

Suggested policy format and content. RTPA specific policies should be developed in consultation with RTPA Legal Counsel, Board of Directors and appropriate regulatory agencies.

11. Standard of Conduct

I. Introduction and Applicability

This document established the standard of conduct applicable to all RTPA staff.

II. Guide to Ethical Decision Making

To assist in fostering a climate of ethical awareness, conduct, and decision making at RTPA, staff may find it useful to refer to or consider, either by themselves or if they are uncertain, in conjunction with the Executive Director and RTPA legal counsel, the following five questions:

1. Is the decision or conduct lawful?
2. Is the decision or conduct consistent with RTPA's policies and goals?
3. Can the decision or conduct be justified in terms of public interest and would it withstand public scrutiny?
4. What will the outcome be for the staff member, other staff, RTPA, and others?
5. Do these outcomes raise a conflict of interest or lead to private gain to the staff member or the staff member's family at RTPA expense?

Recognizing a Conflict of Interest

1. In addition to the provisions of the Political Reform Act, as enforced by the Fair Political Practices Commission, conflict of interest exists when it is likely that a staff member could be influenced, or could be perceived to be influenced, by a personal interest in carrying out their duties of employment. Conflict of interest that leads to biased decision making may constitute corrupt conduct.
2. No staff member shall participate in the selection, or in the award or administration of, a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the staff member, any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm selected for award.
3. Some related interests that may give rise to a conflict of interest include:
 - a. Personal beliefs or attitudes that influence the impartiality of advice given;
 - b. Personal relationships with the people RTPA is dealing with that go beyond the level of a professional working relationship;
 - c. Secondary employment that compromises the integrity of the employee and RTPA.

4. In all purchases for RTPA, any practices which might result in unlawful activity are prohibited including, but not limited to, rebates, kickbacks, or other unlawful considerations. RTPA staff are specifically prohibited from participating in the selection process when those staff have a close personal relationship, family relationship, or business relationship with a person or business entity seeking a contract. An individual employee may often be the only person aware of the potential for conflict. It is, therefore, their responsibility to avoid any financial or other interest that could compromise the impartial performance of their duties, and disclose any potential or actual conflict of interest to the Executive Director.
5. If a staff member is uncertain whether a conflict exists, he/she should discuss the related interest matter with the Executive Director and attempt to resolve any conflicts of interest that may exist. To resolve any conflict of interest that occurs, or could occur, a range of options is available, depending upon the significance of the conflict. These options include:
 - a. Recording the details of the disclosure and taking no further action because the potential for conflict is minimal or can be eliminated by disclosure or effective supervision;
 - b. The staff member relinquishing the personal interest;
 - c. The staff member being removed from the task/activity/situation where the conflict could occur.
6. Disputes over alleged conflicts of interest should be resolved by the Executive Director.

Prohibition Against Financial Interest in a Contract

1. It is unlawful for any Designated Staff to be financially interested in any contract made by them in their official capacity.
2. It is unlawful for any contract to be made by the RTPA Board or any committee established by RTPA's Board or a committee if any individual member of the body has a financial interest in the contract.
3. For purposes of the prohibitions set forth above in subsections 1 and 2 of this section, the term financial interest means any interest, other than a remote interest as prescribed in California Government Code section 1091 or a non-interest prescribed in California Government Code section 1091.5, which would prevent the Designated Staff involved from exercising absolute loyalty and undivided allegiance to the best interests of RTPA.
4. Any Designated Staff with a remote interest in a prospective contract of RTPA's must disclose the existence of the remote interest to the committee or other body on which the Designated Staff is a member if that committee has any role in creating, negotiating, reviewing, or approving the contract; and the Designated Staff must abstain from influencing or anticipating in the creation, negotiation, review, or approval of the contract.

Prohibition Against Influencing RTPA Decisions Affecting Economic Interests

1. It is unlawful for any Designated Staff to knowingly influence a RTPA decision if it is reasonably foreseeable that the RTPA decision will have a material financial effect on:

- a. the Designated Staff or a member of his or her immediate family, if the material financial effect is distinguishable from its effect on the public generally; or
 - b. any of the following economic interests:
 - 1) any business entity in which the Designated Staff or a member of the Designated staff's immediate family has invested \$2,000 or more; and
 - 2) any business entity for which the Designated Staff or a member of the Designated Staff's immediate family is a director, officer, partner, trustee, employee, or holds any position of management; and
 - 3) any real property which the Designated Staff or a member of the Designated Staff's immediate family has invested \$2,000 or more; and
 - 4) any person from whom a Designated Staff or a member of the Designated Staff's immediate family has received (or by whom you have been promised) \$500 or more in income within twelve months prior to the municipal decision; and
 - 5) any person from whom a Designated Staff or a member of the Designated Staff's immediate family has received gifts which total \$420 or more within twelve months prior to the municipal decision. This gift threshold is subject to adjustment as set forth in Title 2, section 18940.2, of the California Code of Regulations; and
 - 6) the personal expenses, income, assets, or liabilities of a Designated Staff or a member of the Designated Staff's immediate family.
2. For purposes of this section, "material financial effect" has the same meaning as that term is used in Title 2, sections 18705 through 18705.5 of the California Code of Regulations.

Prospective Employment of Designated Staff

1. It is unlawful for any Designated Staff to make, participate in making, or use his or her official position with RTPA to influence an RTPA decision involving the interests of a person with whom he or she is seeking, negotiating, or securing an agreement concerning future employment.
2. It is unlawful for any person who has a matter pending before RTPA to negotiate, directly or indirectly, knowingly or willfully, the possibility of future employment of a Designated Staff who is making, participating in making, or using his or her official position to influence, a RTPA decision concerning that matter.

Restrictions Concerning Contracts and Procurements by Current and Former Employees

1. Notwithstanding any other section of this Policy, RTPA shall not contract with, and shall reject any bid or proposal submitted by, the persons or entities specified below, unless the Executive Director finds that special circumstances exist which justify the approval of such contract:
 - a. Persons employed by RTPA;
 - b. Profit-making firms or businesses in which RTPA employees serve as officers, principals, partners, or major shareholders;
 - c. Persons who, within the immediately preceding six (6) months, were employed by RTPA and (1) were employed in positions of substantial responsibility in the area of service to be performed by the contract, or (2) participated in any way in developing the contract or its service specifications; and

- d. Profit-making firms or businesses in which the former employees described in subsection (c) serve as officers, principals, partners, or major shareholders.

III. Definitions

Compensation: The receipt of any monetary or non-monetary payment for the services or time of a person. Compensation includes, but is not limited to, salary, wages, fees, and any discount or economic opportunity not made available in the regular course of business to members of the public.

Confidential Information: (a) At the time of the use or disclosure of the information, the disclosure is prohibited by a statute, regulation, or rule which applies to RTPA; or (b) the information is not general public knowledge and will have, or could reasonably be expected to have, a material financial effect on any source of income, investment, or interest in the real property of RTPA; or (c) the information pertains to pending contract, labor, or real property negotiations and disclosing the information could reasonably be expected to compromise the bargaining position of RTPA; or (d) the information pertains to pending or anticipated litigation and disclosing the information could reasonably be expected to compromise the ability of RTPA to successfully defend, prevail in, or resolve the litigation.

Designated Staff: Any RTPA staff member who is required to file a statement of economic interests pursuant to the California Political Reform Act of 1974 (Form 700), as amended.

Person: Means any individual, business entity, trust, corporation, association, committee, or any other organization or group of persons acting in concert, whether for profit or not for profit.

Public Agency: Means the United States or any of its agencies; the State of California; a city; any political subdivision of the State, including counties and districts; or any public corporation, agency, or commission.

Position of Substantial Responsibility: Means a position in which a person took part personally and substantially by rendering a decision, approval, or disapproval for a department's projects; by making a formal written recommendation; by conducting an investigation; by rendering advice on a significant basis; or by using confidential information.

RTPA Decision: (a) The drafting, introduction, consideration, reconsideration, adoption, defeat, or repeal of any ordinance or resolution; and (b) the amendment of any ordinance or resolution; and (c) a report by RTPA staff to the Board or a committee; and (d) contracts; and (e) quasi-judicial decisions, including: (1) any decision on a land development permit, map, or other matter; or (2) any declaration of debarment; and (f) any other decision of the Board or a RTPA committee.

IV. Goals And Objectives

RTPA staff, Board members and the community at large have a right to expect the business of RTPA to be conducted with efficiency, fairness, impartiality, and integrity. Employment at RTPA carries with it an obligation to the public interest. It requires standards of professional behavior from staff that promotes and maintains public confidence and trust. At the same time, staff should not be subject to unnecessary restrictions simply because they work for RTPA. Staff has all the normal rights of persons under state and federal law. Although no one set of rules can answer all ethical questions, this Standard of Conduct provides RTPA staff with an ethical framework for their decisions, actions, and behavior. In this regard, it

explains the principles covering appropriate conduct in a variety of contexts and outlines the minimum standard of behavior expected of staff. Staff is expected to comply with this policy as well as all other state and federal laws regarding employment by public agencies including, but not limited to, conflict of interest laws.

V. General Principles

Staff must abide by the following principles when doing their work:

1. Staff are to implement the policies and decisions of RTPA in an impartial manner. In particular, staff shall comply with all applicable laws regarding conflicts of interest, including, but not limited to, the California Political Reform Act, and the provisions of the California Government Code regarding Prohibited Interests in Contracts, as these laws may be amended from time to time.
2. Staff are to treat their colleagues and members of the public fairly and consistently, in a non-discriminatory manner with proper regard for their rights and obligations. In this regard, staff should perform their duties in a professional and responsible manner. They should ensure that their decisions and actions are reasonable, fair, and appropriate to the circumstance, based upon consideration of all the relevant facts and supported by adequate documentation.
3. Staff are to promote confidence in the integrity of RTPA and always act in the public interest and not in their private interest while conducting RTPA business. Staff should protect the reputation of RTPA. They should not engage in activities, at work or outside work, that would bring RTPA into disrepute.
4. Staff are to provide relevant and responsible service to the public and other staff, providing necessary and appropriate assistance. They should provide information promptly and in an appropriate format that is easy for the recipient to understand. The information should be clear, accurate, and complete.
5. Staff should keep up to date with advances and changes in their area of expertise and look for ways to improve performance and achieve high standards of work. They should use their authority, available resources, and information only for the work-related purpose intended.

VI. Acceptance of Gifts, Benefits, or Gratuities

In addition to requirements set forth in the Political Reform Act, as enforced by the Fair Political Practices Commission, staff should not accept gifts or benefits that are intended to, likely to, or be perceived to cause staff to act in a partial manner in the course of their duties. Staff will neither solicit nor accept gifts, gratuities, favors, or anything of monetary value equal to or in excess of \$50 on an annual, aggregate basis from potential or current consultants or contractors, parties to sub-agreements, or other contracting parties. General guidance regarding these limitations may be found below. Gifts: Staff are prohibited from accepting gifts from vendors or from representatives of any non-governmental organization that provides, or is desirous of contracting with RTPA if the aggregate annual value of the gift or gifts will equal or exceed \$50. This prohibition applies to any gift, gratuity, favor, entertainment, or loan, and includes such items as liquor, lodging, travel, food, and tickets to public functions (sports events, theater, etc.).

1. **Business Related Functions:** Acceptance of an invitation to join a vendor at a function being attended for official agency business may be permitted by the Executive Director. Included in this category are luncheon meetings, lunches incidental to a business meeting held before or after the lunch period, and business-related dinners.

2. Industry Meetings: At industry meetings, seminars, or other related functions where the employee's attendance is being funded by RTPA, it is permissible to accept hospitality at activities that are provided for the benefit of all industry people and are commonly accepted as being a part of the group activities. The maximum annual aggregate amount of gifts an employee may accept from a particular vendor must be less than \$50.
3. Entertainment: RTPA staff may not be guests of a vendor, purchaser, contractor, or representative of a service organization at a sports event, theater, etc. These activities are not connected with RTPA business and could be criticized by the public or competitors of the host. The reason a company would act as such a host could be because the vendor, purchaser, contractor, etc. wants to solidify its position, influence the decision of the guest, or show its appreciation. When confronted with doubtful situations, RTPA staff should refuse the offer. The possibility of placing oneself, or RTPA, in a compromising position is thus avoided.

VII. Reporting Corrupt Conduct

Staff is urged to report suspected corrupt conduct to the Executive Director.