

POLICY: GIFTS TO THE CITY (Form 801)

A. Purpose

The purpose of the procedure set forth in this policy is to establish a City-wide procedure pertaining to gifts to the City to implement the provisions of Section 18944.2 of Title 2 of the California Code of Regulations (hereinafter the "Regulations"). The Political Reform Act and Section 18944.2 of the Regulations permit payments which constitute gifts under the Political Reform Act to be made to the City and thereafter used by officials or employees without these payments being considered "gifts" which must be reported on the official or employee's annual conflict of interest statement.

Except as provided in Section 18944.2, payments that are gifts within the meaning of the Political Reform Act (including but not limited to payments for travel and travel expenses) and that are utilized by City officials or employees are generally considered gifts to those City officials and employees and generally must be reported on the annual conflict of interest statements filed by officials and employees. Such gifts may give rise to conflict of interest issues; such gifts are also considered for purposes of the Political Reform Act limitations on the amount of gifts that an official or employee may receive from a single source. The current gift limitation is \$390 per donor in a calendar year.

Section 18944.2 requires that, for a payment to be a gift to the City, the following requirements must be met:

1. City must receive and control the payment;
2. The payment must be used for official City business;
3. The City, in its sole discretion, must determine the specific official(s) or employee(s) who shall use the payment; provided that the donor may identify a specific purpose for the City's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment;
4. The gift of travel does not exceed the agency's reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses, or if the agency has no standard policy or practice concerning reimbursement rates, the gift of travel does not exceed other specified standards. To the extent that the amount of the gift of travel exceeds the amounts stated above, the difference shall be considered a reportable gift.
5. The City must memorialize the payment in a written public record which embodies the requirements set forth in 1) through 3) above.

The purpose of the procedure set forth in the following sections of this policy is to implement the provisions of Section 18944.2. Nothing in this policy is intended to alter, amend or otherwise affect the obligations of City officials and employees under the Political Reform Act and implementing regulations or under the City's supplemental conflict of interest Code.

B. Policy

1. Pursuant to Section 18944.2 of the California Code of Regulations and except as otherwise provided in the Political Reform Act and applicable FPPC regulations, the City shall not accept and process any gifts pursuant to this policy if the donor designates the specific official(s) or employee(s) who may use the gift. The donor of the gift may identify a specific purpose for the City's use of the gift so long as he or she does not designate the specific official(s) or employee(s) who may use the gift.
2. Under Section 18944.2, gifts of travel to the City may not be utilized by members of the City Council, members of the Planning Commission, the City Manager, the City Treasurer or the City Attorney, and the City Manager's designee may not designate himself or herself as the official to use the gift of travel.
3. Gifts of travel, meals, and lodging, and other actual and necessary expenses associated with travel, shall be limited to the rates that City officials and employees are reimbursed under the City's reimbursement policy, as established by Administrative policy Instructions (API) # 7, as it may be amended from time to time. Pursuant to Section 18944.2, to the extent that the value of the gift of travel and related expenses exceeds the City's standard reimbursement rate, the difference shall be considered a reportable gift to the employee or official utilizing such gift.

C. Procedure: City Manager Approval

The following procedures pertaining to gifts shall apply to all City officials and employees:

1. Any gifts that are given to the City as a whole with no direction as to the specific official(s) or employee(s) who may use the gift, shall be forwarded to the City Manager or the City Manager's designee.
2. The City Manager or the City Manager's designee shall review each gift and determine the specific official(s) or employee(s) who shall use the gift. The gift shall be used solely for official City business.
3. The City Manager or the City Manager's designee shall memorialize the gift in a written public record in the form of a completed FPPC Form 801 or such other form(s) as the FPPC may designate. Within the 30 days of receipt of the gift, the Form 801 shall be filed with, and thereafter maintained by, the City Clerk or the City Clerk's designee. The public record shall contain the following:
 - a. The identity of the donor and the official(s) and/or employee(s) or class of official(s) or employee(s) receiving or using the gift.
 - b. A description of the City's use and the nature and amount of the gift.
 - c. A copy of this policy.

D. Alternative Procedure: Council Review and Approval.

As an alternative to the procedure set forth in Subsection C above, the City Manager may request that the Council determine the specific official(s) or employee(s) who shall use the gift. Upon the Council making such determination, the City Manager shall file the necessary forms specified in subsection C-3 above.