

Regulating Gifts via Policies and Codes of Ethics Sample Approaches

Local governments address the challenges of gift giving and receiving in a variety of ways that range from a “values based” to a “regulatory” approach. Regardless of the approach, it is always important to encourage individuals to think about how their conduct promotes trust with the public and contributes to an ethical culture. Establishing a set of rules without explaining how they support good public service values won’t be as effective in achieving the desired conduct and changing behavior.

A values approach encourages employees to think about whether accepting a gift supports the culture the organization desires to promote and the consequences to the organization. The Fairfax County Code of Ethics is one good model as it highlights that accepting gifts can undermine efforts to build trust and confidence with the public in the work the County does.

Adding a framework for decision making, placing value limits on gifts, and implementing a disclosure requirement can provide individuals with more guidance than just relying on a values assessment to make effective decisions. In Virginia Beach, the code focuses on values but reminds staff to adhere to the state law as well. Elected and appointed officials in Phoenix are provided with a framework for evaluating whether accepting a gift is a wise decision and if accepted, then requires them to disclose it.

Communicating gift policies to stakeholders and external parties is an essential part of an effective strategy. Vendors interested in doing business with the City of Tempe are informed of the City’s no gift policy (including no meals) when they register.

Here are the relevant sections of the policies and codes referenced:

Fairfax County, Virginia:

Trust: Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

Principle guidance: Ensure that there is no conflict of interest or even the appearance of a conflict of interest while performing all duties and actions.

Principle guidance: Engage in activities that build the confidence entrusted to us as public servants and avoid those that undermine or even appear to undermine this confidence.

Principle guidance: Ensure that no favors, gifts, gratuities, personal gain, or benefits are received for actions taken.

City of Phoenix, Arizona

G. Gifts, Favors and Extra Compensation

1. The City's Gift Policy (A.R. 2.93) provides that "No City employee shall accept any gift, service or favor which would lead toward favoritism or the appearance of favoritism in any way." Additionally, Arizona law prohibits City employees and members of City boards, commissions, committees and the City Council from receiving anything of value or any compensation other than their normal salary for any service rendered in connection with that person's duties with the City. See A.R.S. § 38-505(A) (reproduced in Appendix B).

Comment: City employees and members of City boards, commissions, committees and the City Council should not accept any gifts (monetary or otherwise, such as a service, loan, thing or promise), gratuities, or favors from anyone other than the City for the performance of acts within the regular course of official duties. You should refuse any gifts or favors which reasonably may be interpreted to be offered in order to influence a municipal decision. Compensation for performing your public duty is limited to salaries, fringe benefits and any personal satisfaction that you may derive from doing a good job. While you are the first to decide whether to accept any gift, you must recognize that others will decide if there is "the appearance of favoritism" for your having accepted a gift. Finally, you should be wary of accepting any gifts or benefits from individuals doing business with the City or whose financial interests are affected by City action.

2. City employees and members of City boards, commissions, committees and the City Council must consider ethical principles before accepting personal gifts of entertainment and sports/athletic activities.

Comment: After the above gifts policy is applied, if you accept the entertainment or sports/athletic activity gift and do not personally pay for it, you must declare the gift with the City Clerk Department, within two working days, using the "Declaration Form." Gifts should be declared regardless of whether or not the gifts are used by the employee. See Appendix E for a copy of the Declaration Form and examples of such gifts.

There are three examples of gifts that do not require declaration:

1. A personal gift from a friend or relative.
2. Winning or receiving a promotional gift from a community business, where the opportunity to win/receive the gift is open to the community in general.
3. Employees who pay for the ticket or elect to make a charitable contribution in the name of the donor for the face value of the gift do not need to file a declaration.

All other gifts accepted should be declared regardless of whether or not you use the gift.

Virginia Beach, Virginia:

The State and Local Government Conflict of Interests Act contains the following prohibitions concerning gifts: Government employees may not accept a gift from any person, business, or other entity that has interests that may be substantially affected by the performance of the employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the employee's impartiality. Also, employees may not accept gifts from sources on a basis so frequent as to raise the appearance that they are using their public office for private gain. In summary, the safest course of action is to decline gifts of more than a nominal value. With respect to meals, take turns paying or, better yet, always pay for your own meal.

Mecklenburg County, North Carolina

Employees will adhere to the County's code of ethics, which includes showing no favoritism among customers, treating all customers fairly and equitably, and refusing to accept gifts from customers (and others) of more than \$50 in value.

Tempe, Arizona

The City Procurement Office and the customer departments that it serves have a strict "No Gratuities" in any form policy. The precept of fair and open competition is held strongly by the City Procurement Office and gratuities in any form, including meals are not to be offered or given to City employees. The giving of gratuities may result in bidder disqualification.

For more information on ethics and sample codes of ethics, visit ICMA's website at icma.org or contact Martha Perego, ICMA Ethics Director at mperego@icma.org or 202.962.3668.