

APPROVED

BOARD OF SUPERVISORS

COUNTY OF SACRAMENTO
CALIFORNIA

MAY 04 2010

Cyndi Lee
Clerk of the Board

For the Agenda of:

May 4, 2010

REVISED#4

By _____
Clerk of the Board

To: Board of Supervisors

From: Department of Economic Development And Intergovernmental Affairs

Subject: Approval Of The Gifts To The County And Distribution Of Tickets Policy

Supervisory District: All

Contact: Robert B. Leonard, Director, 916-874-7876

Overview

Recent changes to the Political Reform Act's rules pertaining to gifts to the County, or at the behest of, County Officials have prompted the need to adopt a written policy to clearly define rules and regulations that comply with the Fair Political Practice Commission (FPPC).

Recommendation

Approve the attached Gifts to the County and Distribution of Tickets Policy.

Measures/Evaluation

N/A

Fiscal Impact

There is no General Fund impact associated with approval of the attached policy. The costs for implementing reporting and disclosure of payments and ticket distribution as required under the policy have not been determined.

BACKGROUND

Changes to the Political Reform Act's gift rules narrow the previous exceptions to gift reporting requirements. Certain gifts may be deemed to be gifts to public officials if they are not distributed in accordance with a duly adopted written policy that complies with the Fair Political Practices Commission (FPPC) Regulations. Absent an adopted policy, no gifts, tickets or passes to the County can be used by, or distributed to, without constituting a gift to the public officials.

DISCUSSION

A public purpose of the County is served in many situations where the County receives, distributes and uses gifts and tickets. County Counsel reviewed the gift and ticket distribution regulations as set forth by the FPPC and prepared a "Gifts to the County and Distribution of Tickets Policy" that complies with the FPPC regulations. This policy, presented in Attachment A and summarized below, determines when a gift is considered a gift to a County official, identifies procedures for distribution of tickets and passes, and describes reporting, disclosure and record keeping requirements.

Summary of Proposed Policy

Gift Policy

The cumulative gift ceiling per single source is \$420 each calendar year through December 31, 2010.

Under certain circumstances, a payment that provides a personal benefit to a County official may be considered a gift to the County instead of a gift to the County official. A payment is a gift to the County and not to a County official if all of the following requirements are met:

- The County determines and controls the County's use of the payment. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class or otherwise, a County official who may use the payment. The County official who determines and controls the County's use of the payment may not select himself as the individual who will use the payment;
- The payment must be used for official County business; and
- The County must report the payment within 30 days after use of the payment on a form prescribed by the FPPC Form 801. The completed form must be provided to the filing officer who is responsible for the statements of economic interest. The report is a public record and must be accessible through the County website. The forms must be maintained for four years.

There are special rules relating to who may use gifts of travel, meals or beverages. Elected officials and certain department heads cannot use a gift if it involves travel, meals or beverages. Gifts of travel also cannot exceed the County's adopted reimbursement rates. The gift must be used for official County business.

Ticket Policy

The County's distribution of tickets received from outside entities does not result in a gift to the official if it is provided for a public purpose under the following circumstances:

- Where the official treats the ticket as income;
- Where the County obtained the ticket pursuant to the terms of a contract for use of public property;
- Where the County controls the event;
- Where the County purchased the ticket at fair market value; or
- Where the County receives the ticket from the third party and the ticket is not earmarked for use by a particular County official and the County determines which County official may use the ticket and the ticket's distribution is consistent with the proposed policy.

Tickets received from an outside source without designation as to the specific official who may use the tickets must be forwarded to the County Executive or his designee. The County Executive or his designee is charged with determining the face value of the tickets, the individuals who may use them and must report their distribution.

Once distributed, the ticket cannot be transferred to any other person except to members of the official's immediate family for their personal use.

Distributed tickets must be documented in a completed FPPC Form 802. The completed Form 802 must be filed with the Clerk of the Board of Supervisors and posted on the County's website in a prominent fashion within 30 days after distribution. The posting must include the following information:

- The name of the recipient, except that if the recipient is an organization, the County may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting the names of each recipient;
- A description of the event;
- The date of the event;
- The face value of the ticket;
- The number of tickets provided to each person or organization;
- If the ticket was distributed at the behest of a County Official, the name of the County Official who made such behest; and
- A description of the public purpose(s) under which the distribution was made, or, alternatively, that the County official is treating the ticket as income.

Form 802's posted to the County's website must be maintained on the County's website for a period of not less than four years.

RECOMMENDATION

Approve the attached Gifts to the County and Distribution of Tickets Policy.

FINANCIAL IMPACT

There is no General Fund impact associated with approval of the attached policy. The costs for implementing reporting and disclosure of payments and ticket distribution as required under the policy have not been determined.

Respectfully submitted,

APPROVED

ROBERT B. LEONARD
Assistant to the County Executive
For Economic Development and
Intergovernmental Affairs

STEVEN C. SZALAY
Interim County Executive

Attachment:

ATT A – Policy Relating to Gifts to the County and Distribution of Tickets

POLICY RELATING TO GIFTS TO THE COUNTY AND DISTRIBUTION OF TICKETS

I. Purpose

This Policy governs the distribution of gifts and tickets to the County to, or at the behest of, County officials. It is established in accordance with Section 18944.1 and Section 18944.2 of the Fair Political Practices Commission (FPPC) Regulations which set forth the circumstances under which gifts to the County are not generally considered as a reportable gift to an individual public official as well as when the County's distribution of tickets to, or at the behest of, a County official does not result in a gift to the individual official.

II. Application of Policy

This Policy applies to payments to the County that provide a personal benefit to the County Official. It also applies to the distribution of tickets that:

- 1) provide admission to a facility, event, show, or performance for an entertainment, amusement, recreational or similar purpose; and
- 2) are either gratuitously provided to the County by an outside source, acquired by the County by purchase, acquired by the County as consideration pursuant to a contract for the use of a County venue, or acquired and distributed by the County in any other manner.

III. Definitions

Unless otherwise expressly provided in this Policy, terms in this Policy shall have the same meaning as that ascribed to such terms in the Political Reform Act (Government Code Sections 81000 *et seq.*, as it may be amended from time to time) and the FPPC Regulations (Title 2, Division 6 of the California Code of Regulations, Sections 18110 *et seq.*, as they may be amended from time to time.)

"Administrator" means the County Executive or his designee(s) for County departments, agencies, boards and commissions, and elected officials.

"County" shall mean and include the County of Sacramento, any other affiliated agency created by the County and governed by the Board of Supervisors, and any departments, boards and commissions thereof.

"County official" means every elected and appointed official or employee of the County of Sacramento, as defined in Government Code section 82048 and FPPC Regulation 18701.

"County venue" means any facility owned, controlled or operated by the County of Sacramento.

"Immediate family" means spouse, registered domestic partner and dependent children.

"Ticket" means "ticket or pass" and includes any form of admission privilege to a facility, event, show or performance. If other benefits, such as food, beverages or other items, are provided to the County official at the event and such benefits are not included as part of the admission to the event, those benefits are not covered by this Policy.

IV. General Gift Rule

The Political Reform Act places a ceiling on the value of gifts that may be received by County officials. The cumulative gift ceiling per single source is \$420 each calendar year for the period January 1, 2010 through December 31, 2010. The FPPC may adjust the gift ceiling, effective January 1, 2011 and annually thereafter.

V. Gifts to the County

Under certain circumstances, a payment that provides a personal benefit to a County official may be considered a gift to the County instead of a gift to the County Official. A payment is a gift to the County and not to the County official if **all** of the following requirements are met:

- 1) The County determines and controls the County's use of the payment. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class or otherwise, a County Official who may use the payment. The County official who determines and controls the County's use of the payment may not select himself as the individual who will use the payment;
- 2) The payment must be used for official County business; and
- 3) The County must report the payment within 30 days after use of the payment on a form prescribed by the FPPC Form 801. **The completed form must be provided to the filing officer who is responsible for the statements of economic interest.** The report is a public record and must be accessible through the County website. The forms must be maintained for four years.

Special rules apply to who may use gifts of travel, meals or beverages. Elected officials and certain department heads cannot use a gift if it involves travel, meals or beverages. Gifts of travel also cannot exceed the County's adopted reimbursement rates. The gift must be used for official County business.

VI. Exceptions to Gift Rule for Certain Tickets

Special rules apply if the County receives tickets from outside entities. The County's distribution of tickets to a County official does not result in a gift to the County official in the following circumstances.

A. Tickets Provided by Non-County Agency for Performance of Ceremonial Role or Function

A ticket provided directly to a County official by a non-County source for admission to an event at which the County official performs a ceremonial role or function on behalf of the County is not considered a gift to the County official. Such tickets are exempt from the disclosure and reporting requirements of this Policy.

B. Reimbursement of Ticket's Face Value

A ticket provided to a County official is not considered a gift to the County official if the County official reimburses the County for the face value of the ticket within 30 days of receipt or acceptance of the ticket. Such tickets are exempt from the disclosure and reporting requirements of this Policy.

C. Tickets Provided to County Official by County

A ticket will not be considered a gift to the County official when it is provided to the County official by the County (i.e. not by a third party) under the following circumstances:

- 1) Where the County official treats the ticket as income consistent with applicable state and federal income tax laws and the County reports the distribution of the ticket as income to the County official; or
- 2) Where the County obtained the ticket pursuant to the terms of a contract for use of public property; or
- 3) Where the County controls the event; or
- 4) Where the County purchased the ticket at fair market value; or
- 5) Where the County receives the ticket from a third party and the ticket is not earmarked by the third party for use by a particular County official, and the County determines, in its sole discretion, which County official may use the ticket, and the distribution of the ticket is consistent with this Policy.

In each of the five circumstances above, the distribution of the ticket **must** be made in furtherance of a "public purpose" as described in Section VII of this Policy.

If other benefits, such as food, beverages or other items, are provided to the County official at the event and such benefits are not included as part of the admission to the event, those benefits are not covered by this Policy.

VII. Public Purpose

The distribution of any ticket by the County to, or at the behest of, a County official must accomplish a "public purpose" of the County.

The public purposes to be accomplished by the distribution of tickets or passes by the County include, but are not limited to:

- 1) To obtain oversight of facilities or events that have received County funding or support;
- 2) To review facilities or events that may require County funding or support in the near future or to gather information about the operation of a facility similar to one presently or potentially operated by the County;
- 3) To promote local and regional businesses, community programs, economic development and tourism within the County;
- 4) To attend a community event in which the County is a participant;
- 5) To attend an event, activity or program sponsored by the County;
- 6) To promote intergovernmental relations including but not limited to attendance at an event with, or by, elected or appointed public officials from other jurisdictions, their staff and their guests;
- 7) To promote public and private facilities available for County resident use;
- 8) To support and/or show appreciation for community and nonprofit programs or services that benefit County residents;
- 9) To encourage or recognize significant academic, athletic, or public achievements by County students, residents, or businesses;
- 10) To reward County employees and community members for his or her exemplary service to the public;
- 11) To promote County growth and development, including economic development and job creation opportunities;
- 12) To promote open and accessible government by appearances or participation of County Officials at business and community events; and
- 13) To promote employment retention, including enhancement of employee morale;
- 14) To promote County recognition, visibility, and/or profile on a local, state, national or worldwide scale
- 15) To comply with all written contracts where the County as a form of consideration has required that a certain number of tickets or suites be made available for County use;
- 16) To use in a County employee competition or drawing;
- 17) To use for any purpose substantially similar to the above listed purposes.

VIII. Procedures for Distribution

A. Tickets that are donated or provided by an outside source and are earmarked for use by a specific County official by that source are considered gifts to the County official and are subject to the disclosure and reporting requirements applicable to gifts, unless one of the exemptions listed in Section VI of this Policy applies.

B. Tickets received by the County from an outside source without designation as to the specific County official who may use the tickets shall be forwarded to the Administrator. The Administrator shall determine the face value of the tickets, the individuals who may use them, and report their distribution as provided in Section X.

C. The Administrator shall have the authority, in his or her sole discretion, to establish procedures for the distribution of Tickets in accordance with this Policy. All requests for tickets which fall within the scope of this Policy shall be made in accordance with the procedures established by the Administrator.

IX. Prohibited Transfer of Ticket

A County Official may not transfer any ticket distributed to him pursuant to this Policy, to any other person, except to members of the County official's immediate family solely for their personal use.

X. Ticket Reporting and Disclosure Requirements

Tickets distributed by the County to a County official shall be documented in a completed FPPC Form 802. The County shall post ticket distribution information for any tickets distributed or such other form(s) as the FPPC may designate. The completed Form 802 shall be filed with the Clerk of the Board of Supervisors and posted on the County's website in a prominent fashion within 30 days after the distribution.

~~Such posting shall include the following information and any other information that may be required by the FPPC:~~

1. The name of the recipient, except that if the recipient is an organization, the County may post the name, address, description of the organization and number of tickets provided to the organization in lieu of posting the names of each recipient;
2. A description of the event;
3. The date of the event;
4. The face value of the ticket;
5. The number of tickets provided to each person or organization;
6. If the ticket was distributed at the behest of a County official, the name of the County official who made such behest; and
7. A description of the public purpose(s) under which the distribution was made, or, alternatively, that the County official is treating the ticket as income.

Form 802's posted to the County's website shall be maintained on the County's website for a period of not less than four years.