



California Fair Political Practices Commission

March 5, 1987

Richard M. Flores
Deputy County Counsel
Mendocino County Courthouse
Ukiah, CA 95482

Re: Your Request for Assistance
Our File No. I-87-043

Dear Mr. Flores:

You have written requesting advice regarding a possible conflict of interest on the part of an unnamed county employee. Since your request does not involve a specific pending decision, we are treating it as a request for informal assistance.^{1/}

You have specifically asked about potential conflicts of interest under Government Code Section 1126. That section falls outside the provisions of the Political Reform Act (the "Act").^{2/} Consequently, we are unable to advise you with regard to that issue. We suggest that you contact the Attorney General for an interpretation of the applicability of that section to your circumstances.

With respect to the provisions of the Act, you have sought general guidance regarding potential conflicts of interest for a county "plan checker" who is also privately employed in the construction industry. We have not been provided with detailed information regarding the nature and circumstances of this employment; however, the Act requires that any public official disqualify himself from making, participating in making, or using his official position to influence the making of any governmental decision in which he has a financial interest.

^{1/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

^{2/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Administrative Code Section 18000, *et seq.* All references to regulations are to Title 2, Division 6 of the California Administrative Code.

Richard M. Flores
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(Section 87100.) An official has a financial interest in a decision if it will have a reasonably foreseeable material financial effect on the official, a member of the official's immediate family or on:

...(c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

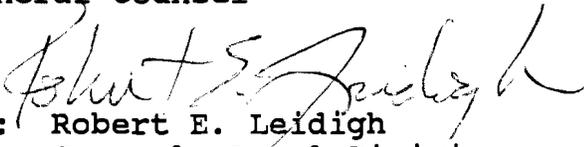
(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management....

Obviously, the private employer is a source of income to the person as well as a business entity. (Section 87103(c) and (d).) Hence, disqualification will be required with respect to decisions which will affect the employer. (See Regulation 18702.1, copy enclosed.) The employer's plans should be referred to another county employee for checking, without any input or supervision from the employee in question. We also enclose a copy of the Commission's Maloney Opinion, 3 FPPC Ops. (No. 76-082, Aug. 18, 1977), which involved a part-time county surveyor who also practiced his profession privately within the same county.

Since we have not been provided with detailed information regarding the specifics of his work in the private sector, it is not possible to provide you with more detailed advice. When more facts are known, you may wish to contact us again and provide us with the name and other facts material to our more complete review and advice. For questions regarding this letter, I may be reached at (916) 322-5901.

Sincerely,

Diane M. Griffiths
General Counsel


By: Robert E. Leidigh
Counsel, Legal Division

DMG:REL:plh
Enclosures

H. PETER KLEIN
COUNTY COUNSEL



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January 22, 1987

Diane Griffiths, General Counsel
Fair Political Practices Commission
1100 K Street Mall
Sacramento, California 95814

RE: REQUEST FOR OPINION - POTENTIALLY CONFLICTING EMPLOYMENT

Dear Ms. Griffiths:

The County of Mendocino finds itself in a situation where there might be a conflict of interest in the private employment of one of its employees (pursuant to Government Code Section 1126). The County requests an opinion from the Fair Political Practices Commission regarding this matter. The question presented is as follows:

Question: Is a County employee's position as "plan checker" for the Planning and Building Services Department incompatible and/or in conflict with his private employment as a building contractor?

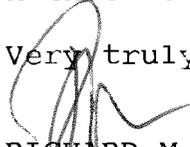
The Planning and Building Services Department is responsible for inspection of residential and commercial construction plans. It enforces compliance with uniform codes required by state and local ordinances and laws. It does actual visual inspections/approvals/reviews of on-site construction. It approves the appropriate building permits.

All of the employee's work as a building contractor (applicable permits, building inspections, etc.) is subject to review/approval by the Planning and Building Services Department.

The affected employee of the County has agreed to hold in abeyance any work that he might have done as a private building contractor until an opinion has been received from the Fair Political Practices Commission. A copy of the job description for a "plan checker" is attached hereto for your review.

Thank you for your efforts in this matter.

Very truly yours,


RICHARD M. FLORES
Deputy County Counsel

RMF/cf
Enclosure

County of Mendocino

JOB TITLE: Plan Checker

DESCRIPTION OF BASIC FUNCTION AND RESPONSIBILITY:

To inspect residential and commercial construction plans and to enforce compliance with uniform codes required by state and local ordinances and laws.

DUTIES:

- Reviews plans of construction and/or alteration of residential, commercial, and industrial structures to determine compliance of plans to uniform building, electrical, plumbing, and insulation codes required by state and local ordinances and laws.
- Acts as an information source on code compliance to contractors, builders, and the general public.
- Assists and advises field inspectors with code and construction problems that develop in the course of their work.
- Confers with architects, contractors, builders, and owners regarding code compliance of plans and needed changes.
- Monitors and interprets changes in uniform code requirements and new construction techniques.
- Assists with field inspections such as framing, foundation, and electrical installations, as required.
- Attends meetings and seminars to stay abreast of current code requirements and approved construction standards.
- Prepares and maintains various reports and records.
- Performs related duties as required.

JOB REQUIREMENTS, QUALIFICATIONS, AND DIFFICULTY OF WORK:

Requires:

- Possession of a valid California Driver's License.
- Knowledge of uniform building, plumbing, electrical and insulation codes, state housing laws, local zoning ordinances, and occupancy, health, and safety codes.
- Knowledge of construction plans, materials, methods and safety standards.
- Knowledge of the principles and techniques of building inspection, structural design, and plan checking.

County of Mendocino

Plan Checker (cont.)

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- Knowledge of procedures involved in the enforcement of uniform codes and local ordinances.
- Ability to read and interpret the uniform codes and local ordinances.
- Ability to read, interpret and analyze building plans and specifications.
- Ability to establish and maintain effective working relationships with builders, contractors, other agencies, and the general public.

Desirable Qualifications:

- Graduation from high school; three years experience as a Building Inspector; or an equivalent combination of education and experience.

This work consists of complex technical duties at an advanced journey level of classification.

RESPONSIBILITY:

Employees in this classification receive limited supervision within a framework of standard policies and procedures. Errors in work or judgment could result in poor community relations, unnecessary expense to contractors, construction and/or occupation of substandard structures, and/or a life safety hazard to the general public.

5/28/80

Rev. 7/21/82



California Fair Political Practices Commission

February 5, 1987

Richard M. Flores
Deputy County Counsel
County of Mendocino
Courthouse
Ukiah, CA 95482

Re: 87-043

Dear Mr. Flores:

Your letter requesting advice under the Political Reform Act was received on February 2, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Robert E. Leidigh, an attorney in the Legal Division, directly at (916) 322-5901.

We try to answer all advice requests promptly. Therefore, unless your request poses particularly complex legal questions, or more information is needed, you should expect a response within 21 working days. You also should be aware that your letter and our response are public records which may be disclosed to the public upon receipt of a proper request for disclosure.

Very truly yours,

A handwritten signature in cursive script that reads "Diane M. Griffiths".

Diane M. Griffiths
General Counsel

DMG:plh