

April 18, 2018

MEMORANDUM

To: Councilmember Debora Juarez
From: Dan Eder, Alan Lee, Traci Ratzliff, Erik Sund, Council Central Staff
Subject: Central Staff Responses to Business Tax Questions

On March 27, 2018, you sent a memo to Councilmember Lorena González, Councilmember Lisa Herbold, and Members of the Progressive Revenue Task Force (PRTF). Subsequently, you requested that Central Staff provide feedback, context, and factual information for all of the questions that you raised in your memo.

Attachment A: Central Staff Responses is a matrix tracking your questions along with our responses. Where we were able, we provided substantive answers. However, you will see that for some of the questions, we do not have access to the information requested, nor have further information that we think would be helpful to you. For other questions – especially the ones about how future legislation will address a policy option – we regret that we cannot respond directly due our confidentiality commitments.

The calendar announced by Councilmember Bagshaw, Chair of the Finance and Neighborhoods Committee, indicates that legislation will be on the Full Council’s Introduction and Referral Calendar on April 23, 2018. As soon as the legislation is publicly released (or sooner with the express consent of the sponsors), Central Staff expects to be able to discuss the proposal with you in more detail.

In the event that you are interested in teeing up any amendments to the proposed legislation, we will be at your service to assist with drafting such amendments.

Please let me (Dan) know if there’s anything further that we can do to be helpful.

Attachment:

A. Central Staff Responses

cc: Kirstan Arestad, Central Staff Director
BrynDel Swift, Chief of Staff to CM Juarez

Attachment 1: Central Staff Responses

I. OVERVIEW (Page 2)¹

Question	Answer
1. I agree that fiscal discipline is indeed an important value and I would like to know more specifically what factors were used by the task force to define fiscal discipline and what factors were used to determine that it is currently inadequate.	To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.
2. Are there any specific departments or city services the Council Co-Chairs would suggest be examined?	Central Staff is not authorized to speak on behalf of the Co-Chairs.
3. There is also a statement following the key points on page 1 which implies that to fund homelessness services, cuts will need to be made to <i>“public spending outside of the homelessness services sector that is “no longer needed or is counter-productive, particularly but not exclusively in criminal justice” that “will require the political courage to end programs and spending that have constituencies that will mobilize to retain them”</i> . Which services are these statements referring to explicitly?	To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.
4. Are the Council Co-Chairs interested in replacing some criminal justice funding with funding for safe consumption site(s) or Law-Enforcement Assisted Diversion (LEAD) or for other shelter services?	Central Staff is not authorized to speak on behalf of the Co-Chairs.
5. Are there services the Council Co-Chairs feel are counter-productive or no longer needed?	Central Staff is not authorized to speak on behalf of the Co-Chairs.
6. Will review of these potential cuts be part of the upcoming legislative review process?	Central Staff is not authorized to speak on behalf of the Co-Chairs.

¹ Page numbers provided throughout this document refer to the page number where the question can be found in CM Juarez’s 3/27/18 memo.

Question	Answer
<p>7. I would like to clarify whether the task force considers it a fact that lowering the federal corporate tax will reduce incentives for purchase of low-income tax credits or whether it is a concern of the task force. Would it be possible to verify this assumption?</p>	<p>We do not know what the task force members' thoughts are on this subject.</p> <p>The Office of Housing reports that they have seen a drop recently in the amount paid by tax credit investors for a number of City-funded housing projects. So far, it looks like about a five percent to eight percent drop, based on a number of recent projects.</p> <p>Congress approved a 12.5 percent annual increase (for 2018 – 2022) in the low-income tax credit program which means additional tax credits will be made available to Washington State. It is unclear how the State Housing Finance Commission will allocate these additional tax credits (i.e., whether it will follow the historical geographic distribution formula or do something different). This is to be determined, but it could mean availability of additional tax credits for City-funded projects.</p> <p>It is not yet clear whether any future additional tax credits for City-funded projects will outweigh the recent downward-trending effects on the amount paid by tax credit investors for City-funded projects.</p>
<p>8. What is the distinction between 5 years vs. 7 years vs. 10 years [for creating a new task force]?</p> <p>a. Will this recommendation, with rational for timelines be included in any upcoming legislation?</p>	<p>To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.</p>

II. REVENUE GENERATION (Page 3 – 4)

Section 1: Principles (Page 3 & 4)

Question	Answer
A. Progressive or Equity (Page 3)	
<p>9. [T]he task force introduces a sentence with “Collaterally, obviously” to describe low-income people’s interest in access to jobs. Please explain this assumption further as it relates to jobs here in Seattle.</p>	<p>To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.</p>
<p>10. Is it the intention of either of the Councilmember Co-Chairs to use an RSJI analysis in developing the EHT legislation? a) Would the task force support this body of work or consider it a “delay or fail[ure] to act”</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
B. Fairness and Consistency Exemptions (Page 3)	
<p>11. Do the Council Co-Chairs intend to apply this equally to the programs the task force is recommending for funding and businesses it recommends for exemption?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
<p>12. Do the Council Co-Chairs intend to have named programs in the spending plan? Will these programs be in the upcoming legislation?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
<p>13. This recommendation suggests a need for criteria to determine which non-profits would qualify for exemption. Will any upcoming legislation contain such criteria?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
<p>14. In addition to organizations which “provide housing, shelter, and services to low-income and homeless populations” what other organizations specifically are the Council Co-Chairs considering to be “held harmless” by these recommendations?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>

Question	Answer
C. Racial Equity and Social Justice (Page 4)	
<p>15. The task force calls for preventing impact on minority-owned businesses and employers. Section d. calls for small businesses to pay into the EHT. Is there potential that these two goals may work against each other?</p>	<p>Yes, there is a potential that these two goals may work against each other. This is particularly true if the rate of ownership by minorities is higher for small businesses than for large businesses. However, the answer likely depends on the amount of the tax imposed. For instance, if the tax amount owed is <i>de minimus</i> – such as \$1 – the impact would be quite different than if the tax amount owed is \$10,000.</p> <p>According to the 2015 Annual Survey of Entrepreneurs, 21% of Seattle small businesses are minority-owned.</p> <p>The City’s Office of Economic Development has some additional, limited information about characteristics of small businesses that are registered as such with the City. The info is self-reported by the businesses and not independently verified or tracked by the City.</p> <p>It may also be worth noting that the task force does not identify a definition for “small” businesses. The City’s Office of Economic Development appears to track small businesses as any business that meets one or more of the quite different definitions used by King County, the State, or the federal Small Business Administration. See Appendix A to Central Staff’s 4/2 Memo to the Finance & Neighborhoods Committee for additional information/context about the range of definitions for small businesses.</p>

Question	Answer
<p>16. What is the basis for \$395? Earlier drafts indicated \$200?</p> <ul style="list-style-type: none"> a. What were the criteria used to derive these numbers? b. How will this be administered? 	<p>The draft report brought for review by the PRTF at its final meeting included a recommendation for a flat \$200 alternative tax rate. This reflected the three tax options recommended in Appendix B1 to the report. These were all indicated as likely to raise approximately \$75 million in total (including the flat rate and per FTE and/or payroll tax). During the meeting, a proposal was made to increase the \$200 flat alternative tax rate to \$395. This proposal was approved by the PRTF but the proposals in B1 were left <i>as-is</i> rather than restructured to reflect the \$395 flat rate.</p>
<p>17. Would this be considered a flat tax?</p> <ul style="list-style-type: none"> a. Would a flat tax fit the definition of progressive revenue? 	<p>The alternate rate is a flat tax, but the total structure (per FTE and/or payroll tax + alternate flat rate) would not be flat. The flat tax rate would not be progressive within the group of businesses paying the flat rate (\$200 or \$395 being a higher percentage of \$500,000 than of \$8 million). However, the flat rate could be considered a progressive feature in the overall proposal as the flat rate would result in a lower burden on smaller businesses than would be the case if they were required to pay a per FTE tax or a percent of payroll.</p>
<p>18. Could the Co-Chairs clarify if the intent here is to exempt pot shops from paying the tax?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs. However, the discussions at the task force and the task force’s report indicated an intent to exempt marijuana businesses from most of the new business tax <u>except</u> that marijuana businesses would still be required to pay a \$395 “skin in the game” flat tax.</p>
<p>19. Does this exemption also reflect a preference and/or bias by members of the task force over other businesses because of their association with the pot shop industry?</p>	<p>Central Staff is unable to speculate whether this recommendation is caused by bias through affiliation of the members of the task force.</p>

Section 2: Other Progressive Revenue Options (Page 4)

Question	Answer
<p>20. What is the rationale for specifically mid-2018 [for lobbying the state]?</p> <p>a. Will the Council Co-Chairs be requesting an update to Council’s legislative agenda before July?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs. To the best of our recollection, we did not participate in any discussions with task force members about this issue.</p>

III. REVENUE DEDICATION (Page 5 – 7)

Question	Answer
Emphasize Housing (Page 5)	
<p>21. [T]he task force refers to “Keys to Home” type programs, Master Leasing, long-term vouchers/deep rental subsidies and other strategies in the King County’s Veterans and Human Services Levy Vulnerable Populations Housing Strategy.” Without much background information on what these programs are and what effect they might have if funded by EHT, it is hard to evaluate this recommendation. More information needed.</p>	<p>Following is a link to information about the King County Veterans and Human Services Levy Transition Report – Pages 45 and 46 -describe the Master Leasing and rental subsidies programs referenced in the EHT task force report:</p> <p>https://www.kingcounty.gov/depts/community-human-services/initiatives/levy/~media/depts/community-human-services/VHS-Levy/VSHSL%20Planning/VSHSL_TP_-_12,-d-,05,-d-,17.ashx?la=en</p>
<p>22. Will any upcoming legislation contemplate funding partnerships with King County programs?</p> <p>a. Do the Council Co-Chairs anticipate borrowing this strategy?</p> <p>b. If the recommendation is to borrow the strategy, please provide further detail about how that strategy would benefit the City of Seattle when applied to different housing stock.</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs. Please see answer to question 21 for reference information about the Master Leasing and rental subsidies programs in the King County Veterans and Human Services Levy Transition Report.</p>

Question	Answer
A Spectrum of Needs (Page 5)	
<p>23. Will the Council Co-Chairs be evaluating the potential of using a different measure of success for the programs funded by the EHT, other than exits from homelessness? Will the Council Co-Chairs recommend using a different measure of success than housing attainment/stability currently being used by HSD for housing stability and homelessness related programs?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
Maintain current programs meeting survival and other basic needs. (Page 5)	
<p>24. The task force recommends funding to maintain programs slated for closures due to lack of city funding in the 2018 budget. How much will it cost to cover this proposed expense?</p>	<p>If the intention of maintaining current programs meeting survival and other basic needs is to backfill emergency services (basic shelter and hygiene) not funded by the Homeless Investment RFP, the current total estimate for these is approximately \$2M annually.</p>
Other Services (Page 6)	
<p>25. The task force recommends that the Employer Hours Tax (EHT) be used for services that <i>“have a significant overlap with the homelessness crisis, but address needs other than housing and shelter”</i> specifically services that were <i>“also underfunded in the 2018 budget”</i>. The task force goes on to recommend funding for three specific programs including Community Passageways, Law Enforcement Diversion (LEAD) and safe consumption sites. ... Why are three programs explicitly given preference in this report?</p>	<p>Central Staff is unable to speculate about why these three programs are given preference in this report.</p>

Question	Answer
<p>26. Are these three programs shown preference because particular task force members are more closely associated with these programs than other programs of similar merit?</p>	<p>Central Staff is unable to speculate about why these three programs are given preference in this report.</p>
<p>27. Was any consideration given to more “upstream” or “opportunity based” community and education programs that include:</p> <ul style="list-style-type: none"> a) Increased educational opportunities b) Pre-K: early investments in Seattle’s children, youth and families c) K-12: closing the achievement and opportunity gaps faced by students of color, low-income and other marginalized communities d) After school programs e) 13th year and 14th promise year/free college education in Seattle 	<p>To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.</p>
<p>28. The task force is urgently advising the council to vote for a \$75 million tax increase and recommending another \$75 million in new taxes which together will not cover the low-income housing gap as defined by the task force to be a \$340 million annual gap (Appendix A). ... Given this gap (Appendix A), will the Council Co-Chairs be recommending that EHT fund services that do not provide housing or shelter?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>

Question	Answer
<p>29. Will this recommendation to fund programs [that “have a significant overlap with the homelessness crisis, but address needs other than housing and shelter”] show measurable results for low income and homeless populations? Or will these programs serve a different target population regardless of income or housing status?</p>	<p>The City’s performance standards for homelessness interventions are outlined in the Homeless Investment RFP. Specific homelessness interventions listed in the Task Force report and that would be measured by such standards include emergency shelter, encampments, hygiene services, and permanent supportive housing.</p> <p>Vehicular living is not an existing City-funded intervention and would accordingly need performance measures—these would likely resemble the performance standards for homelessness encampments.</p> <p>The following items in the Task Force report are not associated with the City’s homelessness intervention performance standards: criminal justice diversion programming (LEAD), Clean Cities Encampment Pilot, Safe Consumption Site, and workplace equity.</p>
<p>30. In the interest of transparency, should any of the task force members acknowledge a bias in recommending funding for a particular organization in which they are employed and/or manage provider contracts for the City of Seattle?</p>	<p>Task force members each had a clear perspective and interests. Councilmembers are free to request that task force members acknowledge that their participation in the task force and its recommendations were influenced by their employment or volunteer status with an organization or business.</p> <p>Wayne Barnett, Executive Director of the Seattle Ethics and Elections Commission, views the task force as an ad hoc advisory committee that was formed to provide recommendations to the City Council. However, since the task force is not a decision-making body, task force members are <u>not required</u> by the City’s ethics code to make any formal disclosures about real or apparent conflicts of interest related to their participation on the task force.</p>
<p>31. Would the Council Co-chairs prefer to focus on crisis intervention rather than preventative or proactive interventions? Would the Council Co-Chairs prefer to specifically and exclusively focus on housing and shelter interventions?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>

Question	Answer
Properly Pricing the Actual Costs of Providing Services (Page 7)	
<p>32. The task force recommends a 15-20% wage increase for workers providing services under city contracts. Can the Council Co-Chairs please provide a legal review of what mechanism the city would use to ensure its ability to provide a reliable and consistently applied increase for workers providing homeless services?</p>	<p>Further discussion with Law about a specific contractual mechanism for augmenting wages would be needed for any bill or resolution. The Council may wish to receive a separate legal memo and/or an Executive Session briefing to get privileged and confidential advice.</p>
<p>33. The task force also mentioned raising the wages of professionals providing “related services.” Will any proposed legislation contain a clear definition of which professionals and/or organizations are targeted for this funding?</p>	<p>Central Staff is not authorized to speak on behalf of the Co-Chairs.</p>
<p>34. Could the Council Co-Chairs please provide a more detailed explanation of what the task force means by “grossing up contracts”?</p>	<p>To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this issue. We are therefore unable to respond to this question.</p>
<p>35. If City revenues would be needed to hold these providers harmless why wouldn’t we consider simply exempting these providers? What would be the added administrative cost to collecting the fees from organizations and then “returning” the funds?</p>	<p>The Council could make the policy choice as described and decide to hold harmless certain taxpayers. If so desired (and if not already included in base legislation), staff can provide proposed language intended to accomplish this. We have not been able to determine what the added administrative costs would be at this date.</p>
<p>36. The task force recommends exempting “already underfunded human services programs.” ... How do we determine what is categorized as “underfunded” consistently across different types of providers?</p>	<p>If so desired (and if not already included in base legislation), staff can provide proposed language intended to accomplish this. To the best of our recollection, Central Staff did not attend or participate in any discussions with task force members about this recommendation; and we do not have information needed to respond to this question.</p>

Appendix B1: PRFT Employer Tax Recommendations (Page 7)

Question	Answer
37. The 2nd sentence refers readers to “Appendix B for more detail on the assumptions involved in these calculations.” There is no Appendix B in the report – only an Appendix B1 and an Appendix B2. Please clarify.	The reference should have been to Appendix B2 (not to “Appendix B”).

Appendix E: Illustrative Example of Potential Fund Allocation (Page 7)

Question	Answer
38. Can the task force advise on why the 20% funding allocation recommendation is divided between 3 separate tables and what the distinction is between them? Because the pages are not numbered on the appendices, it is difficult to determine the correct order.	The three separate tables are meant to provide further detail for items 1-3 of the Shelter and Services (20%) section of the main table of the Illustrative Example. Items 1-3 of the Shelter and Services section are: <ul style="list-style-type: none">(1) Shelter, temporary and emergency;(2) Safety in Place; and(3) Intersecting Needs. Each of the three tables offers more detail in terms of types of units and programming.

Additional Question: Sunset Clause (Not included in the 3/27 memo)

Question	Answer
39. In addition to the questions posed in your memo, you also asked Central Staff to evaluate whether the Council could include a future date upon which any new business tax would end (sometimes referred to as a “sunset” clause).	This is a policy option that could be employed either in the legislation that imposes the tax or through separate legislation at a later date. In the event that the introduced legislation does not include a sunset date, Central Staff can assist with drafting an amendment that inserts one.