



Berkeley Homeless Services Panel of Experts

REGULAR MEETING AGENDA

January 10, 2024 – 7:00 PM

North Berkeley Senior Center, Juniper Room
1901 Hearst Ave., Berkeley, CA 94709

Commission Chair: Jim Hynes (jimhynes@pacbell.net; 510-225-8128)

Commission Secretary: Josh Jacobs (jjacobs@berkeleyca.gov; 510-225-8035)

Mayor Arreguin:
Carole Marasovic

Rashi Kesarwani:
Megan Wachspress

Terry Taplin:
Denah Bookstein

Ben Bartlett:
Paul Kealoha-Blake

Kate Harrison:
Mary Ann Meany

Sophie Hahn:
Vacant

Susan Wengraf:
Alice Feller

Rigel Robinson:
Donnell Jones

Mark Humbert:
Jim Hynes

All items are for discussion and possible action.

1. Roll Call.
2. Public comment for items not on the agenda.
3. Reading of the land acknowledgment.

Updates/Action Items:

4. Approval of Minutes from October 4, 2023. [Attachment 1].
5. Approval of the agenda.
6. Discussion of the FY 2025 – 2028 Community Agency Funding Process.
7. Discussion of the 2024 Homeless Services Panel of Experts meeting schedule.
8. Adjourn.

Attachments:

1. Minutes from October 4, 2023.
2. FY 2025 - 2028 Community Agency Funding Process.
3. Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations.
4. Current 2024 Homeless Services Panel of Experts Meeting Schedule.

Correspondence and Notice of Decision Requests:

Deadlines for Receipt:

A Vibrant and Healthy Berkeley for All

- A) Supplemental Materials must be received by 5 PM the day before the meeting.
- B) Supplemental Communications must be received no later than noon the day of the meeting.

Procedures for Distribution:

- A) Staff will compile all Supplemental Materials and Supplemental Communications received by the deadlines above into a Supplemental Packet, and will print 15 copies of this packet for the Commission meeting.
- B) For any Supplemental Material or Communication from a Commissioner received after these deadlines, it is the Commissioner's responsibility to ensure that 15 printed copies are available at the meeting. Commissioners will not be reimbursed for any printing or materials expenses.
- C) Staff will neither print nor distribute Supplemental Communications or Materials for subcommittee meetings.

Procedures for Consideration:

- A) The Commission must make a successful motion to accept and receive all Supplemental Materials and Communications into the record. This includes the Supplemental Packet compiled by staff.
- B) Each additional Supplemental Material or Communication received by staff before the meeting that is not included in the Supplemental packet (i.e., those items received after the respective deadlines above) must be individually voted upon to be considered by the full Commission.
- C) Supplemental Materials subject to a Commission vote that are not accepted by motion of the Commission, or for which there are not at least 15 paper copies (9 for each Commission seat, one for staff records, and 5 for the public) available by the scheduled start of the meeting, may not be considered by the Commission.

**Supplemental Materials are defined as any item authored by one or more Commissioners, pertaining to an agenda item but available after the agenda and packet for the meeting has been distributed, on which the Commission is asked to take vote at the meeting. This includes any letter to Council, proposed Council report, or other correspondence on behalf of the Commission for which a full vote of the Commission is required.*

***Supplemental Communications are defined as written emails or letters from members of the public or from one or more Commissioners, the intended audience of which is the full Commission. Supplemental Communications cannot be acted upon by the Commission, and they may or may not pertain to agenda items.*

Any writings or documents provided to a majority of the Commission regarding any item on this agenda will be made available for public inspection at Health, Housing & Community Services Department located at 2180 Milvia Street, 2nd Floor.

Public Comment Policy:

Members of the public may speak on any items on the Agenda and items not on the Agenda during the initial Public Comment period. Members of the public may not speak more than once on any given item. The Chair may limit public comments to 3 minutes or less.

COMMUNITY ACCESS INFORMATION

ADA Disclaimer "This meeting is being held in a wheelchair accessible location. To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the ADA Program Coordinator at 510-981-6418 (V) or 510-981-6347 (TDD) at least three business days before the meeting date. Please refrain from wearing scented products to this meeting."

Communications to Berkeley boards, commissions or committees are public record and will become part of the City's electronic records, which are accessible through the City's website. Please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any

communication to a City board, commission or committee, will become part of the public record. If you do not want your e-mail address or any other contact information to be made public, you may deliver communications via U.S. Postal Service or in person to the secretary of the relevant board, commission or committee. If you do not want your contact information included in the public record, please do not include that information in your communication. Please contact the secretary to the relevant board, commission or committee for further information. The Health, Housing & Community Services Department does not take a position as to the content.

Cancelled



Berkeley Homeless
Services Panel of Experts

MEETING MINUTES

October 4, 2023

1. **Roll Call:** 7:02 PM

Present: Meany, Kealoha-Blake, Marasovic, Wachspres, Jones (absent until 7:04 PM), Bookstein (absent until 7:30 PM), and Hynes.

Absent: Feller.

Staff: Jacobs, Radu, Vance-Dozier, McCormick.

Council: None.

Public: 33.

2. Comments from the Public: 18.

Update/Action Items

3. Approval of Minutes from July 13, 2023.

Action: M/S/C Marasovic/Kealoha-Blake move to approve the July 13 minutes as written.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspres, Jones, and Marasovic.

Noes: None. *Abstain:* None. *Absent:* Bookstein, Feller.

4. Agenda Approval.

Action: M/S/C move to approve the agenda as amended to move the land acknowledgement to a non-discussion item and to move items 8 and 9 before item 6.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspres, Jones, and Marasovic.

Noes: None. *Abstain:* None. *Absent:* Bookstein, Feller.

5. Discussion of the Land acknowledgement.

Discussion; no action taken.

6. Update on reports to council including serving inclement weather needs, RV dwellers, and other vehicle dwellers, authorization for an additional homeless services panel of experts meeting in October 2023, and incorporating

A Vibrant and Healthy Berkeley for All

accommodations for literacy issues and cognitive impairments into Request for Proposals (RFP) for providers in the community agency allocation funding process. Discussion and possible action.

Discussion; no action taken.

7. Update on Encampment Based Mobile Wellness Team, Health Housing and Community Services new health assessment report, and additional funds to Berkeley Food Network. Discussion and possible action.

Discussion; no action taken.

8. Development of Good Neighbor Guidelines and Encampment Policy. Discussion and possible action.

Action: M/S/C Marasovic/Kealoha-Blake move to extend the meeting until 9:30 PM unless longer time is not needed.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspress, Jones, and Marasovic.

Noes: None. Abstain: None. Absent: Bookstein, Feller.

Action: M/S/C Hynes/Marasovic move to extend the meeting by 10 minutes.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspress, Jones, and Marasovic.

Noes: None. Abstain: None. Absent: Bookstein, Feller.

Action: M/S/C Wachspress/Jones move to extend the meeting by 5 minutes.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspress, Jones, and Marasovic.

Noes: None. Abstain: None. Absent: Bookstein, Feller.

Action: M/S/C Bookstein/Hynes HSPE further moves to appoint a subcommittee to work on a draft policy to refer to council that will be posted and open to the public to allow us to get input in a proper forum in order to get a recommendation to council by the January 3 meeting and that we factor in everything we heard tonight. The subcommittee will consist of commissioners Wachspress, Marasovic, Jones, Kealoha-Blake.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspress, Jones, and Marasovic.

Noes: None. Abstain: None. Absent: Feller.

Homeless Services Panel of Experts
October 4, 2023

9. Discussion of the 2024 Homeless Services Panel of Experts meeting schedule.
Discussion and possible action.

Action: M/S/C Hynes/Bookstein move to approve the HSPE schedule but adjust the January, July, and October meetings to meet the second Wednesday of the month instead of the first Wednesday to accommodate holidays.

Vote: Ayes: Meany, Hynes, Kealoha-Blake, Bookstein, Wachspress, Jones, and Marasovic.

Noes: None. Abstain: None. Absent: Feller.

January July October switch to second Wednesday of the month to accommodate

10. Adjourn.

Meeting adjourned at 9:45 PM.

Minutes Approved on _____

Josh Jacobs, Commission Secretary _____

Cancelled



Health, Housing, and
Community Services Department
Housing & Community Services Division

MEMORANDUM

To: Homeless Services Panel of Experts
From: Margot Ernst, Manager
Date: January 10, 2024
Subject: **FY 2025 - 2028 Community Agency Funding Process**

This memo outlines the upcoming FY 2025-2028 Community Agency Funding cycle, including the application, review and commissioner recommendation steps of this process.

On behalf of the Health, Housing, and Community Services Department, I want to thank all Commissioners for stepping forward to give your time and thoughtful consideration to this task. Together, the four participating commissions/review panel will make recommendations to City Council about how to allocate over \$40 million in funding over the next four years. It is an important role and serves to benefit many members of the Berkeley community.

This funding process is a long-standing mechanism for investing local, state and federal funds in community agencies in order to provide core services and supports to the most vulnerable members of the community. These investments advance the City's work to achieve greater housing stability, improved health and education opportunities, and a more equitable Berkeley. The agencies that are awarded funding fill gaps and/or complement existing services to address some of the socio-economic challenges facing so many Berkeley residents.

The application review process is for a four-year funding cycle. The funding amounts below are estimated annual amounts, with each year of funding contingent upon the availability of funds, particularly from the federal government.

Background and Timeline

On November 6, 2023, the City of Berkeley will issue a Request for Proposals (RFP) soliciting applications from non-profit community agencies.

A Vibrant and Healthy Berkeley for All

Interested applicants will be invited to participate in a webinar on November 15, 2023 from 1:00 – 3:00 p.m., where City staff will provide more detailed information about the RFP process, answer questions, and provide clarifications.

Applications will be due at 5:00 p.m. on December 22, 2023. Table 1 illustrates the entire timeline.

Table 1: Tentative Schedule for Allocation Process

TENTATIVE SCHEDULE FOR ALLOCATION PROCESS			
11/06/23	Request for Proposals issued	4/23/24	City Council holds public hearing on Annual Action Plan and proposed funding allocations to agencies CDBG/ESG Annual Action Plan
11/15/23	Workshop for all agencies submitting proposals 1-3 p.m. Zoom Meeting	5/7/24	City Council Presentation of Proposed FY 2025 & FY 2026 Budget
12/22/23	Proposals Due - 5:00 p.m.	5/14/24	Deadline for City Council to adopt funding allocations for CDBG and ESG only and approve submittal of Annual Action Plan to HUD
January Date TBD	Public Hearing on community needs with participation by representatives of Review Commission Location - TBD	5/14/24	City Council Public Hearing #1 Presentation of City Manager's Proposed FY 2025 & FY 2026 Budget
January and February 2023	Review Commission discuss applications.	5/21/24	City Council Public Hearings #2 FY 2025 & FY 2026 Budget Proposals
3/15/24	Deadline for All Review Commissions to finalize recommendations	6/4/24	Council Discussion on Budget Recommendation
3/22/24	Draft Annual Action Plan available for 30-day public review period	6/25/24	City Council Budget Adoption, including General Fund allocation amounts
<p>MEETING DATES/TIMES – Commissions may have to hold additional meetings or revise the above schedule. Check the City's website https://berkeleyca.gov/your-government for more details on Commission schedules and Council meeting dates/times. All dates are subject to change.</p>			

FY 2025 Available Funding

Funding sources and annual funding availability are listed in Table 2.

Table 2: Community Agency RFP Annual Available Funds by Funding Source

Funding Source	Proposed FY25
Childcare Mitigation Fee (CCMIT)	\$13,275
General Fund *	\$5,433,464
Measure U1	\$250,000
Measure E	\$1,653,260
Community Development Block Grant (CDBG)**	\$2,166,000
Emergency Solutions Grant (ESG)	\$208,342
Community Services Block Grant (CSBG)	\$160,000
CA Homeless Housing, Assistance and Prevention Grant (HHAP)***	\$498,457
HOME Investment Partnerships American Rescue Plan Program (HOME-ARPP)**	\$547,139
TOTAL	\$10,929,937

* The GF includes the one-time use of Measure P for homeless services but excludes the Measure U1 housing retention funding

**Program income for CDBG is not included in the baseline estimate. However, recommendations for program income allocations will be considered by HAC and adopted as part of the Annual Action Plan.

*** The HHAP and HOME-ARPP are one-time allocation, not an annual allocation.

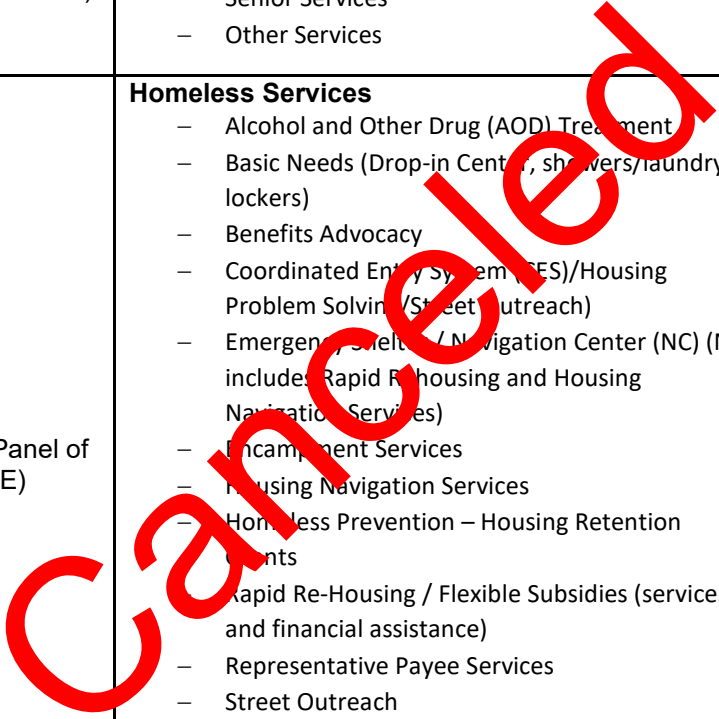
FY 2025 Available Funds by Funding Area and Commission

Each commission makes recommendations on a smaller portion of the available funding based on the funding area represented by their commission. Table 3 below shows the funding areas and amounts associated with each commission.

Funding for subsequent years under this RFP is projected to be the same as in FY 2025. Should the amount of funding available in any subsequent year(s) be significantly different from FY 2025, the Homeless Services Panel of Experts will be tasked with recommending revised funding allocations for that year.

Table 3: Review Commission / Panel, Types of Services and Funds

Commission / Review Panel	Types of Services Considered by Commission/Community Experts	FY25 Estimate
Housing Advisory Commission (HAC)	<ul style="list-style-type: none"> - Fair Housing Services - Single Family Housing Rehabilitation - Workforce Development - Community Facility Improvement - COB Program Delivery 	<p>\$2,135,719</p> <p>CDBG, GF</p>
Human Welfare and Community Action (HWCAC)	<ul style="list-style-type: none"> - Disability Services (Measure E) - Health Care Services - Legal/Mediation Services - Senior Services - Other Services 	<p>\$2,276,526</p> <p>GF, CSBG, Measure E</p>
Homeless Services Panel of Experts (HSPOE)	<p>Homeless Services</p> <ul style="list-style-type: none"> - Alcohol and Other Drug (AOD) Treatment - Basic Needs (Drop-in Center, showers/laundry, lockers) - Benefits Advocacy - Coordinated Entry System (CES)/Housing Problem Solving (Street Outreach) - Emergency Shelter / Navigation Center (NC) (NC includes Rapid Rehousing and Housing Navigation Services) - Incarceration Services - Housing Navigation Services - Homeless Prevention – Housing Retention Grants - Rapid Re-Housing / Flexible Subsidies (services and financial assistance) - Representative Payee Services - Street Outreach - Tenancy Sustaining Services - Transitional Housing - Workforce Development 	<p>\$4,833,223</p> <p>GF, CDBG, ESG, HOME-ARP, Measure U1, HHAP</p>
Youth Equity Partnership (YEP) Youth Review Panel	<p>Youth Equity Partnership</p> <ul style="list-style-type: none"> - Childcare and Kindergarten Ready - College and Career Ready - Successful in School - Healthy, Connected, and Resilient - Supported at School and at Home 	<p>\$1,684,469</p> <p>GF, CCMIT</p>



The Homeless Services Panel of Experts will review the applications. Each Commission/Review Panel will decide the best means for conducting the reviews (e.g., identify a subcommittee, divide applications across commissioners, etc.). In January, the commissions/review panels will host a joint public hearing to hear from the community on community needs and priorities.

Also in January, each identified commission member will receive instructions and a unique log-in to City Data Services (CDS) to view and score the applications based on the evaluation criteria.

The Homeless Services Panel of Experts will then review and develop funding recommendations based on information provided in agency proposals, performance evaluations, and any additional clarifying information submitted by agencies. If the review was tasked to a subcommittee, the full commission will still be responsible for preparing final recommendations to City Council.

The City Manager simultaneously prepares recommendations. If the City Manager's final recommendations are not aligned with the Homeless Services Panel of Experts, HHCS staff will provide information about the variance at the designated Homeless Services Panel of Experts meeting. It is possible that a special meeting would need to be scheduled.

All recommendations are finalized in March for the April 23, 2024 public hearing at City Council.

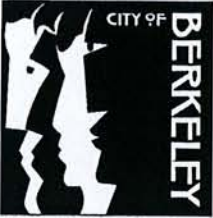
Final Steps

The final step in the review and recommendation process is for the Homeless Services Panel of Experts and staff to submit final recommendations for Council consideration during the Annual Action Plan Public Hearing at the April 23, 2024 Council meeting (date subject to change).

Again, thank you for your participation in this task which serves a considerable support to the City of Berkeley and its residents.

Attached:

1. *Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations*



Office of the City Attorney

June 4, 2015

To: Boards and Commissions

From: Zach Cowan, City Attorney 

Re: Avoiding Conflicts of Interest Under Section 1090 in the Context of Funding Recommendations

This office has been asked for advice as to the process for a board or commission should use to ensure compliance with Government Code section 1090 in making recommendations about funding community agencies or other potential recipients of City funds, including state and federal funds.

Government Code section 1090 states:

The Government Code prohibits public officers acting in their official capacities, from making contracts in which they are financially interested. Government Code Section 1090 provides in relevant part:

Members of the legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

If the officer is a member of a legislative body that executes or finally approves the contract, this prohibition extends to the entire body on which he or she serves. *Thomson v. Call* (1985) 38 Cal.3d 633, 649, cert denied (1986) 474 US 1057. Section 1090 "also applies to members of advisory bodies, if they participate in the making of a contract through their advisory function." (Conflicts of Interest (Cal. Dept. of Justice, pamph. 2010), p. 57, See *City Council (San Diego) v. McKinley* (1978) 80 Cal.App.3d 204; 82 Ops.Cal.Atty.Gen. 126 (1999).) The word "made" is used in "the broad sense to encompass such embodiments in the making of a contract as preliminary discussions, negotiations, compromises, reasoning, planning, drawing of plans and specifications and solicitation for bids." *Millbrae Ass'n for Residential Survival v. City of Millbrae* (1968) 262 Cal.App.2d 222, 237.

"[S]ection 1090 is to be 'strictly enforced'." 88 Cal. Op. Att'y Gen. 106 (2005). "The consequences of a violation of section 1090 can be quite harsh: Where a prohibited interest is found, the affected contract is void from its inception and the official who engaged in its making is subject to a host of civil and (if the violation was willful) criminal penalties, including imprisonment and disqualification from holding public office in perpetuity..."

Eden Twp. Healthcare Dist. v. Sutter Health (2011) 202 Cal. App. 4th 208, 219-20; See 89 Cal. Op. Att'y Gen. 121 (2006).

The California Attorney General's Office has opined that an officer or employee of a nonprofit corporation that is a contracting party qualifies as a "financial interest". *Conflicts of Interest* (Cal. Dept. of Justice, pamph. 2010), p. 62. However, state law has excepted two categories of "financial interests" from the reach of Section 1090, generally referred to as "remote interests" and "noninterests." Section 1091, subdivision (b), defines a series of remote interests, including "(1) That of an officer or employee of a nonprofit entity exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code (26 U.S.C. Sec. 501(c)(3)),..." Both of the organizations at issue, BFHP and YEAH, are 501(c)(3) organizations, and the commissioners, respectively, fall into employee and board member roles with the two nonprofits.

Government Code section 1091(a) provides a specific process for handling situations falling within the remote interest:

An officer shall not be deemed to be interested in a contract entered into by a body or board of which the officer is a member within the meaning of this article if the officer has only a remote interest in the contract **and** if the fact of that interest is disclosed to the body or board of which the officer is a member and noted in its official records, and thereafter the body or board authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

Government Code section 1091(c) further conditions the remote interest exception as follows: "This section is not applicable to any officer interested in a contract who influences or attempts to influence another member of the body or board of which he or she is a member to enter into the contract." (Cal. Gov't Code § 1091.) See *Eden Twp. Healthcare Dist.*, *supra*, 202 Cal. App. 4th at p. 219-20 [Where an interest is remote, a board member may comply with section 1090 by (1) making full disclosure of the interest, noted in the entity's official records, and (2) abstaining from voting on the affected contract or influencing other board members in any way.]

The California Attorney General's Office has interpreted Section 1091 as requiring a full recusal process.

It is to be noted that section 1091 of the Government Code speaks in terms of a board authorizing, approving or ratifying a contract 'in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer or member with the remote interest.

This office has characterized the requirements of section 1091 as meaning that the member **must not only disclose his interest in the proposed contract and refrain from attempting to influence other members, but that the member should completely abstain from any participation in the matter.** (See 65 Ops.Cal.Atty.Gen. 305, 307 (1982).)

Such complete abstention would also appear to be required to insure compliance with the PRA if the remote interest also falls within the purview of the act as a financial interest. (See Gov. Code, § 87100; FPPC Reg. § 18702.)

67 Cal. Op. Atty Gen. 369, at p. 377, fn. 8 (1984); See 78 Cal. Op. Atty Gen. 230 (1995) Under this process, simply voting to abstain is not sufficient. The officer must identify the scope of the contract "matter", and recuse him or herself from **all** discussions and actions that relate to the contract matter.

Section 36 of the City's Charter contains a prohibition that is similar to Section 1090:

No officer... shall be directly or indirectly interested in any contract, work or business of the City... No officer shall be in the employ of any public service corporation in the City or of any person having any contract with the City or of any grantee of a franchise granted by the City.

The City implemented section 36 through BMC Chapter 3.64. Section 3.64.020.C further defines the recusal process for commissioners with a remote interest. "A ... member of a board or commission shall not be deemed to be 'interested' in a contract, work or business of the City if his or her relationship with the contracting party or entity constitutes a 'remote interest' within the meaning of Government Code Sections 1091 and 1091.5, the fact of such interest is disclosed to the department, board or commission of which he or she is a member and noted in its official records, **and the employee or member with such interest disqualifies himself or herself from participating in any manner, either directly or indirectly, in making or influencing any decision related to the contract, work or business of the City in which he or she has a remote interest.**"

What steps are required to comply with Section 1090 in any given case will depend on the potential conflicts that may exist. Some relevant factors are:

- Whether a commissioner is an employee of an agency that has applied for or might be a recipient of funding;

- Whether a commissioner is a non-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether a commissioner is a bob-compensated board member of an agency that has applied for or might be a recipient of funding;
- Whether in any instance the agency with which a commissioner is affiliated is a 501(c)(3) nonprofit agency;
- Whether the agency with which the commissioner is affiliated is competing with other agencies for the same pot of funds or whether the funds have been divided up into sub-groups for different purposes before the commissioner becomes involved;
- Other, less foreseeable issues.

In order to avoid conflicts under Section 1090, the following rules should be observed. In addition, we strongly encourage commission staff to consult with this office before beginning any funding allocation process to evaluate the best way to avoid conflicts of interest under Section 1090.

1. If an agency with which a commissioner is affiliated is identified as a potential recipient of funds, either directly or as a sub-recipient, the commissioner must disclose his or her affiliation for the record (it will be noted in the minutes) and recuse his or herself before any discussion. Recusal involves announcing the potential conflict, and then leaving the room until the discussion of and any action on the commission recommendation is concluded. A commissioner is affiliated with an agency if the commissioner is a board member, officer, or employee of the agency, or a family member is an employee of the agency.
2. If an agency with which a commissioner is affiliated provides services within a funding category recommended by the commission, and the recommendation implicitly suggests an allocation of funds for that agency or could reasonably be read to do so, the commissioner must recuse his or herself, as described in paragraph 1.
3. In discussing commission recommendations that do not fall within paragraphs 1 or 2 above, if an agency with which a commissioner is affiliated provides services that could be funded by a recommendation, the commissioner should be careful not to propose or mention his or her affiliated agency. If the commissioner does mention the agency, it will be disqualified from receiving any funds.

Homeless Services Panel of Experts

2024 Meeting Schedule

First Wednesdays of the Month, 7:00-9:00 PM:

- January 1/10/24*
- February 2/7/24
- March 3/6/24
- April 4/3/24
- May 5/1/24
- June 6/5/24
- July 7/10/24*
- September 9/4/24
- October 10/9/24*
- November 11/6/24

*These meetings are held on the following Wednesday to accommodate holidays