

1 Adopt 2 Cal. Code Regs., Section 18702.3 to read:

2 **§ 18702.3. Materiality Standard: Financial Interest in a Source of Income.**

3 (a) The reasonably foreseeable financial effect of a governmental decision on an official's
4 financial interest in a source of income is material if any of the following criteria are met:

5 (1) The source is a named party in, or the subject of, the decision including a claimant,
6 applicant, respondent, or contracting party.

7 (2) The source is an individual and:

8 (A) The decision may affect the individual's income, investments, or other assets or
9 liabilities (other than an interest in a business entity or real property) by \$1,000 or more; or

10 (B) The official knows or has reason to know that the individual has an interest in a
11 business entity that will be financially affected under the materiality standards in Regulation
12 18702.1; or

13 (C) The official knows or has reason to know that the individual has an interest in real
14 property and:

15 (i) The property is a named party in, or the subject of, the decision as defined in
16 Regulations 18701(a) and 18702.2(a)(1) through (6); or

17 (ii) There is clear and convincing evidence the decision would have a substantial effect
18 on the property.

19 (3) The source is a nonprofit organization and one of the following applies:

20 (A) The decision may result in an increase or decrease of the organization's annual gross
21 receipts, or the value of the organization's assets or liabilities, in an amount equal to or more
22 than:

1 (i) [(DECISION POINT 1: High Threshold Amount) e.g., \$500,000, \$1,000,000 or
2 \$2,500,000]; or

3 (ii) Five percent of the organization's annual gross receipts [(DECISION POINT 2:
4 Low Threshold) and the increase or decrease is equal to or greater than, e.g., \$10,000].

5 (B) The decision may cause the organization to incur or avoid additional expenses or to
6 reduce or eliminate expenses in an amount equal to or more than:

7 (i) [(DECISION POINT 3: High Threshold Amount) e.g., \$100,000, \$250,000 or
8 \$500,000]; or

9 (ii) One percent of the organization's annual gross receipts [(DECISION POINT 4: Low
10 Threshold) and the change in expenses is equal to or greater than, e.g., \$2,500].

11 (C) The official knows or has reason to know that the organization has an interest in real
12 property and:

13 (i) The property is a named party in, or the subject of, the decision under Regulations
14 18701(a) and 18702.2(a)(1) through (6); or

15 (ii) There is clear and convincing evidence the decision would have a substantial effect
16 on the property.

17 (4) The source is a business entity that will be financially affected under the materiality
18 standards in Regulation 18702.1.

19 (b) Nexus. Any reasonably foreseeable financial effect on a source of income to a public
20 official or the official's spouse is material if the decision will achieve, defeat, aid, or hinder a
21 purpose or goal of the source and the official or the official's spouse receives or is promised the
22 income for achieving the purpose or goal.

23 (c) Exception: Income from Retail Sales of a Business Entity. For purposes of applying

1 Section 87103.5:

2 (1) The retail customers of a business entity constitute a significant segment of the public
3 generally if the business is open to the public, and provides goods or services to customers that
4 comprise a broad base of persons representative of the jurisdiction.

5 (2) Income from an individual customer is not distinguishable from the amount of income
6 received from other customers when the official is unable to recognize a significant monetary
7 difference between the business provided by the individual customer and the general clientele of
8 the business. An official is unable to recognize a significant monetary difference when:

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

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

14 (d) Government Entities. Where a government entity qualifies as a source of income as
15 defined in Section 82030, including where a public official is paid by the entity as a consultant or
16 contractor, this Regulation does not apply. Under Regulation 18703(e)(7), an official with an
17 interest in a governmental entity is disqualified from taking part in a decision only if there is a
18 unique effect on the official.

19 Note: Authority cited: Section 83112, Government Code. Reference: Sections 87100, 87102.5,
20 87102.6, 87102.8 and 87103, Government Code.