

**Preliminary Recommendations to be Presented at the Second Public Hearing of the
Mayor's Advisory Task Force on Ethics and Campaign Finance Reform**

Date: Tuesday, May 5, 2009 at 5:30 p.m.

Location: Pennsylvania Convention Center, Rm. 204, 1101 Arch Street, Philadelphia, PA 19107

Background:

On September 24, 2008, Mayor Nutter formed an Advisory Task Force on Ethics and Campaign Finance Reform (the "Task Force") to perform a comprehensive review of the City's campaign finance and ethics laws, hold a public hearing to receive information and recommendations from the public, and ultimately provide a report to the Mayor and the Council President setting forth recommendations regarding improvements, changes, and/or amendments to the existing campaign finance and ethics laws of the City.

The Task Force's mission is to make recommendations that put a stop to practices that have a corrupting effect on City government. These recommendations must be fair, consistent, clear, and enforceable. Especially in today's challenging economic climate, there is no place for corruption in City government. Thankfully, this City has made tremendous progress in the areas of ethics and campaign finance reform over the past several years. The changes that already have been made in Philadelphia are being touted as models of ethics and campaign finance reform.

Since Mayor Nutter formed this Task Force, we have been studying how the reforms – like the campaign contributions limits – worked during the last election cycle and trying to determine from those experiences what could be improved. We also have been studying how other cities and governments reformed their ethical standards, including how they addressed the complex area of campaign finance and lobbying disclosure laws.

Since October, the Task Force has met fourteen times and subcommittees of the Task Force have met even more frequently to develop and present preliminary recommendations on issues involving **(1) campaign finance reform, (2) political activity restrictions, (3) ethics/conflict of interest rules, (4) outside employment of City employees, and (5) lobbying.**

Based on the input that Task Force received at the public hearing held on January 10, 2009 and the Task Force's belief that public input and understanding is essential to making further reforms a reality, the Task Force has decided to make public its preliminary recommendations and have a second public hearing to seek input on these recommendations before making final recommendations.

At the May 5, 2009 public hearing, each witness will have up to five minutes to testify about any of the preliminary recommendations. The Task Force encourages anyone wanting to testify to preregister by sending an email to Task Force Chair Michael Schwartz at schwartzma@pepperlaw.com by fax at (800) 615-2315, or by mail to 3000 Two Logan Square, 18th and Arch Streets, Philadelphia, PA 19103.

Please include, if possible, the recommendations about which you would like to testify.

A. Campaign Finance Reform:

- 1) Election Cycle** – The Task Force recommends that the contribution limits in the Code, 20 PHILA. CODE § 20-1002, be revised to apply per election cycle from the current per calendar year limits, which apply only in the year of an election for City elective office. The Task Force further recommends that the City adopt the federal election-cycle format, which permits one contribution during the primary cycle and another contribution in the general election cycle. The Task Force takes no position on whether the current dollar limits should be increased or decreased.
- 2) Definition of Candidate** – The Task Force recommends that the City expand the definition of candidate currently in the campaign finance statute, 20 PHILA. CODE § 20-1001(2), and adopt the definition currently stated in Pennsylvania’s Election Code, 25 P.S. 3241(a)(1). This revision would address the situation in which individuals who are candidates in everything but name, will now become subject to Philadelphia’s campaign finance statute.
- 3) Penalty Provision** – The Task Force recommends several changes to the penalty provision of the Campaign Finance statute (20 PHILA. CODE § 20-1006(4)). First, the Task Force suggests that the Campaign Finance statute be provided with its own penalty provision particular to the statute; currently, Section 20-1006(4) refers back to the City’s ethics law, 20 PHILA. CODE § 20-612. Second, the Task Force proposes that the campaign finance statute establish a range of violations up to a ban from holding elective office or employment with the City, that would deter future bad conduct and are more severe than the penalties currently set forth in Section 20-612. Finally, the Task Force recommends a per diem penalty for a failure to file a timely campaign finance report.
- 4) Doubling Provision** – Philadelphia’s campaign finance statute, at Section 20-1002(6), permits the limits on political contributions to a candidate to be doubled in the case of another candidate spending \$250,000 or more of his or her own money. However, the wording of this provision would probably be regarded as unconstitutional based on a recent Supreme Court holding – Davis v. Federal Election Comm’n, 554 U.S. ___ (2008). The Task Force recommends that the so-called “Millionaire’s Amendment” be revised to conform to the Supreme Court’s holding in Davis. In addition, the Task Force strongly recommends that the provision be revised so that it is limited to an election cycle, which would avoid the situation where the limits in a primary are raised because of a self-funded candidate who does not win the primary; in that case, the original, lower contribution limits should still apply to the general election.
- 5) Disclosure/Public Access** – The Task Force recommends improving public access to campaign finance data by requiring candidates to file campaign finance reports electronically; implementing a searchable electronic database for public viewing of this information; and allowing the data to be exported into a spreadsheet or other analytic software formats. The importance of this recommendation cannot be overstated. Moreover, the Task Force recommends that the City provide adequate funding to the Board of Ethics and the Department of Records to overhaul the reporting system for

campaign finance reports, which clearly is inadequate when compared to the reporting systems of many other jurisdictions which the Task Force has reviewed.

6) Post-candidacy Contributions -- In this current political climate, it is not uncommon for candidates to maintain active campaign committees and receive and expend funds well after the campaign has ended and continue to fundraise to retire debt incurred during the course of the campaign. However, post-campaign fundraising and expenditures are not currently addressed in Philadelphia's campaign finance statute. Accordingly, the Task Force recommends that the City codify the Board of Ethics Advisory Opinion that campaign committees and inaugural or transition committees must adhere to the contribution limits in their fundraising, regardless of their purpose (debt retirement or inaugural purposes) even after a campaign concludes.

7) Incumbency – The Task Force recommends that incumbent officeholders and any political committees who contribute to them be required to continue to file campaign finance reports with the Ethics Board in non-election years. These reports should be filed electronically.

8) Legal Defense Funds – The Task Force recognizes, and has heard testimony that, many candidates conclude a campaign with debt. There are numerous reasons for such debt. However, one situation in particular that has presented candidates with financial challenges involves the expenditure of funds for legal fees incurred in defense of ballot challenges or other litigious situations related to the campaign. Thus, the Task Force recommends that a candidate be permitted to establish a Legal Defense Fund for pre-election litigation defense expenses under the City's current contribution limits and definitions. This fund would only be used for very specific and well-defined circumstances. The Task Force recommends that a similar ordinance recently enacted in San Diego be studied as a model providing guidance.

9) Candidate Reporting – The Task Force recommends that each candidate be required to provide to the Ethics Board information identifying the candidate's single committee and account at the inception of their candidacy. This information is necessary for the Board to communicate effectively with campaigns.

10) 527 Organizations – Currently, an organization claiming tax-exempt status under section 527 of the Internal Revenue Code (a "527 Organization") is not required to register as a political committee pursuant to Philadelphia's Campaign Finance statute. The Task Force suggests that the governance of 527 Organizations is primarily a federal issue. However, the Task Force also recognizes that issues pertaining to 527 organizations continue to plague local elections, including in Philadelphia.

Accordingly, the Task Force strongly recommends that the City provide the Board of Ethics with a mandate and sufficient support and funding to continue to aggressively investigate these groups and their activities. For example, the Board of Ethics should be encouraged to challenge the tax-exempt status of 527 Organizations that appear to cross the line between issue advocacy and candidate advocacy. Second, the Task Force recommends that the City continue to closely monitor the FEC's governance of 527 Organizations and further study the pending FEC Regulations relating to 527

Organizations and the states that have recently made efforts to define and monitor these organizations.

11) Rules Governing Non-Competitively Bid Contracts – The Rules for non-competitively bid contracts are codified at Chapter 17-1400 et seq. of the Philadelphia Code. Philadelphia’s experience with these provisions, which are designed to address what is commonly referred to as “pay-to-play” politics, is relatively new as it applies only to political contributions made after January 1, 2006. The Task Force notes that other jurisdictions have addressed non-competitively bid contracts as part of legislation providing for public funding of campaigns. The Task Force urges that a comprehensive review of non-competitively bid contracts be included as part of its recommendation for a Select Citizens Commission to study public funding of campaigns.

However, The Task Force, having received reports that the existing code provisions are complicated and unfairly harm large multi-office professional-service firms, recommends that Section 17-1405(2)(c) be amended by deleting the word “partner” which is used as a catch-all term and inserting language that states, in effect, that contributions by any person whose title or duties include working in a senior managerial capacity for a business by virtue of title or duties in which substantial discretion and oversight is exercised over the solicitation, letting, or administration of business transactions with the City, will be attributed to that person’s business. We believe this language is more narrowly tailored than use of the word “partner.”

There are additional concerns with the existing Section 17-1405. Namely, if a husband and wife each make individual contributions to a campaign and the wife works at a law firm, it would seem that the husband’s contribution could be attributed to the wife, which could make her law firm ineligible to obtain City contracts. Members of the Task Force have debated this subject but have come to no acceptable recommendation at this time. The Task Force looks forward to receiving additional comments from the public before drafting its final recommendations on this subject.

12) Public Funding of Municipal Campaigns – The Task Force was impressed with the testimony and written statements presented from organizations at the Public Hearing in January asking this Task Force to closely study the viability of using public funds to finance municipal campaigns in Philadelphia. To that end, the Task Force reviewed publicly funded campaign finance laws in numerous states and municipalities from around the country. However, the Task Force notes that no group testifying at the Public Hearing offered a specific model or statute that should be followed in Philadelphia. Likewise, there was no testimony as to a compelling reason for instituting public financing. However, the Task Force believes that the determination of whether publicly funded campaigns in the City of Philadelphia can contribute to fairer and more democratic elections is an idea worth in-depth study and analysis.

Based upon our investigation, a program of public funding of Philadelphia municipal campaigns could perhaps increase the competitiveness of elections, promote more contributions from individuals, and limit the cost of political campaigns. These are not goals that should be frivolously discarded. However, there are significant arguments

against public funding; for example, public financing may give incumbents an added advantage in running for re-election.

We believe the resources and time required for an in depth analysis of these issues is beyond the limited scope of this Task Force. Thus, the Task Force recommends that the Mayor and the City Council President appoint a Select Citizens Commission to study and make recommendations for public funding of municipal campaigns in Philadelphia. The multiplicity of statutes and experiences in other jurisdictions requires the dedication of a staff person and limited resources to carryout the investigative and analytical work of such a Commission.

In addition, the Task Force suggests the proposed Commission be asked to review whether existing provisions of the Philadelphia Code limiting political contributions and addressing “pay to play” issues are adequate measures for ensuring fair elections rather than creating a new mechanism (public funding) for financing campaigns. The Task Force further recommends that the proposed Commission be asked to complete its work by the end of this calendar year. Finally, the Task Force recommends that any favorable proposal for publicly-funded campaigns carry an effective date for the municipal elections in 2013. We are not unmindful that the recessionary economy that impacts the nation and the City makes it highly unlikely that new appropriations for public funding of municipal campaigns can occur in the immediate future.

B. Political Activity Restrictions:

In considering the laws and rules governing political activity and the scope of personnel covered and activities defined, the Task Force considered a number of factors. First, political activity is speech, so rules governing it must pass constitutional muster. Some of the restrictions on political activity currently existing in Philadelphia are unlikely to withstand a constitutional challenge. Second, witnesses, including ethics and enforcement officials, repeatedly told the Task Force that the rules need to be simpler and clearer so that people can easily communicate, understand, follow, and enforce them. On many political activity issues, people are either unsure of what to do or have no idea that their actions could get them in trouble. Clear substantive standards will prevent discrimination and arbitrary enforcement. Officials also are more likely to enforce substantive rules consistently if they have discretion to tailor punishments to fit the culpability and seriousness of the offense. Finally, and perhaps above all, common sense must inform political activity rules. The rationale behind many of the rules, namely protecting civil servants and public officials from the political machines of the 1950s, is no longer valid in today’s Philadelphia. The restrictions on political activities, then, must change with the times.

1) The Task Force recommends that the unchanging, minimum obligations (such as bans on hiring or firing based on political views; coercion; threats; and quid pro quos) remain in the Charter. All other limitations on political activity should be moved into an ordinance so that the City Council has flexibility to update them in light of how well they are working. However, because the rules need to remain stable, clear, consistent and enforceable, changes to the ordinance should require a super-majority vote of the City Council.

2) The Task Force recommends that, except for certain rules concerning running for office and fundraising, political activity rules and regulations apply uniformly to elected officials and employees, whether appointed or civil service, through all branches and departments.

3) A 1952 opinion of the City Solicitor carved out an exemption for City Council employees from rules restricting certain political activities. The Task Force recommends that this special exemption be vacated, as it is no longer necessary. While there was some merit to the argument that City Council employees had a special interest in re-electing their employers, other recommendations of this Task Force will make that distinction moot. To keep the law simple, reasonable, fair, and clear, all employees of the City should follow the same provisions.

4) There also is confusion about whether political activity restrictions apply to quasi-governmental organizations and to contract employees who work substantial numbers of hours for the City, often on City premises and alongside City employees. In the interest of evenhandedness, the Task Force recommends that it is important to extend political activity restrictions to everyone who is functionally a City employee, regardless of whether the person works for a technically quasi-governmental organization or technically as a contract employee.

5) The Task Force recommends that the rules governing political activity by City employees distinguish between activities done “on-the-job” and “off-the-job;” most restrictions on political activity should be lifted when employees are “off-the-job.”

Employees who are off-the-job have a First Amendment right to express their opinions publicly regarding political parties and candidates, by for example wearing pins, displaying signs, attending political events, handing out literature, publicly expressing personal opinions, and circulating petitions, so long as they are clearly expressing private opinions and not speaking on behalf of the City or their department.

Most cities and the federal government limit their political activity restrictions on public employees to on-the-job activities. Philadelphia is the only city the Task Force found with strict off-the-job political activity restrictions.

Because restrictions will still apply while an employee is on-the-job, the law must clearly define that term to include any time while an employee is at work or acting in his or her official capacity as an employee of the City even if not during normal business hours.

6) The Task Force recommends that officials and employees be forbidden to use any City resources (such as computers, email, phones, vehicles, offices, copiers, faxes, letterhead, uniforms, or titles) for any and all political activity. When the law separates the outright ban on all political activity into on-the-job and off-the-job activity, it needs to state expressly that using City resources for political activity qualifies as forbidden on-the-job activity. Explicitly banning use of any and all city resources avoids any confusion an employee might have regarding, for instance, using one’s office after normal business hours to make political phone calls. In addition, the ban on use of

resources will apply across the board to those who work for the City and to those who may work for an independent agency but be housed within a City department.

7) Instead of banning City employees from acting as officers of political parties or organizations (by, for example, being a committeeperson), the Task Force recommends that employees who do so on their “off-the-job” time be required to disclose this activity.

8) The Task Force recommends that the restriction on campaign contributions by City employees be lifted. In 2003, the U.S. District Court for the Eastern District of Pennsylvania ruled that the City cannot restrict the free-speech right of members of the Philadelphia Fire Department to make personal political contributions. See Phila. Fire Fighters’ Union Local 22, AFL-CIO v. City of Philadelphia, 286 F. Supp. 2d 476 (E.D. Pa. 2003). In light of this decision, the Task Force recommends that equivalent restrictions on Fairmount Park Commission and Philadelphia Police Department officers and members must be removed. Such restrictions on the right of citizens to privately contribute funds to political candidates and causes is likely unconstitutional.

9) The Task Force recommends that instead of banning elected officials and members of Boards and Commissions from soliciting and raising funds, the law require those who do so to disclose this activity. The ban on fundraising can be viewed as so broad that, technically, elected officials cannot even raise funds for their own re-election campaigns. In practice, elected officials understandably ignore this technicality. Further, voters expect elected officials to raise money for their fellow politicians. Disclosing fundraising and solicitation to the Ethics Board should suffice to prevent an environment of secret financial dealings.

10) The Task Force recommends that enforcement officials have discretion to choose from among a range of penalties for violations. As written, the Charter currently calls for dismissal of an employee who violates political activity restriction provisions. Taken literally, this would mean that enforcement officials would have to fire a City employee who had a sign on his or her lawn last fall touting either Obama or McCain, even for a first-time, inadvertent offense. This penalty is too draconian and discourages officials from enforcing the substantive law. Instead, the Ethics Board should have discretion to choose from among a range of penalties based on all factors of a particular case, including the seriousness of the breach, the intentionality or culpability of the offense, and the existence or absence of prior violations. These could range from admonition to fines to suspension to firing to disbarment from city employment or contracting. Lesser penalties could require fewer procedural protections than those needed to fire or disbar an employee or official.

11) The Task Force believes that the Philadelphia Ethics Board should possess the authority and resources to investigate and enforce violations under the Charter or a newly enacted ordinance restricting political activity and to create and maintain an easily searchable database of disclosures. Accordingly, the Task Force recommends that such authority and resources be granted to the Ethics Board.

C. Ethics/Conflict of Interest Rules:

The Task Force believes that rules on gift acceptance, conflicts of interest, nepotism, and fraternization need to be clear, objective, unambiguous and enforceable. In order to engender and sustain public trust and confidence in government, to promote integrity and good morale within the City workforce as a whole, and to protect the City and its taxpayers from potentially costly harassment and discrimination litigation, clear and unambiguous rules must be written and enforced in the following areas:

1) Gift Acceptance Policy – Allowing City employees to accept gifts from vendors, contractors, business owners and others who may enjoy or hope to enjoy a financial relationship with the City is problematic; and, even if innocent, leads to a perception or appearance of impropriety. Although there are current gift policies set forth in the Philadelphia Code at Section 20-604 and Executive Order No. 002-04, the policy is inconsistent. For instance, Section 20-604 prohibits City employees from accepting a gift of “substantial value,” but that phrase is subject to multiple interpretations; and, what may be “substantial” to one City employee may be insubstantial or marginal to another City employee. No dollar value is specified in the Philadelphia Code.

On the other hand, employees in the Executive and Administrative branches are governed by Executive Order No. 002-04, which absolutely prohibits (with few exceptions) employees in the Executive and Administrative branches of the government from soliciting or accepting "anything of value, including any gift, gratuity, favor, entertainment or loan" from a person who is seeking to obtain business from, or who has financial relations with the City, or some other interest in the City, City government or City agencies.

Although Executive Order No. 002-04 attempts to clarify the gift acceptance policy, it applies only to employees in the Executive and Administrative branches and provides no flexibility to permit those employees to accept nominal gifts.

Other jurisdictions recognize that employees and officials in all branches of government must be subject to a gift policy and a nominal gift restriction. For instance, New York permits a city employee to accept gifts under \$50 from any one source. Los Angeles allows city employees to accept gifts from city contractors or a person seeking a business relationship with the City up to \$100, although gifts from registered lobbyists are restricted to \$25.

The Task Force recommends that in order to provide for consistency among all branches of government, any gift acceptance policy should apply across the board to every City employee, appointed or elected. Moreover, a specific nominal dollar amount prohibition is favored over more general language to provide clarity as well as flexibility, such as permitting gifts of \$50 per year from one source or \$100 from multiple sources in the aggregate. All gifts must be reported. Finally, a gift policy should be written into the City Code to avoid the need to rely upon a specific mayor to implement or change the policy.

2) **Gift Reporting:** The Task Force recommends that all City employees and elected officials file the same gift disclosure form.

3) **Anti-Nepotism Policy and Anti-Fraternization** – Philadelphia has no policy barring its employees or elected officials from hiring, promoting or recommending the hiring or promotion of a family member. Indeed, on June 23, 1989, the Court of Common Pleas of Philadelphia in Council of the City of Philadelphia v. Kurland, May Term 1989, enjoined the then-City Solicitor from interpreting and enforcing § 20-607(b) of the Philadelphia Code as a ban on City Council members from hiring close relatives to work on the council member’s staff. As a result of the lack of policy, individuals who are not qualified may get hired or promoted unfairly, may receive more favorable treatment than deserved and/or financial benefit as a result of family connections. At a minimum, the current lack of an anti-nepotism/anti-fraternization policy creates the perception that the person is being selected, promoted, or advanced based upon his or her relationship to the City official.

The Task Force recommends that the City adopt a strict anti-nepotism and anti-fraternization policy - across the board - that precisely defines intimate and familial relationships and would prohibit individuals from hiring, firing, promoting, and/or making supervisory decisions concerning those with whom they have such a relationship. Domestic partners should be included in the definition of “relative” and familial relationships. The ban should not be absolute; *e.g.*, relatives could be employed in separate departments, provided they are not supervised by relatives.

The Task Force recommends that the City policies concerning nepotism and fraternization require that covered individuals are responsible to report to their supervisors instances where their conduct of City business or supervisory responsibility becomes entangled with a “family” member or relative as defined by the anti-nepotism and anti-fraternization policy. Members of City Council should report any such activity to the Ethics Board.

4) **Conflicts of Interest, Financial Disclosure, and Recusal** – The City has a varied mix of City employees and entities (*e.g.*, Board and Commission members, Civil Service employees, elected and appointed officials). Thus, a precise definition of covered persons and a recognition that the mechanism for disclosure and recusal in the instance of identification of a conflict must be made workable; that is, whatever mechanism for identification and recusal that is devised must not be so cumbersome or rigid as to paralyze or unreasonably alter the functions of government.

The Task Force recommends that Philadelphia Code § 20-607 be re-written to provide a comprehensive definition of relationships that must be disclosed or are prohibited in terms of City business. The concept of “Financial Interest” must be precisely defined in the Philadelphia Code.

The Task Force also recommends that financial disclosure forms be consolidated into one form applicable to all City employees except for those high-level officials required by Executive Order to complete the more comprehensive Mayor’s Financial Disclosure

Form. Financial disclosure forms should be available on-line and accessible in person at the City Department of Records.

The Task Force recognizes that City employees should have the right to pursue opportunities beyond their City employment once that service has been concluded. To facilitate and preserve this right, and to maintain public confidence in government and protect the public's interests, it is critical that City employees and officials recuse themselves in matters concerning potential employers or post-City employment. The Task Force recommends that the Philadelphia Code include a requirement that City officials and employees make known to their supervisor any potential conflict related to a potential employer, and where the supervisor deems the conflict to potentially exist, that official or employee should be made to recuse himself or herself from the matter in question. High-ranking city employees and elected officials should be forbidden to work on any business transaction at any firm involving the City if the employee substantially and personally participated in the subject matter of the transaction during City employment.

5) Inspector General – As a matter of practical application of the law and all rules of operation, and for purposes of public confidence in government, there needs to be greater oversight to improve the City's "pay to play" culture.

The Task Force recommends that the position of City Inspector General be charged with investigating and deterring fraud. It should be functionally independent of the Mayor's Office and City Council for a set term of office (*e.g.*, a five-year term with a second term permitted).

6) City "DROP" Program – Currently, elected officials enjoy an advantage in the Deferred Retirement Option Plan ("DROP") – the ability to participate in the payout portion of the retirement benefits while preserving their positions through a temporary retirement action. This appears to be inconsistent with the legislative intent of the program and it is injurious to the public's confidence in City governance as mentioned in numerous recent newspaper articles and commentaries. It is questionable as to whether elected officials should even be permitted to participate in DROP.

The Task Force recommends that the City's DROP program be amended to reflect that any resignation from elected City service should be permanent for purposes of the DROP program. DROP participants should not be permitted to resign for a 24-hour period and then be reinstated to their elected City service position. In addition, the Task Force recommends that the DROP program not apply to City elected officials in the future.

7) Private Use of City Resources – City employees and elected officials should not use city-owned vehicles and other city property and resources for personal use. Administrative Board Rule 46 directs City employees with official vehicles to refrain from misusing City vehicles for personal use and allows certain limited use, namely, travel to and from residence for the Mayor, Mayor's Chief of Staff, cabinet officers and elected officials. The Task Force has learned that there is a practice of permitting "waivers" from these prohibitions, but there is no transparency, consistency or policy outline defining this practice.

The Task Force recommends that legislation be enacted that, except in limited circumstances, forbids City employees and elected officials to use City vehicles, property, or resources for personal use. The Chief Integrity Officer should continue to monitor and investigate such practices as set forth in Executive Order No. 2-08 § 3(3).

8) Whistleblower Protection – The City must take affirmative steps to protect “whistleblowers” who provide information to the appropriate City officials and/or third parties to combat unethical or illegal behavior by City employees or others involved in City government.

The Task Force recommends implementing rules of conduct specifically forbidding personal retaliation against whistleblowers.

9) Penalties – To ensure fair and consistent enforcement of the ethics rules, the Task Force recommends that Philadelphia Code § 20-612 be amended to state that the penalty for a violation of the ethics rules includes penalties “up to disqualification” for holding any elected or appointed City office or employment with the City. The words “forever disqualified” shall be deleted from Section 20-612.

D. Outside Employment of City Employees:

1) The Task Force recommends that there not be a complete ban on outside employment. There is no evidence that outside employment has been a prime driver in either illegal or unethical activity by City employees. Many City employees have second jobs and, in fact, depend on other employment to meet their family’s financial obligations.

2) The Task Force recommends that to prevent the appearance of any conflict, all city employees with outside employment register with the Philadelphia Board of Ethics. The registration would include the name of the employer and a detailed job description. If the job description changes, then the employee would be required to update the filing. There should be discretion left with the City Departments to decide what other criteria there should be for outside employment.

3) The Task Force recommends that elected officials who have outside employment be required to register every year with the Board of Ethics and disclose the name of the elected official’s employer and a detailed job description. The Board of Ethics should make the information on elected officials outside job registrations available to the public on the City’s website and in easily searchable form.

4) The Task Force recommends clarifying to all City employees and elected officials that conflicts of interest are not waived by the process of filing the disclosure. In the case of a conflict of interest (or any employment that may be perceived as a conflict), the City employee or elected official must not only disclose the conflict but also must recuse from the matter in which the conflict exists.

E. Lobbying Registration and Reporting:

- 1) The Task Force recommends that the City of Philadelphia establish a system for annual registration of lobbyists. Philadelphia is the largest city in the United States without some form of registration and reporting for lobbyists or lobbying firms. Given that fact, and in light of recent events in Harrisburg and locally concerning questionable relationships between government employees (elected and otherwise) and those seeking to influence legislative decisions, the Task Force believes that the City should require lobbyists to register and report on their activities.
- 2) The Task Force recommends that the term “lobbyist” be clearly defined and be at least as inclusive as the Pennsylvania definition, which includes any individual, firm, association, corporation, partnership, business trust or business entity that engages in lobbying on behalf of a principal. A definition of lobbyist should exclude those who cannot be regulated by the City (*e.g.*, lawyers acting in their capacity as lawyers); individuals acting on their own behalf; religious institutions lobbying on behalf of religious freedom; and City officials acting in their official capacity as government employees. While the Pennsylvania law can serve as a model, the City of Philadelphia should consider specifically including employees – whether of for profit or non-profit entities – who lobby on behalf of their employer on a routine basis.
- 3) The Task Force recommends that lobbyists, but not clients, be required to register. While some laws reviewed require the registration of lobbyists and clients (Pennsylvania and New York City, most notably), the Task Force believes that requiring only lobbyists to register would suffice for Philadelphia. Given that this change is to remedy a complete absence of registration requirement, a streamlined approach seems warranted. However, because a system without client registration does not have an automatic check and balance, reporting forms and requirements must include client lists and matters lobbied. Lobbying should be defined broadly to include attempts to influence legislative and administrative actions of elected officials or non-elected employees of City Council, the Mayor’s office, Administrative agencies and boards and commissions.

There are many good models for defining lobbying activities. The Task Force recommends that the New York City lobbying ordinance be looked at as a model providing meaningful and unambiguous definitions.

- 4) The Task Force recommends that lobbyists be required to report expenses and activities. Such a report would include, at a minimum, the following: (a) the type and amount of expenditure; (b) the name of the client or employer on whose behalf money is expended; (c) the name and title of the covered official lobbied; (d) the date lobbied and the legislative matters on which the official was lobbied.

Lobbyist registration is only half of the solution to the problem of unknown influence and pressures being brought to bear on City government officials; regular reporting is the other half. Such a system allows the public to see how much money is being spent on a

particular issue and who is attempting to influence the outcome. Reporting makes the lobbying process open and transparent to all.

The City could adopt any number of reporting models. The Task Force recommends that, at the very least, Philadelphia require detailed semi-annual reports from all lobbyists who have expenses of \$2500 or more in a 6- month period.

5) The Task Force recommends that registered lobbyists be forbidden to serve as treasurers for PACs or candidates.

Such a provision is standard in other municipal lobbyist laws which the Task Force reviewed and serves to eliminate an obvious area of potential conflicts of interest.

6) The Task Force recommends that the Philadelphia Ethics Board be given the authority and resources to oversee any new lobbying registration and reporting system. All registration forms and reports shall be filed with the Ethics Board, and a searchable database should be created and placed on a website. Without an easily searchable database where the public can have access to such information, the lobbyist registration and reporting requirement cannot fulfill its intent of ensuring transparency regarding relationships between officials and private entities on legislative and administrative matters.