

RESOLUTION NUMBER R- 285034

ADOPTED ON DEC 5 1994

RESOLUTION ADOPTING THE REVISED  
CONFLICT OF INTEREST CODE FOR THE  
SAN DIEGO DATA PROCESSING  
CORPORATION.

WHEREAS, Government Code section 87306.5 requires biennial review of local conflict of interest codes every even-numbered year; and

WHEREAS, by Resolution No. 284140, adopted June 27, 1994, the City Council directed each of its corporations to make its biennial report and each to update its conflict of interest codes as necessary; and

WHEREAS, the Conflict of Interest Code for the San Diego Data Processing Corporation has been reviewed and it has been determined that Appendix A designating the persons subject to the Code should be updated; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the revised Conflict of Interest Code of the San Diego Data Processing Corporation of The City of San Diego, including Appendix A in which members of the Board of Directors and employees are designated and Appendix B in which disclosure categories are set forth, is hereby approved. A copy of the Conflict of Interest Code as revised is attached hereto and on file in the office of the City Clerk as Document No. RR- 285034.

BE IT FURTHER RESOLVED, that pursuant to section (b)(4) of the Conflict of Interest Code, designated Board members and

employees shall file their Statements of Economic Interest ("SEI's") with the President and upon receipt of the statements, the President shall make and retain a copy and forward the original of these statements to the City Clerk.

BE IT FURTHER RESOLVED, that the revised Conflict of Interest Code shall become effective upon the date of adoption of this resolution.

APPROVED: JOHN W. WITT, City Attorney

By *Cristie C McGuire*  
Cristie C. McGuire  
Deputy City Attorney

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**CONFLICT OF INTEREST CODE OF  
SAN DIEGO DATA PROCESSING CORPORATION**

1. Standard Code of FPPC

The Political Reform Act of 1974 (Government Code section 81000 et seq.) requires each state and local government agency to adopt and promulgate a conflict of interest code. The San Diego Data Processing Corporation is therefore required to adopt such a code. The Fair Political Practices Commission (FPPC) has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference as an agency's code. After public notice and hearing the regulation may be amended by the FPPC to conform to amendments in the Political Reform Act.

2. Adoption of Standard Code of FPPC

The terms of 2 California Code of Regulations section 18730 and any future amendments to it duly adopted by the FPPC are hereby adopted and incorporated herein by reference. This regulation, and the Appendix attached hereto designating officials and employees and establishing disclosure categories, shall constitute the Conflict of Interest Code of the San Diego Data Processing Corporation. This code shall take effect when approved by the City of San Diego.

3. Filing of Statements of Economic Interests

Pursuant to Section 4(A) of the standard code, designated employees set forth in the Appendix shall file statements of economic interests (Form 730) with the Clerk of the City of San Diego. Pursuant to Title 2, California Code of Regulations, section 18720, personnel of the San Diego Data Processing Corporation set forth in Section II of the Appendix are "public officials who manage public investments" under Section 87200 of the Government Code, and shall file FPPC Form 721.

Title 2, California Code of Regulations  
(As of Date of Adoption)

18730. Provisions of Conflict of Interest Codes

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code section 87300 or the amendment of a conflict of interest code within the meaning of Government Code section 87307 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Government Code sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code section 87100, and to other state or local laws pertaining to conflicts of interest.

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FILED DEC 5 1994  
OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

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(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section I. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on financial interests.

(3) Section 3. Disclosure Categories.

This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code section 87200 if they are designated in this Code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to article 2 of chapter 7 of the Political Reform Act, Government Code sections 87200, et seq. In addition, this Code does not establish an disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Government Code section 87200; and

(C) The filing officer is the same for both agencies.<sup>1</sup>

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<sup>1</sup> Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code section 81004.

Such persons are covered by this Code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of financial interests are reportable. Such a designated employee shall disclose in his or her statement of economic interests those financial interests he or she has which are of the kind described in the disclosure categories to which he or she is assigned in the Appendix. It has been determined that the financial interests set forth in a designated employee's disclosure categories are the kinds of financial interests which he or she foreseeably can affect materially through the conduct of his or her office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.<sup>2</sup>

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within thirty days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within thirty days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within thirty days after assuming the designated positions, or if subject to State Senate confirmation, thirty days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within thirty days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided he or she did not make or

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<sup>2</sup> See Government Code section 81010 and 2 Cal. Code of Regs. section 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

participate in the making of, or use his or her position to influence any decision and did not receive or become entitled to receive any form of payment as a result of his or her appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both at the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation, he or she did not make, participate in the making, or use a position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office of the date of being appointed or nominated respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investments and Real Property Disclosure. When an investment or an interest in real property<sup>3</sup> is required to be reported,<sup>4</sup> the statement shall contain the following:

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;
4. A statement whether the fair market value of the investment or interest in real property exceeds one thousand dollars (\$1,000), exceeds ten thousand dollars (\$10,000), or exceeds one hundred thousand dollars (\$100,000).

(B) Personal Income Disclosure. When personal income is required to be reported,<sup>5</sup> 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 fifty dollars (\$50) or more in value if the income was a gift, and a general description of the business activity, if any, of each source;

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<sup>3</sup> For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

<sup>4</sup> Investments and interests in real property which have a fair market value of less than \$1,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

<sup>5</sup> A designated employee's income includes his or her community property interest in the income of his or her spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was one thousand dollars (\$1,000) or less, greater than one thousand dollars (\$1,000), or 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 name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;

5. In the case of a loan, the annual interest rate and the security, if any, given for the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,<sup>6</sup> the statement shall contain:

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

2. 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).

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which he or she is a director, officer, partner, trustee, employee, or in which he or she holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. State Agency Prohibition on Receipt of Honoraria [**not applicable to the Authority**].

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<sup>6</sup> Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.



(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of his or her immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth one thousand dollars (\$1,000) or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth one thousand dollars (\$1,000) or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the designated employee within twelve months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$250 or more in value provided to; received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make his or her participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees [not applicable to the Authority].

(10) Section 10. Manner of Disqualification.

When a designated employee determines that he or she should not make a governmental decision because he or she has a disqualifying interest in it, the determination not to act must be accompanied by disclosure of the disqualifying interest. In the case of a voting body, this determination and disclosure shall be made part of the agency's official record; in the case of a designated employee who is the head of an agency, this determination and disclosure shall be made in writing to his or her appointing

authority; and in the case of other designated employees, this determination and disclosure shall be made in writing to the designated employee's supervisor.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of his or her duties under this code may request assistance from the Fair Political Practices Commission pursuant to Government code section 83114 or from the attorney for his or her agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Government Code sections 81000 - 91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Government Code section 87100 or 87450 has occurred may be set aside as void pursuant to Government Code section 91003.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87300 - 87302, 89503 and 89504, Government Code.

**APPENDIX A TO  
CONFLICT OF INTEREST CODE  
OF THE  
SAN DIEGO DATA PROCESSING CORPORATION**

**Preamble**

Any person designated in Section I or II of this Appendix who is unsure of any right or obligation arising under this Code may request a formal opinion or letter of advice from the FPPC or an opinion from the Corporation's General Counsel. (Gov. Code § 83114, 2 Cal. Code of Regs. § 18730(b)(11).) A person who acts in good faith in reliance on an opinion issued to him or her by the FPPC shall not be subject to criminal or civil penalties for so acting, provided that all material facts are stated in the opinion request. (Gov. Code § 83114(a).)

If General Counsel renders an opinion stating in full the facts and the law upon which the opinion is based, compliance by the requesting party with such an opinion shall be evidence of good faith in any civil or criminal proceeding. Compliance with the opinion of General Counsel shall also act as a complete defense to any disciplinary action that the Corporation may bring under Government Code section 91003.5.

**I.**

**Designated Employees**

<u>Designated Employees</u>	<u>Categories Disclosed</u>
Officers and Members of the Board of Directors,	All
Executive Vice President, Directors, Department Managers	All
Consultants <sup>1</sup>	
General Counsel	All

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<sup>1</sup> With respect to consultants, the Executive Director may determine in writing that a particular consultant, although a "designated employee," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the written disclosure requirements described in these categories. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Executive Director's determination is a public record and shall be retained for public inspection by the Corporation in the same manner as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

## **II.**

### **Personnel Who Manage Public Investments**

The Corporation has determined that all Directors of the Corporation, the Finance Manager, and the Controller of the Corporation "manage public investments" within the meaning of Government Code section 87200 and Title 2, California Code of Regulations, section 18720, and shall file FPPC Form 721 Statement of Economic Interests.

**APPENDIX B TO  
CONFLICT OF INTEREST CODE  
OF THE  
SAN DIEGO DATA PROCESSING CORPORATION**

**Disclosure Categories**

**Category 1. All-Inclusive Reportable Investments (Gov. Code § 82034)**

A designated employee in this category shall report all reportable investments, worth more than \$1,000, in business entities related to the Corporation enumerated in this category, located in or doing business in the City of San Diego, which:

- (a) are owned by the designated employee, his or her spouse or dependent child;
- (b) owned by an agent on behalf of the designated employee;
- (c) owned by any business entity controlled by the designated employee (i.e. any business entity in which the designated employee, his or her agents, spouse and dependent children hold more than a 50% ownership interest);
- (d) owned by a trust in which the designated employee has a substantial interest (i.e. a trust in which the designated employee, his or her spouse and dependent children have a present or future interest worth more than \$1,000);
- (e) representing the pro rata share (worth more than \$1,000) of the designated employee, his or her spouse and dependent children, of investments of any business entity or trust in which the designated employee, his or her spouse and dependent children own, directly or indirectly or beneficially, a 10% interest or greater.

Business entities located in or doing business in the City of San Diego applicable to this category are those which operate or provide any of the following:

Consulting services  
Computer hardware or software, or computer services or consultants  
Communications equipment or services  
Data processing companies or consultants  
Telecommunications equipment

Category 2. Reportable Interests in Real Property (Gov. Code §§ 82033, 82035)

A designated employee in this category shall disclose all interests in real property:

(a) within or not more than two (2) miles outside the boundaries of the City of San Diego that has situated on it any business entity named in category no. 1 above; or

(b) within the City of San Diego that is involved in any plan for the expansion of the Corporation's facilities; or

(c) within one-half (1/2) mile of any facility or real property owned or leased by the Corporation,

if the interest in real property is either: (1) held or owned by the designated employee, his or her spouse and dependent child, or (2) the pro rata share (worth more than \$1,000) of interests in real property of any business entity or trust in which the designated employee or spouse owns, directly, indirectly or beneficially, a 10% interest or greater.

Category 3. Reportable Income (Gov. Code § 82030)

A designated employee in this category shall disclose all income of the designated employee from the below-listed sources located in or doing business in the City of San Diego aggregating \$250 or more (or \$50 or more in the case of gifts) during the reporting period.

Consulting services

Computer hardware or software, or computer services or consultants

Communications equipment or services

Data processing companies or consultants

Securities, investment or financial services companies

Category 4. Less-Inclusive Reportable Investments (Gov. Code § 82034)

A designated employee in this category shall disclose only investments (worth more than \$1,000) in any business entity, which within the last two years has contracted with or in the future foreseeably may contract with the Corporation to provide personnel, services, supplies, material, machinery or equipment:

(a) to the Corporation, of the type utilized by the Corporation which is located in or doing business in the City of San Diego, and associated with the job assignment or position of the designated employee; or

(b) to any entity which has contracted with the Corporation within the last two years or which in the future foreseeably may contract with the Corporation to provide services, supplies, materials, machinery or equipment associated with the job assignment or position of the designated employee.

Category 5. Less-Inclusive Reportable Income (Gov. Code § 82030)

A designated employee in this category shall disclose only that reportable income (\$250 or more during reporting period; \$50 or more in the case of gifts) which is derived from a source which within the last two years has contracted with the Corporation or in the future foreseeably may contract with the Corporation to provide personnel, services, supplies, materials, machinery or equipment:

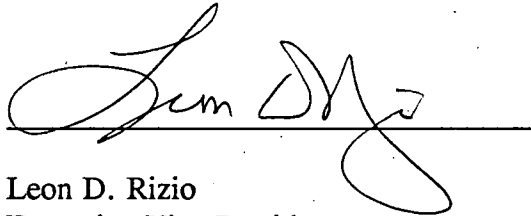
- (a) to the Corporation, of the type utilized by the Corporation which is located in or doing business in the City of San Diego, and associated with the job assignment or position of the designated employee; or
- (b) to any entity which has contracted with the Corporation within the last two years or which in the future foreseeably may contract with the Corporation to provide personnel, services, supplies, materials, machinery or equipment associated with the job assignment or position of the designated employee.

Category 6. Business Positions

Disclosure shall be made by completing form 730, schedule "G."

**CERTIFICATION**

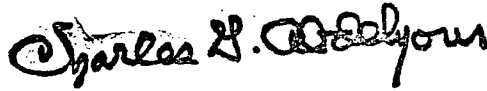
The foregoing Conflict of Interest Code has been prepared for the San Diego Data Processing Corporation after a fair opportunity was offered to the affected employees of said Corporation to present their views.



Leon D. Rizio  
Executive Vice-President

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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. R- 285034, on the day of DEC 5 1994, 1994.



Charles G. Abdelnour  
City Clerk

R- 285034



LOCAL AGENCY BIENNIAL REPORT

Government Code Section 87306.5 requires local agencies to submit to their code reviewing body a biennial report identifying changes in the code, or a statement that their code is not in need of amendment. Normally, such reports are to be submitted no later than October 1 of each even-numbered year. This year, the report is due no later than October 3, 1994, and is to be returned to your agency's respective code reviewing body (Section 82011). You may use this form or you may prepare your own report. When completed, submit this form, along with your Request for Council Action, to:

City Attorney's Office  
City of San Diego  
202 "C" Street, MS 3A  
San Diego, CA 92101

**NOTE: WE REQUEST YOU SUBMIT THIS BY SEPTEMBER 1, 1994.**

This agency has reviewed its conflict of interest code and has determined that:

1) \_\_\_\_\_ Our agency's code accurately designates all positions which make or participate in the making of governmental decisions; that the disclosure assigned those positions accurately requires the disclosure of all investments, business positions, interests in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and further that the code includes all other provisions required by Government Code Section 87302; or

2)  Our agency's code is in need of amendment. We have determined that the following amendments are necessary (check applicable items):

- Include new positions which must be designated
- Make changes to the reportable sources of income, investments, business positions, or real property
- Make changes to the positions assigned
- Change or add the provisions required by Government Code Section 87302

CITY ATTORNEY

AUG 31 10 36 AM '94

Contact Person JOSEPH R. GIAMMONA  
 Name of Agency SAN DIEGO DATA PROCESSING CORPORATION  
 Mailing Address 5975 SADA FE STREET  
SAN DIEGO, CA 92109

[Signature] 8/30/94  
 (Signature of Chief Executive Officer)

Note: Government Code Section 87306 requires that when an agency has determined that amendments are necessitated by changed circumstances, the amendments or revisions shall be submitted to the code reviewing body within 90 days.

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