



State of Arizona Accounting Manual

Topic 80 Miscellaneous

Issued 11/18/24

Section 10 Food and Beverages at State-hosted Events

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INTRODUCTION

Food and beverages may be provided or reimbursed when specific statutory authority exists. Examples of this authority include employees in travel status (A.R.S. Title 38, Chapter 4) and agencies with specific statutory authority to purchase food and/or beverages for prisoners, patients, wards, and others in the custody of the State.

Without specific statutory authority, providing food and/or beverages is subject to all applicable State laws, including the “gift clause.”

Article IX, Section 7 of the Arizona Constitution, the “gift clause,” prohibits the giving of gifts, loans, etc. to individuals. In addition, the notes to this article state that “Public funds are to be expended only for public purposes and cannot be used to foster or promote purely private or personal interests of any individual.”

In this section of SAAM, “to provide food and/or beverages,” means to furnish such comestibles at the expense of the State, no matter the funding source.

A State-hosted event is one that is hosted by, arranged by, or organized by an agency. A State-hosted event is one in which the State directly or indirectly pays the vendor or vendors who provide meals and/or beverages and/or the facilities in which the event is held, even when the original funding source is an entity or entities other than the State.

This section of SAAM does not deal with food and/or beverages served in conjunction with board meetings, certain training activities, or emergency situations, which are dealt with respectively by SAAM Sections 8011, 8012 and 8013. This section of SAAM also does not deal with providing beverages and/or beverage-related items for extreme heat preparedness, which is dealt with by SAAM 8025.

Prior to providing any food and/or beverages, all expenditures should be supported by statutory authority, the SAAM, or if necessary, an appropriate analysis and consideration of how the expenditure does not violate the gift clause. The analysis of the adequacy of the consideration for gift clause purposes should focus on the objective fair market value of what the private party has promised to provide in return for the public entity’s payment. Relevant consideration consists of direct benefits that are bargained for as part of the contracting party’s promised performance and does not include anticipated indirect benefits. See Turken, 223 Ariz. at 350 ¶ 33 and other relevant case law.

The gift clause is a very dynamic area of law within Arizona and is regularly going through various litigation and challenges that could impact and change how the law is interpreted and applied. The GAO cannot provide legal advice, nor can it approve any

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exception to law. Agencies should seek advice and guidance from their legal counsel and/or the Office of the Arizona Attorney General to understand its risk and responsibilities under the law. Exceptions to this policy cannot be provided as this would require an exception to the law or a determination of the adequacy of the agency's documentation.

POLICY & PROCEDURES

1. In general, the default is that the State should not provide food and/or beverages at State-hosted events unless the provision of food and/or beverages is allowed under State law.
2. Food and/or beverages may be provided or reimbursed when statutory authority exists (e.g. travel status, specific agency statutory authority, etc.)
3. To provide food and/or beverages at a State-hosted event, an agency must ensure and document that:
 - 3.1. It demonstrably serves a public purpose, and
 - 3.2. The "gift clause" is not violated.
4. That the provision of food and/or beverages serves the public purpose and does not violate the "gift clause" must be determined before providing food and/or beverages. Such determination must include appropriate legal review and be documented. The documentation must be retained and available for audit in accordance with the LAPR's retention guidelines for accounting records.
5. If food and/or beverages are provided under an analysis and determination of the public purpose and gift clause, appropriate legal counsel review (e.g. internal, Office of the Arizona Attorney General, etc.) must be obtained before the provision to determine if the reasoning and documentation is sufficient. ADOA cannot provide this legal guidance or determination.
6. The cost of any food and/or beverages provided shall not exceed the per-person-per-meal reimbursement limits set forth in SAAM 5095.
7. If the participant receiving food and/or beverages is a State employee in travel status and would qualify for a meal reimbursement, the appropriate reduction of the daily reimbursement limit for the meal provided, as set forth in SAAM 5025 and 5095, must be applied.
8. Public hearings are quasi-judicial gatherings that do not normally include the serving of food and/or beverages. Therefore, food and/or beverages should not be provided at hearings.

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9. Food and/or beverages served at meetings are not to be paid for with State funds. When in travel status, an employee may file a claim for a meal reimbursement when a meal or meals at a meeting have been purchased at the employee's expense. Such a reimbursement is subject to the terms and conditions contained in SAAM 5025 and SAAM 5095.
10. Monies spent for alcoholic beverages or drugs, whether the purchase of such items is legal or not, will not be reimbursed.
11. Food and/or beverages provided to participants in State-hosted events that are mandated by statute or required by the provisions of a grant are subject to the meal limitations provided in SAAM 5025 and SAAM 5095.
12. Food and/or beverages may be paid for by the participants themselves in a State-hosted event. In such cases, while the amount of the purchase is unlimited, the amount of reimbursement to employees or others such as contractors, vendors, interns or volunteers is subject to the limitations of SAAM 5025 and SAAM 5095.
13. The provision of food and/or beverages is subject to all other conditions and/or limitations that may appropriately apply in other Sections of SAAM, including, but not limited to SAAM 8011, SAAM 8012, SAAM 8013, SAAM 5557, SAAM 5025 and SAAM 5095.
14. The agency is directly accountable and responsible for documenting and defending all situations when food and/or beverages are provided under this policy and any possible ramifications including possible audit findings and litigation.