



FAIR POLITICAL PRACTICES COMMISSION

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March 15, 2001

Charisse L. Anderson
Senior Ethics Officer
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

**Re: Your Request for Advice
Our File No. A-01-039**

Dear Ms. Anderson:

This is in response to your request for advice under the statement of economic interests disclosure provisions of the Political Reform Act.¹

QUESTION

Is it permissible for you to notify and remind your filers of statement of economic interests and lobbyist disclosure requirements by electronic mail rather than by hard copy?²

CONCLUSION

Yes, but only under the conditions described below.

¹ Government Code Sections 81000-91014 Commission regulations appear at Title 2, sections 18109-18996, of the California Code of Regulations.

² You also ask about lobbying reports. Our advice is limited to the statement of economic interests provisions of the Political Reform Act. The related question regarding use of electronic mail to notify lobbyists of quarterly reports required under the Public Utilities Code is not within the purview of the Act.

FACTS

The Metropolitan Transportation Authority has initiated on-line electronic forms for filing statements of economic interests. The Authority has approximately 1,100 designated filers and 26 statutory Board and Pension Investment Members. The Authority's Ethics Department serves as the filing officer for the agency. Karen Gorman of your staff further explained by telephone that at present filers retrieve an interactive version of the Form 700 Statement of Economic Interests to complete, but print out a hard copy for signature and filing. The statements themselves are not filed electronically, but the Authority is looking forward to a time when that will occur.

Due to the considerable staff time required for the generation and maintenance of information, the Authority is seeking advice as to the sufficiency and appropriateness of utilizing electronic mail to notify and remind filers of their statement of economic interests filing obligation.

ANALYSIS

The Political Reform Act requires public officials to complete statements of economic interests. These statements disclose the types of financial interests that may potentially be the basis for a conflict of interest. To implement and effectuate the filing of these statements, agencies have certain responsibilities as filing officers.

Specifically, a filing officer must:

“(a) Supply the necessary forms and manuals prescribed by the Commission;

(b) Determine whether required documents have been filed and, if so, whether they conform on their face with the requirements of this title;

(c) Notify promptly all persons and known committees who have failed to file a report of statement in the form and at the time required by this title;

(d) Report apparent violations of this title to the appropriate agencies; and

(e) Compile and maintain a current list of all reports and statements filed with this office.” (Gov. Code section 81010.)

Your question concerns your duty as a filing officer to supply forms and notify persons who have an obligation to file.

When the Political Reform Act was passed in 1974, it was silent on the manner of providing notice to filers to complete statements of economic interests. Traditionally, filers are notified of their filing obligation through written notice and a hard copy of the disclosure form. However, the Act does not prohibit filing officers from supplying the forms electronically.

If the Authority wishes to use electronic mail to supply the forms and notify or remind filers of their filing obligation, however, certain safeguards must be in place to ensure proper notification and to verify that such notification was received. First, to determine if the forms have been supplied to the filer, you must have a mechanism in place to confirm that the electronic messages have in fact been received. Karen Gorman indicated that the Authority has a built-in acknowledgement/confirmation system. She indicated that it is very unlikely a recipient would fail to receive the message, but if for some reason a confirmation has not been received within 30 days, hard copy notifications or reminders will be sent.

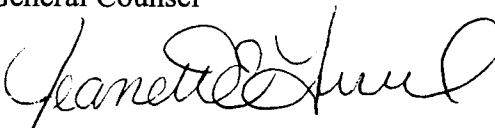
Second, all electronic notifications should be archived until such time as the statement requested has, in fact, been filed or a determination that a statement has not been filed has been made. If the statement were filed on time, your log would indicate a timely filed statement and maintenance of the electronic mail would no longer be needed, but you would need to maintain electronic mail messages for filers who are delinquent and for persons who fail to file

If such safeguards or precautions are implemented, it is permissible for the Authority to utilize electronic mail as a method to supply forms and notify filers of their statement of economic interests filing obligations.

I trust this answers your question. If you wish to discuss this further, please feel free to contact me at (916) 322-5660.

Sincerely,

Luisa Menchaca
General Counsel


By: Jeanette E. Turvill
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Technical Assistance Division

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