



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
1102 Q Street • Suite 3050 • Sacramento, CA 95811

February 6, 2026

Abel Salinas
Ethics Officer
Metropolitan Water District of Southern California
P.O. Box 54153
Los Angeles, CA 90054-0153

Re: Your Request for Advice
Our File No. A-25-094

Dear Mr. Salinas:

This letter responds to your request for advice on behalf of Metropolitan Water District of Southern California (“Metropolitan”) Director Barry D. Pressman regarding the Political Reform Act (the “Act”) and Government Code Section 1090, et seq.¹ Please note that we are only providing advice under the Act and Section 1090, not under other general conflict of interest prohibitions such as common law conflict of interest.

Also, note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

We are required to forward your request regarding Section 1090 and all pertinent facts relating to the request to the Attorney General’s Office and the Los Angeles County District Attorney’s Office, which we have done. (Section 1097.1(c)(3).) We did not receive a written response from either entity. (Section 1097.1(c)(4).) We are also required to advise you that, for purposes of Section 1090, the following advice “is not admissible in a criminal proceeding against any individual other than the requestor.” (See Section 1097.1(c)(5).)

QUESTION

Under the Act and Section 1090, does Metropolitan Board of Directors member, Pressman, have a disqualifying interest in Metropolitan decisions involving the City of Los Angeles (“City”), including contract decisions with a City sub-agency, the Los Angeles Department of Water and Power (the “LADWP”), such as the LADWP Hyperion Local Resource Program (“LRP”) project, due to his independent contractor role with the City Attorney’s Office?

¹ 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 18104 through 18998 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.

CONCLUSION

No. For purposes of the Act, Director Pressman is not disqualified from participating in decisions concerning the Hyperion LRP as a result of income received through his consulting businesses as an independent contractor, because, under the exception for special circumstances where an official has an interest in a governmental entity and there is no unique effect, the official generally may participate in decisions involving the governmental source of income. Similarly, under Section 1090, Director Pressman is not prohibited from taking part in the contract decision. Because the decision involves no financial gain and only involves the City generally in that it does not affect the department he works for, the non-interest exception under Section 1091.5(a)(9) applies to permit him to participate in the decisions pertaining to the LADWP Hyperion LRP, provided he discloses his interest in the contract to the Metropolitan Board and the interest is noted in the Metropolitan Board's records.

FACTS AS PRESENTED BY REQUESTER

Metropolitan

Metropolitan is a regional wholesaler that delivers water to its 26 public member agencies – 14 cities, 11 municipal water districts, and one county water authority – which in turn provide water to 19 million people in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura counties. We note that, according to its website, Metropolitan is governed by a 38-member board of directors, representing each of the Metropolitan's 26 member agencies. Each member agency is represented by one or more directors based on the assessed property valuation of its jurisdiction.

Metropolitan Contracts with Other Government Agencies

A common type of contract between Metropolitan and government entities are LRP agreements. These agreements are regularly made with Metropolitan's member agencies and their sub-agencies (also government entities) to help improve regional water supply reliability and support water use efficiency goals. One such sub-agency is LADWP, a department of the City.

Specifically, LRPs provide financial incentives to Metropolitan member agencies to develop new local projects. LRP agreements are up to 25 years in duration. Typical LRP projects include groundwater recovery and recycled water projects. Local entities, including Metropolitan's member agencies, submit LRP applications to Metropolitan, and the Metropolitan Board ultimately votes on whether to approve the proposed agreement. Selections are based on Board-adopted guidelines and criteria for LRP projects.

Future Contract between the Metropolitan and the LADWP: Hyperion LRP Project

The Hyperion Project will involve an LRP agreement between Metropolitan and LADWP. The objective of this project is to implement an advanced water purification facility

and maximize the distribution of advanced treated recycled water to customers in the City's Westside area for potable water offset. This new source of water to the City will reduce the demand on MWD's imported water supply and help maintain regional supply reliability.

You state that, according to staff, the LADWP Hyperion LRP project is still under review. LADWP still needs to submit additional information for Metropolitan to proceed with the review, and staff is awaiting receipt of this information.

Director Pressman's Business Relationship with the City

Director Pressman, appointed to the Metropolitan Board by the City of Beverly Hills, is Chair of the Department of Imaging at Cedars Sinai Medical Center, a nonprofit hospital in Los Angeles. He also has a private medical consulting company. In a follow-up email, you confirmed that Director Pressman has a 10 percent interest or greater interest in his medical consulting business. As a consultant, Director Pressman provides services as an expert witness/subject matter expert in City medicolegal matters. The City Attorney's Office is a business client and has provided income to Director Pressman within the past 12 months. None of these matters have involved LADWP. In a follow-up email, you stated that his only City client is the City Attorney's office. He has no other relationships with the City.

ANALYSIS

The Act

Under Section 87100, a public official may not make, participate in making, or use an official position to influence a governmental decision in which the official has a financial interest. A public official has a "financial interest" in a governmental decision, within the meaning of the Act, if it is reasonably foreseeable that the decision will have a material financial effect on one or more of the public official's interests. (Section 87103; Regulation 18700(a).) Section 87103 identifies interests from which a conflict of interest may arise and includes:

- An interest in a source of income to the official, including promised income, which aggregates to \$500 or more within 12 months prior to the decision. (Section 87103(c).)
- An interest in a business entity in which the official has a direct or indirect investment of \$2,000 or more (Section 87103(a)); or in which the official is a director, officer, partner, trustee, employee, or holds any position of management (Section 87103(d)).

Section 82030 provides that an individual's "income" includes "a pro rata share of any income of any business entity or trust in which the individual or spouse owns, directly, indirectly or beneficially, a 10 percent interest or greater." Because Director Pressman has a greater than 10 percent interest in his medical consulting business, he has a source of income interest in any client of the businesses from whom he receives \$500 or more in income in the 12 months prior to the decision at issue.

Based on the facts presented, Director Pressman receives income from the City through his business for providing consulting services. He has a business entity interest in his consulting business, and a source of income interest in the City, as a client of his business.²

Foreseeability & Materiality

Regulation 18701(a) states that an effect on an interest is presumed foreseeable if the interest is explicitly involved in the decision. An interest is explicitly involved if it is a named party in, or the subject of, a governmental decision before the official or the official's agency. A financial interest is the "subject of a proceeding" if the decision involves the issuance, renewal, approval, denial or revocation of any license, permit, or other entitlement to, or contract with, the financial interest.

Where an official's economic interest is not explicitly involved in the governmental decision, the applicable standard for determining the foreseeability of a financial effect on the economic interest is found in Regulation 18701(b). That regulation provides, "[a] financial effect need not be likely to be considered reasonably foreseeable. In general, if the financial effect can be recognized as a realistic possibility and more than hypothetical or theoretical, it is reasonably foreseeable. If the financial result cannot be expected absent extraordinary circumstances not subject to the public official's control, it is not reasonably foreseeable."

Regulation 18702.3(d) provides that "an official with an interest in a governmental entity is disqualified from taking part in a decision only if there is a unique effect on the official" pursuant to Regulation 18703(e)(7). Regulation 18703(e) provides specific rules for special circumstances, including where the decision affects a local governmental entity in which the official has an interest. The regulation states that in this special circumstance, the public official's financial interest is deemed indistinguishable from that of the public generally where there is no unique effect on the official's interest. (Regulation 18703(e)(7).) A "unique effect" is defined in Regulation 18703(c) and includes, relevant to these facts, a disproportionate effect on the official's business entity or the official's personal finances.

Here, the Hyperion LRP Project agreement between Metropolitan and the City, which pertains to the distribution of advanced treated recycled water, would not have a unique effect on Director Pressman's medical consulting business. The facts indicate the decision is unrelated to and will have no impact on his business or his personal finances. Therefore, under the Act, Director Pressman is not disqualified from taking part in the Hyperion LRP Project agreement, and is generally not disqualified from taking part in decisions concerning LRPs or similar water contracts that will come before the Metropolitan Board.

Section 1090

² For purposes of the Act, income does not include "[s]alary and reimbursement for expenses or per diem, and social security, disability, or other similar benefit payments received from a state, local, or federal government agency..." (Section 82030(b)(2).) However, Section 82030(b)(2) applies only to salary received by employees, not independent contractors. (*Rainey* Advice Letter, No. A-98-101; *Riddle* Advice Letter, No. A-97-294, and *Soldani* Advice Letter, No. A-94-042.)

Section 1090 generally prohibits public officers, while acting in their official capacities, from making contracts in which they are financially interested. Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall v. Taft* (1962) 58 Cal.2d 565, 569.) Under Section 1090, “the prohibited act is the making of a contract in which the official has a financial interest.” (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) A contract that violates Section 1090 is void, regardless of whether the terms of the contract are fair and equitable to all parties. (*Thomson v. Call* (1985) 38 Cal.3d 633, 646-649.) When Section 1090 is applicable to one member of a governing body of a public entity, the prohibition typically cannot be avoided by having the interested board member abstain; the entire governing body is precluded from entering into the contract. (*Id.* at pp. 647-649.)

Although Section 1090 does not specifically define the term “financial interest,” case law and Attorney General opinions state that prohibited financial interests may be indirect as well as direct, and may involve financial losses, or the possibility of losses, as well as the prospect of pecuniary gain. (*People v. Vallerga* (1977) 67 Cal.App.3d 847, 867, fn. 5; *Terry v. Bender* (1956) 143 Cal.App.2d 198, 207-208; 85 Ops.Cal.Atty.Gen. 34, 36-38 (2002); 84 Ops.Cal.Atty.Gen. 158, 161-162 (2001).) Officials are deemed to have a financial interest in a contract if they might profit from it in any way. (*People v. Honig* (1996) 48 Cal.App.4th 289, 333.) Section 1090 is concerned with financial interests, other than remote or minimal interests, that prevent public officials from exercising absolute loyalty and undivided allegiance in furthering the best interests of their agencies. (*Stigall, supra* at p. 569.)

However, the Legislature has created various statutory exceptions to Section 1090’s prohibition where the financial interest involved is deemed to be a “remote interest,” as defined in Section 1091 or a “noninterest,” as defined in Section 1091.5. If a remote interest is present, the contract may be made if: (1) the officer discloses the interest in the contract to his or her public agency; (2) that interest is noted in the agency’s official records; and (3) the officer abstains from any participation in the making of the contract. (Section 1091(a).) If a noninterest is present, the contract may be made without the officer’s abstention, and a noninterest generally does not require disclosure. (*City of Vernon v. Central Basin Mun. Water Dist.* (1999) 69 Cal.App.4th 508, 514-515.)

In his role as a member of the Metropolitan Board, Director Pressman is a public officer subject to the provisions of Section 1090. Additionally, as a member of the governing board, he is presumed to be involved in the making of all contracts by the Metropolitan Board, irrespective of whether he actually participated in the making of the contract. (*Thomson, supra*, at pp. 645, 649.) The decisions in question involve contracts between Metropolitan and LADWP, and as an independent contractor to the City Attorney’s office, he has a financial interest in the City. Thus, the determinative question is whether he has a financial interest in contract decisions involving Metropolitan and LADWP, a City Department, and, if so, whether his interest is considered a “remote interest” or a “noninterest” as defined in Sections 1091 and 1091.5.

The Legislature has addressed the issue of a public officer’s involvement in a contract between two government agencies, where the public officer is employed by one agency and

serves as a member of a body or board contemplating a contractual relationship, and defined circumstances where the interest may be deemed a “noninterest” or a “remote” interest.

Under Section 1091(b)(13), an agency board member who receives salary, per diem, or reimbursement for expenses from another government entity has a remote interest in a contract between the two agencies. However, an officer or employee of a government agency receiving salary, per diem, or reimbursement for expenses from another government entity has a noninterest in a contract between the two agencies “unless the contract directly involves the department of the governmental entity that employs the officer or employee, provided that the interest is disclosed to the body or board at the time of consideration of the contract, and provided further that the interest is noted in its official record.” (Section 1091.5(a)(9).)

Because the exceptions make no mention of paid consultants of government entities, we must determine if they are subject to the same remote interest and noninterest exceptions as any other officer or employee of a government entity. In a similar situation, we concluded that the Legislature did not intend to categorically exclude paid consultants of a government entity from coming within the scope of the two government salary exceptions, and that the exception in Section 1091.5(a)(9) applies to an independent contractor of a governmental entity. (*Winuk* Advice Letter, No. A-24-103.)

In examining Section 1091.5(a)(9) in *Lexin v. Superior Court* (2010) 47 Cal.4th 1050, 1081, the California Supreme Court determined that Section 1091.5(a)(9) applies when “the contract involves no direct financial gain, does not directly affect the official’s employing department, and is only with the general government entity for which the official works.” The Court went on to state that “Section 1091.5(a)(9) excuses conflicts that arise from the identity of the party with or on whose behalf one is contracting (one’s employer, other than one’s own specific department), but not conflicts that arise from the actual terms of the contract.” (*Ibid.*)

Director Pressman has a private medical consulting company, through which he provides services as an expert witness/subject matter expert for the Los Angeles City Attorney’s Office as an independent contractor. The facts presented provide no indication that his compensation as a medical consultant for the City Attorney’s Office is in any manner contingent upon or related to any relationship between the City and Metropolitan. The facts presented also provide no indication that the LADWP Hyperion LRP, which involves the distribution of advanced treated recycled water, would result in a direct financial gain to Director Pressman or directly affect the City Attorney’s Office.

Therefore, the noninterest exception of Section 1091.5(a)(9) would apply to allow his participation in the decision, so long as Director Pressman discloses his interest to the Metropolitan Board and the interest is noted in the Metropolitan Board’s official records.

If you have other questions on this matter, please contact me at znorton@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

Zachary W. Norton

By: Zachary W. Norton,
Senior Counsel, Legal Division

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