

KING COUNTY PROSECUTING ATTORNEY'S OFFICE



DANIEL T. SATTERBERG
PROSECUTING ATTORNEY

JUSTICE
COMPASSION
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LEADERSHIP

April 9, 2021

Alice Fiman
Compliance Officer
Washington State Public Disclosure Commission
711 Capitol Way, Room 206
PO Box 40908
Olympia, Washington 98504-0908

Re: PDC Case No. 87070

Dear Ms. Fiman:

This letter is in response to your April 5, 2021 email and your request for a response from King County Elections. Nothing new is raised in complainant's latest letter. The undisputed facts still show:

- 1) King County Elections repeatedly informed Voter Education Fund (VEF) grantees of the allowable uses for grant funding and those allowable uses did not include ballot measure advocacy.
- 2) There is no evidence that any VEF grantee used grant money to support or oppose a ballot measure.
- 3) VEF grants were awarded through an open competitive procurement process with no evidence that progressive applicants were favored over conservative applicants.

Complainant disagrees with the VEF—the purpose, the process and the fact that VEF grants were largely awarded to what he considers to be “progressive” organizations. However, there is no evidence that any grantee used VEF money to support or oppose a ballot measure. If one had, it would have been in violation of the allowable uses for the funds as clearly stated by King County Elections in the request for proposals, award letters and training documents.

Through the VEF program, King County Elections awards grants for nonpartisan voter education and outreach, activities in which it is directed by state and federal law to engage. The allegation that this somehow equates with the support or opposition to a ballot measure in violation RCW 42.17A.555 is absurd and contrary to the evidence and the law. The complaint should be dismissed.

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The Permissible Uses for VEF Grants

It is undisputed that King County Elections informed VEF applicants and grantees of the permissible uses for VEF grants. And as explained in the March 30 letter, grantees participated in ongoing trainings and check-ins to ensure that funds were used in compliance with approved scopes of work. There is no evidence that King County Elections allowed or encouraged other uses of the funds, nor is there any allegation that a grantee used funds for an improper purpose.

Issue advocacy does not fall within any of the VEF allowable activities as listed by King County Elections in the RFPs.¹ Complainant's argument that King County Elections did not tell grantees they could not use VEF grant money for issue advocacy is contrary to these clearly stated uses for the funds. Additionally, complainant has access to all the scopes of work for the 2018 and 2019-20 VEF grant periods, but he has cited no instance where a grantee proposed to engage in issue advocacy with VEF grant money.

As indicated in the attachments provided with our March 30 response, during training for VEF grantees, the IRS rules for nonprofits were covered. While each VEF grantee was a 501(c)(3) organization, or fiscally sponsored by one, not all were sophisticated, experienced nonprofits. In some cases a small nonprofit dedicated to services affecting a specific ethnic group might not know that it would be a violation of its 501(c)(3) status to rally support for the first council candidate who identifies with that ethnic group or that while it could engage in issue advocacy, it had to be an insubstantial part of the organization's activities. The Seattle Foundation has experience educating and assisting nonprofits with these issues and it was determined to be a valuable subject to address in training. Complainant has cited to nothing in these training materials that stated or implied that VEF money could be used for issue advocacy and none of the lobbying activities listed on page two of his letter fit within the stated allowable uses for VEF money.

The facts are that King County Elections, in partnership with the Seattle Foundation, designed a grant program for nonpartisan voter education and outreach and made the rules clear to applicants and grantees. Even accepting complainant's allegation that a grantee could have used the funds for ballot measure advocacy, it would have been in clear violation of the VEF grant rules and without the knowledge or consent of King County Elections.

¹ The 2018 and 2019-20 VEF grant funds were awarded through public requests for proposals (RFP). The VEF RFPs clearly describe the "Fundable Activities" for which VEF moneys could be used:

- Voter education or outreach informing underrepresented communities about how voting works in King County, such as who is eligible to vote, what is vote-by-mail, and democracy 101.
- Voter registration activities where underrepresented communities work, play or connect.
- Nonpartisan opportunities for communities to come together and educate themselves about what's on the ballot.
- Culturally appropriate technical assistance in navigating the voting process, such as helping voters change their address or language preference.

See Attachments C and D to King County Elections' March 30 Letter.

The allegations of bias are unsupported and immaterial to the complaint.

Complainant makes broad allegations of bias in the VEF award process that he argues were in favor of progressive applicants. However, he still fails to identify any conservative applicant who was improperly denied a grant award. In other words, complainant continues to criticize King County Elections for not awarding grants to organizations that never applied.

Regarding the makeup of the evaluation teams, it's not surprising that King County Elections wanted individuals on the evaluation team with experience relevant to the goals of the VEF program. The evaluation team included representatives from organizations that support historically underrepresented communities, specifically the Latino Community Fund and Ethiopian Community in Seattle. It also included representatives from organizations that work to increase access to voting, specifically WIN/WIN Network.

King County Elections and the Seattle Foundation were aware of the potential for conflicts of interest and as a result, there was a policy and procedure to address it. *See Attachment G to King County Elections' March 30 Letter.* Complainant does not allege that any current or former board member of a grantee was involved in the review of that grantee's application, indicating the conflicts of interest policy was followed.

Moreover, the rhetoric, conspiracy theories and unsupported claims of bias have no bearing on the PDC complaint. The question before the PDC is whether the award of VEF grants for nonpartisan voter outreach and education to organizations that used their other funds to engage in issue advocacy is a violation of RCW 42.17A.555. It doesn't matter if the funds were given to progressive or conservative organizations and it doesn't even matter if there was bias in the award process. If the statute is violated with a VEF grant award to a progressive organization, it is violated with an award to a conservative organization. The complaints regarding the ideological imbalance in grant awards, legitimate or not, are irrelevant to resolution of the complaint.

For the reasons set forth above and in the March 30 letter, King County Elections respectfully requests that the PDC dismiss the complaint. Please contact me if you have any questions or if you need additional information.

Sincerely,

For DANIEL T. SATTERBERG
King County Prosecuting Attorney



Janine Joly
Senior Deputy Prosecuting Attorney

cc: Julie Wise, King County Elections Director