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To: Unclassified City Employees and Others Covered by the City's Ethics Ordinance

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Gift Laws Aren't on Holiday: **Ethics Law Reminders for the Holiday Season**

As the holidays begin, and the season of gift-giving and department celebrations is upon us, the Ethics Commission provides this reminder of the gift laws you will want to keep in mind.

Please note that this advice is provided for those who are subject to the City's Ethics Ordinance, which includes all unclassified City employees, agency members, City consultants, and board and commission members who file FPPC Form 700 Statements of Economic Interests.

We provide this guidance to assist your compliance. As noted at the end of this advisory, we welcome you to contact our office with any questions. For more detail, please see our Fact Sheet on gifts at <https://www.sandiego.gov/sites/default/files/acceptinggifts.pdf>

Gifts – Steps to Consider

During the holiday season, as you receive gifts, you will want to consider the following:

- Is what you received considered to be a “gift” under the law?
- Is the source of the gift designated in your conflict of interest code as a “reportable source”?
- Do any exceptions apply?
- What is the value of the gift? Does its value require disclosure on your Form 700, or exceed the \$590 annual gift limit from a single, reportable source?

Gifts – Required Disclosures and Limits

A gift is generally defined in the City's Ethics Ordinance to include anything of value that confers a personal benefit on you - unless you have provided something of equal or greater value in exchange. Generally, if someone gives you something that you did not pay for, work for, or trade for, you have received a gift.

As a Form 700 filer, your conflict of interest code will establish the gifts you have to report. If you work for a department or agency, the first step is to review your entity's conflict of interest code and the requirements for your position. (See <https://www.sandiego.gov/city-clerk/elections/eid/codes>) For example, your department's conflict code may require you to track gifts from those who live in the City of San Diego or do business with the City of San Diego. Only gifts from the reportable sources identified for your position in your conflict of interest code are subject to gift limits and reporting obligations.

Gifts from reportable sources must be disclosed once their value, taken together, exceeds \$50 in a calendar year.

If you accept any gifts from reportable sources, you may not accept gifts that exceed a total of \$590 for all gifts received from the source in the same calendar year. However, if you accept one or more gifts that push the cumulative value over \$590, you will not exceed the limit if, within 30 calendar days, you reimburse the donor to reduce the amount to \$590 or less or donate the gift to a section 501(c)(3) nonprofit entity.

If you are what is known as a "high-level filer," then every gift you receive is from a reportable source and (unless an exception applies) subject to gift limits and reporting obligations. High-level filers include the Mayor, the City Attorney, City Auditor, City Treasurer, and members of the City Council, Planning Commission, Funds Commission, Retirement Board, and the Defined Contribution Plan Board.

Exceptions to the Definition of "Gift"

Regardless of your filing status, there are many exceptions to the gift rules in the Ethics Ordinance. Some of the most common are:

- items received from family members;
- items received from someone, other than a lobbyist, with whom you have a social relationship. This applies if you alternate paying for items, as long as you substantially paid for the items received over the previous 12 months.
- items received from someone, other than a lobbyist, with whom you have a personal or business relationship unrelated to your City position, as long as you

haven't participated in the types of City decisions that could financially impact the gift giver, and there is no reason to believe you will do so in the future.

- items exchanged as part of a bona fide dating relationship, but only if the significant other is not a lobbyist or someone with business in front of the City;
- presents commonly exchanged between you and anyone other than a lobbyist on holidays, birthdays, and similar occasions as long as the presents exchanged are similar in value;
- the cost of hospitality provided to you by someone in their home, as long as those costs are not reimbursed by another person or deducted as a business expense.

Other exceptions that may be less significant in the context of the holiday season include those for:

- rebates or discounts available in the regular course of business to members of the general public (for example, when a discount is offered to all City employees);
- attendance at a seminar that will assist you in the performance of your official duties, although a meal served at the seminar is not included within this exception;
- attendance at an invitation-only event when you do not stay for the meal or feature entertainment and only eat appetizers and have a drink.

Department Raffles

A City department may choose to hold a raffle during the holiday season. If so, it is important to note that there is a gift exception for items awarded in an agency raffle, when the items are received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when: (1) an agency holds an employee raffle, and (2) the item awarded in the raffle has been obtained with agency funds or is otherwise an asset of the agency and not donated to the agency by a non-agency source. This exception does not apply to passes or tickets, as described in a state regulation. If you have questions regarding passes or tickets, please contact our office.

These are just a few examples of the gift laws to keep in mind this holiday season. We encourage you to contact our office with any questions, by emailing ethicscommission@sandiego.gov or calling (619) 533-3476. We also invite you to visit our website, www.sandiego.gov/ethics

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The Ethics Commission is an independent City entity dedicated to monitoring, enforcing, and reforming the City's ethics laws. The Commission has jurisdiction over City laws regulating ethics, campaigns, and lobbying. Commission staff provide the regulated community with education and advice regarding governmental ethics laws, conduct investigations, audit City campaign committees, and propose related legislation.