



CLIENT NEWS BRIEF

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VENDORS BEARING GIFTS: DISCLOSURE REQUIREMENTS FOR PUBLIC OFFICIALS AND EMPLOYEES

Especially in these troubled economic times, vendors, consultants and others seeking business from public agencies are often going to ever greater lengths to land new clients and drum up new business. These efforts may be coupled with promises of gifts and other free offerings, including meals, wine, tickets to concerts or sporting events, and more. As an important reminder, when such gifts are received by public officials or employees, they are subject to dollar limits and public disclosure under the Political Reform Act of 1974 ("PRA"; Gov. Code, §§ 81000-91014). This is a brief review of some relevant disclosure issues.

One of the primary goals of the PRA is to ensure that public officials and employees perform their duties in an impartial manner, free from bias caused by their own financial interest or the financial interests of persons who have supported them. (Gov. Code, § 81001(b).) To this end, the Fair Political Practices Commission ("FPPC") maintains regulations that impose limits on gifts received by public officials and employees, as well as requiring disclosure of such gifts in many instances. Additionally, Government Code section 87300 requires state and local government agencies, including school districts, to adopt a conflict of interest code which, at a minimum, includes the terms set forth in section 87300 and the corresponding regulations.

The PRA requires those public officials and employees who are designated in the agency's conflict of interest code to disclose annually in a Statement of Economic Interests, or "Form 700," certain gifts that were received in the previous 12-month period which exceed designated dollar amounts. Once filed, the Form 700 becomes a public record. If a public official or employee receives a gift or gifts totaling \$50 or more from a single source, the gift or gifts must be disclosed on Form 700. (Gov. Code, § 87210.) Further, officials and employees designated in the conflict of interest code may not receive gifts totaling more than \$420 in any calendar year from a single source if they would report income or gifts from that source on Form 700. (Gov. Code, § 89503; Cal. Code Regs., tit. 2, § 18940.2.) Violations of the PRA are punishable by a variety of administrative, civil, and criminal penalties, depending on the severity of the violation. In addition, persons violating an agency's conflict of interest code are subject to disciplinary action. (Gov. Code, § 91003.5.)

The PRA defines the term "gift" very broadly, with only limited exceptions. Generally, a "gift" includes anything of value that is received by a public official or employee for free or at a discount and which is not otherwise made available to members of the general public. This may include meals or food, entertainment (e.g., concert or sporting event tickets), some forms of travel and even parking passes. Limited exceptions to the disclosure rules include gifts received from relatives; gifts approximately equal in value that are exchanged between a public official or employee and another individual on holidays, birthdays or similar occasions; and informational materials which serve primarily to convey information and which are provided for the purpose of assisting the recipient in the performance of his or her official duties. (Cal. Code Regs., tit. 2, §§ 18942, 18942.1.)

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It is not always obvious to a public official or employee whether what they are receiving may fall under the reporting requirement. For example, what if a public official was solicited by a vendor to participate in an ongoing "book club" that offered free meals and free books? In such a scenario, a public official or employee would need to know the actual monetary value of the items received to ensure compliance with the PRA, including its disclosure requirements. If the cost of a gift exceeds \$50, and none of the limited exceptions under Government Code section 82028 apply, the public official or employee would have to disclose his or her receipt of such gifts on Form 700. Additionally, multiple gifts from a single source totaling \$50 or more during a one year reporting period must also be disclosed. Finally, the public official or employee would need to determine whether the value of multiple gifts received over the 12 month period total more than the gift limit of \$420. On top of these considerations, the public official or employee must also consider compliance with their own agency's adopted conflict of interest code.

In addition to the PRA and local conflict of interest policy requirements, it is worthwhile to consider the appearance of accepting gifts. The press, county grand juries and the public in general often express concerns about hiring any vendors or purchasing any equipment or services if the decision makers or other agency employees have received gifts of any size.

Public agencies should take time to review their adopted conflict of interest codes and the PRA regulations to ensure compliance. Should you have any questions regarding the PRA's gift rules, when reporting is required, or updating your agency's conflict of interest code, please do not hesitate to contact one of our [seven offices](#) located statewide or consult our [website](#).

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