



GOVERNMENT

sfgov | citizen | business | government | visitor | online services | search
go !

[Ethics Commission](#) >> [Making a Complaint](#)

SAN FRANCISCO

Ethics Commission

The San Francisco Ethics Manual

THE
SAN FRANCISCO
ETHICS COMMISSION
MANUAL

ON

GOVERNMENTAL ETHICS
LAWS

**A Guide to State and Local Laws
Governing the Conduct of
Public Officials and Employees**

San Francisco Ethics Commission
30 Van Ness Avenue, Suite 3900
San Francisco, California 94102
Phone: (415) 581-2300
Fax: (415) 581-2317
Website: www.sfgov.org/ethics
E-Mail: ethics.commission@sfgov.org



I. INTRODUCTION

II. STATE LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

A. THE POLITICAL REFORM ACT

1. The Basic Prohibition Against Conflicts of Interest
2. Financial Disclosure Under The Political Reform Act
3. Limits And Reporting Requirements For Certain Types Of Income - Gifts, Honoraria, Travel, And Loans

B. CONFLICTS OF INTEREST UNDER GOVERNMENT CODE SECTION 1090

1. What is a "Financial Interest"?
2. What Constitutes Making a Contract?
3. Remote Interests
4. Noninterests

C. INCOMPATIBILITY

1. Incompatible Activities

2. Incompatible Offices

D. SOLICITATION OR RECEIPT OF CONTRIBUTIONS BY APPOINTED OFFICIALS: GOVERNMENT CODE SECTION 84308

1. Who Must Comply With Section 84308?

2. What Types of Proceedings Are Covered?

3. Who are Parties, Participants and Agents?

4. Disclosure: Who and How?

5. When is Disqualification Required?

E. CONSTITUTIONAL PROHIBITION ON TRAVEL DISCOUNTS

F. CONFLICTS OF INTEREST UNDER THE COMMON LAW

G. POLITICAL ACTIVITY

III. LOCAL LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

A. LOCAL ETHICS LAWS GOVERNING THE CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES

1. Incorporation of State Conflict of Interest Laws

2. Prohibition on Representing Private Parties Before Other City Officers and Employees -- Compensated Advocacy

3. Dual Officeholding for Compensation

4. Prohibition on Contracting with the City

5. Prohibition on Disclosing or Using Confidential Information

6. Appointments and Nominations

7. Prohibition on Voting on Own Character or Conduct

8. Decisions Involving Family Members

9. Disclosure of Personal, Professional and Business Relationships

10. Receipt of Benefits for Referrals and Requiring Particular Contractors

11. Limitations on Gifts

12. Restrictions on Use of City Resources and Political Activity

13. Incompatible Activities

14. Sunshine Ordinance Training

15. Post-employment Restrictions

B. LOCAL LAWS REGULATING LOBBYISTS

C. LOCAL LAWS RELATING TO CAMPAIGN ACTIVITY

1. The Campaign Finance Reform Ordinance

2. The Campaign Consultant Ordinance

IV. OBLIGATIONS OF CITY OFFICERS AND EMPLOYEES

A. COOPERATING AND ASSISTING IN ENFORCEMENT INVESTIGATIONS

B. PROHIBITION ON FILING FALSE CHARGES

C. PROHIBITION ON AIDING AND ABETTING

APPENDIX A:

HOW TO FILL OUT A STATEMENT OF ECONOMIC INTERESTS

APPENDIX B

RESOURCE GUIDE

I. INTRODUCTION

The San Francisco Ethics Commission (the "Commission") was established by the voters in 1993 to administer and implement the provisions of the Charter and City ordinances relating to campaign finance, lobbying, conflicts of interest, and governmental ethics. One of the Commission's duties is to educate public officials, as well as the public, about the ethics laws and reporting requirements applicable to City officers and employees.

This manual summarizes the State and local ethics laws applicable to City officers and employees, provides instructions for completing the financial disclosure forms that many officers and employees are required to file, provides answers to frequently asked questions about these laws and disclosure requirements, and lists resources for obtaining additional information and assistance.

The discussion of the governmental ethics laws in this manual is necessarily general. The summaries should provide readers a basic understanding of the laws. Any specific questions regarding these laws or their application should be directed to the Commission staff at (415) 581-2300, or to the agency identified in a particular section. You may also visit the Commission's website at www.sfgov.org/ethics. The website includes general information about the Commission, as well as the laws it enforces.

Please be aware that although the Commission may administer, interpret, and enforce several of the laws described in this manual, the Commission does not have authority

to interpret and enforce all of these laws.

We hope you find this manual helpful and look forward to assisting you in the future.

II. STATE LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

A. THE POLITICAL REFORM ACT

1. The Basic Prohibition Against Conflicts of Interest

California's Political Reform Act (hereinafter referred to as the "Act") prohibits public officials from making, participating in making, or in any way seeking to influence, governmental decisions in which they have a disqualifying conflict of interest. Gov't Code Section 87100.

A public official has a conflict of interest in a decision if the decision will have a reasonably foreseeable material financial effect on one or more of the official's economic interests, unless that effect is indistinguishable from the effect on the public generally.

A conflict of interest is disqualifying if the public official's participation is not legally required. When a public official has a disqualifying conflict, the official must disclose the conflict and abstain from participating in the decision.

The following section discusses the basic prohibition on conflicts in greater detail. Specific inquiries about the meaning and application of these rules should be addressed to the California Fair Political Practices Commission (the "FPPC"), at (866) 275-3772. The FPPC, not the Ethics Commission, interprets and enforces the conflict of interest provisions of the Act.

a. Who is a "Public Official"?

The term "public official" means a "member, officer, employee, or consultant" of a local government agency. The term "member" includes any member of a board or commission with decision-making authority.

b. When is a Public Official "Making, Participating in Making, or Attempting to Influence" a Governmental Decision?

Making a decision. A public official makes a decision when he or she votes, appoints a person to a position, obligates the agency to a course of action, or enters into a contract for the agency. Deciding not to act, unless based on a disqualification under the Act, also constitutes "making a decision."

Participating in making a decision. Participating in making a decision includes negotiating, providing advice by way of research, investigation, or preparation of reports or analyses for the decision-maker, if these functions are performed without significant intervening review.

Participating in making a decision does not include ministerial or clerical actions; appearing before an agency to represent the official's personal interests; or actions by a public official with regard to his or her compensation for services or the terms or conditions of his or her employment or contract.

Influencing a decision. A public official may not use his or her official position to influence a decision in which the official has a financial interest. "Influence" includes contacting, appearing before, or otherwise attempting to influence any member, officer, employee or consultant of the official's agency, or an agency appointed by or subject to the budgetary control of the official's agency. Attempts to influence include appearances or contacts by the official on behalf of a business entity, client, or customer.

c. What Economic Interests are Covered?

Investments. Any business entity in which the public official has a direct or indirect investment worth \$2,000 or more. An indirect investment means an investment owned by the spouse, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, dependent children or agent) owns a 10% or greater interest.

Property. Any real property in which the public official has a direct or indirect interest worth \$2,000 or more. An indirect investment means an investment owned by the spouse, dependent child, or agent of the public official, or by a business entity or trust in which the official (or the official's spouse, dependent children or agent) owns a 10% or greater interest.

Source of income or gifts. Any source of income aggregating \$500 or more in value, or any source of gifts of \$340 or more in value, provided to, received by, or promised to the public official within 12 months prior to the time the decision is made. Income does not include loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status.

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

Income, assets, and expenses. The income, assets and expenses of the public official or the public official's immediate family. "Immediate family" means spouse or dependent children.

d. When Does a Decision Materially Affect an Economic Interest?

Under the Act, a conflict exists only if the effect of a decision on the official's economic interest will be "material." Determining materiality usually requires estimating the dollar value of the effect of a decision on the official's economic interest. The FPPC's regulations set forth specific standards for determining when a decision's effect is material. Application of those standards will turn in part on whether the official's economic interest is directly or indirectly involved in the decision.

Direct involvement. A decision directly involves a public official's economic interest if the economic interest is the subject of the decision. For example, if a public official is appealing the denial of a permit for her property, the public official's economic interest in the property is directly involved in the appeal. If a company in which an official has an interest of \$2,000 or more is seeking a contract with the official's department, the official has a direct interest in decisions about the contract.

The law presumes that a public official's economic interest is materially affected if that interest is directly involved in the decision before the public official. The presumption can be overcome if the public official can show that a decision will have absolutely no financial effect on the official's interest.

Indirect involvement. Any time a public official's economic interest is affected by a decision, but that interest is not the subject of the decision, the interest is indirectly involved in the decision. For example, a decision about health inspection fees will indirectly affect the economic interests of a public official who owns a restaurant. Legislation of general applicability indirectly involves a public official's economic interest that could be affected by the legislation.

If a public official's economic interest is indirectly involved in a decision, materiality will depend upon the impact of the decision on the official's economic interest. The regulations contain detailed standards for determining whether a decision will have a material effect on an economic interest indirectly involved in the decision. These standards are set forth below.

i. Decisions Involving an Economic Interest in a Business Entity

Direct Involvement. The effect of a decision is presumed to be material on a business entity which is directly involved in a governmental decision. This presumption may be rebutted by proof that it is not reasonably foreseeable that a governmental decision will have any financial effect on the business entity. However, for entities listed in the Fortune 500, the NYSE or that meets the criteria for listing on the NYSE, in which the official has an investment of \$25,000 or less, the decision is material only if the standards set forth below in the following section are met.

Indirect Involvement. The effect of a decision is material if for any business entity in which an official has an economic interest the following standards (which vary with the size of the business) are met:

For a business entity listed in the Fortune 500, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$10,000,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$2,500,000 or more;
- An increase or decrease in the value of assets or liabilities of \$10,000,000 or more.

For a business entity listed or that meets the financial criteria for listing on the New York Stock Exchange, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$500,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$200,000 or more;
- An increase or decrease in the value of assets or liabilities of \$500,000 or more.

For a business entity listed or that meets the standards for listing on the NASDAQ/AMEX, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$300,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$100,000 or more;

- An increase or decrease in the value of assets or liabilities of \$300,000 or more.

For any business entity that does not meet any of the above standards, it is reasonably foreseeable that the decision would result in:

- An increase or decrease in gross revenues for a fiscal year of \$20,000 or more;
- Incurring or avoiding expenses for a fiscal year of \$5,000 or more;
- An increase or decrease in the value of assets or liabilities of \$20,000 or more.

ii. Decisions Involving an Economic Interest in Real Property

Direct Involvement. For real property, other than leaseholds, the decision is presumed to be material. This presumption may be rebutted by proof that it is not reasonably foreseeable that the governmental decision will have any financial effect on the real property. Property within 500 feet of property that is the subject of the decision is treated as directly involved.

For leasehold interests directly involved in the decision, the decision is presumed to have a material effect. This presumption may be rebutted by proof that it is not reasonably foreseeable that the decision will have any effect on any of the following:

- the termination date of the lease;
- the amount of rent paid by the lessee for the leased property;
- the legally allowable use or the current use of the property by the lessee;
- the use or enjoyment of the leased property by the lessee.

Indirect Involvement. For real property, other than leaseholds, the decision is presumed not to be material. This presumption may be rebutted by proof that there are specific circumstances regarding the governmental decision, its financial effect, and the nature of the real property, which make it reasonably foreseeable that the decision will have a material financial effect on the property. Examples of specific circumstances include, but are not limited to, decisions that affect:

- the development potential or income producing potential of the property;
- the use of the property;
- the character of the neighborhood including but not limited to substantial effects on traffic, view, privacy, intensity of use, noise levels, air emissions, or similar traits of the neighborhood.

For leasehold interests, the decision is also presumed not to be material. This presumption may be rebutted by proof that there are specific circumstances regarding the governmental decision, its financial effect, and the nature of the property, which will make it reasonably foreseeable that the decision will:

- change the legally allowable use of the leased real property, and the lessee has a right to sublease the real property;

- change the lessee's actual use of the real property;
- substantially enhance or significantly decrease the lessee's use or enjoyment of the leased property;
- increase or decrease the amount of rent for the property by five percent or more during any 12-month period following the decision; or
- result in a change in the termination date of the lease.

iii. Decisions Involving an Economic Interest in Persons who are Sources of Income or Gifts

Direct Involvement. Any reasonably foreseeable financial effect on a person who is the source of income or gifts to a public official and who is directly involved in a decision before the official's agency is deemed material.

Indirect Involvement. For determining whether the effect of a decision is material as to a person who is a source of income and is indirectly involved in a decision, the following standards apply:

Business Entity. If the source of income or gifts is a business entity, the materiality standards described above for business entities indirectly involved apply.

Nonprofit Entity. If the source of income or gifts is a nonprofit entity, including a governmental entity, the following standards apply:

- For an entity with gross annual receipts of \$400,000,000 or more, the effect of the decision will be any of the following:
 - affect gross revenues for a fiscal year by \$1,000,000 or more;
 - affect expenses for a fiscal year by \$250,000 or more;
 - affect assets or liabilities by \$1,000,000 or more.
- For an entity with gross annual receipts of between \$100,000,000 and \$400,000,000, the effect of the decision will be any of the following:
 - affect gross revenues for a fiscal year by \$400,000 or more;
 - affect expenses for a fiscal year by \$100,000 or more;
 - affect assets or liabilities by \$400,000 or more.
- For an entity with gross annual receipts of more than \$10,000,000 but less than or equal to \$100,000,000, the effect of the decision will be any of the following:
 - affect gross revenues for a fiscal year by \$200,000 or more;
 - affect expenses for a fiscal year by \$50,000 or more;
 - affect assets or liabilities by \$200,000 or more.

- For an entity with gross annual receipts of more than \$1,000,000 but less than or equal to \$10,000,000, the effect of the decision will be any of the following:

- affect gross revenues for a fiscal year by \$100,000 or more;
- affect expenses for a fiscal year by \$25,000 or more;
- affect assets or liabilities by \$100,000 or more.

- For an entity with gross annual receipts of more than \$100,000 but less than or equal to \$1,000,000, the effect of the decision will be any of the following:

- affect gross revenues for a fiscal year by \$50,000 or more;
- affect expenses for a fiscal year by \$12,500 or more;
- affect assets or liabilities by \$50,000 or more.

- For an entity with gross annual receipts of \$100,000 or less, the effect of the decision will be any of the following:

- affect gross revenues for a fiscal year by \$10,000 or more;
- affect expenses for a fiscal year by \$2,500 or more;
- affect assets or liabilities by \$10,000 or more.

Individuals. The effect of a decision is material as to individuals who are sources of income or gifts and indirectly involved in the decision if any of the following applies:

- The decision will affect the individual's income investments or other tangible or intangible assets or liabilities (other than real property) by \$1,000 or more; or
- The decision will affect the individual's real property interest in a manner that is considered material under the materiality standards applicable to real property indirectly involved in a decision.

Nexus. Any reasonably foreseeable financial effect on a person who is a source of income to a public official is deemed material if the public official receives or is promised the income to achieve a goal or purpose which would be achieved, defeated, aided or hindered by the decision.

iv. Decisions Involving Personal Financial Effect

A reasonably foreseeable personal financial effect is material if it is at least \$250 in any 12-month period. Neither a financial effect on the value of real property nor a financial effect on a business entity should be considered when determining whether a decision will have a personal financial effect on a public official or employee.

e. What is Reasonably Foreseeable?

To be disqualifying, a material financial effect must be reasonably foreseeable. The effect of a decision is reasonably foreseeable if there is a substantial likelihood that it will occur. To be foreseeable, the effect of a decision must be more than a mere

possibility, but need not be certain to occur.

f. Is the Effect of the Decision on the Official's Economic Interest Distinguishable from the Effect on the Public Generally?

Even if the reasonably foreseeable financial effect of a decision is material, disqualification is required only if the effect is distinguishable from the effect on the public generally. For this exception to apply, a decision must affect the official's interest in substantially the same manner as it would affect a significant segment of the public. The FPPC regulations contain specific rules for determining when the "public generally" test has been met.

g. Is the Public Official's Participation Legally Required?

In some cases, even where an official has a conflict of interest, the official may participate if his or her participation is legally required. This exception is very narrow. Participation is legally required only if there is no other officer or entity that may make the decision consistent with the purposes and terms of the statute authorizing the decision. This exception does not permit an official who is otherwise disqualified to break a tie or vote where a quorum of members of the agency who are not disqualified could be obtained.

h. What are the Penalties?

Any person who knowingly or willfully violates the Act is guilty of a misdemeanor, which is punishable by a fine of up to \$10,000. A violation of the Act may also result in civil or administrative penalties and subject the individual to discipline by the official's agency.

i. What Should an Official With a Conflict of Interest Do?

When a public official determines that a particular governmental decision will foreseeably and materially affect his or her economic interest in a manner different from the decision's effect on the general public, the official has a conflict of interest.

An official with a conflict is not counted for purposes of establishing a quorum and must not vote on, make, participate in any way in, or attempt to influence the decision. In other words, the official is "disqualified" from participating. In addition, a public official cannot attend a closed session or obtain or review a recording or any non-public information regarding the governmental decision in which he or she has a prohibited conflict of interest.

When an official disqualifies himself or herself from a decision because of a conflict of interest, generally, the reason for the disqualification may be disclosed in writing or orally. Certain public officials -- members of the Board of Supervisors, members of the Planning Commission, members of the Retirement Board, the Mayor, the City Attorney, the District Attorney, the City Treasurer, and all City officials who manage public investments - must announce their financial interest on the public record and leave the room while the matter is being discussed and decided. Gov't Code

§ 87105.

(continued on next page)

j. General Guidelines for Identifying Conflicts of Interest under the

Political Reform Act

1.

DETERMINE WHETHER THE INDIVIDUAL IS A PUBLIC OFFICIAL.

If not, the Act does not apply.

2.

DETERMINE WHETHER THE PUBLIC OFFICIAL WILL BE MAKING, PARTICIPATING IN MAKING, OR USING OR ATTEMPTING TO USE HIS OR HER OFFICIAL POSITION TO INFLUENCE A GOVERNMENTAL DECISION.

If not, the Act does not apply.

3.

IDENTIFY THE OFFICIAL'S ECONOMIC INTERESTS THAT ARE POTENTIALLY INVOLVED.

Investments
Real Property
Sources of Income
Business Positions

If the official has no economic interest covered by the Act, the Act does not apply.

4.

DETERMINE WHETHER THE OFFICIAL'S ECONOMIC INTEREST(S) WILL BE DIRECTLY OR INDIRECTLY INVOLVED IN THE GOVERNMENTAL DECISION.

Proceed to Step 5.

5.

DETERMINE WHETHER THE APPLICABLE STANDARD FOR ANALYZING WHETHER THE EFFECT OF THE DECISION ON THE OFFICIAL'S ECONOMIC INTEREST(S) INVOLVED WILL BE MATERIAL.

Proceed to Step 6.

6.

DETERMINE WHETHER IT IS REASONABLY FORESEEABLE THAT THE GOVERNMENTAL DECISION WILL HAVE A MATERIAL FINANCIAL EFFECT ON THE OFFICIAL'S ECONOMIC INTEREST.

If it is, the official has a conflict of interest.

7.

DETERMINE WHETHER THE REASONABLY FORESEEABLE MATERIAL FINANCIAL EFFECT IS DISTINGUISHABLE FROM THE EFFECT ON THE PUBLIC GENERALLY.

If not, the official may participate in the decision.

8.

DETERMINE WHETHER THE OFFICIAL'S PARTICIPATION IS LEGALLY REQUIRED.

If so, the official may participate in the decision.

k. Commonly Asked Questions/Scenarios Regarding Conflicts of Interest

1. I have a conflict of interest, but if I don't vote, our commission can't act on a matter because one other commissioner is sick and we have a vacancy on the commission. Does the rule of necessity allow me to vote?

Probably not. The rule of necessity may be invoked only if there are no alternative means of decision-making. In this case, it appears that you could postpone the vote until the absent member returns, or until the vacancy on the commission is filled.

2. Do I have a conflict of interest if I still have a retirement plan with my old company that includes some stock in the company?

You may. If you have more than \$2,000 invested in a business entity that does business in San Francisco, you are precluded from making decisions that have a material effect on that business.

3. My father just left each of my two children some stock in a company that is regulated by my department. Is this a problem?

Maybe. You have a financial interest in any business entity in which you have a direct or indirect investment of \$2,000 or more. An indirect interest includes the investment of a dependent child. You may not make, participate in making, or seek to influence decisions having a reasonably foreseeable material effect on such an interest.

4. My commission is voting on a permit for a building across the street from my house, but I don't think this affects me, does it?

You will probably be required to recuse yourself. The FPPC regulations provide that a decision affecting real property that is within 500 feet of your interest in real property presumptively has a material financial effect on your property interest. Although you may participate in the decision if you can demonstrate absolutely no financial effect on your property, this is extremely difficult to do.

5. My former law partner is seeking a contract with my department. We have not worked together for five years. Do I have a conflict?

The Act prohibits public officials from participating in decisions that will have a material effect on the official's economic interests. If you have no economic interest in your former law partner, the Act does not preclude you from working on matters involving him. Other considerations may lead to the conclusion that you should not work on matters involving your former partner. New section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional or business relationship with someone who is the subject of, or has a financial interest, in a government decision if the public official's ability to act for the benefit or the public could reasonably be questioned. See Section III.A.

6. My board is going to be voting on the appeal from the denial of a permit for a building in my neighborhood. I am going to vote to deny the appeal, which is really against my interests because this building would be good for our neighborhood. I do not have a conflict if I am voting against my interests, do I?

You may. The Act does not distinguish between decisions that help or hurt the public official. As long as there is a material financial effect, the official is disqualified.

2. Financial Disclosure Under The Political Reform Act

The Political Reform Act requires that public officials and employees with significant decision-making authority disclose their personal financial interests. The financial disclosure informs the public about the decision-maker's economic interests and potential conflicts of interest.

a. Who is Required to File "Statements of Economic Interests"?

Public Officials. All local public officials (including elected officials, candidates for elective office, appointed officials, and employees) who make, or participate in making, governmental decisions that could affect their personal financial interests are required to file financial disclosure forms called "Statements of Economic Interests" ("SEIs" or "Form 700s"). The list of local appointed officials and employees who are required to file SEIs is set forth in San Francisco's Conflict of Interest Code found in the Campaign and Governmental Conduct Code at Section 3.1-100, et seq. You can review this list on the Commission's website at www.sfgov.org/ethics.

Designated Employees. Individuals who hold positions listed in in the Campaign and Governmental Conduct Code at Section 3.1-100, et seq. are called "designated employees." For purposes of this and the following section, the term "filer" includes elected and appointed officials and designated employees. For more specific information about who is required to file SEIs, contact the Commission at (415) 581-2300.

b. What Must be Disclosed on SEIs?

Filers are required to disclose some or all of their interests in real property located in San Francisco, investments, business positions, and income (including gifts and loans) received during the reporting period. The specific disclosure requirements, which are determined by the Board of Supervisors, depend upon the nature of the position held by the filer.

Example. An executive officer of an agency with extensive regulatory powers could affect a broad range of economic interests through the exercise of his or her official duties. The officer would thus be required to disclose all investments, interests in real property, sources of income, and business positions held during the reporting period. In contrast, an employee of the same agency whose duties are limited to reviewing contracts for supplies, equipment, materials, or services provided to the agency, may be required to report only those interests he or she holds that are likely to be affected by the agency's contracts for those items or services.

For some public officials, such as elected City officials and members of the Planning Commission, State law specifies the information that must be disclosed. For other public officials and employees who file SEIs pursuant to San Francisco's Conflict of Interest Code, the Code specifies the information they must disclose. Each filer should check the Code to determine his or her disclosure obligations. A more detailed explanation of the requirements for filling out SEIs is provided in Appendix A to this manual.

c. When Must SEIs be Filed?

Filers must submit SEIs at three points in time during their tenure with the City:

- An initial "assuming office Statement" within 30 days of taking office;
- A "leaving office Statement" within 30 days of leaving office; and
- An "annual Statement" on or before April 1 of each year the filer holds office.

For positions newly added to San Francisco's Conflict of Interest Code, initial SEIs must be filed within 30 days of the effective date of the code amendment.

Candidates for elective office must file their SEIs no later than the deadline for filing the declaration of candidacy.

d. Where are Statements of Economic Interests Filed?

i. Ethics Commission

The following persons must file their SEIs with the Ethics Commission:

- Members of boards and commissions;
- Department heads;
- Agency heads of the Unified School District, the Community College District, the San Francisco Housing Authority, the Redevelopment Agency, the Office of Citizen Complaints, and the Law Library.

ii. The Executive Officer of the Superior Court

Members of the Civil Grand Jury must file their SEIs with the Executive Officer of the Superior Court.

iii. Department Heads or the Executive Director

Designated employees must file their SEIs with their department heads or the executive director of their agency.

Blank SEIs may be obtained from the Commission, which also provides assistance in completing the forms. Deputy City Attorneys Claire Sylvia (415) 554-4706 and Chad Jacobs (415) 554-4677 will assist you with questions regarding completion of the forms.

e. What are the Consequences of Not Filing the SEIs or Not Disclosing Required Information?

Failure to comply with these reporting requirements may result in criminal and civil sanctions. The Act provides for civil penalties in the amount of \$2,000 per violation, or three times the amount not reported. There is also a \$10 per day fine (up to a maximum of \$100) for late filings. In addition, failure to file a statement within 30 days of receiving notice from the Ethics Commission of your failure to file subjects you to discipline by your appointing authority, including removal from office or termination of employment. See Campaign and Governmental Conduct Code § 3.1-102.5.

f. May I Amend my SEI?

Yes. If you discover an error in your filing, you must amend your SEI. The Commission has amendment forms for this purpose.

g. Who has Access to SEIs?

SEIs are public records. Any member of the public may review and copy an SEI.

3. Limits And Reporting Requirements For Certain Types Of Income - Gifts, Honoraria, Travel, And Loans

The Political Reform Act imposes limits on gifts and prohibits honoraria payments received by public officials, including local elected officers, candidates for local elective office; members of the Planning Commission; the City Administrator; City officials who manage public investments; "designated" employees (i.e., individuals required to file SEIs under San Francisco's Conflict of Interest Code); and judicial candidates. This section summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans.

a. Gifts to Public Officials**i. The Gift Limit**

Local elected officers, candidates for local elective office, members of the Planning Commission, the City Administrator, City officials who manage public investments, and judicial candidates may not accept gifts from any single source totaling more than \$340 in a calendar year.

Designated employees may not accept gifts from any single source totaling more than \$340 in a calendar year if they are required to report income or gifts received from that source on their SEIs. Additional local provisions governing gifts are discussed in section III.A.11.b.

ii. What is a "Gift"?

Under the Act, a gift is any payment or other benefit provided to a public official that confers a personal benefit for which the official does not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public.

Except as discussed below, an official has "received" or "accepted" a gift when the official knows that he or she has actual possession of the gift or when the official takes any action exercising direction or control over the gift, including discarding the gift or turning it over to another person.

iii. Exceptions to the Definition of "Gift"

The Act and FPPC regulations provide exceptions for certain types of gifts. The following are not subject to any gift limit and are not required to be disclosed as gifts on an SEI:

- Gifts that the official returns (unused) to the donor, or for which the official reimburses the donor, within 30 days of receipt.
- Gifts that the official donates (unused) to a non-profit, tax-exempt (501(c)(3)) organization or a government agency within 30 days of receipt without claiming a tax deduction.
- Gifts from the official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, or from someone with whom the official is in a bona fide dating relationship, unless he or she is acting as an agent or intermediary for another person who is the true source of the gift.
- Gifts of hospitality involving food, drink or occasional lodging which the official receives in an individual's home when the individual or a member of his or her family is present.
- Gifts approximately equal in value exchanged between the official and another individual on holidays, birthdays, or similar occasions.
- Informational material provided to assist the official in the performance of his or her official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free or discounted admission to informational conferences or seminars. "Informational material" may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than \$340, the official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections designed specifically for public officials are considered informational material, but this exception does not apply to meals or transportation to the site, unless transportation is not commercially available.
- A bequest or inheritance.
- Campaign contributions, including rebates or discounts received in connection with campaign activities. However, campaign contributions must be reported in accordance with the campaign disclosure provisions of the Act and are subject to other limitations imposed by the Act.
- Personalized plaques and trophies with an individual value of less than \$250.
- Tickets to attend fund-raisers for campaign committees or other candidates, and tickets to fund-raisers for organizations exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
- Free admission, refreshments, and similar non-cash nominal benefits provided to the official at an event at which he or she gives a speech, participates in a panel or seminar, or provides a similar service. Transportation within California and any necessary lodging and subsistence provided directly in connection with the speech, panel, seminar, or service, are also not considered gifts.
- Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the official does not use and does not give to another person.
- Gifts provided directly to members of the official's family, unless the official receives direct benefit from the gift or exercises control over the use or disposition of

the gift. (*Note:* In most cases, the full amount of a gift made to the official and official's spouse must be counted for purposes of disclosure and the gift limits. For an exception to this general rule, see the discussion below regarding wedding gifts.)

- Gifts provided to the official's government agency. This may include passes or tickets to facilities, goods or services, travel payments, and other benefits. To invoke this exception, the official must ensure that the agency complies with certain requirements contained in the FPCC's regulations.
- Gifts made by a third party at an elected official's behest to co-sponsor an event that is principally legislative, governmental, or charitable in nature. Although these payments are not gifts, the elected official must report payments made by a single source totaling \$5,000 or more in a calendar year for this type of event. The payments must be reported within 30 days after the total amount reaches or exceeds \$5,000; once the \$5,000 threshold is met, all subsequent payments by the same source during the calendar year must be disclosed within 30 days of the payment. Forms for reporting are available from the Ethics Commission.

iv. Gifts Not Subject to the Gift Limit That May Be Reportable

Although an official may not be prohibited from accepting the types of gifts described below, the official may be required to report the gifts. In addition, the official may be disqualified from making or participating in making decisions affecting the donor.

- Certain payments for transportation, lodging, and subsistence are not subject to gift limits but may be reportable. Travel payments are discussed below.
- Wedding gifts are not subject to the gift limit but are reportable. For purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse, unless the gift is intended exclusively for the use and enjoyment of one spouse, in which case the entire value of the gift is attributable to that individual.
- A prize or award received in a bona fide competition not related to official status is not subject to the gift limit, but must be reported as income if the value of the prize or award is \$250 or more.

v. Valuation of Gifts

The value of a gift is the fair market value of the item. For example, the value of a pass or ticket that provides one-time admission is the face value of the pass or ticket, or the price which would be offered to the general public. The value of a pass or ticket that provides repeated admission or access to facilities, goods, services, or other benefits is the fair market value of the official's actual use of the pass or ticket, including guests who accompany the official and who are admitted with the pass or ticket, plus the fair market value of any possible use by any person to whom the official transfers the privilege or use of the pass or ticket.

b. Honoraria

i. The Honoraria Prohibition

Local elected officers, candidates for local elective office, members of the Planning Commission, the City Administrator, City officials who manage public investments, and judicial candidates may not accept any honoraria payments. Designated employees may not accept honoraria payments from any source if they are required to report income or gifts from that source on their SEIs.

ii. What is an "Honorarium"?

An "honorarium" is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.

A "speech given" means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate.

An "article published" means a nonfiction written work that is:

- produced in connection with any activity other than the practice of a bona fide business, trade, or profession, and
- published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication.

"Attendance" means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering.

iii. Exceptions to the Prohibition on Honoraria

The Act and FPPC regulations provide certain exceptions to the prohibition on honoraria. The payments described below are not prohibited and are not required to be disclosed on an SEI.

- An honorarium that the official returns (unused) to the donor or the donor's agent or intermediary within 30 days of receipt.
- An honorarium that is delivered to the official's government agency within 30 days for donation to the agency's general fund or equivalent account for which the official does not claim a tax deduction.
- A payment that is not delivered to the official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However, the donation may have no reasonably foreseeable financial effect on the official or on any member of his or her immediate family, and he or she may not:
 - make the donation a condition for his or her speech, article, or attendance;
 - claim the donation as a tax deduction; or
 - be identified to the non-profit organization in connection with the donation.
- A payment received from the official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided the person is not acting as an agent or intermediary for someone else.
- Certain informational material, campaign contributions, plaques and trophies valued under \$250, and non-cash nominal benefits provided to the official at an event at which he or she gives a speech, participates in a panel or seminar, or provides a

similar service.

iv. Honoraria Not Subject to the Prohibition That May Be Reportable

The following payments are not considered "honoraria" but may be reportable and may disqualify a public official from making or participating in making governmental decisions affecting the source of the honoraria.

- Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. However, such payments are reportable income.
- Income earned for personal services if the services are provided in connection with a bona fide business, trade, or profession (such as teaching, practicing law, medicine, insurance or real estate) and the services are customarily provided in connection with the business, trade, or profession.

NOTE: This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, officials must meet certain criteria to establish that they are practicing a bona fide business, trade, or profession (such as maintenance of business records, license, proof of teaching post) before a payment received for personal services that may meet the definition of honorarium would be considered earned income and not an honorarium. Earned income must be reported.

- Free admission, food, beverages, and other non-cash nominal benefits provided at any public or private conference, convention, meeting, social event, meal, or similar gathering, whether or not the official provides any substantive service at the event. Although these items are not considered honoraria, they may be reportable gifts and subject to the gift limit.

Certain payments for transportation, lodging, and subsistence are not considered honoraria, but may be reportable and subject to the gift limit. Such payments are discussed below.

c. Travel Payments

The Act and FPPC regulations provide exceptions to the gift limit and honoraria prohibition for certain types of travel payments. The term "travel payment" includes payments, advances, and reimbursements for travel, including actual transportation and related lodging and subsistence.

i. Travel Payments that are Not Subject to Either the Gift Limit or the Reporting Requirements

The following types of travel payments are not subject to the gift limit and are not reportable on an SEI.

- Speech-Related Travel

?Transportation within California: provided to the official directly in connection with an event at which he or she gives a speech, participates in a panel or seminar, or provides a similar service.

?Free admission, refreshments, and similar non-cash nominal benefits:

provided to the official during the entire event (inside or outside California) at which the official gives a speech, participates in a panel or seminar, or provides a similar service.

?Necessary lodging and subsistence (inside or outside California): including meals and beverages, provided to the official directly in connection with an event at which the official gives a speech, participates in a panel or seminar, or provides a similar service. However, in most cases, the exclusion for meals and beverages is limited to those provided on the day of the activity.

· Travel that is Not Speech-Related

?Government agency travel: Travel payments provided to the official by his or her government agency or by any State, local, or federal government agency that would be considered income and not a gift (i.e., payments for which the official provides equal or greater consideration).

?Nonprofit travel: Reimbursements for travel expenses provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration.

?Campaign travel: Travel payments provided to the official directly in connection with campaign activities. However, these payments must be reported in accordance with the Act's campaign disclosure provisions of the Act and San Francisco's Campaign Finance Reform Ordinance.

?Gift exceptions: Any payment that is excluded from the definition of "gift" as described earlier in this manual.

ii. Travel Payments that are Not Subject to the Gift Limit but that May be Reportable on SEIs

The following travel payments are not subject to the gift limit but may be reportable on an SEI (on Schedule F):

- Business income travel: Travel that is reasonably necessary in connection with a bona fide business, trade, or profession, and which satisfies the criteria for federal income tax deductions for business expenses specified in Sections 162 and 274 of the Internal Revenue Code for reporting purposes. These travel payments would be considered part of the salary, wages, and other income received from the business entity and would be reported on Schedule C.
- Speech-related travel in the U.S.: Travel within the U.S. that is reasonably related to a legislative or governmental purpose, or to an issue of State, national, or international public policy, or in connection with an event at which the official gives a speech, participates in a panel or seminar, or provides a similar service. Lodging and subsistence expenses in this case are limited to the day immediately preceding, the day of, and the day immediately following the speech, panel, or other service.

NOTE: This exception differs from speech-related travel described in Section 1. Under the circumstances described in this paragraph, transportation outside California but within the United States is not subject to the \$340 gift limit but is reportable and can subject a public official to disqualification. In contrast, transportation inside California in connection with a speech is neither limited nor reportable. In addition, the lodging and subsistence payments described in this paragraph can be provided both the day before and the day after a speech without being subject to the \$340

limit. Lodging and subsistence payments are reportable unless they are received directly in connection with the event.

- Travel that is not speech-related: Travel not in connection with giving a speech, participating in a panel or seminar, or providing a similar service but which is reasonably related to a legislative or governmental purpose, or to an issue of State, national, or international public policy, and which is provided by:
 - a government, government agency, foreign government, or government authority;
 - a bona fide public or private educational institution defined in Section 203 of the Revenue and Taxation Code;
 - a nonprofit organization that is exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code; or
 - a foreign organization that substantially satisfies the requirements for tax exempt status under Section 501(c)(3) of the Internal Revenue Code.

d. Loans

Personal loans received by elected officials, appointed officials, and designated employees are subject to limits and other restrictions and, in some circumstances, a personal loan that is not repaid or is repaid below certain amounts may be a gift to the recipient.

i. Limitations on Loans from Agency Officials, Consultants, and Contractors

Elected officials, members of the Planning Commission, the City Administrator, and City officials who manage public investments may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control.

In addition, they may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control.

ii. Loan Terms

Elected officials may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments.

iii. Loans That are Not Subject to Either Limitations or Documentation Requirements

- Loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to official status.

- Loans received by an elected officer's or candidate's campaign committee.
- Loans received from a spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless he or she is acting as an agent or intermediary for another person not covered by this exemption.
- Loans made or offered in writing prior to January 1, 1998.

iv. Loans as Gifts

Under the following circumstances, a personal loan received by any public official (elected officials, members of the Planning Commission, the City Administrator, City officials who manage public investments, as well as any other local government official or employee required to file SEIs) may become a gift and be subject to gift reporting and limitations.

If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:

- The date the loan was made;
- The date the last payment of \$100 or more was made on the loan; or
- The date upon which the official has made payments aggregating less than \$250 during the previous 12 months.

The following loans will not become gifts to an official:

- A loan made to an elected officer's or candidate's campaign committee.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.
- A loan that would not be considered a gift as outlined above.

B. CONFLICTS OF INTEREST UNDER GOVERNMENT CODE SECTION 1090

Although conflicts of interest under the Act may be addressed by abstaining from a decision, other kinds of conflicts may require that a public official choose between a private interest and remaining in public office. California Government Code Section 1090 prohibits public officials from being financially interested in a contract made by them or by the boards or commissions of which they are members. Contracts made under such circumstances are void, and violation of Section 1090 may subject a public official to severe sanctions.

As further described below, there are some exceptions to the requirement of Section 1090 that individuals with a financial interest in a contract must choose between the private interest and continuing to serve on a board or commission or, in the case of an employee, continuing to work on a project.

Inquiries about the application of Section 1090 to specific facts should be addressed to the City Attorney's office, or to the Attorney General's office at (916) 324-5437. The Commission cannot provide binding interpretations of this section of State law.

1. What is a "Financial Interest"?

Section 1090 does not define the term "financial interest." However, the courts have made clear that they will not construe the term "in a restrictive and technical manner." *People v. Honig* (1996) 48 Cal.App.4th 289. Section 1090 is "concerned with any interest, other than perhaps a remote or minimal interest, which would prevent the officials involved from exercising absolute loyalty and undivided allegiance to the best interests of the [City]." *Id.* at 315.

2. What Constitutes Making a Contract?

Section 1090 does not define making a contract. The courts have construed this term broadly to serve the statute's purposes. Courts have held that the term extends to the planning, preliminary discussion, compromises, drawing of plans and specifications, and solicitations of bids that led up to the formal making of the contract. *Stigall v. City of Taft* (1962) 58 Cal.2d 565, 569.

3. Remote Interests

Government Code Section 1091 identifies several "remote interests," or exceptions to Government Code Section 1090. Remote interests are financial interests that the legislature has deemed to be sufficiently remote that an official with such an interest may abstain from voting on a matter (or in the case of an employee, abstain from working on a project) in which the official has an interest rather than resign from the board or commission.

Remote interests include, for example, the interest of a landlord or tenant of the contracting party. When a public official has a "remote interest," he or she may remain on the board or commission that votes on the contract, but the member with the remote interest must announce his or her interest on the record and abstain from voting on the matter involving the official's remote interest. In the case of an employee, the employee would have to be removed from participating in making the contract.

4. Noninterests

Government Code Section 1091.5 identifies some "noninterests." These are financial interests that the legislature has determined do not present a conflict of interest. If a member of a board or commission has a noninterest, he or she may vote on the matter involving the noninterest. Employees with a noninterest in a contract may participate in making the contract.

C. INCOMPATIBILITY

1. Incompatible Activities

Government Code Section 1126 prohibits City officials from engaging in compensated activities that are incompatible with their official duties. Public officials should check the rules of their departments regulating incompatible activity. By August 1, 2004, each department is required to submit to the Ethics Commission a statement of incompatible activities, which is subject to approval by the Ethics Commission. Each department will be required to provide employees notice of the statement of incompatible activities. See section III.A.13.

Example. An engineer for a City Department is considering undertaking part-time work as a consultant. If the department has identified this type of outside work as incompatible with City employment, the engineer may not engage in it.

2. Incompatible Offices

The common law prohibits public officials from holding "incompatible offices." Offices are incompatible if the Legislature has proclaimed them to be incompatible by statute or ordinance. In addition, offices are incompatible if the duties of the two offices will result in a significant clash of loyalties, if the dual office-holding would be improper for reasons of public policy, or if either officer exercises a supervisory, auditory, or removal power over the other. *People ex rel. Chapman v. Rapsey* (1940) 16 Cal. 2d 636.

Example. A member of a San Francisco Commission that oversees the expenditure of grant funds would like to serve on the State Board that oversees the implementation of the grant program. The State Board audits expenditure of the City's funds. Because the State office has the power to audit the local commission's award of grants, these offices would likely be deemed incompatible. Taking the second office would result in vacating the first office, unless a statute authorized holding both positions.

D. SOLICITATION OR RECEIPT OF CONTRIBUTIONS BY APPOINTED OFFICIALS: GOVERNMENT CODE SECTION 84308

Government Code Section 84308 prohibits appointed officials from soliciting or receiving campaign contributions from parties, participants, or their agents in proceedings involving licenses, permits, or other entitlements for use. The law requires an appointed official's disqualification in such proceedings if the official has received campaign contributions of more than \$250 from a party or participant within the 12 months preceding the decision. In addition, Section 84308 prohibits solicitation or receipt of campaign contributions in excess of \$250 during such proceedings, or for 90 days after the decision, from parties, participants or their agents. Finally, Section 84308 requires the disclosure of all such campaign contributions.

Inquiries about the application Government Section 84308 should be addressed to the City Attorney's office, or to the FPPC at (916) 322-5660.

1. Who Must Comply With Section 84308?

All appointed members of local boards or commissions who make decisions in proceedings that involve licenses, permits, or other entitlements for use must comply with Section 83408.

Elected officials, such as members of the Board of Supervisors and the School Board, are exempt. However, an elected official is not exempt when sitting as a member of another board for which the official was not elected.

2. What Types of Proceedings Are Covered?

The law applies to proceedings to grant, deny, revoke, restrict, or modify licenses, permits, or other entitlements for use. The statute defines these terms to mean all business, profession, trade and land use licenses and permits, all entitlements for land use, all franchises, and all contracts, other than competitively bid labor or personal employment contracts.

3. Who are Parties, Participants and Agents?

Parties. A party is any person (including a business entity) who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

Participants. A participant is any person who is not an actual party to the proceeding but who (1) actively supports or opposes a particular decision and (2) has a financial interest in the outcome of the decision.

Agents. An agent is an individual who represents a party or participant in a proceeding. If an individual agent is an employee or member of a law, architectural, engineering or consulting firm, or a similar entity or corporation, both the entity or corporation and the individual are considered agents.

Campaign contributions made by a party or participant are aggregated with those made by the party or participant's agent within the 12 months preceding the decision or the period of the agency relationship, whichever is shorter.

4. Disclosure: Who and How?

Prior to making any decision, each officer who received a campaign contribution of more than \$250 within the preceding 12 months from a party, participant, or his or her agent must disclose that fact on the record of the proceedings. Such disclosure should be made at the beginning of a public hearing, if there is one. If there is no public hearing, such disclosure should be included in the written record of the proceeding. This rule applies to the party or participant as well, who must disclose contributions of more than \$250 made by the party, participant, or agent thereof within the preceding 12 months.

5. When is Disqualification Required?

Disqualification is required when, prior to making a decision, an officer learns that a party or participant in a proceeding has made a contribution of more than \$250 to the officer within the preceding 12 months. Disqualification is not required, however, if the officer returns the contribution within 30 days of the officer's learning of the contribution and proceeding.

E. CONSTITUTIONAL PROHIBITION ON TRAVEL DISCOUNTS

Article XII, Section 7 of the California Constitution prohibits public officers (but not employees) from accepting free passes or discounts from transportation companies. This prohibition does not apply to a public officer's receipt of "frequent-flyer" miles earned without regard to official status.

Questions about application of the Constitutional prohibition should be addressed to the City Attorney's office or the Attorney General's office.

F. CONFLICTS OF INTEREST UNDER THE COMMON LAW

Before the enactment of State statutes on conflicts of interest, State courts had developed a common law conflict of interest doctrine. Although it is unclear whether this doctrine still applies in areas governed by statute, the doctrine should also be considered in assessing conduct.

Generally, the doctrine provides that a public official owes an undivided duty of loyalty to the public. Where a governmental decision involves a conflict between a public official's duty of loyalty to the public and duty of loyalty to a private interest, the public official should avoid participating in the decision. Questions about application of the common law doctrine should be addressed to the City Attorney's office or the Attorney General's office.

G. POLITICAL ACTIVITY

Local officers and employees may not use public resources to engage in political activity. *Stanson v. Mott* (1970) 17 Cal.3d 206; Cal. Penal Code Section 424. In addition, local officers may not directly or indirectly solicit funds from other officers or employees of the local agency or from persons on employment lists of the local agency, unless the solicitation is part of a solicitation made to a significant segment of the public that may include officers or employees of the agency. Cal. Gov't Code § 3205. Officers and employees may not participate in political activities of any kind while in uniform. Cal. Gov't Code § 3206. Additional local provisions governing political activity are discussed in section III.A.12.

III. LOCAL LAWS RELATING TO CONFLICTS OF INTEREST AND GOVERNMENTAL ETHICS

In addition to the restrictions imposed by State law, discussed earlier in this manual, public officials are subject to a number of local restrictions designed to prevent conflicts between the officials' outside activities and public duties. The following is a brief description of some of these provisions.

A. LOCAL ETHICS LAWS GOVERNING THE CONDUCT OF PUBLIC OFFICIALS AND EMPLOYEES

1. Incorporation of State Conflict of Interest Laws

Campaign and Governmental Conduct Code section 3.206 incorporates the conflict of interest provisions of the California Political Reform Act and California Government Code section 1090. Section 3.206(a) incorporates by reference the Political Reform Act's conflict of interest prohibition and section 3.206(b) incorporates by reference Government Codes section 1090's prohibition on conflicts of interest.

2. Prohibition on Representing Private Parties Before Other City Officers and Employees -- Compensated Advocacy

Section 3.224 of the Campaign and Governmental Conduct Code prohibits any officer of the City from representing, for compensation, any private interest before any other City officer or employee. The prohibition does not apply to:

- an officer acting on behalf of a business, union or organization of which the officer is a member or full-time employee;
- an officer acting on behalf of the City and County;

- an associate, partner or employee of an officer, unless it is clear from the circumstances that the person is merely acting as an agent of the officer; or

- an officer acting in his or her capacity as a licensed attorney representing clients in communications with the City lawyers or City representatives named in pending litigation.

Example. A client of a City commissioner has a matter pending before another department. The client's interest is completely unrelated to anything the commissioner does as a City officer. Section 3.224 prohibits the commissioner from representing the client for pay before the department, or its staff. Whether the matter relates to the commissioner's work as a City officer is not relevant.

3. Dual Officeholding for Compensation

Campaign and Governmental Conduct Code section 3.220 prohibits any person holding a public office in San Francisco with an annual salary of more than \$2,500 from holding any other office with such a salary under the government of the United States, the State of California, or the City and County. A person who violates this provision is deemed to have vacated the City and County office. For purposes of this section, the term salary does not include per diem or payment for attendance at meetings or non-cash benefits, such as insurance.

4. Prohibition on Contracting with the City

S. F. Campaign and Governmental Conduct Code Section 3.222 prohibits members of appointed boards and commissions, other than advisory bodies, from contracting with the City, the School District, the Redevelopment Agency, or the Community College District.

This provision applies to any contract or subcontract of \$10,000 or more per year. This prohibition does not apply to contracts or subcontracts with nonprofit organizations, to contracts or subcontracts existing at the time of appointment, or to agreements to provide goods or services at substantially below fair market value.

The prohibition also does not apply to contracts or subcontracts with business entities affiliated with a member of a board or commission unless the official exercises management and control over the business.

5. Prohibition on Disclosing or Using Confidential Information

Campaign and Governmental Conduct Code section 3.228 prohibits City officers and employees from disclosing any privileged information concerning property, government, or affairs of the City and County unless a duty to do so is imposed upon that person by law. Officers and employees are also prohibited from using any privileged information obtained by virtue of their office or employment to advance their financial or other private interests. Confidential information means information that at the time of use or disclosure was not subject to disclosure under the Sunshine Ordinance or California Public Records Act.

6. Appointments and Nominations

Campaign and Governmental Conduct Code section 3.208 provides that no person may give or promise and no officer or employee of the City and County may solicit or

accept, any money or other valuable thing in consideration for the person's, or any other person's, nomination or appointment to any City and County office, employment, promotion, or for other favorable employment action.

7. Prohibition on Voting on Own Character or Conduct

Campaign and Governmental Conduct Code section 3.210 prohibits members of boards and commissions from knowingly voting on or in any way attempting to influence a governmental decision involving his or her own character or conduct, or his or her appointment to any office, position, or employment. This section does not prohibit an officer or employee from responding to allegations or inquiries, applying for a position, or participating in the decision of his or her board or commission to choose an officer.

8. Decisions Involving Family Members

In addition to the general prohibitions on making decisions in which a public official has a financial interest, section 3.212 of the Campaign and Governmental Conduct Code prohibits officers and employees of the City and County from making, participating in making, or seeking to influence a decision of the City and County regarding an employment action involving a relative.

Notwithstanding this restriction, an officer or employee is not generally precluded from providing a personal reference for a relative who is applying for a City position. If the position the relative is applying for is in the officer or employee's department, board, commission or agency (or in any department, board, commission or agency subject to control of the officer or employee's department, board, commission or agency), the officer or employee may not provide a personal reference.

When this section prohibits a department head from participating in an employment action involving a relative, the department head must delegate in writing to an employee within the department any decisions regarding such employment action.

For purposes of this prohibition, the term "employment action" means hiring, promotion or discipline. The term "relative" means a spouse, domestic partner, parent, grandparent, child, sibling, parent-in-law, aunt, uncle, niece, nephew, or first cousin and includes any similar step relationship or relationship created by adoption.

9. Disclosure of Personal, Professional and Business Relationships

Section 3.214 of the Campaign and Governmental Conduct Code requires City officers and employees to disclose on the public record any personal, professional, or business relationship with any individual who is the subject of, or has an ownership or financial interest in, the subject of a governmental decision being made by the officer or employee. This disclosure requirement applies only if, as a result of the relationship, the ability of the officer or employee to act for the benefit of the public could reasonably be questioned. Disclosure on the public record means inclusion in the minutes of a public meeting, or if the decision is not being made at a public meeting, recorded in a memorandum kept on file at the offices of the City officer or employee's department, board, or commission. The Ethics Commission may adopt regulations detailing the types of personal, professional, and business relationships that this section requires to be disclosed.

A court may void any governmental decision made by a City officer or employee who fails to make the disclosure required by this section if the failure to disclose was

willing and the City officer or employee failed to make his or her decision (1) with disinterested skill, zeal and diligence, and (2) primarily for the benefit of the City. Other than discipline by an appointing authority, no other penalty may be imposed for a violation of this section.

10. Receipt of Benefits for Referrals and Requiring Particular Contractors

Section 3.226 of the Campaign and Governmental Conduct Code prohibits an officer or employee from receiving any money, gift, or other thing of economic value from a person or entity other than the City and County of San Francisco for referring a member of the public to a person or entity for any advice, service or product related to the processes of the City and County.

Section 3.226 also prohibits an officer or employee from conditioning any governmental action on a member of the public hiring, employing or contracting with any specific person or entity. The Ethics Commission may waive this restriction if it determines that granting a waiver is necessary for the proper administration of a governmental program or action.

11. Limitations on Gifts

In addition to the Political Reform Act's requirements, the City has gift rules, found in sections 3.216(a) and 2.115 of the Campaign and Governmental Conduct Code. Departments may also impose additional gift restrictions on their officers or employees.

a. Prohibition on bribery

Section 3.216(a) of the Campaign and Governmental Conduct Code prohibits any person from offering or making, and any officer or employee from accepting, any gift with the intent that the City officer or employee will be influenced thereby in the performance of any official act.

b. Limits on gifts from a restricted source

Section 3.216(b) of the Campaign and Governmental Conduct Code provides that no officer or employee of the City and County shall solicit or accept any gift in excess of \$100 in a calendar year from a person who the officer or employee knows or has reason to know is a restricted source. The Ethics Commission may adjust this amount annually to reflect changes in the Consumer Price Index.

A restricted source is:

? A person doing business with or seeking to do business with the department of the officer or employee;

? Any person who during the prior 12 months knowingly attempted to influence the officer or employee in any legislative or administrative action.

For purposes of this section, a gift has the same meaning as under the Political Reform Act.

c. Gifts from subordinates

Section 3.218(c) of the Campaign and Governmental Conduct Code prohibits officers

and employees from soliciting or accepting anything of value from any subordinate, or employee or from any candidate or applicant for a position as an employee or subordinate under him or her. The Ethics Commission is required to adopt regulations implementing this section, including regulations exempting voluntary gifts that are given or received for special occasions or under other circumstances in which gifts are traditionally given or exchanged.

d. Gifts from lobbyists

Lobbyists are prohibited from making gifts to City officers aggregating more than \$50 within three months of contacting the officer. Lobbyists are also prohibited from acting as an agent or intermediary in the making of any gift (regardless of value) to a City officer, or arranging such gifts from a third party, within three months of contacting the officer. C&GC Code § 2.115(a). Any lobbyist who gives a gift to a City officer is also required to provide the officer with notification of the gift that includes a written statement indicating the date, value and description of the gift. C&GC Code § 2.125.

e. Gifts for referrals

City officers and employees are prohibited from accepting anything of value for referring a member of the public to a person or entity for any advice, service or product related to the processes of the City and County. This provision is discussed in section III.A.10.

12. Restrictions on Use of City Resources and Political Activity

Local law prohibits officers and employees from directly or indirectly soliciting funds from other officers or employees of the local agency or from persons on employment lists of the local agency, unless the solicitation is part of a solicitation made to a significant segment of the public that may include officers or employees of the agency. C&GC Code § 3.230(a). Officers and employees may not participate in political activities of any kind while in uniform. C&GC Code § 3.230(b).

Officers and employees may not engage in political activity during working hours or on City premises. C&GC Code § 3.230(c). For purposes of this prohibition, the term "City premises" does not include property that is made available to the public and can be used for political purposes.

In addition, each statement of incompatible activities adopted by City departments, boards, commissions, and agencies, must include language addressing the use of time, facilities, equipment and supplies. See section III.A.13. Local law also specifically prohibits use of public funds to design, produce, create, mail, send or deliver any printed greeting card that celebrates or recognizes a holiday. C&GC Code § 3.232.

13. Incompatible Activities

Government Code section 1126 prohibits City officials from engaging in compensated activities that are incompatible with their official duties. Local law implements this provision in Campaign and Governmental Conduct Code section 3.218. This new section provides that no officer or employee of the City and County may engage in any employment, activity or enterprise that the department, board, commission or agency of which he or she is a member or employee has identified as incompatible in a statement of incompatible activities adopted under Campaign and Governmental Conduct Code section 3.218.

In order to implement section 3.218, each department, board, commission and agency of the City and County is required to submit to the Ethics Commission a statement of incompatible activities by *August 1, 2004*. No statement of incompatible activities becomes effective until approved by the Ethics Commission. The Ethics Commission must find that the listed activities are incompatible under the criteria set forth in section 3.218(c). Section 3.218(c) requires departments to list those activities that are "inconsistent, incompatible, or in conflict with" the duties of the officer and employee and sets forth language that is required in every statement of incompatible activities.

a. Required language

Each department's incompatible activities statement must list those activities that are inconsistent or incompatible or in conflict with the duties of the officers and employees of the department, board, commission or agency. The list must include, but is not limited to, activities that involve:

? the use of the time, facilities, equipment and supplies of the City and County or the badge, uniform, prestige or influence of the City and County officer or employee's position for private gain or advantage;

? the receipt or acceptance by an officer or employee of the City and County of any money or other thing of value from anyone other than the City and County for the performance of an act that the officer or employee would be required or expected to render in the regular course of his or her service or employment with the City and County;

? the performance of an act in a capacity other than as an officer or employee of the City and County that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of the City and County officer or employee's department, board, commission or agency; and

? time demands that would render the performance of the City and County officer and employee's duties less efficient.

The Ethics Commission may permit City Boards and Commissions to exclude any required language from their statement of incompatible activities if their members, by law, must be appointed in whole or in part to represent any profession, trade, business, union, or association. Until the statement of incompatible activities under this section is adopted for a department, board, commission, or agency, the rules and regulations relating to outside activities previously adopted or approved by the Civil Service Commission remain in effect.

Each year, every department, board, commission, and agency must provide to its officers and employees a copy of its statement of incompatible activities. No officer or employee may be subject to discipline or penalties under section 3.218 unless he or she has been provided an opportunity to demonstrate that his or her activity is not in fact inconsistent, incompatible, or in conflict with the duties of the officer or employee.

14. Sunshine Ordinance Training

All City department heads and management employees, as well as all employees or officials who are required to file a Statement of Economic Interests with the Ethics Commission, must file an annual affidavit with the Ethics Commission declaring under

penalty of perjury that they have attended, or will attend when next offered, a training session on the Sunshine Ordinance. Copies of the declaration form are available on the Ethics Commission's website.

15. Post-employment Restrictions

Section 3.234 of the Campaign and Governmental Conduct Code restricts the types of employment a City officer or employee may accept. In addition, state and local law impose restrictions on making decisions affecting future employers.

a. Provisions Applicable to All Officers and Employees

i. Permanent ban

All City officers and employees are subject to a permanent ban on certain types of post-employment activities, and a one-year ban on activities related to lobbying their former department.

Under section 3.234(a)(1)(A), City officers and employees are permanently banned from acting as an agent, attorney, or otherwise representing any other person, *other than the City and County*, before any court or before any state, federal or local agency (or any officer or employee of such a court or agency) by making any formal or informal appearance or by making any oral, written or other communication in connection with a particular matter if:

- the City and County is a party or has a direct and substantial interest in the matter;
- the former officer or employee participated personally and substantially as a City officer or employee in the matter;
- the matter involved a specific party or parties at the time of the officer or employee's participation; and
- the matter is the same as the matter in which the officer or employee participated in as a City officer or employee.

Section 3.234(a)(1)(B) imposes a permanent ban on aiding, advising, counseling, consulting or assisting another person (other than the City and County) in any proceeding in which the officer or employee would be precluded from participating personally.

The permanent ban does not apply to testimony as a witness based on the personal knowledge of the former officer or employee, provided that no compensation is received other than fees regularly provided for by law or regulation to witnesses. C&GC Code § 3.234(a)(1)(C).

ii. One year ban

City officers and employees are prohibited for one year after terminating their City service from, with an intent to influence a government decision, communicating orally, in writing, or in any other manner on behalf of any other person (except the City and County) with any officer or employee of the department, board, commission, office, or other unit of government for which the officer or employee served.

iii. Waiver

The Ethics Commission may waive the post-employment restrictions if the Commission determines that granting a waiver would not create the potential for undue influence or unfair advantage. The Ethics Commission may also waive any of these restrictions for members of City boards and commissions who, by law, must be appointed to represent any profession, trade, business, union or association.

iv. Future Employment

City officers and employees are subject to two additional limits on future employment:

· ***One year ban on employment with certain city contractors***

Section 3.234(a)(2) prohibits City officers and employees, for one year after termination of City service, from being employed by or otherwise receiving compensation from a person or entity that entered into a contract with the City within the 12 months prior to the officer or employee leaving City service where the officer or employee personally and substantially participated in the award of the contract.

The Ethics Commission may waive this prohibition if the Commission determines that imposing the restriction would cause extreme hardship for the former City officer or employee.

· ***Making decisions affecting a person with whom you are negotiating future employment***

Campaign and Governmental Conduct Code section 3.206(c) also prohibits City employees from making, participating in making, or seeking to influence, government decisions affecting a person or entity with whom the employee is discussing or negotiating future employment.

Effective **January 1, 2004**, the Political Reform Act prohibits City employees from making, participating in making, or seeking to influence a Government decision affecting a person or entity with whom the employee is discussing or negotiating future employment. Gov't Code § 87407.

b. Provisions applicable to the Mayor and Members of the Board of Supervisors

i. One year ban

For purposes of the Campaign and Governmental Conduct Code's one year ban, the prohibition for a former Mayor or member of the Board of Supervisors extends to communications with:

? a board, department, commission, or agency of the City and County;

? an officer or employee of the City and County;

? an appointee of a board, department, commission, agency, officer, or

employee of the City and County; or

? a representative of the City and County.

C&GC Code § 3.234(b).

ii. City service

No former Mayor or member of the Board of Supervisors is eligible for a period of one year after the last day of service as Mayor or member of the Board of Supervisors, for appointment to any full time, compensated employment with the City. This restriction does not apply to a former Mayor or Supervisor elected to an office of the City and County, appointed to fill a vacancy in an elective office of the City and County, or appointed to a board or commission in the executive branch.

B. LOCAL LAWS REGULATING LOBBYISTS

The Lobbyist Ordinance, Campaign and Governmental Conduct Code Section 2.100, et seq. provides for the registration of lobbyists and regulation of lobbying activity in San Francisco. The Commission is charged with administration of the Ordinance, including receiving and reviewing documents required to be filed and assessing late filing fines where applicable. Persons or entities that qualify as lobbyists must:

- Register with the Commission;
- Pay registration fees; and
- File quarterly reports detailing their lobbying activity.

The quarterly reports include information about: payments received from clients to influence local legislative or administrative action; payments made to influence such action; other expenses incurred relating to lobbying; political contributions; and other lobbying activity.

Lobbyists who knowingly violate any provision of the Ordinance may be liable in a civil action brought by the City Attorney for an amount up to \$1,000 or more per violation. In addition, the Commission may impose administrative penalties of \$5,000 or more per violation.

The Commission has prepared a manual to assist lobbyists in complying with the Ordinance. The lobbyist manual includes simple instructions for completing the registration and other required forms. The manual is available from the Commission or its website at www.sfgov.org/ethics. Questions about the Lobbyist Ordinance should be directed to the staff of the Commission, which provides informal assistance as well as formal written advice.

C. LOCAL LAWS RELATING TO CAMPAIGN ACTIVITY

1. The Campaign Finance Reform Ordinance

The San Francisco Campaign Finance Reform Ordinance ("CFRO"), Campaign and Governmental Conduct Code Section 1.100, et seq., establishes voluntary campaign spending limitations on candidates for local office. It also imposes campaign contribution limits on local elections.

Under the CFRO, candidates may accept contributions of up to \$500 from each person for a primary or general election, and up to an additional \$250 from each person for a

run-off election. The CFRO places an overall cap on the amount a person may contribute to all candidates for City elective office. Specifically, a person may contribute up to \$500 multiplied by the number of offices voted on in the primary or general election, and \$250 times the number of offices voted on in the run-off election. Any person may also contribute up to \$500 per calendar year to each committee that supports or opposes candidates for City elective office. This limit applies to committees that make contributions, as well as to those that make only independent expenditures. Contributors may contribute an aggregate of \$3,000 to committees (not including candidate controlled campaign committees) per calendar year.

The CFRO provides for public financing of Supervisorial elections. Candidates qualify for public financing, in part, by agreeing to limit campaign spending to \$83,000 in the general election and \$22,000 in the runoff election, and by raising \$5,000 from at least 75 San Francisco residents in amounts of \$10 to \$100. Candidates qualifying for public financing will receive grants of public funds to help finance their campaign.

In addition, the CFRO requires both candidates and committees to file periodic campaign disclosure reports with the Ethics Commission. It also imposes a ban on certain campaign contributions made by contractors negotiating to do business with the City.

The Commission provides informal assistance as well as formal written advice regarding the CFRO. Any person who acts in good faith on the basis of a formal written opinion of the Commission in which the City Attorney and the District Attorney concur shall not be subject to administrative, criminal or civil penalties under the CFRO, provided the facts are as stated in the request for the opinion.

2. The Campaign Consultant Ordinance

The Campaign Consultant Ordinance, Campaign and Governmental Conduct Code Section 1.500, et seq., requires campaign consultants to register with the Commission and file periodic reports relating to their consulting activity.

"Campaign consultants" are persons who receive \$1,000 or more per year for conducting or supervising an election campaign. Under the Ordinance, consultants are required to register and re-register annually with the Commission, pay registration fees, and report certain information, including names of clients, services provided to and payments received from clients, and contributions and gifts made to local officials.

The Commission has prepared a manual to assist campaign consultants in complying with the Ordinance. The manual includes simple instructions and examples for completing the registration and other required forms and is also available on the Commission's website. Questions about the Campaign Consultant Ordinance should be directed to the staff of the Commission, which provides informal assistance as well as formal written advice.

IV. OBLIGATIONS OF CITY OFFICERS AND EMPLOYEES

In addition to their responsibilities to comply with State and local ethics laws, local law charges City officers and employees with several additional obligations with respect to enforcement of local ethics laws.

A. COOPERATING AND ASSISTING IN ENFORCEMENT INVESTIGATIONS

Under section 3.240 of the Campaign and Governmental Conduct Code, in connection with an investigation by the Ethics Commission, District Attorney, or City Attorney of an alleged violation of Chapter 2 of the Campaign and Governmental Conduct Code, City officers and employees are:

- Required to cooperate with and assist those agencies;
- Prohibited from providing false or fraudulent evidence, documents, or information to those agencies; and
- Prohibited from concealing from those agencies information that is material to an investigation.

B. PROHIBITION ON FILING FALSE CHARGES

Section 3.238 of the Campaign and Governmental Conduct Code prohibits all persons, including City officers and employees, from knowingly and intentionally filing with the Ethics Commission, the District Attorney, or the City Attorney any false charge alleging a violation of Article III, Chapter 2 of the Campaign and Governmental Conduct Code.

C. PROHIBITION ON AIDING AND ABETTING

Section 3.236 of the Campaign and Governmental Conduct Code prohibits any person, including City officers and employees, from knowingly and intentionally providing assistance or otherwise aiding and abetting any other person in violating Article III, Chapter 2 of the Campaign and Governmental Conduct Code.

APPENDIX A:

HOW TO FILL OUT A STATEMENT OF ECONOMIC INTERESTS

This section describes in more detail the interests that must be reported on SEIs and then provides answers to commonly asked questions regarding filling out SEIs.

Blank SEIs consist of instructions, a cover page, "schedules" for each of the different types of economic interests that must be reported, and a glossary. Filers should submit only the signed cover page and those schedules actually completed.

1. The Cover Page

The SEI cover page requires filers to provide:

- 1) A mailing address (filers need not provide a home address);
- 2) The office, agency, or court in which the filer works or serves;
- 3) The filer's agency's jurisdiction (the City and County of San Francisco);
- 4) The type of Statement (assuming office, annual, leaving office, or candidate Statement);
- 5) A schedule summary (indicating those schedules completed and attached); and

6) A verification (the filer's signature).

Filers must sign the cover page. A cover page without an original signature (not faxed) cannot be processed and late fines may therefore apply.

The reporting period for an assuming office statement is the twelve months prior to the date the filer assumed office; for annual statements, the reporting period is the previous calendar year; and for leaving office statements, the reporting period is the period from the date the last statement was filed.

2. Investments (Schedules A-1 and A-2)

On Schedules A-1 and A-2, filers must disclose "investments," defined as any financial interest in any business entity located in or doing business in San Francisco in which the filer, filer's spouse, or dependent children had a direct, indirect, or beneficial interest aggregating \$2,000 or more at any time during the reporting period.

A business entity is "located in or doing business in" San Francisco if the entity, a parent or subsidiary, or a related business entity (1) manufactures, distributes, sells, or purchases products or services on a regular basis in San Francisco; (2) plans to do business in San Francisco; (3) has done business in San Francisco within the previous two years; or (4) has an office or interest in real property in San Francisco. Filers should be cautious when making this determination because the filer bears the burden of demonstrating that the entity does not do business in San Francisco.

Commonly reportable investments include stocks, bonds, business trusts, partnerships, investments in reportable business entities held in a retirement account, and investments held by a business entity or trust in which the filer, filer's spouse or dependent children had a 10 percent or greater ownership interest.

Filers need not report bank accounts, savings accounts, money market accounts, insurance policies, government bonds, shares in a credit union, diversified mutual funds registered with the Securities and Exchange Commission (SEC), and retirement accounts invested in nonreportable interests.

On Schedule A-1, filers must report those business entities in which the filer has less than a 10% interest.

On Schedule A-2, filers must report those business entities in which the filer has greater than a 10% interest, such as a sole proprietorship. Schedule A-2 also requires filers to disclose investments and real property held by reported entities or trusts if the filer's pro rata share of the interest in the investment or real property was \$2,000 or more at any time during the reporting period.

When completing an assuming office statement, a filer must report only those investments held at the time of assuming office. All other filers must report investments held at any time during the reporting period.

3. Real Property (Schedule B)

On Schedule B, filers must disclose interests in real property located in San Francisco in which the filer, filer's spouse, or dependent children had a direct, indirect, or beneficial interest aggregating \$2,000 or more at any time during the reporting period. Such interests include ownership interests, deeds of trust, easements or options to acquire property, leasehold interests, mining leases, and interests in real property held in a retirement account.

Filers are not required to report any residence that is used exclusively as the filer's personal residence. However, if the filer uses the residence, or a part of the residence, for business purposes (such as a vacation rental or retail business), the filer must disclose the value of the portion of the property that is used in connection with the business activities. Schedule B also requires the filer to disclose information regarding loans secured by the property reported if those loans aggregate \$250 or more.

4. Income and Business Positions (Schedule C)

Filers must report income and business positions on Schedule C. Reportable income includes the filer's gross income, as well as the filer's community property interest in his or her spouse's income, provided that the income aggregates \$500 or more and is received from any source located in or doing business in San Francisco.

Commonly reportable income includes salary, wages, and reimbursement for expenses (except those from a federal, State, or local government agency); gross income from any sale; rental income; prizes or awards; payments received on loans made to others (not including certain family members); and honorarium.

Not included in the definition of income are: campaign contributions; a cash bequest or cash inheritance; dividends, interest, or other return on a security registered with the SEC; insurance payments received; interest, dividends, or premiums on a time or demand deposit in a financial institution; income of dependent children; alimony or child support payments; and payments received under a defined benefit pension plan qualified under Internal Revenue Code Section 401(a).

Schedule C also requires filers to list business positions held in business entities during the reporting period, even if the filer received no income from the business entity during that period.

5. Income -- Loans (Schedule D)

On Schedule D, filers must report loans received or outstanding during the reporting period which aggregate \$500 or more from a single source located in or doing business in San Francisco. Filers must also report their community property interest in their spouses' loans. Commonly reportable loans include loans from private lenders and margin accounts.

Filers are not required to report loans from commercial lending institutions if the loans are made in the lender's regular course of business on terms available to the public without regard to the filer's official status.

6. Income -- Gifts (Schedule E)

Filers must disclose the source and estimated value of gifts on Schedule E.

A "gift" means anything of value for which the filer has not provided equal or greater consideration to the donor.

A gift is reportable if its fair market value is \$50 or more. In addition, multiple gifts aggregating \$50 or more received during the reporting period from a single source must be reported. Gifts are reportable regardless of whether the donor is located in San Francisco.

If the exact amount of a gift is not known, the filer must make a good faith estimate of the item's fair market value. Please refer to pages 11-12 for an explanation of the \$340 gift limit and for a detailed description of reportable gifts, as well as gifts that are not reportable.

7. Income -- Travel Payments, Advances, and Reimbursements (Schedule F)

Filers must disclose reportable travel payments on Schedule F. Reportable travel payments include advances and reimbursements for travel and related lodging and subsistence.

Filers are not required to report travel payments received from any federal, State, or local government agency for which the filer provided services equal to or greater than the payments received. Filers also need not report travel payments received from an employer in the normal course of the filer's employment. For a more complete explanation of reporting requirements for travel payments, refer to pages 13-15.

8. Commonly Asked Questions Regarding Statements of Economic Interests

1. My spouse works for the federal government. Do I need to disclose my community property interest in her income?

No. Salary from a federal, State, or local government agency need not be reported.

2. Do I need to report my bank account, savings account, and government bonds?

No. Bank accounts, savings accounts, and government bonds are not reportable interests.

3. My retirement account is invested in diversified mutual funds. Do I need to report it?

No. Filers do not need to report retirement accounts invested in nonreportable interests, such as diversified mutual funds. If the retirement account is invested in a reportable interest, the filer would have to report the individual holdings that exceeded the reporting threshold. For example, if a retirement account held more than \$2000 of stock in a company, the filer would report the investment in that company. The filer would not report the retirement account itself.

4. I have an investment interest in stock of a company that does not have an office in San Francisco. Must I still disclose my investment interest in this company?

It depends. The definition of "doing business in the jurisdiction" for disclosure purposes is not limited to whether or not the business has an office in the jurisdiction. The Act requires that you report investments in business entities "located in or doing business in your jurisdiction." A business may be doing business in the jurisdiction if it has business contacts on a regular or substantial basis with a person who maintains a physical presence in that jurisdiction. Business contacts include, but are not limited to, manufacturing, distributing, selling, purchasing, or providing services or goods. Business contacts do not include marketing via the internet, telephone, television, radio or print media.

5. Can I attach forms such as tax returns or other financial Statements to my SEI rather than filling out some of the schedules?

No. You must report your interests on the schedules provided, even if other documents provide the same information.

6. Do I need to report my personal residence on Schedule B?

No. Filers need not report property used exclusively as a personal residence. If you use part of your residence for business purposes, however, you are required to disclose the value of that portion of the property that you use in connection with your business.

7. I own rental property in San Francisco. I know I must report the property, but must I also disclose the names of my tenants?

Only disclose the names of those tenants from whom your pro rata share of the income received was \$10,000 or more during the reporting period.

8. When completing the schedules for disclosing loans received, what is meant by the term of the loan?

The term is the number of months or years given for repayment of the loan (e.g., a five-year loan from a personal friend).

9. Do I need to report my student loans?

Maybe. Student loans are reportable interests. However, a particular loan need not be reported if it is a loan from a commercial lending institution (such as a bank) made in the lender's regular course of business on terms available to the public without regard to the filer's official.

10. I received a gift (valued over \$50) but gave it away to another person. Do I still need to report it?

Yes. You must report all gifts worth over \$50 unless within 30 days of receipt of the gift you return it to the donor, pay for it, or give it to a 501(c)(3) charitable organization or government without claiming a tax deduction for the donation.

11. Do I need to report gifts valuing \$50 or more from my boyfriend/girlfriend or fiancé(e)?

No. Filers do not need to report gifts from an individual with whom they have a "bona fide dating relationship" and such gifts are not subject to the gift limit.

12. Are wedding gifts subject to the gift limit and reporting requirements?

Wedding gifts are not subject to the gift limit. However, wedding gifts must be disclosed if they were received from a reportable source during the period covered by the Statement. For wedding gifts that are gifts to you and your spouse, rather than for the exclusive use of one of you, you must report only those gifts with a fair market value of \$100 or more and need report only your share of the value (50%).

APPENDIX B:

RESOURCE GUIDE

SAN FRANCISCO ETHICS COMMISSION

30 Van Ness Avenue, Suite 3900
San Francisco, CA 94102
(415) 581-2300
(415) 581-2317 (fax)
sfgov.org/ethics

The Commission's website includes the following:

- San Francisco Campaign Contribution Databases
- Campaign Finance Audit Program
- Lobbyist Ordinance and Regulations
- Lobbyist Manual and Forms
- Lists of Registered Lobbyists, Employees of Lobbyists, Clients of Lobbyists
- Lobbyists on Behalf of the City
- Campaign Consultant Ordinance and Regulations
- Campaign Consultant Manual and Forms
- List of Registered Campaign Consultants and their Clients
- Complaint Form and Instructions
- Whistleblower Ordinance and Hotline
- Database of Statements of Economic Interests
- Legislation Under Consideration by the Ethics Commission
- Ethics Commission Bylaws
- Ethics Commission Agendas
- Ethics Commission Minutes
- Ethics Commission Annual Reports
- Advice Letters Issued by Ethics Commission

~~~~~

SAN FRANCISCO CITY ATTORNEY'S OFFICE  
City Hall, 1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102-4682  
(415) 554-4700  
(415) 554-4745 (fax)  
www.sfgov.org/cityattorney

-----  
CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION  
428 J Street, Suite 800  
Sacramento, CA 95814  
Phone (Toll Free) 1-866-ASK-FPPC (866-275-3772)  
Fax (916) 327-2026  
www.fppc.ca.gov

The FPPC's website includes the following:

- Information about state campaign finance, lobbying and ethics laws
- Advice about the Political Reform Act of 1974
- Technical assistance for completing state campaign and financial disclosure forms
- Information on reporting violations of state campaign finance, ethics, and lobbying laws

-----  
CALIFORNIA SECRETARY OF STATE  
Political Reform Division  
P.O. Box 1467 (95812-1467)  
1500 11th Street, Room 495  
Sacramento, CA 95814  
Phone (916) 653-6224  
Fax (916) 653-5045  
www.ss.ca.gov

The Secretary of State's website includes the following:

- On-line search of state candidates' campaign fundraising and expenditure activities
- Copies of campaign disclosure statements for all state candidates and state ballot measures
- State elections and voter information
- How to obtain campaign Committee Identification Numbers
- How to terminate a committee

-----  
CALIFORNIA OFFICE OF THE ATTORNEY GENERAL  
1300 I Street, Suite 1740  
Sacramento, CA 95814  
Phone (800) 952-5225  
Fax (916) 323-5341  
www.caag.state.ca.us

The Attorney General's website includes the following:

- Information about California's open meetings laws ("The Brown Act")
- How to avoid conflicts of interest when acting on government contracts (California Government Code Section 1090)

-----

S:\Conflicts of Interest\Manual on Ethics Laws\version 1.04.DOC

---

[contact us](#) | [accessibility policy](#) | [disclaimer](#) | [privacy policy](#)

Copyright © 2003 City & County of San Francisco. All rights reserved.