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Ethical Approach To Gift Policies Explored

By Patricia Harned, *Compliance Week Guest Columnist* — December 5, 2006

You hear the shout from Jim next door in the Purchasing Department: “Woo hoo! Look at what our vendors at Acme Corp. just sent me!” He waves the gift over the cubicle wall. “It’s one of those remote-control dinosaurs that’s sold out everywhere. Boy, my son is going to love this!”

Not wanting to completely deflate his balloon, you ask gently: “Don’t we have a policy or something that says we can’t accept gifts from clients or vendors?”

“Yeah,” he says, “but there’s a \$25 limit and I know for sure this thing sells for \$24.99. I went to every Wal-Mart in town yesterday trying to find one with no luck and now Acme made me a hero. I love those guys!”

Something doesn’t seem right to you, but what he says is true, and policy is policy. Still, you have a feeling you are all going to be using a lot of Acme office machines in the next year ...

* * *

Gift-giving and business entertainment have been a part of corporate culture for as long as anyone can remember, especially at the holidays. Determining which gifts can be accepted and which create a conflict of interest has been around just as long.

In response, businesses have developed a wide range of policies. Some organizations don’t allow employees to accept any gifts, including those commonly considered virtually harmless and that most people wouldn’t even consider gifts, such as modest refreshments or cab rides. Others place a limit on the dollar value of a gift, or exclude gifts between certain individuals. Recently, the New York Stock Exchange and Nasdaq proposed a “principle-driven” business-entertainment rule, which keeps the \$100 limits for gifts but leaves it up to the giver and receiver to determine if entertainment expenditures are reasonable and appropriate.

Ethics issues arise under all of these approaches. A “zero tolerance” policy may not be realistic in this age of free and inexpensive promotional materials. At what point does one cross the line? Can you accept a pencil, but not a coffee mug? What if a potential vendor buys you lunch with the promise that “you can pay next time”—but there is no next time? In addition, enforcement may be difficult or extreme. For instance, Colonial BancGroup, which bans literally all gifts and

ABOUT THE AUTHOR

Patricia Harned has been president of the Ethics Resource Center since May 2004, serving in a variety of research and executive positions there since 1999. In those years she has led ERC to develop research and benchmarks that measure organizational ethics and compliance program effectiveness.

Harned has also helped shape ethics training for the securities industry, commented on the ethical dimensions of regulatory efforts by both the SEC and the U.S. Federal Sentencing Commission, and testified before Congress on federal legislation. She is the primary author of the 2005 National Business Ethics Survey, has written several book chapters on corporate ethics, character development and ethics education, and serves on the editorial board of *Public Integrity Journal*.

Harned welcomes specific questions from readers on ethical dilemmas they encounter; when appropriate, she will try to address them in future columns. She can be reached via email at Pat@ethics.org.

More From Pat Harned

[Personal Missteps Should Raise Eyebrows](#) (Oct. 11, 2006)

[The Risk Of Being Ethically Tone Deaf At The Top](#) (Sept. 6, 2006)

[The Subtle Presence Of Corporate Ethics](#) (Aug. 1, 2006)



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entertainment, cites the Crime Control Act of 1984 making it a crime for “a director, officer, employee, agent or attorney to corruptly solicit, accept or agree to receive as a benefit to themselves anything of value from an individual or third party with the intention of being influenced or rewarded in connection with any transaction or business” and then goes on to say, “It should be noted that even the smallest of gifts are covered by the Crime Control Act of 1984.”

Companies that attempt to define gift-giving specifically in relation to maximum values or types of relationships also run into trouble. Their gift and gratuities policies may become long and cumbersome if they try to deal with all possible exceptions. Some companies favor maximum-value policies because they remove subjectivity from the equation, but the end result may be employees who don’t consider whether a gift influences (or has the appearance of influencing) their actions as long as it is under a particular and usually arbitrary limit. This is precisely the problem Jim and his hypothetical dinosaur faced above.


Yet, the principle-driven policies proposed by NYSE and Nasdaq have failed to rally support. Many organizations feel the proposals don’t provide enough in the way of guidelines, and leave too much in the hands of the employees. Others feel a principles-based approach tries to shift too much of the burden for monitoring and record keeping to individual firms. Some say enforcing a principle-based approach (rather than a set values-type policy) is more difficult when the company is part of an industry where certain practices are accepted as part of doing business.


For an organization that has, or wishes to develop, a positive ethical culture, the best policy on gifts and entertainment should adopt parts of each of the above. An “ethics-driven” policy might set the outer parameters, relying on industry, legal, and corporate regulations to determine what passes “the smell test,” but it also would rely on employees and managers to consider their actions as they relate to the true goal: avoiding conflict of interest. Integrating principles and ethics into the gifts policy gives employees the opportunity to practice ethical decision making and allows management to model ethical behavior.

Key factors of a combined approach based on ethics include the following suggestions:


- Be clear about the purpose for the policy.** Make sure employees understand that the act of accepting or giving gifts or entertainment opportunities of *any* value can be interpreted as an attempt to influence a business decision. Explain that a situation that involves a real or apparent conflict of interest can damage the reputation of the company and lead to public mistrust—even if the employee’s decision is not actually influenced. While more expensive gifts may imply a greater attempt to buy influence, as we can see from the story above, the right little gift also can influence behavior.
- Expect the highest standards.** Make your employees “ethics emissaries” for your company. Teach them to think about the ramifications of their actions. Send them out into the field with the skills to identify potentially harmful situations and deflect them gracefully.
- Provide key guidelines.** Set specific “always” and “never” limits of your policy. This may mean no gifts over a certain value, or no gifts for those in a particular position or business relationship. On the other end, it might state specifically that common promotional items, such as mugs, pens, and refreshments under a certain dollar value are always acceptable.
- Provide a help line or other source of support.** Setting outer limits gives employees the responsibility for determining the appropriate action in the gray areas, but you still can provide guidance. Take time to discuss real-life situations and how to handle them. Consider printing


Related Resources

 [Text Of The Lockheed Ethics Code](#) (See Pages 24-33)

 [Text Of The Colonial BancGroup Policy](#) (See Conflicts Of Interest Section)

Related Coverage

 [Gift And Entertainment Rule Languishing](#) (Oct. 11, 2006)

 [Exchanges Amend Entertainment Rules, In Principle](#) (Jan. 31, 2006)

hypothetical or positive examples in your company newsletter to help employees understand the thinking behind the decisions.

- **Model a high standard.** As discussed in previous columns, the ethics-related actions of top management are critical to establishing and maintaining an ethical culture. An officer always should err on the conservative side of accepting gifts.
- **Handle “unacceptable” gifts appropriately and publicly.** Just like those bunny slippers from Aunt Doris, some gifts cannot be returned. They may be perishable or come from an anonymous donor. In some cultures (Asian ones in particular), returning a gift would be considered an insult to the giver. Regardless of the type of gift policy, organizations need to develop a method for handling such gifts to eliminate the possibility that they could be seen as influencing the recipient. At the Ethics Resource Center, all gifts received from clients, vendors, or others by ERC employees in the context of their employment become the property of the organization and are raffled off at the holidays or some other appropriate date. Lockheed Martin acts preemptively and sends emails before the winter holidays reminding its suppliers of their gifts policy. The Office of Government Ethics allows employees who cannot practically return a gift to pay market value for it, give it to charity, or share it with the office.
- **Monitor your own gift-giving.** Inquire about and abide by your contractors’ and clients’ guidelines. Make sure your employees know that it is against company policy to give gifts or provide entertainment to unduly influence business relationships.

Make sure employees understand that the act of accepting or giving gifts or entertainment opportunities of *any* value can be interpreted as an attempt to influence a business decision.

Above all, give and receive thoughtfully. An ethics-driven gifts policy encourages employees to take ownership in the reputation of their organization by acting appropriately, even when it conflicts with their self-interests.

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Advancing High Ethical Standards and Practices

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