

BEFORE THE CITY COUNCIL OF THE CITY OF TURLOCK

IN THE MATTER OF APPROVING A POLICY }
REGARDING THE ACCEPTANCE OF GIFTS }
BY THE CITY IN ACCORDANCE WITH }
CALIFORNIA CODE OF REGULATIONS, }
SECTION 18944.2, AS AMENDED BY THE }
FAIR POLITICAL PRACTICES COMMISSION }

RESOLUTION NO. 2010-010

WHEREAS, the Fair Political Practices Commission (FPPC) amended Regulation 18944.2 of Title 2 of the California Code of Regulations, establishing requirements for handling and reporting gifts, including gifts of travel and related expenses; and

WHEREAS, the City of Turlock periodically receives offers of gifts for travel and related expenses of City officials and employees engaged in City business; and

WHEREAS, the City of Turlock employees and officials occasionally receive unsolicited gifts such as gift baskets, or gratuities and are advised to use good judgment and err on the side of caution when accepting any gift from those who have, or will likely have, business with the City; and

WHEREAS, 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 control's the City's use of the gift; the gift is used for official City business; any travel gift that is not used by FPPC Section 87200 filers (Council, Planning Commission and City Manager/Attorney); and the gift does not exceed the City's own reimbursement rate for travel.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Turlock does hereby approve a policy regarding the acceptance of gifts by the City in accordance with California Code of Regulations, Section 18944.2, as amended by the Fair Political Practices Commission.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Turlock this 12th day of January, 2010, by the following vote:

- AYES: Councilmembers Bublak, Howze, Jackson, Spycher and Mayor Lazar
- NOES: None
- ABSTAIN: None
- NOT PARTICIPATING: None
- ABSENT: None

ATTEST:

Rhonda Greenlee, CMC
City Clerk, City of Turlock, County
of Stanislaus, State of California



GIFTS TO THE CITY POLICY

Policy Statement

It is the policy of the City of Turlock, 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 Turlock 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.

Definitions

Gift: 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.

Payment: As determined by Government Code Section 82044, "payment" means a payment, distribution, loan, advance, deposit, gift, or other rendering of money, property, services, or anything else of value, whether tangible or intangible.

Agency Official: An individual whom the ultimate legal authority of an agency is vested, or who has been delegated authority to make determinations by the City for purposes of this policy.

Authority of City Manager

The City delegates the authority to determine and control the City's use of payment in accordance with this policy to the City Manager or his or her designee.

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 \$50 that are not consumable on the premises shall be returned to the gift giver, donated to the City for use by an employee program (i.e. employee of the month) or as a door prize at a City event, or donated to a community organization. Such use is subject to City Manager review and approval.

Gifts with a fair market value of equal to or over \$50, whether or not they are consumable on the work premises, are to be given to the "City of Turlock" as a whole, not 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 Turlock" form (sample attached) available from the City Clerk's office. With the exception

of consumable items, which may stay in the department to which they are given, the City Manager will control how the gift is used and/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.

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.

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 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 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 (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:

1. The Agency Official or his or her designee must determine and control the payment;
2. The payment must be used for official City business;
3. The Agency Official, in his/her sole discretion, must determine the specific official(s) or employee(s) who shall use the payment except the Agency Official may not select himself or herself as the individual who will 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 report the payment within 30 days after use of the payment on a form prescribed by the Commission. The City Clerk shall post a copy of the form on the City's website.
6. The City Clerk shall keep a log of the forms under the name of the City and the City Official receiving payment and maintain the forms for a period of not less than four (4) years.

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.

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, (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.
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 Travel Policy, as established on November 1, 1997, amended January 30, 2007 and 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.

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 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 (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:
 - 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 gift.
 - c. A copy of this policy.
4. The City Clerk shall post a copy of the form on the City's website.
5. The City Clerk shall keep a log of the forms under the name of the City and the City Official receiving payment and maintain the forms for a period of not less than four (4) years.

Alternative Procedure: Council Review and Approval

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



**DOCUMENTATION OF GIFT
PRESENTED TO THE
CITY OF TURLOCK**

*This form is used to provide official documentation of gifts given to the City of Turlock that have a value \$50.00 or more. The first section of this form should be completed by the individual in possession of the gift and immediately forwarded to the City Clerk's office with a copy to the appropriate Department Head. The City Clerk's office will obtain the City Manager's signature and direction as to how the gift should be disbursed (with the exception of consumable items which may remain with the receiving department). **This entire process must take place within 30 days receipt of the gift.***

Date gift was given to the City of Turlock: _____

Name of employee who accepted the gift on behalf of the City:

Name and address of the organization or individual giving the gift: _____

Describe the gift (please note if it is something that may be consumed on work premises):

Monetary value of gift: _____

To be completed by the City Manager or his designee.

Describe how the gift was distributed or used and by whom. Explain the official agency purpose (gifts consumable on work premises may stay in the department to which they are given):

Approved: _____ Date: _____



**SAMPLE LETTER
DONATING A GIFT**

156 S. BROADWAY, SUITE 230 | TURLOCK, CALIFORNIA 95380 | PHONE 209-668-5540 | FAX 209-668-5668

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,