ETHICAL PRACTICES BOARD

Annual Report 2013

Betsy Hodges, Mayor
Barbara Johnson, City Council President
Walter G. Bauch, Chair
Susan L. Trammell, Ethics Officer

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Introduction

The Ethical Practices Board ("EPB") was created in 2003 with the passage of the City's Ethics in Government Ethics Code ("Ethics Code"), codified at M.C.O. Ch. 15. Section 15.210 of the Ethics Code establishes the EPB and outlines the powers and duties of the EPB, which include issuing advisory opinions and investigating complaints from City employees and members of the public that the Ethics Code has been violated. The Ethics Code sets forth some specific standards which no City official or employee should violate and, as importantly, sets forth aspirations for ethical conduct that go above and beyond the minimum requirements of the Ethics Code.

Further, Ethics Code §15.210(f) states:

> The ethical practices board shall prepare and submit an annual report to the mayor and the city council detailing the ethics activities of the board and the city during the prior year. The format of the report must be designed to maximize public and private understanding of the board and city ethics activities. The report may recommend changes to the text or administration of this Code. The city clerk shall take reasonable steps to ensure wide dissemination and availability of the annual report of the ethical practices board and other ethics information reported by the board.

This annual report is respectfully submitted to the Mayor and to the City Council in response to the requirements of the Ethics Code.

Appointment and Membership

The 2013 chair of the EPB was Ms. JP Hagerty. Ms. Hagerty was originally appointed to the EPB in January 2012 and is currently serving a term to expire on January 2, 2017. Ms. Hagerty is a 12 year resident of the Windom Park neighborhood of northeast Minneapolis. She has a BA in Biology from UNC Charlotte, a Project Management Certification from the U of M, and is working on a Masters in Organizational Leadership at St. Catherine's University, St. Paul. Ms. Hagerty is a project manager employed by Allina Health.

Mr. Walter Bauch was originally appointed to the EPB in August 2010 and is currently serving a term to expire January 2, 2015. Mr. Bauch is a partner with the law firm of Collins, Buckley, Sauntry & Haugh, P.L.L.P. in St. Paul. He practices in the areas of family law, probate litigation, real estate, insurance defense and personal injury, business and business litigation, professional responsibility and appellate practice. He is a family law mediator and serves, since 1994, as a Hennepin County Conciliation Court Referee. Mr. Bauch is the 2014 chair of the Ethical Practices Board.

Ms. Patricia Kovel-Jarboe was first appointed to the EPB in September 2005 and is currently serving a term to expire January 2, 2015. Ms. Kovel-Jarboe is a former professor at the University of Minnesota and was also an administrator at the University of Minnesota. Ms. Kovel-Jarboe is currently retired.

Ethics Code §15.220 provides that the City Attorney shall designate an assistant city attorney as the City's Ethics Officer. Susan Trammell was designated Ethics Officer in February of 2006.

Mission

The Mission of the Board is to promote integrity in City government by providing the services set forth in Ethics Code §15.210(e). These services include providing interpretations of the Ethics Code, responding to allegations of Ethics Code violations, and providing policy advice to the Ethics Officer.

2013 Accomplishments

The primary activities and accomplishments achieved by the Ethical Practices Board and assigned staff in 2013 included:

I. Ethics Education

Requirements of the Ethics Code

The Ethics Code requires attendance at an ethics education seminar within six months of becoming a local official or employee and every four years thereafter for local officials and every three years thereafter for employees. The Ethics Code states the education seminars are to be designed and implemented by the Human Resources Department to educate local officials and employees of their duties and responsibilities under the Ethics Code. Department heads are responsible for ensuring that all of their employees attend the required ethics education seminars.

Historical Perspective and Current Statistics

Upon passage of the Ethics Code in March of 2003, a concerted effort was made to provide Ethics Code education to the entire City workforce, the elected officials and the members of the City's boards and commissions. To this end, a videotaped training featuring "Dr. Bill" was produced and the vast majority of covered persons attended ethics education prior to March 31, 2004. The Dr. Bill videotape was replaced with a video featuring Ethics Officer Burt Osborne in 2005. Beginning in October 2006, Ethics Officer Susan Trammell began conducting "in person" ethics education seminars for city employees, elected officials and the members of the City's boards and commissions. In collaboration with the Human Resources Department Training and Development division ("Training and Development"), a city-wide employee Ethics Code refresher class was offered twice each month through 2012 in conjunction with required Respect in the Workplace education. Ethics Code education is also provided at each new employee orientation session. In addition, the Ethics Officer often provided Ethics Code education to individual departments or divisions as well as to the individual City boards and commissions.

In 2009, the Ethics Code was amended to require refresher ethics education every three years for employees instead of every four years. The ordinance change resulted in the falling out of compliance for a large number of regular employees. Much effort was invested in 2009-2011 to provide ethics education opportunities to employees and remind department heads of the Ethics Ordinance education requirement and their duty to ensure their employees attend ethics education.

Since 2010 the Board's work plan included an objective to implement electronic ethics education training for City employees. In 2012, the City Council appropriated $40,000 of 2011 rollover funds for development of electronic-based ethics education refresher training for all city personnel. The Ethics Officer collaborated with staff from the Communications and Information Technology departments to create a new electronic ethics refresher training program which was rolled out to employees in 2013. The thirty minute electronic training module discusses conflicts of interest, issues related to outside employment, gifts and use of City property. Staff from several departments volunteered to act in the video segments to illustrate ethical issues that employees could face as they perform their duties. The training may be viewed here: http://wwwdocs.minneapolismn.gov/ethics/. Electronic ethics education remains on the Board's work plan as completion of the statements of economic interest and political activity refresher segments are in progress.

With the rollout of the electronic training module, employees no longer have to travel to the classroom location and take the refresher training during pre-set times. Approximately 50% of the City's workforce, 1,802 employees, took the electronic refresher training module in 2013. This resulted in 87% of all employees, regular and seasonal, being in compliance with the required Ethics Code education as of December 31, 2013.

The Ethics Officer continues to present ethics education at all new employee orientations. This in-person training will continue as it is important for all new employees to have the more intensive training at the beginning of their City employment as well as an ethics discourse opportunity with the Ethics Officer.

The following chart depicts the Ethics Code education status of the employees of each department.

Employee Ethics Education Status By Department
As of December 31, 2013

Department	Attended Training in 2013	HRIS Reported Number of Employees	Out of Compliance 2013	Will Change to Out of Compliance in 2014
311	4	25	0	8
911	16	65	1	42
ASSESSOR	9	30	0	10
ATTORNEY	87	103	1	1
TECHNOLOGY	4	49	9	19
CITY CLERK excluding election judges and elected officials	11	45	10	19
CITY COORDINATOR	4	10	1	1
CIVIL RIGHTS	9	16	2	1
COMMUNICATIONS	2	11	4	3
CONVENTION CENTER excluding stage hands	7	189	11	159
CPED	41	201	14	42
EMERGENCY MANAGEMENT	1	3	0	1
FINANCE	71	211	20	82
FIRE DEPARTMENT	193	362	52	32
HEALTH AND FAMILY SUPPORT	35	96	3	26
HUMAN RESOURCES	16	51	6	20
INTERGOVERNMENTAL RELATIONS	1	8	2	0
INTERNAL AUDIT	0	4	0	0
MAYOR	5	10	0	0
NEIGHBORHOOD & COMMUNITY ENGAGEMENT	6	14	3	2
POLICE DEPARTMENT	896	919	8	10
PUBLIC WORKS	287	926	294	186
REGULATORY SERVICES	16	139	26	25
Totals	**1721**	**3487**	**467**	**689**

Board and Commission Ethics Code Education

The Ethics Code requires the approximately 475 citizen volunteers serving on our more than 45 boards, commissions and advisory committees (collectively "boards") to attend ethics education upon beginning their service and every four years thereafter. When the Ethics Code was adopted nearly all members of the City's boards attended ethics education. Since the beginning of 2004, however, membership on the City's boards has experienced substantial turnover but ethics education was not held when new members began serving their terms. In 2008 the Ethics Officer began presenting ethics education sessions focusing mainly upon conflicts of interest.

Providing in person ethics education to these boards proved to be challenging because the boards often meet in the evening and their agendas are tightly packed. In 2009 the Ethics Officer worked with a donor to create an interactive computerized ethics education course for these boards. The City Council accepted this gift by resolution dated June 12, 2009. The computerized training is web-based and permits the board members to participate in the training at their own convenience. The City Clerk's office is automatically notified of the board member's completion of the training when the member reaches the end of the training materials and supplies his/her name and board membership.

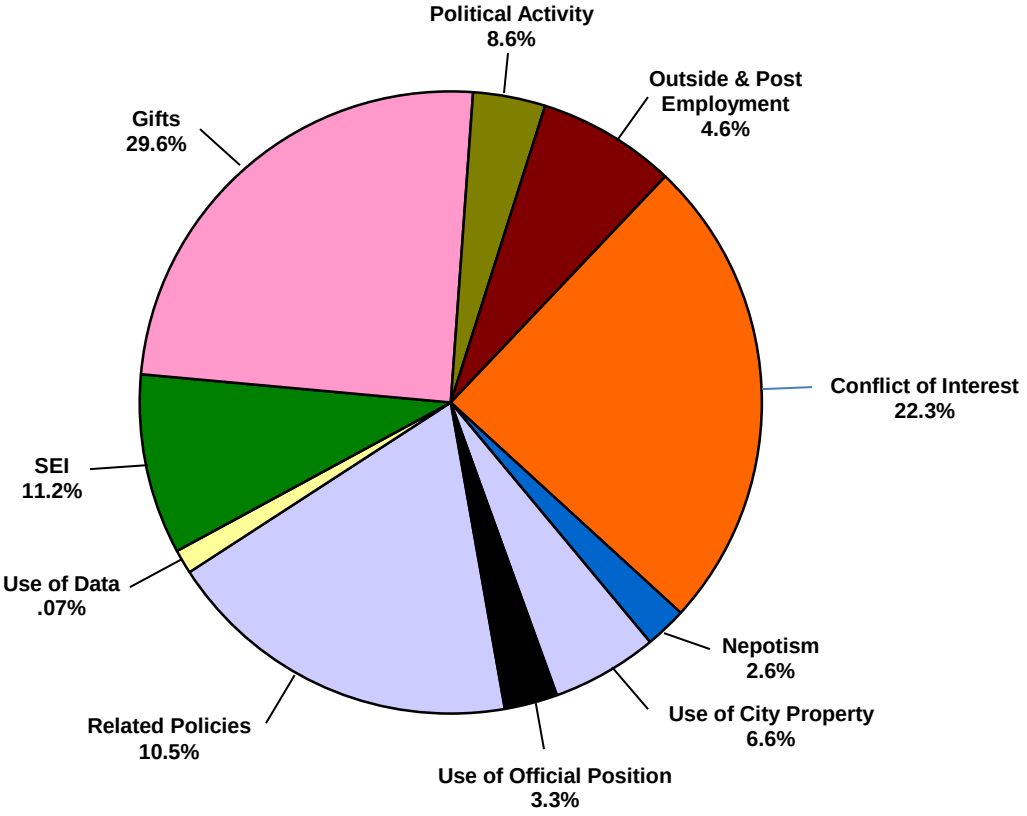
In 2010 and 2011 the Ethics Officer collaborated with the City Clerk's office to communicate more often with liaisons of boards about the obligations of their board members and to incorporate the required ethics education into the appointment process. This collaboration has resulted in 217 members taking the required ethics education. Compliance in 2012, however, dropped again to 47%.

In 2013, training reminders were sent during both the Spring and Fall appointment cycles to all board and commission liaisons along with instructions as to how to take the electronic ethics education. In 2013, however, only 75 members took the required ethics education. Additionally, with resignations, new appointments and returning members neglecting to take refresher education, the percent of members in compliance currently stands at 58%.

As the City Clerk's office moves forward with plans for both a spring and a fall orientation for new board members, the electronic ethics education will be incorporated into that orientation for new members. Education efforts will continue with board liaisons as to their cooperation with the recordkeeping required for tracking the status of their members' training and the necessary member reminders when the refresher training is due.

II. Ethics Inquiries

From January 1, 2013 through December 31, 2013, the Ethics Officer answered 197 telephone and email inquiries regarding ethics[1]. The number of inquiries decreased slightly from 215 inquiries in 2012. The substantive topics of 2013 inquiries were as follows:



The top two categories of inquiries did not change from last year: Gifts and Conflict of Interest. The calls related to gifts remained the most frequent category of inquiry for the fourth consecutive year. A substantial portion of the employee ethics education sessions are devoted to gifts and it is encouraging that employees will call the Ethics Officer when faced with uncertain situations. Questions related to gifts are highly fact dependent and not easily answered by FAQ or other informational brochures.

Not included as a substantive inquiry category are the miscellaneous inquiries which range from requests for a copy of the Ethics Code or a complaint form to how to file a complaint to information about serving on the Board to ethics education requirements. This year a substantial number of electronic ethics education inquiries were received resulting in a substantial increase

[1] Inquiries presented during education sessions and in-person immediately after ethics education sessions are not included in the numbers.

in the number of miscellaneous inquiries. Changes in inquiry percentages are depicted in the following chart:

Category	Percent Change from 2010 to 2011	Percent Change from 2011 to 2012	Percent Change from 2012 to 2013
Use of Property	-2.5%	-4.5%	+2.0%
Political Activity	+0.5%	+4.9%	+1.3%
Outside & Post Employment	+4.8%	-1.2%	-6.4%
Nepotism	-0.5%	-3.0%	-1.0%
Use of Information	+1.2%	-1.3%	+0.1%
Contracts	-0.1%	+.2%	-1.4%
Use of Position	+3.7%	-4.9%	+1.5%
Statement of Economic Interest	+1.2%	-4.4%	+8.9%
Conflict of Interest	-4.9%	+7.5%	+3.9%
Discrimination/Harassment	-0.6%	+1.4%	-1.4%
Charitable Organizations Policy	-0.9%	+4.4%	-4.4%
Aspirations	+0.5%	-2.4%	+0.6%
Gifts	-3.3%	+1.5%	-4.0%
Lobbyists	+0.6%	-0.6%	+1.3%
Solicitation of Gifts for City Policy	-1.3%	-1.2%	-0.6%
Miscellaneous	-0.8%	+1.3	+11.7%

Minneapolis is not the only city to track inquiries related to its Ethics Code. The following chart contains information from other cities and the City of Minneapolis:

	Approximate Number Persons Covered	2013 Inquiries	Top Three Substantive Inquiries
Chicago	31,300	6,245	Gifts & travel Lobbying Use of city property
Denver	12,000	251	Outside employment Gifts Conflict of interest
Atlanta	8,400	101	Conflict of interest Gratuities Outside employment
Honolulu[⌘]	10,400	382	Financial conflict of interest Use of city resources for benefit or disadvantage of another Gifts to city personnel
Minneapolis	4,600	197	Gifts Conflict of interest Statements of economic interest

[⌘] Honolulu's reporting year ran from July 1, 2013 – June 30, 2014

III. Ethics Complaints and Ethics Report Line

Ethics Complaints

The Ethics Officer received forty-three (43) total complaints alleging sixty-seven (68) violations of the Ethic Code during 2013. The complaints were reported in the following ways:

Reporting Method	2008	2009	2010	2011	2012	2013
Ethics Officer	9	14	4	3	5	9
Ethics Report Line - Internet	6	11	4	7	5	13
Ethics Report Line - Telephone	10	13	9	6	7	15
Required reporting by department	2	8	6	8	7	4
311 – Citizen reporting	1	0	1	2	0	2
Totals	**28**	**46**	**24**	**26**	**24**	**43**

The use of the Ethics Report Line, both internet and phone, as a reporting mechanism has remained fairly constant as a percentage of reports in recent years but increased significantly in 2013:

Year	Ethics Report Line as a Percent of Total Reports
2008	57%
2009	57%
2010	54%
2011	50%
2012	50%
2013	65%

Ethics Code §15.230(c) requires a supervisor or department head to notify the Ethics Officer of a report of an alleged Ethics Code violation and the subsequent outcome. The Ethics Officer received four (4) such reports in 2013. Given the breadth of the Ethics Code and the inclusion of the City's Anti-Discrimination, Harassment, and Retaliation Policy in the Ethics Code through §15.150, Discrimination or Harassment, it is fair to say that the complaint statistics reported above do not cover all of the ethics related issues handled by City Departments throughout 2013.[2]

[2] Human Resources Investigative unit reported forty-three (43) complaints in 2013, including the complaints received via Ethics Report Line. Twenty-four (24) of the complaints resulted in investigation.

The subject matter of the seventy-six (76) allegations[3] covered the entire Ethics Code as well as other management concerns:

Subject Matter, Ethics Code Section	2009	2010	2011	2012	2013
Fiduciary Duty, 15.30	0	6	2	3	0
Conflict of Interest, 15.40	3	2	1	5	1
Gifts, 15.50	7	1	0	0	1
Outside Employment, 15.60	5	0	2	3	2
Use of Official Position, 15.70	9	2	1	7	0
Statements of Economic Interest, 15.80	0	0	0	0	0
Post-employment, 15.90	3	0	0	0	0
Use of City property or time, 15.100	22	8	7	18	17
Political Activity, 15.110	1	1	1	0	1
Loans, 15.120	0	0	0	0	0
Required Reporting of Fraud, 15.140	0	0	0	0	2
Discrimination/Harassment, 15.150	3	3	2	2	27
Nepotism, 15.160	0	1	1	0	3
Use/Disclosure of Information, 15.170	1	0	4	4	3
Bias or Favoritism, 15.190	4	2	1	4	11
Inappropriate Influence, 15.200	0	0	2	3	0
Employee Relations	11	9	3	3	4
Other Policy Violations	0	0	2	3	0
Compliance with other Laws	0	0	2	0	2
Ethical Aspirations	2	1	1	4	1
Other	4	0	0	2	1

Complaints related to the use of city property or time has historically been a substantial portion of total complaints and that trend continued in 2013. Discrimination and harassment, consisting of both protected class and non-protected class allegations, was the most frequent allegation in 2013. Discrimination and harassment allegations involving protected classes are investigated by the Human Resources Lead Investigator for violations of the Anti-Discrimination, Harassment, and Retaliation Policy ("ADHR Policy"). Discrimination and harassment complaints containing non-protected class allegations are forwarded to the appropriate department for investigation.

The end of the year status of the 2012 carryover complaints and 2013 complaints are as follows:[4]

Pending – 2
Unsubstantiated, no action taken – 24
Department action taken – 11
Complainant failed to cooperate – 5
Other – 2
Discipline imposed – 3
Coaching – 7
No jurisdiction – 6
Required reporting only – 1

[3] Some complaints contained more than one allegation so these numbers will not equal the number of complaints received.
[4] Some outcomes contained more than one action so these numbers will not equal the number of complaints received.

The Ethics Officer has taken the opportunity, while assisting departments with the handling of these complaints, to review and suggest changes to the departments' internal policies. Such reviews and revisions of policies assist departments in avoiding appearances of impropriety and promote a healthy ethical culture in the City.

Ethics Report Line

The Ethics Report Line has been operational since June 1, 2008. All reports are made through the Ethics Report Line are forwarded to the City's Ethics Officer, Susan Trammell. If the report is an Anti-Discrimination, Harassment, and Retaliation Policy ("ADHR Policy") report, it is also forwarded to the City's Human Resources Lead Investigator, Steve Kennedy, in addition to the Ethics Officer. If the report is a non-ADHR Policy allegation, it is also forwarded to the Internal Auditor in addition to Ethics Officer. This process is to ensure no complaint is overlooked. Once received, the reports are forwarded as required by the Ethics Code to the appropriate official for investigation, usually the Department Head and Human Resources Generalist for the applicable department. The Ethics Officer contacts the department periodically to check on status of the investigation until the complaint is closed.

The Network tracks statistics related to the reports made through its clients' compliance lines:

Original Incident Reports	**2011 % City**	**2011 % The Network**	**2012 % City**	**2012 % The Network**	**2013 % City**	**2013 % The Network**
Anonymous Reports	61.5%	47.5%	83.3%	49.2%	65.6%	44.4%
Non-Anonymous Reports	38.5%	52.5%	16.7%	50.9%	34.4%	55.6%
Escalated Incident Reports	0.0%	1.2%	0.0%	1.1%	0.0%	0.9%
Previously Reported to Management	38.5%	29.5%	33.3%	28.9%	31.3%	25.4%
Caller Callbacks	18.2%	9.3%	17.7%	8.3%	10.4%	7.1%

For all years of Ethics Report Line operation, the City's anonymous reporting is significantly higher than that of The Network's other clients. Anonymous callers are instructed to re-contact the Network after a designated period of time to answer any questions the assigned investigator may have for the caller. The City's anonymous callers follow up as instructed more frequently than the callers of The Network's other clients and while the percentage of callers calling back decreased in 2013, the City's call back percentage remains higher than average for anonymous calls. The importance of calling back is stressed when the Ethics Report Line process is discussed during Ethics Education classes. Calling back is essential for the City to properly investigate anonymous complaints.

The Network also tracks the allegations raised in a report made through the Ethics Report Line:

Subject of Original City of Minneapolis Incident Report	2008	2009	2010	2011	2012	2013
Use of Property/Time	23.8%	28.6%	29.4%	35.3%	8.3%	28.1%
Nepotism	4.8%	0.0%	5.9%	0.0%	0.0%	3.1%
Safety Issues	4.8%	0.0%	0.0%	0.0%	0.0%	0.0%
Use/Disclosure of Information	4.8%	0.0%	0.0%	5.9%	0.0%	3.1%
Outside Employment	4.8%	7.1%	0.0%	0.0%	0.0%	6.2%
Post-Employment	0.0%	7.1%	0.0%	0.0%	0.0%	0.0%
Harassment/Discrimination*	9.5%	7.1%	5.9%	5.9%	25.0%	25.0%
Bias/Favoritism	0.0%	9.5%	0.0%	0.0%	0.0%	9.3%
Use of Position	0.0%	11.9%	0.0%	5.9%	0.0%	0.0%
Employee Relations	23.8%	19%	47.0%	17.6%	8.3%	9.3%
Gifts	9.5%	7.1%	5.9%	0.0%	16.6%	0.0%
Conflict of Interest	0.0%	2.4%	5.9%	0.0%	8.3%	9.3%
Legal Compliance	0.0%	0.0%	0.0%	11.8%	0.0%	3.1%
Other	14.3%	0.0%	5.9%	11.8%	8.3%	3.1%

***** Anti-Discrimination, Harassment, and Retaliation Policy

IV. Code Interpretation through Policy Development

In 2009 the Ethics Officer collaborated with the City's Human Resources Department to establish protocol to include ethics compliance as an issue in all employee exit interviews. The following ethics question is now included in all on-line and paper versions of the employee exit survey for employees who voluntarily leave the employ of the City:

Policy Compliance - Management adherence to the Ethics in Government Code.

1 - Very Dissatisfied 2 - Somewhat Dissatisfied 3 - Somewhat Satisfied 4 - Very Satisfied

Check if this is a factor in your departure

During 2013 the City experienced a total of 198 voluntary employee separations: 116 retirements and 82 resignations. Twenty-one (21) of the employees voluntarily separating from the City participated in the Employee Exit Survey and all twenty-one (21) of those participants answered the question related to management adherence to the Ethics in Government Code.

Exiting Employee Perception of Management Adherence to the Ethics Code

	Very Dissatisfied	Somewhat Dissatisfied	Somewhat Satisfied	Very Satisfied	Factor in departure
# of Responses	2	4	7	8	3
%	9.5%	19.0%	33.3%	38.1%	14.3

Once exit surveys are received, copies are shared with the appropriate Human Resources Generalist. If the identity of the employee is known, the Human Resources Generalist may further investigate the answers of the exit survey. Human Resources also forwards all exit surveys with negative responses to the Management Adherence to the Ethics Code question to the Ethics Officer.

V. Proposed Ordinance Amendments

The Board is not proposing amendments to the Ethics Code at this time. The Board continues to consider various potential amendments. The Board is also monitoring state legislation for proposed amendments to Chapter 10A of Minnesota Statutes, the State Gift Ban. If amendments are made to the State Gift Ban, the Board will be seeking conforming changes with the City's Ethics Code.

2013 Expenses

Council on Governmental Ethics Laws membership	$445
Society of Corporate Compliance and Ethics Membership	$295
Ethics Report Line	$4,250
Attorney III at 32% time ($155,186 FTE per year)	$49,660
Electronic Ethics Education	$18,583
	$73,233

The Ethics Officer's time has generally trended downward from a high of 48% in 2008 with a low of 23% in 2011. The reported 2013 expenses do not take into account the incidental expenses such as an office, computer, telephone, office supplies, copying, postage, parking, mileage for training and other expenses covered by the Office of the Minneapolis City Attorney.

Year	2007	2008	2009	2010	2011	2012	2013
% Ethics Officer Time	37%	48%	47%	33%	23%	47%	32%

2013 Revenue

During 2013 the Ethical Practices Board did not receive any income from grants, awards or donations.

2013 Volunteer Hours

The three members of the Board collectively spent approximately 52 hours on work related to the Board during the 2013 calendar year. This year's business before the board only necessitated the Board holding bi-monthly meetings. On average, each member spent three plus hours per meeting on Board related activities which is consistent with prior years.

2014 Work Plan
As Approved by the Ethical Practices Board

The 2014 work plan is predicated on the availability of city staff to complete the tasks requiring staff involvement.

Ethics Education

- Conduct new employee ethics education seminars.
- Fully implement political activity electronic ethics education training for City employees, appointed officials and elected officials.
- Consult with departments to determine ethic education needs of contractors.
- Conduct ethics education seminars for departments as requested.
- Continue collaboration with the City Clerk's office to incorporate the required ethics education into the appointment process.
- Continue collaboration with the City's Communication Department to create a communication strategy to promote awareness of both Ethics and the Ethics Report Line.

Ethics Code Review

- Review City's Ethics Code and propose amendments to improve effectiveness of the Code.

Code Interpretation through Policy Recommendations

- Assist Departments with policy drafting upon request.

Ethics Inquiries

- Answer Ethics Code inquiries from employees, local officials and the public.

Ethics Complaints and the Ethics Report Line

- Manage complaints received directly and from the ethics report line.

Promote an Ethical Culture in the City of Minneapolis

- Reach out to departments to engage them in discussions about their ethical cultures and ways to improve the culture.