

## Executive Order No. 002-04

WHEREAS, City employees are overwhelmingly committed to, and all citizens have a right to expect, integrity in government; and

WHEREAS, The Philadelphia Home Rule Charter, the city Ethics Code, and the State Ethics Act all include provisions prohibiting the acceptance by City employees of certain gifts in certain circumstances; and

WHEREAS, To eliminate even the appearance of impropriety, and to reduce uncertainty among City employees and persons dealing with City employees as to the circumstances under which acceptance of gifts is improper, clear rules should be adopted to prohibit the acceptance by City employees of any gift from specified persons; now, therefore

I, JOHN F. STREET, by the power vested in me as Mayor of the City of Philadelphia, do hereby order as follows:

### **SECTION 1. Prohibited Gifts, Gratuities and Favors.**

(1) No official or employee in the Executive and Administrative Branch shall solicit or accept, directly or indirectly, anything of value, including any gift, gratuity, favor, entertainment or loan, from any of the following sources :

- (a) A person seeking to obtain business from, or who has financial relations with, the City;
- (b) A person whose operations or activities are regulated or inspected by any City agency;
- (c) A person engaged, either as principal or attorney, in proceedings before any City agency or in court proceedings in which the City is an adverse party;
- (d) A person seeking legislative or administrative action by the City;  
or
- (e) A person whose interests may be substantially affected by the performance or nonperformance of the official's or employee's official duties.

(2) Any person, including any person doing or seeking to do any business with the City, who offers anything of value to a City official or employee under circumstances where the receipt of such item would violate the provisions of this Executive Order shall be subject to sanctions with respect to future City contracts. Such sanctions may range from disqualification from participation in particular City contract(s), to debarment, depending on the nature of the particular violation. The terms and duration of such sanctions shall be pursuant to such rules as the Procurement Commissioner, with respect to contracts subject to competitive bidding, or the Director of Finance, with respect to all other contracts, shall develop.

(3) For purposes of this section, “person” shall mean a natural person or a business, governmental body, individual, corporation, union, association, firm, partnership, committee, club or other organization or group of persons, or agents thereof.

## **SECTION 2. Exceptions.**

The provisions of Section 1 shall not apply to:

- (a) The solicitation or acceptance of something of monetary value from a friend, parent, spouse, child or other close relative when the circumstances make it clear that the motivation for the action is a personal or family relationship;
- (b) Acceptance of food and refreshment of nominal value on infrequent occasions in the ordinary course of a meeting, if served to all participants at the meeting and for the purpose of permitting work at the meeting to continue. This exception shall not apply to meals served at any restaurant, club or other establishment outside a place of business at which a meeting is held, even if the meeting continues at such restaurant, club, or other establishment.
- (c) Acceptance of food and refreshment at a public event or ceremony sponsored by a non-profit, community or civic organization, and attended by the employee or official in his/her official capacity.

- (d) The acceptance of loans from banks or other financial institutions on customary terms of finance for proper and usual activities, such as home mortgage loans;
- (e) A voluntary gift of nominal value or donation in a nominal amount made by a City employee or official to another City employee or official on a special occasion such as marriage, illness, or retirement; or
- (f) A plaque, memento or gift of nominal value offered as a token of esteem or appreciation on the occasion of a public appearance, visit, speech or the like.

**SECTION 3. Additional departmental restrictions.**

Heads of departments may prescribe further limitations on gifts or meals beyond those detailed in Sections 1 and 2.

**SECTION 4. Procedure to Follow Upon Receipt of Prohibited Gift.**

- (a) Any employee who receives a gift or gratuity which is prohibited by Section 1 or Section 3 shall forward the gift or gratuity to the head of the employee's department or agency, together with a written explanation of the circumstances surrounding the gift or gratuity.
- (b) A department or agency head shall return all gifts and gratuities received from employees pursuant to subsection 4(a) to the donor, with a written explanation why the return is necessary. If return of a gift or gratuity to the donor is not possible, the gift or gratuity shall be deemed to be a gift to the City, and shall be forwarded, together with a written explanation why return to the donor is not possible, to the Procurement Department for appropriate disposition pursuant to Section 6-500(d) of the Philadelphia Home Rule Charter. Where neither return to the donor nor forwarding to Procurement is practicable, the department or agency head shall make the gift generally available to members of the department or agency on a non-discriminatory basis, and provide a written explanation of this decision to the Inspector General.

- (c) A copy of all written explanations prepared pursuant to subsections 4(a) and 4(b) shall be sent to the Inspector General.

**SECTION 5. Incorporation into all City Contracts.**

The Director of Finance, the Procurement Commissioner, and all contracting agencies subject to this Order shall include in all City contracts and all City bid specifications and requests for proposals applicable language incorporating the provisions of this Executive Order; expressly prohibiting the giving of anything of value, the receipt of which would violate this Order; and setting forth the applicable sanctions for any violations of this Order or the foregoing contract provisions.

**SECTION 6. Dissemination of Information.**

A summary of the provisions of this Executive Order shall be distributed to all current officials and employees of the Administrative and Executive Branch, broadly, including all newly appointed officials and employees, and to all vendors. Such a summary shall also be provided to bidders and prospective bidders for City contracts.

**SECTION 7. Repeals.**

Executive Order No. 16-92 is hereby rescinded.

**SECTION 8. Effective Date.**

This Order shall take effect thirty (30) days from the date of its execution.

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JOHN F. STREET, ESQ., MAYOR

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DATE