

Oregon Government Ethics Commission  
2021-2023 Budget Presentation

Executive Director  
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## **2021-23 Budget Presentation**

### **Oregon Government Ethics Commission**

#### **Mission, Goals and Historical Perspective**

The mission of the Oregon Government Ethics Commission (OGEC) is to impartially and effectively administer and enforce Oregon's government ethics laws for the benefit of Oregon's citizens. The Commission emphasizes education in achieving its mission.

The regulatory jurisdiction of the Oregon Government Ethics Commission includes ORS Chapter 244, Oregon Government Ethics law; ORS 171.725 to 171.785 and 171.992, Lobby Regulation law; and ORS 192.660, the executive session provisions of Oregon Public Meetings law. Additional information regarding those statutes is referenced in OAR Chapter 199, Oregon Government Ethics Commission Administrative Rules.

Administration of the Ethics, Lobbying, and Executive Session laws includes education and training of public officials, lobbyists, and the public. The agency focuses on training public officials throughout the state and in all levels of government to prevent violations of the ethics, lobby and executive session laws. To achieve this goal, the agency has two full-time trainers, joined by another staff person with approximately 0.4 FTE devoted to training and education. One challenge to meeting this goal is the constant turnover of public officials throughout all levels of government. To address that issue, the agency continues to engage in outreach to ensure that new and existing public officials can access the agency's free training on the requirements outlined in the ethics, lobby, and executive session laws.

In 1974, more than 70 percent of Oregon voters approved a statewide ballot measure to create the Oregon Government Ethics Commission. The ballot measure also established a set of laws (ORS Chapter 244) requiring financial disclosure by certain officials and creating a process to deal with the inevitable question of conflict of interest. The drafters of the original laws recognized that "conflict of interest" is, indeed, inevitable in any government that relies on citizen lawmakers.

The Oregon Legislature changed the agency's name to Government Standards and Practices Commission in 1993. The name was changed back to Oregon Government Ethics Commission by the 2007 Legislature. The Oregon Government Ethics Commission has nine volunteer members. Eight members are appointed by the Governor upon recommendation by the Democratic and Republican leaders of the Oregon House and Senate. The Governor selects one member directly. All members must be confirmed by the Senate. No more than three of the members may be from the same political party. The law currently allows members to serve only one four-year term.

The Government Ethics Commission is administered by an executive director selected by the commissioners. The Commission also employs investigative, program, and support staff, who are appointed by the executive director.

## Performance Measures

The agency currently has six performance measures. The agency uses the performance measures to measure progress and prioritize its limited resources towards accomplishing the measures. In this past biennium, the agency made progress on the percentage of statutorily-allowed time used on formal advice given to public officials and governmental entities. This faster turnaround time benefits the requesting entity.

During the next biennium, the agency will continue to measure:

- **The percentage of time used to complete preliminary reviews, investigations, staff and commission advisory opinions.** HB 2019 (2015) changed the statutory time limits on preliminary reviews from 135 days to 30 days. The other timelines remain unchanged since 2009. The measure gives the agency information about the percentage of time used to complete tasks within these statutory time limits.
- **The number of complaints received and own-motion actions taken by the Commission.** This measure helps the agency manage its resources and predict changes to the numbers in the future.
- **Training Effectiveness.** This measure provides data on the information learned by participants through the agency's training efforts. The agency uses interactive methods to test participants before and after trainings and compares the responses. This measure helps the agency develop and refine effective training programs.
- **Quality of Investigations.** A set of criteria for investigations are measured. The agency will seek outside assistance with the review of investigations for compliance with the criteria. This measure helps the agency to develop effective and efficient investigation methods.
- **Customer Service.** The agency polls its customers each year on customer satisfaction. The survey includes categories of Availability, Helpfulness, Expertise, Timeliness, Accuracy, and Overall Satisfaction. The agency surveys its stakeholders through its own distribution network.
- **Best Practices.** The agency completes the required Best Practices Survey each year. The annual review is used to plan any need for administrative changes during the next review period.

## Programs

### Education and Training

The agency prioritizes education and training because the laws under its jurisdiction are complex and many public officials do not know what is expected of them. The demand for education and training remains high as the laws change and new public officials take office. The agency continues to make a focused effort to increase its outreach efforts to ensure that public officials are informed and educated in order to prevent unintended violations of its laws. This effort includes 2.4 FTE that are dedicated to education and training. These positions continue to design an educational program to reach many more public officials than ever before. The positions are also

available to provide staff advice in response to questions from public officials. The agency has designed a six-year work plan focusing on the training of all public officials. The program includes web-based training made available to everyone throughout Oregon. The program will include several modules focusing on all areas of the OGEC, including Statements of Economic Interest, ethics laws, lobbying laws and reporting requirements, new employee orientations, and executive session provisions. The training work plan concentrates not only on programs of training, but on training specific groups, such as city recorders, county clerks, state agency trainers, special districts and school districts.

## **Investigations**

The investigative program relies on two FTE, an Investigator 3 and a Compliance Specialist 2, with additional assistance from the Compliance Specialist 3 position. These positions respond to complaints filed with the agency. The investigative process is two-fold, starting with a preliminary review of the information provided to the agency with the complaint. As of July 1, 2015, the preliminary review period has a statutory time limit of 30 days for nearly all cases. At the end of preliminary review, the Commission votes to either move the complaint into investigation or to dismiss the complaint. If the complaint is moved into investigation, the staff conducts a complete investigation of the complaint within the statutory deadline of 180 days. The investigation can include interviews of parties and witnesses, subpoena of records, including financial documents, and review of documents. At the end of the investigation, staff write an investigative report, including a recommendation to either find a violation or to dismiss. The Commissioners review the report and vote on its recommendation. The agency investigates complaints on ethics laws (ORS chapter 244), lobby laws (ORS chapter 171.725-171.992) and the executive session provisions of the public meeting laws (ORS 192.660).

## **Administration**

In 2009, the agency rewrote its performance measures to better measure what the agency is accomplishing. They include accounting for increased funding as the agency has grown, and ensuring the funds are used to benefit Oregonians and the ethics programs they are requesting (on-line reporting, web-based searchable data, auditing records, educating public officials, etc.). The performance measures also include timeliness and fairness of enforcement actions, and create transparency for the agency.

Administration will also be responsible for continuing to work with a variety of public offices in administering the agency's assessment-based funding model in the 2021-23 biennium. The funding model was a collaborative effort among all local governments. The funding model assesses all state agencies based on FTE for 50% of the agency's operating budget; the remaining 50% is assessed on local governments based on a percentage of their municipal audit fee. The Department of Administrative Services accounts for the collection of the assessments and transfers the moneys to the agency. Compliance with the assessment remains well over 99% for the 2019-21 biennium. The funding model diversifies the agency's revenues and also increases the agency's obligation to become transparent to all public bodies and the public in general, since they all have a financial interest in the agency. Administration strives to be accountable to all who pay, and informs the bodies of the work that is being completed and how this work benefits them.

The Governor's budget funds the agency at its current level with no policy packages. The budget includes an ending balance that supports the agency through the assessment collection process. The agency proposes to use any remaining excess balance to reduce the amount of the next biennial assessment to public bodies and local governments, whose payments fund the activities of the agency.

### **Lobbying Registrations**

The biggest change to lobbying registration and reporting has been the introduction of the agency's Electronic Filing System, which debuted in January 2016. Lobbyists now register online, and lobbyists and their clients file their quarterly expenditure reports using the Electronic Filing System. The Electronic Filing System sends e-mails to lobbyists and their clients reminding them to file their quarterly expenditure reports. It also greatly increases the tracking of filings, allowing the agency to pinpoint missing filings much more quickly. The Electronic Filing System, along with agency staff, has resulted in increased compliance (over 99%) in the submission of quarterly expenditure reports. Also, with the Electronic Filing System, the public can view the completed forms online as soon as they are submitted.

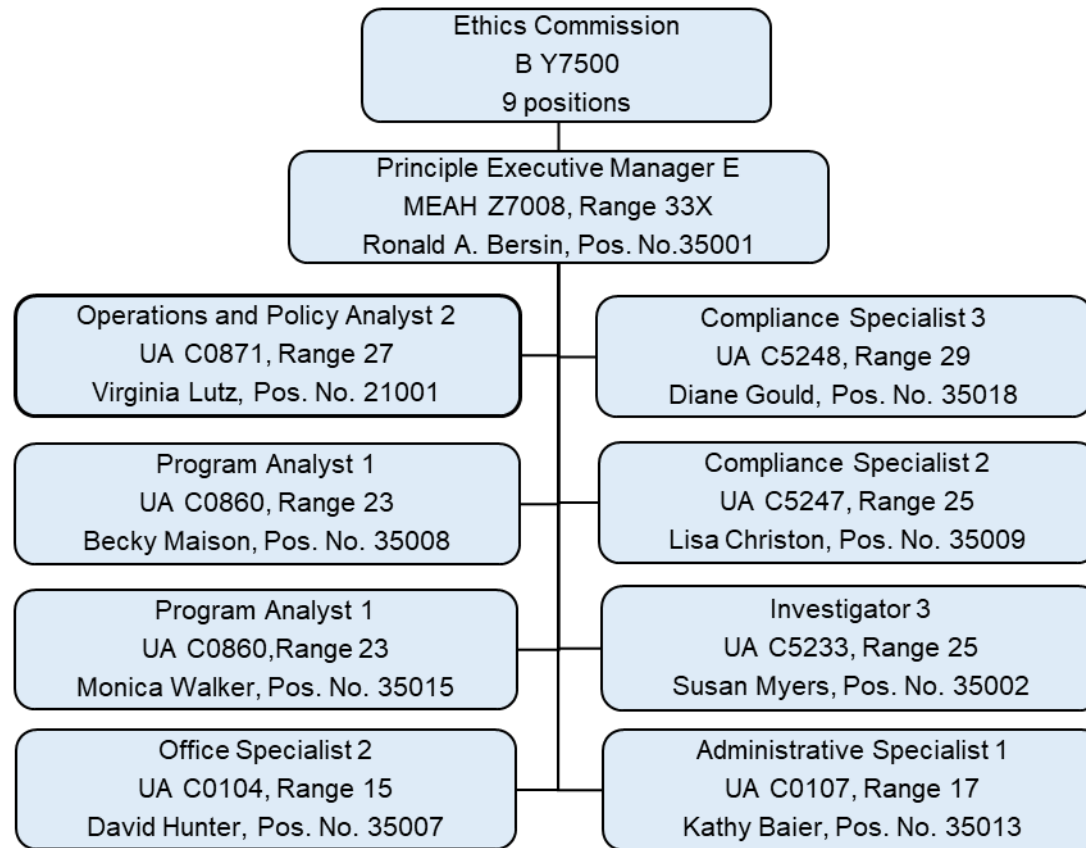
### **Statements of Economic Interest**

Statements of Economic Interest (SEIs), which are filed by approximately 6000 elected and appointed officials throughout the state, are now filed online through the Electronic Filing System. Because the Electronic Filing System can repopulate the fields in the SEI form based on the previous year's information, the system has greatly reduced the burden on public officials who file repeat SEIs. The information in the SEIs is immediately available online to the public. The agency has seen a decrease in public records requests for SEIs and an increase in follow-up inquiries about SEIs from the public and the media, suggesting that the public access is increasing transparency.

### **Target Groups**

The agency's work extends throughout all levels of government, and the agency targets its outreach to many stakeholder groups, such as the League of Oregon Cities, Association of Oregon Counties, Oregon School Boards Association, Oregon Education Association, and the Special Districts Association of Oregon, to name a few. The agency's assessment model includes all of the above stakeholders. Cities, counties and special districts that are subject to the Municipal Audit Law are assessed a fee to fund one-half of the agency's biennial budget. This is a cooperative effort between state and local governments to fund the programs of the Commission, including advice and training. The agency's work also extends to lobbyists and the entities that hire lobbyists. The lobby laws contained in ORS Chapter 171 require lobbyists and the entities they represent to register and file quarterly expenditure reports with the Commission. These registrations and expenditure reports become public records used by a wide variety of Oregonians. The agency provides advice and training to lobbyists and publishes a *Guide to Lobbying in Oregon*, available on its website, to assist lobbyists and their clients in complying with the lobbying regulations.

Organization Chart



## **Budget Drivers**

The Oregon Government Ethics Commission's (OGEC) budget has been driven by major law revisions from the 2007 and 2009 legislative sessions and several Information Technology (IT) projects. In an effort to increase transparency, the OGEC has moved away from "paper" filings to electronic, on-line filing of Lobby/Client registrations and quarterly reports, annual Statement of Economic Interest (SEI) reports, ethics complaints, final dispositions of investigations, and the listings of both informal and formal advice issued by the Commission.

The Electronic Filing System (EFS) began in the 2013-15 biennium. This system allows lobbyists, their clients, and SEI filers to submit their statutorily-required reports to the Commission on-line. Filing these reports through EFS increases compliance and saves lobbyists, their clients, and public officials time and money. In addition, once filed, the documents are immediately available for viewing by the public, thereby eliminating the need for public records requests and saving agency resources.

In the 2015-17 biennium, funding was made available for the development of the Commission's Case Management System (CMS). The CMS allows the agency to post final dispositions of investigations on-line for public view. This increases transparency and saves agency time and resources by eliminating the need for a public records request.

The agency also posts its informal and formal written advice through the CMS. The advice is organized in an easily searchable format, and all public officials, as well as the public, have easy access to it through the agency's website. This online dissemination of the agency's advice benefits the agency's education program and provides a needed resource to inform and educate public officials in order to prevent unintended violations of the law. The agency has seen a steady increase in the number of advice requests, almost doubling in the last two biennia.

Lastly, the CMS allows complaints to be filed online. The Complainant simply fills out the electronic complaint form, and may upload any evidence they wish to include. The system automatically acknowledges the submission and assigns the complaint to one of the agency's investigators. The CMS allows the agency to more effectively meet the reduced timelines for investigations brought by the statutory changes made in Governor Brown's ethics reforms during the 2015 legislative session.

The agency's budget includes subscription fees to pay for these applications. The agency paid no development costs for either project, instead paying an annual subscription fee to NIC USA for the use of the application. The subscription fee includes all maintenance of the application.

The agency's Governor's Budget (GB) includes no policy packages. The GB funds the agency at its current level. The budget will allow the agency to concentrate on its work through the 2021-23 biennium without the distraction of developing systems. The GB will allow the agency to refocus its effort towards the performance measures, using its new technology to train and inform the public of its work.

## **Environmental Factors**

Revisions made to ORS Chapter 244 during prior legislative sessions both expanded the scope of work for the Commission and increased the workload for Commission staff. Statutory changes included restricting gifts to no more than \$50.00 per year from a source with a legislative or administrative interest, prohibiting the acceptance of entertainment by public officials, increasing the reporting frequency for lobbyists and their clients, expanding the number of Statement of Economic Interest filers, expanding the Commission's authority to promulgate administrative rules, and increasing the civil penalties for violations. Commission staffing was increased to accommodate the increased workload created by the statutory revisions.

In 2015 the Commission added a Compliance and Education Coordinator, a position that combines education and investigation, as well as work on administrative rules, advice and policy. Since then, the Commission has promulgated and adopted administrative rules to bring clarity to the changes to ORS Chapter 244 and to clarify the provisions of executive session law. During the upcoming biennium, the Commission will propose new administrative rules and revise existing rules to reflect the current state of the law. The Commission will also be publishing revised versions of the *Guide for Public Officials* and the *Guide to Lobbying in Oregon*.

Statutory changes made in 2009 increased the Commission's workload, with additional trainings and the issuance of formal and informal advice and opinions. The Commission has seen a steady increase in the number of request for informal staff advice, which has been a major consumer of staff resources.

The agency maintains a significant commitment to education. Because the roster of public officials in Oregon is always growing and changing, the Commission engages in outreach to ensure that new and existing public officials are made aware of the opportunity to access Commission advice and obtain free training. In the past biennium, the Commission partnered with the Department of Administrative Services and other public entities to provide training to staff and new members of Boards and Commissions. Prior to the COVID-19 outbreak, Commission trainers provided a mix of in-person training sessions, conducted on location at state agencies, local government bodies and special districts throughout the state, and online webinars and training modules that could be accessed remotely. Because of the COVID-19 outbreak, the Commission has adapted its training presentations to a virtual platform, utilizing available software such as Adobe Connect and Camtasia. The software enables the Commission's trainers to customize its training based on the needs of each organization. The incorporation of virtual polling and questioning allows for a more interactive experience and provides important feedback to the Commission. With the expansion of web-based training, Commission trainers have begun using the Commission's conference room, with its monitor and webcam, adding increased convenience for the online trainings. The agency has received many positive reviews from its online training modules and webinars, and the number of visitors to the agency's training site continues to increase each month as word travels about its value. We expect to see a long-term paradigm shift from in-person training to online training.



The Commission has seen budgetary savings from moving in-person training to the virtual platform. Money saved by cancelling in-state travel has and will be used for new software and technology for both trainers and investigators. During the COVID-19 outbreak, the Commission has invested in new laptops and cellphones. This has enabled the investigators and trainers to work remotely, while continuing to remain accessible and responsive to the public and public officials.

The Commission continues to adjudicate complaints alleging violations of ORS Chapter 244, ORS 171.725-171.785, and ORS 192.660. Despite the COVID-19 outbreak, the number of complaints received through the Case Management System has remained steady in 2020. Legislative changes made in 2015 shortened the statutory timeline, from 135 days to 30 days, for the Commission to complete preliminary reviews, which is the first stage of investigating a complaint. As the Commission has no control over the timing of the complaints, resources have, at times, been stretched to accommodate the shorter timelines, but Commission investigators have and will continue to meet the shortened timelines in the investigatory process.

The numbers below reflect the progression of complaints and violations (*violation numbers do not reflect complaints that are still pending resolution*).

	<u>2017</u>	<u>2018</u>	<u>2019</u>	<u>2020</u>
Complaints received	93	113	111	90
Violations	47	21	42	29

The agency continues to see an increased awareness of the ethics laws and of the agency by both public officials and the general public. The training programs conducted by the agency have increased this awareness. This may decrease or increase complaints, since public officials who receive training are less likely to violate ethics laws, but the training programs also raise awareness of what current violations may be occurring.

Another factor driving the increase in complaints is media coverage. The media continues to cover the agency and its actions quite frequently. That coverage has led to an increase in the number of inquiries received from the public on the ethics laws, which has provided additional opportunities for the agency to educate and advise public officials so they can preemptively avoid any problems.

### **Major Changes**

Changes to the ethics laws and statutory deadlines, as described earlier in budget drivers and environmental factors sections, as well as the ongoing turnover in public officials in the state, are some of the biggest influences on the agency's budget. In the 2013-15 biennium, the agency developed the Electronic Filing System (EFS), which deployed on January 1, 2016. The deployment eliminated the paper system that required hard copy mailing and receipt of SEIs, lobbyist registrations and lobbyist and client expenditure reports. The EFS sends notices, and receives and posts registrations and the information from the reports. EFS provides the public with

immediate access to the reports. Rather than spending resources on mailing and processing incoming paperwork, agency staff are able to focus on answering questions and educating users of the system, managing and improving the EFS and ensuring that all reports are properly filed and are complete.

Another major change was the implementation of the Case Management System (CMS) in the 2015-2017 biennium. The CMS allows the agency to upload final case dispositions and written advice issued by the Commission or Commission staff for the public to view and search. Because the public and public officials can access advice and case outcomes in CMS, it has eliminated the need to spend agency resources on public records requests. The reduced timeframes for the completion of preliminary reviews implemented in 2015 also affected the agency's caseload. Because the agency has no control over when complaints are filed, there are times when all efforts of all the investigators must be focused on new cases. The CMS contains tools used by the agency's investigators to more efficiently conduct their investigations and meet their statutory deadlines.

The agency's increasing push toward online training in the form of webinars is also reflected in the budget. Technology allows the agency to reach more public officials through webinars, but also improves the interactivity of training, both online and in person, resulting in better learning. The agency purchased a monitor for the conference room that will allow for better interactivity for trainings and allow Commissioners or other parties to attend Commission meetings virtually, reducing costs for the Commission and the involved individuals, particularly in cases of inclement weather or distance.

### **Cost Containments**

The agency has utilized the technology available to it to reduce costs. This includes scanning information into PDF files and sending those files electronically, digital recordings of Commission meetings so the agency can post the recordings on its website for all interested parties, and the creation of online training webinars.

The increased effort to electronically scan paper documents has reduced the agency's costs in responding to public record requests. The agency passes these cost savings on to the requesting party, since postage, printing and copying costs are eliminated. Most public record requests can be completed at no cost to the requestor. With the new Electronic Filing and Case Management systems, more cost-free information is immediately available to members of the public and other public officials.

The agency purchased a web cam and software to assist in the production of real-time webinars. These webinars allow the agency trainers to conduct trainings throughout the state, from the agency office, which reduces travel expenses. The webinar training is also cost effective to public officials from multiple locations in that they can attend from the comfort of their own workstations. Agency trainers will continue to use the experiences gained during this COVID-19 outbreak as the agency looks at a long-term paradigm shift, utilizing technology to deliver its training products.

The agency purchased a monitor and computer for its conference room. This allows the public and Commissioners to attend the meetings remotely. This has assisted in allowing Commissioners to attend meetings remotely, particularly during the COVID-19 outbreak. People appearing before the Commission can now attend via the monitor, increasing their interaction with the Commissioners.

The agency continues to look for opportunities to consolidate its expenses with other agencies. This includes sharing of office space, office equipment, meeting rooms, telephone and data lines, etc.

### **Major Budgetary Issues**

The major budgetary issue for the agency in the 2021-23 biennium is the subscription fees for the Electronic Filing and Case Management Systems. The 2013-15 biennial budget included a one-time \$800,000 special assessment, to the governmental bodies required to pay the agency's assessment, for the electronic filing system. In the 2015-17 biennium, the agency expended the remaining funds from that one-time special assessment to complete the Electronic Filing System. The remaining costs include project and change management, and training. Upon completion of the project, the agency met its statutory requirement for an electronic reporting system and case management system that is viewable to the public. The continuing maintenance of this project will also be a major budget driver in future biennia. Resources that were once used to print, mail, receive and file statutorily required reports in the office will be used to ensure the accuracy of those reports.

### **Audits**

The Secretary of State's Audits Division commenced a performance audit examining the State's ethics legal framework and the Oregon Government Ethics Commission, in alignment with the strategic focus on auditing significant governance risks and towards enhancing transparency and public trust in state government.

The preliminary audit scope consists of two objectives. The first is an assessment of the state's legal and regulatory framework governing ethical conduct and conflicts of interest for state officials and employees. Audit work will include an expansive benchmark analysis of other states' ethics frameworks and rules, as well as a review of leading practice criteria.

The second initial audit objective will be to examine the Oregon Government Ethics Commission's governance structure and effectiveness in meeting its statutory mission. The performance audit will look at how the agency and its programs can better achieve their missions.

## **Legislation**

Senate Bill 60 extends the period, from 30 days to 60 days, for the Commission to complete the preliminary review phase for complaints alleging violations of ORS Chapter 244. Senate Bill 61 gives the same statutory protections to public officials for advice from the Commission on executive session provisions of public meeting law as they receive for advice on ethics laws. Senate Bill 62 prohibits public officials from soliciting, receiving or using public moneys from the public body to pay or make payments on civil penalties imposed by the Commission. Senate Bill 63 extends the maximum time a person may serve as a Commissioner for the agency from one full four-year term to two full four-year terms.

## **Information Technology**

As previously mentioned, the 2021-23 biennial budget includes funding for subscription fees for the electronic filing and case management systems. These information technology (IT) projects allow the agency to send notices, and receive and process reports on-line, thereby eliminating the need for printing, postage, processing, and filing the statutorily required reports in hardcopy. The electronic system also provides immediate public viewing of the reports online, eliminating the need for a public records request. This will increase transparency of the reports to the public, thus accomplishing their intended purpose. The public also has access to final case dispositions and agency issued advice, online in a searchable format through the case management system.

## **Budget and Service Reductions**

A 10% budget reduction would be of such magnitude that it would likely render the agency unable to perform its duties in any viable manner. The agency's budget is such that approximately two-thirds is devoted to personal services. Subscription services for the agency's on-line filing system and its case management system will be approximately 11% of the agency's operating budget. Government Ethics Commission responsibilities are defined in statute and require certain activities by the agency, such as collecting public official and lobbyist forms, and requiring associated records to be created and maintained.

In order for the Government Ethics Commission to continue the administration of these programs and provide service for compliance with the various filing requirements, certain costs for overhead cannot be reduced. A reduction could be made in personal services; however, this would require the elimination of positions or the conversion of full-time positions to part-time. Alternatively, to continue operations under a potential reduction utilizing existing staff, a revision of statute to remove or amend currently mandated functions would be needed.

Any reduction in FTE would have an impact on the ability of the Government Ethics Commission to meet its performance measures in most areas, including training, investigations, compliance review, and records maintenance. It would seriously degrade the timeliness and quality of services offered to stakeholders and the public. This would have a direct impact on meeting Oregon Benchmark No. 35, Public Management Quality.

## **APPENDIX**

1. Agency New Hires
2. Other Funds Ending Balance

**AGENCY NEW HIRES**

**2019-21 Biennium**

1. C0860      Program Analyst 1      Step 4 \*\*

\*\* The Program Analyst 1 position was filled with a new to state employee following the former employee's transfer to another agency.

**UPDATED OTHER FUNDS ENDING BALANCES FOR THE 2019-21 & 2021-23 BIENNIA**

Agency: Government Ethics Commission  
 Contact Person : Lindsey McFadden 971-900-9757

(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)	(j)
Other Fund Type	Program Area (SCR)	Treasury Fund #/Name	Category/Description	Constitutional and/or Statutory reference	2019-21 Ending Balance		2021-23 Ending Balance		Comments
					In LAB	Revised	In CSL	Revised	
Limited	19900-010-00-00-00000	0401/Other Funds Cash Account	Operations	2007, CHAP 877, SEC 2/ORS 244.255 & .345	771,438	467,489	387,513	218,315	The difference in Column F and G is due to the outstanding AR still owed to the agency. Historically, the agency does receive most of the outstanding AR by the end of the biennium. The difference in Column H and I is due to the lower projected ending balance in 19-21, which will change; the expenditures are expected to reduce and increase column i.