



San Diego County
Local Agency Formation Commission
 Regional Service Planning | Subdivision of the State of California

6a

AGENDA REPORT
 Public Hearing

August 3, 2020

TO: Commissioners

FROM: Keene Simonds, Executive Officer
 Holly O. Whatley, Commission Counsel

SUBJECT: Proposed Amendments to Adopted Conflict of Interest Code

SUMMARY

The San Diego County Local Agency Formation Commission (LAFCO) will consider amendments to its adopted Conflict of Interest Code as part of a biennial review. Most of the amendments involve clarifying existing provisions with respect to identifying designated positions and applicable disclosure categories in filing annual statements of economic interest. This includes – notably – revising the disclosure categories to readily sync with Form 700s. The proposed amendments are being presented for Commission approval and for subsequent filing with the County of San Diego Board of Supervisors as the code-reviewing body for LAFCO.

BACKGROUND

Political Reform Act

California Government Code Section 87300 codifies the Political Reform Act of 1974 and requires State and local government agencies to adopt their own conflict of interest codes and perform biennial reviews to consider amendments as needed. The conflict of interest code prescribes filing requirements for public officials with respect to reporting outside incomes, gifts, and other financial interests. The underlying purpose of the conflict of interest code is to prevent biases – actual and apparent – tied to the financial interests of decision-makers.

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Adopted Conflict of Interest Code

San Diego LAFCO adopted its Conflict of Interest Code in 1992 with subsequent amendments approved by the Commission in 1995 and 2008. The Code follows best practices that were in place at the time of its adoption and subsequent amendments and this includes incorporating by reference the standard requirements established by the Fair Political Practices Commission. The remainder of the Code provides guidance in filing statements of economic interests – or Forms 700. This includes designating reporting positions and assigning disclosure categories.

DISCUSSION

This item is for San Diego LAFCO to consider approving proposed amendments to its Conflict of Interest Code as part of the Commission’s biennial review. Should the Commission approve the amendments they would be forwarded to the County of San Diego Board of Supervisors for their approval as the code-reviewing body for LAFCO under statute. A summary of proposed amendments follows and further detailed in Attachment One.

- Designate the newly created Commission Clerk position as the official filling officer for San Diego LAFCO and responsible for requesting, receiving, and retaining all Form 700s. The current Code does not identify a filling officer.
- Identify two filing options for designated officials, employees, and consultants to submit their Form 700s: (a) paper and (b) electronically through the County of San Diego’s e-filing system. The current Code does not address the latter option.
- Streamline designated positions in the Code with respect to Commissioners and reduce listings to regular and alternates. The current Code distinguishes Commissioners by their appointing authority (i.e. County, city, district, and public).
- Add Commission Counsel and Deputy Commission Counsel to the list of designated positions required to file annual Form 700s. The current Code by practice requires these positions file as consultants. Also add the recently created position of GIS/IT Analyst.
- Restructure “disclosure categories” to more readily sync to Form 700 with respect to having five distinct fields and in doing so make it easier for designated positions to know what schedules (i.e. A, B, C, etc.) apply.
- Differentiate levels of disclosures required of designated positions at San Diego based on their level decision-making authority. The current code applies the same disclosure thresholds for all designated positions.

ANALYSIS

San Diego LAFCO's existing Conflict of Interest Code dates to 2008 and the proposed amendments take aim to clarify and simplify administration and end-user compliance. Substantive clarifications include designating a position-specific filing officer (Commission Clerk) and allowing filers the option under policy to submit Form 700s by paper or electronically using the County of San Diego's e-filing system. Substantive simplifications include revising the disclosure categories to explicitly align with Form 700s and help avoid filing inconsistencies.

RECOMMENDATION

Staff recommends San Diego LAFCO approve the proposed amendments to the Conflict of Interest Code based on the preceding analysis. This recommendation is consistent with Alternative One outlined in the proceeding section.

ALTERNATIVES FOR ACTION

The following alternative actions are available to San Diego LAFCO:

Alternative One (recommended):

- (a) Approve the proposed amendments to the Conflict of Interest Code as presented in Attachment One with any specified changes.
- (b) Direct the Commission Clerk to file the amended Conflict of Interest Code with the Board Clerk for the County of San Diego for consideration by the Board of Supervisors.

Alternative Two:

Continue consideration to a future meeting and provide direction to staff concerning additional information, as needed.

Alternative Three:

No action.

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PROCEDURES FOR CONSIDERATION

This item has been placed on San Diego LAFCO's agenda for action as part of a noticed public hearing. The following procedures are recommended in the consideration of this item:

- 1) Receive verbal presentation from staff unless waived.
- 2) Open the hearing and invite comments.
- 3) Discuss item and consider the staff recommendation.

Respectfully,



Keene Simonds
Executive Officer

Attachments:

- 1) Proposed Amendments to Conflict of Interest Code (track-changes)

**SAN DIEGO COUNTY
LOCAL AGENCY FORMATION COMMISSION**

**ARTICLE VII
CONFLICT OF INTEREST CODE**

On September 14, 1992, pursuant to the provisions of Government Code Section 87306, the San Diego Local Agency Formation Commission (LAFCO) amended its Conflict of Interest Code adopted September 12, 1977 by substituting and incorporating by reference the terms of Fair Political Practices Commission Regulation No. 18730. Said amended Code was approved by the Board of Supervisors, as LAFCO's Code Reviewing Body, on January 5, 1993.

Copies of the Commission's amended Conflict of Interest Code and FPPC Regulation 18730 are attached hereto for reference, and identified as, respectively, Attachment 1 and Attachment 2.

*Adopted September 14, 1992
Administratively Revised and Corrected September 22, 1994
Updated July 31, 1995
Administratively Revised and Corrected March 27, 2000
Comprehensively Updated and re-adopted March 3, 2008
Administratively Revised and Corrected June 15, 2010*

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CONFLICT OF INTEREST CODE FOR THE SAN DIEGO COUNTY LOCAL AGENCY FORMATION COMMISSION

The Political Reform Act, Government Code Section 81000 et seq., requires state and local government agencies to adopt and promulgate conflict of interests codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. 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 reference, and, along with the attached Appendix in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest code of the San Diego County Local Agency Formation Commission.

~~All officials and Pursuant to Section 4 of the standard code, designated employees shall file statements of economic interests – also known as Form 700 – with the agency Commission Clerk. Should statements be received in signed paper format the Commission Clerk shall make and retain copies and forward the originals to the Clerk of the Board of Supervisors for the County of San Diego as the LAFCO filing officer. Should statements be filed using the County of San Diego’s Form 700 e-filing system both the Commission Clerk and the Clerk of the Board of Supervisors will receive access to the e-filed statements simultaneously. The Commission Clerk will make all retained statements available for public inspection and reproduction during regular business hours. Upon receipt of the statements of the designated commissioners and the executive officer, the San Diego Local Agency Formation Commission shall make and retain a copy and forward the original of these statements to the office of the Clerk of the Board of~~

~~Supervisors. Statements for all other designated employees will be retained by the agency.~~

Exhibit A:

Designated Positions

Exhibit B:

Disclosure Categories

Adopted September 14, 1992

Administratively Revised and Corrected September 22, 1994

Updated July 31, 1995

Administratively Revised and Corrected March 27, 2000

Comprehensively Updated and re-adopted March 3, 2008

Administratively Revised and Corrected June 15, 2010

APPENDIX
EXHIBIT A

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>*Reportable Economic Interest Category Number</u>
<u>A. -Officials</u>	
Regular Members of the Commission-Regular and Alternate	1, 2, 3, 4, and 5
—City Members	
Alternate Members of the CommissionRegular and Alternate	1, 2, 3, 4 and 5
City of San Diego Members	1, 2, 3
—Regular and Alternate	
—Special District Members	1, 2, 3
—Regular and Alternate	
—Public Members	1, 2, 3
<u>B. Management and Other Employees</u>	
Executive Officer	1, 2, 3, 4, and 5
Assistant Executive Officer	1, 2, 3, 4, and 5
Chief, Policy Research	1, 2, 3, 4, and 5
Chief, Governmental Services	1, 2, 3, 4, and 5
Local Governmental Analyst III	1, 2, 3 4 and 5
Local Governmental Analyst II	1, 2, 3 4 and 5
Local Governmental Analyst I	1, 2, 3 4 and 5
<u>GIS/IT Analyst</u>	<u>4 and 5</u>
<u>C. General Counsel</u>	
<u>Commission Counsel</u>	<u>1, 2, 3, 4, and 5</u>
<u>Deputy Commission Counsel</u>	<u>1, 2, 3, 4, and 5</u>

D. Consultants

Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitations:

The Executive Officer may determine in writing that a particular consultant, although a “designated position,” 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 described in this section. 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 Executive Officer’s determination 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

DISCLOSURE CATEGORIES

~~*(1) All sources of income, (2) Interests in real property, (3) Investments and business positions in business entities, as defined in FPPC Reg. No. 18730.~~

Category 1

Designated officials or employees assigned to this category must report:

All investments involving stocks, bonds, and other interest where ownership is less than 10 percent. (Schedule A-1 in Form 700)

All investments, income, and assets of businesses entities and/or trusts where ownership is 10 percent or greater. (Schedule A-2 in Form 700)

Category 2

Designated officials or employees assigned to this category must report:

All interests in real estate – including rental properties – located within San Diego County and any other areas in which the Commission is exercising any of its regulatory or planning duties and powers. (Schedule B in Form 700)

Category 3

Designated officials or employees assigned to this category must report:

All income and associated businesses and business positions that include spouses or domestic partners as well as any personnel loans. (Schedule C in Form 700)

Category 4

Designated officials or employees assigned to this category must report:

All gifts received directly or through intermediaries with a fair market value of \$50 or more. (Schedule D in Form 700).

Category 5

Designated officials or employees assigned to this category must report:

All travel and associated lodging and meals provided free of charge or reimbursed.
(Schedule E in Form 700)