



ETHICS COMMISSION

CITY AND COUNTY OF SAN FRANCISCO

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January 30, 2017

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VICE-CHAIRPERSON

Ms. Minouche Kandel, Esq.
Women's Policy Director
Department on the Status of Women

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DAINA CHIU
COMMISSIONER

by email only: minouche.kandel@sfgov.org

QUENTIN L. KOPP
COMMISSIONER

RE: Informal Advice regarding gifts from Google to the Mayor's Task Force on Human Trafficking

LEEANN PELHAM
EXECUTIVE DIRECTOR

Dear Ms. Kandel,

On January 20, 2017, you wrote the Ethics Commission an email asking for advice regarding the applicability of San Francisco's Campaign & Governmental Conduct Code to the Mayor's Task Force on Anti-Human Trafficking's acceptance of certain gifts from Google, Inc. Because you wrote the letter asking for advice, the Commission analyzed the City's gift rules as applied to City employees. If Google, Inc. desires to secure advice from the Ethics Commission regarding its obligations under the law, including any restrictions that may be triggered by its gifts, it should seek advice from the Commission based on specific factual circumstances for analysis.

The Ethics Commission provides two kinds of advice: written formal opinions and informal advice. San Francisco Charter § C3.699-12. Written formal opinions are available to individuals who request advice about their responsibilities under San Francisco law. Formal opinions provide the requester with immunity from subsequent enforcement action if the material facts are as stated in the request for advice. *Id.* Informal advice does not provide similar protections. *Id.* Because your request seeks advice on behalf of several individuals without revealing the specific facts that apply to each individual, the Commission is treating your letter as a request for informal advice. In other words, this letter does not convey immunity from enforcement should you violate the provisions of SF C&GCC § 3.234(a)(2).

Relevant Facts

In March 2013, Mayor Ed Lee launched the Mayor's Task Force on Anti-Human Trafficking to review current efforts to improve the City's response to human trafficking and identify gaps in services for survivors. The Mayor's Task Force on Anti-Human Trafficking takes a comprehensive, victim-centered approach and includes partners from law enforcement, social

services agencies, and community based organizations. The Department on the Status of Women staffs the Task Force. The Task Force has general meetings every other month.

In your January 10 email, you advise that you are “coordinating a retreat” for the Task Force to take place on January 30th. Google, Inc. has offered to provide a conference room in one of their buildings free of charge for your retreat. Google, Inc. has also offered to provide food for the meeting. You expect twenty-five people to attend the meeting, and fourteen of those people are City officers or employees representing nine different departments.

Ethics Commission Staff corresponded with Google Chief of Public Policy and Government Affairs Rebecca Prozan to determine the market-rate cost for the conference room and estimated cost of food to be provided during the retreat. According to Staff’s research, the market rate for conference room space in San Francisco’s Financial District is approximately \$50-\$130 per hour. Assuming the retreat will last eight hours, the value of the conference room is between \$400 and \$1,040 per day. Ms. Prozan informed Staff that catering the retreats will cost approximately \$1,000, or \$40 per attendee.

Applicable Law

1. Disclosure of Sources of Outside Department Funding, Sunshine Ordinance § 67.29-6

Sunshine Ordinance § 67.29-6 prohibits City employees from accepting any money, goods, or services worth more than \$100 to carry out or assist any City function unless the amount and source of all such funds is disclosed as a public record and made available on the website for the department to which the funds are directed. For the purposes of the Task Force’s retreat, the Ethics Commission does not have enough information to determine whether the conference room space Google hopes to provide benefits the Department on the Status of Women or the Mayor’s Office. Documents regarding these gifts shall be subject to disclosure pursuant to public records requests.

2. Gifts, Political Reform Act §§ 82028, 89503 and San Francisco Campaign & Governmental Conduct Code § 3.216

“Gift” means “any payment that confers a personal benefit on the recipient, to the extent that consideration of equal or greater value is not received and includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status.” Political Reform Act (PRA) § 82028.

Local elected officers, candidates for local elective office, local officials specified in Government Code Section 87200, and judicial candidates, may not accept gifts from any single source totaling more than \$470 in a calendar year. PRA § 89503. Moreover, City employees who are designated to file Statements of Economic Interest (Form 700) in the agency’s conflict of interest code may not accept gifts from any single source totaling more than \$470 in a calendar year if the employee is required to report receiving income or gifts from that source on his or her Form 700. PRA § 89503(c). San Francisco’s list of designated Form 700 filers can be found at SF C&GCC § 3.1-100, *et. seq.*

We understand that Google intends to provide conference room space valued at approximately \$1,000 for the Task Force's benefit, but the conference room will not confer a "personal benefit on the recipient." On the other hand, Google's gift of food to be consumed by each individual attendee confers a personal benefit, but the gift of food totals \$40/attendee—well below the \$470 gift limit.

In addition to the gift limits and reporting requirements imposed by the Political Reform Act, no officer or employee of the City and County may solicit or accept any gift from a person who the officer or employee knows or has reason to know is a "restricted source." SF C&GCC § 3.216(b). A restricted source is "a person doing business with or seeking to do business with the department of the officer or employee; or a person who during the prior 12 months knowingly attempted to influence the officer or employee in any legislative or administrative action." *Id.* at (b)(1). By regulation, the Ethics Commission exempts voluntary gifts, other than cash, "with an aggregate value of \$25 or less per person . . ." Regulation 3.216(b)-5, available at <https://sfethics.org/ethics/2011/06/regulations-related-to-conflicts-of-interest.html>.

The Ethics Commission does not have enough information to determine whether Google qualifies as a restricted source for any of the Task Force members or meeting attendees. If Google qualifies as a restricted source, the affected City officer or employee would be barred from accepting gifts from Google over \$25 in value. Again, because the conference room does not confer a personal benefit on any individual employee, the only known affected gift is food.

3. Statements of Economic Interest, Political Reform Act § 87300 and San Francisco Campaign & Governmental Conduct Code § 3.1-101 (incorporating 2 C.C.R. § 18730)

The Political Reform Act requires public officials to disclose their personal financial information, so the public may review that information and be knowledgeable that the official is not using his/her decision-making authority to affect his/her personal financial interests. A gift must be reported on designated filer's Form 700 if its fair market value is \$50 or more and Google falls in the employee's disclosure category. Because the Google's gift of food is valued at \$40/attendee, the gift of food need not be reported on any attendee's Form 700. However, if Google provides unexpected gifts, such as Google-branded gear, to retreat attendees, the fair market value of the gear would likely push the gift over the \$50 reporting limit.

4. Incompatible Activities, San Francisco Campaign & Governmental Conduct Code § 3.218

San Francisco Campaign & Governmental Conduct Code section 3.218 prohibits a City officer from engaging in any employment, activity, or enterprise that her department, board, commission or agency has identified as incompatible in a Statement of Incompatible Activities (SIA). SF C&GCC § 3.218(a). You disclosed the following departments as having representatives present for the Task Force retreat: Board of Supervisors, Department of Public Health, Human Services Agency, District Attorney's Office, Department on the Status of Women, Mayor's Office, Office of Small Business, Public Defender, Department of Public Health, Police Department. Staff reviewed each agency's Statement of Incompatible Activities and finds no restrictions applicable to Google's gifts of conference room time or food.

Thank you for the opportunity to provide informal guidance as you have prepared for the retreat on January 30th. If you have any follow up questions, please contact me at the number listed below.

Sincerely,

/s LeeAnn Pelham
LeeAnn Pelham
Executive Director
(415) 252-3100