

Policies and Procedures

Tulare County Local Agency Formation Commission

Policy Number: *D-1*

Effective Date: *October 19, 1977; amended _____, 201_*

Authority: *Government Code §81000 et seq., LAFCO Resolutions 77-94, 02-006, 10-030*

Title: **Conflict of Interest and Disclosure Requirements**

Policy: This Conflict of Interest Code (hereinafter referred to as the “Code”) is adopted pursuant to the provisions of the Political Reform Act of 1974, set forth in California Government Code §81000 et seq. (hereinafter referred to as the “Act”), for the purpose of requiring designated employees to file statements disclosing financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

Purpose: The purpose of this policy is to outline the procedure by which designated employees of Tulare County LAFCO are to file statements disclosing their financial interests that may be materially affected by their official actions and for the purpose of providing that designated employees must disqualify themselves from acting in their official capacity in order to avoid a conflict of interest.

Scope: This policy applies to all designated employees of Tulare County LAFCO. For the purposes of this policy, designated employees shall be defined as “a member of the Commission.”

History: This was a pre-existing policy that was adopted into the original Manual on 2/6/02. Exhibits A and B were updated to match TCAG disclosure requirements on 12/8/10. Form 700 filing deadline updated 6/10/15.

Procedure:

1.1. Definitions

*The Fair Political Practices Commission has adopted a regulation that contains the terms of a model conflict-of-interest code. Therefore, the terms of 2 Cal. Code of Regs., Section 18730, and any amendments to it duly adopted by the Fair Political Practices Commission, are hereby incorporated by this reference and, together with the attached **APPENDIX A (DESIGNATED POSITIONS)**, and **APPENDIX B (DISCLOSURE CATEGORIES)**, constitutes the conflict-of-interest code of this agency.*

Addition

Deletion

Unless otherwise provided, the definitions of words and phrases used in this Code shall be consistent with the definitions of the same words and phrases contained in the Act and contained in the Regulations of the Fair Political Practices Commission set forth in Title 2 of the California Administrative Code. ~~and such definitions are incorporated into this Code by reference. Definitions as of adoption of this Code are set forth in Exhibit "C" for guidance, and reference must be had to the Act and Regulations for current definitions.~~

1.2. Application: Designated Employees

The provisions of this Code are applicable to the designated employees of this local government agency. Designated employees are those persons who are deemed to make or to participate in the making of decisions which may foreseeably have a material effect on a financial interest. Designated employees are those persons who hold the positions (referred to hereinafter as "designated position") that are enumerated in Exhibit "A" attached hereto.

1.3. Disclosure Statements: Designated Employees

Each designated employee shall file statements, in accordance with the provisions of this Code, disclosing such employee's interest in investments, real property and income. The types of financial interest subject to disclosure are set forth in Exhibit "B" attached hereto; and the specific types which are applicable to a designated employee are expressed by number opposite the designated positions enumerated in Exhibit "A."

1.4. Place of Filing

Each designated employee shall file one original statement disclosing financial interests with the Executive Officer of this agency. If the designated employee is the head of this agency, or a member of a board or commission not under a department of state government or not under the jurisdiction of a local legislative body, the agency shall make and retain a copy of such person's statement and forward the original to the code reviewing body. The originals of all other statements shall be retained by the agency.

1.5. Time of Filing

- A. All designated employees shall submit an initial statement within thirty (30) days after the effective date of this Code.
- B. Merit system employees appointed, promoted or transferred to designated employee positions shall file initial statements within thirty (30) days after the date of assuming such position.
- C. All other persons assuming designated employee positions shall file initial statements not less than ten (10) days before assuming such position or, if subject to confirmation, not less than ten (10) days before being confirmed,

unless an earlier assumption of the position is required by emergency circumstances, in which case said statement shall be filed within thirty (30) days after the date of assuming such position.

- D. All designated employees shall file annual statements by the date determined by the California Fair Political Practices Commission. Such annual statements shall cover the period of the preceding calendar year.
- E. Each person who leaves a designated employee position shall file a leaving office statement within thirty (30) days after leaving such position.
- F. When a designated employee is required to file with another agency a statement disclosing financial interests, and such statement contains, at a minimum, all of the items required to be reported by this Code, and such other agency has at least the same territorial jurisdiction as this agency, then such designated employee may comply with the filing provisions of this Code by filing with this agency a duplicate copy of the statement filed with the other agency, in lieu of an entirely separate statement.

1.6. Contents

- A. The initial statement required to be filed by a designated employee shall contain only such person's investments and interests in real property.
- B. Statements required to be filed by designated employees subsequent to the initial statement shall contain such person's investments, interest in real property, and income.
- C. Statements required to be filed by designated employees leaving office shall contain such person's investments, interests in real property, and income during the period since the closing date of the previous statement filed pursuant to this code.
- D. When an investment or an interest in real property is required to be reported under this Code, the statement shall contain:
 - I. A statement of the nature of the investment or interest;
 - II. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
 - III. The address or other precise location of the real property;
 - IV. A statement whether the fair market value of the investment or interest in real property exceeds \$10,000, and whether it exceeds \$100,000. This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer;

- V. In the case of an investment which constitutes fifty (50) percent or more of the ownership interest in a business entity, disclosure of the investments and interests in real property of the business entity;
 - VI. In the case of a statement filed under subsections (b) or (c) of this section, if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the date of acquisition or disposal.
- E. When income is required to be reported under this Code, the statement shall contain, except as provided in subsection (e) of this section:
- I. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
 - II. A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1000), and whether it was greater than ten thousand dollars (\$10,000);
 - III. A description of the consideration, if any, for which the income was received;
 - IV. In the case of a gift, the amount and the date on which the gift was received.
- F. When income of a business entity, including income of a sole proprietorship, is required to be reported under this Code, the statement shall contain:
- I. The name, address, and a general description of the business activity of the business entity;
 - II. In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000);
 - III. In the case of a business entity not covered by paragraph (2) the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

1.7. Disqualification

A designated employee must disqualify himself or herself from making or participating in the making of any governmental decision when it is reasonably foreseeable that such decision may have a material financial effect, distinguishable from its effect on the public generally, upon any business entity in which such designated employee holds a position of management or is a

director, officer, partner, trustee or employee, or upon any financial interest required to be reported by such designated employee, except sources of gifts less than two hundred fifty dollars (\$250).

1.8. Disqualification Exception

No designated employee shall be required to disqualify himself or herself with respect to any matter which could not legally be acted upon or decided without his or her participation. The fact that such person's vote is needed to break a tie does not make the participation legally required for purposes of this section.

1.9. Manner of Disqualification

If a designated employee is to disqualify himself or herself from acting, the following is recommended:

- A. If a member of a board or commission, announce the existence of a conflict to such board or commission.
- B. If a consultant, report the existence of a conflict to the chief executive officer of this agency.
- C. Any other designated employee, report the existence of a conflict to such person's immediate supervisor.

1.10. Effective Date of Code

This code shall become effective thirty (30) days after the same has been approved by the Board of Supervisors of the County of Tulare.

1.11. Penalties

California GC §87300 provides, in part: "A Conflict of Interest Code shall have the force of law and any violation of a Conflict of Interest Code by a designated employee shall be deemed a violation of this chapter." Your attention is directed to the civil and criminal penalties set forth in the Act that may be imposed for a violation of this Code.

1.12. Statute of Limitations

No action based on a disqualification provision of this Code shall be brought pursuant to Government Code Section 91009(b) to restrain the execution of or to set aside official action of the agency unless commenced within 90 days following the official action.

1.13. Opinions of the Commission and Counsel

- A. Opinion Requests: Any designated employee who is unsure of any right or obligation arising under this code may request a formal opinion or letter of advice from the FPPC or an opinion from the attorney of this agency.

- B. Evidence of Good Faith: If an opinion is rendered by the attorney of this agency stating in full the facts and the law upon which the opinion is based, compliance by the designated employee with such opinion may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Act or this Code. The designated employee's good faith compliance with the opinion of this agency's attorney shall also act as a complete defense to any disciplinary action that this agency may bring under Section 91003.5 of the Act or this Code.

Exhibit "A"

DESIGNATED EMPLOYEES

<u>Designated Positions</u>	<u>Types of Interests required To be disclosed</u>
Members of the Commission	1, 2, 3
Alternate Members of the Commission	1, 2, 3
Executive Officer	1, 2, 3
Consultants*	1

*Consultants are included as designated employees and shall disclose pursuant to the broadest disclosure category, subject to the following limitation:

The Executive Officer of this local agency may determine in writing whether a particular consultant is a "designated employee" or whether the consultant is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements required by this Code. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The determination of the Executive Officer is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Exhibit "B"

TYPES OF FINANCIAL INTERESTS

REQUIRED TO BE DISCLOSED

Disclosure Category: 1

All investments, business positions and sources of income located in or doing business in the jurisdiction of the local agency.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency

(Intended for officials and employees whose duties are broad and indefinable.)

Disclosure Category: 2

All investments, business positions and sources of income of the type which provide services, supplies, materials, machinery or equipment utilized by the local agency.

(Intended for employees whose duties and decisions involve contracting and purchasing.)

Disclosure Category: 3

All investments, business positions and sources of income of the type which engage in land development, construction or the acquisition or sale of real property.

All interests in real property located in the jurisdiction, including property located within a two mile radius of any property owned or used by the local agency.

(Intended for employees whose duties and decisions may affect real property interests.)