



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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To: Chair Miadich and Commissioners Baker, Cardenas, Wilson, and Wood

From: Dave Bainbridge, General Counsel
Brian Lau, Assistant General Counsel

Subject: Advice Letter Report and Commission Review

Date: March 26, 2021

The following advice letters have been issued since the February 26, 2021, Advice Letter Report. An advice letter included in this report may be noticed for further discussion or consideration at the April 2021 Commission Meeting. Full copies of the FPPC Advice Letters, including those listed below, are available at:

<http://www.fppc.ca.gov/the-law/opinions-and-advice-letters/law-advice-search.html>.

Section 84308

Teresita J. Sablan

A-21-020

Where permit decisions would not have a reasonably foreseeable and material financial effect on the interests of contributors to an appointed board member, the contributors do not meet the definition of a “participant” under Section 84308 and the board member need not disclose their contribution nor disqualify herself from the decision.

Conflict of Interest Code

Michele Rodriguez

A-21-024

Airport/Community Roundtable is a “local government agency” under the Act. The impetus for the Roundtable’s formation originated with a government agency; it is substantially funded by a government agency; one of its principal purposes for which it was formed is to provide services that public agencies are legally authorized to perform; and it is treated as a public entity by other laws. Therefore, the Act requires the Roundtable to adopt a conflict of interest code and its members are subject to regulation under the Act.

Lobbying

James C. Harrison

A-21-018

Where affiliated members of an ongoing organization pay annual dues to the organization, a portion of which are used to influence legislative and administrative action including hiring in-house and contracted lobbyists, only the larger organization qualifies as a lobbyist employer. However, if a member makes payments on its own behalf, the member may separately qualify as a lobbyist employer.

Revolving Door

John Erickson

I-21-014

The provisions of the one-year ban do not prevent a retired state employee from working for another company on an existing contract with the former state department. However, the former state employee is prohibited, during the one-year period, from communicating with the former state employer, staff, or representatives for the purpose of attempting to influence the former state employer on the issuance, amendment, awarding, or revocation of an existing or a new contract, or on the purchase of goods or property. The permanent ban is not at issue if the former state employee did not participate, as a state employee, in the governmental decisions regarding the existing contract.

Section 1090

Leticia Ramirez

A-21-002

Councilmember has a remote interest in contracts between the City and a joint powers agency as a result of her husband's employment, but the City Council may approve the contracts provided that the councilmember discloses her interest in the contracts to the City Council, the interest is noted in the City Council's official records, and she abstains from any participation in making or approving the contracts.

Gregory J. Rubens

A-20-111(a)

Vice Mayor is not precluded by the Act or Section 1090 from participating in a development agreement between the City and a developer where the biotechnology company she works for leases office space from the developer. Given the size of the Vice Mayor's employer and the fact that the prospective tenant is not ascertainable at this time, there is nothing to indicate that the agreement will have any reasonably foreseeable financial effect on the Vice Mayor's employer merely because the project is intended as a biotechnology campus. Under Section 1090, the Vice Mayor does not have a financial interest in the contract because her employer is not a party to the agreement.

Sonia R. Carvalho

A-20-136

Section 1090 does not prohibit a city from making a side letter agreement regarding employee's retirement benefits where the employee has participated in the negotiations acting solely in the employee's individual capacity and plays no role in his capacity as a city employee.

Scott Loggins

A-20-158

Under Section 1090, a commission member has a remote interest in a contract, including the reimbursement of expenses, that are between the commission and the member's local agency, if the contract involves the member's local agency department. Additionally, unless a remote or noninterest exception applies, Section 1090 prohibits contracts between the commission and an entity that later results in the commission member receiving funds as an instructor.

Lynn Tracy Nerland

[A-21-012](#)

Councilmember is prohibited under the Act from participating in decisions pertaining to her current employer, as any decisions would have a reasonably foreseeable material financial effect on her financial interests. The City, however, is not prohibited from entering into contracts with the employer under Section 1090, as the remote interest exception found in Section 1091(b)(2) is applicable to the Councilmember. The Councilmember must recuse herself from decisions pertaining to employer, state her interests on the record, and abstain from participating.

Hilda Cantu Montoy

[A-21-022](#)

Notwithstanding Councilmember's interest in a contract with a union resulting from her engagement to an officer and member of the union, Section 1090's rule of necessity exception applies to permit the City to enter a contract with the union so long as the Councilmember does not take part in any decisions involving the agreement.

Shannon L. Chaffin

[A-21-034](#)

Neither the conflict of interest provisions of the Act nor Section 1090 prohibit City Manager from taking part in decisions concerning a potential amendment to the current agreement between the City and his former employer where he was a defined contribution plan participant. In addition, the City Manager has no financial interest in the potential amendment to the current agreement under Section 1090 where the decision will have no impact on his retirement benefits.