

**City of Sacramento
Regulatory Compliance Efforts**

1. AB 1234 Ethics Training (Gov. Code 53234 et seq.)

Original 2006 training session provided by the League of California Cities Institute of Local Government. Simulcast sessions provided by the City Attorney and City Clerk Offices. The 2008 training provided by City Attorney's Office. Report and materials attached. City Clerk monitors compliance with training requirement.

2. Statement of Economic Interests Form 700 (Gov. Code 87200 et seq.)

Statements collected by City Clerk pursuant to regulations. Council, Planning Commission, City Manager, City Attorney and City Treasurer forwarded to the State Fair Political Practices Commission. City's Conflict of Interest Code (resolution) updated and adopted yearly by City Council. Statements collected and audited by City Clerk pursuant to regulations. Public requests for statements managed via the City Clerk's Office. Conflict of Interest Code describes process for requesting advice and disqualification due to conflict.

3. Campaign Disclosure Statement Filings (Gov. Code 84200 et seq.)

Statements collected by City Clerk pursuant to regulations. City requires additional disclosure requirements in accordance with City Code (electronic filings, "per-election to date" contribution disclosure, supplemental reports). City Clerk provides free electronic filing system and public access system. <http://www.netfile.com/agency/sac/>

4. Gift to Agency Report Form 801 (Gov. Code 18944.2)

City management established a "gift to the city" policy which has been provided to department heads. Policy and materials attached. Forms are submitted to the City Manager's Office and forwarded to the City Clerk for filing and posting on City's web page. Two reports were submitted and are on file since the State's adoption of regulation.

5. Tickets Provided by Agency Report Form 802 (Gov. Code 18944.1)

City Council adopted a policy on the "distribution, use and reporting of tickets and passes." Report and materials attached. Forms are filed with the City Clerk and posted on the City's web page. No forms have been submitted since adoption of policy.

6. Behested (Co-Sponsored) Payment Report Form 803 (Gov. Code 82015(b)(2)(B)(iii).

Filings collected by City Clerk pursuant to regulations. State Fair Political Practices Commission recently revised policy and created a filing form. Forms have been filed with the City Clerk for many years. All new filings to be posted on the City's web page.

7. Lobbyist Registration & Reporting (City Code 2.15)

Filings collected by City Clerk pursuant to regulation. City Clerk provides informational materials and current lobbyist reports on the City's web page. Outreach materials and lobbyist report attached. http://www.cityofsacramento.org/clerk/lobbyist_registration/

8. Campaign Contribution Limits and Campaign Finance (City Code 2.13 and 2.14)

The City Clerk provides informational materials on the City's web page and in the documentation provided to candidates running for city council elective office. Examples of outreach materials are attached. <http://www.cityofsacramento.org/clerk/campaign-information/finance-and-regulations/>

AB1234 Ethics Training

Title: AB1234 Ethics Training April 22, 2008



REPORT TO COUNCIL 19

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

Staff Report
April 22, 2008

**Honorable Mayor and
Members of the City Council**

Title: AB 1234 Ethics Training

Location/Council District: City-Wide

Recommendation: Receive and file

Contacts: Eileen Teichert, City Attorney, 808-5346; Richard Archibald, Assistant City Attorney, 808-5346; Patti Bisharat, Governmental Affairs, 808-9197

Presenters: Eileen Teichert, City Attorney; Richard Archibald, Assistant City Attorney

Department: City Attorney

Division: City Attorney

Organization No: 0500

Description/Analysis:

Issue: Effective January 1, 2006, State Law AB 1234 requires that all elected and appointed officials take a minimum of two hours of state approved ethics training every two years. For the City of Sacramento, this law applies to Sacramento City Councilmembers and all board and commission members appointed by the city council. This is the second round of ethics training to be provided to the council and board and commission members, with the first round having been provided in August, 2006.

As required by AB 1234, this training will cover laws relating to: 1) personal financial gain by officials (conflict of interest laws); 2) office-holder perquisites ("perks"), including gifts and travel; 3) governmental transparency laws, including the Brown Act and the Public Records Act; and 4) fair processes, including common law bias requirements, due process, and the doctrine of incompatible offices.

Policy Considerations: This training will ensure compliance with AB 1234.

Title: AB1234 Ethics Training April 22, 2008

Environmental Considerations: None.

Commission/Committee Action: N/A.

Rationale for Recommendation: This training is mandatory under state law.

Financial Considerations: None.

Emerging Small Business Development (ESBD): N/A.

Respectfully Submitted by:



Eileen M. Teichert, City Attorney

Table of Contents:

Report pgs. 1-2

Attachments:

AB 1234 Ethics Training Outline pgs. 3-4

California Ethics Guides and Resources pgs. 5-6

AB 1234 ETHICS TRAINING

OUTLINE

I. Overview of AB 1234 (Government Code Sec. 53234.)

Two basic requirements:

- a. Adoption of formal policies to govern reimbursement of expenses.
- b. Local agencies must provide or arrange for a minimum of two hours of ethics training every two years for members of local legislative bodies.

II. AB 1234 Ethics Training / Mandatory Elements

- a. Laws related to personal financial gain by public servants.
- b. Laws pertaining to perquisites ("perks") of office.
- c. Government transparency laws.
- d. Laws related to fair processes and unbiased decision-makers.

III. Element One: Laws Pertaining to Personal Financial Gain

- a. Bribery, including agreed exchange of votes.
 - b. Financial Conflicts of interest under:
 1. The Political Reform Act.
 2. The City Code.
 - c. Contractual Conflicts of Interest. (Gov. Code Sec. 1090.)
 - d. Contributions and Conflicts of Interest. (Gov. Code Sec. 84308.)
-

e. Conflicts of Interest: Leaving Office Restrictions Under:

1. Political Reform Act Restrictions.
2. City Charter, City Code Restrictions.

IV. Laws Concerning Perquisites (“Perks”) of Office

- a. Gifts, gift limits under the Political Reform Act.
- b. Honoraria.
- c. Misuse of public funds.
- d. Restrictions on gifts of public funds.
- e. Constitutional prohibition on acceptance of free or discounted transportation from transportation companies.
- f. Mass mailing rule.

V. Government Transparency Laws

- a. Brown Act: Ralph M. Brown Act.
- b. Public Records Act.

VI. Laws Related to Fair Processes and Unbiased Decision-Making

- a. Procedural requirements for hearings: adjudicatory versus legislative decisions.
- b. Doctrine of incompatibility of offices. (Gov. Code Sec. 1099.)
- c. Common law doctrine against conflicts of interest (bias, personal interest or animosity).
- d. Competitive bidding.

VII. Questions and Answers

CALIFORNIA ETHICS GUIDES AND RESOURCES

Brown Act

- Open and Public IV: A Guide to the Ralph M. Brown Act. League of California Cities (2007). www.cacities.org
- The Brown Act: Open Meetings for Local Legislative Bodies. California Attorney General's Office (2003). www.ag.ca.gov
- The ABCs of Open Government Laws. Institute for Local Government (2006). www.ca-ilg.org

Conflicts of Interest

- Conflicts of Interest. California Attorney General's Office (2004). www.ag.ca.gov
- FPPC Fact Sheet: Can I Vote? Conflict of Interest Overview, FPPC (2007). www.fppc.ca.gov
- FPPC Fact Sheet: Campaign Contributions May Cause Conflicts for Appointees and Commissioners (1999). www.fppc.ca.gov
- FPPC Fact Sheet: Holding Two Positions. FPPC (2003). www.fppc.ca.gov
- FPPC Booklet: Your Duty to File: A Basic Overview of Economic Disclosure Law. FPPC (2004). www.fppc.ca.gov

Public Records Act

- Summary of the California Public Records Act 2004. California Attorney General's Office. www.ag.ca.gov
- The ABCs of Open Government Laws. Institute for Local Government (2006). www.ca-ilg.org
- The People's Business: A Guide to the California Public Records Act. League of California Cities (anticipated publication date of May, 2008). www.cacities.org

Gifts, Travel, Honoraria

- FPPC Fact Sheet: Limitations and Restrictions on Gifts, Honoraria, Travel and Loans for Local Elected Officers and Candidates for Local Elective Offices, Local Officials Specified in Government Code Section 87200, Judicial Candidates,

Designated Employees of Local Government Agencies. FPPC (2007).
www.fppc.ca.gov

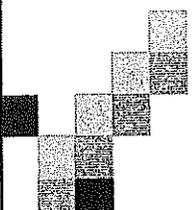
- FPPC Fact Sheet: Travel Guide for California Officials and Candidates. FPPC (2007). www.fppc.ca.gov

Meetings, Public Processes

- Planning Public Forums: Questions to Guide Local Officials. Institute for Local Government (2007). www.ca-ilg.org
- Ethics Law: Reference for Local Officials. Institute for Local Government (2007). www.ca-ilg.org
- Planning Commission Handbook 2. League of California Cities (2004). www.cacities.org

General Ethics Guides

- Of Cookie Jars and Fish Bowls: A Public Official's Guide to Use of Public Resources. Institute for Local Self Government (2004). www.ca-ilg.org
- Key Ethics Law principles for Public Servants. Institute for Local Government (2007). www.ca-ilg.org
- Ethics Law: Reference for Local Officials. Institute for Local Government (2007). www.ca-ilg.org
- Everyday Ethics for Local Officials: Finding Your Way. Institute for Local Government (2006). www.ca-ilg.org
- Walking the Line: What to Do if You Suspect an Ethics Problem. Institute for Local Government (2005). www.ca-ilg.org
- Success in Public Service: What You Need to Know Before You Are Elected or Appointed. Institute for Local Government (2005). www.ca-ilg.org
- Practicing Ethics: A Handbook for Municipal Lawyers. League of California Cities. www.cacities.org
- Let's Not Make a Deal: Vote-Trading and Similar Practices Raise Legal and Ethical Issues. An article in February 2007 issue of Western City. Available at www.cacities.org



AB 1234 ETHICS TRAINING

SACRAMENTO CITY ATTORNEY'S OFFICE

Eileen Teichert, City Attorney
Richard Archibald, Assistant City Attorney

April 22, 2008



LEGAL TOPICS

Laws relating to:

- "Personal financial gain" by public servants (bribery, conflict of interest under the PRA, contractual conflict of interest, conflicts of interest and campaign contributions)
- "Perquisites" or "perks of office" (gifts, honoraria, travel)
- "Government transparency" (economic interest disclosure, Brown Act and the Public Records Act)
- "Fair processes" (common law bias prohibitions, due process, disqualification in matters affecting family members, incompatible offices doctrine)



2

BRIBERY

- Garden variety bribery--something of value promised or given to official to act, refrain from acting, in official capacity.
- Bribery to induce votes by members of a legislative body. Penal Code Sec. 86
- San Bernardino billboard case.
- San Bernardino waste hauler case.



3

Bribery under Penal Code Sec. 85

HYPOTHETICALS 1, 2 and 3



4

BRIBERY

■ Includes vote trading:

"Any member of the legislative body of a city...who gives, or offers or promises to give, any official vote in consideration that another member of the legislative body of a city...shall give this vote either upon the same or another question, is punishable by imprisonment in the state prison for two, three, or four years [and shall pay restitution or a fine]."



5

Penal Code Sec. 86 Exchange of Vote Scenario

HYPOTHETICALS 4, 5 and 6



6

MISUSE OF PUBLIC FUNDS

- Embezzlement or falsification of accounts to obtain public funds. Criminal penalties--2, 3 or 4 years prison. Disqualification from holding office.
Penal Code Sec. 424
- Use of public funds or public resources for personal gain, private benefit, or campaign purposes. Civil penalties-\$1,000/day+.
Government Code Sec. 8314



7

MISUSE OF PUBLIC FUNDS
Examples

- County supervisor with law practice used County office, County equipment and County staff to conduct private legal business, and to perform political work.
- State official used public equipment, staff time to support park funding ballot measure. Stanson v. Mott
- FPPC fined Sacramento County for using funds to pay for informational campaign concerning a ballot measure that FPPC found was not appropriately objective. County also fined for not registering as a committee making political expenditures.



8

MISUSE OF PUBLIC FUNDS
Examples (cont'd.)

- County sheriff used County equipment, staff time to campaign against Chief Justice Rose Bird.



9

CONFLICTS OF INTEREST LAWS

- Political Reform Act (Government Code Sec. 81000 et seq.)
- Supplemental conflict of interest rules in City Code (Chapter 2.16 of Title 2 of City Code)
- Government Code Section 1090 et seq. (conflicts of interest in contracts)
- Miscellaneous Statutes
- Common Law



10

POLITICAL REFORM ACT KING



11

POLITICAL REFORM ACT

4 basic components:

- **Local Conflict of Interest Code:** Local agencies must adopt.
- **Financial Interest Disclosure:** Requires that local officials and certain employees disclose information about their financial interests (Form 700)
- **Conflict of Interest Rules:** Requires that local officials and employees abstain from participating in matters in which they have a material financial interest
- **Mass Mailing Rule:** Prohibits mass mailings from being sent at public expense.



12

POLITICAL REFORM ACT

General rule:

No public official at any level of state or local government shall make, participate in making or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest.

Gov't. Code Sec. 87100



13

**FPPC's Eight Part
Conflict of Interest Test**

1. Is the individual a public official?
2. Will the public official be making, participating in making, using or attempting to use his/her official position to influence a governmental decision?
3. What is the public official's economic interest?
4. Is the public official's economic interest directly or indirectly involved?



14

FPPC's Eight Part Test (cont'd)

5. Was the economic interest material?
6. Is it reasonably foreseeable that the decision will have a material financial effect on the economic interest of the official?
7. Is the reasonably foreseeable financial effect distinguishable from the effect on the public generally?
8. Is public official's participation is legally required?



15

SANCTIONS FOR PRA CONFLICT OF INTEREST VIOLATIONS

- **Criminal and Civil:** The official who improperly made, participated in making or influenced a decision may be subject to criminal prosecution (misdemeanor), civil penalties (three times the value of the economic benefit realized from decision) and/or administrative penalties.
- **Decision:** Decision which official improperly made, participated in or influenced may be set aside.



16

NO FINANCIAL INTERESTS IN CONTRACTS

"Members of the Legislature, state, county, district, judicial district and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity."

Government Code Section 1090



17

WHEN DOES AN OFFICIAL "MAKE" A CONTRACT?

- Construed quite broadly.
- Includes participation short of awarding or recommending award of contract.
- Includes preparation of bid specifications, determining minimum qualifications of bidders, contract negotiations and similar activities.



18

WHAT IS THE BASIC EFFECT OF SECTION 1090?

- If official is member of board or body making the contract (e.g., City Council members), board or body must not enter into contract in which official has a financial interest. Abstention by official doesn't cure.
- If official or employee not a member of board or body making the contract, board or body may enter into the contract, provided official or employee abstains from any and all participation in making of contract.
- Exceptions if financial interest is "remote" or a "non-interest"



19

REMOTE INTERESTS

- If interest in contract is "remote" official or employee must:
 - ✓ Disclose the financial interest and
 - ✓ Abstain from influencing the making of the contract.
- Remote interests include:
 - ✓ Official is officer or employee of non-profit corp.
 - ✓ Official is employee/agent of private contracting party where private party has 10 or more other employees and official has been an employee/agent of that party for at least 3 years
 - ✓ Official is landlord or tenant of contracting party
 - ✓ Official was supplier of goods and services to contracting party for at least five years prior to official's election or appointment to office.



20

NON-INTERESTS

- Interests that the Legislature, as a matter of policy, has chosen to exempt from the prohibition of Sec 1090.
- Unlike remote interests, official with a non-interest generally does not have to disclose, and may participate.
- Examples: reimbursement of expenses incurred in performance of official duties; unsalaried member of nonprofit corporation; contracts between government agencies (disclosure is required).



21

Sec. 1090 Violation Sanctions

- Contract null, void and unenforceable. Agency may be entitled to retain any benefits it receives under contract violating Sec. 1090.
- Official or employee willfully, intentionally violating Sec. 1090 can receive criminal sanctions, fines.
- Official forever disqualified from holding office in State.
- Examples: Thomson v. Call (Albany park case); San Diego retirement case; library contract case; Bill Honig case



Conflict of Interest: Source of Income (and Gov. Code Sec. 1090)

HYPOTHETICAL 7

CAMPAIGN CONTRIBUTIONS & CONFLICTS OF INTEREST

Agency officials appointed to JPAs, Boards & Commissions must not solicit or accept, for their own election campaigns and the campaigns of others, more than \$250 from persons that have an application for a license, permit or other entitlement pending before the agency.

Gov. Code Sec. 84308



**AGENCIES COVERED BY GOV. CODE
SEC. 84308**

- "Agency" includes:
 - Most boards and commissions (e.g., Planning Commission, Preservation Commission, Design Review Commission) and
 - JPAs (e.g., Regional Sanitation, Regional Transit)
- "Agency" does not include:
 - Judicial branch
 - Legislature
 - Constitutional officers
 - Local agencies whose members are elected by the voters (e.g., city council)



25

**DURATION OF CAMPAIGN
CONTRIBUTION LIMITS**

- \$250 contribution limit applies until contributor's matter before the board, commission or JPA is final and 3 months have passed.
- If appointed official accepted or solicited more than \$250 from contributor in past 12 months, appointed official must disclose amount of contribution and abstain from participation in contributor's matters before the board, commission or JPA.



26

**Campaign Contributions Conflicts (Gov.
Code 84308)**

HYPOTHETICALS 8 and 9

27

CITY COUNCIL MEMBERS

- Bodies with a voter-elected board are not subject to Sec. 84308
- When acting as a member of the elected board, official may participate in matters involving campaign contributors
- When acting as a member of an appointed board (e.g., Regional Transit, Regional Sanitation, other JPAs), an elected official is subject to the restrictions of Sec. 84308



28

LEAVING OFFICE RESTRICTIONS

- State law (Gov. Code Sec. 87406.3)
 - Applies to council members and city manager (also specified positions in other jurisdictions)
 - Establishes one year ban on former official appearing before or communicating with City (or former agency) on matter where former official is representing someone for compensation



29

CONFLICT DUE TO PROSPECTIVE EMPLOYMENT

- No public (local) official shall make, participate in making, or use his or her official position to influence, any governmental decision directly relating to any person with whom he or she is negotiating, or has any arrangement concerning, prospective employment.

Gov. Code Sec. 87407



30

CITY CHARTER & CODE RESTRICTIONS

- **City Charter Section 35:** Prohibits City employment of Council member during term and one year following end of term.
- **City Code, chapter 2.16:** Prohibits City officer or employee from appearing before Council, any City board or commission or former department on any matter that was the "official responsibility" of former officer/employee during last year of employment. Prohibition lasts one year post employment.



GIFTS, HONORARIA & TRAVEL

PRA imposes limits on gifts, honoraria and payments for travel for:

- Local elected officials
- Local officials specified in Government Code Sec. 87200, such as planning commissioners, city managers, city attorneys, city treasurers, other specified "high level" officials
- Designated employees of local government agencies if the employee is required to report receipt of income or gifts from that source on statement of economic interests. (Form 700)



GIFT LIMITS

Individuals prohibited from accepting gifts totaling more than \$390 from any single source in any calendar year, include:

- Local elected officers
- Individuals specified in Section 87200
- Designated employees of a local agency if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests. (Form 700)



REPORTING GIFTS

■ Official who receives gifts of more than \$50.00 in a calendar year from a single source must report gifts from that source

■ Gifts from single source in a calendar year of \$390 or more subject the official to disqualification and must also be reported



34

GIFT DEFINED



- Any payment that confers a personal benefit to the recipient, to the extent that the recipient does not provide goods or services of equal or greater value to the gift giver.
- 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.



35

EXCEPTIONS TO GIFT LIMITS

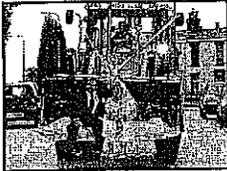
- Gifts returned unused to gift giver within 30 days.
- Gifts for which you reimburse the donor.
- Gifts donated to a non-profit within 30 days.
- Gifts to the public agency employer.
- Gifts from specified family members, unless the family member is acting as an intermediary for the giver.
- Gifts exchanged between you and the gift giver around holidays or special occasions so long as they are equal in value.
- Informational material and discounts to conferences and seminars.



36

EXCEPTIONS TO GIFT LIMITS WEDDING GIFTS

- Not subject to the gift limits
- But reportable on Form 700
- One-half of value of each gift attributable to each spouse.



37

EXCEPTIONS TO GIFT LIMITS --GIFTS FROM BONA FIDE, SIGNIFICANT OTHER

- FPPC has recognized an exception for gifts from "significant other" of an official otherwise subject to gift rules.
- If "bona fide" relationship, gifts from significant other treated the same as gifts from relatives for which there are no gift limits.



38

HONORARIA--GENERAL RULE

The following individuals are prohibited from accepting honoraria:

1. Local elected officers
2. Individuals specified in Section 87200
3. Designated employees of a local agency if the employee would be required to report the receipt of income or gifts from that source on his or her statement of economic interests (Form 700).



39

WHAT IS AN HONORARIUM?

An honorarium is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering.



40

WHAT IS NOT SUBJECT TO HONORARIA LIMIT?

- An honorarium that is returned to the donor within 30 days.
- An honorarium that is delivered to the City's general fund within 30 days.
- A payment received by an official from specified family members so long as those members are not acting as an intermedia for someone else.
- Travel expenses (subject to restrictions)



41

TRAVEL PAYMENTS

- Generally subject to the same rules as gifts.
- The following individuals are prohibited from accepting payments for travel expenses from any single source in any calendar year with a total value of more than \$390:
 - ✓ Local elected officers
 - ✓ Individuals specified in Section 87200
 - ✓ Designated employees of local agency if employee would be required to report receipt of income or gifts from that source on statement of economic interests (Form 700).



42

TRAVEL PAYMENTS- EXCEPTIONS

No limits on, nor reporting of payments for travel that is reasonably related to a legislative or governmental purpose if:

- Travel in Connection With Speech Given in State: and the lodging and subsistence expenses are limited to the day immediately preceding, the day of, and the day immediately following the speech, and the travel is within California



43

TRAVEL PAYMENTS- EXCEPTIONS

(cont'd)

Travel in Connection with Speech Outside State, but within United States:

- Reportable on Form 700 if travel in connection with legislative or governmental purpose or issue of state, national or international public policy.
- Limited to costs of travel, and lodging and subsistence expenses for the day before, day of, and day after official's speech.



44

TRAVEL PAYMENTS- EXCEPTIONS (cont'd)

Travel not in connection with a speech

- Reportable on Form 700 and not subject to limits, if:
- Reasonably related to a legislative or governmental purpose or to an issue of state, national or international policy; and
- Payment is made by a government, government agency, foreign government, specified educational institution or a non-profit 501(c)(3) or foreign equivalent.



45

NO FREE PASSES OR DISCOUNTS FROM TRANSPORTATION CO.

"A transportation company may not grant free passes or discounts to anyone holding an office in this state; and the acceptance of a pass or discounts... shall work a forfeiture of that office."

Cal. Const. Art. XII, Sec. 7



46

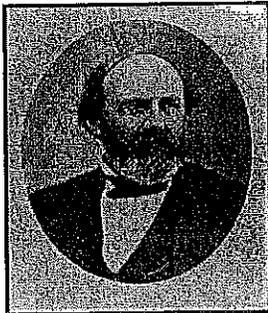
NO FREE PASSES (Cont'd)

- Applies to elected and non-elected public officers who set policy, but not employees
- Covers interstate, intrastate and foreign travel
- Applies to public, personal & private business
- Exception: Free passes to Board of Directors of Transit Agency permitted for purpose of monitoring performance of transit service



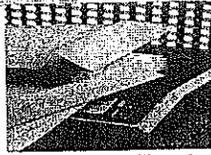
47

C.P. HUNTINGTON: CAPTAIN OF INDUSTRY OR ROBBER BARON?



48

MASS MAILINGS



- General Rule: No newsletter or other mass mailing shall be sent at public expense. Gov't Code sec. 89001
- "Mass mailing" means over two hundred substantially similar pieces of mail, but does not include a form letter or other mail which is sent in response to an unsolicited request, letter or other inquiry. Gov't Code sec. 82041.5



49

MASS MAILINGS

Mass mailing prohibited if all of the following apply:

- The item is delivered to the recipient's residence, place of employment or post office box;
- The item either features an elected officer affiliated with the agency that procures or sends the mailing or includes the name, photograph or other reference to the elected officer;
- Any of the costs of distributing the item or the costs of design, production and printing exceeding \$50 is paid for with public money; and
- More than 200 substantially similar items sent in a single calendar month, excluding unsolicited requests and items that are specifically exempted by the regulation.



50

MASS MAILINGS (cont'd)

- Therefore, if the item is not delivered, but is set out for the public to pick up or is distributed in a public area, this regulation does not apply.
- And, if the item does not include the name, photograph or any reference to an elected officer who is affiliated with the agency producing the mailing, then the item is not subject to this regulation.
- If the mailing is not sent at public expense, or the costs of design or production over \$50 are not at public expense, then this regulation does not apply.
- If 200 or fewer of the same or substantially similar items are sent in a calendar month, then this regulation does not apply.



51

MASS MAILINGS--EXCEPTION

- Mass mailings may be sent at public expense if the purpose is to provide notices of public meetings that an elected official will attend or official agency events.
- **Limitation:** The notice may contain a single reference to elected officer, and may not include photograph or signature of elected officer.



52

Mass Mailings

HYPOTHETICALS 10 AND 11



53

RALPH M. BROWN ACT



54

GOVERNMENT TRANSPARENCY

WHO IS SUBJECT TO THE BROWN ACT?



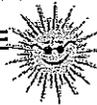
- "Legislative Bodies" of local agencies and typically include:
 - Governing bodies (City Council)
 - Subsidiary bodies (commissions, boards)
 - Standing committees:
- "Standing committee" is less than a quorum of governing body:
 - ✓ With continuing subject matter jurisdiction, or
 - ✓ Has a meeting schedule fixed by charter, ordinance, resolution or formal action of a legislative body.



66

GOVERNMENT TRANSPARENCY

WHO ELSE IS SUBJECT TO THE BROWN ACT?



A board, commission or committee of a private or non-profit corporation or LLC that either:

- Receives local agency funds and has a governing board with an agency legislative body member appointed by the local agency's legislative body; or
- Was created by an elected legislative body and exercises authority delegated by that elected body.



66

GOVERNMENT TRANSPARENCY

WHAT IS A BROWN ACT MEETING?



- Any face-to-face congregation of a majority of legislative body's members:
 - ✓ at same time and place,
 - ✓ to hear, discuss, or deliberate,
 - ✓ upon any item within the subject matter jurisdiction of the legislative body or local agency.
- Any use of direct communication, personal intermediaries, or a technological device by which a majority develops a collective concurrence as to action to be taken.



67

A BROWN ACT MEETING DOES NOT INCLUDE



- A conference open to public involving general interest issues
- An open and publicized meeting organized to address a local community concern by a person or organization other than the public agency
- An open and noticed meeting of another body of the local agency or of a legislative body at another local agency



A BROWN ACT MEETING DOES NOT INCLUDE (cont'd)



- A purely social or ceremonial occasion, or
- An open and noticed meeting of a standing committee of that body, where attending as observers.

These gatherings permitted so long as legislative body majority do not discuss among themselves business of a specific matter jurisdiction at such events.



BROWN ACT MEETING OR NOT?



- Serial one-on-one discussions between legislative body member and staff on matters before the body where mere policy-related informational exchanges occur is lawful. *Wolfe v. City of Fremont* (2006) 144 Cal. App. 4th 533.
- If serial contacts of a quorum of legislative body lead to a "collective concurrence as to action to be taken" = Brown Act violation.
- See SB1732 proposed by CNPA.



Brown Act seriatim meetings

**HYPOTHETICALS 12, 13 and
14**



61

GOVERNMENT TRANSPARENCY

“REGULAR” BROWN ACT MEETINGS 

- Meeting dates, times, locations set by formal action
- Regular meeting agenda must
 - Be posted 72 hours in advance in location freely accessible to public 24/7 & agenda packet delivered & mailed to requestors
 - State time, date and location of meeting
 - Describe business to be conducted with enough specificity to apprise public, generally need not exceed 20 words
 - Provide for public comment on agendized matters and unagendized matters within body's subject matter jurisdiction.



62

GOVERNMENT TRANSPARENCY

“SPECIAL” BROWN ACT MEETINGS 

- Meeting called by presiding officer or majority to discuss discrete item.
- Notice posted & delivered 24 hours advance.
- Brown Act does not specifically require special meeting "agenda", just notice—best practice to use agenda.
- Special meeting item may include closed session.
- Public must be given opportunity to comment on noticed item.
- Public has no right to speak on matters not in notice/agenda.



63

NO DISCUSSION OF NON-AGENDIZED ITEMS EXCEPT:



- To briefly reply to public comment.
- To make brief announcements (comments, ideas, questions, AB1234 reports.)
- To refer matter to staff for follow up (Law & Leg).
- To request staff report back on matter at a subsequent meeting.
- If majority determines emergency action needed, subject to emergency notice requirements.



PUBLIC'S BROWN ACT RIGHTS



- No discrimination at meeting site
- Disabled accessible
- To speak on agendized matters and non-agendized matters at regular meetings
- To writings provided to majority of body
- To attend without signing in or questionnaires
- To audio or video record or photograph meeting unless Agency finds disruptive



LIMITS ON PUBLIC'S RIGHTS



- Meetings are limited fora under First Amendment
- Reasonable time, place and manner restrictions may be imposed by legislative body
- No right to address legislative body why certain matters not agendized
- Subject to body's rules to assure orderly conduct of meeting.



BROWN ACT CLOSED SESSIONS



- Purpose – avoid revealing confidential information that may:
 - ✓ prejudice the legal or negotiating position of body; or
 - ✓ compromise the privacy interests of employees
- Only expressly stated closed sessions permitted, such as, pending, threatened or anticipated litigation, labor negotiations, real property negotiations, and personnel
- Exceptions narrowly construed
- No implied closed session categories



67

Closed Sessions Agenda/Notice



- Closed sessions must be listed on agenda/notice
- Safe harbor agenda description language Gov. Code sec. 54954.5
- Announce legal authority under which held & brief description of item(s)
- Public comment



68

CLOSED SESSION CONFIDENTIALITY BREACH



Possible sanctions for improper disclosure include:

- Injunction barring attendance at future closed sessions and against future public disclosures
- Formal accusation for willful or corrupt misconduct in office



69

GOVERNMENT TRANSPARENCY

BROWN ACT VIOLATION REMEDIES

Civil remedies

- Order nullifying any action unlawfully taken
- Orders affecting the conduct of future public meetings
- Attorney's fees and costs
- Criminal remedies
- Misdemeanor conviction = fine, jail?



70

GOVERNMENT TRANSPARENCY

PUBLIC RECORDS ACT

- "In enacting this chapter, the Legislature, mindful of the right of individuals to privacy, finds and declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state."
- A Public Record is any writing containing information relating to the conduct of the public's business prepared, owned, used or retained by any... local agency regardless of physical form or characteristics.



71

GOVERNMENT TRANSPARENCY

PUBLIC RECORDS ACT

- "Writing" defined: Handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punch cards, discs, drums or other documents.
- Writing includes: electronic data such as: word processing documents, emails whether printed or not; local and network hard drives; floppy disks; back-up tapes

Govt Code Sec. 6250 et seq.



72

PUBLIC RECORDS ACT (cont'd)

- Every person has right to inspect any public record except as otherwise limited by law
- Request not required to be in any form
- Readily available records must be available for inspection during regular business hours
- More complex requests requiring research or coordination must be responded to as soon as reasonably possible but no more than 10 days from request receipt
- May extend response time up to 14 add'l days if "unusual circumstances" exist, such as voluminous records or multiple locations must be searched



EXEMPT RECORDS

- Legislature recognizes certain interests are paramount to public's right to know, like right of privacy and need for efficient, effective gov't.
- Exempt records may include: preliminary drafts, notes or intra-agency memoranda, documents related to pending litigation, personnel or medical files, attorney-client privileged communications, peace officer personnel records
- "Catch-all" Exemption: Where the public interest served by not disclosing the record clearly outweighs the public interest served by disclosure of the record. Such as, complainant information, financial statements obtained in confidence from potential bidders



MYTHS ABOUT EXEMPT RECORDS

The following *are not* always exempt from disclosure:

- Handwritten notes
- Documents stamped confidential
- Calendars
- Documents given to CAO and/or given when lawsuit is filed
- Salary classifications and employment contracts of employees
- Deleted e-mails



GOVERNMENT TRANSPARENCY

WITHHOLDING EXEMPT RECORDS

- If a record has been determined to be exempt, it does not need to be disclosed
- Must send written notification to requestor with statutory reference under which record exempt
- Disclosure to one is disclosure to all
- Redaction of certain portions of the record



76

GOVERNMENT TRANSPARENCY

PUBLIC RECORDS ACT CHALLENGES

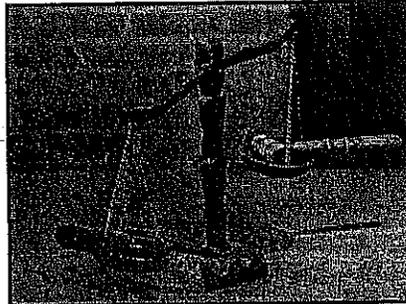
- Demand made
- Filing of verified petition in Superior Court
- Court may order City to disclose records or show why nondisclosure is warranted
- Court may review records "in camera"
- Court either orders records disclosed or returns records to City
- Attorneys fees and costs available to requestor if prevails



77

GOVERNMENT TRANSPARENCY

RIGHT TO FAIR PROCESSES AND UNBIASED DECISION-MAKING



78

ADJUDICATORY vs. LEGISLATIVE

- Due Process: Generally, more process is required to satisfy due process in adjudicatory matters than legislative actions.
- Adjudicatory (Quasi-Judicial) matters apply existing law to determine a question of right or obligation based on facts peculiar to a specific case, such as, special permits, tree removal permits, design review of building
- Legislative actions are formulation of rules to be applied in future cases, such as adoption and amendment of ordinances, general plan, or community plan



79

DUE PROCESS RIGHTS IN ADJUDICATORY MATTERS

- Fundamental requirement of due process for adjudicatory proceedings is the opportunity to be heard at a meaningful time and in a meaningful manner.
- Includes a fair opportunity to cross-examine witnesses (through the chair), to inspect documents presented and to offer evidence in explanation or rebuttal.



80

COUNCIL PROCEDURAL RULES DESIGNED TO SATISFY DUE PROCESS

- Council procedural rules provide a hearing process designed to satisfy due process requirements.
- Council procedural rules are to be followed by City boards and commissions.
- If City boards and commissions are required by law [City Code] to adopt rules of procedure, rules should be consistent with the Council "to the extent possible."



81

COMPETITIVE BIDDING

- State law requires competitive bidding on a broad range of contracts by counties, general law cities, state agencies, school districts.
- Charter cities: Applicability of state law (including prevailing wage law) is debatable
- Sacramento charter: Requires competitive bidding on a range of contracts, primarily public works projects, and materials, goods and supplies.
- Sacramento City Code: Requires competitive bidding for nonprofessional services.

82

PERSONAL LOANS

- Elected officials and other specified officers (GC sec. 87200 filers) may not receive a personal loan from any officer, employee, member or consultant of official's agency while in office.
- Additional restrictions on elected officials and other specified officers obtaining loans from persons or entities that have contracts with public agency.
- Sanctions for violation: Political Reform Act sanctions, including criminal (misdemeanor), civil, administrative (fines)
- Example: Elected official received a \$1,000 loan from staff member that official later had to vote to fire.

Cal. Gov. Code Sec. 87460



BAN ON SOLICITING CONTRIBUTIONS FROM AGENCY OFFICIALS, EMPLOYEES

- Gov. Code Sec. 3205: Prohibits candidate for elective office of a local agency from knowingly seeking political contributions from officials or employees with that agency
- Exception: Where solicitation is to a significant segment of the public that includes the public officials or employees



84

DECISIONS AFFECTING FAMILY MEMBERS—POLITICAL REFORM ACT

- Official may not participate in decisions that will have material effect on expenses, income, assets or liabilities of immediate family members.
- Immediate family = Spouse and dependants



85

DECISIONS AFFECTING FAMILY MEMBERS—SACRAMENTO CITY CODE

- Members of City Council and most boards and commissions are required to abstain from participation in decision where family member is applicant or principally involved in matter. City Code Chapter 2.16.
- Broader definition of family members: "Any person or any spouse of any person related within the third degree, inclusive of collateral consanguinity to any city official or the spouse of any city official."
- "The brother, sister, uncle, aunt, niece or nephew (and the spouse of any of the foregoing) of a city official or of the spouse of a city official is a family relative of the city official within the meaning of this code."
City Code sec. 2.16.140.



86

INCOMPATIBILITY OF OFFICES DOCTRINE

- Person may not hold two public offices where there is a conflict, or possibility of conflict, of duties or loyalties of the two offices.
Government Code Section 1099
- Applies to positions that are considered to be offices. Does not apply if one position is one of employment
- Acceptance of second office which is incompatible with office previously entered into, automatically vacates the first office
- Attorney General enforces



87

INCOMPATIBILITY OF OFFICES DOCTRINE (cont'd)

Examples of incompatible offices:

- Offices of county planning commissioner and city planning commissioner
- Offices of fire chief of a county fire protection district and member of board of supervisors of same county



85

INCOMPATIBILITY OF OFFICES-PUBLIC ATTORNEYS

- Person employed by local public agency as attorney in a non-elective position may serve on appointed or elected government board or commission without causing automatic vacation of either position. Gov. Code sec. 1128
- If actual conflict in duties, responsibilities as to a particular matter or transaction, then transaction disqualification
- Permitted offices: Utility District attorney serving on city council; appointed city attorney serving on airport commission



86

COMMON LAW DOCTRINE AGAINST BIAS, PERSONAL INTEREST OR ANIMOSITY

- Basic rule: Person is entitled to an unbiased, impartial tribunal (adjudicatory matters), and official who is biased or lacks impartiality, for personal or other reasons, is disqualified.
- Examples:
 - Applicant is close friend or relative, even though not a dependent, of decision maker
 - Decision-maker has long standing grudge against applicant because of some encounter
 - Council member has mind made up before being presented with the facts



89

HYPOTHETICALS

Common Law Bias

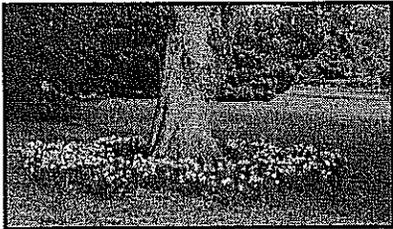
HYPOTHETICALS 15 and 16



91

ETHICS TRAINING

CLARK v. HERMOSA BEACH: EXTREME BIAS (FN 12)



92

HYPOTHETICALS

Hypothetical 1: Small, sleepy Valley town. Two council members, CM Ernie Hard and CM Danni Patrick, discussing an auto race track with an avid NASCAR fan.

CM Hard: You know how much I like the new race track proposed for my district. If the Council approves the proposal next week, I'm going to throw a big celebration at the Sizzler's.

Hypothetical 2: Same scene

CM Patrick: You know what, CM Hard, I will buy dinner for two for you and each and every other CM that votes for the race track project.

Hypothetical 3: same scene

Avid NASCAR fan: Tell you what. I offer my ski condo for a weekend to whoever votes for the race track project, and you can pass that offer on to the other council members.

Issues:

- Liability of council members Hard and Patrick:
- Liability of NASCAR fan:
- Liability of other Councilmembers:

Hypothetical 4: Small beach town, Southern California. Two Council members, CM Jan and CM Dean, meeting on the street.

CM Jan: CM Dean, your pet project, the new beach pier, is finally coming to Council next week for action. Tell you what-I'll agree to vote to approve the pier project if you'll agree to vote against that awful proposal to locate a landfill in my district.

CM Dean: Sorry. I haven't made up my mind yet about the landfill, and besides, I don't exchange votes on any matter.

Hypothetical 5: Same scenario, different response from CM Dean.

CM Dean: Sorry, I can't oppose the landfill project. But I'm willing to vote against the car dealership that's also proposed for your district.

Hypothetical 6: Same city. Staff member meeting with CM Jan.

Staff Member: You know, the new beach pier is coming up soon. I'd really like to get your vote to approve. Tell you what. If I can get the vote of CM Dean to deny the landfill project proposed for your district, would you be willing to commit to vote for the beach pier project?

CM Jan: You can tell CM Dean that I'll vote for beach pier project if he'll vote against the landfill proposal.

Issues:

- Does it matter if the Councilmembers vote as promised?

No. Vote, or offer to vote, in return for commitment by another member of the legislative body to vote in a particular way on the same or another matter is sufficient. CM Jan violates Sec. 86 in Hypotheticals 1, 2 and 3; CM Dean violates Sec. 86 in 2.

- Has the staff member violated Penal Code Sec. 86?

Hypothetical 7: Upscale beach town. CM Crab owns and operates a restaurant, the Happy Clam. The restaurant is frequented by staff members, some occasionally and some regularly.

Scenario: 3 staffers having lunch at the restaurant

Staff Member (SM) 1, Noah Way: You know, CM Crab, I think I'm one of your best customers. I come here at least once a week, spend \$20-\$25 each time, and have done this for years. I'd come more often, but I can't if the Council doesn't go along with recommended ten percent increase in salaries.

Staff Member (SM) 2, Ginger Snap: You know, CM Crab, I don't come in all that often, but that's because of my low salary and the fact that I'm repaying over the next year the \$1,500.00 loan you made to me. If you would support the recommendation to increase salaries by ten percent, I'd commit to coming in just as often as Staff Member 1.

Staff Member (SM) 3, Steven "Shrimp" Louie: CM Crab, this is my first visit. Excellent food. Our bargaining unit is in negotiations over a new collective bargaining agreement. If you and the Council agree with our demands for wages, I'll likely be in at least once a week from now on, and I'll also be able to pay you rent on the three bedroom house you've rented to me and my family. You can count on that.

CM Crab: You know, I really appreciate your business, but I have to do what I think is best for the City in considering next year's budget and the salaries and wages to be paid to City employees.

Issues

- SM 1: source of income: CM Crab to abstain under PRA (unless exception)
- SM 2: source of promised income: CM Crab to abstain under PRA (unless exception)
- SM 3: source of income, CM Crab to abstain under PRA (unless exception) as well as under Gov't Code Sec. 1090.
- SM 1, SM 2, SM 3: Attempted bribery?

Hypothetical 8: Small rural county. A fundraiser is being held by Supervisor Smith, who is up for reelection. Attendees include developer representative Greg Vest, and environmental advocate Forest Green. The supervisor serves on a number of JPA boards, including Rural Transit, on which various city council members also sit.

Mr. Vest: Supervisor Smith, you've been a strong advocate of urbanization. I'd like to see you continue on the board of supervisors as well as on the board of Rural Transit. I'm prepared to contribute the maximum \$1,000.00 allowed under the County's campaign ordinance. Speaking of Rural Transit, I'm pleased to announce that I and my firm have applied for the RT contract to build the loop road through Green Acres.

Ms. Green: You know, Supervisor Smith, I normally don't give to political candidates, but I'm making an exception for you. I too am prepared to contribute the maximum \$1,000.00 for your reelection. And Mr. Vest, don't count on getting that RT contract. I and my band of ardent environmentalists are giving serious thoughts to bidding on that contract. We'll use green construction techniques!

Issues:

- **Mr. Vest:** Pending application, \$250.00 limit applies.
- **Ms. Green:** \$250.00 limit does not apply. Abstention by Supervisor Smith on decision on contract if Ms. Green applies for contract if decision comes before RT board within 12 months of contribution.

Hypothetical 9: Same fundraiser. County Planning Commissioner Feelgood is chair of Supervisor Smith's election committee. He seeks contributions from developers Black and White.

PC Feelgood: So, what do you think, folks? Prepared to contribute to Supervisor Smith's reelection campaign to the tune of the maximum \$1,000 amount?

Developer Black: Here's a check for \$1,000.00. Only wish I could give more. I'm looking forward to getting my tentative map application approved at next week's commission hearing.

Developer White: I'm prepared to contribute \$500.00. I'd give more, but I spent too much money on the traffic studies and environmental review required for my application to rezone some property I own near Green Acres.

PC Feelgood: That's great. I'm familiar with both of those applications, and they look good.

Issues:

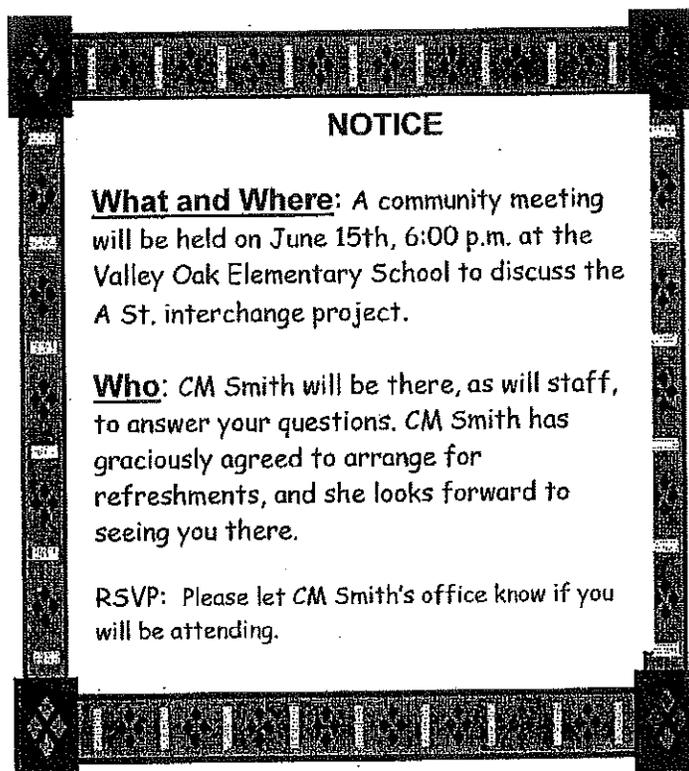
- **PC Feelgood:** Soliciting in excess of \$250.00 from persons that Feelgood knew, or had reason to know, have matters pending before board to which Supervisor Smith is appointed.
- **Dev. Black:** Contribution in excess of \$250.00 while matter pending before appointed board.
- **Dev. White:** Contribution in excess of \$250.00 while matter pending before appointed board.
- **Supervisor Smith:** Likely 84308 violation, unless excess contribution is returned (within 30 days of learning of contribution and developers' pending contract bids).

Hypothetical 10: Councilmember Smith meeting with staff responsible for major road project in her district, discussing upcoming community meeting.

CM Smith: Staff, I'd like you to send out this mailer I've prepared to the folks living near the project. I figure there's 500-600 properties that should be given notice.

Helpful Staffer: Sounds like a plan. How about including a picture of you as well? Adds a personal touch.

Hypothetical 11: CM Smith's proposed notice



Hypothetical 12: Busy SoCal metropolis. Staff member meeting to brief CM Bildmore on a controversial hotel project. CM Bildmore is the only council member who has not been briefed.

Staff: thanks for agreeing to meet on this project. I'm here to answer any questions you may have and to go over the basics of the project.

CM Bildmore: Great. Have you met with other council members, and can you tell me how they're voting?

Staff: Well, I can tell you with this briefing, all council members will have been briefed. But the City Attorney says I can't share the positions or likely votes of the other council members.

Hypothetical 13: same briefing.

Staff: thanks for agreeing to meet on this project. I'm here to answer any questions you may have and to go over the basics of the project. I think you'd like to know that I've met with all of the other council members, and I know that at least four council members are committed to vote to approve the project.

CM Bildmore: Great. With my vote, it looks like the project's going to be approved.

Hypothetical 14: same briefing.

Staff: Thanks for agreeing to meet on this project. I'm here to answer any questions you may have and to go over the basics of the project. I think you'd like to know that I've met with all of the other council members, and I know that at least five council members are committed to vote to approve the project.

CM Bildmore: Interesting. Guess it doesn't matter how I vote on the project, does it?

Hypothetical No. 15:

Scenario: Applicant Hal Kapone is appearing at Planning Commission requesting special permit for liquor store.

Commissioner Terri Nation: You know, Mr. Kapone, I'm a teetotaler and as far I'm concerned, the prohibition should never have been repealed. As long as I'm on the planning commission, I will vote no on every application for a liquor store, and I'll do my best to ensure that this commission doesn't approve any of them.

Hypothetical No. 16: Same scenario, different commissioner.

Commissioner Russtie Nail: Say, Mr. Kapone, are you related to a Mel Kapone?

Hal Kapone: Well, yes, he's my baby brother. I like to think of him as my protégé.

Commissioner Nail: Well, I've got to tell you he's one of the most untrustworthy, sleazy persons I've ever met, and I'm confident you're no better.

Campaign Disclosure Filings

City of Sacramento
Electronic Campaign Disclosure System

[Home](#) | [Contact Us](#) |
[Web Policies](#)

 **Welcome to the City of Sacramento Electronic Filing System**

PUBLIC ACCESS PORTAL

The Public Access Portal contains financial information provided by candidates and committees. It can answer questions about who is contributing money, who is receiving money, and how it is being spent.

Use the Public Access Portal to research campaign contributions and expenditures, review campaign statements filed, or examine a committee's filing history.

[Get Started Now](#) >>>

[City Clerk Homepage](#)
[Election & Campaign Homepage](#)

FILER ACCESS PORTAL

The Filer Access Portal is a web-based, data entry filing system that allows candidates and campaign committees to submit disclosure reports mandated to the City of Sacramento EFS, free of charge.

Use the Filer Access Portal to create electronic campaign statements. Before you begin you must have received your EFS filer identification number and password. To get a filer identification number and password, contact the City Clerk at (916) 808-7200.

[Get Started Now](#) >>>

Page last updated 02/25/2008 14:34:30

Gift to Agency Report Form 801

POLICY: GIFTS TO THE CITY

A. Purpose

The purpose of the procedure set forth in this policy is to establish a City-wide procedure pertaining to gifts to the City to implement the provisions of Section 18944.2 of Title 2 of the California Code of Regulations (hereinafter the "Regulations"). The Political Reform Act and Section 18944.2 of the Regulations permit payments which constitute gifts under the Political Reform Act to be made to the City and thereafter used by officials or employees without these payments being considered "gifts" which must be reported on the official or employee's annual conflict of interest statement.

Except as provided in Section 18944.2, payments that are gifts within the meaning of the Political Reform Act (including but not limited to payments for travel and travel expenses) and that are utilized by City officials or employees are generally considered gifts to those City officials and employees and generally must be reported on the annual conflict of interest statements filed by officials and employees. Such gifts may give rise to conflict of interest issues; such gifts are also considered for purposes of the Political Reform Act limitations on the amount of gifts that an official or employee may receive from a single source. The current gift limitation is \$390 per donor in a calendar year.

Section 18944.2 requires that, for a payment to be a gift to the City, the following requirements must be met:

- 1) City must receive and control the payment;
- 2) The payment must be used for official City business;
- 3) The City, in its sole discretion, must determine the specific official(s) or employee(s) who shall use the payment; provided that the donor may identify a specific purpose for the City's use of the payment, so long as the donor does not designate the specific official or officials who may use the payment;
- 4) The gift of travel does not exceed the agency's reimbursement rates for travel, meals, and lodging, and other actual and necessary expenses, or if the agency has no standard policy or practice concerning reimbursement rates, the gift of travel does not exceed other specified standards. To the extent that the amount of the gift of travel exceeds the amounts stated above, the difference shall be considered a reportable gift.
- 5) The City must memorialize the payment in a written public record which embodies the requirements set forth in 1) through 3) above.

The purpose of the procedure set forth in the following sections of this policy is to implement the provisions of Section 18944.2. Nothing in this policy is intended to alter,

amend or otherwise affect the obligations of City officials and employees under the Political Reform Act and implementing regulations or under the City's supplemental conflict of interest Code.

B. Policy

1. Pursuant to Section 18944.2 of the California Code of Regulations and except as otherwise provided in the Political Reform Act and applicable FPPC regulations, the City shall not accept and process any gifts pursuant to this policy if the donor designates the specific official(s) or employee(s) who may use the gift. The donor of the gift may identify a specific purpose for the City's use of the gift so long as he or she does not designate the specific official(s) or employee(s) who may use the gift.
2. Under Section 18944.2, gifts of travel to the City may not be utilized by members of the City Council, members of the Planning Commission, the City Manager, the City Treasurer or the City Attorney, and the City Manager's designee may not designate himself or herself as the official to use the gift of travel.
3. Gifts of travel, meals, and lodging, and other actual and necessary expenses associated with travel, shall be limited to the rates that City officials and employees are reimbursed under the City's reimbursement policy, as established by Administrative policy Instructions (API) # 7, as it may be amended from time to time. Pursuant to Section 18944.2, to the extent that the value of the gift of travel and related expenses exceeds the City's standard reimbursement rate, the difference shall be considered a reportable gift to the employee or official utilizing such gift.

C. Procedure: City Manager Approval

The following procedures pertaining to gifts shall apply to all City officials and employees:

1. Any gifts that are given to the City as a whole with no direction as to the specific official(s) or employee(s) who may use the gift, shall be forwarded to the City Manager or the City Manager's designee.
2. The City Manager or the City Manager's designee shall review each gift and determine the specific official(s) or employee(s) who shall use the gift. The gift shall be used solely for official City business.
3. The City Manager or the City Manager's designee shall memorialize the gift in a written public record in the form of a completed FPPC Form 801 or such other form(s) as the FPPC may designate. Within the 30 days of receipt of the gift, the Form 801 shall be filed with, and thereafter maintained by, the City Clerk or the City Clerk's designee. The public record shall contain the following:

- a. The identity of the donor and the official(s) and/or employee(s) or class of official(s) or employee(s) receiving or using the gift.
- b. A description of the City's use and the nature and amount of the gift.
- c. A copy of this policy.

D. Alternative Procedure: Council Review and Approval.

As an alternative to the procedure set forth in Subsection C above, the City Manager may request that the Council determine the specific official(s) or employee(s) who shall use the gift. Upon the Council making such determination, the City Manager shall file the necessary forms specified in subsection C-3 above.

Gift to Agency Report

A Public Document

GIFT TO AGENCY REPORT

1. Agency Name

Date Stamp

California Form 801

For Official Use Only

Division, Department, or Region (if applicable)

Street Address

Area Code/Phone Number

E-mail

Amendment (explain in comment section)

Agency Contact (name and title)

Date of Original Filing: (month, day, year)

2. Donor Name and Address

Individual

Last Name

First Name

Other

Name

Address

City

State

Zip Code

If "Other" is marked, describe the entity's business activity (if business) or its nature and interests.

If applicable, identify the name of each source and the amount(s) solicited or received by the donor for this gift:

Name \$ Amount Name \$ Amount

3. Payment Information

Date and Amount of Payment (other than travel) (month, day, year) \$ (Round to whole dollars)

Travel Payment Information (Round to whole dollars) Location of Travel

Date(s) of Travel \$ Transportation Expenses \$ Lodging Expenses \$ Meal Expenses \$ Other Expenses \$ Total Expenses

Provide a specific description of the nature and use of the payment for official agency business:

Identify the officials for whom the payment was used:

Last Name First Name Title Department/Division

4. Verification

I have determined that it is in the interests of the agency to accept this gift and use it for the official agency business described above.

Signature of Agency Head or Designee Print Name Title (month, day, year)

Comment: (Use this space or an attachment for any additional information.)

Gift to Agency Report Instructions

A Public Document

California
Form **801**

This form is for use by all state and local government agencies to disclose payments made to the agency when the payments provide a personal benefit to an official of the agency. Examples may include travel, meals or other benefits. Under certain circumstances, these payments will not result in a gift to the official, but will be considered a gift to the agency. The payments must be used for official agency business and must meet other requirements that are set out in FPPC Regulation 18944.2, which is available on the FPPC website www.fppc.ca.gov.

When to File

This form must be filed within 30 days of the use of the payment. Reports may be faxed, mailed, personally delivered or e-mailed.

Where to File

State Agencies: File this form with the Fair Political Practices Commission ("FPPC"), 428 J Street, Suite 620, Sacramento, CA 95814. Fax: 916-322-0886
E-mail: Form801@fppc.ca.gov

Local Agencies: File this form with the official that maintains the agency's statements of economic interests (Form 700).

Website Posting: Each agency that maintains a website must also post the form or the information contained on the form on its website within 30 days of the use of the payment. Local agencies that do not maintain a website must forward the form to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name and address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Donor Information

Disclose the name and address of the donor. If the donor is not an individual, identify the business activity or nature and interests of the entity.

If the donor received payments from other sources that were used in connection with the activity, disclose the name and payment information for each source.

Part 3. Payment Information

Report the date and amount of each payment. For travel payments, also disclose the location(s), and a breakdown of the expenses. Provide a specific description of the use of the payment and the intended purpose. List each agency official for whom the payment was used.

Example: A business entity paid for an agency employee to travel to attend an informational seminar on solar energy projects in Washington D.C. The description should read: "Travel to attend an EPA co-sponsored solar energy seminar held in Washington, D.C."

Part 4. Verification

The agency head or his or her designee must sign the form.

General Information

Gifts to agencies must meet the following requirements:

- The agency head or designee must determine and control the agency's use of the payment.
- The payment must be used for official agency business.
- The donor may identify a purpose for the gift but may not designate by name, title, class or otherwise, an official who may use the payment.
- The agency official who determines who will use the payment may not select himself or herself.

Travel payments must also meet these requirements:

- A payment for travel may not be used by a state or local elected officer or by the state, county, and city officials who hold positions listed in Government Code Section 87200.
- A payment for travel may not exceed the agency's own reimbursement rates for travel, or the State per diem or IRS reimbursement rates if the agency has no policy.
- The agency head or designee must preapprove travel paid for by a third party before travel commences.

Travel payments made by a federal government agency in connection with education, training, or other inter-agency programs are not reportable.

For further information on filing this report or for general information, contact the FPPC.

Tickets Provided by Agency Report Form 802



REPORT TO COUNCIL 3

City of Sacramento

915 I Street, Sacramento, CA 95814-2604

CONSENT
May 19, 2009

**Honorable Mayor and
Members of the City Council**

Title: Policy on Distribution, Use and Reporting of Tickets and Passes

Location/Council District: City-Wide

Recommendation: Adopt a Resolution to establish a City policy on distribution, use and reporting of tickets and passes, pursuant to Fair Political Practices Commission (FFPC) Regulation 18944.1.

Contacts: Eileen Teichert, City Attorney, 808-5346, Richard Archibald, Assistant City Attorney, 808-5346, Patti Bisharat, Governmental Affairs, 808-9197.

Presenters: N/A

Department: Office of the City Manager

Division: N/A

Organization No: 02001011

Description/Analysis

Issue: The FPPC recently adopted amended regulations concerning the distribution, use and reporting of tickets and passes to City officials and City employees. Under the amended regulations, tickets and passes to a facility, event, show or performance distributed by or through the City and used by City officials and employees will generally be considered as gifts to those officials, subject to the gift limits and conflict of interest rules, unless the City has adopted a policy that satisfies certain requirements and tickets and passes are distributed, used and reported in conformance with the policy and the FPPC regulations.

The City previously adopted a policy on handling gifts made to the City, including gifts of travel, that are utilized by City officials and employees. This was in response

to certain amendments to the FPPC regulations effective July 1, 2008. In response to additional amendments to the FPPC regulations, which were approved in December 2008 and effective February 7, 2009, if the City wishes for tickets and passes to be considered something other than income or gifts to those who make use of the tickets and passes, the City Council needs to adopt a policy on the distribution, use and reporting of tickets and passes made available to City officials and employees.

Policy Considerations: This staff report presents for Council's consideration a proposed policy for the distribution, use and reporting of tickets and passes consistent with the requirements of FPPC regulation 18944.1. If the City Council does not adopt a policy consistent with the FPPC regulations, then tickets and passes distributed by or through the City and used by City officials and employees will be considered as either gifts or income to those who use or control the use of the tickets and passes, and the gift limits and conflict of interest rules of the Political Reform Act will apply.

Environmental Considerations: None.

Commission/Committee Action: N/A

Rationale for Recommendation: The recently amended FPPC regulations require that unless City officials and employees report the value of the tickets or passes they receive as income or gifts, the tickets may only be distributed in accordance with an adopted formal policy implementing the requirements of the amended regulation.

Financial Considerations: None.

Emerging Small Business Development (ESBD): No goods or services are being purchased.

Respectfully Submitted by: _____

Michelle Heppner, Special Projects Manager

Recommendation Approved:


Ray Kerridge, City Manager

Table of Contents:

	Report	pg.	1
Attachments			
1	Background	pg.	5
2	Resolution	pg.	7
	- Exhibit A: FPPC Regulations	pg.	8
	- Exhibit B: Policy	pg.	12
	- Exhibit C: Form 802	pg.	15

Attachment 1

BACKGROUND

The Fair Political Practices Commission (FPPC) recently amended several regulations pertaining to gifts, including gifts of tickets and passes from an agency to its officers and employees. To allow for gifts of tickets and passes to be treated as something other than gifts or income, the City is required to adopt a formal policy to implement these regulatory amendments.

FPPC Regulations 18944.1, 18944.2, and 18944.3

In January 2009, effective February 7, 2009, the FPPC amended Regulation 18944.3 to read as follows:

Except as provided in Regulation 18944.1 and 18944.2, a payment by a government agency that provides food, beverage, entertainment, goods, or services of more than a nominal value to an official in that agency is a gift to that official unless the payment is a lawful expenditure of public moneys.

Regulation 18944.2 deals with the issue of "gifts to an agency" and how those gifts are treated in terms of who enjoys the benefit of the gift and how the gift is reported. This includes the gifts of travel that may be made to the City to fund the cost of one or more officials travelling while in the performance of governmental duties (e.g., City officials travelling to Japan to view waste-to-energy sites). The regulation establishes a number of requirements that, if satisfied, result in the gift being considered a gift to the City, rather than to the official or employee who makes use of the gift. The City has adopted a policy to implement this regulation, and that policy is currently in use. Regulation 18944.2 was amended in June 2008, effective July 2008, and the City adopted a policy at or about the time of the amendment of the regulation.

Regulation 18944.1 ("Gifts: Tickets or Passes to Events") was also amended in December 2008 and became effective February 7, 2009. This regulation, a copy of which is attached as **Exhibit A** hereto, deals with the issue of how tickets and passes furnished to City officials and employees, or furnished to others at the behest of City officials and employees, are to be treated and reported. This includes tickets and passes provided by the City as well as those provided by other sources. The amendment to the regulation was in response to a highly publicized practice in a Southern California jurisdiction that resulted in event tickets being distributed to members of the committee overseeing the event, who subsequently sold the event tickets for substantial sums of money. The purpose of the regulation is to set out the circumstances in which the distribution of tickets and passes to officials and employees of a public agency are not treated as gifts or income to those officials or employee.

Regulation 18944.1 distinguishes between tickets and passes provided by outside sources to the officials and employees of an agency, and tickets and passes provided by an agency to its own officials and employees.

1. Tickets or passes furnished by an outside source to City official or employee. If a ticket or pass is furnished to a specific City official or employee to an event where the official or employee will perform a ceremonial role or function on behalf of the city (e.g., Mayor of Sacramento throwing out first pitch at a Rivercats' game on a day designated as "City of Sacramento Day"), the ticket or pass is not considered a gift to the official or employee and is not reportable. If the official or employee is not performing a ceremonial role or function, then the ticket or pass would be treated as a gift.

2. Tickets or passes furnished by the City to official or employee. Tickets or passes given to the City by an outside source, or obtained by the City through purchase, as consideration pursuant to the terms of a contract, or because the City sponsors or controls the event, and furnished by the City to city officials or employees will not constitute as gifts to those officials or employees if the following requirements are met: the ticket or pass is not earmarked by the original source for use by a specific city official; the city determines, in its sole discretion, which official may use the ticket or pass; and the distribution of the ticket or pass is made in accordance with the adopted policy.

The policy must be adopted by the legislative or governing board of the public agency, which in this case is the City Council. The requirements of the policy that the Council must adopt are rather detailed, as set forth in subsection (c) of Regulation 18944.1. Generally, the policy must include a provision that identifies the public purposes to be accomplished by distribution of tickets or passes; a provision requiring that the distribution of any ticket or pass accomplish a public purpose; a provision prohibiting the transfer by an official of any ticket or pass distributed pursuant to the policy to any other person, other than members of the official's immediate family, and only then for their personal use.

In addition, Regulation 18944.1 requires that the distribution of tickets and passes pursuant to the adopted policy a policy must be documented in an FPPC form (FPPC form 802) and the form must be posted "in a prominent fashion on the agency's website within 30 days after the distribution." The form documents information concerning the person receiving the ticket or pass, the event, date of the event, face value of the ticket or pass, and other specified information. A copy of FPPC Form 802 is attached to the proposed policy.

RESOLUTION NO.

Adopted by the Sacramento City Council

ESTABLISHING CITY POLICY ON DISTRIBUTION, USE AND REPORTING OF TICKETS AND PASSES

BACKGROUND

- A. In December 2008, the Fair Political Practices Commission ("FPPC") amended Regulation 18944.1 pertaining to tickets and passes received by public agencies and distributed to public officials. The amended FPPC Regulation 18944.1 became effective February 7, 2009.
- B. FPPC Regulation 18944.1 now requires that unless city officials and employees report the value of the tickets or passes they receive as income or gifts, the tickets may only be distributed in accordance with a written policy adopted by the City Council. The written policy must be in compliance with the requirements set forth in FPPC Regulation 18944.1.
- C. Tickets or passes distributed pursuant to a written policy must be reported on a new FPPC Form 802, which tracks the number of tickets or passes, who they were distributed to, their value, and the public purposes served by the distribution and use of the tickets or passes. A copy of Form 802 is attached to the proposed policy.
- D. The written policy and the completed Form 802 are required to be prominently posted on the City's website.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

- Section 1. The Policy on Distribution, Use and Reporting of Tickets and Passes attached hereto as Exhibit A is hereby adopted.

Attachment 2 – Exhibit A

(Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations)

§ 18944.1. Gifts: Tickets or Passes to Events.

For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(a) Ticket or pass provided by source other than official's agency. A ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official.

(b) Ticket or pass provided to official by official's agency:

(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (d) below.

(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass;

(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (c) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form

provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

(2) a description of the event;

(3) the date of the event;

(4) the face value of the ticket or pass;

(5) the number of tickets or passes provided to each person;

(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(e) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(f) The provisions of subdivision (b) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.

Note: Authority cited: Section 83112, Government Code. Reference: Section 82028, Government Code.

HISTORY

1. Renumbering of former section 18726.7 to section 18944.1 with amendment of section heading filed 6-22-94; operative 6-22-94 (Register 94, No. 25).
2. Change without regulatory effect relocating section, filed 11-17-94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 46).
3. Amendment of first paragraph and subsections (a)-(b) and (d)-(e) filed 7-25-95; operative 7-25-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
4. Repealer and new section filed 1-8-2009; operative 2-7-2009. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil 010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2009, No. 2).

Attachment 2 – Exhibit B

**POLICY: DISTRIBUTION, USE AND REPORTING
OF TICKETS AND PASSES**

A. Purpose

This policy is to establish a city-wide procedure for the distribution, use and reporting of tickets or passes to a facility, event, show or performance for an entertainment, amusement, recreational or similar purposes (hereinafter the "Event") in compliance with section 18944.1 of the Fair Political Practices Commission Regulation (hereinafter "FPPC Regulation"¹). FPPC Regulation 18944.1 sets out the circumstances under which a public agency's distribution of tickets or passes for which no consideration of equal or greater value is provided by the public official or employee does not result in a gift to the public official or employee. Tickets or passes to an Event distributed and accounted for in compliance with this policy and FPPC Regulation 18944.1 will not be considered as gifts to the City officials and employees who make use of such tickets and passes.

The public and governmental purpose in distributing tickets and passes to Events is to enable City officials and employees to promote City businesses, resources, programs and facilities, to monitor and evaluate City venues and City-sponsored events, to promote cultural, recreational and educational facilities, services and programs available to the public within the City of Sacramento, and to enhance employee morale.

This policy is subject to all applicable FPPC Regulations and the Political Reform Act. Nothing in this policy is intended to alter, amend or otherwise affect the obligations of City officials and employees under the Political Reform Act and implementing regulations or under the City's Supplemental Conflict of Interest Code set forth in Chapter 2.16 of the Sacramento City Code.

B. Policy

1. Definitions.

- a. "City Manager" means City Manager or his/her designee.
- b. "City official" means every member, officer, employee or consultant of the City of Sacramento, as defined in Government Code Section 82048 and FPPC Regulation 18701. Such term shall include, without limitation, any City board or commission member or other appointed official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).
- c. "Immediate Family" means spouse and dependent children.

¹ The FPPC Regulations can be found in Title 2 of the California Code of Regulations.

- d. "Ticket" means "ticket or pass" as that term is defined in FPPC Regulation 18944.1, as amended from time to time, but which currently defines "ticket or pass" as admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.
2. Applicability. This policy applies to tickets and passes that are: (i) gratuitously provided to the City by an outside source; or (ii) acquired by the City by purchase; or (iii) received by the City as consideration pursuant to the terms of a contract or because the City owns or controls the facility or venue at which the Event occurs or sponsors the Event.
 3. Public Purpose. Any distribution of tickets or passes in accordance with this policy to a City official, or to an individual or organization outside the City at the request of a City official, must be in furtherance of a governmental and/or public purpose and be reported as provided in this policy.

C. Exemptions to Policy

1. Ceremonial Role or Function. Tickets or passes provided to a City official to carry out his or her job duties or where the City official will perform a ceremonial role or function on behalf of the City at the Event are not considered gifts to the City official and are exempt from the disclosure and reporting requirements of this policy.
2. Income. The City official treats the tickets or passes as income consistent with federal and state income tax laws and the City reports distribution of the tickets or passes as income to the City official on the FPPC Form 802.
3. Reimbursement. The City official purchases or reimburses the City for the face value of the tickets or passes.

D. Procedure for Distribution and Reporting

1. Distribution. The City has sole discretion to determine who shall receive the tickets or passes received or acquired by the City.
 - a. Tickets or passes that are donated or provided by an outside source and are earmarked for use by a specific City official are considered gifts to the City official and are subject to the disclosure and reporting requirements applicable to gifts, unless one of the exemptions listed above apply.
 - b. Tickets or passes received by the City from an outside source without designation as to the specific City official who may use the tickets or passes shall be forwarded to the City Manager. The City Manager shall determine the face value of the tickets or passes, the City official who may use them, and report their distribution as provided in Section D.2 below.
 - c. For tickets or passes received by the City pursuant to the terms of a contract

or because the City owns or controls the facility or venue at which the Event occurs or the City sponsors the Event, a City official may request use of these tickets or passes, or for distribution to an individual or organization outside the City, by completing Parts 3 and 4 of FPPC Form 802 and submitting the request to the City Manager.

- d. Elected City Officials. For tickets or passes purchased or acquired by the City for use by an elected City official, or for distribution to an individual or organization outside the City at the request of an elected City official, the office of the elected City official shall be responsible for reporting the distribution of the tickets or passes as provided in Section D.2. below.
 - e. If the tickets or passes do not have a face value stated or state something to the effect of "complimentary" or "promotional," the City Manager will determine the value of the tickets or passes based on the reasonable cost for attendance at such an Event.
 - f. The City Manager may establish an internal procedure for distribution of tickets or passes in accordance with this policy.
 - g. Any tickets or passes not distributed pursuant to this policy may be sold by the City to the public.
2. Reporting Requirement. Tickets or passes distributed by the City to a City official, or to an individual or organization outside the City at the behest of a City official, pursuant to this policy shall be documented in a completed FPPC Form 802 (see Attachment 1) or such other form(s) as the FPPC may designate. The completed Form 802 shall be filed with the City Clerk and posted on the City's website in a prominent fashion within 30 days after distribution of the tickets or passes.
3. Transfer Prohibition. A City official who receives tickets or passes distributed by the City according to this policy is prohibited from transferring or giving the tickets or passes to any other person except to members of the official's immediate family for their personal use. No person receiving a ticket or pass pursuant to this policy shall sell or receive reimbursement for the value of the ticket or pass.
4. Policy Limited to Just Tickets or Passes. If other benefits, such as food, beverages or other items, are provided to the City official at the Event and they are not included as part of the admission to the Event, those benefits will need to be accounted for as gifts to the City official.

E. Effective Date

This policy shall be effective upon City Council approval and shall be posted on the City website in a prominent fashion.

Tickets Provided by Agency Report

A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational, or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944.1 is available on the FPPC website at www.fppc.ca.gov.) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

Part 5. Verification

The agency head or his or her designee must sign the form.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

General Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814
(916) 322-5660

Behested Payment Report Form 803

Behested Payment Report

A Public Document

Behested Payment Report

1. Elected Officer or CPUC Member <i>(Last name, first name)</i>		Date Stamp	California Form 803 For Official Use Only
Agency			
Agency Street Address			
Agency Contact <i>(Name and title, if different)</i>		<input type="checkbox"/> Amendment <i>(See Part 5)</i>	Date of Original Filing: _____ <i>(month, day, year)</i>
Area Code/Phone Number	E-mail <i>(Optional)</i>		

2. Full Name and Address of Payor

Name _____

Address _____ City _____ State _____ Zip Code _____

3. Full Name and Address of Payee

Name _____

Address _____ City _____ State _____ Zip Code _____

4. Payment Information

Date and Amount of Payment:

(month, day, year) \$ _____
(Round to whole dollars)

Purpose: *(Check one)* Legislative Governmental Charitable

Brief Description of Payment: Monetary Donation In-Kind Goods or Services *(Include description below)*

5. Amendment or Comment Section:

6. Verification

I certify, under penalty of perjury under the laws of the State of California, that to the best of my knowledge, the information contained herein and in the attached schedules is true and complete.

Executed on _____ DATE By _____ SIGNATURE OF ELECTED OFFICER OR CPUC MEMBER

Behested Payment Report

A Public Document

This report is for use by elected officers and members of the California Public Utilities Commission (CPUC) to disclose payments made at their behest, principally for legislative, governmental, or charitable purposes. This form was prepared by the Fair Political Practices Commission, www.fppc.ca.gov.

When to File

The official or CPUC member must file the form within 30 days following the date on which the payment(s) meets or exceeds five thousand dollars (\$5,000) in the aggregate from a single source in a calendar year. Once a single source has made a behested payment of \$5,000 or more, subsequent payments of any amount from that source must be reported for the calendar year.

Where to File

State Officials: File this form with your agency within 30 days of the date of the behested payment.

Within 30 days after receipt of the report the agency must forward a copy to the Fair Political Practices Commission (FPPC) 428 J Street, Suite 620, Sacramento, CA 95814. Fax: 916-322-0886. E-mail: Form803@fppc.ca.gov.

Local Officials: File this form with the official that maintains your agency's campaign disclosure statements within 30 days of the date of the behested payment.

Website Posting

State Officials: State officials must post the Form 803 on the website of the official's state agency within 30 days of the date of the behested payment.

Local Officials: Local officials must post the Form 803 on the website of the local agency to which they are elected within 30 days of the date of the behested payment. *For example, a city council member's form will be posted on the city's website and an elected official of a special district will post the form on the district's website.*

If the official's agency does not maintain a website, the form must be posted on the website of the officer with whom that official files campaign statements. Only forward the Form 803 to the FPPC for posting if neither agency maintains a website.

Part 1: Identification: Identify the official's name, agency, address, and contact information. Mark the amendment box if changing information on a previously filed Form 803 and include the date of the original filing.

Part 2: Payor Information: Disclose the name and address of the person making the payment. A business address is acceptable.

Part 3: Payee Information: Identify the name and address of the payee, if applicable. A business address is acceptable.

Part 4: Payment Information and Purpose: Disclose the date, amount, and purpose of the payment. Briefly describe the nature of all in-kind payments.

Part 5: Amendment or Comment: Complete this section if amending a previously filed Form 803 or to provide additional information.

Part 6: Verification: The elected officer or CPUC member must sign and date the form, under penalty of perjury.

General Information: Behested payments are payments made principally for legislative, governmental, or charitable purposes under Government Code 82015(b)(2)(B)(iii). These payments are not for personal or campaign purposes. Generally, a donation will be made at the behest if it is requested, solicited, or suggested by the official, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or CPUC member. This includes behested payments made on behalf of the official by his or her agent or employee.

Examples

On April 24, 2008, at CPUC Member Tully's request, the ABC Corporation made a monetary donation of \$5,000 to the Boys and Girls Club.

2. Full Name and Address of Payor			
ABC Corporation			
Name			
1234 Alpha Avenue, Sacramento, CA 95814			
Address		City	Zip Code
3. Full Name and Address of Payee			
The Boys and Girls Club			
Name			
5578 Bravo Blvd., Sacramento, CA 95814			
Address		City	Zip Code
4. Payment Information			
Date and Amount of Payment:			
April 24, 2008		\$ 5,000	
<small>(month, day, year)</small>		<small>(Round to whole dollars)</small>	
Purpose: <input checked="" type="checkbox"/> Legislative <input type="checkbox"/> Governmental <input checked="" type="checkbox"/> Charitable			
Brief Description of Payment: <input checked="" type="checkbox"/> Monetary Donation <input type="checkbox"/> In-Kind Goods or Services <small>(include description below)</small>			

On June 15, 2008, at Senator Rodgers' request, the Citizens for Solar Energy, a 501(c)3 organization, sponsored a solar technology fair at the local fairgrounds. The event was open to the public. The total amount the organization spent on the event was \$6,999.58.

2. Full Name and Address of Payor			
Citizens for Solar Energy			
Name			
9876 Delta Drive, Sacramento, CA 95814			
Address		City	Zip Code
3. Full Name and Address of Payee			
N/A			
Name			
N/A			
Address		City	Zip Code
4. Payment Information			
Date and Amount of Payment:			
6/15/08		\$ 7,000	
<small>(month, day, year)</small>		<small>(Round to whole dollars)</small>	
Purpose: <input type="checkbox"/> Legislative <input checked="" type="checkbox"/> Governmental <input type="checkbox"/> Charitable			
Brief Description of Payment: <input type="checkbox"/> Monetary Donation <input checked="" type="checkbox"/> In-Kind Goods or Services <small>(include description below)</small>			
Sponsored solar technology event in Ventura			

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after **February 19, 2009**, at the offices of the Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, California, commencing at approximately **10:00 a.m.** Written comments must be received at the Commission offices no later than **5:00 p.m.** on **February 17, 2009**.

BACKGROUND/OVERVIEW:

Currently, Section 82015(b)(2)(B)(iii) of the Political Reform Act, Sections 81000-91015 of the Government Code, requires candidates who are elected officers or members of the California Public Utilities Commission to report with their agency any behested payments for a legislative, governmental, or charitable purpose, if those payments, whether separately or in the aggregate, meet or exceed \$5,000 in one year from one source. The Commission has not previously provided a report to facilitate such reporting.

Regulation 18215.3 creates the report on which officials will disclose these payments. The regulation explains what information must be included on the report and where and when it must be filed. Also explained is a process for posting the reports on the official's website, or if none, posting on the website of the agency with whom the official files his or her campaign statements. If the behested payments are made to produce an event, the officials need not itemize the payments. If more than one official behests the same payment by the same person, each official must report the full amount on a separate form.

REGULATORY ACTION:

Adopt 2 Cal. Code Regs. Section 18215.3:

Proposed Regulation 18215.3 would create a uniform report for behested payments. The regulation would explain the requirements listed in the statute and state that the Commission and local agencies will post the forms or the information found thereon on their websites. If a local agency has no website, the Commission will post the information.

SCOPE:

The Commission may adopt the language noticed herein, or it may choose new language to implement its decisions concerning the issues identified above or related issues.

FISCAL IMPACT STATEMENT:

Fiscal Impact on Local Government. This regulation will not have an impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY: Government Code Section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE: The purpose of this regulation is to implement, interpret, and make specific Government Code Section 82015.

CONTACT: Any inquiries should be made to Heather M. Rowan, Fair Political Practices Commission, 428 J Street, Suite 620, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at <http://www.fppc.ca.gov/index.html?id=351>.

Lobbyist Registration and Reporting

Are You a Lobbyist?

**Presenting to the Sacramento
City Council on behalf of
another party?**

**Not sure?
If you meet
certain
requirements, you
may be required
to register as a
lobbyist with the
City Clerk's Office.**



**Refer to the attached materials for more information
on determining whether your activities qualify you to
register as a lobbyist with the City of Sacramento.**

**Or, visit the City's web site at
www.cityofsacramento.org/clerk/lobbyist_registration/**

Filing your Quarterly Statements

City of Sacramento
Lobbyists

When Do I File & Pay?

Date Due	Period	New Client Fee (Due with the next Qrtly Report)	Annual Fee (Due with the January 15 th report)
April 15 th	1/1-3/31	\$25.00 per new client	Not due
July 15 th	4/1-6/30	\$25.00 per new client	Not due
October 15 th	7/1-9/30	\$25.00 per new client	Not due
January 15 th	10/1-12/31	\$25.00 per new client	\$100.00



New Client Fee- \$25.00 paid by Contract Lobbyists for each new client for whom lobbying was undertaken for compensation in excess of \$500. It is not paid for clients reported on previous quarterly reports.

File the Complete Form & Get It Signed- File all seven pages of the form, even if you have nothing to disclose in Sections 5 and 6. An original signature is required on page 2.

Delivery/Late Filing Penalties- Your report may be delivered to the Clerk's Office or be mailed to:
City of Sacramento
Office of the City Clerk
915 I Street
Sacramento, CA 95814

If it is mailed, it must be postmarked no later than the due date. Reports filed after this date will be subject to late filing penalties of \$25.00 per day up to a maximum of \$500.00.

Checks- Please make checks payable to 'City of Sacramento'.

Additional Requirements- All lobbyists need to report certain campaign contributions and consultant payments from the city.

Termination- If a lobbyist has terminated all lobbying activities during the quarter, the lobbyist may file a declaration of termination with the quarterly report. The final quarterly report shall include disclosure of any lobbying activities during the quarter of termination.

For more detailed information refer to the Sacramento City Code at:
www.cityofsacramento.org/clerk/lobbyist_registration/ or call Jennifer Carlino at (916) 808-8091.

2009 3rd Quarter Lobbyist Report

Company Name (Type of Lobbyist)	Client Name
Edgar and Associates (Contract)	BLT Enterprises Inc.
Hefner, Stark, & Marois, LLP (Contract)	Cordano Company FNTP Investment Company, LLC Bob Tellesen Ramco
James Anthony (Contract)	El Camino Wellness Center
Law Offices of Richard H. Hyde (Contract)	Z Gallerie 13th and I Associates Township 9 (Formerly known as Capitol Station 65, LLC) California Fairs Financing Authority dba California Construction Lucas Enterprises Sotiris K. Kolkotronis dba SKK Development Company
Holloway Land Company (Contract)	Drake Developments of California, Inc. 21st & I, LLC Trammell Crow Residential Recycling Industries Foothill Partners Paul & Milka Lausevic James Marcus Investors Choice Sisler and Sisler Brothers Development
Law Offices of George Phillips (Contract)	Ose Properties
Law Offices of Gregory D. Thatch (Contract)	500 Capitol Mall, LLC Alleghany Properties, Inc. Arden Village, LLC Armour Steel Company BFI Waste Services of Sacramento Biba Restaurant Buzz Oates Companies Centex Homes D.R. Horton, Inc.-Sacramento Dan Dukes Trucking, Inc. Don Glover Downtown Ford Granite Bay Development Homes by Towne Jerry Greenberg John Laing Homes JPI, Inc. K. Hovananian Forecast Homes Northern, Inc. KB Home Kern Schumacher (Natomas Creek, LLC; Natomas Meadows, LLC; Commerce Station, LLC; East Commerce Parkway, LLC; and Natomas Towne Center, LLC) Kip Skidmore Larry & Warren Anapolsky (California Loan and Jewelry Company) Larry Cassidy Lewis Operating Corp. M&H Realty Partners, VI, L.P. McClatchy Management Company Mei Raption Honda North Natomas Infill Builder's Council Panattoni Development Company Park El Camino-Natomas, LLC Presidio Hotel Group Priority Ventures Regent Development, Inc.

Law Offices of Gregory D. Thatch (Contract)(Con't)

Richland Communities
Riverbank Holding Company
Rubicon Partners, Inc.
RZ Carwash LLC
Seth Scott (Urban 44)
Shea Homes
Shepard Johnson Properties
Sierra National Construction
STL Company, LLC
Stockton Blvd. Partners, LLC
Taylor Morrison of California, LLC
Thomas Holdings, LLC
Tim Lewis Communities
Yellow Cab Company of Sacramento

McDonough Holland & Allen PC (Contract)

Waltrust Properties, Inc./Walgreens
Westfield, LLC
David S. Taylor Interests, Inc.
Arco Arena- Sacramento Kings
Blue Diamond Growers

Paul R. Curry and Associates (Contract)

Rasmusson Public Affairs (Contract)

Raytheon
Saca Development
CBS Outdoor
Sacramento Association of Realtors
LPS Asset Management Solutions, Inc.
Tooley Oil Company

Remy, Thomas, Moose, and Manley, LLP (Contract)

AKT Development
Riverview Investments
Petrovich Development Co.
Loaves & Fishes
Wind Youth Center
Avondale Glen Elder Neighborhood Association
Alleghany Properties, LLC
455 Capitol Mall
Capitol Station 65
Trinity Cathedral
Simsmetal America
Bond Companies
Clear Channel

Rental Housing Association of Sacramento Valley
(Business or Organization)

N/A

Revell Communications (Contract)

Sacramento Independent Taxi Owners Association

Robert P. Thomas & Associates (Contract)

AKT

Sac-Sierra's Bid & Const Trades Council/Matt Kelly
(Business or Organization)

N/A

Taylor & Wiley (Contract)

Opus West Corporation
John Manikas
Meer Capital Partners
AKT Development
Stonebridge/Teichert
Johnny Javanifard
Gurjeet Hundal
St. Anton
California Railroad Museum Foundation

Robert J. Waste (Contract)

Diepenbrock Harrison LLP

The Hoyt Company (Contract)

CHW/Mercy General Hospital
Separovich Domich
CA Natural Gas Storage

Campaign Contribution Limits and Campaign Finance

City of Sacramento

Campaign Finance Snap Shot

Are there limits on the amount a candidate may accept from a donor?

Yes, there are limits on the dollar amount a candidate or candidate's controlled committee may accept from a single donor (or contributor) per a primary, general or special election period. The election period limits are:

\$1,500 per person to a Council Member or Candidate
\$3,000 per person to a Mayor or Candidate

Can more ever be accepted? Yes, but only if the source is a "Large Political Committee" (LPC) that is registered with the Sacramento City Clerk's Office. The limits are:

\$5,000 per LPC to a Council Member or Candidate
\$10,000 per LPC to a Mayor or Candidate

A list of registered LPC's is available from the Sacramento City Clerk's Office, or on the Clerk's web site at:
<http://www.cityofsacramento.org/clerk/olcf/LgPoliticalComm.htm>

Contributions received prior to committee qualification would be considered for purposes of the City's contribution limits. The limits also apply to candidates who raise less than \$1000 per calendar year.



For more detailed information on the provisions of contribution limits

refer to the Sacramento City Code on line at:

http://www.qcode.us/codes/sacramento/view.php?topic=2-2_13-i&frames=on

City of Sacramento

Campaign Finance Snap Shot

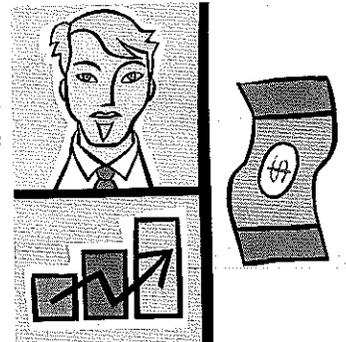
What is public financing and how do I become eligible?

Public financing, also referred to as public matching funds, is financial support by the City of Sacramento to a candidate for city elective office through payment of public “matching” dollars. Qualified candidates will receive a “\$1 for \$1” match up to a set limit. The maximum amount available per election period is \$35,200 (Council Member) or \$117,000 (Mayor).

How does a candidate become eligible for public matching funds?

To become eligible, the candidate must meet all of the following requirements: 1) files a signed statement of acceptance form and does not rescind it; 2) files a signed code of fair campaign practices form; 3) has raised and deposited into the candidate’s controlled committee \$7,500 (Council Member) or \$10,000 (Mayor) in eligible contributions*; 4) is opposed by a candidate who has qualified for matching funds; 5) agrees to participate in one public forum; and 6) voluntarily agrees to limit campaign spending to \$88,000 (Council Member) or \$585,000 (Mayor).

* a contribution is considered “eligible” if it was raised and deposited into a candidate’s official campaign account after July 1st of the year preceding the election, and the contribution totals \$250 or less per source. For contributions over \$250, only the first \$250 of any contribution shall count. The remainder shall not. Eligibility established in the primary election period continues if a candidate is on the ballot in a general (run-off) election in November.



For more detailed information on the provisions of public financing
refer to the Sacramento City Code on line at:

http://www.qcode.us/codes/sacramento/view.php?topic=2-2_14&showAll=1&frames=on
or <http://www.cityofsacramento.org/clerk/campaign-information/finance-and-regulations/>

City of Sacramento

Campaign Finance Snap Shot

Which contributions are eligible for matching funds and how is the money requested?

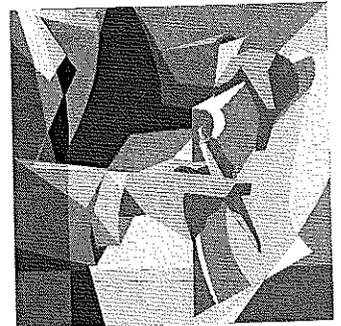
Public matching funds are available to candidates running for city elective office after meeting certain eligibility requirements. Once the requirements are met, the candidate may submit a request for matching funds.

Which contributions are eligible for matching funds? 1) only contributions received and deposited into the candidate's official campaign account from January 1 to June 30 of the election year; and 2) contributions totaling \$250 or less per source. If there is a general (run-off) election in November all of the requirements are the same, except that only contributions received and deposited from July 1 to December 31 are eligible.

How does a candidate request public matching funds? A candidate files with the City Clerk: 1) a completed "Public Financing Matching Funds Request" form; 2) an electronic copy of the form via electronic media; 3) copies of all contribution checks, money orders, or other written tender for each qualifying contribution requested.

How long does it take to receive the money? No more than ten (10) working days.

How often may a matching funds request be submitted? 1) each time the candidate reaches the \$7,500 (Council Member) or \$10,000 (Mayor) threshold in qualifying contributions; 2) within the 10 days preceding the election each time the candidate reaches \$1,000 in qualifying contributions; 3) a final request no later than two (2) calendar days after the end of the election period. This applies to both the primary and general election periods.



For more detailed information on the provisions of public financing
refer to the Sacramento City Code on line at:

http://www.qcode.us/codes/sacramento/view.php?topic=2-2_14&frames=on
or <http://www.cityofsacramento.org/clerk/campaign-information/finance-and-regulations/>