



METROPOLITAN
TRANSPORTATION
COMMISSION

Joseph P. Bort MetroCenter
101 Eighth Street
Oakland, CA 94607-4700
TEL 510.817.5700
TDD/TTY 510.817.5769
FAX 510.817.5848
E-MAIL info@mtc.ca.gov
WEB www.mtc.ca.gov

Memorandum

TO: Administration Committee

DATE: October 3, 2012

FR: General Counsel

W. I. 1111

RE: Revisions to MTC's Conflict-of-Interest Code (MTC Resolution No. 1198, Revised)

The California Fair Political Practices Commission (FPPC) requires regular review of multi-county agencies' conflict of interest codes. The Metropolitan Transportation Commission's (MTC) conflict-of-interest code, which also serves as the conflict-of-interest code for the Bay Area Toll Authority (BATA) and the MTC Service Authority for Freeways and Expressways (MTC SAFE), must be updated this year in order to more accurately reflect the most current revisions to the designated positions and assigned disclosure categories in MTC's organizational structure.

The positions designated in the Appendix to MTC's proposed conflict-of-interest code must file an annual Statement of Economic Interest (FPPC Form 700) with the agency. The attached draft code is amended consistent with discussions with FPPC staff, and formatted accordingly. Additionally, the enclosed "track changes" version reflects the most recent changes that were negotiated with the FPPC from the version of MTC Resolution No. 1198, last approved by the FPPC in 2011. The changes are largely technical in nature, and will not materially affect how MTC conducts its business.

FPPC amendment procedures require that a written notice of intent to amend the conflict-of-interest code must be given 45 days prior to the time MTC takes formal action. This memorandum constitutes that written notice. The comment period will run from Wednesday, October 10, 2011 through Monday, November 26, 2012. This memo will be posted in MTC's library, and copies of the proposed revised code will be made available to any interested person who calls Rosy Levyva, Secretary to the Commission, during business hours at (510) 817-5700. Written requests for copies of the amendment and written comments on the amendment may be sent to Ms. Levyva at MTC offices, 101 – 8th Street, Oakland, CA 94607-4700.

Any interested person may request a public hearing to comment on the proposed amendment, if any such request is made no later than 15 days prior to the close of the comment period, or by Friday, November 9, 2012. If no request for a hearing is received, staff will return in December 12, 2012 to seek Committee authorization to refer the revised code to the Commission for approval.

Staff requests this Committee's authorization to circulate the proposed changes for public comment, and for authorization to schedule a public hearing if there is a request from the public to do so.



Adrienne D. Weil

**CONFLICT-OF-INTEREST CODE FOR THE
METROPOLITAN TRANSPORTATION COMMISSION**

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 Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 *et seq.*, is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways (“MTC SAFE”) pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority (“BATA”) pursuant to Streets and Highways Code Section 30950 *et seq.* The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. Sec. 18730) that 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 hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. Sec. 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the **Metropolitan Transportation Commission (MTC)**.

Individuals holding designated positions shall file their statements of economic interests with **MTC**, which will make the statements available for public inspection and reproduction (Government Code Sec. 81008). Upon receipt of statements for the MTC Commissioners and from the Executive Director, **MTC** shall make and retain copies and forward the originals to the **Fair Political Practices Commission**. All other statements will be retained by **MTC**.

APPENDIX A

DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
General Counsel	1, 3, 4
Deputy General Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services	2, 3
Director, Planning	2, 3
Director, Operations	2
Director, Electronic Payments	2
Director, Programming and Allocations	2, 3
Director, Legislation and Public Affairs	1, 3
Director, Bay Area Headquarters Authority (“BAHA”)	1, 2, 3
Consultants/New Positions*	

*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant 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 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. 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. (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-of-interest code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners
Chief Financial Officer
Executive Director

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 their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

APPENDIX B

DISCLOSURE CATEGORIES

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

- CATEGORY 1** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including, but not limited to, public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by the designated position’s department or division.
- CATEGORY 3** – All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.
- CATEGORY 4** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that filed a claim against MTC during the previous two years, or have a claim pending against MTC.

**CONFLICT-OF-INTEREST CODE FOR THE
METROPOLITAN TRANSPORTATION COMMISSION**

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 Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 et seq., is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways ("MTC SAFE") pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority ("BATA") pursuant to Streets and Highways Code Section 30950 et seq. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code Regs. Sec. 18730) that 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 hearings, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 Cal. Code Regs. Sec. 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the conflict-of-interest code of the Metropolitan Transportation Commission (MTC).

Individuals holding designated positions shall file their statements of economic interests with MTC, which will make the statements available for public inspection and reproduction (Government Code Sec. 81008). Upon receipt of statements for the MTC Commissioners and from the Executive Director, MTC shall make and retain copies and forward the originals to the Fair Political Practices Commission. All other statements will be retained by MTC.

Deleted: Date: . October 27, 1982¶
. W.I.: .99110¶
. I.D.: . File 1¶
. Referred by: . A&O Committee¶
. Revised: . 06/26/91-C . 07/27/94-C¶
. . 11/18/98-C . 06/28/00-C¶
. . 11/20/02-C . 09/28/11-C¶
. . 11/21/12-C¶
¶
. Attachment A¶
. Resolution No. 1198¶
. Page 2 of 4

Formatted: Res Date Block

Deleted: Date: . October 27, 1982¶
. W.I.: .99110¶
. I.D.: . File 1¶
. Referred by: . A&O Committee¶
. Revised: . 06/26/91-C . 07/27/94-C¶
. . 11/18/98-C . 06/28/00-C¶
. . 11/20/02-C . 09/28/11-C¶
. . 11/21/12-C¶

¶
ABSTRACT¶

¶
Resolution No. 1198, Revised¶

¶
Subject¶

¶
This resolution adopts the amendments to the Metropolitan Transportation Commission's Conflict of Interest Code, directs the Executive Director to submit a copy of the amended code to the Fair Political Practices Commission, provides for future amendments, and revises Appendix A of the Commission Procedures Manual (Resolution No. 1058).¶

¶
Resolution No. 1198 supersedes Resolution No. 859.¶

¶
This resolution was revised on June 26, 1991 to include the disclosure of "business positions in business entities," to add a disclosure category for telecommunications services and equipment manufacturers to cover the activities of the MTC SAFE, to update the designated positions to reflect MTC's current organizational structure, and to clarify the definition of "consultant."¶

¶
This resolution was revised on July 27, 1994 to amend the disclosure categories to cover MTC and MTC SAFE activities in the areas of towing services and intelligent vehicle highway systems (IVHS) and to update the designated positions to reflect MTC's current organizational structure.¶

¶
This resolution was revised on November 18, 1998 to amend the conflict of interest code to reflect changes in FPPC regulations, amend the disc... [1]

Formatted: Not Different first page header

Deleted: 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 Metropolitan Transportation Commission (MTC), a statutorily created regional transportation planning agency pursuant to Government Code Section 66500 et seq., is for the purposes of the Political Reform Act, a local government agency pursuant to Government Code Section 82041. MTC also functions as the MTC Service Authority for Freeways and Expressways ("MTC SAFE") pursuant to Streets and Highways Code Sections 2550-2556, and the Bay Area Toll Authority ("BATA") pursuant to St... [2]

APPENDIX A
DESIGNATED POSITIONS

<u>Designated Position</u>	<u>Assigned Disclosure Category</u>
Deputy Executive Director, Policy	1, 3, 4
Deputy Executive Director, Operations	1, 3, 4
General Counsel	1, 3, 4
Deputy General Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services	2, 3
Director, Planning	2, 3
Director, Operations	2
Director, <u>Electronic Payments</u>	2
Director, Programming and Allocations	2, 3
Director, Legislation and Public Affairs	1, 3
<u>Director, Bay Area Headquarters Authority ("BAHA")</u>	<u>1, 2, 3</u>
Consultants/ <u>New Positions</u> *	

Deleted: Date: October 27, 1982
 . W.I.: 99110
 . I.D.: File 1
 . Referred by: A&O Committee
 . Revised: 06/26/91-C 07/27/94-C
 . 11/18/98-C 06/28/00-C
 . 11/20/02-C 09/28/11-C
 . 11/21/12-C
 . Attachment A
 . Resolution No. 1198
 . Page 2 of 4
Formatted: Res Date Block

Deleted: Deputy Executive Director, Bay Area Toll Authority ("BATA") 1, 3, 4

Deleted: Bridge Oversight and

Deleted: Highway and Arterial Operations

Deleted: Director, Traveler Coordination and Information 2

*Consultants and new positions shall be included in the list of designated positions and shall disclose pursuant to the broadest disclosure category in the code, subject to the following limitation:

The Executive Director may determine in writing that a particular consultant 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 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. 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 (Gov. Code Section 81008). Nothing herein excuses any such consultant from any other provision of the conflict-of-interest code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

It has been determined that the positions listed below manage public investments and will file a statement of economic interests pursuant to Government Code Section 87200.

MTC Commissioners
Chief Financial Officer
Executive Director

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 their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by Government Code Section 87200.

Formatted: Res Date Block

Deleted: Date: . October 27, 1982¶
. W.I.: . 99110¶
. I.D.: File 1¶
. Referred by: . A&O Committee¶
. Revised: . 06/26/91-C 07/27/94-C¶
. . 11/18/98-C . 06/28/00-C¶
. . 11/20/02-C . 09/28/11-C¶
. . 11/21/12-C¶
¶
. Attachment A¶
. Resolution No. 1198¶
Page 2 of 4

APPENDIX B

DISCLOSURE CATEGORIES

Designated positions shall disclose pursuant to the appropriate disclosure category as indicated in Appendix A.

- CATEGORY 1** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including, but not limited to, public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by the designated position's department or division.
- CATEGORY 3** – All interests in real property located within the jurisdiction or within two miles of the boundaries of the jurisdiction or within two miles of any land owned or used by MTC.
- CATEGORY 4** – Investments and business positions in business entities, and sources of income, including receipt of loans, gifts, and travel payments, from, entities that filed a claim against MTC during the previous two years, or have a claim pending against MTC.

Formatted: Res Date Block

Deleted: Date: . October 27, 1982¶
. W.I.: . 99110¶
. I.D.: . File 1¶
. Referred by: . A&O Committee¶
. Revised: . 06/26/91-C . 07/27/94-C¶
. . 11/18/98-C . 06/28/00-C¶
. . 11/20/02-C . 09/28/11-C¶
. . 11/21/12-C¶
¶
Attachment A¶
Resolution No. 1198¶
Page 2 of 4

| LEAVE PAGE BLANK FOR CERTIFICATION OF FPPC APPROVAL

Deleted: JULY 27, 2011