



METROPOLITAN
TRANSPORTATION
COMMISSION

Bay Area Metro Center
375 Beale Street
San Francisco, CA 94105
TEL 415.778.6700
WEB www.mtc.ca.gov

Agenda Item 2d

Memorandum

TO: Administration Committee

DATE: May 4, 2016

FR: General Counsel

W.I.: 1111

RE: MTC Resolution No. 1198, Revised – Revisions to MTC’s Conflict of Interest Code to update list of designated positions – Release for Public Comment

The Metropolitan Transportation Commission (MTC) conflict-of-interest code, which also serves as the conflict-of-interest code for the Bay Area Toll Authority (BATA), the MTC Service Authority for Freeways and Expressways (MTC SAFE), the Bay Area Headquarters Authority (BAHA) and the Bay Area Infrastructure Financing Authority (BAIFA) is being updated in order to update the designated positions to reflect MTC’s current organizational structure.

Incumbents of 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 FPPC Regulation 18734, which requires individuals serving in newly created positions to file Form 700, the Statement of Economic Interests. The enclosed “track changes” version (*additions in italics and underlined, deletions in strikethrough*) reflects the most recent changes from the version of the conflict of interest code attached to MTC Resolution No. 1198, last approved by the FPPC on February 4, 2015. The changes reflect the split of MTC’s Administrative and Technology Section into two new sections (the Administrative Services Section and the Technology Services Section), the addition of Clipper® Executive Board member as a designated position, and other technical changes. Clipper® Executive Board (Board) member has been added as a designated position given the Board’s role under the Amended and Restated Clipper® Memorandum of Understanding (MOU) between MTC and the transit operators participating in Clipper®. In particular, the MOU requires the Board to approve certain Clipper®-related contract actions before MTC, as the Clipper® contracting agency, can execute on such actions. The disclosure categories are tailored to the responsibilities of each role. All of the proposed changes have been reviewed and given initial approval by the FPPC.

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. A copy of that written notice is attached to this memorandum. The comment period will run from Wednesday, May 11, 2016 through Monday, June 27, 2016. The notice will be posted on MTC’s website, and copies of the proposed revised code will be made available to any interested person who calls Rosy Levya, Secretary to the Commission, during business hours at (510) 817-5700 (until May 20, 2016) or at (415) 778-6700 (starting May 23, 2016). Written requests for copies of the

amendment and written comments on the amendment may be sent to Ms. Leyva at MTC's offices, 375 Beale Street, Suite 800, San Francisco, CA 94105.

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, June 10, 2016. If no request for a hearing is received, staff will return on July 13, 2016 to seek Committee authorization to submit the proposed code to the FPPC for approval, and to refer the approved code to the Commission for adoption at a date to be determined.

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

AW:BA
Attachments

NOTICE OF INTENTION TO AMEND THE CONFLICT OF INTEREST CODE OF THE METROPOLITAN TRANSPORTATION COMMISSION

NOTICE IS HEREBY GIVEN that the Metropolitan Transportation Commission (MTC), pursuant to the authority vested in it by section 87306 of the Government Code, proposes amendment to its conflict of interest code. A comment period has been established commencing on May 11, 2016 and closing on June 27, 2016. All inquiries should be directed to the contact listed below.

MTC proposes to amend its conflict of interest code to include employee positions that involve the making or participation in the making of decisions that may foreseeably have a material effect on any financial interest, as set forth in subdivision (a) of section 87302 of the Government Code. The amendment carries out the purposes of the law and no other alternative would do so and be less burdensome to affected persons.

Changes to the conflict of interest code include: changes reflecting the split of MTC's Administrative and Technology Section into two new sections (the Administrative Services Section and the Technology Services Section), the addition of Clipper® Executive Board member as a designated position, and other technical changes.

The proposed amendment and explanation of the reasons can be obtained from the agency's contact.

Any interested person may submit written comments relating to the proposed amendment by submitting them no later than June 27, 2016, or at the conclusion of the public hearing, if requested, whichever comes later. At this time, no public hearing is scheduled. A person may request a hearing no later than June 10, 2016.

MTC has determined that the proposed amendments:

1. Impose no mandate on local agencies or school districts.
2. Impose no costs or savings on any state agency.
3. Impose no costs on any local agency or school district that are required to be reimbursed under Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.
4. Will not result in any nondiscretionary costs or savings to local agencies.
5. Will not result in any costs or savings in federal funding to the state.
6. Will not have any potential cost impact on private persons, businesses or small businesses.

Copies of the proposed amendment and explanation of the reasons for it will be made available to any interested person who calls Rosy Levya, Secretary to the Commission, during business hours at (510) 817-5700 (until May 20, 2016) or at (415) 778-6700 (starting May 23, 2016). Written requests for copies of the proposed amendment and explanation of the reasons for it, and written comments on the

amendment, may be sent to Ms. Leyva at MTC's offices, 101 – 8th Street, Oakland, CA 94607-4700 (until May 20, 2016) or 375 Beale Street, Suite 800, San Francisco, CA 94105 (starting May 23, 2016). Any inquiries concerning the proposed amendment should be directed to Adrienne D. Weil, General Counsel, at (510) 817-5700 (until May 20, 2016) or (415) 778-5230 (starting May 23, 2016), or AWeil@mtc.ca.gov.

**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 of 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. (Gov. Code Sec. 81008.) All statements will be retained by 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
Senior Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative and Technology Services (<u>ADS</u>)	2, 3
Director, Planning (PLN)	2, 3
Director, Operations (OPS)	2
Director, Electronic Payments (EPS)	2
Director, Programming and Allocations (PAC)	2, 3
Director, Legislation and Public Affairs (LPA)	1, 3
Director, Bay Area Headquarters Authority (“BAHA”)	1, 3
<u>Director, Technology Services (TSS)</u>	<u>2</u>
Principals: ATS <u>ADS</u> , PLN, PAC	2, 3
Principals: OPS, EPS, <u>TSS</u>	2, 3
Principals: LPA	1
Principals: BAHA	1, 3
Principals: Finance	1
<u>Clipper[®] Executive Board Members</u>	<u>2</u>
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 shall 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 income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** – Investments and business positions in business entities, and income including receipt of loans, gifts, and travel payments, from, sources 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 income, including receipt of loans, gifts, and travel payments, from, sources that filed a claim against MTC during the previous two years, or have a claim pending against MTC.

Date: October 27, 1982
W.I.: 99110
I.D.: File 1
Referred by: Administration 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
05/22/13-C 03/25/15-C
05/25/16-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 disclosure categories to cover the MTC Service Authority for Freeways and Expressways ("MTC SAFE") and Bay Area Toll Authority ("BATA") activities, and to update the designated positions to reflect MTC's current organizational structure. .

This resolution was revised on June 28, 2000 to add Associate Counsel as a designated position, delete the Legislation and Public Affairs and Finance sections to create one Funding and External Affairs section, and rename Treasury to Finance.

This resolution was revised on November 20, 2002, to delete the Funding and External Affairs section, to create a Programming and Allocations section and a Legislation and Public Affairs section, and to replace the Deputy Executive Director's position with two Deputy Directors' Positions.

This resolution was revised on September 28, 2011, to update the designated positions to reflect MTC's current organizational structure and disclosure categories.

This resolution was revised on May 22, 2013, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

This resolution was revised on March 25, 2015, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure.

This resolution was revised on May 25, 2016, to more accurately reflect the most current designated positions and assigned disclosure categories in MTC's organizational structure, and to add Clipper® Executive Board member as a designated position.

Date: October 27, 1982
W.I.: 99110
I.D.: File 1
Referred by: A&O Committee

RE: Adoption of the Amendments to the Metropolitan Transportation Commission's Conflict of Interest Code.

METROPOLITAN TRANSPORTATION COMMISSION

RESOLUTION NO. 1198

WHEREAS, the Metropolitan Transportation Commission (MTC), is the regional transportation planning agency pursuant to Government Code § 66500 *et seq.*; and

WHEREAS, MTC has adopted for purposes of the Political Reform Act (Government Code § 81000 *et seq.*) a Conflict of Interest Code (Resolution No. 859) which has been approved by the Fair Political Practices Commission; and

WHEREAS, MTC desires to amend its Conflict of Interest Code; and

WHEREAS, the proposed amendments have been submitted to the public for comment and subject to a public hearing; now, therefore, be it

RESOLVED, that the amended Conflict of Interest Code, incorporated herein as though set forth at length as Attachment A, is adopted; and, be it further

RESOLVED, that the Executive Director is directed to submit a copy of the Conflict of Interest Code to the California Fair Political Practices Commission for approval; and, be it further

RESOLVED, that MTC may from time to time further amend Attachment A as appropriate, in accordance with the applicable statutory and regulatory provisions; and, be it further

RESOLVED, that MTC Resolution No. 859 is superseded by Resolution No. 1198; and, be it further

RESOLVED, that Appendix A of the Commission Procedures Manual (MTC Resolution No. 1058) is revised by Resolution No. 1198.

METROPOLITAN TRANSPORTATION COMMISSION

/s/

William R. "Bill" Lucius, Chairman

The above resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on October 27, 1982.

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
05/22/13-C 03/25/15-C
05/25/16-C

Attachment A - Resolution No. 1198
Page 1 of 4

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 of 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. (Gov. Code Sec. 81008.) All statements will be retained by **MTC**.

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
05/22/13-C 03/25/15-C
05/25/16-C

Attachment A - Resolution No. 1198
Page 2 of 4

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
Senior Counsel	1, 3, 4
Associate Counsel	1, 3, 4
Special Counsel	1, 3, 4
Director, Administrative Services (ADS)	2, 3
Director, Planning (PLN)	2, 3
Director, Operations (OPS)	2
Director, Electronic Payments (EPS)	2
Director, Programming and Allocations (PAC)	2, 3
Director, Legislation and Public Affairs (LPA)	1, 3
Director, Technology Services (TSS)	2
Director, Bay Area Headquarters Authority (“BAHA”)	1, 3
Principals: ADS, PLN, PAC	2, 3
Principals: OPS, EPS, TSS	2
Principals: LPA	1
Principals: BAHA	1, 3
Principals: Finance	1
Clipper® Executive Board Members	2
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

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
05/22/13-C 03/25/15-C
05/25/16-C

Attachment A - Resolution No. 1198
Page 3 of 4

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 shall 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.

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
05/22/13-C 03/25/15-C
05/25/16-C

Attachment A - Resolution No. 1198
Page 4 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 income, including receipt of loans, gifts, and travel payments, from, entities that provide services, products, or equipment of the type utilized by MTC, including public utilities, consultants, transportation companies, and manufacturers.
- CATEGORY 2** – Investments and business positions in business entities, and income including receipt of loans, gifts, and travel payments, from, sources 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 income, including receipt of loans, gifts, and travel payments, from, sources that filed a claim against MTC during the previous two years, or have a claim pending against MTC.