

Public Official's Conflict of Interest Checklist

KEY CONCEPTS

- ✓ A public agency's decision should be based solely on what best serves the public's interests.
- ✓ The law is aimed at the perception, as well as the reality, that a public official's personal interests may influence a decision. Even the temptation to act in one's own interest could lead to disqualification, or worse.
- ✓ Having a conflict of interest does not imply that a public official has done anything wrong; it just means that the official has financial or other disqualifying interests.
- ✓ Violating the conflict of interest laws could lead to monetary fines and criminal penalties for public officials. Don't take that risk.

BASIC RULE

A public official may not participate in a decision – including trying to influence a decision – if the official has financial or, in some cases, other strong personal interests in that decision. When an official has an interest in a contract, the official's agency may be prevented from even making the contract.

WHEN TO SEEK ADVICE FROM AGENCY COUNSEL

The rules are very complex. A public official should talk with agency counsel 1) early and often, 2) when an action by the public agency, 3) may affect (positively or negatively), 4) any of the following:

- ✓ **Income.** Any source of income of \$500 or more (including promised income) during the prior 12 months for the official or official's spouse/domestic partner.
- ✓ **Business Management or Employment.** An entity for which the official serves as a director, officer, partner, trustee, employee, or manager.
- ✓ **Real Property.** A direct or indirect interest in real property of \$2000 or more that the official or official's immediate family (spouse/domestic partner and dependent children) have, including such interests as ownership, leaseholds (but not month-to-month tenancies), and options to purchase. Be especially alert when any of these are located within 500 feet of the subject of the official's decision.
- ✓ **Personal Finances.** The official or official's immediate family's (spouse/domestic partner and dependent children) personal expenses, income, assets, or liabilities.

- ✓ **Gift Giver.** A giver of a gift of \$420 (2009-10) or more to the official in the prior 12 months, including promised gifts.
- ✓ **Lender/Guarantor.** A source of a loan (including a loan guarantor) to the official.
- ✓ **Contract.** The official or a member of the official's family would have an interest (direct or indirect) in a contract that the agency is considering entering into.
- ✓ **Business Investment.** An interest in a business that the official or the official's immediate family (spouse/domestic partner and dependent children) have a direct or indirect investment worth \$2000 or more.
- ✓ **Related Business Entity.** An interest in a business that is the parent, subsidiary or is otherwise related to a business where the official:
 - Has a direct or indirect investment worth \$2000 or more; or
 - Is a director, officer, partner, trustee, employee, or manager.
- ✓ **Business Entity Owning Property.** A direct or indirect ownership interest in a business entity or trust of the official's that owns real property.
- ✓ **Campaign Contributor.** A campaign contributor of the official (applies to appointed decision-making bodies only).
- ✓ **Other Personal Interests and Biases.** The official has important, but non-financial, personal interests or biases (positive or negative) about the facts or the parties that could cast doubt on the official's ability to make a fair decision.

WHAT WILL HAPPEN NEXT?

Agency counsel will advise the official whether 1) the official can participate in the decision and, 2) if a contract is involved, whether the agency can enter into the contract at all. Counsel may suggest asking either the Fair Political Practices Commission or the State Attorney General to weigh in.

EVEN IF IT'S LEGAL, IS IT ETHICAL?

The law sets only minimum standards. Officials should ask themselves whether members of the public will question whether officials should act solely in the public's interest. If they might, officials should consider excusing themselves voluntarily from that particular decision-making process.