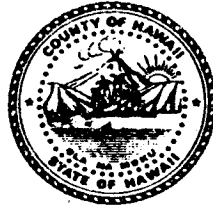


Harry Kim
Mayor



Lincoln S.T. Ashida
Corporation Counsel

Gerald Takase
Assistant Corporation Counsel

County of Hawaii

OFFICE OF THE CORPORATION COUNSEL


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December 27, 2002

MEMORANDUM

Corporation Counsel Memorandum 2002-05

TO: OFFICE OF THE MAYOR
HAWAII COUNTY COUNCIL
ALL COUNTY DEPARTMENTS
ALL COUNTY BOARDS AND COMMISSIONS

FROM: LINCOLN S. T. ASHIDA 
Corporation Counsel

RE: **Gift Reporting Requirements**

The Hawai'i County Council passed Bill 305, an ordinance amending the County's Code of Ethics. Our new ethics law brings our County in line with the State Code of Ethics, and provides explicit and comprehensive guidance for all County officers, employees, and board and commission members.

A significant amendment is the gift reporting requirement, found in Section 2-91.5 of the Hawai'i County Code. The predecessor section required gift reporting by Council members only. The new section covers *all officers, employees, and board and commission members as well*.

Enclosed is a copy of the gift disclosure form and instructions. We ask you disseminate same to your employees.

The form and instructions are on the County website under the present path: Departments/Corporation Counsel. However, it may be relocated to a different part of the website in the near future.

Deputy Corporation Counsel Patricia K. O'Toole should be recognized for her efforts in authoring and assembling this form and instruction sheet, and bringing them in line with the State forms.

Please direct any questions or concerns regarding this matter to our office.

Encls.

INSTRUCTIONS FOR FILING GIFTS DISCLOSURE FORM

WHO SHOULD FILE THIS FORM

The Hawai'i County Ethics Code, § 2-91.5 of the Hawai'i County Code, requires you to file a gifts disclosure statement if you are a County employee, or County board or commission member, and if all of the following conditions are met:

- (1) During the period covered by the gifts disclosure statement (see When To File below), you or your spouse or your dependent child receives, directly or indirectly, from one source: (a) any gift valued in excess of \$100, or (b) two or more gifts whose combined value is in excess of \$100. This applies to all gifts, including a gift in the form of money, service, or goods, or in any other form.
- (2) The source of the gift or gifts has interests that may be affected by official action that you take in your County capacity. "Official action" means a decision recommendation, approval, disapproval, or other action, including inaction, which involves discretionary authority.
- (3) The gift is not exempted by law from the reporting requirements. See Exempted Gifts below.

If all of the above conditions are met, you must file a gifts disclosure statement with the Hawai'i County Ethics Commission.

EXEMPTED GIFTS

You do not have to report the following gifts, which are exempted by law from the reporting requirements:

- (1) Gifts received by will or intestate succession;
- (2) Gifts received by distribution of any inter vivos or testamentary trust established by a spouse or ancestor;
- (3) Gifts from a spouse, fiancé or fiancée, any relative within four degrees of consanguinity, or the spouse, fiancé or fiancée of such a relative. A gift from any such person is a reportable gift if the person is acting as an agent or intermediary for someone who is not covered by this paragraph. [For purposes of this paragraph, relatives "within four degrees of consanguinity" include the following: Your parents, grandparents, and great grandparents; your children grandchildren, and great-grand children; your brothers/sisters, uncles/aunts, great uncles/aunts, nephews/nieces, grand nephews/nieces, and first cousins;]

- (4) Political campaign contributions that comply with state law:
- (5) Anything that is available to, or distributed to, the public generally without regard to the official status of the recipient;
- (6) Gifts that, within 30 days after receipt, are returned to the giver or delivered to a public body or to a bona fide educational or charitable organization without the donation being claimed as charitable contribution for tax purposes; and
- (7) Exchanges of approximately equal value on holidays, birthdays, or special occasions.

WHEN TO FILE

Gifts disclosure statements must be filed by **June 30** of each year. [Each report covers gifts received during the period from June 1 of the preceding calendar year through June 1 of the year of the report. Council members must file gift disclosures for the period of June 1, 2002 to June 1, 2003. Employees and Board or Commission members must file from September 12, 2002 (the effective date of Bill 305) to June 1, 2003.]

WHERE TO FILE

By mail or	Hawai'i County Ethics Commission
Personal delivery:	101 Aupuni Street, Suite 325
	Hilo, HI 96720

INSTRUCTIONS FOR COMPLETING THE GIFTS DISCLOSURE STATEMENT FORM

A filer must provide the following information on his or her gifts disclosure statement:

- (1) **Donor.** The name of each person, business entity, or organization from whom, or on behalf of whom, a gift was received by the filer, the filer's spouse or dependent child.
- (2) **Description of gift.** A description of each gift that the filer, the filer's spouse or dependent child received.
- (3) **Date received.** The date on which each gift was received.
- (4) **Gift value.** A good faith estimate of the fair market value of each gift.
- (5) **Aggregate value.** This item applies only if the filer, the filer's spouse or dependent child receive more than one gift from the same donor during the reporting period. The filer must report the value of each gift received (under Item No. 4, above) **AND** the filer must also report the aggregate or combined value of the gifts (under this Item No. 5). The aggregate value of gifts from the same donor need only be entered once on the form. (See sample gifts disclosure statement form.) Please note that if only one gift was received from a donor, no aggregate value need be reported.

- (2) **Aggregate value.** This item applies only if the filer, the filer's spouse or dependent child receive more than one gift from the same donor during the reporting period. The filer must report the value of each gift received (under Item No. 4, above) **AND** the filer must also report the aggregate or combined value of the gifts (under this Item No. 5). The aggregate value of gifts from the same donor need only be entered once on the form. (See sample gifts disclosure statement form.) Please note that if only one gift was received from a donor, no aggregate value need be reported.

PUBLIC RECORDS

Gifts disclosure statements that are filed with the Hawai'i County Ethics Board are public records and are available for public inspection.

FAILURE TO FILE

Failure of an employee, officer, or board or commission member to file a gifts disclosure statement as required by the Hawai'i County Ethics Code constitutes a violation of the code. Employees who violate the code may be reprimanded, put on probation, demoted, suspended, or discharged from county office.

APPLICABILITY OF GIFTS LAW, § 2-91.4, Hawai'i County Code

Section 2-91.4, Hawai'i County Code, prohibits an employee, officer or board or commission member from accepting any gift under circumstances in which it can reasonably be inferred that the gift is intended to influence or reward official action. The gifts disclosure law should not be interpreted to automatically allow gifts of a value less than \$100. Nor should the gifts disclosure law be interpreted to automatically allow gifts that are reported on a gifts disclosure statement. Questions regarding the acceptance of a gift, should be directed to the Hawai'i County Ethics Board prior to acceptance.

QUESTIONS ABOUT GIFTS DISCLOSURE LAW OR GIFTS LAW

Persons with questions about the gifts disclosure statement, the gifts disclosure law, or about the gifts law, should contact the Hawai'i County Ethics Board at 961-8251.



HAWAII COUNTY ETHICS COMMISSION
101 Aupuni Street, Suite 325
Hilo, HI 96720
Telephone: 961-8251 Fax: 961-8622

GIFTS DISCLOSURE STATEMENT

(This report covers the period from June 1 of the preceding calendar year through June 1 of this year and is due on June 30)

NAME:	COUNTY POSITION:
COUNTY AGENCY:	COUNTY TELEPHONE NO.:
COUNTY MAILING ADDRESS:	

1 DONOR	2 DESCRIPTION OF GIFT	3 DATE RECEIVED	4 GIFT VALUE	5 AGG. VALUE



HAWAII COUNTY ETHICS COMMISSION

101 Aupuni Street, Suite 325

Hilo, HI 96720

Telephone: 961-8251 Fax: 961-8622

1 DONOR	2 DESCRIPTION OF GIFT	3 DATE RECEIVED	4 GIFT VALUE	5 AGG. VALUE

_____ Check here if you have attached additional sheets.

CERTIFICATION:

I hereby certify that the above is a true, correct, and complete statement.

SIGNATURE

DATE