



# ETHICS OFFICE MONTHLY REPORT

## TO BOARD OF DIRECTORS

Metropolitan Water District of Southern California

### NOVEMBER 2016

## PRESIDENTIAL ETHICS

In the weeks following the Presidential election, there has been increased interest in the ethics laws applicable to those we elect to serve in the nation's highest office. President-elect Donald Trump's ownership of multiple businesses, investments, and real estate in the United States and globally - and his reported statement that "the President can't have a conflict of interest" - has raised a question surfacing in the media: Do conflict of interest and other ethics laws apply to the President?

Just as Metropolitan employees are subject to internal rules and state ethics laws, federal executive branch officials are subject to ethics rules and laws on gifts, conflicts of interest, outside employment, and abuse of office for private gain. The Office of Government Ethics' (OGE) Standards of Ethical Conduct for Employees of the Executive Branch identifies 14 primary ethical obligations. These regulations, however, expressly exempt the President and Vice President from the vast majority of them, including financial conflicts of interest.

For protocol and etiquette reasons, these regulations allow the President and Vice President to accept personal gifts, so long as 1) they took no overt governmental action in exchange; 2) there was no explicit request for the gift, and 3) the arrangement was not bribery under federal law. In contrast to the ethics laws applicable to all other federal officials, the chief executives are subject to criminal laws on bribery and other



overt corruption. Also, the U.S. Constitution contains a seldom-discussed article that forbids all officeholders from accepting "emoluments" - i.e., gifts or payments from a foreign state without consent of Congress.

Although anyone, including the President, can arguably have a conflict of interest, President-elect Trump has drawn attention to the fact that many ethics and conflict of interest regulations intended to prevent government decision-making from being the potential or perceived influence of their private financial holdings do not apply to the President or Vice President. Former Presidents divested their financial interests, or placed them in a blind trust, in order to avoid even the appearance of conflict. However, those actions were voluntary rather than required by law.

However President-elect Trump ultimately decides to handle his private interests when he assumes office, the public's interest in his choices and how they affect the Office of the President will likely continue.

## AB 1234 ETHICS WORKSHOP TRAINING



On November 7, 2016, the Ethics Office hosted a live ethics workshop at Metropolitan headquarters. Approximately 50 Metropolitan officials participated, satisfying their biennial ethics training requirement under California law. Distinguished speakers were Michael Jenkins and Christi Hogin of Jenkins and Hogin LLP, Gary Winuk of Kaufman Legal Group, and Inspector General Max Huntsman of the Los Angeles County Sheriff's Office (pictured left). The speakers shared their collective professional experiences advising on governmental ethics laws and prosecuting violations of those laws, with anecdotes, candor, and even humor.

The workshop emphasized the Brown Act, conflicts of interest, misuse of public funds, financial disclosure, and criminal laws applicable to public officials. Throughout the session, the speakers reminded participants that the most important takeaway from ethics training is to learn to identify when to ask for advice from the Ethics Office and/or Legal Department. Directors who were unable to attend the session may request a workshop materials packet from the Ethics Office.

The November 7th, 2016 AB1234 Workshop may be viewed online to satisfy the training requirement. Once completed with the online training, call or email the Ethics Office for your Certificate of Completion.

You may view this training at **Metropolitan's Intranet**:

[http://mwdh2o.granicus.com/MediaPlayer.php?view\\_id=27&clip\\_id=5734](http://mwdh2o.granicus.com/MediaPlayer.php?view_id=27&clip_id=5734)

AB1234 Ethics Training is also available online with the **Fair Political Practices Commission**. Simply go to the section for - Local Officials Ethics Course. When you are finished, print the Certificate of Completion and forward it to the Ethics Office, for record keeping and tracking.

<http://www.fppc.ca.gov/learn/public-officials-and-employees-rules-/ethics-training.html>

and **Office of the Attorney General**:

<http://oag.ca.gov/ethics>

Please note that if you take the online training, to satisfy the AB 1234 requirements, the certificate must reflect that you spent two hours or more reviewing the materials presented in the online course.

## PROJECTS & INITIATIVES

The Ethics Officer and staff remain engaged in several projects and initiatives for review, analysis, and evaluation of various aspects of Metropolitan's activities.

Completed this month:

- ⇒ AB1234 Training for Directors and MWD Officers on November 7, 2016.
- ⇒ Review and provisional approval of amended Conflict of Interest Code by FPPC staff.
- ⇒ Investigation of Chief Financial Officer conflict of interest matter; report submitted to General Manager, November 1, 2016.

Emerging this month:

- ⇒ Development of new comprehensive reports of pending matters.
- ⇒ Conflict of Interest Code amendment for employees.

## ADVICE & ASSISTANCE

The Ethics Office provides advice, counseling, or other assistance to any director, officer, employee, or contractor regarding application or interpretation of Metropolitan's ethics rules or policies. Absent unusual circumstances, the Office provides its advice in writing.

The Ethics Office can provide advice only prospectively, i.e., about future activities. If it becomes apparent that a request for advice or other assistance concerns events that have already occurred, it might be necessary to review the matter as a potential violation.

In November 2016, the Office provided analysis and advice in the following areas:

- \* Nepotism
- \* Gifts
- \* Statements of Economic Interest
- \* Professional consulting proposals as potential conflicts

<b>Matters Addressed FY 2016-17</b>	<b>FY</b>	<b>Jul</b>	<b>Aug</b>	<b>Sep</b>	<b>Oct</b>	<b>Nov</b>	<b>Dec</b>	<b>Jan</b>	<b>Feb</b>	<b>Mar</b>	<b>Apr</b>	<b>May</b>	<b>Jun</b>	<b>FY</b>
	15/16	2016	2016	2016	2016	2016	2016	2017	2017	2017	2017	2017	2017	15/16
<b>Ethics Complaints</b>														
Abuse of Authority	13	1	1	2		1								5
Campaign Contributions	3													0
Conflict of Interest	2	1			2									3
Discrimination	1													0
Economic Disclosure														0
Gifts														0
Misleading Associations	1													0
Nepotism	1													0
Outside Employment	2		1		2	1								4
Outside Scope of Ethics Office		1												1
Revolving Door														0
Whistleblower Protection		1	1											2
<b>Total Complaints</b>	<b>23</b>	<b>4</b>	<b>3</b>	<b>2</b>	<b>4</b>	<b>2</b>	<b>0</b>	<b>15</b>						
<b>Ethics Advice Questions</b>														
Abuse of Authority	4													0
Campaign Contributions	9													0
Conflicts of Interest	51	3	3	1	4	1								12
Economic Disclosure	33		1	5	2	3								11
Gifts	19		2	2	1	1								6
Misleading Associations														0
Nepotism	2			2	1	1								4
Outside Employment	4			1										1
Outside Scope of Ethics Office	3		1	1	1									3
Public Inquiries	1													0
Revolving Door	3													0
Whistleblower Protection														0
<b>Total Questions</b>	<b>129</b>	<b>3</b>	<b>7</b>	<b>12</b>	<b>9</b>	<b>6</b>	<b>0</b>	<b>37</b>						
<b>Combined Total</b>	<b>152</b>	<b>7</b>	<b>10</b>	<b>14</b>	<b>13</b>	<b>8</b>	<b>0</b>	<b>52</b>						