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information presented to  
the Commission at the

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LAFCO  
San Bernardino County

**Memorandum**

**To:** PUBLIC AGENCY CLIENTS  
FILING OFFICERS  
**From:** BEST BEST KRIEGER LLP  
**Date:** JANUARY 3, 2014  
**Re:** FPPC: NEW TRAVEL RULES  
REGULATIONS 18950 – 18950.3

Information presented to  
the Commission at the  
1-15-14  
LAFCO meeting

The Fair Political Practices Commission (“FPPC”) has finally completed its overhaul of the travel regulations which initially started in 2011. This memorandum provides a quick summary of the new revised travel rules that went into effect January 1st. Overall, the new rule changes were intended to provide public agencies a greater ability to accept donated travel funds where they would be used in lieu of existing public monies for the purpose of conducting official agency business and to make the new travel rules consistent with the other gift regulations.

**Summary of Major Changes:**

- Third parties may donate travel payments to an agency so long as the payment is used for “official agency business.” These travel payments must be directly related to the official’s public duties and serve a purpose payable with agency funds. Use of these donations must be authorized similar to agency-funded travel.
  - Travel payments for “official agency business” must fit into one of seven categories:
    1. Contract requires the contracting party to pay the travel expenses for government officials resulting from the agency’s participation in that contract.
    2. Official is performing a regulatory inspection or auditing function that the agency is mandated to perform.
    3. Official is providing training or educational information directly related to the agency’s functions or duties under the law. Organization providing training must make the payment.
    4. Official attends education conference directly related to the governmental employer’s functions or duties under the laws it administers, the official is a named presenter, and the payment is made by the organizers of the event.
    5. Official receives training directly related to the official’s job duties and the payment is provided by organization providing training.



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6. Official receives food that is provided to all attendees at a working group meeting in which the official participates as an authorized representative of his or her agency as part of his or her official assigned job duties.
  7. Officials seeks to attend a location to view an in place operation, structure, facility, or available product where the view would substantially enhance an official's knowledge and understanding in making an informed decision to enter into a contract regarding a similar operation, structure, facility or purchase the product within the agency's authority.
- Elected officials and other Section 87200 filers are no longer required to report travel payments for official agency business on their Form 700s. Instead, the authorizing officer will need to report these payments on a Form 801 and file the Form 801 with the agency's filing officer within 30 days after the use of the payment. The filing officer must submit a copy of the Form 801 or a detailed summary to the FPPC within 30 days after of the close of a calendar quarter if aggregated payments total \$2,500 or more, and also must post a copy on the agency's website.
  - Constitutional ban that prohibits public officers from accepting passes or discounts from transportation companies still applies. As a result, agencies are not permitted to accept these passes or discounts on a public officer's behalf.
- Travel related payments exceeding an agency's per diem requirements will be permitted and not considered gifts to the official so long as the location is where the official attends a widely attended meeting or conference and the value is substantially equivalent in value to the lodging or food typically made available to other attendees.
  - Travel payments from a state, local or federal government agency for education, training, or other inter-agency program or purposes is not a gift or income.
  - Travel payments reasonably related to a legislative or governmental purpose, or to an issue of state, national or international public policy, that are (1) made in connection with speeches or presentations, or (2) paid for by other public agencies, charities or educational organizations, are considered reportable gifts rather than income. These gifts must be reported on a public official's Form 700 but are not subject to any gift limit. (See Gov't Code § 89506.)



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- Free admission to an event where the official is making a speech or presentation is covered by a gift exception. "Nominal" gifts received when attending an event do not have to be disclosed. However, any such gift must be available to all attendees and provided by the organizer of the event. Nominal is defined to mean an insignificant item purchased in large volume and provided for free as a means of advertisement at events, such as pen, pencil, mouse pad, rubber duck, stress ball, note pad, or similar item. Nominal does not include items such as complimentary rounds of golf.
- An official may use his or her own vehicle or aircraft to provide rides to other public officials when attending the same event for official agency business.

**Questions and Answers:**

1. *A host public agency pays the airfare and meals of a public official from a different public agency when the official is attending an informational tour. The host agency is able to obtain nonprofit sponsorship to help pay for the costs of the travel. The mayor of your town has been asked to attend. What does the mayor need to report on her Form 700?*

Answer: **Nothing.** Agencies may now accept third party gifts of travel from other agencies and charities for all its public officials so long as the payments are made in conjunction with official agency business as defined above. These payments are presumed to confer no personal benefit. However, the agency will need to disclose the payment on Form 801 within 30 days and this form must be maintained as a public record.

2. *May an official who owns his own plane provide a ride to other public officials seeking to attend the same conference without creating a gift to those officials if they are officially representing their agencies?*

Answer: **Yes.**

3. *How long does an agency need to keep its Form 801s?*

Answer: **7 years.** The previous regulation said no less than four years. (See Gov't Code § 81009 (c).)

4. *How soon do agencies need to complete a Form 801?*

Answer: **30 days after use of the travel payment.** These forms are to be maintained as a public record pursuant to Government Code section 81008 (a).



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5. *Can the agency head utilize the gift of travel?*

Answer: **Most likely yes.** So long as the agency has determined that the agency head is the most appropriate person to attend. This rule is expected to be fleshed out by future advice letters.

6. *What if an agency wants to use a donated travel payment for a reason not covered by the seven permitted types of travel for official agency business?*

Answer: **Reportable Gift on Form 700.** Notwithstanding any other rules, this travel payment may be a reportable gift personal to the official subject to the gift limit. Contact your agency attorney for further discussion.

7. *If a travel payment is related to an oral presentation to either provide training on a subject on which the agency provides training, or discuss policy and direction in implementing functions of that agency, may the third party donor request a specific official?*

Answer: **Yes.**

8. *A foreign government has invited a public official to tour a manufacturing district where certain manufacturers in its country build a certain specialized form of equipment. The foreign government is willing to work directly with the public official's agency in advance of any trip. Will this public official need to report this travel payment on his or her Form 700 if the purpose of the trip has been deemed official agency business.*

Answer: **No.** The general rule is that travel payments paid by a foreign government are required to be disclosed on Form 700 when that payment is reasonably related to a legislative or governmental purpose and is paid directly to that official. However, if this same foreign government provides these same monies to the public agency and it qualifies as "official agency business" under Regulation 18950.1, this travel payment only needs to be reported on Form 801.

9. *A district employee travels to attend an out-of-state conference for training related to her job duties. Complimentary breakfast and lunch are provided each day of the conference by the host organizer. Meanwhile, a vendor wishes to take the employee out for dinner in order to discuss services of interest to the agency. Is this dinner reportable?*

Answer: **Yes, on Form 700.** Except for food included as part of the cost of admission, any other payments for food must be made to the government employer pursuant to the employer's per diem travel policy in order to qualify for



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the gift to agency exception. If this meal equals \$50 or more, it will need to be reported and will be subject to the gift limit.

10. *A general manager for a special district has been asked to make a presentation at a national water conference. The travel expenses were paid by the conference's host committee and the training is for the benefit of the conference attendees. The travel payments are to be paid to the district, and are directly related to the general manager's area of expertise. Does the general manager need to report this travel payment on his or her Form 700?*

*Answer: NO.* Not for travel expenses paid or coordinated with the district to attend an education conference directly related to the governmental employer's functions or duties under the laws it administers, if the official is a named presenter and the payment is made by the organizers of the event. However, if these expenses are directly paid to the public official, paid by someone other than the host organizer, and/or not coordinated with the agency, then this travel would be subject to reporting on the general manager's Form 700. Contact your agency attorney for further discussion.

**CONCLUSION**

Please let our office know if you have any questions about the recent rule changes or reporting questions related to last year.

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