



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

NOREEN AMBROSE
CHAIR

July 21, 2020

By Electronic Mail

YVONNE LEE
VICE-CHAIR

Honorable Mayor London Breed
City and County of San Francisco
Honorable Chair Sandra Lee Fewer,

DAINA CHIU
COMMISSIONER

Honorable Members: Shamann Walton, Rafael Mandelman, Hillary Ronen, and Norman Yee
Board of Supervisors, Budget and Appropriations Committee

FERN M. SMITH
COMMISSIONER

Dear Mayor Breed and Members of the Board,

LARRY BUSH
COMMISSIONER

I write to convey the Ethics Commission's strongly held view that full funding of the department's mission is of critical importance at this time. We recognize that the COVID-19 pandemic and resulting dire economic conditions make your task of balancing the budget excruciating. But now more than ever, it is imperative that the public have complete confidence in the honesty and efficacy of its government.

LEEANN PELHAM
EXECUTIVE DIRECTOR

The allegations of corruption, bid rigging, bribes, and malfeasance in office brought to light by the Federal Bureau of Investigation, and the City Attorney and Controller's further exposure of legal and ethical violations, reflects a failure to root out wrongdoing and maintain the public trust. Cutting the Ethics Commission funding would render it unable to fully perform its core functions and initiate the remedial work that is required to fulfill our collective commitment to right these wrongs. Please don't send that message.

This Mayoral administration, the Board, Commission and the voters of San Francisco have taken significant steps to strengthen the City's Ethics laws and practices in recent years. The Commission, Board and the Mayor approved the Anti-Corruption and Accountability Ordinance, effective January 2019. A review of the Campaign Public Financing program also yielded significant amendments adopted and implemented in that year. In November 2019, a supermajority of San Francisco voters adopted Proposition F, Campaign Contribution Restrictions and Advertisement Disclaimer Requirements, which five Supervisors had placed on the ballot. The Ethics Commission had expected to receive funds to implement these new initiatives, and begin to address long standing, but unfunded, Charter mandates.

In February, the Executive Director gave the Ethics Commission a proposed budget to meet those objectives. That request was for \$6.2 million for FY21, an increase of roughly \$1.7 million from its FY20 budget, and a miniscule fraction of the City's \$6 billion General Fund Budget. For perspective, consider that the entire Ethics budget is dwarfed by the amount of money involved in the corruption and tainted contracts under investigation.

The Executive Director and staff continue to respond to the Mayor's revised Budget instructions, identifying potential cuts as required, but flagging the impact on current staff positions, our mission and work program. That process is ongoing, and the Commission awaits the Mayor and the Board's determinations. In doing so, we trust you will pay

particular attention to the Controller's recommendations in his *Preliminary Assessment: San Francisco Public Works Contracting*, issued on June 29th.

As part of the Controller and City Attorney's continuing investigations, initially stemming from the federal criminal investigation and charges against the then Public Works Director, Mohammed Nuru, and others, the Controller's Office presented its *Preliminary Assessment* to the Board's Government Audit Committee on July 2nd, and to the Ethics Commission on July 10th. The Controller promised periodic reports on additional aspects of its public integrity review, while the City Attorney continues to subpoena documents, conduct interviews, and pursue related legal actions to ferret out corruption.

The Controller noted that the "tone at the top" determined the "ethical atmosphere" of the workplace and discussed the Public Works department's abject failure on that score. More specific recommendations relevant to the Ethics Commission's FY 21- 22 budget include:

- The Ethics Commission should examine and close loopholes in the San Francisco Campaign and Government Code to ensure that city law does not create avenues for unethical behavior in acceptance of gifts; and
- The Commission should expeditiously enable and require that all Statement of Economic Interests (Form 700) are filed electronically by all required filers; and
- The Commission should conduct annual compliance reviews of these [Form 700] filings.

Achieving these preliminary recommendations is intrinsically aligned with the Commission's proposed work program and budget as presented in February 2020.

The Commission mission statement commits it to: "enforce all ethics laws and rules," and "recommend new laws, rules and programs that will lead to ethics compliance." The proposed February budget had identified funding for staff with the qualifications to perform compliance reviews, undertake campaign and lobbying audits, and provide advice and policy evaluations to promote ethical conduct, together with funding for the technology services required to improve transparency in this online digital age.

For the more than 3,500 City employees required to file a Statement of Economic Interest (Form 700), the staff last year completed the initial policy work and labor outreach to implement electronic filing. But technical and compliance staff, identified in the proposed budget, are needed to train and advise these new electronic filers, and then review and enforce compliance.

These measures will improve transparency and accountability, but the proposed budget also envisioned this new economic interest disclosure protocol as an opportunity to improve the "ethical atmosphere" within the City. The "tone at the top" extends beyond Department heads to the deputy directors, managers, policy makers, permit issuers and contracting officers who carry out or influence government action, and thus are required to disclose their economic interests. The Executive Director's initial budget proposal identified a multi-year initiative, called *Ethics@Work*, to enable the Commission to begin the outreach, education and for ethical conduct within this level of the City's ranks. This effort was anticipated in the initial Charter provisions for the Ethics Commission, but never fully realized (See Charter App. C, Section C3.699-11, Duties.) With the necessary budget resources and support, we envision 3,500+ high level City employees fully versed in the City's conflict of interest, gift and contracting laws, whose economic interests are transparent to the public, and who are supported and protected by the Commission, Controller and City Attorney through ethics compliance

and whistleblower enforcement. We look to you to help us empower them, as we work with you to establish the “tone at the top” consistent with the public’s trust.

The COVID-19 pandemic and economic crisis are also ongoing, and we know the City’s ability to address many critical public needs is severely constrained. City workers, like the San Franciscans we serve, expect to make sacrifices when disasters strike. Many Ethics Commission staff have been or are now serving as Disaster Service Workers, and the Commission necessarily prioritized those emergency services over its own work. We know, too, that City departments are expected to weather budget cuts when financial downturns occur. But please recognize that this is not the time to extract across-the-board cuts from the Ethics department.

With each wave of criminal charges, guilty pleas, resignations and revelations stemming from the corruption investigations, the public loses faith. The Ethics Commission has been underfunded for years, and as the Board’s pending Budget and Legislative performance audit will likely show, it has not been able to fully meet its core responsibilities and implement new ethical regulations that the Board, Mayor, Commission and voters prescribed. Staff will be unable to achieve electronic filing and regular compliance reviews of Form 700s for the 3,500+ high level City employees as a direct consequence of cutting funds for the Ethics Commission. Please give due consideration to these facts, and help us find the resources to foster an ethical atmosphere in the workplace.

At its July 10th Ethics Commission meeting, we began to explore alternative sources of funding and ways to expedite the hiring process in order to redress long standing deficiencies. The Commission collects fees, penalties and fines that go directly into the General Fund. This past year those activities exceeded initial budget projections by nearly \$100,000. We also considered that operating departments could be a source of work orders commensurate with the scale of support that Ethics Staff could provide to them. For example, there should be cost savings to departments when the Form 700 filing programs are transferred to the Ethics Commission. Another source could be departments whose substantial contracting and permitting activities require additional attention, particularly while we implement recently adopted laws requiring more disclosure and compliance reviews around those activities. But these measures require time to explore, and if fruitful, to legislate and appropriate. We need resources in FY21 to help you restore the public’s trust now.

Thank you for your consideration.

Sincerely,

/s/ Noreen Ambrose

Noreen Ambrose
Chair, San Francisco Ethics Commission

cc: Honorable Members, Board of Supervisors
Controller, Ben Rosenfield
City Attorney, Dennis Herrera
Members of the Ethics Commission
Vice Chair, Yvonne Lee
Commissioner Daina Chiu
Commissioner Fern M. Smith
Commissioner Larry Bush