



Los Angeles City Ethics Commission

November 9, 2010

Via Electronic and Regular Mail

Chair Ann Ravel and Commissioners
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento CA 95814

Re: Proposed Amendments to Gift Regulations

Dear Chair Ravel and Commissioners:

I am writing on behalf of the Los Angeles City Ethics Commission to recognize and support the FPPC's efforts to improve the gift regulations. We applaud the work that has gone into the proposed amendments, as well as the FPPC's effort to codify interpretations provided previously in opinions and advice letters. The proposed changes go a long way toward the Commission's laudable goal of clarifying and simplifying the rules, while preserving the public's vital interest in transparent and accountable government.

We also appreciate the opportunity to be part of this process. Commission Counsel Bill Lenkeit, in particular, has been very helpful in keeping us informed and soliciting and incorporating our feedback. To continue the dialogue, we wanted to provide specific comments regarding the following sections of the proposal.

Regulation 18940.1. General Definitions.

1. Incorporating all definitions into one section is extremely helpful. We would move the definitions for "informational material" (18942.1, on page 22 of the draft), "home hospitality" (proposed 18942.2, on page 24 of the draft), and "ceremonial role" (proposed 18942.3, on page 25 of the draft) into this section, as well.
2. The definition of "personal benefit" states that a personal benefit exists, even if a payment facilitates government business, if it is "unnecessary, extravagant, or lavish under the circumstances" (page 7, line 1 of the draft). This is a subjective standard that is redundant and could create confusion.
3. Also in the definition of "personal benefit", we would amend the language cautioning filers that payments could be reportable under other provisions (page 7, lines 4-10 of the draft). The examples cited could create unnecessary confusion. For example, referring to Section 89506 is confusing, because its subsection (d) states that travel payments are not reportable if they are excluded from the definition of a gift under a different provision (which would be the case under the proposed definition of "personal benefit"). We suggest simply stating,

“Payments made by third parties, while not reportable as gifts under this provision, may still be reportable for income, conflict, or other purposes under different provisions of the Act.”

Regulation 18942(a)(12). Exceptions to Gift and Exceptions to Gift Limits.

1. We agree that a ticket provided to an official who is performing a ceremonial role should be disclosed, even though the ticket would not be considered a gift (page 17, line 18 of the draft). In addition, providing a definition of “ceremonial role” is extremely helpful. However, disclosure under Regulation 18994.1(d) does not require the official to disclose the source of the ticket or to provide a description of the ceremonial role. We believe that information is necessary to meaningful disclosure and should be required.
2. Permitting an individual to attend the event to assist the official who is performing a ceremonial role is a good addition (page 18, lines 1-3 of the draft). We would also endorse permitting the official who is performing a ceremonial role to take a guest. Public officials currently find themselves in the position of having to either attend these work events alone or pay sometimes high admission fees to attend with a spouse or other guest. To help promote accountability, we would require the official who is performing a ceremonial role to disclose the official’s guest and any individual who is attending to assist the official.

Regulation 18942(a)(17). Exceptions to Gift and Exceptions to Gift Limits.

1. The proposed exception for gifts based on an existing personal or business relationship would apply when *“there is no evidence whatsoever at the time the gift is made that the [recipient] official engages in the types of governmental decisions that may have a reasonably foreseeable material financial effect”* on the giver of the gift (page 20, lines 12-14 of the draft). The phrase “no evidence whatsoever” implies a legal burden where we do not believe one should exist. We suggest eliminating the potential confusion in this phrase by redrafting that portion of the regulation to read, *“...at the time the gift is made, the official does not engage in the type of governmental decisions”*
2. We note that an exception for gifts from persons who have an existing personal or business relationship with the recipient official is extremely broad. The other new exceptions, in combination with the existing exceptions and other improvements to the gift regulations, seem to address the vast majority of scenarios in which a payment to a public official should not be considered a gift.

Regulation 18942.3. Definition of Ceremonial Role.

We would remove the word “agency” from page 25, line 12 of the draft to maintain consistency within this regulation. And, as noted above, we would move this definition to the general definitions in Regulation 18940.1.

Regulation 18946.2. Exception – Valuation of Gifts: Attendance at Invitation-Only Events

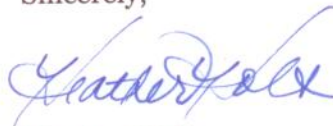
1. The proposed amendments to this section eliminate the reduced valuation for an official who attends an invitation-only event to perform a ceremonial role (page 62, lines 4-9 of the draft). The exception for ceremonial roles in proposed Regulation 18942(a)(12), on page 17 of the draft, applies only to ticketed entertainment events. We would maintain the exception for invitation-only events, which are often not ticketed and do not have an admission fee.
2. Just as for officials performing ceremonial roles at ticketed entertainment events (see comment 2 for Regulation 18942(a)(12), above), we would endorse permitting officials who perform City-related work at invitation-only events to take a guest. We would require disclosure and value the guest's attendance the same way as the official's attendance.
3. In subsection (c), both Option 1 and Option 2 (page 62, lines 14-19 of the draft) would put the official in the difficult and time-consuming position of having to keep track of and calculate the value of any appetizers consumed by the official and the official's guests during a brief drop-in. Option 2 would also require the official to determine what "nominal" means. We suggest simplifying the regulation by stating that the value of a gift to an official at a drop-in visit is *"the value of any specific item presented to the official at the event, other than food and beverages."*

The process of comprehensively evaluating the gift regulations is a monumental task. We appreciate the consideration that has been invested in this project already, and we urge you to take the time necessary to carefully consider each aspect of the proposal.

We work with the gift regulations on a daily basis and can be a helpful resource regarding their practical effect on local officials. To that end, we would be happy to continue to provide feedback regarding the proposed changes.

Thank you for the opportunity to comment and be a part of the improvement process.

Sincerely,



Heather Holt
Executive Director

cc: Bill Lenkeit, FPPC Commission Counsel