

participation. Therefore, you would like to instruct voters to return the questionnaire to "Secretary of State, P.O. Box xxxxx, Sacramento, California 958xx," provided this reference to "Secretary of State" is permissible under the Act.

ANALYSIS

Section 89001 of the Act provides that "no newsletter or other mass mailing shall be sent at public expense." A mass mailing is defined as two hundred or more substantially similar pieces of mail. (Section 82041.5.) Regulation 18901 clarifies that the purpose of Section 89001 is to prevent elected officers from using public funds to send out newsletters and other mass mailings at public expense. A mass mailing may not be sent at public expense if it contains the name, office, photograph or any other reference to an elected officer affiliated with the agency producing or sending the mailing and is prepared or sent in cooperation, consultation, coordination or concert with the elected officer. (Regulation 18901(a).)

The use of the term "Secretary of State" in the mailing instructions is a reference to the elected officer. Regulation 18901 sets forth a series of limited exceptions. These exemptions include an exemption to permit reference to an elected officer in the letterhead or envelopes of the stationery of the agency. (Regulation 18901(b)(1), copy enclosed.) The exemption does not extend to permitting reference to the elected officer in mailing instructions.

Therefore, we conclude that the questionnaire to be distributed to voters with the general election ballot pamphlet may not include a reference to the "Secretary of State" in the mailing instructions.

With respect to whether the general election pamphlet complies with the mass mailing provisions of the Act, if you wish to submit a copy of the proposed pamphlet, we will be glad to review it.

I trust this provides you with the information that you need. If you have any further questions, you may contact us at (916) 322-5901.

Sincerely,

Scott Hallabrin,
Acting General Counsel



By: Margaret W. Ellison
Counsel, Legal Division

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Enclosure