

Ethics, Organization, and Personnel Committee



Monthly Ethics Education: FPFC Advice Letter Regarding Metropolitan Contracts With Member Agencies

Item 6a

October 9, 2023

FPPC Advice Request

Primary Question/Issue:

Under Section 1090, may Metropolitan Directors participate in contracts between Metropolitan and their appointing authority where they receive, or are entitled to receive, compensation for their Board service.

Summary of Applicable Law

Cal. Gov't Code Section 1090

Public officials must not be financially interested in contracts they make in their official capacity.

Summary Response

Summary Response:

Under an exception to Section 1090, where the director's only financial interest in a contract between Metropolitan and their appointing authority is compensation for their Board service (such as per diem), they may participate in the contract so long as the interest is properly disclosed.

** Note: MWD Act Section 56 separately prohibits directors who serve on their appointing authority's Board from voting on such contracts.*

Limitations of Advice

- FPPC advice limited to the specific contracts in the letter
- Section 56 still prohibits directors serving on appointing authority board from voting on such contracts
- Proper disclosure of the financial interest must be provided
- If director has other financial interests in an agency (e.g. consulting income), additional analysis required

For Contracts Btwn MWD and Appointing Authority, Where Only Financial Interest is Compensation for Board Service:

Recap

Directors Serving on AA Board	Directors Not Serving on AA Board
<ul style="list-style-type: none">• May Participate• May <u>NOT</u> Vote• Must Disclose Financial Interest	<ul style="list-style-type: none">• May Participate• May Vote• Must Disclose Financial interest

Tips

- Read prepared disclosure statement on the record at Cmte/Board
- Continue to not vote if you serve on appointing authority's Board
- Seek Ethics advice if you receive other income from the contracting agency

