



City of Long Beach

Working Together to Serve

Office of the City Attorney

Memorandum

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REVISED

DATE: May 11, 2022

To: Ethics Commission

FROM: Taylor M. Anderson, Deputy City Attorney

SUBJECT: City of Long Beach Gift Disclosure Policies (Revised)

On Wednesday May 11, 2022, the Ethics Commission will receive a presentation regarding the City's Gift Disclosure Policies. For your reference, please find the following Gift Disclosure Policies enclosed:

- Excerpts on Accepting Gifts from Ethics Guide for Long Beach City Officials and Employees (Attachment 1)
- AR 8-2 – “Policy Regarding Acceptance of Gifts and Gratuities by City Employees.” (Attachment 2)
- “City Policy Regarding the Use and Distribution of Tickets and Passes Provided By the City for Entertainment Purposes” (Attachment 3)

Additionally, the Fair Political Practices Commission's 2021 Fact Sheet for “Limitations and Restrictions on Gifts, Honoraria, Travel and Loans” is enclosed as Attachment 4. AR2-5 has been removed as the policy has been suspended and is not currently being used.

Please do not hesitate to reach out to my office if you have any questions.

TMA:ag A22-01420

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ATTACHMENT 1

ACCEPTING GIFTS

The state's Political Reform Act regulates your receipt of certain gifts. These laws apply to all persons required to file a Statement of Economic Interests - Form 700. It is important for you to be familiar with these laws because accepting a prohibited gift may subject you to penalties and may require the City to void contracts if a conflict of interest has occurred.

What is a Gift?

A "gift" is anything of value that you receive for which you do not provide monetary or other consideration of equal or greater value. A gift may include meals, tickets to sporting events, and rebates or discounts in the price of anything of value unless the rebate or discount is made in the regular course of business to any member of the public without regard to official status. Any official who claims that he or she did not receive a gift because he or she provided consideration has the burden of proving that the consideration is worth as much as or more than the gift.

Important Note For City Employees in City Manager Departments

City employees working in departments under the City Manager's jurisdiction are subject to restrictions on the acceptance of gifts **in addition** to those set forth below. Such employees **may not** accept passes or tickets to recreational or entertainment events, unless they are assigned to attend such events as part of their duties. Further, they **may not** accept gifts of consumable goods, such as food, drink and other products provided by someone actually or potentially involved with business with the City.

ACCEPTING GIFTS

Gift Restrictions for City Officials and Board Members

You may *not* accept any gift intended to influence you in the performance of your official duties. In addition, those persons who are required to file statements of economic interests may not accept a gift or combination of gifts during the calendar year from a single source with a total value that exceeds **\$500** (effective 1/1/19 – 12/31/20) if the gift is required to be reported on your statement of economic interests. A gift is required to be reported if the donor does business within the City of Long Beach.

Gift Limits for Certain Officials

If you are a City elected official, Planning Commissioner, City Manager, City Attorney or an official that manages the City's investments, you may not accept a gift from any source with a total value that exceeds \$500.

Accepting Honoraria

Honoraria are gifts or payments received for speaking engagements, etc. There are complex regulations governing when honoraria may be accepted, so please contact the City Attorney's Office prior to accepting any honorarium.

Public Disclosure of Gifts

You must *publicly disclose* a gift you receive and its value if:

- the donor is a source described in your agency's Conflict of Interest Code; and
- the total value of all gifts you received from that source during the calendar year is at least **\$50**.

If the exact dollar amount of a gift is unknown, you must report a good faith estimate of the item's fair market value on your statement of economic interests. Reporting the value as "over \$50" or "value unknown" is not adequate disclosure. This disclosure should be made on your Statement of Economic Interests - Form 700.

ACCEPTING GIFTS

Exceptions to the Gift Limits

Items listed below are *not* subject to City or state gift limitations, and, if received, need *not* be disclosed on your statement of economic interests, except where noted.

- Gifts not used and returned or donated to charity or the City without being claimed as a tax deduction within thirty (30) days after acceptance.
- A single ticket to a fundraising event for a tax exempt 501(c)(3) non-profit organization, if it is provided by the non-profit organization, or a single ticket to a political fundraising event, if it is provided by the campaign committee.
- Tickets provided through the City's Policy on Tickets and Passes (available on the City's website), administered by the City Manager's Office, and reported separately by the City Ticket Administrator of FPPC Form 802.
- Gifts from family members (spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother or sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse of any of these persons) or a partner in a bona fide dating relationship as long as they are not acting as intermediaries for restricted sources.
- Gifts to you or an immediate family member in connection with a non-recurring ceremonial event (e.g., wedding, bar mitzvah) valued at no more than \$100.
- Informational material such as books, reports, pamphlets, calendars, seminars, or informational conferences exclusively for official or office use and valued at less than \$250. (Note: travel is never informational material.)

- Items received from your union; food and beverage from another union if you are a member of a union.
- Personalized plaques and trophies valued at less than \$250.

ACCEPTING GIFTS

- Meals and lodging offered in an individual's home.
- Meals provided at an event at which you speak, participate in a seminar, or provide a similar service, only if paid for by a federal, state or local government agency (Form 801 must be filled out).
- Inheritances and bequests.

Are Meals Considered Gifts?

Yes. A meal is a gift, unless one of the exceptions to the gift limitation regulations applies. A meal provided to an official by an individual in his or her home when the individual or a member of the individual's immediate family (an individual's spouse and dependent children) is present is also not considered a gift.

Are Invitations to Events Considered Gifts?

Yes. An invitation or a ticket to an event is considered a gift, unless it is a political fundraiser or a fundraiser for an organization exempt from taxation (i.e., a charitable organization), and you have received a single ticket from the charity itself, or from the political committee itself. If the event is not exempt, the reportable value of the invitation or ticket is generally its face value. If there is no face value, the reportable value is the cost to the donor. It is your responsibility to contact the donor to ascertain the total per-person cost of the event. In other words, you must ask the person or entity hosting the event to determine your pro-rata share of the total cost, including food, beverages, entertainment, decorations, etc. As discussed below, if you give the invitation or ticket to someone else, you must still report it as a gift to you. In addition, if you take a guest with you to the event, you must report the value of two invitations/tickets. If a ticket or invitation is discarded or unused, it is not considered a gift.

**Are Raffle
Prizes
Considered
Gifts?**

Yes. Any raffle prizes awarded to City employees donated by an entity other than the City of Long Beach or a fellow City employee, is a gift and must be reported as such.

ACCEPTING GIFTS

If a Gift is Given Away, Does it Still Count As A Gift?

Yes. If you receive a gift and then give it to someone else or throw it away, it is *still* considered a gift to you.

Gifts of Travel are Severely Restricted

Generally, you may not accept reimbursement for travel and related expenses from sources other than the City of Long Beach if traveling on official duty. Some minor exceptions apply, and you should contact the City Attorney's Office for advice about how to proceed if such travel is offered. It is important to get advice, because if an outside entity pays for your travel, the travel must be reported, and in certain circumstances, is prohibited.

Travel that is offered to you as a gift is subject to the gift limits - even if offered to you in your personal life outside the scope of your official duties. In some cases, you may be prohibited from accepting a "gift of travel." For example, City officials may *not* accept a gift of travel from any transportation company, included, but not limited to, airlines, railroads, bus and shipping companies.

Exemptions to the gift limits may apply for certain types of travel offered to you depending on the destination and whether you are providing a service, such as making a speech, in exchange for the travel. In most instances, a Form 801 must be filled out by the employee and posted on the City's website. For information, please contact the Office of the City Attorney.

ATTACHMENT 2



Administrative Regulations

Number AR8-2
Issue 2

Subject: Policy Regarding Acceptance of Gifts and Gratuities by City Employees.

I. PURPOSE

The purpose of this regulation is to establish a uniform policy governing the acceptance of gifts and gratuities by employees and officers of the City and to establish guidelines to assist employees in determining what course of action to take should such gifts and gratuities be received.

II. SCOPE

This regulation is applicable to all City departments and offices directly responsible to the City Manager.

III. POLICY

A. Employees shall not accept gifts, gratuities or favors, which might reasonably be interpreted as an attempt to influence their actions in the performance of their official duties.

B. Examples of gifts and gratuities which may not be accepted by City employees under this policy are:

1. Passes or tickets to recreational or entertainment events, including City events, unless employees are assigned to attend such events as a part of their official duties.
2. Consumable goods, such as food, drink, tobacco or other products, whether provided directly by the distributor, by an individual or by a company or person actually or potentially involved in business with the City, including City contract employees and consultants, except lunches, dinners, etc., provided by members of other governmental agencies or vendors during the conduct or transaction of City business.
3. Any remuneration for employment with the City other than that specified in the Salary Resolution, whether such remuneration be in the form of cash, material gifts or services.

C. Discount opportunities commonly made available to all public employees may be accepted, including such items as memberships in discount department stores and discount cards for amusement parks.

IV. PROCEDURES APPLICABLE UPON RECEIPT OF GIFTS OR GRATUITIES

A. Any City employee who receives a gift or gratuity, acceptance of which would constitute violation of this regulation, shall return said gift or gratuity to the donor immediately, and within five (5) working days shall report in writing to his or her department head the receipt and subsequent return of said gift or gratuity. In instances where gifts or other items are received from anonymous donors, the gifts should be turned over to a community group, such as the Salvation Army, Goodwill, church or other charitable organization of the recipient's choice. It is further recommended that a receipt be obtained from the organization to which the gift has been donated; and that the receipt be submitted to the employee's department head.

Policy Regarding Acceptance of Gifts and Gratuities by City
Employees.

B. Where applicable, the provisions of Administrative Regulation No. 2-5, City Reporting of Exchanges of Money or Other Items of Value Between the City and State Officials, and the City's adopted Conflict of Interest codes must also be considered and adhered to in complying with this regulation.

ATTACHMENT 3

CITY OF LONG BEACH POLICY
REGARDING THE USE AND DISTRIBUTION OF
TICKETS AND PASSES PROVIDED TO THE CITY
FOR ENTERTAINMENT PURPOSES

I. APPLICATION OF POLICY

- A. Consistent with Fair Political Practices Commission ("FPPC") Regulation 18944.1, this policy is intended to establish a procedure for the City to provide tickets and passes to City Officials which will result in the tickets and passes not qualifying as gifts under the Political Reform Act (California Government Code section 81000 et seq.).
- B. This policy applies to all departments of the City.
- C. This policy applies to tickets and passes which provide admission to any facility or event for an entertainment, amusement, recreational or similar purpose and are either:
 - 1. gratuitously provided to the City by any outside source; or
 - 2. acquired by the City; or
 - 3. acquired by the City as consideration pursuant to the terms of any contract; or
 - 4. acquired and distributed by the City in any other manner.
- D. This policy does not apply to:
 - 1. a single ticket provided to and used by a City Official to an event at which the official performs, on behalf of the City, a ceremonial role or function, as those terms are defined in FPPC Regulations, Section 18942.3 (Title 2, Division 6, California Code of Regulations);
 - 2. any other item of value provided to the City or any City Official, regardless of whether received gratuitously or for which consideration is provided;
 - 3. tickets for which the City Official pays the City the value of the ticket.

- E. This policy, and procedures established to implement this policy, shall supersede and replace any other City policies and procedures relating to tickets and passes provided to the City or to City Officials.

II. DEFINITIONS.

Unless otherwise expressly provided herein, words and terms used in this policy shall have the same meaning as that ascribed to such words and terms in the California Political Reform Act of 1974 (California Government Code section 81000 et seq., as the same 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 the same may be amended from time to time).

- A. "City" or "City of Long Beach" shall mean and include the City of Long Beach, the Harbor Department, the Long Beach Housing Authority, the Water Department, the Successor Agency to the City of Long Beach Redevelopment Agency, and any other affiliated agency created or activated by the Long Beach City Council, and all departments, boards and commissions thereof.
- B. "City Official" means every elected official, officer, employee, commissioner, or consultant of the City of Long Beach required to file an annual Statement of Economic Interests (FPPC Form 700).
- C. "Fair Value. " For a ticket offered for sale to the general public, the "fair value" means the face value of the ticket or pass. The "fair value" of a ticket or pass that does not have a face value indicated, or has a face value that is not available to the general public, is the price at which the ticket or pass would otherwise be offered for sale to the general public by the operator of the venue or host of the event who offers the ticket for public sale. Where the price indicated on the ticket does not reflect the actual cost for a ticket in a luxury box or suite, the face value is determined by dividing the total cost of the box or suite by the number of tickets available for that box or suite.
- D. "Immediate Family" means the spouse or registered domestic partner and any dependent children as defined in California Government Code section 82089 and Family Code section 297.5.
- E. "Pass" means a ticket that provides repeated access, entry, or admission to a facility or series of events and for which similar passes are sold to the public.
- F. "Ticket" means anything that provides access, entry, or admission to a specific future event or function and for which similar tickets are sold to the public to view, listen to, or otherwise take advantage of

the attraction or activity for which the ticket is sold and includes any benefits that the ticket provides.

- G. "Ticket Administrator" shall be the City Manager or designee who in his or her sole discretion has the authority to establish procedures for the distribution of tickets in accordance with this policy, and to implement the policy.

III. GENERAL PROVISIONS.

- A. No Right to Tickets. The use of complimentary tickets is a privilege extended by the City and not the right of any person to which the privilege may from time to time be extended.
- B. Limitation on the Transfer of Tickets. Unless otherwise provided herein, tickets distributed to a City Official pursuant to this policy shall not be transferred to any other person, except to members of such City Official's Immediate Family solely for their personal use or no more than one guest solely for their attendance at the event.
- C. Prohibition Against Sale of Tickets. No person who receives a ticket pursuant to this policy shall sell or receive reimbursement for the value of such ticket.
- D. Prohibition Against Disproportionate Use. The disproportionate use of tickets or passes by any City elected or appointed official or City employee is prohibited.
- E. Public Record. This policy shall be maintained as a public record and is subject to inspection and copying under Government Code Section 81008. The City shall post the policy on its website within 30 days of adoption or amendment and send to the FPPC by e-mail the City's website link that displays the policy so that the FPPC may post the link.

IV. TICKET ADMINISTRATOR.

- A. The City Manager or designee shall be the Ticket Administrator for purposes of implementing the provisions of this policy.
- B. All requests for tickets which fall within the scope of this policy shall be made in accordance with the procedures established by the Ticket Administrator.
- C. The Ticket Administrator shall determine the Fair Value of tickets distributed by the City as necessary to implement this policy.

- D. The Ticket Administrator, in his or her sole discretion, may revoke or suspend the ticket privileges of any person who violates the provisions of this policy or the procedures established by the Ticket Administrator for the distribution of tickets in accordance with this policy.
- E. The Ticket Administrator shall determine in his/her sole discretion what constitutes the prohibited disproportionate use of tickets or passes

V. CONDITIONS UNDER WHICH TICKETS MAY BE DISTRIBUTED.

Subject to the provisions of this policy, complimentary tickets may be distributed by the Ticket Administrator, as available, to City Officials under the following conditions:

- A. The City Official reimburses the City for the Fair Value of the ticket(s).
 - 1. Reimbursement shall be made at the time the ticket is distributed to the City Official.
 - 2. The Ticket Administrator shall, in his or her sole discretion, determine which event tickets, if any, shall be available under this Section.
- B. The City Official treats the tickets as income consistent with applicable federal and state income tax laws; or
- C. The City Official uses or behests such tickets for one or more of the following public purposes:
 - 1. If performing a ceremonial role or function representing the City at the event, the City Official may receive enough tickets for him/herself and each member of his or her immediate family.
 - 2. If conducting oversight or inspection of facilities, the City Official receiving the ticket or pass shall promptly provide a written inspection report of findings and recommendations.
 - 3. The job duties of the City Official require his or her attendance at the event, for which the City Official may receive enough tickets for the City Official and his or her immediate family.
 - 4. Promoting city businesses, industries, resources, programs, facilities, and economic development.

5. Intergovernmental relations purposes, including but not limited to attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
6. Attracting or rewarding volunteer service.
7. Supporting or showing appreciation for programs or services rendered by non-profit organizations benefitting Long Beach residents.
8. Encouraging or rewarding significant academic, athletic or public service achievements by Long Beach students, residents or businesses.
9. Attracting and retaining highly qualified employees in City service.
10. As special recognition or reward for meritorious service by a City employee.
11. For use in connection with a City employee or resident competition or drawing.
12. Recognition of contributions made to the City by former City Council members, City Managers or City Officials.
13. Encouraging Long Beach resident and business support for and attendance at local events.
14. Encouraging participants in City sponsored programs to attend local events.
15. Encouraging City Officials and employees to attend local events on City-recognized holidays by being accompanied by their parents, children, grandchildren, siblings, nieces or nephews.

VI. TICKETS DISTRIBUTED AT THE DIRECTION ("BEHEST") OF A CITY OFFICIAL

- A. Subject to Section VIII, below, tickets and passes subject to this policy must be received and distributed by the Ticket Administrator.
- B. Only the following City Officials shall have authority to request distribution of tickets: City Attorney, City Auditor, City Prosecutor, Mayor, City Council Members, City Manager, Assistant City Manager, City department heads.

- C. Tickets shall be distributed at the request of a City Official only for one or more public purposes as set forth in Section V.C, above.
- D. If tickets are distributed at the behest of a City Official, such Official shall not use one of the tickets to attend the event.

VII. DISCLOSURE REQUIREMENTS.

- A. Tickets distributed by the City to any City Official either: i) which the City Official treats as income pursuant to Section V. B, above, or ii) for one or more public purposes described in Section V. C, above, shall be posted on a form provided by the FPPC in a prominent fashion on the City's website ("Ticket Policy Report Page") within thirty (30) days after distribution. Such posting shall include the following information:
 - 1. The name of the recipient, except that if the recipient is an organization, the City may post the name, address, description of the organization and number of tickets provided in lieu of posting the names of each recipient; and
 - 2. a description of the event; and
 - 3. the date of the event; and
 - 4. the Fair Value of the ticket; and
 - 5. the number of tickets provided to each person or organization; and
 - 6. if the ticket was distributed at the direction ("behest") of a City Official, the name of the City Official who provided such direction; and
 - 7. a description of the public purpose(s) under which the distribution was made, or alternatively, that the City Official is treating the ticket as income; and
 - 8. a written inspection report of findings and recommendations by the official receiving the ticket or pass if received for oversight or inspection of facilities.
- B. Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section V.A, above, shall not be subject to the disclosure provisions of this Section VII.

VIII. DISPOSITION OF TICKETS RECEIVED.

Tickets received by a City Official other than pursuant to this Ticket Policy must, within 30 days of receipt, either be:

- A. Returned to the source unused; or
- B. Provided to a 501(c)(3) organization for which the City Official does not take a tax deduction; or
- C. Delivered to the Ticket Administrator for distribution and use consistent with this policy.
- D. If tickets are disposed of pursuant to this Section VIII A or B, the City Official must notify the Ticket Administrator of their disposition, including the name of the 501 (c)(3) organization, the number of tickets and the date of return or delivery.

IX. INCOME TAX CONSIDERATIONS.

Tickets which are provided free of charge or at a price below the fair market value may have tax consequences for the recipient and may be reportable and taxable as regular income or as taxable fringe benefits to a recipient. Recipients of tickets must consult with their tax advisors to determine the reporting requirements for income tax purposes, as well as the tax consequences of any tickets received.

X. CAUTION:

This policy and any implementing guidelines are not a substitute for legal advice. Only the FPPC can provide immunity from prosecution for the legal advice that it offers. Please consult the City Attorney's Office if you have questions about reporting, disclosure and disqualification requirements regarding tickets and passes, and the City Attorney's Office can assist in obtaining advice from the FPPC.

ATTACHMENT 4

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 - 2. acquired by the City; or
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- C. The City Official uses or behests such tickets for one or more of the following public purposes:
 - 1. If performing a ceremonial role or function representing the City at the event, the City Official may receive enough tickets for him/herself and each member of his or her immediate family.
 - 2. If conducting oversight or inspection of facilities, the City Official receiving the ticket or pass shall promptly provide a written inspection report of findings and recommendations.
 - 3. The job duties of the City Official require his or her attendance at the event, for which the City Official may receive enough tickets for the City Official and his or her immediate family.
 - 4. Promoting city businesses, industries, resources, programs, facilities, and economic development.

5. Intergovernmental relations purposes, including but not limited to attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
6. Attracting or rewarding volunteer service.
7. Supporting or showing appreciation for programs or services rendered by non-profit organizations benefitting Long Beach residents.
8. Encouraging or rewarding significant academic, athletic or public service achievements by Long Beach students, residents or businesses.
9. Attracting and retaining highly qualified employees in City service.
10. As special recognition or reward for meritorious service by a City employee.
11. For use in connection with a City employee or resident competition or drawing.
12. Recognition of contributions made to the City by former City Council members, City Managers or City Officials.
13. Encouraging Long Beach resident and business support for and attendance at local events.
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 - 2. a description of the event; and
 - 3. the date of the event; and
 - 4. the Fair Value of the ticket; and
 - 5. the number of tickets provided to each person or organization; and
 - 6. if the ticket was distributed at the direction ("behest") of a City Official, the name of the City Official who provided such direction; and
 - 7. a description of the public purpose(s) under which the distribution was made, or alternatively, that the City Official is treating the ticket as income; and
 - 8. a written inspection report of findings and recommendations by the official receiving the ticket or pass if received for oversight or inspection of facilities.
- B. Tickets distributed by the City for which the City receives reimbursement from the City Official as provided under Section V.A, above, shall not be subject to the disclosure provisions of this Section VII.

VIII. DISPOSITION OF TICKETS RECEIVED.

Tickets received by a City Official other than pursuant to this Ticket Policy must, within 30 days of receipt, either be:

- A. Returned to the source unused; or
- B. Provided to a 501(c)(3) organization for which the City Official does not take a tax deduction; or
- C. Delivered to the Ticket Administrator for distribution and use consistent with this policy.
- D. If tickets are disposed of pursuant to this Section VIII A or B, the City Official must notify the Ticket Administrator of their disposition, including the name of the 501 (c)(3) organization, the number of tickets and the date of return or delivery.

IX. INCOME TAX CONSIDERATIONS.

Tickets which are provided free of charge or at a price below the fair market value may have tax consequences for the recipient and may be reportable and taxable as regular income or as taxable fringe benefits to a recipient. Recipients of tickets must consult with their tax advisors to determine the reporting requirements for income tax purposes, as well as the tax consequences of any tickets received.

X. CAUTION:

This policy and any implementing guidelines are not a substitute for legal advice. Only the FPPC can provide immunity from prosecution for the legal advice that it offers. Please consult the City Attorney's Office if you have questions about reporting, disclosure and disqualification requirements regarding tickets and passes, and the City Attorney's Office can assist in obtaining advice from the FPPC.