

File No. 241211

Committee Item No. 5

Board Item No. _____

COMMITTEE/BOARD OF SUPERVISORS

AGENDA PACKET CONTENTS LIST

Committee: Rules Committee

Date July 7, 2025

Board of Supervisors Meeting

Date _____

Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Legislative Digest |
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| <input type="checkbox"/> | <input type="checkbox"/> | Memorandum of Understanding (MOU) |
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| <input type="checkbox"/> | <input type="checkbox"/> | Form 126 - Ethics Commission |
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Completed by: Victor Young Date July 3, 2025

Completed by: _____ Date _____

[Administrative Code - Section 501(c)(4) Organization Prohibitions]

Ordinance amending the Administrative Code to prohibit the City from providing City funds or resources to any organization established under Section 501(c)(4) of the Internal Revenue Code (“501(c)(4) organization”); to prohibit any organization established under Section 501(c)(3) of the Internal Revenue Code (“501(c)(3) organization”) that contracts or subcontracts with the City from providing funds or resources obtained from the City, or anything of value, including personal contact information, obtained using such City funds or resources, to any 501(c)(4) organization; and to require City Departments that provide City funds or resources to, or co-sponsor a community event with, a 501(c)(3) organization to obtain an attestation from the 501(c)(3) organization that it shall not provide City funds or resources, or any personal contact information obtained in connection with the event or with the use of City funds or resources, to any 501(c)(4) organization.

NOTE: **Unchanged Code text and uncodified text** are in plain Arial font.
Additions to Codes are in *single-underline italics Times New Roman font*.
Deletions to Codes are in ~~*strikethrough italics Times New Roman font*~~.
Board amendment additions are in double-underlined Arial font.
Board amendment deletions are in ~~Arial font~~.
Asterisks (* * * *) indicate the omission of unchanged Code subsections or parts of tables.

Be it ordained by the People of the City and County of San Francisco:

Section 1. The Administrative Code is hereby amended by adding Chapter 12X, consisting of Sections 12X.1 to 12X.9, to read as follows:

CHAPTER 12X:

501(C)(4) ORGANIZATION PROHIBITIONS

1
2 **SEC. 12X.1. FINDINGS AND PURPOSE.**

3 (a) Preventing the use of City funds or resources for the support of political candidates or
4 campaigns is essential to safeguarding the integrity of City governance and local elections. The
5 purpose of this ordinance is to ensure that public funds, public resources, and personal contact
6 information obtained through City resources are not used for political gain.

7 (b) Each year, the City and County of San Francisco (“City”) contracts with hundreds of
8 nonprofit organizations to provide critical services to the residents of and visitors to San Francisco. In
9 Fiscal Year 2023-2024, the City contracted with over 700 nonprofit providers, at a cost to taxpayers of
10 more than \$1.5 billion to deliver a wide range of safety net services, from family support services and
11 homelessness and housing services, to senior services, veterans services, and workforce development
12 services, among others.

13 (c) Nonprofit organizations are regulated by Section 501(c) of Title 26 of the United States
14 Code, also known as the federal income tax code. Section 501(c)(4) describes “social welfare
15 organizations” that are exempt from federal income tax. Unlike organizations described in Section
16 501(c)(3), these social welfare organizations (referenced here as “501(c)(4) organizations”) may
17 engage in political lobbying and political campaign activities as a substantial portion of their work,
18 including engaging in political campaigns on behalf of or in opposition to candidates for public office,
19 ballot measures, bond issues, recalls, or referenda.

20 (d) Although 501(c)(4) organizations may engage in political campaign activity only if such
21 political activity is not their “primary activity,” this term has eluded clear definition, giving wide
22 latitude for special interests to use the 501(c)(4) structure to finance political campaigns while
23 concealing the identities of donors.

24 (e) The ability of 501(c)(4) organizations to engage in political campaign activity creates a risk
25 if such organizations enter into public contracts, or receive grants of public funds, or other public

1 goods, services, or things of value. There is a natural incentive for public officials to approve contracts
2 with, and grant City funds or resources to, 501(c)(4) organizations with the expectation that the
3 501(c)(4) organizations will, in turn, adopt certain positions favored by the public officials, or support
4 certain candidates, in current or future elections. This risk is compounded by the ability of 501(c)(4)
5 organizations to conceal donors' identities from public view, further limiting the transparency and
6 public oversight necessary to prevent the use of public funds or resources to support partisan political
7 activity.

8 (f) In some cases, 501(c)(4) organizations are affiliated with nonprofit organizations regulated
9 by Section 501(c)(3) (referenced here as "501(c)(3) organizations"). To the extent that a 501(c)(3)
10 organization and a 501(c)(4) organization share office space, staff, board members, or other resources,
11 the same risk of leveraging City funds or resources to support partisan political activity flows from the
12 affiliation between the 501(c)(3) organization and the 501(c)(4) organization.

13 (g) While the City engages in monitoring nonprofit organizations that receive City funds above
14 certain thresholds, many nonprofit organizations receiving contracts, grants, or other things of value
15 from the City that do not meet these thresholds. When a nonprofit organization receives funds or
16 resources from the City, the nonprofit organization may benefit from its affiliation with the City,
17 particularly when the use of City funds or resources involves a public-facing event or activity.
18 Nonprofit organizations may collect individuals' personal contact information in the course of
19 conducting such an event or other City-sponsored activities.

20 (h) The City has a compelling interest in prohibiting organizations from co-opting for political
21 gain personal contact information obtained in connection with public-facing events and City-sponsored
22 activities. Further, through this ordinance, the City seeks to incentivize participation in City events and
23 City-sponsored activities by ensuring that public participation does not come at the cost of the use and
24 disclosure of personal contact information to advance political campaigns.

1 *(i) It is the intent of the City through this ordinance to eliminate the risk of the use of City*
2 *resources to support political campaigns, and to safeguard the integrity of City governance by*
3 *prohibiting the City from entering into any contract, issuing any grant, or providing any other thing of*
4 *value obtained using City funds or resources, including private individuals' personal contact*
5 *information, to a 501(c)(4) organization.*

6
7 **SEC. 12X.2. DEFINITIONS.**

8 *For purposes of this Chapter 12X, the following definitions apply:*

9 *"501(c)(3) Contractor" means any 501(c)(3) Organization entering into a Contract with the*
10 *City.*

11 *"501(c)(3) Organization" means an organization that has established and maintains status*
12 *under Section 501(c)(3) of Title 26 of the United States Code, as that section may be amended from*
13 *time to time.*

14 *"501(c)(3) Subcontractor" means any 501(c)(3) Organization entering into a Subcontract.*

15 *"501(c)(4) Organization" means an organization that has established and maintains status*
16 *under Section 501(c)(4) of Title 26 of the United States Code, as that section may be amended from*
17 *time to time.*

18 *"City" means the City and County of San Francisco.*

19 *"City Funds" means money from the City Treasury.*

20 *"City Resources" means City equipment, physical materials, intellectual property, electronic*
21 *data, or labor. Notwithstanding the previous sentence, City Resources does not include real property,*
22 *or electronic data or municipal services that the City makes equally available to members of the*
23 *general public.*

24 *"Community Event" means an event, or a series of events, that promotes civic pride in a local*
25 *community within the City or the City as a whole that is paid for in whole or in part with City Funds or*

1 uses City Resources. By way of example but not limitation, neighborhood clean-ups and street fairs that
2 are paid for in whole or in part with City Funds or use City Resources are Community Events.

3 “Contract” means a written agreement authorized by Administrative Code Chapters 6, 21, or
4 21G initiated or amended on or after the effective date of the ordinance in Board File No. 241211
5 enacting this Chapter 12X.

6 “Controller” means the Controller, or the Controller’s designee.

7 “Department Head” shall have the meaning set forth in Section 2A.30 of the Administrative
8 Code, or the Department Head’s designee.

9 “Personal Contact Information” means information collected with the use of City Funds, City
10 Resources, or in connection with a Community Event, that provides a means of locating or
11 communicating with an individual, and includes but is not limited to an individual’s physical address,
12 mailing address, email address, phone number, and social media account information. Personal
13 Contact Information does not include any physical address, mailing address, email address, or phone
14 number used by a City employee for City business.

15 “Subcontract” means a written agreement initiated or amended on or after the effective date of
16 the ordinance in Board File No. 241211 enacting this Chapter 12X, to fulfill obligations arising from a
17 Contract with the City.

18
19 **SEC. 12X.3. PROHIBITION ON THE PROVISION OF CITY FUNDS OR RESOURCES**
20 **TO 501(C)(4) ORGANIZATIONS.**

21 (a) The City shall not provide, by way of Contract or otherwise, City Funds or City Resources to
22 any 501(c)(4) Organization.

23 (b) A 501(c)(3) Contractor that enters into a Contract with the City, or a 501(c)(3)
24 Subcontractor that enters into a Subcontract, shall not provide City Funds, City Resources, or any
25 Personal Contact Information received in connection with that Contract or Subcontract, or other thing

1 of value collected or purchased using such City Funds or City Resources, to any 501(c)(4)

2 Organization.

3 (c) The requirements and prohibitions in subsections (a) and (b) shall not apply to the
4 following:

5 (1) A Contract with a Government Entity, as defined in Administrative Code Section
6 1.25(d).

7 (2) A Contract for services related to employee benefits, including, without limitation,
8 health plans, retirement or deferred compensation benefits, insurance and flexible accounts, provided
9 by or through the San Francisco Health Service System, the San Francisco Employees' Retirement
10 System, or the Retiree Health Care Trust Fund.

11 (3) A Contract entered into for purposes of issuing or causing the issuance of bonds,
12 notes, bond anticipation notes, commercial paper, certificates of participation or other obligations for
13 borrowed money including without limitation any Contract involving a lease, installment purchase or
14 sale agreement, or other similar financing agreement or evidence of indebtedness entered into for the
15 acquisition by the City of capital equipment.

16 (4) City Funds or City Resources provided to the San Francisco Finance Corporation,
17 or any other municipal or public finance corporation or financing authority.

18 (5) A Contract entered into pursuant to an Emergency Declaration by the Mayor, Board
19 of Supervisors, Commission, or Department Head, or as defined by Administrative Code Chapters 6
20 and 21.

21 (6) City Funds or City Resources provided in connection with the settlement of legal
22 proceedings.

23 (7) City Funds provided to City employees and their elected recipients as payroll
24 deductions.

1 (8) City Funds provided to City employees as reimbursement for professional training
2 or for membership in, professional organizations.

3 (d) Waiver by Department Head.

4 (1) The Department Head of the department executing a Contract or approving a
5 Subcontractor may waive in whole or in part the requirements of this Chapter 12X by making written
6 findings that:

7 (A) needed goods, services, or construction services for a public work or
8 improvement are available only from a 501(c)(4) Organization; or

9 (B) a public purpose may reasonably be accomplished only by a 501(c)(4)
10 Organization, and it is infeasible or impracticable for the 501(c)(4) Organization to reorganize under a
11 tax status other than 501(c)(4) within a timeframe that would permit the 501(c)(4) Organization to
12 perform its obligations under the Contract or Subcontract.

13 (2) For departments under the jurisdiction of a commission or board, the commission or
14 board must review the Department Head's written findings, and approve the Department Head's
15 waiver based on said findings, for the waiver to be effective.

16 (3) City departments shall submit a written report to the Board of Supervisors no later
17 than March 1 of each year listing each Contract or Subcontract entered into in the prior calendar year
18 with a 501(c)(4) Organization, together with the written determination made by the Department Head,
19 and commission or board approval, if applicable.

20
21 **SEC. 12X.4. CITY SUPPORT OF 501(c)(3) ORGANIZATIONS AND SPONSORSHIP OF**
22 **COMMUNITY EVENTS.**

23 When a City Department provides City Funds or City Resources to a 501(c)(3) Organization, or
24 acts as a sponsor of a Community Event that a 501(c)(3) Organization co-sponsors, the City
25 Department shall obtain either a contractual guarantee or written attestation from the 501(c)(3)

1 Organization that it shall not provide any City Funds or City Resources, or any Personal Contact
2 Information to any 501(c)(4) Organization.

3
4 **SEC. 12X.5. ADMINISTRATION AND ENFORCEMENT.**

5 (a) The Controller may adopt rules, regulations, and guidelines to carry out the provisions and
6 purposes of this Chapter 12X, including procedures and programs for audits, assessments, and
7 investigations of 501(c)(3) Contractors' or 501(c)(3) Subcontractors' compliance with this Chapter
8 12X.

9 (b) Any 501(c)(3) Contractor or 501(c)(3) Subcontractor that violates this Chapter 12X may
10 be subject to suspension and debarment under the standards and according to the procedures set forth
11 in Chapter 28 of this Administrative Code, as may be amended from time to time.

12
13 **SEC. 12X.6. PRIVATE RIGHT OF ACTION.**

14 (a) Any 501(c)(3) Organization that shares Personal Contact Information with a 501(c)(4)
15 Organization or its members in violation of a Contract, Subcontract, agreement with a City
16 Department, or written attestation under Sections 12X.3 or 12X.4 without the consent of the individual
17 whose Personal Contact Information was shared (the "Subject"), may be liable for a civil penalty of
18 \$1,000 for each instance of unauthorized sharing of the Subject's Personal Contact Information. This
19 penalty may be assessed and recovered in a civil action brought by a Subject whose Personal Contact
20 Information has been shared in violation of this Chapter 12X, in any court of competent jurisdiction.
21 The civil penalty available under this subsection (a) shall be in addition to any other rights and
22 remedies that may be available to the Subject.

23 (b) This Chapter 12X shall not create any private right of action against the City.

24
25 **SEC. 12X.7. NO CONFLICT WITH FEDERAL OR STATE LAW.**

1 Nothing in this Chapter 12X shall be interpreted or applied so as to create any requirement,
2 power, or duty in conflict with any federal or state law.

3
4 **SEC. 12X.8. UNDERTAKING FOR THE GENERAL WELFARE.**

5 In enacting and implementing this Chapter 12X, the City is assuming an undertaking only to
6 promote the general welfare. It is not assuming, nor is it imposing on its officers and employees, an
7 obligation for breach of which it is liable in money damages to any person who claims that such breach
8 proximately caused injury.

9
10 **SEC. 12X.9. SEVERABILITY.**

11 If any section, subsection, sentence, clause, phrase, or word of this Chapter 12X, or any
12 application thereof to any person or circumstance, is held to be invalid or unconstitutional by a
13 decision of court of competent jurisdiction, such decision shall not affect the validity of the remaining
14 portions or applications of this Chapter. The Board of Supervisors hereby declares that it would have
15 passed this Chapter and each and every section, subsection, sentence, clause, phrase, and word not
16 declared invalid or unconstitutional without regard to whether any portion of this Chapter or
17 application thereof would be subsequently declared invalid or unconstitutional.

18
19 Section 2. Effective Date. This ordinance shall become effective 30 days after
20 enactment. Enactment occurs when the Mayor signs the ordinance, the Mayor returns the
21 ordinance unsigned or does not sign the ordinance within ten days of receiving it, or the Board
22 of Supervisors overrides the Mayor's veto of the ordinance.

1 APPROVED AS TO FORM:
2 DAVID CHIU, City Attorney

3 By: /s/ _____
4 JEN HUBER
 Deputy City Attorney

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LEGISLATIVE DIGEST

[Administrative Code - Section 501(c)(4) Organization Prohibitions]

Ordinance amending the Administrative Code to prohibit the City from providing City funds or resources to any organization established under Section 501(c)(4) of the Internal Revenue Code (“501(c)(4) organization”); to prohibit any organization established under Section 501(c)(3) of the Internal Revenue Code (“501(c)(3) organization”) that contracts or subcontracts with the City from providing funds or resources obtained from the City, or anything of value, including personal contact information, obtained using such City funds or resources, to any 501(c)(4) organization; and to require City Departments that provide City funds or resources to, or co-sponsor a community event with, a 501(c)(3) organization to obtain an attestation from the 501(c)(3) organization that it shall not provide City funds or resources, or any personal contact information obtained in connection with the event or with the use of City funds or resources, to any 501(c)(4) organization.

Existing Law

Existing law generally provides that funds appropriated by the City for any contract, grant agreement, or loan agreement, may not be expended for participating in, supporting, or attempting to influence a political campaign for any candidate or ballot measure. See Administrative Code Chapter 12G.

Existing law does not prohibit the provision of City funds or resources to 501(c)(4) organizations, or require an attestation or agreement from a 501(c)(3) organization partnering with the City on a community event that it shall not provide City resources to or personal contact information collected in connection with the community event, to any 501(c)(4) organization.

Amendments to Current Law

This ordinance would prohibit the City from providing City funds or resources to a 501(c)(4) organization, with certain exceptions described below. It would also prohibit 501(c)(3) organizations entering into contracts with the City under Administrative Code Chapters 6, 21 and 21G from providing City funds, resources, or anything of value, including personal contact information, collected using City funds or resources, to a 501(c)(4) organization.

These prohibitions would be subject to certain exceptions, including for contracts with government entities; contracts for services related to employee benefits; contracts entered for the purposes of issuing or causing the issuance of bonds or other similar financing agreements; city funds or resources provided to the San Francisco Finance Corporation, or any other public finance corporation or authority; contracts entered into pursuant to an

emergency declaration; City funds or resources provided in connection with the settlement of legal proceedings; and City funds provided to City employees as reimbursement for professional training for, or membership in, professional organizations. In addition, the requirements of this Chapter can be waived by a Department Head executing a contract or subcontract with written findings that needed goods or services are available only from a 501(c)(4) organization, or that a public purpose may reasonably be accomplished only by a 501(c)(4) organization. For departments under the jurisdiction of a commission or board, the commission or board must review and approve the Department Head's findings supporting a waiver. Under the proposed ordinance, City Departments will be required to submit a written report to the Board of Supervisors no later than March 1 of each year listing each contract or subcontract entered into with a 501(c)(4) organization, together with the written findings of the Department Head, and commission or board approval, if applicable.

The ordinance would also require City Departments that provide resources to, or partner with, a 501(c)(3) organization on a community event to obtain an attestation from the 501(c)(3) organization that it shall not provide City resources or any personal contact information collected with City funds, resources, or in connection with the community event, to any 501(c)(4) organization.

The ordinance would authorize the Controller to adopt rules, regulations and guidance to implement the provisions of the ordinance.

The ordinance would give a private right of action to any individual whose personal contact information is shared with a 501(c)(4) organization in violation of the ordinance's prohibitions, against a 501(c)(3) organization that commits such a violation. The violator could be liable for a civil penalty of \$1,000 for each instance of unauthorized sharing, in addition to any other rights or remedies available under law.

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BOARD of SUPERVISORS



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MEMORANDUM

TO: Sailaja Kurella, Director of Purchasing, Office of Contract Administration
All City Departments through Adam Thongsavat, Mayor's Office

FROM: Victor Young, Assistant Clerk *Victor Young*

DATE: Jan 13, 2024

SUBJECT: LEGISLATION INTRODUCED

The Board of Supervisors' Rules Committee received the following proposed Ordinance:

File No. 241211

Ordinance amending the Administrative Code to prohibit the City from providing City funds or resources to any organization established under Section 501(c)(4) of the Internal Revenue Code ("501(c)(4) organization"); to prohibit any organization established under Section 501(c)(3) of the Internal Revenue Code ("501(c)(3) organization") that contracts or subcontracts with the City from providing funds or resources obtained from the City, or anything of value, including personal contact information, obtained using such City funds or resources, to any 501(c)(4) organization; and to require City Departments that provide City funds or resources to, or co-sponsor a community event with, a 501(c)(3) organization to obtain an attestation from the 501(c)(3) organization that it shall not provide City funds or resources, or any personal contact information obtained in connection with the event or with the use of City funds or resources, to any 501(c)(4) organization.

If you have comments or reports to be included with the file, please forward them to Victor Young at the Board of Supervisors, City Hall, Room 244, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102 or by email at: victor.young@sfgov.org.

c. Taraneh Moayed, Office of Contracting Administration