



MONTHLY REPORT TO BOARD OF DIRECTORS

Metropolitan Water District of Southern California
Office of Ethics
March 2015

ETHICS IN THE PIPELINE

ELECTRONIC FILING: INITIAL IMPRESSIONS

Another Form 700 filing season has come and gone.

Although not without some challenges, Metropolitan offered an electronic filing option this year through one of the two Fair Political Practices Commission (FPPC) approved software providers (eDisclosure by SouthTech Systems).

Most of the electronic filers – particularly employees – shared positive feedback about the process. On the other hand, we received input from some directors about changes they would like to see.

First and foremost, there is a strong desire from directors serving in multiple government offices to be able to submit a single Form 700 one time to the FPPC for each of his or her agencies. This issue has been addressed for years as the FPPC has implemented its pilot project. At this time, the FPPC does not permit an electronically filed Form 700 to be automatically logged for multiple agencies. Our current software provider understands and shares the goal of making “one stop” electronic filing possible. We plan to work with other agencies to find ways to make this approach feasible and approved.

Second, there were several requests to enable eDisclosure to import data from Excel spreadsheets directly into eDisclosure’s Form 700 template. We have discussed this issue with SouthTech, which informed us that it is looking at programming changes to make this function available in eDisclosure for the next filing season.

On the positive side, the program allows us to stay on track with the general move toward a preference for

digital record-keeping in government. The trend is reflected in recent comments from the FPPC’s newly re-appointed chair, Jodi Remke, where she talked about the link between technological developments such as eDisclosure and both efficiency and transparency, two key components of good government. (See <http://www.cafwd.org/reporting/entry-new/jodi-remke-technology-and-transparency-go-hand-in-hand>)



ADVICE AND REQUESTS FOR ASSISTANCE

The Ethics Office will provide advice, counseling, or other assistance to any director, officer, employee, or contractor regarding application or interpretation of Metropolitan’s ethics rules or policies. Absent unusual circumstances, the Office gives its advice in writing.

The Office can provide advice only prospectively, i.e., about future activities. If it becomes apparent that a request for advice or other assistance concerns events that have already occurred, it might be necessary to review the matter as a potential violation.

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In March 2015, the Office provided analysis and advice regarding:

- Economic disclosure (i.e., Form 700 requirements).
- Application of gift and travel payment rules to inspection trips.
- Limits on campaign fund-raising.
- Post-service restrictions (i.e., *revolving door* limitations).

For reference, attached is the March 25, 2015 memorandum issued jointly from the Ethics Officer and General Counsel to Directors and member agency managers about director inspection trips.

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Matters Addressed FY 2014/15

	Jul 2014	Aug 2014	Sept 2014	Oct 2014	Nov 2014	Dec 2014	Jan 2015	Feb 2015	Mar 2015	Apr 2015	May 2015	June 2015	FY 14/15
<u>Ethics Complaints</u>													
Abuse of Authority	2			2(P)	3 2(P)	2	1						12
Campaign Contributions													
Conflict of Interest													
Economic Disclosure													
Gifts													
Misleading Associations													
Nepotism													
Outside Employment													
Outside Scope of Ethics Office	2	2	3	2	1	2	2	2	2				18
Revolving Door													
Whistleblower Protection			1 1(P)	1(P)									3
Total Complaints	4	2	5	5	6	4	3	2	2				33
<u>Ethics Advice</u>													
Abuse of Authority			1(P)			1(P)		1					3
Campaign Contributions								1 1(P)	1				3
Conflicts of Interest	2	1(P)		1(P)	2 2(P)		1	1 1(P)					11
Economic Disclosure								1 1(P)	12 1(P)				15
Gifts		2	3	1 1(P)	2	1(P)	1 1(P)	2	7				21
Misleading Associations													
Nepotism													
Outside Employment		1(P)	1				1(P)	1					4
Outside Scope of Ethics Office				2				1					3
Revolving Door								3					3
Whistleblower Protection													
Total Questions	2	4	5	5	6	2	4	14	21				63
Combined Total	6	6	10	10	12	6	7	16	24				96



THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

Office of the General Counsel
Office of Ethics

Date: March 25, 2015

To: Board of Directors
Member Agency Managers

From: Marcia L. Scully, General Counsel
Deena R. Ghaly, Ethics Officer

Subject: Inspection Tours – Gift Limits and Reporting Requirements

Recently, the Ethics Office and Legal Department have received questions and concerns from directors and others about gift limits, gift reporting requirements, and Metropolitan's inspection trips. The most common questions and our responses, based on a review of the Political Reform Act and its regulations and advice letters and other informational material provided by the FPPC, are listed below. In an attempt to obtain definitive information, we are submitting a letter to the FPPC asking for their written advice on these matters.

* * * * *

Question: *I am a Metropolitan director. Are travel costs (transportation, lodging and food) for inspection trips I attend considered "gifts" to me under reporting and gift limit rules?*

Answer: **No.** Travel received from a public official's own agency are not "gifts" as long as the travel is a lawful expenditure of public funds (i.e., related to the agency's duties). Because the inspection trips are authorized by the Board to provide education about regional water issues, the trips are not gifts to Metropolitan's directors or employees.

Question: *As a director, I am expected to sponsor inspection trips, including choosing or participating in choosing the guests for the trips. Are the guests' travel costs attributable to me as gifts?*

Answer: **No.** When preparing guest lists for inspection trips, Metropolitan directors are acting within their official duties and are agents of Metropolitan. Thus, Metropolitan is the source of the travel costs.

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Question: *What if I choose a family member as one of the guests on my trip? Are their travel costs gifts to me?*

Answer: **Not likely.** While under certain circumstances FPPC regulations provide that payments to an official's family member are attributed to the official, it appears that this rule is not intended to apply to payments from an official's own agency. Metropolitan's regulations expressly permit the sponsoring director to invite at least one member of his or her family. Such invitations would be from, and on behalf of, Metropolitan.

Question: *My guests include public officials not affiliated with Metropolitan. Do they have to report the travel costs associated with the inspection trips?*

Answer: **Not anymore.** Since January 2014, payments by government agencies for education, training, or other inter-agency programs or purposes, were no longer deemed to be gifts or income to the official who uses the payment and therefore neither are reportable nor subject to gift restrictions.

Before January 1, 2014, these payments were not subject to the annual gift limits but were subject to reporting on Form 700.

Question: *I sometimes allow my guests to bring a travel companion of their choosing. If my guest is a public official and chooses to bring a travel companion, are the travel costs for the companion attributable as a gift to the public official?*

Answer: **Unclear.** Prior FPPC regulations stated that a public official received a gift by directing its use to another person, even if the gift was of nominal value to the public official. Later amendments to the regulations suggest that those gift-disposition rules may not be intended to apply to costs for education-related travel by public officials. As we advised in 2013, asking primary guests to recommend additional invitees to the sponsoring director or member agency, rather than unilaterally choosing them, may avoid any unexpected reporting or gift limit requirement for guests who are public officials.

Question: *What if my public official guest is another Metropolitan director and brings a travel companion of his or her choosing? I understand that the director's travel costs are not gifts, but what about the costs for his or her companion?*

Answer: Here, the analysis is the same as the scenario above. Since the guest director would be directly choosing his or her travel companion, those travel costs may be reportable and subject to the gift limits. It is possible, but not certain, that the new

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regulation providing that travel costs for government-paid, educational trips are not gifts to the public official who uses them, also extends to his or her chosen companion.

* * * * *

In our opinion, until we receive a response from the FPPC, the best way to avoid a reporting obligation due to participants inviting their own guests is to have all trip participants invited by the sponsoring member agency.

**This memorandum is provided to the member agencies for general information only. Trip participants other than Metropolitan Directors who have questions regarding legal reporting requirements are advised to ask their agency counsel.*



Marcia L. Scully, General Counsel



Deena R. Ghaly, Ethics Officer