



## Inter Office Memo

DEPARTMENT OF  
HUMAN RESOURCES

### ITEM 9

DATE: September 29, 2020

TO: Deferred Compensation Management Council

FROM: Hollis Magill, Human Resources Manager *Hollis Magill*

SUBJECT: Proposed Amendments to the Deferred Compensation Management Council  
Conflict of Interest Code

#### **BACKGROUND**

As your Council is aware, the Deferred Compensation Management Council (DCMC) is a committee appointed by the County of Fresno Board of Supervisors. Pursuant to the Political Reform Act (Government Code Section 81000, et seq.), the Board of Supervisors must adopt a Conflict of Interest Code for its appointed committees, including the DCMC.

At its March 25, 2014 meeting, the Board of Supervisors adopted the current DCMC Conflict of Interest Code (the "Code"). The Clerk of the Board of Supervisors is requesting that your Council review and approve revisions to the Code, which will be submitted to the Board of Supervisors for recommended adoption.

#### **ISSUE**

Staff has attached a redlined version (Attachment B) and a final version (Attachment A) of the proposed Code. Counsel has reviewed the proposed Code and has approved as to legal form. Staff would like to note the proposed amendments to the Bylaws:

1. **Changes to the Form 700 Filing Process.** The proposed amended Code states that Members of your Council will file their original Form 700 with the Clerk of the Board of Supervisors, rather than the Department of Human Resources. This will not materially affect the filing process, as members of your Council have been filing electronically with the Clerk of the Board of Supervisors since 2016.
2. **Changes to the Disclosure Categories.** The proposed amended Code re-words and expands upon the current Code. However, the proposed Disclosure Categories do not appear to be fundamentally different from the current Code.

#### **RECOMMENDED ACTION**

**Approve the proposed amended Deferred Compensation Management Council Conflict of Interest Code and direct staff to submit the proposed amended Code to the Board of Supervisors for recommended adoption.**

# ITEM 9 – EXHIBIT A

## CONFLICT-OF-INTEREST CODE FOR

### **Deferred Compensation Management Council**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) that contains the terms of a standard conflict-of-interest code and may be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices designating positions and establishing disclosure requirements shall constitute the conflict-of-interest code of the **Deferred Compensation Management Council (Council)**.

The Form 700s for designated positions, other than the **Council's Council Members**, shall be filed with the **Council**. The **Council Members** are to file their original Form 700s directly with the Clerk of the Board for the Fresno County Board of Supervisors using the electronic filing system. If the Form 700s are not filed electronically, the paper Form 700 and waiver shall be filed with the **Council** and, upon receipt of these paper Form 700s with waivers, the **Council** shall make and retain a copy and forward the original to the Clerk of the Board of Supervisors.

The **Council** shall retain a copy of all electronically filed Form 700s, a copy of all paper Form 700s with waivers and the original Form 700s of designated positions and shall make the Form 700s available for public review, inspection, and reproduction. (Gov. Code section 81008.)

The provisions of all Conflict of Interest Codes and amendments thereto previously adopted by the Agency are hereby superseded.

# ITEM 9 – EXHIBIT A

## APPENDIX A

### Public Officials Who Manage Public Investments

It has been determined that positions listed below manage public investments ***and will file a statement of economic interests pursuant to Government Code Section 87200.*** These positions are listed for informational purposes only:

- Member of Deferred Compensation Management Council
- Consultants

An individual holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

## DESIGNATED POSITIONS

### Designated Positions

### Disclosure Categories

- |                             |   |
|-----------------------------|---|
| • Legal Counsel             | 1 |
| • Consultants/New Positions | * |

\* Consultants/New Positions are included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this code subject to the following limitation:

The **Chairman** may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The **Chairman’s** determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

# ITEM 9 – EXHIBIT A

## APPENDIX B DISCLOSURE CATEGORIES

Individuals holding designated positions must report their interests according to their assigned disclosure category(ies).

### Disclosure Category 1

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities, and income, including loans, gifts, and travel payments, from all sources.

### Disclosure Category 2

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

### Disclosure Category 3

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

### Disclosure Category 4

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the designated position's division or department.

### Disclosure Category 5

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that filed a claim against the agency during the previous two years, or have a claim pending.

### Disclosure Category 6

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources of the type to request an entitlement to use agency property or facilities, including, but not limited to:

- a license
- utility permit
- station vendor permit

## ITEM 9 – EXHIBIT B

### CONFLICT-OF-INTEREST CODE FOR

#### DEFERRED COMPENSATION MANAGEMENT COUNCIL

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict-of-interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Section 18730) that contains the terms of a standard conflict-of-interest code and may be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices ~~A, B, and C~~ designating positions and establishing disclosure requirements shall constitute the conflict-of-interest code of the County of Fresno **Deferred Compensation Management Council (the "Council")**.

~~Individuals holding designated positions shall file their statements of economic interests with the Personnel Services Manager—Employee Benefits Division (Personnel Services Manager), who will retain the statements and make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Upon receipt of the original statements of Council Members, Personnel Services Manager shall make and retain a copy and forward the original of these statements to the Clerk to the County Board of Supervisors.~~

The Form 700s for designated positions, other than the **Council's Council Members**, shall be filed with the **Council**. The **Council Members** are to file their original Form 700s directly with the Clerk of the Board for the Fresno County Board of Supervisors using the electronic filing system. If the Form 700s are not filed electronically, the paper Form 700 and waiver shall be filed with the **Council** and, upon receipt of these paper Form 700s with waivers, the **Council** shall make and retain a copy and forward the original to the Clerk of the Board of Supervisors.

The **Council** shall retain a copy of all electronically filed Form 700s, a copy of all paper Form 700s with waivers and the original Form 700s of designated positions and shall make the Form 700s available for public review, inspection, and reproduction. (Gov. Code section 81008.)

The provisions of all Conflict of Interest Codes and amendments thereto previously adopted by the Agency are hereby superseded.

# ITEM 9 – EXHIBIT B

## APPENDIX A

### Public Officials Who Manage Public Investments

It has been determined that positions listed below manage public investments **and will file a statement of economic interests pursuant to Government Code Section 87200**. These positions are listed for informational purposes only:

- Member of Deferred Compensation Management Council
- Consultants

An individual holding one of the above-listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

## DESIGNATED POSITIONS

### Designated Positions

### Disclosure Categories

- Legal Counsel ~~to the Deferred Compensation Management Council~~ 1, 2, 3
- Consultants/New Positions \*

\* Consultants/New Positions ~~shall be~~ are included in the list of designated positions and shall disclose pursuant to the disclosure requirements in this code subject to the following limitation:

The ~~Deferred Compensation Management Council~~ Chairman may determine in writing that a particular consultant or new position, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements in this section. Such written determination shall include a description of the consultant’s or new position’s duties and, based upon that description, a statement of the extent of disclosure requirements. The ~~Deferred Compensation Management Council’s~~ Chairman’s determination is a public record and shall be retained for public inspection in the same manner and location as this conflict-of-interest code. (Gov. Code Sec. 81008.)

# ITEM 9 – EXHIBIT B

## APPENDIX B DISCLOSURE CATEGORIES

Individuals holding designated positions must report their interests according to their assigned disclosure category(ies).

### Disclosure Category 1

~~Designated positions in this category must disclose all interests in real property which foreseeably may be purchased or invested in by the County of Fresno 457(b) Deferred Compensation Plan (the “Plan”).~~

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency; and investments and business positions in business entities, and income, including loans, gifts, and travel payments, from all sources.

### Disclosure Category 2

~~Designated positions in this category must disclose all investments or business positions in, and all income, including loans, gifts, and travel payments, from any business entity which, within the past two (2) years, has received, or in the future, foreseeably may receive investment funds from the Plan.~~

Interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by the agency.

### Disclosure Category 3

~~Designated positions in this category must disclose all investments or business positions with, and all income, including loans, gifts, and travel payments, from any business entity which, within the past two (2) years, has received, or in the foreseeable future, may contract with the Plan to provide services, supplies, materials, machinery, or equipment to the Plan.~~

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the agency.

### Disclosure Category 4

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that provide services, supplies, materials, machinery, or equipment of the type utilized by the designated position's division or department.

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### Disclosure Category 5

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources, that filed a claim against the agency during the previous two years, or have a claim pending.

### Disclosure Category 6

Investments and business positions in business entities, and income, including loans, gifts, and travel payments, from sources of the type to request an entitlement to use agency property or facilities, including, but not limited to:

- a license
- utility permit
- station vendor permit



## ITEM 9 – EXHIBIT B

### ~~APPENDIX C~~

#### ~~AGENCY POSITIONS THAT MANAGE PUBLIC INVESTMENTS FOR PURPOSES OF SECTION 87200 OF THE GOVERNMENT CODE~~

#### ~~Position Required To File A Statement Of Economic Interests~~

- ~~• Member of the Deferred Compensation Management Council~~
- ~~• Consultant~~