



**SUBJECT: ACCEPTANCE OF GIFTS**

**PURPOSE:** Comply with FPPC Regulation  
(Title 2 California Administrative Code, Section 18944.2)

**I. Purpose**

To establish a procedure with respect to the acceptance of certain gifts by the City of Indio (including its various committees and commissions), the Redevelopment Agency of the City of Indio, the Indio Water Authority (referenced at once, in the aggregate and alternative below, as the "City"). This policy shall require the documentation and disclosure of the nature of each covered gift to the City, inclusive of the identity of the gift's donor and any specific beneficiary of that gift in compliance with applicable law.

As is discussed below, this policy has relatively limited applicability to the City's day-to-day business. It covers gifts used in City business by an individual official or employee, whether such gifts were given for any specified purpose or not. It does not supersede the independent applicability of other laws that may define "gifts" or impose different or more stringent standards related to the receipt of gifts by an individual, such as, without limitation, provisions of the Political Reform Act, Government Code or Penal Code. Likewise, this policy shall have no impact whatsoever on exceptions to the definition of a "gift" provided by applicable state regulations.

Finally, this policy shall in no way modify or limit the substance or application of the City's "Code of Ethical Conduct" as expressed in Policy Number A-12, effective since October 1, 1991 ("Existing Policy") or of any City department-specific order or policy (e.g., a "Departmental Order" of the Indio Police Department).

*Policy Statement*

Government agencies and the public officials and employees that serve them must make decisions free of any bias or undue influence. A gift to any individual has a tendency to create or engender positive sentiment on the part of that individual with respect to the gift's donor. California law and the Code of Indio have long recognized a public interest in the reporting and disclosure of information identifying the donors of gifts, with a value of fifty dollars (\$50.00), to City officials and certain key City employees. Furthermore, the same state and local authority and public interest also prohibit an official or key employee's receipt of a gift or annual accumulation of gifts with a value in excess of the biennially adjusted gift limit specified in the Political Reform Act of 1974, set at four hundred and twenty dollars (\$420.00) at the time of this policy's adoption. A gift above this higher threshold is improper and also triggers the disqualification of an official or employee from voting, considering or working upon a project or matter arising from or related to the donor of that gift.

## *Past Policy*

The City has an Existing Policy applicable to employees and gifts. Under circumstances that could reasonably give rise to an inference or expectation that a gift was intended to influence a City employee in the performance of his/her official duties, or circumstances where a gift was intended to serve as a reward for an employee's official action, "employees should not directly or indirectly solicit, accept, or receive any gift – whether it be money, services, loan, travel, entertainment, hospitality, promise or any other form."

This policy seeks to insure that gifts, given to the City as an institution to advance a legitimate governmental purpose, but used by an individual City official or employee, are processed and documented by the City in accord with all applicable law.

## **II. Application**

This policy applies to all City Officials (whether elected or appointed), Departments and Employees. As is stated above, it applies to each gift that will be used in City business by an individual official or employee, whether that gift is given for any specified purpose or not. However, this policy does not apply to gifts to the City that were not intended for and will not be used by any individual. Furthermore, this policy does not apply to any gift to the City that will be used outside City business, regardless of whether that gift will be used by an official or employee and confer personal/individual benefit or enjoyment. Any gift that will be used outside City business for personal/individual benefit or enjoyment is a gift to the official or employee who benefits from or enjoys the gift in question, and subject to all applicable law and regulations. This would include gifts "won" by individual officials and/or employees via raffles where the City acts only as an intermediary between a donor and the official and/or employee.

This policy doesn't apply to:

- a gift/payment for travel, including transportation, lodging, and meals for elected officials, officials appointed to fill a vacant elective office, a member of City's planning commissions, the city manager, the city attorney, the city treasurer, any City official who manages City investments
- a gift/payment for travel that is greater than the State per diem rates as set forth in applicable sections of the State Administrative Manual and Department of Personnel Administration regulations, or the Internal Revenue Service rates for reimbursement of these expenses as set forth in the U.S. General Service Administration's website under "Per Diem Rates" and Internal Revenue Service Publications 463 and 1542, or their successors
- a gift/payment for travel without the Agency Head's written pre-approval
- a gift of passes or tickets to an event
- items received by officials or employees that are not "gifts" as that term is defined by applicable state regulations

### III. Agency Head

The use of any gift to the City shall be controlled exclusively by the City Manager or his/her designee, acting in his/her capacity as "Agency Head" as that term is defined in Title 2 of the California Administrative Code, Section 18944.2, Subdivision (b), Subsection (2). Any City Manager designation of an individual who will act as Agency Head under this policy shall be documented and be maintained as a public record by the City.

To the extent that the ultimate recipient of a gift to the City received and used per this policy will realize or enjoy any personal benefit through his/her use of said gift, the Agency Head shall be the individual to independently select that ultimate recipient.

The Agency Head shall independently exercise his/her authority under this policy in accord with the following principles: *(i)* no gift to the City shall be received or accepted by the Agency Head if its donor presumes or attempts to exercise authority to " earmark" or designate that gift for receipt by a particular individual, or for a particular title, class or group of potential recipients; *(ii)* gifts to the City are an unusual resource that must be allocated in a manner to maximize their function, the advancement of City purposes; *(iii)* certain individual officials (whether elected or appointed) and/or employees are better situated than others, as a function of their particular City responsibilities or their personal skills, to insure that the potential positive impact of a particular gift to the City is maximized.

Any gift to the City otherwise subject to this policy that must be rejected by the Agency Head per principle *(i)* above shall be returned to the donor of that gift.

### IV. Procedure

To the extent that the City can exercise control the intake of gifts to the city subject to this policy, such gifts shall be routed exclusively to the Agency Head. Many gifts to the City may be received *via* a variety of routes and/or intermediaries, including but not limited to employees. Within two (2) business days of receiving any gift to the City, an official or employee receiving a gift subject to this policy shall present/forward that gift to his/her Department Head in the case of an employee, and to the Agency Head in the case of an elected or appointed official. Department Heads shall immediately route gifts to the City subject to this policy to the Agency Head for distribution. The Agency Head shall distribute each gift to the City in accord with the principles stated above in this policy as quickly as may be practicable.

For each gift to the City subject to this policy that is received and distributed, the Agency Head shall have the duty to complete a Gift to the City Report, conforming to that attached to this policy as **Attachment A**. All City officials and employees shall be responsible to assist the Agency Head in gathering all information necessary to complete the Gift to the City Report. Within ten (10) days of receiving a gift to the City from a Department Head, employee or official, and completing the corresponding Gift to City Report, the Agency Head shall place the gift to the City in question in the custody and control of its recipient/user and transmit the "Gift to City Report" to the City Clerk.

The City Clerk, having received all Gift to City Reports completed by the Agency Head and the Department Heads in any given month, shall within fifteen (15) days of the end of each calendar month, complete a "Gift to Agency Report," a.k.a. California Form 801, prepared by the Fair Political Practices Commission ("FPPC") in June of 2008 attached to this policy as **Attachment B** ("Form 801"), or any FPPC form that succeeds Form 801. The Form 801 for any given month shall document gifts to the City received during the prior month. Within one (1) business day of completing a Form 801, the City Clerk shall post a copy of that Form 801 or all information contained on that Form 801 on the City's website, <http://www.indio.org>. Furthermore, the City Clerk shall create a log of all Form 801 documents, said log being updated on a monthly basis and accessible *via* a search by name of the City agency receiving the gift in question (e.g., City, Redevelopment Agency, *etc.*) and a search by name of any City employee of official who uses a gift to the City per decision of the Agency Head. The City Clerk shall maintain this log and all Form 801 documents reflected on the log as public records, available as such through City Hall or the City's website for not less than four (4) years.

To the extent that the City's ability to comply with this policy depends upon the Agency Head's receipt of accurate information about gifts to the City, the City Manager shall insure that all City officials and employees are aware of the policy's existence and its requirements.

**V. Effective Date**

This policy and its mandated procedures shall be effective immediately.

**VI. Forms and/or Documents Referenced**

<b>ATTACHMENT A</b>	GIFT TO CITY REPORT
<b>ATTACHMENT B</b>	FPPC FORM 801