

CITY OF TRACY  
ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

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SUBJECT: : Gift Policy and Procedure

DATE ISSUED: : July 1, 2020

SECTION: : G

REFERENCE: : California Code of Regulations, Section 82028;  
FPPC Regulation 18946; Political Reform Act 1974

SECTION 1: POLICY

It is the policy of the City of Tracy that all employees demonstrate the organization's commitment to treating all people and organizations, with whom we come into contact or conduct business, impartially. In an effort to ensure that no one can claim that a decision or organizational goal was influenced by the receipt of a gift, employees shall follow this gift policy. Employees may not solicit, accept, or seek a gift, gratuity, or favor from any person, organization, or agency doing business with or involved in a contract (or transaction) which is or may be the subject of official action by the City (Prohibited Source). Employees may not accept any gift(s) from the public, including those who are likely to do business with the City, withstanding minor exceptions as noted in this policy.

Employees must demonstrate the highest standards of ethics and conduct. Employees must demonstrate professionalism and avoid conflict of interests, or the appearance thereof, favoritism, or the appearance thereof, and any discriminatory actions in relation to all vendors, suppliers, customers, employees, potential employees, and other individuals or organizations. Furthermore, in determining whether someone is likely to have business with the City, officials and employees are encouraged to err on the side of caution, and not solicit, accept, or seek gifts and gratuities.

GIFT DEFINITION

A "gift" is any payment or other benefit provided to you that confers a personal benefit for which you do not provide payment or services of equal or greater value. A gift 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; (CCR Section 82028.) (See FPPC Regulation 18946 for valuation of gift guidelines.) You have "received" or "accepted" a gift when you know that you have actual possession of the gift or when you take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.) For those employees who must report gifts (California Form 700), it is important to note that when you exercise direction or control of the gift, and you turn the gift

over to another person, both you, and the person who “receives” or “accepts” the gift from you, may have to report the gift as income.

Gifts may include, but are not limited to items such as meals, lodging, tickets to sporting or cultural events, a bottle of wine, merchandise, clothing, gratuities, loans, etc., whether de minimus and incidental to business or of great value.

#### EXCEPTION[S]

This policy does not affect the authority of the City itself to accept material gifts (for example, donations or bequests,) in furtherance of its governmental purposes. The City may also accept items that can be displayed in public areas of the City’s buildings (such as flowers, art, sculptures, photographs, plaques, trophies, etc.).

Recognizing that personal friendships often precede and can evolve from official contact between employees and persons engaged in business with the City, reasonable exceptions to this section are permitted for those occasions which are social in nature and are not predicated on the employee’s ability to influence, directly or indirectly, any matter before the city.

Employees may accept edible gifts of nominal value (less than \$50) which must be shared with the public and/or CITY organization, and not presented for individual benefit.

Employees may accept handmade items by and from children under age 16.

## SECTION 2

### CALIFORNIA FORM 700

Employees must act at all times in the best interest of the CITY and not for personal, third-party, or financial gain. The Political Reform Act (Gov. Code Sections 81000-91014) requires many state and local government officials and (management) employees to publicly disclose their personal assets and income. They also must disqualify themselves from participating in decisions that may affect their personal economic interests. If you are an employee of a local government agency who is designated in the agency’s conflict of interest code, you may not accept gifts from any single source totaling more than \$440 in a calendar year if you are required to report receiving income or gifts from that source on your statement of economic interests; (Section 89503(c)). Gift limits are effective until December 31 each year.

Officials and employees who serve in positions designated in the City’s conflict of interest code are required to complete Form 700 (Statement of Economic

Interest) annually. The period covered by the statement is January 1st, of a given year, through December 31st, of the same year. Filing is due on or before April 1, of each year.


SECTION 3: PROCEDURE

Upon being offered or receiving a gift limited by this policy, an individual must notify the gift giver of this policy and graciously decline or return the gift.


Upon being offered or receiving a gift limited by this policy, an individual may elect to pay the market value of the gift. Additionally, this information must be recorded in the City Manager's Office.

If the gift is anonymous, the recipient must deliver the gift to their Department Head, who will make every effort to convey the gift to a charitable organization. If this is not possible, the Department Head has the discretion, upon consultation with the City Manager, to seek out alternative approaches, including distribution among the organization and/or destruction. This information must also be recorded in the City Manager's Office.

Approved as to form:

  
Digitally signed by Leticia M. Ramirez  
Date: 2020.07.30 14:32:41 -07'00'  
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Leticia Ramirez, City Attorney

Policy Approved by:

  
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Jenny Haruyama, City Manager