



STATE OF CALIFORNIA
FAIR POLITICAL PRACTICES COMMISSION
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June 12, 2024

Daniel Adomian
Associate Governmental Program Analyst
California Infrastructure and Economic Development Bank (IBank)
1325 J Street, Suite 1300
Sacramento, CA 95814

Re: Your Request for Informal Assistance
Our File No. I-24-052

Dear Mr. Adomian:

This letter responds to your request for advice regarding gift provisions of the Political Reform Act (the “Act”).¹

Please note that we are only providing advice under the provisions of the Act and not under other general conflict of interest prohibitions such as common law conflict of interest or Section 1090. Your request for advice is general in nature as it relates to future invitations to an annual event. Accordingly, we are treating your request as one for informal assistance.²

Also note that we are not a finder of fact when rendering advice (*In re Oglesby* (1975) 1 FPPC Ops. 71), and any advice we provide assumes your facts are complete and accurate. If this is not the case or if the facts underlying these decisions should change, you should contact us for additional advice.

QUESTION

Under the Act’s gift provisions, may you accept an offer of a one-day pass from the Milken Family Foundation with a value of \$50,000 to attend a preselected day or days of the annual Milken Institute Global Conference offered due to your status as an Alumni Scholar?

¹ The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18104 through 18998 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSION

To the extent that the pass to the Conference session(s) and any materials provided are to convey information in order to assist you in matters related to the performance of your official duties, the pass and materials will meet the “informational materials” exception to the definition of a “gift.” However, any meals provided, as well as any other items provided or attendance (or portion of attendance) that is not related to the performance of your official duties, will be a reportable gift, subject to the Act’s disqualification and limitation rules discussed below.

FACTS AS PRESENTED BY REQUESTER

You are an Associate Governmental Program Analyst with the California Infrastructure and Economic Development Bank (IBank) and have been employed in this role since January 2, 2024. Prior to that date, you were employed in the private sector. You have a 20-year-plus relationship with the Milken Family Foundation as a scholarship recipient and alumni scholar (“Alumni Scholar”). Due to this relationship, the Milken Family Foundation has extended invitations to you, other Alumni Scholars, and soon-to-be Alumni Scholars to attend one day of a multi-day event, the Milken Institute Global Conference, hosted by the Milken Institute at the Beverly Hills Hilton. Most recently, you were invited to attend the Conference held on May 8, 2024, which you did not attend. You describe the source of the gift as “Milken Institute/Milken Family Foundation” and note both are 501(c)(3) organizations.

You have received this invitation each year since around 2014, with the exception of 2020 and 2021. You anticipate that you will receive this invitation next year as well. You have attended two or three times over that period, when you were employed in the private sector.

You state that some of this year’s conference sessions related to climate infrastructure, sustainable development, and finance. These are important subject areas for IBank’s Climate Catalyst Fund since IBank is actively developing financial products relevant to climate-related infrastructure and other projects.

In response to our request for additional information, you provided the most recent email invitation, sent to “California based Milken Alumni (+soon to be) Scholars” from the Senior Director of the Milken Scholars Program at the Milken Institute. The email, along with a follow-up email later that month, stated that Scholars had a limited time period to register for the event and have the \$50,000 registration fee waived. It states that Scholars must provide their own travel, transportation, parking, and lodging arrangements but that breakfast and lunch would be provided. Scholars were also requested to commit to providing a written debrief at the event’s conclusion that may be shared with other Milken Scholars through the Milken Scholars’ website and social media networks. The invitation was limited to a particular day’s attendance, issued on a first-come-first-served basis, and was not transferable.

While you received this offer as an Alumni Scholar, you clarified that the Conference is not an invitation-only event. It is a ticketed event. The organizers of the event choose the topics of the day’s sessions as well as the overall theme of the event. The organizers also select the event day(s) for the Alumni Scholar offer. It is usually a three-day event, but the invitation is typically only extended for one, sometimes two days. As the event organizers choose the session topics,

sometimes these will be directly related to your current position. For example, this year's event had sessions related to sustainability financing, as well as energy storage and distribution. Future years will have different session themes, though nearly all of them are related to finance in some form.

ANALYSIS

A. Gifts: General Rules.

A gift is defined under Section 82028(a) as:

... any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.

In an effort to reduce improper influences on public officials, the Act regulates the receipt of gifts by public officials in three ways. First, the Act places limitations on the acceptance of gifts by certain public officials. Under Section 89503(c):

A member of a state board or commission or designated employee of a state or local government agency shall not accept gifts from any single source in any calendar year with a total value of more than [\$590] if the member or employee would be required to report the receipt of income or gifts from that source on the member's statement of economic interests.³

Second, so that the public is made aware of any potential influences from gifts, the Act imposes reporting obligations on certain public officials, requiring that any gift (or any gifts that aggregate to \$50 or more from the same source) received during the calendar year are disclosed on the official's statements of economic interests. Reporting requirements apply to all officials listed in Section 87200, all candidates for an office specified in Section 87200 (Section 87201), and employees designated in an agency's conflict-of-interest code as specified in the code (Section 87302(b)).

Third, the Act prohibits any public official from making, participating in making, or using their official position to influence the outcome of a governmental decision involving the donor of a gift or gifts with an aggregate value of \$590 or more provided to, received by, or promised to the official within the 12 months prior to the date the decision is made. (Sections 87100 and 87103(e).)

As an Associate Governmental Program analyst with IBank, you are subject to the Act's gift provisions.

³ The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. (Section 89503(f); Regulation 18940.2.)

B. The “Informational Material” Exception.

Expressly excluded from the Act’s definition of “gift” is “informational material,” which broadly includes any item “that serves primarily to convey information and that is provided to the official for the purpose of assisting the official in the performance of official duties or the duties of the elective office the official seeks.” (Regulation 18942.1; see Section 82028(b)(1).) “Informational material” may include “[b]ooks, reports, pamphlets, calendars, periodicals, photographs, audio and video recordings, flash drives, CD-ROMS, or DVD ROMS or other similar recordings, or free or discounted admission to informational conferences or seminars.” (Regulation 18942.1(a).) Without the identification of the specific topic of the conference for which you may attend and the material you may receive, we cannot determine if the informational material exception is applicable. However, we can generally advise that the free admission to the Milken Institute Global Conference and materials provided in connection with the Conference would not be regarded as “gifts” to you, provided that the portion you attend and the materials you receive are for the purpose of assisting you in matters related to the performance of your official duties. If you need further assistance determining if the portion of the conference you may attend or the materials provided qualify for the information material exception, you should seek further advice once the topic of the conference and materials can be identified.

We note that the informational materials exception does not apply to meals provided as a part of the conference. Under Section 82028(b)(1), “No payment for travel or reimbursement for any expenses may be deemed informational material.” Payments for meals, and the reimbursement of other expenses, do not qualify as informational materials and will constitute a gift subject to reporting, potential disqualification from participation as described in detail above, and the Act’s \$590 gift limit. To the extent that you attend a future Conference, you will receive a reportable gift for any meals you may receive.⁴

Please note that we would require additional facts to determine the “source” of any such gift and if the rules of aggregation apply. The facts indicate that the host of the event is the Milken Institute, and you received the invitation from the Milken Institute. However, the facts state “Milken Family Foundation/ Milken Institute” is the source of the pass. Generally, the entity hosting an event is the “source of the gift.” Regulation 18945(c) states:

If a public official's pro-rata share of the cost of the benefit provided at an event constitutes a gift to the official, the person hosting the event, unless the admission to the event was provided by someone other than the host, shall be

⁴ No information was provided as to whether the source of any gift related to this offer would meet the definition of a lobbyist or lobbying firm under the Act. Please seek additional advice as needed if either entity discussed may meet the definition of a lobbyist or lobbying firm. Section 86203 prohibits gifts from these types of sources as follows:

It shall be unlawful for a lobbyist or lobbying firm to make gifts to one person aggregating more than ten dollars (\$10) in a calendar month, to act as an agent or intermediary in the making of any gift, or to arrange for the making of any gift by any other person.

deemed the source of the gift so long as the event is widely attended by persons other than governmental officials.

Additionally, an official may presume that the person offering the gift to the official is the source of the gift unless it is clear from the surrounding circumstances at the time the gift is delivered or offered that the person delivering or offering the gift is not the actual source of the gift. (See Regulation 18945(d).) You may have additional facts that indicate the Milken Family Foundation should be the source or an additional source of the pass. Because the two entities appear to be related entities with shared ownership or control, you may be required to aggregate gifts from these two entities pursuant to Regulation 18945.1. Please contact our office if you require additional advice on the “source of the gift” and “aggregation of gifts involving two entities” issues.

To the extent that the free admission is *not* related to your official duties, the admission or any pro rata portion will be a reportable gift, subject to the disqualification and limitations provisions noted above. For purposes of disclosure, disqualification, and gift limits, the value of a pass that is accepted and used is equal to the fair value of an individual one-time admission multiplied by the actual use of the pass by the official and any other individuals who are admitted with the pass up to the face value of the pass. (Regulation 18946.1(b)(1).)⁵ Moreover, to the extent admission and any material receives is not related to your official duties, the value of the admission to the conference would well exceed the Act’s \$590 gift limit and could not be accepted.

We recommend you seek additional formal written advice, as needed, once you receive the next annual invitation. Commission staff will provide formal written advice within 21 working days of receiving the request or, where applicable, receiving the additional information requested by Commission staff. (Regulation 18329.)

If you have other questions on this matter, please contact me at KHarrison@fppc.ca.gov.

Sincerely,

Dave Bainbridge
General Counsel

L. Karen Harrison

By: L. Karen Harrison
Senior Counsel, Legal Division

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⁵ We note that although you anticipate future offers will similarly be extended to Scholars (including Alumni Scholars) only, this is a ticketed event open to the public and not an “invitation-only event.” Therefore, we do not discuss the exception for “invitation-only events” in Regulation 18946.2.