



FAIR POLITICAL PRACTICES COMMISSION

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November 4, 2004

Karen Sweet, Executive Officer
Alameda County Resource
Conservation District
3585 Greenville Road, Suite 2
Livermore, CA 94550

**Re: Your Request for General Information
Our File No. G-04-203**

Dear Ms. Sweet:

This letter is in response to your request for assistance regarding the conflict of interest code provisions of the Political Reform Act (the "Act").¹ Note that your question appears to relate to the interpretation of Alameda County's conflict of interest code. The Alameda County Board of Supervisors determines who must file under that code and is the code reviewing body as well. When the Commission is not the code reviewing body for the conflict of interest code, the Commission may only provide advice in situations where an individual or agency has previously requested an interpretation from the code reviewing body. (Regulation 18329.5(a)(3).)

Your query concerns regulation 18751(d). Regulation 18751 sets forth the procedural requisites and substantive bases whereby the Commission may grant an exemption from the requirement that agencies for which the Commission is the code reviewing body (state agencies and local government agencies with jurisdiction in more than one county) adopt a conflict of interest code. Subdivision (d) of regulation 18751(d) provides:

"An exemption to Government Code Section 87300 may be granted to an agency when there would be no 'designated employees' within the meaning of Government Code Sections 82019 and 87302(a) because all of the following apply:

"(1) The agency does not have regulatory, quasi-regulatory, permit, licensing or planning authority or functions;

¹ Government Code sections 81000 – 91014. Commission regulations appear at Title 2, sections 18109-18997, of the California Code of Regulations.

“(2) The agency will not acquire real property in the foreseeable future; and

“(3) The annual operating budget exclusive of salaries for the agency is less than \$70,000.”

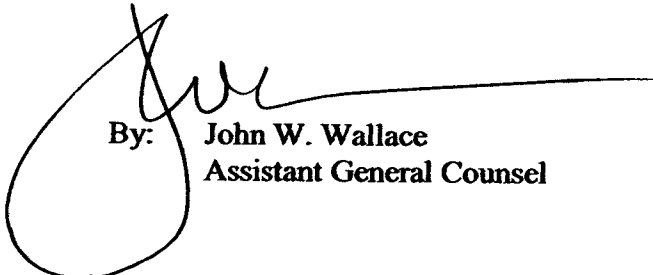
You have asked whether the “less than \$70,000” annual operating budget requirement in regulation 18751(d)(3) is current or has been amended. Regulation 18751(d)(3) requires that the annual operating budget (exclusive of salaries) be less than \$70,000 for an agency to fall into the exception. It has not been amended. However, the Commission is currently in the process of considering its regulatory calendar for 2005. This project may be one that the Commission considers for the regulation calendar next year.

As noted above, this regulation and any future of amendment would of course be binding only with respect to state agencies or agencies with jurisdiction in more than one county. For exemptions from filing under the county’s conflict of interest code, you need to consult with the county board of supervisors.

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

Sincerely,

Luisa Menchaca
General Counsel


By: John W. Wallace
Assistant General Counsel

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