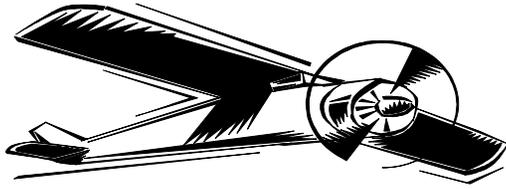

ATTACHMENT IV
Gifts to the Government



Can I Take This Trip?

Officers and employees of governmental bodies often ask the Ethics Commission whether it is permissible to take a trip paid for by a third party. To answer such questions, it is first necessary to determine whether the third party is providing the trip to the governmental body or to the individual. If the trip is being provided to an individual government officer or employee, rather than to the governmental body itself, the individual must consider the restrictions and reporting requirements in *all* of the following laws:

- ◆ the lobby law in chapter 305, Government Code
- ◆ the gift laws in chapter 36, Penal Code
- ◆ the honorarium law in chapter 36, Penal Code
- ◆ the campaign finance law in title 15, Election Code
- ◆ the law requiring certain government officials to file an annual personal financial statement in chapter 572, Government Code.

It is important to review the restrictions in all of those laws because what is permissible under one law may not be permissible under another.

Under appropriate circumstances, a governmental body may accept an offer by a third party to pay travel expenses for a government officer or employee to conduct government business. Whether a governmental body may accept a gift depends on the laws specifically applicable to the governmental body, not on the laws under the jurisdiction of the Ethics Commission. Individual employees may not make decisions about accepting gifts on behalf of a governmental body; only the governing board may make such decisions.

An individual government officer or employee who intends to accept a trip for himself or herself should first review the restrictions and reporting requirements in the laws discussed below.

Lobby Law

Under the lobby law, an officer or employee in the legislative or executive branch of *state government* is subject to a general prohibition on the acceptance of transportation and lodging from a registered lobbyist. There are exceptions to this rule: one for transportation and lodging in connection with a fact-finding trip, one for transportation and lodging in connection with a conference or similar event, and one for incidental transportation.

Fact-finding trips. There is an exception to the prohibition on lobbyist-paid trips for "necessary expenditures for transportation and lodging when the purpose of the travel is to explore matters directly related to the duties of a member of the legislative or executive branch, such as fact-finding trips, but not including attendance at merely ceremonial events or pleasure trips." A lobbyist who provides transportation or

lodging in connection with a fact-finding trip must be present at the event.

Conferences or similar events. There is also an exception for "necessary expenditures for transportation and lodging provided in connection with a conference or similar event in which [the state officer or employee] renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory." lobbyist who provides transportation^A or lodging in connection with a conference or similar event must be present at the event.

Incidental transportation. The prohibition on lobbyist-paid transportation does not apply to transportation of incidental value, such as a short ride in a car or taxi.

Note: A lobbyist is required to report lobby expenditures, including expenditures for transportation and lodging.

Gift Laws

Under chapter 36 of the Penal Code, most public servants, at both the state and local level, are subject to a prohibition on the acceptance of a benefit from someone subject to their jurisdiction. (The Governor and the Governor's employees, the Lieutenant Governor and the Lieutenant Governor's employees, and members of the legislature and legislative employees are subject to a prohibition on the acceptance of a benefit from anyone.) There are, however, exceptions to those prohibitions, including an exception for something worth less than \$50 and an exception for something from a close friend or family member. There is also a specific exception for benefits in the form of transportation and lodging accepted as a "guest" and reported in accordance with any applicable reporting requirement. In order

for something to be accepted as a guest, the donor must be present.

Honorarium Law

As a public servant, you may not accept an honorarium in consideration for services that you would not have been requested to provide but for your official position or duties. You may, however, accept food, transportation, and lodging in connection with services rendered at a conference or seminar.

Campaign and Officeholder Contributions

A candidate or elected officeholder must report all campaign or officeholder contributions, including contributions in the form of transportation or lodging.

No corporate contributions. A candidate may not accept a campaign contribution, nor may an officeholder accept an officeholder contribution, from a corporation or labor union.

Financial Statement

Some government officials are required to file an annual personal financial statement. A filer must report any gifts, including trips, that exceed \$250 in value, except gifts reportable as a political contribution or a lobby expenditure. Also, a filer must report transportation, meals, or lodging provided by a third party in connection with a conference or similar event, unless a lobbyist reports the expenditures.

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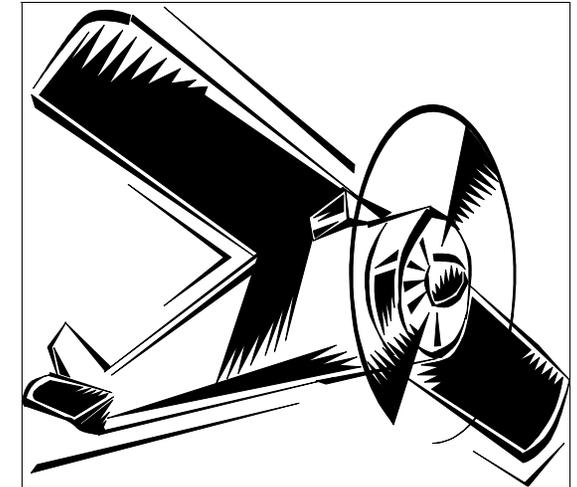
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Can I Take This Trip?



A Texas Ethics Commission guide to the acceptance of trips by government officers and employees.
