

IN THE CITY COUNCIL OF THE CITY OF LIVERMORE, CALIFORNIA
A RESOLUTION APPROVING A POLICY FOR DISTRIBUTING TICKETS,
PASSES, AND GIFTS TO CITY OFFICIALS

From time to time the City of Livermore (the "City") receives event tickets and passes from private third parties or obtains them directly for use by various City Officials.

Under §18944.1 of Title 2 of the California Code of Regulations ("Regulations"), such tickets and passes are defined as those that provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

The City intends to use and distribute such tickets and passes to further governmental and public purposes, such as the promotion of City businesses, resources, programs, and facilities.

Under §18944.1 of the Regulations, tickets and passes are not considered gifts to public officials if the City distributes the tickets and passes according to a duly adopted written policy consistent with §18944.1.

Under §18944.2 of the Regulations, a "gift" is considered a gift to the City/Agency when the donor has not designated by name, title, or otherwise, the official who may use the gift; the City Manager or designee makes the determination and controls the City's use of the gift; the gift is used for official City business; if a gift of travel, it is not used by a Councilmember, Planning Commissioner, the City Manager, City Treasurer or City Attorney; and the gift does not exceed the City's own reimbursement rate for travel. Like tickets, gifts to the City are not reportable if the City has adopted a written policy consistent with §18944.2.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Livermore, that the adopts the attached Exhibit A as its policy under Regulations Sections 18944.1 and -.2 regarding the handling of gifts, tickets and passes.

BE IT FURTHER RESOLVED that the City Manager is directed to and may amend the policy to be consistent with any amendments to §18944.1 and §18944.2, with certification by the City Attorney that any such amendments are made to be consistent with that section.

On the motion of Vice Mayor Horner, seconded by Councilmember Williams, the foregoing resolution was passed and adopted on the 22nd day of March, 2010, by the following vote:

AYES: Councilmembers Leider, Marchand, Williams, Vice Mayor Horner, Mayor Kamena
NOES: None
ABSENT: None
ABSTAIN: None

ATTEST & DATE:



CITY CLERK
SUSAN NEER

APPROVED AS TO FORM:



CITY ATTORNEY
JOHN J. POMIDOR

DATE: March 23, 2010

DISTRIBUTION OF TICKETS OR PASSES POLICY

I. BACKGROUND

Section 18944.1 of the California Code of Regulations governs distribution of tickets or passes by a public agency to its officials. It sets forth the conditions under which a ticket or pass distributed to, or at the behest of, an agency official will not be treated as a gift under the Political Reform Act and FPPC regulations. It also requires the agency to adopt a policy governing ticket distribution and to post information on its website for each ticket that it distributes.

From time-to-time, the City may purchase or receive tickets or passes for admission to events. Accordingly, the City adopts this Policy, in compliance with Section 18944.1. This Policy will govern the distribution of tickets and passes by the City and supersede any other City policies, practices or procedures relating to tickets provided by the City to, or at the behest of, City Officials.

II. POLICY

A. Purpose of Policy

The purpose of this Policy is to ensure that all tickets and passes provided to the City shall be distributed so that they accomplish public purposes of the City, as identified in this Policy.

B. Application of Policy

1. As used in this Policy, the term "Ticket" shall mean: tickets or passes that provide admission to a facility or event for entertainment, amusement, recreation or similar purposes, and are obtained by the City through one of the following means:
 - a. Gifted by an outside source;
 - b. Purchased by the City;
 - c. Given to the City under a contract for the use of public property;
 - d. Made available to the City due to the City's control of the event.

2. This Policy does not apply to:
 - a. Tickets provided to a City Official¹ by an outside source to an event at which the Official performs a ceremonial role or function on behalf of the City;
 - b. Tickets provided to an Official by sources other than the City.

¹ The term "City Official" shall refer to the City's "Public Officials," as that term is defined in California Government Code §82048 and Fair Political Practices Commission Regulation §18701, and shall include all commission and board members, or other elected or appointed officials, and employees required to file an annual Statement of Economic Interests (FPPC Form 700).

- c. Tickets for which the Official pays the City the value of the ticket.

C. Policy Provisions

1. Ticket Distribution. The City may distribute tickets to City Officials under the following conditions:
 - a. The City Official treats the tickets as income consistent with applicable state and federal income tax laws; or
 - b. The City Official uses, or directs, the tickets to be used for one or more of the following public purposes:
 - 1) Promotion of the City as a good place to live, work, do business or recreate;
 - 2) Recognition of exceptional City employees and community leaders for their contributions to the well-being of the City;
 - 3) Support of local, and locally active, non-profit organizations, and their programs, which are dedicated to charitable, educational, cultural and social service activities;
 - 4) Promotion of local and regional businesses, economic development and tourism activities within the City;
 - 5) Marketing of City-controlled or sponsored events, activities or programs;
 - 6) Attendance at events sponsored by other governmental agencies, industry groups and non-profit organizations for the purpose of meeting and conferring with other governmental officials or business representatives regarding issues of interest to, or affecting, the City;
 - 7) Information-gathering and education regarding matters of local, regional or state-wide concern that affect the City;
 - 8) Recognition of residents or local businesses, governmental agencies or community service organizations for providing services or benefits to the City, its residents or businesses;
 - 9) Promotion of City programs, resources or facilities available for public use;
 - 10) Exchange programs with foreign officials or dignitaries;
 - 11) Employment retention, recognition or appreciation; or
 - 12) Attendance of one member of the City Official's immediate family (spouse, child, or parent) to accompany the Official to any of the above events.
2. Prohibition Against Transfer. A City Official who receives a ticket pursuant to this Policy is prohibited from transferring or selling the ticket to any other person, except to a member of the Official's immediate family (spouse, child, or parent) for the family member's personal use.

3. City Manager Duties:

- a. The City Manager, or her designee, shall be responsible for implementing this Policy. The City Manager shall oversee the distribution of tickets in compliance with this Policy and is authorized to take all steps necessary to ensure that ticket recipients are aware of, and comply with, this Policy.
- b. The City Manager is designated as the "Agency Head" for purposes of completing and posting FPPC Form 802.
- c. In the event that the City Manager desires to obtain a ticket for his or her use, the City Council authorizes the City Manager to exercise the City's discretion in determining whether the City Manager's use of tickets is in accordance with this Policy.

4. Posting and Disclosure Requirements:

This Policy shall be posted on the City's website. Within 30 days of distributing tickets pursuant to this Policy, the City Manager, or designee, shall complete FPPC Form 802 and post the completed form on the City's website.

Attachment: California Form 802

Tickets Provided by Agency Report

California
Form **802**

A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational, or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944.1 is available on the FPPC website at www.fppc.ca.gov.) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

Part 5. Verification

The agency head or his or her designee must sign the form.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

General Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814
(916) 322-5660

GIFTS POLICY

I. POLICY STATEMENT

It is the policy of the City of Livermore, its officials and employees, to obey all applicable laws and requirements of the Political Reform Act relative to the acceptance of gifts. This policy is specific to the City of Livermore and the regulations prescribed herein are in addition to those mandated by the State of California, including those regulations related to what constitutes the receipt or acceptance of a gift. Nothing in this policy supersedes State law or Fair Political Practices Commission (FPPC) requirements. Employees are encouraged to review the appropriate regulations for specific information related to the Conflict of Interest Code and the filing of Statements of Economic Interest.

II. DEFINITION OF "GIFT"

For the purpose of this policy, a gift is any payment or other benefit that confers a personal benefit on the recipient for which they have not provided equal or greater consideration to the donor.

III. PROCEDURE

Gifts that are consumable or usable on the work premises may be accepted by an employee with the condition that they remain on the premises to be enjoyed by all.

Gifts with a fair market value of under \$100.00 that are not consumable on the premises shall be returned to the gift giver, donated to the City for use by an employee program or as a door prize at a City event, or donated to a community organization. Such use is subject to Department Head review and approval.

Gifts with a fair market value of equal to or over \$100.00, whether or not they are consumable on the work premises, are to be given to the "City of Livermore" as a whole, not to a specific employee or department. In this instance, the employee having possession of the gift is to transmit written documentation of such gift to the City Clerk's office, with a copy to their Department Head. Written documentation can be accomplished with the "Documentation of Gift Presented to the City of Livermore" form (sample attached) available from the City Clerk's office. With the exception of consumable items, under \$100.00 in value, which may stay in the department to which they are given, the City (specifically the City Manager or her designee) will control how the gift is used or distributed.

A gift is considered to be received or accepted when the employee knows that he or she has either actual possession of the gift or has taken action exercising

direction or control over the gift, including discarding the gift or turning it over to another person.

IV. REPORTING REQUIREMENTS

Employees covered in the City's Conflict of Interest Code must comply with Fair Political Practices Commission requirements relative to filing an annual Statement of Economic Interests (Form 700). Contact the City Clerk's office for more information on filing requirements.

V. PURPOSE OF POLICY

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 procedures 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, Form 700.

Except as provided in Section 18944.2, payments that are gifts within the meaning of the Political Reform Act (including payments for travel expenses) used 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 official 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 (2009) gift limitation is \$420 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:

- A. City must receive and control the payment.
- B. The payment must be used for official City business.
- C. 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.
- D. Any 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.

- E. 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.

VI. POLICY

- A. 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 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.
- B. 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 (Officials listed in Government Code Section 87200) and the City Manager's designee may not designate himself or herself as the office to use the gift of travel.
- C. Gifts of travel, meals, and lodging, and other actual and necessary expenses associated with travel, shall be limited to the rates that City official and employees are reimbursed under the City's Expense Reimbursement Policy, as established by Resolution No. 2006-23, passed January 23, 2006, and 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.

VII. PROCEDURE: CITY MANAGER APPROVAL

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

- A. Any non-consumable gifts 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.

- B. The City Manager or the City Manager's designee shall review each such gift and determine the specific official(s) or employee(s) who shall use the gift. The gift shall be used solely for official business.
- C. The City Manager or the City Manager's designee shall memorialize that gift in a written public record in the form of a completed FPPC Form 801 (sample attached) or such other form(s) as the FPPC may designate. Within 30 days of receipt of the gift, the Form 801 shall be filed with, and thereafter maintained by, the City Clerk. The public record shall contain the following:
 - 1. 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.
 - 2. A description of the City's use and the nature and amount of gift.
 - 3. A copy of this policy.

VIII. 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 above.

Attachments: Sample Letter Donating a Gift
 California Form 801

SAMPLE LETTER DONATING A GIFT

Dear _____:

Thank you for the _____ (type of gift). Because of the City's policy regarding the acceptance of gifts under the Fair Political Practices Commission's regulations, we have donated your gift to _____ (name of charity), a local organization that assists less fortunate families in our community.

As the stewards of the public trust, we are sensitive to any public perceptions that may accompany public servants' acceptance of gifts. That concern motivates a policy that prohibits our acceptance of gifts or similar gestures.

Thank you for your thoughtfulness. Those served by _____ (name of charity), and therefore the entire community, will benefit from your gesture.

Sincerely,

Gift to Agency Report

A Public Document

GIFT TO AGENCY REPORT

1. Agency Name

Date Stamp

California Form 801

For Official Use Only

Division, Department, or Region (if applicable)

Street Address

Area Code/Phone Number

E-mail

Amendment (explain in comment section)

Agency Contact (name and title)

Date of Original Filing: _____
(month, day, year)

2. Donor Name and Address

Individual _____ Other _____
Last Name First Name Name

Address _____ City _____ State _____ Zip Code _____

If "Other" is marked, describe the entity's business activity (if business) or its nature and interests.

If applicable, identify the name of each source and the amount(s) solicited or received by the donor for this gift:

_____ \$ _____ Name _____ \$ _____ Amount

3. Payment Information

Date and Amount of Payment (other than travel) _____ \$ _____
(month, day, year) (Round to whole dollars)

Travel Payment Information (Round to whole dollars) Location of Travel _____

_____ \$ _____ \$ _____ \$ _____ \$ _____
Date(s) of Travel Transportation Expenses Lodging Expenses Meal Expenses Other Expenses Total Expenses

Provide a specific description of the nature and use of the payment for official agency business:

Identify the officials for whom the payment was used:

_____ Last Name First Name Title Department/Division

_____ Last Name First Name Title Department/Division

4. Verification

I have determined that it is in the interests of the agency to accept this gift and use it for the official agency business described above.

_____ Signature of Agency Head or Designee _____ Print Name _____ Title _____ (month, day, year)

Comment: (Use this space or an attachment for any additional information.)

Gift to Agency Report Instructions

A Public Document

California
Form **801**

This form is for use by all state and local government agencies to disclose payments made to the agency when the payments provide a personal benefit to an official of the agency. Examples may include travel, meals or other benefits. Under certain circumstances, these payments will not result in a gift to the official, but will be considered a gift to the agency. The payments must be used for official agency business and must meet other requirements that are set out in FPPC Regulation 18944.2, which is available on the FPPC website www.fppc.ca.gov.

When to File

This form must be filed within 30 days of the use of the payment. Reports may be faxed, mailed, personally delivered or e-mailed.

Where to File

State Agencies: File this form with the Fair Political Practices Commission ("FPPC"), 428 J Street, Suite 620, Sacramento, CA 95814. Fax: 916-322-0886
E-mail: Form801@fppc.ca.gov

Local Agencies: File this form with the official that maintains the agency's statements of economic interests (Form 700).

Website Posting: Each agency that maintains a website must also post the form or the information contained on the form on its website within 30 days of the use of the payment. Local agencies that do not maintain a website must forward the form to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name and address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Donor Information

Disclose the name and address of the donor. If the donor is not an individual, identify the business activity or nature and interests of the entity.

If the donor received payments from other sources that were used in connection with the activity, disclose the name and payment information for each source.

Part 3. Payment Information

Report the date and amount of each payment. For travel payments, also disclose the location(s), and a breakdown of the expenses. Provide a specific description of the use of the payment and the intended purpose. List each agency official for whom the payment was used.

Example: A business entity paid for an agency employee to travel to attend an informational seminar on solar energy projects in Washington D.C. The description should read: "Travel to attend an EPA co-sponsored solar energy seminar held in Washington, D.C."

Part 4. Verification

The agency head or his or her designee must sign the form.

General Information

Gifts to agencies must meet the following requirements:

- The agency head or designee must determine and control the agency's use of the payment.
- The payment must be used for official agency business.
- The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the payment.
- The agency official who determines who will use the payment may not select himself or herself.

Travel payments must also meet these requirements:

- A payment for travel may not be used by a state or local elected officer or by the state, county, and city officials who hold positions listed in Government Code Section 87200.
- A payment for travel may not exceed the agency's own reimbursement rates for travel, or the State per diem or IRS reimbursement rates if the agency has no policy.
- The agency head or designee must preapprove travel paid for by a third party before travel commences.

Travel payments made by a federal government agency in connection with education, training, or other inter-agency programs are not reportable.

For further information on filing this report or for general information, contact the FPPC.