



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

NOREEN AMBROSE
CHAIR

August 10, 2020

YVONNE LEE
VICE-CHAIR

To: Members of the Ethics Commission

DAINA CHIU
COMMISSIONER

From: LeeAnn Pelham, Executive Director
Steven Massey, Acting Chief Operating Officer & Dir. of Technology Services

FERN M. SMITH
COMMISSIONER

Subject: **Agenda Item 7 – Discussion of Ethics Commission Annual Budget as Proposed by the Mayor’s Office for FY20-21 and 21-22**

LARRY BUSH
COMMISSIONER

LEEANN PELHAM
EXECUTIVE DIRECTOR

Summary This item provides the Ethics Commission with an update on the Commission’s operating budget as proposed by the Mayor for Fiscal Year 20-21 and 21-22.

Action Requested No action is required as this item is provided for informational purposes only.

At the conclusion of its July 10 discussion of the [FY21 revised budget submitted by the Ethics Commission as required by Mayoral instruction](#) in the wake of the COVID-19 public health emergency, the Ethics Commission voted unanimously to communicate its strong support for a fully-funded Ethics Commission to the Mayor and Board of Supervisors. The July 21 letter Chair Ambrose sent on behalf of the Commission is attached.

On July 31, Mayor Breed released her proposed \$13.7 billion City budget for FY20-21. As detailed in the Mayor’s proposed budget, the proposed operating budget for the Ethics Commission in FY21 is \$4,649,516, reflecting a roughly three percent reduction from the Commission’s FY20 operating budget of \$4,802,714.

The Board of Supervisors Budget and Appropriations Committee is scheduled to begin its consideration of the Mayor’s proposed FY21-22 budget with hearings that start on August 12. The Ethics Commission’s budget will be among the first items heard in Committee when it meets on Wednesday morning beginning at 10 a.m.

This report details the Mayor’s July proposal for Ethics Commission budget in FY20-21, what the Mayor’s budget proposes that the Commission absorb or cut, and the overall impact of these approaches.

Mayor's Revised Budget Instructions

In preparation for issuing a delayed Citywide budget proposal for FY20-21 in July given the ongoing COVID-19 public health emergency, revised budget instructions issued by the Mayor on March 31 required departments to submit revised budgets on June 12 with targeted cuts in their base budgets of 10% in FY20-21 and growing to 15% in FY21-22, with an additional 5% in the second year as a contingency should fiscal conditions worsen. The Commission's revised budget submission detailed the impact of 10% and 15% cuts and that the Commission would be required to prioritize only its most essential select mandates and to pause or forego work on all other mandates if resources were eliminated:

- **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.
- **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.
- **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.
- **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 1824 supervisory position charged with providing day to day direction and management of its campaign and lobbying audit programs.
- **The City would 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.** The three-year limited term project to provide leadership teams, managers, supervisors and staff leads with enhanced practical guidance, the Commission's *Ethics@Work* outreach initiative would 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 would be unable to pursue this initiative as funding and limited term staffing necessary for the project will not be made available.

The Mayor's July Proposal

On June 29th, the Controller's Office released its *Public Integrity Review: Preliminary Assessment of San Francisco Public Works Contracting*. In July, the Mayor's Budget Office issued its recommendation that the Commission's FY20-21 operating budget be \$4,649,516, which represents a 3% cut from its current FY19-20 operating budget of \$4,802,714. In the following budget year, FY21-22, the Mayor's Budget Office has proposed restoring the 3% cut and increasing the Commission's budget by 6.68% to \$5,123,435. However, the FY21-22 budget proposal remains a target and will be subject to the normal budgetary decision-making process in the spring of 2021.

For FY20-21, the Mayor is proposing the following changes to the Commission's operating budget:

Additions

- Add new 1840 E-Filing Customer Support Specialist position to support the Form 700 E-filing Project.
- Discontinue the 1042 IS Engineer position effective July 1, 2020. Re-establish the position effective January 1, 2021 for a three-year limited term.
- Add \$57,200 annually for accounting support with the Controller's office.
- Increase DHR assistance to expedite hiring:
 - FY20-21: Increase \$62,000 budget by \$35,500 to \$97,500
 - FY21-22: Increase \$62,000 budget by \$134,900 to \$196,900

Reductions

- Delay hiring the following positions until January 1, 2021:
 - 1824 Audit Supervisor
 - 1822 Policy Analyst
- Leave the following positions permanently vacant in FY20-21 and FY21-22:
 - 1822 Investigator
 - No temporary staffing
- Reduce the Commission's training budget by the following:
 - FY20-21: Reduce \$44,911 budget by \$-21,911 to \$18,750
 - FY21-22: Reduce \$44,911 budget by \$-24,911 to \$15,750

Items not addressed in the Mayor's proposal

The Mayor is also not proposing funding for the following items recommended by the Commission in its February budget proposal:

- Ethics@Work Initiative: To initiate this proposal at this point would require:
 - FY20-21: \$400,000
 - FY21-22: \$815,000

- HR/Finance/Operations Director:
 - FY20-21: .5 FTE at \$100,000
 - FY21-22: 1 FTE at \$200,000
- Reclassification of existing 1823 Senior Policy and Legislative Affairs Counsel to an 1824 manage the policy division:
 - FY20-21: .5 FTE at \$12,000
 - FY21-22: 1 FTE at \$25,000
- \$40,000 allocation to fund ongoing improvements to the Netfile system.
- \$12,500 in materials and supplies for ongoing hardware and software needs.

Impacts

The adjustments noted above will have the following impacts:

Impacts of Additions

- By adding the 1840 E-Filing Customer Support Specialist position and allowing the Commission to re-establish the 1042 IS Engineer position effective January 1, 2021, the Commission will be able to move forward expeditiously to operationalize the Form 700 electronic filing format for all designated filers effective January 1, 2022.
- The additional \$57,000 budget for a Controller workorder will provide essential functions such as processing requisitions, accounts payable, accounts receivable, and journal entries for the Commission.
- The additional \$35,500 in FY20-21 and \$134,900 in FY21-22 for a Department of Human Resources (DHR) workorder will provide essential functions for the Commission's human resource management and recruitment processing needs.

Impacts of Reductions

- Absent a day-to-day manager for the Audit program and one auditor currently assigned as an extended Disaster Service Worker (DSW), progress on the Commission's ability to establish new standardized audit procedures, develop consistent performance measures, and timely initiate the lobbying audit program will be diminished. In addition, this will also significantly delay the Commission's ability to develop and conduct post-filing compliance reviews of economic interest statements and provide enhanced oversight as recommended in the Controller's June 29th report.
- Without full capacity in the policy division, the Commission will be unable to timely initiate its evaluation of ethics provisions and develop legislative recommendations in response to the Controller's June 29th report, enabling existing legislative loopholes to remain and undercut the purpose and effectiveness of the law.
- With one permanent vacancy in the Enforcement division, and one investigator currently assigned to extended DSW service, case resolutions will be delayed, and further progress to update and implement streamlined enforcement policies and practices will be delayed.
- With no temporary staffing funds available, the Commission will be unable to hire any part-time staffing for critical needs as it has in the past to supplement its limited permanent resources.

- With anticipated funding to fill four permanent staff positions, a reduction in the Commission’ training budget will fail to support the needed professional development of staff and hamper the onboarding of new employees, both of which will fail to maximize the effectiveness of the Commission’s operations and programs.

Impacts of Items not addressed

- One of the consequences of continuing to operate as a City department without a managerial level position specifically responsible for specialized budget, financial operations, and HR needs is that those duties will continue to be met by the department’s executive leadership team. This in turn limits these positions’ ability to provide appropriate attention and focus on more strategic organizational needs and on driving performance.
- Without taking steps now to provide team-leads, supervisors, and managers in the City’s workforce with the tools to support the practical application of ethics laws in their day-to-day work, corrupt practices will continue to go unchecked and the City will miss a vital opportunity to create and sustain the right tone at the top.

Table 1 summarizes the Ethics Commission’s operating budget as recommended in the Mayor’s July budget proposal along with the Commission’s FY19-20 budget levels.

Table 1 – Overview of Ethics Commission Budget as Proposed by Mayor’s Office

Budget Item	Ethics Commission Budget for FY 19-20	As Proposed by Mayor for FY 20-21	As Proposed by Mayor for FY 21-22
Operating Budget	\$4,802,714	\$4,649,516	\$5,123,435
Authorized FTEs	23.77	24	25
Temporary Staff	.76	.75	.75
Attrition Savings Target	-1.27	-2.41	-1.4
Budgeted FTEs	23.26	22.34	24.35

Note: Because the Election Campaign Fund was at its maximum funding level of \$7 million allowed under the law in FY21, no funding was required to be allocated to it at this time.

Table 2 summarizes the authorized FTEs and salaries and fringe benefits by division in each fiscal year. In addition, it shows the attrition savings targets which require a certain number of FTEs to remain vacant each year.

Table 2 – Overview of FTE and salary allocations by division in the current and proposed budgets

Division	FY 19-20		FY 20-21		FY 21-22	
	FTE	Salaries & Fringe	FTE	Salaries & Fringe	FTE	Salaries & Fringe
Administration	3	\$487,672	3	\$497,484	3	\$502,051
Audits	4	\$630,046	4	\$642,291	4	\$647,498
Electronic Disclosure and Data Analysis	3.77	\$702,899	3.5	\$662,967	4	\$768,433
Enforcement	5	\$848,444	5	\$865,048	5	\$872,149
Engagement and Compliance	6	\$971,126	6.5	\$1,052,004	7	\$1,123,160
Policy	2	\$314,460	2	\$320,555	2	\$323,172
Temporary Staff	.75	\$85,225	.75	\$85,225	.75	85,225
Adjustments		\$255,180		\$244,469		\$246,490
Attrition Savings	-1.27	\$-209,489	-2.41	\$-405,720	-1.4	\$-236,091
Grand Total	23.26	\$4,085,564	22.34	\$3,964,323	24.35	\$4,332,087

Attachment



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