Office of the County Counsel
County of Santa Clara

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MEMORANDUM

TO: Filing Officials for Agencies, Boards, Commissions, Committees, and Districts Required to File Statements of Economic Interests

FROM: Miguel Márquez, Acting County Counsel Miguel M
Maria Marinos, Clerk of the Board of Supervisors Maria Marinos

RE: Filing of Statements of Economic Interests - Form 700

STATUTORY DEADLINE TO NOTIFY CLERK OF THE BOARD OF THE NAMES & POSITIONS REQUIRED TO FILE FORM 700: <u>FEBRUARY 1, 2010</u>

TIMEFRAME TO DISTRIBUTE FORM 700 MATERIALS TO YOUR DESIGNATED FILERS: <u>AFTER FILING OFFICIALS' LAB TRAINING WITH DISTRIBUTION COMPLETED BY FEBRUARY 5, 2010</u>

STATUTORY DEADLINE FOR FILING FORM 700s WITH THE CLERK OF THE BOARD: <u>APRIL 1, 2010</u>

DATE: January 13, 2010

Attached to this memorandum is a copy of the Form 700, Statement of Economic Interests. All officers, employees, and consultants hired by the agency who are in a position which entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest, must file a disclosure statement. The positions designated to file Form 700s should be accurately listed on your agency's Conflict of Interest Code.

I. <u>Training for Filing Officials – January 20, 2010 and Week of January 25, 2010; Follow-up Meeting on March 16, 2010</u>

All Filing Officials are required to attend the January 20, 2010 Form 700 training. The workshop will cover recent changes in the law, your responsibilities as your agency's Filing Official, timelines and deadlines for the Filing Official and the filers, common errors in filling out the Form 700, frequently asked questions, and an overview of the new electronic system for filers to fill out their Form 700s online and for Filing Officials to track their agency's Form 700 filers.

There will be a second required workshop for Filing Officials during the week of January 25, 2010 to provide hands-on training on how to use the electronic online Form 700 system.

There will also be a meeting on March 16, 2010 at 10:00 a.m. for Filing Officials, during which the County Counsel and the Clerk of the Board's office will be available to answer questions that may have arisen during your annual Form 700 filing process, to ensure that your agency is on target for complete and timely filing by all of your designated filers.

II. List of Filers to Clerk of the Board by February 1st (Please Use Template Provided)

The law requires that each Filing Official notify the Clerk of the Board no later than February 1st of each year with the name and position title of every designated employee and contractor/consultant in your agency who must file a Form 700. It is your responsibility under the law to notify the Clerk of the Board of Supervisors **by February 1, 2010. A template for you to list the individuals' names and position titles is provided.** The template notes items to be aware of (e.g., ensuring the listed name matches the individual's name as he/she files, and that the position title matches the position title listed on your Conflict of Interest Code).

III. Materials to Designated Filers (distribution should follow Filing Official trainings and be completed by February 5, 2010) (Please Customize and Use the Sample Cover Memo to Send to Your Filers with Materials)

PLEASE ENSURE THAT THE FORM 700, COVER MEMO AND FPPC REFERENCE MATERIALS ARE DISTRIBUTED TO EVERY FILER IN YOUR AGENCY BY FEBRUARY 5, 2010. We are providing a sample cover memo (which will also be emailed to you following the January training) for you to customize and put on your agency letterhead to send with the Form 700s to your filers to explain the process to them, including the new electronic Form 700 system, and why it is required. You should also attach the list of designated positions and disclosure categories from your agency's conflict of interest code to the cover memo so filers can see exactly what their position is required to disclose. (You should have a copy of your agency's conflict of interest code.)

As the Filing Official, it is your responsibility to make certain that every person in a position listed in your conflict of interest code receives a form and files in a timely fashion.

Beginning this year, the County of Santa Clara Clerk of the Board's Office is implementing a new online system for Form 700 filers of local agencies to fill out their Form 700 online (which will be password protected and can be saved for the filer to return later to complete). It is requested that you have all of your filers with Internet access use the link to the County's system to fill out their Forms online. The online Form will assist filers in filling out the form accurately and completely; the system allows the Filing Official a method of keeping track of your agency's filers; and upon the filer's printing of the completed form, the system will attach a bar code to the Form to assist the County with record-keeping.

The online form can be filled out online but must then be printed out, signed, and submitted in paper format to you as the Filing Official. **The link to access the online Form 700 will be provided to Filing Officials at the training.**

As discussed above, trainings for Filing Officials on the new online Form 700 system will occur during the week of January 25. **We recommend that you wait until after your lab training to distribute materials to your filers**; but, you should still plan to complete the distribution of materials to your filers by February 5.

IV. Additional Reference Materials for Filers

In addition to the Form 700, Statement of Economic Interests, we have enclosed for you to provide to your filers:

1. Reference Pamphlet produced by the Fair Political Practices Commission (FPPC) regarding the 2009/2010 Form 700
2. FPPC brochure regarding the laws on the acceptance of Gifts and Honoraria

It is important that your filers be aware of the strict prohibitions in the area of gifts and honoraria. It is strongly recommended that you provide copies of these brochures to your filers to answer questions they may have when filling out their forms. (These materials will also be emailed to each Filing Official following the January 20 training so you will have them electronically to allow you to distribute via email to save paper.)

V. Deadlines & Responsibilities of the Filing Official

Please refer to the enclosed checklist for the Filing Official's use to assist you in tracking the required steps and timeframes of the process.

As set by law, the Form 700 (Statements of Economic Interests) must be filed in the Office of the Clerk of the Board of Supervisors no later than **April 1, 2010**. Statements should be returned to:

Clerk of the Board
Attn: Form 700s
70 W. Hedding Street, 10th Floor, East Wing
San Jose, CA 95110

Please be advised that the penalty for late filing of the Form 700 includes criminal and civil sanctions for intentional or negligent violation of the reporting requirements. Further, the Clerk of the Board has the authority to impose a penalty against the filer in the amount of $10 per day after the April 1st deadline until the statement is filed and the FPPC can assess a fine of up to $5,000 for late filings. We recommend that you request that all designated filers in your agency return their original forms to you well in advance of the filing date to permit you with time to review the forms for completeness (recommended internal due date: Friday, March 12, 2010).

Before you submit the forms to the Clerk of the Board of Supervisors, you have an independent responsibility to determine that the form is complete. This includes ensuring that:

- the agency, name of the filer and his or her position are clearly stated (no abbreviations) and match the way they are listed on your agency's conflict of interest code;
- the required signature is on the first page;
- the filer's name is listed on every page (first page and each subsequent page);
- the filer has checked on the first page all the schedules he or she has filled out (do not submit blank schedules); and
- the accurate number of total pages is listed on the first page.

If the forms are not complete or in the proper format, it is your obligation to notify the filer that the statement does not satisfy the legal requirements.

These forms should also be reviewed by an Agency Manager or designee for content so that a determination can be made as to the appropriateness of the filer's activities. A filer's financial activities could contravene not only the Political Reform Act, but also other State or local laws, as well as your own employment policies and outside employment prohibitions.

Please do not hesitate to call the Clerk of the Board if you have any questions regarding filing deadlines or completion of the forms. The Clerk's telephone number for Form 700 questions is (408) 299-5077. If you have legal questions regarding the completion of the forms, you may call the County Counsel's office at (408) 299-5902. You may also call the Fair Political Practices Commission toll free at 1-866-275-3772, or access the FPPC website at http://www.fppc.ca.gov.

VI. Consultants

As mentioned above, consultants are included in the definition of those public officials who must file conflict of interest statements. California Code of Regulations, §18701(2) defines consultant as an individual who, pursuant to a contract with a state or local government agency:

(A) Makes a governmental decision whether to:
- (1) Approve a rate, rule, or regulation;
- (2) Adopt or enforce a law;
- (3) Issue, deny, suspend, or revoke any permit, license, application, certificate, approval, order, or similar authorization or entitlement;
- (4) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract that requires agency approval;
- (5) Grant agency approval to a contract that requires agency approval and to which the agency is a party, or to the specifications for such a contract;
- (6) Grant agency approval to a plan, design, report, study, or similar item;
- (7) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(B) Serves in a staff capacity with the agency and in that capacity participates in making a governmental decision as defined in Regulation 18702.2 or performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

Under the Act, it is not the business or firm providing services to your agency that is considered the consultant. All *individuals* working for the firm who provide the services are considered to be the consultants. These individuals must file Statements of Economic Interests.

VII. Leaving Office & Assuming Office Statements

Please also remember that if a designated filer leaves his or her position during the year, the law requires the person fill out a Leaving Office Statement within 30 days of leaving office.

Likewise, if someone assumes a designated position during the year, the law requires the person to fill out an Assuming Office Statement within 30 days of assuming the position.

Enclosures:

(1) Checklist for Filing Officials
(2) Template for List of Filer Names and Position Titles to Clerk of the Board
(3) Sample Cover Memo to Distribute to Filers
(4) Form 700 - Statement of Economic Interests (2009/2010)
(5) 2009/2010 Form 700 Reference Pamphlet
(6) Limitations and Restrictions on Gifts, Honoraria, Travel and Loans (01/09)