



EXECUTIVE SUMMARY

HOUSING COMMISSION EXECUTIVE SUMMARY SHEET

DATE: July 5, 2018

HCR18-070

COUNCIL DISTRICT(S): Citywide

ORIGINATING DEPARTMENT: General Counsel

CONTACT/PHONE NUMBER: Charles B. Christensen

REQUESTED ACTION:

That the San Diego Housing Commission (Housing Commission) Board of Commissioners recommend adoption by the San Diego City Council of the amendment to Appendix A to Policy 101.000 “Conflict of Interest Code and Related Provisions.”

EXECUTIVE SUMMARY OF KEY FACTORS:

- The proposed amendment is intended to conform to applicable law requiring a biennial review and update of local conflict of interest codes.
- Government Code section 87200 sets forth the requirements for the disclosure provisions of a conflict of interest code, requiring the specific enumeration of positions that involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest.
- At the City’s direction, General Counsel and staff have reviewed the Housing Commission’s “Conflict of Interest Code and Related Provisions” and have identified newly created designated positions which are listed on Appendix A, as revised.
- This action has no fiscal impact.
- The Conflict of Interest Code and Related Provisions Policy was originally issued in November 1994 and has been revised periodically since.
- On July 29, 2016, and December 6, 2016, respectively, the Housing Commission Board of Commissioners and the City Council approved revisions to Appendix A of Policy 101.000 “Conflict of Interest Code and Related Provisions” pursuant to the 2016 biennial review.



REPORT

DATE ISSUED: July 5, 2018

REPORT NO: HCR18-070

ATTENTION: Chair and Members of the Housing Commission
For the Agenda of July 13, 2018

SUBJECT: Action to Amend Appendix A of Housing Commission PO101.000

REQUESTED ACTION:

Recommend approval of the amendment of Appendix A to Policy 101.000 “Conflict of Interest Code and Related Provisions” to the San Diego City Council.

STAFF RECOMMENDATION:

That the San Diego Housing Commission (Housing Commission) Board of Commissioners recommend adoption by the San Diego City Council of the amendment to Appendix A to Policy 101.000 “Conflict of Interest Code and Related Provisions.”

BACKGROUND:

The proposed amendment is intended to conform to applicable law requiring a biennial review and update of local conflict of interest codes. Government Code section 87200 sets forth the requirements for the disclosure provisions of a conflict of interest code, requiring the specific enumeration of positions that involve the making or participation in the making of decisions which may foreseeably have a material effect on any financial interest. For each such position, the conflict of interest code must enumerate the types of investments, business positions, interests in real property, and sources of income which are reportable on a Statement of Economic Interests (Form 700).

At the City’s direction, General Counsel and staff have reviewed the Housing Commission’s “Conflict of Interest Code and Related Provisions” and have identified newly created designated positions which are listed on Appendix A, as revised.

FISCAL CONSIDERATIONS:

This action has no fiscal impact.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

The Conflict of Interest Code and Related Provisions Policy was originally issued in November 1994 and has been revised periodically since. On July 29, 2016, and December 6, 2016, respectively, the Housing Commission Board of Commissioners and the City Council approved revisions to Appendix A of Policy 101.000 “Conflict of Interest Code and Related Provisions” pursuant to the 2016 biennial review.

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Action to Amend Appendix A of Housing Commission PO101.000

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ENVIRONMENTAL REVIEW:

This proposed transaction is not a “project” pursuant to the California Environmental Quality Act (CEQA); no CEQA environmental review is required. Because no federal funding would result from this action, processing under the National Environmental Policy Act (NEPA) is not required.

KEY STAKEHOLDERS & PROJECTED IMPACTS:

No changes have been made to the Conflict of Interest Code itself; the changes presented are to Appendix A only. Appendix A was revised to add new titles and positions. Individuals holding positions added to Appendix A will be required to file an assuming office Form 700 within thirty (30) days of City Council’s approval of this amendment. Individuals whose titles have changes but were previously required to file a Form 700 will not be impacted by the amendment of their titles in Appendix A. The amendment of these titles is to ensure the currently used titles appear on Appendix A. This amendment will have an impact on any Housing Commission positions that are designated as a result of this biennial review, who will now be required to file a Statement of Economic Interest – Form 700 under the conflict of interest code. Any affected individuals have been provided a fair opportunity to present their views.

Respectfully submitted,

Charles B. Christensen

Charles B. Christensen, Esq.
General Counsel
San Diego Housing Commission

Approved by,

Jeff Davis

Jeff Davis
Executive Vice President & Chief of Staff
San Diego Housing Commission

Attachments:

1. Policy 101.000 “Conflict of Interest and Related Provisions”
2. Policy 101.000 Appendix A Clean
3. Policy 101.000 Appendix A Redline

Hard copies are available for review during business hours at the security information desk in the main lobby and the fifth floor reception desk of the San Diego Housing Commission offices at 1122 Broadway, San Diego, CA 92101 and at the Office of the San Diego City Clerk, 202 C Street, San Diego, CA 92101. You may also review complete docket materials in the “Public Meetings” section of the San Diego Housing Commission website at www.sdhc.org

San Diego Housing Commission
POLICY

Subject: **CONFLICT OF INTEREST CODE AND RELATED PROVISIONS**

Number: **PO101.000**

Effective Date: 11/3/94

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1. BACKGROUND

- 1.1 Federal, State and Local Conflict Laws Incorporated by Reference. All employees, Commissioners, consultants for the Commission, contractors doing business with the Commission, agents of the Commission, and each of them, shall comply with and adhere to all applicable conflict of interest provisions contained in the applicable federal, state and local law to the full extent required by the applicable federal, state and local law.
- 1.2 The Political Reform Act, Government Code Section 81000, et seq., requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation, 2 Cal. Code of Regulations Section 18730, which contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference, and which may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act after public notice and hearings. Therefore, the terms of 2 Cal. Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, along with the attached Appendices in which officials and employees are designated and disclosure categories are set forth, are hereby incorporated by reference and together constitute the Conflict of Interest Code of the San Diego Housing Commission.
- 1.3 Pursuant to Section b(4) of the Standard Code, designated employees shall file statements of economic interests with the Clerk of the City of San Diego and copies will be made available to any person upon request.

2. POLICY AND ADOPTION OF CODE

- 2.1 Compliance with Applicable Laws. All employees, officers, commissioners of the San Diego Housing Commission, consultants, contractors, subcontractors, grantees, and borrowers shall, to the full extent required by the applicable law, comply with all applicable laws including, but not limited to, HOME, CDBG, etc., and all other federal conflict requirements and provisions, if federal funds and/or programs are involved, including 24 CFR 570.611, 24 CFR Part 982, 24 CFR Part 92, 24 CFR Part 85, and any and all other federal applicable federal conflict provisions. State conflict provisions shall include, but are not limited to, Government Code Sections 87100, et. seq., Government Code Sections 1126, et. seq., Government Code Sections 1090, et. seq., Government Code Section 19990 et. seq., and Health and Safety Code Section 34281 et. seq. Local conflict of interest provisions shall include San Diego Municipal Code Sections 27.3501 et. Seq. (San Diego Ethics Ordinance) and any and all administrative regulations promulgated by the President & Chief Executive Officer, or designee, to implement the federal, state and local conflict laws, if any.

Supersedes Policy 101.000, Issued 11/3/94; Rev: 4/23/96, 11/26/96, 12/08/98, 11/14/00, 8/16/02, 12/15/06, 9/18/08, 02/20/09,

Authorized

Richard C. Gentry
President & Chief Executive Officer

Date

Date

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2.2 The Standard Code as referenced in 2 Cal. Code of Regulations Section 18730 is hereby adopted by the San Diego Housing Commission. A true and correct copy of the standard code contained in 2 Cal. Code of Regulations Section 18730 may be obtained by contacting the San Diego Housing Commission offices, located at 1122 Broadway, San Diego, CA 92101. Said copy of the Code of Regulations is incorporated herein by reference.

2.3 2 Cal. Code of Regulations 18730. Provisions of Conflict of Interest Code. Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Government Code Section 87300 or the amendment of a conflict of interest code within the meaning of Government Code Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Government Code Section 87100, and to other state or local laws pertaining to conflicts of interest.

2.4 General Definitions:

A. Designated Employees, Disclosure Categories, Definitions: The designation of officers and employees, disclosure categories, and definitions referenced in the conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(i) Designated Employees The persons holding positions listed in Appendix A are designated employees. It has been determined that these persons make or participate in the making of decisions which may have a foreseeable material effect on financial interests.

(ii) Disclosure Categories This Code does not establish any disclosure obligation for those designated employees who are also specified in Government Code Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their financial interests pursuant to Article 2 of Chapter 7 of the Political Reform Act, Government Code Sections 87200, et seq.¹ Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees and positions, the disclosure categories set forth in Appendix B specify which kinds of financial interests are reportable. Such a designated employee or position shall disclose in his/her statement of economic interests those financial interests he/she has which are of the kind described in the disclosure categories to which he/she is assigned in Appendix A. It has been determined that the financial interests set forth in a designated employee's or position's disclosure categories are the kinds of financial

¹ Designated employees who are required to file statements of economic interests under any other agency's Conflict of Interest Code, or under Article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Government Code Section 81004.

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interests which he/she foreseeably can affect materially through the conduct of his/her office.

(iii) Definitions The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (2 Cal. Code of Regs. Sections 18100, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code and in Appendix C.

B. Other Definitions: The following definitions are applicable to all portions of this policy except as referenced herein in Section 2.4 (A) above.

(i) "Contractor" means any individual or firm that enters into an agreement with the Housing Commission or the Housing Authority of the City of San Diego for the provision of goods and services, construction, architect/engineering, consulting services, loans and/or grants.

(ii) "Contract" means any mutually binding legal relationship obligating the seller to furnish supplies or services (including construction) and the buyer to pay for them. Examples include, but are not limited to, contracts, and amendments thereto, purchase orders, leases, maintenance agreements, and ordering agreements. Contract also includes loans and/or grants.

(iii) "Solicitation" means any informal or formal request for prices, bids, proposals, and/or qualifications that are issued in anticipation of making a contract, award and/or loan or grant.

2.5 Mandatory Disclosure of Interests by Prospective Contractors, Consultants, Suppliers, etc.

A. Purpose

To establish principles for determining the name and identity of any and all persons directly or indirectly involved in the proposed transaction, the precise nature of all interests of all persons therein, and other data pertinent to the award of a contract, including grants and/or loans.

B. Policy

No employee, officer, or agent of the Housing Commission or of the Housing Authority of the City of San Diego shall participate directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by an employee, officer or agent involved in making the award or his/her Spouse and/or dependent children.

C. Disclosure Required

To ensure that all potential conflicts of interest are identified, all contractors, including grantees and borrowers, selected for award of contracts in excess of \$25,000, including options, for architect/engineering and professional consultants, and all contractors selected for award of contracts in excess of \$49,999, including options, for construction and goods and services, shall be required to submit a Statement for Public Disclosure.

D. Failure to Submit

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Failure to submit a Statement for Public Disclosure, or failure to fully disclose all of the information enumerated in the Statement for Public Disclosure, shall be grounds for denial of contract award and may result in forfeiture of any and all rights and privileges that have been granted heretofore.

- 2.6 Notification of Conflicts or Potential Conflicts and Manner of Abstention All legally mandated abstentions should be filled out and transmitted to the Commission in advance of a hearing, but not later than the time of the hearing, using the form attached hereto as Appendix E. Examples of required written disclosures include, but are not limited to, conflicts involving economic interests under the Political Reform Act, Government Code sections 1090, 1091 and 1091.5 disclosures, Health and Safety Code section 34281 disclosures, City's Ethics Ordinance, and disclosures required by the "rule of necessity" under Government Code section 87100, et. seq.
- 2.7 Provision Governing Former Employees. No employee or member of the Housing Commission or of the Housing Authority of the City of San Diego shall have any prohibited interest, direct or indirect, not shall profit from any Housing Commission contract to the extent prohibited by applicable federal, state or local law.
3. Promulgation of Conflict of Interest Administrative Regulations The President & Chief Executive Officer of the Commission shall, from time to time, promulgate administrative regulations to implement the various conflict of interest provisions referenced above, if and when required. Such administrative regulations shall be made available to members of the public upon request. The Board of Commissioners may, but shall not be required to, review, approve and amend such administrative regulations, at such times as the Board, in its sole discretion shall determine. Subject to such discretionary review by the Board, all authority to promulgate, amend, review and revise the administrative regulations shall be vested in the President & Chief Executive Officer of the Commission.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87300-87302, 89501, 89502, 89503, and 89504, Government Code.

HISTORY:

New Section filed 4/2/80 as an emergency; effective upon filing. Certificate of Compliance included.

Editorial correction

Amendment of subsection (b) filed 1/9/81; effective thirtieth day thereafter

Amendment of subsection (b)(7)(B). filed 1/26/83; effective thirtieth day thereafter

Amendment of subsection (b)(7)(A) filed 11/10/83; effective thirtieth day thereafter

Amendment filed 4/13/87; effective thirtieth day thereafter

Amendment of subsection (b) filed 10/21/88; effective thirtieth day thereafter

Amendment filed 8/28/90; effective thirtieth day thereafter

Amendment filed 8/7/92; effective thirtieth day thereafter

Amendment filed 2/5/93; effective upon filing

Amendment filed 3/14/95; effective upon filing

Amendment filed 4/23/96; effective upon filing

Amendment filed 11/26/96; effective upon filing

Amendment filed 12/08/98; effective upon filing

Amendment filed 11/14/00; effective upon filing

Amendment filed 8/16/02; effective upon filing

Amendment filed 12/15/06; effective upon filing

Amendment filed 09/12/08; effective upon filing

Amendment filed 02/20/09; effective upon filing

Amendment filed 12/7/10; effective upon filing

Amendment filed 11/13/12; effective upon filing

Amendment filed 12/06/16; effective upon filing

Amendment filed ____/18; effective upon filing

APPENDIX A

DESIGNATED EMPLOYEES and DESIGNATED POSITIONS

Positions Requiring Full Disclosure Type I as set forth in Appendix B:

Assistant Directors
Board of Commissioners
Controller
Directors
Executive Vice President & Chief of Staff
Executive Vice President & Chief Operating Officer
Executive Vice President & Chief Strategy Officer
Legal Counsel
Directors of the Housing Development Partners of San Diego
Directors of the HDP Mason Housing Corporation
Directors of SDHC Building Opportunities, Inc.
Members of the Loan Committee
Members of Real Estate Committee
President & Chief Executive Officer
Senior Directors
Senior Vice President of Communications & Chief of Communications
Senior Vice Presidents
Vice President of Information Technology & Chief Information Officer
Vice President of Financial Services & Chief Financial Officer
Vice Presidents

Positions Requiring Full Disclosure Type II, as set forth in Appendix B:

Senior Executive Assistant to President & Chief Executive Officer

Positions Requiring Limited Disclosure Type I, as set forth in Appendix B: (contracting)

Communications Manager
Community Liaison
Contracts Analyst
Facilities Coordinator
Housing Construction/Inspection Coordinator
Housing Construction Supervisor
Human Resources Manager
Information Technology Manager

Positions Requiring Limited Disclosure Type II, as set forth in Appendix B: (services and grants)

Accountant

Affordable Housing Compliance Manager
Contract Employees (who make/participate in Commission decisions in Board & Executive Functions, Business Services, Financial Services, Communications & Public Affairs, and/or Policy Departments)
Information Systems Service Manager
Information Technology Project Manager
Manager of Budget and Reporting
Project Manager
Senior Accountant
Senior Budget Analyst
Senior Grants Analyst
Senior Homeless Program Analyst
Senior HR Analyst
Senior Information Project Manager
Senior Program Analyst in Operations
Strategic Plan/Budget Administrator

Positions Requiring Limited Disclosure III, as set forth in Appendix B: (services/grants with RP)

Assistant Real Estate Managers
Assistant Real Estate Project Development Administrator
Contract Employees (who make/participate in Commission decisions in Real Estate, Operations, Housing Innovations and/or Rental Assistance Departments)
Equal Opportunity Contracting Program Manager
HCV Quality Assurance/Compliance Manager
Housing Programs Manager
Housing Supervisor
Loan Services Manager
Loan Underwriting Specialist
Loan Servicing Specialist
Manager
Off-Site Property Manager
On-Site Property Manager
Real Estate Project Development Administrator
Senior Program Analyst in Real Estate
Senior Rental Assistance Analyst

CONSULTANTS

“Consultant” is an individual who, pursuant to a contract with the Housing Commission either:

(1) Makes a governmental decision whether to: (a) Approve a rate, rule or regulation; (b) Adopt or enforce a law; (c) Issue, deny, suspend, or revoke any permit, license, application, certificate,

approval, order, or similar authorization or entitlement; (d) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval; (e) Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract; (f) Grant agency approval to a plan, design, report, study, or similar item; (g) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(2) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

Consultants shall make Full Disclosure subject to the President & Chief Executive Officer's (or his/her designated authority's) determination, in writing, that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The President & Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Director of Financial Services/Budget Officer, Vice President of Financial Services & Chief Financial Officer, and Controller - To the extent that any of these three positions manage public investments, employee will file a Statement of Economic Interests pursuant to Government Code §87200.

APPENDIX A

DESIGNATED EMPLOYEES and DESIGNATED POSITIONS

Positions Requiring Full Disclosure Type I as set forth in Appendix B:

Assistant Directors
Board of Commissioners
Controller
Directors
Executive Vice President & Chief of Staff
Executive Vice President & Chief Operating Officer
Executive Vice President & Chief Strategy Officer
Legal Counsel
Directors of the Housing Development Partners of San Diego
Directors of the HDP Mason Housing Corporation
[Directors of SDHC Building Opportunities, Inc.](#)
Members of the Loan Committee
Members of Real Estate Committee
President & Chief Executive Officer
Senior Directors
Senior Vice President of Communications & Chief of Communications
Senior Vice Presidents
Vice President of Information Technology & Chief Information Officer
Vice President of Financial Services & Chief Financial Officer
Vice Presidents

Positions Requiring Full Disclosure Type II, as set forth in Appendix B:

Senior Executive Assistant to President & Chief Executive Officer

Positions Requiring Limited Disclosure Type I, as set forth in Appendix B: (contracting)

Communications Manager
Community Liaison
Contracts Analyst
Facilities Coordinator
Housing Construction/Inspection Coordinator
Housing Construction Supervisor
Human Resources Manager
Information Technology Manager

Positions Requiring Limited Disclosure Type II, as set forth in Appendix B: (services and grants)

Accountant

Affordable Housing Compliance Manager
Contract Employees (who make/participate in Commission decisions in Board & Executive Functions, Business Services, Financial Services, Communications & Public Affairs, and/or Policy Departments)
Information Systems Service Manager
Information Technology Project Manager
Manager of Budget and Reporting
Project Manager
Senior Accountant
Senior Budget Analyst
Senior Grants Analyst
Senior Homeless Program Analyst
Senior HR Analyst
Senior Information Project Manager
Senior Program Analyst in Operations
Strategic Plan/Budget Administrator

Positions Requiring Limited Disclosure III, as set forth in Appendix B: (services/grants with RP)

Assistant Real Estate Managers
Assistant Real Estate Project Development Administrator
Contract Employees (who make/participate in Commission decisions in Real Estate, Operations, Housing Innovations and/or Rental Assistance Departments)
Equal Opportunity Contracting Program Manager
HCV Quality Assurance/Compliance Manager
Housing Programs Manager
Housing Supervisor
Loan Services Manager
Loan Underwriting Specialist
Loan Servicing Specialist
Manager
Off-Site Property Manager
On-Site Property Manager
Real Estate Project Development Administrator
Senior Program Analyst in Real Estate
Senior Rental Assistance Analyst

CONSULTANTS

“Consultant” is an individual who, pursuant to a contract with the Housing Commission either:

(1) Makes a governmental decision whether to: (a) Approve a rate, rule or regulation; (b) Adopt or enforce a law; (c) Issue, deny, suspend, or revoke any permit, license, application, certificate,

approval, order, or similar authorization or entitlement; (d) Authorize the agency to enter into, modify, or renew a contract provided it is the type of contract which requires agency approval; (e) Grant agency approval to a contract which requires agency approval and in which the agency is a party or to the specifications for such a contract; (f) Grant agency approval to a plan, design, report, study, or similar item; (g) Adopt, or grant agency approval of, policies, standards, or guidelines for the agency, or for any subdivision thereof; or

(2) Serves in a staff capacity with the agency and in that capacity performs the same or substantially all the same duties for the agency that would otherwise be performed by an individual holding a position specified in the agency's Conflict of Interest Code.

Consultants shall make Full Disclosure subject to the President & Chief Executive Officer's (or his/her designated authority's) determination, in writing, that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in this section. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The President & Chief Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code. Nothing herein excuses any such consultant from any other provision of this Conflict of Interest Code.

OFFICIALS WHO MANAGE PUBLIC INVESTMENTS

Director of Financial Services/Budget Officer, Vice President of Financial Services & Chief Financial Officer, and Controller - To the extent that any of these three positions manage public investments, employee will file a Statement of Economic Interests pursuant to Government Code §87200.