

**California Travel and Tourism Commission
Gifts Policy and Tickets or Passes Policy
(Adopted August 1, 2012)**

Introduction

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

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 FPPC's Regulations. Absent an adopted policy, no gifts, tickets or passes to the Commission can be used by or distributed to Commissioners, staff or others to whom gift restrictions apply, without constituting a gift to the public officials.

DISCUSSION

The purpose of the Commission as determined by the legislature is "to expand tourism in California through a cooperative partnership funded in part by the state that will allow generic promotion and communications programs" Gov't Code §13995.1(d)(1). In fulfilling its role, the Commission may present to its marketing plan sponsor events, meetings, seminars or workshops, attend state, local, industry or public functions and visit or tour tourism regions or attractions. In the course of performing its duties, the Commission Commissioners, employees or other public officials would benefit from gifts made to the Commission or at the behest of a public official. A public purpose of the Commission is served in many situations where the Commission receives, distributes and uses gifts and tickets. The Commission has reviewed the gift and ticket distribution regulations as set forth by the FPPC and prepared a "Gifts to the Commission 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 Commission 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, 2012.

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

- The Commission determines and controls the Commission'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 Commission Official who may use the payment. The Commission Official who determines and controls the Commission's use of the payment may not select himself as the individual who will use the payment;
- The payment must be used for official Commission business; and
- The Commission must report the payment within 30 days after use of the payment on a form prescribed by the FPPC Form 801 (attached as Exhibit A to Policy) and filed with the Commission's administrator with whom Statements of Economic Interests are filed under the Conflict of Interest Code. 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 Commission 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 Commission's adopted reimbursement rates. The gift must be used for official Commission business.

Ticket and Passes Policy

The Commission's distribution of tickets or passes 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 Commission obtained the ticket pursuant to the terms of a contract for use of public property;

- Where the Commission controls the event;
- Where the Commission purchased the ticket at fair market value; or
- Where the Commission receives the ticket from the third party and the ticket is not earmarked for use by a particular Commission Official and the Commission determines which Commission 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 Commission President and Executive Director, her designee or another authorized person under the Commission policy ("Authorized Person"). The Authorized Person 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 (attached as Exhibit B to Policy). The completed Form 802 must be filed with the Senior Director of Finance, Human Resources and Information Technology and posted on the Commission'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 Commission 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 Commission Official, the name of the Commission Official who made such behest; and
- A description of the public purpose(s) under which the distribution was made, or, alternatively, that the Commission Official is treating the ticket as income.

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

ATTACHMENT A

POLICY RELATING TO GIFTS TO THE COMMISSION AND DISTRIBUTION OF TICKETS AND PASSES

I. **Purpose**

This Policy governs the distribution of gifts and tickets to the Commission to, or at the behest of, Commission 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 Commission are not generally considered as a reportable gift to an individual public official as well as when the Commission's distribution of tickets to, or at the behest of, a Commission Official does not result in a gift to the individual official.

II. **Application of Policy**

This Policy applies to payments or articles of value to the Commission that provide a personal benefit to the Commission 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 Commission by an outside source, acquired by the Commission by purchase, acquired by the Commission as consideration pursuant to a contract for the use of a Commission venue, or acquired and distributed by the Commission 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 Chief Executive Officer, Executive Director, Chair of the Board or Vice Chair or other person designated by the Commission Board of Directors or Executive Committee.

"Commission" shall mean the California Travel and Tourism Commission and any other affiliated agency created by the Commission and governed by the Commission.

"Commission Official" means anyone required to file a Form 700 with the FPPC.

"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 Commission 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 Commission Officials. The cumulative gift ceiling per single source is \$420 each calendar year for the period January 1, 2011 through December 31, 2012. The FPPC may adjust the gift ceiling, effective January 1, 2013 and annually thereafter.

V. **Gifts to the Commission**

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

- 1) The Commission determines and controls the Commission's use of the payment. The use and control shall be determined by an Administrator. The donor may identify a purpose for the payment, but the donor may not designate by name, title, class or otherwise, a Commission Official who may use the payment. The Commission Official who determines and controls the Commission's use of the payment may not select himself or herself as the individual who will use the payment. An Administrator may request the Commission Executive Committee or Chairperson to determine use of the gift;
- 2) The payment must be used for official Commission business; and
- 3) The Commission must report the payment within 30 days after use of the payment on a form prescribed by the FPPC Form 801 (attached as Exhibit A). 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 Commission website. The forms must be maintained for seven 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 Commission's adopted reimbursement rates. The gift must be used for official Commission business.

VI. **Exceptions to Gift Rule for Certain Tickets and Passes**

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

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

A ticket provided directly to a Commission Official by a non-Commission source for admission to an event at which the Commission Official performs a ceremonial role or function on behalf of the Commission is not considered a gift to the Commission 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 Commission Official is not considered a gift to the Commission Official if the Commission Official reimburses the Commission 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 Commission Official by Commission

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

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

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

- 1) To obtain oversight of facilities or events that have received Commission funding or support;
- 2) To review facilities or events that may require Commission 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 Commission;
- 3) To promote state, regional or local tourism businesses, attractions, events, community programs, economic development and tourism within California;
- 4) To attend a community event in which the Commission is a participant;
- 5) To attend an event, activity or program sponsored by the Commission;
- 6) To promote intergovernmental relations including but not limited to attendance at an event with, or by, elected or appointed public officials, their staff and their guests;
- 7) To support and/or show appreciation for community and nonprofit programs or services that benefit California tourism;
- 8) To reward Commission employees and community members for his or her exemplary service to the public;
- 9) To promote economic development and job creation opportunities;
- 10) To promote open and accessible government by appearances or participation of Commission Officials at business and community events;
- 11) To promote employment retention, including enhancement of employee morale;
- 12) To promote Commission recognition, visibility, and/or profile on a local, state, national or worldwide scale;

13) To comply with all written contracts where the Commission as a form of consideration has required that a certain number of tickets, rooms, suites, meals, beverages or similar hospitality be made available for Commission use (subject to other applicable legal limitations);

14) To use in a Commission employee competition or drawing; and

15) 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 Commission Official by that source are considered gifts to the Commission 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 Commission from an outside source without designation as to the specific Commission 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.

D. As an alternative to the procedure outlined above, the Administrator may request the Commission, Executive Committee or Chairperson to determine the specific official(s) or employee(s) who shall use the gift.

IX. **Prohibited Transfer of Ticket**

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

X. **Ticket Reporting and Disclosure Requirements**

Tickets distributed by the Commission to a Commission Official shall be documented in a completed FPPC Form 802 (attached as Exhibit B). The Commission

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 Commission'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 Commission 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 Commission Official, the name of the Commission Official who made such behest; and
7. A description of the public purpose(s) under which the distribution was made, or, alternatively, that the Commission Official is treating the ticket as income.

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

XI. **Overriding Principal.**

It is the determination of the Commission that in administering the foregoing policy, the overriding goal in determining the use of gifts or tickets is to maximize the use of such assets to the maximum value to promote the Commission's mission. Thus, while the delivery of generic tickets, for example, should be distributed on a fair and equitable basis among staff, where there is a value to the Commission's mission, such as admission to a tourism trade show, distribution should be made to someone appropriate to represent the Commission, communicating its message or furthering travel and tourism in California.

I hereby certify that the foregoing policy was adopted by resolution of the California Travel & Tourism Commission at its meeting on August 1, 2012.

Caroline Beteta, Secretary