

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.