

# GIFTS, BENEFITS AND HOSPITALITY

## 1. Scope

This policy sets out East Gippsland Water's (EGW) standards and procedures for responding to gift offers, providing gifts, travel and hospitality, and incurring travel and out-of-pocket expenses. The policy applies to all Board members, employees and contractors acting on behalf of EGW at all times in the performance of their duties. All contracts for 'in house' contractors and consultants must explicitly state the contractor or consultant is bound by this policy.

## 2. Aim

The aim of this policy is to minimise gift offers made to Board members, employees and contractors in a consistent, clear and accountable fashion. This helps to protect and promote public confidence in the integrity of EGW.

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

## 3. Key principles and accountabilities

The key principles are:

- **Obligations:** Board members, employees and contractors act in accordance with their respective obligations and with good public sector governance (see item 16)
- **Public interest:** Board members, employees and contractors act in the public interest, in compliance with this policy
- **Culture of integrity:** EGW fosters a culture of integrity. Board members, employees and contractors are supported to raise any unresolved gift issues.
- **Risk-based:** EGW's risk in relation to gift offers are assessed, managed and monitored.
- **Processes:** EGW's procedures are transparent and accountable. Processes are in place to ensure Board members, employees and contractors are aware of the requirements of this policy and how to comply with it.

### **Consistent with DELWP model policy**

EGW's policy is consistent with the DELWP model policy on *Gifts, Benefits and Hospitality – responding to gift offers*, which is published by the Department of Environment, Land, Water and Planning (DELWP).

### **Accountabilities**

Board members, employees and contractors 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.

The Chairperson, the Managing Director (MD) 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 offer is anything monetary or other value that is offered by an external source (organisation or individual) to a Board member, employee or contractor as a result of their role with EGW. It includes free/discounted:

- Items or services: for example, items such as Christmas hampers, desk calendar, box of chocolates, bottle of wine, commemorative object, or 'door prize' at a function or services such as tree-logging 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 a friendly reception and treatment of guests. It includes offers of food, drink, travel, accommodation, event 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; or
- a cup of coffee at a café (unless there is a conflict of interest).

#### **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; or
- an offer of a free spot to an industry golf day.

#### **Direct or indirect**

A gift may be direct or indirect. It may be made directly to a Board member, employee or contractor, 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).

This policy applies to all Board members and employees (including senior executives and contractors) at all times in the performance of their duties and relates to all gift, benefits or hospitality offered or received from sources external to EGW.

This policy complies with the requirements of the Gifts, Benefits and Hospitality Policy framework issued by the Public Sector Standards Commissioner in April, 2010, and is consistent with the DELWP model policy on Gifts, Benefits and Hospitality.

## 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, employee or contractor 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 third offer makes a cumulative total of \$60. This exceeds the \$50 threshold. The third 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 not of cultural or historic significance. It is of ‘other’ significance.

### 4.2 Conflict of interest

A ‘conflict of interest’ is a conflict between Board member’s, employees or contractors public duty to act in the best interest of EGW, and their private interest (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 Corporate, 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, employee or contractor 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 corporation, public sector or State.

### 4.5 Responsible person

The ‘responsible person’ is the person whom the Board member, employee or contractor notifies of any gift offers they receive. The responsible person will provide advice regarding compliance with this policy.

	<b>Responsible person</b>
<b>Employee or Contractor</b>	Line/Project manager
<b>Board member or Managing Director (MD)</b>	Chairperson
<b>Chair</b>	Deputy Chairperson Where appropriate, the Chairperson should also seek advice from the Minister and/or DELWP

## 5. Prohibited gifts

A Board member, employee or contractor must refuse any gift offer that:

- is money or 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, employee or contractor is likely to make or can influence, including in relation to:
  - procurement of goods or services;
  - tender processes;
  - awarding of grant or sponsorship;
  - setting of policy
  - enforcement, licensing or regulation; 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, employee or contractor (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 EGW, into disrepute.

If it is a reportable gift offer, it must also be refused unless there is 'legitimate business reason' to accept it.

Note: the following are not '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 or hospitality and rarely exist for other gift offers)
- 'Networking'
- Maintaining stakeholder relationships'

### 5.1 Gift offer of hospitality

To ensure compliance with the above requirements, Board members, employees and contractors 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*.

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 must 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 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:

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- 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 MD (for employees) or responsible person (for the Chairperson, Board members, and MD). The signed and dated approval must be attached to the gift offer declaration form (Appendix 1) and noted in the gifts register.

## 5.2 Recording prohibited gift offers

To assist EGW 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 or reportable gift offers.

## 5.3 Misuse of position

Accepting a prohibited gift offer may constitute misuse of a Board member's, employee's or contractor'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, employee or contractor who receives a gift offer that he/she believes is an attempted bribe must refuse the offer. He or she must:

- immediately notify the responsible person and lodge a gift offer declaration form (Appendix 1) so that their refusal can be properly recorded; or
- report the matter to the Independent Broad-based Anti-corruption Commission (IBAC) as a protected disclosure.

A Board member, employee or contractor who believes that another Board member, employee or contractor may have solicited or been offered a bribe which the other person has not reported must either notify the responsible person or report the matter to IBAC as a protected disclosure.

The MD must have processes in place to ensure that he or she is notified when a responsible person becomes aware of a bribery issue. The MD 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.

## 7. Ban on soliciting gifts

Board members, employees and contractors 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

## 8. Token gift offers

A Board member, employee or contractor who is offered a gift of token value that is not a prohibited gift may:

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

### Disclosing token gift offers

*Regardless of whether a token gift offer is accepted,* it must be disclosed as soon as practicable to the responsible person. The Board member or employee who receives the offer must send an email to the responsible person and the Executive and Board Operations Officer that sets out:

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- 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 and if so why; and
- whether the offer was accepted or refused.

**A gifts declaration form does not need to be completed nor does the gifts register**

**Example – acceptance of token gift**

‘On 16 July 2017, I 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 I 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, I 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 I 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 I am likely to make or can influence a decision. I refused the offer and explained why to the rep.’

**Keeping track of token gift offers**

The Board member or employee disclosing the token gift offer and the responsible person must each retain a copy of the email. 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 responsible person to monitor the risks inherent in their team’s work and functions;
- copy to be forwarded to the Executive and Board Operations Officer.

## 9. Incurring travel and out-of-pocket expenses

A Board member or employee will only incur travel or out-of-pocket expenses if it is clearly in the public’s best interest to do so – i.e. a legitimate business expense (as defined at item 4.4 of this policy) that is consistent with:

- Board members, the Appointment and Remuneration Guidelines for Victorian Government Boards, Statutory Bodies and Advisory Committees and related obligations; and
- Employees, their contract of employment and related obligations

## 10. Reportable gift offers

A Board member, employee or contractor who is offered a reportable gift must *regardless of whether the gift is accepted*:

- Verbally disclose the offer to the responsible person as soon as practicable; and
- Within five working days of the offer, sign and lodge a properly completed gift offer declaration form.

A gift offer must not be accepted if it is a prohibited gift.

### 10.1 Ownership of reportable gifts

A Board member, employee or contractor who accepts a reportable gift does so on behalf of EGW.

EGW is the owner of the gift.

### 10.2 Dealing with accepted gifts

The MD, through the Executive and Business Operations Officer, will have processes in place for the receipt and use or disposal of reportable gifts by EGW. As part of these processes:

#### **Gifts of cultural, historic or other significance**

Consideration will be given to donating gifts of cultural, historic or other significance to an appropriate public institution.

#### **Donating other reportable gifts**

Consideration will be given to donating other reportable gifts, or the proceeds of their sale, to a non-profit organisation or public institution.

#### **'Public interest' approval for use of gift by Board member or employee**

Occasionally, it will be in the public interest for the approval to be given for a Board member, employee or contractor to use a reportable gift 'as their own' at the behest of EGW.

Applications for 'public interest approval' will be determined by the Board (for Board members and the MD) or the MD (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;
- prior written approval have been granted for sponsored hospitality to be accepted in relation to a conference or familiarisation tour; or

The reason(s) for any public interest approval that is granted must be well documented, attached to the gift offer declaration form and recorded in the gifts register.

## 11. Gift offer declaration form

The Executive and Board Operations Officer will ensure a process for the lodging and processing of gift offer declaration forms.

## 12. Gift register

A register of responses to reportable gift offers ('gifts register') is maintained by the corporation that included a record of:

- all reportable gifts offers and responses (based on completed gift offer declaration forms); and
- if the gift offer was accepted, how the gift will be used or disposed of by EGW.

The Executive and Board Operations Officer will have processes in place for ensuring that the register is up-to-date, is protected from unauthorised changes and is published on EGW's external website in accordance with this policy.

In addition:

#### **Employees**

The MD, through the Executive and Board Operations Officer, will ensure that employees are provided with regular reminders of the need to lodge gift offer declaration forms.

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### **Board Members**

At the start of each Board meeting, that Chairperson must ask all Board members present to state whether their entries in the gifts register are complete and correct. These will be duly noted in the minutes of the meeting.

If changes are declared, these will be noted in the minutes, together with the Board member's undertaking to lodge a gift offer declaration form within five working days.

### **Contractors**

The Project manager will ensure that contractors are provided with regular reminders of the need to lodge gift offer declaration forms.

#### **12.1 Publishing of gifts register on external website**

A copy of the gifts register that complies with privacy obligation will be published on EGW's external website. It is required to be updated at least every six months. Entries will remain on the website for at least the current and previous financial year in accordance with the requirements of item 12.

### **13. Privacy protection**

The MD, through the Executive and Board Operations Officer, will ensure a process is in place to ensure that EGW 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 EGW's external website; and
- *Privacy collection statement – gift offers* is published on the website

### **14. Monitoring compliance**

The administration and quality control of EGW's policy and processes, including the gifts register and gift offer declaration forms, will be subject to regular scrutiny:

#### **Annual report by MD, through the Executive and Board Operations Officer, to Audit and Risk Committee**

The MD will provide a report at least annually to the Audit and Risk Committee that includes the matters set out in relation to:

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

#### **Annual report by Audit and Risk Committee to Board**

The Audit and Risk Committee will submit a report at least annually to the Board that takes into account the MD's report and includes any other information or recommendations that the Audit and Risk Committee chooses to include.

### **15. Promoting and improving compliance**

To promote and improve compliance with the policy:

#### **15.1 Business rules**

The MD, through the Executive and Board Operations Officer, will have suitable business rules, processes, and record-keeping requirements in place for the practical implementation of this policy.

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### 15.2 Introduction and refresher training – Board members, employees or Contractors

The Chairperson (for Board members and the MD), MD (for employees) and Project manager (for contractors) will ensure that all Board members, employees or contractors 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 obtain gift offer declaration forms, 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.

A copy of EGW's policy and related practical guidance will be provided to each Board member, employee or contractor when they commence their term of appointment/employment. Updates to the policy and related guidance will be provided as soon as practicable after they occur.

Directors and senior employees will be required to complete an annual return stating their and staff under their direction comply with this policy.

### 15.3 Gifts hub – Board members, employees or contractors

The MD has designated the Officer of the Executive and Board Operations Officer, EGW, as a 'Gifts hub' to provide responsible persons and other Board members, employees or contractors with central point from which to obtain expert advice and guidance materials.

### 15.4 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 EGW if the supplier or external contractor offers a prohibited gift to a Board member, employee or contractor.

The MD, through the Executive and Board Operations Officer, will ensure processes are in place to enable external stakeholders have ready access to information that explains the prohibitions and restrictions in this policy. This includes ensuring that:

- an up-to-date copy of this policy is published on EGW's external website; and
- suitable guidance material is:
  - included in information packages for prospective tenderers and suppliers;
  - provided directly to all suppliers and external contractors with regular reminders thereafter; and
  - published on EGW's website.

### 15.5 Remedial action

The MD, through the Executive and Board Operations Officer, will ensure processes are in place to identify patterns of frequent or prohibited gift offers, including queries and issues relation to their own conduct or that of others.

## 16. Culture of integrity

It is essential that Board members, employees, contractors 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.

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#### **Assistance with making decisions**

A Board member, employee or contractor who is uncertain how to comply with this policy should seek advice from their responsible person or the Executive and Board Operations Officer, EGW. This does not abrogate their responsibility to make the right decision.

#### **Possible breach of this policy**

A Board member, employee or contractor who may have breached this policy must immediately notify the responsible person and remedy any breach.

#### **Speaking up**

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

- Approach the other person to give them the opportunity to notify the responsible person and remedy any breach; or
- Notify the responsible person directly

If the matter involves corruption or serious misconduct, the Board member, employee or contractor can choose to instead report the matter to IBAC as a protected disclosure.

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

## **16. Obligations and good practice**

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

- the establishing Act, being *The Water Act 1989*
- the *Public Administration Act 2004* ('PAA')
- binding codes and accountabilities issued by the Victorian Public Sector Commission, in particular:
  - Code of Conduct for Directors of Victorian Public Entities ('Directors Code of Conduct');
  - Code of Conduct for Victorian Public Sector Employees; and
  - VPSC's minimum accountabilities for managing gifts, benefits and hospitality (numbers 1-4 and 8-13).
- Government policy
- Any directions, guidelines and/or statement of obligation or expectations issued by the Minister and
- All other laws and obligations that bind EGW.

## **17. Further information**

EGW Board members, employees or contractors can obtain further information by accessing the Gifts, Benefits and Hospitality hub located on EGW's intranet page. Alternatively, if you need any further clarification or advice about a specific issue, please contact EGW's Executive and Board Operations Officer.



#### **RELATED POLICIES AND PROCEDURES**

POL 059 Board Governance Guideline  
POL 005 Code of Conduct  
SOP 066 Disciplinary Guidelines

#### **RELATED DOCUMENTATION**

Register of responses to reportable gift offers  
F105 Gifts Benefits and Hospitality Declaration form (DOC/12/24349 [v3])  
GIFT test

#### **REFERENCES**

#### **REVIEW:**

This policy will be reviewed annually