



Australian Government

Department of Infrastructure and Regional Development

ACCOUNTABLE AUTHORITY INSTRUCTION

Title: Providing Gifts or Accepting Gifts or Benefits

Reference: *Public Governance, Performance and Accountability Act 2013*
Sections 15, 66-70 and 72

Public Governance, Performance and Accountability Rule 2014
Section 18

Public Service Act 1999, APS Code of Conduct
Section 13

Effective date: 1 July 2014

Purpose

1. This Accountable Authority Instruction (AAI) is about considering arranging or accepting offers of hospitality or gifts. The provision of gifts or acceptance of hospitality or gifts has the potential to cause perceived or actual conflicts of interest. This could lead to greater scrutiny of the Department's interactions with its stakeholders by the Parliament and the wider community and could cause harm to the reputation of the Department.

Definitions

2. **Accountable Authority** is a term defined by the PGPA Act and means the Secretary.
3. **employees** means those persons who are employed on an ongoing, non-ongoing or contractual basis by the Department.
4. **gifts or benefits** include refreshments, travel, entertainment, sponsorship, prizes or other benefits.
5. **prior-owned relevant property** is relevant property that is owned by the Department or administered by the Department prior to the decision to gift this property (as distinct from a gift that was specifically acquired for the purpose of gifting).
6. **relevant property is defined in section 8 of the PGPA Act to mean:**
 - a. property (other than relevant money) that is owned or held by the Commonwealth or a corporate Commonwealth entity; or
 - b. any other thing prescribed by the PGPA Rule.

Instructions to all employees

7. Employees are to comply with the APS Code of Conduct.

Gifts offered by the Department

8. Employees may only consider and make decisions on proposals to make gifts of relevant property where they have been delegated the power to do so by the Secretary, and only in compliance with any directions in that delegation (see the Accountable Authority Delegations under the PGPA Act).
9. Delegates must not approve a gift of relevant property for which the value would exceed their delegation for gifting relevant property.

10. The presentation of gifts to international guests whose visit is hosted by the Department should be directly related to and representative of the purpose of the visit and must be in the ethical interests of the Department to do so. This also applies to the presentation of gifts by Department representatives whilst on official business overseas.
11. If an unauthorised gift of relevant property is made the value of the relevant property is to be personally paid to the Department.

Gifts of prior-owned relevant property offered by the Department

12. In making a decision to gift relevant property the delegate must comply with the requirements of this delegation in the Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation.
13. The decision to gift relevant property must be fully documented, including why the decision complies with the relevant factors in the Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation.
14. The advice to the recipient of the gift of relevant property must be in writing and must make it clear, should there be any potential implication to the contrary, that the decision to gift the property is for the single instance only.
15. Both the documentation of the decision to gift prior-owned relevant property and a copy of the letter to the recipient are to be forwarded to the Chief Financial Officer for inclusion in a register of gifted relevant property. Gifts of relevant property should be reported in the annual financial statements.

Gifts or benefits offered to employees

16. Employees must not accept a gift of money.
17. Employees must not ask for, or encourage, the giving of gifts to themselves, family members or associates or other employees.
18. Employees must not accept a gift or benefit on behalf of themselves or their family members that is intended to influence, or could be perceived to influence, their decision or action in a specific matter.
19. However there may be times when it is appropriate for an employee to accept a gift or benefit on behalf of the Department. Circumstances that might be reasonable for accepting a gift include:
 - a. when refusal could cause offence;
 - b. as a means of networking with stakeholders; and
 - c. when it does not conflict, or give rise to a perceived conflict, with the employee's official role and the business of the Department.
20. Acceptance of gifts and benefits will not be appropriate if the person or company is:
 - a. involved in a tender process or contract negotiations with the Department;
 - b. in contractual dispute with the Department;
 - c. involved in the sale of a government asset; or
 - d. the subject of a decision within the discretionary power or substantial influence of the APS employee concerned.
21. Particular care should also be taken if:
 - a. the person or organisation is in a contractual or regulatory relationship with the Commonwealth; or
 - b. the person or organisation's primary purpose is to lobby ministers, members of Parliament or agencies.

22. A decision to accept a gift or benefit must be defensible and able to withstand public scrutiny. In deciding when to accept a gift, employees must have regard to the APS Values and Code of Conduct.
23. It should not be assumed that gifts which may be of minor value are necessarily acceptable.
24. If possible prior approval should be obtained before accepting a gift or benefit.
25. In all cases:
 - a. SES-level employees must clear the acceptance of gifts or benefits through their immediate supervisor using the *Approval for Acceptance of Gifts Form*; and
 - b. non-SES employees must clear the acceptance of gifts or benefits through their General Manager or Executive Director using the *Approval for Acceptance of Gifts Form*.
26. A copy of the completed *Approval for Acceptance of Gifts Form* for all gifts with an estimated worth over \$200 must be provided to the Corporate Accounting Team for inclusion in the departmental gift register.
27. If a gift has an estimated worth of over \$5,000 the Chief Financial Officer must ensure that the asset is included in the Department's asset register.
28. Items given to employees as part of their attendance at courses or seminars etc. where all attendees are given similar items for example, promotional material such as pens, diaries, mouse-pads, coasters, coffee mugs etc. are not required to be included in a gift register unless they exceed \$200 in value.

Gifts offered as a reward for or in recognition of employee achievements and contributions

29. The Secretary, Deputy Secretaries and Executive Directors are responsible for formal and informal rewarding of employees in recognition of achievements and significant contributions to meeting the Department's business objectives and are responsible for deciding the appropriate nature of any reasonable individual and/or team award, including the provision of gifts, to be made.

Entertainment and sporting events

30. Invitations to attend entertainment and sporting events are considered a benefit and subject to this AAI.

Sponsored travel

31. Situations may arise where a stakeholder offers to pay for the travel expenses of an employee. Approval from the relevant Executive Director must be obtained before an offer of free or sponsored travel can be accepted.
32. This must only be considered in circumstances where it would not conflict with the employee's responsibilities and duties. In the case of an Executive Director, approval should be obtained from a Deputy Secretary or the Secretary.

Attempted bribery, suspicious and dubious gifts and related offences

33. Should employees receive or be offered a gift and consider the motive to be doubtful or suspicious then it must be reported to the Section Head, Evaluation, Audit and Risk and report the matter through the Department's incident reporting system, iReport (refer AAI Fraud). Accepting a gift or benefit that may be defined as a bribe is a breach of the APS Code and the Criminal Code.

Procedures/References

AAI Fraud
Accountable Authority Delegations

Approval for Acceptance of Gifts Form
APSC Values and Code of Conduct
APSC Values and Code of Conduct in Practice
Public Governance, Performance and Accountability (Finance Minister to Accountable Authorities of Non-Corporate Commonwealth Entities) Delegation
Practical Guide – Providing Gifts or Accepting Gifts or Benefits
Resource Management Guide No. 505, <i>Funding Arrangements for Commonwealth Property</i>
Resource Management Guide No. 203, <i>General duties of officials</i>

Contact

Corporate Accounting Team: help.corporateaccounting@infrastructure.gov.au

Approved by: Secretary
under Section 20A of the *Public Governance, Performance and Accountability Act 2013*



Australian Government

Department of Infrastructure and Regional Development

PRACTICAL GUIDE – Providing Gifts or Accepting Gifts or Benefits

Note: To be read in conjunction with the Accountable Authority Instruction (AAI) on Providing Gifts or Accepting Gifts or Benefits

<p>Approval for the acceptance of gifts</p>	<p>Approval of gifts should be sought in accordance with the AAI Providing Gifts or Accepting Gifts or Benefits.</p> <p>Approval for the acceptance of gifts or benefits is to be documented in all instances on an <i>Approval for Acceptance of Gifts Form</i>.</p> <p>Where gifts have an estimated value of \$200 a copy of the completed form is to be provided to the Corporate Accounting Team – help.corporateaccounting@infrastructure.gov.au for inclusion in a gift register.</p>
<p>Dealing with suppliers</p>	<p>In matters such as free tickets staff should exercise their judgment about whether acceptance is in the Australian Government’s interest and whether a conflict of interest would be involved.</p> <p>Approval is to be documented on an <i>Approval for Acceptance of Gifts Form</i>.</p>
<p>Definitional information about gifts</p>	<p>A gift or benefit may include:</p> <ul style="list-style-type: none"> • gifts such as bottles of wine, manufacturer’s samples or personal items; • promotional materials, including clothing, books or compact discs; • sponsored travel; • benefits under loyalty schemes, such as frequent flyer schemes; • competition prizes; • accommodation and hire car discounts; • entertainment, such as meals, seats at sporting or theatre events; and • free or discounted places on training and development courses (other than contra-deals associated with the presentation of papers).
<p>Delegations</p>	<p>Employees with the delegation to make decisions on proposals for gifts of relevant property are listed in the Accountable Authority Delegations.</p>
<p>Disposal arrangements</p>	<p>If it is found that it is not suitable for a gift to be retained by a person, it may need to be disposed of. Some suggested disposal arrangements are:</p> <ul style="list-style-type: none"> • display within the Department; • donation to the departmental library; or • donation to the departmental social club for disposal with any monies received being paid to the departmental social club.
<p>Fringe Benefits Tax (FBT)</p>	<p>Fringe Benefit Tax (FBT) is payable by the Department for any fringe benefit, which may include gifts, benefits or entertainment, provided to employees by the Department or by any other Australian Government agency.</p> <p>Employees must report any functions attended where a benefit has been received. Employees attending official functions that are hosted by other Australian Government agencies may also receive a benefit that is taxable for fringe benefit purposes. In these circumstances, the Department and not the host agency is required to pay the FBT associated with the hospitality received.</p>

	Contact help.taxation@infrastructure.gov.au for further advice.
Gift value	If there is uncertainty about the value of a gift, and in particular whether it is over the \$200 threshold, employees should give consideration to seeking an independent valuation.
Gifts from foreigners to the Department	The giving of gifts is part of the culture of some countries and the exchange of small gifts is a regular part of international meetings. Often a gift cannot be refused without causing offence in a way that could reflect adversely on the Australian Government representatives. In such circumstances the procedures outlined in the AAI Providing Gifts or Accepting Gifts or Benefits apply.
Gifts offered by the Department	Minor gifts of a protocol or public relations nature are acceptable as a charge against hospitality where the presentation of gifts is directly related to and representative of the purposes of the function. If the Department is making the gift, it must be in the ethical business interests of the Department to do so.
Gifts offered by the Minister	Minor gifts of a protocol or public relations nature are acceptable as a charge against hospitality where the presentation of gifts is directly related to and representative of the purposes of the function. Generally the Minister will make the choice as to receiving or providing a gift. The Minister is assisted by guidelines issued by the Department of the Prime Minister and Cabinet.
Gifts offered to foreigners by the Department	The Department of Foreign Affairs and Trade can provide advice on the appropriateness of proposed gifts (including gifts of relevant property) prior to approval.
Gifts offered to the Department	Gifts are considered relevant property since they are accepted on behalf of the Department. The Financial Management Team maintains a gifts register for gifts which may be valued over \$200. The <i>Approval for Acceptance of Gifts Form</i> for gifts valued above this threshold should be emailed to help.taxation@infrastructure.gov.au for inclusion on the register.
Sponsored travel	Situations may arise where a stakeholder offers to pay for the travel expenses of an employee. Sponsored travel includes cases where transport, accommodation or living expenses are paid for or provided other than from the Department's funds or the employee's own resources. Acceptance of such travel may lead to the perception that the Department or the employee favours the organisation concerned or using their position to gain a benefit. Such sponsored travel should never be accepted without the prior approval of a supervisor of Executive Director level or above and documented on an <i>Approval for Acceptance of Gifts Form</i> .
Records Management	The Financial Management Team will maintain a record of all completed <i>Approval for Acceptance of Gifts forms</i> for gifts greater than \$200. These records may be used for FBT purposes, internal and external reporting and will be retained in accordance with the <i>Archives Act 1983</i> .