

# Gifts and Gratuities

At some point, every local government faces questions about gifts to employees, especially during the traditional holiday season. Left unaddressed, gifting can be a source of embarrassment for the organization when an employee (or local official) accepts something that calls into question his or her integrity.

The issue of who gets what and how much can also be a distraction and a source of discontent among the staff. Doubt that this is true? Ask your staff. You will hear about the department that eats well in December or the supervisor who regularly keeps the crate of fresh oranges for himself. This comes up in ethics training sessions all the time!

Although the questions usually arise during the holiday season, any time is a good time for leaders to review the organization's practices and policies for accepting gifts from appreciative residents, local businesses, and vendors.

The best policies or practices should support the organization's values, help staff and officials make good judgments, communicate clear expectations to all, be uniformly and fairly applied and enforced across the organization, and, in addition, build public trust and confidence in the integrity of the staff and organization. When you have completed the organizational assessment, then consider whether you are the role model for exemplary conduct.

## APPROACHES TO RECEIVING A GIFT

Local governments address the challenges of gift giving and receiving in a variety of ways, ranging from a pure values-based approach, which empowers the individual to make the judgment call on the basis of shared values, to a stricter regulatory standard.

Regardless of the approach, it is always important to encourage individuals to think about appearances and how their conduct contributes to an ethical culture. Simply establishing a set of rules without explaining how they support good public service values won't be effective in achieving the desired conduct.

ICMA's Code of Ethics expresses a core commitment to seek no favor and offers this guidance on gifts:

"Members shall not directly or indirectly solicit, accept or receive any gift if it could reasonably be perceived or inferred that the gift was intended to influence them in the performance of their official duties; or if the gift was intended to serve as a reward for any official action on their part.

"The term 'Gift' includes but is not limited to services, travel, meals, gift cards, tickets, or other entertainment or hospitality. Gifts of money or loans from persons other than the local government jurisdiction pursuant to normal employment practices are not acceptable.

"Members should not accept any gift that could undermine public confidence. De minimis gifts may be accepted in circumstances that support the execution of the member's official duties or serve a legitimate public purpose. In those cases, the member should determine a modest maximum dollar value based on guidance from the governing body or any applicable state or local law.

"The guideline is not intended to apply to normal social practices, not associated with the member's official duties, where gifts are exchanged among friends, associates and relatives."

## ADVICE ON CREATING EFFECTIVE GIFT GUIDELINES

**Set reasonable standards.** If the policy sets a value limit on gifts, make sure that it passes the reasonable-person standard. Is the gift small enough that a reasonable person would assume it was not a reward or intended to gain favor? Some jurisdictions set a dollar limit—perhaps \$50. Acknowledging the ambiguity of the reasonable-person standard, other policies set the threshold at zero and permit only token gifts of food that can be shared with others.

**Help people make good decisions.** Create a framework for decision making, place value limits on gifts, and implement a disclosure requirement. This provides the guidance needed when the issue isn't clear. A sound policy makes it clear that accepting a gift of any dollar value can give some people the impression of favoritism or susceptibility to influence. It may be helpful to provide examples of "de minimis" gifts (e.g., calendars, books) and examples of gifts that must be disclosed (tickets to sports events or concerts, tangible gifts above an established dollar value).

**Be uniform, fair, and aware of roles.** A grateful public rightfully acknowledges the contributions of public safety and other front-line service providers. Leaders need to acknowledge the contributions of all who work to deliver services by establishing and enforcing a uniform policy across the organization. That said, some employees by virtue of their roles and responsibilities will be held to a higher standard. The city of Decatur, Georgia, expresses it well: although no employee should solicit or accept any gift or gratuity from anyone who has official business with the city, “it is particularly important that managerial employees, contracting officers, inspectors, and enforcement officers guard against any relationship which might be construed as evidence of favoritism, coercion, unfair advantage or collusion.”

**Lead by example.** We work hard to establish credibility and trust with the public and staff by holding ourselves accountable and paying attention to appearances. If accepting a gift creates the appearance of impropriety or sends the wrong message to your staff, your credibility is at risk. Often the test of whether you should accept a gift is to simply ask, “Do I really, really want this?” If the answer is yes, you should decline it because your objectivity is already compromised. The best strategy is to just say “no thanks.”

**Repurpose the effort.** In addition to educating staff and officials about gift policies, be proactive to make sure that residents, businesses, and vendors understand the organization’s standards. In a period of dire need, local governments could take the lead in redirecting holiday gift giving—by the business community, in particular—to more urgent causes. Instead of offering the gift to local government employees, businesses could donate to a food bank, to a student scholarship fund, or to any number of the nonprofit organizations that provide essential services. The list of needs is endless.



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