

CIVIC SAN DIEGO BOARD POLICY

Section: 2.0 – Ethics and Conflict of Interest
Sub-section: 2.03 – Acceptance of Gifts
Effective Date: June 27, 2018

1. PURPOSE

1.1 To establish policies for the CORPORATION to govern the acceptance of GIFTS and to offer specific guidance to employees on acceptable GIFTS and procedures for the disposition of GIFTS.

2. EFFECTIVE DATE AND AMENDMENTS

2.1 This Policy shall be effective upon the approval of the BOARD. This Policy may only be amended by approval of the BOARD, except as provided in Policy 1.01, Section 5.8.

3. DEFINITIONS

3.1 BOARD – The Board of Directors of the CORPORATION.

3.2 CITY – City of San Diego.

3.3 CORPORATION – Civic San Diego.

3.4 GIFT – As defined in Section 5 of this Policy.

4. POLICY

4.1 It is the policy of the CORPORATION that designated employees (Form 700 filers) of the CORPORATION may accept no more than \$49 in GIFTS from the same source, as defined by the CORPORATION's Conflict of Interest Code, within the same calendar year. This policy applies in conjunction with all applicable state or local gift laws and regulations. Any more restrictive requirements of applicable state or local gift laws supersede any less restrictive provisions of this policy. In addition, compliance with this policy in no way provides immunity from state or local enforcement of applicable state or local gift laws, violations of which can result in administrative fines or criminal prosecution.

5. WHAT CONSTITUTES A GIFT

5.1 State and local laws define a GIFT as any payment or other personal benefit received by an individual, unless such person provides something of equal or greater value in return. GIFTS include rebates or discounts 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 an individual's public official status. GIFTS include, but are not limited to, meals, receptions, travel expenses, hotel stays, and tickets to sporting and entertainment events.

5.2 The term GIFT, for purposes of this policy, does not include:

- (A) Anything which would otherwise be considered a GIFT, but which is returned unused to the donor or the donor's agent or intermediary within thirty (30) calendar days.
- (B) A rebate or discount in the price of anything of value which is made in the regular course of business to members of the general public.
- (C) Informational material provided to an employee to assist in the performance of his or her official duties, including, but not limited to, books, reports, pamphlets, audio and video recordings, flash drives, CD or DVD ROMS, and other similar recordings, calendars, periodicals, or free or discounted admission to informational conferences or seminars; however, no employee may receive free or discounted admission to informational conferences or seminars from any CORPORATION vendor or consultant without prior approval of the CORPORATION President or his/her designee. On-site demonstrations, tours, and inspections designed specifically for public officials are considered informational material. Informational material may also include scale models, pictorial representations, maps, and other such items, provided that if the item's fair market value is more than four hundred seventy dollars (\$470 for 2018), subject to adjustment by the Fair Political Practices Commission, the burden shall be on the recipient to demonstrate that the item is informational material. No payment for travel or reimbursement for any expenses shall be deemed informational material.
- (D) GIFTS from an individual's spouse, former spouse, child, step-child, parent, grandparent, great grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, grand-nephew, niece, grand-niece, aunt, uncle, great/grand aunts and uncles, first cousin, first cousin once removed or the spouse or former spouse of any such person; provided that a GIFT from any such person shall be considered a GIFT if the donor is acting as an agent or intermediary for any person not covered by this paragraph.
- (E) Hospitality, including food, beverages, or occasional lodging, provided to

an employee by an individual in his or her home when the individual or a member of the individual's immediate family is present. The individual who provides the hospitality must be someone with whom the employee has a relationship, connection, or association unrelated to the employee's position.

- (F) Any devise or inheritance.
- (G) Personalized plaques and trophies with an individual value of less than two hundred fifty dollars (\$250).
- (H) GIFTS exchanged with an individual, other than any individual who engages in lobbying activities on behalf of a client or an organization lobbyist, on holidays, birthdays, or similar occasions provided that the presents exchanged are not substantially disproportionate in value.
- (I) Reciprocal exchanges between an employee and another individual who is not a lobbyist that occur on an ongoing basis, as long as the total value of benefits received by the employee within the calendar year is not substantially disproportionate to the amount paid by the employee and no single benefit is \$470 or more.
- (J) Passes or tickets which provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the employee does not use and does not give to another person.
- (K) Two tickets for admission, for the employee's own use, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501 (c) (3) of the Internal Revenue Code. The ticket must be received from the organization or committee holding the fundraiser. Admission, food, beverages, and similar non-cash nominal benefits provided to the employee at an event at which he or she gives a speech, participates in a panel or seminar, or provides a similar service, provided, however, that such food and beverages are consumed on the day of participation.
- (L) Travel expenses for travel within California provided directly in connection with an event at which an employee gives a speech, participates in a panel or seminar, or provides a similar service.
- (M) Campaign contributions, including rebates or discounts received in connection with campaign activities, although such campaign contributions must be reported in the time and manner required by the California Political Reform Act.
- (N) Leave credits, including vacation, sick leave, or compensatory time off, donated to an official in accordance with a bona fide catastrophic or similar emergency leave program established by the CORPORATION and

available to all employees in the same job classification or position. This shall not include donations of cash.

- (O) Payments received under a government agency program or a program established by a bona fide charitable organization exempt from taxation under section 501(c) (3) of the Internal Revenue Code designed to provide disaster relief or food, shelter, or similar assistance to qualified recipients if such payments are available to members of the public without regard to the individual's status as an employee of the CORPORATION.
- (P) Items of value (e.g., meals, jewelry) that an employee receives from another person in a bona fide dating relationship.
- (Q) Certain wedding GIFTS. Wedding GIFTS are not subject to GIFT limits, but they must be reported on the employee's Form 700 if they exceed \$50 in value. For the purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse.
- (R) Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception.
- (S) Meals and entertainment received at a wedding are only potentially reportable to the extent that they exceed the benefits extended to the other guests attending the wedding.
- (T) Certain prizes or awards received in a bona fide competition not related to the recipient's status as an employee of the CORPORATION. Prizes or awards over \$500 must be reported as income unless they are received in the California State Lottery.
- (U) Bereavement offerings such as flowers at a funeral received in memory of a close family member.
- (V) Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society that would not normally be part of an economic transaction between like participants under similar circumstances
- (W) Assistance to offset family medical or living expenses that the employee can no longer meet without private assistance due to an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances.

- (X) A charitable donation made in the employee's name. Note, however, that if someone makes a charitable donation valued at \$5,000 or more at the request of an elected CITY Official, that donation (or any other payments totaling \$5,000 made at the behest of an elected CITY Official for a legislative, governmental, or charitable purpose) must be reported to the CITY Clerk on a Form 803.

6. GIFTS TO FAMILY MEMBERS

- 6.1 A GIFT given to a member of the employee's family could be considered a GIFT to the employee. For purposes of these rules, family includes:
 - a.) Employee's spouse or registered domestic partner;
 - b.) Employee's dependent children under 18 years of age;
 - c.) Employee's children between 18 and 23 years of age who are full-time or part-time students, have the same principal residence as the employee, and who do not provide over one-half of their own support.
- 6.2 GIFTS given to members of the employee's family will not be treated as GIFTS to the employee if there is an established working, social, or similar relationship between the donor and the family member and there is no evidence to suggest that the donor intended to influence the employee regarding a municipal decision.
- 6.3 Evidence suggesting that the donor intended to influence the employee exists if:
 - a) the donor is a lobbyist, a lobbying firm, or an organization lobbyist;
 - b) the donor is involved in a municipal decision in which it is reasonably foreseeable that the employee will participate or did participate within the past 12 months; or,
 - c) the donor engages in business that regularly seeks CORPORATION contracts or comes before the CORPORATION for the purpose of receiving a permit or other entitlements, and the employee participates in such decisions.
- 6.4 If the employee and any member of his/her family receive a GIFT jointly, the reportable value of the GIFT is the GIFT's full value.

7. GENERAL RULES AND PROCEDURES

- 7.1 Employees may not accept any GIFT with the understanding that the employee will perform an official act in exchange for accepting such GIFT.
- 7.2 All GIFTS given, donated, or otherwise provided to employees that would exceed the limit of this policy, must be returned, unused, within thirty (30) calendar days with a letter stating the CORPORATION gift policy, or donated to the CITY or

any other public agency, or donated to a 501(c) (3) charitable organization that is unconnected to the employee or the employee's immediate family (without taking a tax write-off for the donation). Except for tickets and invitations (see item K above), discarding a GIFT does not negate the employee's acceptance of a GIFT. Similarly, accepting a GIFT and giving it to a friend or co-worker does not change the fact that the employee has received a GIFT.

- 7.3 Employee attendance at events including, but not limited to, groundbreakings and grand openings, held by developers, business owners, or private companies doing business with the CORPORATION must be approved prior to attendance at such event to facilitate the CORPORATION paying for the cost of attendance.
- 7.4 Refer all questions regarding this policy to the CORPORATION's Assistant Vice President, Human Resources & Compliance. Refer all questions regarding applicable state or local gift laws to the CITY Ethics Commission.