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JOHN ST. CROIX
EXECUTIVE DIRECTOR

Date: May 21, 2013

To: Members, Ethics Commission

From: John St. Croix, Executive Director
By: Mabel Ng, Deputy Executive Director

Re: Draft regulations to implement electronic filing of SEIs

Under state law enacted last year, local agencies may require that Statements of Economic Interests ("SEIs" or the Form 700s) be filed electronically, in accordance with regulations adopted by the Fair Political Practices Commission (FPPC). Staff of the Ethics Commission, which serves as filing officer for all City department heads and members of boards and commissions, believes that SEIs should be filed electronically. This would make SEIs available for public viewing on the Commission's website within 24 hours of filing, without the need for staff to take in paper versions, manually redact certain information, and then upload them to the website.¹

Under state law, an agency that intends to permit electronic filing of SEIs must submit a proposal describing the e-filing system to the FPPC for certification, and include a fee of \$1,000. *See* Calif. Gov't Code § 87500.2 and CCR § 18756. Netfile is one of two systems that have already been certified by the FPPC for use in other jurisdictions; staff will work with Netfile on a proposal to request FPPC certification of an Ethics Commission e-filing system.

In the meantime, staff proposes that the Commission consider and approve the following seven draft regulations (set out in four decision points) so that electronic filing of SEIs will be in place beginning January 1, 2014. Once e-filing is in place, all annual, assuming office and leaving office statements filed with the Ethics Commission must be filed online.

The regulations will govern only filers who are required to file their SEIs *with the Ethics Commission* – that is, primarily department heads, elected officials, and appointed members of decision-making boards and commissions. (A list of the Ethics Commission filers from the City's Conflict of Interest Code is pasted below at the end of this memo.) Other City employees, consultants and others who file SEIs with their respective departments will not be affected by these proposed regulations. Depending on how smoothly e-filing for Ethics filers occurs, however, staff may propose regulations to govern these other filers in the forthcoming years.

¹ Under state regulations, the Commission must redact the address, telephone number and signature block of a public official's SEI from the cover page of the SEI before posting it on the internet.

Regulations approved by the Commission take effect 60 days after the date of their adoption unless before the expiration of this 60-day period, two-thirds of all members of the Board of Supervisors vote to veto the regulation(s). S.F. Charter § 15.102. In accordance with Charter section 4.104(a)(1), staff provided notice of these regulations on its website and to interested persons on May 15, 2013.

1. Draft Regulations 3.1-103-1 and 3.1-500-1

There are generally two categories of persons who must file their SEIs with the Ethics Commission. The first category are members of boards and commissions identified in Campaign and Governmental Conduct Code (“C&GC Code”) section 3.1-103(a) and (b), department heads identified in C&GC Code section 3.1-103(b)(1), and agency heads identified in C&GC Code section 3.1-103(b)(2). For these filers, the Commission serves as the *filing officer*, which means the SEIs are retained at the offices of the Commission. The second category of filers are persons identified in California Government Code section 87200, who are listed in C&GC Code sections 3.1-500 and 3.1-510. For these filers, the Commission serves as the *filing official*, which means that it receives an original SEI, retains a copy of it, and sends the original to the FPPC for retention. (Under Government Code section 87500.2(g), the Commission will satisfy its duties regarding section 87200 filers by forwarding an electronically filed version of an SEI to the FPPC.)

The draft regulations, as set forth below, provide that all filers who file their SEIs with the Commission, whether the SEIs are retained in their original format at the Commission or sent to the FPPC, must file in an electronic format prescribed by the Ethics Commission.

Draft Regulation 3.1-103-1

Effective January 1, 2014, all persons listed in Section 3.1-103(a) and (b) of the Campaign and Governmental Conduct Code shall file assuming office, annual and leaving office Form 700 Statements of Economic Interests with the Ethics Commission in an electronic format prescribed by the Ethics Commission.

Draft Regulation 3.1-500-1

Effective January 1, 2014, all persons listed in Sections 3.1-500 and 3.1-510 of the Campaign and Governmental Conduct Code shall file assuming office, annual and leaving office Form 700 Statements of Economic Interests with the Ethics Commission in an electronic format prescribed by the Ethics Commission.

Decision Point 1

Shall the Commission approve draft Regulations 3.1-103-1 and 3.1-500-1?

2. Draft Regulations 3.1-103-2 and 3.1-500-2

In order to file an SEI electronically, the filer must provide a working email address to the Ethics Commission. The system will generate a password that will be accessible only to the filer via the email address. The filer will use the email address and password to file an SEI via Netfile. Staff will not have access to the password.

To ensure that the system is prepared to receive filings, staff proposes draft Regulations 3.1-103-2 and 3.1-500-2, set forth below, which will require all persons who are required to file their SEIs with the Commission to submit a working and unique email address to the Commission on or before January 1, 2014.

Draft Regulation 3.1-103-2

All persons listed in Section 3.1-103(a) and (b) of the Campaign and Governmental Conduct Code shall provide to the Ethics Commission a working and unique email address, in addition to a mailing address and telephone number and any other information required by the Ethics Commission consistent with the purposes and provisions of the Conflict of Interest Code. The email address shall be a personal or business email address, which may be a City email address. All such persons shall inform the Ethics Commission within 15 calendar days whenever a change is made to the email address, mailing address, or telephone number provided. All such persons shall provide the email addresses under this regulation within 15 calendar days of assuming office or by January 1, 2014, whichever is later.

Draft Regulation 3.1-500-2

All persons listed in Sections 3.1-500 and 3.1-510 of the Campaign and Governmental Conduct Code shall provide to the Ethics Commission a working and unique email address, in addition to a mailing address and telephone number and any other information required by the Ethics Commission consistent with the purposes and provisions of the Conflict of Interest Code. The email address shall be a personal or business email address, which may be a City email address. All such persons shall inform the Ethics Commission within 15 calendar days whenever a change is made to the email address, mailing address, or telephone number provided. All such persons shall provide the email addresses under this regulation within 15 calendar days of assuming office or by January 1, 2014, whichever is later.

Decision Point 2

Shall the Commission approve draft Regulations 3.1-103-2 and 3.1-500-2?

3. Draft Regulations 3.1-103-3 and 3.1-500-3

Staff has included a small exception to the e-filing requirement. Under the draft regulations, a filer who cannot use a computer or who cannot e-file may seek to continue to file an original paper version of the SEI with the Commission, provided he or she seeks written permission to do so at least 15 days before the report is due.

Draft Regulation 3.1-103-3

A person required to file a Form 700 Statements of Economic Interests in electronic format may make a written request to the Executive Director of the Ethics Commission to seek permission to file an original paper copy instead of filing in electronic format. The person must submit the request at least 15 calendar days prior to the deadline for filing the Form 700 Statement of Economic Interests, and the request must provide the reasons why the request should be granted. The Executive Director may grant or deny the request in his or her discretion.

Draft Regulation 3.1-500-3

A person required to file a Form 700 Statements of Economic Interests in electronic format may make a written request to the Executive Director of the Ethics Commission to seek permission to file an original paper copy instead of filing in electronic format. The person must submit the request at least 15 calendar days prior to the deadline for filing the Form 700 Statement of Economic Interests, and the request must provide the reasons why the request should be granted. The Executive Director may grant or deny the request in his or her discretion.

Decision Point 3

Shall the Commission approve draft Regulations 3.1-103-3 and 3.1-500-3?

4. Draft Regulation 3.1-105-1

C&GC Code Section 3.1-105 requires authorities who appoint officers or employees who file their SEIs with the Commission to notify the Commission whenever such appointees assume or leave office. This notice must be provided within 15 days of the date that the officer or employee assumes or leaves office. The draft regulation requires the notice to contain the name of the officer or employee who has assumed or left office; the name of the board, commission or department; the date on which the officer or employee assumed or left office; and his or her email address, mailing address and telephone number.

Draft Regulation 3.1-105-1

Whenever an appointing authority or official or secretary to a board or commission submits written notice to the Ethics Commission under section 3.1-105(a) or 3.1-105(b), the written notice shall contain the name of the appointee or department head who has assumed or left office; whether the appointee or department head assumed or left office; the name of the board, commission or department; the date on which the appointee or department head assumed or left office; and the email address, mailing address, and telephone number of the appointee or department head.

Decision Point 4

Shall the Commission approve draft Regulation 3.1-105-1?

Relevant sections of the Conflict of Interest Code

San Francisco Campaign and Governmental Conduct Code section 3.1-100 et seq.

SEC. 3.1-103. FILING OFFICERS.

Persons holding designated positions shall file the specified statements, declarations, and certificates with the filing officers designated in this Section.

(a) MEMBERS OF BOARDS AND COMMISSIONS.

(1) Members of the following boards and commissions shall file their Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training with the Ethics Commission:

- Access Appeals Commission
- Aging and Adult Services Commission
- Airport Commission

Arts Commission
Asian Art Museum Commission
Assessment Appeals Board
Board of Appeals
Board of Examiners
Board of Supervisors
Building Inspection Commission
Children and Families First Commission
Citizen's General Obligation Bond Oversight Committee
Civil Service Commission
Commission on the Status of Women
Elections Commission
Entertainment Commission
Environment Commission
Ethics Commission
Film Commission
Fine Arts Museums Board of Trustees
Fire Commission
Golden Gate Park Concourse Authority Board of Directors
Health Commission
Health Service System Board
Historic Preservation Commission
Human Rights Commission
Human Services Commission
Juvenile Probation Commission
Library Commission
Local Agency Formation Commission
Municipal Transportation Agency Board of Directors
Parking Authority
Planning Commission
Police Commission
Port Commission
Produce Market Corporation Board of Directors
Rate Fairness Board
Recreation and Park Commission
Remote Access Network Board
Residential Rent Stabilization and Arbitration Board
Residential Users Appeal Board
Retiree Health Care Trust Fund Board
Retirement Board
Revenue Bond Oversight Committee
San Francisco Public Utilities Commission
Small Business Commission
Sunshine Ordinance Task Force
Treasure Island Development Authority Board of Directors
War Memorial and Performing Arts Center Board of Trustees

Workforce Investment Board

(2) Members of the following boards and commissions shall file their Form 700 Statements of Economic Interests with the Ethics Commission:

Community College District Board of Trustees

Health Authority Board

Housing Authority Commission

Law Library Board of Trustees (excluding *ex officio* members)

San Francisco Unified School District Board of Education

(b) **DEPARTMENT HEADS.**

(1) The following department heads of City agencies shall file their Form 700 Statements of Economic Interests, Sunshine Ordinance Declarations, and Certificates of Ethics Training with the Ethics Commission:

Aging and Adult Services, Executive Director

Airport Director

Asian Art Museum, Director

Arts Commission, Director of Cultural Affairs

Assessor-Recorder

Board of Appeals, Executive Director

Board of Supervisors, Clerk

Building Inspection, Director

Child Support Services, Director

Children and Families First Commission, Executive Director

Children, Youth and Their Families, Executive Director

Citizen Complaints, Director

City Administrator

City Attorney

City Librarian

Civil Service Commission, Executive Officer

Commission on the Status of Women, Executive Director

Controller

District Attorney

Economic Workforce and Development, Executive Director

Elections, Director

Emergency Management, Executive Director

Entertainment Commission, Executive Director

Environment, Executive Director

Ethics Commission, Executive Director

Film Commission, Executive Director

Finance Corporation, Chief Financial Officer, President, and Secretary

Fine Arts Museums, Director

Fire Chief

Golden Gate Park Concourse Authority, Chief Executive Officer

Health Service System, Director

Human Resources, Director

Human Rights Commission, Executive Director

Human Services Commission, Executive Director

Juvenile Probation Commission, Chief Probation Officer
 Local Agency Formation Commission, Executive Officer
 Mayor
 Municipal Transportation Agency, Executive Director/CEO
 Parking Authority, Director
 Planning, Director
 Police Chief
 Port, Director
 Produce Market Corporation, Executive Director
 Public Defender
 Public Health, Director
 Public Works, Director
 Recreation and Park, General Manager
 Residential Rent Stabilization and Arbitration Board, Executive Director
 Retirement System, Executive Director
 San Francisco Public Utilities Commission, General Manager
 Sheriff
 Small Business, Director
 Technology, Executive Director
 Transportation Authority, Executive Director
 Treasurer
 War Memorial and Performing Arts Center, Managing Director

(2) The following department heads shall file their Form 700 Statements of Economic Interests with the Ethics Commission:

Community College District, Chancellor
 Health Authority, Chief Executive Officer
 Housing Authority, Executive Director
 Law Librarian-Secretary
 San Francisco Unified School District, Superintendent

(c) Members of the Civil Grand Jury shall file their Form 700 Statements of Economic Interests with the Executive Officer of the Superior Court.

(d) All other persons holding designated positions shall file their Form 700 Statements of Economic Interests with their respective department head or the executive director of the agency.

(e) In instances where the proper filing officer for a particular, designated position is unclear, the Ethics Commission may designate the filing officer.

SEC. 3.1-105. NOTICE OF APPOINTMENT AND RESIGNATION.

(a) Every appointing authority whose appointees file statements required by Sections 3.1-101 and 3.1-102 of the Campaign and Governmental Conduct Code with the Ethics Commission shall provide written notice to the Ethics Commission of the name of any appointee who has assumed or left office or employment. Such notice shall be provided within 15 days of the City officer or employee assuming or leaving office or employment. Failure to provide such notice may constitute official misconduct.

(b) Whenever the Mayor or a board or commission appoints a department head, or receives the resignation or retirement notice of a department head, the official or the secretary to the board or commission who makes the appointment or receives the resignation or retirement notice, shall

inform the department head of the necessity to file within 30 days of assuming office or leaving office a statement of economic interests. The official or the secretary of the board or commission who makes the appointment or receives the resignation or retirement notice shall also inform the Ethics Commission of the appointment, resignation or retirement within 15 days of the department head's assumption of or departure from office. Such written notice shall include the name of the department head, and the date on which the department was appointed, resigned or retired. Upon receiving notice of the appointment, or the resignation or retirement, of the department head, the Ethics Commission shall perform the required duties of the filing officer and obtain the required statement of economic interests.

SEC. 3.1-500. POSITIONS FOR WHICH THE FAIR POLITICAL PRACTICES COMMISSION IS THE FILING OFFICER.

Members of the Board of Supervisors, District Attorney, Mayor, City Administrator, City Attorney, Treasurer, and members of the Planning Commission shall file one original of all statements of economic interests with the Ethics Commission, the filing official, who shall make and retain a copy and forward the original to the Fair Political Practices Commission which shall be the filing officer.

SEC. 3.1-510. AGENCY POSITIONS THAT MANAGE PUBLIC INVESTMENTS FOR PURPOSES OF SECTION 87200 OF THE GOVERNMENT CODE.

Pursuant to state law, California Government Code section 87314, the following section identifies the local officials who manage public investments for the purposes of California Government Code section 87200.

Designated Positions	Disclosure Categories
Member, Retirement Board	1
Commission Secretary, Retirement System*	1
Executive Director, Retirement System	1
Deputy Director (Investments), Retirement System*	1
Managing Director, Retirement System*	1
Treasurer	1
Chief Assistant Treasurer*	1
Cash Mgmt. and Investment Officer, Treasurer-Tax Collector's Office*	1
Asst. Cash Mgmt. and Investment Officer, Treasurer-Tax Collector's Office*	1

* These local officials shall file their statements of economic interests with their respective department's filing officer.