

RAVI MEHTA  
CHAIRMAN



## FAIR POLITICAL PRACTICES COMMISSION

May 21, 1997

C. Paul Frydendal  
Special District Risk  
Management Authority  
2400 Venture Oaks Way, Suite 460  
Sacramento, CA 95833-3291

**Re: Your Request for Informal Assistance  
Our File No. I-97-266**

Dear Mr. Frydendal:

You have requested advice concerning your duties as a filing officer for statements of economic interests for the Special District Risk Management Authority (Authority) under the conflict of interest disclosure provisions of the Political Reform Act (the "Act").<sup>1</sup> Because your inquiry is general in nature, we will treat your letter as a request for informal assistance pursuant to Regulation 18329(c).<sup>2</sup>

### QUESTION

As the filing officer for statements of economic interests required to be filed for the Authority (a multi-county agency), what action are you required to take when a consultant has not filed a statement, despite repeated notifications to file?

### CONCLUSION

A filing officer for a multi-county agency who has not received a required statement of economic interests should refer the matter to the Commission's Enforcement Division.

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<sup>1</sup> Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

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

## FACTS

The Authority's conflict of interest code includes consultants as designated employees that are required to file statements of economic interests. In December 1995, you notified consultants to file statements of economic interests. Subsequently, one of the consultants informed you that he was not required to file, based on his attorney's advice. Your general counsel confirmed that the consultant was required to file the form and offered to meet with the consultant to discuss the situation. Prior to the meeting, the general counsel was diagnosed and subsequently died from cancer. Sometime later, your new general counsel also concluded that the consultant should file a 1995 annual statement.

You have sent several letters to the consultant requesting he submit the statement, but have not received a response. As the filing officer for your agency's statements of economic interests, you are asking what further actions you are required to perform.

## ANALYSIS

A consultant is defined in Regulation 18700 as an individual who, pursuant to contract with a state or local government agency:

- (A) Makes a governmental decision whether to:
  - 1. Approve a rate, rule, or regulation;
  - 2. Adopt or enforce a law;
  - 3. Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
  - 4. Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
  - 5. Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract;
  - 6. Grant agency approval to a plan, design, report, study, or similar item;
  - 7. Adopt or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or
  
- (B) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's conflict of interest code.

The conflict of interest code for the Special District Risk Management Authority requires consultants to file statements of economic interests. Therefore, any individual under contract with the authority that meets the definition of consultant is obligated to file assuming, annual and leaving office statements of economic interests.

Regulation 18115 (copy enclosed) sets out the duties filing officers are required to perform for statements of economic interests. One of these duties is to report apparent violations of the Act to the appropriate agency. An apparent violation exists when a filer refuses to file a statement after reasonable notice has been provided by the filing officer. The Commission's Enforcement Division is the agency for multi-county agencies to report violations of the Act.

If you have questions concerning this letter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell  
General Counsel



By: Dixie Howard  
Political Reform Consultant  
Technical Assistance Division

Enclosure