



# California Fair Political Practices Commission

June 3, 1987

Kevin S. Mills  
Burke, Williams & Sorensen  
One Wilshire Building  
624 South Grand Avenue, 11th Floor  
Los Angeles, CA 90017

Re: Your Request for Advice  
Our File No. 87-132

Dear Mr. Mills:

This is in response to your request for advice under the conflict of interest provisions of the Political Reform Act.<sup>1/</sup>

Your law firm represents the Independent Cities Risk Management Authority for the purpose of preparing and adopting a conflict of interest code. That proposed code was submitted to the Commission for approval on November 26, 1986. We reviewed it and on December 11, 1986, we wrote to the Authority requesting certain documentation which was not submitted with the code. We further asked for language changes to the disclosure category portion of the code. The request was to delete (1) from category 1, the phrase "... in an aggregate amount of \$10,000 or more per annum", and (2) from category 4, the phrase making an entity not reportable if its income or assets exceeded \$250 million per annum.

You have requested more explanation for the proposed changes. It was your suggestion that the Commission's October 1976 statement of policy on the definition of materiality be reviewed prior to responding to your letter. In particular, you assert that the statement directs that "attention be paid to the size of the company and the size of the planned expenditures by the affected agency" when determining whether to designate a particular position. (Your letter of April 27, 1987, page 1.)

This standard should be used in determining which positions in your agency make, or participate in the making of, decisions which could have a material financial effect on their financial

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<sup>1/</sup> Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated.

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interests. The statement provides that "when the scope of authority of a position is such that it is predictable that the employees holding that position will be called upon to make decisions only of a financially de minimis nature, the position need not be designated". (October 1976 Statement of Policy on Materiality, page 2.) It does not authorize limitation of disclosure categories once a position has been designated to thresholds other than those required by the Political Reform Act.

The Political Reform Act, at Section 87302(a), provides that conflict of interest codes shall specifically enumerate the positions within the agency which involve the making, or participation in the making, of decisions which may foreseeably have a material effect on any financial interest and for each position, the specific types of investments, interests in real property, or sources of income which are reportable. Subsection (b) further provides that the information disclosed with respect to reportable investments, interests in real property and income shall be the same as the information required by Sections 87206, 87206.5 (repealed), and 87207. These sections provide for disclosure of interests at specific monetary thresholds. There is no provision in the law exempting disclosure of entities who contract with agencies for less than \$10,000 in purchases or whose assets or income exceed \$250 million per annum.

For purposes of designation, you must determine those persons who can make or participate in the making of decisions which could have a material effect on their financial interests. Once designated, their financial interests, at the monetary thresholds established by statute, must be disclosed on their financial disclosure forms. Under Section 87103, those designated employees would have to disqualify themselves from the decision-making process if it was reasonably foreseeable that the decision would have a material financial effect on their financial interests.

I hope this has clarified the reasons for our request to alter the language in the disclosure category portion of your code. If you wish to discuss this further, please feel free to call me at (916) 322-5901.

Sincerely,

Diane M. Griffiths  
General Counsel

*Jeanette E. Turvill*  
By: Jeanette E. Turvill  
Legal Assistant

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April 27, 1987

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California Fair Political Practices Commission  
428 "J" Street, Suite 800  
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Sacramento, California 95804-0807

Re: Conflict-of-Interest Code for the Independent  
Cities Risk Management Authority

Dear Ms. Turvill:

Some time ago, I wrote to request a more full explanation of your suggested amendments to the proposed conflict-of-interest code for the Independent Cities Risk Management Authority ("ICRMA"). The changes you propose are to disclosure categories numbers 1 and 4.

While the letter is unfortunately not dated, I believe it was sent to you some time in early March. If there are any problems with providing a response, please contact me at your earliest convenience.

I would like to suggest that prior to your review of the proposed changes, you consult the Statement of Policy on the definition of materiality issued by the Fair Political Practices Commission. The statement directs that in determining whether a position is to be designated, attention be paid to the size of the company and the size of the planned expenditures by the affected agency. The changes you propose to the conflict-of-interest code would require each designated employee to

Jeanette Turvill  
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disclose their interest in every company that may supply pencils and/or paper clips to the ICRMA. Surely, the Fair Political Practices Act did not intend such a requirement.

Thank you very much for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Kevin S. Mills". The signature is written in dark ink and is positioned above the typed name.

Kevin S. Mills  
for BURKE, WILLIAMS & SORENSEN

KSM:cr

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# California Fair Political Practices Commission

May 1, 1987

Kevin S. Mills  
Burke, Williams & Sorensen  
One Wilshire Building  
624 South Grand Avenue, 11th Floor  
Los Angeles, Ca 90017

Re: 87-132

Dear Mr. Mills:

Your letter requesting advice under the Political Reform Act was received on April 30, 1987 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact Jeanette Turvill, 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 if your request seeks formal written advice. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Adm. Code Sec. 18329).) 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, appearing to read "Diane M. Griffiths".

Diane M. Griffiths  
General Counsel

DMG:plh