



<b>Policy Type</b>	General Administrative Practices
<b>Policy Name</b>	AR 37, Gift and Donation Acceptance Policy
<b>Resolution Number</b>	2021-0158,
<b>Effective Date</b>	March 17, 2021

## PURPOSE

This policy:

1. Establishes rules for accepting donations to the County, and describes the interaction of those rules with donations to Friends of Tulare County.
2. Establishes a policy in accordance with Fair Political Practices Commission (FPPC) Regulation section 18944 regarding donations to the County which might otherwise have to be considered gifts to individual County officials, and the limitations of certain donations of travel under FPPC Regulation 18950.1.

## POLICY FOR THE ACCEPTANCE OF DONATIONS

General donations are those which are not intended to be used by an individual public official. Pursuant to the authority of Government Code section 25355, the Board of Supervisors may accept or reject any gift, bequest, or devise made to or in favor of the County; or to or in favor of the Board in trust for any public purpose. The Board may hold and dispose of the property and the income and increase thereof for those lawful uses and purposes as are prescribed in the terms of the gift, bequest, or devise.

As authorized by this statute, the Board may delegate to any County officer or employee the power to accept any gift, bequest, or devise made to or in favor of the County, with such limitations as the Board may determine, provided the officer or employee shall file with the board at least quarterly a report that describes the source and value of each gift valued in excess of ten thousand dollars (\$10,000) or any other amount as determined by the board.

Pursuant to Government Code section 25356, if any gift, bequest, or devise is unaccompanied by any provision prescribing or limiting the uses and purposes to which the property received, or the income or increase thereof, may be put, it may be put to any uses and purposes which the Board prescribes, and the proceeds or income therefrom shall be paid into the general fund of the County.

### 1. GENERAL DONATIONS

The County has three thresholds for accepting general donations.

#### A. Donations which may be accepted by a County Department/Agency.

1. County Department/Agency Heads may accept any gift or bequest of personal property earmarked for use by that department/agency with an individual value of \$1,500 or less.
2. Department/Agency Head shall report to the Board of Supervisors twice each year in September and March regarding all such gifts, except, if gifts from a single source within a single fiscal year reach an



aggregate value in excess of \$10,000, quarterly reports to the Board are required thereafter.

B. Donations which may be accepted by the County Librarian.

1. The County Librarian may accept any gift or bequest of personal property to the Library with an individual value of \$10,000 or less.
2. The Librarian shall report to the Board of Supervisors twice each year in September and March regarding all such gifts, except, if gifts from a single source within a single fiscal year reach an aggregate value in excess of \$50,000, quarterly reports to the Board are required thereafter.

C. Donations which may be accepted by the County Administrative Officer.

1. With the exception of the donations accepted by any Department/Agency described above, all individual donations with a value of \$15,000 or less may be accepted by the County Administrative Officer.
2. The County Administrative Officer shall report to the Board of Supervisors twice each year in September and March regarding all such gifts, except, if gifts from a single source within a single fiscal year reach an aggregate value in excess of \$75,000, quarterly reports to the Board are required thereafter.

D. Donations which must be accepted by the Board of Supervisors.

1. Donations with an individual value of more than \$15,000 shall be accepted by formal action of the Board of Supervisors.
2. The donee department, if any, or the County Administrative Office, if the gift is general, shall be responsible for the agenda item.

## 2. DONATIONS FOR USE BY INDIVIDUAL OFFICIALS

Donations which must be used by an individual official (such as a gift basket, or travel and lodging) may be made to the County in such a way that the donation does not need to be reported as a gift to the individual public official. This section of the policy is pursuant to FPPC Regulations (tit.2, Cal. Code Regs.) sections 18944 and 18950.1, and does not include the distribution of tickets or passes under FPPC Regulation section 18944.1 (see Administrative Regulation No. 46).

“Donation” means a payment, distribution, transfer, loan, advance, deposit, gift or other rendering of money, property, services or anything else of value, whether tangible or intangible, including the payment for, or provision of, fees, goods or services to the County, where:

- A. The person providing the payment has no legal obligation to do so; and
- B. The donation would otherwise be subject to disclosure as a gift to the official (e.g., a single gift from one donor worth \$50 or more).

(Note: see separate AR re distribution of tickets.)

### Donations Subject to Section 18944 (Gifts Other than Travel or Lodging)

In order for a donation subject to this section of the policy to be considered a gift to the County, and not a gift to an individual public official, ALL of the following requirements must be met:



- A. The donation must be used for official County business.
- B. The County Administrative Officer, or his or her designee, must determine and control the County's use of the donation. The donor may identify a purpose for the donation, but the donor may not designate by name, title, class, or otherwise, an official who may use the donation. If the donation will provide a personal benefit to an official, the County Administrative Officer, or his or her designee, shall select the individual who will use it. The County Administrative Officer, or his or her designee, may select himself or herself as the individual who will use the donation, provided that the donation is for an item that provides for general use by County officials, and the County Administrative Officer or designee is one of those officials who will have access to such use.
- C. The gift must be reported, posted, and retained as required by FPPC Regulation section 18944:
  1. The gift must be reported on the appropriate FPPC form. The following information must be included on the form:
    - a. A description of the donation, the date received, the intended purpose, and the amount of the donation (or the actual or estimated fair market value of the goods or services provided, if the amount is unknown).
    - b. The name and address of the donor. If the donor is not an individual, the report shall also describe the business activity, or the nature and interests of the entity. If the donor has raised funds from other persons for the specific purpose of making the donation to the County, the report shall contain the names of and amounts given by these persons.
    - c. The County's use of the donation, and the name, title, and department of the County official for whom the donation was used.
  2. The form must be signed by the County Administrative Officer or his or her designee, and must be maintained by the County as a public record subject to inspection and copying under Section 81008(a).
  3. For any quarter year in which payments aggregating to \$2,500.00 or more since the last filing are received by the County, the form, or a detailed summary of the information on the form, shall be filed with the Clerk of the Board of Supervisors, within 30 days after the close of the quarter. The Clerk shall post a copy of the completed form on the County website in a prominent fashion, within 30 days after the close of the quarter.

### **3. DONATIONS OF TRAVEL OR LODGING, SUBJECT TO SECTION 18950.1**

A. Under FPPC Regulation section 18950.1, a gift

of travel and/or lodging intended to facilitate the public's business need not be considered a gift or income to the individual official, merely because the payment is provided by someone other than the County.

The rules under section 18950.1 are as follows:

- A. The donation must be made directly to or coordinated with the County. This means:
  1. The donation must be made directly to the County, or by arranging with the County any payments for transportation and lodging that are made directly to the provider of those services.



2. Food may be accepted for attendance at an event where food is provided as part of the admission to the event. All other payments for food must be made to the County pursuant to the County's per diem travel policy.
- B. The donation must be used for official County business. This means any of the following:
1. The donation is made pursuant to a provision in a contract that requires the contracting party to pay any expenses associated with any required governmental travel resulting from the County's participation in the contract and the payment is used for that purpose.
  2. The donation is made for the travel expenses of an official for the purpose of performing a regulatory inspection or auditing function that the County is mandated to perform.
  3. The donation is made for the travel expenses of an official and the official is attending solely for purposes of providing training or educational information directly related to the County's functions or duties under the laws that it administers for individuals who are affected by those laws, and the payment is made by an organization to provide such training for its members.
  4. The donation is made for the travel expenses of an official to an educational conference directly related to the County's functions or duties under the laws that it administers, the official is a named presenter at the conference, and the payment is made by the organizers of the event.
  5. The donation is made for the travel expenses of an official for the purpose of receiving training directly related to the official's job duties and the payment is provided by an organization that commonly provides such training.
  6. The donation is made for food provided to all attendees at a working group meeting in which the County official participates as a representative of the County in a working group meeting under his or her officially assigned job duties and the County is authorized to provide an official to attend the meeting.
  7. The payment is for travel expenses that are required to attend a location to view an in place operation, structure, facility, or available product where the viewing 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 pursuant to the jurisdictional authority of the County.
- C. The County must determine the official who will make use of the donation. If the payment is for expenses related to an oral presentation to either provide training on a subject on which the County provides training, or discuss policy and direction in implementing the functions of the County, the donor may request the official who is most qualified to make the presentation.
- D. The donation cannot provide a personal benefit to the official who makes use of the payment. This means:
1. The travel must be for purposes approved by the County under the same requirements applicable to travel using County funds, and the official is representing the County in the course and scope of his or her official duties.
  2. The travel expenses must be limited to no more than the expenses allowable for travel for County business paid at County expense.
- E. Limitations on application of exception:
1. The exception for a donation of travel expenses does not apply if the donation is made for travel by an elected County official, or a County official listed in Government Code section 87200, unless the transportation, lodging, and food is directly related to the official's public duties, is for a purpose that would otherwise be



paid for with County funds, is authorized in the same manner as transportation, lodging, and food using County funds, and otherwise meets the requirements of FPPC regulation section 18950.1.

“Elected County official,” for purposes of this limitation, means:

- Member of the Board of Supervisors,
- Assessor/County Clerk-Recorder,
- Auditor-Controller/Treasurer-Tax Collector,
- District Attorney-Public Administrator,
- Sheriff-Coroner,
- A person who has been elected to one of these offices but has not yet taken office, and
- A candidate for one of these offices.

(Note: the restriction applies even if the person is appointed to the elected office.)

The additional officials listed in Government Code section 87200 are:

- Chief Administrative Officer
- County Counsel,
- Members of the Planning Commission, and
- Other public officials who manage public investments (i.e., certain subordinate employees in the Treasurer’s office).

(Note: for the employees listed in this statute, the restriction applies only to the individual person holding the specified position, and not to any other deputies or subordinates in those departments.)

2. The exception for a donation of travel expenses does not apply if acceptance of a pass or discount from a transportation company by a public official would violate Article XII, Section 7 of the California Constitution.

#### 4. FRIENDS OF TULARE COUNTY

Although donations to the County are deductible from income taxes, just like any other charitable contribution, some donors prefer to donate only to a private entity which is eligible for charitable contributions pursuant to Internal Revenue Code section 501(c)(3). If a potential donor to the County has such a preference, the potential donor should be directed to Friends of Tulare County (FOTC), through the County of Tulare Health & Human Services Agency, which serves as FOTC staff.

If such a potential donor wishes to donate a restricted gift to FOTC for ultimate use by the County, County staff assigned to serve as FOTC staff shall coordinate with the department ultimately intended to use the gift, to ensure that the County is willing and able to use the gift in the restricted manner. If the potential gift is not logically limited to use by a particular department, the CAO shall be the coordinating department. County staff assigned to serve as FOTC staff shall ensure that these restricted gifts are accounted for properly until actually accepted by the County.

County staff assigned to serve as FOTC staff may accept gifts to FOTC without reference to the thresholds for departments in accepting gifts to the County. Instead, they shall follow the procedures set by FOTC for its staff in accepting and reporting gifts to FOTC.