



Everyday Ethics for Local Officials

Making a List and Checking it Twice: Preparing for the Season of Giving

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QUESTION

The holidays are coming up and, this year, our agency wants to do a better job of handling the gift issue. Our agency generally has a no-gifts policy, but we haven't actively enforced it and there is a kind of unwritten exception for gifts of nominal value (for example, plates of homemade cookies or logo items from vendors). What are your thoughts and what do other agencies do?

ANSWER

There's no absolutely perfect way to deal with the issue of holiday or other kinds of gift-giving. There are, however, some strategies that can minimize the incidence of such gifts and the awkwardness associated with receiving gifts that don't comply with your agency's policies.

The Ethics of Gifts and Public Service

First, let's examine the practical and ethical issues associated with receiving gifts. In most cultures, gift-giving is accepted as an act of selflessness and appreciation. Gifts also are a way of enhancing the personal connection between giver and recipient.

For those in public service, however, there's a concern that gifts are a way to curry favor and receive special treatment. Gifts offered as a "thank you" for something a public servant does can also be interpreted as a form of gratuity.

A challenge is where one draws the line. "Unwritten exceptions" to no-gifts policies can put people in a difficult position of trying to figure out what constitutes a gift of "nominal" value. (And, if the gift is really cool, there can be a temptation to low-ball a value estimate.) Another risk is that people will mistakenly conclude that the agency isn't really serious about its *written* policies if it allows unwritten exceptions.

Gifts from vendors can also be dicey. What message does it send to competing vendors and the public if they see an XYZ Company pencil cup or mouse pad on an employee's desk? Allowing such gestures can undermine the perception that value, pricing, performance and other merit-related considerations motivate public purchasing decisions.

As with many ethics questions, the issue is one of public perception. Could the public reasonably perceive that a public servant might favor those from whom even nominal gifts have been received? The goal is for the public to be assured that everyone is treated the same irrespective of whether a gift is given. For this reason, some agencies adopt and adhere to a strict no-gifts policy. Sample language for such a policy is available at www.ca-ilg.org/giftssamplelanguage.

This having been said, public servants can reasonably worry that rejecting gifts or other gestures will offend the would-be gift giver. Most of us have been brought up with the notion that there is an element of bad manners to rejecting a gift. This creates an understandable concern that declining a gift may harm the relationship between the would-be gift giver and your agency by causing insult or embarrassment.

Prevention Works Best

The best strategy to avoid the awkwardness of rejecting a gift is to take steps to prevent the gifts from being offered in the first place. You can do this by publicizing the no gift policy and the ethical concerns underlying it. This has the additional benefit of providing an opportunity to underscore your agency's commitment to ethics to both the community and those who might receive gifts within the agency.

The extent of the publicity depends on the context. If your sense is that gift-giving is a fairly extensive phenomenon, you may want to consider a commensurate effort to advise the public that receiving gifts and gratuities are against the agency's rules. Options include:

- 1) Reaffirming or re-adopting the no-gifts policy shortly before the holiday season;
- 2) Publicizing the policy; and
- 3) Having conversations with staff about the policy and strategies for graciously declining gifts.

Ways to publicize the policy include press releases, signage for public agency buildings and vehicles (the latter can be magnetized for ease of attachment), and information on the agency's webpage. Send the press release to neighborhood newsletters, ethnic media and other outlets to insure the message is broadly distributed.

For vendors, consider a special pamphlet on all of the ethical issues they may face in doing business with you. For example, the Los Angeles Unified School District has one entitled "Doing Business Ethically with LAUSD" that includes information about its no-gift policy for those involved in procurement, as well as its general contractors' code of

ethics. A copy of the pamphlet is available at
http://ethics.lausd.net/FTP/Contracting_Integrity_Brochure.pdf

Tying any communications into the agency's code of ethics or organizational values can also make an important point about how the agency likes to operate in general.

Sample language for such publicity materials, including a "no gifts" sign, is offered at
www.ca-ilg.org/giftssamplelanguage.

If Prevention Doesn't Work

You will also want to have a strategy for dealing with gifts that are offered or received in spite of these efforts. Helping people know how to respond graciously but firmly to those bearing gifts is one element of this strategy.

Ideally this topic is one of a series of ethics issues as part of the agency's orientation to public service. Additional strategies include encouraging supervisors to address this issue during staff meetings (including asking employees to share responses that have worked for them). Addressing the issue in an employee newsletter or other communications is another option.

Of course a gift may still arrive in spite of these efforts or someone may find that he or she just can't bear to say no to a gift giver. Some agencies deal with this issue by identifying charities or facilities in advance to receive such gifts. For example, gift baskets can be used by nonprofits in silent auctions. Food items can be given to a local food bank (although it may be safest to discard homemade items—as one official noted, one never knows what's in them).

At least one agency makes it a practice to both thank a gift giver in writing (an element of good manners) and let the gift giver know that the gift was ultimately given to charity because of the agency's no-gifts policy. See www.ca-ilg.org/giftssamplelanguage for sample language for using this approach.

Creating Workable, *Written* Exceptions to a No Gifts Policy

If a flat "no gifts" policy doesn't work for your agency, some agencies have a policy of forbidding gifts from individuals or entities with business before the agency. "Business before the agency" includes 1) a bid or proposal to the agency to perform services or provide supplies or equipment to the agency or 2) those who have or will submit an application for a permit, license or regulatory approval of any kind.

Some agencies also create exceptions for items that are edible and can be shared with other employees. There can still be perception issues should someone deliver a lavish catered spread for employees to enjoy. For this reason, it may be helpful to specify a

monetary ceiling on the estimated value of monetary gifts in one's gift policy. Again, sample language is available for consideration at www.ca-ilg.org/giftssamplelanguage.

Conclusion

The bottom line is that handling the gift issue will be easier and more comfortable if it happens in the context of an agency's overall attention to the importance of public perception and ethics. If public servants and the community are already generally aware of the value that an agency places on ethics, a no-gifts policy and its enforcement will be more likely to be perceived as a natural extension of the agency's culture of ethics.

Again, despite one's best efforts, it's important to recognize that no strategy will eliminate the prospect of receiving unwanted gifts or creating distress for those who want to give gifts to your employees. The best one can do is to try in this area. As Lord Chesterfield observed, the goal is to aim at perfection while acknowledging that in most things perfection is unattainable. Moreover, as Chesterfield also observed, one will come nearer to achieving a goal through perseverance than one who gives up a goal as unattainable.

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