



# San Luis Obispo Local Agency Formation Commission

**TO: MEMBERS OF THE COMMISSION**

**FROM: ROB FITZROY, EXECUTIVE OFFICER**

**DATE: AUGUST 18, 2022**

**SUBJECT: 2022 BIENNIAL UPDATE OF THE CONFLICT OF INTEREST CODE**

## **RECOMMENDATION**

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It is respectfully recommended that the Commission consider taking the following actions:

**Action 1:** Adopt the resolution to amend the conflict of interest code, as contained in Attachment A.

## **DISCUSSION**

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The Local Agency Formation Commission (LAFCO) is required to maintain a conflict-of-interest (COI) code under the California Political Reform Act, which includes all the designated positions that are required to file a "Form 700" with the County Clerk of the Board - the local code administrator. Every elected official and public employee who makes or influences governmental decisions is required to submit a Statement of Economic Interests, known as "Form 700".

The Political Reform Act requires every local government agency to review its COI code biennially. LAFCO's COI code was last updated through the 2020 biennial review; changes were approved by the Commission on September 17, 2020, and January 21, 2021. As part of the 2022 biennial review, an amendment is proposed to re-name a recently augmented position, previously known as the Commission Clerk, to Clerk Analyst. Attachment A contains LAFCO's proposed revised COI code shown in red. No further changes are necessary at this time.

An agency/department's COI code is not effective until it has been reviewed by County Counsel and approved by the County Board of Supervisors. LAFCO Counsel will work with the County Clerk of the Board and the County Counsel in finalizing the proposed changes.

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**Attachment A:** Resolution adopting Updated Conflict of Interest Code

### COMMISSIONERS

Chairperson  
ED WAAGE  
City Member

Vice-Chair  
DEBBIE ARNOLD  
County Member

LYNN COMPTON  
County Member

MARSHALL OCHYLSKI  
Special District Member

ROBERT ENNS  
Special District Member

STEVE GREGORY  
City Member

HEATHER JENSEN  
Public Member

### ALTERNATES

DAWN ORTIZ-LEGG  
County Member

ED EBY  
Special District Member

CHARLES BOURBEAU  
City Member

David Watson  
Public Member

### STAFF

ROB FITZROY  
Executive Officer

IMELDA MARQUEZ  
Analyst

MORGAN BING  
Clerk Analyst

BRIAN A. PIERIK  
Legal Counsel

# **Attachment A**

Resolution adopting Updated Conflict of Interest Code

**IN THE LOCAL AGENCY FORMATION COMMISSION**

**COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA**

Thursday, August 18, 2022

**RESOLUTION NO. 2022-XX**

**2022 BIENNIAL UPDATE OF THE SAN LUIS OBISPO LOCAL AGENCY FORMATION COMMISSION'S CONFLICT OF INTEREST CODE**

**WHEREAS**, Government Code section 87300 requires each local public agency to adopt and promulgate a conflict of interest code pursuant to the Political Reform Act (Gov. Code, § 81000 et seq.); and

**WHEREAS**, the Board of Supervisors is designated as the "code reviewing body" for all local agencies, except cities, whose boundaries are located wholly within the county; and

**WHEREAS**, pursuant Government Code section 87306.5, the Clerk of the Board of Supervisors of the County of San Luis Obispo, as the local code administrator, directed those local agencies that have adopted a conflict of interest code to review their codes to determine whether any changes to their codes are necessary due to changed circumstances; and

**WHEREAS**, Government Code section 87306 requires local agencies to submit to the code reviewing body a biennial report identifying changes in its code that are necessitated by changed circumstances, such as the addition of new positions, or the deletion of positions that have become obsolete; and

**WHEREAS**, minor changes need to be made to LAFCO's Conflict of Interest Code; and

**WHEREAS**, the Commission has duly considered the proposed amendments to the Conflict of Interest Code;

**NOW THEREFORE, BE IT RESOLVED AND ORDERED** by the Local Agency Formation Commission that:

1. The Amended Conflict of Interest Code attached hereto as Exhibit 1 supersedes the Conflict of Interest Code last amended on September 17, 2020, and January 21, 2021.
2. The list of designated LAFCO positions and applicable disclosure categories attached as Appendix A & B is hereby adopted as the appendix of designated positions and disclosure categories to accompany section 18730.
3. Designated employees and officers shall file statements of economic interest (FPPC Form 700) with the Clerk of the Board of Supervisors who will make the statements available for public inspection and copying.
4. This conflict of interest code shall not take effect until the San Luis Obispo County Board of Supervisors approves it in its capacity as code reviewing body under the Political Reform Act. The Commission Clerk is hereby authorized and directed to submit a

certified copy of this resolution with appendices to the Board of Supervisors and request approval of the Conflict of Interest Code.

5. After approval by the San Luis Obispo County Board of Supervisors, the attached Exhibit 1 together with Appendices A & B shall constitute the Conflict of Interest Code of the San Luis Obispo Local Agency Formation Commission.

Upon a motion by \_\_\_\_\_, seconded by Commissioner \_\_\_\_\_, and on the following roll call vote:

AYES:

NAYS:

ABSENT:

ABSTAINING:

The foregoing resolution is hereby adopted.

\_\_\_\_\_  
Ed Waage, Chair  
Local Agency Formation Commission

\_\_\_\_\_  
Date

**ATTEST:**

\_\_\_\_\_  
Rob Fitzroy  
LAFCO Executive Officer

\_\_\_\_\_  
Date

**APPROVED AS TO FORM AND LEGAL EFFECT:**

\_\_\_\_\_  
Brian Pierik  
LAFCO Legal Counsel

\_\_\_\_\_  
Date

**Exhibit 1**

**SAN LUIS OBISPO**

**LOCAL AGENCY FORMATION COMMISSION**

**CONFLICT OF INTEREST CODE AND FINANCIAL DISCLOSURE REQUIREMENTS**

A. Incorporation by Reference of FPPC Model Code

The Political Reform Act, codified at Government Code §81000 et. seq., requires each state and local government agency to adopt and promulgate a conflict of interest code. The Fair Political Practices Commission (FPPC) has adopted a regulation, 2 California Code of Regulations §18730, which contains the terms of a standard conflict of interest code. ("Model Code".) This Model Code may be adopted by local agencies and incorporated by reference as the agency's conflict of interest code, together with appendices setting forth the designated positions and relevant disclosure categories applicable to each position. The Model Code may be amended from time to time by the FPPC after public notice and hearings to conform to amendments in the Political Reform Act.

The terms of 2 California Code of Regulations §18730 and any amendments to it, duly adopted by the FPPC, are hereby incorporated by reference.

Pursuant to section 2 of the Model Code, Appendix B attached hereto sets forth LAFCO's Designated Position List. Those persons holding positions listed in Appendix B must file statements of economic interest (Form 700) with the Executive Officer of the Commission setting forth financial interests in the disclosure categories identified therein and more fully defined in Appendix A, attached hereto.

B. Disqualification and Disclosure

The provisions of Article 2.5 of Chapter 4 of Title 9 of the Government Code are applicable to LAFCO. LAFCO officers must not accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party, or his or her agent, or from any participant, or his or her agent, while a proceeding involving a license, permit, or other entitlement for use is pending before LAFCO and for three months following the date a final decision is rendered in the proceeding if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Government Code section 87100 (of the Political Reform Act). This prohibition applies regardless of whether the officer accepts, solicits, or directs the contribution for himself or herself, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee. (Gov. Code, § 84308, subd. (b).)

Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before the Commission, each commissioner or alternate commissioner, as the case may be, who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant to a LAFCO proceeding shall disclose that fact on the record of the proceeding.

LAFCO members are disqualified and are not able to participate in any proceeding involving an "entitlement for use" (within the meaning of § 84308, subd. (a)(5)) if, within the 12 months preceding the LAFCO decision, the Commissioner received \$250 or more in campaign contributions from the applicant, an agent of the applicant or any financially interested person who actively supports or opposes the LAFCO decision on the matter.<sup>1</sup>

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<sup>1</sup>This requirement is based on Government Code section 87100, which provides: Prior to rendering any decision in a proceeding involving a license, permit or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. No officer of an agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or his or her agent, or from any participant, or his or her agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

## APPENDIX A

### Disclosure Categories

- 1) All sources of income, including gifts;
- 2) Interests in real property located in whole or in part within, or not more than one-half mile outside, the boundaries of San Luis Obispo County (does not include the principal place of residence); and
- 3) Investments and business positions in business entities located in or doing business in San Luis Obispo County and engaged in:
  - a. The acquisition, sale, lease, or development of real property;
  - b. Providing of insurance brokerage or consulting services; or
  - c. Providing services of the type which have, in the past two years or which with reasonable foreseeability, may be used in the next one-year period by the filer's division within the office.

**Appendix B**

**Designations Position List**

<b><u>Designated Position</u></b>	<b><u>Disclosure Category Numbers</u></b>
LAFCO Executive Officer	1, 2, 3
LAFCO Deputy Executive Officer	1, 2, 3
LAFCO Legal Counsel	1, 2, 3
LAFCO <del>Commission</del> -Clerk <u>Analyst</u>	1, <u>2</u> , 3a, 3c
LAFCO Commissioners & Alternate Commissioners <sup>i</sup>	1, 2, 3
LAFCO Analyst	1, 2, 3a, 3c
Consultants <sup>ii</sup>	1, 2, 3

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<sup>i</sup> Board of Supervisors who are designated as governing board members of LAFCO report pursuant to Government Code section 87200. Alternate Commissioners for the Board of Supervisors members on the LAFCO governing board report pursuant to this code.

<sup>ii</sup> The disclosure by consultants is subject to the following limitation: The LAFCO Executive Officer may determine in writing that a particular consultant, including a consultant filling a position designated above is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements, if any. The Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.