

May 29, 2014

Jackie Gong
Deputy County Counsel
Napa County Counsel's Office
1195 Third Street, Suite 301
Napa, CA 94559

Re: Your Request for Advice
Our File No. A-14-092

Dear Ms. Gong:

This letter responds to your request for advice on behalf of the Napa-Lake Workforce Investment Board (Napa-Lake WIB) regarding the conflict of interest code provisions of the Political Reform Act (the "Act").¹

QUESTION

For purposes of determining the code reviewing body for the Napa-Lake WIB, you ask whether the Napa-Lake WIB is to be considered a multi-county agency, with the Fair Political Practices Commission as the code reviewing body?

CONCLUSION

The Napa-Lake WIB meets the definition of a multi-county agency. Thus, the Fair Political Practices Commission will act as the agency's code reviewing body. You must follow the procedures outlined in Regulation 18750.1 (copy enclosed) in order to have a conflict-of-interest code approved.

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

FACTS

You stated that the Napa Workforce Investment Board (Napa WIB) members are currently in the Napa County conflict of interest code and that code is subject to review by the Napa County Board of Supervisors.

Effective July 1, 2011, the Napa WIB was renamed as the Napa-Lake WIB and reconfigured to include the geographical area of Lake County. The Joint Powers Agreement provides:

“WHEREAS, the WIA^[2] provides for the delivery of WIA-funded services through Local Workforce Investment Areas (hereinafter “LWIA”); and

“WHEREAS, pursuant to Section 116 of the WIA, effective July 1, 2011, the Governor of the State of California has designated the Counties of Napa and Lake as a single LWIA comprised of the geographical areas of Napa County and Lake County, hereinafter referred to as “Napa-Lake LWIA”; and

“WHEREAS, Government Code 26227 authorizes counties to establish programs necessary to meet the social needs of their population; Government Code 53703 authorizes counties to do all acts necessary to participate in programs whereby federal funds are granted to counties for purposes of education and welfare, including the authority to contract and cooperate with other local public agencies; and Government Code 6502 authorizes counties to jointly exercise any power common to them all; and

“WHEREAS, the parties desire to enter into an agreement to specify their responsibilities under the WIA to be operated in the Local Workforce Investment Area of Napa and Lake Counties...”

The membership of the Napa-Lake WIB will be split between representatives of the two counties. The JPA agreement provides the new Napa-Lake WIB will do the following:

“All funds allocated to Napa County on behalf of the Napa-Lake LWIA will be allocated for LWIA programs and services provided within each County’s respective geographical area in the same proportion as determined by Federal and State formula under WIA to Napa and Lake Counties and based on the same data sources used for the WIA allocation formula to the Counties. The allocated funds shall be used for the purpose of developing and implementing a workforce development system meeting the requirements of the Workforce Investment Act and the local needs of Napa and Lake Counties. Lake County agrees that Napa County shall receive ten percent (10%) of the funds allocated under the WIA

² Workforce Investment Act (P.L. 105-220).

formula to Lake County as reimbursement to Napa County for the costs of administering the workforce investment programs and activities of the Napa-Lake LWIA. The One-Stop Operator(s) and any other subrecipient for LWIA programs provided within the geographical area of Lake County will be considered subrecipients as defined under this agreement.”

ANALYSIS

Section 87300 requires every state and local government agency to adopt a conflict-of-interest code (“code”). The code must enumerate the positions within the agency that involve the making or participation in the making of decisions that may foreseeably have a material financial effect on any financial interest held by the person filling the position. Further, the code specifies which financial interests must be disclosed by persons holding those positions designated in the code -- all with a view to avoiding conflicts of interest. (Sections 87300-87302.) The issue addressed in your request for advice is whether the Commission should be the code reviewing body for the Napa-Lake WIB.

Pursuant to Section 82011, “code reviewing body,” as it relates to a county agency versus a multi-county agency, means the following:

“(a) The [C]ommission, with respect to the conflict-of-interest code of a state agency other than an agency in the judicial branch of government, *or any local government agency with jurisdiction in more than one county.*

“(b) The board of supervisors, with respect to the conflict-of-interest code of any county agency other than the board of supervisors, or any agency of the judicial branch of government, and of any local government agency, other than a city agency, *with jurisdiction wholly within the county.*” [Emphasis added.]

According to the JPA agreement, the Napa-Lake WIB will be providing services both to Napa and Lake County residents. Thus, we conclude that the Napa-Lake WIB is a multi-county agency whose conflict-of-interest code must be approved by the Commission.

Please note that the process for preparation of a conflict of interest code is set forth in Regulation 18750.1. In addition, the Commission’s Technical Assistance Staff is available to assist you in developing the code and can provide sample disclosure categories from other codes enacted for similar agencies. Finally, note that a conflict of interest code is not effective until approved by the code reviewing body, in this case the Commission.

If you have other questions on this matter, please contact me at (916) 322-5660.

Sincerely,

Zackery P. Morazzini
General Counsel

By: John W. Wallace
Assistant General Counsel
Legal Division

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Enclosure