

Honolulu Authority for Rapid Transportation

RESOLUTION NO. 2012-3

RELATING TO A POLICY ON THE SOLICITATION, ACCEPTANCE, RECEIPT AND REPORTING OF GIFTS TO THE HONOLULU AUTHORITY FOR RAPID TRANSPORTATION

WHEREAS, the Honolulu Authority for Rapid Transportation (HART) has been established pursuant to Article XVII of the Revised Charter of the City & County of Honolulu 1973, as amended (Charter); and

WHEREAS, the Charter empowers the Executive Director/CEO of HART to request, and accept appropriations from the city, and request and accept grants, loans and gifts from other persons and entities; and

WHEREAS, gifts to HART from individuals or organizations or the public or private sector can be useful supplements to appropriated funds; and

WHEREAS, gifts may be used to carry out activities that further HART's mission, programs, functions or responsibilities, provided that such expenditures are not prohibited by law or regulation applicable to HART; and

WHEREAS, a Gift Policy relating to the solicitation, acceptance, receipt and reporting of gifts is therefore in the best interests of HART; and

WHEREAS, this Gift Policy is not intended to apply to gifts to individuals, i.e., HART officers or employees;

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of HART as follows:

1. That the Gift Policy, as set forth in Exhibit A attached hereto and made a part hereof by reference, be and hereby is, adopted as the policy of HART; and
2. That the Executive Director/CEO is authorized to implement the policies described in Exhibit A and to ensure that HART staff and contractors, as appropriate, adhere to these policies; and
3. That this Resolution shall take effect immediately upon its adoption.

ADOPTED by the Board of Directors of the Honolulu Authority for Rapid Transportation on SEP 13 2012.

Exhibit A –Gift Policy of the Honolulu Authority for Rapid Transportation


Board Chair

ATTEST:


Board Administrator

The Honolulu Authority for Rapid Transportation Gift Policy

Policy

Section 17-104(l) of the Revised Charter of the City and County of Honolulu 1973, as amended, empowers the Executive Director/CEO of the Honolulu Authority for Rapid Transportation (HART) to request and accept appropriations from the city, and request and accept grants, loans and gifts from other persons and entities. HART's Financial Policies, as approved on July 1, 2011 and subsequently amended, further state that HART will pursue opportunities with private and public sector interests that will benefit from the implementation of the Honolulu High-Capacity Transit Corridor Project (now known as the Honolulu Rail Transit Project) and HART's capital projects. Therefore, it is in the best interest of HART to have a Gift Policy.

Definition of Gift:

"Gift" is defined as a voluntary contribution to HART for a public purpose, whether for a specific purpose or not, of money, securities, personal property or any interest in real property. More specifically, HART's Financial Policies state that contributions could take the form of direct cash contributions, donation of rights-of-way, structured payments over time or the actual construction of project elements as examples.

Authority to Accept Gifts

The authority to solicit, accept, refuse, return or negotiate the terms for accepting a gift under this Gift Policy ("Policy") resides with the Executive Director/CEO. This authority may be delegated by the Executive Director/CEO to another HART officer or employee in writing and this delegated authority may be limited to accepting specific types of gifts or gifts for a specific purpose or event. Approval of the acceptance of a gift after its receipt may be granted as deemed appropriate by the Executive Director/CEO or his/her designee.

Neither the Executive Director/CEO, nor any HART officer or employee with delegated authority, shall solicit gifts from any person or entity that has a matter currently pending before HART.

Officers and employees of HART, other than the Executive Director/CEO or his/her designee, shall forward all offers of gifts regardless of value to the Executive Director/CEO or his/her designee for consideration and shall provide a description of the gift offered. HART officers and employees shall also inform the Executive Director/CEO or his/her designee of all discussions related to the possibility of a gift. An officer or employee shall not provide a donor with any commitment, privilege, concession or other present or future benefit, other than an appropriate acknowledgment, in return for a gift.

Types of Gifts Accepted

Except as set forth below, and consistent with applicable ethical standards of conduct, HART may solicit or accept any type of gift that may be used to carry out activities that further its mission, programs, functions or responsibilities. Any cash gifts will only be accepted if made by check or money order to "Honolulu Authority for Rapid Transportation."

Conditions for Accepting Gifts

HART shall not solicit, receive, or accept any gift that:

- Attaches conditions inconsistent with applicable laws, regulations, or ethical standards of conduct;
- is offered by an anonymous donor;
- Is conditioned upon or will require the expenditure of appropriated funds that are not available to HART;
- Is offered to or is for the sole benefit of individual HART officers or employees;
- Rewards, influences or tends to impair the judgment of any HART officer or employee in the performance of such person's official duties;
- Provides special consideration, treatment, advantage, privilege, or exemption for, or coerces, a potential donor;
- Requires HART to adhere to particular requirements as to deposit, investment, or management of funds donated, if those requirements inure to the exclusive benefit of third parties;
- Requires HART to endorse the donor or its products, services, activities, or policies;
- Requires HART to provide the donor with some privilege, concession or other present or future benefit in return for the gift; or
- Requires HART to undertake or engage in activities that are not related to its mission, programs or legal authorities.

In making a determination as to whether any of these conditions apply, the Executive Director/CEO or his/her designee shall consider whether the gift would reflect unfavorably upon the ability of HART officers or employees or the HART Board of Directors (Board) to carry out their official responsibilities or official duties in a fair and objective manner, or would compromise or appear to compromise the integrity of HART's programs or of any officer or employee. The Executive Director/CEO or his/her designee may be guided by all relevant considerations, including, but not limited to, the following:

- The identity of the donor;
- The monetary or estimated market value or the cost to the donor;
- The purpose of the gift as described in a written or oral proposal by the donor;
- The identity of other expected recipients of the gift on the same occasion, if any;
- The timing of the gift;
- The nature and sensitivity of any matter pending at HART affecting the interests of the donor;
- The nature of the gift offered;
- The frequency of other gifts received from the same donor; and,
- The HART activity, purpose or need that the gift will aid or facilitate.

The Executive Director/CEO or his/her designee may ask the donor to provide in writing any additional information needed to assist in making the determination under this part. Such information may include a description of the donor's business or organizational affiliation and any matters that are pending or are expected to be pending before the agency.

The Executive Director/CEO or his/her designee may find that in some cases it is in the best interest of HART to limit the gift or qualify its acceptance or to decline it, even though its acceptance would not otherwise be precluded. A donor may be advised of the reason why the gift has been qualified or declined.

In the event that a gift is clearly worth more than \$100,000.00, or is a gift that requires ongoing maintenance, security, or storage, or any costs not previously budgeted for, as in the case of a gift of real property, the Executive Director/CEO shall consult with the Board prior to accepting or rejecting said gift. Although the Executive Director/CEO maintains, by Charter, the responsibility for acceptance of gifts on behalf of HART, the Executive Director/CEO shall consult with the Board and/or the Ethics Commission if questions arise as to implementation of this policy.

Acknowledgement of Gifts

Gifts shall be acknowledged in writing in the form of a letter of acceptance to the donor. The amount of a monetary gift shall be specified. In the case of non-monetary gifts, the letter shall not make reference to the value of the gift. Valuation of non-monetary gifts is the responsibility of the donor. Letters of acceptance shall not include any statement regarding the tax benefits or implications of a gift, and such determinations shall remain the responsibility of the donor. In addition, letters of acceptance shall not include any statement of endorsement of the donor.

The letter of acceptance should state what the gift will be used for and that the gift will not result in any favored treatment for the donor.

Reporting of Gifts

The Executive Director/CEO or his/her designee shall report all gifts received, with a value of \$2,500.00 or more, to the Board no later than at the next regularly scheduled Board meeting following receipt of the gift. For gifts of \$2,500.00 or less, the Executive Director/CEO or his/her designee shall submit to the Board a quarterly report listing all gifts accepted or rejected during the quarter. The report shall be submitted at the next regularly scheduled Board meeting following the close of the applicable quarter.

Accounting of Gifts

- HART shall ensure that gifts are properly accounted for by following appropriate internal controls and accounting procedures;
- HART shall maintain an inventory of donated personal property worth more than \$2,500.00. The inventory shall be updated each time an item is sold, surplus, destroyed or otherwise disposed of or discarded;
- HART shall maintain a log of all gifts accepted under this policy. This log shall include: the name and address of the donor; a description of the gift; the date the gift was accepted; any terms of conveyance, the reason and purpose for the gift; whether additional HART funds were needed to effectuate the gift; and the cost and time frame within which the gift will be used; and
- The officers and employees who use the gift should document what was learned through the gift process in terms of solicitation, use and process.