

## **POLICY AND PROCEDURES 1-18**

Revised: October 1, 2014

Effective: December 1, 1989

### **GIFTS AND DONATIONS TO THE CITY OF PALO ALTO**

#### **POLICY STATEMENT**

The purpose of this policy is to:

- Establish uniform procedures for the receipt of gifts to the City of Palo Alto;
- Cultivate and maintain an environment where residents and businesses want to contribute to the City's programs and facilities;
- Promptly acknowledge and express appreciation for the gifts;
- Assure the gifts are properly inventoried, and
- Comply with the Political Reform Act and Fair Political Practices Commission Regulations.

It is essential that gifts be properly reported and reviewed carefully for impact on the City's resources and for consistency with City policies and procedures concerning cash handling and inventory.

*City employees are prohibited from accepting personal gifts (see Section 1301, Merit System Rules and Regulations). Gifts to elected and appointed City officials and "designated" City employees (see Palo Alto Municipal Code, Chapter 2.09) are also regulated by the State of California Fair Political Practices Commission.*

#### **Applicability of this Policy**

The procedures stated in Section A apply to gifts offered or given to the City, gifts actively solicited by the City, and gifts from community groups that support various City operations (e.g. Friends of the Library, the Recreation Foundation, etc.). They do not apply to minor individual contributions which will be quickly consumed in a City-sponsored event, work contributed by individual volunteers, sponsorship of a City activity, or donations of advertising, publicity, graphics, etc. in exchange for City acknowledgment. The procedures are consistent with those applicable to grants and other funding requests (see Policy and Procedures 1-12).

The Fair Political Practices Commission has adopted requirements (2 Cal.Code Regs. § 18944.2) for reporting payments made to agencies that would otherwise constitute gifts to public officials. Payments may be considered gifts to the City when the City receives and controls the payment, uses the payment for official business, and identifies the recipient. Such payments must be reported as provided in section B of this policy.

Table 1 summarizes acknowledgement and reporting requirements for gifts.

## **PROCEDURES**

### **A. City Requirements for Accepting and Acknowledging Gifts**

Department heads, including Council Appointed Officers, are authorized to accept gifts tendered by cash or cash equivalents or by electronic funds transfers (e.g., ACH transfer, credit card payment or online gifts) on behalf of the City. The City Clerk's Office will report on behalf of the City Council. Implementation of this policy is the responsibility of the department head, including Council Appointed Officers.

Thresholds for implementation of the procedures vary with the category of the gift, as shown in Table 1.

The estimated value of a gift is based on the donor's estimate. The City will not independently assign a value to the gift unless it is cash.

Gifts accepted by the City become the property of the City of Palo Alto and are to be used for public benefit. Unless a special agreement concerning the ultimate disposition of the gift is entered into at the time the gift is accepted, it is understood that the City has sole authority to determine the use, transfer, handling, or disposition of the gift.

Gifts made to officials directly or for which the donor designates by name, class, or other title the official who may use the payment are not gifts to the City, but rather individual gifts that may be required to be reported on FPPC Form 700. Employees may not accept individual gifts.

Department heads should review material gifts to:

- determine what the estimated costs to the City will be for any related installation, maintenance, operation, storage or liability that may be incurred by acceptance of the object;
- ensure that the gift is properly documented, catalogued, and/or inventoried in the department and division records;
- prepare and install an appropriate sign or nameplate consistent with the City's naming policy;
- ensure that the object will be satisfactorily maintained.

### **Acknowledgment of Gifts**

The manner in which a gift is acknowledged must be appropriate to the nature of the gift and consistent with the donor's wishes.

1. Within thirty (30) days of receipt of a gift, the department head must send an acknowledgment letter if the gift is worth \$100 or more, thanking the donor on behalf of the City of Palo Alto.

a. The letter should clearly identify the gift and confirm the placement of the object that has been given to the City, or the use to which the gift will be devoted.

b. Gifts to a governmental entity are treated similarly to charitable contributions for purposes of tax deductions. However, the donor will be responsible to the Internal Revenue Service and Franchise Tax Board for substantiating his or her own tax deduction. The City will not provide any tax services to donors.

c. Except for gifts of cash or cash equivalents, where the donor amount is apparent, no dollar amount should be stated in the letter. Instead, the letter should contain the following paragraph:

Your gift may be tax deductible. To determine the amount you may properly deduct for tax purposes, you should consult your tax preparer or tax attorney.

d. The department head or his/her designee will sign the letter and forward a copy to the ASD Director.

e. For a particularly significant gift (over \$5,000), recipient department head in consultation with the ASD Director may ask that a letter be prepared for the Mayor's signature.

2. The recipient department head, in consultation with the ASD Director, will determine if the gift warrants a public announcement and in what manner it should be made. The donor will be notified in advance of any announcement, and has the right to request anonymity.

3. The ASD Director is responsible for:

a. maintaining a record of all gifts that are accepted, including a description of the gift, the donor's name and address (unless anonymous), the date the gift was received, and the disposition of the gift.

b. reporting annually any significant gifts over \$5,000 to the City Council regarding the gifts that have been accepted on behalf of the City.

4. Each department should also maintain a record of all gifts that are accepted, which includes a description of the gift, the donor's name and address, the date the gift was received, and the disposition of the gift.

**B. Fair Political Practices Commission Requirements for Accepting and Reporting Gifts to the City**

In addition to the requirements listed above, departments receiving gifts to the City must comply with Title 2 of the California Code of Regulations section 18944.2, summarized below:

Payments or similar gifts that are controlled by the City and used for official City business may be considered gifts to the agency rather than gifts to an individual although the individual may receive a personal benefit from the payment, if all of the following requirements are met:

(1) City controls use of payment: The city manager or designee must determine and control the City's use of a payment. The donor may identify a purpose for the payment, but may not designate by name, title, class, or otherwise, the official/employee who may use the payment. The City Manager or designee shall select the individual(s) who will use the payment any may not select himself or herself as the user.

(2) Official City business. The payment must be used for official City business.

(3) Reporting. Within 30 days after use of the payment, the head of the department of the official/employee who used the gift must report the payment on the Form 801 and forward it to the City Clerk. Form 801 is available at the Fair Political Practices Commission website online at <http://www.fppc.ca.gov/forms/801.pdf>. The City Clerk shall post a copy of the form or the information in the form on the City website, and shall maintain the forms for a period of not less than four years.

(4) Limitations on payments for travel. Payments for travel, including transportation, lodging, and meals, are not gifts to the City but are considered personal gifts or income that the official or employee may be required to report on his or her FPPC Form 700 (a) if the donor designates by name, title, class, or otherwise, the official or employee who may use the payment, (b) if the City Manager or designee has not preapproved the travel in writing by signing the Form 801 or other travel pre-approval in advance or the trip, and/or (c) to the extent that such payments exceed the

City's reimbursement rates for travel, meals, lodging, and other actual and necessary expenses.

*NOTE: Questions and/or clarification of this policy should be directed to the Administrative Services Department. Questions and/or clarification of the Form 801 reporting requirements should be directed to the City Clerk or City Attorney's Office.*

Attachments:

**Attachment A: Table 1-** Summary of Gift Categories and Reporting Requirements

**Attachment A**

**Table 1**

Summary of Gift Categories and Reporting Requirements

Gift Category	Acknowledgement Letter	Copy of acknowledgement to ASD?	Account information re deposit to ASD?	Form 801 to City Clerk?	Other Requirements
<b>Cash or cash equivalent that will be used for official City business over \$100</b> (cash, check, money order, travelers check, cashier's check or online donation)	<b>X</b>	<b>X</b>	<b>X</b>		
<b>Cash or cash equivalent that will be used by an individual employee for official city business</b>	<b>X</b>	<b>X</b>	<b>X</b>	<b>X</b>	For payments used for official travel, see limitations set forth in policy section B(4).
<b>Stocks, other securities</b>	<b>X</b>	<b>X</b>			Contact ASD re deposition of this type of gift. The City's investment policy (1-39) precludes purchase of stocks, but the City may accept them as gifts if sold within a reasonable amount of time and ASD Director determines that cost of sale will not exceed cost of stock.
<b>Services</b> (skilled services performed by a business or professional firm)	<b>X</b>	<b>X</b>			Department head evaluates services to determine impact to department's operating budget or CIP. Contact City's Risk Manager to determine potential liability exposure.
<b>Material Gifts</b> (Objects of art, equipment, property, other tangibles)	<b>X</b>	<b>X</b>			If item has a value of \$5,000 or more, also provide ASD Director with documentation regarding value of gift for fixed assets accounting.
<b>Real Property</b> (Privately owned land and/or land improvements)	All gifts require approval from ASD Real Estate Division and should be referred there. Real Estate/ASD will submit a written recommendation to the City Council for acceptance or rejection of the gift.				