

Revisions in ~~strikeout~~ and underline

**FIRST AMENDED CONFLICT OF INTEREST CODE**

**ABAG PUBLICLY OWNED ENERGY RESOURCES**

The Political Reform Act, Government Code Sections 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 California Code of Regulations, Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference in an agency's Code. After public notice and hearing, it 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, along with the attached Appendices in which officials and ~~employees~~positions are designated and disclosure categories are set forth, are hereby incorporated by reference and constitute the First Amended Conflict of Interest Code of ABAG Publicly OWned Energy Resources (ABAG POWER).

~~Designated employees~~Persons who hold designated positions shall file Statements of Economic Interests with the Association of Bay Area Governments (ABAG) who will make the statements available for public inspection and reproduction (Government Code Section 81008). Statements for all persons who hold designated ~~employees~~positions will be retained by ~~the Association of Bay Area Governments~~ABAG.

**CONFLICT OF INTEREST DISCLOSURE DESIGNATIONS**

ABAG POWER has identified ~~four (4)~~three (3) disclosure categories: (1) requires disclosure of business entities and business positions in which designated parties have investments or sources of income to them if such entities or sources of income have filed claims against any member of ABAG POWER or ABAG POWER itself; ~~(2) requires disclosure of business entities and business positions in which designated parties have investments or sources of income to them if such entities or sources of income are of the type in which ABAG POWER is empowered to invest its funds;~~ (3) requires designated persons to disclose business entities and business positions in which they have investments or sources of income to them if such entities are of the type which contract with ABAG POWER or the Association of Bay Area Governments (ABAG), its administrator, to supply goods, services, materials, supplies, lease space or which are energy consultants, research firms, engineering firms or entities which design, build, manufacture, sell, distribute or service equipment of the type that is either presently utilized by natural gas or electric power suppliers or that is used by the federal, state or local government or by private industry in research designed to refine or develop new methods of electrical power generation or natural gas production; and (3) requires designated persons to disclose business entities and business positions in which designated parties have investments or sources of income to them if such entities or sources of income are private electric or natural gas utility companies.

The designated position list is intended to include all persons with decision-making powers or influence concerning how, where and with whom ABAG POWER invests funds and contracts for goods and services to disclose any bias such parties may have in making substantive decisions concerning the operations of ABAG POWER.

Effective July 1, 2017, the Metropolitan Transportation Commission (MTC), pursuant to the Contract for Services dated as of May 30, 2017 (Contract for Services) between MTC and ABAG, provides consolidated staff to perform work for ABAG and its affiliated Local Collaboration Programs, including ABAG POWER.

The primary decision-making positions of ABAG POWER are the members and alternate members of the Board of Directors (Board). The members and alternate members of the Board are

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not included in the Code because "city, county and local agency public officials who manage public investments" are not "designated employees" and file Statements of Economic Interest pursuant to Government Code § 87200. However, under the Contract for Services, certain MTC staff ~~the president, financial officer, manager of ABAG POWER Program, legal counsel and some consultants~~ may make recommendations to or bring information or proposals to the members of the Board and thus may influence the Board's decisions concerning ABAG POWER. MTC staff serving ABAG and ABAG POWER under the Contract for Services are not employees of ABAG but are included in the list of designated positions under this Code as consultants pursuant to Government Code Section 82019, which includes consultants within the definition of "designated employee". ~~Therefore~~ Additionally, with the exception of, consultants whose duties are limited in scope and who thus may have limited disclosure responsibilities, ~~the remaining positions set forth in the preceding sentence~~ consultants shall be required by ABAG POWER's Code to file Statements of Economic Interest and any supplementary information that may from time to time be required annually and upon assuming and leaving office/job position as set forth in 2 California Code of Regulations, § 18730**(b)**(5).

**APPENDIX A**

**DISCLOSURE CATEGORIES**

Category 1

Persons designated in this category must disclose all investments and business positions in business entities and sources of income if such entities or sources of income filed claims against any member jurisdiction of ABAG POWER or ABAG POWER itself during the reporting period.

Category 2

~~Persons designated in this category must disclose all investments and business positions in business entities and sources of income if the business entities or sources of income are of the type in which ABAG POWER is empowered to invest its funds.~~

Category 3

Persons designated in this category must disclose all investments and business positions in business entities and sources of income if the business entities or sources of income are of the type that contract with ABAG POWER or ABAG, its administrative agency, to supply goods, services, materials, supplies, leased space or which are energy consultants, research firms, engineering firms or entities which design, build, manufacture, sell, distribute or service equipment of the type that is either presently utilized by natural gas or electric power suppliers or that is used by the federal, state or local government or by private industry in research designed to refine or develop new methods of electrical power generation or natural gas production.

Category 4

Persons designated in this category must disclose all investments and business positions in business entities and sources of income if the business entities or sources of income are private electric or natural gas utility companies.

APPENDIX B

DESIGNATED POSITIONS

<u>Designated Positions</u>	<u>Disclosure Category</u>
President *	1, 2, 3, 4
<del>Secretary/Manager, ABAG POWER</del>	<del>1, 3, 4</del>
Legal Counsel	1, 2, 3, 4
<u>MTC Staff serving ABAG and ABAG POWER pursuant to the Contract for Services, including:</u>	<u>1, 2, 3 (except where otherwise indicated)</u>
<ul style="list-style-type: none"> <li>• <u>Deputy Executive Director, Local Government Services</u></li> <li>• <u>General Counsel</u></li> <li>• <u>Senior Deputy General Counsel</u></li> <li>• <u>Senior Counsel</u></li> <li>• <u>Director, Finance &amp; Accounting (Categories 2, 3)</u></li> <li>• <u>Director, Treasury &amp; Revenue (Categories 2, 3)</u></li> <li>• <u>Assistant Director, Energy Program</u></li> </ul>	
Consultants/ <u>New Positions</u> *	1, 2, 3, 4

\* With respect to consultants/new positions, the Executive Director of MTC may determine in writing that a particular consultant or new position, although a "designated person," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the

disclosure requirements described in this Section. Such 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 and shall be retained in ABAG POWER's files. Nothing herein excuses any such consultant or new position from any other provision of this Conflict of Interest Code.

**OFFICIALS WHO MANAGE PUBLIC INVESTMENTS**

The following individuals are not covered by the conflict of interest code because they must file under Political Reform Act's section 87200 and, therefore, are listed for informational purposes only:

Members and Alternate Members of ABAG POWER Board of Directors

Executive Director of MTC, acting pursuant to the Contract for Services

Chief Financial Officer of MTC, acting pursuant to the Contract for Services

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 section 87200.

~~\* This position is held by the Executive Director, Association of Bay Area Governments.~~

~~\*\* With respect to Consultants, the President, who is the Chief Administrative Officer, may determine in writing that a particular consultant, although a "designated person," is hired to perform a range of duties that are limited in scope and thus is not required to comply with the disclosure requirements described in this Section. Such determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements and shall be retained in ABAG POWER's files. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.~~

**~~APPENDIX C~~**

**~~OFFICIALS WHO MANAGE PUBLIC INVESTMENTS~~**

~~It has been determined that the position listed below manages public investment and will file Form 721 Statement of Economic Interest:~~

~~Chief Financial Officer serving as ABAG's "Financial Officer"~~