



COUNTY OF TULARE

ADMINISTRATIVE REGULATION

Compliance with Levine Act

AR 49

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Policy Type	General Administrative Practices
Policy Name	AR 49, Compliance with Levine Act
Resolution Number	2023 - 0316
Effective Date	May 1, 2023

PURPOSE

The purpose of the policy is to establish procedures to ensure the County's compliance with Levine Act requirements and facilitate the efforts of County officers, parties, participants, and agents in their efforts to comply with the Act.

SCOPE

This policy applies to all County Agencies and Departments. County Agencies and Departments may have policies specific to their Agencies or Departments, and not in conflict with this policy, to maintain Levine Act compliance for licenses, permits, or entitlements for use subject to action by County officers within their Agencies or Departments.

POLICY

County Agencies and Departments will comply with Government Code section 84308, a provision of the Political Reform Act of 1974 generally known as the "Levine Act." Generally, the Levine Act has the following requirements:

- While a license, permit, or other entitlement for use from the County is pending, and for 12 months after a final decision is rendered on the matter, a County officer may not solicit, accept, or direct a campaign contribution of more than \$250 from a Party to the matter, a Party's agent, or a Participant with a financial interest in the matter if the officer has reason to know that the Participant has such a financial interest.
- A County officer may not make, participate in making, or in any way use the officer's official position to influence a decision regarding a license, permit, or other entitlement for use from the County if the officer has willfully or knowingly received a campaign contribution of more than \$250 from a Party to the matter, a Party's agent, or a Participant with a financial interest in the matter within the preceding 12 months.
- A Party, or an agent for a Party, seeking a license, permit, or other entitlement for use or a Participant in the proceeding may not contribute more than \$250 to a County officer while the matter is pending before the County or within 12 months after there has been a final decision on the matter. The Party to the pending matter must disclose on the record any qualifying campaign contribution made within the preceding 12 months.
- A Party to a proceeding involving a license, permit, or other entitlement for use pending before the County in the proceeding must disclose any campaign contribution of more than \$250 made to a County officer within the preceding 12 months by the Party or the Party's agent.



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1. POLICY ADMINISTRATOR

The County Administrative Officer, or designee, shall be responsible for administering this policy. The County Administrative Officer or designees are authorized to issue and enforce supplemental instructions, directives, and procedures to implement this Administrative Regulation.

2. DEFINITIONS

- "Act" means the Levine Act, found in Government Code section 84308, a provision of the Political Reform Act of 1974, as amended by the passage of SB 1439, Chapter 848 of the Statutes of 2021-22.
- "Board" means the Tulare County Board of Supervisors.
- "Competitively bid" means where the County has little, if any, discretion in choosing the contractor and includes, for example, a solicitation in which bidders submit fixed amounts in their bids and the County is legally required to award the contract to the lowest responsive, responsible bidder.
- "Contribution" or "campaign contribution" includes contributions to County candidates, County officeholders, and/or their controlled committees in federal, state, or local elections.
- "License, permit, or other entitlement for use" means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises. Amendments, extensions, and renewals of licenses, permits, or other entitlements for use are included within this definition.
- "Officer" means any elected or appointed officer of the County of Tulare, any alternate to an elected or appointed officer of the County of Tulare, and any candidate for elective office of the County of Tulare.
- "Participant" means any person who is not a Party but who meets both of the following requirements:
 - The person actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use. A person actively supports or opposes a particular decision in a proceeding if that person lobbies in person the officers or employees of the County, testifies in person before the County, or otherwise acts to influence officers of the County in the matter; and,
 - The person has a financial interest in the decision as defined in the Political Reform Act (Government Code section 87100, et seq.).
- "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use. This includes bidders on solicitations for County contracts.

3. AUTHORITY

Government Code section 84308, included as **Attachment A**; Fair Political Practices Commission regulations 18438.1 through 18438.8.



4. RESPONSIBILITIES

Each application or solicitation for a County license, permit, or other entitlement for use subject to action by a County officer or officers shall require applicants and bidders to receive the "Campaign Contribution Disclosure Information" as identified in **Attachment B** and complete a "Campaign Contribution Disclosure Form" as identified in **Attachment C**.

County Agencies or Departments shall ensure each applicant or bidder for a County license, permit, or other entitlement for use subject to action by a County officer or officers has completed a Campaign Contribution Disclosure Form before processing the application or solicitation for review. County Agencies or Departments will review Campaign Contribution Disclosure Forms to identify those wherein an applicant or bidder has disclosed a contribution of more than \$250 to a County officer.

County Agencies or Departments are not responsible for reviewing County officer campaign filings or donor contribution records.

Board Agenda Items

County Agencies or Departments will identify in Board Agenda Items (BAIs) that an application or solicitation for a County license, permit, or other entitlement for use requiring Board action is subject to the Levine Act.

Where a County Agency or Department identifies that a County license, permit, or other entitlement for use requiring Board action is subject to the Levine Act, before a BAI is approved by the submitting Agency or Department head, the Agency or Department must produce to the County Administrative Office and County Counsel those Campaign Contribution Disclosure Forms wherein an applicant or bidder has disclosed a contribution of more than \$250 to a County officer. If disclosed to a County Agency or Department, the name of each Participant that has provided a contribution of more than \$250 to a County officer in the preceding 12 months shall also be provided to the County Administrative Office and County Counsel. County Agencies and Departments shall provide the notice information described in this paragraph in a format similar to the "Campaign Contribution Disclosure Notice" in **Attachment D**. The County Administrative Office or County Counsel will take any appropriate actions upon receipt of the Campaign Contribution Disclosure Notice. County Counsel will not approve as to form any proposed license, permit, or other entitlement for use until the submitting Agency's or Department's compliance with this policy is verified.

County Officer Decisions

Where a County Agency or Department is aware that a County officer may make, participate in making, or in any way attempt may use the officer's official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the County, before a decision is made on the item, the Agency or Department must produce to the County Administrative Office and County Counsel those Campaign Contribution Disclosure Forms wherein an applicant or bidder has disclosed a contribution of more than \$250 to a County officer. If disclosed to a County Agency or Department, the name of each Participant that has provided a contribution of more than \$250 to a County officer in the preceding 12 months shall also be provided to the County Administrative Office and County Counsel. County Agencies and Departments shall provide the notice described in this paragraph in a format similar to the Campaign Contribution Disclosure Notice in **Attachment D**. The County Administrative Office or County Counsel will take any appropriate actions upon receipt of the Campaign Contribution Disclosure Notice.



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Post-Decision Notifications

Where a Party has disclosed to a County Agency or Department a contribution of more than \$250 to a County officer within 12 months after a final decision on the Party's license, permit, or other entitlement for use, the County Agency or Department shall provide that information to the County officer and County Counsel. If disclosed to a County Agency or Department, the name of each Participant that has provided a contribution of more than \$250 to a County officer within the 12 months after a final decision on a Party's license, permit, or other entitlement for use shall also be provided to the County Administrative Office and County Counsel. County Agencies and Departments shall provide the notice described in this paragraph in a format similar to the Campaign Contribution Disclosure Notice in **Attachment D**. The County Administrative Office or County Counsel will take any appropriate actions upon receipt of the Campaign Contribution Disclosure Notice.

5. REFERENCES

Government Code section 84308

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=GOV§ionNum=84308

FPPC Regulations 18438.1 through 18438.8

[https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I76245C705A0A11EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextD ata=\(sc.Default\)](https://govt.westlaw.com/calregs/Browse/Home/California/CaliforniaCodeofRegulations?guid=I76245C705A0A11EC8227000D3A7C4BC3&originationContext=documenttoc&transitionType=Default&contextD ata=(sc.Default))

6. ATTACHMENTS

#	Title
A	Government Code Section 84308
B	Campaign Contribution Disclosure Information
C	Campaign Contribution Disclosure Form
D	Campaign Contribution Disclosure Notice

**Attachment A
To Administrative Regulation 49**

GOVERNMENT CODE SECTION 84308

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if that person lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) While a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer of an agency shall not accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution on the officer's own behalf, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit, or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. An officer of an agency shall not make, participate in making, or in any way attempt to use the officer's official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two

hundred fifty dollars (\$250) within the preceding 12 months from a party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

(d)(1) If an officer receives a contribution which would otherwise require disqualification under this section, and returns the contribution within 30 days from the time the officer knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, the officer shall be permitted to participate in the proceeding.

(2)(A) Subject to subparagraph (B), if an officer accepts, solicits, or directs a contribution of more than two hundred fifty dollars (\$250) during the 12 months after the date a final decision is rendered in the proceeding in violation of subdivision (b), the officer may cure the violation by returning the contribution, or the portion of the contribution in excess of two hundred fiftydollars (\$250), within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest.

(B) An officer may cure a violation as specified in subparagraph (A) only if the officer did not knowingly and willfully accept, solicit, or direct the prohibited contribution.

(C) An officer's controlled committee, or the officer if no controlled committee exists, shall maintain records of curing any violation pursuant to this paragraph.

(e)(1) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent.

(2) A party, or agent to a party, to a proceeding involving a license, permit, or other entitlement for use pending before any agency or a participant, or agent to a participant, in the proceeding shall not make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for 12 months following the date a final decision is rendered by the agency in the proceeding.

(3) When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in this section.

(f) This section shall not be construed to imply that any contribution subject to being reported under this title shall not be so reported.

**Attachment B
To Administrative Regulation 49**

**COUNTY OF TULARE
CAMPAIGN CONTRIBUTION DISCLOSURE INFORMATION**

The attached Campaign Contribution Disclosure Form must be completed by applicants for, or persons who are the subject of, any proceeding involving a license, permit, or other entitlement for use, including most contracts and franchises, pending before the Board of Supervisors ("Board") of the County of Tulare or any of its affiliated agencies.

IMPORTANT NOTICE

Government Code section 84308 (also known as the "Levine Act") contains requirements that are summarized generally as follows:

- A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any member of the Board of Supervisors or other County official who may participate in your proceeding. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends 12 months after a final decision is rendered by the Board of Supervisors or other County officer. In addition, no Board member or other County official or alternate who may participate in your proceeding may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any Board member or other County officer who may participate in your proceeding during the 12-month period preceding the filing of the application or the initiation of the proceeding.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual Board member or other County officer who may participate in your proceeding during the 12 months preceding the decision on the application or proceeding, that Board member or other County officer must disqualify himself or herself from the decision. However, disqualification is not required if the Board member or other County official returns the campaign contribution within 30 days from the time the member or official knows, or should have known, about both the contribution and the fact that you are a Party in the proceeding. The Campaign Contribution Disclosure Form should be completed and filed with your application or proposal, or with the first written document you file or submit after the proceeding commences.

1. A proceeding involving “a license, permit, or other entitlement for use” includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.
2. Your “agent” is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are “agents” for purposes of these rules.
3. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency relationship, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different Board of Supervisors members or other County officer who may participate in your proceeding are not aggregated with contributions to the first Board member but are aggregated as to each Board member or other County officer who may participate in your proceeding.
4. A list of the Board of Supervisors members and other County officials is attached.

This notice summarizes the major requirements of Government Code section 84308 of the Political Reform Act and California Code of Regulations, Title 2 sections 18438.1-18438.8.

ATTACHMENT C
To Administrative Regulation 49

COUNTY OF TULARE
CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Application or Solicitation Number: _____

Application or Solicitation Title: _____

Was a campaign contribution, regardless of the dollar amount, made to any member of the Tulare County Board of Supervisors or to any County Officer on or after January 1, 2023, by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist?

Yes _____ No _____

If no, please sign and date below.

If yes, please provide the following information:

Applicant's Name: _____

Contributor or Contributor Firm's Name: _____

Contributor or Contributor Firm's Address: _____

Is the Contributor: *(check applicable boxes)*

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

The Applicant

Subcontractor

The Applicant's agent/ or lobbyist

Yes

Yes

Yes

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

No

No

No

<input type="checkbox"/>
<input type="checkbox"/>
<input type="checkbox"/>

Note: Under California law as implemented by the Fair Political Practices Commission, campaign contributions made by the Applicant and the Applicant's agent/lobbyist who is representing the Applicant in this application or solicitation must be aggregated together to determine the total campaign contribution made by the Applicant.

Identify the Board of Supervisors Member(s) and County Agency Officer(s) to whom you, your subcontractors, and/or agent/lobbyist made campaign contributions on or after January 1, 2023, the name of the contributor, the dates of contribution(s) and dollar amount of the contribution. Each date must include the exact month, day, and year of the contribution.

Name of Board of Supervisors Member or County Agency Officer: _____

Name of Contributor: _____

Date(s) of Contribution(s): _____

Amount(s): _____

(Please add an additional sheet(s) to identify additional Board Members or County Agency Officer to whom you, your subconsultants, and/or agent/lobbyist made campaign contributions)

By signing below, I certify that the statements made herein are true and correct. I also agree to disclose to the County any future contributions made to Board Members or County Agency Officers by the applicant, or, if applicable, any of the applicant's proposed subcontractors or the applicant's agent or lobbyist after the date of signing this disclosure form, and within 12 months following the approval, renewal, or extension of the requested license, permit, or entitlement to use.

Date

Signature of Applicant

Print Firm Name if applicable

Print Name of Applicant

ATTACHMENT C
To Administrative Regulation 49

TULARE COUNTY BOARD OF SUPERVISORS
AND
ELECTED COUNTY OFFICERS

Board of Supervisors

Larry Micari, Supervisor, First District
Pete Vander Poel, Supervisor, Second District
Amy Shuklian, Supervisor, Third District
Eddie Valero, Supervisor, Fourth District
Dennis Townsend, Supervisor, Fifth District

Elected County Officers

Tara K. Freitas, Assessor/Clerk-Recorder
Cass Cook, Auditor-Controller/Treasurer-Tax Collector
Timothy Ward, District Attorney
Michael Boudreaux, Sheriff-Coroner

**Attachment D
To Administrative Regulation 49**

**COUNTY OF TULARE
CAMPAIGN CONTRIBUTION DISCLOSURE NOTICE**

Date: XX/XX/XXXX

To: Jason T. Britt, County Administrative Officer

From: [Name & Title, County Agency/Department Name]

Re: Notice of Contribution Disclosure re [License, Permit, or Contract and Date or Projected Date of Board or Officer Review]

Our Agency/Department has been notified in the attached record that a Party, an agent of a Party, a Participant with a financial interest, or an agent of a Participant with a financial interest in the above-referenced matter has made a campaign contribution of more than \$250 to a County official within 12 months prior to the filing of the subject application or initiation of the proceedings with respect the matter, or following the approval, renewal, or extension of, the requested license, permit, or entitlement to use.

Please let us know if you have questions or need anything else on this matter. Thank you.

Attachment

cc: [Name of assigned attorney], Deputy County Counsel