

# NOTICE OF OPEN AND CLOSED MEETING

## Wisconsin Elections Commission

Special Meeting

Friday, July 26, 2024

8:00 A.M.

*This meeting is being held via video teleconference only. Members of the public and media may attend online or by telephone. Please visit, <https://elections.wi.gov/event/special-meeting-7262024>, to view materials for the meeting. All public participants' phones/microphones will be muted during the meeting. Members of the public wishing to communicate to the Commissioners should email [electioncomments@wi.gov](mailto:electioncomments@wi.gov) with "Message to Commissioners" in the subject line.*

Zoom information:

When: July 26, 2024, 08:00 AM Central Time (US and Canada)

Topic: Meeting of the Wisconsin Elections Commission

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# NOTICE OF OPEN AND CLOSED MEETING

## OPEN AND CLOSED SESSION AGENDA

- A. Call to Order**
- B. Administrator’s Report of Appropriate Meeting Notice**
- C. Discussion of Recent Attorney General Opinion /  
Discussion and Possible Adoption of a Commission  
Communication Relating to Wisconsin Constitution art.  
III, § 7 (1) & (2)** **1**
- D. 2025–2027 Biennial Budget Update/Request** **8**
- E. Review and Potential Action Relating to Administrative  
Complaint Forms** **23**
- F. External Use of Agency Materials, Logos, and Branding:  
Consideration and Possible Action** **33**
- G. Closed Session\*\***
  - 1. Litigation Update and Consideration of  
Potential Litigation**

*§ 19.85(1)(g) – The Commission may confer in closed session with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.*

## **H. Adjourn**

*\*\*The Elections Commission will convene in open session but may move to closed session under Wis. Stat. § 19.85(1)(g) and then reconvene into open session prior to adjournment of this meeting. This notice is intended to inform the public that this meeting will convene in open session, may move to closed session, and then may reconvene in open session. Wis. Stat. § 19.85 (2).*



# Wisconsin Elections Commission

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(608) 266-8005 | elections@wi.gov | elections.wi.gov

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**DATE:** **July 26, 2024**

**TO:** **Wisconsin Municipal Clerks  
Wisconsin County Clerks  
City of Milwaukee Election Commission  
Milwaukee County Election Commission**

**FROM:** **Wisconsin Elections Commission**

**SUBJECT:** **Application and Interpretation of Wis. Const. art. III, § 7(2)**

**ATTACHMENTS:** **Attorney General Opinion (OAG–01–24)**

Two proposed amendments to the Wisconsin Constitution (“Constitution”) were included as referenda on the ballot at the April 2, 2024, Spring Election. Each referendum was passed by the voters of Wisconsin and ratified into the Constitution as follows:

- **Article III, § 7(1):** No state agency or officer or employee in state government and no political subdivision of the state or officer or employee of a political subdivision may apply for, accept, expend, or use any moneys or equipment in connection with the conduct of any primary, election, or referendum if the moneys or equipment are donated or granted by an individual or nongovernmental entity.
- **Article III, § 7(2):** No individual other than an election official designated by law may perform any task in the conduct of any primary, election, or referendum. (“Subsection 2”)

Based upon subsequent feedback received by the Wisconsin Elections Commission (“Commission”), it became apparent that Wisconsin’s clerks and government officials had confidence in their ability to interpret and apply the first of those two amendments (*e.g.* § 7(1)). However, the Commission also received many questions and general concerns relating to Subsection 2. Similar feedback and questions were received by the Wisconsin Attorney General’s Office, including a request for an attorney general opinion, and the subsequent opinion relating to Subsection 2 was published on June 25, 2024 (*See* attached). The Commission formally agreed with the attorney general’s analysis at its **July 26, 2024**, meeting, and the following communication reflects the Commission’s recommendations for interpreting and applying Subsection 2.

It is necessary to first define and apply the relevant terms used in Subsection 2. These definitions come from statute and from the attorney general opinion:

- **Election Official:** This term has the same meaning in Subsection 2 as it has in Wis. Stat. 5.02(4e). That provision states, “‘Election official’ means an individual who is charged with any duties relating to the conduct of an election.”

*Wisconsin Elections Commissioners*

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Administrator  
Meagan Wolfe

- See various examples of election officials in statute, including those specifically cited in the attorney general opinion.
- **Task in the conduct of any primary, election, or referendum:** Refers to work in directing or leading the administration of an election (*See Wis. Stats. §§ 5.02(4) and (16s)*). Subsection 2 does not apply to more ordinary circumstances in which an election official works with, or is assisted by, non-election officials in performing non-administrative election tasks. “Non-election officials” and “non-election tasks,” as they relate to the conduct of a primary, election, or referendum, are further explored below.
- **Non-Election Official:** A person who assists or performs duties that may be adjacent to the conduct of an election, but do not relate to administration of any task in the conduct of a primary, election, or referendum. Practically speaking, a non-election official is a person who is not directly performing duties related to candidate registration or filing officer duties, ballot access challenge or other election complaint processes, voter registration, special voting deputy activities, ballot processing, vote tabulation, or canvassing.
  - Examples include, but are not limited to, print vendors, ballot design vendors, voting equipment and/or software suppliers, IT security consultants, law enforcement personnel (including those transporting ballots or results data across locations), employees or volunteers assisting with mailings or other clerical work, greeters or other individuals working in a polling place that do not perform registration/ballot processing/tabulation/canvassing functions.

The attorney general opinion can be condensed to the following: *If there is a task in the conduct (administration) of any primary, election, or referendum, it must be performed by an election official. A non-election official may not perform substantive tasks in the conduct of any primary, election, or referendum.*

- **Allowed: Examples of Constitutional Compliance**
  - A Special Voting Deputy facilitates absentee voting at a care facility.
  - The local clerk assists a resident who is a qualified elector in registering to vote and requesting an absentee ballot.
  - A duly-appointed election inspector feeds absentee ballots into the city’s tabulator on Election Day.
  - The local and county board of canvassers perform their statutory canvassing activities.
  - A voting equipment vendor conducts a public test of a new system.
  - The county’s designated print vendor provides ballot proofs to the clerks and subsequently prints copies of the approved template.
- **Prohibited: Examples of Constitutional Non-Compliance**
  - A polling place greeter, who has not been properly appointed or completed the requisite training, fills in for the chief inspector at a polling place after that person falls ill.
  - The city hires a consultant to review and improve polling place and canvassing operations. The consultant begins performing the canvassing functions and logging activities to show the board of canvass a better method.
  - A voting equipment vendor is called to a polling place where a tabulator has significantly jammed. The vendor performs the necessary maintenance and then begins opening and tabulating absentee ballots to ensure it is working properly, rather than allowing the election inspectors to do so, while only observing whether the machine is functioning correctly.

If you have additional questions, please email [elections@wi.gov](mailto:elections@wi.gov).



STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

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Attorney General

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June 25, 2024

OAG-01-24

Mr. Carlos A. Pabellón  
Dane County Corporation Counsel  
210 Martin Luther King, Jr. Boulevard  
Madison, WI 53703-3345

Dear Corporation Counsel Pabellón:

¶ 1. You seek an opinion about the meaning of Wis. Const. art. III, § 7(2), which was created through referendum at the April 2024 election following passage of joint resolutions by the Wisconsin Legislature. Article III, section 7(2) provides that “[n]o individual other than an election official designated by law may perform any task in the conduct of any primary, election, or referendum.” I construe your request as asking two questions about the provision: (1) the meaning of “election official designated by law”; and (2) the meaning of “task in the conduct of any primary, election, or referendum.”

¶ 2. I conclude that “election official” has the same meaning in the new constitutional provision as it has in the statutes, *see* Wis. Stat. § 5.02(4e), and that a “task in the conduct of any primary, election, or referendum” refers to work in directing or leading the administration of an election. The legislative record shows that the provision was proposed in response to the perception that a local election official had lost control of the oversight of an election. Article III, section 7(2) does not apply to more ordinary circumstances in which an election official works with or is assisted by non-election officials in ensuring the proper administration of an election, such as work with vendors on the layout and printing of ballots, information technology personnel on software and hardware security, law enforcement personnel on ballot transport, or employees or volunteers assisting with mailings or other clerical work.

¶ 3. Your first question relates to the position that does the work described in Wis. Const. art. III, § 7(2): “an election official designated by law.” You ask whether “election official designated by law” is synonymous with “[e]lection official” as defined in Wis. Stat. § 5.02(4e). It is.

¶ 4. “The constitution means what its framers and the people approving of it have intended it to mean, and that intent is to be determined in light of the circumstances in which they were placed at the time.” *Dairyland Greyhound Park, Inc. v. Doyle*, 2006 WI 107, ¶ 19, 295 Wis. 2d 1, 719 N.W.2d 408 (quoting *State ex rel. Bare v. Schinz*, 194 Wis. 397, 404, 216 N.W. 509 (1927)). In construing a provision of the constitution, courts examine three primary sources: “the plain meaning, the constitutional debates and practices of the time, and the earliest interpretations of the provision by the legislature, as manifested through the first legislative action following adoption.” *Id.*

¶ 5. The plain language of Wis. Const. art. III, § 7(2) answers your first question. That constitutional provision requires “election official[s] designated by law” to carry out the work described. Wis. Const. art. III, § 7(2). The provision does not create its own definition of “election official,” but simply defines the role by reference to other “law” that designates a position as an election official.

¶ 6. That law exists in Wisconsin statutes. The definitional section of the election statutes broadly defines “[e]lection official” as “an individual who is charged with any duties relating to the conduct of an election.” Wis. Stat. § 5.02(4e). “Election” is defined to include public primaries, elections, and referenda. Wis. Stat. § 5.02(4), (16s).

¶ 7. Numerous officials are charged with “duties relating to the conduct of an election” within the meaning of Wis. Stat. § 5.02(4e). Among others, they include village clerks, who “perform any duties prescribed by law relative to elections,” Wis. Stat. § 61.25(1); municipal clerks, including city clerks, who have “charge and supervision of elections and registration in the municipality,” Wis. Stat. § 7.15(1); county clerks, who are designated as “the chief election officer[s] of the county,” Wis. Stat. § 59.23(2)(i); municipal and county boards of canvassers, Wis. Stat. §§ 7.53, 7.60, 9.01; and school district clerks, Wis. Stat. §§ 120.05(1)(b), 120.06(8).

¶ 8. Because the statutes impose “duties relating to the conduct of an election” on all these officials, they are “[e]lection official[s]” within the meaning of Wis. Stat. § 5.02(4e). And because they are thus each an “election official designated by law,” they are election officials within the meaning of Wis. Const. art. III, § 7(2).

¶ 9. You mention Wis. Stat. § 7.30, which states that “[o]nly election officials appointed under this section or s. 6.875 may conduct an election.”<sup>1</sup> Wis. Stat. § 7.30(2)(a). But Wis. Stat. § 7.30 regulates eligibility for and the appointment and tenure in office of specific election officials. *See, e.g.*, Wis. Stat. §§ 7.30(1) (specifying number of inspectors for each polling place), 7.30(2)(a) (specifying qualification of a chief inspector), 7.30(2)(am) (allowing 16- and 17-year-olds to serve as inspectors), 7.30(3) (providing for municipal clerk or director of the board of election commissioners to select tabulators). It does not negate the statutes empowering clerks and other election officials to run elections or create a competing definition of “election official” that is narrower than the definition in Wis. Stat. § 5.02(4e), and it does not change the meaning of “election official” in Wis. Const. art. III, § 7(2).

¶ 10. Your second question relates to the activities that Wis. Const. art. III, § 7(2) requires to be performed by election officials: “any task in the conduct of any primary, election, or referendum.” As you point out, the word “task” does not appear in Wisconsin’s elections statutes, and there are many non-election officials and entities that perform activities relating to an election, such as commercial printers who help lay out and create ballots; information technology staff responsible for the software and hardware security of the voter registration system and voting tabulation; vendors who provide technical guidance and troubleshooting regarding the equipment’s operation and maintenance; law enforcement personnel who transport sealed ballots to the office of the clerk; and designated employees or volunteers who are assigned to assist with absentee ballot mailings or other clerical work.

¶ 11. I conclude that Wis. Const. art. III, § 7(2) does not require such work to be performed by election officials. It also does not apply to activities that are distinct from *the administration* of an election, such as the kinds of efforts by non-election officials to encourage voting that commonly take place in connection with elections. Instead, Wis. Const. art. III, § 7(2) applies to activities in directing or leading the administration of the election.

¶ 12. To begin with, the legislative record associated with the adoption of this new provision of the Wisconsin Constitution supports a narrow interpretation of its scope. *See generally Dairyland Greyhound Park*, 295 Wis. 2d 1, ¶ 19 (constitutional debates are relevant to construing a constitutional provision). In written testimony, the lead author in the state senate of the joint resolutions that included then-proposed Wis. Const. art. III, § 7(2), State Senator Eric Wimberger, described

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<sup>1</sup> Wisconsin Stat. § 6.875 discusses special voting deputies.

concerns regarding the conduct of the 2020 general election in the City of Green Bay, asserting in part:

[T]he City Clerk . . . found herself excluded from elections meetings by the “grant team.” Due to the stipulations of the grant [an outside consultant] orchestrated the fall election and acted as a city clerk would act, though paid by [the grantor], including managing staff and having access to ballots.<sup>2</sup>

¶ 13. While there is a dispute as to the circumstances of that situation, this context illustrates that the prohibition on having non-election officials “perform any task in the conduct of any primary, election, or referendum” was aimed at preventing election officials from losing control of the oversight of the administration of elections. There is no indication that Wis. Const. art. III, § 7(2) was intended to sweep much more broadly and change the way in which election officials work with or are assisted by non-election officials in the vast majority of jurisdictions.

¶ 14. The plain language of the amendment further supports the conclusion that its application is limited to activities in directing or leading the administration of an election. The word “task” must be read not in isolation, but rather in the context of the words around it. The Wisconsin Supreme Court has recognized that “terms in . . . constitutional provisions, should be construed to give effect ‘to each and every word, clause and sentence’ and ‘a construction that would result in any portion

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<sup>2</sup> Wis. Legis. Council, Hearing Materials for 2023 Wis. S.J. Res. 78, Testimony of State Sen. Eric Wimberger, J. Comm. on Shared Revenue, Elections & Consumer Prot. and Assemb. Comm. on Campaigns & Elections, *Testimony on Senate Joint Resolution 78 Senate* (Oct. 24, 2023), [https://docs.legis.wisconsin.gov/misc/lc/hearing\\_testimony\\_and\\_materials/2023/sjr78/sjr0078\\_2023\\_10\\_24.pdf](https://docs.legis.wisconsin.gov/misc/lc/hearing_testimony_and_materials/2023/sjr78/sjr0078_2023_10_24.pdf); *accord* Wis. Legis. Council, Hearing Materials for 2021 Wis. S.J. Res. 101, Testimony of State Sen. Eric Wimberger, S. Comm. on Elections, Election Process Reform & Ethics, *Testimony on Senate Joint Resolution 101* (Feb. 7, 2022), [https://docs.legis.wisconsin.gov/misc/lc/hearing\\_testimony\\_and\\_materials/2021/sjr101/sjr0101\\_2022\\_02\\_07.pdf](https://docs.legis.wisconsin.gov/misc/lc/hearing_testimony_and_materials/2021/sjr101/sjr0101_2022_02_07.pdf); *see also* Cosponsorship Memorandum from State Reps. August and Bodden and State Sen. Wimberger to All Wisconsin Legislators (Sept. 19, 2023), [https://www.wheelerbilltracking.com/upload/files/lrb/doc\\_5409532596509ff713b6884.44232304.pdf](https://www.wheelerbilltracking.com/upload/files/lrb/doc_5409532596509ff713b6884.44232304.pdf) (“In at least one case, private employees played a concerning role in the administration of the presidential election.”); Cosponsorship Memorandum Email from State Reps. August and Vorpapel and State Sen. Wimberger to All Wisconsin Legislators (Feb. 2, 2022 09:04 CST) (on file with the Wisconsin Department of Justice) (“In at least one instance, private individuals from [the grantor] played a concerning role in the administration of the election.”).



of a statute being superfluous should be avoided wherever possible.” *Wagner v. Milwaukee Cnty. Election Comm’n*, 2003 WI 103, ¶ 33, 263 Wis. 2d 709, 666 N.W.2d 816 (citation omitted).

¶ 15. In Wis. Const. art. III, § 7(2), the word “task” is limited by the prepositional phrase that follows it: “in the conduct of any primary, election, or referendum.” “[T]ask[s] in the conduct of . . . election[s]” refers to the work of conducting an election. Wis. Const. art. III, § 7(2). And the noun “conduct,” in this context, means “the act, manner, or process of carrying on: MANAGEMENT.”<sup>3</sup> “Tasks in the conduct of an election” are thus not everything relating to the election more broadly, but activities in directing or leading the administration of the election.

### CONCLUSION

¶ 16. In sum, I conclude that the meaning of “election official” is the same under Wis. Const. art. III, § 7(2) and Wis. Stat. § 5.02(4e) and that the work that Wis. Const. art. III, § 7(2) requires to be performed by election officials is work in directing or leading the administration of an election.

Sincerely,

  
Joshua L. Kaul  
Attorney General

JLK:NJZ:jrs

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<sup>3</sup> *Conduct*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/conduct> (last visited June 20, 2024); *see also id.* (meanings of “conduct” when used as a transitive verb include “to direct or take part in the operation or management of,” “to direct the performance of,” and “to lead from a position of command”).



# Wisconsin Elections Commission

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## **MEMORANDUM**

**DATE:** For the June 27, 2024, Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Meagan Wolfe, Administrator  
Wisconsin Elections Commission

Prepared by:  
Sharrie Hauge, Chief Administrative Officer

**SUBJECT:** 2025–2027 Biennial Budget Update/Request

This memorandum contains a broad overview of the budget process, including which budget items the Commission wants to request in its next budget proposal. The Commission is not approving the budget at this meeting, but rather is choosing which proposals it wants staff to include in the final budget draft that it will consider and approve in September.

The agency’s 2025-27 Biennial Budget submission is due September 16, 2024. The biennial budget process is designed to maintain the agency’s general program revenue (GPR) funded operations and federal spending authority for the biennium. The 2025-27 biennium begins on July 1, 2025, and runs through June 30, 2027.

### **Overview and Budget Process**

On June 14, 2024, the Department of Administration issued its Major Budget Policies and Budget instructions for preparing agency 2025-27 biennial budget requests based on their fiscal year 2024-25 adjusted base. *The instructions stated that all agencies should assume there will be zero growth in overall GPR appropriations in each fiscal year during the 2025-27 biennium, meaning that agencies are required to hold their overall GPR expenditures to the level of fiscal year 2025, the current fiscal year.*

Sometime at the end of August, the Department of Administration will issue its Technical Budget instructions. Before staff can finalize the 2025-27 Biennial Budget request there are several technical budget tasks that need to

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be completed. Staff will complete the base year reconciliation, which ensures that the agency program and appropriation structures are defined and correctly reflect current law. The goal of the base year budget reconciliation is to obtain a level of funding and positions for each current appropriation program which is approximated by what is available as of July 1 at the start of the second year of the biennium (July 1, 2024). All agency spending requests are built on (or are changes to) the adjusted base funding level.

The WEC's total base budget for fiscal year 2024 before completing the base year reconciliation is \$6,403,100. The total base budget consists of the following spending authority:

General Purpose Revenue (GPR) funds	\$5,079,400
Federal HAVA funds (SEG-F)	\$ 866,500
Program Revenue (PR) funds	<u>\$ 457,200</u>
Total Spending Authority	\$6,403,100

The WEC's program revenue primarily results from the sale of voter data and includes a small amount of funds collected for providing other agency records under the Public Records Law.

Sometime in late June/July staff will complete the base year reconciliation and the full salary and fringe benefit calculation under standard budget adjustments to determine salary and wage levels for 2025 once the Technical Budget instructions have been received. After the reconciliation process is complete the agency budget request decision items can be developed in more specific detail.

### **Summary of Possible Decision Items for the Commission's Consideration**

The State's budget process requires agencies to identify decision items, meaning any changes from the agency's current base budget, below are several potential Decision Items for the Commission's consideration, which are outlined below.

- 1. Request permanent position authority for the four project positions that expire November 11, 2025. Request permanent GPR or federal positions beginning November 2025 (8-months FY2026/12-months and in base for 2027).**

At its September 9, 2021, Commission meeting, the Commission approved authority for staff to request up to four § 16.54 project positions for twelve months to address immediate redistricting needs. On August 31, 2022, the Commission approved an extension of the four § 16.54 project positions for an additional three years (November 11, 2022 – November 11, 2025), which is the maximum amount of time allowed for a project position.

Although the positions will be expiring, there is a permanent need for these four positions that provide critical support to the agency and local elections officials. These positions provide ongoing support to local clerks with address standardization review and updating, address clean-up and refinement, ward map & parcel boundary review, review of address exceptions and warnings, outreach to counties/municipalities with outstanding addressing and ward issues, production of district lists for nomination paper review and creation of new ballot style/reporting units in WisVote. They also provide election security Help Desk support, assistance in the

administration of the .gov subgrant program, assistance in providing support to the Badger Book program and the TTX Election Security program, as well as assisting with Commission material prep and taking Commission meeting minutes.

## 2. **Request an annual increase in the Commissioner Per Diem Budget**

In the agency's 2017-2019 biennial budget request the Commission asked for an increase in its base funding for Commission per diems from \$29,800 annually to \$47,000 annually to cover the cost of eight in-person meetings per year and related meeting expenses.

Because of the changes made in 2016, where the Governor deleted \$25,700 GPR annually for Commission per diems in the budget and decreased funding for per diems to \$50 per day instead of originally requested \$454.11 per day, we currently do not have the funding required in our base budget to adequately fund the cost of Commission per diems. The current agency budget for Commission members per diem is still \$2,400 annually, which covers about three meetings per year.

Over the past biennium, Commissioners have met 20 to 40 times per year and receive a \$115 per meeting per diem. This resulted in more than \$20,000 in per diem costs vs. the \$2,400 in our base budget. In order to not exceed the budget authority, the agency would have to ask for an increase of \$18,300 annually to cover 30 meetings per year. This does not include travel expenses for in-person meetings.

## 3. **Request a budget for Limited Term Employees (LTEs)**

Currently, there is no established general purpose revenue budget for limited term employees or additional full-time positions. The agency has asked for permanent position authority in past biennia to meet our staffing needs along with an LTE budget, but the requests have been denied. This has led the agency to use the temporary services non-IT contract with which we have had limited success in the past. Staff favor LTEs because attempts to recruit temporary services staff have been unsuccessful.

As a strategic alternative, staff have solicited feedback from the clerks associations to determine if there was a level of interest in retired or former clerks assisting the Elections Commission in the 2024 elections cycle. The Elections Specialist LTEs would consist of former clerks located throughout the 8 geographical regions of the state with a vast knowledge of elections administration. These positions would serve as a resource for local elections officials, candidates, voters, and the general public. These positions would also provide public outreach, education, training, technical assistance workshops, seminars and certification classes for local election officials and members of the public as well as providing WisVote customer service support.

Limited term employees are allowed to work a maximum of 1039 hours per calendar year; are only paid when in work status; and do not receive fringe benefits or paid time off. The number of hours worked would not exceed 1039 hours and might be less dependent upon workload volume.

On an ongoing basis, without additional permanent position authority, in even-numbered years it would be optimal to have a total of 8 Elections Specialist LTE positions to assist with elections support activities. In odd-numbered years it would be optimal to have 4 Elections Specialist LTE staff total to assist with various program support activities in both years of the biennium.

Currently on staff we have four LTEs. A former Elections Specialist Lead that assists with elections support activities and provides WisVote customer service support during the 2024 elections cycle. We also have two public information officer consultant LTEs that assist the Communications Director with the review and analysis of proposed alternatives and strategies that effect WEC's policy and program objectives and stakeholders; develop strategies to obtain collaborative resolution on policy initiatives; and help to develop and coordinate the agency's public education information program.

The agency also has a paralegal summer intern LTE to assist staff counsel in preparing documentation and organizing case material for litigation and administrative hearings, tracking complaints, and providing administrative support in the resolution of complaints as well as assisting with records management.

The approximate LTE budget needed for 8 LTE's in FY26 would not exceed \$226,500 and for 12 LTE's in FY27 would not exceed \$322,000.

**4. Request an annual budget increase for Remote Access Manager Software (RSA)**

Many elections technical systems use RSA hardware and software authenticators and protocols for identity and access management and include multifactor authentication for the statewide system (WisVote). Currently, the annual renewal of our RSA multi-factor authentication software is not in our base budget because federal funds were available to sustain this need. The annual cost is \$41,552.

**5. Request an annual budget increase for Smarty Streets**

SmartyStreets (a/k/a Smarty) is an address validation and geocoding service used by agency GIS systems to precisely map addresses in the statewide voter registration system. Geocoding is the process of taking a text-based address and converting it to precise geographic coordinates (latitude/longitude) in order to identify its location on the Earth's surface. The real-time services provided by this system enable elections systems like WisVote and MyVote to rapidly, and accurately, support clerks and voters. The FY24 cost is \$15,900.

**6. Request an annual budget increase for Zendesk**

The 2021 Legislative Audit Bureau Report on Election Administration recommended that the agency use software to track election-related questions, comments, and concerns more accurately.

Currently, the annual renewal of Zendesk, a customer support service that allows emails to be grouped into categories for ease of distribution of the incoming emails, is not in our base budget. Zendesk allows only the correct groups/teams to get emails quickly and allows others to see how the emails are responded to. Zendesk allows teams to research different emails and see the responses, which helps in providing uniform answers to questions.

Zendesk is funded 50% by federal funds and 50% by GPR funds which are not in the agency's base budget. The cost of Zendesk is \$100,000 annually.

**7. Request an annual increase for ERIC Membership Dues and the Eligible but Unregistered Mailing in our base budget**

Wis. Stat. § 6.36(1)(ae)1. and 2. require the Wisconsin Elections Commission to join the Electronic Registration Information Center (ERIC) and comply with the terms of the membership agreement. ERIC is a consortium of states that shares data to improve the quality of voter registration databases. Member states pay

annual membership dues and agree to share their driver license and voter registration databases. The data from all states is compared and member states are provided reports to identify voters who may have moved, voters who may have died, duplicate voter records, and voters who appear to be eligible to vote but are not registered.

In the 2019-2021 biennial budget \$33,100 was approved in the agency's base budget for annual ERIC Membership dues and \$141,300 in its base budget for the annual ERIC Movers Mailing. Over the past biennium the cost of ERIC membership dues has increased by approximately \$37,700 annually for a total cost of \$70,800. This increase in membership dues is not currently in the agency's base budget.

Also, the cost of the ERIC Eligible but Unregistered Voters mailing is not in our base budget. The ERIC membership agreement requires states to contact voters who have been identified by ERIC as being eligible to vote but are not yet registered to vote. This mailing must be done once every two years, ahead of the fall General Election. The biennial cost of the Eligible but Unregistered Voters is \$81,300. WEC will need to ask for spending authority in FY26 (July 1, 2025–June 30, 2026) for this mailing.

#### **8. Request an Annual Increase in Maintenance/Hosting Budget for the WEC Website**

Acquia Site Studio and Acquia Cloud Platform currently support and host the agency's websites. In September 2021, staff laid out a three-phase timeline to modernize the agency's websites. The first phase, completed by the end of 2021, was to migrate the existing elections.wi.gov site to the Acquia Cloud Platform. Acquia is a leading provider in this space and has an ongoing state contract. Other customers include the Department of Natural Resources, the Department of Health Services, and the Superintendent of Public Instruction. The second phase was to redesign the elections.wi.gov to bring its "look and feel" in line with other Wisconsin Elections Commission applications, improve search functionality, and add enhanced features for content auditing, scheduling, review, publishing and unpublishing. This work was completed, and the new version of the site launched on July 19, 2022.

The third and final phase was to migrate electiontraining.wi.gov, also known as ElectEd, to Acquia hosting. This would bring all commission websites to the Acquia platform and streamline management of the sites. As noted in the original plan, the addition of ElectEd would likely cause total hosting costs to exceed the \$100,000 spending authority limit and require a motion from the Commission. As expected, the combined hosting cost for traffic to all sites is now \$156,017.25. Renewal of this service is due in September 2024.

*Note that a separate motion is requested for this budget item due to the spending authority limits.*

#### **9. Request a 20% increase in the Accessibility Review and Supply Program**

Request a 20% (\$9,660) increase in GPR funds to expand and continue the polling place accessibility review program, which implements the legislative directive to ensure that polling places are accessible to individuals with disabilities, and to undertake outreach efforts with organizations which work with and represent those voters. The agency's central initiative in this area is to conduct reviews of selected polling places on each Election Day and provide a report to each respective municipal clerk listing physical deficiencies, as well as no-cost adaptations and supplies to bring the location into compliance with state and federal accessibility laws. This program has been nationally recognized as a model for other states, and has prompted countless modifications to Wisconsin polling places, leading to increased access to polling places for individuals with disabilities.

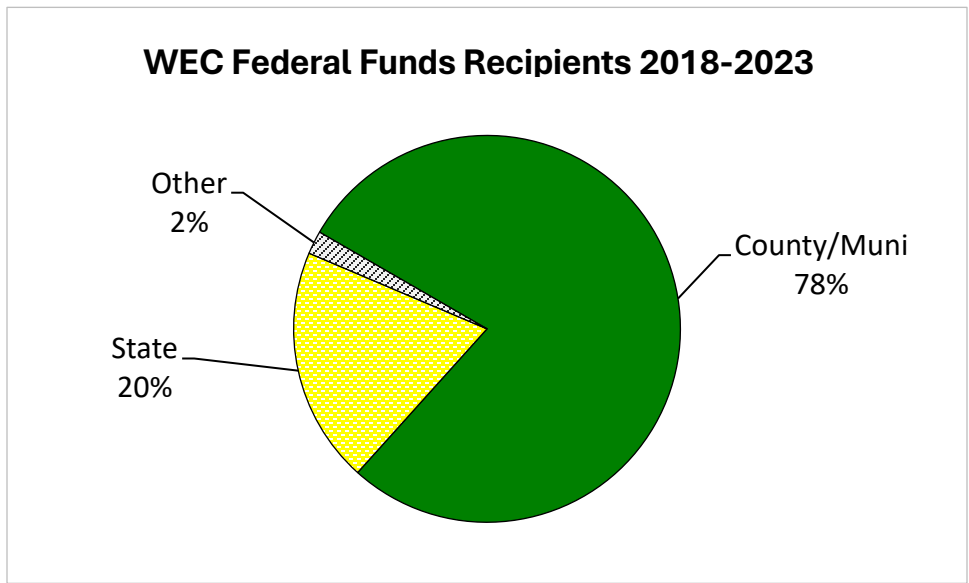
Staff have fielded requests from clerks over the years to increase the type of supplies that clerks can request at no cost to them to ensure their polling place is as accessible as possible. An increase in GPR funds for the Accessibility Review and Supply program would allow more voters in Wisconsin to visit their polling place and cast their ballot privately and independently.

The current budget for the Accessibility Program is \$48,300. With a 20% increase the Accessibility program budget would be \$57,960 annually.

**10. Sustain Sub-Grant Programs to Local Election Offices**

The Commission has used federal funding to help resource underserved election jurisdictions and create consistency of resources between rural and urban election offices. Of the \$18,209,648 of HAVA Elections Security Grant funds and CARES Act funds since 2018, the Wisconsin Elections Commission has allocated more than three-quarters of all federal dollars received to local governments.

**Figure 1. Federal Funds Recipients 2018-2023**



**Figure 1 Definitions.**

*County/Muni* – funds passed directly to counties, cities, villages, or towns through subgrants.

*State* – funds retained by the WEC for hardware, services, or temporary staffing.

*Other* – funds applied to unique statewide projects such as the deployment of multifactor authentication and endpoint monitoring.

Including CARES Act funds allocated to the Commission in 2020, the WEC has authorized more than \$13.5 million in subgrants to counties and municipalities in the last six years.

**Figure 2. Subgrants Approved by the WEC 2018-2024**

<b>County &amp; Municipal Subgrants Approved by the Wisconsin Elections Commission 2018-2024</b>	<b>Funds Authorized</b>
2019 Election Security Subgrant for Municipalities	\$1,100,000.00
2020 CARES Subgrant for Counties	\$750,000.00

2020 CARES Subgrant for Municipalities	\$4,126,528.00
2020 HTTPS Election Security Subgrant for Counties	\$36,000.00
2020 Election Security Subgrant for Counties	\$3,875,658.00
2020 Election Security Subgrant for Municipalities	\$1,206,000.00
2022 Election Security Subgrant for Municipalities	\$1,000,000.00
2022-23 Election Security .gov Domain Subgrant	\$300,000.00
2023 Accessible Voting Equipment Subgrant for Municipalities	\$350,000.00
2023 Envelope Redesign Subgrant	\$600,000.00
2024 Election Security .gov Domain Subgrant	\$200,000.00
TOTAL	\$ 13,544,186.00

Unfortunately, federal funds have been dwindling and eventually will run out. If the Legislature wants to see elections in large cities and small towns become more uniform, they may wish to provide funding for WEC to continue to administer subgrants or directly fund elections for municipalities. There is an ongoing need to subsidize local governments for elections administration services, as the WEC cannot continue to support local governments when the HAVA funds run out.

**11. Increase in Spending Authority for our Materials and Services Appropriation**

Because of the digital age we are in, our materials and services appropriation only generates between \$500-\$1,000 annually from sales of publications, for copies of records, for supplies, for postage, for shipping and records location fees, and for charges assessed to participants in administrative meetings and conferences, except moneys received from requesters from sales of copies of the official registration list.

Currently, our fund balance in this appropriation is approximately \$16,000, but we only have expenditure authority for \$1,000. Staff recommend asking for an increase in spending authority to \$8,000 annually over the next biennium to offset the costs of increased mailing and printing costs.

**12. Request Statutory Language Change to 20.510 (1) (c) *Voter identification training***

In the agency’s 2023-2025 biennial budget request the Commission asked for a change in statutory language for the Voter Identification Training. The Governor approved the request, but the legislature withdrew the provision, thus removing it from budget consideration pursuant to Joint Finance Motion #10 [https://docs.legis.wisconsin.gov/misc/lfb/jfemotions/2023/2023\\_05\\_02/000\\_budget\\_motions/motion\\_10\\_o\\_mnibus\\_budget\\_motion](https://docs.legis.wisconsin.gov/misc/lfb/jfemotions/2023/2023_05_02/000_budget_motions/motion_10_o_mnibus_budget_motion).

The statutory language of the appropriation currently reads: “*Voter identification training*. The amounts in the schedule for training of county and municipal clerks concerning voter identification requirements provided in [2011 Wisconsin Act 23](#).”



Currently, \$82,600 is appropriated annually for clerk voter identification training only. The voter photo ID law has been in effect for more than ten years, and photo ID training is rarely held alone. Photo ID training is incorporated into the many training programs developed and conducted by WEC. The current statutory language makes these funds very difficult to access and utilize and the funds often go unspent because they cannot be used for training on other topics. Staff are proposing broader language in this statute to encompass any type of training of county and municipal clerks, not just voter identification training. The statutory language change would allow WEC to continue incorporating voter ID training into all types of training for county and municipal clerks.

### 13. **2023-2025, Office of Election Transparency and Compliance**

In the last biennial budget, the Commission asked to create the Office of Election Transparency and Compliance. The 2023-2025 request is attached as Appendix A. Decision Item 4001 in the agency's 2023-2025 Biennial Budget request was not adopted by the Legislature but the Commission could consider resubmitting Decision Item 4001 in its entirety or modifying it to include some elements that the Commission still deems as necessities.

In summary, the 2023-2025 request was a needs-based request. The request took into account the need to expand the agency's ability to address voter concerns, process and audit data, expand funding for post-election voting equipment audits, and expand accessibility programs for voters with disabilities. We believe all of these items are still needed by the agency. For example, we believe that there will likely be demands on the agency after the 2024 Presidential Election to conduct additional audits and to provide additional access to complex data. Because the agency's 2023-2025 request was denied, the agency will not have the funding or staff to meet these additional demands in the 2025-2027 biennium. By including this ask in the 2025-2027 biennial budget, the agency would be making clear that we still believe this funding is necessary to keep pace with the changing demands of the election landscape.

### 14. **Does the Commission want us to pursue or introduce any new items not addressed above?**

Finally, the Commission may wish to consider adding other items to the biennial budget request. Staff will bring back proposals for the Commission's review and consideration at a future meeting.

### **Recommended Motions:**

- 1) Approve the overall approach for submitting a budget request for 2025-27. Pursue the approved decision items (#'s) in the 2025-2027 Biennial Budget Prep memo and bring it back to the Commission for final approval prior to submittal.
- 2) The Commission directs staff to include a request for a statutory language change in the draft budget for the Voter Identification Training Appropriation to read 20.510 (1)(d) *County and Municipal Clerk Training* to broaden the language so that the funds can be used for all training of municipal and county clerks. It is proposed that the language be changed to the following: "~~Voter identification~~ *County and Municipal Clerk Training*". The amounts in the schedule for training of county and municipal clerks concerning the administration of Elections as outlined in Wis. Stats. Chapters 5-10 and 12 including voter identification requirements provided in [2011 Wisconsin Act 23](#).
- 3) The Commission directs staff to renew Acquia website hosting services through September 2025 at a cost not to exceed \$156,018.

## Issue Paper

## Funding for Elections Inspector General Program

## DIN 4001

Request

The Wisconsin Elections Commission (WEC) requests \$902,000 GPR in FY24 and \$1,036,000 GPR in FY25 to create 10.0 GPR FTE and to operate an Elections Inspector General program. The program will increase the agency's ability to research public or legislative inquiries – especially those alleging unlawful or non-compliant behavior – in a more timely and effective manner. The Election Inspector General program will also promote best practices designed to increase accuracy of and confidence in election results.

Background

Elections put power in the hands of citizens by giving them the ability to select their leaders. The electoral franchise is a potent tool for holding leaders accountable and peaceably resolving political and societal conflict. And because elections determine political winners and losers, electoral processes have long been subject to scrutiny. Manipulation – or the threat of it – weakens public confidence in democratic processes, erodes the legitimacy of government, and undermines the will of the people.

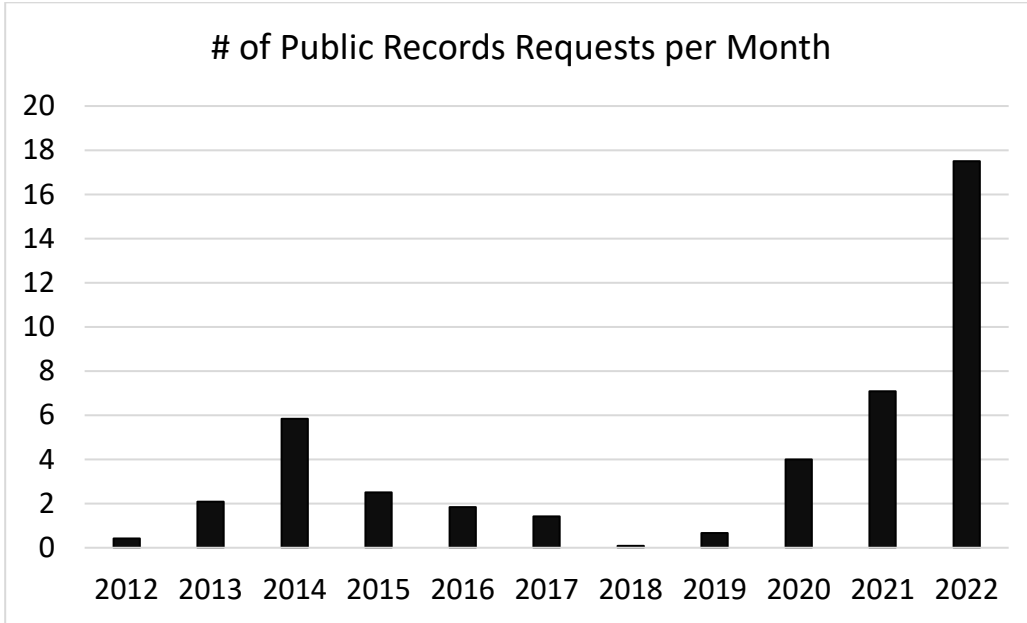
Warding off attempts of electoral manipulation – both real and perceived – remains the highest priority of the WEC. It must be in order to instill public confidence in Wisconsin's elections system and to ensure election integrity.

Since the WEC was established in 2016, the election landscape has become almost unrecognizable. Threats to American election infrastructure have not only changed but have compounded precipitously. American elections face threats from both domestic and foreign actors, and through both cyber and traditional means.

Public engagement with, and scrutiny of, the agency is higher than at any previous point in its seven-year history. While increased engagement presents a challenge to the WEC, it simultaneously presents an opportunity for the Commission to provide the public with helpful and accurate election information to build public confidence. Members of the public are indispensable allies in providing tips to election officials when they notice something worth investigating.

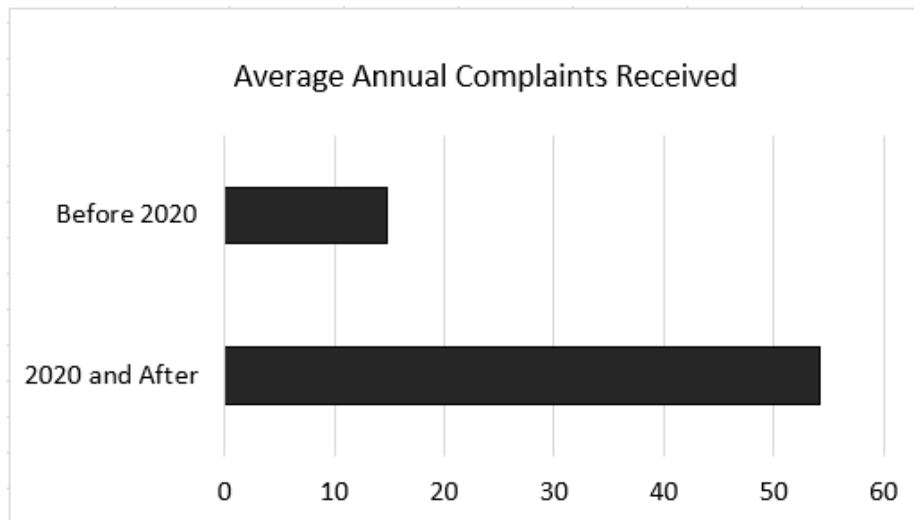
Since 2016, the average number of public records requests received per month by the WEC has increased nearly eight-fold, from about two per month in 2016 to more than 16 per month in 2022. The numbers continue to climb, creating a backlog of requests and lengthening the time each requestor must wait for a response.

**TABLE 1**



Formal Wis. Stat. § 5.05 and Wis. Stat. § 5.06 complaints filed with the agency have soared as well. Before 2020, the agency received an average of about 15 formal complaints annually. Since 2020, that number has increased to more than 50.

**TABLE 2**



Similarly, lawmaker requests for election-related information have greatly escalated. For example, the 2021-23 chair of the Assembly Committee on Campaigns and Elections made many time-intensive requests of the agency, such as for all changes in each registered elector's status, that could be more quickly fulfilled via the Office of the Inspector General.

Wisconsin needs an Office of the Inspector General to meet the challenges and expectations of this new era and to ensure the Commission delivers election integrity for another generation.

Wisconsin's election system is designed with checks and balances created to ensure accurate and reliable results. Nearly the entirety of Chapters 5 through 10 of the Wisconsin Statutes are dedicated to this purpose. Likewise, the WEC is almost entirely designed to administer the processes outlined in statute. Statutory post-election review processes consist of canvass and certification (Wis. Stats. §§ 7.50-7.70), equipment audits (Wis. Stat. § 7.08(6)), recounts (Wis. Stat. § 9.01), and complaints (Wis. Stats. §§ 5.05 and 5.06).

Except for complaints, the post-election processes referenced above are almost entirely performed by municipal and county workers. Until recently, the WEC had no staff fully dedicated to any of these processes and only a single attorney to process complaints. Likewise, the WEC had only a single Public Information Officer to handle public inquiries. Unfortunately, this structure has proved inadequate to address the hundreds of thousands of questions and concerns, along with hundreds of records requests and complaints the WEC received in recent years.

The inability to address public concerns promptly and completely frustrates citizens and harms public confidence in election processes. The staffing needs of our agency have evolved, in the same way that elections technology and the voting process itself has evolved.

The elections landscape in Wisconsin has changed and we are at a crossroads of public understanding, confidence, and support for elections administration. The WEC must adapt to meet the growing needs of our citizenry. Funding the Elections Inspector General program would be one clear and decisive step toward creating a more effective, efficient agency that will better address citizen concerns and requests and thus increase public confidence in our elections.

The public and lawmakers – crucial allies in helping keep our elections infrastructure secure – rightfully expect the Commission to provide them with timely responses and prompt action, if necessary, to address questions and allegations of election law violations as well as information about how Wisconsin's election system works.

While the Office of Inspector General may be a resource in the Commission's consideration of formal complaints, the intent is not to alter the current complaint process. The intent is that the Office of Inspector General will address concerns that may not represent formal complaints.

The Office of the Inspector General will be ready to address such requests.

#### Issue

The creation of an Elections Inspector General and staff will permit the timely and thorough examination of alleged unlawful or inefficient operations within Wisconsin elections and promote best practices that are designed to increase accuracy of and confidence in election results. The Inspector General will provide objective advice to the WEC through relevant, timely and thorough inspection, assistance, research, and training of election operations statewide. Objectives of the Inspector General Program are:

1. Ensure that questions about election processes and concerns over election law violations are taken seriously and researched to resolution
2. Improve the agency's overall ability to research and respond to complaints, questions, and concerns from the general public, elected officials, and other agencies
3. Improve agency's ability to handle public questions around elections and during other periods of high public interest

Essential functions to be performed by the Inspector General's staff include:

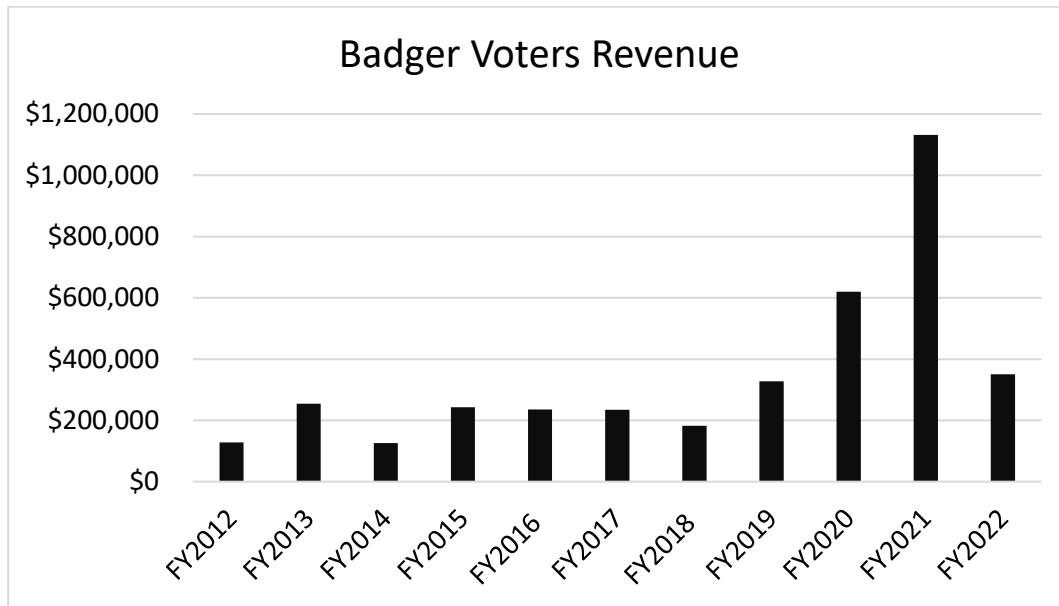
1. Research and provide assistance to the legal team in presenting information to the Commission regarding formal complaints of election law violations, including allegations of persons providing false or misleading information to an elected official during the registration or voting process, as directed by the Commission by resolution
2. Research and aid the legal team in presenting information to the Commission regarding alleged non-compliance of election officials as directed by the Commission
3. Provide research support regarding polling place procedures, elections processes, and elections systems in relation to with state and federal requirements for accessibility
4. Fulfill open records requests in accordance with Wisconsin law
5. Respond to legislative inquiries and requests for information and assistance
6. Respond to public inquiries

The position of the Election Inspector General would be an unclassified position hired by the Administrator. The Inspector General and staff will consist of 10 people. The Inspector General will manage the review of election programs and initiatives, direct the preparation of reports, and supervise the nine other staff members. The Inspector General and staff may also complete special projects as needed. The Inspector General will report directly to the Administrator.

Staff assigned to the Inspector General will be required to develop and maintain proficiency in various program areas including, but not limited to: (1) Information Systems and Data Analysis; (2) Elections Law and Policy Analysis; (3) Accessibility and Accessible Voting; (4) Public Records and Records Management; (5) Legislative; (6) Public Communications; and (7) Audit/Testing/Certification.

In the last ten years, WEC staff have created several information systems for managing elections data including WisVote, the statewide voter registration system, Badger Voters, our self-service data request website, and Badger Books, an electronic poll book system in use in 150 municipalities. By creating and maintaining these products in house, staff can respond to legislative and environmental changes that must be reflected in these systems. For example, during the 2020 nomination paper cycle, WEC staff created a mechanism to make nomination paper filings available for download and review through Badger Voters where previously this transaction required an office visit and access to a copier. Interest in Badger Voters data has increased in recent years.

**TABLE 3**



When this data is purchased and analyzed, customers often have questions on how to interpret the data and may draw inaccurate conclusions when those questions are unanswered. Staff responsible for handling these questions are also responsible for the day-to-day customer support and maintenance of the applications and data in the statewide voter registration database. WEC staff have always prioritized clerk users as the individuals most requiring our support. To have information system data specialists on the inspector general's team would provide the additional needed capacity in addressing questions on Wisconsin's election data and information technology systems.

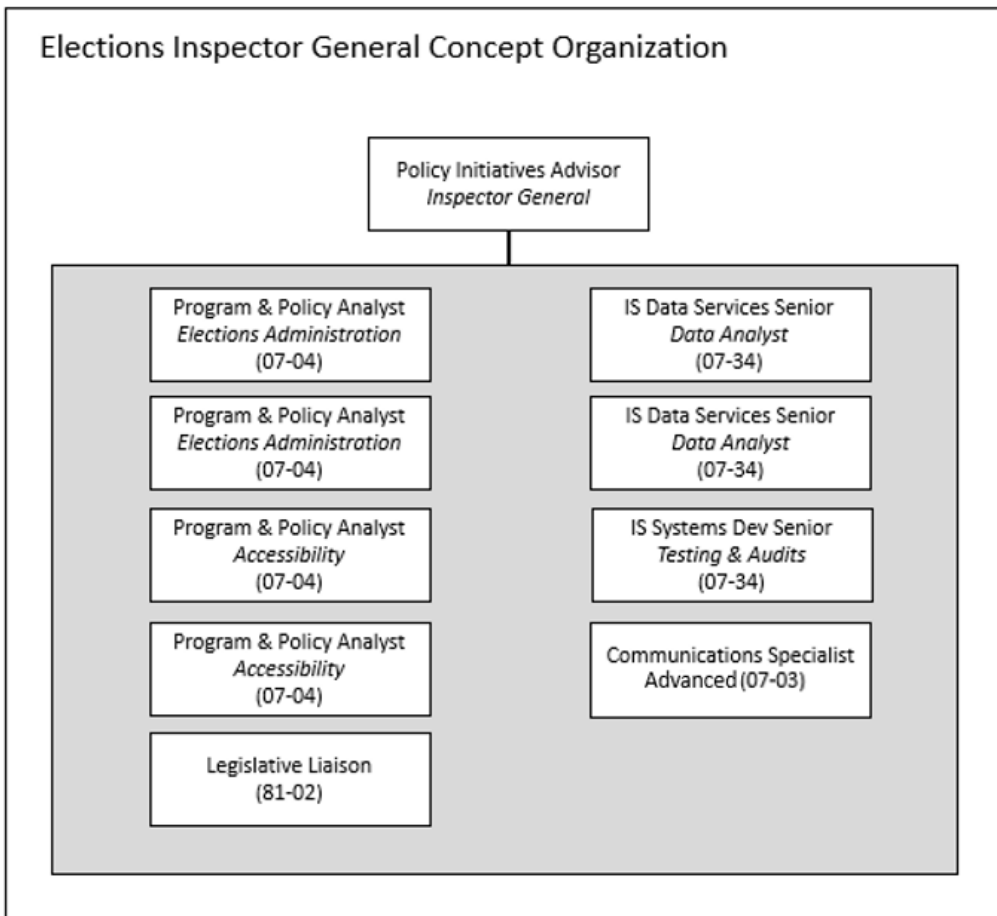
The election law and policy analysts' positions will allow the other members of the program to better perform their assigned duties. A deep knowledge of election administration and the statutes that govern the voting process in Wisconsin will be necessary for the Inspector General program to maximize its efforts. The election law and policy analyst staff will assist other team members in knowing how the election statutes are reflected in clerk preparations before Election Day, the voting process, and certification of the election. The election law and policy analyst staff will also coordinate with other programs within the WEC to ensure that the perspective of the Inspector General program is reflected in other agency projects, and vice versa.

Staff assigned to the Inspector General will increase the ability of the WEC to audit election processes to ensure standardization and legal compliance across the state. Currently, two election specialists oversee the voting equipment audit program. The voting equipment audit has required at least 5% of all reporting units in the state to conduct a hand-count audit of their voting equipment to ensure that the reported results are correct and accurate. The Commission has recently required the number of reporting units to double to 10% of all reporting units statewide. Overseeing and training local election officials on the best ways to hand audit nearly 400 reporting units statewide will require additional staff to ensure accurate and timely completion of the audits prior to state certification.

Staff also audit polling places across the state for compliance with state and federal accessibility laws. The audit program is led by one election specialist, and currently can only audit polling places on Election Day through assistance from temporary staff. Having additional specialists dedicated to accessibility will allow the WEC to grow the program to include satellite in-person absentee voting before an election to ensure ADA compliance.

Finally, a legislative liaison and communications specialist will be vital in conveying the findings of the Elections Inspector General to lawmakers and to the public. These positions will allow WEC to provide more timely information in response to bill drafts, fiscal estimates, and constituent questions.

**TABLE 4**



Anticipated program costs are outlined in the chart below. The chart includes anticipated costs of 10 FTE and supplies and services costs related to the new oversight entity. Costs include funds for the Office of Inspector General to engage contractors, such as a third party to audit the security and maintenance of the statewide voter registration database and voter registration records. The exact cost for these services is not yet known. Further, the cost estimate includes funding for increasing the number of post-election voting equipment audits and the number of polling place accessibility audits. In the last 5 years the Commission has increased the number of post-election voting equipment audits from 2% to 10% of equipment used statewide. Additional voluntary post-election audits are also an option for local jurisdictions, and it is expected that more jurisdictions will opt to conduct such audits in the future. The costs for such audits to local jurisdictions are reimbursed by the WEC. Likewise, the Commission has significantly increased the number of accessibility audits to ensure all voters are able to access Wisconsin polling places. The WEC has expressed a desire to increase the number of polling place audits and to begin an in-person absentee site accessibility review program should funds become available.

**TABLE 5**

Program Costs	FY24	FY25	TOTAL FY24 & FY25
10 FTE/Salary and Fringe	\$ 552,000	\$ 736,000	\$ 1,288,000
Computers/Office Supplies for 10 FTE*	\$ 50,000	\$ 0	\$ 50,000
Voting Equipment, Database Auditing & Accessibility Auditing	\$ 300,000	\$ 300,000	\$ 600,000
TOTAL COST	\$ 902,000	\$ 1,036,000	\$ 1,938,000

\*one-time cost in FY 24





# Wisconsin Elections Commission

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(608) 266-8005 | elections@wi.gov | elections.wi.gov

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**DATE:** For the June 27, 2024, Commission Meeting

**TO:** Commissioners, Wisconsin Elections Commission

**FROM:** Brandon Hunzicker, Staff Attorney

**SUBJECT:** Potential Complaint Form Updates

## Introduction:

The Wis. Stat. Chapter 5 administrative complaint form available on the Commission’s website, the EL-1100, has not been significantly updated since the Commission was formed in 2016. The EL-1100 is used by most complainants who submit complaints under Wis. Stats. §§ 5.05, 5.06, and 5.061, although it is not required that complainants to use this form. Staff propose redesigning the form. Over the last several years, the number of complaints submitted to the WEC has increased significantly. Many complaints are deficient, and the design of the form itself may be contributing to some of these deficiencies. Staff believe that a clear, step-by-step process on the complaint form would encourage individuals filing a complaint to provide all information required by statute. Staff also propose developing a set of instructions to accompany the new form, likely on the complaint website page.

The purpose of this memo is to seek guidance from the Commission concerning a redesign of the complaint form. Specifically, staff seek guidance concerning: A) whether the form should be redesigned; B) how many new forms should be designed; and C) whether the complaint form should include the option for complainants to make an unsworn declaration in place of a notarized signature.

## Discussion:

### A. Should the Commission’s complaint form be redesigned?

Staff recommend the complaint form be redesigned to address common deficiencies. The current form, which follows this memo in Appendix 1, does not show what information is required to submit a sufficient complaint, asks for the same information multiple times, and contains at least one ambiguous section. As a result, complaints often lack required information, and staff spend significant time communicating with potential complainants about procedural requirements. Staff propose redesigning the form as a step-by-step list with 7 required parts to clarify how to properly complete the form. An initial draft follows this memo in Appendix 2. Staff seek the Commission’s feedback concerning the draft.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Don M. Millis | Carrie Riepl | Robert Spindell | Mark L. Thomsen

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Administrator  
Meagan Wolfe

B. How many new forms should be designed?

Currently, the Commission uses one combined form for each of the three complaint types that may be filed with the Commission under Chapter 5 of the Wisconsin Statutes.<sup>1</sup> Because each complaint type requires a different statutory procedure, any ambiguity concerning the type of complaint prevents staff from accepting a complaint as properly filed. The draft form in Appendix 2 is also a combined form, and the first step is to specify a “Complaint Type,” which is intended to ensure that each potential complainant specifies which complaint type, and therefor which complaint procedure, applies to the form. The revised form includes an important instruction that complainants cannot use one form to submit complaints under more than one statutory basis.

Another option would be to design three different forms. The benefits of this option include designing each form to only obtain required information for that specific type of complaint and providing information on the form itself concerning the procedures that will accompany that complaint type. A drawback of creating different complaint forms is that potential complainants may submit the wrong type of form for the complaint they wish to file, though the design of the Commission’s complaint page may reduce that possibility.

C. Should the complaint form include the option of an unsworn declaration instead of a notarized signature?

This year, 2023 WI Act 245 amended Wis. Stat. § 887.015 to provide all individuals with the opportunity to make an "unsworn declaration." An unsworn declaration is made under penalty of perjury and may be used to satisfy the requirement for a sworn declaration in all circumstances other than depositions, oaths of office, oaths required to be made before an official other than a notary, declarations required for certain real estate transactions, or declarations required to self-prove a will. An unsworn declaration must be in substantially the following form:

I declare under penalty of false swearing under the law of Wisconsin that the foregoing is true and correct.

Signed on the \_\_\_ day of \_\_, \_\_\_ (year), at \_\_\_ (city or other location and state or country).

Printed Name

Signature

All § 5.05, § 5.06, and § 5.061 complaints must be sworn (§ 5.061 says “verified”). Staff do not believe that complaints filed under § 5.05, § 5.06, or § 5.061 fall under an exception to the amended § 887.015, and the law expressly includes requirements found in administrative rules. Wis. Stat. § 887.015(2)(b). As a result, staff believes that complainants may already use an unsworn declaration to satisfy the swearing requirements for all complaints.

If the Commission wished, it could amend the complaint form or forms to allow individuals to make an unsworn declaration on the form itself. While Wis. Admin. Code EL 20.03(4) requires

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<sup>1</sup> This memo does not address ballot access challenges. The Commission has authorized rulemaking concerning ballot access challenges, and any form related to those processes should accompany that rulemaking, likely as guidance. In any case, ballot access challenges have not historically been submitted to the WEC using the EL-1100.

that the complaint form for § 5.06 complaints contain the certification statement with the specific language at the bottom of the current and redesigned forms, nothing in either statute or administrative code prevents the Commission from adding language for an unsworn declaration. Language which currently informs complainants that they must have their complaint sworn before a notary could, instead, explain that complainants have the option to make an unsworn declaration. If the Commission determines that separate forms should be used, the Commission could design forms for § 5.05 and § 5.061 complaints which only require an unsworn declaration and contain no space for a notarized signature. The Commission is not, however, required to add any option for an unsworn statement to complaint forms.

**Conclusion:**

Staff recommend redesigning the complaint form in a manner similar to that suggested in Appendix 2. Staff seek guidance from the Commission concerning whether one or three complaint forms should replace the current form, and whether the form should include the language for an unsworn declaration.

If the Commission believes that the draft presented is sufficient, or would be sufficient with small changes, the following motion could be adopted. If the Commission would like a more significant change, staff suggest presenting the Commission with a second draft of the form or forms at the next Commission meeting. If the Commission would prefer to keep the current form, no motion would be necessary.

**Possible Motion:** The Commission approves the complaint form attached as Appendix 2 after staff edit the form in a manner consistent with the discussion during today's meeting. Staff shall make the form available on the Commission website and update the instructions to facilitate proper use of the form.

# Appendix 1

## STATE OF WISCONSIN *ELECTIONS COMMISSION*

### COMPLAINT FORM

**Please provide the following information about yourself:**

Name \_\_\_\_\_

Address \_\_\_\_\_

Telephone Number \_\_\_\_\_

E-mail \_\_\_\_\_

### **State of Wisconsin Before the Elections Commission**

The Complaint of \_\_\_\_\_

\_\_\_\_\_, Complainant(s) against

\_\_\_\_\_, Respondent, whose

address is \_\_\_\_\_.

This complaint is under \_\_\_\_\_ (Insert the applicable sections of law in chs. 5 to 10 and 12 and other laws relating to elections and election campaigns, other than laws relating to campaign financing)

I, \_\_\_\_\_, allege that:

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(Set forth in detail the facts that establish probable cause to believe that a violation has occurred. Be as specific as possible as it relates to dates, times, and individuals involved. Also provide the names of individuals who may have information related to the complaint. Use as many separate pages as needed and attach copies of any supporting documentation.)

Date: \_\_\_\_\_  
Complainant's Signature

I, \_\_\_\_\_, being first duly sworn, on oath, state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

\_\_\_\_\_  
Complainant's Signature

STATE OF WISCONSIN

County of \_\_\_\_\_,  
(county of notarization)

Sworn to before me this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature of person authorized to administer oaths)

My commission expires \_\_\_\_\_, or is permanent.

Notary Public or \_\_\_\_\_  
(official title if not notary)

**Please send this completed form to:**

Mail: Wisconsin Elections Commission  
P.O. Box 7984  
Madison, WI 53707-7984

Fax: (608) 267-0500

Email: [elections@wi.gov](mailto:elections@wi.gov)

# Official Election Complaint Form



## STEP 1 Complaint Type

Please select the statutory process that governs your complaint:

**Choose only one statutory process per complaint.** If you feel that your allegations fall under more than one statutory process, you should submit separate complaints under each process.

- 5.05 (Election Law Violation)
- 5.06 (Violations of or Appeals of Decisions of Election Officials)
- 5.061 (Help America Vote Act Violation)

## STEP 2 Complainant Contact Information

Please provide the following information about yourself.

**Note:** Anyone filing this complaint with you can add their information on a separate page (see page 4).

First Name	Last Name
Residential Address	
Mailing Address (if different)	
Telephone (optional)	Email

## STEP 3 Respondent

Please provide the following information about the individual or individuals whom you allege violated or improperly administered election laws:

**Note:** If there are multiple respondents, you can add their information on a separate page (see page 5).

Respondent Name	Respondent Title (5.06 complaints)
Mailing Address	
Telephone (if available)	Email (if available)

**STEP 4**

**Applicable Statutes**

Please cite each statute within Chapters 5 to 10 and 12 of the Wisconsin Statutes, as well as any other laws relating to elections, other than laws relating to campaign financing, that you allege were violated or improperly administered.

**Note:** The Commission cannot accept a complaint that does not cite specific provisions, including the correct subsections, of election law.

**STEP 5**

**Allegations**

Set forth in detail the facts that establish probable cause to believe that a violation occurred. Be as specific as possible as it relates to dates, times, individuals, and actions involved. Use as many separate pages as needed and attach copies of any supporting documentation, evidence, or affidavits.

**STEP 6**

**Sworn Statement (to be completed in the presence of a notary)**

I, \_\_\_\_\_, being first duly sworn, on oath, state that I personally read the above complaint, and that the above allegations are true based on my personal knowledge and, as to those stated on information and belief, I believe them to be true.

Complainant's Signature

**Note:** Each complainant listed above in section 2 must have this form sworn before a notary or other official able to swear oaths.

**STATE OF WISCONSIN**

County of, \_\_\_\_\_ (county of notarization)

Sworn to before me this day of, \_\_\_\_\_ .

Stamp Here

(Signature of person authorized to administer oaths)

My commission expires on \_\_\_\_\_, or is permanent.

Notary Public or \_\_\_\_\_ (official title if not notary)

**STEP 7**

**Filing the Complaint**

Please send this completed form to the Wisconsin Elections Commission

**Email:**

[elections@wi.gov](mailto:elections@wi.gov)

Please put your name and "Complaint" in the email subject field

**Mail:**

Wisconsin Elections Commission  
P.O. Box 7984  
Madison, WI 53707-7984

**Fax:**

608-267-0500



## Additional Complainants

First Name

Last Name

Residential Address

Mailing Address (if different)

Telephone (optional)

Email

First Name

Last Name

Residential Address

Mailing Address (if different)

Telephone (optional)

Email

First Name

Last Name

Residential Address

Mailing Address (if different)

Telephone (optional)

Email

## Additional Respondents

Respondent Name

Respondent Title (5.06 complaints)

Mailing Address

Telephone (if available)

Email (if available)

Respondent Name

Respondent Title (5.06 complaints)

Mailing Address

Telephone (if available)

Email (if available)

Respondent Name

Respondent Title (5.06 complaints)

Mailing Address

Telephone (if available)

Email (if available)

Respondent Name

Respondent Title (5.06 complaints)

Mailing Address

Telephone (if available)

Email (if available)



# Wisconsin Elections Commission

201 West Washington Avenue | Second Floor | P.O. Box 7984 | Madison, WI 53707-7984  
(608) 266-8005 | elections@wi.gov | elections.wi.gov

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**DATE:** For the June 27, 2024, Commission Meeting

**TO:** Members, Wisconsin Elections Commission

**FROM:** Prepared and Presented by:  
Riley Vetterkind, Public Information Officer

**SUBJECT:** External Use of Agency Materials, Logos, and Branding

## 1. Purpose

The Wisconsin Elections Commission maintains several logos and a wealth of agency-produced materials and branding published on the agency’s public platforms. The agency currently lacks a policy to determine the extent to which members of the public, media organizations, commercial entities, political campaigns, and/or other third-parties may use agency-produced materials for political, commercial, educational, personal, or other uses, with or without attribution to the agency.

The goal of this memorandum is to solicit Commission feedback on whether development of such a policy is needed, and if so, what the Commission wants staff to consider in researching and developing such a policy.

## 2. Background

The WEC’s logos act as symbols to distinguish and lend authority to the agency and the various programs it administers. These include the main agency logo; and logos identifying MyVote Wisconsin, a website that provides Wisconsin voters with registration, absentee, sample ballot, municipal clerk, and polling place information; Elections 101, a voter education video series; ElectEd, the agency’s new learning management system; Badger Voters, the agency’s website that facilitates the purchase of voter data; and Bring It, a website that explains photo ID requirements to vote.

Additionally, the WEC develops graphics, videos, photos, and other media materials to assist local clerks, voters, lawmakers, external organizations, political parties, candidates, and other members of the public to better understand Wisconsin’s electoral process and the underlying laws and regulations that govern it. Recent highlights include the Elections 101 election education video series, which teaches about the basics of election administration; a series of brief videos developed ahead of the 2020 General Election that answer frequently asked voter questions; clerk training videos; social media graphics for use by the WEC and local clerks; and more. The WEC frequently publishes its videos, photos, and graphics on its websites, and on Vimeo, a video sharing website.

*Wisconsin Elections Commissioners*

Ann S. Jacobs, chair | Marge Bostelmann | Don M. Millis | Carrie Riepl | Robert Spindell | Mark L. Thomsen

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Administrator  
Meagan Wolfe

The WEC's website, [elections.wi.gov](https://elections.wi.gov), serves as a hub for all information related to the WEC and election administration in Wisconsin. This includes information about the WEC's general structure and purpose, its meetings and decisions, along with clerk communications, election calendars, fact-checks, and other FAQs for voters.

It is common for external groups to link to or otherwise reference general election-related information on the WEC's platforms. As an official source of election information in the State of Wisconsin, the WEC encourages this practice, and it is not anticipated that a policy would need to address such use.

Rather, staff anticipate that the development of a policy would instead focus on guidelines for use of the agency's intellectual property.

Recently, staff have received requests from candidates and others to place the MyVote logo on their campaign literature or other materials. Staff have also received requests from third-party groups who are interested in translating the agency's video resources into other languages for use by non-English speakers.

Without a formal policy, agency staff have adhered to certain informal practices in response to these requests.

Agency staff have generally not attempted to restrict external entities linking to or using general information or materials on the agency's main website, as the WEC is an official source of election information. It is staff's understanding that the WEC retains copyright and trademark rights for its logos and agency-produced media, including media produced for the WEC by outside vendors. Copyright symbols are featured on all agency websites.

The WEC has also refrained from granting political campaigns or others permission to use the MyVote logo or other agency logos or materials until a policy is in place and has refrained from granting permission to outside groups to translate or otherwise alter agency-developed videos or graphics.

In cases where the WEC wants to promote a program or message, the agency has encouraged the widespread use of agency-produced materials by external entities. Specifically, the agency has and continues to promote the widespread use of the agency's "Elections 101" educational video series and accompanying materials by organizations that may find them useful. While the Commission does not make original video files available to these entities, it does keep them on the agency website and Vimeo, a video sharing website, and encourages external entities to stream and link to these videos with or without attribution to the agency. The agency logo is displayed in each video.

### **3. Policy Considerations**

The Commission may wish to pursue one policy that incorporates guidelines for use of agency logos, media, and materials, or the Commission could pursue multiple policies that address each of these areas separately.

In general, two principles are relevant to policies of this nature: a.) protecting the integrity of the WEC's identity and brand, and b.) encouraging the public to use materials developed by the WEC, the State of Wisconsin's official source of trusted election information.

If directed to develop a policy, staff will evaluate and apply the principles above and provide the Commission an analysis examining the multiple criteria described below.

- a) **Priorities.** Balancing the protection of the WEC's identity and brand against the importance of building upon the agency's role as a source of trusted election information by promoting the widespread use of agency-produced materials.
- b) **Scope.** What elements are to be protected (logos, branding, videos, graphics, etc.).
- c) **Terms of Use.** The conditions under which third parties may use agency products.
- d) **Permissions.** Whether external entities must seek permission to use the materials for their specific project, or whether the Commission would prefer to set terms and conditions of use, but otherwise not require permission or approval.
- e) **Credit.** Whether entities using WEC materials must credit the WEC when they use them, or whether such a requirement is not necessary. The Commission may wish to watermark certain agency materials, such as agency-produced videos, to make it more difficult for others to use WEC materials without permission.
- f) **Enforceability.** The ability of the agency to enforce any published terms of use, considering various legal and ethical considerations.

#### 4. Recommended Motion

The Commission directs staff to conduct further research and create a draft policy for the use of the agency's logos and media by external organizations based upon the guidelines provided by the Commission at the June 27, 2024 quarterly meeting. The Commission directs staff to bring the draft policy back to the Commission at a future meeting for further consideration and/or approval.