

- **Board of Directors**
Legal and Claims Committee

August 16, 2005 Board Meeting

7-6

Subject

Amend Administrative Code to update policy concerning contractors and grantees and change Metropolitan's Filing Officer for Statements of Economic Interest

Description

Pursuant to Metropolitan Water District Act Section 126.7, the Ethics Officer proposes the following amendments to Metropolitan's Administrative Code relating to direct and indirect business relationships between board members and contractors and grantees. Primarily, the proposed amendments more clearly define who is an "immediate relative" for the purpose of determining conflicts of interest in Metropolitan contracts in accordance with state law.

In addition, Administrative Code Section 6470 (e) currently designates the Ethics Officer as Metropolitan's Filing Officer for processing Statement of Economic Interest forms required by the Political Reform Act. The processing of these forms involves strict compliance with the statute and the FPPC's rules and regulations, and the Legal Department provides attorney and staff support for these filings. As this task principally involves legal issues, it is proposed that the General Counsel's Office formally assume the function of Metropolitan's Filing Officer for processing the Statement of Economic Interest forms.

The proposed amendments to update the Administrative Code are shown on [Attachment 1](#), with strikeovers reflecting deletions and underlining reflecting additions. [Attachment 2](#) sets forth the provisions, as they would now appear in Metropolitan's Administrative Code.

Policy

Metropolitan Water District Act Section 126.7
Metropolitan Water District Administrative Code Sections 6430, 6470 and 7105
California Political Reform Act (Government Code Sections 81000 *et seq.*)

California Environmental Quality Act (CEQA)

CEQA determination for Option #1:

The proposed action is not defined as a project under CEQA because it involves continuing administrative activities, such as general policy and procedure making (Section 15378(b)(2) of the State CEQA Guidelines). In addition, where it can be seen with certainty that there is no possibility that the proposed action in question may have a significant effect on the environment, the proposed action is not subject to CEQA (Section 15061(b)(3) of the State CEQA Guidelines).

The CEQA determination is: Determine that the proposed action is not subject to CEQA pursuant to Sections 15378(b)(2) and 15061(b)(3) of the State CEQA Guidelines.

CEQA determination for Option #2:

None required

Board Options/Fiscal Impacts

Option #1

Adopt the CEQA determination and approve the amendments to Administrative Code Sections 6430, 6470 and 7105 as set forth in **Attachment 2**.

Fiscal Impact: None

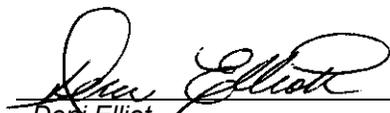
Option #2

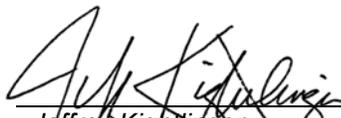
Do not amend Administrative Code.

Fiscal Impact: None

Staff Recommendation

Option #1

	7/21/2005
Denis Elliot Ethics Officer	Date

	7/20/2005
Jeffrey Kightlinger General Counsel	Date

Attachment 1 – The Administrative Code of The Metropolitan Water District of Southern California (showing additions and deletions)

Attachment 2 – The Administrative Code of The Metropolitan Water District of Southern California (changed provisions only)

BLA #3710

**THE ADMINISTRATIVE CODE OF
THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA
(showing additions and deletions)**

§ 6430. Powers and Duties.

The powers and duties of the General Counsel shall be as follows:

(a) The General Counsel shall be the attorney for the District and shall represent said District and the Board, or any officer of said District, in all actions at law or in equity, and special proceedings, for or against said District, or in which it may be legally interested, or for or against said Board or any officer of said District, in his official capacity.

(b) The General Counsel shall be legal advisor to the Board and to all officers of said District in their official capacity, and he shall give his advice or opinion in writing to said Board or to any such officer, when requested so to do by said Board or officer.

(c) The General Counsel shall keep on file in his office copies of all written communications given by him to the Board or to any officer or employee of the District; copies of all papers, briefs, and transcripts used in causes wherein he appears, and a register of all actions or proceedings in his charge in which the District or the Board or any officer of the District, in his official capacity, is a party or is interested.

(d) The General Counsel may, when authorized so to do by the Board, employ attorneys and other persons to render special and temporary services in assisting him in the performance of his duties and upon such compensation as the Board may determine.

(e) The General Counsel shall cooperate with the Chief Executive Officer.

(f) The General Counsel shall be the filing officer on behalf of the District to receive and file statements of economic interests pursuant to the California Government Code and section 7205 of this Administrative Code.

§ 6470. Powers and Duties.

The powers and duties of the Ethics Officer shall be as follows:

(a) The Ethics Officer shall report directly to the Board, and shall be staffed with professional, qualified persons.

(b) The Ethics Officer shall establish ethics rules for conduct and decision-making processes for approval and adoption by the Board relating to internal disclosure, conflicts of interests, contracts, gifts, lobbying, and campaign contributions for application to its board members, officers and employees.

(c) The Ethics Officer shall propose for adoption a schedule of penalties for violations of the District's ethics rules and policies.

(d) The Ethics Officer shall educate the board, staff, contractors and subcontractors concerning the rules prescribed in subsection (b) above.

~~(e) The Ethics Officer shall function as the Filing Officer for the Statement of Economic Interest disclosure mandate.~~

§ 7105. Contracts and Grants With Metropolitan.

(a) Board members, officers, and employees are prohibited from offering inducements to a potential vendor, contractor, grantee, or other party, to the exclusion of similar persons or firms, in hopes of obtaining reciprocal favors. Metropolitan policies pertaining to the procurement of goods, services, and contractors, as well as the hiring of personnel, must be followed to ensure fairness to the participants.

~~(b) A~~No Board member, officer, or employee shall ~~not~~ exercise any decision-making power with respect to any transaction, contract, grant or sale to which Metropolitan is a party and in which the Board member, officer, or employee, or an immediate relative of the Board member, officer or employee, has a financial ~~or personal~~ interest (as defined in the California Political Reform Act) or is an officer or employee. “Immediate relative” means a spouse, domestic partner, child, parent, parent in-law, brother, sister, stepparent, stepchild, grandparent or grandchild. Metropolitan may require potential contractors to submit verified written statements regarding financial ~~or personal~~ interests of Board members, officers, ~~or~~ employees, or their immediate relatives in proposed transactions, contracts or sales. No Board member, officer, or employee shall grant any special consideration, treatment or advantage to any person or group beyond that available to every other person or group in the same circumstances, as prohibited by Section 7103 of this Administrative Code, in connection with any transaction, contract, grant or sale to which Metropolitan is a party. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons to ensure that no unfair advantage is given to them and that Metropolitan’s interest are fully protected in such situations.

~~(c)~~ Metropolitan shall not award any grant to a Metropolitan Board member, officer or employee.

~~(b)~~(d) Metropolitan shall not contract for services of any director during the Director’s term of office and a period of one year thereafter. The restriction on contracting after leaving office may be waived in specific cases by a 2/3 vote of the Board of Directors.

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(c) The Ethics Officer shall propose for adoption a schedule of penalties for violations of the District's ethics rules and policies.

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(b) No Board member, officer, or employee shall exercise any decision-making power with respect to any transaction, contract, grant or sale to which Metropolitan is a party and in which the Board member, officer, or employee, or an immediate relative of the Board member, officer or employee, has a financial interest (as defined in the California Political Reform Act) or is an officer or employee. "Immediate relative" means a spouse, domestic partner, child, parent, parent-in-law, brother, sister, stepparent, stepchild, grandparent or grandchild. Metropolitan may require potential contractors to submit verified written statements regarding financial interests of Board members, officers, employees, or their immediate relatives in proposed transactions, contracts or sales. No Board member, officer, or employee shall grant any special consideration, treatment or advantage to any person or group beyond that available to every other person or group in the same circumstances, as prohibited by Section 7103 of this Administrative Code, in connection with any transaction, contract, grant or sale to which Metropolitan is a party. Proposed relationships with former Board members or Metropolitan employees subject to Board approval must be evaluated carefully in advance of completing any agreement with such persons to ensure that no unfair advantage is given to them and that Metropolitan's interest are fully protected in such situations.

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