



# San Francisco Ethics Commission

25 Van Ness Avenue, STE 220  
San Francisco, CA 94102-6053  
ethics.commission@sfgov.org  
415-252-3100 | sfethics.org

---

Date: August 14, 2023

To: Members of the Ethics Commission

From: Michael Canning, Acting Policy and Legislative Affairs Manager

Re: **AGENDA ITEM 10 – Discussion and possible action regarding request for waiver of post-employment restrictions for Tracey Packer.**

---

## Summary and Action Requested

This memo provides background and analysis to assist the Commission in determining whether to grant a post-employment waiver to Tracey Packer. The Commission should evaluate Ms. Packer's waiver request and as required by City law, consider if not granting Ms. Packer's waiver would cause extreme hardship for Ms. Packer.

This memo is an updated version of [the Staff memo](#) presented when Ms. Packer's waiver request was first considered during the Commission's July 2023 meeting.

## Background

On June 29, Tracey Packer sent a formal request to the Commission asking that part of the City's post-employment restrictions in the Campaign and Governmental Conduct Code (C&GCC) be waived. Ms. Packer is a former City employee, who served as the director of the Community Health Equity and Promotion (CHEP) branch of the Department of Public Health (DPH) until July 31, 2022. Ms. Packer is seeking a waiver for the City's prohibition on receiving compensation from City contractors imposed by Subsection 3.234(a)(3), so that she may accept a temporary, short-term consultant role with the San Francisco AIDS Foundation (SFAF). Ms. Packer's waiver request is included as **Attachment 1**. The facts included in this memorandum are drawn from Ms. Packer's written request, documents acquired through Ms. Packer, and communications between Ms. Packer and Staff.

Ms. Packer first contacted Staff about this matter on June 20. Staff and Ms. Packer exchanged multiple communications between her first contact and the submission of her waiver request on June 29. Ms. Packer's waiver request needed to be submitted by June 30, in order for it to be considered at the Commission's July 14 meeting. Given the limited time between Ms. Packer contacting Staff and the June 30 deadline, Staff did provide informal advice to Ms. Packer on this matter, as is standard practice, prior to the submission of her waiver request. Given the time sensitive nature of this request, Staff instead recommended Ms. Packer go ahead and submit her waiver request prior to the June 30 deadline.

The Commission [considered Packer’s request at its last meeting on July 14](#). At that meeting, two of the three commissioners in attendance voted to grant Packer the waiver, but this fell short of the three votes required and the request was denied. However, the item was continued to the August meeting, so that all four current commissioners could have the opportunity to vote on the waiver request.

On August 9, Ms. Packer sent a letter to the Commission, supplementing her initial waiver request. This supplemental letter has been included as **Attachment 2**.

## Applicable Law

The City has rules for all officers and employees that restrict what former City officials can do after they leave City service. These rules include a permanent restriction on representing any other person (except the City) before any court or government agency in connection with particular matters, a one-year restriction on communicating with the former City official’s former department, and a prohibition on being employed by parties that contract with the City.

These rules further the purposes of the Campaign and Governmental Conduct Code, which per [Section 3.200](#) is chiefly to “promote fairness and equity for all residents and to maintain public trust in governmental institutions.” The law seeks to ensure “that public officers and employees [are] independent, impartial, and responsible to the people and that public office and employment [is] not...used for personal gain.” The Code also asserts that government decisions by City officers and employees “should be, and should appear to be, made on a fair and impartial basis.”

### Permanent Restriction on Representation in Particular Matters

[Subsection 3.234\(a\)\(1\)](#) of the C&GCC prohibits former employees from representing any other person (except the City) before any court or government agency in connection with particular matter in which the former employee was personally and substantially involved in as a City employee, with intent to influence. Ethics Commission [Regulation 3.234-1](#) outlines the scope of this restriction and provides guidance on determining whether this permanent ban applies to certain activities.

### One-Year Restriction on Communicating with Former Department

[Subsection 3.234\(a\)\(2\)](#) of the C&GCC prohibits former employees from, with the intent to influence a government decision, communicating on behalf of any other person (except the City) with any officer or employee of the department for which the former employee served, for one year following the termination of their employment with the City. Ethics Commission [Regulation 3.234-2](#) outlines the scope of this restriction and provides guidance on determining whether this one-year ban applies.

### Employment With Parties That Contract With the City

[Subsection 3.234\(a\)\(3\)](#) of the C&GCC prohibits current and former employees from being “employed by or otherwise receiv[ing] compensation from a person or entity that entered into a contract with

the City within the preceding 12 months where the officer or employee personally and substantially participated in the award of the contract.” Ethics Commission [Regulation 3.234-3](#) outlines the scope of this restriction and provides guidance on determining whether this prohibition applies.

This prohibition on employment with City contractors furthers the goals of the Campaign and Governmental Conduct Code by ensuring that City officials cannot help award a City contract and then become employed by the contractor who has recently benefitted from the actions of the City official.

This rule is intended to create a buffer between the time a contract is awarded and when a City official involved in the award of that contract may become employed by the contractor. This buffer is an important tool for ensuring that government decisions are, and appear to be, made fairly and impartially. Without this rule, City officials could be tempted to make government decisions with their short-term career goals in mind, rather than the best interests of the City. Even if a City official makes their decisions fairly and impartially, going to work for a City contractor within 12 months of them entering into their contract could create the appearance of corruption among the public. Just the appearance of corruption can erode the public’s faith in government and is something this rule is intended to prevent.

#### Waiver Authority of the Ethics Commission

[Subsection 3.234\(c\)\(3\)](#) of the C&GCC grants the Commission the ability to waive the prohibition on employment with parties that contract with the City, “if the Commission determines that imposing the restriction would cause extreme hardship for the...employee.”

Ethics Commission [Regulation 3.234-4](#) further outlines the process for submitting and potentially approving post-employment waivers. The regulation specifies that the Commission “shall not approve any request for a waiver from the ban on receiving compensation from certain City contractors made under subsection 3.234(c)(3) unless the Commission makes a finding that imposing the restriction in subsection 3.234(a)(3) would cause extreme hardship for the individual.” When determining if not granting such a waiver would cause extreme hardship, the regulation specifies that the Commission may consider:

- the vocation of the individual;
- the range of employers for whom the individual could work;
- the steps the individual has taken to find new employment; and
- any other factors the Commission deems relevant.

When considering waiver requests, the Commission should also consider whether granting a waiver would further the purposes of the Campaign and Governmental Conduct Code. The Commission may grant a waiver only if it finds that not granting the waiver “would cause extreme hardship for the...employee.”

Waiver requests are evaluated based on the facts that are provided in the request, shared in related communications with Staff and the Commission, and found in additional documents provided to Staff

and the Commission. These facts allow the Commission to evaluate whether a waiver is appropriate and must therefore be complete and accurate. Any waiver that the Commission grants is limited to the facts provided, and, should the facts change, the requestor should seek an updated waiver from the Commission.

## Facts Presented

Tracey Packer was a City employee from June of 1992, until she retired on March 4, 2023. During her City service, she held multiple positions within DPH, including the role of director of the Community Health Equity and Promotion (CHEP) branch, which she held from July 1, 2013 to July 31, 2022.

Ms. Packer has been offered a temporary, short-term consultant role with the San Francisco AIDS Foundation (SFAF). Her role would be to support the staff and programs of SFAF while the position of vice president of programs is in transition due to staff turnover in that role. Ms. Packer has stated that she estimates her time in the role would be approximately six months, during which time SFAF will be recruiting a new vice president of programs. Ms. Packer has stated that she has no interest in pursuing the position for herself.

The San Francisco AIDS Foundation has a contract with DPH (CID# 1-14737). The City and SFAF entered into this contract on January 1, 2023. This contract was competitively secured through RFP 4-2019, which was issued on September 12, 2019. The gap between the RFP being issued and the contract being entered into is due to delays caused by the COVID-19 pandemic. The contract is for health access point services, through an equity-focused, community-centered, whole person care approach to integrated HIV, HCV, and STD prevention programs for affected communities.

As a City employee, Ms. Packer was involved in the development of RFP 4-2019, which is the RFP through which SFAF was awarded the contract with City for health access point services in 2023. Ms. Packer oversaw a team that participated in developing the program priorities and funding levels for the different categories of the RFP.

Additionally, in May of 2022, the Mayor's office increased the overall total amount of funding available for this RFP by \$3,000,000. At the time of this increase, Ms. Packer's role was to provide information to organizations about the purpose of the additional funding. In this role, Ms. Packer met with SFAF, and two other organizations that had been involved in discussions with the Mayor's office, to discuss the Mayor's funding priorities. Ms. Packer communicated to SFAF and the other organizations what the Mayor's priorities were and informed them that there would be additional meetings about this funding with other CHEP staff in the future.

Ms. Packer was not involved in the final budget decisions regarding any of the vendors, including SFAF, and left CHEP before these decisions were finalized.

Ms. Packer has specified that the consultant position she has been offered would not be funded through SFAF's contract with the City.

## Analysis

### The Need for a Waiver for Ms. Packer to Accept Employment with SFAF and Perform the Duties of that Position

For both the permanent restriction on representation in particular matters rule and the one-year post-employment communication rule, it does not appear that a waiver is necessary, as the position with SFAF would not require Ms. Packer to engage in the activities prohibited by these rules. If Ms. Packer wanted to represent SFAF, or any other non-City entity regarding any particular matters in which she personally and substantially participated as a City employee (such as the awarding of SFAF's city contract), she would need to seek a waiver from the Commission to allow that representation. Similarly, if Ms. Packer wanted to communicate with her former colleagues at DPH with the intent to influence a government decision within 12 months of leaving City service, she would also need a waiver from the Commission. Ms. Packer is not currently seeking a waiver for either of these rules. Based on the facts provided, Staff does not believe a waiver for either of these rules is necessary for Ms. Packer to be employed by SFAF and perform her duties as described.

Based on the facts presented in Ms. Packer's waiver request, Staff believes that a waiver for the restriction on employment with parties that contract with City is necessary for Ms. Packer to accept employment with SFAF.

Based on Ethics Commission [Regulation 3.234-3](#), the restriction on employment with parties that contract with the City would apply to Ms. Packer's proposed employment with SFAF, since:

1. Ms. Packer would be accepting employment and be entitled to compensation from SFAF, which is an entity other than the City.
2. The entity offering the employment, SFAF, has entered into a contract with the City during the 12 months prior to Ms. Packer receiving or being entitled to compensation.
3. Ms. Packer participated personally and substantially in the award of the contract between SFAF and the City, per the definition of "participate personally and substantially" found in [Ethics Commission Regulation 3.234-5\(e\)](#).

Regarding bullet point #2 above, the Code and regulations are clear that the 12-month period starts when the new employer enters into the contract, not when the City official participates in the award of the contract, so the fact that Ms. Packer participated in the award of this contract more than 12 months ago does not prevent the rule from applying.

Regarding bullet point #3 above, Regulation 3.234-5(e) specifies that to "participate personally means to participate directly, and includes the participation of a subordinate when the subordinate is under the direction and supervision" of the employee. Through her work and the work of her team on the development of RFP 4-2019, Ms. Packer participated personally in the award of the contract

between the City and SFAF. That same regulation specifies that “participate substantially means that the...employee’s involvement is, or reasonable appears to be, significant to the matter.” Ms. Packer’s work on developing the RFP and later work communicating with SFAF regarding the expanded budget both indicate that she participated substantially in the award of the contract.

Additionally, the fact that the position offered to Ms. Packer will not be funded by City funds, does not prevent the rules from applying, nor does the fact that Ms. Packer is only seeking a temporary position with SFAF.

In order for Ms. Packer to receive or be entitled to compensation from SFAF, within the 12 months following SFAF’s entrance into the contract (which occurred on January 1, 2023), Ms. Packer would need a waiver from the Ethics Commission for the restriction on employment with parties that contract with City.

Considering if Imposing the Prohibition on Employment with Parties that Contract with the City would Cause Extreme Hardship for Ms. Packer

When determining if not granting Ms. Packer a waiver would cause extreme hardship, the regulations specify that the Commission may consider: Ms. Packer’s vocation, the range of employers for whom she could work, the steps she has taken to find new employment, and any other factors the Commission deems relevant.

In her waiver request, Ms. Packer does not talk about being engaged in a job search and states that SFAF approached her about filling this role. Ms. Packer also does not describe accepting this position as a financial necessity; the only reference to her personal finances is to communicate that accepting the position would allow her to supplement her pension. However, during the July 14 meeting, Ms. Packer did speak to the benefits this position would bring to her household income. In her supplemental letter, Packer also stated that not receiving the waiver would cause her a financial hardship, as she would be missing the income from this project and potentially from other consultant opportunities, as she has put aside pursuing other opportunities until this matter is resolved.

Regarding extreme hardship, Ms. Packer’s waiver request focuses on her enthusiasm for the work and why it is important to her. In her supplemental letter, Packer also communicated more about how uniquely qualified she is for the role, given her years of experience in the field. Packer also stated that as a retiree, she is uniquely qualified to serve in this short-term, temporary capacity, explaining that it would be difficult for SFAF to find someone else with her breadth of experience, who would be willing and able to act in such a temporary position.

Both in the July Commission meeting and in her supplemental letter, Ms. Packer clarified her previous statements regarding a willingness to provide her services voluntarily. Specifying that this pervious inquiry was not made to suggest she was willing to serve for the entire six months as a volunteer, but rather that she was enthusiastic and knew time was an important factor and was thus

willing to potentially volunteer for the initial weeks, while waiting for the Commission to make its determination.

As the term “extreme hardship” is not defined in the Code or regulations, it is the responsibility of the Commission to determine, if on balance, not granting a waiver would cause an extreme hardship. While not granting the waiver may not cause Ms. Packer an extreme *financial* hardship, the Commission is able to look at the term “extreme hardship” as broadly as it determines is appropriate. For example, the Commission could, and in the past has, considered factors like the importance of the work being done, the level of personal and substantial involvement the employee had in awarding the contract, the timing of their involvement, the unique nature of the position, the impact on the prospective employer, the impact on the City or other stakeholders, and any other factors the Commission deems relevant, to determine if denying the waiver would cause the requestor an extreme hardship. These factors were all considered by the Commission during last month’s meeting, when discussing the waivers for Joanne Lee (which was approved by the Commission) and Ms. Packer (which was not approved by the Commission).

## Recommendation

Much of Ms. Packer’s initial waiver request focused on whether or not a waiver would create the potential for undue influence or unfair advantage. However, the question of “undue influence or unfair advantage” is not the standard the Commission is required to use in this situation. The permanent restriction on representation in particular matters rule (Subsection 3.234(a)(1)) and the one-year restriction on communicating with former department (Subsection 3.234(a)(2)) require the Commission to consider if granting a waiver would create the potential for undue influence or unfair advantage. To this point, Staff largely agrees that the risks of undue influence or unfair advantage are minimal in this situation. While the rule prohibiting employment with parties that contract with the City (Subsection 3.234(a)(3)) does not require this standard, the Commission may wish to consider this as a factor when determining extreme hardship.

As discussed, City law only allows the Commission to issue a waiver for the prohibition on employment with City contractors found in Subsection 3.234(a)(3), if the Commission “determines that imposing the restriction would cause extreme hardship” for the City employee. The Commission has great discretion in determining what factors are relevant to determining when “extreme hardship” may occur and has the authority to evaluate any factors it deems relevant. In her supplemental letter, Ms. Packer describes more directly why she believes not receiving a waiver would cause her an extreme hardship, addressing several factors the Commission may wish to consider.

Staff had previously recommended against granting a waiver to Ms. Packer, based on a narrow view of “extreme hardship,” focused primarily on the factors listed in Commission regulations. However, based on the Commission’s precedent of looking more broadly at other relevant factors, as demonstrated during the previous Commission meeting, and a review of the supplemental letter

from Ms. Packer, Staff is no longer recommending Ms. Packer's waiver be denied. Staff recommends the Commission evaluate Ms. Packer's waiver request and supplemental letter, review the contents of this memo, and engage with Ms. Packer and other stakeholders during the August 18 meeting, to determine if, based on any factors the Commission deems relevant, denying this waiver would cause Ms. Packer an extreme hardship. If the Commission determines that not granting the waiver would cause an extreme hardship to Ms. Packer, the Commission should approve Ms. Packer's waiver.

Staff would like to thank Ms. Packer for her detailed waiver request, thoughtful communications throughout this process, and service to the City.

**Attachments:**

**Attachment 1:** Waiver Request from Tracey Packer Dated June 29, 2023

**Attachment 2:** Supplement to Waiver Request From Tracey Packer Dated August 9, 2023



# ATTACHMENT 1

Tracey Packer  
[traceypacker13@gmail.com](mailto:traceypacker13@gmail.com)  
510-504-6645

Sent via email June 29, 2023

Gayathri Thaikkendiyil  
Acting Executive Director  
San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102

Dear Acting Executive Director Thaikkendiyil,

I am requesting a waiver from the prohibition on receiving compensation from City contractors under section 3.234(a)(3). Thank you for considering my request for a waiver.

I am a retired employee of the San Francisco Department of Public Health (SFDPH) and I am requesting a waiver to provide temporary short-term consultant support to an organization with which the SFDPH contracts for sexual and substance use programs in the community.

**There are four reasons that I am requesting this waiver:**

1. The temporary short-term consultant role that I would like to take would not create the potential for undue influence or unfair advantage.
2. I did not individually or substantially participate in awarding the SFDPH contract to SFAF. Contract awards are made through the Request for Proposal (RFP) process managed by DPH Contracts and Fiscal units in SFDPH.
3. My work on the program area of the RFP was completed in September 2019, over three years ago.
4. I was not involved in the final budget allocations decisions from this RFP nor contracts. I left the Community Health Equity and Promotion Branch on July 31, 2023 prior to final budget and contract development.

**Background:**

**1. Information describing the former position held by employee:**

I was the Director of the Community Health Equity and Promotion (CHEP) Branch in the Department of Public Health from July 1, 2013 to July 31, 2022. (Prior to this, I held several roles in SFDPH since June 1992.)

In this role, I directed a branch of over 60 staff that focused on community engagement, addressing health disparities, and prevention of chronic and communicable disease. The goals of the CHEP Branch are to support community well-being, sustain healthy communities, and work toward health equity through sustainable change approaches, community capacity building, mobilization, and community partnerships with a racial and cultural humility lens. The CHEP Branch plans, implements, monitors, and evaluates prioritized community initiatives, including promoting active living, safe and healthy environments and community-clinical linkages, and decreasing HIV, sexually transmitted infections, viral hepatitis, and the effects of trauma. This includes working with DPH Fiscal to oversee the grant and General Fund budgets

and program management of contracts established through approved City and County processes. It was my responsibility to identify program priorities for RFPs.

Vendors were selected by the RFP process, which is done by an external review panel managed by the SFDPH Contracts Unit. After the RFP process, contract development was led by the SFDPH Contract Development and Technical Assistance Section. SFDPH Contracts Unit and CHEP staff participated in meetings to ensure that the contracts included the program priorities, program objectives, and deliverables. CHEP was not involved in awarding contracts.

On July 31, 2022, I left my position as Director of the Community Health Equity and Promotion (CHEP) Branch with the intention to retire from the Department of Public Health. An Acting Director was assigned to take on my duties as of August 1, 2022. I turned over all of my responsibilities to the Acting Director as of July 29, 2022. I no longer managed or supervised staff, programs, budgets, or any other CHEP activities.

Upon leaving the CHEP Director position, I was asked to stay on to complete two new and separate projects for the Office of Health Equity (OHE) in the Department of Public Health due to some staffing vacancies. This is a separate unit in SFDPH. I did not oversee any of the work in the CHEP Branch.

I retired from the City and County, Department of Public Health, on March 4, 2023, after completing the OHE projects I had been assigned.

## **2. The particular matter for which the waiver is sought:**

I have been offered a temporary short-term consultant role with the San Francisco AIDS Foundation (SFAF) to support the staff and programs during the transition of the Vice President of Programs, who is leaving SFAF. This organization has a contract with the SFDPH, CID# 1-14737 reaching Males who have sex with Males, with a focus on Gay males (see below for table) which was executed to start 1/1/23.

The organization approached me in mid-June 2023 to request assistance due to the impending departure of the VP of Programs. The role that I would take is to provide short-term support to program staff who manage the sexual health and substance use services programs at SFAF. This would include conducting meetings with the lead SFAF program managers for peer support, team development, and program planning and implementation, to identify barriers and provide support to address the barriers. The role would be up to 20 hours per week until the new VP Programs is hired and onboarded, approximately six months. I am not interested in applying for this position.

Name and business active of the potential new employer: San Francisco AIDS Foundation: The mission of the San Francisco AIDS Foundation is to promote health, wellness, and social justice for communities most impacted by HIV, through sexual health and substance use services, advocacy, and community partnerships. This organization has a contract with the SFDPH, CID# 1-14737 reaching Males who have sex with Males, with a focus on Gay males (see below for table) which was executed to start 1/1/23. I did not award this contract but had input into the RFP that requested proposals.

SFAF has had contracts with the San Francisco Department of Public Health for over 25 years. They are among several community based organizations that are funded by SFDPH to provide HIV/HCV/STI prevention and support health of drug users in the community.

### 3. My prior involvement with the matter:

In 2019, I was involved with the RFP that resulted in seven contracts with seven lead organizations and approximately 15 subcontractors, including the contract with the San Francisco AIDS Foundation. My role with the RFP was to supervise the team in the Community Health Equity and Promotion Branch as it planned for the program priorities for RFP-4-2019: An Equity Focused, Community Centered, Whole Person Care Approach to Integrated HIV, HCV, and STD Prevention Programs for Affected Communities. The purpose of this RFP, managed by the DPH Contracts Unit, was to address the persistent and ongoing health disparities related to HIV, Hepatitis C (HCV), and Sexually Transmitted Infections (STI) that have been experienced among San Francisco communities. The SFDPH has a focus on addressing health disparities in communities, acknowledging how social determinants of health such as race, income, gender, sexual orientation, and other factors affect the health of communities.

To determine the populations most affected by these conditions and the funding amounts appropriate to effectively reach each population, the CHEP Branch requested data on HIV, HCV, and STI incidence and prevalence for populations in San Francisco. The Applied Research Community Health Epidemiology and Surveillance (ARCHES) Branch developed an “equity matrix” that incorporated this data with population information. The equity matrix confirmed that seven populations experience the greatest disparities: Black/African American communities, Latinx communities, Asian and Pacific Islander communities, Males who have sex with males (MSM) with a focus on Gay males, Trans Women, People Who Use Drugs, and Young Adults. The proportion of burden of disease in the equity matrix informed the funding allocation amounts for each category.

These funding amounts were determined based on data and to ensure adequate funding for a comprehensive program for each population, referred to as a Health Access Point. The top of the range of funding amounts listed below became the budget allocation amount for each category and thus for each vendor that scored the highest in each category (scored by the RFP external review panel, managed by the DPH Contracts Unit).

Service Category/Program	Estimated Annual Amount
Black/African American communities, including training and capacity building for a Health Access Point.	\$1,900,000 to \$2,400,000
Latinx communities	\$1,600,000 to \$2,000,000
Males who have sex with males (MSM) with a focus on Gay males	\$1,000,000 to \$1,200,000
People Who Use Drugs	\$760,000 to \$930,000
Asian and Pacific Islander communities	\$540,000 to \$660,000
Trans Women	\$650,000 to \$800,000
Young Adults	\$350,000 to \$500,000

The RFP process itself is managed by DPH Contracts Unit and the proposals to the RFP were scored in 2019 by an external review panel. Once the CHEP team writes the narrative, it is

turned over to the DPH Contracts Unit which manages the review process. The next step would have been for the DPH Contracts Unit to communicate the results and manage the RFP results communication and for the DPH Contract Development and Technical Assistance Unit (CDTA) to lead the contract negotiation process with DPH Contracts Unit and CHEP Branch at the meetings to ensure program priorities are met. The contracts were to start of July 1, 2020.

Due to the COVID-19 pandemic and the need for SFDPH staff to be deployed for COVID19 prevention and care, SFDPH delayed the RFP results announcement and contract development to 2022.

In May of 2022, The Mayor's Office added \$3,000,000 to the overall total amount that was available in the RFP in 2022. This \$3,000,000 was directed to allocate new resources to populations disproportionately impacted by HIV while ensuring stable funding for existing initiatives and services.

My involvement related to the Mayor's Office additional funding, was to provide information to staff and organizations about the Mayor's Office's purpose for this funding. I was directed by SFDPH leadership to meet with three agencies to discuss the funding priority that the Mayor's Office had added as these three were involved with the discussions with the Mayor's Office. These three included AGUILAS, San Francisco Community Health Center, and the San Francisco AIDS Foundation. I communicated to them what the Mayor's Office priorities were for this funding and informed them that there would be follow up meetings with other CHEP staff to discuss funding further.

Contract negotiation and program development started in late Spring 2022 for contracts that began January 1, 2023. The DPH Budget Office sent funding notifications in mid-August 2022. (The FN inadvertently included a copy to me although I was no longer in CHEP)

Because I was leaving my position on July 31, 2022, I did not participate in final budget decisions with any of the vendors. I handed this responsibility off to the CHEP Budget, Contracts, and Communications Manager and CHEP Acting Director to finalize the budget totals for all programs that were identified through the RFP. The CHEP Budget, Contracts, and Communications Manager worked with the SFDPH Fiscal Manager to finalize the budgets for all vendors, including the San Francisco AIDS Foundation.

This process was not completed before I left my position on July 31, 2023 and I was not involved after I left. I was not involved in the final budget allocations or contract reviews.

#### **4. Reasons why granting a waiver would not create the potential for undue influence or unfair advantage:**

##### **1. The consultant role that I would take would not create the potential for undue influence or unfair advantage.**

The consultant role would be to support the work of the SFAF staff during the staff transition, some of whom are new, by conducting regular program meetings for peer support and program planning and implementation discussion and collaboration for programs that reach community members. This opportunity is based on my expertise in HIV, HCV, and STD programs, health education program programming, and my degree in Community Health Education. A component of the work of the SFAF also includes providing support and training to other community based organizations based on their best practices to strengthen the prevention system of care overall.

The consultant work with SFAF would not be paid out of any contracts with SFDPH.

This role would not involve direct or individual work with SFDPH. I would not be engaged with SFDPH related to funding of the contract or agency or programs. Since SFAF is already in contract with SFDPH, I would not have any influence in funding for SFAF. My experience at SFDPH would not create the potential for undue influence or unfair advantage because I would be focused on supporting staff that are implementing deliverables that were previously established with SFDPH and none of my experience would have influence nor advantage to SFAF or myself.

While the work of the SFAF program managers will be funded through the contracts with the SFDPH, but I would not be paid from those contracts.

**2. I did not individually or substantially participate in awarding the SFDPH contract with SFAF.**

My role in SFDPH did not include awarding contracts. Other units of the SFDPH manage the processes that award contracts. As noted above, my role was related only to the development of program priorities and funding levels for categories in the RFP development. In this case, I managed the team that identified prevention program priorities and associated funding levels as part of solicitation processes or RFPs.

The role of CHEP Branch is to work with multiple SFDPH units to ensure effective and appropriate prevention services in the community to address health disparities. In my role as Director of CHEP, none of my actions can be defined as individually or substantially participating in awarding the SFDPH contract with SFAF. Instead, my role, and the role of my branch, was to establish the priorities for the programs that are solicited and eventually put into contracts using a data driven approach, including epidemiological data and based on an assessment of the needs of the community. As outlined above, the CHEP role is to use data to describe the programs needed in the community to successfully prevention HIV/HCV/STIs and address health disparities.

The DPH Contracts Unit is responsible for managing the RFP process through the point in time when the vendors to enter into contract are identified. At that point, the SFDPH Contracts Development and Technical Assistance Section (CDTA) leads the contract negotiation with the identified vendors. The CHEP teams ensures that the programmatic priorities and requirements are included in the contracts. The program role (CHEP) includes program discussions with each organization within this structure. In this case, CHEP staff worked with CDTA to meet with the highest scoring vendor in each of the seven categories to discuss program deliverables and final budget within the framework of the RFP and the available funds for that category. This activity was completed by the CHEP staff. Funding notifications are written by the SFDPH Fiscal Unit and were sent out in August 2022.

**3. The RFP and funding levels were published in December 2019, four years ago.**

If my involvement with the RFP is seen as relevant to the issue, it is important to note that my role and that of the CHEP branch was completed in September 2019. I oversaw the priority setting process and writing of the narrative for the RFP in early 2019. This was two and one half years ago and well outside of the previous 12 months.

As noted above, the role that I had was to supervise staff that established program priorities and funding levels based on epidemiological data and community needs. There was no discussion of agencies, vendors, or specific programs in this process. Please see above under #2 for a description of the process.

**4. I left the position of Director of CHEP on July 31, 2022 and an acting director began on August 1, 2022.**

As of July 31, 2022, I was no longer involved with oversight of CHEP programs, staff, and activities, nor the community programs and contracts associated with CHEP. The program priorities and funding levels were established prior to the RFP publication in September 2019. I turned over all of my responsibilities to the Acting Director and team by July 31, 2022. The final budget allocations and programs descriptions for the contracts were completed after my departure.

**Extreme hardship:**

While this may not qualify as extreme hardship, this is the impact that imposing the restriction would have. Although I have retired from SFDPH, I have enthusiasm and compassion for the communities of San Francisco and I would like to support programs directly providing services to communities. In my many years of HIV prevention work, I have observed the persistent health disparities experienced by people of color, gay men and other men who have sex with men, trans people, and people who use drugs. This opportunity would allow me to continue to address these public health problems more directly and continue my commitment to the health of San Francisco communities. This is a time in the history of San Francisco when we can make a difference in the extreme health disparities we have seen and I would like contribute to that. In addition, I would like to use my skills to ensure stability of the SFAF organization and to support the program managers during this time of transition. City and County retirees have many skills to offer and this is a great way to use them, supporting work in the community that addresses health disparities. Finally, consulting would allow me to supplement my pension.

Thank you for the opportunity to describe my request for a waiver to allow me to provide a short term consultant role with the San Francisco AIDS Foundation.

Sincerely,

Tracey Packer  
[traceypacker13@gmail.com](mailto:traceypacker13@gmail.com)  
510-504-6645

Cc:

Susan Philip, MD, Director of Population Health and SFDPH Health Officer  
[susan.philip@sfdph.org](mailto:susan.philip@sfdph.org)

Peter Lauterborn, Program Manager, Ethics Commission, [peter.lauterborn@sfgov.org](mailto:peter.lauterborn@sfgov.org)

# ATTACHMENT 2



Tracey Packer  
[traceypacker13@gmail.com](mailto:traceypacker13@gmail.com)  
510-504-6645

Sent via email August 9, 2023

Gayathri Thaikkendiyil  
Acting Executive Director  
San Francisco Ethics Commission  
25 Van Ness Avenue, Suite 220  
San Francisco, CA 94102

Dear Acting Executive Director Thaikkendiyil,

I would like to thank the Ethics Commission for hearing my request for a waiver for post-employment restrictions on July 14 and I look forward to meeting with the Commission on August 18. I am submitting a supplemental letter to my initial request for a waiver for post-employment restrictions under Section 3.234(a)(3) to provide additional clarity to the Ethics Commission about my situation and hope that it demonstrates that granting a waiver would be appropriate in my case.

I am seeking a waiver to accept an offer of employment as a part-time, short-term consultant for the San Francisco AIDS Foundation (SFAF), a community-based organization that provides sexual health and substance use services in San Francisco to our most vulnerable communities and those affected disproportionately by HIV, Hepatitis C (HCV), and Sexually Transmitted Infections (STI). I am requesting a waiver to accept a consultant role to support the organization during the transition of the Chief Program Officer, Lara Honey-Brooks, a member of the Executive Leadership team of SFAF. I have reviewed the rules and regulations of the Ethic Commission, as well as considered previous matters that came before the Ethics Commission, and I believe that the circumstances surrounding my request support a waiver from the Ethics Commission.

Summary of Ethics Issues:

On June 29, 2023, I submitted a request for a waiver for receiving compensation from a city contractor that entered into a contract within a calendar year. As noted in my previous memo, I believe the circumstances of this offer and my previous role with the San Francisco Department of Public Health (SFDPH), would not cause ethical concerns for the City and County of San Francisco and that a waiver could be granted to allow me to accept this consultant role.

The SFAF entered into a contract in January 2023 and, in my role at the San Francisco Department of Public Health (SFDPH), I had involvement at the level of developing the program goals for the Request for Proposals (RFP). As a summary of my previous request, my involvement with the contract to SFAF was negligible and limited to the RFP development in

2019 under which the contract was awarded. Though the RFP process was completed in late 2019, the COVID-19 shelter in place requirement and disaster worker deployment of SFDPH employees, including myself, delayed the development of contracts until 2022 and the contracts for all seven vendors were finalized for a start date of January 1, 2023. I did not review or score the applications during the RFP process. The RFP process was managed by a separate unit in SFDPH and reviews are conducted by external review panels.

I was not involved in the allocation of funding. While I did participate in the development of the 2019 RFP program goals and requirements, I did not determine funding levels for the contracts that scored the highest in the process. The RFP included the funding levels for each category and was completed in 2019, almost four years ago. When the Mayor's Office added funding to the RFP in May 2022, I was not involved in the allocation of this funding. My involvement was to inform organizations about additional funding to meet the RFP program goals and requirements. In reviewing other cases in which a waiver was approved, I observe that I had less involvement with the contract than in cases.

I left this role at SFDPH on July 31, 2022, five months prior to the contract start date and almost 4 years after the RFP was developed and published. Therefore, I had no conflict of interest.

I had no knowledge that the SFAF Chief Program Officer was leaving the agency nor that SFAF would ask me to consult with them until June of 2023. My last contact with SFAF as a City employee was over one year ago.

#### Personal Hardship:

Section 3.234(a)(3) states that the prohibition for employment may be waived if the Ethics Commission determines that imposing the restriction would cause extreme personal hardship. The restriction from allowing me to engage in this consultant role would cause me personal hardship for the reasons described below.

First, in my initial request for waiver, I did not fully describe the personal hardship that a prohibition to take this position would cause. This opportunity is so important to me that I indicated that I was willing to volunteer for SFAF while waiting for the Ethics Commission to review my request and grant a waiver. This is not a statement of my financial situation but instead an indication of my strong enthusiasm for this consultant role and my willingness to volunteer while undergoing the process for a waiver from the Ethics Commission. To clarify, using an abundance of caution, I asked if volunteering was allowed because time is a key element and I believed that it would be beneficial to the organization to start my service during the process of approval of the Ethics Commission and then enter into to a paid consultant agreement after the approval process. This is no indication of my personal hardship, rather, my desire to do this work and support this important agency as soon as possible.

Working as a consultant to support the SFAF is a dream job for me, especially after my years of focus on public health and the community and is a unique opportunity that is not likely to

become available again. For the reasons I describe below, a prohibition of this post-employment opportunity would cause extreme hardship for several reasons:

- This opportunity allows me to continue the commitment to the work that I have focused on for over 30 years. I have dedicated my work life to addressing health disparities in San Francisco, especially the health disparities of HIV, HCV, and STI among gay men, trans communities, communities of color, people who use drugs, and people with few resources. Providing public health service in HIV, HCV, and STI prevention and care, and public health overall, is about ensuring social justice and opportunities to make real and sustainable change in the lives of people affected by HIV/HCV/STI. HIV prevention and ensuring health access has been a passion for me since 1987. As HIV was emerging, I developed a peer education program focused on HIV prevention. Throughout my career in public health, I have focused on developing interventions / programs that address these social determinants of health and reach the people most affected in effective ways. As noted in my initial request for a waiver, the RFP was developed to be equity focused and used data to determine how to reach those most affected. This is a symbol of my work and my focus. The SFAF opportunity allows me to bring my management skills, my experience with HIV prevention, and my passion for social justice to supporting the SFAF program leaders in their efforts to achieve health equity for the City and County of San Francisco.
- As a manager in SFPDH, I collaborated with others to support and manage the system of care as a whole and this opportunity with SFAF would provide an opportunity for me to work directly within a community-based organization and closer to the work in the community. This is an opportunity for me to use my 37 years of experience in HIV and STI prevention to provide service directly to the community. I am excited about the opportunity to contribute directly to support the strong system of care that the community has requested, and agencies have developed. I have developed skills, knowledge, relationships, and experience in the field of HIV and, importantly, in health disparities related to HIV, HCV and STI.
- Community partnership in public health planning and implementation has been a priority in my work, ensuring that programs are developed in collaboration with the people most affected by health issues. The SFAF has a history of implementing strong programs in the community, provided by and in collaboration with community members. Their programs reach communities most affected by HIV, HCV, STI, and vulnerable populations that are supported through their innovative programs. I am excited about the opportunity to support the staff developing and implementing these programs.
- I have been on the forefront of emerging practices and hold expertise in strategies to reach communities and populations that have fewer resources and are disconnected to care and services. I would like to continue this work through my consultancy with SFAF as I consider ways that our work may be even more impactful. Throughout my years of work, I have developed expertise in effective strategies and trends in prevention and care and this

opportunity will allow me to bring this expertise to support communities in San Francisco in this time of change in the City.

- I believe that my contribution to SFAF during this time of change and transition will benefit the City, including communities and City and County departments. I have expertise in managing complex systems and providing leadership support that matches the current needs of the SFAF. I have relationships with leaders at the state and national level and can access support and resources due to these strong relationships with governing bodies in HIV, HCV, and STI. The system of care reaching people with and at risk for HIV, HCV, and STIs is complex and vulnerable and ensuring continuity of leadership and support is key to maintaining the strong system in place. SFAF is a key partner with many other community-based organizations and ensuring the relationships are maintained is important to the system. SFAF is an essential part of the system of care in the community that provides education, services, and linkage to care for our most vulnerable communities in San Francisco. I want to do what I can to make sure that the system is supported during the transition of the Chief of Programs, and importantly, that the staff of SFAF have continuity during the transition. SFAF staff work hard and tirelessly to reach people in the community and, as we know, currently, the need is great for reaching people who use drugs, people who are experiencing homelessness, and people at risk for HIV, Hepatitis C, and STIs.
- This opportunity is well suited for a retiree with experience, skills, and dedication and who is willing to work in a part-time short-term consultant role. I am in a unique position to be able to accept this role; it would be difficult for SFAF to find someone with the breadth of experience I have to fill this temporary gap. I am aware that a criterion for hardship includes opportunities for other positions. I acknowledge that I may be qualified for other jobs, however, this role matches my passion and commitment for supporting community work in public health, is a perfect transitional role as a retiree that has worked at the city level, and is a unique opportunity during a leadership transition.
- In addition to the hardship related to my dedication to this work, I will experience the financial hardship of the consultant income that is generated from this project. I have put aside pursuing other consultant opportunities as I wait for approval of this waiver.
- As I understand the rules, the waiver would be necessary to cover the remaining 4.5 months of the restriction as the SFAF entered into a contract January 1, 2023.

I would like to add that I fully understand that adhering to ethical standards in government is essential. I pride myself on following all Ethics Commission rules and regulations throughout my service as a City employee. I believe that my history with this contractor does not create ethical challenges and I hope that the Ethics Commission is able to see that granting a personal waiver would not create ethical concerns.

With this description of personal hardship, described above and summary of my involvement in my initial request from June 29, 2023, I respectfully request that the Ethics Commission approve

my request for a waiver and allow me to accept this short-term, part-time consultant position. I look forward to meeting with the Ethics Commission at the August 18 meeting to respond to any questions or concerns that the Commission may have.

Sincerely,



Tracey Packer, MPH

Cc:

Susan Philip, MD, Director of Population Health and Health Officer , Department of Public Health, [susan.philip@sfdph.org](mailto:susan.philip@sfdph.org)

Peter Lauterborn, Program Manager, Ethics Commission, [peter.lauterborn@sfgov.org](mailto:peter.lauterborn@sfgov.org)

Michael Canning, Acting Policy and Legislative Affairs Manager, Ethics Commission, [Michael.a.canning@sfgov.org](mailto:Michael.a.canning@sfgov.org)