

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

§ 18702.3. Materiality Standard: Financial Interest in a Source of Income.

The following standards apply to determine when the reasonably foreseeable financial effect of a governmental decision on an official's financial interest, identified as a source of income under Section 87103(c), is material.

(a) Income from the Sale of Goods and Services: For income received by the official or his or her spouse for goods and services provided in the ordinary course of business, including a salary, the financial effect is material if:

(1) The source is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding; or

(2) The source is an individual that will be financially affected under the standards applied to an official in Regulation 18702.5, or the official knows or has reason to know that the individual has an interest in a business entity or real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.1 or 18702.2, respectively; or

(3) The source is a nonprofit that will receive a measurable financial benefit or loss, or the official knows or has reason to know that the nonprofit has an interest in real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.2; or

(4) The source is a business entity that will be financially affected under the standards as applied to a financial interest in Regulation 18702.1.

(b) **Income from the Sale of Personal or Real Property:** For income from the sale of personal or real property belonging to the official, or the official's spouse if the property is community property, the financial effect of the decision is material if the official knows or has reason to know that the source of income is a claimant, applicant, respondent, contracting party, or is otherwise named or identified as the subject of the proceeding, or has an interest in any business entity or real property that will be financially affected under the standards applied to a financial interest in Regulation 18702.1 or 18702.2, respectively.

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

(d) **Exception - Income from Retail Sales of a Business Entity:** For purposes of applying the exception under Section 87103.5, the retail customers of a business entity constitute a significant segment of the public generally if the business is open to the public and provides goods or services to customers that comprise a broad base of persons representative of the jurisdiction as a whole and not confined to any specialized occupation, profession or business. Income from an individual customer is not distinguishable from the amount of income received from other customers when the official is unable to recognize a significant monetary difference between the business provided by the individual customer and the general clientele of the business. An official is unable to recognize a significant monetary difference when either:

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

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

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 10-17-88; operative 11-16-88 (Register 88, No. 43).
2. 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).
3. Editorial correction of History 2 (Register 2000, No. 25).
4. Change without regulatory effect renumbering former section 18702.3 to section 18704.3 and renumbering former section 18705.3 to section 18702.3, including amendment of section, 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).