![Metro logo]

Metro's Code of Ethics:

Clarify expectations to support an ethical culture

December 2019
A Report by the Office of the Auditor

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Metro Accountability Hotline

The Metro Accountability Hotline gives employees and citizens an avenue to report misconduct, waste or misuse of resources in any Metro or Metro Exposition Recreation Commission (MERC) facility or department.

The Hotline is administered by the Metro Auditor's Office. All reports are taken seriously and responded to in a timely manner. The auditor contracts with a hotline vendor, EthicsPoint, to provide and maintain the reporting system. Your report will serve the public interest and assist Metro in meeting high standards of public accountability.

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MEMORANDUM

December 12, 2019

To: Lynn Peterson, Council President
Shirley Craddick, Councilor, District 1
Christine Lewis, Councilor, District 2
Craig Dirksen, Councilor, District 3
Juan Carlos Gonzalez, Councilor, District 4
Sam Chase, Councilor, District 5
Bob Stacey, Councilor, District 6

From: Brian Evans, Metro Auditor

Re: Audit of Metro's Code of Ethics

This report covers the audit of Metro's Code of Ethics. Public and private sector organizations use codes of ethics to provide guidance to employees about expectations. In the absence of clear expectations, there is an increased risk that employees will make decisions or take actions based on their own set of values.

We found Metro's Code of Ethics did not integrate policies, legal requirements and organizational values, which created barriers to understanding expectations. In addition to the Code of Ethics, there were additional ethics-related provisions in Metro Code and policies. The complexity of ethics-related guidance made it more difficult to determine which value, policy, or legal requirement took precedence.

Without clear guidance, it was difficult to manage issues consistently. Collecting and analyzing information can help identify common issues. Investigations help determine when expectations have not been maintained. These activities can help determine the extent to which corrective actions may be appropriate and that they are applied consistent with expectations. Several leadership positions were in transition during the audit which, provides an opportune time to clarify expectations. Once clarified, it will be important to continue to refine Metro's approach to ethics to reinforce its values of public service, excellence, teamwork, respect, innovation, and sustainability.

We have discussed our findings and recommendations with Andrew Scott, Interim COO; Carrie MacLaren, Metro Attorney; Scott Cruickshank, General Manager of Visitor Venues; Heidi Rahn, Interim Deputy COO; and Julio Garcia, Human Resources Director. A formal follow-up to this audit will be scheduled within three years. We would like to acknowledge and thank all of the employee who assisted us in completing this audit.

Summary

Governments maintain laws and policies to ensure employees behave ethically. In this audit, we evaluated how Metro managed ethics. We did not evaluate nor make conclusions about whether or not Metro had an ethical culture.

Tone-at-the-top is critical to promoting ethical behavior. We assessed the organization's ability to convey the importance of ethics by reviewing available guidance, training, and communications. We found room to improve all three areas.

We created process maps for five common ethical situations in which employees may find themselves. Process maps are a low-cost, low-risk way for organizations to show that ethics are important, and offer answers to ethical questions. They can be helpful because employees may be hesitant to raise or respond to ethical questions out of fear of not knowing what will happen.

The conclusions we reached for some parts of the process maps were inconsistent with senior leadership's expectations. The complexity of ethics-related guidance made it more difficult to determine which value, policy, or legal requirement took precedence. To whom the guidance applied, and who was responsible for addressing questions also varied. If organizations do not provide clear guidance, employees may act inconsistently with policies and laws, even when they are trying to do the right thing.

Training is another way an organization can set expectations. We found that training was ineffective because few employees attended, Metro's ethics policies were largely excluded, and they were not presented in a relatable manner. As a result, employees may be unfamiliar with Metro's ethics policies and unlikely to apply them when taking action.

Communications from senior leadership about ethics and their importance to an organization is another way to ensure effective management. We found that employee communications infrequently included references to ethics policies. Without frequent communications, employees may be less aware of expectations, and more likely to take action that does not meet them.

Without clear guidance, it was difficult for Metro to manage issues consistently. Collecting and analyzing information can help identify common issues. Investigations help determine when expectations have not been maintained. These activities can help Metro determine the extent to which corrective actions may be appropriate and that they are applied consistently.

We made recommendations to strengthen Metro's foundation for ethics, reduce barriers to understanding expectations, and create consistent approaches to address potential ethical issues.

Background

Ethics consist of theory and principles that govern how someone should act. Ethical issues can arise when people's behavior is at odds with the standards of conduct governing an individual or group. This can take many forms. For instance, people may make decisions when they have a conflict of interest, or because their choice may benefit a friend or relative when this is prohibited. Or, people can attain or use resources for a purpose not in line with the mission of an organization. Unethical conduct can be harmful to society, and have severe impacts on organizations.

The management of ethics within an organization is important to prevent and address unethical conduct. It is important for other reasons as well. For instance, how employees perceive ethics can impact their job satisfaction and retention. Public trust is also impacted by how the public perceives the ethics of a government or its employees. For Metro, public trust could also affect its ability to generate resources.

In this audit, we evaluated how Metro managed ethics. Based on a 'user perspective,' we determined how employees could answer questions about ethics based on existing guidance. We evaluated policies and laws, training efforts, and communications related to ethics. We also evaluated how Metro may respond to potential ethical issues. While all of these can impact an ethical culture, we did not evaluate nor make conclusions about whether or not Metro has an ethical culture.

Management of ethics is shared at Metro. The Chief Operating Officer (COO) oversees day-to-day operations and leads staff to implement policy. Human Resources (HR) coordinates updates to personnel policies and provides training. HR and department managers or supervisors investigate personnel issues. The Office of Metro Attorney (OMA) provides legal services and helps employees interpret Oregon laws and Metro policies. The Metro Auditor's Office conducts audits, which can stem from ethical issues.

Ethical issues at Metro can be raised by employees and the public in several ways. Employees are encouraged to raise issues with a manager, HR or OMA. The Metro Auditor oversees the management of a phone and online system called the Accountability Hotline (hotline). The hotline allows employees and members of the public to anonymously report potential ethical issues. Metro also provides several ways for people to file complaints about discrimination under Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act.

Governments maintain laws and policies to ensure employees behave ethically. In some cases, policies may not be specifically about ethics, but are relevant to ensuring ethical conduct. For instance, "acceptable use" policies state how and for what reasons resources are to be used by government employees or others. They ensure that resources are not used for personal purposes, even if they do not include the word "ethics."

The Oregon Government Ethics Commission enforces state ethics laws. The Commission also offers advice and opinions and conducts training about state ethics requirements.

Metro has adopted or approved several policies and other forms of guidance related to ethics. Metro code includes a chapter (2.17) that regulates the ethical conduct of Metro officials, employees, and lobbyists. Code also includes a section that regulates political activity. In 1997, Metro adopted a policy called Executive Order 66 Code of Ethics (Code of Ethics). In 2010, Metro adopted a set of values (Metro Values) part of which emphasizes upholding the highest ethical standards. Metro also has policies to manage things like acceptable use and conflicts of interest.

Exhibit 1   Changes to Metro code and adoption of ethics policies since 1995
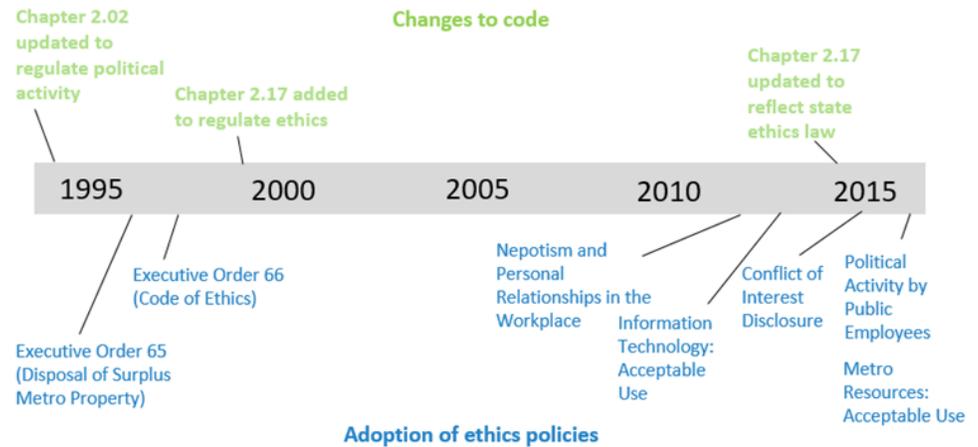
Source: Metro Auditor's Office analysis of Metro code and policy

Laws, policies, and values each address ethics differently. For instance, chapter 2.17 is regulatory, largely reflecting state ethics laws. The Code of Ethics features principles intended as guideposts to promote ethical behavior. Metro Values provide general ideas about what is desired at Metro, but are not framed as ethics. Metro policies outline requirements related to specific issues. The interplay of these key documents impacts how Metro manages ethics.

Results

Effective management of ethics requires organizations to establish and maintain clear expectations. We found Metro's Code of Ethics did not integrate policies, legal requirements and organizational values, which created barriers to understanding expectations. For instance, the Code of Ethics did not refer to policies to manage specific ethical requirements.

In addition, there was a separate set of ethical expectations included in Metro Code that essentially reflected the legal requirements in Oregon Law. State law creates a minimum standard for ethical behavior of public employees. It does not address every ethical issue, and is not seen as the only ethical standard in the state.

The complexity of ethics-related guidance made it more difficult to determine which value, policy, or legal requirement took precedence. We created process maps for five common ethical situations in which employees may find themselves. We found available guidance was incomplete or inconsistent in some places. The conclusions we reached for some parts of the process maps were inconsistent with senior leadership's expectations about how employees should act. To whom the guidance applied, and who was responsible for addressing questions also varied.

Stronger connections between Metro's values, legal requirements, and policies and procedures would help build a better foundation. A solid foundation can set employees up for success. Without it, Metro will be at increased risk of employees interpreting and taking actions based on their own set of values, which could reduce consistency, and affect employee and public trust.

A solid foundation is necessary, but not sufficient to maintain an ethical culture. Current research indicates other things are also critical. Leaders at all levels should set an ethical tone. Behavioral ethics emphasizes addressing the cognitive factors that can introduce bias into decision-making. Leaders must also model ethical conduct. Employees should be supported in asking questions about ethics and should feel comfortable raising issues if needed. All employees should be treated fairly, consistent with the organization's expectations. All of these demonstrate and reinforce a commitment to ethics and foster an ethical culture.

There were barriers to understanding ethical expectations

Tone-at-the-top is critical to promoting ethical behavior. We assessed the organization's ability to convey the importance of ethics by reviewing available guidance, training, and communications. We found room to improve all three areas. Gaps created opportunities for employees to act in ways that may not meet the highest ethical standards. We found that:

- guidance did not establish clear expectations;
- training efforts were ineffective; and
- ethics policies were communicated infrequently.

Metro's varied services may present different ethical questions for

employees. We created process maps to determine how employees could answer common ethical questions using guidance Metro provided. The maps can also be used to navigate existing laws and policies.

Process maps are a low-cost, low-risk way for organizations to show that ethics are important, and offer answers to ethical questions. They can be helpful because employees may be hesitant to raise or respond to ethical questions out of fear of not knowing what will happen. Searching for answers can be time consuming. If answers are hard to find, or difficult to interpret, employees may give up. Hard-to-find answers can also be costly to Metro's reputation.

OMA created a similar tool that was intended as a guide for employees. It was accessible from Metro's internal website. This made it easy for employees to reference. The tool was titled "Ethics decision tree." However, it was limited to situations where state limits on gifts may apply. This could give the impression that employees only need to consider state limits on gifts when considering ethical requirements.

Exhibit 2   **Decision trees can be an effective way to help employees understand ethical requirements**
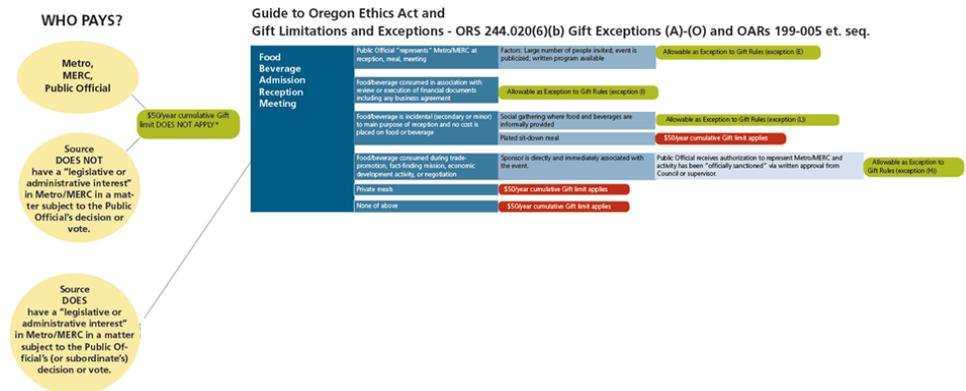
Source: Excerpt of the Office of Metro Attorney's "Ethics decision tree". See Appendix for the complete version.

Guidance was unclear to establish expectations

We found Metro's existing guidance was unclear, and some guidance had not been established. If organizations do not provide clear guidance, employees may act inconsistently with policies and laws, even when they are trying to do the right thing. Inconsistent action could negatively impact Metro's reputation.

Some definitions were not provided. This could make the policies more difficult to implement. For example, Metro's Code of Ethics prohibited political campaigns from being conducted on Metro time or property. However, it did not define "political campaigns." Similarly, Metro's Nepotism and Personal Relationships in the Workplace policy was intended to prevent favoritism due to family and personal relationships, but it did not define "personal relationships."

Some definitions varied across policies and applicable laws. This may cause confusion, and increase the risk of violation. For example, political activities were described differently in Metro's Political Activity by Public Employees policy, Metro code, and state law. "Relative" was defined more narrowly in Metro's Conflict of Interest Disclosure policy than in state law. "Metro official" was also defined differently between Metro code and Metro's Code of Ethics.

Metro's Code of Ethics used outdated terms to identify different parts of Metro. This made it hard to tell to whom the policy applied. The Code of Ethics was applicable to the Executive Officer and Executive Officer's staff. However, Metro no longer had an Executive Officer. It also excluded employees of the Council and Metro Exposition-Recreation Commission (MERC), but the distinction between Council, MERC, and other employees was unclear. Some Metro leaders believed the distinction was irrelevant.

Metro's Conflict of Interest Disclosure policy was also unclear as to which employees were required to complete the disclosure form, to comply with state law and Metro code. The policy indicated that only those employees who participate or may participate in contracting, procurement, or grant-making must complete the form. This could give the impression that relevant laws only applied to some employees.

Inconsistent instructions could lead to different interpretations by employees. For example, Metro's Code of Ethics prohibited political campaigns from being conducted on Metro time or property. This could be interpreted as an absolute prohibition. In contrast, Metro's Political Activity by Public Employees policy could be interpreted to allow certain political activities in some circumstances.

Similarly, Metro's Code of Ethics instructed employees to file written notice of conflicts of interest with the Office of General Counsel, while Metro's Conflict of Interest disclosure made HR responsible for maintaining conflict of interest documentation.

Other weaknesses in available guidance could compromise employees' ability to act consistently with policies and laws when they are trying to do the right thing:

- **A lack of connectivity** made the guidance Metro provided harder to access. Metro's Code of Ethics did not reference relevant law. Metro's Political Activity by Public Employees policy did not reference other policies, and the links it contained to detailed state guidance were broken.
- **A lack of hierarchy** made the guidance harder to apply. Some leaders had ideas about which sources were more important than others, but those were not consistently communicated. This increased the chance that employees would choose among them to satisfy their personal standards.

- **Vague language** used in Metro's Code of Ethics created uncertainty regarding what employees can and cannot do. The policy provided examples of questionable behavior that *should* be avoided where possible. Some employees may consider the example behaviors prohibited, while others may consider them discouraged. Precise language could leave less room for interpretation.

The Oregon Secretary of State provides safe harbor for compliance with state law regulating political activity. Organizations can ask for a review of impartiality before election-related documents are published. We also found that Metro had not established guidance for using safe harbor. Metro used safe harbor in 2016 and 2019, but not in 2018. Metro believed that the 2018 mailer met guidelines that were previously provided regarding wording and content.

Not using safe harbor resulted in additional cost to Metro. The 2018 mailer elicited a complaint that it violated state law. Metro incurred attorney's costs from outside legal counsel to respond. If a violation had occurred, Metro could have been fined $1,000. Such complaints may also have a negative impact on Metro's reputation, which could reduce public trust.

Training efforts were ineffective to reinforce expectations

Training is another way an organization can set expectations. We found that training was ineffective because few employees attended, Metro's ethics policies were largely excluded, and they were not presented in a relatable manner. As a result, employees may be unfamiliar with Metro's ethics policies and unlikely to apply them when taking action.

Two ethics courses were available to Metro employees. One was Oregon Government Ethics Law Training provided by the State of Oregon's Government Ethics Commission. It was offered twice to Metro employees in the last five years. The training was not required and only 1% of Metro employees took it.

Exhibit 3 **One** out of every 100 Metro employees took Oregon Government Ethics Law Training
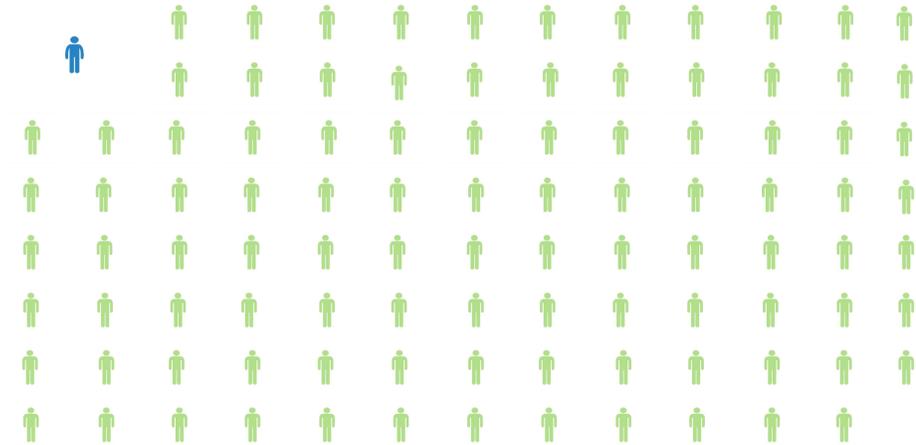
Source: Metro Auditor's Office analysis of attendance records and reported number of employees

Another effort to train Metro employees was reviewing policies. All employees were encouraged to complete the training in 2014 and 2016. It was considered mandatory, but the requirement was not enforced. Only half of Metro employees completed the policy review in 2015. The completion rate has decreased since then. Best practices for effective ethics training recommend all employees review their organization's ethics policy on an annual basis.

Exhibit 4 **Completion of the policy review requirement dropped**
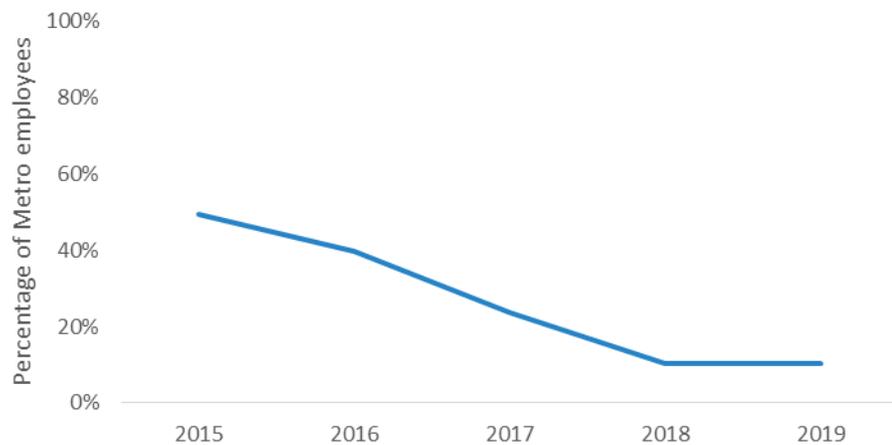
Source: Metro Auditor's Office analysis of attendance records and reported number of employees

Even if employees had taken Oregon Government Ethics Law Training and completed a policy review, it may not have been effective because available training largely excluded Metro's ethics policies. Oregon Government Ethics Law Training did not include any of Metro's ethics policies. Metro's policy review included some of Metro's ethics policies. Two of seven policies we identified that provide guidance on common ethical issues were included in the last review.

Exhibit 5   Ethics trainings did not include several Metro policies

Policy	Oregon Government Ethics Law Training	Policy Review
Nepotism and Personal Relationships in the Workplace	⚪	⚪
Code of Ethics	⚪	⚪
EO 65 (Disposal of Surplus Metro Property)	⚪	⚪
Metro Resources Acceptable Use	⚪	🔵
Information Technology Acceptable Use	⚪	⚪
Conflict of Interest Disclosure	⚪	⚪
Political Activity by Public Employees	⚪	🔵

🔵 = included   ⚪ = not included

*Source: Metro Auditor's Office analysis of ethics-related policies and course descriptions*

Where Metro's ethics policies were included in training efforts, they were not presented in a relatable manner. The policy review consisted of reading the policies. Employees were also encouraged to review the policies online. Best practices for effective ethics training recommend using discussions and examples to present an ethics policy to employees. They also recommend using a variety of media types, such as live seminars and webcasts, to deliver training.

Ethics policies were not communicated frequently to remind employees of expectations

Communications from senior leadership about ethics and their importance to an organization is another way to ensure effective management. They should be communicated frequently to all employees to promote ethical behavior. We found that employee communications infrequently included references to ethics policies. We also found that specific ethics-related communications occurred infrequently. Without frequent communications, employees may be less aware of expectations, and more likely to take action that does not meet them.

Agency-wide communications infrequently included references about the importance of ethics policies. The COO's weekly updates communicate important messages, events, and opportunities to Metro employees. We searched weekly updates using key words and phrases for Metro and state ethics-related policies. We found weekly updates irregularly referred to them over the last five years. One year, zero weekly updates referred to Metro or state ethics-related policies. That meant employees were not updated on expectations on a regular basis. All-staff meetings intend to bring Metro employees together twice a year to learn about organizational issues and initiatives. Over the last five years, none of those meetings covered ethics policies.

Exhibit 6   Weekly updates irregularly referred to ethics-related policies
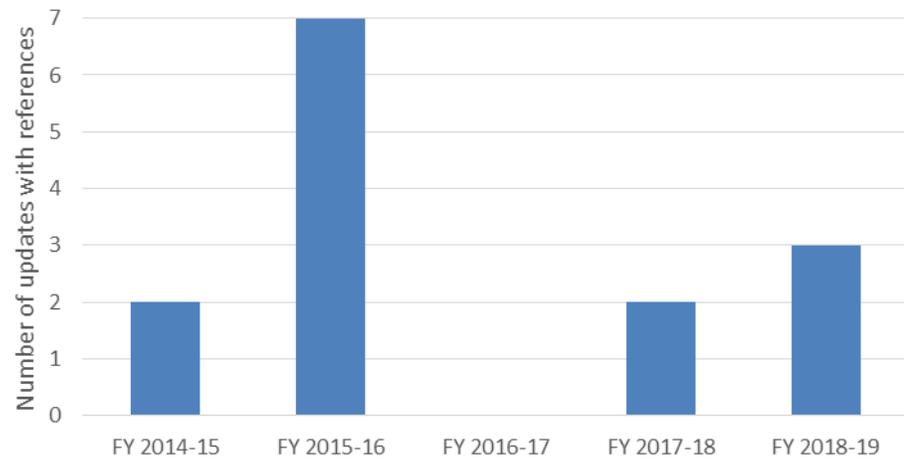
Source: Metro Auditor's Office analysis of weekly messages, July 1, 2014 to June 30, 2019

Employees were also rarely reminded of the requirement to comply with the prohibition on political activities. OMA issued two staff reminders about restrictions on political activity over the last three years. They occurred when Metro referred ballot measures to voters. This may help employees remember not to promote Metro's ballot measures while on the job during working hours. However, it may not keep employees aware of avoiding other restricted political activity.

Without clear guidance, it was more difficult to manage ethical issues consistently

Without clear guidance, it was difficult for Metro to manage issues consistently. Clear guidance provides baseline expectations to prevent unethical conduct. Collecting and analyzing information can help identify common issues. Investigations help determine when expectations have not been maintained. These activities can help Metro determine the extent to which corrective actions may be appropriate and that they are applied consistent with expectations. Metro did not have a way to evaluate ethical trends or risks, and roles and responsibilities for investigations were unclear. Combined with a lack of clear guidance, this meant it was difficult for Metro to respond consistently to potential ethical issues and that Metro did not have a way to judge the effectiveness of its overall management of ethics.

Evaluate ethical risk

Metro did not systematically collect or analyze information about potential ethical issues. Without a reliable means to evaluate ethics, Metro was less able to identify trends or risk areas. This made it hard to know whether Metro needed to do more to address issues, or whether its efforts were sufficient to maintain expectations.

Without an analysis of ethics issues over time, Metro was reliant on individual perceptions about how well expectations were being met. This meant it would be harder to judge the significance of any one potential issue.

Some people may perceive that an issue required more corrective action, while others may believe the issue was less significant and corrective action was not needed.

We found varying views about ethics among people we interviewed. Relying on individual perceptions also meant that employee turnover could generate different views about Metro's management of ethics. Leaders we spoke to also cited few and differing sources of information about ethics.

Two sources of information mentioned were the employee engagement survey that Metro administers, and the hotline. The engagement survey included five questions about ethics since 2008. However, it did not consistently include all of them. The Auditor's Annual Report provided limited information about the number of hotline reports made and the resolution of cases. Neither of these provided enough information for Metro to determine whether expectations were consistently met.

Applying the Metro Values could help guide Metro's approach to managing ethics. For instance, the Metro Values guide described the value of excellence. It emphasized continuous learning, and looking for ways to improve. Organizations should collect and analyze information about potential ethical issues. Such analysis supports learning about the effectiveness of efforts to address ethical issues.

One of the primary barriers was that Metro did not collect information about potential ethical issues. Without the information, it was impossible to analyze trends or risks. The FY 2019-20 budget included funds in HR's budget for a labor relations case management system. Metro could use such a system to collect consistent and accurate information about ethics-related cases. This would make it easier to assess what happened when handling an individual case and the extent to which corrective actions had been applied in similar circumstances.

Regular, ongoing collection of information about ethics cases, would provide a better basis for Metro to analyze trends over time or to identify risk areas. Such analyses could also help Metro assess the significance of issues and decide if certain expectations need to be clarified or emphasized, or if other actions are needed.

More thorough use of other sources of information could also help. For instance, Metro could expand the employee survey to ask additional questions about ethics. Surveys devoted to ethics are an important way to assess ethical culture. Data from the Metro Auditor's Office annual report could also be analyzed. The data includes the number of reports to the hotline, how many were substantiated, and how many resulted in corrective action. The reports also include information about the location of concern.

Integrating different sources of information is needed to get a complete picture of ethical risk. For instance, by combining the survey results with ethics case information, Metro can better understand where to target preventative or corrective measures. However, no department had the role to integrate such information, so determining who will do this work is an important step.

Clarify investigation role

A lack of clarity for investigations was another challenge. Who investigated sometimes depended on the type of the issue. However, it was unclear who would take the lead to investigate some potential ethical issues. Responsibilities for handling the intake, initial assessment, and investigation were also not developed for some issues. For instance, the Auditor's Office gathers initial information about hotline reports and refers them to senior leadership for investigation or conducts an audit. However, the steps that Metro takes after that are not formally documented. This would make it harder for people involved to know how to proceed, and what information needed to be gathered.

A lack of clear roles and responsibilities also had the potential to create confusion, inefficiency or inconsistency. For instance, Metro may not initially gather all of the information it needs to address some potential issues. Or, there could be confusion about which department should investigate since that role was not always clarified in writing. Confusion when conducting investigations increased the risk that employees were not treated consistently.

We found investigation roles were inconsistent in policy and practice, which contributed to the lack of clarity. For instance, the Conduct Expectations policy stated that both HR and OMA investigate violations. However, in practice, having OMA participate in investigations may create challenges for its role advising as legal counsel. Department managers or supervisors may have had the lead role to investigate in instances where employee discipline was a possibility. However, managers' and supervisors' role to investigate was not made clear in policy.

Policies were also unclear or inconsistent about who should investigate violations. The Code of Ethics required departments to develop ethical standards and enforcement mechanisms. This could be interpreted to mean departments should also conduct all investigations related to ethics, but this was not clear. However, policies specified that HR was responsible for investigating harassment and discrimination complaints and violations of the acceptable use policy. Other policies related to ethics did not specify investigation roles or responsibilities.

Exhibit 7   Investigation roles were inconsistent in policy and practice

Policy related to ethics	Investigation role assigned in policy	Investigations in practice (as reported)
Discrimination and Harassment	Human Resources	Human Resources
Conduct Expectations	Human Resources OR Office of the Metro Attorney	Can vary:
Metro Resources: Acceptable Use	Human Resources	Human Resources Office of the Metro Attorney Department Managers or Supervisors
Code of Ethics	Investigation role or responsibilities not specifically described	
Disposal of Surplus Metro Property		
Political Activity by Public Employees		
Nepotism and Personal Relationships in the workplace		
Conflict of Interest Disclosure		
Information Technology: Acceptable Use		

Source: Metro Auditor's Office analysis of Metro policies

The Metro Values guide emphasizes efficiency, getting the facts right, and implementing policies and procedures consistently. Organizations should have clear roles and responsibilities for the investigation of ethics issues. These make it more likely issues will be addressed consistently.

Recommendations

To strengthen Metro's foundation for ethics, senior management should:

1. Integrate the Code of Ethics with related policies, laws, and organizational values to make relevant guidance easier to find.

To reduce barriers to understanding ethical expectations, senior management should:

2. Update Metro's ethics-related policies to ensure they cover all employees and provide consistent definitions and instructions.
3. Establish guidance for using safe harbor.
4. Provide ethics training that:
   a. includes Metro's ethics-related policies and how to apply them,
   b. uses a variety of media types to accommodate different learning styles, and
   c. is required annually of all employees.
5. Remind employees of ethical expectations periodically through agency-wide communications and events.

To consistently address potential ethical issues, the Chief Operating Officer should:

6. Assign responsibility for analyzing ethics-related trends and risks at Metro.
7. Use the analysis to determine if additional preventative or corrective measures are needed.
8. Clarify department roles and responsibilities for investigating potential ethical issues.

Scope and methodology

Our audit objective was to determine which controls to prevent, detect and correct unethical conduct Metro should strengthen to promote an ethical culture. We did not evaluate nor make conclusions about whether or not Metro has an ethical culture. We focused our audit on ethics-related policies and procedures, and Metro's training and communication efforts from FY 2014-15 to 2018-19. We issued a separate letter to management regarding out-of-date lobbying registrations in August 2019.

To familiarize ourselves with ethics and approaches to managing ethics, we attended in-person and online ethics training. We reviewed best practices for managing ethics from the Ethics and Compliance Initiative, the Association of Certified Fraud Examiners, the Institute of Internal Auditors, the Oregon Government Ethics Commission, Society for Human Resource Management (SHRM), and NAVEX Global. We also reviewed other audit reports about ethics.

To familiarize ourselves with Metro's approach to managing ethics, we reviewed state law, Metro code, Metro policy and guidance related to ethics. We also reviewed information about Metro's controls for ethics, agency goals, and Metro Values.

We selected five departments and venues for review based on employee survey scores, whether the department or venue was more public-facing or internally-focused and financial factors including the staffing level. The departments or venues we selected were the Oregon Convention Center, the Oregon Zoo, Parks and Nature, Property and Environmental Services, and Portland'5.

To answer our objective, we:

- Summarized relevant guidance and criteria from Metro and best practices.
- Interviewed managers, supervisors and some department directors.
- Developed 'process maps' to show how Metro employees could answer questions about ethics.
- Sought feedback on the accuracy of the process maps from management and the Metro Attorney.
- Evaluated the alignment of Metro policies and relevant ethics laws.
- Reviewed other relevant documentation including training records, all-staff communications, and department-specific policies and procedures.

This audit was included in the FY 2019-20 audit schedule. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix

WHO PAYS?
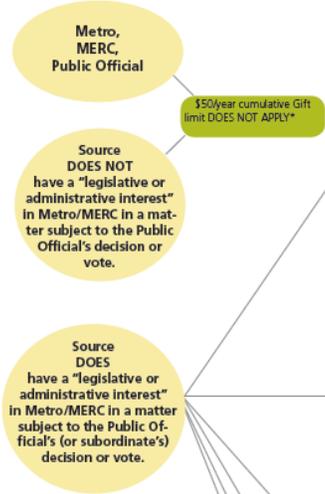
Guide to Oregon Ethics Act and
Gift Limitations and Exceptions - ORS 244.020(6)(b) Gift Exceptions (A)-(O) and OARs 199-005 et. seq.

Metro, MERC, Public Official

$50/year cumulative Gift limit DOES NOT APPLY*

Source DOES NOT have a "legislative or administrative interest" in Metro/MERC in a matter subject to the Public Official's decision or vote.

Source DOES have a "legislative or administrative interest" in Metro/MERC in a matter subject to the Public Official's (or subordinate's) decision or vote.

*But "misuse of official position" prohibition may apply - ORS 244.040.

Food Beverage Admission Reception Meeting

Scenario	Condition	Result	Exception
Public Official "represents" Metro/MERC at reception, meal, meeting	Factors: Large number of people invited; event is publicized; written program available	Allowable as Exception to Gift Rules (exception (E))	
Food/beverage consumed in association with review or execution of financial documents including any business agreement		Allowable as Exception to Gift Rules (exception (I))	
Food/beverage is incidental (secondary or minor) to main purpose of reception and no cost is placed on food or beverage	Social gathering where food and beverages are informally provided	Allowable as Exception to Gift Rules (exception (L))	
	Plated sit-down meal	$50/year cumulative Gift limit applies	
Food/beverage consumed during trade-promotion, fact-finding mission, economic development activity or negotiation	Sponsor is directly and immediately associated with the event.	Public Official receives authorization to represent Metro/MERC and activity has been "officially sanctioned" via written approval from Council or supervisor.	Allowable as Exception to Gift Rules (exception (H))
Private meals		$50/year cumulative Gift limit applies	
None of above		$50/year cumulative Gift limit applies	

Travel Lodging Food Reasonable Expenses

Scenario	Condition	Result	Exception
Expenses paid by fed/state/local govt; membership organization to which Metro/MERC pay dues; or by 501©(3)	Public Official will deliver speech, make presentation, participate on panel	Allowable as Exception to Gift Rules (exception (F))	
	Public Official will "represent" Metro/MERC but will not deliver speech, make presentation, participate on panel	Must receive authorization to represent Metro/MERC via written approval from Council or supervisor.	Allowable as Exception to Gift Rules (exception (F))
		$50/year cumulative Gift limit applies	
	None of Above	$50/year cumulative Gift limit applies	
Trip is trade-promotion, fact-finding mission, economic development activity, or negotiation	Sponsor is directly and immediately associated with the event.	Public Official receives authorization to represent Metro/MERC and activity has been "officially sanctioned" and trip expenses approved in advance via written approval from Council or supervisor.	Allowable as Exception to Gift Rules (exception (H))
Travel expenses paid by one public official to another for travel within Oregon	To or from an event that bears a relationship to Public Official's office and Public Official participates in an official capacity	Allowable as Exception to Gift Rules (exception (K))	
None of Above		$50/year cumulative Gift limit applies	

Entertainment Spectator or Participant

Scenario	Condition	Result	Exception
Entertainment is incidental (secondary or minor) to main purpose of another event		Allowable as Exception to Gift Rules (exception (M))	
Public Official is viewing and/or participating in the entertainment for a ceremonial purpose with an official role in the entertainment event	Public Official is acting in official capacity and is representing Metro/MERC	Must receive authorization to represent Metro/MERC via written approval from Council or supervisor.	Allowable as Exception to Gift Rules (exception (N))
		$50/year cumulative Gift limit applies	
None of Above		$50/year cumulative Gift limit applies	

Anything of economic value

Scenario	Condition	Result
As part of the usual/customary practice of Public Official's private business, employment, volunteer work.	Gift bears no relationship to Public Official's official position.	Allowable as Exception to Gift Rules (exception (O))

Unsolicited tokens or awards of appreciation

Scenario	Condition	Result
plaque, trophy desk item, wall memento, or similar	Resale value reasonably expected to be less than $25 (assumed unless made from valuable raw material)	Allowable as Exception to Gift Rules (exception (C))
	$50/year cumulative Gift limit applies	
None of Above	$50/year cumulative Gift limit applies	

None of Above

$50/year cumulative Gift limit applies

Created by Alison R. Kean
Metro Attorney

Metro

October 2013

Note: this chart is intended as a guide only, and is not a substitute for legal advice regarding specific situations. Please call Ethics Commission at 503-378-5105 regarding application of the Ethics Act and regulations to specific situations.

Memo

Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: Monday, Dec. 9, 2019
To: Brian Evans, Metro Auditor
From: Andrew Scott, Interim Chief Operating Officer
Subject: Code of Ethics Audit Response

Thank you for your recent audit of Metro's Code of Ethics. Below you will find a written response to each of the eight recommendations including our proposed plans and implementation timelines. Management agrees with all of the recommendations, with one modification to recommendation four.

Ethics are the cornerstone of any organization, but particularly important to government because public service is a special trust. In my experience, Metro employees act with integrity and honesty; they produce results for our community; they treat people fairly; they embrace diversity and inclusion; and they act reliably and consistently in all circumstances. This the core of an ethical organization, and I am proud of the focus on ethics that I see every day.

At the same time, it is valuable to occasionally assess our ethical culture and ask whether there are areas for improvement, and this audit outlines a number of steps we can take to strengthen this culture. I appreciate the Auditor and his staff's work on this issue and look forward to moving forward on these recommendations.

Recommendation 1: Integrate the Code of Ethics with related policies, laws, and organizational values to make relevant guidance easier to find.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** OMA and HR will collaborate on updating Metro's Code of Ethics to align with related policies, laws and organizational values to improve integration and accessibility to these documents.
- **Timeline:** July 2020

Recommendation 2: Update Metro's ethics-related policies to ensure they cover all employees and provide consistent definitions and instructions.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** Metro's Code of Ethics and related policies will be updated. Over time, definitions will be removed from the individual policies and will be available in a single definitions glossary.
- **Timeline:** July 2020

Recommendation 3: Establish guidance for using safe harbor.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** Metro will seek safe harbor for elections materials.
- **Timeline:** January 2020

Recommendation 4: Provide ethics training that includes Metro's ethics-related policies and how to apply them, uses a variety of media types to accommodate different learning styles, and is required annually of all employees.

- **Response:** Management agrees with parts of this recommendation.
- **Proposed plan:** We agree that training on Metro's ethics-related policies should be required and that more than one type of learning platform should be made available. However, we do not necessarily agree that a formal ethics training should be required annually. Because several additional trainings will also soon be required, an ethics training on a biennial or some other regular frequency may be more reasonable. We do plan to ask directors and managers to directly and routinely discuss ethics as an agenda item at a regular staff meetings, no less than once per year.
- **Timeline:** September 2020

Recommendation 5: Remind employees of ethical expectations periodically through agency-wide communications.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** Ethics reminders will continue to be included in the Monday Message.
- **Timeline:** Ongoing

Recommendation 6: Assign responsibility for analyzing ethics-related trends and risks at Metro.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** HR will begin using a tool called Pro-Law where complaints/investigations and their outcomes will be tracked. HR and OMA will analyze ethics-related trends and risks by compiling and reviewing complaints on an annual basis.
- **Timeline:** In January of each year, beginning in January 2021

Recommendation 7: Use the analysis to determine if additional preventative or corrective measures are needed.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** HR and OMA will review complaints on an annual basis starting in January 2021. They will look for potential trends and identify additional measures that could be taken to improve the workplace. Training recommendations will be made to the COO.
- **Timeline:** January 2021

Recommendation 8: Clarify department roles and responsibilities for investigating potential ethical issues.

- **Response:** Management agrees with the recommendation.
- **Proposed plan:** Each policy that is revised will have a corresponding procedure document that will identify roles and responsibilities for investigating potential ethical issues.
- **Timeline:** July 2020