



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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LEEANN PELHAM
EXECUTIVE DIRECTOR

Date: July 2, 2020

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel

Re: **AGENDA ITEM 11 – Discussion of Monthly Staff Policy Report, Including the Policy Prioritization Plan**

Summary: This memorandum provides updates on ongoing policy projects, pending local legislation, and other operational projects involving the Policy Division to assist the Commission, the public, and Staff in engaging with the Commission's policy work.

Action Requested: That the Commission review the updates provided in this report and have a preliminary discussion of Staff's proposed ongoing Policy Prioritization Plan for consideration at its next meeting.

Section I of this memorandum briefly summarizes the policy projects that the Policy Division has recently completed and outlines the new policy projects that Staff proposes to prioritize in the coming fiscal year. Section II provides information about ongoing operations and projects that, while not a part of the Commission's Policy Prioritization Plan, regularly require ongoing attention and resources of the Policy Division.

I. Policy Prioritization Plan – Summary of Current Projects and Proposed Projects

This section summarizes the status of the Commission's current set of policy projects and describes the policy projects that the staff proposes for priority review in the coming year.

A. Current Policy Projects

1. Electronic Filing of the Form 700 – Regulations and Meet-and-Confer: Completed

At its January 2020 meeting, the Commission approved regulations to require electronic filing by all designated employees who are required to file the Form 700 Statement of Economic Interests to publicly disclose their personal financial interests. This followed the completion of a meet-and-confer process with affected employee bargaining units. The regulations became effective on March 17th. Under the regulations, effective January 1, 2021, all City employees whose positions are designated as filers in Sections 3.1-103(d) or 3.1-108 of the Campaign and Governmental Conduct Code "shall file assuming office,

annual, and leaving office Form 700 Statements of Economic Interests in an electronic format prescribed by the Ethics Commission.”¹

With these prerequisites completed, in past months Commission staff has begun the process of preparing to create filing accounts, designing new administrative processes, developing training material, and planning for outreach efforts to department filing officers and filers. Particularly in the wake of the COVID-19 pandemic, this project has become an essential need for designated filers to comply with state law. At the same time, however, as detailed in Agenda Item 4 regarding the revised FY21 budget required to be submitted in June, the work necessary to fully implement e-filing with departments and filers and to ensure a smooth transition to the new filing format remains dependent on sufficient staff resources.

2. Public Financing Review Project: Completed

At the Commission’s January meeting, Staff delivered a presentation that summarized the public financing review project and the subsequent implementation process. This project resulted in the enactment of two ordinances, three sets of regulation amendments, new and improved compliance materials, and refined administrative processes. Once elections have occurred under the new rules instituted by this project, Policy will seek to measure the effects that these changes had. This research may take the form of a policy project in the future.

B. Proposed New Policy Projects

As discussed above, the Policy Division has completed both of the projects that remained on the Policy Prioritization Plan. This section describes the two new policy projects that staff have identified as essential for review to improve the effectiveness and impact of core governmental ethics laws. An updated Policy Prioritization Plan that reflects these projects is attached to this report as Attachment 1.

1. Review of Conflict of Interest Code and Regulations

Article III, Chapter 2 of the Campaign and Governmental Conduct Code sets forth San Francisco’s local rules regarding conflicts of interest. These rules include prohibitions on certain gifts, restrictions on official actions that affect family members, post-employment restrictions, political activity restrictions, and many other rules that are designed to ensure that City officials and employees act in the public’s interest and not to benefit themselves personally. These rules compliment California’s conflict of interest rules, which also apply to City officers and employees.

In January of this year, the FBI announced a federal corruption case against Mohammed Nuru, then the Director of the Department of Public Works, and Nick Bovis, a local businessman. On March 10th, the City Attorney sent a report to the Mayor detailing allegations that the Director of the Department of Building Inspection, Tom Hui, also violated state and local ethics laws. Hui subsequently resigned. On June 8th, the FBI charged three additional individuals with crimes related to the original complaint against Nuru and Bovis: Sandra Zuniga, director of the Mayor’s Office of

¹ Campaign & Gov. Conduct Code Regulation 3.1-103-1.

Neighborhood Services, and Balmore Hernandez and Florence Kong, both City contractors. On June 24th Walter Wong, a permit expediter, was also charged with related crimes. Some of the conduct for which these individuals have been investigated and charged includes attempting to bribe a City commissioner, giving and receiving gifts in exchange for favorable treatment by the City, and laundering gifts to disguise their source and nature. If true, these allegations demonstrate an alarming level of unethical conduct in and around certain City departments and processes. Unfortunately, they may also indicate that such conduct exists in other departments that have not yet come under scrutiny.

The City Attorney's office and the Controller have also undertaken investigations of multiple City departments and private organizations in response to the federal allegations. On June 29th, the Controller's office released its preliminary assessment including a recommendation that San Francisco's gift rules be tightened to eliminate loopholes.² These City investigations may reveal additional unethical conduct aside from the allegations in the federal investigation. In preparation for its policy review of the City's ethics laws, Staff continues to closely monitor the information that is emerging from all of the investigations.

The alleged conduct described in the federal and local investigations demonstrates the harm to the public trust when government officials place their own self-interest above that of the public and misuse their public positions for their own private gain. San Francisco's conflict of interest laws are vital to preventing this kind of unethical behavior and making sure that City government operates in the public's interest. Like any area of local law, it is important to review these rules from time to time to ensure that they effectively serve their intended purposes. And, importantly, any time new revelations emerge that may indicate a prevalence of conflicts of interest, it is important that the Commission use the occasion to closely evaluate whether changes to the law are required.

Given the gravity and scope of the current allegations against various individuals employed by or working with the City, Staff proposes prioritizing a comprehensive review of the City's conflict of interest laws to assess whether current law adequately identifies and prohibits conduct that could give rise to a conflict of interest or otherwise serves to undermine fair and objective government decision making. At a minimum, the project should examine gift rules, considering that gifts to City officers have been a recurring theme in the present allegations. The Controller's office has also identified gift rules as an area of the law that warrants scrutiny, which further highlights its importance. However, there exist other areas of the conflict-of-interest code that could also be improved in light of the developing corruption probes. The review project should also explore the following topics:

- Limiting or removing certain exceptions that allow for otherwise prohibited gifts, including the exceptions for gifts from personal friends and gifts of food and drink;
- Strengthening rules regarding gifts of travel;
- Strengthening rules regarding gifts from restricted sources;
- Making the *giving* of prohibited gifts unlawful, as opposed to only the *receipt* of such gifts;

² PUBLIC INTEGRITY REVIEW, PRELIMINARY ASSESSMENT: PUBLIC WORKS CONTRACTING, City and County of San Francisco, Office of the Controller (June 29, 2020), *available at* <https://sfcontroller.org/sites/default/files/Documents/Auditing/Public%20Integrity%20-%20Deliverable%201%2C%20Public%20Works%20Contracting%206.29.2020.pdf>.

- Increasing liability for individuals who knowingly act as an intermediary for prohibited gifts;
- Strengthening rules regarding gifts made to City departments and creating penalties for failure to adhere to such rules;
- Simplifying the overall complexity of current gift rules;
- Incorporating common provisions found in departmental Statements of Incompatible Activities directly into the conflict of interest statute; and
- Strengthening post-employment restrictions.

A project of this scope is overdue and warranted, particularly given the severity of the most recent allegations discussed above. It is likely that this project would take at least twelve months from initial research phase until final and full implementation of all new laws. As with any comprehensive policy review, Staff will need to gather information and review all relevant code sections, regulations, compliance materials, and advice letters. The project will also involve engaging with other City departments, other jurisdictions, stakeholder groups, and local advocates in assessing gaps, and practical and/or operational issues that have been encountered in complying with the law. Any new laws that are proposed will require an ordinance and/or set of regulation amendments to be drafted and presented to the Commission and feedback elicited from interested persons. Any ordinance would require collaboration with the Board of Supervisors and the Mayor's Office. Following enactment of an ordinance or set of regulations, Policy would assist other Ethics staff in implementing the new laws so that City officers and employees are made aware of the changes and clear compliance guidance is made easily accessible.

At this moment, the current City budget process has cast uncertainty on what level of resources if any would be available to devote to carrying out and implementing such a project. The Policy Division has been operating with a single staff member for over a year. Its ongoing program mandates, however, include provide advice, support implementation of laws recently enacted, and conducting ongoing policy and legal research on issues that emerge across the range of Commission's policy and operational jurisdiction. Without the second position filled (a Policy Analyst, or 1822) and with instructions from the Mayor's Budget Office to all departments to prepare budgets that represent a 10% cut in FY21 and a further 5% cut in FY22, Staff are not in a position to commit to initiating a comprehensive review of conflict of interest laws at this time. Instead, Staff propose consideration in August of how the project might be prioritized when more is likely to be known about the Commission's FY21 and FY22 funding.

2. Biennial Review of City's Designated Employee Form 700 Filers

State law requires that every two years local jurisdictions review which of their officials and employees are required to file the Form 700 and make any necessary updates based on changes in the duties associated with the positions.³ This process must take place during 2020, and, as described in prior Policy reports, Policy has already been collaborating with the City Attorney's office, the Clerk of the Board, and the Department of Human Resources to coordinate this process. It is possible that the prospect of mandatory electronic filing for all Form 700 filers will generate higher than normal interest in this year's biennial review project by filers and their bargaining units.

³ Cal. Gov. Code § 87306(b). *See also* Campaign & Gov. Conduct Code § 3.1-100 et seq. (containing lists of designated City positions that must file the Form 700).

Because of this, the City has undertaken to begin the review process earlier in the calendar year than usual and to provide more opportunity to bargaining units to provide feedback.

It is important that during this process Ethics Commission Staff is available to provide assistance to departments as they analyze their lists of designated filers, providing subject matter expertise on Form 700 filing requirements. Although departments must ultimately make the decisions about which employees need to file the Form 700, Staff can help departments understand the state rules that establish the Form 700 filing requirements. As such, Policy plans to pursue this core element of the City's fundamental financial disclosure framework as a policy project moving forward. This will allow Policy to facilitate inter-departmental coordination of the overall project and to help guide other Ethics Commission Staff members who may provide direct advice to other City departments regarding Form 700 filing requirements.

II. Miscellaneous Policy Administrative Projects

This Section describes some of the ongoing work by the Policy division but are activities that do not fall within the policy projects identified under the Policy Prioritization Plan. This work includes: research and advice to Staff and the regulated community regarding the laws administered by the Commission; legislative affairs; and media relations. Some of the larger ongoing initiatives are described below.

A. Post-Election Public Financing Report

Following each election in which one or more candidates receives funds through the City's public campaign financing program, Staff must deliver a report to the Board of Supervisors and the Mayor providing certain details about the funds that were distributed.⁴ Staff often uses this opportunity as appropriate given experience in any particular election to provide additional information that is helpful in achieving wider understanding of the program or identify emerging issues related to the program's effectiveness.

In the November 2019 election, two candidates running for District 5 Supervisor, Dean Preston and Vallie Brown, received public financing. Thus, Policy staff produced the report that is attached to this report as Attachment 2 and will transmit it to the Board and Mayor.

This report summarizes the operation of the program in the 2019 election. The report does not analyze whether the program has been improved by the package of legislative reforms that the Commission approved over the course of the last 18 months as most of those reforms were not in effect during the 2019 election. The 2020 election will be the first election for which all of the reforms are in effect. Following the 2020 election and assuming sufficient staffing resources, Staff plan to conduct a routine review of the program and will seek to quantify what impact the reforms may have had on the program's operation. However, because of the unique public health crisis during which the 2020 election is taking place, those findings will likely need to be supplemented by data from elections beyond 2020 to gain a more representative picture of how the program has been affected by the legislative reforms enacted in 2019.

⁴ Campaign & Gov. Conduct Code § 1.156.

B. Public Advocate Ballot Measure

Supervisors Hilary Ronen and Gordon Mar are sponsoring a measure that would create a new elective office in San Francisco, the Public Advocate.⁵ The Public Advocate would be “dedicated to investigating, uncovering, and eliminating public corruption, the fraudulent use of taxpayer money, and the abuse of the public trust.”⁶ Some of the Public Advocate’s duties and powers relate to those of the Ethics Commission. Primarily, the Public Advocate would be empowered to conduct investigations of ethics complaints that it received. The Public Advocate would be required to first refer any complaints alleging violations of ethics laws to the Ethics Commission.⁷ However, the measure grants the Public Advocate an independent investigatory power following the referral of a complaint to another agency:

“[i]f such agency does not resolve the complaint in a manner that is satisfactory to the Public Advocate within a reasonable time as determined by the Public Advocate, the Public Advocate may conduct an investigation and make specific recommendations to the agency for resolution of the complaint. If, within a reasonable time thereafter as determined by the Public Advocate, such agency has failed to respond to the recommendations in a manner that is satisfactory to the Public Advocate, the Public Advocate may issue a report to the Board of Supervisors, the Mayor, and the agency, describing the conclusions of the investigation and making such recommendations for administrative, legislative, or budgetary action, together with their fiscal implications, as the Public Advocate deems necessary to resolve the complaint or to address the underlying problems discovered in the investigation.”⁸

C. FPPC Review of California Behested Payment Rules

A behested payment is a payment made by one person to another at the behest of a government official. California law regulates such payments by requiring certain payments of \$5,000 or more to be publicly disclosed. Currently, the Fair Political Practices Commission (FPPC) is conducting a review of the state’s behested payment rules and may propose changes. Policy is providing information to the FPPC legal division about local behested payment rules and experiences to assist them with their review of state law.

D. Proposition F Litigation

As discussed at the February meeting, a San Francisco political committee recently sued to enjoin the City and County from enforcing the disclaimer provisions of Proposition F, the ballot measure that was approved in the November 2019 election, as well as certain disclaimer provisions of the Anti-Corruption and Accountability Ordinance. Judge Breyer of the U.S. District Court for the Northern District of California issued a preliminary injunction barring the City and County from

⁵ See [File No. 200509](#).

⁶ *Id.* at § 8C.100.

⁷ *Id.* at § 8C.103(d).

⁸ *Id.* at § 8C.103(f).

enforcing the disclaimer rules as they pertain to certain of that committee's advertisements. The committee was formed solely to support Measure B, which appeared on the March ballot. At this time, the committee has appealed the trial court's ruling to the U.S. Court of Appeals for the Ninth Circuit and is seeking a broader injunction that would invalidate more of Prop F's requirements and that would apply to all committees. Staff continues to monitor the litigation and will seek guidance from the City Attorney's office as to whether disclaimer rules must be amended as a result of the litigation.

ATTACHMENT 1

Policy Prioritization Plan (PPP)

Ongoing Policy Projects

Priority	Project	Impact	Urgency/ Timeliness	Project Timeframe
1	Conflict of Interest Code and Regulations Review (Art III, Ch II): This project entails a review of all relevant codes and regulations and identify potential changes to improve program outcomes. Conflict-of-interest rules, including gift rules, that are located in other chapters of the Code will also be examined.	9	9	12 Months
2	Biennial Conflict of Interest Code Review: This project entails collaboration with the Clerk of the Board, the City Attorney, and the Department of Human Resources to lead the City's biennial review of designated employee Form 700 filers.	7	9	6-9 Months

Potential Policy Projects

Priority	Project	Impact	Urgency/ Timeliness	Staff Commitment & Project Timeframe
	Campaign Consultant Program Review (Art I, Ch V): The Campaign Consultant program was instituted by Ordinance No. 71-00. The program hasn't been significantly reviewed since 2014, with amendments being proposed, but not adopted, in 2010 and 2011.	6	5	3-6 Months
	Lobbying Code and Regulations Review (Art II, Ch I): The Commission has not embarked on a comprehensive review of the lobbying program. This project would entail a review of all relevant codes and regulations and identify potential changes to improve program outcomes.	7	5	6-9 Months

Policy Prioritization Plan (PPP)

	Expenditure Lobbying Program Review: The expenditure lobbyist program was enacted by Proposition C (2016). This project would entail a review of all relevant codes and regulations and identify potential changes to improve program outcomes.	5	7	3-6 Months
	Permit Consultant Program Review (Art III, Ch IV): The Permit Consultant program was added by Ordinance 98-14. No significant review of the program has been initiated since its inception. This project would entail a review of all relevant codes and regulations and identify potential changes to improve program outcomes.	6	5	3-6 Months
	Major Developer Program Review (Art III, Ch V): The Developer Disclosure program was added by Ordinance 98-14. No significant review of the program has been initiated since its inception. This project would entail a review of all relevant codes and regulations and identify potential changes to improve program outcomes.	6	5	3-6 Months

ATTACHMENT 2



**ETHICS COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

**Report on
San Francisco's Public Campaign Financing Program
November 5, 2019 Election**

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June 30, 2020

I. Introduction

The Campaign and Governmental Conduct Code requires that “[f]ollowing each election at which the Mayor or members of the Board of Supervisors are elected, the Ethics Commission shall submit a report to the Mayor and Board of Supervisors” that provides certain information about the use of the public financing program in that election.¹ In the November 5, 2019 election, voters selected candidates for the offices of Mayor and District 5 Supervisor. The Ethics Commission prepared this report for the Mayor and Board of Supervisors to provide information about the operation of the public financing program in both of these races.

The data presented in this report is based on information reported in campaign disclosure statements covering the start of candidates’ campaigns through December 31, 2019, the last date for which information is available at the time of writing. The report also includes information from disclosures filed by independent committees and from Commission records of public funds disbursements to participating candidates who qualified to receive public funds.

II. Program Goals and Overview

San Francisco’s voluntary program of limited public campaign financing for City candidates was first established by Proposition O, a ballot measure approved by the voters in November 2000. Prop O established public financing for candidates for the Board of Supervisors, and in 2006 the program was expanded to include Mayoral candidates.

A. Program Goals

The City’s public campaign financing program serves many important public policy goals. The program seeks to ensure that candidates with a demonstrated level of community support can secure sufficient resources to mount a viable campaign. In doing so, public financing reduces candidates’ dependence on private contributions and encourages candidates to spend less on their campaigns, both of which lessen the potential for and appearance of undue influence by contributors and serves to improve the public’s trust in local government. Public financing also seeks to enable candidates to spend less time fundraising and more time interacting with voters and engaging in discussions on important issues. The program also enables some candidates who might not otherwise be able to fund a viable campaign to do so. This enhances the diversity of the field of candidates running for elective office. The availability of public matching funds also encourages citizens to be more politically active by incentivizing and empowering small-dollar contributions. By supporting candidates who have community support, public financing can also lead to more competitive races, which is important in ensuring quality representation of constituents.

B. Program Overview

San Francisco’s public financing system is funded through the Election Campaign Fund (the “Fund”) established by the City’s Campaign Finance Reform Ordinance (“CFRO”). Under CFRO, the Fund receives a General Fund appropriation of \$2.75 per resident each fiscal year.² When a special election is held to fill a vacancy for the office of Mayor or Supervisor, CFRO may require additional appropriations into the

¹ Campaign & Gov. Conduct Code § 1.156.

² *Id.* at § 1.138(b).

Fund to ensure that sufficient funds are available to allow for the program's effectiveness in that election.³ Additional appropriations may occur before a regularly scheduled election, as well, if the fund's balance does not meet prescribed statutory minimums.⁴ At the outset of the FY20 fiscal year on July 1, 2019, the fund held approximately \$11,462,800.

Eligibility and Program Qualification

To establish eligibility to receive public financing, candidates must demonstrate a base of community support by raising a minimum number and total amount of contributions from City residents. To be certified for public funding in the 2019 election, a non-incumbent supervisorial candidate was required to raise contributions of at least \$10,000 from at least 100 City residents, while an incumbent candidate was required to raise at least \$15,000 in qualifying contributions from at least 150 residents. A non-incumbent mayoral candidate was required to raise contributions totaling \$50,000 from at least 500 residents, and an incumbent was required to raise \$75,000 from at least 750 residents. Only contributions of \$10 to \$100 counted as qualifying contributions. These qualifying contributions had to be received by the candidate no earlier than eighteen months before the date of the election. Candidates had to abide by a campaign spending limit, could not accept loans from others, could contribute only a limited amount of their own funds to their campaigns, and had to agree to debate their opponents. Finally, in order to qualify, a candidate had to be opposed by another candidate who had received contributions or made expenditures over a certain amount.

Public Funds Provided

Once certified as eligible for the program, candidates receive an initial grant. In the 2019 election, Supervisorial candidates received an initial grant of \$20,000, while mayoral candidates received an initial grant of \$100,000.⁵ After receiving the initial grant, candidates received matching funds distributed at either a two-to-one or one-to-one ratio for every dollar of contributions received. For example, for each dollar of privately raised contributions up to \$50,000, a non-incumbent supervisorial candidate received two dollars from the fund, up to a maximum of \$100,000. For each additional dollar of contributions raised thereafter, the candidate received public funds on a one-to-one match until reaching the maximum amount, which is \$155,000 for non-incumbent supervisorial candidates. The maximum amount of public funds that a supervisorial candidate could receive was \$155,000 (non-incumbents) or \$152,500 (incumbents), and the maximum amount that a mayoral candidate could receive was \$975,000 (non-incumbents) or \$962,500 (incumbents).

Spending Limit Adjustments

Based on spending activity in the race, a candidate's spending limit (the Individual Expenditure Ceiling or "IEC") must be raised by the Ethics Commission. This provision intends for candidates who are bound by a spending limit to have the ability to respond when independent expenditures and opponent

³ *Id.* at § 1.138(b)(3)–(4).

⁴ *Id.* at § 1.154(b)(1)–(2). CFRO sets \$7.50 per resident, plus fifteen percent for administrative costs, as the minimum for a regularly scheduled mayoral election and \$1.50 per resident plus fifteen percent as the minimum for a regular supervisorial election.

⁵ As discussed in Section II.C, *supra*, the amounts of the initial grant and the matching ratio will be increased for the 2020 election.

fundraising exceed the candidate's initial IEC. Three factors may necessitate an increase to a candidate's spending limit: (1) contributions received by the candidate's best funded opponent, (2) independent expenditures in support of the candidate's best funded opponent, and (3) independent expenditures in opposition of the candidate. If these three factors, together, exceed the candidate's current spending limit by any amount, then the candidate's spending limit must be increased. Spending limits are adjusted daily on a candidate-by-candidate basis. The spending limits of supervisorial candidates are adjusted in increments of \$50,000, and the spending limits of mayoral candidates are adjusted in increments of at least \$250,000. In the 2019 election, each supervisorial candidate's IEC started at \$250,000.⁶

C. Ethics Commission's Review of the Public Financing Project

From July 2018 to October 2019, the Ethics Commission engaged in a comprehensive review of the City's public campaign finance program. The review was undertaken in two phases. The first phase, which began in June 2018 and concluded in early 2019, sought to deepen the program's impact without making significant changes to the program's basic features. The narrow and targeted nature of this phase was designed to enable quick implementation of those changes in order to be completed in time for the November 2019 election. The second phase, which took place during 2019, examined the more fundamental features of the program to strengthen the program's impact in future elections. The changes to the program brought about through Phase II were not in place for the November 2019 election. The first election for which the Phase II changes will be operative is the November 2020 election. Both phases of the review project are discussed below.

1. Phase I – Administrative Features

Phase I sought to identify features of the Program that created undue complexity, confusion, or requirements on participating candidates while not yielding a corresponding policy benefit. The goal was to identify ways in which the Program's effectiveness and workability could be improved to support broad candidate participation in the program and strengthen the program's impact on participating candidates.

The features of the Program addressed in Phase I were those that candidates and the Commission observed to be problematic for candidates during the June and November elections in 2018. Through formal appeals, public comment, questions, concerns and feedback, there was a clear indication that candidates, treasurers, and members of the public were experiencing some frustration with these aspects of the Program. Phase I responded to these concerns by analyzing these Program features and identifying ways to improve them while still maintaining the current structure and parameters of the Program. Staff endeavored to complete the Phase I improvements in time for them to be in place for the November 2019 election.

The improvements created through Phase I took multiple forms:

- (1) a set of revised regulations to provide greater clarity about various program rules and requirements, which the Commission approved at its regularly scheduled November 2018 meeting and which became operative in January 2019;

⁶ *Id.* at § 1.143 (as amended by [File No. 190287](#)). Beginning in the 2020 election, supervisorial candidates' IEC will begin at \$350,000, as discussed in Section II.C, *supra*.

- (2) reexamination of administrative aspects of the program to ensure that the program continues to perform in a predictable, efficient, and fair manner;
- (3) improvements to the written resources that are available to Program participants to provide more detailed information about how to qualify for the program and comply with its rules; and
- (4) an ordinance that would change certain procedural features of the program that are established by statute.

The Phase I ordinance was operative for the November 2019 election.⁷ The new program rules that were in effect for this election were:

- The deadline for the Statement of Participation was changed to three days after the deadline to file nomination papers (previously the deadline for both filings was the same day);
- The IEC adjustment mechanism was changed so that changes would be triggered when opponent financial activity exceeds a candidate's current IEC by any amount, rather than by a minimum dollar amount (previously \$10,000 for Board candidates and \$50,000 for Mayoral candidates);
- The IEC adjustment mechanism was changed so that adjustments would be done in larger increments; and
- Candidates were allowed to maintain all contributions in a single committee account (previously candidates had to maintain a separate account for funds that exceeded the candidate's current IEC). This change did not affect the amount of spending that a candidate could undertake.

2. Phase II – Core Program Features

Phase II analyzed the basic parameters of the Program, including, among other things, the total amount of public funding that candidates can qualify to receive, the requirements for qualifying for the Program, the ratio at which private contributions are matched with public money (both via an initial grant and subsequent contribution matching), the initial spending limit that applies to participants, and whether any alternative model of public financing, such as democracy vouchers, would be more effective. The goal of Phase II was to evaluate how well the program was achieving its policy goals and to identify adjustments that could be made to improve the program without increasing its overall cost.

The ordinance that was approved following Phase II was not in effect for the November 2019 election.⁸ Beginning with the November 2020 election, the new rules:

- Increase the total amount of public financing that a candidate can receive for Supervisorial candidates (from \$155,000 to \$255,000) and for Mayoral candidates (from \$975,000 to \$1,200,000);
- Increase the matching ratio for public funds from 2:1 to 6:1;
- Restrict the amount of a contribution that can be matched with public funds from \$500 to \$150; and
- Increase the initial Individual Expenditure Ceiling for Supervisorial candidates (from \$250,000 to \$350,000) and Mayoral candidates (\$1,475,000 to \$1,700,000).

⁷ [File No. 190287](#).

⁸ [File No. 190660](#).

III. Information Regarding the November 2019 Election

November 2019 was the regularly scheduled election for the office of Mayor. In addition, because of the vacancy created on the Board of Supervisors, District 5 by London Breed's election as Mayor in June 2018, a special election to fill that Supervisorial vacancy was also held in November 2019.

A. Candidates

In the Mayoral race, six candidates appeared on the November ballot, but none of the candidates applied for public financing. In the race to represent District 5 on the Board of Supervisors, four candidates appeared on the ballot. Two of these candidates applied for public financing, and both were certified as eligible and received public funds.

Table 1 – Candidates in November 2019 Election

Seat	Candidates on the Ballot	Candidates Applied for Public Financing	Candidates Received Public Financing
Mayor	6	0	0
District 8	4	2	2
Total	10	2	2

B. Candidate Fundraising, Public Financing, and Spending

Table 2 provides data regarding the spending, fundraising, and public funding levels for the candidates who appeared on the ballot for the Mayoral race. Adding together all candidates in the race, the candidates raised \$763,387 in contributions. The table provides each candidate's total expenditures made in the race, which includes cash payments made, loans received, and unpaid debts incurred by the candidate's committee. In the aggregate, candidates spent \$743,281 in the 2019 Mayor's race.

Table 2 – Public Funds, Contributions, and Spending by Mayoral Candidates in the November 2019 Election

Candidate Name	Public Funds	Contributions	Total Funds	Total Expenditures
London Breed*	-	\$623,729	\$623,729	\$630,049
Ellen Lee Zhou	-	\$98,533	\$98,533	\$97,720
Joel Ventrasca	-	\$32,880	\$32,880	\$7,432
Paul Ybarra Robertson	-	\$8,245	\$8,245	\$8,080
Wilma Pang**	-	-	-	-
Robert L. Jordan Jr.**	-	-	-	-
Total	\$0	\$763,387	\$763,387	\$743,281

* Indicates candidate elected

** Indicates candidate did not report reaching \$2,000 in campaign activity and was therefore not required to file full campaign disclosure statements.

Table 3 provides data regarding the spending, fundraising, and public funding levels for the candidates who appeared on the ballot for the District 5 race. In total, two candidates received \$307,500 in public financing. Public financing represented roughly 31 percent of Vallie Brown's total funds and 35 percent of Dean Preston's total funds. Both candidates received the maximum amount of public funds available to them, which differed depending on the candidate's status as an incumbent or non-incumbent. In total, the candidates in the District 5 race reported receiving \$939,929 in total funds (including public financing) and spending \$935,675.

Table 3 – Public Funds, Contributions, and Spending by D5 Candidates in the November 2019 Election

Candidate Name	Public Funds	Contributions	Total Funds	Public Funds as % of Total Funds	Total Expenditures
Dean Preston*	\$155,000	\$288,221	\$443,221	35.0%	\$437,825
Vallie Brown	\$152,500	\$344,208	\$496,708	30.7%	\$497,850
Ryan Lam**	-	-	-	-	-
Nomvula O'Meara**	-	-	-	-	-
Total	\$307,500	\$632,429	\$939,929		\$935,675

* Indicates candidate elected

** Indicates candidate did not report reaching \$2,000 in campaign activity and was therefore not required to file full campaign disclosure statements.

C. Candidate Spending Limits

Although candidates who receive public financing must agree to abide to a limit on their campaign's expenditures, each candidate's individual expenditure ceiling, or IEC, must be increased by the Ethics Commission if campaign activity in the race reaches a certain level. Table 4 indicates the number of IEC adjustments for each publicly financed candidate and the final level of each candidate's spending limit. IECs were adjusted eleven times during the November 2019 election.

Table 4 – Spending Limit (IEC) Adjustments for Publicly Financed Candidates – November 2019

Candidate	Date of First IEC Increase	Number of IEC Increases	Highest Adjusted IEC
Dean Preston (D5)	9/30/2019	7	\$750,000
Vallie Brown (D5)	9/30/2019	4	\$550,000
Total		11	

D. Third-Party Spending

During the 90 days immediately preceding an election, third-parties (i.e. individuals or groups that are not candidate committees) are required to file a report any time they make independent expenditures totaling \$1,000 or more or spend \$1,000 or more to distribute member communications or electioneering communications. Independent expenditures fund activity that expressly advocates for or against the election of a particular candidate. These expenditures are intended to affect the outcome of the election, so making information about them public serves an important transparency purpose.

A member communication is a communication that is distributed exclusively to “members, employees, shareholders, or families of members, employees, or shareholders of an organization, including a communication by a political party.”⁹ A group that makes a member communication has to file a report if the communication advocates for or against a candidate for City office. Like the disclosure of independent expenditures, disclosing member communications serves to inform voters about the origins of communications that seek to affect the outcome of a local election.

An electioneering communication is a communication that refers to a clearly identified candidate and is distributed within 90 days before an election. Electioneering communications, however, do not expressly advocate for the election or defeat of the candidate.¹⁰ Although electioneering communications do not contain express advocacy, they still have the potential to affect the outcome of an election by publicizing an identified candidate shortly before the election. Even without expressly advocating for the candidate’s election or defeat, electioneering communications can portray the candidate in a positive or negative light or simply build name recognition. Disclosing information about these communications therefore serves the same transparency interest as with independent expenditures and member communications.

Third party spending reports serve multiple purposes. They inform the public about the amount and the source of money that is being spent to influence the outcome of an election. Additionally, spending limit adjustments are based in part on third party activity, and the reports are the source of the necessary data for the Commission to increase candidates’ spending limits. Each of these three types of reports must be filed within twenty-four hours of the communication being distributed to give voters information about the communications shortly after they are distributed. During the November 2019 election, no third-party reports were filed in connection with the mayoral race, while forty-two reports were filed in connection with the District 5 race.

Using the data disclosed on third-party spending reports, Table 5 and the two following charts show the total amount of third-party spending to support or oppose candidates in the November 2019 election. Third parties spent \$363,126 in the race for District 5 Supervisor.

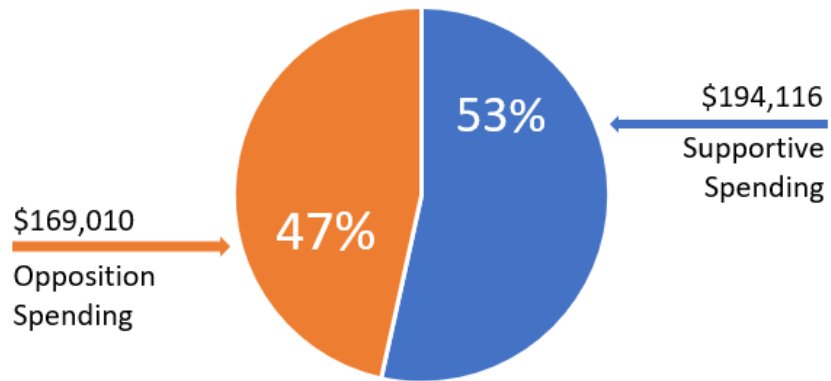
Table 5 – Third-Party Spending in November 2019 Election

Affected Candidate	Supportive Spending	Opposition Spending	Total 3rd Party Spending
Dean Preston	\$108,088	\$169,010	\$277,098
Vallie Brown	\$86,028	\$0	\$86,028
Ryan Lam	\$0	\$0	\$0
Nomvula O'Meara	\$0	\$0	\$0
Total	\$194,116	\$169,010	\$363,126

⁹ Cal. Gov. Code § 85703(c), as incorporated by Campaign & Gov. Conduct Code § 1.104.

¹⁰ Campaign & Gov. Conduct Code § 1.104.

Third-Party Spending in November 2019 Supervisory Election, by Type of Spending



Third-Party Spending on Candidates in November 2019 Supervisory Election

