



## Can I Take It?

**RULE NO. 1: You May Never Take Anything As Consideration For An Official Act.** The bribery law prohibits payments or gifts made in exchange for an official act. An official act includes a vote, a recommendation, or any other exercise of official discretion.

**RULE NO. 2: You May Not Accept An Honorarium For Services You Would Not Have Been Asked To Provide But For Your Official Status.** This means, for example, that you may not accept a gift or payment for giving a speech if your official position was a reason for your being asked to give the speech. You may, however, accept meals, transportation, and lodging in connection with a speech as long as your speech is more than merely perfunctory. Also, you may accept a gift that is not a “benefit” such as a plaque or something of minimal value like a coffee cup, key chain, or “gimme” cap.

**THE OTHER RULES:** If acceptance of a gift or payment is permissible under Rule Nos. 1 and 2, the next step is to determine whether or not the person making the offer is a registered lobbyist.

### A. IF THE PERSON MAKING THE OFFER IS A REGISTERED LOBBYIST :

#### 1. You may not accept:

- ⇒ Loans, cash, or negotiable instruments other than political contributions.
- ⇒ Travel or lodging for a pleasure trip. (Incidental transportation such as a short ride in a car or taxi is permissible.)

#### 2. You may accept:

- ⇒ Food and beverages if the lobbyist is with you. There is no annual limit on the value of food and beverages you may accept from a lobbyist.
- ⇒ Entertainment worth up to \$500 in a calendar year. (Entertainment includes, for example, sports events and concerts.) The lobbyist providing the entertainment must be present for the event.
- ⇒ Gifts, other than awards and mementos, that together do not exceed \$500 in value during a calendar year. [Note: “gifts” here does not include food, entertainment, transportation, or lodging.]
- ⇒ Awards and mementos worth not more than \$500. This is not an annual cap, but a cap on the value of each individual award or memento.
- ⇒ Travel and lodging in connection with a fact-finding trip or to a seminar or conference at which you are providing services, such as speaking, and the services are more than perfunctory. Any lobbyist who is providing travel or lodging must be present at the event.

Note: You can find out if someone is a registered lobbyist by calling the disclosure filings section of the Texas Ethics Commission at (512) 463-5800 or (800) 325-8506 or by going to [www.ethics.state.tx.us/dfs/search\\_LOBBY.html](http://www.ethics.state.tx.us/dfs/search_LOBBY.html) on the Internet.

**Please Note: Your name will appear on a lobbyist's activities report:**

- if expenditures for your food, lodging, transportation, or entertainment in a day exceed \$100.80, which is 60 percent of the amount of the legislative per diem;
- if expenditures for a gift, award, or memento exceed \$50; or
- each time an expenditure is made for you to attend political fundraisers or charity events, regardless of the amount spent.

### B. IF THE PERSON MAKING THE OFFER IS NOT A REGISTERED LOBBYIST:

The Penal Code prohibits a state officer or employee from taking any benefit from a person subject to regulation, inspection, or investigation by the state officer's or employee's agency. There are also restrictions on benefits from a person interested in or likely to become interested in a contract or other transaction with the agency. (A “benefit” is anything reasonably regarded as pecuniary gain or advantage.) There are, however, exceptions to these prohibitions. **You may accept a gift, payment, or contribution as long as the gift, payment, or contribution fits into *any one* of the following categories.**

- ⇒ **Items Worth Less Than \$50:** You may accept an item with a value of less than \$50. This exception does not apply to cash, checks, or negotiable instruments.
- ⇒ **Independent Relationship:** There is an exception from the general prohibition on the acceptance of benefits for a gift based on
  - \* kinship
  - \* a personal relationship independent of your official status
  - \* a professional relationship independent of your official status
  - \* a business relationship independent of your official status.
- ⇒ **Fees For Services:** You may accept a payment to which you are lawfully entitled in a capacity other than your official status. In this case you may accept the offer without restriction.

Remember, you may not take an honorarium for a service that you would not have been asked to provide but for your official status.

- ⇒ Political Contributions: You may accept a political contribution as a candidate or officeholder.
- ⇒ Government Property: You may accept an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the entity.
- ⇒ Food, Entertainment, Transportation, & Lodging: Benefits in the form of food, lodging, transportation, or entertainment are permissible if accepted as a “guest” and reported in accordance with any applicable reporting requirement. To accept something as a guest, the donor must be present. For most state *employees* there is no applicable reporting requirement. Board members and agency heads may be required to report certain gifts on their annual personal financial statement.

*Note: An agency may set standards that are stricter than the law. Also, special rules apply to hearings examiners.*

#### Donations to Charity

If you receive an unsolicited benefit that you are prohibited from accepting, you may donate the benefit to a recognized tax-exempt charitable organization formed for educational, religious, or scientific purposes.



**Texas Ethics Commission**  
P.O. BOX 12070 • Austin, Texas 78711-2070  
512-463-5800 • FAX 512-463-5777

#### NOTICES

This guide was prepared as a quick overview, not as a substitute for reference to the law or to advisory opinions issued by the commission concerning acceptance of gifts by public servants.

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## Can I Take It?



*A guide for officers and employees  
in the executive branch  
of state government.*

*Note: Employees of the Governor or Lieutenant  
Governor should refer to the “Can I Take It?”  
brochure specifically applicable to those offices.*