



Office of the City Auditor
Sharon W. Erickson, City Auditor

November 3, 2016

Honorable Mayor and City Council
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

STATUS OF CITY CLERK AUDIT RECOMMENDATIONS

The Office of the City Auditor published “Office of the City Clerk: Streamlining Processes and Clarifying Roles Can Better Ensure Compliance with Statutory Responsibilities” in June 2016. The objective of the audit was to examine the Office of the City Clerk’s performance of its primary statutory responsibilities, as well as its administrative activities to support the Mayor’s Office and Council Offices. On September 20, 2016, the City Council directed the City Auditor to return to Council with an analysis and update of the City Clerk’s workplan to implement recommendations outlined in the audit.

The attached report summarizes the City Clerk’s work to date and remaining workplan to implement the recommendations, including target dates for completion. Based on our analysis, we also describe additional steps necessary to fully implement the recommendations and address the issues identified in the audit.

Currently, of the 20 recommendations in the report, 15 have been partly implemented within the past two months. Seven have target dates by December 2016, and the remaining have target dates by June 2017. The City Clerk is actively planning to complete all recommendations by that time.

To prepare this report, we met with the City Clerk’s Office and staff from other departments, reviewed department assessments of audit status, and reviewed documentation provided by the departments.

Respectfully submitted,

Sharon W. Erickson
City Auditor

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Attachment.

cc: Toni Taber

16-07 OFFICE OF THE CITY CLERK: STREAMLINING PROCESSES AND CLARIFYING ROLES CAN BETTER ENSURE COMPLIANCE WITH STATUTORY RESPONSIBILITIES (Issued 6/09/16)

The objective of this audit was to examine the Office's performance of its primary statutory responsibilities, as well as its administrative activities to support the Mayor's Office and Council Offices. The report included 20 recommendations to improve customer service and support functions, and ensure compliance with state and local campaign and ethics policies.

<p>#1: To reduce duplication of effort across units, the City Clerk's Office should work with the City Manager's Office Agenda Services to fully implement the shared agenda workflow system and eliminate the maintenance of draft agendas outside of the system.</p>	<p>City Clerk/ City Manager</p>	<p>Partly Implemented</p>	<p>The City Clerk's Office has been working with the City Manager's Office and the third-party vendor Granicus, Inc. to deploy the City's agenda management software known as Legistar. Legistar can allow the two departments to maintain a mutually editable central draft agenda, and can eventually allow departments to add legislative items to Council and committee agendas directly, thus reducing duplication of effort.</p> <p>In the workplan provided to Council in September 2016, the City Clerk provided a target date of June 2017 to complete this recommendation. Having preliminarily configured the format of agendas created using Legistar, the City Clerk's Office and City Manager's Office Agenda Services have moved the target date forward. They plan to begin preparing Legistar-created agendas concurrently with manually formatted agendas in November 2016 as they address any remaining technical errors. Subsequently, given no major technical issues, they will post solely agendas created using Legistar. Target date: 1-17.</p>
<p>#2: To increase the transparency of legislative actions taken, the City Clerk's Office should decrease the turnaround time to create and post action minutes. Specifically, the City Clerk should:</p> <ul style="list-style-type: none"> a) Establish and document a more aggressive timeframe for approval of minutes by Council, b) Reconsider whether both Council meeting synopses and action minutes are still required, and c) Bring to the City Council recommendations to update the Open Government Resolution to reflect these changes. 	<p>City Clerk</p>	<p>Partly Implemented</p>	<ul style="list-style-type: none"> a) At the time of the audit, the City Clerk had an internal goal of three months for having City Council action minutes approved and posted. Since the audit, the City Clerk's Office has reduced the internal goal to one month and has begun to address the backlog of Council action minutes in order to fulfill this goal. On November 1, 2016, City Council approved action minutes up to September 27. The City Clerk has agreed to consider an even more aggressive timeframe after full implementation of Legistar in January 2017 (see Recommendation #1). b) The City Clerk will reconsider the necessity of both Council meeting synopses and action minutes upon full implementation of Legistar in January 2017 (see Recommendation #1). c) Once (a) and (b) are completed, the City Clerk should bring a recommendation to the City Council to update the Open

Government Resolution to formalize these changes.
Target date: 3-17.

#3: To ensure records of City Council proceedings are posted timely, the City Clerk should utilize existing technology to streamline the approval and posting of synopses and/or minutes.

City Clerk

Not
Implemented

At the time of the audit, the process to create and post synopses and action minutes was cumbersome, including multiple Word documents and coordination between the City Manager's Office Agenda Services and multiple staff in the Clerk's Office. Legistar (see Recommendation #1 above) also allows the streamlined approval and posting of synopses and/or action minutes, but the City Clerk's Office has not yet utilized this capability. Target date: 3-17.

#4: To help ensure members of boards and commissions, decision-making bodies, and other advisory entities comply with state and local regulations, the City Clerk's Office should develop and implement standard procedures to:

City Clerk

Partly
Implemented

In August 2016, the City Council approved a revised Consolidated Policy Governing Boards and Commissions, including language on the filing requirements of board and commission members.

- a) Identify which entities are required to file Statements of Economic Interests, attend required ethics trainings (AB 1234), and sign the City's Code of Ethics;
- b) Notify members of those entities of such requirements;
- c) Notify those in noncompliance of such requirements; and
- d) Monitor and report noncompliance to the responsible officials.

To ensure all members comply with state and local regulations, the Clerk's Office has been tracking compliance with filing requirements among members of applicable entities. It has begun notifying those members of the requirements. It also has begun notifying members in noncompliance and seeking assistance from Board and Commission Secretaries to contact them as needed.

The City Clerk's Office is developing written standard procedures for the above to provide guidance for current and future staff on these responsibilities. Target date: 12-16.

#5: The City Clerk should develop and implement policies and procedures to:

City Clerk

Partly
Implemented

Although Commission Secretaries of many of the City's boards and commissions, decision-making bodies, and other advisory entities are overseen by the City Manager's Office, the City Clerk is primarily responsible for ensuring compliance with the City's Open Government and other public disclosure requirements.

- a) Monitor compliance with the Open Government Resolution requirements for public posting of agendas and minutes by Commission Secretaries or other responsible officials for the City's boards and commissions, decision-making bodies, and other advisory entities, and
- b) Report noncompliance to responsible officials.

In August 2016, the City Clerk's Office assigned staff members to monitor compliance with the Open Government Resolution requirements for public posting of agendas and minutes for boards and commissions, decision-making bodies, and other advisory entities.

In October 2016, the City Clerk notified the City Manager's Office of advisory entities that did not post agendas and/or minutes timely and, according to staff, plans to send such notifications to the City Manager's Office quarterly. However, the City Clerk did not provide notification to all Commission Secretaries and other officials who administer the day-to-day functioning of the applicable advisory entities and could take immediate corrective action.

			<p>In the future, in addition to reporting noncompliance directly to the City Manager's Office, the City Clerk's Office will copy responsible departmental staff on the notification. Target date: 1-17.</p>
<p>#6: The City Clerk's Office should work with the City Attorney's Office to finalize and implement the revised Consolidated Policy Governing Boards and Commissions (Council Policy 0-4), including language that clarifies the City Clerk's responsibility to:</p> <ul style="list-style-type: none"> a) Coordinate the semi-annual trainings for new board and commission members, and b) Monitor member attendance and report noncompliance to the responsible officials. 	<p>City Clerk/ City Attorney</p>	<p>Partly Implemented</p>	<p>In August 2016, the City Council approved a revised Consolidated Policy Governing Boards and Commissions, including language that clarifies the City Clerk's responsibility to perform the tasks listed in the recommendation. The City Clerk has begun meeting with Boards and Commissions to present the revisions.</p> <p>Upon the nomination of new board and commission members by the end of 2016, the City Clerk's Office plans to hold its first semi-annual training in January 2017. Target date: 1-17.</p>
<p>#7: To ensure the smooth implementation of the updated records management platform, the City Clerk should:</p> <ul style="list-style-type: none"> a) Set clear roles, responsibilities, and expectations for records staff tasked with assisting the Information Technology Department in implementing the new system; b) Develop appropriate policies and procedures for the new system, including security protocols; and c) Determine which records will be made publicly accessible and/or searchable in accordance with the City's Open Data Policy and Language Access Policy (once it is finalized). 	<p>City Clerk</p>	<p>Partly Implemented</p>	<p>The City is currently implementing SharePoint Online (SPO) for document and records management. The City Clerk's Office is working with the Information Technology Department to move its records from its old system (CHAD) to SPO.</p> <ul style="list-style-type: none"> • Phases I and II of implementation involved moving resolutions and ordinances from CHAD to SPO. This was completed in October 2016. • Phase III involves migrating contracts. This is expected to be completed by February 2017. • Phase IV involves allowing public access; the City Clerk's Office and IT are evaluating alternatives for this element. They aim to complete this phase by June 2017. <p>For this recommendation to be considered complete, the City Clerk will need to develop appropriate policies and procedures for the new system, including clear roles and responsibilities, and security protocols. Target date: 6-17.</p>
<p>#8: To better serve candidates navigating the City's complex elections process, the City Clerk, in consultation with the City Attorney's Office, should:</p> <ul style="list-style-type: none"> a) Include in its candidate packet a clear listing of required state and local forms with form numbers and descriptions, and b) Immediately notify candidates of changes to the forms or other filing requirements that occur during the elections process and update the candidate packet accordingly. 	<p>City Clerk/ City Attorney</p>	<p>Partly Implemented</p>	<p>Based on our preliminary recommendation, the Clerk's Office, in consultation with the City Attorney's Office, began to include the numbers of the forms listed in the Dates of Interest handout during the course of the audit.</p> <p>To provide further guidance, the handout should include City of San José forms (e.g., 502 and 503) and FPPC forms (e.g., 410, 496, and 501) not yet listed. It can also make candidates aware of other forms that are not necessarily required of all candidates, but may be required for some.</p>

			The City Clerk reports that the forms included in the Dates of Interest Handout will be reviewed during the post-mortem debrief of elections between the City Clerk's Office and the City Attorney's Office in late 2016. Target date: 12-16.
#9: To further discourage late campaign filings by candidates for local elective office, the City Clerk should work with the City Attorney's Office to draft an amendment to Title 12 delineating additional steps to address repeat violations of filing deadlines (e.g., referral to the Ethics Commission and/or the Fair Political Practices Commission, or some other public disclosure).	City Clerk/ City Attorney	Not Implemented	Timely filing of campaign disclosures allows the public to identify potential conflicts of interest among candidates for local elective office. Additional provisions, such as public disclosure of violations, can help prevent repeat late filings and promote transparent elections. The City Clerk noted that provisions as listed in the recommendation will be discussed by the Board on Fair Campaign and Political Practices in Spring 2017. Target date: 3-17.
#10: To improve compliance with Statement of Economic Interests (Form 700) filings, the City Clerk, as the City's filing officer, should: a) Work with the Human Resources and Information Technology Departments to develop PeopleSoft report(s) that more efficiently identify required filers and disseminate to departments for reference and/or verification as appropriate; b) In consultation with the Administration, clarify the roles and responsibilities of Clerk's Office and department staff in ensuring that required Form 700 filers are identified, entered into NetFile, and notified, and that they file; and c) Provide policies, procedures, and ongoing training to department Form 700 liaisons to ensure that the steps listed in (b) of this recommendation are completed.	City Clerk	Partly Implemented	a) Given technical difficulties in ensuring that all Form 700 filers are marked as such in PeopleSoft (the City's human resources management software), the Clerk's Office has asked department liaisons to monitor filers assuming and leaving office and notify the Clerk's Office accordingly. The City Clerk should consult with the Human Resources Department to consider other potential ways to streamline the process for identifying required filers. b) The Clerk's Office developed a list of department liaisons with whom it works to identify required filers and enter them into NetFile. The Clerk's Office acknowledges that, as the City's filing officer, it maintains responsibility for regularly following up with the department liaisons to ensure that all required filers meet filing requirements. c) The Clerk's Office has held several trainings with department liaisons on their roles and responsibilities with respect to Form 700s, covering the Conflict of Interest Code, how to use NetFile, etc. To ensure that all remaining non-filers (all of whom are consultants) comply with filing requirements, it plans to invite contract managers to its December 2016 training. Target date: 12-16.
#11: To ensure the public can properly identify conflicts of interest among key financial decision makers in the City, the City Clerk should: a) Identify which Form 700s should have been made publicly accessible and post them to the City's public portal accordingly, and	City Clerk	Partly Implemented	Though the City Clerk's Office previously aimed to include only filers identified by Government Code 87200—including such key financial decision makers as the Mayor, Councilmembers, City Manager, City Attorney, and City Treasurer (Director of Finance)—in the publicly searchable database, it has made all City filers' Form 700s available online.

<p>b) Create policies and procedures to ensure that applicable filings are posted to a public database timely and consistently each year.</p>		<p>In our opinion, while Form 700s have always been considered public records, the City Clerk should notify filers that their forms are now readily accessible through the City's website. Furthermore, the Clerk's Office will need to finalize its internal policies and procedures for posting Form 700s to the public database for the recommendation to be considered complete. Target date: 11-16.</p>
<p>#12: To further the Lobbying Ordinance's goals of an ethical work environment and an open and transparent government, the City Clerk's Office should:</p> <p>a) Coordinate with the City Attorney's Office to develop and schedule trainings on the Lobbying Ordinance at least once every three years for elected officials and lobbyists as well as for newly elected City officials upon assuming office, and</p> <p>b) Update lobbyist training materials on the City Clerk's website.</p>	<p>City Clerk</p> <p>Not Implemented</p>	<p>In consultation with the City Clerk, the City Attorney's Office presented revisions to the Lobbying Ordinance to the Board of Fair Campaign and Political Practices on October 12, 2016. The City Council approved the revisions on November 1, 2016. Among the revisions was the elimination of required trainings for lobbyists, in favor of a requirement that the City Clerk provide explanatory materials for lobbyists. The City Clerk plans to update the explanatory materials on the City's website to meet that requirement (including online video training).</p> <p>The requirement that the City Clerk's Office provide trainings for newly elected officials also was eliminated in the revised Ordinance. However, the City Attorney's Office plans to provide such trainings for newly elected officials in the future. Target date: 1-17.</p>
<p>#13: The City Clerk's Office should develop policies and procedures for the collection of outstanding lobbyist and other fees, which should be approved by the Department of Finance and be in accordance with General Guidelines for Accounts Receivable / Revenue Collection (City Policy 5.3.6).</p>	<p>City Clerk</p> <p>Partly Implemented</p>	<p>In consultation with the City Clerk, the City Attorney's Office presented revisions to the Lobbying Ordinance, approved by City Council on November 1, 2016. The proposed revisions include clarification that the fines for late lobbyist registration and submission of quarterly reports shall be calculated by business day, rather than calendar day.</p> <p>In addition, the Clerk's Office met with the Finance Department about using Finance's collections software (Revenue Plus) to collect lobbyist fees and fines. However, the City Clerk's Office has reported that this capability will not be available until the upcoming update of the software (expected in March 2017), since the current software does not allow for daily calculations.</p> <p>In the meantime, the City Clerk should develop policies and procedures for the collection of outstanding lobbyist and other fees, including interim measures before the software update. Target date: 3-17.</p>
<p>#14: To ensure that the Clerk's Office provides accurate and reliable budget information to Mayor and Council Offices, the City Clerk should</p>	<p>City Clerk</p> <p>Partly Implemented</p>	<p>The Clerk's Office is drafting procedures for the preparation and review of Mayor and Council Office budget spreadsheets. Currently,</p>

develop standard procedures for the preparation and review of Mayor and Council Office budget spreadsheets.		the Assistant City Clerk reviews budgets before they are sent to Mayor and Council Offices. Target date: 12-16.
#15: To improve customer service to the Mayor and Council, the City Clerk should define in the standard procedures for preparing budget spreadsheets (see recommendation #14) a specific timeframe for when they are to be prepared. Further, this timeframe should be communicated to Mayor and Council Offices.	City Clerk Party Implemented	<p>The Clerk's Office is developing a specific timeframe for the preparation of Mayor and Council Office budget spreadsheets (to be incorporated into the procedures noted in Recommendation #14). The Clerk's Office reports that once the procedures are completed, it will communicate the timeframe to Mayor and Council Offices.</p> <p>In the interim, the Clerk's Office has begun tracking the number of days that elapse between month end close in the City's financial management system and the issuance of budget spreadsheets to Mayor and Council Offices. The Clerk's Office reports an (unofficial) internal goal of one week. While the average was two weeks to one month (after month end close) during the course of the audit, the Clerk's Office sent the budget spreadsheets within the one-week timeframe for July-September 2016. (Note: Because month end close usually occurs sometime during the first week following the end of a calendar month, recent budget spreadsheets have typically been sent to Mayor and Council offices during the second week of any given month.) Target date: 12-16.</p>
#16: To improve customer service to Mayor and Council Offices and provide guidance to staff, the City Clerk's Office should develop written procedures, including timeframes for when work is to be completed, related to: <ul style="list-style-type: none"> a) Compiling required documentation from Mayor and Council Offices for procurement card and travel expenditures, b) Approving Mayor and Council staff online timecards, c) Processing Mayor and Council contracts, including facility use agreements for Mayor and Council-sponsored events, and d) Other support services as necessary. 	City Clerk Partly Implemented	The Clerk's Office is developing procedures for the services listed in the recommendation and expects to complete these by December 2016. Target date: 12-16.
#17: The City Clerk should coordinate with the City Attorney's Office and other City departments to provide annual trainings for Council Assistants and Chiefs of Staff on: <ul style="list-style-type: none"> a) The City Council Expenditure and Reimbursement Policy (0-38), b) City policies related to P-Card, travel, and other expenditures, c) Required filings such as the Statement of Economic Interests and Family Gift Reporting forms 	City Clerk/ City Attorney Not Implemented	<p>In August 2016, the City Council directed the City Clerk, in coordination with the Mayor's Office and the City Attorney's Office, to refine Council Office trainings and the "New Council Office" transition plan in order to ensure a smooth transition for outgoing and incoming Council staff in 2017.</p> <p>According to the City Clerk, the first training for Council staff will occur in January or February 2017. The City Clerk's Office reports that it will hold a smaller introductory training for new Council Assistants before this comprehensive training. Further, it will revise</p>

<ul style="list-style-type: none"> d) Hiring-related policies and guidelines, e) Legislative processes and regulations, and f) Other topics contained in the Survival Guide for Council Assistants. 		<p>the Council Assistant Survival Guide in accordance with updates to Council support procedures (see Recommendations #14-16). Target date: 2-17.</p>
<p>#18: The City Clerk should clearly identify staff responsibilities and lines of authority in an organizational chart that also identifies staff leads for the Office's primary responsibilities.</p>	<p>City Clerk</p>	<p>Partly Implemented</p> <p>In September 2016, the City Clerk drafted an organizational chart and posted it on the Intranet. However, the organizational chart did not identify all of the Office's responsibilities, nor did it clearly identify specific staff responsibilities. The Clerk's Office plans to revise the organizational chart accordingly.</p> <p>In our opinion, this recommendation is critical to fostering a more transparent accountability structure and helping ensure the office's smooth functioning in case of turnover. Target date: 2-17.</p>
<p>#19: The City Clerk should work with the Human Resources Department to:</p> <ul style="list-style-type: none"> a) Update the Legislative Secretary job classification to reflect the current tasks and responsibilities of the position, and b) Review the job classifications within the City Clerk's Office to determine whether current positions should be reclassified or whether an additional Clerk-specific classification should be created that reflects additional duties and responsibilities beyond those of the Legislative Secretary position. 	<p>City Clerk/ Human Resources</p>	<p>Partly Implemented</p> <p>In August 2016, the City Clerk began corresponding with the Human Resources Department to update the Legislative Secretary job classification and reclassify one Legislative Secretary position to a Records Analyst position. HR is currently reviewing a draft of the updated Legislative Secretary job classification and will develop a draft of the Records Analyst classification. Target date: 6-17.</p>
<p>#20: The City Clerk's Office should:</p> <ul style="list-style-type: none"> a) Develop consistent methodologies to track and calculate the performance measures for its statutory responsibilities that are reported in the City's Operating Budget, b) Identify staff leads tasked with maintaining these performance measures and reporting them on a frequent basis to the City Clerk, and c) Develop action plans to address areas where results do not meet established targets or expected results. 	<p>City Clerk</p>	<p>Not Implemented</p> <p>Although the City Clerk submits performance measures to the Budget Office each year during the annual budget process, the City Clerk has not developed consistent methodologies to track and calculate all of the measures related to its statutory responsibilities.</p> <p>In our opinion, this recommendation is critical to improving the performance of the Clerk's Office's many and varied tasks. Target date: 6-17.</p>