**Gifts, Benefits and Hospitality Policy**

**March 2017**

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# 1. Scope

This policy sets out the VPA’s standards and procedures for responding to gift offers, and providing hospitality. It applies to all board members and employees (i.e. senior executives and other staff, including ‘in house’ contractors and consultants).

# 2. Aim

The aim of this policy is to minimise gift offers made to, and accepted by, board members and employees. This helps to protect and promote public confidence in the integrity of the VPA.

Gift offers are discouraged and must never be accepted unless there is clear justification, consistent with the prohibitions in this policy, to do so.

# 3. Key principles and accountabilities

The key principles are:

* **Obligations**: board members and employees act in accordance with their respective obligations and with good public sector governance practice (see item 15).
* **Public interest**: board members and employees act in the public interest, in compliance with this policy.
* **Culture of integrity**: the VPA fosters a culture of integrity. Board members and employees are supported to raise any unresolved gifts issues.
* **Risk-based:** the VPA’srisksin relation to gift offers are assessed, managed, and monitored.
* **Processes**: the VPA’s procedures are transparent and accountable. Processes are in place to ensure that board members and employees are aware of the requirements of this policy and how to comply with it.

## 3.1 Consistent with DELWP model policy

The VPA’s policy is consistent with the [DELWP model policy](http://www.delwp.vic.gov.au/about-us/boards-and-governance/gifts-benefits-and-hospitality) on *Gifts, benefits and hospitality – responding to gift offers*, which is published by the Department of Environment, Land, Water and Planning (‘DELWP’).[[1]](#footnote-1)

## 3.2 Accountabilities

Board members and employees are responsible for ensuring that their own conduct meets the required standards of integrity. They place the public interest above their own interests when carrying out their official duties. This includes declaring all gift offers in accordance with this policy and refusing prohibited gifts (item 5).

The chair, the chief executive officer (‘CEO’), and employees with direct reports are responsible for being aware of, and monitoring, the risks inherent in their team’s work and functions. They model good practice and promote awareness of this policy and related processes.

# 4. Definitions

## 4.1 Gift offer

A gift offeris anything of monetary or other value that is offered by an external source (organisation or individual) to a board member or employee as a result of their role with the VPA. It includes free/discounted:

* **items or services**, for example, items such as a Christmas hamper, desk calendar, box of chocolates, bottle of wine, commemorative object, or ‘door prize’ at a function; services such as tree-lopping or house painting.
* **benefits** such as preferential treatment, privileged access, favours or other advantages or intangibles, for example, access to a discount or loyalty program, or the promise of a new job.
* **hospitality that exceeds common courtesy.** ‘Hospitality’ is the friendly reception and treatment of guests. It includes offers of food, drink, travel, accommodation, events or activities (e.g. sporting, social, industry, arts, entertainment, or other events/activities). ‘Common courtesy’ is polite, basic and modest. It does not raise a conflict of interest. Whether an offer exceeds common courtesy depends on the circumstances (i.e. what is offered, by whom, to whom, when and why).

Example – does not exceed common courtesy

The following offers do not exceed common courtesy. They are **not a gift offer** and do not need to be disclosed under this policy:

* a cup of coffee at another organisation’s premises;
* a modest working lunch, such as sandwiches and pastries, at another organisation’s premises;
* a cup of coffee at a café (unless there is a conflict of interest).[[2]](#footnote-2)

Example – gift offer

The following offers exceed common courtesy. They are a **gift offer** and must be disclosed under this policy:

* a ‘fine dining and wines’ working lunch at another organisation’s premises;
* an offer to pay for a working lunch at a café;
* an offer of a free spot at an industry golf day.[[3]](#footnote-3)

### Direct or indirect

A gift offer may be direct or indirect. It may be made directly to a board member or employee or indirectly via an offer to their relative or close associate, including:

* a member of their immediate family (e.g. spouse, partner, child, grandchild, parent, sibling);
* a regular member of their household (whether or not they are related); or
* another close associate (e.g. friend, business associate, other relative).

### Is the gift offer ‘token’ or ‘reportable’?

A gift offer that is made by an external source is either ‘token’ or ‘reportable’:

* **Token** – the gift offer is trivial and inconsequential. The **combined total** of offers to the board member or employee from that source in the last 12 months **does not exceed $50**.
* **Reportable** – the gift offer exceeds the token value OR is of cultural, historic or other significance.

Example – exceeds token value

If a board member or employee is offered a $20 bottle of wine three times by the same source in 12 months, the 3rd offer makes a cumulative total of $60. This exceeds the $50 threshold. The 3rd offer is therefore reportable, *even if none of the offers are accepted*. What counts is the total offered in the last 12 months.

Example – other significance

A gift offered by a visiting delegation, such as a delegation from another country, is reportable, regardless of its monetary value. Even if it is not of cultural or historic significance, it is of ‘other’ significance.

## 4.2 Conflict of interest

A ‘conflict of interest’ is a conflict between a board member’s or employee’s public duty to act in the best interests of the VPA and their private interests (financial or non-financial). A conflict exists whether it is:

* **real** – it currently exists;
* **potential** – it may arise, given the circumstances; or
* **perceived** – members of the public could reasonably form the view that a conflict exists, or could arise, that may improperly influence the person’s performance of their duty to the VPA, now or in the future.

## 4.3 Bribe

A ‘bribe’ is an offer of money or other inducement made with the intention to corruptly influence a board member or employee in the performance of their duties. Bribery or attempted bribery of a public official is a criminal offence.

## 4.4 Legitimate business reason (benefit)

A ‘legitimate business reason’ is a business purpose that furthers the official business or other legitimate goals of the VPA, public sector, or State.

# 5. Prohibited gifts

A board member or employee must refuse any gift offer that:[[4]](#footnote-4)

* is **money** or is similar to money (e.g. gift vouchers) or easily converted into money (e.g. shares);
* is a **conflict of interest** (real, potential or perceived) – e.g. is offered by an external source with an interest in a decision that the board member or employee is likely to make or can influence, including in relation to:
* procurement of goods or services;
* tender processes;
* planning decisions;
* awarding of a grant or sponsorship; or
* contracts;
* could in any other way create a **reasonable perception** that it is offered to influence, or could influence, the judgement of the board member or employee (i.e. how he/she acts, or fails to act, now or in the future);
* is inconsistent with **community expectations**; or
* could in any other way bring their **integrity**, or that of the VPA, into disrepute.[[5]](#footnote-5)

If it is a reportable gift offer (item 9), it must also be refused unless there is a ‘**legitimate business reason**’ to accept it.[[6]](#footnote-6)

## 5.1 Gift offers of hospitality

To ensure compliance with the above requirements, board members and employees must be particularly cautious about accepting gift offers of hospitality (i.e. food, drink, travel, accommodation, events or activities). Gift offers of hospitality are often inconsistent with community expectations. There is also a high risk of conflict of interest. In such cases, the gift offer must be refused *even if there is a legitimate business reason to accept*.[[7]](#footnote-7)

In particular, note that:

* High risk events and activities

Invitations to attend or participate in a sporting, social, ‘industry’, arts, entertainment, or other event or activity are high risk. Examples of gift offers that should be refused include:

* attend as a guest in a corporate box at the football or at a car or horse racing event;
* attend a concert or theatre event;
* attend an industry golf day or play golf at a reduced fee;
* be ‘shouted’ a meal at a restaurant; or
* accept complimentary or discounted tickets for a family member to attend the tennis.
* Conferences and familiarisation tours

Gift offers in relation to conferences or familiarisation tours (e.g. sponsored attendance, participation, travel, or accommodation) must be declined unless there is:

* **clear justification**, such as where the invitation is issued by a government department, or the event is funded by DELWP, or, depending on the circumstances, the offeror is a peak body; and
* **prior written approval** that sets out clear reasons is specifically granted by the CEO (for employees) or the Chair (for board members and the CEO). The approval must be noted in the gifts register (item 10).[[8]](#footnote-8)

## 5.2 Recording prohibited gift offers

To assist the VPA to monitor the frequency and nature of prohibited gift offers, it is essential that all such offers are disclosed in accordance with the requirements for token (item 8) or reportable (item 9) gift offers.

## 5.3 Misuse of position

Accepting a prohibited gift offer may constitute misuse of a board member’s or employee’s position, a breach of this policy and/or a breach of the relevant code of conduct, and may result in disciplinary action. In addition, if the gift was offered with the expectation of something in return, such as preferential treatment, accepting it may constitute a bribe (item 6) or other form of corruption and lead to criminal prosecution.

# 6. Attempts to bribe

A board member or employee who receives a gift offer that he/she believes is an attempted bribe must refuse the offer. He or she must:

* immediately notify the Director, Corporate & Statutory Services and/or CEO and record the offer in the gift register as having been refused; or
* report the matter to the Independent Broad-based Anti-corruption Commission (IBAC) as a protected disclosure.[[9]](#footnote-9)

A board member or employee who believes that another board member or employee may have solicited or been offered a bribe which the other person has not reported must either notify the Director, Corporate & Statutory Services and/or CEO or report the matter to IBAC as a protected disclosure.

The CEO must notify IBAC of any matter which he/she believes on reasonable grounds may be corrupt conduct or, if appropriate, notify the police of a suspected offence.[[10]](#footnote-10)

# 7. Ban on soliciting gifts

Board members and employees must not solicit gifts for themselves or anyone else, in any form. To do so may constitute misuse of their position, a breach of this policy and/or a breach of the relevant code of conduct and may result in disciplinary action. It may also constitute corruption and lead to criminal prosecution.[[11]](#footnote-11)

# 8. Token gift offers

A board member or employee who is offered a gift of **token value** (as defined in item 4.1) that is not a prohibited gift (item 5) may:

* refuse the gift offer; or
* accept the gift offer and retain the gift as their own.

## 8.1 Disclosing token gift offers

*Regardless of whether a token gift offer is accepted,* it must be disclosed as soon as practicable to the Governance and Corporate Information Manager. The board member or employee who receives the offer must send an email to the Governance and Corporate Information Manager that sets out:

* the date of the offer;
* the source (organisation or individual) of the offer;
* what was offered and why;
* that it was a token offer, including an estimate of:
* the value of the gift offered; and
* the combined value of all gifts offered to them from that source in the last 12 months;
* whether it was a prohibited gift (item 5) and, if so, why; and
* whether the offer was accepted or refused.

The offer does not need to be entered in the gifts register (item 10).

**Example – acceptance of token gift**

‘On 16 July 2017, l received a gift offer from Berringer and Co. of a bottle of wine. It was offered to me as a thank you for presenting at their annual education forum, which I did as part of my official duties. I estimate the value of the bottle of wine to be $30. I estimate the combined total of gift offers l have received from this source in the last 12 months to be $45. I consider this to be a token gift offer. It was not a prohibited gift offer. I accepted the offer.’

**Example – refusal of token gift**

‘On 13 December 2017, l received a gift offer from Murks and Co. of a desk calendar. It was offered as ‘a Christmas good will gift’. I estimate the value of the desk calendar to be $20. I estimate the combined total of gift offers l have received from this source in the last 12 months to be $45. It was a prohibited gift as it is a conflict of interest - Murks is a prospective tenderer about whom l am likely to make or can influence a decision. I refused the offer and explained why to the rep.’

## 8.2 Keeping track of token gift offers

The email disclosing the token gift offer must be saved in TRIM in CF/17/56. An email record:

* assists the board member/employee to fulfil their responsibility to keep track of whether offers made to them by that source exceed a combined value of $50 in the last 12 months (i.e. the reportable threshold); and
* assists the VPA to monitor the risks inherent in the Authority’s work and functions.

# 9. Reportable gift offers

A board member or employee who is offered a **reportable** gift (as defined in item 4.1) must, *regardless of whether the gift is accepted:*

* verbally disclose the offer to the Governance and Corporate Information Manager as soon as practicable; and
* within five working days of the offer, enter the offer in the Gift Register – D/16/7657 in TRIM (item 10).

A gift offer must not be accepted if it is a prohibited gift (item 5).

## 9.1 Ownership of reportable gifts

A board member or employee who accepts a reportable gift does so **on behalf of the VPA**. The VPA is the owner of the gift.

## 9.2 Dealing with accepted gifts

The CEO will determine how reportable gifts will be used or disposed of by the VPA, in line with these guidelines:

* Gifts of cultural, historic or other significance

Consideration should be given to donating gifts of cultural, historic or other significance to an appropriate public institution, such as the Melbourne Museum, State Library, or National Gallery of Victoria.

* Donating other reportable gifts

Consideration should be given to donating other reportable gifts, or the proceeds of their sale, to a non-profit organisation or public institution.[[12]](#footnote-12)

* ‘Public interest’ approval for use of gift by board member or employee

Occasionally, it will be in the **public interest** for approval to be given for a board member or employee to use a reportable gift ‘as their own’ at the behest of the VPA.

Applications for ‘public interest approval’ will be determined by the board (for board members and the CEO) or the CEO (for employees) in accordance with the following criteria:

* approval is required to avoid the person being in breach of this policy through no fault of their own; or
* prior written approval has been granted, in accordance with item 5.1 of this policy, for sponsored hospitality to be accepted in relation to a conference or familiarisation tour.

The reason(s) for any public interest approval that is granted must be well documented and recorded in the gifts register.

# 10. Gifts Register

A *Register of responses to reportable gift offers* (‘gifts register’) must be maintained that includes a record of:

* all **reportable** gift offers and responses; and
* if the gift offer was accepted, how the gift will be used or disposed of by the agency.

The gifts register is **D/16/7657** in TRIM. All staff who receive offers of gifts, benefits or hospitality are responsible for updating the gift register.

The Governance and Corporate Information Manager is responsible for maintaining the register and periodically checking it is up to date. In addition:

* Employees

The CEO must ensure that employees are provided with regular reminders of the need to record gifts in the gift register (see item 13.2).

* Board members

At the start of each board meeting, the chair must ask all board members present to state whether their entries in the gifts register are complete and correct. If there are no changes, the minutes will note that:

‘All board members present confirmed that their entries in the *Register of responses to reportable gift offers* are complete and correct’.

If changes are declared, these will be noted in the minutes, and entered in the gifts register within five working days.

## 10.1 Publishing of gifts register on external website

A copy of the gifts register that complies with privacy obligations (see next item) must be published on the VPA’s website. It should be updated at least every six months. Entries should remain on the website for at least the current and previous financial year. [[13]](#footnote-13)

# 11. Privacy protection

The VPA complies with the *Privacy and Data Protection Act 2014* when collecting, using, and disclosing personal information in relation to gift offers (token and reportable). This includes ensuring that:

* identifying information is deleted from the copy of the gifts register that is published on the VPA website; and
* a *Privacy collection statement - gift offers* is published on the website that is consistent with the [template statement](http://www.delwp.vic.gov.au/about-us/boards-and-governance/gifts-benefits-and-hospitality) issued by DELWP.[[14]](#footnote-14)

# 12. Monitoring compliance

The administration and quality control of the VPA’s policy and processes, including the gifts register, must be subject to regular scrutiny. [[15]](#footnote-15)

## 12.1 Annual report by CEO to Risk and Audit committee

The CEO must provide a report at least annually to the Risk and Audit Committee that includes the matters set out in **Appendix 1** in relation to:

* risk analysis;
* steps taken to improve compliance; and
* recommendations for improvement.

# 13. Promoting and improving compliance

To promote and improve compliance with this policy:

## 13.1 Induction and refresher training – board members and employees

The chair (for board members and the CEO) and the CEO (for employees) must ensure that all board members and employees receive **induction training** and annual **refresher training**, including:

* information about the aim, principles, accountabilities, and requirements of this policy;
* practical guidance on how to comply with it (e.g. where to find the gift register, how to refuse a gift without giving offence, etc.); and
* advice that a breach of this policy may constitute a breach of a binding code of conduct and may result in disciplinary action and, in the case of corrupt conduct, criminal prosecution.[[16]](#footnote-16)

A copy of the VPA’s policy and related practical guidance must be provided to each board member and employee when they commence their term of appointment/employment. Updates to the policy and related guidance must be provided as soon as practicable after they occur.[[17]](#footnote-17)

**Summary flow chart**

To assist employees and board members, a flowchart of how to respond to gift offers is set out in **Appendix 2**.

## 13.2 Advice for board members and employees

The Governance and Corporate Information Manager is able to provide board members and employees with a central point from which to obtain expert advice and guidance materials.

## 13.3 Contracts for ‘in house’ contractors and consultants

All contracts for ‘in house’ contractors and consultants (including those engaged through an employment agency) must explicitly state that the contractor or consultant is bound by this policy and by the [Code of Conduct for Victorian Public Sector Employees](http://vpsc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/).[[18]](#footnote-18)

## 13.4 External stakeholders (tenderers, suppliers, external contractors, etc.)

All contracts for suppliers and external contractors must ensure that the contract can be revoked (or renegotiated) by the VPA if the supplier or external contractor offers a prohibited gift to a board member or employee.[[19]](#footnote-19)

To ensure that external stakeholders have ready access to information that explains the prohibitions and restrictions in this policy:

* an up-to-date copy of this policy is published on the VPA website;[[20]](#footnote-20) and
* suitable guidance material is:
* included in information packages for prospective tenderers and suppliers;
* provided directly to suppliers and external contractors as the opportunity arises; and
* published on the VPA website.[[21]](#footnote-21) [[22]](#footnote-22)

## 13.5 Remedial action

The gift register will be reviewed at least once a year to identify any patterns of frequent or prohibited gift offers. Where appropriate, **remedial action** will be taken to address this - e.g. a letter is sent to the source of the offers explaining why such offers must not be made.

# 14. Culture of integrity

It is essential that board members, employees, and external stakeholders are supported to raise queries and issues about gift offers, including queries and issues relating to their own conduct or that of others.

## 14.1 Assistance with making decisions

A board member or employee who is uncertain how to comply with this policy should seek advice from the Governance & Corporate Information Manager (item 13.2). This does not abrogate their responsibility to make the right decision.

## 14.2 Possible breach of this policy

A board member or employee who may have breached this policy must immediately notify the Governance and Corporate Information Manager and remedy any breach.

## 14.3 Speaking up

A board member or employee who believes that another board member/employee may have breached this policy must:

* approach the other person, to give them the opportunity to notify the Governance and Corporate Information Manager and remedy any breach; or
* notify the Governance and Corporate Information Manager or Director Corporate and Statutory Services directly.

If the matter involves corruption or serious misconduct, the board member or employee can choose to instead report the matter to IBAC as a protected disclosure.[[23]](#footnote-23)

Decisive action, including possible disciplinary action, will be taken against any board member or employee who discriminates against or victimises a person who speaks up in good faith about a possible breach of this policy.

# 15. Obligations and good practice

Board members and employees must act in accordance with their respective obligations and with good public sector governance practice, including:

* the establishing Act, being the Planning and Environment Act 1987;
* the *Public Administration Act* *2004* (‘PAA’);[[24]](#footnote-24)
* binding codes and accountabilities issued by the Victorian Public Sector Commission, in particular:
* [Code of Conduct for Directors of Victorian Public Entities](http://www.ssa.vic.gov.au/products/view-products/directors-code-of-conduct-and-guidance-notes.html) (‘Directors Code of Conduct’);
* [Code of Conduct for Victorian Public Sector Employees](http://vpsc.vic.gov.au/html-resources/code-of-conduct-for-victorian-public-sector-employees/); and
* [Minimum accountabilities for managing gifts, benefits and hospitality](http://vpsc.vic.gov.au/wp-content/uploads/2016/10/Gifts-benefits-and-hospitality-minimum-accountabilities.pdf)(numbers 1 to 4 and 8 to 12);[[25]](#footnote-25)
* government policy;
* any directions, guidelines and/or statements of obligation or expectation issued by the Minister; and
* all other laws and obligations that bind the agency.[[26]](#footnote-26)

# 16. Management of the provision of gifts, benefits and hospitality

This section sets out the requirements for providing gifts, benefits and hospitality.

## 16.1 Requirements for providing gifts, benefits and hospitality

Hospitality may be provided to welcome guests, facilitate the development of business relationships, further public sector business outcomes and to celebrate achievements. Gifts and benefits would normally only be provided in exceptional circumstances, where this helped to further the conduct of official business or support other organisational goals.

When deciding whether to provide gifts, benefits or hospitality or the type of gift, benefit or hospitality to provide, individuals must ensure:

* any gift, benefit or hospitality is provided for a business reason in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;
* that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations (the ‘HOST’ test at **Table 2** is a good reminder of what to think about in making this assessment); and
* it does not raise an actual, potential or perceived conflict of interest.

**Table 2. HOST test**

|  |  |  |
| --- | --- | --- |
| **H** | Hospitality | **To whom is the gift or hospitality being provided?**  Will recipients be external business partners, or individuals of the host organisation? |
| **O** | Objectives | **For what purpose will hospitality be provided?**  Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction? |
| **S** | Spend | **Will public funds be spent?**  What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided as a courtesy or an indulgence? Will the costs incurred be proportionate to the benefits obtained? |
| **T** | Trust | **Will public trust be enhanced or diminished?**  Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting andrecording procedures? |

## 16.2 Containing costs

Individuals should contain costs involved in the provision of gifts, benefits and hospitality wherever possible. The following questions may be useful to assist individuals to decide the type of gift, benefit or hospitality to provide:

* Will the cost of providing the gift, benefit or hospitality be proportionate to the potential benefits?
* Is an external venue necessary or does the organisation have facilities to host the event?
* Is the proposed catering or hospitality proportionate to the number of attendees?
* Does the size of the event and number of attendees align with intended outcomes?
* Will providing the gift, benefit or hospitality be viewed by the public as excessive?
* Is the overall cost no more than modest or prudent?

## 16.3 Hospitality involving VPA employees

Hospitality concerning inter and intra-departmental (within the VPA and between the VPA and other State government department/s) activities requires special consideration. It may normally only be authorised as an integral component of wider business activities such as training courses, planning days, conferences, meetings that extend beyond two hours duration and the like, where continuity or extension of the activity through or into a hospitality function is integral to the proper public purpose of the event.

Working meals would normally involve participation of persons outside the organisation or, on occasion, employees from within the organisation, for example, where for practical reasons participants can only meet during the normal daily meal periods.

When Official Hospitality is provided, individuals must demonstrate professionalism in their conduct, and uphold their obligation to extend a duty of care to other participants.

## 16.4 Alcohol

Subject to the purpose of the event being for a legitimate official purpose, alcohol may be supplied for consumption provided that its provision does not contravene extant liquor laws, and is in compliance with the requirements of the *Occupational Health and Safety Act* 2004 and the *Liquor Control (Reform) Act* 1998, the VPS Code of Conduct and ‘best practice’ as represented by the Liquor Licensing Commission’s Guidelines for the Responsible Serving of Alcohol.

The supply of alcohol for consumption at inter and intra-Departmental (within VPA and between VPA and other State government department/s) activities must be considered on individual case-by-case basis, and is subject to the approval of the Chief Executive Officer. The principle of a high degree of prudence and whether providing alcohol adds more value to the business of the State, must be applied when considering a decision to supply alcohol at an event.

Approval by the CEO must be obtained prior to the ordering of any alcohol and any catering for the function.

If alcohol is provided at any particular event, the VPA will only provide enough for consumption at responsible levels. For catering purposes, as a guide, this will be at an average of no more than two standard drinks per person.

The consumption of alcohol is only permitted within the function boundaries and for the duration of the official function period as outlined in the event invitation. Alcohol is not to be removed from the function boundaries, or stipulated boundaries for the purpose of the function.

All staff must observe appropriate behaviour and work together to ensure alcohol is served and consumed responsibly on departmental premises.

Employees should not be adversely affected by alcohol or drug use during working hours and must at all times carry out their duties and responsibilities in a safe manner.

## 16.5 Tipping and Gratuities

Tipping or gratuities are generally not permitted at the VPA’s expense. If employees wish to tip, then it would be at their own cost. The Director Corporate & Statutory Services should be consulted if any clarification of this guideline is required.

## 16.6 Approval of hospitality and entertainment expenses

All hospitality anticipated to cost up to $1,000 must be approved, in advance, by the responsible Director and approved and organised through the CEO’s Office via the Chief of Staff. This approval must be obtained prior to purchasing of any goods and services.

All hospitality including the purchase of goods or services over $1000 (including GST) for official hospitality at a single event must be approved in writing by the CEO via the Chief of Staff. This prior approval should be supported by a memorandum requesting approval that sets out the reason for the expenditure and the proposed attendees (indicating employees and non-employees).

Further procurement and approval level information is available at *E14 - Internal Corporate Procurement Process Approvals* document (D/11/1968).

# 17. Regular review of this policy

The board will review this policy on an annual basis or more frequently, if required, to keep up-to-date with changes to laws, government policy, etc. This policy should beconsistent with the most recent version of the DELWP model policy.[[27]](#footnote-27)

# 18. Related policies

* Conflict of Interest Policy – Authority Members
* Conflict of Interest Policy – Staff
* Protected Disclosures Policy & Procedures
* Probity Guidelines

# 19. Further information

For further information see the [Gifts, benefits and hospitality](http://www.delwp.vic.gov.au/about-us/boards-and-governance/gifts-benefits-and-hospitality) support module in the [Governance guides and resources](http://www.delwp.vic.gov.au/about-us/boards-and-governance/on-board-governance-guides-and-resources) section of DELWP’s governance website, **On Board** ([www.delwp.vic.gov.au/onboard](http://www.delwp.vic.gov.au/onboard)). It includes the DELWP model polices and DELWP guidance notes, plus direct links to this topic on the VPSC website.

# Appendix 1 – Annual report to Risk and Audit committee

The CEO’s annual report to the Risk and Audit committee (item 12) must, at a minimum, include the following information:

## A. Risk analysis

* Sources, type, and targeting of gift offers (patterns and anomalies)

Reportable gifts: an analysis of patterns and anomalies in the gifts register, including an overview of:

(i) *Gifts offered:* the types and value range of gifts offered, in particular:

* + main sources (organisations and individuals) of high value and/or frequent offers;
  + which areas of the VPA and which positions (chair, board member, CEO, other employee positions) were subject to high value and/or frequent offers; and
  + patterns in areas identified by the Risk and Audit committee for high scrutiny (e.g. tendering and procurement).

(ii) *Prohibited gifts:* the level, nature and sources of prohibited gift offers.

(iii) *Acceptance of gifts*: the total number, value, and percentage of gift offers accepted v. refused.

(iv) *Use and disposal:* how the agency used or disposed of the gifts it received.

(v) *Bribes:* any reports of suspected bribery attempts.

Token gifts: to the extent, if any, that the Risk and Audit committee requires, an analysis of token gift offers - e.g. some or all of (i) to (iii) above - in particular, prohibited token gift offers.

* Level of compliance with policy

An overview of the estimated level of compliance with this policy, including:

(i) Whether there are fewer entries in the gifts register than would reasonably be expected given the size and functions of the agency.

(ii) Based on research conducted (e.g. surveys and focus groups with board members and employees; random and targeted spot checks with current/recent suppliers and external contractors, etc.), the estimated level of failure to:

* + disclose reportable gifts;
  + disclose token gifts by emailing the Governance and Corporate Information Manager;
  + refuse prohibited gifts.

## B. Steps taken to improve compliance (risk mitigation measures)

An overview of steps taken in the last year to improve compliance with this policy, including:

(i) substantive changes to business rules, processes and record-keeping requirements;

(ii) activities to promote awareness of, and improve compliance with, this policy, noting who the activities were directed to (i.e. board members, employees and/or external stakeholders);

(iii) remedial action taken to address patterns of frequent or prohibited gift offers (e.g. letters to offerors); and

(iv) progress in implementing any recommendations made to, and accepted by, the Risk and Audit committee and/or board.

## C. Recommendations (future improvements)

New recommendations, if any, for:

(i) improving compliance with this policy; and/or

(ii) updating this policy and related business rules, processes and record-keeping requirements.

# Appendix 2 - Flowchart

Have you received a gift offer as a result of your role with the VPA?

**‘GIFT’ includes:**

* **items or services** (e.g. chocolates, bottle of wine, commemorative object, calendar, door prize)
* **benefits** (e.g. promise of a new job)
* **hospitality that exceeds common courtesy.** (‘Hospitality’ includes food, drink, travel, accommodation, events or activities – e.g. sporting, social, industry, arts or entertainment. ‘Common courtesy’ is polite, basic and modest. It does not raise a conflict of interest. Whether an offer exceeds common courtesy depends on what is offered, by whom, to whom, when, why.)

Policy does not apply

**Yes**

**No (hospitality does not exceed common courtesy)**

Is it a prohibited gift?

* Is it **money** or is similar to money (e.g. gift vouchers) or easily converted into money (e.g. shares)?
* Is it a **conflict of interest** (real, potential or perceived)? – e.g. offered by an external source with an interest in a decision that you are likely to make or can influence (e.g. tender process; procurement of goods/services; planning decisions; awarding of a grant or sponsorship; contracts).
* Could it in any other way create a **reasonable perception** that it is offered to influence, or could influence, your judgement (i.e. how you act, or fail to act, now or in the future)?
* Is it inconsistent with **community expectations**?
* Could it in any other way bring your integrity, or that of the VPA, into **disrepute**?

Policy applies

* Is there a ‘legitimate business reason’ to accept the offer?

It is prohibited

* Refuse the gift.
* Disclose offer to the Governance and Corporate Information Manager as follows:
* Token offers   
  by email
* Reportable offers   
  verbally and by completing the Gift Register in TRIM.

Token or reportable?

* Does the combined total of offers to you from this source in the last 12 months exceed $50?

OR

* Regardless of value, is the gift offered of cultural, historical or other significance?

‘Token’ obligations

* You can either refuse or accept the gift.
* Regardless, you must disclose the offer by email to the Governance and Corporate Information Manager and TRIM the email.
* If you accept the gift, you can keep it as your own.

Yes

‘Reportable’ obligations

* You can either refuse or accept the gift.
* Regardless, you must disclose the offer by completing the Gift Register in TRIM.
* If you accept the offer, the VPA is theowner of the gift, not you.

No

No

Yes

No – it is ‘token’

Yes – it is ‘reportable’

Note that information about reportable gift offers is published (de-identified) on the VPA website.

1. The DELWP model policy is designed specifically for DELWP portfolio agencies. It should be used rather than the generic model policy issued by Victorian Public Sector Commission (‘VPSC’). The DELWP model policy incorporates:

   the binding *Minimum accountabilities for managing gifts, benefits and hospitality* (‘Minimum accountabilities’), which are located in the *Gifts, Benefits and Hospitality Framework* (‘the Framework’) issued by the VPSC;

   other obligations in the *Public Administration Act 2004* (‘PAA’), the *Code of Conduct for Directors of Victorian Public Entities* (‘Directors’ Code of Conduct’) and the *Code of Conduct for Victorian Public Sector Employees*; and

   good public sector governance practice. [↑](#footnote-ref-1)
2. For example, there is a conflict of interest if it is offered by a stakeholder with an interest in a policy decision that the person is likely to make or can influence. Note that all conflicts of interest must be refused - see item 5, ‘Prohibited gifts’. [↑](#footnote-ref-2)
3. Note that in these examples the gift offered is inconsistent with community expectations and must be refused - see item 5, ‘Prohibited gifts’. [↑](#footnote-ref-3)
4. Consistent with Minimum accountability 2. [↑](#footnote-ref-4)
5. For example, if accepting the gift offer could be perceived as endorsement of a product or service. [↑](#footnote-ref-5)
6. Note that the following are not a ‘legitimate business reason’:

   * ‘It would have been impolite to refuse’;
   * ‘Refusal would offend’ (except in compelling circumstances that are in the public interest. These almost never exist for gift offers of hospitality and rarely exist for other gift offers.);
   * ‘Networking’
   * ‘Maintaining stakeholder relationships’.

   [↑](#footnote-ref-6)
7. Consistent with para 6.2.2 of the Framework. [↑](#footnote-ref-7)
8. The VPA is the owner of the sponsored travel and accommodation, etc. (item 9). Approval is given for the board member or employee to utilise the gift at the VPA’s behest – see ‘Public interest approval’ in item 9.2 [↑](#footnote-ref-8)
9. Note that if a matter is referred to IBAC or the police there may be legal implications which necessitate variation to the usual record-keeping processes in items 8 to 10. [↑](#footnote-ref-9)
10. Consistent with Minimum accountability 4. [↑](#footnote-ref-10)
11. Consistent with Minimum accountability 1. [↑](#footnote-ref-11)
12. Consistent with Minimum accountability 3. [↑](#footnote-ref-12)
13. To assist readers, the ‘de-identified’ copy of the gifts register should be located with the privacy collection statement (item 11) and copy of this policy and guidance for external stakeholders (item 13.4) on the website. [↑](#footnote-ref-13)
14. DELWP’s template *Privacy collection statement - gift offers* is available from www.delwp.vic.gov.au/onboard. [↑](#footnote-ref-14)
15. Consistent with Minimum accountability 12. [↑](#footnote-ref-15)
16. Consistent with Minimum accountability 10. [↑](#footnote-ref-16)
17. Consistent with paras 5.2.1 and 5.2.3 of the Framework. [↑](#footnote-ref-17)
18. This includes the contracts for all contractors or consultants who:

    * Supervise VPA employees; and/or
    * undertake work similar in nature to the work undertaken by VPA employees at the VPA office.

    [↑](#footnote-ref-18)
19. Consistent with para 5.1.4 of the Framework. [↑](#footnote-ref-19)
20. Consistent with Minimum accountability 13. [↑](#footnote-ref-20)
21. Information to external stakeholders should, where appropriate, also make reference to any applicable whole of Victorian government supplier codes of conduct. [↑](#footnote-ref-21)
22. Consistent with Minimum accountability 11. [↑](#footnote-ref-22)
23. Making a ‘complaint’ to IBAC under the *Protected Disclosures Act 2012* gives legal protection to the person making it that their identity will remain confidential and they will be protected from reprisals. [↑](#footnote-ref-23)
24. In particular:

    * s 7: public sector values (i.e. integrity, impartiality, accountability, respect, responsiveness, human rights, leadership);
    * s 79: ‘duties of directors’ (board members);
    * s 13A: requirement to provide information to the Secretary of DELWP;
    * s 81(1)(b): duty to inform the minister and the Secretary of DELWP of major risks to agency;
    * s 81(1)(g): requirement to have an adequate gifts policy in place for board members.

    [↑](#footnote-ref-24)
25. The minimum accountabilities are incorporated into DELWP’s model policy, which this agency’s policy is consistent with. [↑](#footnote-ref-25)
26. *[insert this footnote if the agency is subject to the Financial Management Act 1994]* For example, the requirement in the ‘Instructions supporting the Standing Directions of the Minister for Finance 2016’ for agencies which are subject to the *Financial Management Act 1994* to have policies and procedures in place in relation to gifts, benefits and hospitality – see Instruction 2.1(i) and Direction 3.4(e). [↑](#footnote-ref-26)
27. See item 3 of this policy, including footnote 1. [↑](#footnote-ref-27)