

SBCAG STAFF REPORT

SUBJECT: SBCAG Conflict of Interest Code

MEETING DATE: September 15, 2022

AGENDA ITEM: 4E

STAFF CONTACT: Terry Contreras

RECOMMENDATION:

Adopt Resolution 22–27 approving the 2021-2022 Biannual Amendments to the Santa Barbara County Association of Governments (SBCAG) Conflict of Interest Code as specified in (Attachment 1).

DISCUSSION:

Every state and local government agency is required to adopt a Conflict of Interest Code. (Government Code § 87300.) A Conflict of Interest Code designates the positions within an agency that “involve the making or participation in the making of the decisions which may foreseeably have a material effect on any financial interest.” (Gov. Code § 87302, subd. (a).) Persons holding designated positions must periodically disclose certain investments, interests in real property, sources of income, gifts, loans, and business interests and positions. The financial disclosures are compiled on Form 700 as required by the Political Reform Act. (Gov. Code § 81000 et seq.) The Fair Political Practices Commission (“FPPC”) is the state agency charged with the enforcement of the Political Reform Act.

Agencies must amend their Conflict of Interest Code when necessary to add or delete designated positions, or to revise the disclosure categories correlated with the designated positions. At a minimum, the Political Reform Act requires every local government agency to review its Conflict of Interest Code every two years.

The Board of Directors is the “code reviewing body” for SBCAG, whose jurisdiction is solely within the county. (Gov. Code § 82011, subd. (b).) A Conflict of Interest Code is not effective until it is approved by the code reviewing body. (Gov. Code § 87303.) On January 20, 2005, the Board of Directors adopted SBCAG’s Conflict of Interest Code (Resolution No. 05-04.). SBCAG’s Conflict of Interest Code (“Code”) was adopted to help ensure and coordinate timely amendments and to coordinate the filing of financial disclosure statements (“Form 700s”). Form 700s are filed electronically or by mail with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office. As part of the biennial review of the Code, SBCAG must review its designated positions and corresponding disclosure categories and, where necessary, make revisions.

The persons holding Designated Positions listed in Appendix A of the Code are designated employees, consultants, or officials. It has been determined that these persons make or participate in the making of decisions that may foreseeably have a material effect on financial interests. Designated Positions shall file statements of economic interests with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office when assuming or leaving their position and annually while holding the position. The County of Santa Barbara Clerk, Recorder,

Member Agencies

Buellton ■ Carpinteria ■ Goleta ■ Guadalupe ■ Lompoc ■ Santa Barbara ■ Santa Maria ■ Solvang ■ Santa Barbara County

Assessor, and Elections Office retains and makes Form 700s available for public inspection and reproduction. (Gov. Code § 81008.)

SBCAG's Conflict of Interest Code Filing Officer and Filing Official requests the SBCAG Board of Directors, as the code reviewing body, approve the 2021–2022 Biennial Amendments to the Code.

COMMITTEE REVIEW: None

ATTACHMENTS:

1. Resolution 2022-27 amendment to SBCAG Conflict of Interest Code
2. Attachment A Conflict of Interest Code including Appendices A and B
3. Resolution 05-04, SBCAG Conflict of Interest Code

ATTACHMENT 1

RESOLUTION OF THE SANTA BARBARA

COUNTY ASSOCIATION OF GOVERNMENTS

2021-2022 BIENNIAL AMENDMENTS TO SANTA
BARBARA COUNTY ASSOCIATION OF)
GOVERNMENTS CONFLICT OF INTEREST)
CODE)

RESOLUTION NO. 22-27

WHEREAS, the Political Reform Act of 1974 ("Political Reform Act") (Government Code section 81000 et seq.) requires state and local government agencies with final decision-making authority to adopt and promulgate Conflict of Interest Codes. The Political Reform Act implementing regulations are adopted by the Fair Political Practices Commission ("FPPC") and are located at title 2, division 6, chapter 1, section 18110 et seq. of the California Code of Regulations ("CCR"). Title 2 CCR section 18730 sets forth a model standard Conflict of Interest Code ("Model Standard Code") that includes the basic provisions for a Conflict of Interest Code required by the Political Reform Act; and

WHEREAS, on January 20, 2005, the Board of Directors adopted Santa Barbara County Association of Governments (SBCAG) Conflict of Interest Code (Resolution No. 05-04). The SBCAG Conflict of Interest Code was adopted to help ensure and coordinate timely amendments and to coordinate the filing of financial disclosure statements ("Form 700s"). Form 700s are filed electronically or by mail with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office; and

WHEREAS, the SBCAG Conflict of Interest Code designates positions that involve the making or participation in the making of decisions, which may foreseeably have a material effect on a financial interest of the designated public official. Designated Positions must periodically disclose certain investments, interests in real property, sources of income, gifts, loans, and business interests and positions. The financial disclosures are compiled on a Statement of Economic Interests Form 700 in accordance with the disclosure categories identified in the SBCAG Conflict of Interest Code; and

WHEREAS, the Board of Directors is the code reviewing body of the SBCAG Conflict of Interest Code. (Gov. Code § 82011, subd. (b).) As the code reviewing body, the Board of Directors approved the initial SBCAG Conflict of Interest Code and has approved the subsequent amendments to the code. At a minimum, the SBCAG Conflict of Interest Code is reviewed every two years and is amended as needed; (Gov. Code § 87306.5.); and

WHEREAS, the 2021-2022 Biennial Amendments to the SBCAG Conflict of Interest Code are part of the mandated biennial review.

NOW, THEREFORE, BE IT, AND IT IS HERBY ORDERED AND RESOLVED that:

1. The above recitations are true and correct.
2. The terms of Title 2 of the California Code of Regulations section 18730, as it presently exists or as it may be amended from time to time in the future, are hereby incorporated by this reference.

- 3. Attachment A hereto, the SBCAG CONFLICT OF INTEREST CODE is hereby adopted along with Appendix "A" thereto (Designated Positions) and Appendix "B" thereto (Standard Disclosure Categories), and, along with the aforementioned section 18730, shall constitute the Conflict of Interest Code of SBCAG.
- 4. Pursuant to SBCAG's Conflict of Interest Code, Designated Positions shall file statements of economic interest with SBCAG. Upon receipt of such statements, they shall be filed with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office.

PASSED AND ADOPTED this 15th day of September 2022 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

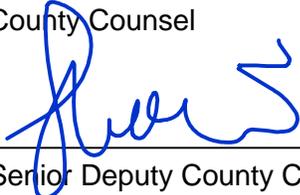
ATTEST:

Marjie Kirn
Executive Director

Das Williams, Chair
Santa Barbara County
Association of Governments

Date: _____

APPROVED AS TO FORM:
Rachel Van Mullem
County Counsel



Senior Deputy County Counsel

ATTACHMENT 2

Attachment A

SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

CONFLICT OF INTEREST CODE

I. Background

- a. The Political Reform Act of 1974 ("Political Reform Act") (Government Code section 81000 et seq.) requires state and local government agencies with final decision-making authority to adopt and promulgate Conflict of Interest Codes.
- b. A Conflict of Interest Code designates the positions within an agency that "involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest" (Gov. Code § 87302, subd. (a).) Persons holding the designated positions must periodically disclose certain investments, interests in real property, sources of income, gifts, loans and business positions. The disclosures are compiled on a Statement of Economic Interests Form 700 ("Form 700").
- c. The Fair Political Practices Commission ("FPPC") is the state agency primarily charged with enforcing the Political Reform Act. The Political Reform Act implementing regulations are adopted by the FPPC and are located at Title 2, Division 6, chapter 1, section 18110 et seq. of the California Code of Regulations ("CCR").
- d. Title 2 CCR section 18730 sets forth a model standard Conflict-of-Interest Code ("Model Standard Code") that includes the required basic provisions for a Conflict-of-Interest Code.

II. Santa Barbara County Association of Governments Conflict of Interest Code

- a. On January 20, 2005, the Board of Directors adopted Santa Barbara County Association of Governments (SBCAG) Conflict of Interest Code (Resolution No. 05-04). The SBCAG Conflict of Interest Code was adopted to help ensure and coordinate timely amendments and to coordinate the filing of financial disclosure statements ("Form 700s"). Form 700s are filed electronically or by mail with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office; and
- b. Appendix A of the SBCAG Conflict of Interest Code ("Code") lists the Designated Positions covered by the Code. Appendix B of the Code lists the Standard Disclosure Categories for reporting financial interests to the FPPC.
- c. The Board of Directors is the "code reviewing body" for the Code. (Gov. Code § 82011, subd. (b).)
- d. As the code reviewing body, the Board of Directors approved the initial Code and has approved all subsequent amendments. (Gov. Code § 87303.)
- e. The Code is intended to help ensure timely amendments and designates the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office as the central location for filing Form 700s.
- f. Each holder of a Designated Position shall file the following Form 700s at such times as

required by the FPPC Regulations:

- **Assuming Office Statements.** All persons assuming Designated Positions listed in the Code shall file a Form 700 within 30 days after assuming the Designated Position, or being nominated or appointed to the SBCAG Board of Directors.
 - **Annual Statements.** All Designated Positions shall file a Form 700 no later than April 1.
 - **Leaving Office Statements.** All persons who leave Designated Positions or transfer to a new position with no filing requirement shall file a Form 700 within 30 days after leaving office.
- g. Where to file:
- Designated Positions may file their Form 700s online, which will be submitted to the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office. Form 700s will be made available for public inspection and reproduction. (Gov. Code § 81008.)
 - Designated Positions who file using a paper Form 700 shall file with the Santa Barbara County Association of Governments (SBCAG). Upon receipt of the Form 700 filed by a Designated Position SBCAG will file the original with the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office.
- h. SBCAG shall amend its Appendix A when necessitated by changed circumstances, including the creation of new positions which must be designated or relevant changes in the duties assigned to existing positions. Amendments shall be submitted to the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office after review and adoption by the SBCAG Board of Directors.
- i. SBCAG, shall review its Appendix B biennially in the even-numbered years as required by Government Code section 87306.5. If no change in Appendix B is required, SBCAG shall submit a written statement to that effect to the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office no later than October 1 of the same year. If a change in the Appendix B is necessitated by changed circumstances, SBCAG shall submit the amendment to the County of Santa Barbara Clerk, Recorder, Assessor, and Elections Office no later than August 1 of the same year the change took effect.
- j. SBCAG shall adopt and promulgate all amendments to the Code and shall submit all amendments to the Board of Directors for approval as the code reviewing body by the filing deadline of October 1st or the first business day of October.
- k. SBCAG shall designate an officer for the Code ("Filing Officer").
- l. SBCAG shall designate an official ("Filing Official"). The Filing Official shall be responsible for carrying out the duties set forth in the Code and shall coordinate the activities of the Code with the Filing Officer.
- m. The Filing Officer shall inform and provide the Filing Official any notices of action required including biennial notices, reorganization, and actions necessary to accomplish amendments. The Filing Officer will submit such notices to the Clerk of the Board for approval by the Board of Directors.

APPENDIX A DESIGNATED POSITIONS

The following positions are NOT covered by the code because they must file under Government Code section 87200 and therefore, are listed for information purposes only:

- Santa Barbara County Treasurer
- Santa Barbara County Auditor-Controller
- Santa Barbara County Counsel

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.

Persons occupying the following positions are "designated employees" as defined below. Designated employees must disclose financial interests in the disclosure category or categories assigned to their position. The disclosure categories are defined in Appendix B—Standard Disclosure Categories. A "designated employee" is anyone listed below who is an officer, employee, member or consultant who is designated in Conflict of Interest Code because the position entails the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. (Government Code § 82019.)

Designated Positions	Disclosure Categories
Members SBCAG Board	5
Alternate SBCAG Board members	5
Executive Director	5
General Counsel (Legal)	5
Santa Barbara Deputy County Counsels	5
Director of Planning	5
Director of Programming	5
Director of Project Delivery & Construction	5
Director of Rail and Transit	5
Director of Traffic Solutions	5
CFO/Human Resources Director	5
Transportation Planner I	1,4,6
Transportation Planner II	1,4,6
Senior Transportation Planner	1,4,6
Principal Transportation Planner	1,4,6
Traffic Solutions Program Coordinator I	6
Traffic Solutions Program Coordinator II	6
Traffic Solutions Program Coordinator III	6
Transportation Engineer I	1,3,4,6
Transportation Engineer II	1,3,4,6
Senior Transportation Engineer	1,3,4,6
Govt Affairs & Public Info Mgr. I	5
Govt Affairs & Public Info Mgr. II	5
Govt Affairs & Public Info Mgr. III	5
Clerk of the Board	6
Financial Procurement Coordinator	1,2
Finance Manager/HR Generalist I	1,2
Finance Manager/HR Generalist II	1,2
Consultants, Interim Positions, New Positions	7

APPENDIX B

STANDARD DISCLOSURE CATEGORIES

A. APPROPRIATE FORMS

Designated employees shall file Fair Political Practices Commission ("FPPC") Statement of Economic Interests Form 700 ("Form 700") based on the corresponding disclosure categories specified in Appendix A.

B. STANDARD DISCLOSURE CATEGORIES

When a designated employee is required to disclose investments, business positions or sources of income, the designated employee need only disclose investments and business positions in business entities and sources of income which do business, plan to do business or have done business in the last two (2) years with the Santa Barbara County Association of Governments (SBCAG). When a designated employee is required to disclose real property, the designated employee need only disclose real property located in the County of Santa Barbara, or within two miles of the County of Santa Barbara.

CATEGORY 1

All interests in real property, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property. (Must file FPPC Form 700 schedule that discloses interests in real property.)

CATEGORY 2

Investments in business entities and sources of income, including receipt of gifts, loans and travel payments, from sources of the type that contract with SBCAG to provide leased facilities, goods, equipment, vehicles, machinery, or services of the type utilized by SBCAG. (Must file FPPC Form 700 schedules disclosing interests in investments, real property, business positions, income of loans, gifts and travel payments.)

CATEGORY 3

Investments in business entities and sources of income, including receipt of gifts, loans and travel payments, from sources of the type that engage in land development, construction or appraisal, acquisition or disposal of, real property within the jurisdiction. (Must file FPPC Form 700 schedules disclosing interests in investments, real property, business positions, income of loans, gifts and travel payments.)

CATEGORY 4

Investments; business positions; interests in real property and sources of income, including receipt of gifts, loans and travel payments, from sources that are subject to the regulatory, permit or licensing authority of, or have an application for a license or permit pending before SBCAG and the designated employee's duties involve the supervision or regulation (including but not limited to the issuance or granting of franchises, building permits or other use or business permits or any other land use control or regulation) of that type of business entity or source of income. (Must file FPPC Form 700 schedules disclosing interests in investments, real property, business positions, income of loans, gifts and travel payments.)

CATEGORY 5

All investments; business positions; interests in real property; sources of income, including receipt of loans, gifts and travel payments. (Must file FPPC Form 700 with all schedules.)

CATEGORY 6

Investments in business entities and sources of income, including receipt of gifts, loans and travel payments, from sources of the type that contract with SBCAG to provide to the designated employee's Division leased facilities, goods, equipment, vehicles, machinery, or services of the type utilized by SBCAG. (Must file FPPC Form 700 schedules disclosing interests in investments, real property, business positions, income of loans, gifts and travel payments.)

CATEGORY 7 SPECIFIC TO CONSULTANTS, INTERIM POSITIONS, NEW POSITIONS.

Shall disclose pursuant to Category 5, subject to the following limitation:

With respect to consultants, interim positions and new positions, the SBCAG Executive Director may determine in writing that a particular consultant, interim position or new position, although a "designated position," 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 described in this section. Such written determination shall include a description of the consultant, interim position or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. Such determination shall be a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

*adopted January 20, 2005*CONFLICT OF INTEREST CODE FOR THE
SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS

(SBCAG)

The Political Reform Act, Government Code Section 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 Cal. Code of Regs. Section 18730, which contains the terms of a standard conflict of interest code. It can be incorporated by reference, and may be amended by the Fair Political Practices Commission after public notice and hearings to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code of Regs. Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference and, along with the attached Appendices in which members and employees are designated and disclosure categories are set forth, constitute the conflict of interest of SBCAG.

Designated employees shall file their statements with the County Clerk and Recorder and the SBCAG Executive Director, who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Statements for all designated employees will be retained by SBCAG and the County Clerk and Recorder.

RESOLUTION OF THE SANTA BARBARA
COUNTY ASSOCIATION OF GOVERNMENTS

IN THE MATTER OF THE ADOPTION OF)
A SBCAG CONFLICT OF INTEREST CODE)

RESOLUTION NO. 05-04

WHEREAS, the Political Reform Act, California Government Code section 81000 et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes; and

WHEREAS, a state regulation has been adopted, at Code of California Regulations section 18730, which contains the terms of a standard Conflict of Interest Code that can be incorporated by reference, including any future amendments thereto;

THEREFORE, the Board of Directors of the SANTA BARBARA COUNTY ASSOCIATION OF GOVERNMENTS (SBCAG) resolves:

1. The terms of California Code of Regulations section 18730, as it presently exists or as it may be amended from time to time in the future, are hereby incorporated by this reference.
2. Attachment A hereto, the SBCAG CONFLICT OF INTEREST CODE is hereby adopted along with Appendix "A" thereto (Designated Positions) and Appendix "B" thereto (Standard Disclosure Categories), and, along with the aforementioned section 18730, shall constitute the Conflict of Interest Code of SBCAG.
3. Pursuant to this Code, designated employees shall file statements of economic interest with SBCAG. Upon receipt of such statements, they shall be retained by SBCAG and filed with the County Clerk-Recorder.

PASSED AND ADOPTED this 20th day of January, 2005 by the following vote.

AYES: Councilmembers Secord and Wallis;
Supervisors Carbajal, Rose, Firestone, Gray, Centeno; Mayors
DeWees, Alvarez, Hicks; Councilmembers Baca, Jordan, Mariscal.

NOES: None

ABSTENT: None

ABSTAIN: None



Jim Kemp
Executive Director



Dick DeWees
SBCAG Chair

APPROVED AS TO FORM:



Kevin E. Ready, Sr.
Senior Deputy County Counsel
SBCAG COUNSEL

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APPENDIX A

Designated Positions

The following positions are NOT covered by the code because they must file under section 872000 and therefore, are listed for information purposes only:

Santa Barbara County Treasurer
Santa Barbara County Auditor-Controller

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.

<u>Designated Positions</u>	<u>Disclosure Categories</u>
Members SBCAG Board and their alternates	1, 2, 3 and 4
Executive Director, Santa Barbara County Counsel and Deputies	1, 2, 3 and 4
SBCAG Managers, professional staff and Consultants**	1, 2, 3 and 4 (see below)

** Senior SBCAG Managers and Consultants shall be included in the list of designated employees promulgated by the Executive Director and shall disclose pursuant to the broadest category in the code subject to the following limitation:

The Executive Director may determine in writing that a particular consultant, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to comply fully 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. The Executive Director'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. The Executive Director shall promulgate a list of consultants who hold designated positions.

APPENDIX B

Disclosure Categories

CATEGORY 1

All interests in real property located in the jurisdiction, including any leasehold, beneficial or ownership interest or option to acquire such interest in real property.

CATEGORY 2

Investments, business positions and income, including gifts, loans and travel payments, from sources which contract or subcontract with SBCAG to provide leased facilities, goods, equipment, vehicles, machinery or services of the type utilized by SBCAG.

CATEGORY 3

Investments, business positions and income, including gifts, loans and travel payments, from sources engaged in the appraisal, acquisition or disposal of, real property within the jurisdiction.

CATEGORY 4

Investments, business positions and income, including gifts, loans and travel payments, from sources that are subject to the regulatory, permit or licensing authority of, or have an application for a license or permit pending before SBCAG and the designated employee's duties involve the supervision or regulation (including but not limited to the issuance or granting of franchises, building permits or other use or business permits or any other land use control or regulation) of that type of business entity or source of income.