



## **GIFTS TO ~~THE CITY~~ ELECTED AND APPOINTED OFFICIALS**

### **PURPOSE**

To establish the process and provide guidance for accepting gifts given to the City and directly to elected and appointed City officials, including Board, and Commission, and Committee members, in their official capacity, and individual City employees as part of their official assigned duties and responsibilities.

This Policy is intended to supplement applicable state law including the provisions of the Political Reform Act.

### **POLICY**

Elected and appointed City officials ~~City employees~~ shall not accept any money or favors for the performance of an act, any service which they would be required or expected to perform in the regular course of their duties for City official business; nor shall such persons accept any gifts, gratuities, or favors of any kind which might be perceived or interpreted as an attempt to influence actions of the City Council or City Administration. Acceptance of all gifts ~~may not be accepted unless they are done so in accordance must comply~~ with this policy.

For the purposes of this policy, the term “gift” is used to include any monetary, discounted price, in-lieu contributions, volunteer services, or exchange of property use or services.

Gifts may be tangible or intangible. A service or a goodwill gesture rendered free or below cost ~~to the City government~~ may be considered a gift ~~to the City~~. ~~Before the City Manager accepts gifts of any kind, he/she must review any conditions imposed by the donor and be satisfied that acceptance would be beneficial and not unduly burdensome to the City.~~ If the City official knows, or has reason to believe, it is determined that the donor may be coming before the body on which the official serves (or the elected employee's department, as applicable) Council in the near future for action or a decision, ~~plus to avoid the potential for a quid pro quo situation, or to avoid even the potential appearance on any impropriety,~~ the gift should not be accepted regardless of the value of the gift.

If a gift valued at less than the California Fair Political Practices Commission (FPPC) reporting threshold is accepted by an official in his or her official capacity, then the official shall promptly disclose such acceptance at a public meeting of a body on which official serves. For elected employees department heads (Chief of Police, City Clerk) the disclosure shall be made at a meeting of the City Council.

~~Under this directive, gifts are accepted on behalf of the City overall, not to a specific Department or individual, and must be presented to the City Manager. If the City Manager approves acceptance of the gift, he/she~~

~~shall determine what Department/function/individual the gift will be applied. The City Manager cannot be the end recipient of the gift.~~

This policy must comply with Santa Clara City Code Chapter 2.155, Regulation of Lobbying Activities, Section 2.155.130, entitled, "Gifts" which clearly forbids any lobbyist to deliver or cause to be delivered any gift to any City official, and for any City official to accept any gift from a lobbyist.

~~Fair Political Practices Commission (FPPC) regulation §188944.2 requires that if a gift is given for a specific position or individual's use, FPPC Form 801 should be completed in addition to memorializing the receipt of the gift in "a written public record." If the City retains ownership of the gift, and there are no specific end-recipients or users of the gift, the City does not need to complete FPPC Form 801.~~

## PROCEDURE

1. When a gift has been offered ~~to the City~~, the ~~City Manager elected or appointed City official~~ shall consider ~~the following information whether:~~

- a) ~~Reasons for the offer~~The gift was provided by an individual who has interests that may be affected by the performance or nonperformance of the elected or appointed City official's official duties;
- b) ~~Conditions attached to the donation~~The acceptance of the gift creates an appearance of impropriety;
- c) ~~Potential liability to the City, the donor, or the public~~The timing of the gift creates the appearance that the gift-giver is seeking to influence an official action or obtain favorable treatment;
- d) ~~Benefits and drawbacks~~The acceptance of the gift would give the gift-giver disproportionate access to the elected or appointed City official;
- e) ~~Costs to the City, including estimated maintenance and repair public perception and inferred (rightly or wrongly) commitment~~The acceptance of the gift is compliant with the regulations set by the California Fair Political Practices Commission (FPPC).

The gift limit is adjusted for inflation every odd-numbered year; updated FPPC regulations are available online at [www.fppc.ca.gov](http://www.fppc.ca.gov).

~~If the City Manager approves a gift/donation valued over \$1,000, the donor shall be invited to a Council Meeting to be recognized under a Special Order of Business and a letter of acceptance and appreciation signed by the Mayor and City Manager shall be transmitted to the donor(s).~~As of 2017, eElected and appointed officials are required to report gifts worth \$50 or more on their annual Statement of Economic Interests (Form 700) with the FPPC.

2. ~~If the City Manager approves a gift/donation under the value of \$999,~~

~~a letter of acceptance and appreciation signed by the Mayor and City Manager shall be transmitted to the donor(s).~~

~~Elected and appointed officials are required to report gifts worth \$50 or more on their annual Statement of Economic Interests (Form 700) with the FPPC. If a gift valued at less than \$50 (as that figure may be adjusted from time to time) is accepted, the elected or appointed official shall promptly disclose such acceptance either at a public meeting of a body on which official serves during the Reports of Members portion of the Agenda or, for elected department heads, in a written Report to Council.~~

- ~~3. If the City Manager determines it is not in the best interest of the City to receive the donation or gift, a letter declining the offer signed by the City Manager will be transmitted to the donor(s).~~

~~As of 2017, e~~Elected and appointed officials shall not accept gifts from any single source aggregating to \$470 or more in a calendar year.

~~If a gift or series of gifts aggregating to \$470 or more (as that figure may be adjusted from time to time) is accepted from a single source during any 12-month period preceding the officials' involvement in a decision affecting the gift-giver, the elected or appointed official may be required to disqualify him or herself from participating in that decision-making process, in accordance with applicable FPPC requirements.~~

- ~~4. The City Manager shall prepare a report of all gifts received by the City and presented to the City Council on a quarterly basis. Elected and appointed officials may not accept any gift from a lobbyist.~~
- ~~5. For received gifts, elected or appointed officials have the option to return the unused gift to the gift-giver; reimburse the gift-giver for the value of the gift; or donate the gift to a nonprofit group, within 30 days of receipt.~~