Australian Government
Australian Public Service Commission

Gifts and Benefits

Model policy for APS agencies

Enquiries

For enquiries concerning reproduction and rights in Commission products and services, please contact:
externalcomms@apsc.gov.au

In accordance with the APS Conflict of Interest Management Framework: Better Practice Model, APS agencies must have policies, systems and procedures in place to manage conflict of interest risks.

The **APSC Gifts and Benefits Guidance** prescribes that APS agency policies should contain minimum requirements with respect to managing gifts and benefits as a conflict of interest risk.

This Model Policy is available to APS agencies in support of the **APSC Gifts and Benefits Guidance** to enable them to develop their own policies which meet the minimum requirements.

This Model Policy is not mandatory to implement. If used, it should be tailored in the context of the agency's functions, responsibilities, operating environment and risk profile.

Agency internal gifts and benefits policies should contain information on:

- the legal obligations which apply to employees and senior officials in their individual capacity
- gifts and benefits that must not be accepted in any circumstances by agency employees and office holders
- gifts and benefits which may be accepted by agency employees and office holders in the following categories:
  - official gifts
  - gifts offered in a cultural context
  - reasonable business purposes
- conflict of interest risk management
- gift handling considerations
- non-declarable gifts and benefits
- declaration requirements
- public reporting requirements
- privacy requirements
- further advice and assistance available.

Agencies may introduce additional controls to manage identified agency-specific risks.

Agency policies may also recommend practical risk management procedures staff are to follow in specific roles or when undertaking particular activities, including any additional mandatory rules or controls that may apply to all staff regardless of classification, role or duties.

Other relevant policies, such as the agency's conflict of interest policy, travel policy and procurement policy, should be linked and cross-referenced to inform staff about their broader integrity and risk management responsibilities.

Purpose

1. This Policy sets out [agency's name's] requirements and expectations for the avoidance, acceptance, declaration and management of gifts and benefits by its employees and senior officials.

2. This Policy explains what gifts and benefits are, the relevant legal and ethical obligations that apply to staff in their individual capacity, the risks associated with the acceptance of gifts and benefits, how to assess risk, how to handle gifts or benefits which have been accepted or otherwise received, when and how to declare accepted gifts internally and how [agency name] manages its public reporting obligations.

Objective

3. [Agency name] is committed to an impartial and professional public service. The Australian community, the Government, and the Parliament must have trust and confidence that individual public servants will not prioritise their personal interests over the public interest.

4. Failure to meet these expectations can undermine public confidence in the integrity of public administration and the effectiveness of our system of government.

5. Consistent with the Australian Public Service (APS) Code of Conduct, all [agency name's] employees and officials have an obligation to:

    - take reasonable steps to avoid any conflict of interest (real or apparent) in connection with their APS employment

    - not improperly use their status as an APS employee gain or seek to gain a benefit or advantage for themselves or any other person, and

    - at all times behave in a way that upholds the APS Values and Employment Principles, and the integrity and good reputation of [agency name] and the APS.

6. With respect to gifts and benefits offered to them by external entities and individuals, the basic principle is that APS employees and senior officials must not accept a gift or benefit where it could affect, or reasonably be perceived to affect, their integrity in the

performance of their role, or the integrity and good reputation of their agency and the APS.

Legislative framework

Crime and corruption prevention

7. Asking for and/or accepting a bribe is an offence under section 141.1 of the *Criminal Code Act 1995* and carries a penalty of up to 10 years in prison and/or a fine of up to 10,000 penalty units.

8. Asking for and/or accepting a benefit (referred to as a corrupting benefit) that would tend to influence the exercise of a public official's duties is an offence under section 142.1 of the Criminal Code and carries a penalty of up to 5 years in prison.

9. State and Territories also have bribery and related offences that may be applicable.

10. All public officials, including APS employees and senior officials, are subject to the *National Anti-Corruption Commission Act 2022*, which outlines the following types of Corrupt conduct:

    - Breach of public trust
    - Abuse of office by a public official
    - Misuse of official information by a current or former public official
    - Conduct of any person, including a public official's own conduct, that could adversely affect the honest or impartial exercise of a public official's powers, functions or duties.

11. Asking for and/or accepting a bribe or corrupting benefit would be considered corrupt conduct under the *National Anti-Corruption Commission Act 2022*.

APS Integrity

12. All APS employees and agency heads are bound by the APS Values, Employment Principles, and Code of Conduct set out in the *Public Service Act 1999*. These obligations set high standards of behaviour for individual public servants, with the ultimate purpose of maintaining public confidence in the integrity of public administration.

13. Relevant to gifts and benefits, the Code of Conduct provides that all APS employees and agency heads must:

    - behave honestly and with integrity in connection with their APS employment

    - take reasonable steps to avoid any conflict of interest (real or apparent) in connection with their APS employment, and disclose details of any material personal interest they may have in connection with their APS employment.

- not improperly use inside information, or their duties, status, power or authority, to:
    - gain, or seek to gain, a benefit or an advantage for themselves or another person; or
    - cause, or seek to cause, detriment to their agency, the Commonwealth or another person
- behave at all times in a way that upholds the Values and Employment Principles, and the integrity and good reputation of their agency and the APS.

Resource management

14. All employees, agency heads and statutory office holders in APS agencies must comply with their duties as officials under the *Public Governance, Performance and Accountability Act 2013*, including that they must not improperly use their position to gain, or seek to gain, a benefit to themselves or another person.

Policy context

15. This Policy has been developed in accordance with the Australian Public Service Commission's Gifts and Benefits Guidance and is consistent with the

- **APS Conflict of Interest Management Framework: Better Practice Model**
- Department of Finance's
    - Australian Government Travel Policy
    - *Commonwealth Procurement Rules 2025*
    - Ethics and Probity in Procurement Guidance
    - Commonwealth Supplier Code of Conduct
    - *Commonwealth Grants Rules and Principles 2024*
    - Resource Management Guide 203: General duties of officials
    - Resource Management Guide 206: Model Accountable Authority Instructions (Model AAIs)

  - Resource Management Guide 208: Management of conflicts of interest and confidentiality with the non-government sector
  - Commonwealth Risk Management Policy and Resource management Guide 211: Implementing the Commonwealth Risk Management Policy

- Attorney-General's Department's Lobbying Code of Conduct
- National Anti-Corruption Commission's *Corrupt conduct and conflicts of interest: A guide for public officials* and *Ethical decision-making: a guide*.
- the Australian National Audit Office's Insights: Audit Lessons Gifts, Benefits and Hospitality recommendations to Commonwealth entities

16. For further information see other relevant APSC guidance:

- APS Values and Code of Conduct in Practice
- Conflict of interest: Guidance for employees and managers

Agencies should also consider including references, where relevant, to:

- additional legislative requirements applying to their employees or office holders (such as relevant conflict of interest management provisions in the agency's enabling legislation)
- other existing Commonwealth policy or guidance on managing risk in the context of agency's functions, responsibilities, operating context, which are not listed above
- assessments of agency-specific risks associated with conflicts of interest in the acceptance of gifts and benefits e.g. specific regulatory or policy setting responsibilities, responsibility for managing expenditure and/or processes associated with grant programs, major procurements or significant reviews etc.

Application

17. The Owner of this Policy is [position title of relevant agency delegate].

18. This Policy is administered by [relevant agency corporate team e.g HR/Finance/Risk].

19. This Policy applies to **all staff** of [agency name].

20. For the purposes of this Policy '**staff**' includes:

- the [agency head position title e.g. Secretary, Chief Executive Officer, etc.]
- statutory office holders [identify all relevant statutory offices performing functions in or supported by the agency]
- ongoing, non-ongoing and irregular or intermittent employees (including Senior Executive Service employees) engaged by [agency name]
- employees of another Commonwealth entity under a formal secondment arrangement with [agency name] and
- supplier personnel, including under labour hire and consultancy arrangements, engaged to perform work for or on behalf of [agency name], *subject to any applicable obligations under contracts between the agency and their employer (the supplier) which relate to conflict of interest management*.

Definitions

21. **'Gifts and benefits'** mean any free or discounted good or service offered or made available to [agency name] staff in connection with their official role or duties by an external entity or individual. Offers can include tangible goods, services, hospitality, transport or accommodation, connected to a range of situations or events where staff or teams interact with external entities and individuals as part of their role or duties.

Examples may include but are not limited to:

- tangible items such as food hampers, confectionery, flowers, alcohol, books, IT hardware or software, electronics, clothing, water bottles, glassware or mugs, manufacturer's samples, and any branded promotional items
- tangible items with cultural significance such as artworks, handmade crafts and religious items
- financial benefits including cash, loans, discounts, subsidies, bursaries, fellowships, scholarships, sponsorships, promotions or publicity, and 'in-kind' services or other benefits
- real or intellectual property
- cash, debit cards, gift cards, vouchers or shares
- free or discounted hospitality, including individual meals, beverages, on-site event catering, hosting and event management services

- free or discounted tickets to cultural, theatre or sporting events
- free or discounted attendance at conferences, training and development, or other networking events
- prizes, including 'lucky door prizes', at external events
- air travel related goods and services including:
    - flights and flight upgrades
    - airline lounge memberships (both invitation-only memberships and commercially available memberships), and airline lounge hospitality on a guest or ad hoc basis
    - any goods or services redeemed in exchange for accrued airline status credits
- other transportation, including taxis, rideshare services, and hire-car upgrades
- accommodation, including room upgrades, and add-ons like breakfast or concierge services
- gifts and benefits under loyalty schemes attached to official purchases of goods and services
- free memberships of venues, clubs and associations – including exclusive invitations not available to the public
- any other preferential treatment in the provision of commercial goods or services because of a person's APS employment status, position, role or duties except where:
    - a contractual arrangement with the Commonwealth is in place to supply those goods and services to [agency name], and relevant conditions are met by the individual.[1]

22. '**Donors**' means the external entity or individual who is the declared source of an accepted gift.

23. **'External entities and individuals'** mean stakeholders external to [agency name] and the APS that offer gifts and benefits to [agency name] staff, and generally includes:

    - suppliers, clients and customers (including potential or prospective suppliers, clients and customers) of [agency name]
    - non-government entities and individuals
    - lobbyists (as defined in the Lobbying Code of Conduct)
    - international government or non-government officials, other individuals, and entities
    - state and territory government entities and officials
    - Commonwealth officials acting in their personal, not official, capacity
    - any individual person, business or entity regulated by, funded by or contracted to [agency name], or which could be affected by decisions or actions of [agency name] staff.

[1] Certain Commonwealth supplier arrangements, such as Whole of Australian Government travel contracts, authorise or make available discounts, preferential treatment or special commercial conditions for Commonwealth officials, subject to certain requirements.

24. **'In connection official role or duties**' means the gift or benefit offered is related to an individual's public or official role, or the function or duties they perform in the APS.

25. '**Conflict of interest'** is defined in the APS Conflict of Interest Management Framework as when a public official or other person has a personal interest, or another duty, that could affect or be affected by how the public official or person performs their public or official functions or duties.

26. '**Immediate family**' means an individual's partner[2], dependent children, and any relatives who live with them, or with whom they have a financially dependent relationship (either they are dependent on the official, or the official is dependent on them).

Gifts and Benefits that must not be accepted

27. The following gifts and benefits must not be accepted under any circumstances:

- Bribes – any gifts or benefits offered that can reasonably be perceived as an **illegal** inducement to provide an advantage to the entity or individual making the offer[3].

- Cash, debit cards, gift cards and vouchers transferable for cash, crypto currency or any items that can be converted into cash or used as or exchanged for currency to purchase goods or services.

- Gifts and benefits (including hospitality) offered by potential suppliers during an active procurement process – see *Commonwealth Procurement Rules 2025*.

- Other gifts and benefits specifically prohibited by the Australian Government Travel Policy:

    - Flight upgrades to First Class

    - Other flight upgrades from the purchased ticket unless refusal would create an operational impediment.

[2] For the avoidance of doubt, may include ex-spouses or partners.
[3] Asking for and/or accepting a bribe is an offence under section 141.1 of the Criminal Code Act 1995 and carries a penalty of up to 10 years in prison and/or a fine of up to 10,000 penalty units. Asking for and/or accepting a bribe would also be considered corrupt conduct under the National Anti-Corruption Commission Act 2022.

Obligations

All staff

28. All [agency name] staff must comply with this Policy.

29. All staff must:

- **report** to [agency corporate team] any reasonably apparent offer of a bribe or other corrupt conduct
- **avoid** the acceptance of a gift or benefit, regardless of value, where:
    - the gift or benefit would only benefit the individual to whom it is offered and
    - there is no *reasonable business purpose* for acceptance and
    - it is practical to do so
- **decline** offers in a professional and respectful manner when necessary and appropriate
- where acceptance is being considered for a *reasonable business purpose,* **assess all integrity risks** in accordance with this Policy, including their obligation under the APS Code of Conduct to avoid conflicts of interest (real or apparent) and declare and effectively manage them if they cannot be avoided
- **declare in writing** any accepted gift or benefit valued **over** [insert agency declaration threshold which must be **A$100.00 (GST exclusive) or lower**] as soon as reasonably practicable to their manager [and relevant corporate team]
- document and maintain records for any accepted gift or benefit, including the reason for acceptance in accordance with this Policy [and (insert if relevant to the agency)]:
    - a conflict of interest risk assessment
    - the approval of the relevant financial delegate which includes prior consideration of use of public resources as an alternative to accepting the gift or benefit
- declare **any** gift or benefit they are aware has been accepted by an immediate family member where the offer relates to the staff member's APS role or duties. This includes gifts and benefits to immediate family accompanying staff on official travel including airline lounge membership or access obtained via accrual of status credits.

30. Gifts and benefits offers which present a **high-conflict of interest risk** must not be accepted—regardless of their value. For further information on how to assess conflict of interest risk see Department of Finance's Managing conflicts of interest and confidentiality with the non-government sector (RMG 208)

Senior officials

31. In **addition** to the above obligations, all senior officials (i.e. the agency head, SES employees and statutory office holders) must also:

- **Publicly report** any gift or benefit they accept which is valued **over** [insert agency reporting threshold which must be **A$100.00** (GST exclusive) or may be **lower**]

- Publicly report any **invitation-only (exclusive) airline lounge memberships** they hold - when a membership invitation is first accepted and thereafter on an annual basis. Cancelled or forfeited memberships must also be declared promptly, to be publicly indicated on [agency name's] register.

- Account for and **include in their mandatory annual declaration of material personal interests** any accepted gifts and benefits that may give rise to an ongoing risk of conflict of interest (real or apparent) with their role or duties.

Managers

32. Managers with direct reports or supervisory responsibilities must be aware of this Policy and have the obligation to:

- raise awareness of the policy and its content to help staff understand their obligations and responsibilities
- consider the team's operating context (the nature of the work undertaken by the team, the geographic footprint of the team, the volume and nature of engagement with external entities and their disposition to offer gifts and benefits) and aspects of the team's functions which might represent high-conflict risk activities, and take appropriate mitigations
- help team members take appropriate action if they are offered a gift or benefit
- ensure written declarations are made and submitted in accordance with the policy
- take appropriate action where it is identified that a staff member has failed to comply with the policy.

For **non-SES employees**, it is good ethical practice to declare to managers or corporate teams **any** gifts or benefits that are accepted from an external entity or individual—**regardless of value**—after considering the risk factors and making an ethical decision in accordance with this Policy.

Low value gifts and benefits from certain entities or an accumulation of low value acceptances by staff *may* give rise to perceptions of conflict of interest in the context of the agency's functions or the person's role or duties.

Drafting Notes

*Agencies **must** put in place clear conditions, accountabilities and handling requirements on **acceptance, declaration, valuation, and public reporting**.*

In developing their policies, agencies should actively consider their risk profile and tolerance to assess whether employees and senior officials' acceptance of commonly offered gifts and benefits may, in all or certain situations, give rise to a real or apparent conflict of interest with the agency's functions and responsibilities, or create other integrity risks.

*Agencies should consider whether other controls may be necessary to apply **in addition to** the minimum requirements in the* APSC's Gifts and Benefits Guidance*, to support effective risk management, transparency and efficient administrative processes, and promote good ethical practice.*

*Agencies may consider requiring staff—either in certain roles or teams undertaking **high-risk activities**, or all agency staff—to **decline all offers** of gifts and benefits from entities and individuals affected by their decision-making. All agency staff should understand that declining an offer is generally the preferred approach to managing integrity risk and complying with their legal obligations, and how they may do so professionally.*

High-risk activity controls may be focused on identified positions, roles, teams, or duties, and may apply:

- *for a limited time while an activity is being undertaken or*
- *on a permanent basis, such as where the agency has ongoing functional responsibility to regulate or make policy decisions about certain cohorts of people or business, or sectors of the community or the economy.*

Agencies with integrity oversight, regulatory functions or responsibility to set policy and administer programs, provide funding or make administrative decisions in respect of cohorts *of stakeholders, are held to the highest of ethical standards in their engagement and interactions with those stakeholders. Those agencies:*

- ***may** consider applying additional controls to **all** agency officials regarding their interactions with certain stakeholder cohorts, and*
- *are also **recommended** to publish their agency gifts and benefits policy on their website, alongside their public register, for the purpose of transparency.*

Agencies may consider the following additional controls and inclusions in their policies:

- ***lowering** the internal declaration value threshold from the mandatory A$100.00 (GST exclusive) to another amount*
- *requiring public reporting of **all** accepted gifts and benefits by senior officials, regardless of value*
- *applying **uniform public reporting obligations for all staff** i.e. all staff would be required to internally declare **and** publicly report any gift or benefit accepted, according to the agency threshold*
- *requiring all **offers** of gifts and benefits **over** the agency declaration value threshold to be declared, including those offers not accepted*
- *ensuring that the **aggregate value** of gifts to multiple staff from the same donor related to a single gifting event is considered in declaration and public reporting (i.e. a gift of three sporting tickets worth A$90.00 each should be considered as a total gift valued at A$270.00)*
- *clarifying how **gifts accepted by a team** should be handled – i.e. the total value should not be apportioned to each team member to evade declaration or public reporting obligations*
- *stating clearly that acceptance of inappropriate gifts, benefits and hospitality from potential suppliers **during an active procurement process** is expressly prohibited under the Commonwealth Procurement Rules 2025*
- *ensuring that all employees involved in **grants administration** are also aware of their governance obligations, including to identify and manage conflicts of interest and other risks in regard to all parties involved in a grants process - Commonwealth Grants Rules and Principles 2024.*

*Agency policies should include information to staff on how to **estimate the value** of a gift or benefit on the basis of the:*

- *current market value of the gift in Australia (excluding GST) or*
- *wholesale (tax free) value in the country of origin of the individual or entity donor and converted to Australian dollars at the current exchange rate or*
- *using publicly available resources such as internet search engines, eBay or equivalent auction sites, or common online marketplaces (such as Gumtree or Facebook) to determine current new or second hand value (if no longer available as new).*

If the gift cannot be accurately valued or defensibly estimated, staff should treat the gift or benefit as meeting the value threshold for public reporting (where there is one).

*Agencies should clarify their internal processes supporting **mandatory referral** of offers which could reasonably be perceived to be a **bribe or corrupt conduct** – including how to report such offers to supervisors/managers, corporate teams, to the agency head where necessary, and to the National Anti-Corruption Commission.*

*Agencies should include in their policies obligations about **effective recordkeeping** of internal declarations, conflict risk assessments and other relevant information about gifts and benefits offers from external entities and individuals, in the agency's central recordkeeping system.*

*Agencies should also outline in their policies how they may **monitor and review** gift and benefits declarations by staff—regarding the source, frequency and value (individual and cumulative) of accepted gifts and benefits—to manage integrity risks and provide assurance. These risks may only become evident over time.*

Gifts and Benefits that may be accepted

33. [Agency name] staff may accept or receive gifts and benefits in connection with official duties in the following circumstances:

    - **official gift exchanges** between representatives of national governments
    - where acceptance reflects **cultural awareness considerations** and/or where declining would cause embarrassment or adverse relational consequences
        - Declining gifts and benefits offered within a commercial stakeholder relationship will generally <u>not</u> cause offence or adverse relational consequences for the agency
    - where acceptance of the gift or benefit constitutes a **reasonable business purpose** where there is a clear public interest and not an exclusive personal gain to an individual
    - where **declining the gift or benefit is impractical** – these gifts may be required to be further handled appropriately by a manager or [relevant corporate team] rather than accepted by an individual.

Official Gifts

34. An official gift is any gift or benefit received by staff **on behalf of [Agency name] / the Commonwealth** from the official representative of a national government, usually as part of diplomatic relations or cultural exchange.

Drafting Notes

In developing their policies, agencies are expected to consider agency officials working domestically and overseas or who have regular official engagement with international government and non-government entities and individuals.

Agency policies should include clear handling requirements for Official Gifts, and any circumstances where a gift or benefit:

- *must be accepted by an individual on behalf of the agency/Commonwealth as an Official Gift*
- *may be retained by the individual – e.g. perishable goods and low-value items*
- *may not be retained by the individual but must be held permanently on the premises of the agency – on display or in agency-managed storage where available*
- *may not be retained by the individual but may be shared, further distributed or disposed (only where offense to the donor is not at risk).*

For further information on when official gifts become 'Commonwealth property', how to handle property that is received on agency premises, and the retention and disposal of Commonwealth property, refer to the Model AAIs.

Cultural Awareness

35. [Agency name] acknowledges and respects First Nations customs and protocols, including:

    - the role of cultural exchange in relationship-building and
    - the importance of consulting with First Nations representatives when gifts or benefits relate to cultural heritage or knowledge.

36. Staff may receive unique or culturally significant items such as handmade crafts, religious items, and other personalised items with undeterminable value, especially where unique skill and effort has gone into its production.

37. Staff may receive gifts in the context of ongoing community relationship building, where gift-giving is intrinsic to the community's cultural practice.

38. In these instances, refusal may be inappropriate and may cause cultural offence or have adverse relational consequences for [Agency name] the APS or the Commonwealth.

39. An assessment of risk of cultural offence or adverse relational consequences includes:

    - understanding whether gift-giving is customary in the donor's culture

- considering the potential impact on relationships or [Agency name's] or Commonwealth's interests if a gift is declined and

- seeking advice from relevant cultural or diplomatic experts where appropriate.

40. When handling culturally significant items, disposal should be considered a last resort and only after other options of retention or preservation are exhausted.

41. Gifts and benefits offered within a commercial stakeholder relationship are **unlikely** in **most** circumstances to cause adverse relational consequences if declined.

Acceptance for reasonable business purposes

42. In circumstances where an individual's attendance at an external event is exclusively to perform an [agency name] business activity and is necessary for the performance their role or duties, an offer of free or discounted benefit by the event organiser or sponsor may be accepted, but **only** where:

    - there is a clear public interest or agency benefit to attend the event and

    - there has **first** been a consideration of whether [agency name] is able to pay the full costs of the individual's attendance **in preference** to accepting the offer.

43. Where acceptance of a gift of benefit is considered on these grounds the decision must be appropriately risk assessed and documented. The public interest (including a benefit to the agency's core functions) must be clearly outlined as well as any personal or professional development benefit the individual may obtain.

44. Decision-makers must ensure, in considering acceptance of a gift or benefit on the grounds of '*reasonable business purposes*' that:

    - the individual's legal obligations to avoid (or declare and manage) conflict of interest and other integrity and corruption risks are met

    - a consideration of the proper use of resources under the [Public Governance, Performance and Accountability Act 2013]() is conducted, and

    - [any specific Commonwealth policies and agency integrity frameworks, such as travel and credit card use policies] are complied with.

Drafting Notes – 'Reasonable business purposes'

As part of the performance of their duties APS officials may sometimes need to attend externally organised events to deliver speeches or official information, provide training or conduct industry briefings or consultation. Transportation, accommodation or *hospitality necessary to perform official duties may be offered by a supplier or stakeholder for free or at a discounted rate.*

In these limited instances, if attendance at the event is necessary ***only*** *for the APS official to perform their duties, and no other personal or professional benefit is being obtained by the individual the offer may be accepted as a 'reasonable business purpose' but* ***must still be declared and/or publicly reported*** *if the estimated value meets the agency's value threshold.*

Agency policies should clearly set out that in considering these offers:

- *staff must comply with any internal approval process the agency considers may be necessary to identify and assess risk, and authorise acceptance of offers for a reasonable business purpose*
- *delegates must first determine whether required travel and accommodation can be paid for as ordinary business expenditure* **in preference** *to accepting an offer from a supplier or stakeholder*
- *staff remain personally accountable for any real or apparent conflict of interest arising from acceptance of the gift or benefit*
- *integrity risks must be assessed and managed by delegates as part of the approval process*
- *any* ***additional*** *gifts or benefits* ***over*** *the agency declaration threshold received by staff as a personal benefit—such as staying for the remainder of a conference after performing their duties, undertaking professional development activities, or enjoying higher-value hospitality such as a gala dinner or a tourist experience—should be* ***declined*** *or if not practical to do so, factored into the total gift estimate and declared (and publicly reported) where necessary, noting if refusal could have created an operational impediment*
- *additional gifts or benefits to other agency employees who are not presenting or speaking, should be declared (and publicly reported if necessary) where there is a reasonable business purpose for them to accept*
- *records relating to the activity, the circumstances of the gift or benefit offer and decision to accept must be kept in the agency's central recordkeeping system.*

There may also be more than one 'reasonable business purpose' for acceptance. For example, offers by stakeholders to deliver technical or professional training, provision of tickets to professional or industry conferences, invitations to corporate or community events, and information sharing or promotional opportunities in business contexts may be offered for free or at a discounted rate to agency staff by suppliers and stakeholders for a range of relationship building purposes such as fostering an existing contractual relationship, understanding business or community concerns, providing visibility of policy, program or service need, or assuring successful delivery.

For some of these types of offers (which may be made to the agency or staff on an individual or limited group basis) there ***may*** *be a significant public gain in accepting them that* *outweighs any private benefit to the individual. This could include benefits to the agency's technical or professional capability to deliver outcomes, or an opportunity to provide information to a cohort affected by government programs or policies that could not otherwise be obtained but by accepting the offer.*

Agency policies could outline examples that may be considered 'reasonable business purposes' which would justify their acceptance. Examples should be provided in the context of the agency's own risk profile, functions, responsibilities and operating context. 'Reasonable business purposes' must be defensible in the context of the individual's (and the delegate's) legal and ethical obligations to properly manage resources, avoid real and apparent conflicts of interest and maintain public trust and confidence in the integrity and good reputation of the agency and APS.

For commonly offered goods and services agencies could also identify in their policy those common offerings which are ***never permissible*** *as a 'reasonable business purpose' because they present an unacceptable conflict of interest or other integrity or reputational risk to the agency or the APS.*

All other offers ***must*** *be risk assessed, managed, declared and publicly reported on an individual basis according to the policy.*

In identifying types of acceptable offerings, agencies are recommended to:

- *consider whether the public interest or agency benefit in accepting them outweighs the exclusive personal gain to an individual*
- *provide guidance on the circumstances in which such offers may be accepted by an individual*
- *indicate circumstances in which goods and services should be paid for by the agency* ***instead*** *of being accepted as a gift or benefit from a stakeholder and*
- *require expenditure delegates to provide assurance that either:*
    - *acceptance of a gift or benefit by their staff or*
    - *any partial expenditure for discounted goods or services where a discount benefit from an external entity has been accepted*

  is consistent with the duties of officials and/or proper use of public resources under the PGPA Act.

Handling Considerations

45. There will sometimes be circumstances where a gift or benefit is offered to or received by staff that is impractical to decline.

46. Examples include gifts sent to staff without a contact address for the donor, or gifts of perishable goods left at agency premises, or services provided automatically to an individual where there is no opportunity to decline.

47. Any gifts or benefits that have been received in these circumstances, must be reported to the individual's manager or [relevant corporate team] and, subject to

further handling decisions, declared in writing in accordance with this policy as soon as practicable.

48. Staff must have regard to [agency name's] Accountable Authority Instructions for dealing with:

- gifts or benefits received by officials on behalf of [agency name] or
- items received on [agency name] premises,

which immediately become relevant property of the Commonwealth.

Drafting Notes

This section of the agency policy should include practical information on how staff are to:

- *handle gifts and benefits that are accepted in* ***all permissible*** *circumstances, with consideration of when staff can accept gifts and benefits on behalf of the agency, when gifts and benefits become relevant property of the Commonwealth, when it is appropriate for tangible goods or services to be personally retained by the individual, and alternative handling methods when it is not*
- *handle gifts (primarily perishable goods)* ***where it is impractical to decline or return*** *them such when items are left at the agency premises without contact details for the donor.*

For further information on when gifts become 'relevant property of the Commonwealth', how to handle property that is received on agency premises, and the retention and disposal of relevant property, refer to the Model AAIs.

There is no 'one-size-fits-all' approach to these issues. The Department of Finance and APSC can advise, ***but not prescribe****, how agencies are to develop their Accountable Authority Instructions and internal Gifts and Benefits policy risk controls (respectively). Each agency will need to consider handling approaches considering various factors specific to them, such as their functions and responsibilities, stakeholder cohorts, common and likely stakeholder interactions with staff, risks that personal retention of certain items might be reasonably perceived to be an integrity or corruption risk, the available storage or display facilities at agency premises, and the existence of any social clubs or nominated agency charities that may facilitate appropriate redistribution, donation or disposal.*

Recommended handling methods (for when the agency has determined it would ***not*** *be appropriate for an individual to personally retain a gift they have accepted on behalf of the agency) include:*

- *display or storage of official and cultural gifts on the premises or in offsite agency facilities*
- *returning the gift to the donor if practical and appropriate to do so*
- *sharing or redistributing within a team*

- *donating to the agency social club for a raffle, with proceeds towards a registered charity or an agency social function*
- *donating the gift directly to a registered charity or*
- *disposing the gift mindfully in an alternative way.*

Declining offers, risk mitigation and stakeholder management

To support officials to meet their personal obligations, agency policies should indicate which offers should be ***declined*** *by staff as a matter of routine best practice – such as offers of 'free' training by entities that have no contracted supplier relationship with the agency, or offers from contracted suppliers to pay for low value meals or beverages in the context of routine business relationship engagements (i.e. supplier 'coffee meetings').*

Expectations about supplier gifts and benefits offers to staff should be established up front through the procurement process, and boundary reminders should be given at the commencement of any panel arrangement, work order, contracted personnel engagement, ongoing professional relationship, activity or interaction with an external entity or individual where necessary. Providing prospective and contracted suppliers with copies of the agency's relevant polices (Gifts and Benefits, Conflict of Interest, Procurement and Contract Management, where appropriate) supplementary to contracts, funding agreements or memorandums of understanding can be helpful to establish the boundaries of interactions with staff, and is good contract management practice.

Agencies should, where practicable, provide regular communications to suppliers and stakeholders about the types of gifts and benefits that agency officials ***must not be offered*** *during the business relationship.*

Managing conflict of interest risk is a fundamental aspect of contract management and can be mitigated through effective communications with suppliers. Suggested alternative practices managers and staff may use to control risks of being offered gifts and benefits by suppliers and stakeholders include:

- *meeting supplier representatives at agency premises or by video conference as a matter of routine practice*
- *taking advantage of 'value-added' or 'in kind' services from panel suppliers which are already priced and included in contracted supplier services and therefore paid by the Commonwealth via agency work orders – these are* ***not gifts or benefits*** *as defined in the APSC Guidance. They may take the form of training offerings, library services, meeting or training spaces, ad-hoc 'sounding board' advice, or professional templates or other document review offerings. Contract provisions relating to these services should be reviewed regularly to maximise the procured benefit to the agency*
- *minimising staff interactions with suppliers and stakeholders outside business hours, or limiting authorised staff time spent at off-site supplier events*
- *noting the frequency of low value offers made by supplier personnel to staff which need to be declined – such as event promotion emails.*

Many offers which cannot be declined ***may be received*** *for other reasons e.g.:*

- *a courtesy gift publicly given for performing an official speaking engagement such as flowers or wine (these may come within the '**reasonable business purpose**' category) or*
- *hospitality in the context of a service paid for by the agency, such as in-person training or an event promoting the delivery of a project. This is often priced into the relevant Commonwealth contracted service and if so, is **not a gift or benefit**.*

*However, if a gift of **relevant property** is received by agency staff in their official capacity, receipt, handling and any subsequent gifting or disposal actions must be considered in accordance with **property gifting requirements under section 66 of the PGPA Act**, the agency's accountable authority instructions or any other relevant agency-specific policy.*

Gifts and benefits which may not need to be declared [or publicly reported]

49. The following gifts and benefits may not be required to be internally declared or publicly reported **subject to additional integrity risk management considerations** identified by staff or teams or [relevant corporate team]:

- Gifts and benefits valued under the [insert agency declaration value threshold]
- Certain benefits relating to official travel (please consult Australian Government Travel Policy)
- Offers of gifts and benefits that have been declined (subject to illegal bribery/corrupting benefit offer reporting obligations or where the offer is made in the context of a high-risk activity)
- Gifts or benefits offered received by staff in their personal capacity which are unrelated to their official role or duties.

Drafting Notes

*For the purposes of drafting this section, agencies should consider carefully the types of gifts and benefits, and relevant circumstances in which they are offered and received by staff, that do **not** need to be declared, in the context of the agency's enterprise risk assessment. This section should be brief and clear.*

'Low value' gifts and benefits

*Agencies are strongly recommended to include clear messaging in their policies that the same legal and ethical expectations to assess and manage integrity risks, and ensure transparency and accountability, apply to gifts and benefits valued **under** the agency declaration value threshold (i.e. A$100.00 (GST exclusive) or lower). Gifts are **not automatically low risk** based on a value estimation alone.*

Official travel

*Benefits related to official travel which can be categorised as 'non-discretionary', 'operational' or 'automatic' usually do not need to be declared. Agency policies **must** be consistent with the Commonwealth Travel Policy.*

Examples include those travel or accommodation benefits:

- *provided for operational, safety, availability or 'next in line' reasons*
- *which are available to all customers on the same basis*
- *which are not related to the individual APS official's status, position, role or duties*
- *where the APS official's failure to accept may consequently impact the agency's business needs (such as being bumped from a flight, missing a connection, incurring significant travel delays or costs, or where alternative flights, hire-cars or rooms are unavailable).*

<u>Offers</u>

*While declaring offers that are declined or not accepted is not mandatory, it is good ethical practice to actively declare and record unaccepted offers of gifts or benefits in circumstances where there is a high risk of unlawfulness, real or apparent conflict of interest, or would likely have caused damage to public trust in the integrity of the agency or APS **if the gift or benefit had been accepted**.*

Senior officials have a higher expectation to identify and effectively manage potential integrity risks to the agency of such offers through prompt internal declaration.

*Offers which could be reasonably perceived as an intentional illegal bribe or corrupting benefit to a public official **must** be reported.*

As a matter of good practice APS officials should internally declare offers:

- *of high-value goods or services which are out of the ordinary range commonly offered to agency staff*
- *made to them by external entities or individuals in the context of high-risk roles, duties or activities (e.g. offers made to them as a delegated decision-maker from an entity the agency regulates, or from potential suppliers during an ongoing tender process etc).*
- *which do not align with their role or position within the organisation*
- *which coincide with a decision or contracting process the official is about to undertake.*

*Agencies may also choose to **publicly report** declined offers if this is considered a necessary control to mitigate an identified enterprise risk.*

<u>Gifts received in a personal capacity</u>

Generally, gifts or benefits from a family member, friend or associate employed by or otherwise connected with an agency supplier or stakeholder, which are made outside of the course of official duties (i.e. in a purely personal capacity and wholly unrelated to the person's role or duties in the APS) and which do not give rise to or create the appearance of a conflict of interest, do not need to be declared. This includes gifts and benefits provided to an individual in their personal capacity in a will, birthday presents etc.

Relationships of this nature may still need to be declared as a potential, real or apparent conflict of interest and appropriate conflict mitigation strategies should be established and recorded in an approved [conflict management plan](#).

Public Reporting Requirements

50. [Agency name] will publish a public gifts and benefits register on a quarterly basis, listing all gifts and benefits accepted **over** [insert agency value threshold of A$100.00 (GST exclusive) or lower] by:

   - the [agency head's title]
   - all SES employees
   - [titles of all statutory office holders] and
   - any other staff [as determined in this Policy].

   [or]

   - All staff.

51. Any acceptance by staff of an invitation-only (exclusive) airline lounge membership must be publicly reported on first acceptance and thereafter on an annual basis (in the first quarter of each financial year).

52. [Insert relevant corporate team] is responsible for ensuring [agency name's] public gifts and benefits register is published on [the agency's] website in accordance with the APSC Gifts and Benefits Guidance.

Drafting Notes

*In addition to public reporting in respect of senior officials, agencies are strongly recommended to also publish on their register any gifts or benefits accepted by non-SES employees undertaking **high-conflict risk** roles or duties.*

*For integrity or oversight agencies or regulators, they may wish to extend the public reporting requirement to **all** officials in the agency according to relevant enterprise risk assessments.*

Privacy

53. [Agency name's] public register **will include the name** of [Insert agency head's title], any SES employees and [title of any statutory office holders] for each reportable gift or benefit accepted, unless special circumstances apply.

54. [Agency name's] Privacy Policy can be located at [insert link], and a privacy notice relating to the acceptance of gifts and benefits can be found at [insert link].

Drafting Note

Agencies should outline in their policies the limited circumstances in which employee names may be withheld from publication, consistent with other agency policies on public disclosure of senior officials' names, such as FOI and Privacy policies. This includes circumstances where consent cannot be obtained for the publishing of an immediate family member's name.

Agencies should consult their legal/privacy areas when developing privacy statements to ensure they are consistent with the agency's privacy policy, any other agency privacy statements, and the Australian Privacy Principles. Notices should clearly describe the purpose for which the information is being collected and the recipients it may be provided to and be tailored to the agency's role and context.

*Agencies are **strongly recommended** to publish a privacy notice on their website to accompany the register, informing external entities and individuals that any accepted gifts and benefits from them will be published on the register identifying them as the donor. (Privacy notices must comply with the Australian Privacy Principles in the context of each agency's privacy policy.)*

Privacy notices published externally should include that information about a donor's donation may also be disclosed to the APSC or the Australian National Audit Office, or external members of agency governance bodies such as Audit and Risk Committees, as a matter of routine oversight.

Further Information and Assistance

55. If employees are unsure what to do or are seeking further clarification on this policy, they should contact [relevant corporate team] for assistance.