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MEMORANDUM

TO: Filing Officials for Agencies, Boards, Commissions, Committees, and Districts (Required to file Statements of Economic Disclosure)

FROM: *Ann Miller Ravel*
Ann Miller Ravel, County Counsel
Maria Marinos, Clerk of the Board of Supervisors *Maria Marinos*

RE: Filing of Statements of Economic Disclosure - Form 700

DATE BY WHICH TO DISTRIBUTE FORM 700 MATERIALS TO YOUR DESIGNATED FILERS: JANUARY 30, 2009

DATE TO NOTIFY CLERK OF THE BOARD OF THE NAMES & POSITIONS REQUIRED TO FILE FORM 700: FEBRUARY 6, 2009

DEADLINE FOR FILING FORM 700s WITH THE CLERK OF THE BOARD: APRIL 1, 2009

DATE: January 9, 2009

Attached to this memorandum is a copy of the Form 700, Statement of Economic Interests. All elected local officers must file a disclosure statement, as well as every employee and consultant hired by the agency who is 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. The positions designed to file Form 700s should be accurately listed on your agency's Conflict of Interest Code.

I. Materials to Designated Filers

PLEASE ENSURE THAT THE FORM 700, COVER MEMO, AND FPPC REFERENCE MATERIALS ARE DISTRIBUTED TO EVERY FILER IN YOUR AGENCY. We are providing a sample cover memo 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, what they need to do, and why. It is also recommended that you attach your agency's list of designated positions and disclosure categories from your conflict of interest code to the cover memo so filers can see exactly what their position is required to fill out and disclose.

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. **The filing deadline is Wednesday, April 1, 2009.** You may also let your filers know that they may fill out the form online at the Fair Political Practices Commission (FPPC) website.

To access the interactive form, go to <http://www.fppc.ca.gov/forms/700-08-09/Form700-08-09.pdf>. The interactive form can be filled out online but must then be printed out, signed, and submitted in paper format to the Filing Official.

II. Additional Reference Materials for Filers

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

1. a Reference Pamphlet produced by the FPPC regarding the 2008/2009 Form 700s
2. an FPPC brochure (Your Duty to File) providing an overview of State economic disclosure law and reporting requirements
3. an FPPC brochure regarding the law on the acceptance of Gifts and Honoraria

It is important that your employees be aware of the strict prohibitions in the area of gifts and honoraria. It is recommended that you give copies of these brochures to your filers to answer questions they may have when filling out their forms.

III. List of Filers to Clerk of the Board

It is your responsibility under the law to notify the Clerk of the Board of Supervisors of the name and position of every individual in your agency who must file a Form 700. To do this, please send a memo **by February 6, 2009** listing the names and positions of every designated employee and contractor/consultant in your agency required to file a Form 700 to:

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

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IV. Deadlines & Responsibilities of the Filing Official

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

The Statements of Economic Interest must be filed in the Office of the Clerk of the Board of Supervisors no later than April 1, 2009. Statements should be returned to:

Clerk of the Board's Office
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 in the amount of \$10 per day after the deadline until the statement is filed. We recommend, therefore, 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.

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
- that the required signature is on the first page
- that the filer's name is listed on every page (first page and each subsequent page)
- that the filer has checked on the first page all the schedules he or she has filled out
- and that 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 statements do not satisfy the legal requirements.

These forms should also be reviewed 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 Fair Political Practices Act, but also other State or local law, 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. The Clerk's telephone number is (408) 299-5001. If you have legal questions or questions regarding the completion of the forms, feel free to call the County Counsel 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>.

V. 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. The *individuals* working for the firm who provide the services are considered to be the consultants. These individuals must file Statements of Economic Interest.

VI. Leaving Office & Assuming Office Statements

Please also remember that if a 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.

AMR:kf

Enclosures:

- (1) Checklist for Filing Officials
- (2) Sample Cover Memo to Distribute to Filers
- (3) Form 700 - Statement of Economic Interests (2008/2009)
- (4) 2008/2009 Form 700 Reference Pamphlet
- (5) Limitations and Restrictions on Gifts, Honoraria, Travel and Loans (01/09)
- (6) Your Duty to File: Overview of Economic Disclosure Law & Reporting Requirements (09/04)