



FAIR POLITICAL PRACTICES COMMISSION

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December 3, 1999

Mehdi Madjd-Sadjadi
Department of Public Works
County of Marin
P. O. Box 4186
San Rafael, California 94913-4186

**Re: Your Request for Advice
Our File No. A-99-287**

Dear Mr. Madjd-Sadjadi:

This letter is in response to your request for advice regarding the provisions of the Political Reform Act (the "Act").¹

I. QUESTION

As Director of Public Works, may you participate in decisions on County construction contracts when the bidders include a construction firm employing your son-in-law?

II. CONCLUSION

Based on the facts which you provided, you may participate in decisions on County construction contracts when your son-in-law's employer is one of the bidders.

III. FACTS

You are the Director of Public Works for the County of Marin where one of your responsibilities is to make findings and decisions regarding the award of construction contracts undertaken by the County. Your office recently conducted an advertised competitive bid process in which the lowest bid was submitted by a construction firm presently employing your son-in-law as a carpenter and foreman on an unrelated contract.

¹ Government Code sections 81000 - 91015. Commission regulations appear at title 2, sections 18109 - 18996, of the California Code of Regulations.

IV. ANALYSIS

The primary purpose for the conflict of interest provisions of the Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests. In furtherance of this goal, Section 87100 of the Act prohibits a public official from making, participating in making, or otherwise using his or her official position to influence a governmental decision in which the official has a financial interest.

Section 87103 of the Act provides that an official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect² on the official or on a member of his or her immediate family. Specifically, a governmental decision has a material personal financial effect on a public official if the decision will result in the personal expenses, income, assets, or liabilities of the official or his or her immediate family increasing or decreasing by at least \$250 in any 12-month period. (Regulation 18703.5; Regulation 18705.5)

Section 82029 defines "immediate family" as "spouse and dependent children." By applying this definition to Section 87103, we conclude that your son-in-law's income from employment with the bidding construction company does not constitute an economic interest attributable to you.

However, you should be aware that Section 87103 also provides that a public official has a financial interest in a decision within the meaning of Section 87100 if it is reasonably foreseeable that the decision will have a material financial effect on:

- "(a) Any business entity in which the public official has a direct or indirect investment worth one thousand dollars (\$1,000) or more.
- (b) Any real property in which the public official has a direct or indirect interest worth one thousand dollars (\$1,000) or more.
- (c) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the public official within 12 months prior to the time when the decision is made.

²This material financial effect on the official or his family must be distinguishable from the effect on the public generally. (Section 87103.)

(d) Any business entity in which the public official is a director, officer, partner, trustee, employee, or holds any position of management.

(e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating [\$300] or more in value provided to, received by, or promised to the public official within 12 months prior to the time when the decision is made.” (Section 87103.)


The facts you provided do not indicate that you have any other financial connections to the bidder or the project that would create such an economic interest. Consequently, absent some other disqualifying financial interest which was not mentioned in your letter, you do not have to disqualify yourself from making decisions on County construction contracts when your son-in-law's employer is one of the bidders.

Please note that our advice issued in response to your request for information is limited to the Act. You may wish to contact the Attorney General's Office with respect to other provisions of law such as Government Code Section 1090.

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

Sincerely,

Luisa Menchaca
Assistant General Counsel


By: Natalie Bocanegra
Staff Counsel, Legal Division

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