

**REPORT  
OF THE  
CITY OF DALLAS  
ETHICS REFORM TASK FORCE**

**September 2021**

REPORT OF THE CITY OF DALLAS  
ETHICS REFORM TASK FORCE

CHARTER

“The time is always right to do what is right.” – *Dr. Martin Luther King, Jr.*

**MISSION STATEMENT**

Dallas is already a great city in which to live and work, and it also aspires to demonstrate the highest ethical standards in serving its citizens at all levels of government. The people of Dallas should have the utmost confidence that their local government operates in a fashion that is fair, equitable, fully transparent, and beyond reproach. The City of Dallas (the “*City*”) should strive to create a civic culture that fosters complete trust in every elected and appointed official (the “*City Officials*”) as well as each city employee. Furthermore, those who serve and lead the City of Dallas should have the guidance and support needed to carry out their duties ethically and conscientiously.

This is an issue of the highest priority for Mayor Eric Johnson. On November 8, 2019, he announced the establishment of the City of Dallas ethics reform effort to promote, encourage, and reinforce a culture of ethical excellence and compliance at Dallas City Hall. The ethics reform effort specifically aims to foster a culture in which there is no tolerance for unethical behavior, indictments or convictions of City Officials or City employees. In sum, this ethics reform effort seeks to enhance the ethical standards of the City Officials and City employees in order to become the gold standard of an ethical culture to which other cities aspire.

**OBJECTIVE AND SCOPE**

Mayor Johnson appointed an Ethics Reform Czar, who formed an independent task force of Dallas citizens from the private, public, and non-profit sectors that bring diverse experience and perspectives to these important issues (the “*Task Force*”). The Task Force was charged with submitting its recommendations for reform before the July 2020 recess. To achieve this objective, the Task Force conducted a comprehensive review of the City of Dallas Code of Ethics (the “*Ethics Code*”) and related procedures, as well as the general culture of compliance in City Hall. Additionally, the Task Force consulted with leading local and national ethics experts and reviewed related best practices from around the country. The Task Force focused its research and recommendations on the following key areas affecting ethical compliance:

- Organizational culture; training and compliance initiatives;
- Complaint handling, enforcement, and related processes;
- Campaign finance;
- Gifts, lobbying, and reporting; and
- Conflicts of interest.

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The Task Force would like to acknowledge and thank the following individuals at Haynes and Boone, LLP who assisted with the research and development of these recommendations: Raquel O. Alvarenga, Brent Beckert, Cody Cravens, Kayla J. Cristales, Emily Cunningham Rushing and Noor Wadi.

EXECUTIVE SUMMARY

INTRODUCTION

This Executive Summary provides a high-level overview of the Task Force’s principal recommendations. After several months of research and collaboration, the Task Force unanimously agreed that the four action items listed below are the most important, highest-priority objectives from the complete list of recommendations (or “*Comprehensive Recommendations*”) which follows this Executive Summary. The Comprehensive Recommendations set forth in greater detail the four below-listed items, as well as other related recommendations and certain implementing measures deemed necessary to carry out the Task Force’s proposals successfully and effectively.

The Task Force submitted its initial draft report to Mayor Johnson in May 2020 in order to meet the original mandated deadline, even though it recognized that the Mayor and City Council would need to first address the City’s response to the COVID-19 pandemic and related budget issues before considering these recommendations. Mayor Johnson further requested that the Task Force take more time to closely observe and examine issues that would arise during the 2021 City Council election cycle as well as during the federal corruption trials that involved former Dallas City Officials. During that time, the Task Force had additional discussions and made revisions that are reflected in this final report.

The Task Force acknowledges the continued strain that the COVID-19 pandemic has placed on City resources and personnel and, in the present environment, the need for Ethics Code reform can be easily overlooked. However, the trials the City has faced over the last year serve to reiterate the need for a strong Ethics Code that will increase government confidence and transparency. Although a seemingly burdensome undertaking, the Task Force believes that the long-term benefits of this reformation will be well worth the effort and expense.

HIGH-LEVEL OVERVIEW OF PRINCIPAL PROPOSALS

**1. Establish Office of Inspector General for Complaint Handling and Oversight.**

Currently, various departments within the City government are responsible for myriad elements of the complaint-handling process, but no one is currently responsible for investigating ethics complaints or other reports of misconduct; fraud, waste, and abuse; or other similar issues. And, the entities currently responsible for one or more aspects of complaint oversight do not necessarily have the ideal qualifications, experience, or resources to perform their respective complaint-related duties. For these and other reasons set forth in greater detail in the Comprehensive Recommendations that follow, the Task Force recommends that the applicable Code provisions and corresponding procedural rules and other formal and informal protocols be amended to incorporate an Office of Inspector General (the “*OIG*”) with primary responsibility for investigating, and overseeing the disposition of all complaints, including those relating to alleged violations of the Ethics Code, fraud, waste, abuse, and other misconduct. The Task Force determined that doing this effectively will involve the following (among other similar items discussed further in the Comprehensive Recommendations):

- Appointment of an Inspector General. Appoint an Inspector General (the “*IG*”) with sufficient legal experience to oversee the OIG and assume the primary responsibility for identifying, investigating and resolving ethical issues (including those related to fraud, waste, abuse, campaign finance violations, and other professional misconduct).

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- Consolidation. Eliminate existing programs intended to oversee and/or resolve any of the above areas of concern and consolidate their functions (as applicable) into the OIG. More specifically, the OIG should take over (i) the City Auditor’s role in receiving and prosecuting anonymous complaint and receiving and making initial determinations regarding complaints received on the fraud and abuse hotline; (ii) the City Secretary’s responsibilities with regard to reporting and general ethics complaints; and (iii) the duties of any other department/official to the extent related to the investigation or disposition of formal or informal complaints.
- Safeguards. Place the OIG in the City Attorney’s Office to ensure that it is able to investigate complaints with adequate safeguards to protect the investigative process from being compromised.

### **2. Foster Top-Down Culture of Ethical Excellence and Integrity.**

The Task Force recognizes the centrality of a culture of ethical excellence and integrity to supporting any revisions to the Ethics Code, establishment of new procedures, re-allocation of responsibilities, or any other proposed reform measure. This desired and aspirational culture of ethical excellence and integrity will not only encourage compliance with applicable laws but deter formal misconduct as well as informal norms and habits of carelessness and impropriety. The establishment of this culture of ethical excellence and integrity requires commitment from organizational leaders at all levels and clear, consistent messaging. To that end, the Task Force recommends updating and enhancing training and testing to ensure widespread adoption (or “buy-in”) and understanding of the established core values and their practical, day-to-day application. Additionally, the Task Force recommends expanding and empowering the existing Values Ambassadors Program. The Task Force believes that these fundamental recommendations and principles, as described further and supplemented in the second section of the attached Comprehensive Recommendations, if appropriately implemented, will balance the need for systemic policy reform with the cultivation of positive social values. This balance is integral to the establishment of a City government culture committed to ethical compliance and consistent and effective prevention, detection, and response to misconduct.

### **3. Simplify and Clarify the Ethics Code.**

The Task Force recommends that all ethics provisions be consolidated into the Ethics Code and that the Ethics Code be simplified for ease of understanding and greater transparency. Currently, the ethics rules relating to City Officials and City employees are not all found in the Ethics Code. Some rules are only available through other sources, such as the gift policies for City employees and City Councilmembers, which creates inconsistency and ambiguity. Consolidating all ethics provisions into a single code will address this issue and facilitate uniformity with regard to interpretation and implementation. Additionally, the existing Ethics Code is needlessly complicated and difficult to understand. Therefore, the Task Force recommends revising and restating the Ethics Code, as needed, to articulate the intended meaning of its provisions in a manner that is simpler, clearer, and easier to understand and apply. Finally, in connection with these Ethics Code clarification efforts, the Task Force recommends that the revised Ethics Code specify its application to City Officials, in addition to City employees.

### **4. Improve Reporting Transparency.**

The Task Force recognizes that while it may be difficult to draft an Ethics Code that contemplates every potential type of impropriety, transparency is a powerful deterrent. To establish greater transparency, the Task Force recommends the creation of an online reporting dashboard (the “*Dashboard*”) that is publicly available online and easily accessible, in which campaign donations and expenditures, independent expenditures, lobbying contributions and gifts, and other regularly reported information (other than personal financial information) are displayed to the public in an online one-stop, easily searchable database. The Dashboard should make contributions and gifts searchable by donor and/or recipient to allow the public

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(and/or the OIG, as applicable) to track and trace relationships. Additionally, underlying datasets should be made publicly available to allow reporters, researchers, and other interested parties to conduct their own analyses about potential and actual conflicts of interest. In connection with the creation of the Dashboard, the Task Force also recommends the modification of existing reporting rules to clarify the factual circumstances of the receipt of gifts in order to increase and improve transparency. The Dashboard and updated reporting standards, including the corresponding implementing measures and other related proposals outlined in the Comprehensive Recommendations that follow, will facilitate transparency and greater accountability that will help enhance public confidence in the management of the City.

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COMPREHENSIVE RECOMMENDATIONS

**I. COMPLAINT HANDLING, ENFORCEMENT, AND RELATED PROCESSES**

A fair process is more likely to produce fair outcomes. The recommendations relating to complaint handling and related procedures are therefore largely process-focused. The decisions made at each step of the process of investigating and adjudicating ethics complaints can have far-reaching consequences.

**Recommendation # 1: Establish Independent OIG under the City Attorney’s office.**

Under the existing Ethics Code, ethics complaints received by the City Secretary are deemed complete or incomplete in accordance with statutory criteria. Complete ethics complaints proceed to the preliminary panel review wherein either the Ethics Advisory Commission (the “*EAC*”) chair or vice chair (selected on a rotational basis and subject to availability) and two EAC members (selected by lot by the City Secretary and subject to availability) make a preliminary finding as to whether the complaint states a claim under the Ethics Code and is supported by just cause. Ethics complaints that survive the preliminary panel review will proceed to an EAC hearing.

Complaints reported via the fraud, waste, and abuse hotline (the “*FWA Hotline*”) are received by the City Auditor, rather than the City Secretary. While complaints received by City Secretary must be deemed complete based on specific statutory requirements to proceed to preliminary-panel review, it appears that the City Auditor need only determine that a complaint received through the FWA Hotline alleges conduct that if true would constitute a violation of the Ethics Code. Additionally, the City Auditor may, but (apparently) is not required to refer complaints deemed to allege conduct that if true would constitute Ethics Code violations to the City Secretary to proceed directly to preliminary-panel review.

In addition to the above-described differences in the initial reviewers, standards, and procedures for complaints based on whether they were made via the ethics-complaint form or the FWA Hotline, the Ethics Code provides that anonymous complaints received by the City Auditor must be “prosecuted” by the City Auditor, while other complaints must be prosecuted by the complainant. Importantly, neither the City Secretary, City Auditor, nor the EAC have the authority to investigate complaints. Therefore, in practice, there is no investigation of the allegations in a complaint at any point in the process, making it difficult for the applicable City Officials to assess the truth or falsity of the alleged facts or make any other similarly critical determinations before deciding whether the complaint should proceed. And, as to complaints that reach the preliminary EAC panel or the ultimate EAC hearing, the EAC is often making its determination based on little (if any) more than the face of the complaint.

An increasing number of cities (including Houston, New York City, Chicago, Philadelphia, Albuquerque, Detroit, New Orleans, Richmond, Jacksonville, and Baltimore, among others) have established OIGs to rectify issues similar to those described above. For example, Houston established its OIG in 2011 by executive order. The Houston IG is appointed by the mayor and sits within the City Attorney’s Office and investigates potential cases of misconduct by public officials and employees, serves as an ombudsman for citizens with allegations of police misconduct, and investigates whistleblower complaints. The Houston OIG has jurisdiction over cases involving fraud, corruption, waste, mismanagement, discrimination, and ethics-code violations. Public officials, vendors, and contractors are obligated to cooperate with the office’s investigations; city employees are further obligated to report potential misconduct to the office. The Houston OIG must provide reasoning for any complaints it declines to investigate and may refer cases to law enforcement or to the city human resources department.

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The Task Force recommends that, like other peer cities, the IG be appointed by the Mayor and confirmed by the Council, and that the IG be a licensed attorney. The OIG must, at a minimum, have:

- Independent investigative authority with regard to any complaints (formal or informal) received via any medium;
- Broad jurisdiction to seek out fraud, waste, abuse, corruption, and misconduct and have the authority to initiate its own investigations;
- A fixed term of appointment and removal only for cause;
- Budgetary protection;
- Sufficient staff;
- Direct subpoena power; and
- The ability to keep investigations confidential and to protect whistleblowers from retaliation.

All complaints should be reviewed initially by the OIG. After reviewing a complaint, the OIG will investigate to determine if there is a legitimate cause of action and will dismiss complaints where no actionable cause is found or where the complaint is, otherwise, not credible. If the OIG finds from its preliminary investigation that the complaint is credible, and the cause is actionable, it will continue with a full investigation. After completing its full investigation, the OIG will refer complaints, including an investigative report detailing the findings of its investigation, which will include an analysis of the alleged violation and a recommendation (and will, thus, constitute legal advice) to the appropriate department for resolution. Ethics complaints will be referred to the EAC; criminal complaints will be referred to the District Attorney's office; and employment-related complaints will be referred to Human Resources. Upon receiving an ethics referral from the OIG, the EAC will review the complaint and the OIG's report and will determine whether a violation has occurred and the appropriate disciplinary action. The EAC may consult the OIG as needed, including to request further investigation.

### **Recommendation # 2: Streamline/consolidate the complaint process and provide greater protection against the risk of baseless reputational harm by reconfiguring complaint form.**

Rather than directing certain types of complaints to one department and other types to another or differentiating based on the method by which a complaint was made, the Task Force recommends that all complaints of improper conduct of any kind be directed to the OIG. With an OIG that has full investigative power, only one complaint form is needed for all types of complaints (e.g., fraud, waste, abuse, harassment, ethics/impropriety, etc.). To that end, the Task Force recommends that the existing [ethics complaint form](#) be replaced with a broader, universal complaint form similar to Houston's current form. Importantly, Houston's current form is carefully structured to solicit the necessary basic information about the nature of the complaint, the complainant, and the party against whom the complaint is being made in an efficient manner.

### **Recommendation # 3: Allow and encourage issuance of advisory opinions by the OIG.**

All advisory opinions should be publicly released and made readily accessible. The regulations concerning violations of the Ethics Code can often be confusing in practice. The Task Force recommends the timely preparation and issuance of "ethics advisory opinions" to help prevent violations before they happen. This would allow candidates, officeholders, City Officials and City employees to obtain advice with respect to their own contemplated activity. Advisory opinions should be prepared by the OIG.

To avoid misuse (or requiring advisory opinions on live cases), the Ethics Code should clarify that a person cannot obtain an advisory opinion regarding the application of the code to another person. If citizens or candidates have a concern that another individual has violated the Ethics Code, the proper recourse would be to file an ethics complaint. [El Paso](#) and [San Antonio](#) have adopted similar provisions into their ethics codes.

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**Recommendation #4: Permit the settlement of cases, with EAC approval, to facilitate the efficient resolution of cases by agreement of the parties.**

The Task Force recommends that the Ethics Code clearly authorize the settlement of complaints. If the OIG and the person who is the subject of an ethics complaint agree to settle a matter, the OIG should present the proposed settlement (and the OIG’s investigative report) to the EAC for final approval. If the EAC does not approve, it will determine the appropriate resolution and proceed accordingly. The Task Force believes that it is critical for the OIG and EAC to have this settlement power to resolve investigations and allow City employees or City Officials to resolve ethics investigations in a timely fashion.

**II. CULTURE OF EXCELLENCE/COMPLIANCE**

The City is committed to ensuring that City Officials and City employees make sound ethical choices that cultivate an ethical environment that prioritizes the public interest. The City should therefore view the Ethics Code as a “roadmap” designed to guide employees in their work and shape their approaches to ethical dilemmas.

**Recommendation #1: Strengthen current training program for all City Officials and City employees.**

The “Plain-Language Guide to the City of Dallas Code of Ethics” is a condensed or summarized version of the Ethics Code that explains specific ethical behaviors that are required from City employees and gives examples of behaviors that violate the Ethics Code. This plain-language guide is written using easy-to-understand language and includes accessible examples.

Currently, new hires are trained within 30 days of beginning their employment with the City. This initial training is a general online ethics training. In addition, new-hire orientation includes an in-person ethics training component which addresses the following topics: (i) the importance of ethics; (ii) the Ethics Code; (iii) reporting and investigating; and (iv) applying the Ethics Code.

The “Applying the Code of Ethics” component of the new-hire orientation training requires City employees to participate in an in-person ethics “game” which requires that City employees raise a different colored card—green for ethical behavior and red for non-ethical behavior—when presented with different ethics scenarios. After this initial new-hire orientation training, ethics training is required every other year through programs offered by “City University,” an online training platform. Additional trainings are also offered sporadically through programs such as “Ethics Week” (held annually in May) which is a week designed to further train City employees on ethics and compliance.

While the City’s ethics training materials are generally formatted in an easy-to-understand format and trainees are required to participate in the “Applying the Code of Ethics” game designed to test their understanding of the Ethics Code, the Task Force recommends that this “game” be modified to make it a more robust learning tool. Currently, the game includes only four ethical scenarios. The current new-hire ethics training materials for City employees do not sufficiently address other categories of rules from the Ethics Code, particularly on areas that are fraught with confusion and/or allegations of wrongdoing, such as: gift reporting, conflicts of interest, discrimination, interactions with the public and other issues that City employees typically face in their day-to-day work. Accordingly, the Task Force recommends that the training materials, including the “game,” be updated to cover these areas in more depth and include more examples.

While current City training materials generally state that City employees must “treat people the same no matter their race, religion, gender, size, age or country of origin” and reference City of Dallas Administrative Directive 3-61 which prohibits workplace harassment, the Task Force recommends that training materials also address anti-discrimination principles in more depth, as equal employment

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opportunity and anti-discrimination principles are critical components of the following four core principles that the City strives to uphold: Empathy, Excellence, Ethics, and Equity (often referred to by the City as the “Four E’s”).

### **Recommendation #2: Demonstrate mastery of online ethics training by City Officials.**

Currently, the City requires elected officials (City Councilmembers) and appointed officials (Board or Commission members) to view a 20-minute online training video presentation developed by the Mayor’s Office, City Attorney’s Office, City Secretary’s Office and Communications, Outreach & Marketing. This training video includes “an overview of the Dallas City Code of Ethics.” Specifically, the video training addresses the following ethics rules:

- Improper economic interests;
- Unfair advancement of private interests and nepotism;
- Gifts and donations;
- Improper access to or disclosure or use of confidential information;
- Representation of private interests;
- Outside employment;
- Using public resources for private purposes;
- Political activity;
- Prohibited interests in contracts;
- Lobbying;
- Campaign contributions and City-funded office holder accounts;
- Disclosure of potential conflicts of interests; and
- Ethics complaints and reporting using the City Auditor’s fraud and abuse hotline (the “Speak Up” hotline).

The video training also addresses the following rules and responsibilities that City Officials are required to abide by after leaving office: (i) continuing confidentiality; (ii) subsequent representation; (iii) discretionary contracts; and (iv) restrictions on lobbying. With respect to each topic addressed, the video presentation includes a PowerPoint slide that lists out the corresponding section(s) of the Ethics Code. This video training focuses on City Officials’ responsibility to set an example of ethical behavior and to always prioritize the interests of the public in carrying out their duties.

While City Officials are required to affirm in writing that they have completed the online video presentation, the video presentation does not require that City Officials test their understanding of the Ethics Code. The Task Force recommends that all City Officials be required to demonstrate their understanding of their ethics training and the Ethics Code by answering questions on each ethics rule or topic on which they were trained. A “passing” score should be set by the City (e.g., answering 70% of all questions correctly), and if a City Official does not achieve a passing score, this individual should be required to retake the online training until he or she achieves a passing score. This will ensure that City Officials remain engaged throughout the video training and approach this training requirement with the seriousness it deserves.

**Recommendation #3: Incorporate an anti-discrimination provision into the Ethics Code.**

Given the City’s commitment to cultivating a culture based on the Four E’s (empathy, excellence, ethics, and equity), the Task Force recommends that the concepts of equality and inclusion be specifically incorporated into the Ethics Code through an anti-discrimination provision. The Task Force recommends the following language:

Excluding anyone from our community based on race, age, sex, religion, disability, marital or veteran status, nationality, sexual orientation, gender identity or any other protected characteristic diminishes us and compromises our ability to fulfill our mission. Discrimination against others based on any of those factors, or other legally protected classifications, is strictly prohibited. Discriminatory harassment and other offensive acts include any conduct, whether verbal, visual, or physical, which creates an abusive and hostile work environment, or which has the purpose or effect of interfering with an employee or volunteer’s work performance or development.

**Recommendation #4: Incorporate ethics concepts into Values Ambassador Program.**

The current City Manager started the “Values Ambassador Program” in May 2019. This program was implemented to promote an ethical and “service first” culture and to promote the Four E’s. Full-time, permanent City employees that have been rated “fully successful” or better on their most recent performance evaluation or have completed six months of employment with the City are eligible to apply for a Values Ambassador position. Individuals are required to apply for a Values Ambassador position and Values Ambassador applications are reviewed by the City’s Office of Ethics. Typically, one employee from each City department will be selected to serve as a Values Ambassador; however, larger departments may select more than one Values Ambassador, at their discretion. If a City employee is selected as a Values Ambassador, the City’s expectation is that this individual will serve in this role for a minimum of two years.

City employees seeking to apply to serve as Values Ambassadors must receive advance approval from their individual supervisor or manager. Currently, the Values Ambassador Program requires a time commitment of three to four hours per month. In the first month, an initial half-day training is required. This training addresses the Diversity Program and the City’s “Values Recognition Program,” which provides a way for City employees and residents to recognize City employees for exemplifying one or more of the Four E’s.

Values Ambassadors are trained on the City’s “Values of Services” to ensure that they understand how the Values of Service are to be “interwoven into Values Ambassador Program and the City’s culture.” After this initial training, each month thereafter, an hour-long meeting is held at City Hall with a call-in option. Under the former Ethics Officer, Values Ambassadors would meet monthly as a group to discuss challenges and questions. Although this program is still in its nascent stages, the expectation is that meetings will eventually be held on a quarterly basis.

While the Four E’s are critical, it does not appear that Values Ambassadors are being trained directly on Code of Ethics issues. The current materials define “ethics” generally as a commitment to “being transparent, open and honest.” The Task Force recommends that Values Ambassadors also be trained directly on the nuances of the Ethics Code so that these individuals can serve as a resource to their colleagues, particularly areas that are fraught with confusion and/or allegations of wrongdoing, such as: gift reporting, conflicts of interest, discrimination, interactions with the public and other issues that City employees typically face in their day-to-day work. The Task Force also recommends that the training address how the Values Ambassadors will interact with the OIG.

**Recommendation #5: Analyze and Improve Effectiveness of Ethics @ Work e-mails.**

“Ethics @ Work” emails are generated by the Office of Ethics & Compliance. These e-mails highlight various topics relating to the Ethics Code. Each e-mail focuses on a single ethical rule or principle and provides a concise explanation of the rule and cites to the relevant section of the Ethics Code. These e-mails also include contact information for the City’s Ethics Officer if a City employee has questions regarding the particular ethics rule being highlighted in the e-mail.

Because each email is laid out in an easy-to-read and easy-to-understand format and focuses on a single ethics rule or principle at one time, these emails could be a very effective way to reinforce ethics rules and City employees’ obligations with respect to the Ethics Code. However, these emails will only be effective if City employees are taking the time to read them and understand their content. The Task Force recommends that the City conduct email analytics to track the way City employees are interacting with “Ethics @ Work” emails and if the analytics reveal that City employees are *not* opening these “Ethics @ Work” emails, requesting a “read receipt” for these emails going forward, and instituting a requirement that all City employees read these emails.

**III. CONFLICTS OF INTEREST**

The current Ethics Code, although comprehensive, is too convoluted for the lay reader to comprehend. With these recommendations, the Task Force seeks to simplify the Ethics Code so that it can be easily understood and enforced.

**Recommendation #1: Simplify conflict of interest provisions in the Ethics Code.**

Currently, the Ethics Code is not easily readable or navigable when searching for or reviewing conflicts of interest provisions. These provisions can be confusing to follow as they are currently spread throughout the Ethics Code (including, in Article II, Article III and Article IV) and are drafted with far too much legalese, in the negative and contain many exceptions. The Ethics Code must be easily understood by all City Officials, City employees and the general public alike.

To resolve the above issues with regard to conflict-of-interest provisions in the current Ethics Code, the Task Force makes the following recommendations:

- Single Article. Consolidate all applicable conflicts of interest provisions into one Article of the Ethics Code clearly entitled “Conflicts of Interest”.
- Broad Prohibition. Incorporate a broad prohibition against conflicts of interest as the first provision in the “Conflicts of Interest” Article. Each of the other provisions in such Article should provide explanations and exceptions, as necessary. (An example of a clear and concise conflict of interest provision can be found in Part A, Section 100 of the Model Ethics Code published in affiliation with the Edmond J. Safra Center for Ethics at Harvard University).
- Apply Equally. Make the Ethics Code applicable to all City Officials, as well as City employees, equally, except to the extent differing, job-specific standards are required. Each City Official and City employee should have access to the ethics advisory opinions (*see*, Recommendation #3 under Part I, Complaint Handling, Enforcement, and Related Processes).
- Understandable. Provisions should be clear and concise. Language in the Ethics Code must be understandable and easy to apply. For instance, remove all legalize, like “consanguinity” and redefine the full extent of family relationships covered.
- Minimize Exceptions. Exceptions to exceptions should be minimized.

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**Recommendation #2: Establish a clear chain of command for reporting violations of the Ethics Code.**

Currently, the Ethics Code specifies that any violation of the Ethics Code may be filed as a complaint with the City Secretary or reported through the FWA Hotline to the City Auditor. However, these complaints, when filed, are only reviewed for statutory completeness before being passed on for review by the Ethics Advisory Commission. No preliminary investigation of the complaint is undertaken at the time of filing.

The Task Force recommends that all complaints should be filed with the OIG (*see*, Recommendation #1 under Part I, Complaint Handling, Enforcement and Related Processes), and that the OIG be specifically tasked with overseeing and managing actual and/or potential conflicts of interest. The OIG must be able to review potential conflicts of interest, make recusal recommendations and determinations, and refer violators of the Ethics Code for appropriate prosecution. Additionally, an annual or other regularly scheduled self-reporting disclosure should be considered to allow City Officials and City employees an opportunity to self-report any situations that could later give rise to a conflict of interest. If a public online database is adopted for campaign contributions and/or gift reporting, conflicts of interest should be added to such database and be shared publicly.

**Recommendation #3: Update the Ethics Code provisions to err toward disclosure and recusal, if necessary.**

The Ethics Code must enhance public transparency regarding City Officials' and City employees' conflicts of interest. As part of the mandate that each City Official and City employee be as impartial as possible, it is imperative that City Officials and City employees understand the meaning of impartiality in the context of their work or be guided toward appropriate action in the event that the OIG identifies potential conflicts of interest.

The Task Force recommends that the Ethics Code be amended to contain specific procedures that would apply where a City Official or City employee has a conflict of interest, including, without limitation, a process for such City Official or City employee to disclose any potential conflict of interest. The Ethics Code should also be amended to provide the OIG with the authority to require recusal from such City Official's or City employee's participation in any matter in which a conflict of interest exists. The Ethics Code currently stipulates that a City Official or City employee must disclose a conflict of interest to the City Secretary in order to be recused from participation in a matter in which such conflict of interest arises. The Ethics Code should first encourage City Officials and City employees to disclose any potential conflict of interest that could create uncertainty regarding his/her ability to remain impartial in his/her duties to the OIG. The Ethics Code should then stipulate that if the OIG determines that the City Official or City employee cannot remain impartial in such matter, or that there is an appearance of a conflict of interest, the City Official or City employee must recuse him/herself from all votes, discussions, and actions taken in regard to such matter. The Ethics Code should be updated to include specific rules and procedures for a City Official or City employee to follow once such City Official or City employee has been recused from participation in a matter.

**Recommendation #4: Establish a clear standard or test to determine whether a conflict of interest exists.**

Currently, the Ethics Code uses an "economic interest" and "substantial economic interest" test to determine whether a conflict of interest exists, which is confusing and difficult to put into practice. These terms contain many exclusions, and even exclusions of exclusions, that are difficult to enforce due to their complex and contradictory nature. Under the current Ethics Code, a City Official or City employee must determine whether there is a conflict of interest in a particular situation, identify the applicable conflict of interest provision, work through the maze of definitions and exclusions, and then identify whether any of the

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exclusions to the exclusions apply. If these standards can be simplified, they can provide more effective bases for the standard or test.

The Task Force recommends that the “personal benefit” test set forth in [Article 9-103 of the International Municipal Lawyers Association \(“IMLA”\) Model Ordinance on Ethics](#) be substituted for the existing “economic interest” and “substantial economic interest” tests set forth in the current Ethics Code. This test would be easier to understand and broader than the “economic interest” and “substantial economic interest” tests set forth in the current Ethics Code. The IMLA generally defines the term “personal benefit” to mean “any benefit which is offered or received, or perceived to be offered or received, primarily for the purpose of influencing the manner in which a public servant performs or refrains from performing an official action, so that an attempt is made to induce the public servant, or the public servant is induced, to act in favor of some interest other than the public interest on the basis of an expectation or hope that the public servant or a partner in interest of the public servant will obtain some private gain by acting against the public interest.” This definition also includes certain specific exceptions. In addition, the addition of a complicity prong to the “personal benefit test” should be considered, which will serve to determine if a City Official or City employee should have, but failed to, report a conflict of interest.

#### **IV. GIFTS, LOBBYING, AND REPORTING**

While gifts to City Officials and City employees are one way that citizens show appreciation for elected officials and City staff, lobbying has also long been recognized as a crucial tool for engaging in political activity. However, both gifts and lobbying can create significant ethical dilemmas when coupled with a lack of proper oversight and a lack of clarity in reporting requirements.

#### **Recommendation #1: Revise Ethics Code to streamline and clarify gift and travel reporting requirements.**

Reporting requirements can be found from multiple sources, with some found spread throughout the Ethics Code and others in the City’s stand-alone gift policies. This can create confusion and result in duplicative reporting. Reporting requirements may also vary in their applications to City Officials and City employees. Furthermore, thresholds for reporting do not take into account the type of gift received. As a result, staff spend much of their time around major holidays reporting gifts of perishable goods, which are often of little risk of undue influence. Reporting requirements contain undefined terms that have caused confusion in practice. There is a lack of transparency and public accountability with reports. Further, the Ethics Code does not offer guidance as to how to distinguish in practice between donations to the City, gifts to City Officials in their official capacities, and gifts to City Officials in their personal capacities. The Task Force finds these distinctions and inconsistencies problematic.

To address the above issues relating to gift and travel reporting, the Task Force therefore recommends:

- **Streamlining.** Codifying all gift and travel reporting requirements under one section of the Ethics Code. To further streamline reporting requirements, the Task Force recommends that the requirements of this section should apply to all City personnel, without distinguishing between City Officials or City employees. Finally, all gift and travel reports should be submitted to the same individual, office, or entity, which the Task Force recommends be the OIG.
- **Simplifying Requirements.** Requirements to submit numerous and duplicative reports detract from the City’s culture of ethical compliance by turning reporting from a necessary accountability measure into a maze of technical compliance. The Task Force recommends reducing the number of reports required by eliminating the requirement to report within 30 days of receiving a gift or gratuitous travel. Instead, the reports should be required on a quarterly basis, with the annual

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Financial Disclosure Report (see Ethics Code, Section 12A-19) counting as the first quarter's report.

- **Perishable Goods.** Gifts of perishable goods of an estimated value of \$100 or less should be excluded from the requirement to report gifts from a single source with a cumulative value of \$250 or more in a calendar year. "Perishable goods" can be defined as packaged food, sealed beverages, and floral arrangements. Gift certificates to food and drink establishments, meetings with food and/or beverages provided, and catered meals would not fall under the definition of a "perishable good."
- **Vague Terminology.** All ambiguous terms should be defined at the beginning of the gift reporting section. Specifically, the Task Force recommends defining the term "honoraria" in the way that it is defined in the City's Gift Policy for City employees, which states, "'Honoraria' are payments of money or in-kind gifts made for a service, such as making a speech."

### **Recommendation #2: Clarify recipient of gift or expenditure.**

As mentioned above, the Ethics Code does not offer guidance as to how to distinguish in practice between donations to the City, gifts to City Officials in their official capacity, and gifts to City Officials in their personal capacity. Accordingly, to clarify when a gift is being made to the City, the Task Force recommends adopting Rule 4(3) of the Model Ethics Code published in affiliation with the Edmond J. Safra Center for Ethics at Harvard University. The Model Rule requires that "[g]ifts of property, money, or services given nominally to the city must be accepted by a resolution of the legislative body." Model Ethics Code, Part A, Section 100, Rule 4(3) (<http://www.cityethics.org/content/model-code-introduction>). In the absence of such a resolution, the gift should be deemed made to the City Official who accepts it.

The question remains, then, whether the City Official is accepting the gift in an official capacity or in a personal capacity. This question must always be assessed on a case-by-case basis. The Task Force recommends adding the following guideline to the Ethics Code to assist with this assessment: "A gift is solicited or accepted in a City Official's 'official capacity,' if the City Official knows or should know that he or she, or a family member or business associate, would not have been solicited, offered, or given the gift had he or she not held the status, authority, or duties associated with his/her position with the City." This guideline is a modification of the guideline used by the U.S. Department of Interior's Departmental Ethics Office, available at: <https://www.doi.gov/ethics/gifts>.

### **Recommendation #3: Convert paper reporting system to online system with searchable public database.**

The current reporting system of filing paper reporting forms has led to a lack of transparency and accountability in gift reporting. Handwritten forms are not easily searchable, even when made publicly available by scanning into a PDF file. Further, computer-based forms are generally easier to fill out than forms written by hand. To address these issues, the Task Force recommends converting the gift reporting system from a paper system to an online, publicly-available database that can be included with the other information reported on the Dashboard (see, Recommendation #1 under Part V, Campaign Finance). To be clear, however, this online reporting is not intended to cover any of the personal financial reports required of a City Official or City employee.

### **Recommendation #4: Clarify vague and/or unclear lobbying provisions in Ethics Code.**

Lobbyists are allowed to exchange money, goods, services, or things of value with any business entity in which the registrant knows or should know that a City Official has a "substantial economic interest" (or for which the City Official serves as a director or an officer) as long as such exchange, if valued at greater than

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\$250, is disclosed. The “substantial economic interest” standard is difficult to quantify in practice. Accordingly, the Task Force recommends using a standard that is easier to understand and follow. An example of a simplified standard would be to require reporting when a lobbyist knows or should know that a City Official has any financial interest, whether direct, indirect, substantial, or otherwise, in a business entity with which the lobbyist is exchanging money, goods, services, or things of value. A bright line standard like this removes ambiguity and relieves the report-maker from having to conduct the subjective assessment of whether a City Official’s financial interest is “substantial.” In addition, any ambiguities or possible loopholes in the requirements for registration by lobbyists should be clarified.

**Recommendation #5: Establish \$300 limit on permissible value of gifts.**

There is no dollar limit on the value of “gifts, benefits, and expenditures” that lobbyists may confer upon City Officials. Unlimited gifts, benefits, and expenditures from lobbyists, even when properly reported, can create ethical pitfalls and weaken the trust of citizens in their elected officials. The Task Force recommends placing a \$300 limit on the total aggregate value of all expenditures conferred upon a City Official per lobbyist per calendar year. This dollar limit is identified as a best practice by the Better Government Association’s Integrity Index, which measures the strength of state laws that promote integrity in politics. THE BETTER GOVERNMENT ASSOCIATION, THE BGA INTEGRITY INDEX 28 (2002).

**Recommendation #6: Enhance the functionality of the online lobbyist database.**

The City’s website contains a database of annual lobbyist registrations and lobbyist activity reports that has filters that enhance its ease of use as a search tool for citizens. The Task Force recommends improving this tool by making the activity reports searchable by City Official, to increase the transparency and usability of these reports. By making activity reports traceable to both the giver and the receiver of a lobbyist expenditure, the online database will further provide essential insight to citizens into the lobbying process. This information and online database can also be combined with and included in the other information reported on the Dashboard (*see*, Recommendation #1 under Part III, Campaign Finance).

**V. CAMPAIGN FINANCE**

In order to minimize conflicts of interest and foster public confidence in Dallas elections (and consequently, elected officials), the Task Force recommends establishing comprehensive disclosure and accountability requirements that tighten loopholes and increase transparency.

**Recommendation #1: Create online searchable electronic database to increase transparency.**

The current municipal campaign finance database is not user-friendly, does not provide customizable datasets for further investigation, and focuses on direct campaign donations rather than the broader scope of potential corrupting influences. To resolve this issue, the Task Force recommends the creation of a revamped Dashboard that will increase transparency from candidates and inspire greater confidence from citizens. To be effective as intended:

- Easy to Use. The Dashboard should be a user-friendly “one-stop shop” for the general public to understand actual and potential conflicts of interests. The Dashboard should be easily accessible, displayed prominently on the City’s website, and updated regularly throughout the campaign season.
- Detail Oriented. The Dashboard should include a wide range of inputs, including (i) campaign contributions, (ii) Political Action Committee (“*PAC*”) contributions, (iii) lobbyist activities, gifts and donations, (iv) independent expenditures, (v) aid by persons to influence City elections, (vi) gifts and travel, (vii) Mayoral and City Councilmember financial interests (including via non-

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profits) and other potential sources of conflicts of interest, such as donated gifts and travel, and (viii) whether donors to candidates, PACs or independent expenditure efforts have a financial interest in pending City Council matters.

The Task Force researched similar concepts employed by several peer cities and found that New York City has a state-of-the-art [website](#) that could serve as a template for the Dashboard.

**Recommendation #2: Establish 18 as the minimum age for donors.**

Despite a robust campaign finance infrastructure, donors may be able to flout applicable contribution limits by donating funds in the name(s) of their children, which is currently permissible under the current Ethics Code (so long as such children are donating of their own volition and with their own funds). Given that funds are fungible and true “donor intent” is difficult to prove, the end result of the current scheme is that violations of this rule are difficult to enforce and media reports of illegitimate donations in the name of minors have reduced public confidence in municipal election integrity in Dallas. To correct this issue, the Task Force recommends setting a minimum age of 18 years old — the legal age at which a person can vote in an election — for individuals to be permitted to donate to local campaigns. Such limit should dissuade individuals from bypassing contribution limits by routing funds through their children. Children under 18 who want to participate in the civic process could, alternatively, volunteer for campaigns of their choice.

**Recommendation #3: Extend the jurisdictional reach of the Ethics Code to ensure that it covers actions of all persons in connection with election and campaign activities.**

Under the current Ethics Code, Section 12A-11 covers the actions of others with respect to ethics violations, but it only applies to violations of Chapter 12 of the Ethics Code rather than violations of the full jurisdictional reach of the Ethics Code as set forth in Section 12A-25, which includes Chapter 15 of the Dallas City Code related to elections and campaign contributions. The Ethics Code should be revised to make clear that actions of others in violation of Section 12A-11 extends to the full jurisdictional reach of the EAC (and the OIG).

**Recommendation #4: Expressly authorize a “Cop on the Beat.”**

Currently, the EAC and the Texas Ethics Commission have overlapping mandates relating to the enforcement of municipal campaign finance violations. This overlap results in unclear jurisdictional lines of enforcement, sometimes resulting in a lack of attention from either oversight authority. As described above, an OIG should be established and expressly authorized to investigate and pursue campaign finance violations in municipal races. The Ethics Code should be revised to expressly provide that the EAC has jurisdiction to review and rule on such alleged violations (even in situations in which the Texas Ethics Commission appears to have overlapping jurisdiction).

**Recommendation #5: Increase the frequency of campaign finance reporting.**

Campaign finance reporting deadlines are relatively infrequent under Texas state law, with reports due on a semiannual basis and on the 30<sup>th</sup> and 8<sup>th</sup> day before an election. This leaves a potential loophole, as high-dollar donors can make a last-minute flood of donations to sway a race without facing public scrutiny until after the conclusion of the election. Accordingly, the Task Force recommends increasing the frequency of reports within the last month before elections, so citizens can understand who is supporting candidates in time to make a decision. While the Task Force recognizes that daily reports may be burdensome for candidates and their staff in the final days of a campaign, it recognizes that an appropriate middle ground could be reached. The City of Austin provides one example of such a balance. Austin requires candidates to file a contribution disclosure report within one day of raising \$10,000 at any point during the final nine

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days of the election (measured on a rolling basis).<sup>1</sup> Candidates are similarly required to report any personal loans to their campaign or direct campaign expenditures from personal funds that total \$10,000 or more during the final nine days of the election. PACs are also required to file a disclosure report within one day of raising more than \$2,500 or spending more than \$1,000 at any point during such period. By tying the frequency and timing of disclosures to a specific dollar threshold, the City of Austin’s campaign finance rules limit unnecessary disclosure burdens but accomplishes the goal of shining a light on last-minute influxes of larger donations that are intended to sway a race or influence a candidate. The Task Force recommends that the City of Dallas adopt a similar approach as the City of Austin, rather than relying on the minimum disclosure requirements set by state law.

To facilitate the increased frequency of candidate and PAC disclosures, the Task Force similarly recommends that the donation reporting system be modernized to increase ease of use and sync seamlessly with the revamped Database referenced above. The candidate reporting system should be designed to allow automatic reporting where possible (i.e., for online donations via the candidate’s websites) and minimize the need for manual entries by candidates or their staff or volunteers).

### **Recommendation #6: Provide comprehensive campaign-finance training for candidates and staff.**

Given the overlap of city, state and sometimes federal campaign finance rules, there can often be confusion about the various rules and laws affecting campaigns, especially for first-time candidates and volunteers. The Task Force recommends offering comprehensive training for candidates and staff on campaign finance rules at the end of each filing period, including by publishing a “Do’s and Don’ts” list on common campaign infractions that can be distributed to campaign offices. Such materials should be promulgated by the OIG to promise consistency of interpretation and messaging on applicable campaign finance rules.

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<sup>1</sup> New York City provides a similar example of late-cycle reporting requirements. The City requires reports to be filed 32 days and 11 days prior to an election, and then on a daily basis for the last ten days before an election.