

Senate Standing Committee on Education Employment and Workplace Relations

QUESTIONS ON NOTICE
Supplementary Budget Estimates 2012-2013

Agency - ABCC/FWBII

DEEWR Question No. EW0587_13

Senator Wright provided in writing.

Question

FWBII Hospitality policy

How does FWBII respond to employees and office holders within the Inspectorate receiving meals or other forms of hospitality or material benefit from law firms engaged by the Inspectorate?

Are you aware of that having occurred anywhere within your organisation? If so, when, where and what was involved?

Answer

Fair Work Building and Construction has provided the following response.

FWBC Finance Direction 9 deals specifically with hospitality and gifts.

A copy of Finance Direction 9 is included at **ATTACHMENT A**.

All gifts received by FWBC employees must be declared, and recorded in FWBC's gift register.

Relevant entries from law firms to FWBC officers are as follows:

Gift From	Gift Received By	Date Received	Description of Gift	Approved by	Value
Clayton Utz	Leigh Johns	14/06/12	Speaker gift for Clayton Utz briefing in Melbourne	Chief Financial Officer	\$99.00
Holding Redlich	Leigh Johns	17/07/12	Speaker gift for Holding Redlich client briefing in Brisbane	Chief Financial Officer	\$24.00
Baker & Mackenzie	Leigh Johns	30/10/12	Speaker gift in Sydney Baker's clients	Chief Financial Officer	\$74.99



Australian Government

**Fair Work Building
& Construction**

Finance Direction 9

Hospitality and Gifts

Process Owner: Chief Financial Officer
Version Number: 1.0
Effective Date: 01/06/12



Change History

Update the following table as necessary when this document is changed:

Date	Nature of Change
1 June 2012	Direction Issued for FWBC



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1. Chief Executive's Instruction (CEI)

A Delegated Official is responsible for:

- ensuring that staff are aware of their responsibilities in relation to giving and receiving hospitality and gifts.
- maintaining a Register of Hospitality and Gifts received and given.

2. Introduction & Objectives

This procedure is applicable to all employees who may be exposed to circumstances where they are required to give or receive hospitality or gifts in their capacity as FWBC officers.

The purpose of the procedure is to ensure accountability, integrity, transparency of the process and public defensibility.

3. Supporting Information

3.1 Related References & Pronouncements

FMA Act 1997:	Sections 41 – 44
FMA Regulations:	N/A
Related Finance Directions:	
Other References:	APS Code of Conduct

3.2 Responsible Officers and Contacts

Position/Title	Level	Responsibility
Assistant Director, Financial Operations/Manager, Financial Operations	EL1/APS 5/APS6	File all notifications of receiving and giving hospitality and gifts in Official File and record in the FWBC Hospitality and Gifts Register.



4. Guidelines

4.1 Relationship to APS Values and Code of Conduct

- 4.1.1 Key aspects of the APS Values and Code of Conduct are integrity and impartiality. Giving and receiving hospitality and gifts and other benefits inappropriately can compromise the high ethical standards expected of APS employees. FWBC employees should not accept hospitality or gifts or other benefits if it is (or appears to be) intended to improperly influence an FWBC employee in their official duties.

4.2 Receiving Hospitality or Gifts

- 4.2.1 The main risk involved in accepting or receiving hospitality or gifts is the potential for a conflict of interest, or the perception of a conflict of interest to arise. At the extreme, it could be perceived as a bribe, which is an offence under the Criminal Code and a breach of the APS Code of Conduct.
- 4.2.2 Public servants must take care to ensure they avoid any actual or perceived conflict of interest. Employees should consider how they might answer a parliamentary or media question about accepting hospitality and/or gifts.
- 4.2.3 Employees must seek approval prior to accepting hospitality or gifts. If it is not possible to gain prior approval the employee may accept the hospitality or gift and then declare this to the officer delegated to approve the hospitality or gift as soon as possible thereafter.
- 4.2.4 At certain times, accepting hospitality or gifts can be acceptable as a means of networking with stakeholders, developing relationships or in a liaison context where the rejection of a minor gift may cause embarrassment or offence.
- 4.2.5 Acceptance of hospitality or gifts from a supplier will not usually be appropriate if an employee or FWBC is:
- The subject of a decision within the discretionary power or substantial influence of the FWBC employee concerned that may affect the supplier
 - Involved in discussions or advice with the supplier about current or proposed FWBC procurement
 - Involved in time away from FWBC official duties with the supplier at public expense.
- 4.2.6 Particular care should be taken if the person or organisation is in a contractual or regulatory relationship with the Commonwealth or FWBC, or if the organisation's primary purpose is to lobby Ministers, Members of Parliament or agencies.
- 4.2.7 The benefits referred to above include, but are not limited to:
- Meals or other hospitality (meals, drinks and refreshments served during business meetings are not generally considered a gift unless the estimated value is unusually high)
 - Offers of cash or shares
 - Gifts, such as bottles of wine, manufacturer's samples or personal items
 - Promotional materials, including clothing, books or compact discs



- Sponsored or discounted travel and accommodation
- Benefits under loyalty schemes, such as frequent flyer schemes
- Airline competition prizes
- Entertainment, such as seats at sporting or theatre events or golf days
- Discounts on commercial items
- Free or discounted places on training and development courses other than contract deals associated with the presentation of papers
- Equipment or facilities, including laptops and cameras

4.3 Approval to Receive Hospitality or Gifts

- 4.3.1 Declaring the receipt of hospitality, gifts or other benefits does not in itself justify their acceptance. Before any gift is accepted, the employee receiving the gift must determine - and be able to justify to others - that the gift does not give rise to a conflict of interest and cannot be perceived as such by a reasonable outside observer.
- 4.3.2 If approval is not given for a gift, the gift can be either paid for by the FWBC staff member concerned or surrendered to the Commonwealth. Any gifts surrendered to the Commonwealth must be provided to the Assistant Director, Financial Operations or Manager, Financial Operations. Surrendered gifts will become the property of FWBC.
- 4.3.3 FWBC maintains a register of 'Hospitality, Gifts and Benefits', including the approximate value of items valued at more than \$100. The value of gifts or benefits is to be taken as the price which would be payable by the general public for equivalent goods, services or benefits, where this can be determined, or a common sense view of value.
- 4.3.4 The FWBC 'Hospitality, Gifts and Benefits' register is maintained by the Financial Operations team. FWBC employees should provide details of gifts to the Assistant Director, Financial Operations or the Manager, Financial Operations for recording in the 'Hospitality, Gifts and Benefits' register.
- 4.3.5 Employees should not assume that hospitality, gifts or benefits of minor value (\$100 or under) may be accepted. Employees must seek prior approval from their manager, or as soon as practicable thereafter, before accepting minor hospitality, gifts or benefits. The Chief Executive must seek prior approval from the Chief Financial Officer, or as soon as practicable thereafter, before accepting minor gifts or benefits.
- 4.3.6 A proposal for accepting a gift for \$100 or under must be recorded in the gifts register and include the following information:
- The nature of the gift or benefit, and the circumstances of it being offered
 - Evidence of written approval of the gift.
- 4.3.7 For gifts or benefits of a more substantial nature (greater than \$100), prior approval to accept the gift must be sought from the relevant FWBC Delegated Official, or as soon as practicable thereafter, who may consult further with the Group Manager or Chief Executive if needed. The Chief Executive must seek prior approval from the Chief Financial Officer, or as soon as practicable thereafter, in relation to acceptance of gifts or benefits of a more substantial nature.



- 4.3.8 A proposal for acceptance of a gift greater than \$100 must be recorded in the 'Hospitality, Gifts and Benefits' register and include the following information:
- The nature and estimated dollar value of the gift or benefit, and the circumstances of it being offered
 - Whether it is FWBC that will gain, rather than the individual, and what that gain entails (e.g. whether acceptance of the gift or benefit will assist FWBC to develop a relationship with stakeholders)
 - Whether the offerer is in receipt of Commonwealth or FWBC assistance, and the extent to which that assistance (or further assistance) could be seen to be influenced by the presentation of gifts or benefits
 - Whether the offerer could be perceived as seeking to influence Ministers, Members of Parliament, Australian Government departments or authorities
 - Whether the offerer is in a contractual relationship with FWBC or competing for the award of a contract
 - Evidence of written approval of acceptance of the gift
 - Any other relevant information.
- 4.3.9 Where a gift or benefit has been received and approval is not given for an individual to retain the gift or benefit the item becomes property of FWBC and is to be treated the same way as purchased goods, including any requirements to record them as assets.
- 4.3.10 Employees who do not declare gifts and hospitality benefits may be subject to disciplinary action including, where appropriate for serious matters, a code of conduct investigation.
- 4.3.11 Notification of gifts and benefits offered but not accepted must still be made to the appropriate delegate in writing for recording in the Gifts and Hospitality Register.

4.4 Providing Hospitality or Gifts

- 4.4.1 Public servants must take care to ensure they avoid any actual or perceived conflict of interest. Employees should consider how they might answer a parliamentary or media question about accepting hospitality and/or gifts.
- 4.4.2 Provision of hospitality is divided into Official Hospitality and Other Hospitality.

4.5 Official Hospitality

- 4.5.1 Official hospitality is approved FWBC hospitality expenditure for any persons or entities outside FWBC for the benefit of FWBC where the primary purpose of the event is work-related.
- 4.5.2 This includes, but is not limited to:
- foods and beverages (including alcohol)
 - entertainment
 - travel
 - accommodation



- 4.5.3 Official hospitality does not include FWBC hospitality expenditure for FWBC employees only (see Other Hospitality).
- 4.5.4 The types of events or circumstances that may constitute official hospitality include, but are not limited to:
- program, service or policy launches attended by media
 - events that promote or support an FWBC or Government policy initiatives
 - events to facilitate the conduct of FWBC or public business
 - functions for recognition of significant events such as awards or presentations
 - visiting foreign delegates.
- 4.5.5 Official hospitality does not include (see Other Hospitality):
- refreshments for FWBC employees at FWBC training courses, seminars or meetings
 - working meals for FWBC employees provided on FWBC premises
 - hospitality provided to FWBC employees (e.g. working lunches, morning teas and staff reward functions).
- 4.5.6 Before FWBC is committed to any Official Hospitality expenditure, prior approval must be obtained from a Delegated Official.
- 4.5.7 Official Hospitality may attract Fringe Benefits Tax. Accordingly, the 'Official Hospitality Form' (see Attachment A) must be completed in full by the person seeking approval for the official hospitality.
- 4.5.8 Before approving any Official Hospitality expenditure, the Delegated Official must ensure that:
- the primary purpose of the event is work-related;
 - the request is reasonable, appropriate and publicly defensible;
 - the request is in accordance with Finance Direction 10 - Procurement of Goods and Services;
 - FWBC will benefit from the use of public funds to facilitate business with entities or persons outside FWBC who:
 - provide advice or services to FWBC or Commonwealth
 - share mutual vocational, business or national interests with FWBC or the Commonwealth
 - the 'Official Hospitality Form' has been fully completed.
- 4.5.9 As a guide to reasonable meal, travel and/or accommodation costs for Official Hospitality, reference should be made to the applicable travel daily cap, the Commonwealth's Lowest Practical Fare Policy and reasonable meal costs as outlined in Finance Direction 15 - Travel.
- 4.5.10 The Delegate must confirm their approval of Official Hospitality by completing the signature block in the 'Domestic Entertainment Form'. The completed 'Domestic Entertainment Form' is to be provided to the Assistant Director, Financial Reporting and Analysis.
- 4.5.11 Purchasing or travel credit cards may be used to meet the costs or pre-approved Official Hospitality.



4.6 Other Hospitality

- 4.6.1 Other hospitality is approved FWBC hospitality expenditure for FWBC employees only where the primary purpose of the event is work-related.
- 4.6.2 This includes, but is not limited to:
- refreshments for FWBC employees at FWBC training courses, seminars or meetings
 - working meals for FWBC employees provided on FWBC premises
 - hospitality provided to FWBC employees (e.g. working lunches, morning teas and staff reward functions).
- 4.6.3 Other hospitality does not include FWBC hospitality expenditure for any persons or entities outside FWBC (see Official Hospitality).
- 4.6.4 Before FWBC is committed to any Other Hospitality expenditure, prior approval must be obtained from a Delegated Official.
- 4.6.5 Before approving any Other Hospitality expenditure, the Delegated Official must ensure that:
- the primary purpose of the event is work-related
 - the request is reasonable, appropriate and publicly defensible
 - the request is in accordance with Finance Direction 10 - Procurement of Goods and Services.
- 4.6.6 As a guide to reasonable meal costs for Other Hospitality, reference should be made to the reasonable meal costs as outlined in Finance Direction 15 - Travel.
- 4.6.7 Purchasing credit cards may be used to meet the costs of pre-approved Other Hospitality.

4.7 Gifts

- 4.7.1 Gifts of public property are covered by s 43 of the FMA Act. Only certain FWBC staff have the delegated power to gift public property.
- 4.7.2 When staff are considering the giving of a gift, the following principles must be observed:
- The process of and rationale for giving a gift must be transparent and well documented.
 - The giving of a gift must be approved by the Chief Executive or a person delegated by the Chief Executive to approve a gift.



Attachment A



Official Hospitality Form

Cost Centre.....

FBT Year..... /

Please attach a copy of invoices and/or receipts.

Date of the official hospitality to (if multiple days) / / / /	Duration of official hospitality	Start time Finish time
Location of the official hospitality – FWBC premises?	Yes / No	If not FWBC premises – provide venue details	
Purpose of the official hospitality e.g. Meeting, Training, Seminar, Social		Total Number of attendees
		- No. of FWBC Employees
		- No. of Other Govt Employees
		- No. of Other Guests

Official Hospitality Expenditure	Description	Cost (GST Inclusive)
Venue Hire		\$
Equipment Hire		\$
Catering/meals/drinks – including type of food/drinks e.g. morning tea, light lunch, 3 course meal, alcohol, juice, tea & coffee		\$

Purpose of official hospitality:

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Organising Officer

Name

.....

Signature

.....

Approving Delegate

Name

.....

Signature

.....



Australian Government
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Date / /

Date / /

Position
