



CITY OF GLENDALE CALIFORNIA
REPORT TO CITY COUNCIL

February 2, 2010

AGENDA ITEM

Report: Consideration of adoption of policy regarding the distribution of tickets or passes received or purchased by the City, Redevelopment Agency or Housing Authority and distributed to city officials.
(1) Motion adopting written policy.

COUNCIL ACTION

Public Hearing [] Ordinance [] Consent Calendar [] Action Item [X] Report Only []
Approved for February 2, 2010 calendar

ADMINISTRATIVE ACTION

Submitted

Scott H. Howard, City Attorney

Signature

Prepared

Scott H. Howard, City Attorney

Approved

James Starbird, City Manager

Reviewed

Scott H. Howard, City Attorney

RECOMMENDATION

Staff recommends adoption of the written policy which ensures that tickets or passes provided by a third party to the City, GRA or Housing Authority are distributed in a manner which promotes a public purpose and is transparent..

REPORT

FPPC REGULATION 18944.1

On February 7, 2009 regulation 18944.1 (Title 2 CCR 18944.1) adopted by the Fair Political Practices Commission (FPPC) became effective. The regulation addresses the requirement to report the receipt of gifts in the form of tickets or passes to an Agency which are then distributed to a public official. The FPPC developed a form (Form 802) to facilitate reporting of the distribution of tickets or passes received by the Agency. The regulation requires that for the distribution of passes or tickets, the Agency must adopt a written policy reflecting the requirements and restrictions for the distribution of such tickets or passes.

The regulation is applicable when the City, GRA or Housing Authority receives a gift of tickets or passes, or purchases same and then intends to distribute them to an official. The policy defines "official" as any member, officer, employee or consultant of the City, GRA or Housing Authority.

Salient provisions of the attached draft policy (consistent with the FPPC regulation) are as follows:

- defines ticket or pass
- designates the city manager as the person responsible for administering the policy
- limits on Agency acceptance of tickets or passes
- distribution of the passes or tickets must be for a legitimate public purpose, including but not limited to, promotion of the following: business activity, community resources and programs, facilities available for residents use, city growth and development, tourism, city recognition. In addition, to improve inter-governmental relations, attendance at events for the purpose of meeting with other officials or business representatives regarding city interests, or rewarding significant academic, athletic or public service achievements in the community.
- Limitation on the transfer of a ticket or pass received if received under the policy.
- Posting of the policy and each report of distribution (Form 802) on the city's website.

There are some limited exemptions from the aforementioned for tickets or passes.

(1) tickets or passes provided to an official by a source other than the Agency where the official performs a ceremonial function on behalf of the agency, is not considered a reportable gift by either the official or the agency.

(2) if a pass or ticket is provided by the Agency to the official and is treated and declared as income by the official and reported as such by the Agency, the ticket or pass is not considered a reportable gift under the policy, but still must be reported on Form 802.

It should be noted that while the policy is required and increases transparency and accountability, in reality over the years, the City, Agency and Housing Authority rarely purchases or receives tickets or passes (as defined) for distribution to officials without charge.

FISCAL IMPACT

Minimal fiscal impact is expected. Requires one time permanent web posting of the policy and web posting of Form 802 when applicable.

EXHIBITS

2 CCR 18944.1
Form 802

TICKETS AND PASSES DISTRIBUTION POLICY

Section A. Purpose of Policy

The purpose of this Policy is to ensure that any ticket or pass provided to the City by any third party or purchased or obtained directly by the City, Redevelopment Agency or Housing Authority shall be distributed to City Officials by the City Manager in a manner that serves or promotes a public purpose of the City of Glendale, Redevelopment Agency and Housing Authority (collectively, the "City").

Section B. Definitions

For purposes of this Policy, the following words, terms and phrases shall have the following meanings:

1. "City Official" shall mean any member, officer, employee or consultant of the City, Redevelopment Agency, Housing Authority.
2. "City" shall mean and refer to the City of Glendale, Glendale Redevelopment Agency and Glendale Housing Authority.
3. "Gift" shall mean anything that is received by a City Official that the City Official did not provide consideration of equal or greater value for or that represents a rebate or discount that is not provided in the regular course of business to members of the public without regard to official status.
4. "Third party" shall mean the source of any ticket or pass, other than the "City".
5. "Ticket" or "pass" shall mean any ticket, pass, etc. that provides admission to a facility, event, show, or performance for entertainment, amusement, recreation or other similar purpose.

Section C. Administration of Policy

The City Manager shall be responsible for administering this Policy.

Section D. Tickets and Passes Distribution Policy

All tickets and passes offered or provided to the City by a third party or purchased or otherwise obtained directly by the City shall be subject to the following provisions:

1. The City shall not accept from any third party any ticket or pass that is specifically earmarked for use by a particular City Official whether by name or position, unless:
 - a. The ticket or pass is offered or provided to the City pursuant to the terms of a contract for use of City owned property.
 - b. The ticket or pass is offered or provided to the City as a result of an official City event that the City controls.
 - c. The ticket or pass is purchased by the City from the third party for full market value.
2. The City Manager or his or her designee shall document in writing the receipt of all tickets and passes provided to the City by a third party.
3. Tickets and passes shall only be provided to City officials by the City Manager or his or her designee for a legitimate public purpose of the City, as set forth in this Policy.
4. The City Manager or his or her designee shall decide, consistent with this Policy, which City Officials should be provided with a ticket or pass.
5. Within 30 days of distributing any ticket or pass pursuant to this Policy, the City Manager or his or her designee, shall complete and cause to be posted an FPPC Form 802 on the City's website. The posting on the website and a hard-copy shall both be retained for a period of 4 years.

Section E. Legitimate Public Purposes

Any ticket or pass provided to a City Official by the City shall not constitute a gift if provided and used by the City Official for any of the following purposes:

1. Promotion of business activity, development, and/or redevelopment within the City.
2. Promotion of community resources and programs available to City residents including but not limited to those resources and programs involving charitable and non-profit organizations.
3. Promotion of City resources available to City residents.
4. Promotion of City-operated, sponsored or supported community programs.
5. Promotion of private facilities available for City residents' use including but not limited to those facilities involving charitable and non-profit organizations.

6. Promotion of City facilities available for City residents' use.
7. Promotion of City growth and development.
8. Promotion of City tourism on a local, state, national or worldwide scale.
9. Promotion of City recognition, visibility and/or profile on a local, state, national or worldwide scale.
10. Promotion of open government by City Official appearances, participation and/or availability at business and/or community events.
11. Promotion of the improvement of inter-governmental relations.
12. Attendance at events sponsored by other governmental agencies, industry groups and non-profit organizations for the purpose of meeting and conferring with other governmental officials or business representatives regarding issues of interest to, or affecting, the City.
13. Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the City.
14. Encouraging or rewarding significant academic, athletic, or public service achievements by City students, residents or businesses.
15. Recognizing contributions made to the City by former or current City Council members or other City employees.

Section F. Exemptions

The following tickets and passes shall be exempt from the provisions of this Policy:

1. A ticket or pass received by a City Official directly from a third party that the City Official uses to perform a ceremonial role or function on behalf of the City.
2. A ticket or pass received by a City Official from the City where both the City Official and the City treat and report the value of the ticket or pass as income consistent with applicable state and federal income tax laws and the ticket is reported as income pursuant to the provisions of this Policy.

Section F. Prohibition Against Transfer

A City Official who receives a ticket or pass pursuant to this Policy is prohibited from

transferring or selling the ticket or pass to any other person, except to a member of the City Official's immediate family solely for their personal use.

Section G. Posting and Disclosure Requirements

This Policy shall be prominently posted on the City's website.

Rev. Feb 2010

(Regulations of the Fair Political Practices Commission Title 2, Division 6, California Code of Regulations)

§ 18944.1. Gifts: Tickets or Passes to Events.

For purposes of this regulation "ticket or pass" means admission to a facility, event, show, or performance for an entertainment, amusement, recreational, or similar purpose.

(a) Ticket or pass provided by source other than official's agency. A ticket or pass provided to an official for his or her admission to an event at which the official performs a ceremonial role or function on behalf of the agency is not a gift to the official.

(b) Ticket or pass provided to official by official's agency.

(1) When an agency provides a ticket or pass to an official of that agency, the ticket or pass is not subject to the provisions of this regulation, provided that the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the agency reports the distribution of the ticket or pass as income to the official in complying with the provisions of subdivision (d) below.

(2) When an agency provides a ticket or pass to a public official that otherwise meets the definition of gift under Section 82028 and is not exempt under applicable Commission regulations, the official will meet the burden under Section 82028 that equal or greater value has been provided in exchange therefor, provided that all of the following requirements are met:

(A) With respect to a ticket or pass from an outside source provided to an official by the official's agency:

(i) The ticket or pass is not earmarked by the original source for use by the agency official who uses the ticket or pass;

EXHIBIT

(ii) The agency determines, in its sole discretion, which official may use the ticket or pass.

(iii) The distribution of the ticket or pass by the agency is made in accordance with a policy adopted by the agency in accordance with subdivision (c) below.

(B) With respect to a ticket or pass provided by the official's agency to an agency official, which ticket or pass the agency obtains (i) pursuant to the terms of a contract for use of public property, (ii) because the agency controls the event (such as a state or county fair), or (iii) that is purchased by the agency at fair market value, the distribution of the ticket or pass is made in accordance with subdivision (c) below.

(c) Any distribution of tickets or passes under subdivision (b)(2) by an agency to, or at the behest of, its officials must be made pursuant to a written policy duly adopted by legislative or governing body of the agency that state the public purposes to be accomplished by the agency policy. If the agency maintains a website, the written policy shall be posted on the website in a prominent fashion. The written policy shall contain, at a minimum, the following:

(1) a provision setting forth the public purposes of the agency to be accomplished by the distribution of tickets or passes;

(2) a provision requiring that the distribution of any ticket or pass by the agency to, or at the behest of, an official accomplish a public purpose of the agency; and

(3) a provision prohibiting the transfer by any official of any ticket or pass, distributed to such official pursuant to the agency policy, to any other person, except to members of the official's immediate family solely for their personal use.

(d) The distribution of a ticket or pass pursuant to this regulation, including a ticket or pass that is provided to the official under subdivision (b)(1) above, shall be posted, on a form

provided by the Commission, in a prominent fashion on the agency's website, within 30 days after the distribution. If the agency does not maintain a website, the form shall be maintained as a public record, be subject to inspection and copying under Section 81008(a), and be forwarded to the Commission for posting on its website. The posting shall include the following:

(1) the name of the person receiving the ticket or pass, except that if the ticket or pass is distributed to an organization outside the agency, the agency may post the name, address, description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the names of each individual from the organization;

(2) a description of the event;

(3) the date of the event;

(4) the face value of the ticket or pass;

(5) the number of tickets or passes provided to each person;

(6) if the ticket or pass is behested, the name of the official who behested the ticket or pass; and

(7) a description of the public purpose under which the distribution was made or, alternatively, that the ticket or pass was distributed as income to the official.

(e) The Commission recognizes the discretion of the legislative or governing body of an agency to determine whether the distribution of a ticket or pass serves a legitimate public purpose of the agency, provided the determination is consistent with state law.

(f) The provisions of subdivision (b) apply only to the benefits the official receives by the admission and are not applicable to any other benefits the official may receive that are not included with the admission, such as food or beverages, or any other item presented to the official at the event.

Tickets Provided by Agency Report

A Public Document

TICKETS PROVIDED BY AGENCY REPORT

1. Agency Name		Date Stamp	California Form 802 For Official Use Only
Division, Department, or Region (if applicable)			
Street Address			
Area Code/Phone Number	E-mail	<input type="checkbox"/> Amendment (Must explain in Part 5.)	
Agency Contact (name and title)		Date of Original Filing: _____ (month, day, year)	

2. Event For Which Tickets Were Distributed

Date(s) of Event: ____/____/____ Description of Event: _____
 ____/____/____ Face Value of Ticket: \$ _____

Agency Event Yes No (Identify source of tickets below.)

Name of Outside Source of Ticket(s) Provided to Agency: _____

Number of Tickets Received: _____ Ticket(s) Provided to Agency: Gratuitously Pursuant to Contract

3. Agency Official(s) Receiving Ticket(s) (use a continuation sheet for additional names)

Name of Official (Last, First)	Number of Tickets	State Whether the Distribution is Income to the Official or Describe the Public Purpose for the Distribution

4. Individual or Organization Receiving Ticket(s) (Provided at the behest of an agency official.)

Name of Behesting Agency Official: _____

Name of Individual or Organization: _____ Number of Tickets: _____

Description of Organization: _____

Address of Organization: _____
Number and Street City State Zip Code

Purpose for Distribution: (Describe the public purpose for the distribution to the organization.)

5. Verification

I have determined that the distribution of tickets set forth above is in accordance with the provisions of FPPC Regulation 18944.1.

Signature of Agency Head or Designee _____ Print Name _____ Title _____ (month, day, year) _____

Comment: (Use this space or an attachment for any additional information including amendment explanation.)



Tickets Provided by Agency Report

California
Form **802**

A Public Document

This form is for use by all state and local government agencies to disclose the distribution of tickets or passes that allow admission to facilities, events, shows, or performances for entertainment, amusement, recreational, or similar purposes. The agency must complete Form 802 identifying agency officials who receive tickets or passes from the agency as well as other individuals and organizations that receive tickets or passes at the behest of agency officials. Form 802 must be posted in a prominent fashion on the agency's website.

Gifts of Tickets or Passes to Public Officials

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets or passes to or at the behest of an official in the agency does not result in a gift to the official. (Regulation 18944.1 is available on the FPPC website at www.fppc.ca.gov.) Even though the distribution of tickets or passes to a public official under the regulation is not a gift to the official, the agency must disclose the distribution on Form 802. The official does not have to disclose tickets or passes received or distributed under the regulation on his or her Statement of Economic Interests (Form 700), but tickets or passes received or distributed by the official that do not fall under the regulation may be subject to disclosure on the official's Form 700 and subject to gift limits.

Posting Form 802

The Form 802 must be posted on the agency's website within 30 days after the distribution. If the agency does not maintain a website, the form must be maintained by the agency as a public record, be available for public inspection and copying, and be forwarded to the FPPC for posting on its website.

Part 1. Agency Identification

List the agency's name, address and the name of an agency contact. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

Part 2. Event For Which Tickets Were Distributed

Provide the date(s) of the event, a description of the event, and the face value (i.e. the cost to the public) of the ticket or pass. Check the box indicating whether the event was an "agency event" (such as a county fair, or an event for which the agency purchased tickets). If the agency received the tickets from an outside source, identify the source, the number of tickets received, and check the box to identify whether the tickets or passes were provided to the agency:

- Gratuitously; or
- Pursuant to a contract.

Part 3. Agency Official(s) Receiving Ticket(s)

Disclose the name of each agency official that received a ticket or pass and the number of tickets or passes the official received. Also state whether the distribution is income to the official or describe the public purpose for which the official received the tickets or passes.

Part 4. Individual or Organization Receiving Ticket(s)

If tickets or passes were distributed to an individual or organization outside the agency, at the behest of an official of the agency, provide the name of the official. Disclose the name(s) of the individual(s) who received the tickets or passes and the number of tickets or passes provided. If the tickets or passes were provided to an organization, the agency may post the name, address, a description of the organization, and the number of tickets or passes provided to the organization in lieu of posting the name of each individual that received a ticket or pass. Also, describe the public purpose for the distribution to the individual or organization.

Part 5. Verification

The agency head or his or her designee must sign the form.

Privacy Information Notice

Information requested on all FPPC forms is used by the FPPC to administer and enforce the Political Reform Act (Government Code Sections 81000-91014 and California Code of Regulations Sections 18109-18997). All information required by these forms is mandated by the Political Reform Act. Failure to provide all of the information required by the Act is a violation subject to administrative, criminal, or civil prosecution. All reports and statements provided are public records open for public inspection and reproduction.

If you have any questions regarding this Privacy Act Notice, please contact the FPPC.

General Counsel
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814
(916) 322-5660

M O T I O N

Moved by Council Member _____,
seconded by Council Member _____, that the
Council of the City of Glendale hereby adopts a written policy
for the distribution of tickets and passes which are provided by
third parties or purchased by the City, Redevelopment Agency or
Housing Authority.

Vote as follows:

Ayes:

Noes:

Abstain:

Absent:

APPROVED AS TO FORM

CITY ATTORNEY
DATE 1-25-10