Subject: CONFLICT OF INTEREST

REFERENCES	SECTIONS
Administrative Order http://inside.dgs.ca.gov/ad/SubjectsAO.aspx	AO 05-06, 07-01
Law & Regulation http://leginfo.legislature.ca.gov/faces/codes.xhtml;jsessionid=ec740fb92d7f258ccc38ebd5c0c9 http://weblinks.westlaw.com/toc/default.aspx?Abbr=ca%2Dadc&Action=ExpandTree&AP=I1CF57861D48D11DEBC02831C6D6C108E&ItemKey=I1CF57861D48D11DEBC02831C6D6C108E&RP=%2Ftoc%2Fdefault%2Ewl&Service=TOC&RS=WEBL13.01&VR=2.0&SPa=CCR-1000&pbc=DA010192&fragment#I1CF57861D48D11DEBC02831C6D6C108E	GC: 1090-1091; 81000-91015, 13400 et seq. CCR: 1194; 18000 et seq.
Responsible Control Agency and Program	Fair Political Practices Commission (FPPC)
State Administrative Manual http://sam.dgs.ca.gov/	1200 Contracts 5202 Information Technology (DGS Procurement)
Other: Fair Political Practices Commission (Form 700) http://www.fppc.ca.gov/ DGS Conflict of Interest Code http://documents.dgs.ca.gov/dgsnet/resources/COI-CICode.pdf List of Designated Positions List of Categories Ethics Orientation for State Officials http://oag.ca.gov/ethics	 Under development Under development

Conflict of Interest

Policy

Effective January 2, 2006, all DGS employees shall perform his/her duties in an impartial manner; free from bias caused by their own financial interests or the financial interests of his/her immediate family. Employees who have a conflict of interest are to remove themselves from the activity. Employees who have concerns about possible conflicts of interest are advised to discuss the matter with his/her supervisor. If there is a conflict, the DGS will work with the employee to resolve the issue.

Definition/ Explanation

The Political Reform Act of 1974 (the Act) requires public agencies to adopt a Conflict of Interest Code in accordance with the provisions of Chapter 7, Article 3 of the Act.

The Act seeks to ensure that designated employees:

1. Perform their duties in an impartial manner free from bias caused by their own financial interests;
2. Disclose assets and income if the employees may benefit materially by their official actions; and
3. Under certain circumstances, disqualify themselves from acting in order to avoid conflicts of interest.

A “designated employee” is an officer, employee, or consultant whose position is designated in the department’s Conflict of Interest Code (CCR 1194) because the position is responsible for making or participating in the making of governmental decisions that may potentially have a material effect on any personal financial interests. A conflict of interest occurs when an employee in a designated position takes an official action that is, may be, or appears to be influenced by considerations of personal gain rather than the general public good.

Note: Assets and income of public officials which may be materially affected by their official actions should be disclosed and in appropriate circumstances the officials should be disqualified from acting in order that conflicts of interest may be avoided (Government Code Section 81002(c).

The Fair Political Practices Commission (FPPC) is the administrative body with primary responsibility for administering and implementing provisions of the Act.

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Conflict of Interest, Continued

Definition/ Explanation (continued)

Conflict of Interest
A conflict of interest is any financial interest of the employee that may foreseeably be a part of the project to which the employee is assigned. Thus, for example, if a certain type of vendor always bids on information technology system integration projects, it is foreseeable that the vendor will be involved in all information technology project acquisitions.

Financial Interest
A financial interest shall be considered:

1) Any stock owned by the employee, the employee's spouse, or the employee's dependent child (regardless of the value of the stock);

2) Any income of the employee or the employee's spouse received over the past 12 months (regardless of the value of the stock)

3) Any real property or interest in real property held by the employee or the employee's spouse (such as leasehold interest or interests in partnerships with real property holdings)

4) Any positions held in any company or organization (such as manager, CEO, board member)

5) Any gift or gifts received by the employee over the past 12 months

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Conflict of Interest, Continued

Categories

The DGS has implemented certain safeguards to assist employees in their decision-making process, and to ensure compliance with this policy. This policy affects any DGS employee who falls into the categories described below.

What	Who	When
Complete a Statement of Economic Interest (Form 700)	• All employees listed in the current DGS Conflict of Interest Code	• Within 30 days of the appointment to the position (Assuming Office Statement/ Initial Statement) • Annually thereafter (Annual Statement) • Within 30 days after leaving his/her position (Leaving Office Statement)
Complete a Conflict of Interest Affidavit	• Employees involved in the making of, or participating in the making of, government decisions which may have a material affect on his/her assets or income. These must be completed on a project by project basis. The Affidavit shall be maintained in the project file by the employee's supervisor or project manager	If the transaction is valued at $5,000 or more, then prior to and during the entire contract management process: • participating in a solicitation or acquisition • the appraisal or establishing of value of State-owned property • the sale, transfer or trade of State-owned property • designing space, determining the need for space improvements and/or equipment • negotiating a lease agreement • approving purchases; signing vendor contracts

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Conflict of Interest, Continued

Categories (continued)

What	Who	When
Conflict of Interest Declaration on DGS Coordination Sheet or the Procurement Division's Document Transmittal Form (may be used instead of affidavit for management participating inv review)	• All levels of authority involved in the contract/acquisition/work approval process • Used by management who participate solely as a reviewer of staff work Should include review of contracts/acquisitions and other project work such as development of regulations, legislation, reports, etc.	During the approval process leading to final signature and contract execution

Document review

Designated employees, as noted in the table below, shall review completed Statements of Economic Interests and Conflict of Interest Affidavits for completeness and potential conflicts of interest based on the employee's specific duties.

What	Who	When
Statement of Economic Interest (Form 700)	1. Branch or Office Chief 2. Deputy Director 3. Director/Chief Deputy Director 4. DGS Filing Officer	1. After completion by the employee 2. After Branch/Office Chief has reviewed and signed Transmittal Sheet Certification 3. After completion by Executive Office direct reports 4. After Deputy Director has reviewed and signed Transmittal Sheet Certification

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Conflict of Interest, Continued

Document review (continued)

What	Who	When
Conflict of Interest Affidavit	• Immediate supervisor	If the transaction is valued at $5,000 or more, then prior to: • participating in a solicitation or acquisition • the appraisal or establishing of value of State-owned property • the sale, transfer or trade of State-owned property • designing space, determining the need for space improvements and/or equipment • negotiating a lease agreement • approving purchases; signing vendor contracts and during the entire contract management/acquisition process. (The affidavit will be maintained in the project file.)

Activities related to legislation or regulations

DGS employees shall review their financial interests prior to proposing or reviewing legislation, or promulgating regulations to ensure there is no conflict of interest. Employees who have concerns about possible conflicts of interest shall discuss the matter with his/her supervisor.

Amendments

An amendment to a Form 700 may be filed at any time – there is no deadline. A filer may submit more than one amendment.

Expanded statements

Many officials hold more than one position covered under the “Act” and may combine all of their filing obligations in one form, with a copy containing an original signature filed with each agency.

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Conflict of Interest, Continued

Procedure

The following table depicts the steps for the submission of the Form 700 and or Conflict of Interest Affidavit.

The Administrative Assistant (AA) or Personnel Liaison (PL) in each office/division should have a list of classifications that are designated "Conflict of Interest." If not, the AA or PL shall contact the Conflict of Interest Filing Officer, in the Management Services Division, and request a list of classifications. Employee questions regarding the Statement of Economic Interest, Form 700, should be directed to the Conflict of Interest Filing Officer.

Step	Action
1	The position duty statement and job opportunity bulletin contain language regarding the conflict of interest form and compliance. **Prior to appointment** it is suggested that the form be completed at the time of the job offer to ensure the potential employee complies with the requirement of the position. If the employee declines to comply with the requirements of the position, the second best qualified candidate may be offered the position
2	The AA or PL in each office/division provides the employee with a copy of the Form 700 or allows the employee to complete the Form 700 online at http://www.fppc.ca.gov/
3	Upon completion by the employee: • the Form 700 is reviewed by the Branch/Office Chief • the Conflict of Interest Affidavit is reviewed by the employee's immediate supervisor (click the following link for a copy of the affidavit http://www.documents.dgs.ca.gov/ohr/pom/conflictofinterestaffidavitform.doc Note: Questions regarding the Form 700 or Conflict of Interest Affidavit should be directed to the Conflict of Interest Filing Officer
4	Following document review, the Form 700 is forwarded to the Conflict of Interest Filing Officer for review and maintenance

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Conflict of Interest, Continued

Post employment

Definitions

a. "State administrative agency" means every state office, department, division, bureau, board and commission, but does not include the Legislature, the courts or any agency in the judicial branch of government.
b. "State administrative official" means every member, officer, employee or consultant of a state administrative agency who as part of his/her official responsibilities engages in any judicial, quasi-judicial or other proceeding in other than a purely clerical, secretarial or ministerial capacity.
c. "Judicial, quasi-judicial or other proceeding" means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state administrative agency, including but not limited to any proceeding govern by Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code.
d. "Participated" means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an officer or employee, but excluding approval, disapproval or rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

The Political Reform Act places three restrictions on the activities of State administrative officials who are leaving government employment. Two are post-employment, while the third regulates activities of an official before leaving.

- One-Year Ban: Government Code Section 87406 restricts former state officials, for one year after leaving state service, from being paid to communicate with their former agency in an attempt to influence agency decisions that involve the making of general rules (such as regulations or legislation), or to influence a permit, license, contract, or transaction involving property or goods. (Note: The Act also places a one-year restriction on the activities of members of certain air pollution control districts.)

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Conflict of Interest, Continued

Post employment (continued)

- Lifetime Ban: Government Code Section 87400-87405 prohibit former state officials from being paid to appear in a proceeding involving specific parties (e.g., a lawsuit, administrative law judge hearing, or a state contract) in which the official participated.
- Prospective Employers: Government Code Section 87407 prohibits state and local public officials from making, participating in, or influencing any governmental decisions that directly relates to a prospective employer.

Ethics training

The passage of Assembly Bill 3022 requires all employees completing a form 700 (Statement of Economic Interests) to take ethics training every two years. State officials should check with DGS' Office of Legal Services on specific ethics training requirements before taking the course offered through the Office of the Attorney General at the following link: http://www.ag.ca.gov/ethics/index.htm

ABMS alert

Employees assuming or leaving designated conflict of interest positions will receive an alert informing them of their requirement to file a Statement of Economic Interest (Form 700). These alerts are copied to the office Personnel Liaison, the DGS Filing Officer and the employee's immediate supervisor as maintained on the employee's Activity Based Management System (ABMS) record.

The "assuming" alert identifies employees new to a designated position as soon as the position is entered on the employee's ABMS record. The "leaving" alert identifies employees transferring/separating from a designated position when the office enters the projected separation on the "Separation" screen within the ABMS Employee Information record.