



## FAIR POLITICAL PRACTICES COMMISSION

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March 22, 2013

Richard A. Teaman  
Teaman, Ramirez & Smith, Inc.  
Certified Public Accountants  
4201 Brockton Avenue, Suite 100  
Riverside, CA 92501

Re: Your Request for Advice  
Our File No. A-13-029

Dear Mr. Teaman:

This letter responds to your request for advice regarding your responsibilities under the conflict-of-interest provisions of the Political Reform Act (the "Act").<sup>1</sup> Please note that nothing in this letter should be construed to evaluate any conduct which may have already taken place. In addition, we base this letter on the facts presented to us. The Commission does not act as the finder of fact in providing advice. (*In re Oglesby* (1975) 1 FPPC Ops. 71.)

### QUESTION

Are the shareholders and employees of Teaman, Ramirez & Smith, Inc., an accounting firm that contracts with entities in the County of Riverside to perform audits, deemed "consultants" as defined in the Political Reform Act?

### CONCLUSION

Generally, where the shareholders and employees contract to perform independent audits of municipalities, this in itself will not result in these persons becoming "consultants."

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

## FACTS

You are a shareholder and employee in the firm Teaman, Ramirez & Smith, Inc. (a C Corporation) ("the Firm"). The Firm contracts with certain entities in the County of Riverside Economic Development agency ("the County") as an independent auditor for their annual financial audits. You do not contract with the County for other services.

In your role as an independent auditor, you do not make governmental decisions to approve rates, rules or regulations; you do not adopt or enforce laws; issue, deny, suspend or revoke permits; authorize contracts, and you do not serve in a staff capacity for a client. As independent accountants, you are prohibited by the professional standards of the State Board of Accountancy from performing such functions.

## ANALYSIS

The Act requires that assets and income of public officials that may be materially affected by their official actions be fully disclosed and in appropriate circumstances the officials should be disqualified from acting to avoid conflicts of interest. (Section 81002(c).) Section 82048 defines "public official" as every member, officer, employee or consultant of a state or local government agency. Regulation 18701(a)(2) defines "consultant" as any individual, who pursuant to a contract:

"(A) Makes a governmental decision whether to:

- (i) Approve a rate, rule, or regulation;
- (ii) Adopt or enforce a law;
- (iii) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- (iv) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval;
- (v) 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;
- (vi) Grant agency approval to a plan, design, report, study, or similar item;
- (vii) 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 . . . ."

In its role as an independent auditor, the Firm does not make any of the decisions set forth in subdivision (a)(2)(A) above. Pursuant to the information you provided, the scope of the Firm's services is to perform annual independent audits for certain entities. Thus, you would not qualify as consultants under Regulation 18700(a)(2)(a). (See *Maze* Advice Letter, No. I-95-296, copy enclosed.)

If the Firm undertakes any other tasks, other than the annual independent audit, filing obligations may apply.

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

Sincerely,

Zackery P. Morazzini  
General Counsel



By: Heather M. Rowan  
Senior Counsel, Legal Division

HMR:vll