

Meeting Date: 7/22/2014

Report Type: Consent

Report ID: 2014-00489

Title: (Public Financing Authority) Adopting the Conflict of Interest Code of the Sacramento Public Financing Authority

Location: Citywide

Recommendation: Pass a Public Financing Authority Resolution adopting the Conflict of Interest Code of the Sacramento Public Financing Authority.

Contact: Janelle Gray, Debt Manager, (916) 808-8296; Russ Fehr, City Treasurer, (916) 808-5832, Office of the City Treasurer

Presenter: None

Department: City Treasurer

Division: City Treasurer

Dept ID: 05001011

Attachments:

1-Description/Analysis

2-Background

3-Resolution

4-Attachment 1 (Notice of Intent)

City Attorney Review

Approved as to Form

Michael Sparks

7/3/2014 5:06:44 PM

Approvals/Acknowledgements

Department Director or Designee: Russell Fehr - 7/1/2014 11:35:25 AM

Description/Analysis

Issue Detail: In accordance with the Joint Exercise of Powers Act (Cal. Gov. Code, § 6500 et seq.), the City and Housing Authority created an agency and public entity known as the Sacramento Public Financing Authority (“SPFA”) to facilitate the future issuance of public debt. The SPFA is a local government agency under the Political Reform Act of 1974 (Cal. Gov. Code, § 81000 et seq.) (the “Act”) and must adopt and promulgate a conflict of interest code (Cal. Gov. Code, § 87300). As required by Government Code section 87302, the proposed conflict of interest code identifies the positions within the SPFA that make or participate in making of decisions that may foreseeably have a material effect on any financial interest, contains financial interest disclosure requirements, and sets forth disqualification requirements for designated employees.

Policy Considerations: Adoption of the conflict of interest code fulfills SPFA’s obligation under the Act to adopt and promulgate a conflict of interest code.

Economic Impacts: None.

Environmental Considerations: None.

Sustainability: None.

Commission/Committee Action: None.

Rationale for Recommendation: Pursuant to Cal. Gov. Code § 87300, every agency is required to adopt and promulgate a conflict of interest code.

Financial Considerations: None.

Local Business Enterprise (LBE): None.

Background:

In accordance with the Joint Exercise of Powers Act (Cal. Gov. Code, § 6500 et seq.), the City and Housing Authority created an agency and public entity known as the Sacramento Public Financing Authority (“SPFA”) to facilitate the future issuance of public debt. The SPFA is a local government agency under the Political Reform Act of 1974 (Cal. Gov. Code, § 81000 et seq.) and must adopt and promulgate a conflict of interest code (Cal. Gov. Code, § 87300). As required by Government Code section 87302, the proposed conflict of interest code identifies the positions within the SPFA that make or participate in making of decisions that may foreseeably have a material effect on any financial interest, contains financial interest disclosure requirements, and sets forth disqualification requirements for designated employees.

Pursuant to section 18730, subdivision (b)(3), of the Fair Political Practices Commission’s regulations, SPFA Board members are not required to file separate statements of economic interests (“Form 700”) because of their positions as members of the Board of the SPFA. SPFA Board members are covered by the proposed conflict of interest code for disqualification purposes only. Similarly, employees who are currently required under the City’s conflict of interest code to provide full disclosure on their Form 700s are not required to file separate Form 700s because they do work on behalf of the SPFA. These employees are covered by the proposed conflict of interest code for disqualification purposes only. For all other employees and consultants, the City Clerk, as the filing officer, will provide instructions about how to file an assuming office statement and annual Form 700. The assuming office statement is to be filed with the City Clerk no later than 30 days from the adoption of the conflict of interest code.

The Office of the City Clerk has published a notice of intent to adopt the SPFA conflict of interest code in The Daily Recorder on July 7, 2014. The notice of intent provided a written comment period which ended on Wednesday, July 16, 2014. No comments were submitted to the Office of the City Clerk by the deadline. The notice of intent was posted in department common areas and the full copy of the proposed code was provided via email to affected conflict of interest filers. The notice of intent is provided as Attachment 1 in this staff report.

RESOLUTION NO. 2014-

Adopted by the Board of Directors of the Sacramento Public Financing Authority

Date Adopted

ADOPTING THE CONFLICT OF INTEREST CODE OF THE SACRAMENTO PUBLIC FINANCING AUTHORITY

BACKGROUND

- A. The Sacramento Public Financing Authority (“Authority”) is required to adopt and promulgate a conflict of interest code under the Political Reform Act (Cal. Gov. Code, § 81000 et seq.)
- B. The Fair Political Practices Commission has adopted a regulation, California Code of Regulations, title 2, section 18730 (“Section 18730”), that contains terms of a conflict of interest code that can be incorporated by reference.
- C. Incorporation by reference of the terms Section 18730 along with the designation of employees and the formulation of disclosure categories in an appendix constitute the adoption and promulgation of a conflict of interest code within the meaning of the Political Reform Act.
- D. Under the Political Reform Act, the conflict of interest code adopted by the Authority will not be effective until it has been approved by the Authority’s code reviewing body, the City Council of the City of Sacramento.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE BOARD OF DIRECTORS RESOLVES AS FOLLOWS:

- Section 1. The conflict of interest code attached as Exhibit A is hereby adopted and made part of this resolution.
- Section 2. This resolution takes effect when adopted.
- Section 3. The Authority Secretary is directed to submit the conflict of interest code attached as Exhibit A to the City Council of the City of Sacramento for approval.

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Exhibit A: Sacramento Public Financing Authority Conflict of Interest Code

Adopted by the Board of Directors of the Sacramento Public Financing Authority of the City of Sacramento on (date adopted) by the following vote:

Ayes: Members

Noes: None

Abstain: None

Absent: None

Vacant: District 8

Attest:

Shirley Concolino, Secretary

EXHIBIT A

THE CONFLICT OF INTEREST CODE OF THE SACRAMENTO PUBLIC FINANCING AUTHORITY

SECTION 100. This is the Conflict of Interest Code of the Sacramento Public Financing Authority. This Conflict of Interest Code consists of the following: Sections 100 – 1000; the terms of California Code of Regulations, title 2, section 18730 and any amendments to Section 18730 that are duly adopted by the Fair Political Practices Commission, which are hereby incorporated by reference; **Appendix 1**, which designates employees; and, **Appendix 2**, which formulates disclosure categories.

SECTION 200. Designated employees shall file statements of economic interests pursuant to the provisions of this Conflict of Interest Code.

SECTION 300. Designated employees shall file their statements of economic interests directly with the City Clerk of the City of Sacramento to whom the City Council of the City of Sacramento, as the code reviewing body, has delegated the authority to carry out the duties of filing officer.

SECTION 400. Notwithstanding the provisions of California Code of Regulations, title 2, section 18730, subdivision (b)(5)(C), all designated employees shall file their annual statements of economic interests no later than April 30 of each calendar year.

SECTION 500. Unless otherwise directed by the City Clerk, every person who is required to file a statement of economic interests with the City Clerk shall prepare the statement using an electronic system prescribed by the City Clerk.

SECTION 600. The Legal Counsel to the Authority, or designated representative, shall make the initial determination as to whether individuals are consultants, as defined in California Code of Regulations, title 2, section 18701. An individual may be a consultant whether he or she is compensated or is an unpaid volunteer. The requirements of this Conflict of Interest Code shall be included in every contract between the Authority and a consultant. Not later than ten (10) days after an authorized Authority representative signs a consultant contract, the Authority representative responsible for the administration of the contract shall submit to the Secretary a completed Fair Political Practices Commission Form 805 (Agency Report of Consultants), which identifies the consultant and disclosure categories.

SECTION 700. Any designated employee who is required to disqualify himself or herself under this Conflict of Interest Code shall give notice of disqualification to the Secretary of the Authority. Such notice shall be in writing and shall be made part of the official records of the Secretary of the Authority. The designated employee shall then refrain from participation and shall attempt in no way to use his or her official position to influence any other person with respect to the matter.

SECTION 800. Upon request, any designated employee who is unsure of any right or obligation arising under this Conflict of Interest Code may request a formal opinion or letter of advice from the Legal Counsel to the Authority. If an opinion is rendered by the Legal Counsel to the Authority stating in full the facts and the law upon which the opinion is based, compliance by the designated employee may be evidence of good faith in any civil or criminal proceeding brought pursuant to the Political Reform Act of 1974 or this Conflict of Interest Code. The designated employee's good faith compliance with the opinion of the Legal Counsel to the Authority shall also act as a complete defense to any disciplinary action that the Authority may bring under Government Code section 91003.5.

SECTION 900. Designated employees violating any provision of this Conflict of Interest Code are subject to the administrative, criminal, and civil sanctions provided in the Political Reform Act, Government Code sections 81000 – 91014.

SECTION 1000. Employees in newly created positions that make or participate in the making of decisions that may foreseeably have a material effect on any financial interest and whose specific position is not yet identified in this Conflict of Interest Code shall file interim disclosure as provided in California Code of Regulations, title 2, section 18734.

Appendix 1

DESIGNATED EMPLOYEES

Position	Disclosure Category
Accounting Manager	1, 2, 3
Assistant City Attorney	*
Board Member	*
Budget Manager	*
Chief Investment Officer	*
City Manager	*
Consultant	7
Controller	*
Debt Analyst	5, 6
Deputy City Attorney I, II	*
Legal Counsel	*
Operations Manager	*
Senior Deputy City Attorney	*
Senior Investment Officer	*
Senior Debt Analyst	5, 6
Supervising Deputy City Attorney	*
Treasurer	*
Treasury Manager	5, 6
Volunteer	8

* Pursuant to California Code of Regulations, title 2, section 18730, subdivision (b)(3), these positions are covered by this Conflict of Interest Code for disqualification purposes only. This Conflict of Interest Code does not establish any disclosure requirements for these positions.

Appendix 2

DISCLOSURE CATEGORIES

1. All investments.
2. All business positions in business entities.
3. All sources of income.
4. All interests in real property.
5. All investments and business positions in business entities, and income from sources, that provide goods and services, including consulting services, of the type used by the Authority.
6. All investments and business positions in business entities, and income from sources, that are trust companies, actuarial firms, investment counseling firms, brokerage firms, savings and loan associations, real estate brokerage or development companies, commercial banks, investment banks, or financial institutions.
7. Consultants, as defined in California Code of Regulations, title 2, section 18701, shall disclose Categories 1 – 4 unless the Legal Counsel to the Authority or designated representative determines in writing that disclosure of Categories 1 – 4 is not necessary and sets disclosure that is more tailored to a particular consultant's more limited range of duties. This determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements.
8. Volunteers who are consultants, as defined in California Code of Regulations, title 2, section 18701, shall disclose Categories 1 – 4 unless the Legal Counsel to the Authority or designated representative determines in writing that disclosure of Categories 1 – 4 is not necessary and sets disclosure that is more tailored to a particular volunteer's more limited range of duties. This determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements.

**NOTICE OF INTENTION TO ADOPT
A CONFLICT OF INTEREST CODE FOR
THE SACRAMENTO PUBLIC FINANCING AUTHORITY**

NOTICE IS HEREBY GIVEN that the Sacramento Public Financing Authority (SPFA) intends to adopt a conflict of interest code pursuant to Government Code sections 87300 and 87303. In accordance with Government Code section 87302, the proposed conflict of interest code identifies the positions within the SPFA that make or participate in making of decisions that may foreseeably have a material effect on any financial interest, contains financial interest disclosure requirements, and sets forth disqualification requirements for designated employees. A full copy of the proposed conflict of interest code is available in the Office of the City Clerk for review and inspection.

NOTICE IS FURTHER GIVEN that the SPFA has established a written comment period for interested persons to submit comments pertaining to the proposed conflict of interest code. Comments must be submitted in writing to the Office of the City Clerk no later than Wednesday, July 16, 2014 at 5:00 p.m. to be considered by the SPFA Board of Directors when it takes action on the proposed conflict of interest code. The Board of Directors is scheduled to take action on the proposed conflict of interest code on Tuesday, July 22, 2014, at 6:00 p.m. The meeting will take place in the Council Chamber located at 915 I Street, 1st Floor, Sacramento, CA 95814. Inquiries concerning the proposed conflict of interest code may be directed the Office of the City Clerk at (916) 808-7200 or by email to clerk@cityofsacramento.org.

Publish Date: 07/07/2014
Times: Once (1)