



# ETHICS COMMISSION

## CITY AND COUNTY OF SAN FRANCISCO

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Date: March 8, 2021

To: Members of the Ethics Commission

From: Pat Ford, Senior Policy and Legislative Affairs Counsel

Re: **AGENDA ITEM 4 – Discussion and possible action on Staff Policy Report and Policy Prioritization Plan**

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**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. The Policy Prioritization Plan is included as Attachment 1.

**Action Requested:** That the Commission review the updates provided in this report and approve Staff's proposed ongoing Policy Prioritization Plan.

Section I of this memorandum provides status reports about ongoing policy projects that the Commission has identified as policy priorities as part of its Policy Prioritization Plan (PPP). This section also outlines Staff's planned reprioritization of its policy work for the coming months. 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

This section describes the two policy projects that the Commission identified as priorities at its September 2020 meeting.

#### A. Review of Conflict-of-Interest Code and Regulations

At its September 9, 2020 meeting, the Commission identified a review of the City's conflict-of-interest rules as a policy priority. This project addresses the serious issues raised by the ongoing investigations into alleged corrupt activity by City officials and contractors. The project involves the review of various ethics rules, such as those regarding gifts, behested payments, recusals, incompatible activities, and post-employment restrictions.

As discussed in prior Policy Reports, Staff is undertaking this project in at least two phases. The first phase focusses on behested payments, which are payments made by

someone at the request of a public official or employee, usually to a nonprofit organization.  
Current Status: Phase I

At its November 2020 meeting, the Commission unanimously approved staff's recommendation to amend the Campaign and Governmental Conduct Code to prohibit all City officers and designated employees (those who file the Form 700) from soliciting behested payments from interested parties. This recommendation is similar to, but goes further than, legislation sponsored by Supervisor Matt Haney (File No. 201132).

Since the Commission's February meeting, Supervisor Haney's staff has restarted work on this ordinance, and Policy has been working to address outstanding issues with the legislation. Supervisor Haney anticipates introducing substitute legislation that will address some of the differences between his initial legislation and the recommendation made by the Commission in November. After that substitute is introduced, Policy will update the Commission on its contents at the April meeting.

#### Policy Prioritization Plan: Future Phases of Project

Staff recommends that the ongoing conflict-of-interest project be continued as the Commission's policy priority. The work on the Phase I behested payments ordinance that is in progress will require significant coordination to bring the legislation to fruition. Following its enactment, there would then be necessary implementation work that Policy would support.

After Phase I of the project is complete, and subject to the status of hiring an 1822 Policy Analyst as noted in Section II below, Staff will initiate Phase II of the project, which will focus on gift rules. State and local laws restrict gifts made to City officials and employees. The ongoing corruption investigations have brought potential issues with these gift laws to light. Policy will follow the same process as Phase I: Policy will initiate interested persons meetings to seek guidance and feedback from stakeholders, Policy will conduct research into ethical issues involved with gifts, and Policy will draft a report containing findings and recommendations following this review. This work is needed to explore various issues related to gifts that have been surfaced in the course of the corruption investigations.

Additionally, for several weeks Policy has been assisting the Controller's City Services Auditor Division in their review of the City's ethics reporting programs. This review will culminate in the fifth deliverable as part of the Controller's Public Integrity Review. Policy has met regularly with the City Services Auditor team and has coordinated Staff's response to several requests for information. The fifth deliverable will likely contain recommendations about ethics reporting requirements, and Policy will evaluate whether and how to pursue these recommendations. This work will be a part of Phase II or a possible Phase III of the project, depending on the nature of the Controller's recommendations.

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

As described in previous Policy Reports, State law requires that every two years the City review the list of City employees who must file the Form 700 Statement of Economic Interests.<sup>1</sup> Each department separately reviews its list of filers and submits changes for inclusion in a single ordinance to be considered by the Board of Supervisors. The ordinance became operative on February 21<sup>st</sup>. Staff will assist department filing officers as needed to ensure that they are complying with the revised filer lists.

At this time, this policy project is complete. Policy will continue to assist other Staff and SEI filers with questions as they arise.

**II. Miscellaneous Policy Administrative Projects**

Policy has been engaged on a number of items during the last month 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, media relations, and general program administration.

A. Hiring

In recent weeks, much of the Policy Division's time has been devoted to the hiring process for the 1822 Policy Analyst. The sooner the Policy analyst begins work, the sooner this person can be trained and begin work on the second phase of the conflict-of-interest project.

B. Waiver Request

As more fully laid out under Agenda Item 4, Policy has analyzed a waiver request received from the Mayor's office and a member of the Historic Preservation Commission. Policy worked with the Mayor's office to develop the facts needed to evaluate the request and prepared the memo attached to Item 4.

C. Public Financing Report

Following any election featuring a mayoral or supervisorial race, the Ethics Commission must submit a report to the Mayor and the Board of Supervisors that contains certain data about the use of the City's public campaign financing program during the election.<sup>2</sup> Policy typically leads the preparation of this report and uses it as an opportunity to present useful data that can help readers

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<sup>1</sup> 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).

<sup>2</sup> Campaign & Gov. Conduct Code § 1.156. "The report shall state the amount of public funds used to pay for election campaigns in that election and such other information as the Ethics Commission deems useful, including the number of candidates who received public funds; the number of nonparticipating candidates; the amount of qualified campaign expenditures made by all candidates in that election; and the amount of independent expenditures made in connection with the election."

understand the impact that the program has on elections. Policy has begun to evaluate data from the November 2020 election and will be working to prepare the full report for delivery in the next quarter.

# ATTACHMENT 1

Policy Prioritization Plan (PPP)

**Active Policy Projects**

Priority	Project	Impact	Urgency/ Timeliness	Project Timeframe
1	<p><b>Conflict of Interest Code and Regulations Review (Art III, Ch II):</b></p> <p>This project entails a review of all relevant codes and regulations and identify potential changes to improve program outcomes amidst multiple ongoing corruption investigations in the City. Conflict-of-interest rules, including gift and behested payment rules, that are located in other chapters of the Code will also be examined.</p> <p><b>Phase I: Behested Payments</b>  <b>Phase II: Gifts</b>  <b>Phase III: TBD</b></p>	10	10	12 Months

**Potential Policy Projects**

Possible Projects (Not ranked by order of priority)	Impact	Urgency/ Timeliness	Staff Commitment & Project Timeframe
<p><b>Permit Consultant Program Review (Art III, Ch IV):</b></p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of Permit Consultants (Permit Expeditors) and identify potential changes to improve program outcomes.</p>	5	6	3-6 Months
<p><b>Lobbying Code and Regulations Review (Art II, Ch I):</b></p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of lobbyists (including contact lobbyists and expenditure lobbyists) and identify potential changes to improve program outcomes.</p>	6	5	6-9 Months
<p><b>Online Political Advertisement Project</b></p> <p>This project would explore issues related to online political advertising and identify any areas where legislative, regulatory, or programmatic improvements are needed.</p>	5	4	6-9 Months

Policy Prioritization Plan (PPP)

<p><b>Campaign Consultant Program Review (Art I, Ch V):</b></p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of campaign consultants and identify potential changes to improve program outcomes.</p>	3	5	3-6 Months
<p><b>Major Developer Program Review (Art III, Ch V):</b></p> <p>This project would entail a review of relevant codes and regulations pertaining to the regulation of certain payments by major developers and identify potential changes to improve program outcomes.</p>	4	3	3-6 Months
<p><b>Slate Mailer Project</b></p> <p>This project would explore the benefits, costs, feasibility, and legality of ending slate mailer disclosure filings with the Department of Elections and instituting slate mailer disclosure filings with the Ethics Commission.</p>	3	3	9-12 Months