

1 Amend 2 Cal. Code Regs. Section 18705.3 to read:

2 **§ 18705.3. Materiality Standard: Economic Financial Interests Interest in Persons Who**
3 **Are Sources a Source of Income**

4 ~~(a) Directly involved sources of income. Any reasonably foreseeable financial effect on a~~
5 ~~person who is a source of income to a public official, and who is directly involved in a decision~~
6 ~~before the official's agency, is deemed material.~~

7 ~~(b) Indirectly involved sources of income.~~

8 ~~(1) Sources of income which are business entities. If the source of income is a business~~
9 ~~entity, apply the materiality standards stated in Title 2, California Code of Regulations, section~~
10 ~~18705.1(c).~~

11 ~~(2) Sources of income which are non-profit entities, including governmental entities. The~~
12 ~~effect of a decision is material as to a nonprofit entity which is a source of income to the official~~
13 ~~if any of the following applies:~~

14 ~~(A) For an entity whose gross annual receipts are \$400,000,000 or more, the effect of the~~
15 ~~decision will be any of the following:~~

16 ~~(i) The decision will result in an increase or decrease of the entity's gross annual receipts~~
17 ~~for a fiscal year in the amount of \$1,000,000 or more; or~~

18 ~~(ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or~~
19 ~~eliminate existing expenses for a fiscal year in the amount of \$250,000 or more; or~~

20 ~~(iii) The decision will result in an increase or decrease in the value of the entity's assets or~~
21 ~~liabilities in the amount of \$1,000,000 or more.~~

22 ~~(B) For an entity whose gross annual receipts are more than \$100,000,000 but less than~~
23 ~~\$400,000,000, the effect of the decision will be any of the following:~~

24 ~~(i) The decision will result in an increase or decrease of the entity's gross annual receipts~~
25 ~~for a fiscal year in the amount of \$400,000 or more; or~~

26 ~~(ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or~~
27 ~~eliminate existing expenses for a fiscal year in the amount of \$100,000 or more; or~~

28 ///

1 ~~(iii) The decision will result in an increase or decrease in the value of the entity's assets or~~
2 ~~liabilities in the amount of \$400,000 or more.~~

3 ~~(C) For an entity whose gross annual receipts are more than \$10,000,000, but less than or~~
4 ~~equal to \$100,000,000 the effect of the decision will be any of the following:~~

5 ~~(i) The decision will result in an increase or decrease of the entity's gross annual receipts~~
6 ~~for a fiscal year in the amount of \$200,000 or more.~~

7 ~~(ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or~~
8 ~~eliminate existing expenses for a fiscal year in the amount of \$50,000 or more.~~

9 ~~(iii) The decision will result in an increase or decrease in the value of the entity's assets or~~
10 ~~liabilities in the amount of \$200,000 or more.~~

11 ~~(D) For an entity whose gross annual receipts are more than \$1,000,000, but less than or~~
12 ~~equal to \$10,000,000 the effect of the decision will be any of the following:~~

13 ~~(i) The decision will result in an increase or decrease of the entity's gross annual receipts~~
14 ~~for a fiscal year in the amount of \$100,000 or more.~~

15 ~~(ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or~~
16 ~~eliminate existing expenses for a fiscal year in the amount of \$25,000 or more.~~

17 ~~(iii) The decision will result in an increase or decrease in the value of the entity's assets or~~
18 ~~liabilities in the amount of \$100,000 or more.~~

19 ~~(E) For an entity whose gross annual receipts are more than \$100,000 but less than or~~
20 ~~equal to \$1,000,000 the effect of the decision will be any of the following:~~

21 ~~(i) The decision will result in an increase or decrease of the entity's gross annual receipts~~
22 ~~for a fiscal year in the amount of \$50,000 or more.~~

23 ~~(ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or~~
24 ~~eliminate existing expenses for a fiscal year in the amount of \$12,500 or more.~~

25 ~~(iii) The decision will result in an increase or decrease in the value of the entity's assets or~~
26 ~~liabilities in the amount of \$50,000 or more.~~

27 ~~(F) For an entity whose gross annual receipts are \$100,000 or less, the effect of the~~
28 ~~decision will be any of the following:~~

1 (i) The decision will result in an increase or decrease of the entity's gross annual receipts
2 for a fiscal year in the amount of \$10,000 or more.

3 (ii) The decision will cause the entity to incur or avoid additional expenses or to reduce or
4 eliminate existing expenses for a fiscal year in the amount of \$2,500 or more.

5 (iii) The decision will result in an increase or decrease in the value of the entity's assets or
6 liabilities in the amount of \$10,000 or more.

7 (3) Sources of income who are individuals. The effect of a decision is material as to an
8 individual who is a source of income to an official if any of the following applies:

9 (A) The decision will affect the individual's income, investments, or other tangible or
10 intangible assets or liabilities (other than real property) by \$1,000 or more; or

11 (B) The decision will affect the individual's real property interest in a manner that is
12 considered material under the following standards:

13 Indirectly involved real property interest.

14 (1) Real property, other than leaseholds. The financial of a governmental decision on
15 real property which is indirectly involved in the governmental decision is presumed not to be
16 material. This presumption may be rebutted by proof that there are specific circumstances
17 regarding the governmental decision, its financial effect, and the nature of the real property in
18 which the public official has an economic interest, which make it reasonably foreseeable that the
19 decision will have a material financial effect on the real property in which the public official has
20 an interest. Examples of specific circumstances that will be considered include, but are not
21 limited to, circumstances where the decision affects:

22 (i) The development potential or income producing potential of the real property in
23 which the official has an economic interest;

24 (ii) The use of the real property in which the official has an economic interest;

25 (iii) The character of the neighborhood including, but not limited to, substantial effects
26 on: traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the
27 neighborhood.

28 ///

1 ~~(2) Real property leaseholds. The financial effect of a governmental decision on real~~
2 ~~property in which a public official has a leasehold interest and which is indirectly involved in the~~
3 ~~governmental decision is presumed not to be material. This presumption may be rebutted by~~
4 ~~proof that there are specific circumstances regarding the governmental decision, its financial~~
5 ~~effect, and the nature of the real property in which the official has an economic interest, which~~
6 ~~make it reasonably foreseeable that the governmental decision will:~~

7 ~~(i) Change the legally allowable use of the leased real property, and the lessee has a right~~
8 ~~to sublease the real property;~~

9 ~~(ii) Change the lessee's actual use of the real property;~~

10 ~~(iii) Substantially change or significantly decrease the lessee's use or enjoyment of the~~
11 ~~leased real property;~~

12 ~~(iv) Increase or decrease the amount of rent for the leased property by 5+ percent during~~
13 ~~any 12-month period following the decision; or~~

14 ~~(v) Result in a change to the termination date of the lease.~~

15 ~~(e) Nexus. Any reasonably foreseeable financial effect on a person who is a source of~~
16 ~~income to a public official is deemed material if the public official receives or is promised the~~
17 ~~income to achieve a goal or purpose which would be achieved, defeated, aided, or hindered by~~
18 ~~the decision.~~

19 ~~Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,~~
20 ~~87102.6, 87102.8 and 87103, Government Code.~~

21 This regulation provides the standards to determine when the reasonably foreseeable
22 financial effect of a governmental decision on an official's financial interest, identified as a
23 source of income under Section 87103(c), is material.

24 (a) Income from the Sale of Goods or Services: For income received from the sale of
25 goods or services in the ordinary course of business, provided by the official or the official's
26 spouse, the following standards apply:

27 (1) If the source of income is an individual or a non-profit entity, the financial effect is
28 material if:

1 (A) The individual or non-profit entity is a claimant, applicant, respondent, contracting
2 party, or otherwise named as a party in any proceeding, or has an identifiable ownership interest
3 in any business entity or real property that is the subject of a proceeding; or

4 (B) The official knows or has reason to know that the individual will be financially
5 affected under the standards applied to an official in Regulation 18705.5, or that the individual's
6 business interest or real property interest or the non-profit's real property interest will be
7 financially affected under the standards applied to a financial interest in Regulation 18705.1 or
8 18705.2.

9 (2) If the source of income is a business entity, apply the standards applicable to a
10 financial interest in Regulation 18705.1.

11 (b) Income from the Sale of Personal or Real Property: For income from the sale of
12 personal or real property belonging to the official, or the official's spouse if the property is
13 community property, the financial effect is material if the official knows or has reason to know
14 that the source of income is a claimant, applicant, respondent, contracting party, or is otherwise
15 identified as a party in any proceeding, or has an interest in any business entity or real property
16 that will be financially affected under the standards applied to a financial interest in Regulation
17 18705.1 or 18705.2.

18 (c) Exception – Income from Retail Sales of a Business Entity: For purposes of applying
19 the exception under Section 87103.5, the retail customers of a business entity constitute a
20 significant segment of the public generally if the business is open to the public and the customers
21 comprise a broad base of persons representative of the jurisdiction as a whole and not confined to
22 any specialized interest. Income from an individual customer is not distinguishable from the
23 amount of income received from other customers when the official is unable to recognize a
24 significant monetary difference between the business provided by the individual customer and
25 the general clientele of the business. An official is unable to recognize a significant monetary
26 difference when either:

27 ///

28 //

1 (1) The business is of the type that sales to any one customer will not have a significant
2 impact on the business's annual net sales; or

3 (2) The business has no records that distinguish customers by amount of sales, and the
4 official has no other information that the customer provides significantly more income to the
5 business than an average customer.

6 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
7 87102.6, 87102.8 and 87103, Government Code.

8 ///

9 ///

10 ///

11 ///

12 ///

13 ///

14 ///

15 ///

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 //