

CHAPTER 2
OPERATIONAL GUIDELINES 2.5.2
OFFICIAL HOSPITALITY

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1 CHIEF EXECUTIVE INSTRUCTIONS (EXTRACT)

“2.5.6. Any intended hospitality must be approved by the Chief Executive Officer before the event and must be publicly defensible.”

2 GUIDELINES

2.1 Underlying principles

1. APS employees must not improperly use their position, status, power or authority to gain a benefit or advantage for themselves or others. They must take reasonable steps to avoid conflict of interest. As a general principle APS employees should not accept gifts or benefits (which in some circumstances could be seen as a bribe). However, there are instances where it is acceptable, such as on behalf of the Commission, from an overseas delegation.
2. Sometimes it is reasonable to accept hospitality as a means of networking, which can be particularly important for senior employees responsible for implementing government policy. Balanced judgement is required. As a general rule, hospitality should not be accepted where it either compromises, or could be perceived to compromise, the employee's integrity and their ability to undertake their official duties in a professional and objective manner.
3. The Commission may provide official hospitality if it furthers the conduct of public business. Expenditure on official hospitality must be publicly defensible on the basis that the primary purpose of the event is work-related. Ultimately, this responsibility rests with the relevant Delegate, who must be assured that the conditions set out in the relevant FMA Regulations are met.

2.2 When to provide or accept hospitality

4. Official hospitality is extended to or accepted from people who, either by advice or service or because of their vocational or business interest are able to promote the Commission's goals and assist the positive conduct of business.
5. The Commission requires its employees to work closely in integrated teams with staff of its consultants and contractors. It also requires its employees to maintain representation to, and a high level of current awareness of, the industries with which it needs to work. The effectiveness of such working relationships or representation/awareness programs can be properly enhanced by a modest degree of social contact involving hospitality.
6. When assessing the appropriateness of accepting or offering hospitality in a commercial environment employees need to consider the following:
 - what obligations or expectations may arise as a result of the hospitality;
 - would it be publicly defensible; and
 - would it create an inappropriate impression.

7. Hospitality is not to be accepted if by its nature (scale, frequency or other circumstances) it could reasonably be represented as compromising the integrity of the employee or of the Commission.
8. Employees are to avoid accepting excessive (either in scale or frequency) hospitality in connection with their official duties.
9. In any case, employees must not accept secretive hospitality.
10. Employees should not accept hospitality from any party that is, at the time, involved in tendering for work as a consultant or contractor to the Commission.
11. Some employees will have personal friendships or other relationships with staff employed by companies with whom the Commission does business. In the course of such relationships, employees need to be scrupulous to ensure that any balance reciprocal hospitality that takes place in the context of the personal relationship is not capable of being misrepresented as being funded by the other person's employer for inappropriate purposes. It is best if you pay your share and are seen to do so.
12. Where hospitality is accepted it must be declared. Declaration may be made by means of an email to the General Manager, Human Resources. All declarations are placed on a register.

2.3 Acceptable forms of hospitality

2.3.1 Overseas visitors and diplomatic corps

13. The Commission may extend hospitality to overseas visitors where it has an interest in, or some obligation towards, facilitating the visit, and to members of the diplomatic and consular Corps.

2.3.2 Working lunches

14. Expenditure on working lunches are allowable where each of the following are met:
 - there is a cost advantage in continuing the meeting through the normal lunch break; and
 - Employees from at least one other entity attend, other than from the host agency and the meal is for the purpose of transacting official business during the meal.
15. Working lunches should normally be at the work/meeting location, not be a regular occurrence, be of a simple standard involving a relatively low cost per head and where alcohol is not consumed. The cost of working lunches of this nature is not subject to FBT. This situation changes however if alcohol is served

2.3.3 Other Meals and Entertainment

16. Generally, most acceptable hospitality will be confined to restaurant meals. Where an employee is in receipt of a travel allowance for the meal, the employee is to surrender the relevant part of the travel allowance.

17. It is acceptable to accept invitations to routine cocktail parties and/or Christmas parties that are hosted by companies for their general client base, provided that no special travel is involved.

2.3.4 Internal conferences, seminars and training activities

18. The costs (eg morning, afternoon teas and lunch) associated with conferences, seminars, training courses etc are not official hospitality. Such items should be included in the overall cost of the conference, training course etc and charged to the account to which the activity itself is charged.

2.4 Hospitality overseas

19. An overseas visit by itself does not necessarily entitle an official to incur expenditure on official hospitality. The Chief Executive Officer must be satisfied the hospitality will contribute appropriately to the purpose of the visit. (see also OG 2.5.1 Travel)
20. Employees travelling overseas on official business may request approval in advance, to incur expenditure on official hospitality in order to facilitate the conduct of public business that would be of benefit to the Commonwealth. The request for approval should be documented on the Expenditure on Official Hospitality form.
21. Tips and gratuities in line with customary practice in the relevant overseas location are an allowable charge.

2.5 Non-acceptable forms of hospitality

22. As a general rule, public funds should not be used to provide hospitality solely for Commonwealth Government Officials.
23. The following items are not considered acceptable forms of hospitality:
- acceptance of hospitality that involves nightclubs or casino attendance;
 - acceptance of hospitality that involves travel, other than with the express prior agreement of the General Manager Corporate Branch (see also OG 2.5.1 Travel);
 - gifts to employees, such as flowers, cards and the cost of farewell functions (these are private discretionary expenses);
 - recreational club membership fees;
 - food and/or beverages provided at regular meetings such as staff meetings; and
 - hospitality for Commonwealth Ministers and Members of Parliament (in Australia) as this would normally be charged to the relevant Ministerial hospitality account.
24. Items of value that are personally directed such as tickets to sports or arts events that are provided to an employee personally for use by them and their family, offers of travel and hotel/resort accommodation and personal invitations to dine may not be accepted.

2.6 Fringe Benefits Tax

25. FBT is payable by the Commission where entertainment is provided to an employee, unless the entertainment falls into an exempt category (eg morning and afternoon teas; light lunches that do not include alcohol).
26. All other expenditure on hospitality which involves employees is to be classed as a fringe benefit and is therefore liable to FBT. Examples are promotional functions, launches, openings etc (these latter functions are a fringe benefit whether or not alcohol is served as such lunches fall outside the working lunch guidelines and constitute the 'the hospitable provision for the wants of guests').
27. Further information is available on the intranet on the [Fringe Benefits Tax](#) implication of hospitality.

2.7 Acquittal and payment procedures for hospitality extended by the Commission

28. Prior to incurring or committing any expenditure on official hospitality, an [Expenditure on Official Hospitality form](#) must be completed and approved by the appropriate Delegate.
29. Once expenditure is incurred, any relevant supporting documentation including Tax Invoices must be attached to the Expenditure on Official Hospitality form. This is important, the details are used to calculate the Commission's FBT liability.
30. Any significant increase in the cost (ie >10% above the estimate) should be returned to the appropriate Delegate for additional expenditure approval. Anything within 10% of the estimate is within an acceptable tolerance limit. If, at the time of approval the Delegate indicated an upper maximum not to be exceeded, then only that amount will be reimbursed.
31. To obtain reimbursement or payment for approved hospitality, forward the completed claim for payment with receipts and the approved (and if necessary amended) Expenditure on Official Hospitality form attached, to the finance section.
32. Hospitality expenditure whilst overseas can be claimed on acquittal of the overseas travel and reimbursed to the employee on provision of supporting invoices / receipts and the approved (and if necessary amended) Expenditure on Official Hospitality form.

3 RECORDS TO BE KEPT

33. The following records are to be kept by the General Manager, Human Resources.
- Hospitality Register
34. The following records are to be kept by the Chief Finance Officer:
- Approval of expenditure and supporting documents

4 INTERNAL CONTROLS

35. Internal control considerations that are fundamental to the management and control of official hospitality include:
- approval to incur expenditure on hospitality obtained in advance;
 - prompt acquittal of hospitality advances;
 - regular review of the hospitality register by the General Manager, Corporate Branch to ensure hospitality is appropriate and remains within acceptable limits; and
 - adherence to these and related OGs.

5 PENALTIES

36. The Crimes Act states that an official who asks for, receives or obtains any property or benefit for himself or any other person, on the understanding that their duty or authority as an official will be influenced or affected by such a benefit, is guilty of an offence punishable by imprisonment (Crimes Act 1914 s.73).
37. A Commonwealth employee who breaches Regulation 37 of the Australian Public Service Regulations may be subject to disciplinary action for misconduct under the Public Service Act 1922 for taking advantage of their position.
38. Section 132(1) of the Fringe Benefits Tax Assessment Act 1986 requires an employer to keep records that identify and explain all transactions and acts for the purposes of ascertaining the employer's FBT liability. The maximum penalty on conviction for failure to comply with s132 is a fine of \$2,000.
39. Relevant sections of the FMA legislation and the specific penalties attached are set out below.

s. 7(1) Offences	Chapter 2 of the Criminal Code applies to all offences. Section 4B of the <i>Crimes Act 1914</i> allows the court to impose a fine instead of, or in addition to, imprisonment.	
s. 13 Authority to draw money	Money must not be drawn from an account without authority.	Maximum of 2 years imprisonment
s. 14 improper use money etc.	Must not misapply, improperly dispose or improperly use public money.	Maximum of 7 years imprisonment
s. 43 Gifts	Must not make an unauthorised gift of public property.	Maximum of 7 years imprisonment
s. 60 Credit Cards	Must not use a Commonwealth credit card, or credit card number, with the intention of obtaining cash, goods or services otherwise than for the Commonwealth.	Maximum of 7 years imprisonment
s. 61 Accounts etc.	Must not falsify an account or record.	Maximum of 7 years imprisonment
s. 65 Penalties under the Regulations	Must not contravene the Regulations, however no specific penalties have been prescribed at this time.	Maximum penalty is 10 penalty units

6 REFERENCES

FMA Act:	Section(s): 60
FMA Regulations:	Regulation(s): 9, 10, 13
FMA Orders:	N/A
Delegation:	N/A
Other References:	<ul style="list-style-type: none">• <i>OG Spending Public Moneys</i>• Tax Ruling IT2675 and TR 97/17 FBT Entertainment• <i>Fringe Benefits Tax Act 1986</i>• APS Values & Code of Conduct