



November 29, 2023

In advance of the holiday season, the City Attorney's Office, Ethics Commission, and Controller's Office provide this reminder concerning gift rules and answer frequently asked questions concerning departmental holiday parties. (Last year at about this time we issued a Frequently Asked Questions document concerning holiday parties, and this document includes minor updates.) The guidance concerning parties also applies to other types of employee parties departments organize for primarily social purposes, such as birthday parties, retirement parties, showers, and other special occasions.

Reminder Regarding Gift Rules

State and local law impose rules concerning City employees' and officials' acceptance of gifts. A gift is any payment or benefit that a public official receives or accepts for which the official does not provide goods or services of equal or greater value. A gift includes a rebate or discount in the price of anything of value unless the rebate or discount is made in the regular course of business to all members of the general public.

Gift Reporting and Limit. City officials who are required to file a Statement of Economic Interest ("Form 700") must report all gifts of \$50 or more, or a series of gifts totaling \$50 or more in a calendar year, from sources specified in their disclosure category. An official may not accept a gift or gifts totaling more than \$590 in a calendar year from a source the official is required to report on their Form 700. [Article III, Chapter 1 of the Campaign and Governmental Conduct Code](#) identifies the positions within each City department that must file Form 700s and the disclosure category for each position.

State law provides limited exceptions for certain gifts. If an exception applies, the payment is not a gift subject to the gift limit or reporting requirement. Common gift exceptions include gifts from family members and a gift of tickets for an official and one guest to a 501(c)(3) nonprofit fundraiser provided to the official by the organization holding the fundraiser. The City Attorney's Good Government Guide provides a summary of gift exceptions. (*See [Good Government Guide](#) pgs. 68-71.*)

Restricted Sources. Local law prohibits all City employees and officials from accepting gifts from certain "restricted sources" – generally, persons or entities that have or are seeking contracts with the official's department or that have attempted to influence the official in a governmental decision within the past 12 months. There are exceptions to this rule, including an exception allowing an official to accept non-cash gifts worth \$25 or less up to four times per calendar year and an exception for gifts of food or drink to be shared among employees in the office. Additionally, where state law provides a gift exception, the exception also applies to the restricted source rule. Nonetheless, to avoid even the appearance of undue influence, it is a best



practice for City officials to decline all gifts from restricted sources even when an exception may apply.

Gifts from Subordinates or Other City Employees. City employees and officials may not solicit or accept gifts from any subordinate employee or any applicant for a subordinate position. There are several limited exceptions to this rule, including voluntary gifts, other than cash, with an aggregate value of \$25 or less, given on occasions when gifts are traditionally given like holidays and birthdays. Another exception allows for gifts such as food and drink, without regard to value, to be shared in the office among employees. There is no prohibition on supervisors providing gifts to subordinates or on coworkers providing gifts to one another, but an employee or official may need to report the gift on their Form 700 and it may be subject to the \$590 annual gift limit depending on the circumstances.

Gifts of Attendance at Invitation-Only and Ticketed Events and Parties. Free or discounted admission to invitation-only or ticketed events may be a gift to a City official. Form 700 reporting, gift limits, and restricted source prohibitions apply to admission at such events and parties.

The value of the gift for attending an invitation-only event is the per person cost for the official and one guest of the food, catering services, entertainment, and any item provided to the official and guest that is available to all other attendees. When an invitation does not include cost information, the official should ask the host for the per person cost. The official should also inquire whether a third party is funding the event to determine that a restricted source is not providing the gift.

For ticketed events, the value of the gift is generally the face value on the ticket. Sometimes, departments accept tickets to ticketed events under a departmental ticket distribution policy and provide the tickets to City officials and employees for a public purpose identified in the policy. The department then publicly reports the ticket distribution using FPPC Form 802. In those circumstances, the ticket is not a gift to the official or employee who accepts it. An official who receives a ticket from a City department should confirm that the department is accepting and reporting the ticket in this manner before assuming that it is not a gift to the official.

Three Possible Steps to Avoid Receipt of a Gift. If within 30 days of receiving a gift, the official (1) returns the gift unused to the donor, or (2) reimburses the donor for the value of a gift, or (3) donates the gift unused to a 501(c)(3) nonprofit organization and does not take a tax deduction, the official has not received the gift and is not required to report it on their Form 700. If an official takes any of these steps, they should document doing so and retain the document in their records.



The above is only a brief summary of gift rules and exceptions. We recommend that City employees and officials consult the City Attorney's Office or the Ethics Commission before accepting gifts, to fully understand the rules that apply to the gift.

Frequently Asked Questions Regarding City Department Parties

1. May a department use City funds to pay for a party, such as a holiday party?

Yes, in instances where it serves a public purpose and constitutes an employee appreciation event. Specifically, it is allowable as long as the department, (1) has a written employee recognition policy that demonstrates the event serves a business purpose and is reviewed and approved by the Controller's Office before the event occurs; and (2) uses funds explicitly appropriated under the department's employee recognition budget. See [Controller's Accounting Policies and Procedures](#), Section 4.8. Departments must ensure the event is reasonable, necessary, passes public scrutiny, and complies with separation of duties and internal controls as provided by Section 1.7 of the Controller's Accounting Policies and Procedures. Parties for individuals that are for purposes outside of a public business context (e.g., birthdays, retirements, etc.) are unlikely to meet these requirements and thus would not be an allowable use of City funds. The department should evaluate the primary purpose of the event in determining whether the use of City funds is appropriate under the department's employee recognition program policy and the Controller's Accounting Policies and Procedures.

2. May a department use third-party funds to pay for a party?

Departments should not solicit or accept third-party donations to fund or support a party. Doing so could raise significant ethics and legal questions under the behested payments ordinance for the department and for officials who engage in such solicitation. The Ethics Commission has developed summaries of the behested payments rules, which [are detailed on the Commission's website](#) and summarized in an [Ethics Commission overview document on behested payments](#).

There may also be ethical and legal restrictions for individual employees who attend a party paid for with third-party funds depending on the source of the funds. And a department would generally need Board of Supervisors approval to accept such a donation if it exceeds \$10,000 and would need to disclose any gift of more than \$100 on the department's website. In the rare circumstances that donations may be used, departments are responsible for ensuring that the City complies with IRS and ethics legal requirements.



3. May department managers solicit and pool personal funds from managerial staff to pay for a party?

Yes. Department managers may solicit and pool voluntarily contributed funds to pay for a party.

4. May an elected official use campaign funds to pay for a party for their own staff?

Generally yes, because a party for the officials' staff is reasonably related to a governmental purpose. Elected officials should consult their campaign counsel and treasurer to confirm there are no special restrictions on the use of the funds for this purpose.

If the portion of the cost of a holiday party funded with campaign funds is \$50 or more per attendee, then attendees who file Form 700s must report this as a gift from the campaign on their Form 700 for the year.

5. May a department party occur during work hours?

Yes, provided it meets the conditions outlined herein.

6. May a department party occur off-site, on private property?

Yes, if the department pays fair market value for the use of that space. But if a third-party donates space for the party when it would normally charge a fee for use of the space, or if the third-party charges a discounted rate for use of the space, this may also raise legal issues as discussed in item 2 above.

7. Do City rules on harassment and courtesy apply at off-site work parties?

Yes. City employees and officials must follow City rules, policies, and procedures, including the [Equitable, Fair, and Respectful Workplace Policy](#) and the [Harassment-Free Workplace Policy](#), at off-site work parties.

8. May a department serve alcohol at a party?

Yes. But under the Controller's policies a department may not use City funds to pay for alcohol. The department may have a cash bar, pay for alcohol as provided in #3 or #4 above, or a department manager could donate alcohol for the party.



9. May a department hold a raffle at a party where entry is free to participants?

Yes. The department may hold a raffle for department employees. Prizes may constitute a gift to an employee and the employee may need to report them on a Form 700 if they are required to file one. We recommend against soliciting third-parties for raffle prizes, as such requests could implicate the [behested payment ordinance](#) and rules regarding acceptance and disclosure of gifts to individual employees who win prizes.

For more information on how to comply with the rules mentioned above, please contact in advance the Ethics Commission or the City Attorney's Office.