

CALIFORNIA INFRASTRUCTURE AND ECONOMIC DEVELOPMENT BANK

CONFLICT OF INTEREST CODE

STAFF REPORT

ISSUE:

The Political Reform Act requires all members of the Board of Directors of IBank (Directors) to file Form 700s. The existing IBank Conflict of Interest Code (Existing IBank COI Code) established May 23, 2006 that is on file with the Fair Political Practices Commission (FPPC) sets forth the Directors' Form 700 filing procedures. The Existing IBank COI Code requires revisions due to changes in FPPC's Form 700 filing procedures. Further, the Existing IBank COI Code provides that IBank's employees are to follow the Business Transportation and Housing Agency's (the BTH Agency) conflict of interest code. The BTH Agency is IBank's previous governing agent, but ceased to exist in 2013 and IBank was moved to the Governor's Office of Business and Economic Development (GO-Biz). IBank's employees now fall under the GO-Biz conflict of interest code, revised December 3, 2014 and approved by the FPPC April 22, 2015 (the GO-Biz COI Code). Consequently, IBank must revise the Existing IBank COI Code to make clear IBank's employees will follow the GO-Biz COI Code.

BACKGROUND:

The requirement for officers in designated positions to file statements of economic interests, Form 700s, is set forth in the Political Reform Act, Government Code section 81000 et seq. Specifically, Government Code section 87500 sets forth the types of officials who are required to file regardless of whether they also fall under a specific conflict of interest code. One of the categories of officers required to file under Section 87200 are officers who "manage public investments." It is staff's conclusion that Directors manage public investments and are required, pursuant to Section 87200, to file Form 700s. The Government Code also sets forth where such filers are to send or file their forms. Specifically, Government Code section 87200 states that officers who manage public investments are required to file according to their agency's conflict of interest code. While IBank employees follow the GO-Biz COI Code, Directors are not included.

Currently, all Directors, with the exception of the State Treasurer, file Form 700s with IBank's Filing Officer. Because the State Treasurer is a statewide elected officer, he is required to file directly with the Secretary of the Senate and the Fair Political Practices Commission. The proposed revisions to the Existing IBank COI Code will not affect the requirement to file, it will clarify where to file.

In addition, the FPPC has instituted an electronic filing portal, the eDisclosure system. The instructions for 87200 filers imply that original signatures of Directors

are no longer needed, however. FPPC has not updated its regulations to coincide with the eDisclosure system and has not deleted the requirement for filing original signatures. IBank intends to take a position, out of an abundance of caution to protect the Directors, to request Directors to file their Form 700s in the electronic system prescribed by the FPPC and file an original signed form with the IBank Filing Officer until the FPPC updates its regulations with a different and clearer instruction.

Further, the Existing IBank COI Code directs IBank's employees to follow the BTH Agency conflict of interest code. Since the BTH Agency no longer exists, and IBank is now housed under GO-Biz and therefore IBank's employees fall under the GO-Biz COI Code, IBank intends to update the Existing IBank COI Code to clarify that IBank's employees will now follow the GO-Biz COI Code.

ANALYSIS:

Since Directors are not listed in the GO-Biz COI code, and the IBank COI Code needs to be updated, the draft revised IBank COI Code attached hereto as Attachment A is intended to give the Directors (with the exception of the State Treasurer), including designees, written direction to file through FPPC's most current electronic system and a signed Form 700 with IBank's Filing Officer until the FPPC instructs otherwise by way of regulation. Also, the draft revised IBank COI Code is intended to clarify that required IBank employee filers are to follow the GO-Biz COI Code.

RECOMMENDATION:

Staff recommends approval of Resolution 17-03 approving the revised IBank COI Code attached hereto as Attachment A and authorizing its submission to the FPPC for review and approval.