

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations.)

§ 18950.1. Exception: Payments for Travel Made in Conjunction with Official Agency Business.

This regulation identifies certain travel payments that do not confer a personal benefit on an official and sets forth the terms under which these travel payments, when made by a source other than a source identified in Regulation 18950(c)(2), are for the purpose of facilitating the public's business and are therefore not gifts or income because the payment is made for an official agency purpose in lieu of a payment using agency funds. For purposes of this regulation, “government employer” means the state agency as defined in Section 82049 or any local government agency, or any subdivision, department, division, bureau, office board, or commission of the foregoing as defined in Section 82041, who directs the employee in the performance of his or her governmental duties.

(a) This regulation applies solely to a travel payment that meets all of the following requirements:

(1) The payment is made directly to or coordinated with the government employer as set forth in subdivision (b) below and not made to the employee using the travel;

(2) The payment is used for official agency business as specified in subdivision (c) below;

(3) The government employer determines the official who will make use of the payment as provided in subdivision (d) below;

(4) The payment provides no personal benefit to the official who makes use of the payment as provided in subdivision (e) below;

(5) The duration of the travel is limited to that necessary to accomplish the purposes for which the travel was provided as determined by the governmental employer using the same standards imposed for travel paid with government funds.

(6) The government employer reports the payment as provided in subdivision (f) below.

(b) The payment must be made directly to the government employer or by arranging with the government employer any payments for transportation and lodging that are made directly to the provider of those services. Food may be accepted for attendance at an event where food is provided as part of the admission to the event. All other payments for food must be made to the government employer pursuant to the employer's per diem travel policy.

(c) The payment is used for official agency business when made under any of the following circumstances:

(1) The payment is made pursuant to a provision in a contract that requires the contracting party to pay any expenses associated with any required governmental travel resulting from the governmental agency's participation in the contract and the payment is used for that purpose.

(2) The payment is made for the travel expenses of an official for the purpose of performing a regulatory inspection or auditing function that the governmental employer is mandated to perform.

(3) The payment is made for the travel expenses of an official and the official is attending solely for purposes of providing training or educational information directly related to the governmental employer's functions or duties under the laws that it administers for individuals who are affected by those laws, and the payment is made by an organization to provide such training for its members.

(4) The payment is made for the travel expenses of an official to an educational conference directly related to the governmental employer's functions or duties under the laws that it administers, the official is a named presenter at the conference, and the payment is made by the organizers of the event.

(5) The payment is made for the travel expenses of an official for the purpose of receiving training directly related to the official's job duties and the payment is provided by an organization that commonly provides such training.

(6) The payment is made for food provided to all attendees at a working group meeting in which the agency official participates as a representative of his or her agency in a working group meeting under his or her officially assigned job duties and the agency is authorized to provide an official to attend the meeting.

(7) The payment is for travel expenses that are required to attend a location to view an in place operation, structure, facility, or available product where the viewing would substantially enhance an official's knowledge and understanding in making an informed decision to enter into a contract regarding a similar operation, structure, facility or purchase the product pursuant to the jurisdictional authority of the official's governmental employer.

(d) The governmental employer shall select the official who will make use of the payment. If the payment is for expenses related to an oral presentation to either provide training on a subject on which the governmental employer provides training, or discuss policy and direction in implementing the functions of the governmental employer, the donor may request the official who is most qualified to make the presentation.

(e) A payment made under any of the provisions of this regulation does not provide a personal benefit and is not a gift to the official who uses the payment, provided the payment complies with the following provisions:

(1) The travel is for purposes approved by the governmental employer under the same requirements applicable to travel using its own funds, and the official is representing his or her governmental employer in the course and scope of his or her official duties.

(2) Except as provided in subdivisions (b) and (g), the travel expenses are limited to no more than the expenses allowable for travel for agency business that would reasonably be paid at agency expense.

(f) The payment is reported on a form prescribed by the Commission and maintained by the governmental employer as a public record subject to inspection and copying under Section 81008(a) and signed by the authorizing official. Additionally, within 30 days after the end of a quarter year in which aggregated travel payment received by the governmental employer since the last required filing totaling \$2,500 or more, a copy of the form(s) or a summary of the information must be filed with the Commission (or, in the case of the Commission, the office of the Attorney General). If the governmental employer maintains a website, it shall also post a copy of the form or a summary of the information on the form on its website in a prominent fashion. A local jurisdiction may require additional filing at the local level for agencies within its jurisdiction. The form, or summary of information, must include the following information:

(1) A date the travel occurred and an itemized breakdown of the amount paid for transportation, lodging, and food.

(2) The name of the transportation provider, the type of transportation, and the name of the business where the lodging was provided.

(3) The location of the travel.

(4) The name and address of the donor. If the donor is not an individual, the report must also describe the business activity, or the nature and interests of the donor. If the donor raised funds from another person for the specific purpose of making the payment to the agency, the report must contain the name of each person and the amount given by each person.

(5) The purpose of the travel, and department and position or title of the official who used the payment and the name of any elected or appointed official who uses the payment.

(g) Nothing contained herein shall restrict a payment for any lodging or food if the lodging and food is provided at a site where the official attends a widely attended meeting or conference and the value is substantially equivalent in value to the lodging or food typically made available to the other attendees.

(h) Limitations on Application of this Regulation. The exception for a travel payment provided under this regulation does not apply if the payment is made for travel by:

(1) A state or local elected officer as defined in Section 82020, or an official specified in Section 87200, unless the transportation, lodging, and food is directly related to the official's public duties, is for a purpose that would otherwise be paid for with the agency's funds, is authorized in the same manner as transportation, lodging, and food using the agency's own funds, and otherwise meets the requirements of subdivision (a) of this regulation.

(2) Acceptance of a pass or discount from a transportation company by a public official prohibited under Article XII, Section 7 of the California Constitution.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 82028, 82030, 82044, 87100, 87103, 87207, 87302 and 89501-89506, Government Code.

HISTORY

1. New section filed 1-27-93; operative 2-26-93 (Register 93, No. 5).
2. Change without regulatory effect relocating section filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of section heading, first paragraph, subsections (a)(1)-(2), (a)(2)(B), (b), (d) and Note filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Amendment of subsections (a)(1)-(2) and (b) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
5. Amendment of subsection (b)(2) filed 5-26-98; operative 5-26-98. Submitted to OAL for printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, Linda Stockdale Brewer, Sacramento Superior Court, Case No. 51275 (1991) (Register 98, No. 22).
6. Repealer and new section heading and section filed 12-23-2013; operative 1-1-2014 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 52).
7. Amendment of subsections (f) and (f)(5) filed 5-1-2014 as a change without regulatory effect; operative 5-1-2014. Submitted to OAL for filing and printing only pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of

Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 18).