

AGENDA ITEM NO. **3**

**CITY OF SAN ANTONIO
CITY ATTORNEY'S OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

TO: Sheryl Sculley, City Manager
FROM: Michael D. Bernard, City Attorney
SUBJECT: Ethics Code and Municipal Campaign Finance Code Revisions
DATE: March 2, 2006

SUMMARY AND RECOMMENDATIONS

These two ordinances will approve revisions to the City of San Antonio Code of Ethics and the City of San Antonio Municipal Campaign Finance Regulations. The proposed revisions reflect the recommendations by the Ethics Review Board, the Office of the City Attorney, the Office of the City Clerk and requested amendments by Councilman Hall and Councilman Wolff proposed through their Council Consideration Requests dated September 28, 2005 and October 6, 2005 respectively.

The revisions will amend sections related to the acceptance of gifts, "revolving-door" restrictions on former officials and employees, lobbying during contract solicitations, disclosure forms, debarment from contracting and lobbying, voiding of contracts, ethics and campaign finance training, political contribution limits and termination of campaign treasurer appointments. Staff recommends approval of these ordinances.

POLICY

The following proposed amendments will strengthen the City's Ethics and Municipal Campaign Finance Codes and further the City's interest in promoting the community's faith and confidence in government.

Ethics Code – Proposed Revisions

A. Gifts

In May 2003, the City Council adopted an "entertainment" exception that allows city officials and employees to accept gifts of transportation, lodging or entertainment up to \$500 in value during a calendar year from city contractors and lobbyists. The proposed amendment will eliminate this exception.

Some gift provisions impose limits from a single source. To clarify the term "single source," the amendment will provide that expenditures for gifts made by multiple agents of an organization that are paid for by the organization will be deemed expenditures from a single source. The term "nominal value" will be defined as a benefit with a value of \$50 or less.

B. Participation in City Contracts by Former City Officials and Employees

The Ethics Code prohibits former city officials or employees from representing a private interest for compensation before the city for two years after terminating service with the city. In addition, former officials and employees cannot work on a compensated basis on a

discretionary city contract for two years after termination if they personally and substantially participated in the negotiation or award of that contract while still working for the city. To strengthen this provision, this amendment will also prohibit former officials and employees who were involved in the administration of a contract from working on such contracts for private sector employers.

C. Additional Contact Restrictions During Contract Solicitations

The Ethics Code provides that a lobbyist or an agent cannot lobby city personnel during a contract solicitation period, except as allowed by the provisions of the solicitation document.¹ The prohibition does not extend to contacts with members of City Council or their contract assistants.

It is proposed that the exception for lobbying contacts with councilmembers and their contract assistants be eliminated, and that a parallel "no-contact" provision be added to the "Persons Doing Business with the City" division of the Ethics Code to address contacts by contractors and their agents as well as contacts by paid lobbyists.

D. Discretionary Contracts Disclosure Form

The Ethics Code requires any person or entity seeking a contract with the city to submit a discretionary contracts disclosure form. Among other things, the form requires the contractor to list the political contributions made to City Council members or candidates during the preceding 24 months by the contractor, the subcontractors, or the owners, officers, lobbyists and attorneys of any entity that is a party to the contract. A reporting exception will be added for contributions made by owners of a business entity who hold less than 5% of the fair market value or voting stock of the entity.

E. Sanctions – Voiding Contracts and Debarment from Contracting and Lobbying

The Ethics Review Board may recommend debarment from contracting or lobbying or voiding of a contract if a person, including outside business entities and non-profit entities, intentionally or knowingly violates the sections of the Ethics Code pertaining to contractors and lobbyists. It is proposed that these provisions be expanded to reach individuals involved in or who have aided or assisted in a knowing or intentional violation of any portion of the Ethics Code.

F. Ethics Training

In addition to the ethics training received as part of the mandatory new employee orientation, Councilman Hall and the Ethics Review Board recommend amending the Ethics Code to impose a mandatory recurring ethics education program for city employees.

G. Confidentiality

In light of recent ruling from the Office of the Attorney General, the confidentiality provision prohibiting the release of a pending complaint will be removed.

The Municipal Campaign Finance Regulations – Proposed Revisions

A. Contribution Cycles and Cash Contributions

The Municipal Campaign Finance Code establishes contribution limits during a period of time referred to as an "election cycle." To help distinguish between the periods of time

¹ The city's Contracting Policy and Process Manual provides guidelines to draft contracts with the "no-contact" restrictions.

during which a contribution limit applies from the reporting periods established under the Texas Election Code, the term "election cycle" will be changed to "contribution cycle" to provide greater clarity. The board has also proposed an amendment to the cash contribution provision to make its application clearer. No substantive change is proposed for this provision.

B. Contribution Limits for Specific Purpose Political Action Committees (SPACs)

The campaign finance code currently imposes contribution limits on candidates and officeholders for City Council, but not on independent political action committees formed for the specific purpose of supporting a candidate for municipal office (SPACs). The proposed amendment will impose the same contribution limits on an SPAC that are imposed upon a candidate for the same office.

C. Termination of Campaign Treasurer Appointments

The state legislature recently approved an amendment to the Election Code that would allow local governmental entities to terminate dormant campaign treasurer appointments. The amendment will adopt this procedure.

D. Candidate Training

This proposed amendment will require the Office of the City Attorney to provide training on the City's Ethics Code and Municipal Campaign Finance Regulations prior to city elections.

FISCAL IMPACT

Direct costs associated with implementing the mandatory continuing ethics training are projected at \$22,600 in FY 2006 for video production costs (\$4,600) and copy costs (\$18,000) for education materials. Funds are available in the General Fund's Non-Departmental/Non-Operating account. The adoption of the treasurer appointment termination process for dormant campaigns will enable the Office of the City Clerk to discontinue monitoring and expending postal costs for campaigns that are no longer active.

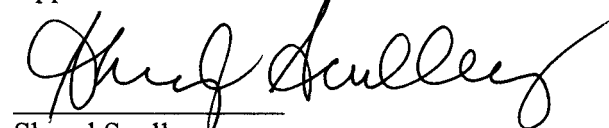
COORDINATION

These ordinances were coordinated with the Ethics Review Board, Office of the City Clerk, Finance Department, Human Resources Department, and Office of Management and Budget.



Michael D. Bernard
City Attorney

Approved for Council Consideration



Sheryl Sculley
City Manager