.

## Limits on Salary Increases

Another area for potential unethical behavior concerns the ability to provide large pay increases to employees. To proactively counteract any potential abuse, the Human Resources Department (HR) has central control of the payroll system and procedures are in place to prohibit any single official from increasing an employee's pay, even if those employees do not report to the City Manager. The City's Salary Resolution states that pay increases are limited to 7 percent, subject to HR approval, for management and unclassified staff (with the exception of the Harbor Department who have the ability to issue increases up to 12 percent for management and unclassified staff), and must follow the adopted salary schedule for all classified staff. For the City Manager Departments, increases in pay up to 7 percent must go through a multi-step review process where the Department submits a request memo with appropriate documentation for both HR and City Manager approval. For non-City Manager departments, HR has a control to prevent any other official from approving a raise of more than 7 percent in violation of the Salary Resolution.

## Fraud Hotline and Fraud Awareness Materials in Partnership With the City Auditor

The City Manager's Office partners with the City Auditor to raise awareness of the City's fraud hotline and the warning signs for fraud and/or unethical behavior. The City Auditor has made posters available throughout the City warning of fraud, has promoted the fraud

hotline in several different ways, and most recently in October 2018 worked with HR to send out materials on fraud and unethical behavior to all City employees both through paychecks and a Global Email to all employees. These documents reached more than 4,700 employees by email and more than 5,800 employees through the paycheck distribution.

**Tickets to Events (Form 802)**

The acceptance of free tickets to events in the City is another area of risk. The City Manager's Office takes proactive steps to ensure that ticket distribution is handled through the approved FPPC Form 802 process in accordance with the City's ticket policy. The City Council's adopted ticket policy, adopted on February 3, 2015, is attached, and outlines the proper procedure for both requesting and accepting tickets that are not otherwise filed under Form 700. The City Clerk keeps a webpage for these reports. Click here to view it.

Since the adoption of the policy, City staff have proactively reached out to the major potential sources of tickets to inform them that any requests from departments or elected officials should be directed back to the City Manager's Office for review in accordance with the policy. Solicitation of tickets happens on a somewhat regular basis, particularly with the Aquarium of the Pacific and the Grand Prix, and both organizations have regular contact with the City Manager's Office to ensure that requests for tickets are appropriately followed. When major events come to town that have the potential for distribution of tickets to elected officials, the City Manager's Office makes contact and establishes the proper mechanism for ticket distribution. All tickets are managed by the City's Ticket Administrator (the Assistant City Manager per the policy) and City Manager's Office staff ensure that the requesting official, the names of the individuals receiving tickets, and the appropriate category per the policy are recorded prior to distribution of tickets to ensure compliance. The City Manager's Office also ensures that the appropriate FPPC Form 802 report is filed in a timely manner. The City Manager's Office confers with the City Attorney's Office on any areas of potential concern.

*Note: This procedure applies to City Manager Departments and ticket requests that are brought to the attention of the City Manager's Office or are proactively identified. Harbor and Water have their own process. Elected Officials can either use the Form 802 process for tickets the City receives for their use, or follow the Form 700 process for tickets they otherwise receive.*

**Mass Mailings (199 Rule)**

Another area of potential risk is the use of mass mailings to the community using City resources that are not in keeping with rules set forth by the FPPC and the City's Municipal Code. The City proactively looks for any potential violation by directing the City's public information officers to look for mailings that may not fit the FPPC criteria. Additionally, as a precautionary measure, when the City designs fliers for events (even for those that mostly will be distributed online), City staff in charge of the design ensure that only one mention of the Councilmember is listed, that logos for elected officials are not included, and that no picture or signature of the elected official is included. The City's reprographics

team, who print the majority of these materials, are a second check in place as they look for potential violations. Anomalies or potential violations are routinely discussed with the City Attorney's Office for guidance.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Alcohol and Drug Use

A risk area for unethical behavior is the use of alcohol or drugs while at work. The City has a comprehensive policy in place prohibiting use of alcohol or drugs in the workplace for City Manager Departments. Human Resources Department (HR) Policy 1.10 (attached) outlines the City's policy. This policy was originally created in 1990 and recently updated in March 2016. All City Manager Department employees receive a copy of the policy and are required to sign it. When evidence of potential use of drugs or alcohol at work is perceived, the employee may be required to submit to a drug/alcohol test if reasonable suspicion exists. Employees who notice any potential unethical behavior concerning drugs/alcohol use by an employee can notify their supervisor and/or contact the Fraud Hotline administered by the City Auditor's Office.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Gifts (City Manager Policy Stricter than State Law)

The City follows both State law and City policy regarding gifts. State Law outlines the rules for Form 700 filers regarding gifts, and the City's ethics handbook provides clear direction on how to handle gifts for those requiring to file Form 700. Recognizing the potential complexity of this issue, the handbook directs City employees, officers and commission members to the City Attorney's Office for specific information beyond the scope of the handbook. The City Manager has issued stricter guidelines regarding gifts, which can be found in AR 8-2, which essentially prohibits the acceptance of gifts to individual City Manager employees. Enforcement of the policy can occur in several ways. The anonymous City Auditor's Fraud Hotline is an excellent avenue for employees to report someone who has potentially accepted an inappropriate gift. Employees may also report to a supervisor if they are concerned of any wrongdoing. Managers and supervisors that hear of gifts being accepted report misconduct to their Administrative Officer and/or the Human Resources Department for an investigation as appropriate.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## City Council "Divide by Nine" Discretionary Funds ($38.8 million since FY 12)

City Council Discretionary Funds, also known colloquially as "Divide by Nine" funds, are funds that are recommended by the City Council offices and are either implemented directly by the City Council office, or are transferred to a City department to implement the recommendation of the Council office. Divide by Nine Funds have totaled $38.8 million since FY 12. Given this substantial dollar amount, City staff developed protocols and procedures in coordination with the City Attorney to determine appropriate mechanisms for allocation of these funds in accordance with the City Charter and the City's purchasing policies. Since the allocation of these funds are outside the normal budget process, at the discretion of the elected official, and at times not the typical expenditure of funds by a Department, there is an increased potential risk for unethical use of these funds.

The City Manager and Financial Management Department proactively developed guidelines for use of Divide by Nine funds to minimize the potential risk, and set up procedures to handle unusual requests. Unusual requests are reviewed by the City Attorney and require the full approval of the City Council as part of a fully-agendized item in an open session. Requests that are not proper uses of City funds, such as a potential gift of public funds or those that do not follow the City's purchasing practices, are flagged through this process by the City Attorney and addressed appropriately. An Assistant to the City Manager in the City Manager's Office reviews the requested spending by the City Council office and determines whether it is in keeping with the policy. The City's implementation guidelines for Divide by Nine is attached, and City staff are in the process of updating those procedures.

## Collateral Employment Forms

Collateral employment, particularly if the employment can be perceived to be related to their official employment or impacts the performance of the City employee's employment, is another area where there is the potential for unethical behavior. The City has procedures in place to require disclosure and approval of secondary employment. HR Policy 1.7 requires all full time and part-time employees reporting to the City Manager to receive approval of collateral employment prior to engaging in any collateral employment or business activity. This approval must be renewed annually. Full time employees may not work more than 20 hours per week in collateral employment or business activity. Employees who do not disclose employment or have not received approval may be subject to discipline.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Sexual Harassment / Discrimination Training

Sexual Harassment or discrimination are other types of unethical behavior. Long Beach recently updated our HR policies in March 2015, which can be found in HR Policy 2.1. Additionally, AR 8-10 (Policy Regarding Sexual Harassment) and HR Policy 2.2 (Unlawful Harassment Complaints) also address harassment. All new employees receive training on these policies through the New Employee Orientation, as well as the onboarding system. Additionally, under State law supervisors and managers receive training every two years. Long Beach has historically sent more employees than required under State law to this training, including staff that lead teams, Executive Assistants, and others who may find themselves in a position of authority. Human Resources is currently broadening the training to reach front line staff who do not receive the mandated State training.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## Ethics Training

All management level employees now receive ethics training every two years pursuant to our Ethics Guide as an adjunct to the Sexual Harassment Training (provided by the City Attorney). In addition, a basic ethics overview has already been incorporated into training provided by the Financial Management Purchasing Division to approvers of purchasing transactions in Munis, which includes many employees in a position to influence purchasing decisions.

*Note: Ethics training is mandatory for all management employees in the City. Elected officials are also requested to attend.*

## City Purchases over $25,000 (Revolving Door / Potential Conflicts)

Attempting to influence the City purchasing process is another potential area of ethical misconduct. The City Manager has created myriad financial policies to prevent fraud or misconduct in the purchasing system, and checks and balances to detect inappropriate purchases. Purchases go through a multi-tiered approval process, which increases as the amount of spending increases. Purchases above $25,000 require Department approval, Purchasing approval, and City Manager's Office approval. During that review process, staff check for potential conflicts of interest, including "Revolving Door" purchases to prevent former City officials, employees, or commission members from exercising, or appearing to exercise, improper influence over City decision making. The City's Municipal Code establishes certain "revolving door" limits on attempts to influence City decisions after leaving City service.

*Note: This procedure applies to City Manager Departments. Additional information is needed for procedures for appointed and elected offices not reporting to the City Manager.*

## INVESTIGATIONS OF COMPLAINTS AND BUDGET ALLOCATED TO ETHICS PROGRAMS

### Investigation of Complaints

There are a number of different avenues to investigate complaints that arise regarding potential unethical conduct. Each situation is unique and is handled through the appropriate investigation resource.

- ***City Auditor's Office Fraud Hotline:*** The City Auditor's Office operates a fully anonymous and secure method of reporting potential fraud and abuse. This is one of the easiest methods for receiving complaints and is well known through the organization as a mechanism for filing a complaint. Upon receipt, the City Auditor works with the involved department or appointing authority to review the complaint.

- ***FPPC:*** The Fair Political Practices Commission is an independent agency that investigates and rules on potential financial and other conflicts with State law. Any member of the public or an employee may complain to the FPPC, who notify the City Attorney's office of the complaint. As previously mentioned, the City Attorney's Office also routinely corresponds with FPPC investigative staff to obtain both formal and informal advice opinions from the FPPC to prevent possible ethical violations or other misconduct.

- ***Internal Affairs:*** The Police Department's Internal Affairs Division (IA) is set up solely to investigate complaints of wrongdoing against Police Department employees, both sworn and civilian. IA investigates and reports their findings to the Chief of Police for appropriate action.

- ***Citizen's Police Complaint Commission:*** Another avenue for the public to report potential wrongdoing in the Police Department is the independent Citizens Police Complaint Commission, housed in the City Manager's Office. The CPCC has an Executive Director and two investigators who review and investigate complaints. The 11 member citizens' commission hears the evidence and makes a recommendation to the City Manager for appropriate action.

- ***Department Investigations:*** Most potential misconduct investigations begin at the Department level. Each Department has an Administrative Officer (AO) who handles personnel issues and is trained in how to respond to complaints. Some complaints may be handled at the AO level for the investigation, and the AO will work with the Human Resources Department (HR) and the City Attorney to conduct the investigation and determine appropriate action. Some situations, depending on their complexity, are elevated to HR or City Attorney to take the lead on the investigation, depending on the subject matter.

- ***Human Resources Investigations:*** The Human Resources Department (HR) provides guidance to departments on personnel matters. Some investigations,

such as EEO complaints, are handled exclusively by HR in collaboration with the City Attorney.

- ***City Attorney Investigations:*** At times, the City finds it necessary to bring in outside investigators to review complaints. These are handled through the City Attorney's Office in partnership with the Human Resources Department and the involved department. The City Attorney's Office is also responsible for investigations that address the City's elected officials or appointing authorities who do not report to the City Manager, Harbor Department, or Water Department. If the City Attorney handles an investigation, they may do this "in house" or may seek the assistance of outside counsel or other appropriate outside investigator.

- ***Police Department:*** At times, certain misconduct may reach the level of criminal activity. In these cases, the Human Resources Department and the City Attorney's Office conduct an administrative investigation, but also turn over the case to the Long Beach Police Department for appropriate criminal investigation and potential prosecution

- ***District Attorney Public Integrity Division:*** Certain types of unethical behavior, particularly conduct involving elected officials or high level appointed officials, may rise to the level of criminal activity that would be investigated and pursued by the District Attorney's Public Integrity Division. In these cases, the information gathered by the City Attorney and Police Department is turned over to the independent District Attorney who reviews the case for potential criminal filings. The District Attorney also investigates potential Brown Act violations which may forwarded to them by members of the public.

## BUDGET ALLOCATED TO ETHICS

Significant personnel resources are committed to Ethics enforcement and oversight as part of City staff's day to day assignments. City staff are assembling estimates of staff time dedicated towards ethics and will provide that analysis shortly. Departments that will be included in this analysis include the City Auditor's Office, City Manager's Office, City Attorney's Office, City Clerk's Office, the Police Department, the Human Resources Department, and Administrative Officers in each department.