

October 23, 2017

Seattle Ethics and Elections Commission (SEEC)
Seattle Municipal Tower
700 5th Ave, Suite #4010
Seattle, WA 98104

Dear Commissioners,

I am writing today in my personal capacity. However, this letter, and the proposals contained within it, are informed by my experience as an Ethics & Elections Commissioner from 2011-2014 and as a Senior Policy Advisor in the Mayor's Office of Policy and Innovation for the past three years. What my experience has taught me is that Seattle city government has developed an effective set of ethics, elections and lobbying ordinances that have significantly limited undisclosed conflicts of interests in the City of Seattle. Over the years, Seattle has refined these rules and markedly improved in being a more open and transparent government that is serving the people of Seattle and not hidden, private interests.

Through my experience developing policy for the Mayor's office, where I engaged with a range of stakeholders that have included business owners, labor advocates, community organizations, and paid lobbyists, I have noticed a hole in our ethics, elections and lobbying rules. Currently, there is a prohibition preventing most city employees from being able to register as a lobbyist in Seattle after they leave government service for a period of two years. The "Honest Elections" reforms, in addition to creating democracy vouchers, expanded that timeline to 3 years for division or department directors. My understanding of the intent behind this type of prohibition is to prevent any undue or oversized ability of a former municipal employee to influence the opinions or votes of elected officials; due to the close interpersonal relationships that person may have gained while employed by the City. This common sense prohibition stands in stark contrast to the gap in our ethics and elections code that allows individuals who have worked extensively in a leadership role for an elected official on a campaign (such as a campaign manager or political consultant) and the lack of any prohibition of such an individual being able to register at the City as a lobbyist for private interests. This person is then able to utilize their outsized influence and close relationship with a client, one that they were pivotal in electing, in order to lobby them in their new role as an elected official on behalf of private interests that may be seeking to prevent or alter legislative proposals in the City.

It is my firm belief that this oversight has more impact on our City's goals of being an open, transparent government than our rules prohibiting former city employees from registering as lobbyists. In some instances, city staff or a director may be appointed by the Mayor in which case that individual owes their job to the elected official. The situation with a campaign manager or political consultant is in many ways reversed. An elected official may feel that they owe their job as an elected official due to the hard work and diligence of their consultants and campaign staff. The interpersonal relationship developed during a heated campaign cycle can be significantly closer than typical office relationships. Consultants and staff often serve as a mixture of confidante, therapist and best friend during the rigors of a campaign; this is especially true in the case of first time candidates who may be entirely dependent on their staff and consultants who have years of campaign experience. This type of relationship can then become problematic if that campaign staffer or consultant approaches the now elected official as a lobbyist for XYZ Oil Co. seeking to prevent passage of new environmental regulations in Seattle. This hypothetical consultant/lobbyist will have easy access and a wholly unique ability to sway the opinions of that elected official. Further, if that consultant is

still on contract or on a retainer to the elected official, whom is that consultant/lobbyist representing when they meet with that elected official? Are they representing the business interests of the XYZ Oil Co. or the political concerns of the elected official? This seems to be an unresolvable conflict of interest.

My experience as a Senior Policy Advisor has shown me that this concern is not just hypothetical. Mayor Murrays' former campaign consultant is also a lobbyist for Comcast, Lyft and AirBnb and lobbied on behalf of these interests to the former Mayor. This person is now a campaign consultant for one of the current candidates for Mayor while still lobbying city elected officials on behalf of their clients. I have seen this access and influence alter or successfully block legislation and it is impossible to determine whether the advice provided was the result of a conflict of interest. To address this issue, I am requesting that the SEEC inquire into this type of undisclosed conflict of interest and make a recommendation to City Council on whether to enact an ordinance instituting the following:

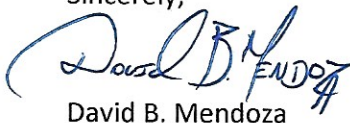
"A person who served as a City elected officials' political consultant or campaign manager will be prohibited from registering as a lobbyist in the City of Seattle for the duration of that elected officials term of office."

This is not an unprecedented prohibition as similar laws have been enacted in Alaska and Maryland.¹ As with any proposal, there are many topics to discuss and weigh their relative value or potential for unintended consequences. For instance, it could be difficult to define "political consultant" or "campaign manager". Too broad a definition could ensnare website developers or other vendors that do not raise these same questions. Also, while conducting research for this letter, I noticed that while individuals register as lobbyists, consultant firms are often paid by the campaign with no listing of the principals or managers of those firms. What sort of new reporting requirements would need to be imposed on campaigns to ensure an effective regulation?

A related but separate restriction regards independent expenditure campaigns (IE) and lobbyists. Since *Citizens United*, IEs have grown immensely as a way for corporations to funnel support to their preferred candidates as a way to avoid restrictions that have been placed on direct giving to candidates. As such, I urge the SEEC to consider a prohibition on lobbyists being able to register in the City of Seattle if their clients contributed any dollar amounts that exceed personal campaign contribution limits to an IE for an elected official or provided funds to a political action committee which in turn contributed to an IE for an elected official. I do urge caution in developing this proposal as it has the potential to disenfranchise labor, civic, and corporate organizations if implemented immediately; due to the hundreds of thousands invested in IEs this election year. However, it is a topic worthy of exploration as it may be the strongest tool available to the City of Seattle to reduce the massive influence that IEs can have in shaping our municipal elections.

To advance these proposals, I am requesting that these topics be added to the agenda for the next SEEC meeting. I am happy to attend that meeting and answer any questions or concerns that Commissioners may have. If there is not room on the agenda for the upcoming meeting, I will provide public testimony expanding on the ideas outlined in this letter. Thank you for your consideration of these proposals.

Sincerely,

A handwritten signature in blue ink that reads "David B. Mendoza". The signature is stylized and includes a checkmark at the end.

David B. Mendoza

¹ Alaska Statutes § 24.45.121(a)(8); Maryland State Government Code § 15-714(d)