



Office of the Inspector General Ethics Division

Formal Advisory Opinion 2020-1: Use of City Funds to Purchase Gift Cards

Opinion Summary

City funds may be used to purchase gift cards to distribute for employee awards, employee recognition programs, as employee incentives, and for employee meals and refreshments, which are all permissible activities related to a public purpose or official city business.

Question Presented

Under what circumstances is it permissible for departments to use city funds to purchase gift cards for award programs and departmental activities?

Background

In past years, the Ethics Division has received numerous requests for advice from city departments about using city funds to purchase gift cards for employee award programs and other departmental activities.

The Atlanta City Charter and Code of Ethics (Standards of Conduct) both have provisions that indirectly address the use of city funds:

- The purpose clause of the Code of Ethics provides that the ethical standards seek to protect the integrity of government by prohibiting employees from engaging in business transactions or having contractual, financial, or personal interests that would tend to impair the independence or objectivity of judgment or action in the performance of official duties. (§ 2-802)
- The Ethics Code prohibits the use of city property, vehicle, equipment, labor, or service for the private advantage of any employee or private entity (§ 2-811)
- The City Charter authorizes a restricted contingency fund and allows department heads to use such funds for expenses related to official duties which are not budgeted for elsewhere. This includes employee recognition awards, employee recognition programs, and refreshments for receptions and meetings. The expenditure may not exceed \$2,000 per fiscal year. (§ 2-925)

In 2013, the City Auditor's Office conducted an audit on the use of city funds to purchase gift cards for departmental use and found issues of improper and irregular handling of gift cards,

primarily due to the fact that the gift cards, “were being purchased in bulk for the departments to use for employee incentives in the future, however, there were no central controls found over the gift cards which increased the risk and likelihood of non-compliance in the proper use of the gift cards.” See *Report on Department Gift Card Purchases, City Auditor’s Office, 2013*.

The audit also found that federal and state guidelines identify gift cards provided for **employee awards and recognition** as cash equivalents and should be computed as part of an employee’s taxable compensation. Gift cards provided as door prizes for incentives to complete departmental surveys, and to purchase food for employees, were not considered taxable compensation. See *Report on Department Gift Card Purchases, City Auditor’s Office, 2013*.

According to the United States Office of Government Ethics (“OGE”), general use gift cards are treated as cash equivalents because the cards:

- often bear the logo of payment networks, such as, American Express, Mastercard, or Visa
- tend to function similarly to a bank-issued debit card;
- may be used at automated teller machines (ATM) to withdraw cash; and
- can be redeemed at multiple, unaffiliated merchants for virtually any good or service.

See United States Office of Government Ethics Legal Advisory Opinion 15-04 (2015). [https://www.oge.gov/Web/OGE.nsf/0/E72454B5D609228785257E96005FBF15/\\$FILE/LA-15-04.pdf](https://www.oge.gov/Web/OGE.nsf/0/E72454B5D609228785257E96005FBF15/$FILE/LA-15-04.pdf)

The use of city funds to recognize employees serves a legitimate public purpose of promoting employee morale through identifiable achievements. Employees are typically recognized for outstanding performance, customer service, and meeting or exceeding goal requirements directly related to the employee’s objective job duties and responsibilities. See *West Virginia Ethics Commission Guideline on Public Employee Recognition Events (2016)*.

Many jurisdictions accept that the practice of using public funds to recognize public servants serves a public purpose. When properly executed, programs such as these can serve as a viable instrument to celebrate and retain employees who consistently perform well and above what may be required.

See “*Agency funds tent, puppy, PlayStation for workers*”, *San Diego Union-Tribune*, (February 15, 2016). <https://www.sandiegouniontribune.com/news/watchdog/sdut-fallbrook-reimbursements-2016feb15-htmlstory.html>

Discussion

The Ethics Division has previously interpreted and advised that city funds may be used to purchase gift cards for programs and activities that have a clear public purpose or constitute official city business.

To determine whether the use of city funds serves a public purpose or is official city business, the Ethics Division examines the purpose of the event, project, or expenditure, and whether the activity furthers a city policy or departmental mission. City officials and employees are conducting official city business when they act in an official capacity and perform official duties on behalf of the City. See City of Atlanta Board of Ethics Formal Advisory Op. 2004-1, (2004) (“*What Constitutes Official City Business*”).

The examples below are intended to illustrate and provide general guidance as to when city funds may be used to purchase gift cards for departmental programs and activities.

Permissible use of city funds for purchase of gift cards

- Recognition of employees at annual or quarterly meetings
- Awarding winners of a departmental contest or survey which occur during an official departmental meeting
- Door prizes at departmental meetings and events
- Food or refreshments for departmental meetings
- Use for an approved departmental event or city initiative

Impermissible use of city funds for purchase of gift cards

- Departments distribute awards to employees as incentives with no specific guidelines.
- Employees are awarded based on subjective criteria as opposed to objective criteria.
- Departments utilize gift cards for food or refreshments not consumed at a meeting/activity.
- Departmental event or city initiative supporting use of gift cards is not approved.

Departments should consider the following questions before using city funds for purchase of gift cards:

- Is the activity/event for a city purpose, initiative or official city business?
- Will the gift cards be distributed to employees in a fair and equitable manner for recognition of workplace achievement?
- Is the award of the gift card based on objective, job-related criteria?

Likewise, to decrease the likelihood of abuse and non-compliance, departments should create and maintain records which include the following:

- Name of the individual receiving the gift card;
- Type of gift card (Visa, Mastercard, etc.);
- Dollar amount or value of gift card;
- Justification for individual receiving gift card;
- Controls or measures in place limiting ability of any employee to receive an award more than once per calendar year;
- Established policies prohibiting senior management from being eligible for gift card awards or participating in departmental contests.

Conclusion

In summary, city funds may be used to purchase gift cards to distribute for employee recognition programs, employee incentives, approved departmental or city initiatives, and meals and refreshments at departmental meetings. However, at times, it may be necessary for the Ethics Division to review gift card programs to ensure compliance with city and state law.

The purchase of gift cards that do not follow the guidance and examples presented above, increase the likelihood of abuse and misappropriation of city funds. There are also public policy concerns to consider when the distribution of gift card awards by city departments do not follow

certain guidelines such as, failing to include applicable gift cards as taxable employee compensation, discrimination in the reward process, and not demonstrating a clear public purpose for the distribution and/or use of the gift cards. Therefore, it is very important that departments ensure that the program, expenditure or initiative, supports a city policy, purpose or departmental mission, to justify the use of city funds.

Adopted May 29, 2020

City of Atlanta Ethics Division

Jabu M. Sengova, Ethics Officer

