

March 6, 2015

Mr. Philip E. Stutzman  
Director of Compliance  
Public Disclosure Commission  
State of Washington  
711 Capitol Way Rm. 206  
P.O. Box 40908  
Olympia, WA 98504-0908

RE: *Request for Additional Information re: Tracking No. T14-086*

Dear Mr. Stutzman:

This acknowledges and responds to your email correspondence and letter on behalf of the Public Disclosure Commission (PDC) received by our offices on February 19, 2015, regarding a request for additional information concerning a complaint filed by Mr. Robert Hill. This response is being sent on behalf of the Tacoma School District No. 10 (the "District"), and its Superintendent, Ms. Carla Santorno.

The complaint filed on January 7, 2014, as identified by the PDC, alleges that District officials may have violated RCW 42.17A.155 by authorizing the use of district facilities for the promotion of Proposition 1 and 2, levy measures on the February 11, 2014, ballot.<sup>1</sup> As part of the PDC's follow up to the complaint, the PDC by letter correspondence on February 19, 2015, requested the following additional information:

- Explain the purpose of the district's contract with Northwest Public Affairs, as it relates to the levy measures identified in the contract, and whether the contractor was compensated to promote the levies.
- Describe the purpose and content of the community surveys or public opinion research referred to in "Attachment B." Please provide a copy of the survey or public opinion research questions and explain how the results were used.

The general objective of the October 2013 contract with Northwest Public Affairs as identified in the contract, was to provide communications and outreach to school community and citizens of

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<sup>1</sup> RCW 42.17A.155 provides in relevant part "No...employee...employed by any public office or agency may use or authorize the use of any of the facilities of a public office or agency, ...for the promotion of or opposition to any ballot proposition." The use of facilities does not apply to activities on action taken at an open public meeting to express a collective decision, or to support or oppose a ballot proposition, a statement by an elected official in support of or in opposition to any ballot proposition at an open press conference or in response to a specific inquiry, or activities which are part of the normal and regular conduct of the office or agency.

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the City of Tacoma. The contract was entered into for the purpose of preparing and distributing information to the general public to explain the instructional program, operation and maintenance of the schools of the district. The purpose of the contract as it related to the levy measures was to ensure pursuant to WAC 390-05-271(2) and as provided under the PDC's *Guidelines for School Districts in Election Campaigns*, that an objective and fair presentation of facts relevant to a ballot proposition would be made. WAC 390-05-271(2) provides in relevant part:

RCW 42.17A.555 does not prevent a public office or agency from (a) making facilities available on a nondiscriminatory, equal access basis for political uses or (b) making an objective and fair presentation of facts relevant to a ballot proposition, if such action is part of the normal and regular conduct of the office or agency. <sup>2</sup>

Similarly, the PDC's *Guidelines for School Districts in Election Campaigns* provides under its basic principles, in relevant part:

2. School districts are authorized by statute to prepare and distribute information to the general public to explain the instructional program, operation and maintenance of the schools of the district. This includes informing the community of the needs the district faces and needs students have that the community may not realize exist....

\* \* \*

- 8.a. Historically, the PDC has routinely advised and held that with respect to election-related publications, one districtwide objective and fair presentation of the facts per ballot measure is appropriate. In addition, if a district has also customarily distributed this information through means other than a districtwide mailing (e.g. kid mail, regularly scheduled district or school newsletter, website, bilingual documents, or other format), that conduct has also been permitted under RCW 42.17A.155 [sic] so long as the activity has been normal and regular for the district.

\* \* \*

The District's efforts to ensure an objective and fair presentation of facts relevant to the ballot propositions would be made included requesting the contractor to assist the District in planning, facts, and information to determine what the community was already informed of related to the needs of the District and needs of students, and what the community may not have known, all for the purposes of creating objective and fair presentation of facts relevant to the propositions. As identified in the scope of work, the contractor worked with the District regarding incorporation of research findings and community priorities, but no specific community surveys or public opinion research were separately commissioned or otherwise created by the contractor for the District under the contract. The contractor simply assisted the District in incorporating identified facts and information into communication materials.

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<sup>2</sup> WAC 390-05-273 defines normal and regular conduct to mean "conduct which is (1) lawful, ...and (2) usual... ."

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The contract scope of work included reviewing dissemination methods of the information through customary means including web pages, newsletters, kid mail, staff communications, display boards, and presentation materials, all in the normal course and as is the regular practice for the District as it shares information with the general public about the instruction program, operation and maintenance of the District. (See Attachment B, Scope of Work, Contract No. TSD-14-091). The contractor was not compensated to promote the levies and the District did not retain the contractor to “promote” the propositions in any way. Indeed, as identified by the Purchase Order associated with the contractual services, the services were for “work with district staff regarding 2014 planning, facts and information regarding Prop 1 & 2 ... .” (see **Exhibit 1**, Purchase Order).

We trust the above information along with the enclosures, provides you with the relevant and necessary information requested. Should you have any further inquiries on the matter please direct any correspondence to our offices.

Regards,



Felipe M. Mendez  
Deputy General Counsel  
Tacoma School District No. 10

Enclosure

cc: Superintendent, w/enclosure  
General Counsel, w/enclosure

# Exhibit No. 1



Tacoma Public Schools  
 PO BOX 1357  
 Tacoma WA 98401-1357  
 253-571-3380

Purchase Order  
 PO # 14026-0-PUBL

NORTHWEST PUBLIC AFFAIRS, LLC  
 1425 8th AVE W  
 SEATTLE WA 98119

Order Date: 01/07/2014  
 Payment Terms: Net 15 Days  
 Buyer: Cheri Estrada  
 Vendor #: 104915  
 Required By Date: 01/07/2014

Attn: Eric Wilson  
 Deliver To:

PUBLIC INFORMATION OFFICE  
 DAN VOELPEL  
 601 S 8TH ST  
 TACOMA WA 98405

**Important Instructions:**

1. Email invoices to: AccountsPayable@tacoma.k12.wa.us OR  
 Mail invoices to: Tacoma School District Accounts Payable,  
 PO Box 1357, Tacoma WA 98401-1357.  
**DO NOT INVOICE SCHOOLS**
2. Invoices must show P.O. Number, Quantity, Unit Price and  
 Amount of each item.
3. Separate invoices are required for each purchase order.
4. Sales tax must be listed separately.

By accepting this purchase order the vendor agrees to be bound by the requirements stated herein and the District's standard terms and conditions (available on the District website at: <http://www.tacoma.k12.wa.us/information/departments/purchasing>)

Purchase Order Comments

TSD-14-091 ON FILE

LINE #	DESCRIPTION	QUANTITY	UOM	UNIT COST	EXTENSION
1	CONTRACTUAL SERVICES for work with district staff regarding 2014 planning, facts & information regarding Prop 1 & 2 from Oct 1, 2013 to Feb 28th, 2014 inclusive. \$8,000 monthly fee for services, in addition routine out of pocket expenses to be billed monthly.	40,000.00	EA	1.00	40,000.00
	Subtotal				\$40,000.00
	PO TOTAL				\$40,000.00

Purchasing Manager

\_\_\_\_\_  
 SUPPLIER SIGNATURE (IF REQUIRED)