



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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EXECUTIVE DIRECTOR

July 2, 2020

To: Members of the Ethics Commission

From: LeeAnn Pelham, Executive Director
Gayathri Thaikkendiyil, Deputy Director & Chief Programs Officer

Subject: **Agenda Item 4 – Discussion and Possible Action on Ethics Commission Revised FY21 Budget Submitted June 12, 2020 in Wake of the COVID-19 Public Health Emergency**

Summary

This item has been placed on the Commission's July 10 meeting agenda to enable the Commission to discuss its FY21 Revised Budget submitted on June 12 as required by Mayoral instructions to all City Departments in the wake of the COVID-19 public health emergency.

Action Requested No action is required as this item is provided for informational purposes only, however it has been placed as an action item on the Commission's July 10 agenda to allow the Commission to take action should it wish to do so.

As reported at the Commission's February meeting in our [staff budget memo dated February 14, 2020](#), all City departments were required to submit Fiscal Year 2021-22 budget requests to the Mayor's Budget Office on February 21, 2020. The Commission's February proposal outlined \$1.3 million in essential new investments beginning in FY21 for the Commission to achieve the organizational capacity necessary to meet its voter-mandated role as an independent and objective oversight body in City government and to effectively advance the highest standards of integrity in all City decision making.

Soon after, on March 11, Commissioner Chiu, Commissioner Lee, Director Pelham and Deputy Director Thaikkendiyil met with the Mayor and the Mayor's Chief of Staff and Budget Director to share more background about the basis for the Commission's FY21 budget submission. In that meeting, we discussed the essential need to continue to right-size the Commission to help ensure:

- strong laws that are effective and enforceable in practice;
- heightened compliance and strengthened public engagement in City elections and governance; and
- improved accountability through timely, thorough, and fair audits, investigations, and administrative enforcement.

As these budget discussions were occurring, the emergence of the COVID-19 virus was also introducing significant uncertainty into the City's processes for budgetary decision making. On February 25, a Proclamation Declaring the Existence of a Local Emergency was issued by the Mayor, and the Board of Supervisors subsequently concurred in that Emergency Declaration on March 3. On March 6, the San Francisco County Health Officer declared that a local health emergency exists in the City and County of San Francisco and issued public health orders prohibiting gatherings at City-owned locations on March 7. The first Shelter in Place Public Health Order was issued by the County Health Officer on March 16.

Since that time, the COVID-19 pandemic and public health emergency has continued to upend daily life and commerce and has demanded that the delivery of local government services adapt significantly, in their practice, scope, and pace. As a result, the City's the financial outlook and budgetary needs for the coming several fiscal years also have been fundamentally altered.

On March 31, a March joint financial report issued by the Controller's Office, the Board of Supervisors' Budget and Legislative Analyst, and the Mayor's Budget Office projected revenue reductions for the final quarter FY20 "that are staggering." Due to the City's ongoing response to COVID-19 and continuing healthcare and financial impacts in the City, the Mayor announced a citywide freeze to only allow hiring of essential workers; a revised budget season that would include a "rebalancing" of existing FY20 budgets, and a roughly three-month delay in finalizing the FY21 budget. Following the anticipated release of the Mayor's budget in August, the Board of Supervisors would then consider the budget in August and September in order to finalize the budget by October 1.

Revised Budget Instructions and Their Impact

Revised budget instructions required departments to submit revised budget proposals by June 12, 2020 to meet the following requirements and that detailed related staffing and service impacts:

- meet targeted General Fund requirements in their base budgets of 10% in FY21 and growing to 15% in FY22, with an additional 5% in the second year as a contingency should fiscal conditions worsen;
- prioritize core services that provide critical government functions;
- evaluate current operations for realignment with City outlined COVID operating measures and guidelines; and
- prioritize services for vulnerable populations and providing equitable services for underserved populations.

The Commission's revised budget submission dated June 12 appears at [Attachment 1](#).

As detailed in the revised budget submission, in the face of a requirement to absorb 10% and 15% in targeted budget cuts, the Commission would be required to prioritize only its most essential select mandates and to pause or forego work on all other mandates as resources are eliminated. Going forward programmatically, sustaining the functioning of the voter-enacted public campaign financing program must remain a top priority given that program's role in engaging diverse voices and enhancing voter engagement with City campaigns. Ensuring meaningful access to public

information that promotes understanding of campaign and lobbying activities in the City and the financial interests of City decisionmakers must also be sustained. Toward that end, prioritizing the immediate conversion of all remaining programs and services into a digital environment is essential. Work initiated by the Commission in FY20 to improve its core oversight and accountability programs through more robust compliance reviews, more effective audits, and more impactful enforcement must continue to be implemented in FY21.

At the same time, however, if the Commission is faced with absorbing the targeted level of cuts, the following impacts will result:

- **The ongoing Form 700 “E-filing for All” project will need to be halted.** Absent sufficient staffing resources and other necessary support, the electronic filing of Form 700 by the City’s roughly 3,600 departmentally-designated Statements of Economic Interest filers will remain paper-based. Despite the critical need at this time to provide an online method for designated filers to file Form 700 remotely, the project will need to be put on hold until such time that sufficient resources can be secured to allow this essential project work to be performed. Until then, the public disclosures of economic interests by these City officials and employees will remain housed in individual departments rather than in a digital environment that provides stronger transparency through direct online access and searchability.
- **The Ethics Commission’s independent policymaking role in shaping ethics, lobbying, and campaign laws under its jurisdiction will be undermined** as its ability to conduct timely and thorough legislative policy reviews will be diminished as 50 percent of its existing Policy staffing resources will be de-funded and will not be filled. This will impact including reviews identified but overdue in the areas of government ethics and conflicts of interests that engage stakeholders and the public in the policymaking process. Without the ability to fund the 1822 position, the Commission’s ability to proactively and effectively advance strong, sensible, effective and enforceable laws in practice will be unduly limited.
- **The Ethics Commission’s effectiveness as an independent and objective investigative and administrative enforcement authority will be undermined** as its ability to pursue timely case resolutions and administrative adjudication of violations of laws within its jurisdiction will be diminished. Under the targeted cuts, one of its four existing investigative positions , an 1822 Investigator, will be de-funded and will not be filled. Importantly, process improvements that began in FY20 but have not yet been able to be fully implemented due the COVID-19 public health emergency will remain to be implemented. Consequently, the scope and pace of case resolutions investigated by the Commission will continue to be unduly limited.
- **Needed improvements in the Commission’s compliance oversight role – including to ensure regular and robust audits and compliance reviews of campaigns, lobbying activities, and financial interest disclosures -- will not be attainable** as staffing resources with responsibility to drive program and business process improvements in these areas will be de-funded and will not be filled. Under the required cuts, the Commission will not have funding to fill a vacant supervisory position charged with providing day to day direction and management of its campaign and lobbying audit programs. With a continued vacancy in

the 1824 position of Principal Program Manager for Audits, direction for leading change in and actively supervising compliance review and audit-related program deliverables will continue to face critical delays and will significantly impede the Commission's oversight role.

- **The City will forego a pivotal opportunity to ensure that leaders at all levels in City government are systematically equipped with practical tools and information to better navigate ethical issues in City service.** Proposed as a three-year limited term project to equip leadership teams, managers, supervisors and staff leads with enhanced practical guidance, the Commission's *Ethics@Work* initiative proposed to establish and implement new and necessary outreach, onboarding, and training infrastructure not currently in place but that is essential to effectively institutionalize integrity in City government. With the targeted cuts, the Commission will be unable to pursue this initiative as funding and limited term staffing necessary for the project will not be made available.

In short, the Commission will continue to lack essential resources that are fundamental to its mandate to ensure effective oversight and promote the highest standards of the was established by San Franciscans to accomplish.

Additional Pressing Developments with Further Budgetary Impact for Ethics Commission

Several recent pressing developments that further underscore the need to ensure the highest standards of integrity in City decision making also point to resources necessary for the Commission to perform its work toward that need.

Following the events earlier this year involving the arrest of former City Department of Public Works Director Mohammed Nuru on federal public corruption charges, on March 10, 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. Mr. Hui subsequently resigned his office. In June, the FBI charged additional individuals with crimes related to the original complaint against Mr. Nuru: Sandra Zuniga, director of the Mayor's Office of Neighborhood Services, and two City contractors. Most recently, on June 24, permit expediter Walter Wong 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 City treatment by the City, and laundering gifts to disguise their true source and nature.

As part of its joint investigation with the Office of the City Attorney into these public corruption matters and as highlighted in Agenda Item 3 for this meeting, the [Controller's Office issued a June 29 report with initial recommendations](#). That report noted three findings with regard to laws within the Commission's jurisdiction and noted the need for the Mayor and Board to prioritize funding and other related support to advance the Commission's work in that regard:

- The Ethics Commission should examine and close loopholes in the San Francisco Campaign and Governmental Conduct Code to ensure that city law does not create avenues for unethical behavior in acceptance of gifts;

- The Ethics Commission should expeditiously enable and require that all Statements of Economic Interests (Form 700s) are filed electronically by all required filers;
- The Commission should conduct annual compliance reviews of these filings.

In response to the Controller's report, the Mayor's Office released a statement confirming the intent of her Office to "immediately take action to begin implementing the reforms recommended by the City Attorney and Controller," adding "[i]f we can take Executive action, we will do so immediately. If we need to pass laws, we will work with the Board of Supervisors to do so ... and we need to continue to identify problematic issues that erode public trust across our city. We have work to do, but we will do that work. Our residents and City workers deserve nothing less."

Next Steps

The Controller's Office report was presented and discussed at the Board of Supervisor's Government Audits and Oversight Committee on Thursday, July 2 and additional hearings on further findings and recommendations are expected as further reports are issued. The Commission looks forward to the opportunity to participate in those hearings to answer any questions the Board may have regarding its work and to provide comment on any approaches considered that may relate to the laws within the Commission's jurisdiction or to any Commission mandates or program operations.

In addition, the Controller's Office has been invited to provide an update and overview of their initial June 29 report findings and recommendations at the Commission's July 10 meeting as part of this Executive Director's Report, Agenda Item 3.

At present, FY21 budget discussions with the Mayor's Budget Office remain fluid. Should any additional information be available next week we will provide an update on those developments at that time. We look forward to answering any questions you may have at the next meeting.

As we look ahead and anticipate the challenges likely to continue facing City government over the next two budget years, the Ethics Commission remains committed to working collaboratively and creatively with all City Offices and Departments in leveraging every available resource invested in our work in service to the public. As noted in our June 12 submission, both the COVID-19 public health emergency and emerging public policy responses to challenge longstanding systemic and structural inequities are fundamentally re-shaping the services local government provides to the public. These events and the recent continuing announcements of further federal corruption charges only underscore how deeply San Franciscans must rely on City government to ensure the highest standards of integrity in the vital decisions it makes. Together, these developments remain stark reminders of the critical and ongoing need to ensure that the health and vitality of the City's public institutions are also effectively supported.