

RESOLUTION No. 218863 (R-77-2252 )

Adopted on JUL 20 1977

BE IT RESOLVED, by the Council of The City of San Diego as follows:

That the Conflict of Interest Code of City Auditor and Comptroller's Department of The City of San Diego, submitted pursuant to the Political Reform Act of 1974, as amended, is hereby approved.

APPROVED: JOHN W. WITT, City Attorney

By

  
Robert S. Teaze  
Assistant City Attorney

RST:cav  
5/31/77  
Or. Dept. A&C  
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CONFLICT OF INTEREST CODE  
OF THE  
OFFICE OF THE CITY AUDITOR AND COMPTROLLER  
OF  
THE CITY OF SAN DIEGO

INDEX

|  | <u>Page</u> |
|--|-------------|
| I. <u>General Standards</u>                          | 1           |
| Section:   |             |
| 100. Purpose and Scope                               | 1           |
| 101. Definitions                                     | 2           |
| 102. Remedial Action                                 | 2           |
| II. <u>Conduct and Responsibilities of Employees</u> | 2           |
| Section:   |             |
| 200. Proscribed Actions                              | 2           |
| 201. Gifts, Entertainment and Favors                 | 3           |
| 202. Outside Employment and Activity                 | 4           |
| 203. Financial Interests                             | 4           |
| 204. Use of City Property                            | 5           |
| 205. Conflicts of Interest                           | 5           |
| 206. Disqualification Because of Financial Interests | 6           |
| III. <u>Statements of Financial Interests</u>        | 6           |
| Section:   |             |
| 300. Designated Positions                            | 6           |
| 301. Disclosure Statements                           | 6           |
| 302. Place and Time of Filing                        | 7           |
| 303. Contents of Disclosure Statements               | 8           |
| EXHIBIT A. Designated Positions                      | 12          |
| EXHIBIT B. Categories of Disclosure                  | 15          |

MICROFILMED  
JUN 5 1978

218863  
00086

CONFLICT OF INTEREST CODE  
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I. GENERAL STANDARDS

SECTION 100 PURPOSE AND SCOPE

A. The maintenance of the highest standards of honesty, integrity, impartiality and conduct by City employees is essential to assure the proper performance of City business and maintenance of confidence by citizens in their government. The avoidance of conflicts of interest on the part of City employees through informed judgment is indispensable to the maintenance of these standards.

B. Pursuant to the provisions of Government Code Section 87300, et seq., the Office of the City Auditor and Comptroller of The City of San Diego hereby adopts the following Conflict of Interest Code. Nothing contained herein is intended to modify or abridge the provisions of the Political Reform Act of 1974 (Government Code Section 81000, et seq.). The provisions of this Code are additional to Title 9, Chapter 7 of the Government Code (Section 87100, et seq.) and other laws pertaining to conflicts of interest. Except as otherwise indicated, the definitions of said Act and regulations adopted pursuant thereto are incorporated herein and this Code shall be interpreted in a manner consistent therewith.

C. This Code reflects accepted standards imposed by the criminal and civil law of the State of California. However informational these regulations are, they are not a complete enumeration of all restrictions imposed by statutes.

MICROFILMED JUN 5 1978 8863 00087

The omission of a reference to such statute in no way affects its validity or applicability to an employee's conduct. In addition, professionals employed by the City are subject to their additional canons as established by their particular professional society.

SECTION 101 DEFINITIONS

The definitions set forth in Title 9, Chapter 2 of the Government Code (Section 82000, et seq.) shall govern the interpretation of this Code.

SECTION 102 REMEDIAL ACTION

A. In addition to civil and criminal penalties set forth in Title 9, Chapter 2 of the Government Code (Section 90000, et seq.), a violation of this Code by an employee of the Office of the City Auditor and Comptroller may be the cause for remedial action which may include, but is not limited to:

1. Changes in assigned duties.
2. Divestment by the employee of his or her conflicting interest.
3. Disciplinary action.
4. Disqualification for a particular assignment.

B. Remedial action shall be effected in accordance with all applicable laws for notice, hearing and review.

II. CONDUCT AND RESPONSIBILITIES OF EMPLOYEES

SECTION 200 PROSCRIBED ACTIONS

A. An employee shall avoid any action, whether or not specifically prohibited by law, which may tend to affect his or her job performance creating the appearance of:

1. Using public office for private gain.

MICROFILMED  
JUN 5 1978

2. Giving preferential treatment to any person.
3. Losing complete independence or impartiality.

B. In addition, every employee shall be familiar with and abide by the Personnel Manual Code of Ethics and Conduct, Index Code 36.61.

SECTION 201 GIFTS, ENTERTAINMENT AND FAVORS

A. An employee shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of more than nominal monetary value, from a person with whom he or she has dealings in the course of his or her employment who:

1. Has, or is seeking to obtain, contractual or other business or financial relations with The City of San Diego.
2. Conducts operations or activities that are regulated by The City of San Diego.
3. Has interests that may be substantially affected by the performance or nonperformance of City governmental duties.

B. None of the foregoing shall be deemed to prohibit the acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees or unsolicited promotional materials of nominal value, or the defrayal by others of a legitimate business expense.

C. A gift or gratuity, the receipt of which is prohibited by this section, shall be returned to the donor when feasible. If no return is feasible, the gift or

MICROFILMED

JUN 5

1978

218863

00089

gratuity shall be conveyed through the employee's supervisor to a public charity.

D. None of the foregoing shall be deemed to prevent the receipt of political contributions that are controlled, regulated or reported by the applicable provisions of state and municipal law.

SECTION 202 OUTSIDE EMPLOYMENT AND ACTIVITY

A. An employee shall not engage in outside employment or other outside activities not compatible with the full and proper discharge of his or her duties. Incompatible activities include, but are not limited to:

1. Acceptance of a fee, gift, compensation or payment or any other thing of more than nominal monetary value in circumstances wherein acceptance may result in, or create the appearance of, a conflict of interest.

2. Outside activities which are in violation of Civil Service Rule XI, Section 3(14) and which contravene those activities described in Personnel Manual Regulation of Outside Employment or Enterprise, Index Code 36.7.

SECTION 203 FINANCIAL INTERESTS

An employee shall not:

A. Have a direct or indirect financial interest that conflicts or appears to conflict with his or her City duties and responsibilities; or

B. Engage in, directly or indirectly, a financial transaction as a result of or primarily relying on information obtained through his or her City employment.

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JUN 5 1978

-4-

218863  
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SECTION 204 USE OF CITY PROPERTY

An employee shall not directly or indirectly use, or allow the use of City property of any kind for other than official duties.

SECTION 205 CONFLICTS OF INTEREST

A. A conflict of interest may exist whenever an employee has a substantial personal or private interest in a matter which involves his or her duties and responsibilities as an employee. The trust of the citizenry demands that an employee take no action which would constitute the use of City employment to advance personal or private interests. Each employee should avoid situations which present the possibility or the appearance that his or her official position might be used to private advantage.

B. Neither the provisions of the California Penal Code, California Government Code, nor the standards of conduct prescribed in this Code, are to be regarded as comprehensive. Each employee must, in each instance involving a personal or private interest in a matter which also involves his or her duties and responsibilities as an employee, make certain that his or her actions do not have the effect or the appearance of the use of his or her official position for the furtherance of his or her own interests or those of his or her family or his or her business associates.

C. The statutory provisions of conflict of interest are contained in Title 9, Chapter 7 of the Government Code (Section 87100, et seq.). The violation of these sections is more specifically outlined in Chapter 11 thereof (Section

MICROFILMED

-5-

JUN 5 1978

218863

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91000, et seq.).

SECTION 206 DISQUALIFICATION BECAUSE OF FINANCIAL  
INTERESTS

Designated employees must disqualify themselves from making or participating in the making of any decisions in which they have a reportable financial interest when it is reasonably foreseeable that such interest may be materially affected by the decision. No designated employee shall be required to disqualify himself or herself with respect to any matter which could not be legally acted upon or decided without his or her participation.

When any person holding a designated position has reason to be disqualified, he or she shall immediately report the nature of the matter and the existence of a conflict to his or her superior so that the work may be assigned to another.

III. STATEMENTS OF FINANCIAL INTERESTS

SECTION 300 DESIGNATED POSITIONS

The positions listed on EXHIBIT A are designated positions. Officers and employees holding those positions are designated employees and are deemed to make, or participate in the making of, decisions which may foreseeably have a material effect on a financial interest.

SECTION 301 DISCLOSURE STATEMENTS

Designated positions shall be assigned to one or more of the disclosure categories set forth on EXHIBIT B. Each designated employee shall file an annual statement disclosing that employee's interest in investments, real property, and

MICROFILMED

-6- JUN 5 1978

218863

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income, designated as reportable under the category to which the employee's position is assigned on EXHIBIT B.

SECTION 302 PLACE AND TIME OF FILING

A. All designated employees required to submit a statement of financial interests shall file the original with the secretary of the City Auditor and Comptroller.

B. The secretary of the City Auditor and Comptroller who receives the statement of financial interest shall make and retain a copy and forward the original to the City Clerk.

C. A designated employee required to submit an initial statement of financial interest shall submit the statement within 30 days after the effective date of this Code, which for these purposes shall be the date upon which the City Council of The City of San Diego approves this Code by appropriate resolution.

D. Civil service employees appointed, promoted or transferred to designated positions shall file statements within 30 days after date of employment.

E. All other new employees appointed, promoted or transferred to designated positions shall file statements not less than ten days before assuming office (or if subject to confirmation, ten days before being confirmed), unless an earlier assumption of office is required by emergency circumstances, in which case the statement shall be filed within 30 days thereafter.

F. Annual statements shall be filed during the month of February by all designated employees. Such statements shall cover the period of the preceding calendar year.

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G. A designated employee required to file a statement of financial interest with any other agency which is within the same territorial jurisdiction may comply with the provisions of this Code by filing a duplicate copy of the statement filed with the other agency in lieu of an entirely separate statement.

H. All employees holding designated positions who leave office and do not assume another designated position shall file a statement within 30 days after leaving said position. An employee who leaves a designated position and immediately assumes another such position in the same agency shall not be deemed to leave or assume a designated position.

#### SECTION 303 CONTENTS OF DISCLOSURE STATEMENTS

Disclosure statements shall be made on forms supplied by the City Clerk and shall contain the following information:

A. Contents of Investment and Real Property Reports

When an investment, or an interest in real property, is required to be reported, the statement shall contain:

1. A statement of the nature of the investment or interest.
2. The name of the business entity in which each investment is held and a general description of the business activity in which the business entity is engaged.
3. The address or other precise location of the real property.

MICROFILMED

JUN 5 1978

218863

4. A statement whether the fair market value of the investment or interest in real property exceeds ten thousand dollars (\$10,000) and whether it exceeds one hundred thousand dollars (\$100,000). This information need not be provided with respect to an interest in real property which is used principally as the residence of the filer.

B. Contents of Personal Income Reports

When personal income is required to be reported, the statement shall contain:

1. The name and address of each source of income aggregating two hundred fifty dollars (\$250) or more in value, or twenty-five dollars (\$25) or more in value if the income was a gift, and a general description of the business activity, if any, of each source.

2. A statement whether the aggregate value of income from each source was greater than one thousand dollars (\$1,000) and whether it was greater than ten thousand dollars (\$10,000).

3. A description of the consideration, if any, for which the income was received.

4. In the case of a gift, the amount and the date on which the gift was received.

C. Contents of Business Entity Income Reports

When income of a business entity, including income of a sole proprietorship, is required to be reported under this section, the statement shall contain:

MICROFILMED 218863

JUN 5 1978

1. The name, address and a general description of the business activity of the business entity.

2. In the case of a business entity which provides legal or brokerage services, the name of every person who paid fees to the business entity if the filer's pro rata share of fees from such person was equal to or greater than one thousand dollars (\$1,000).

3. In the case of a business entity not covered by paragraph 2 above, the name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than ten thousand dollars (\$10,000) during a calendar year.

D. Contents of Management Positions Reports

When management positions are required to be reported, designated employees shall list the name of each business entity not specified above in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management.

E. Initial Statements

The initial statement filed by an employee appointed to a designated position shall disclose any reportable income, investments and interests in real property.

F. Acquisition During Reporting Period

In the case of a statement filed under Section 302(F), if the investment or interest in real property was partially or wholly acquired or disposed of during the period covered

MICROFILMED

218863

-10-

JUN 5 1978

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by the statement, the date of acquisition or disposal shall be reported.

\* \* \* \* \*

The foregoing Conflict of Interest Code has been prepared by the Office of the City Auditor and Comptroller after a fair opportunity for the employees of the office to present their views had been offered. The Code is submitted to the City Council this 17 day of May, 1977.

William G. Sage  
William G. Sage  
City Auditor and Comptroller

\* \* \* \* \*

The above Conflict of Interest Code was approved by the Council of The City of San Diego, acting as the code reviewing body pursuant to the Political Reform Act of 1974, as amended, by Resolution No. 218863, on the 20th day of July, 1977.

EDWARD NIELSEN  
Ed Nielsen  
City Clerk

By Lavern E Miller,  
Asst. City Clerk

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-11- JUN 5 1978

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EXHIBIT A

Designated Positions

| <u>Position</u>                        | <u>Duties</u>  | <u>Category</u> |
|--|--|-----------------|
| <u>Administration:</u>                 |  |                 |
| City Auditor and Comptroller           | Chief fiscal officer of the City of San Diego as specified in City of San Diego Charter Section 39.  | 1               |
| Assistant City Auditor and Comptroller | Under administrative direction to assist the City Auditor and Comptroller in planning, directing and coordinating the activities of the City Auditor and Comptroller's Office and to perform related work. | 1               |
| Principal Accountant                   | Under administrative direction to supervise the Administrative Assistance section and to perform special financial and analytical studies.   | 2               |
| Senior Accountant                      | Under general supervision to perform special financial and analytical studies.   | 2               |

MICROFILMED

JUN 5 1978

218863  
0098

EXHIBIT A

| <u>Position</u>                 | <u>Duties</u>   | <u>Category</u> |
|---------------------------------|---|-----------------|
| <u>Audit and Systems:</u>       |   |                 |
| Financial Operations Supervisor | Under administrative direction plan, develop and administer audit programs and computerized or manual financial systems.                                | 2               |
| Principal Accountant            | Under general supervision to supervise lease, tax, agency, internal and contractual audits, and financial accounting systems development.               | 2               |
| Senior Accountant               | Under general supervision to perform difficult lease, tax, agency, internal, and contractual audits and to plan, analyze and install financial systems. | 2               |
| Accountant                      | Under direct supervision to perform complex lease, tax, agency, internal, contractual audits and to install financial systems.                          | 2               |
| Junior Accountant               | Under direct supervision to assist in lease, tax, agency, internal and contractual audits and to assist in installation of financial systems.           | 2               |

MICROFILMED

218863

EXHIBIT A

| <u>Position</u>                            | <u>Duties</u>  | <u>Category</u> |
|--|--|-----------------|
| <u>Financial Accounting and Reporting:</u> |  |                 |
| Financial Operations Supervisor            | Under administrative direction to plan, develop and administer fiscal control over all City assets and to establish timely financial reporting.  | 2               |
| Principal Accountant                       | Under general supervision to supervise general accounting operations, enterprise operations, capital improvement projects, intergovernmental programs, and periodic financial reports.   | 2               |
| Senior Accountant                          | Under general supervision to provide accounting for budgetary control, enterprise operations, capital improvement projects, fixed assets, intergovernmental programs and periodic financial reports.                             | 2               |
| Accountant                                 | Under direct supervision to provide accounting for payroll, budgetary control, enterprise operations, cost control, capital improvement projects, fixed assets, intergovernmental programs and periodic reports.                 | 2               |
| Junior Accountant                          | Under direct supervision to assist in the accounting for payroll, budgetary control, enterprise operations, cost control, capital improvement projects, fixed assets, intergovernmental programs and periodic financial reports. | 2               |

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218863

JUN 5 1978

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EXHIBIT B

As used in EXHIBIT B, The City of San Diego includes all entities for which the Office of the City Attorney provides legal services.

Category 1: All interests reportable in California Government Code Section 87200, et seq., and the following:

- a. All reportable investments in any firm or entity that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
- b. All reportable interests in real property owned or used by any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
- c. All reportable income from any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.

Category 2:

As applicable to the area of assigned duties:

- a. All reportable investments in any firm or entity that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
- b. All reportable interests in real property owned or used by any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.
- c. All reportable income from any person that supplies goods or services to The City of San Diego, that is a tenant of The City of San Diego, that is an adverse party to The City of San Diego in a legal proceeding, or is granted authority by The City of San Diego to use City facilities.

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MICROFILMED JUN 5 1978 218863

Passed and adopted by the Council of The City of San Diego on JUL 20 1977,  
 by the following vote:

| Councilmen          | Yeas                                | Nays                     | Excused                  | Absent                              |
|---------------------|-------------------------------------|--------------------------|--------------------------|-------------------------------------|
| Gil Johnson         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Maureen F. O'Connor | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Lee Hubbard         | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Leon L. Williams    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Floyd L. Morrow     | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Tom Gade            | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Joel M. Strobl      | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Jess D. Haro        | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| Mayor Pete Wilson   | <input type="checkbox"/>            | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

AUTHENTICATED BY:

PETE WILSON  
 Mayor of The City of San Diego, California.

EDWARD NIELSEN  
 City Clerk of The City of San Diego, California.

By *Allyn D. Newton*, Deputy.

(Seal)

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| Office of the City Clerk, San Diego, California |                                      |
| Resolution Number <u>218863</u>                 | Adopted <u>JUL 20 1977</u> <i>ed</i> |

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