



- New Rules for Reporting Gifts to Public Agencies

## Summary

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The Fair Political Practices Commission (FPPC) recently revised its regulations for gifts to public agencies and for the reporting of these gifts. Gifts to Metropolitan as an agency are not reported on the Statements of Economic Interests (Form 700) of Metropolitan officials who may receive a benefit from the gift, and are not subject to the gift limit of \$420 from a single source during any calendar year. Gifts to Metropolitan now must be reported on a new FPPC form that lists the officials benefitting from these gifts and the form must be posted on Metropolitan's website.

## Attachments

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Form 801

## Detailed Report

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Under the Political Reform Act a "gift" is ". . . any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received. . ." (Gov. Code § 82028) Public officials are required to report gifts on their annual Statement of Economic Interests filings (FPPC Form 700) when the total value of the gift or gifts from a single source is \$50 or more during the calendar year. Public officials are prohibited from accepting a gift or gifts totaling more than the statutory gift limit, currently \$420, from a single source in a calendar year. This dollar limit is adjusted for inflation every two years by the FPPC. The \$420 gift limit is effective from January 1, 2009 to December 31, 2010. (2 CCR §18940.2)

### Gifts to a Public Agency

A gift that is made to a public agency rather than to a public official is not a reportable gift or subject to the gift limit for a public official who receives a personal benefit from that gift. (2 CCR §18944.2) However, there are a number of requirements for a gift to qualify as a gift to a public agency. As of July 1, 2008, the FPPC added new reporting and posting requirements, described below.

The requirements for a gift to Metropolitan to qualify as a public agency gift under the FPPC rules are:

1. The donor can identify the purpose of the gift but cannot designate the particular officials that may use the gift.
2. The General Manager or his designee must determine and control the use of the gift on behalf of the agency.
3. The Metropolitan official who determines and controls the use of the gift cannot select himself or herself to use the gift.
4. The gift must be used for official Metropolitan business.
5. The donor, amount and use of the gift must be recorded, reported and posted as follows:
  - The FPPC Form 801, copy attached, must be filled out, signed by the General Manager or his designee, and filed with the General Counsel within 30 days of use of the gift.
  - The completed Form 801 must be posted on Metropolitan's website.

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- The General Counsel must keep a log of the filed forms and the officials using the gifts.
- The filed forms and website posting must be maintained for at least 4 years.

The new rules also add that gifts of travel to a public agency, including transportation, lodging and meals, cannot be used by any public official designated in Government Code section 87200, which includes elected officials, members of certain boards and commissions, and “other officials that manage public investments.” At Metropolitan this includes all directors, the Chief Financial Officer, Treasurer and Assistant Treasurer. Gifts of travel used by directors and these officers are regarded as gifts to them and are subject to the FPPC travel gift rules.

### **FPPC Rules are Fact Specific and Different Rules May Apply to Similar Gifts to Different Recipients**

The FPPC has different rules for reporting of gifts under different fact situations, such as the rules regarding gifts to public agencies. The specific facts of each gift situation need to be evaluated in order to determine which gift rule applies. Therefore, in case of any uncertainty, Form 700 filers are encouraged to ask the Legal Department for advice.

