



KEN POKALSKY
Director of Government Affairs

September 24, 2010

Ms. Kathleen H. Burgess
New York State Commission on
Public Integrity
540 Broadway
Albany, New York 12207

Dear Ms. Burgess:

These comments are submitted on behalf of The Business Council of New York State, Inc., in response to the Commission's proposed Part 934 regulation, related to the Legislative Law's prohibition on gifts offered or given by registered clients and lobbyists to public officials.

The Business Council's main function is to act as an advocate on behalf of its 3,000 employer members before the New York State Legislature and regulatory agencies. The Council is both a registered client and a registered lobbyist under the Lobbying Act. As such, the Council is subject to the Lobbying Act as well as the Public Employee Ethics Reform Act of 2007.

We have always strived to maintain full compliance with the registration, reporting requirements and restrictions set forth in Lobbying Act.

Compliance efforts are often complicated by vague statutory language, ever-changing interpretations of law, and the inability to obtain clear, certain and timely guidance from the Commission.

Given the consequences of non-compliance, it is essential that the regulated lobbying community have a clear understanding of its obligations under the Act.

While regulations can be helpful in clarifying compliance obligations, this proposal fails to do so for two major reasons:

- First, in a number of instances, it proposes regulatory requirements that are simply not authorized by or, in some instances, are in direct conflict with underlying statutory language. The Commission cannot extend or change statutory requirements through rulemaking.
- Second, the proposed rule simply fails to provide clear, consistent guidance on complying with the Lobbying Act's restrictions on gifts.

Overall, we see this rulemaking as an effort to significantly extend the Lobbying Act's restriction on gifts in a way not intended or authorized by the State Legislature.



These concerns, and our recommendations for making these regulations more clear and more consistent with statute are provided in the attached pages.

We welcome any opportunity to discuss the comments and concerns with the Commission and to provide the Commission with additional information and input as you work toward final promulgation of this proposed rule.

Sincerely,

A handwritten signature in black ink on a light gray background. The signature reads "Kurt J. Pohly" in a cursive, slightly stylized font. The first name "Kurt" is written with a large 'K' and a small 'u'. The middle initial "J." is written with a small 'J' and a period. The last name "Pohly" is written with a large 'P' and a long, sweeping tail that extends to the right.

COMMENTS:

Note: As a result of the Public Employee Ethics Reform Act of 2007 (Laws 2007, Chapter 14), commonly referred to as "PEERA," a registered lobbyist or client shall not offer or provide a gift of more than nominal value to a public official. These draft proposed regulations, which are required by Executive Law §94(16)(a), provide guidance to those registered lobbyists and clients concerning the offering and giving of gifts to public officials. By setting forth conditions under which gifts may be offered and accepted, these rules establish parameters of acceptable conduct for covered individuals.

COMMENT: This "note" states that the proposed rule is *required by* Section 94(16) of the Executive Law; likewise, the Commission's State Register notice cites Section 94(16) as the statutory basis for this rule. However, that section states, "In addition to any other powers and duties specified by law, the commission shall have the power and duty to ...Promulgate rules concerning restrictions on outside activities and limitations on *the receipt of gifts and honoraria by persons subject to its jurisdiction.*" As the Executive Law's rulemaking authority applies only to the receipt of gifts by public officials, this seems to be the incorrect citation for the basis of additional regulations governing Article 1-A of the Legislative Law. We urge the Commission to more clearly establish their authority to adopt regulations under the Lobbying Act.

Further, given the uncertain statutory citation for the rule, its applicability is unclear as well. If this rule is intended to implement the gift ban under Legislative Law Article 1-A, it would be useful for the rule to clearly state its applicability to persons subject to registration under the Lobbying Act. As written, the issue of applicability is only discussed once you get to Section 934.2(a). The rule should have an applicability section up front. Likewise, provisions of the proposed rule not directly applicable to registered clients and lobbyists should be deleted.

PART 934
STATE OF NEW YORK
COMMISSION ON PUBLIC INTEGRITY
PROPOSED GIFT REGULATIONS
FOR THE LEGISLATIVE LAW

§934.1 Definitions

(a) *Bona fide* charitable event: shall mean a function initiated and organized by a charitable organization exclusively to advance and promote its charitable purposes.

(b) *Bona fide* political event: shall mean a function initiated and organized by a political organization exclusively to advance and promote its political purposes or political candidate(s).

(c) Charitable organization: shall mean an entity, as defined in Executive Law §171-a(1), that is registered with the Office of the Attorney General, as required by Executive Law Section 172, unless otherwise exempted from filing pursuant to Executive Law Section 172-a.

(d) Client: shall mean every person or organization as defined in Legislative Law §1-c(b).

(e) Commission: shall mean the New York State Commission on Public Integrity

(f) Complimentary Attendance: shall mean the waiver of all or part of a registration or admission fee, or waiver of all or part of a fee or charge for the provision of food, refreshments, entertainment, instruction, or materials. "Complimentary attendance" shall not include registration or admission without charge to the public official to *any recreational activity that is collateral to the conference or event*, or travel or lodging. [Italics added]

COMMENT: From this language, it is unclear what constitutes a "recreational activity," and when such activity is secondary or subordinate to the overall event. Previously, the Commission had provided The Business Council with guidance indicating that recreational activities that are part of an event's formal agenda and whose costs are included in the general admission charge for the event, are considered as part of the widely attended, officially related event for which complimentary attendance is allowed. We believe this approach is more workable than the one proposed in subparagraph (f) here.

To clarify the Commission's proposal, this provision could be amended as follows:

"Complimentary attendance" shall not include registration or admission without charge to the public official to any recreational activity that is collateral to the conference or event and for which a separate registration or admission charge is otherwise required, or travel or lodging.

(g) Educational Program: shall mean a program that provides continuing education credits to attendees. "Educational Program" shall also mean a program presented by a public official as part of his or her public duties.

COMMENT: The statute does not limit the term "educational program" to programs that provide continuing education credits to attendees. This proposed definition would improperly limit this provision to a limited number of professions. As this definition imposes limitations not authorized in statute, we recommend its deletion.

(h) Family Member: shall mean any person who is a direct descendant of the public official's grandparents or the spouse of such descendant.

(i) Functionality: shall mean the utility of an item in day-to-day activities,

COMMENT: See comments regarding Section 934.3(d) below.

(j) Gift: shall mean anything of more than nominal value, in any form, offered or given to a public official. A "gift" may include, but shall not be limited to, money, service, loan, travel, lodging, meals, refreshments, entertainment, discount, forbearance or promise.

COMMENT: The definition of "gifts," and enforcement of the Lobbying Act's prohibition on gifts, has been the source of significant confusion in the lobbying community. In order to achieve full consistency with statutory provisions, we recommend that the final rule simply repeat the exact statutory definition here. As proposed, this draft rule dissects the statutory definition of "gift," and in its re-presentation makes subtle yet important changes to its statutory definition. As discussed in detail elsewhere in these comments, the Commission's proposed restructuring of the statutory definition of "gift" raises issues of statutory consistency and results in additional ambiguity regarding compliance.

(k) Informational event: shall mean a program that provides information about a specific subject or subjects related to a public official's duties or responsibilities.

(l) Lobbyist: shall mean every person or organization as defined in Legislative Law §1-c(a).

COMMENT: The purpose of this definition is unclear, because the only place that this term is used in the draft rule is in the initial "note," discussed above, which presumably would not be codified in the state code of rules and regulations.

(m) Nominal value: shall mean such an insignificant value, such as the value of a regular cup of coffee or soft drink, given under circumstances that it could not be reasonably inferred as something that is intended to influence, or could reasonably be expected to influence a public official, in the performance of his or her official duties or responsibilities, or was intended as a reward for any official action on his or her part. A meal or an alcoholic beverage is deemed to have a value greater than "nominal value."

COMMENT: The term "nominal value" is used in the Lobbying Act to define the term "gift," i.e., "anything of more than nominal value given to a public official..." For purposes of implementing Legislative Law Article 1-A, "nominal value" is not based on any presumed intent of the giver or recipient. The statutory reference to circumstances where "it is not reasonable to infer that a gift was intended to influence...public officials" relates to the prohibition on gift giving, not the value or nature of a gift. If an item is exempted from the statutory definition of "gift," the circumstances under which it is offered or given is not relevant for Lobbying Act compliance purposes. We believe the regulation adequately addresses this issue in section 934.2(a) below. Therefore, we recommend that this paragraph be deleted.

(n) Political organization: shall mean any organization that is affiliated with or a subsidiary of a political party including, without limitation, a partisan political club or committee, or a campaign or fund-raising committee for a political party or political candidate.

COMMENT: This definition pertains to the exclusion of bona fide political events from the definition of "gift." The draft rule states that complimentary attendance at such events is not excluded if offered by someone other than the organization whose political purpose the event advances. Both this definition and the gift exclusion language presented later in the bill are inconsistent with statute and need to be amended. This definition improperly excludes bona fide political events, such as fundraisers, hosted by business, labor, trade associations and other entities, where the sponsor is not the entity benefiting from the event. We believe that a fundraising event that is subject to reporting requirements of the Election Law should be included in this definition.

(o) Professional Program: shall mean a program, including, without limitation, a conference, meeting, seminar, teleconference, videoconference or "webinar" that provides information on a broad range of services or products, or trends in an industry or discipline that would benefit the administration or operation of a governmental entity or would enable a a group of public officials to perform their duties in a more effective manner.

COMMENT: Delete extra "a" in the above sentence.

(p) Public official: shall mean:

- (1) the governor, lieutenant governor, comptroller or attorney general;
- (2) members of the state legislature;
- (3) state officers and employees including:
 - (i) heads of state departments and their deputies and assistants other than members of the board of regents of the university of the state of New York who receive no compensation or are compensated on a per diem basis,
 - (ii) officers and employees of statewide elected officials,
 - (iii) officers and employees of state departments, boards, bureaus, divisions, commissions, councils or other state agencies,
 - (iv) members or directors of public authorities, other than multi- state authorities, public benefit corporations and commissions at least one of whose members is appointed by the governor, and employees of such authorities, corporations and commissions;
- (4) officers and employees of the legislature; and
- (5) municipal officers and employees including an officer or employee of a municipality, whether paid or unpaid, including members of any administrative board, commission or other agency thereof, and in the case of a county, shall be deemed to include any officer or employee paid from county funds. No person shall be deemed to be a municipal officer or employee solely by reason of being a volunteer fireman or civil defense volunteer, except a fire chief or assistant fire chief.

(q) Public Service: shall mean service related to an person's official duties and responsibilities as a public official.

COMMENT: Change "an" to "a" in the above sentence.

(r) Widely Attended Event: shall mean an event that *is intended to be open* to a large number of persons from a given industry or profession, *including invitees who represent a broad and diverse range of interests* in a given subject matter. The event must provide the opportunity for an exchange of ideas and opinions among those in attendance. [Italics added]

COMMENT: We have two comments on this paragraph. First, the Commission is proposing a change to statutory language for no clear purpose. The Lobbying Act exempts from the definition of gift, "complimentary attendance...offered by the sponsor of an event that is widely attended or was in good faith intended to be widely attended..." The proposed rule changes "intended to be widely attended" to "intended to be open to" to for no particular purpose. Second, the proposed rule adds additional criteria stating that, to qualify as widely attended, an event must include "invitees who represent a broad and diverse range of interests." This additional criteria is not in statute, and is not reflected in legislative history. Further, it does nothing to help clarify what constitutes a "widely attended" event. In fact, it does the opposite by adding additional subjective criteria. Since the Commission's new language is no more clear or precise than those in statute, we strongly recommend that the final rule remain consistent with the statutory language.

934.2 Gifts

(a) *No person or entity required to be listed on a statement of registration (see Legislative Law, Article 1-A, Paragraphs 1-e[c][1] and [2]) may offer or give a gift to any public official, unless under the circumstances it is not reasonable to infer that the gift was intended to influence the public official in the performance of his or her official duties or was intended as a reward for any official action on his or her part.* [Italics added] No such person or entity may offer or give a gift to the spouse or unemancipated child of any public official under circumstances where it is reasonable to infer that the gift was intended to influence the public official in the performance of his or her official duties or was intended as a reward for any official action on his or her part. No spouse or unemancipated child of a person required to be listed on a statement of registration should offer or give a gift to a public official under circumstances where it is reasonable to infer that the gift was intended to influence such public official in the performance of his or her official duties or was intended as a reward for any official action on his or her part. The prohibition does not apply to gifts to officers, members or directors of boards, commissions, councils, public authorities or public benefit corporations who receive no compensation or are compensated on a per diem basis, unless the person or entity offering or giving the gift appears or has matters pending before the board, commission or council on which the recipient sits.

COMMENT: As discussed above, we believe this section correctly and adequately presents the statutory gift ban language (with the exception that statute refers only to influencing public officials, not rewarding them for past actions.)

(b) A gift does not include:

- (1) anything for which a public official pays market value;
- (2) anything for which a governmental entity has paid or secured by a government contract; and
- (3) rewards or prizes given to competitors in contests or events, including random drawings open to the public.

(c) Offering or giving multiple items, regardless of value, from a single donor on a recurrent basis could create a reasonable basis for the impression that the donor was influencing or rewarding or attempting to influence or reward the public official or enjoying his or her favor in connection with the performance of the public official's official duties.

COMMENTS: The purpose of subsection (c) is unclear. The Legislative Law provides a definition of "gift," including eleven categories of items that are excluded from the definition, and prohibits the offering or giving of gifts by registered clients and lobbyists to public officials. This section of the draft rule refers to the offering or giving of multiple "items," apparently without regard to whether they meet the definition of "gift." Therefore, there seems to be no relationship between this proposed language and the statutory provisions it purports to implement. As such, we recommend deletion of subsection (c).

(d) An otherwise prohibited gift is not permissible because it is given to a third party at the public official's direction.

(e) A gift that could not be given to a public official may not be directed by the public official to a third party, including (a) the public official's spouse, parent, sibling, child, relative or friend, or (b) to any other person or entity designated by the public official, including a charitable entity.

934.3 Exceptions to the Definition of Gift

COMMENT: As discussed above, we recommend that the final rule include the full statutory definition of the term "gift" in the definition section of the rule, and that it remain consistent with statutory provisions.

(a) Notwithstanding the prohibitions set forth in 934.2, the following, when offered or given under the following circumstances, are considered exceptions to the definition of gift:

(b) Complimentary Attendance at *bona fide* Charitable or Political Events

(1) Complimentary attendance, including food and beverage, at a *bona fide* charitable or political event. "Food and beverage" shall include a meal that is offered to all in attendance as part of the event.

(2) Complimentary attendance at a *bona fide* charitable or political event *offered, given or paid for by a person or entity other than the charitable or political*

organization whose charitable or political purposes the event advances or promotes shall be considered a prohibited gift to the public official. [italics added]

COMMENT – The Lobbying Act exempts complimentary attendance at “bona fide ...political event[s]” from the definition of “gift,” without any qualification as to how or by whom such complimentary attendance is offered. Since the legislature chose to apply such qualifications to some categories of complimentary attendance, and chose to not apply them here, the legislative intent is clear. As written, the proposed rule would prohibit “third party” offers of attendance at such events even by persons that are not otherwise subject to regulation under the Lobbying Act. Regardless of any merits of this proposal, the Commission cannot “mix and match” statutory provisions in a way that is unauthorized by the Legislature. Therefore we recommend deletion of subparagraph (2).

(3) Food and beverage of a nominal value, offered or given other than as part of a meal, is not considered a gift.

(c) Complimentary Attendance at Widely Attended, Officially Related Event

(1) Complimentary attendance, including food and beverage, offered or given by the sponsor of an event that is intended to be widely attended.

(2) Complimentary attendance offered, given or paid for by a person or entity other than the sponsor of the event shall be considered to be a prohibited gift to the public official.

(3) Attendance at the event must be related to the public official’s duties and responsibilities, or allow the public official, or his or her designee, to perform a ceremonial function appropriate to his or her position.

(4) Under no circumstance shall travel or lodging be included.

(5) An event is related to the public official's duties or responsibilities if it has as its *principal purpose* promoting the exchange of information about an issue or issues of public interest. [Italics added]

COMMENT: We have two sets of concern regarding this proposed subparagraph (5). First, we believe this is inconsistent with statute. The Lobbying Act precludes from the definition of “gift” complimentary attendance at widely attended events if such attendance “is *related to the attendee’s duties or responsibilities as a public official.*” This proposal to create a new requirement that the event’s “principal purpose” is the exchange of information on a public issue is inconsistent with statute. Second, this proposal raises more compliance questions than it answers. It is unclear how the Commission would determine the “principal” purpose of an event. We have been told by Commission staff that compliance can be demonstrated by having a formal agenda, yet the draft rule provides no indication of what criteria will be applied here. Will additional, non-promulgated criteria be employed by the Commission in making determinations of “primary purpose?” We believe that large events that bring public officials together with members of the public with a clear opportunity and purpose of discussing legislative or regulator issues is consistent with the statutory intent behind the “widely attended, officially related” event exemption. We recommend that the Commission strike the

provisions regarding the "principal purpose" of the event from the final rule.

(6) The public official may accept a sponsor's invitation to an accompanying spouse to participate in all or a portion of the event at which the public official's complimentary attendance is not prohibited if such an invitation is offered to the spouses of all other attendees.

(7) Travel expenses, lodging, *entertainment collateral* to the event, or meals taken other than on the same basis generally provided to other attendees may not be included as part of the gift, either to the public official or his or her spouse. [Italics added.]

COMMENT: We address this issue of collateral entertainment in our comments above.

(8) In determining whether complimentary attendance should be accepted, the following factors should be considered:

- (i) the nature of any pending matter affecting the donor's interest,
- (ii) the importance of the event in relation to the public official's agency, department or other governmental unit,
- (iii) the relevance of the event to the public official's duties and responsibilities,
- (iv) the timing of the event,
- (v) the purpose of the event, the identity of other expected participants and the monetary value of the complimentary attendance, and
- (vi) whether the event provides the opportunity for an exchange of ideas and opinions among those in attendance.

COMMENT: The statutory basis for paragraph (8) is unclear, as is its effect. It is unclear whether this provision is a recommendation of factors that *ought to be* considered by a public official, or that *must be* considered in considering acceptance of an offer of complimentary attendance. If the former, we believe that non-binding "suggestions" have no place in regulations that otherwise have the force and effect of law. If the latter – factors that must be considered – it not only goes beyond statutory provisions allowing for complimentary attendance at widely attended officially related events, it sets criteria with no indication of how they are to be applied. First, statute clearly states that such complimentary attendance is not a prohibited gift, regardless of the timing of the event, the identity of other expected participants, or the nature of pending matters affecting the donor's interest. Second, it is unclear exactly how a public official is supposed to apply this criteria. For example, is complimentary attendance more or less permissible if there is a major pending issue before the elected official and the event provides an opportunity to discuss the issue with the affected public? The proposal provides no indication. As such, it is unclear how they could be applied in a consistent manner. Therefore, we recommend that paragraph 8 be deleted from this rule.

(9) The public official's agency, department or governmental unit shall, in each instance, make a written finding that the public official's attendance at the event has been approved in accordance with the factors set forth in the preceding paragraph.

COMMENT – The Business Council might support regulatory adoption of this provision if it were clearly based in statute, and it stated that any such written determination by a government agency represents a final determination of consistency with the Lobbying Act. Unfortunately, it does neither. By imposing obligations on public officials as opposed to registered clients and lobbyists, it has no basis in the Lobbying Act it purports to implement. Further, we can think of no worse outcome than a registered client or lobbyist relying on a determination by a state agency that an event qualifies as “widely attended, officially related event,” only to have the Commission reject that determination after the fact. Finally, this language puts the sponsor of an event in the difficult position of having to determine whether a public official received their agency's approval. In summary, this proposal establishes criteria without any suggestion of how they are to be applied, creates a compliance determination process not found in statute, and then gives that process no real relevance to the Commission's oversight and enforcement efforts. For these reasons, we recommend its elimination from this rule.

(d) Awards, Plaques and Other Ceremonial Items

(1) Awards, plaques, and other ceremonial items that are publicly presented, or intended to be publicly presented, in recognition of public service, provided that the item or items are of the type customarily bestowed at such or similar ceremonies and are otherwise reasonable under the circumstances.

(2) To determine whether it would be permissible for the public official to accept such an award, the following factors will be considered:

(i) Functionality of the item;

(ii) Monetary value of the item;

(iii) Whether the item is personally engraved;

(iv) Whether the donor had regularly bestowed the same or equivalent items to others under similar circumstances in the past; and

(v) Whether the public official has any pending matter affecting the interest of the donor of the item.

(3) Awards, plaques and other ceremonial items given and accepted in compliance with this subparagraph shall be the property of the public official.

COMMENT: We have several concerns with (d). First, the criteria in (d)(2) apply to the recipient of an award, not the presenter. As such, it does not belong in a rule implementing the Lobbying Act. Second, it adopts regulatory criteria for evaluating the permissibility of such awards that are not authorized by statute, and actually contradict the language of the Act. In fact, the Lobbying Act *specifically states* that “the functionality of such items shall not determine whether such items are permitted under this” exclusion, yet the proposed rule says functionality will be a determining factor. While this criteria may be offered as informal guidance by the Commission, it should be deleted from the final rule.

(e) Honorary Degrees

An honorary degree bestowed upon a public official by a public or private college or university.

(f) Promotional Items

Items having no substantial resale value such as pens, mugs, calendars, hats, and t-shirts that bear an organization's name, logo, or message in a manner that promotes the organization's cause.

(g) Discounts for Goods and Services

(1) Goods and services, or discounts for goods and services, offered to the general public or a segment of the general public defined on a basis other than status as a public official and offered on the same terms and conditions as the goods and services are offered to the general public or segment thereof.

(2) Broad based discounts made available to all public officials shall not be considered gifts.

COMMENT: The meaning of subparagraph (2) is unclear. Is the Commission attempting to define a sub-category of discounts targeting all public officials that meet the statutory exemption for "discounts...offered to the general public?" If so, it seems to be inconsistent with statutory provisions precluding such discounts defined on the basis of a person's status as a public official.

(3) *The following factors should be considered when any other type of discount is made available to a select group of public officials to determine whether the discount would be considered to be a gift:* [Italics added]

(i) the scope of the class of public officials who are offered the discount;

(ii) the amount and duration of the discount; and

(iii) whether the offeror has a nexus to the class of public officials who are offered the discount, *i.e.*, whether the offeror has a pending matter, is regulated by or is seeking to contract with the public official's governmental entity; and

(iv) whether the criterion for the offer is based on factors other than the public officer's official duties and responsibilities

(4) Public officials should contact their Ethics Officer for guidance prior to accepting such a discount.

COMMENT: The statutory basis for paragraph (3) is unclear. This provision may be aimed at situations such as is the case with some professional associations and similar groups, that offer registration discounts to "government employees." Even so, it appears to have no basis in statute. The Lobbying Act's gift exemption for generally available discounts applies only in instances where such discounts are offered "on a basis other than status as a public official." This proposed language seems to directly contradict statute, by saying there can be some permissible "type of discounts" explicitly for public officials.

(4) Public officials should contact their Ethics Officer for guidance prior to accepting such a discount.

(h) Gifts from a Family Member

(1) Gifts from a family member, member of the same household, or person with a personal relationship with the public official, including invitations to attend personal or family social events, when the circumstances establish that it is the family, household, or personal relationship that is the primary motivating factor.

(2) In determining motivation, the following factors shall be among those considered:

(i) the history and nature of the relationship between the donor and the recipient, including whether items have previously been exchanged;

(ii) whether the item was purchased by the donor;

(iii) whether the donor at the same time gave similar items to other public officials;

(3) the offer or giving shall not be considered to be motivated by a family, household, or personal relationship if the donor seeks to charge or deduct the value of such item as a business expense or seeks reimbursement from a client.

(4) Any reimbursement to the donor may be considered in determining whether the gift is motivated by a family, household or personal relationship.

(i) Contributions Reportable under Election Law Article 14

Contributions in compliance with the requirements of Election Law Article 14, are permissible. *Contributions in excess of the requirements of Election Law Article 14 are prohibited.* [Italics added.]

COMMENT: While it is true that "Contributions in excess of the requirements of Election Law Article 14 are prohibited," its inclusion here seems misplaced, as this rulemaking is related to implementation of the Lobbying Act, not the Election Law. This sentence should be deleted. Enforcement of the Election Law is properly left to the State Election Board.

(j) Reimbursement of Expenses for Speakers at Informational Events

(1) Travel reimbursement or payment for transportation, meals and accommodations for an attendee, panelist or speaker at an informational event when such reimbursement or payment is made by a governmental entity or by an in-state accredited public or private institution of higher education that hosts the event on its campus.

(2) The public official may only accept lodging from an institution of higher education:

(i) at a location on or within close proximity to the host campus; and

(ii) for the night preceding and the night of any day on which the attendee, panelist or speaker actually attends the event.

(k) Provision of Local Transportation to Inspect Facilities

(1) Provision of local transportation to inspect or tour facilities, operations or property owned or operated by the entity providing such transportation.

(2) The payment or reimbursement of lodging, meals or travel expenses to and from the locality where such facilities, operations or property are located shall be considered to be gifts unless otherwise excluded from the definition of a gift.

(l) Meals for Participants at a Professional or Educational Program

(1) Receipt of meals or refreshments when participating in a professional or educational program as part of the public official's duties and responsibilities, when the meals or refreshments are provided to all participants.

(2) A program sponsored by a person or entity that does or seeks to do business with a governmental entity and is comprised substantially of one or more presentations that describe the products or services offered or sold by such person or entity to governmental entities which would use such products or services as part of their official duties shall not be considered a professional program for the purposes of this section.

COMMENT: The Lobbying Act provides that the definition of "gift" excludes "meals or refreshments when participating in a professional or education program and the meals or refreshments are provided to all participants." At minimum, this proposed section needs to be amended to be consistent with the statutory reference to "meals and refreshments."

§ 934.4 Guidance

Any person or entity may contact the Commission for guidance concerning the propriety of any gift.