

ETHICS COMMISSION CITY AND COUNTY OF SAN FRANCISCO

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Date: January 21, 2016
To: Members of the Ethics Commission
From: LeeAnn Pelham, Executive Director
Subject: **AGENDA ITEM # 4 - Prop. C Expenditure Lobbyist Draft Regulations**

Summary This memo provides the Ethics Commission with Staff recommendations for regulations to interpret and implement the provisions of Prop. C.

Action Requested That the Ethics Commission consider and approve the attached proposed regulations to interpret and implement the provisions of Prop. C.

Background and Reasons for Proposed Regulations

Placed on the November 5, 2015, ballot by the Ethics Commission and approved by San Francisco voters with approximately 75% of the vote, Prop. C¹ established certain public disclosure requirements for persons who engage in communications to urge others to contact City and County officials in an attempt to influence matters defined under the law as local legislative or administrative action. The measure takes effect on February 1, 2016.

Prop. C was designed to "protect public confidence in the responsiveness and representative nature of government officials and institutions" by furthering public disclosure about efforts designed to influence local decision making. Findings Sec. (1)(a). Specifically, it amended the City's existing lobbying law to re-establish a category of "indirect" lobbyists known as "Expenditure Lobbyists," who make payments in an attempt to encourage others to directly lobby City officials. Findings Sec. (1)(b). Effective February 1, the ordinance imposes registration and disclosure requirements on expenditure lobbyists similar to those that apply to contact lobbyists under existing law.

To better understand which terms used in Prop. C might benefit from clarifying regulations, Commission Staff held interested persons meetings on the measure's implementation on December 7, 2015, and on January 13, 2016.²

¹ The text of Prop. C as approved by voters appears in Attachment 1. Also attached are drafts of the registration and reporting forms to be used pending the implementation of an electronic filing system that would enable the submission of online registrations and disclosure reports.

² Written comments received since the January 13 Interested Persons meeting are in Attachment 3.

Based on Staff's review of Prop. C and feedback received from the Interested Persons meetings, draft regulations have been proposed for the Commission's consideration and approval. The language of the proposed regulations appears in Attachment 2 and is summarized below.

Overview of Proposed Regulations

Regulation 2.105-5. Proposed Regulation 2.105-5 addresses issues raised during the Interested Persons meetings regarding payments. Specifically, it addresses when a payment is counted toward the monetary threshold and the extent to which an organization would have to account for research and reports that may not have been originally undertaken for expenditure lobbying, but ultimately were used for that purpose. In addition, it addresses organizations that act as a fiscal sponsor. A "fiscal sponsor" is a nonprofit that shares its tax-exempt status with an individual organization or unincorporated group via a contractual agreement. The regulation clarifies that:

- A person "makes payments" at the time when an expenditure for a qualifying activity is incurred;
- Payments made for activities that count toward the \$2,500 threshold will be presumed to be for the purpose of encouraging others to directly lobby City officials if the payments are made within 12 months of the communication that urges other persons to communicate directly with a City Officer;
- Each organization operating under a fiscal sponsor may be required to register and report as an expenditure lobbyist, but the fiscal sponsor is not required to register and report based on the activities of the organizations it supports; however, a fiscal sponsor must register as an expenditure lobbyist if it meets the qualification threshold through its own activities;
- Salary paid to internal staff related to activities to urge other persons to communicate directly with a City officer counts towards the \$2,500 qualifying threshold.

Regulation 2.105-6. Proposed Regulation 2.105-6 attempts to address concerns regarding who constitutes a "member" of an organization, and what constitutes a "communication" to an organization's members. It clarifies that:

- A "member" is an employee, shareholder, or person who pays dues or fees, or a person who may vote in an organization's elections, and other persons who take affirmative steps to receive an organization's communications;
- An organization's newsletters that are regularly-scheduled, regularly-produced, and regularly-distributed are exempt as a qualifying expenditure, even if the newsletter contains a solicitation to urge other persons to communicate directly with a City Officer;
- Communications other than a regularly-scheduled, regularly-produced, and regularly-distributed newsletter that are sent to both members and non-members are not "communications" to members and therefore these communications would count toward the qualification threshold.

[NOTE: The Commission may wish to consider whether communications sent to both members and non-members constitute a communication to members if a majority (e.g., over 50%) of the recipients are an organization's members, in which case the communication would not count toward the qualification threshold. Staff presents this option to the Commission for its consideration without recommendation.]

Regulation 2.110-10. Proposed Regulation 2.110-10 requires that the information required to be reported by expenditure lobbyists must be disclosed using specific Ethics Commission forms (Attachment 4 [forms to be numbered upon adoption]). It further clarifies that an expenditure lobbyist, once registered, must continue to file a monthly report even when there is no reportable activity until it affirmatively terminates.

Regulation 2.110-11. Proposed Regulation 2.110-11 addresses concerns raised about the registration fees mandated in Section 2.110(e)(1). It extends that fee waiver for 501(c)(3) and 501(c)(4) employees to the organization itself. This section, written prior to the addition of the Prop. C. amendments, mandated that each individual lobbyist (now referred to as “contact” lobbyists) must pay the \$500 registration fee upon registering and annually thereafter. The Prop C. amendments require that the organization register with the Ethics Commission, and extending the fee waiver to those exempt organizations is in line with the employee waiver of the fee already provided for in the Ordinance.

Future Legislative Amendments

The Ethics Commission received some comments that advocated for outcomes that would require changes to the Expenditure Lobbyist provisions by legislative amendment. Prop. C includes a provision allowing the Board of Supervisors to amend the Expenditure Lobbyists law if:

- the amendments further the purposes of the ordinance;
- the Ethics Commission approves the proposed amendment in advance by at least a four-fifths vote of all its members;
- the proposed amendment is available for public review at least 30 days before the amendment is considered by the Board of Supervisors or any committee of the Board; and
- the Board of Supervisors approves the proposed amendment by at least a two-thirds vote of all its members.

Key issues raised that would require legislative action to amend are the:

- *Registration threshold.* The Commission received comment that the \$2,500 registration threshold was too low and should be increased, for example, to \$5,000 per calendar quarter. Any change to the expenditure threshold, however, would require a change by legislative amendment.
- *Exemptions for non-profits.* Concerns were expressed at the Interested Persons meetings that nonprofits and unions, particularly those that are smaller, will not have sufficient administrative capacity to ensure full compliance with Prop. C, and thus might refrain from advocacy efforts in the City. As such, some sought an exemption from registration and reporting for non-profits, including for 501(c)(3), (c)(4), and (c)(5) organizations. Because the text of Prop C. does not support the existence of such an exemption, Staff’s proposed regulations do not exempt them from registration or reporting.

Next Steps

Based on the Commission’s discussion and direction, Staff will incorporate input and any revisions to the proposed regulations will be circulated prior to the February 22, 2016, Commission meeting. Staff will

also begin to develop FAQs to accompany the forms and instructions. Staff will use social media feeds to disseminate any documents for public comment, as well as any documents once finalized.

Lastly, Staff will work to leverage current technologies designed to ease compliance responsibilities and promote program efficiency. Toward that end, the Commission will continue to seek every opportunity to develop and apply online filing tools to simplify the registration and monthly reporting process for its lobbying program, including for expenditure lobbyists required to file under the new law.

ATTACHMENT 1

[Initiative Ordinance - Campaign and Governmental Conduct Code - Expenditure Lobbyists]

Motion ordering submitted to the voters an ordinance amending the Campaign and Governmental Conduct Code to require expenditure lobbyists to register with the Ethics Commission and file monthly disclosures regarding their activities, at an election to be held on November 3, 2015.

MOVED, That pursuant to Charter section 15.102, the Ethics Commission hereby submits the following ordinance to the voters of the City and County of San Francisco, at an election to be held on November 3, 2015.

Ordinance amending the Campaign and Governmental Conduct Code to require expenditure lobbyists to register with the Ethics Commission and file monthly disclosures regarding their activities.

NOTE: **Unchanged Code text and uncodified text** are in plain font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in *strikethrough italics Times New Roman font*.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. Findings.

(a) The City and County of San Francisco ("City") has a long-standing, compelling interest in furthering public disclosure of the identity of lobbyists and of their efforts to influence decision-making regarding local legislative and administrative matters. The City has

1 required this disclosure to protect public confidence in the responsiveness and representative
2 nature of government officials and institutions.

3 (b) For many years, the City has required lobbyists who directly contact City officials,
4 referred to here as “contact lobbyists,” to register with the Ethics Commission and disclose
5 their lobbying activities. But in addition to contact lobbyists, individuals, businesses, non-profit
6 organizations, labor unions, and trade associations attempt to indirectly influence City officials
7 by urging others to directly lobby those officials. These indirect lobbyists, referred to in this
8 measure as “expenditure lobbyists,” make payments in an attempt to encourage others to
9 directly lobby City officials by urging them to attend legislative hearings to speak on their
10 behalf, by providing them with transportation to public meetings, by using advertising outlets
11 to ask others to call or contact City officials’ offices to make their arguments, or by making
12 donations in exchange for their direct lobbying efforts. Given these efforts, it is often difficult
13 for City officials to know whether the individuals directly approaching them are truly voicing
14 their own opinions or are doing so at the behest of expenditure lobbyists.

15 (c) For these reasons, and consistent with the City’s past efforts to further the goals of
16 open government and transparency in decision-making, the voters enact this ordinance to
17 impose registration and disclosure requirements on expenditure lobbyists. This approach is
18 not unique to San Francisco. Several other California jurisdictions, including Los Angeles,
19 Sacramento, San Diego, San Jose, and the State of California, have enacted similar
20 expenditure lobbyist regulations.

21 (d) This ordinance imposes reasonable, narrowly tailored registration and disclosure
22 requirements on expenditure lobbyists, obligating them to reveal information about their efforts
23 to influence decision-making. Since expenditure lobbyists and direct, contact lobbyists both
24 attempt to influence the City’s legislative process, this ordinance imposes the same sorts of
25 registration and disclosure requirements on both types of lobbyists.

1
2 Section 2. Article II, Chapter 1 of the Campaign and Governmental Conduct Code is
3 hereby amended by adding Section 2.103 and revising Sections 2.105, 2.106, 2.110, 2.115,
4 2.116, and 2.130, to read as follows:

5 **SEC. 2.103. AMENDMENT OR REPEAL.**

6 With respect to any provisions of this Chapter regarding regulation of expenditure lobbyists
7 approved by the voters, the Board of Supervisors may amend those provisions if all of the following
8 conditions are met:

9 (a) The amendment furthers the purposes of this Chapter;

10 (b) The Ethics Commission approves the proposed amendment in advance by at least a four-
11 fifths vote of all its members;

12 (c) The proposed amendment is available for public review at least 30 days before the
13 amendment is considered by the Board of Supervisors or any committee of the Board of Supervisors;
14 and

15 (d) The Board of Supervisors approves the proposed amendment by at least a two-thirds vote of
16 all its members.

17
18 **SEC. 2.105. DEFINITIONS.**

19 Whenever used in this Chapter 1, the following words and phrases shall ~~have the~~
20 ~~definitions~~ be defined as provided in this Section 2.105:

21 "Activity expenses" means any expense incurred or payment made by a lobbyist or a
22 lobbyist's client at the behest of the lobbyist, or arranged by a lobbyist or a lobbyist's client at
23 the behest of the lobbyist, which benefits in whole or in part any: officer of the City and
24 County; candidate for City and County office; aide to a member of the Board of Supervisors;
25 or member of the immediate family or the registered domestic partner of an officer, candidate,

1 or aide to a member of the Board of Supervisors. An expense or payment is not an "activity
2 expense" unless it is incurred or made within three months of a contact with the officer,
3 candidate, or Supervisor's aide who benefits from the expense or payment, or whose
4 immediate family member or registered domestic partner benefits from the expense or
5 payment. "Activity expenses" include honoraria, consulting fees, salaries, and any other thing
6 of value totaling more than \$25 in value in a consecutive three-month period, but do not
7 include political contributions.

8 "Candidate" shall have the same meaning as set forth in Section 1.104 of this Code.

9 "Client" means the person for whom lobbyist services are performed by a lobbyist.

10 "Contact lobbyist" means any individual who (1) makes five or more contacts in a calendar
11 month with officers of the City and County on behalf of the individual's employer; or (2) makes one or
12 more contacts in a calendar month with an officer of the City and County on behalf of any person who
13 pays or who becomes obligated to pay the individual or the individual's employer for lobbyist services.
14 An individual is not a contact lobbyist if that individual is lobbying on behalf of a business of which the
15 individual owns a 20% or greater share.

16 "Economic consideration" means any payments, fees, reimbursement for expenses,
17 gifts, or anything else of value, provided that "economic consideration" does not include
18 salary, wages or benefits furnished by a federal, state or local government agency.

19 "Employee" means any person who receives, reasonably expects to receive, or whose
20 employer is obligated to provide, an Internal Revenue Service Form W-2 wage and tax
21 statement.

22 "Employer" means any person who provides an Internal Revenue Service Form W-2
23 wage and tax statement to an employee who performs lobbyist services on behalf of that
24 person.

1 "Expenditure lobbyist" means any person, other than any government entity, or officer or
2 employee of a government entity acting in an official capacity, who, directly or indirectly, makes
3 payments totaling \$2,500 or more in a calendar month to solicit, request, or urge other persons to
4 communicate directly with an officer of the City and County in order to influence local legislative or
5 administrative action. Examples of the types of activities the payment for which can count toward the
6 \$2,500 threshold referred to in the previous sentence include but are not limited to public relations,
7 media relations, advertising, public outreach, research, investigation, reports, analyses, and studies to
8 the extent those activities are used to further efforts to solicit, request or urge other persons to
9 communicate directly with an officer of the City and County. The following types of payments shall not
10 be considered for the purpose of determining whether a person is an expenditure lobbyist: payments
11 made to a registered contact lobbyist or the registered contact lobbyist's employer for lobbyist
12 services; payments made to an organization for membership dues; payments made by an organization
13 to distribute communications to its members; payments made by a news media organization to develop
14 and distribute its publications; and payments made by a client to a representative to appear in an
15 adjudicatory proceeding before a City agency or department.

16 "Gift" shall be defined as set forth in the Political Reform Act, Government Code
17 Section 81000 et seq., and the regulations adopted thereunder.

18 "Lobbyist" means a contact lobbyist or expenditure lobbyist. ~~any individual who (1) makes~~
19 ~~five or more contacts in a calendar month with officers of the City and County on behalf of the~~
20 ~~individual's employer; or (2) makes one or more contacts in a calendar month with an officer of the~~
21 ~~City and County on behalf of any person who pays or who becomes obligated to pay the individual or~~
22 ~~the individual's employer for lobbyist services. An individual is not a lobbyist if that individual is~~
23 ~~lobbying on behalf of a business of which the individual owns a 20% or greater share.~~

1 "Lobbyist services" means services rendered for the purpose of influencing local
2 legislative or administrative action, including but not limited to contacts with officers of the City
3 and County of San Francisco.

4 "Local legislative or administrative action" includes, but is not limited to, the drafting,
5 introduction, consideration, modification, enactment, defeat, approval, veto, granting or denial
6 by any officer of the City and County of any resolution, motion, appeal, application, petition,
7 nomination, ordinance, amendment, approval, referral, permit, license, entitlement to use or
8 contract.

9 "Measure" shall have the same meaning as set forth in Section 1.104 of this Code.

10 "Officer of the City and County" means any officer identified in Section 3.203 of this
11 Code, as well as any official body composed of such officers. In addition, for purposes of this
12 Chapter, "officer of the City and County" includes (1) members of the Board of Education,
13 Community College Board, First Five Commission, Law Library Board of Trustees, Local
14 Agency Formation Commission, Health Authority Board, Housing Authority Commission,
15 Parking Authority, Relocation Appeals Board, Successor Agency to the former
16 Redevelopment Agency of the City and County of San Francisco, Oversight Board of the
17 Successor Agency, Successor Agency Commission, Transportation Authority, Workforce
18 Investment San Francisco Board as well as any official body composed of such officers, and
19 any person appointed as the chief executive officer under any such board or commission; (2)
20 the Zoning Administrator, (3) the City Engineer, (4) the County Surveyor, and (5) the Bureau
21 Chief of the Department of Public Works' Bureau of Street Use and Mapping.

22 "Person" means an individual, partnership, corporation, association, firm, labor union or
23 other organization or entity, however organized.

24 "Public hearing" means any open, noticed proceeding.

25 **SEC. 2.106. LOBBYING CONTACTS.**

1 (a) Whenever used in this Chapter 1, "contact" means any communication, oral or
2 written, including communication made through an agent, associate or employee, for the
3 purpose of influencing local legislative or administrative action, except as provided in
4 Subsections (b) and (c).

5 (b) The following activities are not "contacts" within the meaning of this Chapter 1.

6 (1) A representative of a news media organization gathering news and
7 information or disseminating the same to the public, even if the organization, in the ordinary
8 course of business, publishes news items, editorials or other commentary, or paid
9 advertisements, that urge action upon local legislative or administrative matters;

10 (2) A person providing oral or written testimony that becomes part of the record
11 of a public hearing; provided, however, that if the person making the appearance or providing
12 testimony has already qualified as a contact lobbyist under this Chapter and is appearing or
13 testifying on behalf of a client, the contact lobbyist's testimony shall identify the client on whose
14 behalf the contact lobbyist is appearing or testifying;

15 (3) A person performing a duty or service that can be performed only by an
16 architect or a professional engineer licensed to practice in the State of California;

17 (4) A person making a speech or producing any publication or other material
18 that is distributed and made available to the public, through radio, television, cable television,
19 or other medium of mass communication;

20 (5) A person providing written information in response to an oral or written
21 request made by an officer of the City and County, provided that the written information is a
22 public record available for public review;

23 (6) A person providing oral or written information pursuant to a subpoena, or
24 otherwise compelled by law or regulation;

25

1 (7) A person submitting a written petition for local legislative or administrative
2 action, provided that the petition is a public record available for public review;

3 (8) A person making an oral or written request for a meeting, or any other
4 similar administrative request, if the request does not include an attempt to influence local
5 legislative or administrative action;

6 (9) A person appearing before an officer of the City and County pursuant to any
7 procedure established by law or regulation for levying an assessment against real property for
8 the construction or maintenance of an improvement;

9 (10) A person providing purely technical data, analysis, or expertise in the
10 presence of a *registered contact* lobbyist;

11 (11) A person distributing to any officer of the City and County any regularly
12 published newsletter or other periodical which is not primarily directed at influencing local
13 legislative or administrative action;

14 (12) A person disseminating information or material on behalf of an organization
15 or entity to all or a significant segment of the organization's or entity's employees or members;

16 (13) A person appearing as a party or a representative of a party in an
17 administrative adjudicatory proceeding before a City agency or department;

18 (14) A person communicating, on behalf of a labor union representing City
19 employees, regarding the establishment, amendment, or interpretation of a collective
20 bargaining agreement or memorandum of understanding with the City, or communicating
21 about a management decision regarding the working conditions of employees represented by
22 a collective bargaining agreement or a memorandum of understanding with the City;

23 (15) A party or prospective party to a contract providing oral or written
24 information in response to a request for proposals, request for qualifications, or other similar
25 request, provided that the information is directed to the department or official specifically

1 designated in the request to receive such information; negotiating the terms of the contract
2 with the City after being selected to enter into the contract; or communicating in connection
3 with the administration of an existing contract between the party and the City. For the
4 purposes of this *Subsection (b)(15)*:

5 (A) A "party or prospective party" includes that party's officers or
6 employees; a subcontractor listed in the contract, bid, or proposal; or that subcontractor's
7 officers or employees. A "party or prospective party" does not include any other agent or
8 associate, including any outside consultant or independent contractor.

9 (B) Communication "in connection with the administration of an existing
10 contract" includes, but is not limited to, communication regarding: insurance and bonding;
11 contract performance and/or default; requests for in-scope change orders; legislative
12 mandates imposed on contractors by the City and County; payments and invoicing; personnel
13 changes; prevailing wage verification; liquidated damages and other penalties for breach of
14 contract; audits; assignments; and subcontracting. Communication "in connection with the
15 administration of an existing contract" does not include communication regarding new
16 contracts, or out-of-scope change orders.

17 (16) An officer or employee of a nonprofit organization or an organization
18 fiscally sponsored by such a nonprofit organization communicating on behalf of their
19 organization. For purposes of this subsection only, "nonprofit organization" means either an
20 organization with tax exempt status under 26 United States Code Section 501(c)(3), or an
21 organization with tax exempt status under 26 United States Code Section 501(c)(4) whose
22 most recent federal tax filing included an IRS Form 990-N or an IRS Form 990-EZ, or an
23 organization whose next federal tax filing is reasonably likely to include an IRS Form 990-N or
24 an IRS Form 990-EZ.

1 (c) The following activities are not "contacts" for the purpose of determining whether a
2 person qualifies as a contact lobbyist, but are "contacts" for purpose of disclosures required by
3 this Chapter I:

4 (1) A person providing oral information to an officer of the City and County in
5 response to an oral or written request made by that officer;

6 (2) A person making an oral or written request for the status of an action; and

7 (3) A person participating in a public interested persons meeting, workshop, or
8 other forum convened by a City agency or department for the purpose of soliciting public
9 input.

10 **SEC. 2.110. REGISTRATION AND DISCLOSURES; FEES; TERMINATION OF**
11 **REGISTRATION.**

12 (a) **REGISTRATION OF LOBBYISTS REQUIRED.** Lobbyists shall register with the
13 Ethics Commission and comply with the disclosure requirements imposed by this Chapter I.
14 Such registration shall occur no later than five business days of qualifying as a lobbyist, ~~but~~
15 ~~the~~ Contact lobbyists shall register prior to making any additional contacts with an officer of the
16 City and County of San Francisco and expenditure lobbyists shall register prior to making any
17 additional payments to influence local legislative or administrative action.

18 (b) **REGISTRATION.**

19 (1) Contact lobbyists. At the time of initial registration each contact lobbyist shall
20 report to the Ethics Commission the following information:

21 (~~A~~) The name, business address, e-mail address, and business
22 telephone number of the lobbyist;

23 (~~B~~) The name, business address, and business telephone number of
24 each client for whom the lobbyist is performing lobbyist services;

25

1 (3C) The name, business address, and business telephone number of
2 the lobbyist's employer, firm or business affiliation; and

3 (4D) Any other information required by the Ethics Commission through
4 regulation, consistent with the purposes and provisions of this Chapter.

5 (2) Expenditure lobbyists. At the time of initial registration each expenditure lobbyist
6 shall report to the Ethics Commission the following information:

7 (A) The name, mailing address, e-mail address, and telephone number of the
8 lobbyist;

9 (B) Expenditure lobbyists that are entities shall provide:

10 (i) a description of their nature and purpose(s);

11 (ii) if the expenditure lobbyist is a corporation, the names of the
12 corporation's chief executive officer, chief financial officer, and secretary, any officer who authorized
13 payments to influence local legislative and administrative action, and any person who owns more than
14 20 percent of the corporation;

15 (iii) if the expenditure lobbyist is a partnership, the name of each partner
16 if the entity has fewer than 10, or the name of the partner with the greatest ownership interest if the
17 entity has 10 or more partners;

18 (iv) for any other type of business entity, the name of each person with
19 an ownership interest if the entity has fewer than 10 owners, or the name of the person with the greatest
20 ownership interest in the entity, if the entity has 10 or more owners;

21 (C) Expenditure lobbyists that are individuals shall provide a description of
22 their business activities; and

23 (D) Any other information required by the Ethics Commission through
24 regulation, consistent with the purposes and provisions of this Chapter.
25

1 (c) **LOBBYIST DISCLOSURES.** For each calendar month, each lobbyist shall submit
2 the following information no later than the fifteenth calendar day following the end of the
3 month:

4 (1) Contact lobbyists. *Each contact lobbyist shall report to the Ethics Commission the*
5 *following information:*

6 (1A) The name, business address and business telephone number of
7 each person from whom the lobbyist or the lobbyist's employer received or expected to
8 receive economic consideration to influence local legislative or administrative action during
9 the reporting period;

10 (2B) The name of each officer of the City and County of San Francisco
11 with whom the lobbyist made a contact during the reporting period;

12 (3C) The date on which each contact was made;

13 (4D) The local legislative or administrative action that the lobbyist sought
14 to influence, including, if any, the title and file number of any resolution, motion, appeal,
15 application, petition, nomination, ordinance, amendment, approval, referral, permit, license,
16 entitlement, or contract, and the outcome sought by the client;

17 (5E) The client on whose behalf each contact was made;

18 (6F) The amount of economic consideration received or expected by the
19 lobbyist or the lobbyist's employer from each client during the reporting period;

20 (7G) All activity expenses incurred by the lobbyist during the reporting
21 period, including the following information:

22 (A*i*) The date and amount of each activity expense;

23 (B*ii*) The full name and official position, if any, of the beneficiary of
24 each activity expense, a description of the benefit, and the amount of the benefit;

25

1 (Eiii) The full name of the payee of each activity expense if other
2 than the beneficiary;

3 (Div) Whenever a lobbyist is required to report a salary of an
4 individual pursuant to this Subsection (c)(1), the lobbyist need only disclose whether the total
5 salary payments made to the individual during the reporting period was less than or equal to
6 \$250, greater than \$250 but less than or equal to \$1,000, greater than \$1,000 but less than or
7 equal to \$10,000, or greater than \$10,000.

8 (8H) All political campaign contributions of \$100 or more made or
9 delivered by the lobbyist or the lobbyist's employer, or made by a client at the behest of the
10 lobbyist or the lobbyist's employer during the reporting period to an officer of the City and
11 County, a candidate for such office, a committee controlled by such officer or candidate, or a
12 committee primarily formed to support or oppose such officer or candidate, or any committee
13 primarily formed to support or oppose a ballot measure to be voted on only in San Francisco.
14 This report shall include such political campaign contributions arranged by the lobbyist, or for
15 which the lobbyist acted as an agent or intermediary.

16 The following information regarding each political campaign contribution
17 shall be submitted to the Ethics Commission:

- 18 (Ai) The amount of the contribution;
19 (Bii) The name of the contributor;
20 (Eiii) The date on which the contribution was made;
21 (Div) The contributor's occupation;
22 (Ev) The contributor's employer, or if self-employed, the name of
23 the contributor's business; and
24 (Fvi) The committee to which the contribution was made.
25

1 (~~J~~) For each contact at which a person providing purely technical data,
2 analysis, or expertise was present, as described in Section 2.106(b)(10), the name, address,
3 employer and area of expertise of the person providing the data, analysis or expertise.

4 (~~L~~) Any amendments to the lobbyist's registration information required
5 by Subsection (b).

6 (~~K~~) Any other information required by the Ethics Commission through
7 regulation, consistent with the purposes and provisions of this Chapter.

8 (2) Expenditure lobbyists. Each expenditure lobbyist shall report to the Ethics
9 Commission the following information:

10 (A) The local legislative or administrative action that the lobbyist sought to
11 influence, including, if any, the title and file number of any resolution, motion, appeal, application,
12 petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or
13 contract.

14 (B) The total amount of payments made during the reporting period to influence
15 local legislative or administrative action.

16 (C) Each payment of \$1,000 or more made during the reporting period,
17 including the date of payment, the name and address of each person receiving the payment, a
18 description of the payment, and a description of the consideration for which the payment was made.

19 (D) All campaign contributions of \$100 or more made or delivered by the
20 lobbyist or made at the behest of the lobbyist during the reporting period to an officer of the City and
21 County, a candidate for such office, a committee controlled by such officer or candidate, or a
22 committee primarily formed to support or oppose such officer or candidate, or any committee primarily
23 formed to support or oppose a measure to be voted on only in San Francisco. This report shall include
24 such campaign contributions arranged by the lobbyist, or for which the lobbyist acted as an agent or
25 intermediary.

1 The following information regarding each campaign contribution shall be
2 submitted to the Ethics Commission:

3 (i) The amount of the contribution;

4 (ii) The name of the contributor;

5 (iii) The date on which the contribution was made;

6 (iv) The contributor's occupation;

7 (v) The contributor's employer, or if self-employed, the name of the
8 contributor's business; and

9 (vi) The committee to which the contribution was made.

10 (E) Any amendments to the lobbyist's registration information required by
11 Subsection (b).

12 (F) Any other information required by the Ethics Commission through
13 regulation, consistent with the purposes and provisions of this Chapter 1.

14 **(d) REGISTRATION AND FILING OF DISCLOSURES BY ORGANIZATIONS.** The
15 Ethics Commission is authorized to establish procedures to permit the registration and filing of
16 contact lobbyist disclosures by a business, firm, or organization on behalf of the individual
17 contact lobbyists employed by those businesses, firms, or organizations.

18 **(e) FEES; TERMINATION OF REGISTRATION.**

19 (1) At the time of registration each lobbyist shall pay a fee of \$500. On or
20 before every subsequent February 1, each registered lobbyist shall pay an additional fee of
21 \$500.

22 (2) Failure to pay the annual fee by February 1 shall constitute a termination of
23 a lobbyist's registration with the Ethics Commission. The Ethics Commission is also
24 authorized to establish additional processes for the termination of a lobbyist's registration.
25

1 (3) The Ethics Commission shall waive all registration fees for any full-time
2 employee of a tax-exempt organization presenting proof of the organization's tax-exempt
3 status under 26 U.S.C. Section 501(c)(3) or 501(c)(4).

4 (4) The Ethics Commission shall deposit all fees collected pursuant to this
5 Section in the General Fund of the City and County of San Francisco.

6 **SEC. 2.115. PROHIBITIONS.**

7 (a) GIFT LIMIT. No lobbyist shall make gifts to an officer of the City and County that
8 have a fair market value of more than \$25, except for those gifts that would qualify for one of
9 the exemptions under Section 3.216(b) of this Code and its implementing regulations.

10 (b) FUTURE EMPLOYMENT. No lobbyist shall cause or influence the introduction or
11 initiation of any local legislative or administrative action for the purpose of thereafter being
12 employed or retained to secure its granting, denial, confirmation, rejection, passage or defeat.

13 (c) FICTITIOUS PERSONS. No contact lobbyist shall contact any officer of the City
14 and County in the name of any fictitious person or in the name of any real person, except with
15 the consent of such real person.

16 (d) EVASION OF OBLIGATIONS. No lobbyist shall attempt to evade the obligations
17 imposed by this Chapter through indirect efforts or through the use of agents, associates or
18 employees.

19 **SEC. 2.116. LOBBYIST TRAINING.**

20 (a) Each contact lobbyist must complete a lobbyist training session offered by the
21 Ethics Commission within one year of the lobbyist's initial registration. Thereafter, contact
22 lobbyists shall attend additional training sessions as required by the Executive Director, at his
23 or her discretion.

24 (b) The Ethics Commission shall make lobbyist training sessions available on its
25 website.

1 (c) On or before the deadline for completing any required lobbyist training session,
2 each contact lobbyist must file a signed declaration with the Ethics Commission stating, under
3 penalty of perjury, that the lobbyist has completed the required training session.

4 **SEC. 2.130. EMPLOYMENT OF UNREGISTERED PERSONS.**

5 It shall be unlawful knowingly to pay any contact lobbyist to contact any officer of the
6 City and County of San Francisco, if said contact lobbyist is required to register under this
7 Chapter and has not done so by the deadlines imposed in this Chapter.

8
9 Section 3. Scope of Ordinance. In enacting this ordinance, the voters intend to amend
10 only those words, phrases, paragraphs, subsections, sections, articles, numbers, punctuation
11 marks, charts, diagrams, or any other constituent parts of the Municipal Code that are
12 explicitly shown in this ordinance as additions or deletions, in accordance with the "Note" that
13 appears under the official title of the ordinance.

14
15 Section 4. Appropriation. There is hereby appropriated \$560,000 from the General
16 Reserve to fund administrative and enforcement costs required to implement this ordinance.
17 Any portion of this appropriation that remains unspent at the end of Fiscal Year 2015-16 shall
18 be carried forward and spent in subsequent years for the same purpose. Additionally, it shall
19 be City policy in all fiscal years following depletion of this original appropriation that the Board
20 of Supervisors shall annually appropriate \$15,000 for this purpose.

21
22 Section 5. Severability. If any section, subsection, sentence, clause, phrase, or word
23 of this ordinance, or any application thereof to any person or circumstance, is held to be
24 invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision
25 shall not affect the validity of the remaining portions or applications of the ordinance. The

1 voters hereby declare that they would have passed this ordinance and each and every
2 section, subsection, sentence, clause, phrase, and word not declared invalid or
3 unconstitutional without regard to whether any other portion of this ordinance or application
4 thereof would be subsequently declared invalid or unconstitutional.

5
6 Section 6. Effective and Operative Dates. This ordinance shall become effective 10
7 days after the Board of Supervisors declares the results of the November 3, 2015 election.
8 This ordinance shall become operative on February 1, 2016.

9
10 APPROVED AS TO FORM:

11 DENNIS J. HERRERA, City Attorney

12
13 By:


14 ANDREW SHEN
Deputy City Attorney

15 n:\leganas2015\1500886\01023422.doc

DRAFT PROP. C IMPLEMENTING REGULATIONS

For Discussion and Possible Action by the Ethics Commission, January 25, 2016

Page 1

ATTACHMENT 2

1 **Regulation 2.105-5. Expenditure Lobbyist Definition.**

2 (a) A person “makes payments” at the time an expenditure for a qualifying activity is
3 incurred.

4 (b) Any payment made for activities that can count toward the \$2,500 threshold pursuant
5 to Section 2.105 “Expenditure Lobbyist” will be presumed to be for the purpose of
6 urging other persons to communicate directly with an officer of the City and County if
7 the payment is incurred within 12 months of the communication to urge other
8 persons to communicate directly with an officer of the City and County. The
9 presumption may be rebutted if the filer can demonstrate that the payment for the
10 qualifying activity was not undertaken for the purpose of expenditure lobbying.

11 (c) Charitable organizations that act as a fiscal sponsor to other charitable projects are
12 not required to register as an expenditure lobbyist for the activities of those projects
13 that it sponsors. Nothing in this regulation prevents a nonprofit organization that acts
14 as a fiscal sponsor for charitable projects from qualifying as an expenditure lobbyist
15 through its own activities.

16 (d) Payments that count towards the \$2,500 qualifying threshold shall include the pro
17 rata salary paid by an organization to its staff to urge other persons to communicate
18 directly with an officer of the City and County in order to influence a local legislative
19 or administrative action. Qualifying activities by an organization’s staff include
20 conducting and preparing public relations, media relations, advertising, public
21 outreach, research, investigation, reports, analyses, or studies.

22 **Regulation 2.105-6. Member Communications.**

23 (a) “Member” is defined as any employee or shareholder of an organization, a person
24 who pays dues or fees to an organization, or any other person who takes affirmative
25 steps to receive an organization’s communications.

DRAFT PROP. C IMPLEMENTING REGULATIONS

For Discussion and Possible Action by the Ethics Commission, January 25, 2016

Page 2

1 (b) An organization's production and dissemination of a regularly-scheduled, regularly-
2 produced, and regularly-distributed newsletter does not count toward the \$2,500
3 qualifying threshold even if the newsletter contains a solicitation to urge other
4 persons to communicate directly with a City Officer in order to influence a local
5 legislative or administrative action.

6 (c) Payments made by an organization to distribute any communication other than a
7 regularly-scheduled, regularly-produced, and regularly-distributed newsletter to both
8 an organization's members and non-members that urge other persons to
9 communicate directly with an officer of the City and County shall constitute a
10 payment towards the \$2,500 qualifying threshold.

11 **Regulation 2.110-10. Registration and Reporting.**

12 (a) For registration Expenditure Lobbyists shall use SFEC Form [xxx]. For monthly
13 reports, Expenditure Lobbyists shall use SFEC Form [xxx]. Registered expenditure
14 lobbyists must continue to file monthly reports until they affirmatively terminate their
15 registration.

16 (b) As used in Sec 2.110(c)(2)(B) and (C) "payments made" during the reporting period
17 means expenditures that are incurred during the reporting period.

18 (c) For purposes of disclosing campaign contributions, reportable contributions include
19 contributions that would be required to be disclosed under SFEC Regulation 2.110-4.

20 **Regulation 2.110-11. Fees.**

21 (a) The Ethics Commission shall waive the \$500 registration fee and the \$500 annual
22 re-registration fee for 501(c)(3) and 501(c)(4) nonprofit organizations.

ATTACHMENT 3

436 14th Street, Suite 425
Oakland, CA 94612
January 11, 2016

FILED

2016 JAN 12 AM 9:16

SAN FRANCISCO
ETHICS COMMISSION

BY _____

LeeAnn Pelham
Executive Director
San Francisco Ethics Commission
25 Van Ness Avenue, Suite 220
San Francisco, CA 94102
Sent via e-mail to leeann.pelham@sfgov.org

Re: Proposition C Implementation and Amendment

Dear Ms. Pelham:

Thank you for the opportunity for Alliance for Justice's Bolder Advocacy program to offer input regarding Proposition C implementation and possible future amendment. Alliance for Justice is a national association of more than 115 civil rights, environmental, and other social and economic justice organizations that strengthens the ability of community organizations to influence public policy. Through its Bolder Advocacy program, AFJ works with nonprofit organizations¹ to provide training, learning resources and free technical assistance about nonprofit advocacy laws. At Alliance for Justice, we understand that nonprofit organizations represent the voices of diverse communities in public policy decisions, and that nonprofit advocacy is vital and irreplaceable. Since 2004, we have had an office in Oakland, California to provide advocacy resources to an ever-expanding list of nonprofits in California.

Bolder Advocacy demystifies tax, lobbying, and election laws so nonprofit staff and volunteers can confidently advocate for community change. Nonprofits that engage in advocacy must already comply with multiple laws--federal tax law, the California lobbying disclosure law, and local lobbying laws in jurisdictions throughout California. All these jurisdictions define lobbying differently, and require reporting of different activities and different expenses, on different schedules. Navigating these many overlapping yet distinct laws is confusing, especially for some smaller organizations.

It will now be harder to help San Francisco community organizations feel confident about advocating for community change in San Francisco. Even though it was well-intentioned, Proposition C adds a significant burden of yet more registration and reporting for nonprofits.

¹ Please note that we use the term "nonprofit organization" to refer to all tax-exempt organizations, including organizations qualifying under 26 U.S.C. Section 501(c)(3), 501(c)(4), and 501(c)(5).

As Proposition C is written, it may make many nonprofits decide lobbying is just not worth it. They may decide speaking out on crucial community issues is not worth the cost of compliance, and it is not worth the risk of failing to comply. We will work to help nonprofits understand the new law, but we hope the Ethics Commission will ease the compliance burdens small nonprofits face by structuring Proposition C compliance to be as manageable as possible. We join the coalition of community organizations (led by the Council of Community Housing Organizations and the San Francisco Human Services Network) in requesting reasonable implementation of Proposition C.

Alliance for Justice highlights six recommendations for Prop C implementation regulations:

First, the existing registration fee waivers for 501(c)(3) and 501(c)(4) contact lobbyists should be extended to nonprofit organizations that would qualify as expenditure lobbyists.

Second, to decrease the burden of needless reporting, nonprofit organizations that qualify in a certain month as expenditure lobbyists should only be required to file reports in the months they qualify as expenditure lobbyists. In months that they do not qualify, they should not have to submit reports or, at most, they should be able to check a box stating that they have not met the \$2,500 threshold that month.

Third, the Ethics Commission should adopt the California lobbying disclosure law's definition of legislative or administrative action², which excludes enforcement of existing legislation or regulation. The definition of expenditure lobbying should not include spending to assist specific individuals in requesting services or relief from a city agency under an existing law or regulation. Additionally, the definition should not count efforts to raise awareness of laws or regulations that are already on the books. If an organization is communicating with city officials to try to bring about enforcement or raise awareness of existing laws or regulations, and it is not attempting to pass a new ordinance or put in place a new regulation, that communication should not count towards an organization's expenditure threshold.

Fourth, within the definition of legislative and administrative action, only the cost of research and reports specifically undertaken for lobbying purposes should count toward the threshold. The Commission should adopt California's definitions of lobbying staff time and expenses.³ The FPPC's definitions recognize that staff time and expenses spent on research and reports used to urge others to influence legislative or administrative action count toward the lobbying disclosure threshold, but that research and reports originally carried out for other purposes do not count toward the lobbying disclosure threshold. We urge the Commission to adopt a similar standard.

² Political Reform Act (PRA) §§ 82032 and 82002, respectively.

³ PRA § 82032.

According to the Fair Political Practices Commission (FPPC) Regulation § 18616(f)(1), only staff time spent researching, preparing for, or carrying out attempts to influence legislative or administrative action should be counted toward the lobbying disclosure threshold. By implication, staff time spent carrying out research for other purposes should not count toward that threshold.

FPPC Regulation § 18616(f)(2)(c) outlines a "but-for" principle for lobbying expenses to influence legislative or administrative action.

Fifth, the Ethics Commission should adopt the FPPC's exemption of an organization's newsletters as a lobbying communication⁴. California law exempts an organization's regularly-scheduled, regularly-produced, regularly-distributed newsletters with a mixture of lobbying and non-lobbying content from counting as a lobbying expenditure. This exemption is important to allow nonprofit organizations to update their members, donors, and interested community members about relevant public policy developments without fear of triggering a qualifying expense.

Finally, on behalf of the various fiscal sponsors who enable small community organizations to exist and grow, we suggest two alternatives. Under the first alternative, the Ethics Commission would adopt the same approach as the FPPC has adopted for fiscal sponsor lobbying disclosure: Each separate organization (or "project") under the fiscal sponsor's wings would report under its own lobbying disclosure threshold.⁵ A fiscal sponsor would not register unless it met the threshold through its own separate lobbying activities. Under the second alternative, expenditures could be counted on a "per-project" basis, and a fiscal sponsor would be required to report the lobbying expenditures of each one of its projects that separately meets the disclosure threshold. Both alternatives would not only make fiscal sponsors' reporting easier, but would also increase the transparency and compliance of projects of fiscal sponsors involved in San Francisco lobbying.

We offer these six recommendations for clarifying Prop C definitions and implementation to protect community organizations' valuable contribution to public policy. In the future, we recommend that Prop C be amended to either exempt nonprofit organizations from Prop C or, at the very least, to increase the expenditure threshold for reporting. We would be happy to discuss these suggestions with you in more detail in the future.

Sincerely,

Sara Matlin
Bilingual Counsel
Bolder Advocacy Program
Alliance for Justice
sara@afj.org
510-444-6070 x2002

cc: ethics.commission@sfgov.org
Andrew Shen via e-mail to andrew.shen@sfgov.org

⁴ FPPC Regulation § 18616(g)(3).

FPPC *Costa* Advice Letter, I-91-469.

FPPC *Hawker* Advice Letter, A-87-054.

⁵ FPPC *Levikow/Tides* Advice Letter, A-04-086 and FPPC *Fishburn/Tides* Advice Letter, A-06-075.

To: LeeAnn Pelham, Executive Director, San Francisco Ethics Commission

FILED

2016 JAN 12 AM 9:16

From: Council of Community Housing Organizations
San Francisco Human Services Network
Alcohol Justice
Chinatown Community Development Center
Coleman Advocates for Children and Youth
Community Initiatives
Haight Ashbury Neighborhood Council
San Francisco Tenants Union
Senior and Disability Action

SAN FRANCISCO
ETHICS COMMISSION

BY _____

Date: January 11, 2016

Re: Comments and Recommendations for January 13th Interested Persons meeting on implementing regulations for Proposition C – Expenditure lobbyists

The following comments represent the views of a broad cross-section of community-based services and advocacy nonprofit organizations. This reflects our collective input at the Interested Persons meeting held on December 7, 2015, and the Ethics Commission hearing of January 5, 2016.

We urge the Commission and its staff to adopt the recommendations of the nonprofit community in order to clarify Prop C's requirements, and reduce its negative impacts on the nonprofit sector's ability to participate in the public policy process.

Definition of "member"

- For purposes of Prop C's implementing regulations, an organization's members should broadly include the constituency served and represented as defined by the organization's mission statement (or other definition of organizational purpose) as well as an organization's subscribers and volunteers.

Communications

- All communications by an organization to members as defined above should be exempt.
- An organization's letters and newsletters to donors and prospective donors should be exempt.
- For communications that go to both members and non-members, all communications that are primarily (i.e. more than 50%) distributed to an organization's members should be exempt. There is no practical way for an organization to monitor how communications are shared beyond its membership.

- Any triggering communication considered expenditure lobbying should be with respect to particular legislative measures and include an express call to action.

Staff time

- For purposes of Prop C's implementing regulations, staff compensation should not be considered expenditure lobbying activity.
- Only *external* expenses should count toward the expenditure lobbying threshold – for example, payments to public relations firms, mail houses, transportation companies, consultants, etc.

Research and reports

- Research and reports should not be considered expenditure lobbying where the published document clearly states its true source of funding, and it contains no call to action that explicitly solicits, requests or urges lobbying activity.
- Any *internal* staff time to conduct research and prepare reports should not be considered an expenditure lobbying expense.

Client services

- Expenditure lobbying should not include: Expenditures by a nonprofit organization or union to support a member or client to request or petition for services, benefits, or relief from a city agency under an existing law, contract, or policy.

Fiscal sponsors.

- The count of expenses toward the expenditure lobbying threshold should only apply on a per project basis if a nonprofit organization is the fiscal sponsor for multiple smaller unincorporated nonprofit groups (i.e. "projects" of the fiscal sponsor organization). The qualification of one fiscally-sponsored project as an expenditure lobbyist should not create registration and reporting requirements for other projects of that sponsor.
- The following should not be considered for the purpose of determining whether a person is an expenditure lobbyist: Payments made by a fiscal sponsor of a nonprofit organization, if the sponsored organization, and not the fiscal sponsor, directed the expenditure, and the sponsored organization registers and reports pursuant to this Section.

Nonprofit registration fee

- The current registration fee exemption for employees of nonprofit organizations should also be extended to nonprofit organizations themselves if they trigger expenditure lobbyist registration and reporting.

Reporting

- For organizations that produce slate mailers, expenses for election-related communications should not be counted towards the expenditure lobbying reporting requirements, as forms are already required to be filed with the Ethics Commission and Secretary of State.
- For purposes of Prop C's implementing regulations, the expenditure lobbying threshold should clearly be for each local legislative or administrative action, not all actions in aggregate.
- An organization that has reached the expenditure lobbying threshold for registration should only be required to file reports for those months when they spend the minimum reporting threshold of \$2500. An organization should not be required to file reports if there is no or minimal activity to report. Should the electronic reporting system necessitate a monthly report, it should include a simple checkbox for months when there is no significant activity, and should not require detailed summaries.

Legislative Amendments

- We continue to urge the Ethics Commission to consider a comprehensive amendment to establish an exemption from Expenditure Lobbyist reporting for nonprofit organizations, similar to the current exemption in the CGC code for Contacts Lobbyist.
- We urge the Ethics Commission to consider raising the Expenditure Lobbyist threshold from \$2500 to \$5000, consistent with the Developer Disclosures section of the CGC code added in June 2014 as Article 3, Chapter 5.



PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO
An Organization of Professional, Technical, and Administrative Employees

January 13, 2016

San Francisco Ethics Commission
25 Van Ness Ave., Suite 220
San Francisco, CA 94102

RE: Proposition C regulations

Dear Commissioners:

Professional and Technical Engineers, Local 21 represents 4000 City of San Francisco employees. We are committed to open government and transparency and look forward to working with you on a number of issues raised by the legislation.

The focus of our comments today is in areas where the Commission has the authority to establish regulations. Given the immediacy of the February 1 deadline, we have limited ourselves to concerns that can be addressed in interim regulations.

We encourage you to adopt regulations and procedures that are as clear as possible so that organizations can easily comply with reporting.

Our concerns include:

Registration

The staff report indicates an interest in exempting nonprofits from the fee. We hope you will include 501c 5 nonprofit organizations. This is the category for labor unions. Like nonprofits, some unions are very small and the registration fee could be a serious burden. Please make every effort to keep the forms as simple as possible to make complying relatively easy.

Reporting

The staff report references an option during the interim that staff time not count towards the \$2500 limit and only research and reports specifically undertaken for expenditure lobbying would count towards the limit. We strongly support this option. We believe that advocacy in support of enforcing an existing law should not be reportable since it is not about a new piece of legislation or administrative decision-making. Our members enforce the City of San Francisco's labor laws including the minimum wage. Efforts to ensure that these laws are fully enforced does not create new policy.

We also request that you exclude expenditures that would have been made irrespective of lobbying efforts. We track legislation and administrative proposals as well as trends and it is often difficult to know in advance when or if this information might be used for advocacy.

Main Office: 1167 Mission Street, San Francisco, CA 94103 T: 415 864-2100 F: 415 864-2166 **South Bay Office:** 4 North Second Street, Suite 430
San Jose, CA 95113 T: 408 291-2200 F: 408 291-2203
Oakland Office: 436- 14th Street, Suite 1520 Oakland, CA 94612

Proposition C defines the trigger for filing as “making payments totaling \$2500 in a calendar month....” We urge the commission to clarify that this threshold is for each local legislative or administrative action - - not aggregated.

Finally, we would urge the Commission to consider increasing the \$2500 threshold amount. It would still capture most expenditure activities and reflects the intent of the law.

Definition of Members

We urge the commission to adopt the broadest possible definition of “members”. In addition to our members who are entitled to vote, we are legally required to represent other employees in the workplace who are not members. They should be included in the definition as well as groups we are targeting for union organizing. The state law definition of “member” is overly narrow and does not reflect the way that labor unions function.

Communications

Our newsletters and other information are typically distributed at work sites where they are accessible to nonmembers and members of other unions who work side-by-side with our members. Mailings to union members are often shared with nonmembers who live in the same household or nearby. In these cases, there is no practical way to monitor how these communications are shared beyond the members we represent. Because we often share information with other unions, coalitions and organizations in the labor movement we encourage you to require reporting when the communications go to less than 50% of the membership.

Filing

We also urge you to change filing for nonprofits from monthly to quarterly. Many organizations and unions are active periodically and not all the time. Quarterly reporting will capture the expenditures while not burdening smaller nonprofits and unions.

Boards and commissions

A number of our members and staff serve on City and County of San Francisco boards and commissions including the Bond Oversight Commission (GOBOC) and the Successor Agency to the Redevelopment Agency Oversight Commission. As long as their activity is related to the Commission’s work and decisions, we encourage you to make it nonreportable because it is activity that is not taking place in a labor context but within the scope of work of the commission.

We look forward to working with you to clarify the law and develop regulations that reflect the intent of the legislation without being an undue burden on nonprofits.

Sincerely,



Rachel Richman
Policy and Political Director



Pillsbury Winthrop Shaw Pittman LLP
Four Embarcadero Center, 22nd Floor | San Francisco, CA 94111-5998 | tel 415.983.1000 | fax 415.983.1200
MAILING ADDRESS: P. O. Box 2824 | San Francisco, CA 94126-2824

Anita D. Stearns Mayo
tel 415.983.6477
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anita.mayo@pillsburylaw.com

January 13, 2016

Ms. LeeAnn Pelham
Ms. Patricia Petersen
San Francisco Ethics Commission
Suite 220
25 Van Ness Avenue
San Francisco, CA 94102

Re: Implementation of Proposition C

Dear Ms. Pelham and Ms. Petersen:

Pursuant to the notice regarding today's "Interested Persons Meeting," I would like to submit a few comments regarding the implementation of Proposition C and the issues raised in the notice.

Registration threshold. As I previously testified, the threshold for expenditure lobbyists in many other jurisdictions is \$5,000 or more over a quarterly reporting period. These jurisdictions do not require registration. They instead require the filing of an expenditure lobbying report for only those quarters when the \$5,000 threshold has been reached. This approach imposes a much lesser burden on those persons expending monies urging the public to lobby City officers. Adopting this approach will, of course, require amendments to Proposition C.

Accounting for staff time. It is my opinion that Proposition C should only count external expenses towards the \$2,500 threshold. When Proposition C was being debated, the concern articulated before the Commission was the spending of unreported monies urging the public to lobby City Hall. The complaints focused on examples such as payments made to transport the public to City Hall, or payments made for various television or radio advertisements urging the public to lobby City Hall. There was never any mention of internal costs presenting any problems.

Duplicative reporting. As I previously testified, developers may be subject to duplicative reporting unless regulations are issued which exempt them from having to file reports as an expenditure lobbyist. Since the term "expenditure lobbyist" will

Ms. LeeAnn Pelham

January 13, 2016

2

apply to any person who makes payments aggregating \$2,500 or more in a calendar month to urge others to lobby City officers regarding local legislative or administrative matters, this law may apply to developers of major projects in San Francisco who are already required to register, pay a \$500 fee, and file five reports with the Ethics Commission.

Under the Developer Disclosures Law, a major project is a real estate development project in San Francisco where (a) the Planning Commission or other local lead agency has certified an Environmental Impact Report or EIR under the California Environmental Quality Act or CEQA, and (b) the estimated construction costs exceed \$1M. Within 30 days of the EIR certification, or the adoption of a final environmental determination under CEQA, the developer must pay the \$500 fee and file an initial report, disclosing, among other things, a nonprofit to whom the developer and its affiliates have made cumulative donations of \$5,000 or more since the date one year before the Environmental Evaluation Application was filed, if that nonprofit has made one or more contacts with City officers, or testified at City hearings, regarding the developer's major project. The developer must then file four additional quarterly reports with the Commission.

Since developers of major projects are already required to register and file reports with the Ethics Commission, it would impose a tremendous burden on developers to also have to register and file monthly reports as expenditure lobbyists. I, therefore, urge you to exempt from the registration and reporting requirements of Proposition C those developers of major projects who are subject to the registration and reporting requirements of the Developer Disclosures Law.

Reports and studies undertaken for non-lobbying purposes. Reports and studies undertaken for non-lobbying purposes should not count towards the \$2,500 threshold unless the reports or studies are used for lobbying purposes within six months of the date the reports or studies were issued.

Thank you for considering my comments.

Very truly yours,



Anita D. Stearns Mayo

Petersen, Patricia (ETH)

From: Pelham, Leeann (ETH)
Sent: Wednesday, January 20, 2016 2:02 PM
To: Petersen, Patricia (ETH)
Subject: Fw: Forgot SF Examiner editorial on Prop C

From: LARRY BUSH [REDACTED]
Sent: Friday, January 15, 2016 9:55 AM
To: Pelham, Leeann (ETH)
Subject: Forgot SF Examiner editorial on Prop C

Proposition C

Proposition C would require anyone — individuals, businesses or organizations — who spends more than \$2,500 in one month for the purpose of political influence to register with the San Francisco Ethics Commission as an “expenditure lobbyist.” The designation requires a \$500 fee and monthly reports on lobbying expenses.

The Ethics Commission, which placed the item on the ballot, estimates the new regulations would cost The City \$560,000 in the first 10 years, an amount that accounts for new software to track lobbyist reports and necessary staffing.

Proponents of Prop. C argue the measure would increase transparency and keep San Francisco politics honest. Opponents of Prop. C say forcing smaller nonprofits to register as lobbyists would have a “chilling effect” that would discourage advocacy groups from participating in policy debates. Money in politics is such a serious issue in San Francisco that we believe all matters of political influence are deserving of scrutiny. We recognize that some may be more burdened — financially or otherwise — than others when it comes to the requirements of Prop. C. However, those hardships do not exceed the need for transparency and the public’s right to know about money changing hands in the political realm.

Endorsement: Yes on C

Petersen, Patricia (ETH)

From: Pelham, Leeann (ETH)
Sent: Wednesday, January 20, 2016 2:01 PM
To: Petersen, Patricia (ETH)
Subject: Fw: FPPC takes up expenditure lobbying reporting

From: LARRY BUSH [REDACTED]
Sent: Sunday, January 17, 2016 9:20 AM
To: [REDACTED]; Peter Keane; [REDACTED]; [REDACTED]; Benedict Y. Hur
Cc: Pelham, Leeann (ETH)
Subject: FPPC takes up expenditure lobbying reporting

<http://www.latimes.com/local/politics/la-me-pol-sac-shadow-lobbying-20160117-story.html>



Amount of lobbying done in the shadows is growing, California ethics officials agree

www.latimes.com

The dire warning arrived in a mailer to thousands of state voters from a group called the California Drivers Alliance.

The current laws "are completely opaque when it comes to the money companies spend to influence the public in order to get to the lawmakers," Balber said. "That's a hole that needs to be fixed."

The new rules would require itemization of "other payments" of \$2,500 or more to include details including the payee, the amount and the primary purpose of the payment, such as advertising, consultants, research and public affairs.

"We think this is the type of stuff people should be able to look up," said Nicholas Heidorn, an attorney for California Common Cause, a good-government group. "It's a very significant step forward."

The current laws "are completely opaque when it comes to the money companies spend to influence the public in order to get to the lawmakers," Balber said. "That's a hole that needs to be fixed."

The new rules would require itemization of "other payments" of \$2,500 or more to include details including the payee, the amount and the primary purpose of the payment, such as advertising, consultants, research and public affairs.

"We think this is the type of stuff people should be able to look up," said Nicholas Heidorn, an attorney for California Common Cause, a good-government group. "It's a very significant step forward."

"Without additional disclosure, the public cannot determine how interest groups spend money to influence state legislation and agency action," wrote general counsel Hyla Wagner and senior council Emelyn Rodriguez.

Those other payments could include money spent to hire former politicians not registered as lobbyists to influence decisions behind the scenes, payments to nonprofit groups to advocate a position, and cash spent on television, radio and newspaper ads to pressure lawmakers on a particular bill.

Petersen, Patricia (ETH)

From: Pelham, Leeann (ETH)
Sent: Wednesday, January 20, 2016 2:01 PM
To: Petersen, Patricia (ETH)
Subject: Fw: JAN 20 & 30 :: Community Planning for an Affordable Mission! PARTICIPATE!
(español / english)

From: marc salomon [REDACTED]
Sent: Sunday, January 17, 2016 10:27 AM
To: Pelham, Leeann (ETH)
Subject: Fwd: JAN 20 & 30 :: Community Planning for an Affordable Mission! PARTICIPATE! (español / english)

Dear Ms. Pelham,

I am writing this on my own behalf, not as Friends Of Ethics.

Below, please find forwarded an email I received from some local nonprofits, mostly city funded and politically active in the Mission District where I've lived for 27 years.

You'll notice that the first pitch in the email is to participate in a "process" on 20 Jan determined by the nonprofits to recommend to the Board of Supervisors how recently approved housing dollars administered by the Mayor's Office of Housing will be spent in the Mission.

The second pitch is to participate in a "process" on 30 Jan determined again by the nonprofits in secret as to how "the community" will lobby the Board of Supervisors and Planning Department/Commission on zoning and community benefits matters.

In both cases, there is a significant intersection between the city funded groups doing the lobbying and the city funded groups likely to benefit from these discretionary public decisions. An analysis of "the people's budget" will reveal nothing but claims staked by nonprofits for HSA, MOH and DPH funding. There is never any discussion in the "people's budget" of what a "people's budget" would look like for public facing city functions such as the MTA, Rec and Park and DPW, not to mention The Ethics Commission, that don't involve nonprofit funding but in which "the people" would clearly have a budgetary interest.

As pertains to Prop C, there might be problems with proposed regulations that don't catch this conduct. If each nonprofit were to dedicate the equivalent of \$500 to efforts like this, we'd rapidly see the combined effort eclipse the \$2500 threshold yet no single entity would meet the threshold and the finances of this expenditure lobbying would remain secret from the taxpayers who are funding it.

I've got a fulltime job and can only attend daytime meetings at City Hall on rare occasion and could not attend the IP meetings on Prop C implementation. I am not an attorney either and am clueless as to how this would play with the broader legal regulatory regime and case law constraints. I'd urge the Ethics Commission to consider addressing issues of bundling such as this.

Towards that, I would urge the Commission to consider eliminating the threshold for reporting for entities that receive city funding in exchange for eliminating the filing fee as furthering the purposes of the act. The public has the right to know how even one of our tax dollars are being used to stake claims on more of our tax dollars, especially when it is being orchestrated by private nonprofit corporations to make decisions in private that are presented as being made by the community for the community. There are no guarantees that the agenda for these meetings will be subject to amendment or that decisions made contrary to the nonprofit interest will be carried forth.

I am concerned about this as a long time Mission District resident because the majority of those paid to do this work live nowhere near the Mission and under their watch, the policy agenda they claim to support and which I do support has not just stalled but lost ground. Neighbors are being displaced because there is no coherent response by these agencies to forces causing displacement. Yet these agencies continue to receive public tax dollars win or lose. To my mind, the lack of achievement as no impediment to continued public funding is a blinking red light of public sector corruption.

best regards,

-marc
Marc Salomon

[REDACTED]
SF, CA [REDACTED]

(h)
(m)

----- Forwarded message -----

From: Plaza 16 Coalition <andy@plaza16.org>

Date: Fri, Jan 15, 2016 at 4:27 PM

Subject: JAN 20 & 30 :: Community Planning for an Affordable Mission! PARTICIPATE! (español / english)

To: Marc Salomon [REDACTED]



**Deeply affordable
housing for the
Mission District.
Not more
Luxury towers.**

How will we invest the \$50 Million from 2015's Proposition A on affordable housing?

THE PEOPLE'S BUDGET for the MISSION DISTRICT

WEDNESDAY, JANUARY 20

5:30 - 8:00 PM

Centro del Pueblo :: 474 Valencia Street (near 16th)

Dinner, childcare, and translation provided

Bicycle raffle!

In 2016 the people are coming with real grassroots solutions to our City's housing crises. Last year our neighborhood coalitions made up of residents, radicals, workers, women, parents, teachers, youth, elders . . . demanded action from our City leaders. Join us next Wednesday to prioritize how to invest \$50M in preserving and creating affordable housing in the Mission District.

Hosted by the Plaza 16 Coalition, Calle 24, PODER, Dolores Street Community Services, Our Mission No Eviction, Causa Justa :: Just Cause, Cultural Action Network, MEDA, and Mission Housing Development Corporation.

PROPUESTA DEL PUEBLO para LA MISSION

¿Como invirtieran los 50 millones de dolares en viviendas económicas?

MIERCOLES 20 DE ENERO

5:30PM - 8:00PM

Centro del Pueblo, Calle Valencia 474

Ofrecemos cena, cuidado de niño, traducción, rifa de bicicleta

En este 2016, el pueblo esta proponiendo soluciones comunitarias para resolver la crisis de viviendas económicas. El año pasado nuestras coaliciones comunitarios de residentes, trabajadores, mujeres, padres, maestros, jóvenes, mayores de edad... exigieron que nuestros líderes de la ciudad tomen acción. Únete con nosotros este Miércoles para dar prioridad de cómo invertir \$50M en la preservación y creación de viviendas económicas en el Distrito de la Misión .

Alojado por: La Coalición de Plaza 16, Calle 24, PODER, Dolores Street Community Services, Our Mission No Eviction, Causa Justa :: Just Cause, Cultural Action Network, MEDA, and Mission Housing Development Corporation.



HELP FINALIZE THE COMMUNITY VISION FOR 1979 MISSION STREET!

**PLANNING FOR PEOPLE NOT FOR PROFIT:
DEVELOPING OUR PLAN FOR 1979 MISSION STREET
SATURDAY, JANUARY 30,**

10:00AM - 2:30PM

Centro del Pueblo :: 474 Valencia Street (near 16th)

2nd Floor

Join the Plaza 16 Coalition for a historic day of community-based planning. For two years the Mission community has fought the Monster in the Mission and for months we have conveyed to develop a community vision for what we want and need at 16th and Mission. On Jan. 30th we will meet to review our progress so far and decide together our vision for 1979 Mission Street.

The community NEEDS your participation and input. Join us!

Lunch and childcare will be provided.

[RSVP and invite your friends on Facebook.](#)

AYUDENOS A FINALIZAR NUESTRA VISION ALTERNATIVA PARA 1979 MISSION ST!

LA VISION COMUNITARIA PARA 1979 MISSION St.

Reunion Comunitaria de Plaza 16

SABADO, 30 de Enero

10:00AM - 2:30PM

Centro del Pueblo :: 474 Valencia Street (cerca a la 16th)

Segundo piso

Acompañe a la Coalición Plaza 16 para un día histórico de planificación comunitaria. Por más de 2 años la comunidad de la Misión ha estado luchando en contra del Monstruo en la Misión y por meses hemos estado convocando la comunidad para

desarrollar una vision alternative arraigada en las necesidades de la comunidad en la 16 y Mission. El 30 de Enero nos reuniremos para repasar lo que ya hemos hecho y empezar a avanzar nuestra vision hacia un plan concreto para 1979 Mission St.

La comunidad NECESITA su participacion y opinions. Acompanenos!

Ofrecemos almuerzo y cuidado de niño

[Invitación en facebook](#)

More info on the website: Plaza16.org.

Join and endorse the [Plaza 16 Coalition](#).

Follow us on [Twitter](#), [Facebook](#) and [Instagram](#).

This email was sent to [REDACTED]

[why did I get this?](#) [unsubscribe from this list](#) [update subscription preferences](#)

Plaza 16 Coalition · 275 Dolores Street · San Francisco, CA 94103 · USA

MailChimp



Petersen, Patricia (ETH)

From: Pelham, Leeann (ETH)
Sent: Thursday, January 21, 2016 1:27 PM
To: Petersen, Patricia (ETH)
Subject: Fw: Proposition C regulations comments
Attachments: Friends of Ethics Prop C recommendations.docx

From: LARRY BUSH [REDACTED]
Sent: Thursday, January 21, 2016 11:02 AM
To: [REDACTED]; Peter Keane; [REDACTED]; BrettA@positiveresource.org; Benedict Y. Hur
Cc: Pelham, Leeann (ETH)
Subject: Proposition C regulations comments

Friends of Ethics respectfully submits the attached comments for the Commission's consideration in drafting initial regulations to implement the voter-approved Proposition C regarding Expenditure Lobbying.

We are appreciative of the Commission's diligent effort to solicit public comment on this important renewal of San Francisco's ethics laws.

We will be glad to respond to any questions regarding our comments.

Thank you.

(see attachment).

Larry Bush for Friends of Ethics

Friends of Ethics comments on Proposition C Implementation

The fundamental purpose of Proposition C was to require disclosure of spending that is aimed at encouraging others to contact city officials regarding administrative or legislative decisions.

In short, it is a sunshine ordinance that closes the existing gap when money is spent to encourage others to contact city officials on behalf of the entity that has spent, donated or otherwise expended money to encourage their action.

For examples, look at the Ethics Commission filing under “Major Developers” with projects that exceed \$1 million “disclosing donations to nonprofit organizations that have contacted City officials about their project.”

Note particularly the Golden State Warriors and 5M development project filings (<http://www.sfethics.org/ethics/2014/07/major-developers.html>)

Proposition C extends reporting to include spending for non-development projects such as contracts, franchises, zoning issues and the myriad examples of City Hall decisions. It also extends the reporting beyond nonprofits to include all such spending, whether or not to a nonprofit, or a general TV ad, or mailer to a specific supervisorial district, or any other group. It also extends the reporting after \$2,500 spending for this purpose, and continues to require monthly reporting of any spending in subsequent months. Monthly reporting continues until the entity files that it is no longer an expenditure lobbyist.

We believe that the regulations should be based squarely on the issue of disclosing spending, how much, for what administrative or legislative decisions, and to whom. This includes the cost of materials, polling, consultants and other expenses that are a part of advocating action on an administrative or legislative decision.

For other provisions, we look to the city’s law on Expenditure Lobbying that existed until 2009. Voters were informed that Proposition C intended to restore provisions that existed until 2009. That law did not exempt nonprofits or any other group, and there was never any indication that nonprofits found the law to be burdensome.

On the issue of an exemption for fees by nonprofits, the prior law stated:

1. “The Ethics Commission shall waive all registration and client fees for any full-time employee of a tax-exempt organization presenting proof of its the organization's tax *the organization's* tax-exempt status under 26 U.S.C. *section* 501(c)(3) or 501(c)(4).

Friends of Ethics continues to support that the fee waiver is based on an individual employee and requires proof of the organization’s tax-exempt status just as the prior law stated.

<http://www.sfethics.org/files/lobbyistpacket6.2.09.pdf> (page 21)

Friends of Ethics views the issue of member communications to be a distraction. Organizations know if they have members, and that it involves those who pay dues and who can vote for the board. In this situation, members of the “National Geographic Society” are not members because they do not vote for the Society’s leadership. Members of the American Automobile Association (AAA) are members because they do have the right to vote for leadership.

Any outreach that asks the recipient to contact city officials regarding a legislative or administrative decision is an expenditure that is reportable. Outreach to urge the recipient to join or become a member is not a reportable expenditure. Communications to donors that do not ask for action to reach city officials is not a reportable expenditure. Any donor communication that does include a request to contact officials regarding an administrative or legislative decision is a reportable expenditure.

Costs that are a normal cost of business, including rent, etc., are not expenditure lobbying expenses. Costs that are in addition to regular cost of business that are the result of an outreach to develop support for contacting city officials is an expenditure cost.

Costs to represent a client or union member in a proceeding with a city agency are not an expenditure expense.

Taking from the 2009 ordinance, we note the following exemption:

1. “(Q) A person communicating, on behalf of a labor union representing City employees, regarding the establishment, amendment, or interpretation of a collective bargaining agreement or memorandum of understanding with the City, or communicating

about a management decision regarding the working conditions of employees represented by a collective bargaining agreement or a memorandum of understanding with the City”

We concur with that language for the current law.

Friends also recommend regulations that relate to the proposal before the FPPC with regards to disclosure forms and categories.

See this: <http://www.fppc.ca.gov/content/dam/fppc/NS-Documents/AgendaDocuments/General%20Items/2016/01-16/50.1%20Memo%20Reg%2018616.pdf>

We note in particular the FPPC proposed Payment Codes beginning on Page 5. We would urge greater specificity than the FPPC proposes for Public Relations as well as “Lobbying Events”

“(Public Affairs – Coalition building, grassroots campaigns and public policy initiatives including news releases, media campaigns, literature and mailings, canvassing, and special events;”

“Lobbying Events –Including event planning, rentals, equipment, and transportation for members of organizations or the public to meet public officials, hold rallies or attend hearings to influence legislative or administrative action;”

Friends believe these costs should be itemized disclosing exactly the purpose, the cost, the intended recipients, and the legislative or administrative action.

We also recommend that Expenditure Lobbying forms, like the reports of Contact Lobbyists, report on gifts to officeholders, including payment for travel, payments made at the behest of an officeholder, contributions to an officeholder or a candidate-controlled committee, behest payments, contributions, other candidate-related committees such as Inaugural Committees, host committees, city-sponsored arrangements such as the Super Bowl, including expenditures for those purposes by members of the board of directors, its officers, and others based on the same reporting disclosures required of city contractors. These itemized costs should disclose the date, the recipient, and the purpose.

Petersen, Patricia (ETH)

From: Rachel Richman <rrichman@ifpte21.org>
Sent: Thursday, January 21, 2016 1:54 PM
To: Ethics Commission, (ETH)
Cc: Petersen, Patricia (ETH)
Subject: Letter re Implementation of Proposition C
Attachments: ltr to Ethics re C 1 21 16.pdf

Importance: High

Let me know if you have any questions.

Rachel

Rachel Richman

Political and Policy Director
Professional and Technical Engineers, Local 21
1182 Market St. #425
San Francisco, CA 94102
415-864-2100 v 415-864-2166

*Solano County - Contra Costa County - Alameda County - Oakland - Richmond - Hayward -
San Leandro - EBMUD - Berkeley, West Contra Costa and SF USD - SF Courts - San Francisco - San Jose -
Santa Clara County - SCVWD - VTA - Contra Costa Water District*



PROFESSIONAL & TECHNICAL ENGINEERS, LOCAL 21, AFL-CIO
An Organization of Professional, Technical, and Administrative Employees

January 20, 2016

Paul Renne, Chairman
San Francisco Ethics Commission
25 Van Ness Ave., Suite 220
San Francisco, CA 94102

RE: Implementation of Proposition C - - Expenditure Lobbyists

Dear Chairman Renne and Members of the Commission:

I am writing on behalf of Professional and Technical Engineers, Local 21 representing 4000 City and County of San Francisco and San Francisco School District employees.

This letter addresses several areas of immediate concern regarding the interim regulations. First and foremost, I urge you to provide clear guidance in interpreting Proposition C. As has emerged in the “interested parties” meetings, there are a number of ambiguous sections which if not clarified could be a burden to non-profits, labor organizations and the Commission.

We urge the adoption of clear and straightforward regulations in the following areas:

Accounting for Staff Time Spent on Expenditure Lobbying for Reporting Purposes

The Ethics Commission staff report gives the Commission an option for interim regs to take a “permissive” approach. Under this option, staff time would not be reportable. Given the complexity of tracking staff time including research, convening meetings, outreach and administration, this makes sense.

We recommend that the Commission differentiate between “internal” and “external” expenditures. Internal expenditures are activities we do in-house like organizing, writing and designing leaflets and planning activities and meetings. They should, at least in the interim, be exempt from reporting while external expenditures like buying radio ads, hiring a consultant or sending a citywide mailer should be reportable. This makes tracking and reporting expenditures much simpler and in keeping with the ordinance.

Reporting Communications

Like most unions, we send out newsletters, emails and other communications. Sometimes they advocate contacting the city on various issues. Typically they go to both the people we represent (members and fee payers) and at worksites we are trying to organize to join the union, other unions, labor organizations, community allies, elected officials, department heads etc. At most worksites, we work side-by-side with other unions representing

employees in other classifications. We have no way to regulate who might pick up a newsletter or leaflet.

We recommend that the Commission exempt member/fee payer communications where the majority - at least 50%+ go to the people represented by the union/association.

Members

The mission of labor unions is to organize the unorganized and to advocate for working families on economic and social justice issues. This makes defining who is a 'member' complex. The state law definition of 'member' is far too narrow. We represent both members who pay dues and vote as well as "fee payers" who are not members but are paying a fair share to the union. We are legally required to represent them. We respectfully request that the interim regulations reflect the broadest definition of "members"

Registration Threshold

There was broad agreement at both "interested parties" meetings that the threshold of \$2500 is too low. We recognize that raising it will take time, certainly more than is available before the February 1 start date.

We ask that the \$2500 reporting level apply to each administrative or legislative activity, not the aggregate. We believe that this is in keeping with the intent of the law without having to report relatively minor activities. In the longer term I hope you will significantly increase the trigger amount.

Waiving the registration fee

The Commission is exempting nonprofit 501c (3) and 501c (4) organizations from paying the \$500 registration fee. Unions are also nonprofit organizations - - 501c5. While there are a handful of large unions, most are small to medium in size and the fee may be a burden.

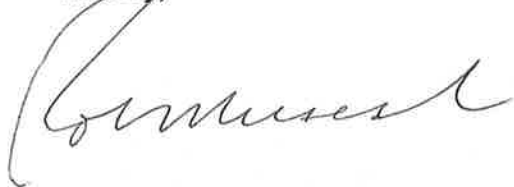
We urge the Commission to include unions -- 501c5 nonprofit organizations - in the exemption of the registration fee.

We do not believe it was the intent of voters to hamstring non-profits and labor unions when they passed the measure in and so we urge you to adopt these rules.

We look forward to working with you as additional interim and permanent regulations are crafted.

If you have any questions, please contact Rachel Richman, our Policy and Political Director at 415 - 864 - 2100.

Sincerely,



Bob Muscat
Executive Director

ATTACHMENT 4

San Francisco Ethics Commission
25 Van Ness, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfethics.org



For SFEC use

Registration Report for Expenditure Lobbyists (SFEC Form XXXX)

S.F. Campaign & Governmental Conduct Code § 2.100 et seq.

File this form with the Ethics Commission. See also General Instructions attached.

Check if this is an amendment. Date original registration report filed: _____

PART I: EXPENDITURE LOBBYIST CONTACT INFORMATION

Name: _____

Mailing Address: _____

Telephone Number: _____ Email Address: _____

PART II: TYPE OF EXPENDITURE LOBBYIST

Individual. Description of business activities: _____

Check if the individual is a full time employee of a 501(c)(3) and 501(c)(4) nonprofit organization.

Entity. Description of nature and purpose: _____

Also, check the appropriate box below:

Corporation. List below the names of your CEO, CFO, secretary, any officer who authorized payments to influence local legislative and administrative action, and any person owning more than 20 percent of the corporation.

Partnership. List below the names of each partner (if the entity has fewer than 10 partners) or the partner with the greatest ownership interest (if the entity has 10 or more partners).

Other entity. List below the names of each person with an ownership interest (if there are fewer than 10) or the person with the greatest ownership interest (if the entity has 10 or more persons with ownership interests).

VERIFICATION

I have reviewed this Registration Report for Expenditure Lobbyists and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true, complete, and correct.

Signature of Person Filing Report

Date

Name of Person Filing Report (Please Print)

DRAFT

Registration Report for Expenditure Lobbyists (SFEC Form _____)
General Instructions

WHO IS REQUIRED TO FILE: An individual or entity that qualifies as an “expenditure lobbyist” under San Francisco law must register with the Ethics Commission by completing and filing this form. An expenditure lobbyist is an individual or entity that spends at least \$2,500 in a calendar month to solicit, request, or urge others to communicate directly with a City officer in order to influence local legislative or administrative action. City officers covered by this rule generally include elected City officials, members of City boards and commissions, and City department heads.

Examples of spending that counts toward the \$2,500 per month threshold include public relations, media relations, advertising, public outreach, research, investigation, reports, analysis, and studies to the extent those activities are used to solicit, request or urge other persons to communicate directly with a City officer.

Examples of spending that does **not** count toward the \$2,500 per month threshold include: payments made to a registered “contact” lobbyist who directly contacts City officers; payments made to an organization for membership dues; payments made by an organization to distribute communications to its members; payments made by a news media organization to develop and distribute its publications; and payments made by a client to a representative to appear on the client’s behalf in a legal proceeding before a City agency or department.

WHEN AND WHERE ARE REPORTS DUE: Each expenditure lobbyist must register by filing this form with the Ethics Commission no later than five business days after qualifying as such, **and** prior to making any additional payments to influence local legislative or administrative action.

HOW TO FILE: **Through February 28, 2016**, an expenditure lobbyist must file the registration reports with the Ethics Commission by sending a PDF copy of the **signed** forms to the Commission's email address: ethicscommission@sfgov.org.

Starting March 1, 2016, an expenditure lobbyist may file the registration reports with the Ethics Commission by uploading a PDF copy of the **signed** forms to the Commission’s website. Expenditure lobbyists filing in this manner should retain the original signed copies for at least five years. The Ethics Commission will also accept paper copies of this form delivered (e.g., by mail, etc.) directly to the Commissions’ office. Forms delivered by mail must be post marked by the due date to be timely filed. Registration statements must be accompanied by the registration fee, if necessary.

PAYING THE REGISTRATION FEE: Each expenditure lobbyist must pay a fee of \$500 at the time of registration. However, note that 501(c)(3) and 501(c)(4) nonprofit organizations that qualify as expenditure lobbyists do **not** have to pay the registration fee. Payments may be made on-line with a debit/credit card or e-check, or sending a check to the Ethics Commission made payable to the City and County of San Francisco.

FILING AMENDMENTS: If you are filing an amendment to a previously-filed registration report, check the appropriate box on page 1. Amendments can be filed at any time, including with a monthly report (SFEC Form _____).

REPORTING EXPENDITURE LOBBYIST INFORMATION (PART I): In Part I, you must list the filer’s name, mailing address, telephone number, and email address.

REPORTING THE TYPE OF EXPENDITURE LOBBYIST (PART II): In Part II, you must indicate whether the filer is an individual or an entity. If the filer is an individual, you must provide a description of his or her business activities. Also, indicate if the filer is a full-time employee of a 501(c)(3) and 501(c)(4) nonprofit organization. If the filer is an entity, you must provide a description of its nature and purpose, indicate whether it is a corporation, partnership, or other type of business entity, and list the names of the individuals indicated on the form.

TERMINATING STATUS AS AN EXPENDITURE LOBBYIST: When no longer paying for expenditure lobbying activity, a filer may terminate its status as an expenditure lobbyist by filing a final monthly SFEC Form _____ and checking the appropriate box to indicate that that report is a termination statement. Also, please note that the Ethics Commission will automatically terminate the registration of an expenditure lobbyist that fails to pay the annual registration fee by February 1.

REVISED: 01/21/2016

S:\ALL FORMS\Lobbyist\Expend Lobbyist\2015\Expenditure Lobbyist Registration Form.docx

DRAFT

San Francisco Ethics Commission
25 Van Ness, Suite 220
San Francisco, CA 94102
Phone: (415) 252-3100
Fax: (415) 252-3112
Email: ethics.commission@sfgov.org
Web: www.sfethics.org/



For SFEC use

Disclosure Report for Expenditure Lobbyists (SFEC Form XXXX)

S.F. Campaign & Governmental Conduct Code § 2.100 et seq.

File this form with the Ethics Commission. See also General Instructions attached.

Monthly report for (month/year): _____ Total number of pages: _____

- No activity this reporting period.
- This amends a report filed on _____.
- This is my final report and constitutes my termination statement.

PART I: EXPENDITURE LOBBYIST INFORMATION

Name: _____

Mailing Address: _____

Telephone Number: _____ Email Address: _____

PART II: TOTAL PAYMENTS AND MATTERS LOBBIED

Directions: Enter the total amount of payments made during the reporting period to influence local legislative or administrative action and identify those local legislative or administrative action (including any title and file number).

Total amount spent to influence: _____

Local legislative or administrative actions:

_____	_____
_____	_____
_____	_____
_____	_____

PART III: ITEMIZED PAYMENTS TO INFLUENCE OF \$1,000 OR MORE

Directions: For each payment of \$1,000 or more during the reporting period to influence local legislative or administrative action, enter the date of the payment, the name and address of the payee, a description of the payment (i.e., what it was for), and the amount.

Date	Name & Address of Payee	Description of Payment	Amount

Additional sheets are attached.

PART IV: CAMPAIGN CONTRIBUTIONS

Directions: Enter the information below for each political contribution of \$100 or more made or delivered by the filer, or made at the behest of the filer, during the reporting period to:

- an elected official of the City and County,
- a candidate for such office,
- a committee controlled by such officer or candidate,
- a committee primarily formed to support or oppose such officer or candidate, or
- any committee primarily formed to support or oppose a ballot measure to be voted on only in San Francisco

Date	Contributor	Occupation/Employer	Recipient	Amount

Additional sheets are attached.

VERIFICATION

I have reviewed this Disclosure Report for Expenditure Lobbyists and to the best of my knowledge the information contained herein is true and complete. I certify under penalty of perjury under the laws of the State of California that the foregoing is true, complete, and correct.

Signature of Person Filing Report

Date

Name of Person Filing Report (Please Print)

DRAFT

Disclosure Report for Expenditure Lobbyists (SFEC Form XXXX)
General Instructions

WHO IS REQUIRED TO FILE: This report must be completed and filed by an individual or entity that qualifies as an “expenditure lobbyist” under San Francisco law. An expenditure lobbyist is an individual or entity that spends at least \$2,500 in a calendar month to solicit, request, or urge others to communicate directly with a City officer in order to influence local legislative or administrative action. City officers covered by this rule generally include elected City officials, members of City boards and commissions, and City department heads.

Examples of spending that counts toward the \$2,500 per month threshold include public relations, media relations, advertising, public outreach, research, investigation, reports, analysis, and studies to the extent those activities are used to solicit, request or urge other persons to communicate directly with a City officer.

Examples of spending that does **not** count toward the \$2,500 per month threshold include: payments made to a registered “contact” lobbyist who directly contacts City officers; payments made to an organization for membership dues; payments made by an organization to distribute communications to its members; payments made by a news media organization to develop and distribute its publications; and payments made by a client to a representative to appear on the client’s behalf in a legal proceeding before a City agency or department.

WHEN AND WHERE ARE REPORTS DUE: Each registered expenditure lobbyist must file monthly reports with the Ethics Commission by the fifteenth day of the month following the calendar month covered by the report. For example, a report covering activity in the month of February must be filed by March 15. Deadlines falling on a weekend or holiday are extended to the next business day.

HOW TO FILE: An expenditure lobbyist may file the quarterly report with the Ethics Commission by uploading a PDF copy of the **signed** forms to the Commission’s website. Expenditure lobbyists filing in this manner should retain the original signed copies for at least five years. The Ethics Commission will also accept paper copies of these forms delivered (e.g., by mail, etc.) directly to the Commissions’ office. Forms delivered by mail must be post marked by the due date to be timely filed.

DESCRIBING THE TYPE OF REPORT AND PERIOD COVERED: Indicate the applicable month covered. Also be sure to enter the calendar year.

INDICATING WHETHER THE REPORT IS A TERMINATION STATEMENT: If the filer no longer has any activity to report, the filer may terminate its status as an expenditure lobbyist by checking the appropriate box on page 1. Also, please note that the Ethics Commission will automatically terminate the registration of an expenditure lobbyist that fails to pay the annual registration fee by February 1.

FILING AMENDMENTS: If you are filing an amendment to a previously-filed quarterly report, check the appropriate box on page 1 and indicate the covered reporting period. Also, any amendments to information contained in the filer’s **registration statement** should be made by filing an amended SFEC Form XXXX with the Commission.

REPORTING EXPENDITURE LOBBYIST INFORMATION (PART I): In Part I, you must list the filer’s name, mailing address, telephone number, and email address.

REPORTING TOTAL PAYMENTS AND MATTERS LOBBIED (PART II): In Part II, the filer must report the total amount of payments made during the reporting period to influence local legislative or administrative action. Do **not** include any payments that would not count toward the \$2,500 registration threshold. Also, report each local legislative or administrative action that the lobbyist sought to influence during the period, including, if any, the title and file number of any resolution, motion, appeal, application, petition, nomination, ordinance, amendment, approval, referral, permit, license, entitlement, or contract.

REPORTING ITEMIZED PAYMENTS TO INFLUENCE OF \$1,000 OR MORE (PART III): In Part III, the filer must itemize each payment of \$1,000 or more during the reporting period to influence local legislative or administrative action, including the date of the payment, the name and address of the payee, a description of the payment (i.e., what it was for), and the amount. Again, do **not** include any payments that would not count toward the \$2,500 registration threshold.

REPORTING CAMPAIGN CONTRIBUTIONS (PART IV): In Part IV, the filer must report each campaign contribution of \$100 or more made or delivered by the filer, or made at the behest of the filer, during the reporting period to an officer of the City and County, a candidate for such office, a committee controlled by such officer or candidate, a committee primarily formed to support or oppose such officer or candidate, or any committee primarily formed to support or oppose a ballot measure to be voted on only in San Francisco. Include those contributions arranged by the filer, or for which the filer acted as an agent or intermediary. For each campaign contribution, provide the name of the contributor and (if an individual) the contributor's occupation and employer, as well as the date, amount, and recipient of the contribution.

S:\ALL FORMS\Lobbyist\Expend Lobbyist\2015\Expenditure Lobbyist Monthly Disclosure Form.docx

REVISED: 01/21/2016

DRAFT