



City of Dallas

Proposed Amendments to Chapter 12A, “Code of Ethics,” based on the September 2021 Report of the City of Dallas Ethics Reform Task Force

December 1, 2021

Tammy Palomino, First Assistant
City Attorney

Laura Morrison, Senior Assistant
City Attorney

Bert Vandenberg, Executive
Assistant City Attorney

Background –



- Mayor Johnson appointed an ethics reform czar, who formed an independent task force of Dallas residents from the private, public, and nonprofit sectors.
- The task force was charged with submitting recommendations for ethics reform.
- The City of Dallas Ethics Reform Task Force (Task Force) issued a report in September 2021.
- On September 27, 2021, the Mayor referred the Task Force recommendations to the Ad Hoc Committee on General Investigating and Ethics.



Overview



- This briefing focuses on the following proposed amendments to the Code of Ethics based on the “High-Level Overview of Principle Proposals,” in the September 2021 Task Force Report:
 - Establishing the Division of Inspector General.
 - Creating a “personal benefit” recusal.
 - Simplifying the Code by consolidating gift policies and reordering various sections.
 - Consolidating the various gift and travel reporting requirements into one article.



Division of Inspector General



Currently, the ethics complaint process is initiated by an individual filing a complaint with the city secretary's office.

A preliminary panel of the Ethics Advisory Commission (EAC) reviews the complaint and response to see if the complaint states a claim and is supported by just cause. If so, the complaint is forwarded to the full EAC for an evidentiary hearing, where the burden is on the complainant to "prosecute" the complaint before the EAC.

No one is tasked with investigating the veracity/accuracy of the complaint before the preliminary panel hearing.



Division of Inspector General



With the creation of the Division of the Inspector General, the inspector general will, after receiving a complaint or tip, investigate the facts alleged.

If the inspector general finds that there is a reasonable basis that a violation has occurred, the inspector general will prosecute the complaint before the EAC or recommend the EAC approve an agreed-upon settlement between the inspector general and the person charged in the complaint.

The inspector general will dismiss any complaints where he/she finds there is no reasonable basis that a violation occurred.



Division of Inspector General



- Receives complaints and anonymous tips alleging violations of the code of ethics and fraud, waste, abuse, and corruption within the city.
- No preliminary panel.
- Prosecute alleged or suspected violations; recommend settlement agreements; or dismiss where appropriate.
- Quarterly reports to the EAC, city council, and city manager.
- Subpoena power.



Division of Inspector General



- Issue confidential and general advisory opinions.
- Recommend sanctions for vexatious complainants.
- Supervise a chief integrity officer to administer the Integrity Officer Program for training city officials and employees on the code of ethics.
- Investigate and enforce claims of retaliation.



Composition of the EAC



- Currently, the EAC is composed of seven members appointed by the city council. These appointments are first come, first serve.
- Proposed:
 - A 15-member commission with each council member nominating one member approved by city council.
 - Three five-member panels will adjudicate evidentiary hearings. The city secretary will randomly assign ethics complaints to a panel, except that an ethics complaint in which the complainant or respondent is a council member will not be heard by the panel whose membership includes the commissioner nominated by that council member.
 - All 15 commissioners will attend the regular meetings of the commission.



Qualifications of EAC Members



- Currently, there are no special qualifications for appointment to the EAC.
- Proposed: Members of the EAC must meet a minimum of one of the following special qualifications:
 - Possess a juris doctorate degree.
 - Currently serving or formerly served as a Justice of the Peace.
 - Currently or formerly employed as a professor or instructor at an institution of higher learning in ethics or criminal justice.
 - Currently or formerly employed as an ethics officer, or similar position, in a public or private organization, aligning the practices of that organization with the stated ethical standards of the organization or enforcing the ethical standards or codes of the organization.



Personal Benefit Recusal



- Currently, the Code requires recusal from an official action if a city official or employee has an improper economic interest.*
- Task Force recommended simplifying a conflict of interest using a test that would be easier to understand with fewer exceptions.
- Proposed amendments establish a personal benefit - any benefit knowingly solicited, accepted, or agreed to be accepted for the purpose of influencing how a city official or employee performs or refrains from performing an official action - that requires recusal by the city official or employee.

*NOTE: Texas Local Gov't Code Section 171 requires recusal for substantial economic benefit.



Consolidating Gift Policies



- Currently, the general rules and exceptions for gifts are in the Code while other gift rules are in two different resolutions outlining specific rules for city councilmembers, board/commission members, and employees.
- Task Force recommended consolidating all rules into one location.
- Proposed amendments consolidate all rules into the same section of the Code.



Reordering Sections



- At the recommendation of the Task Force, several of the current regulations are moved into a more commonsense order.
- For instance, Article III, “Conflicts of Interest,” begins with the gift rules, then personal benefit recusal, and other important conflict of interest rules.
- The standards of behavior/civility were moved into their own section to align with other similar standards such as anti-discrimination, fiduciary duty, and retaliation.



Consolidated Gift/Travel Reporting



Currently, gift and travel reporting requirements are in five sections of the Code as well as two different resolutions.

The Task Force recommended consolidating the reporting into one location and moving to a quarterly reporting system.

All reporting requirements for city officials and employees, including the annual financial disclosure report, gifts, and donations, are now located in Article VI, "Reporting Requirements."

Only gifts of \$300 or more, individually or cumulatively, are required to be reported.

All reports are now due to the city secretary on a quarterly basis, and the annual financial disclosure report qualifies as one quarterly report.



Other Clarifications/Amendments



- A city official or employee may not take official action on, or participate in, any municipal question if the city official or employee has ownership, a lease, or other economic interest in a property within the area of notification (for example, a zoning case).
- In any election, a city council member may lend their name and office held (currently may only use “honorable”)
- A person applying for or requesting a public subsidy matter shall not lobby a city council member either directly or indirectly (Councilmember may not discuss the public subsidy matter with the person either directly or indirectly).
 - A public subsidy will include the direct sale or lease of city-owned or city-controlled real property excepted from complying with the notice and bidding requirements of Texas Local Government Code Section 272.001 (a) or other law.



- Proposed amendments considered by City Council. If amendments are approved:
 - Repeal duplicate gift policy resolutions.
 - Repeal resolutions establishing fraud, waste, and abuse hotline in the auditor's office and amend Administrative Directive on fraud, waste, and abuse to align with new Inspector General Division responsibilities.
- Phase II – continue simplifying the Code.

QUESTIONS

