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## **BOARD OF DIRECTORS REGULAR MEETING**

### **AGENDA**

**JUNE 22, 2023 – 3:00 P.M.**

Walnut Creek City Hall, 3<sup>rd</sup> Floor Conference Room  
(Use elevator by City Council Chambers)  
1666 North Main Street, Walnut Creek

**1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

When addressing the Board, please state your name, company and/or address for the record. There is a three-minute limit to present your information. (The Board Chair may direct questions to any member of the audience as appropriate at any time during the meeting.)

**3. CONSENT ITEMS**

All items listed in the Consent Calendar may be acted upon in one motion. However, any item may be removed from the Consent Calendar by request by a member of the Board, public, or staff, and considered separately.

- a. Approve Minutes of the Regular Board Meeting on May 25, 2023\*

**4. ACTION ITEMS**

- a. Franchise Procurement Process Integrity Policy\*  
Approve the Process Integrity Policy.

**5. INFORMATION ITEMS**

These reports are provided for information only. No Board action is required.

- a. Executive Director's Monthly Report\*  
b. Future Agenda Items\*  
c. Update on Republic's Collection Service Quality Metrics\*

## 6. BOARD COMMUNICATIONS AND ANNOUNCEMENTS

## 7. ADJOURNMENT

*\*Corresponding Agenda Report or Attachment is included in this Board packet.*

### ADDRESSING THE BOARD ON AN ITEM ON THE AGENDA

Persons wishing to speak on PUBLIC HEARINGS and OTHER MATTERS listed on the agenda will be heard when the Chair calls for comments from the audience, except on public hearing items previously heard and closed to public comment. The Chair may specify the number of minutes each person will be permitted to speak based on the number of persons wishing to speak and the time available. After the public has commented, the item is closed to further public comment and brought to the Board for discussion and action. There is no further comment permitted from the audience unless invited by the Board.

### ADDRESSING THE BOARD ON AN ITEM NOT ON THE AGENDA

In accordance with State law, the Board is prohibited from discussing items not calendared on the agenda. For that reason, members of the public wishing to discuss or present a matter to the Board other than a matter which is on the Agenda are requested to present the matter in writing to RecycleSmart Board Secretary at least one week prior to a regularly scheduled Board meeting date. If you are unable to do this, you may make an announcement to the Board of your concern under PUBLIC COMMENTS. Matters brought up which are not on the agenda may be referred to staff for action or calendared on a future agenda.

### AMERICANS WITH DISABILITIES ACT

In accordance with the Americans With Disabilities Act and California Law, it is the policy of the Central Contra Costa Solid Waste Authority dba RecycleSmart to offer its public meetings in a manner that is readily accessible to everyone, including those with disabilities. If you are disabled and require special accommodations to participate, please contact RecycleSmart Board Secretary at least 48 hours in advance of the meeting at (925) 906-1801.

**REGULAR BOARD MEETING OF THE  
CENTRAL CONTRA COSTA SOLID WASTE AUTHORITY  
HELD ON MAY 25, 2023**

The Regular Board Meeting of the Central Contra Costa Solid Waste Authority's (CCCSWA's) Board of Directors convened at Walnut Creek City Hall, 3<sup>rd</sup> Floor Conference Room, 1666 North Main Street, Walnut Creek, Contra Costa County, State of California, on May 25, 2023. Chair Inga Miller called the meeting to order at approximately 3:00 P.M.

PRESENT: Board Members: Candace Andersen  
Newell Arnerich  
Ken Carlson  
Matt Francois  
Kerry Hillis  
Inga Miller, Chair  
Renee Morgan\*  
Cindy Silva  
\*Arrived after Roll Call

ABSENT: Board Members: Gina Dawson  
Teresa Gerring, Vice Chair  
Janet Riley  
Renata Sos

**Staff members present:** David Krueger, Executive Director; Janna McKay, Executive Assistant/Secretary to the Board; Grace Comas, Senior Accountant; Judith Silver, Senior Program Manager; Ashley Louisiana, Senior Program Manager; and Deborah L. Miller, CCCSWA Counsel.

**1. CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE**

Chair Miller led the Pledge of Allegiance.

**2. PUBLIC COMMENT ON ITEMS NOT ON THIS AGENDA**

No written comments were submitted, or oral comments made, by any member of the public.

**3. CONSENT ITEMS**

- a. Approve Minutes of the Regular Board Meeting on April 27, 2023
- b. Adopt Resolution No. 2023-05, Amended Maximum Rates for Container Push/Pull Service for Rate Year 9 (March 1, 2023 through February 29, 2024)

No written comments were submitted, or oral comments made, by any member of the public.

MOTION by Board Member Arnerich to approve Consent Items a. and b., as submitted. SECOND by Board Member Andersen.

MOTION PASSED unanimously by a voice vote.

#### 4. PRESENTATIONS

- a. 2023 Waste Reduction Student Scholarships  
Board of Director's Recognition and Presentation of 2023 Scholarship Awards to the Waste Reduction Student Scholarship Recipients

Chair Miller advised that the two scholarship recipients had prepared two impressive educational videos that had been made available to members of the Board.

Amanda Halte, Abbe & Associates, stated she had the privilege every year of working with the RecycleSmart Schools Team for High School students, and this year two environmental stewards and community educators stood out. She noted that the scholarship application process allowed staff to see what the students were doing, and they were doing a lot and were passionate about protecting the earth. She added that the scholarship applicant process was an efficient way to recognize those students who were often going on to environmental careers, which was the case with this year's two recipients. She also noted that both students held the Gold Award, the highest award in Girl Scouts.

Ms. Halte introduced Michaela Baak from Carondelet High School and Mary Laska from Acalanes High School. She provided the background of each, identified each recipient's project, explained that each had prepared a short video of their project (composting for Ms. Baak and a solid waste educational documentary for Ms. Laska), and displayed a portion of each of their videos at this time. She added that both would be attending UC Berkeley in the fall and both would be pursuing environmental courses at UC Berkeley.

Both Michaela Baak and Mary Laska were available at the meeting and the Board congratulated them for their projects and for raising awareness of environmental issues.

No written comments were submitted, or oral comments made, by any member of the public.

#### 5. ACTION ITEMS

- a. Recommended Approach to Procurement of 2027 Franchise(s)  
Direct staff to conduct a two-step procurement process for the new Franchise Agreement(s) that will go into effect on March 1, 2027. Step One, a procurement process for post-collection services; and Step Two, a separate competitive Request for Proposals (RFP) process for collection services.

Executive Director David Krueger reminded the Board that the current Franchise Agreements with Republic Services and Mt. Diablo Resource Recovery (MDRR) would expire on February 28, 2027 and it was important to start the planning for new Franchise Agreements now.

Mr. Krueger stated the Board had created an Ad Hoc Committee at its March meeting that would oversee the design and procurement of new franchises. At the April Ad Hoc Committee meeting, the Committee had decided to recommend to the Board a two-step competitive RFP process for the new agreements. He explained why that process had been chosen, why the new franchises would likely increase in cost, and why it was important for the Board to do all it could to find the best value and the best rate. He also noted that there might be a greater interest in the new Franchise Agreements from other providers than earlier thought. For those reasons, the Ad Hoc Committee had recommended a competitive approach in two steps to have an RFP for post-collection services and then go out to bid for collection services. He added that the separation of the process to increase competition would not preclude RecycleSmart from awarding everything to one company based on the proposals.

Mr. Krueger expressed his hope to issue a post-collection RFP in 2023 to be awarded in 2024, with the collection RFP to be issued in 2024 with an award by mid-2025, and attempt to give the collection contractor 20 months to obtain vehicles, which was one of the reasons to start early in the process given the time required to obtain vehicles.

ANTHONY MANN, Republic Services Area Vice President for the Northern California area, acknowledged that the service levels had not been acceptable, stated that service improvements were of the highest priority, and to that end Republic had made significant investments and added resources in terms of people, leadership and trucks, to be accountable to ratepayers. He had started to meet with some of the member agencies and looked forward to long-term relationships and strong partnerships. His hope was for fairly immediate improvements and stated that Republic Services was in it for the long-term partnership with RecycleSmart.

DAVE ADLER, Recology Vice President and Senior Director of Operations, stated that Recology would be interested in both steps and had the appropriate infrastructure in place in the near vicinity where they would be able to provide safe and reliable commitments and ensure that RecycleSmart and the member agencies would be in compliance with SB 1383. He wanted to participate in the process and be part of the opportunity.

Mr. Krueger responded to questions from the Board and explained the rationale for separating post-collection and collection services in a potentially different structure from what currently existed so that providers could bid on the structure for which they had the facilities to do so in a mix-and-match process. He noted that in the last process the Board wanted to make sure that all the collection services were provided by the same company, and in terms of post-collection there could be any combination of companies to provide those services.

Mr. Krueger also explained that the post-collection elements included landfill, composting, recyclable processing and multiple transfer stations given that in some cases those facilities were not nearby and might be a distance from the routes. There was also currently a contract with the East Bay Municipal Utility District (EBMUD) to process commercial food scraps and energy and there had been interest at RecycleSmart's retreat to franchise construction demolition, which could be another post-collection service to sort mixed construction debris. In addition, to further pursue a 75 percent diversion, the Board might also want to consider mixed-use processing and seek proposals on those types of collections, or expand the Reuse Program.

MOTION by Board Member Arnerich to accept the recommendation of the Ad Hoc Committee to direct staff to conduct a two-step procurement process for the new Franchise Agreement(s) that will go into effect on March 1, 2027. Step One, a procurement process for post-collection services; and Step Two, a separate competitive Request for Proposals (RFP) process for collection services. SECOND by Board Member Silva.

MOTION PASSED unanimously by a voice vote.

Board Member Morgan commented that Republic Services had invested in the community and many businesses in the last few years and had challenges given the situation with respect to drivers using sick days authorized by COVID regulations, and she asked the Board to keep that in mind when considering a new Franchise Agreement. She agreed with the need to go out to bid.

Chair Miller stated that with 10-year contracts it was a good idea to refresh, to address the needs of the agency, and to allow for internal and external dialogues, all which supported the need for the process, as recommended.

- b. Operations and Reuse Fund Budgets for Fiscal Year 2023-2024  
Adopt Operations Fund and Reuse Fund Budgets for Fiscal Year 2023-24, as set forth in Attachments A and B.

Executive Director Krueger recommended adoption of the Operations and Reuse Fund Budgets for Fiscal Year 2023-2024, noted they had been recommended for Board approval by the Finance and Administration Committee, and reported that not much would be changing. A 10 percent increase in overall expenses was expected, the majority to fund the process of drafting and procuring the new Franchise Agreements with consultants, legal fees and public outreach, a one-time expense.

CCCSWA Legal Counsel Deborah Miller explained, when asked about the member agency reserve account, that the Board had adopted a policy that allowed a member agency to use excess reserve funds consistent with RecycleSmart's purposes so long as the use was consistent, such as for rate smoothing or other solid waste, recycling or compost purpose. To access those funds, a member agency would submit a proposal to draw down on the reserve funds, a form would be filled out confirming the use and amount of the fund, and the Board would approve the amount.

Board Members described how some member agencies had used those funds in the past and it was noted that the reserve funds could be used to create markets for recyclables.

No written comments were submitted, or oral comments made, by any member of the public.

MOTION by Board Member Arnerich to adopt Operations Fund and Reuse Fund Budgets for Fiscal Year 2023-24, as set forth in Attachments A and B to the staff report dated May 25, 2023. SECOND by Board Member Morgan.

MOTION PASSED unanimously by a voice vote.

- c. Fiscal Year 2021-22 Funds in Excess of Reserve  
Direct staff to distribute the \$3,166,821 of FY 2021-22 funds in excess of the reserve to the individual Member Agency Reserve Funds in accordance with the General Fund Minimum Fund Balance Reserve and Application of Funds in Excess of the Reserve Policy.

Executive Director Krueger stated that in 2021, the Board had adopted a General Fund Minimum Fund Balance Reserve and set forth policy on what to do with reserves; maintain 20 percent in reserve and the rest to be used at the Board's discretion. There was a fund balance of \$4,297,600 with \$1,069,886 set aside as 20 percent reserve, leaving \$3,166,821 available for distribution to Member Agency Reserve Funds through an adopted formula based on the total amount of material collected by each agency. He identified the chart in the staff report dated May 25, 2023 to identify how much was available to each member agency.

No written comments were submitted, or oral comments made, by any member of the public.

MOTION by Board Member Andersen to direct staff to distribute the \$3,166,821 of FY 2021-22 funds in excess of the reserve to the individual Member Agency Reserve Funds in accordance with the General Fund Minimum Fund Balance Reserve and Application of Funds in Excess of the Reserve Policy. SECOND by Board Member Hillis.

MOTION PASSED unanimously by a voice vote.

## **6. INFORMATION ITEMS**

These reports provided for information only. No Board action required.

- a. Executive Director's Monthly Report

Executive Director Krueger referred to the pilot program for multifamily tenant Reuse & Cleanup services on Ascot Drive in Moraga which had occurred from May 16 to May 18, 2023.

Senior Program Manager Ashley Louisiana provided the details of the pilot program and thanked Kimberly Lam from Republic Services, Jim Nejedly from MDRR and the Town of Moraga's Public Works Department staff for partnering in that event. She explained that the Ascot Drive location had been chosen given the multifamily area and the illegal dumping issues related to student housing, and reported that three 30-yard dumpsters of garbage had been collected from the street in three days along with some reuse items and smaller household goods. The process had been repeated at the St. Mary's College campus during move out week, which had also been successful.

KIMBERLY LAM, Republic Services, reported that the pilot program had gone well and some previous illegal dumping appeared to have been addressed.

On the discussion, Board Member Andersen noted that Canyon was not part of the RecycleSmart service area in that Contra Costa County had a separate agreement for cleanup in that area.

There was no discussion. No written comments were submitted, or oral comments made, by any member of the public.

b. Future Agenda Items

No written comments were submitted, or oral comments made, by any member of the public.

c. Update on Republic's Collection Service Quality Metrics

Executive Director Krueger advised that in April there had been 1,288 calls, below the metric of 1,750 calls per month, showing an improvement in Republic's service quality. RecycleSmart had received 84 calls, most of which related to issues at Rossmoor.

No written comments were submitted, or oral comments made, by any member of the public.

The Board expressed a desire to better promote the Compost Giveaway program and to offer information on the dates of that program earlier given its popularity and the fact that sign-ups were required.

**7. BOARD COMMUNICATIONS AND ANNOUNCEMENTS**

There were no reports.

**8. ADJOURNMENT**

The Board adjourned at approximately 4:00 P.M. to the regular meeting scheduled for Thursday, June 22, 2023 at 3:00 P.M. in the Walnut Creek Offices.

Respectfully submitted by:

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Janna McKay, Executive Assistant/  
Secretary to the Board of the  
Central Contra Costa Solid Waste Authority,  
County of Contra Costa, State of California





Central Contra Costa Solid Waste Authority

# Agenda Report

**TO:** CCCSWA BOARD OF DIRECTORS  
**FROM:** FRANCHISE DESIGN AD HOC COMMITTEE  
 DAVID KRUEGER, EXECUTIVE DIRECTOR  
**DATE:** JUNE 22, 2023

**SUBJECT: FRANCHISE PROCUREMENT PROCESS INTEGRITY POLICY**

## SUMMARY

The Franchise Design Ad Hoc Committee recommends to the Board that it adopt the Process Integrity Policy that is included as Attachment A. The intent of Policy is to establish ground rules for how competitors for the franchised services that will be covered by the procurement will interact with members of the CCCSWA Board and staff in order to promote an equitable, transparent, fair, and defensible process. The Policy prohibits gifts from competitors to CCCSWA Board members, staff, and consultants, reiterates State restrictions on campaign contributions, and establishes a process for communications regarding the procurement.

## RECOMMENDED ACTION

1. Approve the Process Integrity Policy which is included as Attachment A.

## DISCUSSION

The Board endorsed the formation of the Franchise Design Ad Hoc Committee to provide the Board with recommendations on the structure and timing of the franchise procurement process. As part of its charge, the Ad Hoc Committee, in close collaboration with the Executive Director and CCCSWA Counsel, developed a Process Integrity Policy for the Board's consideration.

The purpose of that Policy is to: (1) establish ground rules for how competitors for the services that will be covered by the RFPs will interact with members of the CCCSWA Board and staff; (2) provide a fair opportunity for RFP respondents to compete to provide franchised services to this Authority; (3) create an impartial climate during the procurement process; (4) provide clear guidelines and requirements for all participants; and (5) achieve favorable rates and service levels for the public.

Process Integrity Policies are a best practice for public agencies in contexts such as this one, and a similar policy (Attachment B) was adopted by the CCCSWA Board during the procurement process for the current franchises. CCCSWA Counsel, staff and the Ad Hoc Committee updated and expanded

the previous policy to create the recommended policy for this procurement. The Ad Hoc Committee recommends its adoption now so that it takes effect at the very start of the procurement process.

The Policy applies to:

- All respondents and prospective respondents to an RFP or request for sole source negotiations related to the franchise agreement(s). “Respondents” includes all employees, agents, consultants, lobbyists, and any other individuals working on the Respondents’ behalf.
- All current and future CCCSWA Board members.
- All current and future CCCSWA staff.
- All consultants hired by CCCSWA to work on the procurement.

Gifts (as defined by California’s Political Reform Act) of any amount from Respondents to Board members, staff, and consultants are prohibited. This prohibition is more stringent than the requirements of established State law (the Political Reform Act).

Campaign contributions by Respondents to CCCSWA Board members are restricted. Campaign contributions of \$250 or less are permitted. However, campaign contributions by a respondent in excess of \$250 must be reported to the Board by the Board member, who then is prohibited from participating in decisions related to the franchise agreement(s). A Board member may return campaign contributions from Respondents that are in excess of \$250 in order to participate in decisions related to the franchise agreements. These restrictions on campaign contributions follow established State law.

Prior to the issuance of the RFP(s), communications about the procurement process between Respondents and CCCSWA Board members and staff are permitted, but must be disclosed to the Board by the Board member. Upon issuance of the RFP(s), communications on the topic of the procurement between Respondents and CCCSWA board members, staff, and consultants are only permitted with the contact person(s) who is designated by the Executive Director, following the procedures set forth in the RFP documents. There are no restrictions on communications that are unrelated to the new franchise procurement process.

Consultants who are engaged by CCCSWA in connection with this procurement process are bound by the Policy, including by the prohibitions against accepting gifts of any value from a respondent and against doing work for a respondent related to this procurement process.

RFP respondents are to highlight their strengths and refrain from criticizing other respondents in the process. Respondents who slander their competitors may be disqualified from being awarded a franchise.

The Policy takes effect upon Board adoption. The provisions regarding communications will be in effect until the final franchise agreement is awarded. The prohibition on gifts will be in effect from Board adoption of the policy until 12 months after the final franchise agreement is awarded. Per State law, the restrictions on campaign contributions extend until 12 months after the final Board decision regarding the franchises. State law additionally requires that any campaign contribution from a franchise competitor that exceeds \$250 (in the aggregate) received in the 12 months before a franchise decision must be disclosed on the record and the Board member would not be permitted to participate

in the franchise decision (unless the Board member cures by returning the portion of the campaign contribution greater than \$250).

The CCCSWA Board, staff, and consultants involved in the franchise procurement intend to employ careful, uniform, and equitable application of this Policy and the franchise procurement process and procedures (including RFP deadlines and requirements) developed by CCCSWA to advance the agency's purposes and the public interest.

Board members who do not follow the Policy may be disqualified from participating in any franchise decisions. Respondents who do not follow the Policy may be disqualified from being awarded a franchise. Staff and consultants who do not follow the Policy may be disqualified from working on the franchise procurement, and CCCSWA staff who do not follow the Policy may be subject to discipline.

An authorized representative of each respondent will be required to sign an acknowledgement of this Policy in order to submit a proposal.

The Policy is intended to allow for the exercise by Board members of their considered judgment as appropriate, while providing for clear rules that provide respondents and the public with predictability and clarity. CCCSWA Staff and the Board are committed to following the letter and the spirit of the Policy so that the procurement process is fair, equitable, transparent, civil, efficient and defensible.

#### ATTACHMENTS

- A. 2023 CCCSWA Process Integrity Policy
- B. 2012 CCCSWA Process Integrity Policy

## CCCSWA FRANCHISE PROCUREMENT PROCESS INTEGRITY POLICY

CCCSWA is currently in the process of drafting a new franchise agreement(s) for the collection and processing of solid waste, recyclables, and organics, and procuring vendor(s) to provide the franchised services. The intent of this CCCSWA Process Integrity Policy (“Policy”) is to provide a fair opportunity for all Respondents to compete to provide franchised services, create an impartial climate during the procurement proceeding, streamline the procurement process, and achieve favorable terms of service for the public.

The CCCSWA Board, CCCSWA staff, and CCCSWA consultants involved in the franchise procurement intend to employ careful, uniform, and equitable application of this Policy and the franchise procurement process and procedures (including RFP deadlines and requirements) developed by CCCSWA to advance the agency’s purposes and the public interest.

A sample schedule and application of this Policy is attached as a reference tool; the actual timeframe, sequence, and steps are subject to change.

All references herein to “Respondents” includes respondents and prospective respondents to a Request for Proposals (RFP) or a request for sole source negotiations related to franchise agreement(s), and all employees, agents, consultants, lobbyists, and other entities or individuals acting on their behalf.

### I. Campaign Contributions

Under state law Government Code section 84308, CCCSWA Board Members cannot accept from Respondents, and Respondents cannot provide, campaign contributions **greater than \$250** in the aggregate while the franchise procurement proceeding is pending and for 12 months after the Board makes the final decision in the franchise proceeding.

The CCCSWA franchise procurement proceeding is pending from the date this Policy is adopted until the date the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding). Note that CCCSWA may award franchise agreements sequentially over the course of the proceeding; the proceeding is expected to be complete when the Board awards the final franchise agreement. Because the franchise procurement proceeding may be pending for two or more years, more than one election cycle may be affected. If a candidate accepts the \$250 contribution limit from a Respondent in one election cycle, they may not be able to accept a contribution of any amount from the Respondent in the next election cycle.

State law provides certain opportunities for Board Members to cure; if the Board Member returns at least the portion of the campaign contribution that exceeds \$250 within 30 days from the time the Board Member knows, or should have known, about the contribution and the franchise procurement proceeding, the Board Member would be permitted to participate in the franchise procurement proceeding.

The state law limit on campaign contributions applies to any person that is not a current CCCSWA Board Member but is running for City/Town Council or Board of Supervisors and that is appointed to the CCCSWA Board after their election. Candidates that are newly appointed to the CCCSWA Board may need to promptly return campaign contributions greater than \$250 that were received from a Respondent within the last 12 months in order to participate in a CCCSWA franchise decision.

In summary, to assist Board Members and Respondents in complying with Government Code section 84308:

Respondents: (a) shall not make campaign contributions greater than \$250 in the aggregate to any CCCSWA Board Member from the date of the adoption of this Policy until 12 months after the date the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding); and (b) shall disclose on the record of the franchise procurement proceeding any contribution greater than \$250 made to a CCCSWA Board Member within the 12 months before a Board decision in the franchise procurement proceeding.

CCCSWA Board Members: (a) should not accept campaign contributions greater than \$250 in the aggregate from any Respondent from the date of the adoption of this Policy until 12 months after the date the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding); and (b) if a Board Member has received a campaign contribution greater than \$250 from a Respondent within 12 months prior to a decision on a franchise agreement, the Board Member must disclose receipt of the campaign contribution on the record, and will be disqualified from participating in the franchise proceeding, unless the Board Member returns the portion of the campaign contribution that exceeds \$250 within 30 days from the time the Board Member knows, or should have known, about the contribution and the franchise procurement proceeding.

Candidates for City/Town Council and Board of Supervisors: if appointed to the CCCSWA Board, should be prepared promptly to return campaign contributions greater than \$250 from a Respondent received within 12 months prior to the candidate's participation in a decision on a franchise agreement.

The full text of Government Code section 84308 as of June 22, 2023 is attached (note, however, that the law is subject to amendment and such amendments would apply). This Policy is intended to provide guidance to Board Members and Respondents on how the state law is expected to apply to CCCSWA's franchise procurement proceeding; to the extent of any inconsistency, state law governs over summaries or interpretations provided in this Policy.

## II. Gifts.

Under state law Government Code sections 81000 et seq. (the “Political Reform Act”), and the CCCSWA Conflict of Interest Code, CCCSWA Board Members, CCCSWA staff and certain consultants that make or participate in making decisions for CCCSWA must report on their Form 700 “Gifts” (as defined in the Act) from a single reportable source of \$50 to \$590 (in the aggregate), and may not accept Gifts from a single reportable source totaling more than \$590 (in the aggregate) in a calendar year (2023-2024 dollar thresholds; subject to change under state law).

This Policy prohibits Gifts **of any value** from a Respondent to a CCCSWA Board Member, staff, or consultant involved in the franchise procurement from the date this Policy is adopted and for 12 months after the Board makes the final decision in the franchise proceeding (or the agency formally terminates the franchise procurement proceeding). Thus, this Policy is intended to be **more restrictive** than state law.

New appointees to the CCCSWA Board should be prepared promptly to return upon appointment to the CCCSWA Board any Gifts that were received from a Respondent after the date of adoption of this Policy.

CCCSWA intends to apply the Fair Political Practices Commission regulations, interpretations, and other guidance on matters such as defining what constitutes a Gift, exceptions to the definition of Gift, determining the source of a Gift, and determining whether a payment is a behested payment. The Fair Political Practices Commission’s Limitations and Restrictions on Gifts, Honoraria, Travel and Loans (December 2022) is attached to this Policy for reference.

In summary:

Respondents: shall not make Gifts of any value to CCCSWA Board Members, or CCCSWA staff or consultants involved in the franchise procurement, from the date of the adoption of this Policy until 12 months after the date the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding).

CCCSWA Board Members: should not accept Gifts of any value from any Respondent from the date of the adoption of this Policy until 12 months after the date the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding).

CCCSWA Staff and Consultants Involved in the Franchise Procurement: shall not accept Gifts of any value from any Respondent from the date of the adoption of this Policy until 12 months after the date the Board awards the final franchise

agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding).

Nothing in this Policy is intended to relieve CCCSWA Board members, staff, or consultants from complying with the provisions of the Political Reform Act, the agency's Conflict of Interest Code, or other applicable law.

### **III. Communications**

Respondents, CCCSWA Board members, and CCCSWA staff and consultants involved in the franchise procurement are expected to adhere to the communications protocols described here.

This Policy applies to communications regarding the franchise procurement proceeding and the future provision of franchise solid waste, recycling, or organics services in CCCSWA's jurisdiction. This Policy does not apply to casual social communications, communications regarding the current franchise agreements, or communications unrelated to the new franchise procurement process or the provision of future franchise services. This Policy does not apply to oral communications made on the record at open and noticed public meetings, or written communications submitted to the full Board and that are part of the public record of CCCSWA. The Policy does not apply to communications at meetings organized by CCCSWA staff with Respondents.

#### **A. Prior to Release of Procurement Documents**

From the date of adoption of this Policy until the date CCCSWA first releases procurement documents for some or all future franchise services (e.g., Request For Proposals (RFP) or request for sole source negotiations), communication between Respondents and Board Members about the franchise procurement process or provision of any future services in CCCSWA's jurisdiction is permitted, subject to the disclosure requirements set forth herein.

Communications, oral or written, between Respondents and Board Members about the franchise procurement process or provision of any future franchise services in CCCSWA's jurisdiction, shall either (1) be disclosed orally by the Board Member to the Board of Directors at the next Board meeting, or (2) be disclosed in writing to the Board Secretary prior to the next Board meeting; the Secretary shall maintain such written disclosures as part of the public record of the CCCSWA and promptly provide copies of the written disclosure to the other Board Members. The disclosure shall apprise the Board and the public of the content of the communication.

#### **B. After Release of Procurement Documents**

After the date CCCSWA first releases procurement documents for some or all future franchise services, communications about the franchise procurement process or provision

of any future services in CCCSWA's jurisdiction shall be made only through a person or persons designated by the Executive Director as the point of contact for the agency.

The procurement documents will provide instructions for Respondents to make requests for clarification, object to the structure or content of the RFP, ask questions about the procurement, and make other inquiries, and the process CCCSWA will follow to respond to such communications.

Note that CCCSWA may release procurement documents for franchise services sequentially over the course of the proceeding; this section III.B applies when the first procurement documents in the proceeding are released. This communication protocol will expire when the Board awards the final franchise agreement in the proceeding (or the agency formally terminates the franchise procurement proceeding).

### **C. Civility**

To preserve civility in the franchise procurement proceeding, CCCSWA requests that Respondents focus their communications on the positive aspects of their company, proposal, and offered services, and refrain from engaging in disparaging communications about other Respondents. In extreme cases, (e.g., slander, libel) publicly engaging in such disparaging communications may result in the CCCSWA disqualifying a Respondent from award of a franchise.

## **IV. Further Restrictions for CCCSWA Consultants**

CCCSWA consultants involved in the franchise procurement shall not do any work for any Respondent in connection with this CCCSWA franchise procurement process from the date of the adoption of this Policy (or the date they are retained, whichever is later) until the consultant is no longer involved in the CCCSWA franchise procurement.

## **V. Application**

Respondents: By participating in the procurement, Respondents agree to adhere to this Policy, and are responsible for ensuring compliance with this Policy on behalf of their employees, agents, consultants, lobbyists, or other entities or individuals acting on their behalf. A Respondent's failure to adhere to any section of this Policy may result in the CCCSWA disqualifying the Respondent from award of a franchise.

CCCSWA Board Members: A CCCSWA Board Member's failure to adhere to any section of this Policy may result in the Board Member being disqualified from participating in any franchise decisions.

Staff and Consultants: Staff and consultants who do not adhere to the Policy may be disqualified from working on the franchise procurement, and CCCSWA staff who do not adhere to the Policy may be subject to discipline.



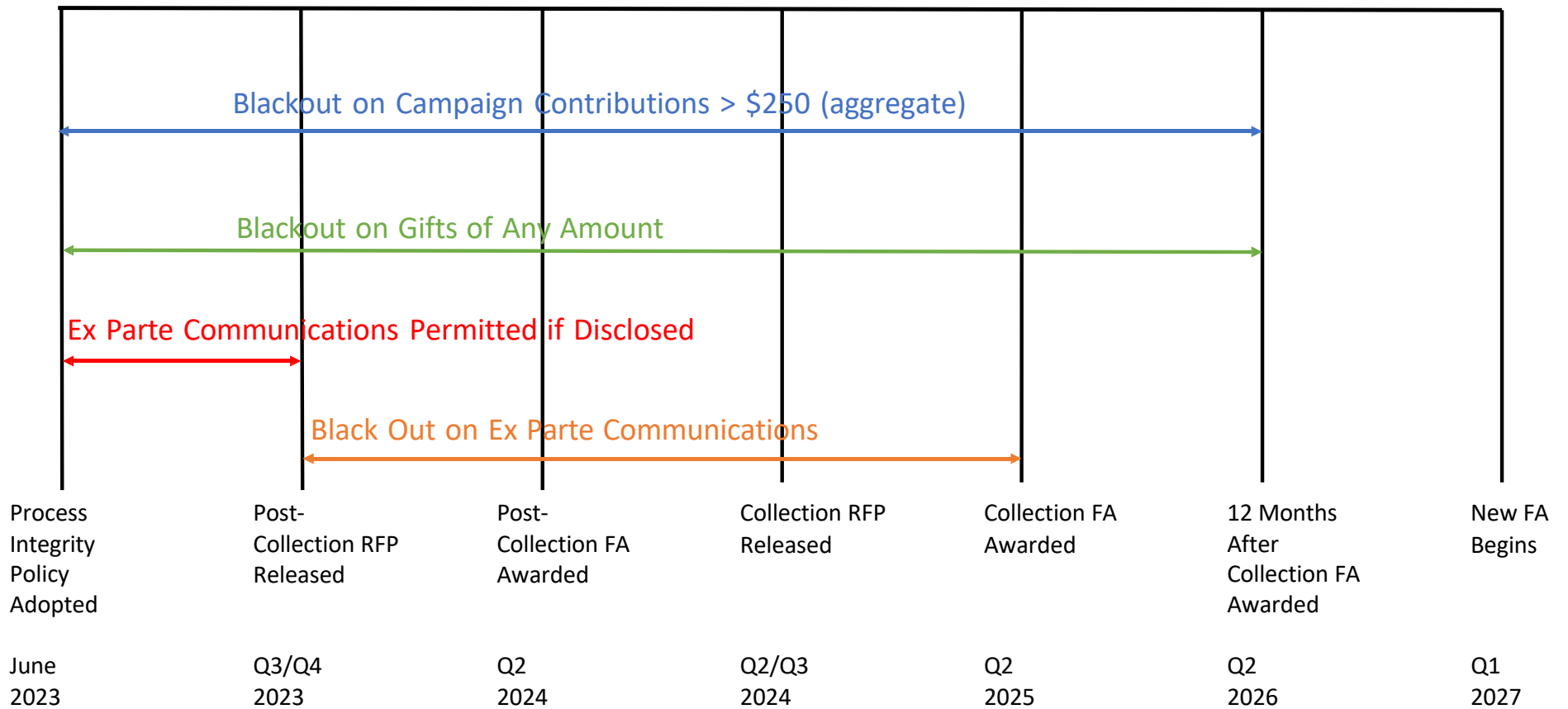
All federal, state, and local laws (and any updates to those laws) continue to apply. To the extent that a member agency of the CCCSWA has adopted campaign contribution laws that are more restrictive than state law or this Policy, this Policy is not intended to supersede those more restrictive laws. CCCSWA is aware that the City of Walnut Creek has adopted a campaign contribution ordinance that is more restrictive than state law.

Attachments:

- Sample Schedule
- Government Code section 84308
- FPPC Limitations and Restrictions on Gifts, Honoraria, Travel and Loans (December 2022)

## Sample Schedule and Application of Process Integrity Policy

\* Actual Timeframes, Sequence, and Steps Subject to Change \*



**State of California**

**Government Code**

**84308.**

(a) The definitions set forth in this subdivision shall govern the interpretation of this section.

(1) "Party" means any person who files an application for, or is the subject of, a proceeding involving a license, permit, or other entitlement for use.

(2) "Participant" means any person who is not a party but who actively supports or opposes a particular decision in a proceeding involving a license, permit, or other entitlement for use and who has a financial interest in the decision, as described in Article 1 (commencing with Section 87100) of Chapter 7. A person actively supports or opposes a particular decision in a proceeding if that person lobbies in person the officers or employees of the agency, testifies in person before the agency, or otherwise acts to influence officers of the agency.

(3) "Agency" means an agency as defined in Section 82003 except that it does not include the courts or any agency in the judicial branch of government, the Legislature, the Board of Equalization, or constitutional officers. However, this section applies to any person who is a member of an exempted agency but is acting as a voting member of another agency.

(4) "Officer" means any elected or appointed officer of an agency, any alternate to an elected or appointed officer of an agency, and any candidate for elective office in an agency.

(5) "License, permit, or other entitlement for use" means all business, professional, trade, and land use licenses and permits and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor, or personal employment contracts), and all franchises.

(6) "Contribution" includes contributions to candidates and committees in federal, state, or local elections.

(b) While a proceeding involving a license, permit, or other entitlement for use is pending, and for 12 months following the date a final decision is rendered in the proceeding, an officer of an agency shall not accept, solicit, or direct a contribution of more than two hundred fifty dollars (\$250) from any party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest, as that term is used in Article 1 (commencing with Section 87100) of Chapter 7. This prohibition shall apply regardless of whether the officer accepts, solicits, or directs the contribution on the officer's own behalf, or on behalf of any other officer, or on behalf of any candidate for office or on behalf of any committee.

(c) Prior to rendering any decision in a proceeding involving a license, permit, or other entitlement for use pending before an agency, each officer of the agency who received a contribution within the preceding 12 months in an amount of more than two hundred fifty dollars (\$250) from a party or from any participant shall disclose that fact on the record of the proceeding. An officer of an agency shall not make, participate in making, or in any way attempt to use the officer's official position to influence the decision in a proceeding involving a license, permit, or other entitlement for use pending before the agency if the officer has willfully or knowingly received a contribution in an amount of more than two hundred fifty dollars (\$250) within the preceding 12 months from a party or a party's agent, or from any participant or a participant's agent if the officer knows or has reason to know that the participant has a financial interest in the decision, as that term is described with respect to public officials in Article 1 (commencing with Section 87100) of Chapter 7.

(d) (1) If an officer receives a contribution which would otherwise require disqualification under this section, and returns the contribution within 30 days from the time the officer knows, or should have known, about the contribution and the proceeding involving a license, permit, or other entitlement for use, the officer shall be permitted to participate in the proceeding.

(2) (A) Subject to subparagraph (B), if an officer accepts, solicits, or directs a contribution of more than two hundred fifty dollars (\$250) during the 12 months after the date a final decision is rendered in the proceeding in violation of subdivision (b), the officer may cure the violation by returning the contribution, or the portion of the contribution in excess of two hundred fifty dollars (\$250), within 14 days of accepting, soliciting, or directing the contribution, whichever comes latest.

(B) An officer may cure a violation as specified in subparagraph (A) only if the officer did not knowingly and willfully accept, solicit, or direct the prohibited contribution.

(C) An officer's controlled committee, or the officer if no controlled committee exists, shall maintain records of curing any violation pursuant to this paragraph.

(e) (1) A party to a proceeding before an agency involving a license, permit, or other entitlement for use shall disclose on the record of the proceeding any contribution in an amount of more than two hundred fifty dollars (\$250) made within the preceding 12 months by the party or the party's agent.

(2) A party, or agent to a party, to a proceeding involving a license, permit, or other entitlement for use pending before any agency or a participant, or agent to a participant, in the proceeding shall not make a contribution of more than two hundred fifty dollars (\$250) to any officer of that agency during the proceeding and for 12 months following the date a final decision is rendered by the agency in the proceeding.

(3) When a closed corporation is a party to, or a participant in, a proceeding involving a license, permit, or other entitlement for use pending before an

**Agenda Item No. 4a**  
**Attachment A**

agency, the majority shareholder is subject to the disclosure and prohibition requirements specified in this section.

(f) This section shall not be construed to imply that any contribution subject to being reported under this title shall not be so reported.





# Limitations and Restrictions on Gifts, Honoraria, Travel and Loans

## *A Fact Sheet For*

- ♦ Local Elected Officers and Candidates for Local Elective Offices
- ♦ Local Officials Specified in Government Code Section 87200
- ♦ Judicial Candidates
- ♦ Designated Employees of Local Government Agencies

## California Fair Political Practices Commission

Toll-free advice line: 1 (866) ASK-FPPC

Email advice: [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov)

Web site: [www.fppc.ca.gov](http://www.fppc.ca.gov)

December 2022

# Introduction

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The Political Reform Act<sup>1</sup> (the “Act”) imposes limits on gifts, prohibits honoraria payments, and imposes limits and other restrictions on the receipt of travel payments received by:

- Local elected officers and other local officials specified in Government Code Section 87200,<sup>2</sup> excluding judges;<sup>3</sup>
- Designated employees of local government agencies (i.e., individuals required to file statements of economic interests under a local agency’s conflict of interest code); and
- Candidates<sup>4</sup> for any of these offices or positions and judicial candidates. (Sections 89502 and 89503.)

The Act also imposes limits and other restrictions on personal loans received by certain local officials.

The gift limit increased to \$590 for calendar years 2023 and 2024. The gift limit in 2022 was \$520.

This fact sheet summarizes the major provisions of the Act concerning gifts, honoraria, travel, and loans. It contains highlights of the law, but does not carry the weight of law. For more information, contact the Fair Political Practices Commission at (866) 275-3772 or [advice@fppc.ca.gov](mailto:advice@fppc.ca.gov) or visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). Commission advice letters are available on our website. Public officials may also be subject to local restrictions on gifts, honoraria, or travel.

## Enforcement

**Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Sections 83116, 89520, 89521, 91000, 91004 and 91005.5.)**

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> Local officials specified in Government Code Section 87200 include: members of boards of supervisors and city councils, mayors, city/county planning commissioners, city/county chief administrative officers, city/county treasurers, district attorneys, county counsels, city managers, city attorneys, court commissioners and public officials who manage public investments.

<sup>3</sup> The gift limits and honoraria ban in the Political Reform Act do not apply to a person in their capacity as judge. However, candidates for judicial offices are subject to the restrictions contained in the Political Reform Act. (Sections 89502 and 89503.)

<sup>4</sup> For purposes of the gift limit and honoraria prohibition, an individual becomes a “candidate” when they file a statement of organization (Form 410) as a controlled committee for the purpose of seeking elective office, a candidate intention statement (Form 501), or a declaration of candidacy, whichever occurs first. If an individual is an unsuccessful candidate, they will no longer be subject to the gift limit and honoraria prohibition when they have terminated their campaign filing obligations, or after certification of election results, whichever is earlier. (Sections 89502(b) and 89503(b).)



# Gifts

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## Limitations

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 \$590 in a calendar year. (Section 89503.)<sup>5</sup>

Employees of a local government agency who are designated in the agency's conflict of interest code may not accept gifts from any single source totaling more than \$590 in a calendar year if the employee is required to report receiving income or gifts from that source on their statement of economic interests (Form 700). (Section 89503(c).)

## What is a "Gift"?

A "gift" is any payment or other benefit that confers a *personal* benefit for which a public official does not provide payment or services of equal or greater value. A gift 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. (Section 82028.) (See Regulation 18946 for valuation guidelines.)

Except as discussed below, a public official has "received" or "accepted" a gift when they have actual possession of the gift or when they take any action exercising direction or control over the gift, including discarding the gift or turning it over to another person. This includes gifts that are accepted by someone else on the official's behalf and gifts made to others at the direction of the official. (Regulation 18941.)

## Gifts to Family Members

Under certain circumstances, a gift to an official's family member\* is considered a gift to the official. (Regulation 18943.) When something of value is given to a family member it is presumed to be a gift to the official if: (1) there is no established relationship between the donor and the family member where it would generally be considered appropriate for the family member to receive the gift or; (2) the donor is someone who lobbies the official's agency, is involved in an action before the official's agency in which the official may foreseeably participate, or engage in business with the agency in which the official will foreseeably participate. (Wedding gifts are treated differently, see below.)

\*For purposes of this rule, an official's "family member" includes the official's spouse; registered domestic partner; any minor child of the official who the official can claim as a dependent for federal tax purposes; and a child of the official who is aged 18 to 23 years old, attends school, resides with the official when not attending school, and provides less than one-half of their own support.

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<sup>5</sup> The gift limit is adjusted biennially to reflect changes in the Consumer Price Index. For 2023-2024, the gift limit is \$590. (Section 89503; Regulation 18940.2.) Gifts from a single source aggregating to \$50 or more must be disclosed, and gifts aggregating to \$590 or more during any 12-month period may subject an official to disqualification with respect to the source. (Section 87103(e).) Designated employees should obtain a copy of their conflict of interest code from their agency. Some conflict of interest codes require very limited disclosure of income and gifts. Gifts from sources that are not required to be disclosed on the Form 700 are not subject to the \$590 gift limit but still may subject the public official to disqualification.

**Source of Gift**

Under most circumstances, it is clear who the source of a gift is, but if the circumstances indicate that the gift is being provided by an intermediary, the public official must determine both the donor and the intermediary in reporting the gift. Regulation 18945 provides the rules for determining the source of the gift.

**Gifts from Multiple Sources**

In determining the cumulative value of any reportable gifts, separate gifts from an individual and an entity that the individual controls must be aggregated as one source to comply with the reporting and limit requirements. For example, separate gifts from the owner of a company and from the company itself would be treated as if from one source if the owner has more than a 50 percent interest in the company, unless the making of the gift was determined by someone else in the company. In that case, the gift from the company would be aggregated with any gifts made by that determining individual. (Regulation 18945.1.)

Group gifts, where a public official receives a single gift from multiple donors (such as a retirement gift from coworkers), need not be reported unless any person contributes \$50 or more to the total cost of the gift. In that case, the public official would only report a gift from each of those persons. (Regulation 18945.2.)

**Valuing Gifts**

The general rule for determining the value of a gift is to apply the fair market value at the time the gift is received. Fair market value can be determined by finding any local or internet advertisement for the item. Special exceptions to the fair market value rule are contained in Regulations 18946.1 through 18946.5 which covers admission to ticketed and invitation-only events, wedding gifts, attendance at nonprofit and political fundraisers, and air travel. (Regulation 18946.) For example, for ticketed events, the value is the face value of the ticket.

**General Gift Exceptions**

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

The following payments are exceptions to the definition of gift and are not considered gifts or income.

- 1. Return or Reimbursement of Gift.** Items that are returned (unused) to the donor, or for which the public official reimburse the donor, within 30 days of receipt. (Section 82028(b)(2); Regulation 18941.)
- 2. Donation of Gift to Nonprofit Group.** Items that are donated (unused) to a non-profit, tax-exempt (501(c)(3)) organization in which the official (or immediate family member) does not hold a position, or to a government agency, within 30 days of receipt without claiming a deduction for tax purposes. (Section 82028(b)(2); Regulation 18941.)
- 3. Gifts from Family.** Gifts from the public official's spouse (or former spouse), child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, unless they are acting as an agent or intermediary for another person who is the true source of the gift. (Section 82028(b)(3); Regulation 18942(a)(3).) This exception includes great grandparents, great uncles and aunts, great nieces and nephews, and first cousins once removed.
- 4. Informational Material.** Informational material provided to assist the public official in the performance of their official duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.

“Informational material” may also include scale models, pictorial representations, maps, and other such items. However, if the item’s fair market value is more than \$590, the public official has the burden of demonstrating that the item is informational. In addition, on-site demonstrations, tours, or inspections, including air flights over an area that is the subject of the information and designed specifically for public officials, are considered informational material. However, this exception does not apply to meals or lodging. Furthermore, the exception generally does not apply to transportation to the site, except for any portion of the transportation that is not commercially available. (Section 82028(b)(1); Regulations 18942(a)(1) and 18942.1.)

5. **Inheritance.** A devise or inheritance. (Section 82028(b)(5); Regulation 18942(a)(5).)

6. **Campaign Contributions.** Campaign contributions to an official, including rebates or discounts received in connection with campaign activities (Section 82028(b)(4); Regulations 18942(a)(4), 18950(a) and 18950.3(a)) and permissible expenditures of campaign funds for campaign-related expenses, including payments for transportation, lodging or food (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

7. **Plaques.** Personalized plaques and trophies with an individual value of less than \$250. (Section 82028(b)(6); Regulation 18942(a)(6).)

8. **Ceremonial Role.** Free admission to a ticketed event (including any benefits included in the price of the ticket such as a free meal) for the official and one guest at an event where the official performs a ceremonial role, such as throwing out the first pitch at a Dodgers’ game, so long as the official’s agency complies with the posting provisions set forth in Regulation 18944.1(d). (Regulation 18942(a)(13); Regulation 18942.3; also see discussion of Form 802 below under “Gifts Exceptions Requiring Alternate Reporting.”)

9. **Event Where Official Makes a Speech.** Free admission, and food and nominal items (such as a pen, pencil, mouse pad, note pad or similar item) available to all attendees, at the event at which the official makes a speech (as defined in Regulation 18950(b)(2)), so long as the admission is provided by the person who organizes the event. (Regulation 18942(a)(11).)

10. **Attending Wedding Reception.** Benefits received as a guest attending a wedding reception where the benefits are the same as those received by the other guests at the reception. (Regulation 18942(a)(15).)

11. **Bereavement Offerings.** Bereavement offerings, such as flowers at a funeral received in memory of a close family member. (Regulation 18942(a)(16).)

12. **Acts of Neighborliness.** Benefits received as an act of neighborliness such as the loan of an item, an occasional ride, or help with a repair where the act is consistent with polite behavior in a civilized society and would not normally be part of an economic transaction between like participants under similar circumstances. (Regulation 18942(a)(17).)

13. **Campaign or Nonprofit Fundraiser.** Two tickets for admission, for use by only the official and one guest, to attend a fundraiser for a campaign committee or candidate, or to a fundraiser for an organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The ticket(s) must be received from the organization or committee holding the fundraiser. (Regulation 18946.4.)

14. **Unused Passes or Tickets.** Passes or tickets that provide admission or access to facilities, goods, services, or other benefits (either on a one-time or repeated basis) that the public official does not use and do not give to another person. (Regulation 18946.1.)

15. **Items Provided to Government Agency.** Subject to certain conditions, items provided to a government agency and used by public officials in the agency for agency business. This may include

passes or tickets to (see Regulation 18944.1) or payments for other types of items or activities (see Regulation 18944). An agency must disclose specified payments on a form provided by the FPPC and post the form on its website. (See discussion of Forms 801 and 802 below under “Gift Exceptions Requiring Alternate Reporting.”) Contact the FPPC for detailed information.

**16. Emergency Leave Credits.** Leave credits (e.g., sick leave or vacation credits) received under a bona fide catastrophic or emergency leave program established by the public official’s employer and available to all employees in the same job classification or position. Donations of cash are gifts and are subject to limits and disclosure. (Regulation 18942(a)(9).)

**17. Disaster Relief.** Food, shelter, or similar assistance received in connection with a disaster relief program. The benefits must be received from a governmental agency or charity and must be available to the general public. (Regulation 18942(a)(10).)

**18. Agency Raffle.** Items awarded in an agency raffle received by the agency from an employee who is not acting as an intermediary for another donor. This exception applies when an agency holds an employee raffle and 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 of the type described in Regulation 18944.1. (Regulation 18944.2(a) and (b).)

**19. Employee Gift Exchange.** Items received by an employee during an employee gift exchange, so long as the items received are provided by another employee of the agency and the gifts are not substantially disproportionate in value. (Regulation 18944.2(c).)

**Limited Gift Exceptions**

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

**1. Home Hospitality.** Gifts of hospitality including food, drink or occasional lodging that an official receives in an individual’s home when the individual or a member of their family is present. (Regulation 18942(a)(7).) For this exception to apply, the official must have a relationship, connection or association with the individual providing the in-home hospitality that is unrelated to the official’s position and the hospitality must be provided as part of that relationship. Generally, this means functions like children’s birthday parties, soccer team parties, neighborhood barbeques, etc., where other guests attend who are not part of the lobbying process. (Regulation 18942.2.)

**2. Reciprocal Holiday Gifts.** Gifts commonly exchanged between an official and another individual on holidays, birthdays, or similar occasions to the extent that the gifts exchanged are not substantially disproportionate in value. (Regulation 18942(a)(8)(A).)

**3. Reciprocal Exchanges.** Reciprocal exchanges between an official and another individual that occur on an ongoing basis so long as the total value of payments received by the official within the calendar year is not substantially disproportionate to the amount paid by the official and no single payment is \$590 or more. For example, if two people get together regularly for lunches and rotate picking up the lunch tab so that each pays approximately half the total value over the course of the calendar year, no gift need be reported. (Regulation 18942(a)(8)(B).)

**4. Dating Relationship.** Personal benefits commonly received from a dating partner. These gifts are not disclosable or limited but are subject to disqualification under the conflict of interest laws if the dating partner has certain business before the official as set forth in Regulation 18942(a)(18)(D). (Regulation 18942(a)(18)(A).)

**5. Acts of Human Compassion.** Assistance, financial or otherwise, to offset family medical or living expenses that the official can no longer meet without private assistance because of an accident, illness, employment loss, death in the family, or other unexpected calamity; or to defray expenses associated with humanitarian efforts such as the adoption of an orphaned child, so long as the source of the donation is an individual who has a prior social relationship with the official of the type where it would be common to provide such assistance, or the payment is made without regard to official status under other circumstances in which it would be common to receive community outreach. (Regulation 18942(a)(18)(B).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

**6. Long-Time Friend.** Benefits received from a long-time personal friend where the gift is unrelated to the official's duties. The exception does not apply if the individual providing the benefit to the official is involved in some manner with business before the official. (Regulation 18942(a)(18)(C).) This exception does not apply if the person providing the benefit to the official is an individual who otherwise has business before the official as set forth in Regulation 18942(a)(18)(D).

**7. Existing Personal Relationship.** Benefits received from an individual where it is clear that the gift was made because of an existing personal or business relationship unrelated to the official's position and there is no evidence whatsoever at the time the gift is made that the official makes or participates in the type of governmental decisions that may have a reasonably foreseeable material financial effect on the individual who would otherwise be the source of the gift. (Regulation 18942(a)(19).)

**Very Limited Gift Exception**

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - ½ value as gift	Yes	No	No

**Wedding Gifts.** Wedding gifts are not subject to the \$590 gift limit. However, wedding gifts are reportable, but for purposes of valuing wedding gifts, one-half of the value of each gift is attributable to each spouse. (Regulation 18946.3.)

**Gift Exceptions Requiring Alternate Reporting**

Form 700 Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - As Income	Yes	No	No

**Prize or Award.** A prize or award received in a bona fide contest or competition, or game of chance. **Note: Unlike the other exceptions, payments that fall into this exception must be reported as income if valued at \$500 or more.** To qualify for this exception the contest or competition must be unrelated to the official's duties. (Regulation 18942(a)(14).)

**Agency Reports**

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - On 801 or 802	No	No	No

The following exceptions are also applicable to payments made to a government agency that are used by officials in the agency under certain conditions to conduct agency business. These types of payments are not treated as gifts or income to the officials who use them, so long as the payments meet certain conditions and they are reported by the officials' agency. These reports must appear on either a Form 801 or Form 802, instead of the official reporting the items on a statement of economic interests (Form 700).

**Form 801 – Payment to Agency Report:** This form covers gifts or donations made to an agency and used by one or more officials in the agency for agency business. This may include travel payments, reimbursements, or other uses by an official, but does not cover tickets or passes providing admission to an entertainment or sporting event, which are reported on the Form 802 (discussed below). If the payment meets the requirements of Regulations 18944 or 18950.1, the agency must report it on a Form 801 and the item is not reported on the individual’s statement of economic interests (Form 700). (Regulations 18944 and 18950.1.)

**Form 802 – Agency Report of Ceremonial Role Events and Ticket/Pass Distributions:** This form covers gifts or donations made to an agency that provide tickets or passes to an agency official for admission to an entertainment or sporting event. For the ticket or pass to be exempt from reporting on the individual’s statement of economic interests (Form 700), the agency must have a written policy stating the public purpose for distribution of the tickets. The ticket or pass cannot be earmarked by the original source for use by a particular agency official and the agency must determine, in its sole discretion, which official may use the ticket or pass. (Regulation 18944.1.) The Form 802 is also used to report tickets provided for officials who perform a ceremonial role on behalf of the agency.

**Behested Payments Reports**

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - Form 803 Behested Payment	No	No	No

**Behested Payments.** Generally, payments made at the behest of an official that do not confer a personal benefit on an official such as those made by a third party to co-sponsor an event, or that are principally legislative, governmental or charitable in nature, are not gifts. However, when a local elected officer is making the behest, in some cases these payments may be considered “behested payments” under Section 82004.5 and require disclosure by that elected officer.

**Form 803 – Behested Payment Report**

- Behested payments are payments made principally for legislative, governmental, or charitable purposes. These payments are not for personal or campaign purposes. For example, a local elected official may ask a third party to contribute funds to a school in her district, or to a job fair or health fair.
- Generally, a donation will be “made at the behest” if it is requested, solicited, or suggested by the elected officer or member of the Public Utilities Commission, or otherwise made to a person in cooperation, consultation, coordination with, or at the consent of, the elected officer or PUC member. This includes payments behested on behalf of the official by their agent or employee.
- A behested payment does not include payments to an official from a local, state, or federal government agency for use by the official to conduct agency business. For example, free parking provided by a governmental entity to an official for agency business is not a behested payment and is not subject to reporting.
- Behested payments totaling \$5,000 or more from a single source in a calendar year must be disclosed by the official on a Form 803, which is filed with the official’s agency within 30 days of the date of the payment(s). (Section 84224; Regulation 18215.3.)

# Honoraria

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## What is an “Honorarium”?

An “honorarium” is any payment made in consideration for any speech given, article published, or attendance at any public or private conference, convention, meeting, social event, meal, or like gathering. An honorarium includes gift cards or any gift of more than nominal benefit provided in connection with an activity described above. An honorarium does not include items of nominal value such as a pen, pencil, note pad, or similar item. (Section 89501; Regulation 18932.4(e).)

A “speech given” means a public address, oration, or other form of oral presentation, including participation in a panel, seminar, or debate. (Regulation 18931.1.)

An “article published” means a nonfictional written work: 1) that is produced in connection with any activity other than the practice of a bona fide business, trade, or profession; and 2) that is published in a periodical, journal, newspaper, newsletter, magazine, pamphlet, or similar publication. (Regulation 18931.2.)

“Attendance” means being present during, making an appearance at, or serving as host or master of ceremonies for any public or private conference, convention, meeting, social event, meal, or like gathering. (Regulation 18931.3.)

The Act and Commission regulations provide certain exceptions to the prohibition on honoraria. (Section 89501(b); Regulations 18932 –18933.)

## The Prohibition

Local officials specified in Section 87200 (see page 2) are prohibited from receiving any honoraria payments. Officials and employees of local agencies who file statements of economic interests (Form 700) under the agency’s conflict of interest code (“designated employees”) may not receive honoraria payments from any source if the employee would be required to report income or gifts from that source on the Form 700, as outlined in the “disclosure category” portion of the conflict of interest code. (Section 89502.)

## Honoraria Exceptions that also apply to gifts and income

1. **Returned.** An honorarium that the public official returns (unused) to the donor or the donor’s agent or intermediary within 30 days. (Section 89501(b); Regulation 18933.)
2. **Donated to General Fund.** An honorarium that is delivered to the official’s local agency within 30 days for donation to the agency’s general fund and for which the public official does not claim a deduction for income tax purposes. (Section 89501(b); Regulation 18933.)
3. **Made to Nonprofit Organization.** A payment that is not delivered to the public official but is made directly to a bona fide charitable, educational, civic, religious, or similar tax-exempt, non-profit organization. However:

- The official may not make the donation a condition for their speech, article, or attendance;
- The official may not claim the donation as a deduction for income tax purposes.
- The official may not be identified to the non-profit organization in connection with the donation; and
- The donation may have no reasonably foreseeable financial effect on the public official or on any member of their immediate family. (Regulation 18932.5.)

**4. Payment from Family Member.** A payment received from the public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person. However, a payment that would be considered an honorarium is prohibited if one of these persons is acting as an agent or intermediary for someone else. (Regulation 18932.4(b).)

**5. Payment for Performance or Book.** Payments received for a comedic, dramatic, musical, or other similar artistic performance, and payments received for the publication of books, plays, or screenplays. (Regulations 18931.1 and 18931.2.)

**6. Reimbursement for Travel Where Official Provides Consideration.** Reimbursements for reasonable travel expenses provided to the public official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the public official provides equal or greater consideration. The payment would also be exempt from the definition of income under Section 82030(b)(2). (See discussion under "Travel Payments" below.)

**Honoraria Exceptions where the payment may still be considered income (or a gift, if consideration of equal or greater value is not provided by the official)**

**1. Admission to Event Where Official Gives Speech.** Free admission, and refreshments and similar non-cash nominal benefits, provided to an official during the entire event at which they give a speech, participates in a panel or provides a similar service, and in-California transportation and necessary lodging and subsistence provided directly in connection with the speech, panel or service, including meals and beverages on the day of the activity. (Regulation 18932.4(e).)

**2. Earned Income from a Business.** Income earned and payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

This exception does not apply if the sole or predominant activity of the business, trade, or profession is making speeches. In addition, the public official must meet certain criteria to establish that they are conducting or in a bona fide business, trade, or profession (such as maintenance of business records, licensure, proof of teaching position) before a payment received for personal services which may meet the definition of honorarium would be considered earned income and not an honorarium. (Section 89501(b); Regulations 18932 –18932.3.) Earned income is required to be reported. Contact the FPPC for detailed information.

**3. Travel from a Government Agency.** Travel payments provided to the public official by their government agency or by any state, local, or federal government agency which would be considered income and not a gift. (Section 89506(d)(2).) See discussion under "Travel Payments" below.



# Travel Payments Exceptions

Generally, when an official receives a payment (including reimbursement) for their travel, that payment is a reportable gift or income under the Act. The term “travel payment” includes payments, advances, or reimbursements for travel, including actual transportation, parking and related lodging and subsistence. (Section 89506(a).)

If the payment is a gift, it is also normally subject to the Act’s \$590 gift limit. If the payment is income, it may, in some cases, be an honorarium. Whether a payment is a gift or income, the official may be required to disqualify themselves from any decision that will have a foreseeable materially financial effect on the source.

## Certain Travel Payments are not a Gift, Income or Honorarium

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
No	No	No	No

The following travel payments are not a gift, income or honorarium under the Act and Commission regulations and are thus not reportable, potentially disqualifying, or subject to any of the Act’s gift limits or the honorarium ban.

- 1. Travel from a Non-Reportable Source.** A payment for travel from a source that is not reportable on the official’s statement of economic interests (Form 700) based on the provisions of the conflict of interest code of the official’s agency.
- 2. Travel from Government Agency for Training.** A payment for travel from another local, state, or federal government agency and related per diem expenses when the travel is for education, training or other inter-agency programs or purposes. (Regulation 18950(a) and (c)(2).)
- 3. Sharing a Ride with Another Official.** A payment for travel provided to the official in a vehicle or aircraft owned by another official or agency when each official is traveling to or from the same location for an event as a representative of their respective offices. (Regulation 18950(a) and (c)(3).)
- 4. Certain Travel from a Government Agency or 501(c)(3).** Travel payments provided to the official by any state, local, or federal government agency as part of the official’s employment with that agency or provided to the official by a bona fide non-profit, tax-exempt (501(c)(3)) entity for which the official provides equal or greater consideration. (Section 82030(b)(2).) Any person who claims to have provided consideration has the burden of proving that the consideration received is of equal or greater value.
- 5. Travel for Official Agency Business.** Certain payments made to an agency to cover the travel expenses of an employee who travels in the course of carrying out agency business are not gifts to the official because these payments do not provide a “personal benefit” to the official. For this exception to apply, the agency must report the payment on a Form 801 and the amount and purpose for using the payments are restricted by the provisions set forth in Regulation 18950.1.
- 6. Campaign Contribution.** A payment for travel that constitutes a campaign contribution to an official (Sections 82015, 82028(b)(4); Regulations 18215, 18942(a)(4), 18950(a) and 18950.3(a)), and permissible expenditures of campaign funds for campaign-related travel (Regulations 18950(a) and 18950.3(b)), provided they comply and are properly reported in accordance with applicable campaign finance laws.

**7. Travel Payments Fulfilling Terms of Contract.** Payments made to a governmental entity for travel expenses that are required to fulfill the terms of a contract. Neither the governmental entity nor the public official has a reporting obligation because consideration has been provided. (Section 82028; *Ratto* Advice Letter, No. I-14-057.)

**Certain Travel Payments are Reportable and may Subject the Official to Possible Conflicts of Interest, but are not Subject to the \$590 Gift Limit or Honoraria Ban of the Act.**

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes	Yes	No	No

**Travel for a Public Purpose Under Section 89506(a).** Any payments for actual transportation expenses and related lodging and subsistence that are made for a purpose reasonably related to: (1) A legislative or governmental purpose, or (2) An issue of state, national, or international policy so long as the travel is either:

(a) *Travel for Speech.* In connection with a speech given by the official and the lodging and subsistence expenses are limited to the day immediately proceeding, the day of, and the day immediately following the speech and the travel is within the United States, or

(b) *Travel paid for by government agency or 501(c)(3) organization.* Provided by a government agency or authority, (including a foreign government), a bona fide public or private educational institution as defined in Section 203 of the Revenue and Taxation Code, or a nonprofit organization that qualifies under Section 501(c)(3) of the Internal Revenue Code or a foreign organization that substantially satisfies the criteria of that section.

These payments are still reportable on the Form 700 and may create a conflict of interest issue for the official.

**Payments for Travel in Connection with a Business**

Reporting	C/I § 87100	Honoraria Ban	\$590 Gift Limit
Yes - as Income	Yes	No	No

Payments for travel made in connection with personal services rendered by the official if the services are provided in connection with a bona fide business, trade, or profession — such as teaching, practicing law, medicine, insurance, real estate, banking, or building contracting — and the services are customarily provided in connection with the business, trade, or profession. (Section 89506(d)(3) and Regulations 18950(a) and 18950.2.)

# Loans

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Personal loans received by certain local officials are subject to limits and other restrictions, and in some circumstances, a personal loan that is not being repaid or is being repaid below certain amounts may become a gift to the official who received it.

## Limitations on Loans from Agency Officials, Consultants, and Contractors

**Officials Must Not Receive Loans from Agency Staff.** If the public official is a local elected officer or an official specified in Section 87200 (see page 2), they may not receive a personal loan that exceeds \$250 at any given time from an officer, employee, member, or consultant of their government agency or an agency over which their agency exercises direction and control. (Section 87460(a) and (b).)

**Officials Must Not Receive Loans from Agency Contractors.** In addition, the public official may not receive a personal loan that exceeds \$250 at any given time from any individual or entity that has a contract with their government agency or an agency over which their agency exercises direction and control. This limitation does not apply to loans received from banks or other financial institutions, and retail or credit card transactions, made in the normal course of business on terms available to members of the public without regard to their official status. (Section 87460(c) and (d).)

## Loans to Elected Officials Must be in Writing

In addition to the limitations above, if the public official is elected, they may not receive a personal loan of \$500 or more unless the loan is made in writing and clearly states the terms of the loan. The loan document must include the names of the parties to the loan agreement, as well as the date, amount, interest rate, and term of the loan. The loan document must also include the date or dates when payments are due and the amount of the payments. (Section 87461.)

## The following loans are not subject to these limits and documentation requirements:

1. **Campaign Loans.** Loans received by an elected officer's or candidate's campaign committee.
2. **Loans from Family Members.** Loans received from the public official's spouse, child, parent, grandparent, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person unless they are acting as an agent or intermediary for another person not covered by this exemption.

## Loans as Gifts

Under the following circumstances, a personal loan received by **any** public official (elected and other officials specified in Section 87200, as well as any other local official or employee required to file statements of economic interests) may become a gift and subject to gift reporting and limitations:

1. If the loan has a defined date or dates for repayment and has not been repaid, the loan will become a gift when the statute of limitations for filing an action for default has expired.
2. If the loan has no defined date or dates for repayment, the loan will become a gift if it remains unpaid when one year has elapsed from the later of:
  - The date the loan was made;
  - The date the last payment of \$100 or more was made on the loan; or
  - The date upon which the public official has made payments aggregating to less than \$250 during the previous 12 months. (Section 87462.)

**The following loans will not become gifts:**

- A loan made to an elected officer's or candidate's campaign committee. This loan would, however, be a campaign contribution and must be reported accordingly.
- A loan described above on which the creditor has taken reasonable action to collect the balance due.
- A loan described above on which the creditor, based on reasonable business considerations, has not undertaken collection action. (However, except in a criminal action, the creditor has the burden of proving that the decision not to take collection action was based on reasonable business considerations.)
- A loan made to an official who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

## **2012 CCCSWA Process Integrity Policy**

The CCCSWA is currently in the planning process for a new franchise. The intent of the CCCSWA Process Integrity Policy is to provide a fair opportunity for all potential respondents and to create an impartial climate during the franchise process.

### **I. Communications Policy**

This Communication Policy is intended to only apply to communications between Board members and representatives of firms which may intend to participate in the ongoing process for the CCCSWA to procure solid waste, recycling and organics services after the conclusion of the current franchises and contractual agreements (“prospective respondents”). It is further limited to only those conversations that relate to the procurement process or provision of future solid waste, recycling or organics services. It is not intended to apply to casual social communications or other communications unrelated to provision of future services or the procurement process.

#### **A. From the date of the Board action to adopt this policy until the decision to issue a competitive Request For Proposals or use Sole Source negotiation**

From the date of adoption of this Policy to the date a decision to issue a competitive Request For Proposals (RFP) or to use Sole Source negotiation(s), communication between prospective respondents and Board Members is permissible subject to the disclosure requirements set forth herein.

Communications, oral or written, made by prospective respondents to a Board member outside of a public meeting, which concern a matter relating to the CCCSWA RFP or negotiation process, shall be disclosed to the Board of Directors at the next Board meeting in order to apprise the other Board members of the fact of and the content of that conversation. Alternatively, a written disclosure can be provided to the Secretary of the CCCSWA prior to the Board meeting. Written disclosures shall be maintained as part of the public record of the CCCSWA and provided to the other Board members.

#### **B. From the date of the decision to issue a competitive Request For Proposals or use Sole Source negotiation(s) through the date of entering into one or more formal agreement(s)**

After the decision to issue a competitive RFP or to use Sole Source negotiation, all prospective respondents shall be instructed to communicate on matters which concern a matter relating to the CCCSWA RFP or negotiation process, only through a person or persons designated by the CCCSWA as the point of contact. Prospective respondents may also communicate with the Board Members at any open and noticed public meeting. Prospective respondents may also communicate with staff members at any open and noticed public meeting, or with staff members any organized staff meetings with prospective respondents.

Requests for clarification, objections to the structure or content of the RFP, and other inquiries from prospective respondents shall be made to the CCCSWA designated point of contact in writing. The RFP procurement documents may provide additional detail with regard to communications with perspective respondents during the RFP process. The CCCSWA or its consultant will respond via written addenda to the RFP.

## **II. Respondents Code of Conduct**

By requesting a RFP package from the CCCSWA or entering into sole source negotiations, potential respondents agree to adhere to this Policy, and are responsible for ensuring compliance with this Policy on behalf of a respondent's employees, agents, consultants, lobbyists, or other parties or individuals engaged for purposes of developing or supporting a proposal.

Any evidence that indicates a respondent has failed to adhere to any section of this Policy may result in the CCCSWA disqualifying the respondent from the RFP process.

## **III. Prohibition on Campaign Contributions**

Government Code section 84308 prohibits campaign contributions over \$250 to appointed officials while a proceeding before their agency is pending, and for three months after the decision is made. This prohibition applies to both appointed officials and parties to the proceeding. In addition, if an appointed official has received a contribution over \$250 within 12 months prior to decision, that official must disclose receipt of the contribution on the record, and will be disqualified from participating in the decision.

To avoid violating Section 84308 and being disqualified from participating in any franchise decisions, **CCCSWA Board members should not accept campaign contributions in excess of \$250 from the date of the adoption of this Policy until three months have passed from the date the final franchise decision(s).**

## **IV. Gifts – Statement of Political Reform Act Restrictions**

The Political Reform Act prohibits public officials from accepting gifts from a single source with a cumulative value of over \$420 in a single calendar year. In addition, an official who has received a gift or gifts totaling over \$420 within 12 months of a decision involving the source of gifts is disqualified from all participation in that decision. Any gifts from a single source with a cumulative value of over \$50 in a calendar year must be reported on a Form 700. Note that the \$420 limit may increase as of January 1, 2013.

A gift is anything of value provided to the official for which the official has not provided approximately equal consideration. Gifts can include food, beverages, travel, tickets, lodging, a round of golf, a discount or rebate, and a variety of other tangible or intangible items.

From the date of Board action to adopt this policy through the date of entering into a formal agreement, no CCCSWA staff member will accept gifts of any value from any prospective respondents.

## **V. Restrictions Affecting Consultants**

From the date of Board action to adopt this policy until the consultant is no longer working for the CCCSWA on the franchise procurement, no CCCSWA consultant will accept gifts of any value from any prospective respondents.

From the date of Board action to adopt this policy until the consultant is no longer working for the CCCSWA on the franchise procurement, no CCCSWA consultant will do any work for any respondents or prospective respondents.



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# Agenda Report

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**TO:** CCCSWA BOARD OF DIRECTORS  
**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
**DATE:** JUNE 22, 2023  
**SUBJECT:** EXECUTIVE DIRECTOR'S MONTHLY REPORT

## SUMMARY

RecycleSmart Staff performs high-level programmatic and administrative tasks each month to provide outreach and education to residents, businesses, and schools to increase diversion and instill waste prevention practices. Staff manages the franchise agreements and customer service in addition to monitoring monthly reporting by our service providers. Staff actively engages with Member Agency Staff, community groups, and regional partners on a variety of topics including SB 1383, legislation, and industry best practices.

## RECOMMENDED ACTION

1. This report is provided for information only. No Board action is required.

## DISCUSSION

### Completed and Ongoing Activities in June:

- On May 26, 2023, staff released a Request for Proposals (RFP) for Franchise Development and Procurement Consulting Services and On-Call Miscellaneous Consulting Services. Proposals are due June 26, 2023. To download the RFP visit [www.recyclesmart.org/RFP](http://www.recyclesmart.org/RFP). Staff intends to award at least two 3-to-5-year consulting contracts based upon the proposals received: One contract to assist with the franchise procurement process, and one (or more) contracts for on-call, as-needed miscellaneous solid waste consulting services. Staff emailed the RFP to 10 consulting firms and published it on the RecycleSmart website. The finalists for the franchise procurement consulting contract will be interviewed by the Franchise Design Ad Hoc Committee in July. Staff plans to bring the consulting contracts to the Board for approval at the July 27, 2023 meeting.
- Staff has been asked to speak at a statewide webinar on July 25<sup>th</sup> provided by the National Stewardship Action Council (NSAC) to present on SB 212 reimbursement of medical sharps disposal costs.

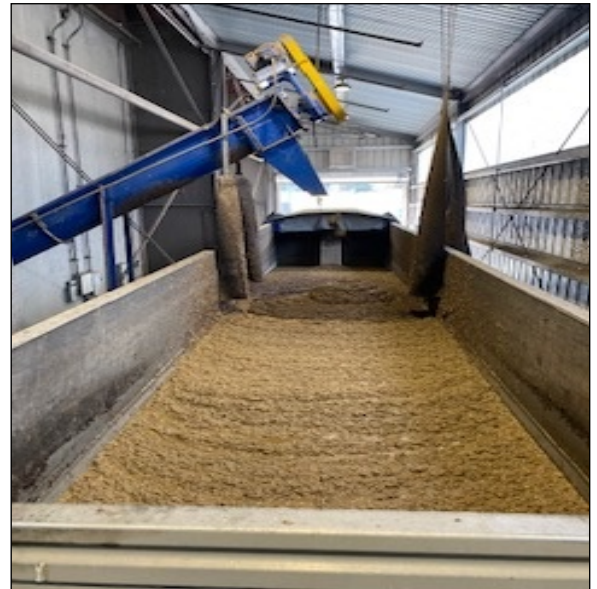
- Staff has been asked to speak at the statewide California Resource Recovery Association (CRRA) annual conference on August 15<sup>th</sup> to present on Construction & Demolition (C&D) processing facility third-party certification procedures and best practices. The Executive Director will also moderate a session on organics diversion at the CRRA conference.
- Staff meets with Republic Services bi-weekly and works collaboratively with Republic’s management team, recycling coordinators, and finance staff to discuss franchise requirements, customer feedback, service issues, member agency requests, rates, ongoing commercial site visits, and outreach. The June meetings focused on efforts to reduce missed pick-ups in Rossmoor, franchise extension requirements, community events, the use of new Green Halo technology for better tracking of C&D material taken to the Martinez Transfer Station, outreach, and new Recycling Coordinator onboarding.
- The monthly Member Agency liaison meeting was held on June 8. Discussion topics included SB 1383 Member Agency recycled-content paper purchasing and tracking requirements, Member Agency Building Codes related to enclosure requirements and how this impacts SB 1383 commercial waivers, 2027 Franchise planning update, and how the Agency has helped each Member meet its SB 1383 2022 recovered organic waste product procurement obligation. RecycleSmart provides follow-up meeting notes and requests them to be circulated to appropriate Member Agency staff.

<b>Member Agency Liaisons</b>				
<b>Member Agency</b>	<b>Name</b>	<b>Title</b>	<b>Email</b>	<b>Phone</b>
County	David Brockbank	Conservation Programs Manager	<a href="mailto:David.Brockbank@dcd.cccounty.us">David.Brockbank@dcd.cccounty.us</a>	(925) 655-2911
Danville	Cat Bravo	Management Analyst	<a href="mailto:cbravo@danville.ca.gov">cbravo@danville.ca.gov</a>	(925) 314-3377
Lafayette	Anna Tolle	Planning Technician	<a href="mailto:ATolle@ci.lafayette.ca.us">ATolle@ci.lafayette.ca.us</a>	(925) 299-3205
Orinda	Doug Alessio	Administrative Services Director	<a href="mailto:DAlessio@cityoforinda.org">DAlessio@cityoforinda.org</a>	(925) 253-4224
Moraga	Brian Horn	Senior Planner	<a href="mailto:bhorn@moraga.ca.us">bhorn@moraga.ca.us</a>	(925) 888-7044
Walnut Creek	Emlyn Struthers	Administrative Analyst II	<a href="mailto:struthers@walnut-creek.org">struthers@walnut-creek.org</a>	(925) 256-3536

- The CalRecycle Electronic Annual Report (EAR) cycle opened on June 15<sup>th</sup> with a deadline of August 1<sup>st</sup>. The report covers calendar year 2022. Staff will report on all programs and services, including SB 1383 requirements, on behalf of the Member Agencies excluding the County. In keeping with the MOU between the County and RecycleSmart related to SB 1383, staff provides the County with required reporting information. The county then combines this data with the rest of their unincorporated county data and submits its own EAR to CalRecycle.



- RecycleSmart has received notification from CalRecycle regarding the previous EAR cycle and report covering the calendar year 2021. The letter states that CalRecycle is satisfied with the 2021 EAR submittal and is not seeking any additional information or clarification.
- Staff meets with the Schools program contractor monthly; discussion topics included support for reusables such as dishwashers and milk dispensers and possible pilot programs, Wastebusters awards, certificates for scholarship winners, and updating the work tracking spreadsheet form.
- In June, Executive Director Krueger and Staff visited four Bay Area materials management facilities including two Republic Services facilities; the Contra Costa Transfer Station (CCTS) in Martinez and Newby Island Resource Recovery Park in Milpitas. Staff also visited the Mt. Diablo Resource Recovery (MDRR) C&D sorting line in Pittsburg and the Waste Management Organics Material Recovery Facility (OMRF) at the Davis St. Transfer Station in San Leandro.



**Photo:** At the CCTS, Staff viewed the Thor de-packaging operation where source-separated food scraps collected from over 700 RecycleSmart commercial accounts, including schools, are preprocessed and trucked to EBMUD for Anaerobic Digestion.

At Newby Island, Staff observed the facility’s C&D sorting operation. All the C&D material from the CCTS, about 50% of all C&D collected in the RecycleSmart service area, comes through the CCTS where it is trans-loaded and trucked to Newby Island for further processing and marketing.

At the MDRR facility, staff observed the separation of mixed loads of C&D material. At the Waste Management OMRF, staff observed mixed waste processing and indoor composting of commercial organics and organics recovered from mixed waste.

- On June 1, Staff met with Mt. Diablo Resource Recovery (MDRR) and the Carton Recycling Council to discuss MDRR facility operations and available grants to continue pursuing increased processing capacity and technology to sort additional recyclable materials.
- The Spring 2023 newsletter was mailed to all single-family and multifamily residents. Newsletter topics include green cleaning, the opening of the first California Bye-Bye Mattress free mattress disposal location in central Contra Costa (Concord), a RecycleSmart staff story on the Reuse & Cleanup Days Program, extra collection services, Orinda organics stats, credits for missed service, electronic newsletter signup and the kids corner activity.
- An article on the Reuse & Cleanup Days Program was published in the June 7<sup>th</sup> issue of the Lamorinda Weekly (Attachment A) and circulated to the Member Agencies for inclusion in their outreach.

- Staff is preparing contracts with [ReThink Disposable](#) and [r.cup](#) to pilot reusable foodware practices, technical assistance, and outreach for commercial businesses and community events.
- Staff continues planning the rollout of Hello Lamp Post (or Hello Recycling Bin) texting outreach tool for proper sorting.
- RecycleSmart, in partnership with Republic Services, developed a new event waste planning, prevention, and recycling guide (Attachment B).
- RecycleSmart, in partnership with Republic Services through the Franchise Agreement, will staff an outreach and education booth and/or provide materials management services and waste station monitors at the following community events:
  - June 3-4, Walnut Creek Art & Wine Festival (materials management services only)
  - June 25, Made in the Shade, Walnut Creek
  - July 4, Orinda 4<sup>th</sup> of July
  - July 9, Alamo Farmers Market
  - July 29, Danville Farmers Market

**SB 1383 Completed and Ongoing Activities in June:**

- Staff released a Request for Proposal (RFP) for required route contamination monitoring technical assistance for the 23-24 Fiscal Year. Proposals are due June 30, 2023. To download the RFP visit [www.recyclesmart.org/RFP](http://www.recyclesmart.org/RFP). All SB 1383 requirements budgeted for in the 23-24 FY will be funded by one-time grant funds provided by CalRecycle to assist with SB 1383 implementation.
- RecycleSmart entered into a Provider Services Agreement with Food Shift, an edible food recovery organization based in Alameda that provides consulting services, for a not-to-exceed cost of \$25,000 for “Tier 1” Commercial Edible Food Generator technical assistance to help some generators (grocery stores) not meeting RecycleSmart inspection requirements (with Contra Costa Health Services) come into compliance (enforcement beginning January 1, 2024) and learn best practices.
- Staff continues to review commercial and multifamily accounts that may be eligible for an organics service waiver. Staff is reviewing Republic Services Recycling Coordinators' recommendations and conducting site visits to certain locations as necessary. Accounts not eligible for a waiver will receive organics service. RecycleSmart must report annually to CalRecycle the number and type (de minimis or physical space) of waivers granted.

**Staff participated in or attended the following meetings/events in June:**

- Green Halo Working Group, June 5
- Zero Waste Now Regional Working Group, June 7
- Lafayette Environmental Task Force meeting, June 8
- Northern California Recycling Association (NCRA) Zero Food Waste Committee meeting, June 9
- Orinda Community Liaison Meeting, June 13

- Bay Area Recycling Outreach Coalition (BayROC) meeting, June 13
- CalRecycle Electronic Annual Report (EAR) training webinar, June 15
- Moraga Liaison Meeting, June 16
- Bay Area Edible Food Recovery Network meeting, June 20
- California Product Stewardship Council (CPSC) legislation webinar, June 21

**ATTACHMENTS:**

- A. June 7<sup>th</sup> Lamorinda Weekly article on the RecycleSmart Reuse & Cleanup Days Program
- B. Event waste planning, prevention and recycling guide.

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Published June 7th, 2023

## **Recycling through the Reuse program**

*By Ashley Louisiana*

Growing up in Moraga, my mom would get excited when it was "pick-up day." She would get up early and drive around picking up the goods she wanted from the curb that others no longer needed. She would come home with new kitchen gadgets and household items. The good news for our unsuspecting neighbors, she retired almost 10 years ago and doesn't live in the area.

Coming full circle and working as the Program Manager at RecycleSmart, I am now carrying on my mom's legacy of finding good homes for usable cast-offs, but in a more organized (and legal) way. I help manage a unique program our communities can feel proud to be part of, called Reuse & Cleanup Days. The program was started in 1999 to respond to the environmental, social, and economic issues impacting Contra Costa County. Twice a year on pre-scheduled days, all 65,000 single-family homes in the RecycleSmart service area can set out gently used household items at the curb, at no additional cost, to be picked up by Mt. Diablo Resource Recovery (MDRR).

I recently visited the 18,000 sq. ft. warehouse in Pittsburg where all the reusable items collected from the curb are taken. The warehouse is more organized than many homes, thanks to the dedicated staff of MDRR, Jim Nejedly and Adriana Medina. It was a bustling scene of incoming trucks and a sorting crew separating small furniture, appliances, electronics, clothing, home décor, medical supplies, school supplies and books, scrap metal and batteries. Almost 20 tons of batteries were collected in 2022 on Reuse Day!

Adriana had so many stories of where our central Contra Costa reuse items end up, from the Paradise fire victims to Contra Costa schools needing sporting equipment. She happily connected me with "Make it Home," a nonprofit in Walnut Creek that Social Services uses to help furnish apartments for those previously unhoused or aging out of the foster care system. "Giving is not just about making a donation. It's about making a difference," says Adriana, as she expressed how fortunate she feels to see the faces of families receiving something they need. Furniture in usable condition is the number one item needed.

Since RecycleSmart contracted with MDRR in 2015, over 22 million pounds of reuse items have been donated to East Bay Depot for Creative Reuse, St. Vincent DePaul, HOPE Solutions, Homeless Action Coalition, Uplift Family Services and many other charitable organizations. Over 32,000 homes placed reusable items at the curb in 2022, and RecycleSmart saw the program's highest participation in 2020-2021 when we all had plenty of time to clean house. Residents can also take advantage of the Cleanup Day provided by Republic Services, the day after the Reuse Day, for any junk or unusable materials.

Reuse of materials is even better for the environment and the community than recycling. RecycleSmart is a national leader in curbside collection of reusable items and has inspired other communities to develop similar programs. We are proving the old adage that one person's trash is another person's treasure. To learn more about the Reuse & Cleanup Days Program, or to look up your upcoming dates with our new search tool, visit [RecycleSmart.org/Cleanup](https://RecycleSmart.org/Cleanup).

Reach the reporter at: [info@lamorindaweekly.com](mailto:info@lamorindaweekly.com)

[back](#)

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# Planning for waste prevention and recycling at community events

Events can generate a considerable amount of waste, but much of this material can be prevented, recycled, and composted through thoughtful event planning. California State Laws AB 2176 and SB 1383 also require large events and venues to plan for convenient recycling and organics collection, and may require post-event food donation.



RecycleSmart provides FREE event Clear Stream recycling, organics, and landfill pop-up containers with bags.

**Consider the following guidelines to promote waste prevention at your event, and add language to your vendor contracts to encourage or require best practices.**



Always provide three stream waste stations including, recycling, organics and landfill, grouped together with proper signage.



Ban the use of expanded polystyrene (aka Styrofoam) and single-use plastic bags



Require food vendors to use reusable or compostable-fiber foodware (ex. uncoated paper, wood or bamboo utensils) and provide to customers only upon request.



Encourage attendees to bring their reusable water bottle, straws, and utensils, and require vendors to use reusable.



Farmers Markets and venues that generate a significant amount of food should donate food after the event. Use the QR code to find local food recovery organizations.



Require food vendors to use self-serve bulk condiments instead of single-use packets.



For more information use the QR code to visit:  
[RecycleSmart.org/event-recycling](https://RecycleSmart.org/event-recycling)



Sustainability in Action





Republic Services can provide carts and dumpsters for a fee. For event waste planning assistance and pricing, please email [RecycleCoordinators@RepublicServices.com](mailto:RecycleCoordinators@RepublicServices.com) or call (925) 671-5860.

## Reusable is Best!



## Least Desirable!

*Black Landfill Cart*



## Recyclable is Great!

*Blue Recycling Cart \**



## Compostable is Great!

*Green Organics Cart \*\**



\* Empty, clean and dry recyclables only.

\*\* Only uncoated fiber/paper materials are accepted for compost—bioplastics and plant plastics go in Landfill.



## Future Agenda Items

TYPE	BOARD MEETING: 07/27/2023
C	Approve June 22, 2023 Minutes
C	Approve Contract for SB 1383 Route Monitoring
A	Approve Contract for RecycleSmart Newsletter
A	Approve Contract for New Franchise Development & Procurement Consulting Services
A	Approve Contract(s) for On-Call Miscellaneous Consulting Services
I	Executive Director's Monthly Report
I	Republic's Collection Service Quality Metrics
I	New Franchise Ad Hoc Committee Update
P	2022-23 Annual Schools Program Report

TYPE	BOARD MEETING: 09/28/2023
C	Approve July 27, 2023 Minutes
A	Approve EBMUD Contract for Commercial Food Waste Processing
I	Executive Director's Monthly Report
I	Republic's Collection Service Quality Metrics
I	New Franchise Ad Hoc Committee Update
P	Solid Waste Collection Rates for RY10

TYPE	BOARD MEETING: 10/26/2023
C	Approve September 28, 2023 Minutes
I	Executive Director's Monthly Report
I	Republic's Collection Service Quality Metrics
I	New Franchise Ad Hoc Committee Update
P	Solid Waste Collection Rates for RY10
P	Final Legislation Update

**TYPE**

- C – Consent Item
- A – Action Item
- I – Information Item
- P – Presentation







Central Contra Costa Solid Waste Authority

# Agenda Report

**TO:** CCCSWA BOARD OF DIRECTORS  
**FROM:** DAVID KRUEGER, EXECUTIVE DIRECTOR  
 JENNIFER FAUGHT, CONTRACT COMPLIANCE SPECIALIST  
**DATE:** JUNE 22, 2023

**SUBJECT: REPUBLIC’S COLLECTION SERVICE QUALITY METRICS**

**SUMMARY**

This report tracks Republic Services progress in meeting the service quality metrics and other new requirements of the Second Amendment to their franchise agreement.

**RECOMMENDED ACTION**

1. This report is provided for information only. No Board action is required.

**DISCUSSION**

The Second Amendment to the franchise agreement with Republic Services (“Second Amendment”) requires Republic to meet a “service quality metric” as a condition of receiving the Rate Year 10 special rate adjustment of \$1,915,511. To satisfy this requirement, Republic must have experienced a monthly average of 1,750 or fewer service calls between January 1 and July 31, and a monthly average of 1,500 or fewer service calls between January 1 and December 31, this year.

Staff is monitoring this metric, as well as the open routes and calls to the Authority, and will provide an informational report at each Board Meeting in 2023 documenting performance. Staff will also be evaluating whether these metrics accurately reflect our ratepayers’ experience, and whether they adequately incentivize service improvements. As of the date this staff report was completed, the metrics are as follows:

Metric	January – February 2023 Results	Limits
Average Service Calls Per Month (to Republic)	January = 1,563 February = 935 March = 1,368 April = 1,388 May = [not yet avail]	1,750 for January – July 1,500 for January – December
Missed Collection Calls Received by RecycleSmart and Member Agencies	January = 17 February = 51 March = 34	19 per month

	April = 84	
	May = 65	

In addition to the service metrics above, the amendment contains the following new requirements:

<b>Requirement</b>	<b>Due Date</b>	<b>Status</b>
Allow staff access to Recyclist software	1/1/2023	Complete
Provide daily open route reports	3/1/2023	Complete (started 2/1/2023)
Provide customer credits for missed collections	3/1/2023	Complete (started 3/1/2023)
Hire 1 additional Recycling Coordinator	3/1/2023	Complete
Begin transferring all C&D to Newby Island for processing	3/1/2023	Complete
Equip all residential trucks with the RISE route management software system	12/31/2023	Training is complete and almost all trucks have the tablets now
Hire 1 additional route supervisor	3/1/2024	Will be hired later this year
Hire 1 additional operations manager	3/1/2024	Re-posted (had been hired but employee left for a gov agency)
Hire 1 additional customer care manager	3/1/2024	In hiring process
Hire 1 additional dispatcher	3/1/2024	Position posted
Hire 5 additional pool drivers	3/1/2024	Complete
Hire 4 additional customer service representatives	3/1/2024	Complete
Have sufficient back-up rental vehicles for hard-to-serve routes	3/1/2024	On-going. Rented 2 additional trucks for hard-to-service routes
Provide on-going technician training	3/1/2024	On-going