



California Fair Political Practices Commission

February 15, 1990

Honorable Doug Vagim
Supervisor
County of Fresno
P.O. Box 4042
Fresno, CA 93744

Re: Your Request for Informal Assistance
Our File No. I-89-688

Dear Supervisor Vagim:

This is in response to your letter requesting assistance concerning your responsibilities as a member of the Fresno County Board of Supervisors pursuant to the conflict-of-interest provisions of the Political Reform Act (the "Act").^{1/} As we discussed in our telephone conversation of December 26th, the Commission cannot provide you with advice concerning conduct that has already taken place. Regulation 18329(b)(8)(A) (copy enclosed), provides that formal written advice will be declined where the "requestor is seeking advice relating to past conduct." Thus, we can provide only the following guidelines with respect to the questions posed in your letter and in our telephone conversations.^{2/}

QUESTION

May you participate in future decisions of the Fresno County Board of Supervisors concerning the acquisition of computer technology for the county, despite the possibility that a source of income to you may be involved in the bidding to provide services to the county?

CONCLUSION

Where computer issues come before the board of supervisors and you have no indication that any source of income will be involved, you may participate in the governmental decisions

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

concerning those issues. However, you may not participate or influence governmental decisions where any source of income is a bidder or is preparing to bid.

FACTS

You are the Supervisor for District 3 of Fresno County. The board of supervisors is currently in the process of augmenting the county's existing computer system. Recently you have become concerned over allegations that by virtue of your brother's involvement in the computer industry you have a conflict of interest with respect to all computer technology issues which are brought before the board.

Your brother and his wife are the sole owners of several computer businesses in the county, including Executive Computers which submitted technological information in response to the initial request for information circulated by the county. You stated you have no economic interest in any of your brother's companies. Your only business connection with your brother concerns a contract to provide computer services to the Fresno Metropolitan Flood Control District (the "district"). You stated that the district has contracted with Alphameric Data Processing, another company solely owned by your brother and his wife, to provide computer services. You were designated in the initial bid as providing services to the district on behalf of Alphameric.

ANALYSIS

The Political Reform Act was enacted by the people of the State of California by initiative in 1974. The purpose for the conflict-of-interest provisions of the Act was to ensure that public officials, whether elected or appointed, would perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001(b).)

In furtherance of this goal, Section 87100 of the Act provides:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

As a member of the Fresno County Board of Supervisors, you are a "public official" as defined in the Act. (Section 82048.) Thus, you may not use your official position to influence a

governmental decision in which you know or have reason to know^{3/} you have a financial interest.

Participation in governmental decisions has been interpreted broadly in furtherance of the goals of the Act. Participation includes voting, making an appointment, committing an agency to a course of action, entering into a contractual agreement on behalf of the agency, determining not to act, negotiating, advising or making recommendations to the decision-maker. In addition, where a public official contacts, or appears before, or otherwise attempts to influence, any member, officer, employee or consultant of the official's agency concerning a governmental decision, the official is considered to have used his official position to influence the decision.^{4/} (Regulations 18700 and 18700.1, copies enclosed.)

Financial Interests

Section 87103 specifies that a public official has a financial interest in a decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on the official or a member of his or her immediate family^{5/} 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

^{3/} An official knows that he or she has a financial interest in a decision if the official actually knows that it is reasonably foreseeable that a decision will materially affect a source of income. As a general rule, an official "has reason to know" that a decision will affect a source of income whenever a reasonable person, under the same circumstances, would be likely to know the identity of the source of income and would be aware of the decision's probable impact on the source. (Price Advice Letter, No. A-85-165, copy enclosed.)

^{4/} Clearly this is true even where the ultimate decision is made by another governmental body or the voters themselves. (Scher Advice Letter, No. A-88-479, copy enclosed.)

^{5/} Section 82029 defines "immediate family" to include an official's spouse and dependent children. Thus, a brother is not a member of the official's immediate family for purposes of the Act.

(\$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.

Section 87103(c).

According to Section 87103, any person or business that has made any payment to you is a source of income to you. If, in the aggregate, the payment was for \$250 or more in the past 12 months, the source is a potentially disqualifying financial interest for the purposes of Section 87103. Consequently, you may not participate in any governmental decision if you know or have reason to know the decision will have a reasonably foreseeable material financial effect on a person or business entity that has been a source of income to you of \$250 or more in the last 12 months.

According to the information you have provided, the Fresno Metropolitan Flood Control District has contracted with you and Alphameric Data Processing to provide computer services to the district. You stated that you have no ownership interest in Alphameric Data Processing, but only act as a consultant on this contract. It appears from the contract that you are acting as a subcontractor to Alphameric in providing services to the district. Generally, in contractor-subcontractor situations we have concluded that the contractor is in fact the sole source of income to the subcontractor, despite the fact the subcontractor is paid from funds collected from the contractor's client.^{6/} (Hart Advice Letter, No. A-83-264, copy enclosed.)

As stated above, Section 87100 prohibits any public official from making, participating in making, or otherwise using his official position to influence a governmental decision if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from the effect on the public generally, on any source of income \$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.

Consequently, you may not participate in any governmental decision if you know or have reason to know the decision will have a reasonably foreseeable material financial effect on Alphameric Data Processing. In addition, Regulation 18706 (copy enclosed) provides that an official has a financial interest in a decision

^{6/} As we discussed in our telephone conversation, generally salary received by an employee of a state, local or federal government agency is exempted from the definition of "income" for purposes of the Act. (Section 82030(b)(2).) However, the term "salary" has been narrowly construed and does not apply to every payment from a governmental entity. Because the income in your question is from your brother's company, we have not reached the issue of income from the district for the purposes of this letter.

within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on a business entity which is otherwise related to a business entity in which the official has a financial interest. Regulation 18236 (copy enclosed) defines an "otherwise related business entity" as:

(b) Business entities, including corporations, partnerships, joint ventures and any other organizations and enterprises operated for profit, which do not have a parent-subsidiary relationship are otherwise related if any one of the following three tests is met:

(1) One business entity has a controlling ownership interest in the other business entity.

(2) There is shared management and control between the entities. In determining whether there is shared management and control, consideration should be given to the following factors:

(A) The same person or substantially the same person owns and manages the two entities;

(B) There are common or commingled funds or assets;

(C) The business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis;

(D) There is otherwise a regular and close working relationship between the entities; or

(3) A controlling owner (50% or greater interest as a shareholder or as a general partner)^{7/} in one entity also is a controlling owner in the other entity.

Regulation 18236, footnote added.

^{7/} In 1985, the Commission adopted a policy interpreting a controlling ownership interest as an ownership interest of more than 50%.

Consequently, because your brother in fact owns both Executive Computers and Alphameric Data Processing, if one of the companies has been a source of income to you, the other company will also be treated as a source of income to you.^{8/} (Regulation 18236(b)(3).) This rule would apply to any company in which your brother and his wife are majority owners. Of course, if after the receipt of the last payment pursuant to the contract, 12 months have elapsed, your brother's company will no longer be a source of income to you for purposes of the conflict-of-interest provisions of the Act.

Foreseeability

Whether the financial consequences of a decision are reasonably foreseeable at the time a governmental decision is made depends on the facts of each particular case. An effect is considered reasonably foreseeable if there is a substantial likelihood that it will occur. Certainty is not required. However, if an effect is only a mere possibility, it is not reasonably foreseeable. (In re Thorner (1975) 1 FPPC Ops. 198, copy enclosed.)

The general rule set forth in In re Thorner (*supra*) is that where the business entity in which the official has a economic interest makes a bid on a contract or is preparing to make a bid, a financial effect on the business entity is reasonably foreseeably even if there is substantial competition. (In re Thorner, supra.) In addition, this same rule of foreseeability applies to decisions that lead up to the contract, such as the decision that sets the foundation for the contractual relationship. For example, in Thorner the actual decision before the public official concerned requests for water variances for property slated for development. There, the Commission determined that such decisions would foreseeably affect business entities who had bid or were preparing to bid on a contract with the developers or who were likely to supply the developers with goods. Thus, the decision was not on a contract, but on a project that might lead to the contract.

Consequently, where Alphameric Data Processing^{9/}, the business entity in which you have an economic interest, bids on a contract before the board of supervisors, or is preparing to bid

^{8/} This letter does not address potential direct and indirect effects of governmental decisions concerning computers on your own investments in business entities and sources of income to those entities. These questions were not raised in your letter requesting advice. For your information a pamphlet on the conflict of interest laws of the Act has been enclosed.

^{9/} Any further reference to Alphameric includes any otherwise related business entities as discussed above.

on that contract, it is foreseeable that decisions pertaining to the contract, will financially affect Alphameric Data Processing.

Materiality

Regulation 18702.1 (copy enclosed) provides that the effect of a decision is material if any business entity in which a public official has an economic interest is directly involved in the decision before the public official's agency. Alphameric Data Processing is directly involved in a decision before the board of supervisors when Alphameric Data Processing, or their agent:

(1) Initiates the proceeding in which the decision will be made by filing an application, claim, appeal, or similar request or;

(2) Is a named party in, or the subject of, the proceeding concerning the decision before the official or the official's agency;

(3) A person or business entity is the subject of a proceeding if a decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the subject person or business entity.

Regulation 18702.1(b).

Applying this regulation to Alphameric Data Processing, we conclude that Alphameric would be directly involved in a decision before the county when Alphameric has bid or is preparing to bid on a contract with the county. Consequently, since you have an economic interest in Alphameric Data Processing, you are required to disqualify yourself from participating in any board decision in which Alphameric Data Processing is a bidder or where Alphameric is preparing to bid. Similarly, you are required to disqualify yourself from participating in decisions where a business entity that is "related" to Alphameric as described in Regulation 18236, is a bidder or is preparing to bid.

In summation, where computer issues come before the board of supervisors and you have no indication that any source of income will be involved, you may participate in the governmental decisions concerning those issues. However, you may not participate or influence governmental decisions where any source of income is a bidder or is preparing to bid.

In addition, please note that while generally, every governmental decision must be analyzed independently to determine whether a conflict of interest exists, under some circumstances a

series of decisions may be too interrelated to be considered separately. (Miller Advice Letter, No. A-82-119, copy enclosed.) For example, if you have a conflict of interest as to decisions concerning a specific contract, you may be similarly disqualified as to any decisions leading up to the contract because those decisions would in fact influence the final determination of the decision for which you are disqualified. (Blegan Advice Letter, No. A-85-176, copy enclosed.)

I trust this letter has addressed your questions. Should you have any further questions regarding this matter or a specific decision that you would like advice on, please feel free to contact me at (916) 322-5901.

Sincerely,

Kathryn E. Donovan
General Counsel



By: John W. Wallace
Counsel, Legal Division

KED:JWW:plh
Enclosures



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Doug Vagim
Supervisor, District 3
Board of Supervisors

January 3, 1990

Mr. John Wallace, Esq.
California F.P.P.C.
P.O. Box 807
Sacramento, CA 95804-0807

Re: Letter No. 89-688

Dear Mr. Wallace:

As per our telephone conversation yesterday I am forwarding to you the latest clarification from the Purchasing Manager of what was before the Board of Supervisors on December 12, 1989.

Sincerely,

Doug Vagim

RECEIVED
JAN 2 1990

DATE: January 2, 1990
TO: Supervisor Doug Vagim
FROM: Charlie Walters, Purchasing Manager *Charlie L. Walters*
SUBJECT: Additional Clarification of PC Purchasing Policy

BOARD OF SUPERVISORS

Regardless of the RFP No. 750-1264, Microcomputers and the responses to this RFP, what CSD took to the Board for your approval was a policy statement not a contract. This policy statement asks the Board to sanction by way of standardization the acquisition of IBM microcomputers for the period November 1989 - October 1990 in response to an identified need for the functionality these computers provide.

If you have questions, please contact me at 488-3712.

CLW:df

(9540C)

December 18, 1989

Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Dear Sir:

The Fresno County Board of Supervisors authorized me to submit the enclosed information to you regarding Supervisor Doug Vagim's request for FPPC's ruling on a possible conflict of interest.

Enclosed is a chronology of events regarding issues before the Board of Supervisors that involved Supervisor Doug Vagim and his brother Ed Vagim, Jr.; and also a certified tape recording of Board of Supervisors' meetings of November 28, 1989, and December 12, 1989, relating to an agenda item for acquisition of IBM micro/personal computers.

Very truly yours,



Daniel R. Fitzpatrick
County Administrative Officer

DRF:cf

Enclosures

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CHRONOLOGY OF EVENTS REGARDING
ISSUES BEFORE THE BOARD OF SUPERVISORS THAT INVOLVE SUPERVISOR DOUG VAGIM
AND HIS BROTHER ED VAGIM, JR.

May 15, 1989 Supervisor Vagim expressed concerns to staff regarding the purchase of computer equipment and software for Environmental Health Services. Specifically, he wanted to discuss the agenda item that was scheduled for the May 16, 1989, Board agenda - Item #27 on the Consent Calendar (see Exhibit A). He raised two concerns:

1. Supervisor Vagim maintained that the RFP for the computer system issued by Purchasing was vague and nebulous. He said that the lack of specifics prevented some prospective vendors from responding to the RFP.
2. He asked why, if vendors were not able to attend the bidders conference, they are denied permission to talk with Department staff to obtain clarification of RFP requirements. He specifically asked why vendors were prohibited from having direct access to the Department of Environmental Health staff to ask questions about the RFP.

Supervisor Vagim was told that staff had worked with both the Computer Services Department and Purchasing Department to develop the language that described the program needs. Our understanding was that the RFP was sufficiently clear to vendors. In fact, we had received comments stating just the opposite, i.e. that there was too much detail.

Our response to the second issue was that the Purchasing Department controlled the communications prospective bidders had with departments in order to insure that all vendors are treated

fairly and received information equally. This is Board policy relative to Purchasing procedure so that all vendors have equal access to information.

This did not satisfy Supervisor Vagim. He stated that he would pull the item for further discussion as he had more questions about the RFP process.

May 16, 1989 The Health Department sponsored an item on the consent agenda for the acquisition of a personal computer and related software. During the Board meeting, Supervisor Vagim raised many concerns regarding this agenda item. His primary concern was there had only been a single respondent to the RFP, and secondly when another possible bidder requested a meeting with CSD to discuss the RFP in detail, the Purchasing Department denied the request. Supervisor Vagim requested to pull this item from the consent agenda and requested a meeting with the principles concerned to satisfy his need for additional detailed information concerning his concerns. This item was subsequently pulled and carried over to May 23, 1989.

It should be noted that as CAO, I objected to this item being held. I made it clear then that if Mr. Vagim had an issue to discuss he should do so in open public session. I did this because staff brought to my attention a few hours earlier, a letter to Purchasing from Alphanumeric Data Processing complaining about the bid process. Edward J. Vagim, Jr., Doug's brother, runs this company. (See Exhibit B - letter of March 6, 1989.) This letter just coincidentally poses the same "problems" with the RFP process as Supervisor Vagim.

Mid May Supervisor Vagim, after this item was held, stated since he was not getting the requested information from staff that he would hold up the project until budget hearings. He implied that there would not be enough votes (4/5) to adopt the resolution transferring the needed monies for the purchasing of the data system at the next regular Board meeting. (Told staff that

he would get Supervisor Levy to support him on holding this item.) Note: Supervisor Levy was not at the May 16, 1989, Board meeting that initially held this item or had any knowledge of Supervisor's Vagim's claim.

May 18, 1989 In a meeting with Supervisor Vagim in his office, Dan Fitzpatrick, CAO; Jed Christensen, Assistant CAO; and Kay Randall, Director of Computer Services; all of the aforementioned items were discussed with Supervisor Vagim. Supervisor Vagim felt because the RFP was too general there may have been some bidders that probably did not bid on this particular RFP. He felt there should be a separation of software from hardware when putting together this type of RFP.

It was explained to Supervisor Vagim that it is incumbent upon CSD and the County to provide opportunities for all software vendors to provide bids supporting software required to meet the application specifications without specifying specific hardware requirements. The County is looking for the best software solution and then the bidder which can supply the hardware requirements for the proposed software.

Mr. Vagim also said that he talked with one vendor that called Purchasing to see if he could talk to the Department of Health about the bid specs. The only vendor to call Purchasing with this request was Mr. Vagim's brother.

Again, Supervisor Vagim's concerns were based solely around the two issues brought up by his brother, Ed, in his March 6, 1989, letter to the Purchasing Department. In fact, this letter was on the desk in front of Supervisor Vagim while he berated staff on this issue. Note: Supervisor Vagim told Kevin Riggs in a TV interview on November 28, 1989, that he had never seen this letter.

It was also at this meeting that we discussed the RFP for purchasing P.C.'s. Mr. Vagim stated he would like to have the opportunity to review this RFP before it went out. We said we would comply and subsequently met on June 19, 1989, to review this RFP. (This is the RFP that resulted in the agenda item appearing before the Board on November 28, 1989.)

- May 23, 1989 Item was brought back before the Board and passed unanimously without discussion.
- May 30, 1989 Jed Christensen, Assistant CAO, and Charlie Walters met with Supervisor Vagim regarding County policy relative to purchasing computers.

CSD WORKSHOP

- June 20, 1989 Board of Supervisors CSD Workshop
- Supervisor Vagim suggested the creation of an Ad Hoc CSD Committee to look at CSD's future operation and equipment directions. He also reiterated his request that CSD put out a RFP for PC type equipment with staff indicating that the RFP was being prepared in final form and would be sent out to over 30 vendors.

AD HOC COMPUTER COMMITTEE

- July 20, 1989 Memo from staff to Board of Supervisors requesting names for Ad Hoc CSD Committee.
- July 21, 1989 Meeting between Supervisor Vagim and staff regarding agenda for CSD Ad Hoc Committee. At this meeting staff reviewed ideas on the role and activities of the Committee.

- Aug. 11, 1989 Memo from Supervisor Vagim to staff listing choices for CSD Ad Hoc Committee, resulting in appointment of Ed Vagim to Committee (see Attachment C).
- Aug. 24, 1989 Telecom between Christensen and Ed Vagim regarding membership on the CSD Ad Hoc Committee. He also raised concerns regarding the RFP for PC's sent out by the County, i.e. too geared toward one vendor.
- Nov. 11, 1989 Letter from Ed Vagim indicating to staff that he would like to work with the County in the future but did not feel that was possible under the current leadership at CSD. He accused CSD's long-term ties to IBM that rubber-stamp new equipment purchases from IBM.

AUGMENTATION FUND

- Sept. 26, 1989 Agenda Item #8: Public Hearing on Distribution of Special District Augmentation Funds for 1989-90

This item appropriates \$6 million to the various districts in Fresno County. Supervisor Vagim at this meeting severely chastised Leslie Johnstone, Budget Director, regarding how this money was apportioned to the various districts. Ms. Johnstone, repeatedly made it clear that her recommendation for distribution was based on past Board policy.

Supervisor Vagim's principal point in this discussion was that certain metropolitan area districts were not receiving as much as they contributed in Property Tax dollars. One of those districts recommended for a \$75,000 cut was the Fresno Metropolitan Flood Control District. Mr. Vagim reviewed with Ms. Johnstone the cut of this district's funding in a briefing meeting held in his office prior to the public meeting of September 26, 1989.

Supervisor Vagim not once during this meeting disclosed that he and his brother have a contract for computer work with the FMFCD.

RFP and RESPONSES FOR MINI AND PERSONAL COMPUTERS

- June 19, 1989 A meeting between Supervisor Vagim, Christensen and Randall was held to discuss sending out a RFP for PC's to be used by County departments. The RFP was discussed in depth, with numerous revisions suggested by Supervisor Vagim which were incorporated into the RFP. A copy was left with him for further review.
- Nov. 20, 1989 Telecom from Ed Vagim to staff indicating his representation of AT&T's network system and stating his desire to meet with the County to market the system. Staff asked CSD to meet with him to discuss his unsolicited proposal.
- Nov. 27, 1989 Briefing with Supervisor Vagim and staff regarding Board item for November 28 dealing with RFP for County purchase of PC's. Supervisor Vagim expressed grave concerns about the RFP, indicating that he believed it had been slanted toward one vendor and that's why the results came out as they did.
- Mr. Vagim also charged that IBM was told information regarding the quantity of PC's that were to be bought that other vendors did not have. We assured him that all vendors had the same information.
- Nov. 28, 1989 Board Meeting
- RE: Agenda Item: Approval of RFP #750-1264, Results Regarding Microcomputers/Personal Computers (see Attachment E)

Supervisor Vagim pulled this item from consent and asked that it be held. He further suggested that he did not wish to take up the time of the Board to get his questions answered on this item and would be willing to discuss this privately with staff. The Chairman informed Supervisor Vagim that if he had questions of staff he should ask them at the public meeting so all could hear his concerns.

Supervisor Vagim, for over 30 minutes, dressed down CSD Director Kay Randall over the content of the RFP (even though he had thoroughly reviewed this previously with Randall and Jed Christensen).

The issue went beyond the pros and cons of such computer hardware. In fact, Mr. Vagim accused Mr. Randall of giving inside information to IBM that was not available to other vendors. Specifically, he stated that Kay told IBM that we were going to purchase 30 PC's and the others did not have this information and thus could not give quantity discounts. (The fact of the matter is that the RFP stated clearly we would be purchasing 30 PC's during the year.)

Not once during this discussion did Supervisor Vagim disclose that his brother Ed Vagim was a losing bidder on this RFP.

Nov. 28, 1989 Kevin Riggs, Channel 30 News Reporter, interviewed Supervisor Vagim regarding his brother's bidding on this RFP. Mr. Vagim admitted during this interview that he and his brother do have a business relationship, albeit a consulting relationship.

Nov. 29, 1989 Kevin Riggs again interviewed Supervisor Vagim on this issue and also confronted him with facts surrounding the May Health Department item in which his brother had written a letter. Mr. Vagim denied knowing anything about this and said he never saw the letter.

Mr. Vagim further stated that you made staff aware of your potential conflict and that you told staff that you would not vote on one of these items if your brother was a successful bidder--and that it was up to us to inform your colleagues about this issue. First, you never told Jed, Kay, or myself about your brother's conflict with these bids; and second, it is not the job of staff to brief other Board members on your possible conflict of interest. You are responsible for this disclosure, not professional staff.

Supervisor Vagim made the same claim of informing staff on Page 3 of his letter to F.P.P.C. "I have made my position clear to staff and my fellow Board members that should a proposal to purchase computer equipment in which there might be the slightest hint of interest conflict, I would totally disqualify myself from any participation in discussions and/or votes."

Dec. 1, 1989 Telecom from Ed Vagim to staff regarding AT&T network system appointment with CSD. Apparently, CSD had set up an appointment directly with AT&T rather than through Ed. Staff directed CSD to change appointment.

Ed also indicated that the Channel 30 interview with his brother regarding a conflict of interest between he, his brother and the County was very disturbing to him. He was concerned that it might jeopardize the possibility of him doing business with the County in the future. He asked me if we thought that there was a conflict for him to do work for the County while his brother was on the Board. We told him that that was something that he and Doug needed to work out because we wouldn't advise them on potential conflicts. We suggested that he speak with County Counsel for advice.

Dec. 4, 1989 Board Briefing Report from Kay Randall to Board. This was a detailed three-page report answering Supervisor's Vagim's charges regarding the personal computer RFP (see Attachment F).

- Dec. 8, 1989 Letter from Supervisor Vagin to Fair Political Practice Commission (see Attachment G).
- Dec. 10, 1989 Fresno Bee article. Supervisor Vagin called Mr. Randall's Board Briefing Report a "bunch of lies." He again accused Mr. Randall of giving inside information to IBM, referring to it as a "sweetheart relationship" (see Attachment H).

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ATTACHMENTS

Held from May 16, 1989
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Agenda Item

DATE: May 23, 1989

TO: Board of Supervisors

FROM: George Bleth, Director of Health
Kay Randall, Director of Computer Services *MR. Randall*

SUBJECT: Health Department and Computer Services Department Budget Increase for Federal 314(d) Health Incentive Program Funding and Computer Equipment Acquisition

RECOMMENDED ACTIONS:

1. Adopt Resolution increasing Health Department's appropriations and estimated revenue for 1988-89 in the amount of \$63,367 from Federal 314(d) funding (4/5 vote).
2. Adopt Resolution increasing Computer Services Department's appropriations and income for 1988-89 in the amount of \$23,720 (4/5 vote).

FISCAL IMPACT:

There is no net County cost associated with these recommended actions. Federal financial assistance totaling \$63,367 is available for comprehensive public health and environmental health services.

The proposed resolutions increase the Health Department's and Computer Services Department's 1988-89 budgets as follows:

<u>Budget Unit</u>	<u>Department</u>	<u>Amount</u>
5210	Public Health	\$50,927
5216	Environmental Health	\$12,440
	TOTAL	\$63,367
8907	Computer Services Department - Equipment	\$18,459
8905	Computer Services Department - Internal Services Fund	\$ 5,261
	TOTAL	\$23,720

ADMINISTRATIVE OFFICE REVIEW *Keeha A. Johnson* Page 1 of 3
BOARD ACTION. DATE May 23, 1989 APPROVED AS RECOMMENDED OTHER



DISCUSSION:

At present, Federal 314(d) Health Incentive Program funds (totaling \$63,367) are available to Fresno County. Federal law specifies that these funds be utilized for equipment or new programs for Public Health and Environmental Health. Federal law also stipulates that these funds be encumbered and spent within a two-year time period after receipt of Federal dollars. Due to department priorities and State approval, these funds have not yet been spent. Therefore, we are recommending that these funds be utilized at this time to meet the two-year requirement.

The Health Department proposes to use this allocation to replace essential equipment, purchase new equipment, and fund a short-term project for the review of the Fresno County Trauma Care System. Without 314(d) funds, the equipment and project would require County resources. The requests for funding are listed below:

The computer hardware and software planned to be purchased are for the following areas:

Environmental Health	\$ 9,800
Public Health Nursing	\$ 3,900
Health Department Administration	<u>\$10,020</u>
TOTAL	\$23,720

This equipment will be used for the conversion of a manual system of daily logging and data compilation of the Rabies/Animal Control Program to an automated system (two PC's, two printers, hard disk storage, and software enhancement); the automation of the current manual system to profile Public Health Nursing clients (two Wyse terminals, two printers, installation, and training); and the development of statistical analyses and trend information related to public and environmental health services (one PC, one printer, and software enhancement).

Following is a breakdown of all funding requests:

<u>Program Area</u>	<u>Program Need</u>	<u>Funding Request</u>
1) Public Health - Chest Clinic	Ultra Violet Lights	\$ 1,156
2) Public Health - Laboratory	RPR Card Rotator	\$ 950
3) Public Health - Laboratory	Refrigerator	\$ 2,500
4) Public Health - Nursing	Costar Computer Package	\$ 3,900
5) Public Health - EMS	Contracts for EMS Audit	\$ 5,000

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May 23, 1989
Page 3

<u>Program Area</u>	<u>Program Need</u>	<u>Funding Request</u>
6) Public Health - Juvenile Hall	Sterilizer	\$ 3,000
7) Public Health - General Services	UPS Scale	\$ 1,000
8) Public Health - Facilities	New Carpet/Sheet Vinyl	\$14,701
9) Public Health - EMS	Portable Radios	\$ 4,500
10) Public Health - Administration	FAX Machine	\$ 3,000
11) Water Surveillance	Turbidimeters	\$ 2,140
12) Environmental Health	Computer Package	\$ 9,800
13) Emergency Services	RACES Antenna	\$ 500
14) Emergency Services	Cellular Phone	\$ 1,200
15) Health Department Administration	Computer Package	\$10,020
	TOTAL	<u>\$63,367</u>

GB:EG:rfw

BOS #1796

BEFORE THE BOARD OF SUPERVISORS
OF THE
COUNTY OF FRESNO, STATE OF CALIFORNIA

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IN THE MATTER OF INCREASING THE)
1988-89 OPERATING BUDGET HEALTH) RESOLUTION
HEALTH DEPARTMENT)
\$ 63,367)

WHEREAS, the County of Fresno Department of Health will receive federal Health Services block grant funding in the amount of \$63,367 for the augmentation of Public Health services; and

WHEREAS, said monies were not included in the appropriations and estimated revenues of the 1988-89 Health Department budget; and

WHEREAS, Section 29130 of the Government Code provides for the appropriation of these funds by a 4/5 vote of the Board of Supervisors; and

NOW, THEREFORE, IT IS ORDERED that the Auditor-Controller/Treasurer is authorized to increase the 1988-89 operating budget of the Health Department as follows:

FUND NO. 0001 - GENERAL	
BUDGET UNIT 5210 - PUBLIC HEALTH	
DIVISION - 1905 - Public Health 314(d) Program	
<u>7000 - Services and Supplies</u>	
Account No. 7220 - Maintenance - Buildings & Grounds	\$ 14,701
Account No. 7295 - Prof. & Specialized Services	\$ 5,000
Account No. 7385 - Small Tools and Instruments	\$ 1,156
TOTAL SERVICES AND SUPPLIES	\$ 20,857
<u>7800 - Other Charges</u>	
Account No. 7868 - Department Overhead Allocation	\$ 13,920
TOTAL OTHER CHARGES	\$ 13,920

///
///

1	<u>8300 - FIXED ASSETS - EQUIPMENT</u>	
	Account No. 8365 - RPR Card Rotator	\$ 950
2	Account No. 8366 - Refrigerator	\$ 2,500
	Account No. 8367 - Portable Cellular Phone	\$ 1,200
3	Account No. 8368 - Sterilizer	\$ 3,000
	Account No. 8369 - UPS Scale	\$ 1,000
4	Account No. 8370 - FAX Machine	\$ 3,000
	Account No. 8371 - Two Portable Radios	<u>\$ 4,500</u>
5	TOTAL FIXED ASSETS - EQUIPMENT	\$ 16,150
6	TOTAL APPROPRIATIONS	\$ 50,927
7		
8	FUND NO. 0001 - GENERAL FUND	
9	BUDGET UNIT 5216 - ENVIRONMENTAL HEALTH	
10	DIVISION - 4905 - Environmental Health 314(d) Program	
11		
12	<u>7800 - Other Charges</u>	
	Account No. 7868 - Department Overhead Allocation	<u>\$ 9,800</u>
13	TOTAL OTHER CHARGES	\$ 9,800
14	<u>8000 - FIXED ASSETS - EQUIPMENT</u>	
	Account No. 8318 - Two Turbidimeters	\$ 2,140
15	Account No. 8319 - RACES Antenna	<u>\$ 500</u>
16	TOTAL FIXED ASSETS - EQUIPMENT	\$ 2,640
17	TOTAL APPROPRIATIONS	\$ 12,440
18		
19	FUND NO. 0001 - GENERAL FUND	
20	BUDGET UNIT 5215 - ADMINISTRATION	
21	DIVISION - 8905 - Administration 314(d) Program	
22		
23	<u>7000 - Services and Supplies</u>	
	Account No. 7296 - Data Processing Services	<u>\$ 5,261</u>
24	TOTAL SERVICES AND SUPPLIES	\$ 5,261
25		
26		
27		
28		

1	<u>7931 - Residual Equity Transfers (Out)</u>	
	Account No. 7931 - Residual Equity Transfers Out	\$ 18,459
2	TOTAL RESIDUAL EQUITY TRANSFERS OUT	\$ 18,459
3	<u>9000 - Intrafund Transfers</u>	
	Account No. 9100 Intrafund Transfers	\$ 23,720
4	TOTAL INTRAFUND TRANSFERS	\$ 23,720
5	TOTAL APPROPRIATIONS	\$ -0-

6 BE IT FURTHER RESOLVED that estimated revenues for fiscal year 1988-89 be
7 adjusted as follows:

8
9 FUND NO. 0001 - GENERAL
10 BUDGET UNIT 5210 - PUBLIC HEALTH
11 DIVISION - 1905 - Public Health 314(d) Program
12 ACCOUNT NO. - 4387 - Federal 314(d) \$ 50,927
13

14 FUND NO. 0001 - GENERAL FUND
15 BUDGET UNIT 5216 - ENVIRONMENTAL HEALTH
16 DIVISION - 4905 - Environmental Health 314(d) Program
17 ACCOUNT NO. - 4387 - Federal 314(d) Program \$ 12,440
18

19
20 APPROVED AS TO ACCOUNTING FORM:
21 GARY PETERSON, AUDITOR-CONTROLLER/
22 TREASURER

23
24 By 
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THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 23rd day of May, 1989, to-wit:

AYES: Supervisors Levy, Andreen, Koligian, Vagim, Conrad
NOES: None
ABSENT: None


CHAIRMAN, Board of Supervisors

ATTEST:
SHARI GREENWOOD, Clerk
Board of Supervisors

By 
Deputy

File #8880
Agenda #34
Resolution #89-266

BEFORE THE BOARD OF SUPERVISORS
OF THE
COUNTY OF FRESNO, STATE OF CALIFORNIA
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IN THE MATTER OF INCREASING)
THE 1988-89 OPERATING PLAN AND) RESOLUTION
CAPITAL BUDGET FOR THE COMPUTER)
SERVICES DEPARTMENT BUDGET)
\$ 23,720)

WHEREAS, the Fresno County Department of Health has funds available for the purchase of computer hardware and software in the amount of \$23,720; and

WHEREAS, said monies were not included in the appropriations and financing sources of the 1988-89 Computer Services Department for this purpose; and

WHEREAS, the total of \$23,720 is necessary to finance the purchase of the computer hardware and software; and

WHEREAS, the Health Department has sufficient appropriations to reimburse the Computer Services Department for the total cost of this computer equipment and software; and

WHEREAS, Fresno County's accounting procedures for working capital funds, adopted according to Government Code Section 25260, requires prior Board of Supervisor approval for such increase by a 4/5 vote; and

NOW THEREFORE, IT IS ORDERED that the Auditor-Controller/Treasurer is authorized to increase the 1988-89 Computer Services Department, County of Fresno, as follows:

FUND NO. 1900 - COMPUTER SERVICES DEPARTMENT

BUDGET UNIT 8907 - COMPUTER SERVICES DEPARTMENT-EQUIPMENT

8300 - FIXED ASSETS - EQUIPMENT

Account No. 8406 - Computer Hardware - P.H. 314(d) Program \$ 2,400
Account No. 8407 - Computer Hardware - E.H. 314(d) Program \$ 8,200
Account No. 8408 - Computer Hardware - Adm. 314(d) Program \$ 7,859

TOTAL FIXED ASSETS \$18,459

///

1 BE IT FURTHER RESOLVED that financing sources for fiscal year 1988-89
2 be adjusted as follows:

3 FUND NO. 1900 - COMPUTER SERVICES DEPARTMENT
4 BUDGET UNIT 8907 - COMPUTER SERVICES DEPARTMENT-EQUIPMENT
5 5910 - OTHER FINANCING SOURCES
6 Account No. 5986 - Residual Equity Transfer In \$18,459
7

8 BE IT FURTHER RESOLVED that the operating plan for Computer Services
9 Internal Service Fund for 1988-89 be increased as follows:

10 EXPENSES
11 FUND No. 1900 - COMPUTER SERVICES DEPARTMENT
12 BUDGET UNIT 8905 - COMPUTER SERVICES DEPARTMENT-INTERNAL SERVICES FUND
13 7000 - SERVICES AND SUPPLIES
14 Account No. 7309 - Computer Service Software \$ 5,261
15 TOTAL SERVICES AND SUPPLIES \$ 5,261
16

17 BE IT FURTHER RESOLVED that estimated income for Fiscal Year 1988-89 be
18 adjusted as follows:

19 INCOME
20 FUND NO. 1900
21 BUDGET UNIT 8905 - COMPUTER SERVICES DEPARTMENT-INTERNAL SERVICE FUND
22 Account No. 5064 - Data Processing Fees \$ 5,261
23

24 APPROVED AS TO ACCOUNTING FORM:
25 GARY PETERSON, AUDITOR-CONTROLLER/
26 TREASURER

27 By 
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THE FOREGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno this 23rd day of May, 1989, to-wit:

AYES: Supervisors Levy, Andreen, Koligian, Vagin, Conrad

NOES: None

ABSENT: None


CHAIRMAN, Board of Supervisors

ATTEST:

SHARI GREENWOOD, Clerk
Board of Supervisors

By 
Deputy

File #8880

Agenda #34

Resolution #89-267

ALPHAMERIC DATA ADP PROCESSING

\$
COMPUTER SYSTEMS DE BGA
PROGRAMMING AND PROCESSING

Mr. Gary W. Parkinson, Buyer
County of Fresno Purchasing Department
4525 East Hamilton Avenue
Fresno, CA 93702-4599

March 6, 1989

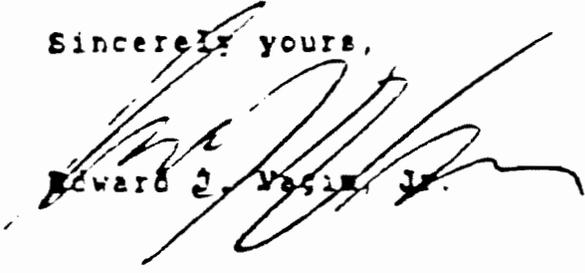
Re: Proposal No. 752-1198

We decline to submit a proposal at this time for the following reasons:

1. We feel that both the hardware and software specifications are not complete and that a proposal made at this time, at best, would be strictly a guess.
2. We also requested to talk directly to the department involved and were turned down. There are many questions to be answered when making a proposal of this nature and the best way to do this is by having a ongoing dialog. We feel there would be too much time wasted if we are not allowed to do our work the right way.

We appreciate being considered.

Sincerely yours,


Edward J. Vesin, Jr.

DATE: August 11, 1989
TO: Jed Christensen, Asst. County Admin. Officer
FROM: Doug Vagin, District 3 Supervisor *DV*
SUBJECT: Recommendations for Ad Hoc CSD Committee

In response to your solicitation request, an attempt has been made to provide names of qualified individuals who represent a cross section of the community. The individuals are listed by category as follows:

<u>BUSINESS:</u>	<u>TELEPHONE NO.</u>
Ed Vagin, Alphameric Data Processing	486-1500
John Dodson, Custom Computer	486-4750
Tom Owens, Solutions Unlimited	298-4227

<u>GOVERNMENT:</u>	
Roseanna Jenkins, Fresno County EOC	263-1000

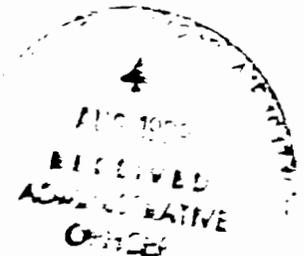
<u>EDUCATION:</u>	
Roberta Baber, Fresno City College	442-4600 X8495
John Holt, Cal State Fresno	294-4084
Don Stengel, Cal State Fresno	294-2767

All of the individuals are well-qualified to serve. However, if the committee is limited in number, please use the following order in your selection:

Ed Vagin, Alphameric Data Processing
Roberta Baber, Fresno City College
John Dodson, Custom Computer
Roseanna Jenkins, Fresno County EOC
John Holt, Cal State, Fresno
Tom Owens, Solutions Unlimited
Don Stengel, Cal State, Fresno

Thank you for the opportunity.

DV:cwr





Agenda Item

DATE: September 26, 1989
 TO: Board of Supervisors
 FROM: Leslie A. Johnstone, Director of Budget *Leslie A. Johnstone*
 SUBJECT: Public Hearing on Distribution of Special District Augmentation Funds for 1989-90

RECOMMENDED ACTION

1. Review the Administrative Office's recommendations and receive public testimony related to the distribution of Special District Augmentation Funds; and
2. Determine the distribution of Special District Augmentation Funds for 1989-90.

FISCAL IMPACT

Fund proceeds are derived from property tax collections stipulated by Section 98.6 of the Revenue and Taxation Code. The proceeds can only be allocated to special districts by your Board and the disbursement has no impact on the adopted County Budget. The Auditor-Controller/Treasurer has estimated that \$6,277,620 will be available in the Special District Augmentation Fund (SDAF) for distribution in 1989-90. This amount represents a \$539,224 reduction from the estimate used for last year's adopted allocation. In that the actual fund for 1988-89, was \$6,260,313 the estimated amount available is \$17,307 greater than what districts actually received last year.

DISCUSSION

All special districts within Fresno County are required to submit their annual budgets to the Auditor-Controller/Treasurer by July 31 of each year. Requests for Special District Augmentation Funds (SDAF) monies are made by the districts at that time. Those requests are then transmitted to the County Administrative Office for consideration.

ADMINISTRATIVE OFFICE REVIEW *Sum O'Hara* Page 1 of 2
 BOARD ACTION DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

UNANIMOUS _____ ANDREEN _____ CONRAD _____ KOLGIAN _____ LEVY _____ VAGIM _____

Board of Supervisors
September 26, 1989
Page -2-

For 1989-90, the districts requested allocations totalling \$8,154,621. The County Administrative Office has discussed each of the requests with district representatives. The district budgets were reviewed in terms of estimated operational costs, capital needs, and non-SDAF revenues. The general guidelines set by your Board in past years have been used in formulating the recommended allocations for 1989-90. Using these guidelines, priority has been given to requests from districts which:

1. provide essential health and safety services;
2. have a high reliance on property taxes;
3. are not able to increase fee revenues; and
4. do not have large accumulated reserves.

The Revenue and Taxation Code requires that the amount contributed by each special district shall not be greater than the amount computed for 1983-84. We have relied a great deal on the overall equity between districts established by your Board over the past ten years. Due to the nature of the change in the fund estimate this year, district "contributions" to the Fund were also considered. "Contributions" to the fund are relevant in this year's analysis because a district which now "contributes" less to the SDAF than prior to last year's adjustment will receive an equal increase to its property tax base.

Attachment "A" shows the SDAF amount allocated to each district in 1988-89, the amount requested by each district for 1989-90, and the recommended allocation. Attachment "B" reflects the "contribution" from each district for 1987-88 and 1988-89.

Each district has been informed of the Auditor's fund estimate, these recommendations, and of this hearing. Meetings have been held and contacts have been made with district representatives where there are differences between the request and the recommended allocation. A notice of this hearing has been published according to State Law.

8092E

	2011-12		2012-13	
	Adopted Allocation	Actual Allocation	District Request	Recommended Allocation
COMMUNITY SERVICES DISTRICTS				
Biola	\$0	\$0	\$117,000	\$10,000
Lanare	2,000	1,837	20,000	1,000
TOTAL	\$2,000	\$1,837	\$137,000	\$11,000
% OF TOTAL	.03%	.03%	1.66%	.13%
HOSPITAL DISTRICTS				
Coalinga	\$229,000	\$210,304	\$435,000	\$210,000
% OF TOTAL	3.36%	3.36%	5.33%	3.36%
MEMORIAL DISTRICTS				
Riverdale	\$0,500	\$0,888	\$20,500	\$0,000
% OF TOTAL	.11%	.11%	.25%	.00%
POLICE PROTECTION DISTRICTS				
Flag Garden	\$25,000	\$22,959	\$40,000	\$25,000
Orange Cove	10,000	9,184	22,500	8,000
TOTAL	\$35,000	\$32,143	\$62,500	\$33,000
% OF TOTAL	.51%	.51%	.77%	.51%
RECREATION AND PARK DISTRICTS				
Coalinga-Huron	\$38,000	\$34,897	\$126,800	\$15,000
Rosemead City	2,000	1,890	0	0
Malaga Water (Recreation)	15,000	13,775	15,000	11,000
TOTAL	\$55,000	\$50,562	\$141,800	\$26,000
% OF TOTAL	.81%	.81%	1.74%	.81%
LIBRARY DISTRICTS				
Fresno County	\$405,100	\$372,027	\$405,100	\$405,100
% OF TOTAL	5.94%	5.94%	4.97%	5.94%

Attachment "A"

1988-89

1989-90

	Adopted Allocation	Actual Allocation	District Request	Recommended Allocation
COUNTY SERVICE AREAS				
MSA 5 - Wildwood	\$3,100	\$2,847	\$3,100	\$0
MSA 30 - El Porvenir	7,500	6,888	15,800	10,000
MSA 32 - Cantua Creek	17,500	16,071	28,500	22,000
MSA 37 - Mile High	0	0	10,000	0
TOTAL	\$28,100	\$25,806	\$57,400	\$32,000
% OF TOTAL	.41%	.41%	.70%	.50%
UNALLOCATED BALANCE	\$12,000	\$11,020	\$0	\$2,270
% OF TOTAL	.18%	.18%	.00%	.04%
TOTAL	\$6,816,844	\$6,260,313	\$8,154,620	\$6,277,620

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Agenda Item

DATE: December 12, 1989 (Continued from December 5, 1989)

TO: Board of Supervisors

FROM: M. Kay Randall, Director of Computer Services *M Kay Randall*

SUBJECT: Approval of RFP #750-1264, Results Re: microcomputers/personal computers

RECOMMENDED ACTION:

It is requested that your Board approve and authorize CSD and the Purchasing Department to acquire IBM micro/personal computers in those instances requiring IBM systems for acquisitions during the period of November, 1989 through October, 1990. This recommendation is based on the results of RFP #750-1264. In our non-IBM environments, other micro/personal computer manufacturers' products will be acquired based on individual needs.

FISCAL IMPACT:

There is no immediate fiscal impact from this decision. In fact, based on the attached documents of support, the County will save money when acquiring budgeted micro/personal computers by procuring IBM PS/2 models of computers.

Discussion:

The purpose of RFP #750-1264 was to solicit proposals for IBM and/or IBM compatible microcomputer systems to augment Fresno County's data management needs. In the area of microcomputers we have traditionally purchased equipment manufactured by IBM and Wang. IBM PS/2 models hold the greatest share of installed PCs in Fresno County at this time. It was the purpose of this RFP to select from the proposals those machines that meet the county's requirements for cost, compatibility and overall vendor quality.

ADMINISTRATIVE OFFICE REVIEW *Cathy A. Lauer* Page 1 of 2
 BOARD ACTION DATE _____ APPROVED AS RECOMMENDED _____ OTHER _____

UNANIMOUS _____ ANDREEN _____ CONRAD _____ KOLIGIAN _____ LEVY _____ VAGIM _____

21



Board Briefing Report

DATE December 4, 1989
 TO Board of Supervisors
 FROM M. Kay Randall, Director of Computer Services *M. Kay Randall*
 SUBJECT Response to issues raised on RFP No. 750-1254 for microcomputers

ISSUE SUMMARY

During the Board meeting on Tuesday, November 28, 1989, a variety of concerns were expressed as to the award for RFP No. 750-1254. Each of these concerns is discussed below with the hope that these explanations will enable the Board members to better understand the rationale for the Computer Services Department accepting the results of this RFP and recommending that the County pursue obtaining IBM Personal Computers as the vendor of choice. This decision was also made in support of CSD's goal of maintaining an efficient and cost-effective operation for the County of Fresno.

HISTORY

On July 26th, 1989, a Request for Proposal was issued by County of Fresno Purchasing Division for the purchase of thirty personal computers to be acquired sometime during the fiscal year beginning July 1, 1989 and ending June 30, 1990. This RFP was written by staff of Computer Services Department and Purchasing Division. Supervisor Vagim's input was also used in writing the specifications for the equipment to be bid.

Section I - Quantity: As stated in the RFP on Page 14, *The normal process for procurement is by department or project need. Therefore, some of the equipment and/or software may be purchased on a quantity one basis. It is anticipated that there will be a purchase of approximately thirty systems during the period from July 1, 1989 to June 30, 1990.* Although this states that the micro computers may be purchased one at a time, it clearly gives the vendors the intent of the RFP, and allows equal access to the bid process on a quantity of equipment with all the discounts that would be appropriate.

Section II - Mice as Input Devices: During the discussion at the Board, it was stated that fifty percent of the county's micro computers have mice. What was meant to be said was that fifty percent of those that we will be ordering this year have been configured with this input device. It is agreed that all users do not need mice. However, in writing the specifications, we projected the computers that were to be purchased in 89-90. Of the budgeted monies for 89-90 micro computers, approximately 85% will be spent on equipment with mice attached. Of all budgeted monies, 78% of new hardware additions fall under two departments. They are Public Works and Family Support. Public Works uses these devices in their engineering and design applications. Family Support has purchased mice for their systems because of greater productivity. The other users of mice for this budget year are those users that have requested the Microsoft Excel Spreadsheet. This financial tool is very flexible and easy to use, and county staff have universally told us that it has helped their productivity in many areas.

(Enhanced Industry Standard Architecture) also provide a similar function. Six configurations, as were decided with the input of Supervisor Vagim, did not have any mention of this specification, thus allowing the bidding of the older technology. Again, our intent is to purchase for the various departments that equipment which provides the most function, future growth and reliability at the lowest cost.

Section V - Planning

An example of planning that is related to this architectural debate can be seen with the CAO's system that Supervisor Vagim mentioned in Tuesday's discussion. The Alloy Cluster, which now has eleven slave processors, was installed to provide for a more stable environment and for additional processing speed over a previous shared processor system. When the existing PC/AT was upgraded two years ago, a microchannel adapter was already available from Alloy Corporation. This was part of the decision making process, as we knew that their server, the PC/AT, would someday be moved down to lower priority processing and replaced with newer technology. The cost of the adapter is \$399 list. The one adapter replaced would be used as a spare part. All other enhancement adapters would remain in service.

CONCLUSIONS The specifications were written based on three areas: compatibility with our existing computer equipment, the needs of those departments purchasing personal computers during the 89-90 fiscal year, and a planned and forward looking agenda. Those specifications were given to Supervisor Vagim for his input as a knowledgeable personal computer consultant. At a later date a member of my staff and I, along with Jed Christiansen, spent two and one half hours with Supervisor Vagim going over those specifications and made changes as suggested by Supervisor Vagim. We left with the understanding that Supervisor Vagim would receive a copy of the RFP with the changes made. That copy was forwarded to Supervisor Vagim as discussed. My staff and I were and are always available to answer any questions or discuss any concerns that any Board member may have. Finally, our staff at Computer Services desired and wrote a clear and fair RFP that is only biased in that it seeks to protect and promote the best interests of Fresno County, Fresno County employees and the tax dollars of the Fresno County residents.

CONTACT PERSON:

Please feel free to contact me, Mr. Jim Wildey or Mr. Ben Douglas (Division Managers for CSD) if we can be of further assistance to you in addressing this issue.



Doug Vagie
Supervisor, District 8
Board of Supervisors

December 8, 1989

Fair Political Practices Commission
Legal Division
P.O. Box 807
Sacramento, CA 95804

Subject: Possibility of Conflict of Interest

One of the Fresno television stations has raised the question of a possible conflict of interest on my part involving a policy discussion on computer technology to be employed in purchasing equipment for Fresno County. I maintain that there is no conflict, or even the appearance of conflict, because my participation and vote would provide no benefit to me, now or in the future.

The matter (Fresno County RFP #750-1264) was continued and will be before the Fresno County Board of Supervisors again on December 12, 1989.

I have 25 years experience in computer technology, computer science and computer business dealings. Even prior to being elected to office, I had been critical of Fresno County's purchasing policies and bias towards a particular product line. The ballot listed me as a "computer consultant."

I have a brother who is also in the computer field. He has several companies performing different functions. Prior to my being elected, my brother and I entered into a contract to provide computer services for the Fresno Metropolitan Flood Control District. This is an ongoing contract which I disclosed before assuming office. I sought a ruling from county counsel. After consulting with FPPC, county counsel determined that my contractual relationship with FMFCD did not constitute a conflict of interest.

In July of 1989 Fresno County sent a Request for Proposal to a lengthy list of (48) vendors, one a company owned by my brother in which I have no financial interest or business relationship. In the introduction the RFP says:

"The purpose of this Request for Proposal (RFP) is to solicit proposals for microcomputer systems to augment the County of machine processing. The systems are used in a wide variety of

areas and are diverse in their function."

This particular RFP does not deal with purchasing computer equipment. Rather it deals with the technology of systems, equipment compatibility, capacity, etc. More specifically, in the staff report prepared by the county's Director of Computer Services, the first sentence in the paragraph titled FISCAL IMPACT states: "There is no immediate fiscal impact from this decision." (Emphasis added.)

As a result of the RFP which, in my opinion, was prepared in such a way as to exclude all proposals except for the product(s) favored by county staff, the above mentioned staff report was presented to the board on November 28, 1989. I was highly critical of its content. Not because of the evaluation of any individual vendor or supplier or product, but because of a professional difference of opinion on the short and long term financial and service impacts that approval of the staff recommendation would have on Fresno County. As a result, the matter was held over for further review and discussion.

The evening of the hearing on the computer matter, Channel 30 News (local ABC affiliate) ran several stories alluding to a possible conflict of interest, supposedly because my brother's company had submitted technological information on product(s) other than those recommended by staff. While I was aware that my brother had responded to the RFP, his input to the process, as was that of other respondents, was basically a presentation of product, performance and price options for consideration by the county. It was not a bid to sell anything to Fresno County.

I have discussed the matter of the TV station's suggestion that I might have a conflict of interest with county counsel. For whatever reason, he is reluctant to provide a clear cut opinion. He has provided me with several FPPC rulings, which I have reviewed. None of them deal specifically with the computer industry, however, in FPPC No. 78-009, 4 FPPC OPINION 62, Nov. 7, 1978, there is reference to a similar circumstance. In a concurring response (page 11), Commissioner Rencho states in part:

"...if a big real estate developer is on the city council, he or she is there at least in part because a majority of the office holder's constituents want a real estate developer on the council. In voting for land development, the officeholder represents his or her constituents.

Disqualification disenfranchises the constituency of the disqualified official. It interferes, however indirectly, with the effective exercise of the constitutionally protected right to vote. As the United States Supreme Court stated in Wesberry vs Sanders, 376 U.S. 1, 17 (1964):

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights,

even the most basic are illusory if the right to vote is undermined.

Although the immediate impact of disqualification is felt by the official rather than by the voters, it is the voters who go unrepresented."

My views on the staff recommendation are based upon my professional experience in the computer field. I have nothing to gain regardless of how the board majority votes on the RFP. Nor would there be any specific advantage to my brother or any other vendor, if the staff recommendation were to be denied or modified. The actual call for bids on any product(s) specified in this RFP process would require a separate action before a purchase could be made. I have made my position clear to staff and my fellow board members that should a proposal to purchase computer equipment in which there might be the slightest hint of interest conflict, I would totally disqualify myself from any participation in discussions and/or votes.

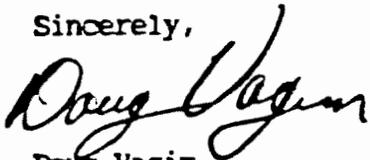
However, in the current instance dealing with a technological decision upon which future bids will be requested from vendors who have almost unlimited access to computer products, I feel I am totally justified in offering my expert views. Even more important, I have an obligation to my constituency to do so to the best of my ability.

The simple fact that my advice could in some way provide an avenue to a relative, friend or business associate to enter into open competition on a bid for computer equipment is negligible compared to the greater issue of the public receiving the best value for its tax dollars.

The matter of Fresno County RFP #750-1264 is on the agenda for Tuesday, December 12. I plan to request that the matter be held over until the FPPC Legal Division has time to review and comment on the question of possible conflict of interest on my part.

Obviously, all concerned would appreciate a timely response. And I will be happy to provide the commission with any information it may require.

Sincerely,



Doug Vagin
Fresno County Supervisor
District 3

CC: County Counsel
Board Members
CAO

Vagin attacks county-IBM linkage

Supervisor charges officials' attempts to 'defang me'

By CARLOS CORDOVA
San Jose Staff Writer

When Fresno County Computer Director Ed Kandal presented a contract proposal to the Board of Supervisors last month, he received from Supervisor Doug Vagin who once worked for him, a verbal attack on the deal.

What was, however, the verbal battering of Kandal at San Jose, the

brother of Vagin's brother, the

The allegation and other details about Kandal's involvement in the county's computer systems have drawn a strong response from Vagin. He says the IBM deal is a "questionable" relationship with the county.

Vagin says the County Administrative Officer and others in the county are trying to "defang me" because he speaks out against

"That's right. I don't know the details of the deal, but I know the deal is not in the best interest of the county."

Vagin, a computer consultant, raised questions about the deal presented to the supervisors to determine if the county is paying too much for its equipment.

See Vagin, back page

Vagin

Continued from Page 1

But the crossing down of Kandal and Vagin's brother's involvement in the deal did not provoke questions about whether Vagin has personal interest in it.

Vagin insisted that his brother, Edward Vagin Jr., be accounted for in a contract involving a three-year plan to upgrade the county's computer system. Edward Vagin Jr. sells computer hardware for the appointment. One of the contracts, Edward Vagin suggested that in the future the county buy the type of equipment in which he deals, although he did not suggest that he be the seller.

Edward Vagin and Doug Vagin have worked together in past years and have a joint contract with Fresno Metropolitan Flood Control District to provide computerized billing to customers.

In May, Doug Vagin pulled a proposal of the supervisor's consent agency to purchase \$4.1 million of computer equipment and software for the health Department. It could not review the proposal with the county staff. Consent agencies are routinely approved with little discussion. Vagin's brother had sent a letter to the county to present his interest in the contract by adding that he did not have enough information yet to submit a bid. Edward Vagin never did end up bidding on the contract.

Last month, she verbally attacking Kandal for presenting a plan to purchase only IBM personal computers during the next year if

the need arise. Vagin asked that the proposal undergo further study. His brother was an unsuccessful bidder in the past, which in fact does not include spending any money.

The proposal is coming back to the supervisors this Tuesday, Vagin said. He was not for a design, but he is not for the matter and he is not for the matter. He is not for the matter. He is not for the matter.

Nearly Vagin and his brother have benefited financially from their participation in the computer proposals. He says county staff members and supervisors are Vagin should not be involved when he is not involved. He is not involved when he is not involved.

"I know it looks bad," said Kandal. Edward Vagin said he and his brother have done nothing wrong and all that Doug Vagin has tried to accomplish is to let the computer company to discuss issues, stipulations and save the county money.

"The deal has a computer contract," Edward Vagin said. "There is nothing about the wrong people. If there is a problem, it is wrong and no one is."

Doug Vagin consistently has argued a favor of buying computer equipment. He is standardized throughout the industry to save the county money. He has opposed purchasing equipment from IBM, which tends to manufacture its own line of products and then collect licensing fees from buyers.

But he said the administration

and Kandal are unwilling to listen to his suggestions because the staff has a close relationship with IBM and he has a vision of the computer manufacturing strategies.

He has accused Kandal and the staff of trading inside information with IBM and getting county bidding specifications to IBM. He has suggested Kandal does not care because he will be protected by IBM and given another job.

"It is not a sweetheart relationship with IBM that he is becoming a salesman for them," Vagin said. "That's the kind of game IBM plays. They divert you up because you go back and buy their product."

"IBM is our primary manufacturing supplier of computers," Kandal said. "Because of that we have a lot of association with them, which is perfectly natural in terms of us being a league with IBM and doing something under the cover, actually, no."

San Jose IBM branch manager in Fresno, could not be reached for comment on Vagin's allegations.

County Administrative Officer Daniel R. Fitzpatrick said the Board of Supervisors made a decision about five years ago to rely primarily on IBM equipment and not to "buy and sell and sell." He said the staff nevertheless is willing to listen to suggestions on equipment.

"The way of the professional staff has a process discussing the merits of an issue brought out by the board room," Fitzpatrick said. "You don't ridicule, humiliate and accuse professional staff of unethical behavior without the facts."

Kandal submitted a report the past week justifying his reasons for proposing that the county purchase



DOUG VAGIN
— Strong response

IBM personal computers and an answer issue raised by Vagin about the proposal last month.

By Vagin, he called for a "bureaucratic"

He said he believed he had a "particular" in the issue but it was for the ruling from the Political Practices Commission.

"Somebody doesn't like me taking my input in or making decisions," Vagin said. "I'm trying to get the board to acquire their own policy decisions."



California Fair Political Practices Commission

December 13, 1989

Honorable Doug Vagim
Fresno County Supervisor
Hall of Records, Room 300
2281 Tulare Street
Fresno, CA 93721-2198

Re: Letter No. 89-688

Dear Supervisor Vagim:

Your letter requesting advice under the Political Reform Act was received on December 8, 1989 by the Fair Political Practices Commission. If you have any questions about your advice request, you may contact John Wallace 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 if your request seeks formal written advice. If more information is needed, the person assigned to prepare a response to your request will contact you shortly to advise you as to information needed. If your request is for informal assistance, we will answer it as quickly as we can. (See Commission Regulation 18329 (2 Cal. Code of Regs. 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 that reads "Kathryn E. Donovan".

Kathryn E. Donovan
General Counsel

KED:plh



FPPC
Dec 13 9 45 AM '89

Doug Vagin
Supervisor, District 3
Board of Supervisors

December 8, 1989

Fair Political Practices Commission
Legal Division
P.O. Box 807
Sacramento, CA 95804

Subject: Possibility of Conflict of Interest

One of the Fresno television stations has raised the question of a possible conflict of interest on my part involving a policy discussion on computer technology to be employed in purchasing equipment for Fresno County. I maintain that there is no conflict, or even the appearance of conflict, because my participation and vote would provide no benefit to me, now or in the future.

The matter (Fresno County RFP #750-1264) was continued and will be before the Fresno County Board of Supervisors again on December 12, 1989.

I have 25 years experience in computer technology, computer science and computer business dealings. Even prior to being elected to office, I had been critical of Fresno County's purchasing policies and bias towards a particular product line. The ballot listed me as a "computer consultant."

I have a brother who is also in the computer field. He has several companies performing different functions. Prior to my being elected, my brother and I entered into a contract to provide computer services for the Fresno Metropolitan Flood Control District. This is an ongoing contract which I disclosed before assuming office. I sought a ruling from county counsel. After consulting with FPPC, county counsel determined that my contractual relationship with FMFCD did not constitute a conflict of interest.

In July of 1989 Fresno County sent a Request for Proposal to a lengthy list of (48) vendors, one a company owned by my brother in which I have no financial interest or business relationship. In the introduction the RFP says:

"The purpose of this Request for Proposal (RFP) is to solicit proposals for microcomputer systems to augment the County of machine processing. The systems are used in a wide variety of

areas and are diverse in their function."

This particular RFP does not deal with purchasing computer equipment. Rather it deals with the technology of systems, equipment compatibility, capacity, etc. More specifically, in the staff report prepared by the county's Director of Computer Services, the first sentence in the paragraph titled FISCAL IMPACT states: "There is no immediate fiscal impact from this decision." (Emphasis added.)

As a result of the RFP which, in my opinion, was prepared in such a way as to exclude all proposals except for the product(s) favored by county staff, the above mentioned staff report was presented to the board on November 28, 1989. I was highly critical of its content. Not because of the evaluation of any individual vendor or supplier or product, but because of a professional difference of opinion on the short and long term financial and service impacts that approval of the staff recommendation would have on Fresno County. As a result, the matter was held over for further review and discussion.

The evening of the hearing on the computer matter, Channel 30 News (local ABC affiliate) ran several stories alluding to a possible conflict of interest, supposedly because my brother's company had submitted technological information on product(s) other than those recommended by staff. While I was aware that my brother had responded to the RFP, his input to the process, as was that of other respondents, was basically a presentation of product, performance and price options for consideration by the county. It was not a bid to sell anything to Fresno County.

I have discussed the matter of the TV station's suggestion that I might have a conflict of interest with county counsel. For whatever reason, he is reluctant to provide a clear cut opinion. He has provided me with several FPPC rulings, which I have reviewed. None of them deal specifically with the computer industry, however, in FPPC No. 78-009, 4 FPPC OPINION 62, Nov. 7, 1978, there is reference to a similar circumstance. In a concurring response (page 11), Commissioner Remcho states in part:

"...if a big real estate developer is on the city council, he or she is there at least in part because a majority of the office holder's constituents want a real estate developer on the council. In voting for land development, the officeholder represents his or her constituents.

Disqualification disenfranchises the constituency of the disqualified official. It interferes, however indirectly, with the effective exercise of the constitutionally protected right to vote. As the United States Supreme Court stated in Wesberry vs Sanders, 376 U.S. 1, 17 (1964):

No right is more precious in a free country than that of having a voice in the election of those who make the laws under which, as good citizens, we must live. Other rights,

even the most basic are illusory if the right to vote is undermined.

Although the immediate impact of disqualification is felt by the official rather than by the voters, it is the voters who go unrepresented."

My views on the staff recommendation are based upon my professional experience in the computer field. I have nothing to gain regardless of how the board majority votes on the RFP. Nor would there be any specific advantage to my brother or any other vendor, if the staff recommendation were to be denied or modified. The actual call for bids on any product(s) specified in this RFP process would require a separate action before a purchase could be made. I have made my position clear to staff and my fellow board members that should a proposal to purchase computer equipment in which there might be the slightest hint of interest conflict, I would totally disqualify myself from any participation in discussions and/or votes.

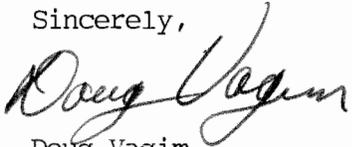
However, in the current instance dealing with a technological decision upon which future bids will be requested from vendors who have almost unlimited access to computer products, I feel I am totally justified in offering my expert views. Even more important, I have an obligation to my constituency to do so to the best of my ability.

The simple fact that my advice could in some way provide an avenue to a relative, friend or business associate to enter into open competition on a bid for computer equipment is negligible compared to the greater issue of the public receiving the best value for its tax dollars.

The matter of Fresno County RFP #750-1264 is on the agenda for Tuesday, December 12. I plan to request that the matter be held over until the FPPC Legal Division has time to review and comment on the question of possible conflict of interest on my part.

Obviously, all concerned would appreciate a timely response. And I will be happy to provide the commission with any information it may require.

Sincerely,



Doug Vagim
Fresno County Supervisor
District 3

CC: County Counsel
Board Members
CAO