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Ethical*

# Conflicts of Interest for Advisory Board Members

City of Austin



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# Thanks for Your Service to the City

- Local government depends on the service of community-minded individuals.
- With public service come additional responsibilities.



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# The Core Values of “Ethics” Laws

- Transparency and accountability
- Keeping our personal interests away from our official decision making
- Ensuring that our actions aren’t for sale
- Making sure that government property is used only for the public good
- Ensuring fairness in the administration of the government





## Applying the Rules

- The application of conflict rules requires a close knowledge of an individual's relationships and financial affairs.
- It is ultimately the personal responsibility of each task force member to be aware of the relevant rules and to comply with them.



## What is a conflict of interest?

- **When your personal interests intrude on your ability to adhere to the highest standards in your decision making, or if it would appear so an observer, you have a conflict of interest.**
- **Conflicts can arise in a number of ways.**
  - financial relationships
  - occupational concerns
  - personal relationships





## Ask Yourself:

- Could there be benefits (or consequences) for me that could cast doubt my objectivity?
- Do I have a close personal or financial relationship with an interested party?
- Have I received a gift or hospitality from anyone who stands to gain or lose by the way this issue is resolved?
- Could this situation have an influence on any future employment opportunities for me?
- How would I feel if my role were portrayed in the media?
- Would I be happy if my personal connection to the issue became known to the public or my colleagues?





# Standards of Conduct

- A City board member may not:
  - formally appear before the board of which he or she is a member while acting as an advocate for himself or herself, or for any other person, group, or entity,
  - represent a private person or entity in an action in Municipal Court that was instituted by or arises from a decision of the member's board, or
  - accept paid campaign work relating to a ballot proposition if the member's board exercised discretionary authority with respect to the proposition and the member participated in the board's discussion or vote.





# Standards of Conduct

- A board member may not solicit or accept
  - employment or
  - compensation
- that could
  - reasonably be expected
  - to impair the board member's independence of judgment.





## Recusal

- The City Code requires a board member to recuse when
  - the member has a “substantial interest” in a person or entity
  - that would be “affected” by a vote of the board of which he or she is a member.





# Recusal - What is a “substantial interest”?

A substantial interest may arise from:

- Ownership
- Income
- Control
- Debt
- Family
- Doing business



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## Recusal – What Does “Affected” Mean?

- “Affected” means “reasonably likely to be subject to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question.”





## **Recusal – What Does “Affected” Mean?**

- **The vote or decision need not be the only producing cause of the economic effect or consequence. It’s enough that the effect or consequence would be reasonably expected to occur.**
- **The vote or decision need not be the only decision or the final decision on the matter.**



## What else requires recusal under the City Code?

- **Directorship of a Nonprofit Entity**
  - A City board member who serves as
    - a corporate officer
    - or member of the board of directors
    - of a nonprofit entity
  - may not participate in a vote or decision regarding funding by or through the City for the entity.





## How to Recuse

- You must sign the attendance sheet at each meeting.
  - Indicate that a conflict exists with a particular item on the agenda.
- You must state that you are recusing and why.
  - This public disclosure of the nature and extent of the interest must appear “in the official records of the body,” meaning it must be included in the meeting’s official minutes.
- Take no part in any discussion or vote, whether on or off the dais.
  - You do not have to leave the dais during the discussion or vote, but you may wish to do so.
  - Remember you may not appear before your own board as an advocate for yourself or any other person.



## Federally-funded Projects

- If a City board reviews a federally-funded project or activity, the members are *also* subject to the federal conflict rules for the federal program that is the source of the funding.
- Each federal program has specific conflict of interest rules.
  - Requirements set by various federal agencies may vary.





# Federally-funded Projects

- Typically, an official or an official's relative or business associate may not have a financial interest in the federal activity.
- The prohibition applies during the official's tenure and for a year thereafter.



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## **Recusal is an option even when it's not required**

- **Some conflicts are not recognized by the law and require common sense**
- **Don't over-legalize**
- **Be sensitive to public perception**
- **“What is indispensable is common sense, and that is atrophying as this lawyer-ridden nation sinks deeper into the delusion that sensible behavior can be comprehensively codified.” - George Will**





## Can gifts or favors create a conflict?

- Gifts create a problem because of the power imbalance between the government and the governed.
  - The City regulates - People fear that regulatory power.
  - The City provides necessary services - People may be concerned about whether they can get services they need
  - We are a major player in the local economy - Many businesses are dependent on city contracts





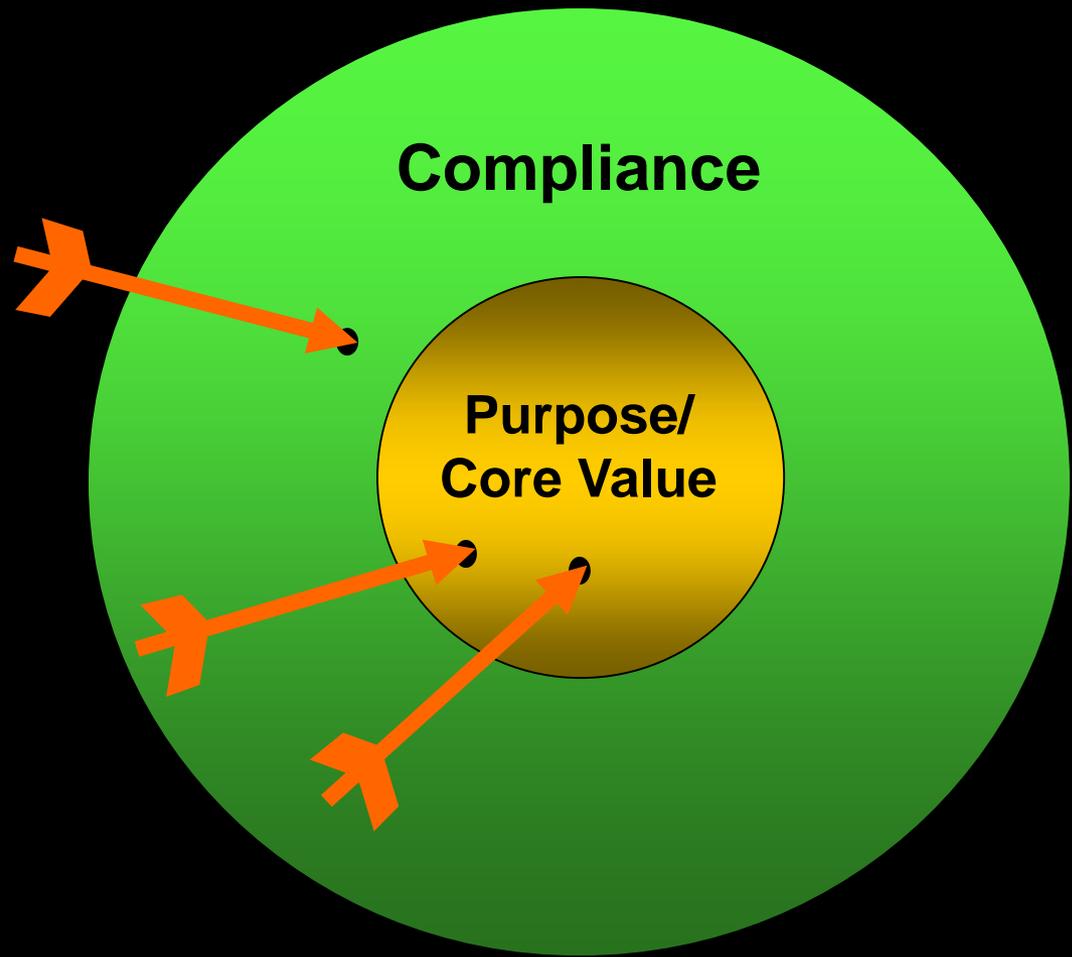
# What's the gift policy?

- You may not:
  - accept or solicit any gift or favor that might *reasonably tend to influence you* in the discharge of official duties,
  - accept or solicit any gift or favor that you should know has been offered with the *intent to influence* your official conduct,
  - accept or solicit any gift or favor that you should know has been offered with the *intent to reward* your official conduct.



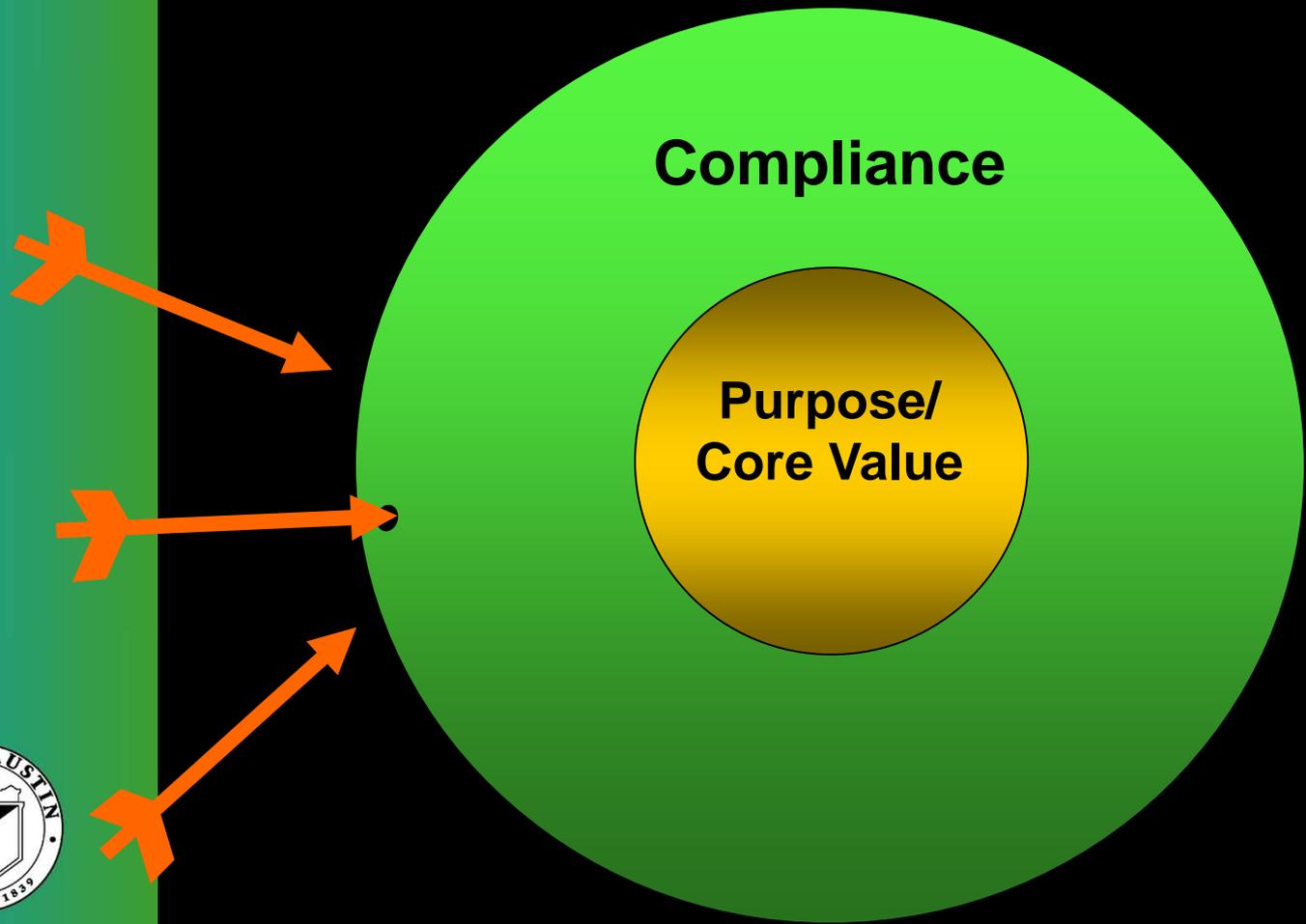
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# The Core Values of Gov't Ethics' Laws



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## What if I have a question?

- **Contact the City's Ethics and Compliance Team**

– **974-2180**

