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## AUHR 4.07 AWARDS, GIFTS, PRIZES AND PROMOTIONAL ITEMS

### State Law

State law prohibits any public official, a term that includes all City employees, from using or attempting to use official position or office to obtain a financial gain or to avoid a financial detriment that would not otherwise be available but for the public official's holding of the official position. However, as exceptions to that rule, state law allows public officials to accept the following:

- official compensation
- allowed honoraria
- reimbursement of expenses by an employer
- unsolicited awards for professional achievement
- gifts of less than \$50 in a calendar year from sources with a legislative or administrative interest
- unlimited gifts from sources with no legislative or administrative interest
- items that are expressly excluded from the state's definition of gift.

State law imposes limits on personal gain and avoidance of financial detriment that are not described in this rule. City employees are responsible for ensuring that their actions comply with state law. Please refer to the state's [Guide for Public Officials](#). The Oregon Government Ethics Commission and City Attorney are available to provide additional information about the requirements of state law.

### Purpose of City Rules

The acceptance of gifts by public officials under state law depends on whether the source of the gift has a legislative or administrative interest. In simple terms, someone has a legislative or administrative interest if they have an economic interest in the work you do. Under state law, it does not matter whether you received the gift because of your official position; if a friend happens to have a legislative or administrative interest in your work, a gift from your friend to you is limited even if the gift is unrelated to work.

By contrast, under this City rule, acceptance of gifts is dependent on whether you received the gift due to your position and work for the City, even if the source of the gift has no legislative or administrative interest.

State law does not regulate a public official's acceptance, on behalf of the City, of gifts to the City. Such gifts are governed by City Code Section 5.36.090.

## Definitions

**Economic development activities** mean activities undertaken for the purpose of strengthening, expanding, or enhancing the economy, or activities that provide community development or cultural enhancement. Specific activities include, but are not limited to: promoting tourism; promoting a favorable investment climate to strengthen businesses; creating jobs; raising real wages; assisting Portland communities to build a capacity to retain, expand or attract business; improving national and global competitiveness of Portland area companies; improving transportation access; and marketing products, services, or opportunities.

**Fact-finding mission or trip** means any activity related to a cultural or educational purpose, or any activity aimed at providing intergovernmental assistance, such as for the purpose of international aid or sharing best practices, or developing intergovernmental relationships directly related to the public official's duties. The sponsor of a fact-finding mission should be directly and immediately associated with the event or location being visited.

**Gift** means something of economic value given to a City official without valuable consideration of equivalent value, including the full or partial forgiveness of indebtedness, which is not extended to others who are not City officials on the same terms and conditions; and something of economic value given to a City official for valuable consideration less than that required from others who are not City officials. However, "gift" does not mean:

- a. Campaign contributions, as described in ORS Chapter 260.
- b. Gifts from family members.

**Honorarium** means a payment or something of economic value given to a public official in exchange for services upon which custom or propriety prevents the setting of a price. Services include, but are not limited to, speeches or other services rendered in connection with an event.

**Trade promotion** means an activity for the purpose of encouraging or developing commerce or the buying and selling of goods and services.

## Gift Rules

### A. Gifts

City employees shall not accept gifts or honoraria of any value that are offered due to their position and work for the City or that would not have been available but for their position and work for the City, except as follows:

1. Employees may accept promotional items of little or no value that are offered uniformly to all attendees at a conference, meeting or other event, or that are meant to be used during the course of the event.

*Examples: Employees may accept pens, pencils, notebooks, notepads, cloth or canvas tote bags, snack foods, etc. Employees may not accept software, raffle prizes or items of more than nominal value.*

2. Employees may accept placards, trophies or certificates in recognition of service or attendance at conferences or seminars, provided that such items are reasonably expected to have a resale value of less than \$25. As used in this section, "certificate" does not mean a gift certificate.

3. Employees may accept the cost of admission and reasonable food or beverage expenses to attend a reception, meal or meeting held by an organization, when the employee is representing the City at the reception, meal or meeting and attendance serves a work-related purpose. However, this exception does not allow employees to accept expenses for private meals or gifts of entertainment. The following list of factors may indicate whether expenses may be accepted:

- a. A large number of people or groups are invited. For example, all members of an organization are invited.
- b. The invitations or programs are sent in advance.
- c. The event is publicized.
- d. The reception, meal, or meeting is open to the public.
- e. Written materials such as a printed program are available.

This exception allows employees to attend large fundraising events for an organization where a meal is served, so long as the purpose of attending is to represent the City, the factors described above are present and the only entertainment at the event is incidental to the main purpose of the event.

*Examples: In most circumstances, an employee may accept the cost of attending a regularly scheduled and publicized business association breakfast to which all members of the association are invited. An*

*employee may not accept the cost of breakfast during a meal with a small group of business association members.*

4. Employees may accept the payment of reasonable admission, food, lodging and travel expenses by a unit of government, a recognized Native American tribe, a membership organization to which the City pays dues or a 501(c)(3) organization for attendance at a work-related convention, fact-finding trip or mission, conference or other meeting when the expenses are approved in advance by a bureau director and the employee is representing the City at the event.

*Example: A PBOT employee may accept expenses from Metro to attend a conference on transportation issues related to his work. The employee's bureau director must pre-approve the expenses.*

5. Employees may accept reasonable food, lodging and travel expenses when the employee is representing the City on a trade-promotion or fact-finding mission or in negotiations or economic development activities, where receipt of the expenses is approved in advance by the City Auditor.

*Example: An employee on the Mayor's staff may accept food, lodging and travel expenses for a sister city trip when the employee is representing the City. The employee's bureau director must pre-approve the expenses.*

6. Employees may accept waiver or discount of registration expenses or materials at a continuing education event that satisfies a professional licensing requirement.

*Examples: An architect or an attorney who is a city employee may accept payment of registration fees at a continuing education event required to maintain her professional license.*

7. Employees may accept a gift of entertainment only when the entertainment is incidental to the main purpose of another event or when the public official is acting in an official capacity for a ceremonial purpose.

*Examples: If an employee attends a reception and there is background music, the employee is permitted to "accept" the gift of this entertainment. If, however, the entertainment is the primary purpose of the event, then the employee may not accept the gift of such entertainment. If an employee is asked to perform a ceremonial function in an official capacity, such as throwing out the first pitch at a baseball game or marching in the Rose Parade on behalf of the City, then the employee is permitted to accept the gift of entertainment.*

8. Employees may accept raffle items or other incentives from the City at a City-sponsored event. However, employees should not accept raffle

items at other events that the employee is attending due to position and work for the City or that are offered while the employee is on the job during working hours. See Rule C. below. Be aware that state law limits gifts provided by a bureau other than the employee's own to \$50 per calendar year if that bureau has an economic interest in the decision or vote of the employee.

*Example: City employees may accept raffle gifts offered as incentives to participate in the City's Charitable Campaign. Such gifts are donated by businesses to the City; the raffle gifts are given to employees by the City and thus are not covered by state law. City employees may not accept raffle items at a conference that employee attend in their work capacity.*

9. The Auditor's Office or divisions may accept small gifts (under \$25) on behalf of the office that are meant to be shared among employees, such as candy, homemade treats or flowers. However, employees must be mindful of state law limiting gifts from certain sources to \$50 per calendar year or less.

Because many of these exemptions are derived from state law, employees and supervisors are encouraged to consult with the legal counsel for guidance in determining whether a particular state law exemption to the gift limitations applies.

## **B. Favoritism**

No City employee shall accept any gift, service or favor that would lead toward favoritism, or the appearance of favoritism in any way.

## **C. Prizes and awards**

Except as otherwise provided above, prizes and awards that an employee receives while on the job as a public official or because the employee is a public official, even if the prize or award is available on equal terms to others who are not public officials, may only be accepted as a gift to the City. If such gifts, prizes or awards are accepted, they become the property of the City and must be presented to Management Services for inventorying as City property (as needed) and disposition. The Auditor's Office may keep the prize or award for use by the office, or may dispose of it through the City's surplus and charitable contribution procedures as defined by City Code 5.36.

*Examples: An employee who attends a conference on work time or in her capacity as a public official may not accept a raffle prize offered at the conference except as a gift to the City.*

#### **D. Exceptions to Rules**

If payment of expenses for a work-related event is not allowed under these rules, but would be allowed under state law, the employee's supervisor should consult with Management Services and legal counsel, who may also consult with the City Auditor, Human Resources and the City Attorney. If the City Auditor or a designee and legal counsel agree, the supervisor may permit acceptance of the expense.

#### **E. Volunteer Service**

If a City employee provides outside volunteer services for an organization, the employee may accept gifts or other benefits that result from the volunteer service (such as meals or tickets to an event) if the following conditions are met:

1. The volunteer work is performed outside of paid City work time;
2. The volunteer work complies with HRAR 4.05;
3. The gift or benefit is available to all person who perform the same volunteer work; and
4. The employee did not receive the volunteer position or gift because of the employee's official position at the City.

#### **Awards**

Unsolicited employee awards from the Auditor's Office for professional achievement, \$100.00 or less per employee, are allowable and reimbursable. Such awards may take the form of:

- Cash
- Flowers
- Gifts
- Other appropriate incentives commonly used for employee recognition and motivation

Supervisors should take care that such awards remain occasional and motivational rather than becoming expected.

Employee awards that are provided as part of a Council endorsed City-wide program may exceed \$100.00, if such awards are essential to the success of the particular program.

## Retirement Awards and Celebrations

The cost of recognition receptions for retiring employees, at which food and beverages are provided by the Auditor's Office, but not as a sit down, plated meal, are reimbursable and may exceed \$100.00. Awards of appreciation for retirees in the form of plaques, trophies, desk items, wall mementos, or similar items with a resale value reasonably expected to be less than \$25.00 are allowed. If such item is engraved or personalized, it is deemed to have a resale value of less than \$25.00. The total cost of the reception and plaque must be within established guidelines approved by the City Auditor and cannot exceed \$500.00.

Auditor's Office award ceremonies that are open to the public are also reimbursable and the total cost of food and beverages and awards may exceed \$100.00, provided they are approved by the City Auditor.

## Travel Incentives

See the Administrative Rule on Travel (HRAR 4.10).

## Economic Development, Community Cooperation, and Information Gathering

In order to promote economic development, build community cooperation or gather information, elected officials or their designees may be reimbursed for business meals, flowers, or official gifts. Reimbursements shall be on an actual cost basis, documented by receipts, which state the date, name of recipient, the nature of the business or relationship with the City, and the public interest reason for the expense.

## References

Code of Ethics and Administrative Rules 11.01, 11.02, and 11.03

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## Human Resources Rule Information and History

Questions about this administrative rule may be directed to the [Management Services Division](#) of the Auditor's Office.

Adopted by the City Auditor December 11, 2017.

Adapted from City of Portland Human Resources Administrative Rule 4.07 Awards, Gifts, Prizes and Promotional Items.

Adopted by Council March 6, 2002, Ordinance No. 176302.

Last revised October 19, 2010.