

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18702.1. Materiality Standard: Financial Interests in Business Entities.

(a) The reasonably foreseeable financial effect of a governmental decision on a business entity in which an official has a financial interest identified in Section 87103(a) or (d) is material whenever the business entity:

(1) Initiates the proceeding in which the governmental decision will be made by filing an application, claim, appeal, or request for other government action concerning the business entity;

(2) Offers to make a sale of a service or a product to the official's agency;

(3) Bids on or enters into a written contract with the official's agency;

(4) Is the named manufacturer in a purchase order of any product purchased by the official's agency or the sales provider of any products to the official's agency that aggregates to \$1,000 or more in any 12-month period;

(5) Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement that the official's agency is authorized to issue;

(6) Is the subject of any inspection, action, or proceeding subject to the regulatory authority of the official's agency; or

(7) Is otherwise subject to an action taken by the official's agency, the effect of which is directed solely at the business entity in which the official has an interest.

(8) Exception. Notwithstanding the above provisions, any financial effect on a business entity that occurs as a result of a travel payment made for food, lodging, transportation, or fuel, authorized by an agency in the course of carrying out an agency

function, to a business entity that provides such services to the general public shall be treated under subdivision (b).

(b) For a governmental decision not identified in subdivision (a), the financial effect is material if a prudent person with sufficient information would find it is reasonably foreseeable that the decision's financial effect would contribute to a change in the price of the business entity's publicly traded stock, or the value of a privately-held business entity. Examples of decisions that may be applicable include those that:

(1) Authorize, prohibit, regulate or otherwise establish conditions for an activity in which the business entity is engaged;

(2) Increase or decrease the amount of competition in the field in which the business entity is engaged;

(3) Increase or decrease the need for the products or services that the business entity supplies;

(4) Make improvements in the surrounding neighborhood such as redevelopment projects, traffic/road improvements, or parking changes that may affect, either temporarily or permanently, the amount of business the business entity receives;

(5) Decide the location of a major development, entertainment facility, or other project that would increase or decrease the amount of business the entity draws from the location of the project; or

(6) Increase or decrease the tax burden, debt, or financial or legal liability of the business entity.

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

HISTORY

1. New section filed 9-5-85; effective thirtieth day thereafter (Register 85, No. 36).
2. Amendment filed 10-17-88; operative 11-16-88 (Register 88, No. 43).
3. Amendment of subsection (a)(1) filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
4. Amendment of subsections (a)(2), (a)(3)(E), (a)(4) and (c)-(c)(2) filed 12-11-95; operative 12-11-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 50).
5. Amendment of subsection (a)(1) and Note filed 6-13-97; operative 6-13-97. Submitted to OAL for printing only (Register 97, No. 24).
6. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
7. Editorial correction of History 6 (Register 2000, No. 25).
8. Amendment of section and Note filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to Fair Political Practices Commission v. Office of Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
9. Amendment of subsection (c) filed 1-16-2002; operative 2-15-2002 (Register 2002, No. 3).
10. Amendment of subsection (a) , new subsection (d) and amendment of Note filed 6-10-2003; operative 6-10-2003 (Register 2003, No. 24).

11. Change without regulatory effect renumbering former section 18702.1 to section 18704.1 and renumbering former section 18705.1 to section 18702.1 filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).