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## 1. POLICY STATEMENT

It is the policy of the District that no employee shall accept gifts from firms or individuals with whom the District conducts business and to advise consultants, contractors, vendors and others with whom the District does business that they should not send gifts or things of value that are not within their contracted scope of services to District employees or Directors.

## 2. PURPOSE

To specifically set forth the circumstances under which employees may or may not accept gifts, with the expectation that defining the parameters will assist District employees in earning and deserving a reputation for honesty, truthfulness, and efficiency in dealings with vendors, contractors and other governmental agencies.

## 3. SCOPE, ASSUMPTIONS & EXCEPTIONS

### A. The term gift includes:

- i. Rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to members of the public without regard to official status, or unless the rebate or discount is made available to all officers and employees of the District on an equal basis.
- ii. An employee's community property interest, if any, in a gift received by that individual's spouse.
- iii. The provision of travel, including transportation, accommodations and food, except as expressly permitted hereinafter.

### B. The term "gift" does not include:

- i. Campaign contributions which are required to be reported under Chapter 4 of the Political Reform Act of 1974 as amended.
- ii. Any devise or inheritance.

### C. The following gifts are not prohibited:

- i. Gifts less than ten dollars: Token gifts which have a value of no more than ten dollars, as long as the total value of all such token gifts received from any one donor do not exceed ten dollars in any calendar year.
- ii. Informational material: Informational material such as books, reports, pamphlets, calendars, or periodicals. Informational material does not include provision of educational trips including transportation, accommodation and food.
- iii. Hospitality: Gifts of hospitality involving food, beverages, or lodging provided to any employee by an individual in such individual's primary residence.

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- iv. Reciprocal gifts: Gifts exchanged between an employee and an individual other than a local governmental lobbyist on holidays, birthdays, or similar occasions. This exception shall not apply to the extent that the gift received by the employee exceeds in value gifts that he or she has given to the donor.
- v. Meals or beverages: Meals and beverages provided to an employee in a business or social setting.
- vi. Honoraria and awards: As used in this chapter, "honorarium" means a payment or gift for speaking at an event, participating in a panel or seminar, or engaging in any similar activity while not on District paid time.
- vii. Panels and seminars: Free admission, food, beverages, and similar nominal benefits provided to an employee at an event at which the employee speaks, participates in a panel or seminar or performs a similar service, and reimbursement or advance for actual intrastate travel or for necessary accommodations provided directly in connection with such event.
- viii. Admission given by sponsor of an event: Admission to ceremonial, political, civic, cultural or community functions provided by a sponsor of the event for the personal use of the employee.
- ix. Employment interview--government employer: Transportation, accommodation, food and directly related expenses advanced or reimbursed by a governmental agency in connection with an employment interview, when the interview is conducted at least one hundred fifty miles from San Jose and where the situs of the employment will be at least the same distance from the city.
- x. Employment interview--private employer: Transportation, accommodation, food and directly related expenses incurred in connection with an employment interview and a bonafide prospect of employment, when the expenses are advanced or reimbursed to an employee by a potential employer, provided that the employee has not made or participated in the making of a governmental decision materially affecting the financial interest of the potential employer during the twelve months immediately preceding the time the expenses are incurred or the offer of employment is made, whichever is sooner.
- xi. Flowers: Flowers, plants, or balloons which are given on ceremonial occasions, to express condolences or congratulations, or to commemorate special occasions.
- xii. Prizes: A prize awarded on the basis of chance, provided that there are at least one thousand participants eligible to win the prize, a majority of whom are not public officials or government employees.

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**D. A gift shall be deemed to have been accepted except where:**

- i. It is not used and, within thirty days after receipt, is returned to the donor or delivered to a charitable organization without being claimed as a charitable contribution for tax purposes.
- ii. It is treated as and remains the property of the District.

**4. ROLES & RESPONSIBILITIES**

**A. Each employee shall be responsible for upholding this policy by:**

- i. If an employee receives a gift from a vendor that exceeds the \$10 limit, the employee is required to call the vendor to express their thanks and inform them that, as a public employee, you cannot accept gifts.
- ii. Notify the Ethics and Equal Opportunity Program Unit and discuss your options regarding the gifts.

Possible options may include:

- If non-perishable, arrange to return the gift and contact the Ethics Office to ensure that a record of the return is registered.
- If perishable, such as fruit, set it out in the lunch/break room of your building to be shared by everyone (candy and alcohol are not considered perishable items.)

**5. REQUIREMENTS**

• **Governance Policies**

EL-1 - The BAOs shall promote practices, activities, decisions, and organizational circumstances that are lawful, and supportive of commonly accepted business and professional ethics. The BAOs shall foster the organization's public image and credibility in ways that enhance the accomplishment of its mission.

EL-8.8. Operate in a manner that ensures that employees at all levels of District employment use sound personnel practices that apply equally to all.

EL-3 Human Resources: With respect to compensation and benefits, employment, and the treatment of staff and persons doing work for or on behalf of the District, a BAO shall . . .

. . . 3.1. Operate with written personnel rules which: . . . clarify rules for staff.

• **Governing Laws**

N/A

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- **Other Requirements (District Policies, MOUs, Standards, Audit, etc.)**

Ad-2.11 Ethics and Business Conduct

**6. ASSOCIATED FORMS & PROCEDURES**

DOCUMENT TITLE/ID #	DOCUMENT LOCATION(S)
EL-1, EL-3 and EL-8.8	Intranet
Ad-2.11 Ethics and Business Conduct	Intranet

**7. DEFINITIONS**

**Devise** to pass on property through a will.

**Gifts** are defined to mean a voluntary transfer of anything, service, payment or value to the extent that legal consideration of equal or greater value is not received.

**BAOs** are appointed by and serve at the pleasure of the Board and include the Chief Executive Officer, the District Counsel, and the Clerk of the Board.

**8. CHANGE HISTORY**

DATE	REVISION	COMMENTS
3/28/12	A	This policy supersedes language in procedure 0-102.
10/01/2012	B	Updated linkage to Board Governance Policies