

1 **§ 18704.6.[Renumbered from Regulation 18701] Consultant, Public Official Who Manages**
2 **Public Investments: Definitions.**

3 (a) "Consultant" means an individual who, pursuant to a contract with a state or local
4 government agency:

5 (1) Makes a governmental decision whether to:

6 (A) Approve a rate, rule, or regulation;

7 (B) Adopt or enforce a law;

8 (C) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval,
9 order, or similar authorization or entitlement;

10 (D) Authorize the agency to enter into, modify, or renew a contract provided it is the type
11 of contract that requires agency approval;

12 (E) Grant agency approval to a contract that requires agency approval and to which the
13 agency is a party, or to the specifications for such a contract;

14 (F) Grant agency approval to a plan, design, report, study, or similar item;

15 (G) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency,
16 or for any subdivision thereof; or

17 (2) Serves in a staff capacity with the agency and in that capacity participates in making a
18 governmental decision as defined in ~~regulation 18702.2~~ Regulation 18704.2 or performs the
19 same or substantially all the same duties for the agency that would otherwise be performed by an
20 individual holding a position specified in the agency's Conflict of Interest Code under
21 ~~Government Code section~~ Section 87302.

22 (b) For purposes of ~~Government Code section~~ Section 87200, the following definitions
23 apply:

24 (1) "Other public officials who manage public investments" means:

25 (A) Members of boards and commissions, including pension and retirement boards or
26 commissions, or of committees thereof, who exercise responsibility for the management of
27 public investments;

1 (B) High-level officers and employees of public agencies who exercise primary
2 responsibility for the management of public investments, such as chief or principal investment
3 officers or chief financial managers. This category shall not include officers and employees who
4 work under the supervision of the chief or principal investment officers or the chief financial
5 managers; and

6 (C) Individuals who, pursuant to a contract with a state or local government agency,
7 perform the same or substantially all the same functions that would otherwise be performed by
8 the public officials described in subdivision (b)(1)(B) above.

9 (c) "Public investments" means the investment of public moneys in real estate, securities,
10 or other economic interests for the production of revenue or other financial return.

11 (d) "Public moneys" means all moneys belonging to, received by, or held by, the state, or
12 any city, county, town, district, or public agency therein, or by an officer thereof acting in his or
13 her official capacity, and includes the proceeds of all bonds and other evidences of indebtedness,
14 trust funds held by public pension and retirement systems, deferred compensation funds held for
15 investment by public agencies, and public moneys held by a financial institution under a trust
16 indenture to which a public agency is a party.

17 (e) "Management of public investments" means the following nonministerial functions:
18 directing the investment of public moneys; formulating or approving investment policies;
19 approving or establishing guidelines for asset allocations; or approving investment transactions.

20 Comment: In limited circumstances, the members of a nonprofit organization may be "public
21 officials." (In re Siegel (1977) 3 FPPC Ops. 62.)

22 Note: Authority cited: Section 83112, Government Code. Reference: Sections 82019, 82048,
23 87100, 87200 and 87302, Government Code.

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