



POLICY P1.1.4

GIFTS AND BENEFITS

ITEM	DESCRIPTION
Title	Gifts and Benefits
Number	P1.1.4
Version Number	2.1
SOPs	➤ SOP P1.1.4-1 Declaring and Registering Gifts and Benefits
Owner	Executive Director, Membership and Strategic Services
Contact	Director Professional Standards
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1 Purpose

- 1.1 This Policy and the associated standard operating procedure (SOP):
 - a. Applies only to NSW RFS staff members, including temporary staff members;
 - b. Defines “gifts and benefits”, bribes and related terms;
 - c. Outlines the principles and standards that will enable all staff members to determine when it is appropriate to accept or decline a gift or benefit offered to them during the course of their duties or work for the NSW RFS;
 - d. Provides the policy and procedure framework so that gifts or benefits which have been accepted are appropriately declared, registered and dealt with; and
 - e. Supports ethical behaviour and compliance with the Code of Conduct and Ethics and the NSW Public Service Commission’s mandatory conduct standards outlined in *Behaving Ethically: A guide for NSW government sector employees*.
- 1.2 Gifts and benefits excluded from the application of this policy and the associated SOP include:
 - a. Bona fide gifts and donations made to brigades, districts or the NSW RFS to assist the NSW RFS in discharging its functions, including tax deductible gifts dealt with pursuant to the provisions of Service Standard 2.1.14 Management of Deductible Gift Recipient Status for NSW RFS Brigades;
 - b. Gifts or benefits which are offered to staff members as part of an approved program sponsored by the NSW RFS or offered by staff members under good corporate citizenship programs, such as Coffee 4 Kids, Movember etc (for example, conference packs for delegates attending);
 - c. Benefits available to all members pursuant to a member benefits program conducted by the NSW Rural Fire Service Association Inc;
 - d. Offers of sponsorship as covered under P2.1.4 Corporate Sponsorship;

- e. Benefits made available to members pursuant to Service Standard 1.1.31 NPWS All Parks Passes; and
- f. Fundraising activities covered under Service Standard 1.1.16 Fundraising Activities (Provision of Goods and Services).

2 Definitions

2.1 For the purpose of this Policy Document the following definitions apply:

- a. **Bribery:** means offering money or gifts or other benefits to public officials in order to obtain a benefit or favour or to influence the public official to act in a particular way. Bribery is a crime under *the Crimes Act (NSW) 1900* and a form of corruption under *the Independent Commission against Corruption Act (NSW) 1988*.

For more information on bribery please refer to Service Standard 1.1.32 Fraud and Corruption Prevention.

- b. **Conflicts of Interest:** refers to situations where a conflict arises between the performance of a staff member's NSW RFS responsibilities and duties (i.e. public duty) and their own personal, professional or business interests, or that of individuals or groups with whom they are closely associated.

A conflict of interest can involve gaining a personal advantage as well as avoiding or minimising personal disadvantage. That is, a conflict of interest may allow a staff member to avoid a loss, expense, or something else that has a negative impact on his or her personal or private interests.

Conflicts of interest can either actually exist, be perceived to exist or have the potential to exist.

For more information on Conflicts of Interest please refer to Policy P1.1.3 Conflicts of Interest.

- c. **Gifts and Benefits:**

- i. A **gift** generally refers to physical items with a monetary value, and may include but is not limited to:
 - presents, including flowers, bottles of wine, sporting goods, electrical goods, or other personal items;
 - promotional materials, including clothing, books, compact discs or DVDs;
 - vouchers or coupons, e.g. gift, store or movie vouchers;
 - items won as a prize in a lucky door or similar draw at a conference, trade show or other event;
 - entertainment, including invitations to attend sporting events, the theatre or concerts and golf days; or
 - ceremonial gifts provided by another agency or foreign delegation.
- ii. A **benefit** refers to the transfer of a service or some other intangible advantage such as hospitality, preferential treatment, favours, discounts or free offers. A benefit may include but is not limited to:
 - sponsored travel, i.e. transport, meals and accommodation or living expenses paid for or provided by another party;
 - non work related meals or other hospitality that extends beyond courtesy;
 - fees for speaking at an event;
 - benefits under loyalty schemes, including frequent flyer or "fly buy" schemes;
 - job offers;
 - access to confidential information; or
 - special offers or customer / supplier specific discounts on items, services or other assets e.g. food or drink vouchers, free accommodation, hire car discounts, free or discounted places on a training or development course, or conference, or the provision of construction, maintenance, repair or similar activities for personal gain.
- d. **Nominal Monetary Threshold Amount or Value:** The nominal monetary amount or value refers to the amount set by the NSW RFS to guide staff members, in terms of what would be considered as the

appropriate threshold for the acceptance of a gift or benefit. The nominal monetary threshold amount is \$50.00. This amount can be varied by the Commissioner from time to time by way of an amendment to this policy.

- e. **Staff Member:** means the Commissioner and all other members of staff of the NSW RFS. This includes temporary staff and persons on secondment to the NSW RFS from other agencies or departments.
- f. **Reasonable Person Test or Standard:** The 'reasonable person' is a concept of the common law. The test or standard holds that each person owes a duty to behave or make decisions as a reasonable person would under the same or similar circumstances.

In the context of gifts and benefits, the test or standard is - "would a reasonable person":

- i. Make the same decision to accept the gift or benefit in the same circumstances?
 - ii. Consider the offer of the gift or benefit a bribe or suspected bribe in the same circumstances?
 - iii. Identify an actual or potential conflict, or perceive a conflict of interest, from the acceptance of the gift or benefit in the same circumstances?
- g. **Token Gift:** A token gift is one which is generally given to a staff member as a memento for attending at a conference, trade show, seminar or training event or as a thank-you for giving a talk, delivering a speech, presenting a conference paper etc.

Token gifts given in these circumstances are either made available to all participants or attendees at the event, or are presented to the recipient in a public forum.

Token gifts may include but not limited to:

- i. Items such as pens, key rings, stationery, coffee mug, memory sticks and promotional caps, hats or bags;
- ii. Flowers or chocolates; or
- iii. Modest value bottle of wine.

In accordance with NSW Public Service Commission's mandatory conduct standards the NSW RFS has determined that a gift or benefit will no longer be considered as "a token gift or benefit" if the monetary value of the gift or benefit exceeds \$50.00.

3 Policy

- 3.1 All staff members must exercise judgement and caution in regard to any gifts or benefits they may be offered in connection with their official duties, or because of their position or role in the NSW RFS.
- 3.2 The acceptance of gifts or benefits regardless of their monetary value can compromise, or appear to compromise the impartial performance of a staff member's duties and responsibilities, or cause, or appear to cause a conflict of interest. Therefore staff members must always consider the reasons and the context in which the gift or benefit has been offered and the consequences of receiving it, before making any decisions to accept it. The easiest way to do this is to ask these questions:
 - a. Why has the gift or benefit been offered to me?
 - b. Could the offer be a bribe or a suspected bribe?
 - c. Was the gift offered to me in a public forum, or in a private context?
 - d. Is this the only time this person or organisation has offered me a gift, or have there been other instances?
 - e. Will I have to exercise discretionary powers or make a decision involving the gift-giver in future? How will it be if I have to do that and have accepted this gift or benefit?
 - f. How would it look if other NSW RFS members or members of the public see me accept this gift or benefit?
 - g. Would I be comfortable if my acceptance of this gift or benefit was published or televised by the media, or discussed on social media?
 - h. Will the person who has offered me the gift or benefit be likely to seek something from me or the NSW RFS in return for the gift or benefit?
- 3.3 In the majority of cases offers of gifts or benefits, (excluding those identified in Section 3.4 and 3.5 below and those managed in accordance with the Service Standards and programs identified in Section 1.2) should be declined and registered.

- 3.4 The circumstances where a gift or benefit may be accepted and do not need to be declared and reported on the Gifts and Benefits Register include:
- a. A token gift as that term is defined in this policy;
 - b. Food and refreshments provided as a part of a meeting, conference, trade display or other event attended by a staff member in the course of their official duties;
 - c. Thank you gifts or benefits for presenting at a conference, seminar, and/or similar business event or from a school or community group. However the staff member must be satisfied that the monetary value of the gift does not exceed the \$50 threshold; or
 - d. "Lucky door" or similar prizes won at conferences, trade shows or other events. However, the staff member must be satisfied that the monetary value of the gift or benefit does not exceed the \$50 threshold.

Note: No matter what the value, if at any time the staff member or manager feels the circumstances surrounding the offering or acceptance of the gift or benefit is inappropriate, or may amount to a bribe or suspected bribe, the gift or benefit must be declared and referred to the relevant Executive Director for action and registration on the Gifts and Benefits register.

- 3.5 The circumstances where a gift or benefit may be accepted, provided approval is granted, but must be declared and reported on the Gifts and Benefits Register include:

- a. Thank you gifts or benefits for presenting at a conference, seminar, and/or similar business event or from a school or community group where the monetary value exceeds the \$50 threshold;
- b. "Lucky door" or similar prizes won at conferences, trade shows or other events where the monetary value exceeds the \$50 threshold and the option to decline or allow for a redraw is not possible. The relevant Executive Director or their delegate will then determine what action will be taken; i.e. if the prize should be retained, and if so whether by the staff member, the NSW RFS generally or by some other recipient (e.g. a charity);
- c. Ceremonial gifts from another organisation or gifts given in gratitude for hosting an overseas delegation, but only on behalf of the NSW RFS. Ceremonial gifts or gifts given in gratitude cannot be retained by a staff member irrespective of their value as they are the property of the NSW RFS. Ceremonial gifts or gifts given in gratitude must be declared and registered on the Gifts and Benefits Register and the item must be provided to the relevant Executive Director or their delegate who will make an appropriate determination on how the gift is to be dealt with;
- d. Gifts or benefits provided by members of the public, where declining the gift may cause significant embarrassment or undue distress to the person offering the gift or benefit (e.g. recipients of the AIDER Program) or where the staff member was not initially aware that a gift or benefit had been provided, e.g. the person placed the gift or benefit in a NSW RFS vehicle without the knowledge of the staff member; or
- e. Gifts or benefits provided by members of the public, where declining the gift would be culturally inappropriate.

- 3.6 A staff member must not:

- a. Ask for, solicit, encourage or accept a gift, benefit or cash (including discounts) as an inducement to influence a decision, or to provide a favour or benefit to another person. This is both inconsistent with the NSW Government's ethical framework and may constitute corrupt conduct under the *Independent Commission Against Corruption Act 1988* or a bribe, under the *Crimes Act 1900 (NSW)*;
- b. Ask for, solicit, encourage or accept a gift or benefit (including discounts) arising from their duties for personal gain;
- c. Accept any gift or benefit that could be perceived by a reasonable person to influence them when carrying out their official duties; or
- d. Use the NSW RFS uniform, corporate business cards or resources, or their membership of the NSW RFS in order to solicit a gift or benefit (including discounts).¹

- 3.7 Staff members involved or associated with sensitive negotiations, tenders or who are required to make major procurement, development control or recruitment decisions must not enter any competitions, including lucky door or similar competitions, involving companies or organisations which have an existing commercial relationship with the NSW RFS, or with which they are presently in the process of reviewing or negotiating or on which they are making a decision.

¹ This does not prevent a staff member accepting a discount or other benefit offered or provided under the RFS member benefits program that is available to all RFS members.

- 3.8 Staff members involved or associated with sensitive negotiations, tenders or who are required to make major procurement, development control or recruitment decisions or are managing commercially sensitive information should be particularly alert to inappropriate attempts to influence them directly, or via their family members, relatives, friends or associates. Gifts and other benefits offered to staff members exercising discretionary authority in relation to the gift offerer / gift giver must always be declined. This includes the acceptance of bonus gifts or benefits, or discounts arising from NSW RFS purchases. Such offers must always be declared and noted on a gifts and benefit register.
- 3.9 It may not always be easy to determine the true value of gift or benefit and whether it is above or below the threshold monetary value of \$50. If a staff member is uncertain they must adopt the approach of “if in doubt”, notify their manager and complete a Gifts and Benefits Declaration Form. In all such instances, the relevant Executive Director or their delegate will determine if the gift or benefit should be retained, and if so whether by the NSW RFS, the staff member or some other recipient.
- 3.10 Deliberately undervaluing a gift or benefit to avoid reporting it or in order to retain it may constitute misconduct. Any staff member found to have deliberately undervalued a gift or benefit will be subject to management action or misconduct.
- 3.11 Staff members who disagree with the proposed management of a gift or benefit may request in writing a review of the decision by the relevant Executive Director, or their delegate.
- 3.12 Executive Directors must:
- Declare any gifts or benefits offered to, or accepted by them during the course of their duties to the Commissioner in accordance with this policy;
 - Maintain electronic copies of all Gifts and Benefits Declaration Forms received for their Directorate and any accompanying documentation;
Note: For Regional Offices, Operational and Mitigation Services and Customer Service Centres- Electronic copies of Gifts and Benefits Declaration Forms and accompanying documents are also to be retained at the local level.
 - Maintain a Gifts and Benefits Register for their Directorate and review the register at the conclusion of each financial year to ensure that any risks or potential risks to the NSW RFS or its members are identified and addressed.
- 3.13 Additional guidance or clarification on any aspect of this policy may be obtained from the Director, Professional Standards.

4 Related documents

- *Government Sector Employment Act 2013*
- *Government Sector Employment Rules 2014*
- *Independent Commission Against Corruption Act 1988*
- *Crimes Act 1900*
- *Public Finance and Audit Act 1983*
- Service Standard 1.1.7 Code of Conduct and Ethics
- Service Standard 1.1.16 Fundraising Activities (Provision of Goods and Services)
- Service Standard 1.1.31 NPWS All Parks Passes
- Service Standard 1.1.32 Fraud and Corruption Prevention
- Service Standard 2.1.14 Management of Deductible Gift Recipient Status for NSW RFS Brigades
- P1.1.3 Conflicts of Interest
- P2.1.4 Corporate Sponsorship
- Behaving Ethically: A guide for NSW government sector employees

5 Amendments

AMENDMENT DATE	VERSION NO	DESCRIPTION
16 November 2011	1.0	Initial release
1 December 2015	2.0	<ul style="list-style-type: none">➤ Updated and repealed P1.1.4 Gifts and Benefits v1.0➤ Revised to align with Part 2 of the Government Sector Employment Act requirements, as detailed in Behaving Ethically: A guide for NSW government sector employees➤ Incorporates attributes of a sound policy and procedures for the management of gifts and benefits as detailed in the NSW Auditor General in the Managing Gifts and Benefits Report 2013
2 September 2016	2.1	<ul style="list-style-type: none">➤ Repeals P1.1.4 Gifts and Benefits v2.0➤ Addition of relevant legislation in Section 4 Related Documents, following regular review of the Legislative Compliance Register

SOP P1.1.4-1

Declaring and Registering Gifts and Benefits

1 Purpose

- 1.1 This SOP sets out the procedures for:
- a. Staff members to report and formally declare to their manager or Director when they have been offered, or have accepted a gift or benefit;
 - b. Managers or Directors to assess the reason, circumstances and value of the gift or benefit which has been offered or accepted to determine if approval can be granted for the gift or benefit to be retained by the staff member or it must be referred to the relevant Executive Director or their delegate, for consideration and action; and
 - c. Relevant Executive Directors, or their delegates to make a determination as to whether the gift or benefit should be returned or retained and where retained the most appropriate actions to be taken in managing the gift or benefit.

2 Procedures

Staff Member's Responsibilities

- 2.1 A Gifts and Benefits Declaration Form must be completed whenever a gift or benefit has been offered, which is valued at greater than \$50 - whether the gift or benefit has been accepted or not.

Note: Where it is difficult to estimate the monetary value of a gift or benefit, a reasonable value should be assigned to the gift or benefit. The estimated value must be determined by the recipient of the gift or benefit.

- 2.2 The completed Gifts and Benefits Declaration Form must be provided to the relevant manager, Director or Executive Director within five (5) working days of the offer being made, or the gift, benefit or prize accepted.

Manager's / Director's Responsibilities

- 2.3 Review the completed Gifts and Benefits Declaration Form, and seek clarification from the staff member concerned, if any of the facts or circumstances are unclear.
- 2.4 Complete the Manager / Director Section of the Gifts and Benefits Declaration Form by selecting the relevant option, and sign the form.

Note: No matter what the value, if at any time the staff member or manager feels the circumstances surrounding the offering or acceptance of the gift or benefit is inappropriate, or may amount to a bribe or suspected bribe, the gift or benefit must be declared and referred to the relevant Executive Director for action and registration on the Gifts and Benefits register.

Note: Where the value of the gift or benefit is above the nominal monetary threshold value of \$50.00 the completed and signed Gifts and Benefits Declaration Form must be provided to the relevant Executive Director for consideration and action.

Executive Director's Responsibilities

- 2.5 Review the completed Gifts and Benefits Declaration Form and the Manager's/Director's declaration and make a determination as to whether:
- a. The gift or benefit is to be returned to the person or organisation providing the gift / benefit;
 - b. Approval is granted to the staff member concerned to retain the gift;
 - c. The gift or benefit is to be retained as property of the NSW RFS and displayed on NSW RFS premises;
 - d. The gift or benefit is to be retained as property of the NSW RFS for the ultimate benefit of the public purse;
or
 - e. The gift or benefit is to be donated to a charity.

Note: Where an Executive Director considers the offer of a gift or benefit is a bribe or suspected bribe, the matter is to be referred to the Director, Professional Standards in accordance with SOP 1.1.32-1 of Service Standard 1.1.32 Fraud and Corruption Prevention (under development).

- 2.6 Take any additional management action, where required, e.g. Manager/Director to write to the person or organisation to request that gifts or benefits not be offered to staff members in the future, ensuring that Directorate employees are aware of their responsibilities regarding the acceptance and/or non-acceptance of gifts or benefits.
- 2.7 Record the details of the gift or benefit in the Directorate Gifts and Benefits Register; noting the decision made and the reason for the decision.
- 2.8 Retain an electronic copy of the Gifts and Benefits Declaration Form and any accompanying documents.
Note: For Regional Offices, Operational and Mitigation Services and Customer Service Centres- Electronic copies of Gifts and Benefits Declaration Forms and accompanying documents are also to be retained at the local level.
- 2.9 Review the Directorate Gifts and Benefits Register on an annual basis to identify any potential risks to the NSW RFS or its members and take appropriate action to mitigate and minimise those risks.

3 Related forms

- Gifts and Benefits Declaration Form