

Gifts, Benefits and Hospitality Policy

239 Pearcedale Road Cranbourne South VIC 3977 Tel: 9782 2999

Email: cranbourne.south.ps@edumail.vic.gov.au Website: <http://www.cranbournesouth.vic.edu.au/>



Policy Name	Gifts, Benefits and Hospitality	Approved	14 th Sept 2016
Responsibility	Principal/Business Manager	Date last approved	14 th Sept 2016

Rationale

The giving and receiving of gifts and hospitality are commonplace in everyday life. Gifts may be offered to say thanks for good service, a special achievement, or to celebrate an important event. Hospitality may be provided to welcome guests, facilitate relationships or to celebrate achievements.

Aims

The Gifts, Benefits and Hospitality Policy:

- will guide all individuals as to what is needed to do when considering whether to accept or offer, gifts, benefits and hospitality. It is underpinned by the integrity and impartiality values and principles specified in the *Public Administration Act 2004*, the *Code of Conduct for Victorian Public Sector Employees* and the *School Council Code of Conduct*.
- been updated to reflect the minimum requirements and accountabilities as outlined in the revised *State Services Authority Gifts Benefits and Hospitality Policy Framework* April 2012.
- applies to all Departmental employees (including Teaching Service), contractor staff, all school council employees and all school councillors.
- should be used as a guide by all portfolio public bodies outside the Department's entity, including the Merit Protection Boards, the Victorian Curriculum and Assessment Authority, the Victorian Institute of Teaching, the Victorian Registration Qualifications Authority and Technical and Further Education Institutes.
- also includes gifts, benefits or hospitality given to an employee's or a school councillor's immediate family if the donor can be linked back to the employee's or school councillor's duties and responsibilities. The Policy does not apply to gifts received in a private context.

Implementation

Minimum requirements applies to all Departmental employees (including Teaching Service), school council employees and school councillors.

Minimum accountabilities apply to the Department's executive officers, executive class and principal class employees in the Teaching Service (excluding assistant principals).

The **minimum requirements for individuals** for accepting gifts, benefits and hospitality are that they:

- do not solicit gifts, benefits or hospitality;
- refuse all offers of gifts, benefits or hospitality that could be reasonably perceived as undermining the integrity and impartiality of their organisation or themselves;
- refuse all offers of gifts, benefits or hospitality from people or organisations about which they are likely to make decisions, i.e. tender processes, procurement, licensing or regulation, etc.
- refuse all offers of money or items easily converted to money, such as shares; and
- refuse bribes and report bribery attempts to their manager/principal.
- seek advice from their manager/principal or other appropriate delegate if unsure about how to respond to an offer of a gift, benefit or hospitality of more than nominal value.

The **minimum requirements for individuals** when providing gifts, benefits or hospitality are that they:

- ensure that any gift or hospitality is provided for a business purpose in that it furthers the conduct of official business or other legitimate organisational goals, or promotes and supports government policy objectives and priorities;
- ensure that any costs are proportionate to the benefits obtained for the State, and would be considered reasonable in terms of community expectations; and
- ensure that when hospitality is provided, individuals demonstrate professionalism in their conduct and uphold their obligation to extend a duty of care to other participants.

The **minimum accountabilities** for the Department's executive officers, executive class and principal class employees in the Teaching Service (excluding assistant principals) are that they:

- establish and regularly review policies and processes to respond to offers of gifts, benefits and hospitality, including multiple offers from the same source;
- establish and regularly review policies and processes to provide guidance on the provision of gifts or hospitality, both internally to staff and externally to business partners and other stakeholders;

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- promulgate and establish awareness and compliance with gifts, benefits, and hospitality policies with all employees and school councillors;
- reinforce to all employees and school councillors that a breach of gifts, benefits and hospitality procedures could constitute a breach of binding codes of conduct and result in possible disciplinary action;
- ensure records are kept of accepted gifts, benefits and hospitality of more than nominal value and that such records are subject to regular scrutiny, including review by the Department's Audit Committee; and
- ensure that hospitality expenditure is recorded and reported in accordance with whole of government financial management, accountability and reporting requirements.

Accepting gifts, benefits and hospitality

Individuals must exercise particular care in accepting gifts, benefits or hospitality if:

- the donor person, company or organisation is involved in a tender process with the Department or school, or the donor person or organisation is the subject of, or affected by, a decision within the Department or school's discretionary power or significant influence;
- the person, company or organisation is in a contractual relationship with the Victorian Government or school council; or
- the employee or school councillor has been offered gifts of any kind from the same donor more than once in the last year.

Employees or school councillors may accept benefits and hospitality, such as invitations to official functions or events of reasonable value, as long as they are related to the business of the Department or school, and provided that they do not involve a conflict of interest or create a perception that the employee or school councillor will be unduly influenced by accepting the benefit or hospitality. In all cases the benefit or hospitality should be proportionate to the occasion.

Benefits and hospitality in relation to for-profit organisations sponsoring conferences or industry tours should generally be declined, unless reasons why there is no conflict of interest or apparent conflict of interest or improper influence can be demonstrated. However, if attendance at the conference or industry tour is in the public interest, then the Department or school should consider paying for the travel and accommodation.

Gifts of seemingly excessive value should not be accepted. The only exception to this is when failure to accept the gift, benefit or hospitality is likely to cause embarrassment or insult to the donor.

Gifts of any value must never be accepted if:

- the donor or reasonable observer would perceive that acceptance would create an obligation to the donor, particularly if the value of the gift is disproportionate to the circumstances in which it is offered.
- the gift is likely to influence an employee or school councillor in the course of their duties or where acceptance could cause a conflict of interest.
- the organisation's primary purpose is to lobby Ministers, Members of Parliament or agencies.
- the gift is an offer of money or anything readily convertible into money (e.g. shares), or
- the organisation or individual has a connection with a tender process or a decision over which the Department or the school could be perceived to have influence.

Employees and school councillors should remember that the consequences of creating a **perception** that the Department's or school's impartiality can be compromised may be as damaging as an actual compromise.

For further information regarding conflict of interest, please refer to the Department's Probity Guidelines July 2014

Take the GIFT test

The GIFT test is a good reminder of what to think about when deciding whether to accept or decline a gift, benefit or hospitality. Take the GIFT test and when in doubt ask your manager or school principal.

G	Giver	Who is providing the gift, benefit or hospitality and what is their relationship to me? Does my role require me to select contractors, award grants or determine policies? Could the person or organisation benefit from a decision I make?
I	Influence	Are they seeking to influence my decisions or actions? Has the gift, benefit or hospitality been offered to me publicly or privately? Is it a courtesy, a token of appreciation or highly valuable? Does its timing coincide with a decision I am about to make?
F	Favour	Are they seeking a favour in return for the gift, benefit or hospitality? Has the gift, benefit or hospitality been offered honestly? Has the person or organisation made several offers over the last 12 months? Would accepting it create an obligation to return a favour?
T	Trust	Would accepting the gift, benefit or hospitality diminish public trust? How would I feel if the gift, benefit or hospitality became public knowledge? What would my colleagues, family, friends or associates think?

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Another useful test is to consider if it would be embarrassing or difficult to publicly explain or justify the acceptance of a gift. If this is the case, or if there is any doubt, then the gift should be politely declined.

Keeping gifts

Employees and school councillors may keep token gifts (under \$100) such as a box of chocolates, for the work they have done.

In limited circumstances, employees and school councillors may be able to keep a gift worth \$100 or more, but less than \$500, **subject to the documented approval** of their Deputy Secretary or school council. The Secretary, Deputy Secretary or school principal may also consider offering the employee or school councillor the option of purchasing the gift at market value.

Gifts worth \$500 or more must be surrendered to the State or school **under all circumstances**. Employees and school councillors may purchase a gift worth more than \$500 from the State or school, with the Secretary's or school council's written approval, provided that no other public entity (e.g. Museums Victoria) has expressed interest in retaining the gift. For further details see [Attachment A – Valuation and Disposal of Gifts](#).

Official gifts, namely gifts intended for the Department, school or the Victorian Government rather than the individual recipient(s), remain the property of the Department, school or State.

Transferring gifts to the Department or school ownership

When an employee or school councillor is representing the Department or school at an event, and the Department or school has paid for their time, labour or accommodation to attend the event, any benefits accruing from this event belong to the Department or school. The employee or school councillor is then required to record any benefit accordingly, dependent upon the nominal value.

In the case of an international delegation offering ceremonial gifts on behalf of their country to an individual, school or the Department, these gifts (dependent on the nominal value) are to be recorded on the gift register and become the property of the Department or school.

Recording the acceptance and/or keeping of a gift or hospitality

Acceptance of token gifts or reasonable hospitality does not need to be formally registered. Similarly, hospitality provided by other government departments or governments does not need to be recorded.

Non-school-based employees

For non-school-based employees, including Teaching Service employees in non-school locations, acceptance and offers of a gift worth more than \$100 (nominal value) **must** be formally registered on the Department's gift register administered by Procurement Division. This includes gifts accepted on behalf of, or passed on to, a third party. To complete a Gift Declaration Form please click [Gifts, Benefits & Hospitality](#) and scroll to Tools and Documents.

The following information is to be recorded on the declaration form:

- recipient's name
- donor's name and organisation
- location of the gift
- description, reason of gift and estimated value
- date, time and place of offer
- first time, previous offers, cumulative value of gifts within last 12 months by individual
- decision taken on the gift
- Deputy Secretary's (or Secretary's) signature.

Once the declaration form is completed, it is then sent to the Executive Director, Procurement Division, who will record the details on the Department's Gifts Register. Significant gifts will also be recorded on the Department's asset register. The Gifts Register is monitored by the Executive Director, Procurement Division and provided to the Secretary and Department's Audit Committee, on request.

The Asset Register is monitored and reviewed by the Secretary and the Department's Audit Committee.
School-based employees and school councillors

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For school-based employees and school councillors, acceptance and offers of a gift worth more than \$100 (nominal value) **must** be formally registered on the school's gift register. Where a school gift register does not exist, principals are required to institute one and record the following information for each gift. To complete a Gift Declaration Form please click [Gifts, Benefits & Hospitality](#) and scroll to Tools and Documents.

- recipient's name
- donor's name and organisation
- location of the gift
- description, reason of gift and estimated value
- date, time and place of offer
- first time, previous offers, cumulative value of gifts within last 12 months by individual
- decision taken on the gift
- principal's or school council president's signature.

The gift register is monitored by the principal and annually reviewed by the school council.

Declining a gift, benefit or hospitality

Some employees and school councillors perform roles that call for greater scrutiny. Employees of the Department's Procurement Governance Committee, or those involved in procurement processes, must not accept gifts from contractors, particularly not when a tender has been advertised. Those who award grants must not accept gifts from applicants, and policy makers must not accept gifts from lobbyists.

Alternatives to sponsored travel and accommodation – individuals may receive offers of sponsored travel and accommodation to attend a conference. Such offers should generally be declined because of the potential for conflict of interest. However, if attendance is considered to be in the public interest, then the Department or school could pay for the travel and accommodation instead.

If there is no public benefit to accepting a gift, benefit or hospitality, then it should be declined. This is particularly the case when acceptance could be perceived as an endorsement of the organisation or product.

Repeat gifts or attempted bribery – if an individual considers they have been offered a bribe or inducement, the offer must be reported to the Secretary, school principal or their delegate immediately.

Providing gifts and hospitality

Hospitality or the giving of gifts is often provided to welcome guests, facilitate the development of relationships to further public sector business outcomes and celebrate achievements.

Gifts and hospitality provided to external guests

Authorised officers may consider providing hospitality for the purposes of:

- receiving guests (for example a visiting delegation from another jurisdiction, or hosting a meeting held over lunch time);
- facilitating relationships between third party organisations that are in the interests of the State (for example, an event where community sector organisations can meet business organisations to establish partnerships);
- celebrating the opening of an event, exhibition, or the establishment of a new public body; or launching an initiative (for example, the launching of a new community awareness campaign).

In considering whether to provide a gift or hospitality, the authorising officer should seek to uphold, and where possible, enhance the reputation of the public sector, including the school. The following questions will assist with this consideration:

- will the provision of hospitality foster the conduct of Departmental or school-based business?
- will the provision of hospitality help to promote or support the government's policy objectives?
- in providing hospitality, can we be sure that the reputations of both the public sector/school and the external guests are upheld?
- will the gift being considered provide a benefit to the State? NOTE: Any gift should normally be symbolic, rather than financial, in value.

All purchases need to be made in accordance with the Department's [Purchasing Policy and Guidelines \(corporate\)](#).
Office functions

When official functions are being held, the number of Departmental officers attending functions should be restructured to those who are able to provide an input to the event. In general:

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- for larger functions (greater than 12 participants) then the proportion of invited external guests should be greater than the number of Departmental representatives;
- for smaller functions (12 participants or less), the number of Departmental participants should be at least in balance with external invitees.

The Departmental Secretary, the school principal or an authorised officer may host an official function, including at the host's private residence. The partner or spouse of an officer may be included where this is appropriate; however other members of an officer's family should not normally be included on the guest list.

Catered functions for staff

For a range of reasons, catered activities may be occasionally provided for employees. These may include:

- as part of a larger staff-related event, for example a training course, workshop, planning day seminar or conference; and
- to recognise an organisational or individual staff achievement (for example the successful completion of a project or the retirement of a long-standing member of staff).

The appropriate senior authorising officer must determine if any catered function for staff would be considered reasonable and must take into consideration community expectations in relation to expenditure by public officials.

Working meals in a business meeting

Working meals involve participation of persons outside the organisation.

The provision of working meals should normally occur:

- at an ordinary Departmental or school-based meeting location
- on non-regular occurrences, except where particular meetings are planned to continue without break for the convenience of Departmental or school-based timetables.

Working meals may be accepted when:

- there are organisational efficiencies in continuing the meeting through the normal meal break; or
- there is no reasonable alternative date and time to conduct the meeting except through a normal meal period.

Any hospitality including the venue chosen for the meal should be in accordance with the significance of the purpose of the meeting and the status of the persons/participants.

Effort should be undertaken to avoid meetings between 12.00noon and 2.00pm, unless absolutely necessary.

An employee is not permitted to claim a reimbursement or allowance for meals or beverages where the meal/entertainment has been provided as part of hospitality.

Providing gifts to staff

On occasions, the Department or school may wish to recognise significant staff achievements and provide token gifts as part of:

- a reward and recognition event; and
- celebrating length of service milestones and/or retirements.

A token, such as a card and/or flowers, may also be sent to family members to acknowledge an employees' contribution to the workplace in the event of their death. Doing so can also assist their colleagues with their bereavement.

To uphold the principles of accountability and transparency, all schools are required to seek approval from the school council when issuing gifts to staff (regardless of value) which is funded by public monies.

Gifts given in celebrations of events such as birthdays, marriages or the birth of children should not be funded using public monies.

All purchases need to be made in accordance with the Department's Purchasing Card Policy and Guidelines (corporate).

Gifts and fringe benefits tax

Fringe benefits tax (FBT) is a tax payable by an employer in respect of fringe benefits provided to an employee or their associate (e.g. employee's spouse or children) by:

- an employer; or
- an associate of an employer (an associate of the Department includes government schools, TAFEs, another government department or statutory authority, such as VCAA, or VRQA), or
- a third party (ie organisation/entity external to the Department, for example a private company).

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The FBT legislation provides that certain benefits that are less than \$300 in value and infrequently provided may qualify as a 'minor benefit', which is exempt from FBT. However, the minor benefit exemption does not extend to gifts of an entertainment nature. Consequently, all entertainment gifts will be subject to FBT regardless of their value. Entertainment is specifically defined in tax legislation as entertainment by the way of:

- food
- drink
- recreation
- accommodation or travel associated with the provision of food, drink or recreation.

Therefore, all gifts that are of an entertainment nature and/or any other gifts of \$300 or more in value, accepted by an individual from an employer, associate of an employer, or third party are subject to FBT.

The Department or school must keep records showing the taxable value of certain fringe benefits provided to its employees. If the total taxable value of reportable fringe benefits (RFBs) provided to an employee in an FBT year (1 April to 31 March) is more than \$2,000, the Department or school must record the grossed-up taxable value of those benefits on the employee's payment summary for the corresponding income tax year (1 July to 30 June).

For more information about RFBs, employees should refer to the Australian Taxation Office's (ATO) publication on the ATO website using the following link: [Reportable Fringe Benefits - Facts For Employees](#)

Any FBT liability in respect of school-based employees will be met by the Department, and the cost of FBT will be passed on to the school. The school council may be responsible for any FBT liability in respect of gifts given to staff employed by it.

Overarching considerations

Determining the type of hospitality to be provided

When deciding on the type of hospitality to provide, a balanced judgement should be made between the costs incurred and the potential benefits accrued to the State of Victoria; and whether the proposed hospitality is in line with community expectations.

If an event or meeting is significant enough in duration, and extends over usual meal times, it is generally considered a courtesy to provide modest hospitality such as tea, coffee or a light meal. This type of hospitality usually has a low cost per head, is in line with community expectations, and may be required by employees' employment provisions.

Wherever possible, a sufficient break in proceedings should be encouraged to enable participants to seek their own refreshments if available within the vicinity. Where possible, internal meetings attended by employees should not be scheduled to conflict with meal times.

The following questions may be useful as a guide to help staff decide the type of hospitality to be provided.

- What is the main purpose of the event for which hospitality will be provided? Who will participate? eg. the organisation's own employees, other public sector or public service staff, or external business partners? Would failure to provide hospitality be detrimental to business or stakeholder relationships?
- What is known about the prevailing culture and business practices of external participants?
- What is known about previous experiences of, and expectations around hospitality provided by public sector organisations?
- Will the costs of the hospitality provided be proportionate to, and less than, the potential benefits?
- Is it necessary to hold the event or meeting over a meal time or at a time of day when hospitality might be expected?
- Is it unreasonable or impractical to schedule a break in proceedings to enable participants to leave and seek more substantial refreshments of their own volition?

Containing costs

The parameters suggested below can assist with cost containment:

- Where possible, events should be held at a time of day least likely to attract expectations of, or a need for, hospitality.
- Any event should not exceed two hours in duration.
- Public sector venues should be selected in preference to private venues. External venues should only be used if required, and where value for money can be demonstrated. Perceptions are also important; sometimes a modestly priced venue can be perceived as excessive, if for example it promotes an image of luxury.

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- Catering should be proportionate to the number of attendees.
- The size of the event and number of attendees should be aligned with intended outcomes.
- Catering should be procured at competitive rates and avoid inclusion of more expensive menu options.

Provision of alcohol

The supply of alcohol at any event can lead to increased risks, including the risk of anti-social behaviour and risks to the reputation of both individuals and the organisation alike.

Before considering the supply of alcohol at an event, the authorised officer must note their obligations under the Occupational Health and Safety Act 2004, the Liquor Control Reform Act 1998 and the Code of Conduct. Importantly, employees must not be impaired by alcohol whilst in the workplace.

The following parameters may be useful as a guide:

- Any event where alcohol is served should be held at a time which minimises the risk of employees returning to work impaired by alcohol. For example, if normal office hours are worked, the event should be held in the late afternoon or early evening.
- Any event should not exceed two hours in duration.
- No more than two standard drinks per person should be provided.
- The provision of alcohol should be incidental to the overall level of hospitality provided.
- The provision and use of alcohol using government funds is strictly within this Policy.
- The storage and control of any alcohol should be closely monitored.

The provision of alcohol at staff-related functions funded from an organisation's budget carries with it higher risks in terms of public perception, especially in relation to perceptions of waste and excess, including the risk of anti-social behaviour and risks to the reputation of both individuals and the organisation alike. Consideration must be given, prior to approval, to avoid any such perceptions, to contain costs, and to promote adherence to the Code of Conduct.

The Code of Conduct requires that employees behave in a manner that does not bring the public sector into disrepute. They are required to avoid the misuse of alcohol when at work or engaged in work-related activities. Importantly, employees must not be impaired by alcohol whilst in the workplace.

Alcohol would not normally be served at functions or official meetings, which are attended solely by Departmental or school-based staff. This requirement however may be waived at the discretion of the school principal, a Deputy Secretary or Secretary.

If intending to supply alcohol at an event which will include Departmental or school staff representation, then approval is required from the Secretary, or Deputy Secretary or principal, prior to the event occurring. Securing this prior approval remains the responsibility of the appropriate authorised officer – the '*DET Hospitality Approval Form*' can be found within the '*DET Hospitality Approval Guidelines*' document, available via Financial Services Division.

Take the HOST test

The HOST test is a good reminder of what to think about when deciding whether to provide hospitality or gifts to staff or stakeholders. Take the HOST test and when in doubt ask your manager or school principal.

H	Hospitality	To whom is the gift or hospitality being provided? Will recipients be external business partners, or employees of the host organisation?
O	Objectives	For what purpose will hospitality be provided? Is the hospitality being provided to further the conduct of official business? Will it promote and support government policy objectives and priorities? Will it contribute to staff wellbeing and workplace satisfaction?
S	Spend	Will public funds be spent? What type of hospitality will be provided? Will it be modest or expensive, and will alcohol be provided? Will the costs incurred be proportionate to and less than the benefits obtained?
T	Trust	Will public trust be enhanced or diminished? Could you publicly explain the rationale for providing the gift or hospitality? Will the event be conducted in a manner which upholds the reputation of the public sector? Have records in relation to the gift or hospitality been kept in accordance with reporting and recording procedures?

Recording and reporting the provision of hospitality

Public sector organisations have reporting and recording obligations which help to ensure transparency and accountability. These include record keeping obligations under the *Public Records Act 1973*, and obligations arising from the *Financial Management Act 1994* to ensure that public funds are appropriately authorised and incurred in accordance

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with business needs, and captured in the financial records. The public also has a right to access documents relating to the provision of hospitality under the *Freedom of Information Act 1982*.

NOTE: The Department's '*Hospitality Approval Guidelines*' provides further detail on the processes relating to hospitality approvals, non-allowable hospitality expenses and other matters to be considered i.e. Fringe Benefits, Tipping, etc.

Consequences of breaching the Policy

A breach of this Policy may constitute a breach of:

- Victorian Public Sector Code of Conduct
- *Public Administration Act 2004* in relation to misconduct
- Directors' Code of Conduct under the *Public Administration Act 2004*
- Ministerial Order 199
- School Council Code of Conduct.

In some circumstances, accepting a gift or benefit may constitute a breach of sections 175–179 of the *Crimes Act 1958*. This is an indictable offence that attracts a maximum penalty of ten years imprisonment.

Division 9A of the *Crimes Act 1958* also provides that common law bribery attracts a maximum penalty of ten years imprisonment.

Further assistance

For further advice or assistance:

- non-school based employees (corporate) may email service.agreement.policy@edumail.vic.gov.au
- school based employees may email community.stakeholders@edumail.vic.gov.au

Evaluation

To ensure ongoing relevance and continuous improvement, this policy will be reviewed as part of the school's three year policy evaluation process.

CERTIFICATION

This policy was ratified at the School Council Meeting held at Cranbourne South Primary School, on ...^{14th} Sept 2016

Signed.....

School Council President

Signed.....

Principal

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Gift, Benefit and Hospitality Declaration Form

To be completed by the recipient of the reportable gift within 14 days of the offer.

Date offered: / /

Offered to:

Title/Role:

Division/Unit/School:

Offered by:

Title/Role:

Organisation:

Reason offered:

Description of gift:

Location of gift:

Estimated value:

- 'Nominal value' (\$100) and above needs to be declared
- 'Nominal value' (\$100) and up to \$500 requires Deputy Secretary approval
- Above \$500 requires Deputy Secretary approval and transferred to the Department

First time offer ☐ Previous offer(s) within last 12 months by this individual ☐

Cumulative value of gifts offered by this individual within the last 12 months:

Does this declaration relate to a TRA? If yes, please provide TRA number:

Decision regarding gift:

Declined ☐ Retained ☐ Transferred to Department ownership ☐

Transferred to school ownership ☐

Signature of recipient: Date: / /

Approved by recipient's authorised delegate:

Name: Position: Date: / /

Signature:

On completion - Please send to Executive Director, Procurement Division or School Principal as appropriate

Gift register updated:

Name: Position: Date: / /

Signature:

(Executive Director (or appropriate representative), Procurement Division, or school principal as appropriate)