

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18702.1. Materiality Standard: Financial Interest in a Business Entity.

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

(1) Explicitly Involved. The entity is a named party in, or the subject of, the decision, including any decision in which the entity:

(A) Initiates the proceeding by filing an application, claim, appeal, or other request for action concerning the entity with the official's agency;

(B) Offers to sell a product or service to the agency;

(C) Bids on, or enters into, a contract with the agency, or is identified as a subcontractor on a bid or contract with the agency;

(D) Is the named or intended manufacturer or vendor of any products to be purchased by the agency with an aggregate cost of \$1,000 or more in any 12-month period;

(E) Applies for a permit, license, grant, tax credit, exception, variance, or other entitlement from the agency;

(F) Is the subject of any inspection, action, or proceeding under the regulatory authority of the agency; or

(G) Is subject to an action taken by the agency that is directed at the entity.

(2) Gross Revenues and Assets or Liabilities. The decision may result in an increase or decrease of the entity's annual gross revenues, or the value of the entity's assets or liabilities, in an amount equal to or more than:

(A) \$1,000,000; or

(B) Five percent of the entity's annual gross revenues and the increase or decrease is at least \$10,000.

(3) Expenses. The decision may cause the entity to incur or avoid additional expenses or to reduce or eliminate expenses in an amount equal to or more than:

(A) \$250,000; or

(B) One percent of the entity's annual gross revenues and the change in expenses is at least \$2,500.

(4) Real Property. The official knows or has reason to know that the entity has an interest in real property and:

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

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

(b) Exception: Small Shareholder. If the official's only interest in the entity is an investment interest with a value of \$25,000 or less, and if that investment interest is less than one percent of the entity's shares, the decision's effect on the official's investment interest in the entity is only material under subdivisions (a)(2)-(3) or (a)(4)(B) of this regulation.

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

HISTORY

1. New section filed 9-5-85; effective thirtieth day thereafter (Register 85, No. 36).
2. Amendment filed 10-17-88; operative 11-16-88 (Register 88, No. 43).

3. Amendment of subsection (a)(1) filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
4. Amendment of subsections (a)(2), (a)(3)(E), (a)(4) and (c)-(c)(2) filed 12-11-95; operative 12-11-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 50).
5. Amendment of subsection (a)(1) and Note filed 6-13-97; operative 6-13-97. Submitted to OAL for printing only (Register 97, No. 24).
6. Repealer and new section filed 11-23-98; operative 11-23-98 pursuant to the 1974 version of Government Code section 11380.2 and title 2, California Code of Regulations, section 18312(d) and (e) (Register 98, No. 48).
7. Editorial correction of History 6 (Register 2000, No. 25).
8. Amendment of section and Note filed 1-10-2001; operative 2-1-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).
9. Amendment of subsection (c) filed 1-16-2002; operative 2-15-2002 (Register 2002, No. 3).
10. Amendment of subsection (a) , new subsection (d) and amendment of Note filed 6-10-2003; operative 6-10-2003 (Register 2003, No. 24).
11. Change without regulatory effect renumbering former section 18702.1 to section 18704.1 and renumbering former section 18705.1 to section 18702.1 filed 4-27-2015. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking

requirements and not subject to procedural or substantive review by OAL) (Register 2015, No. 18).

12. Repealer and new section filed 8-26-2019; operative 9-25-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2019, No. 35).