



Policy Type: Administrative

Category: Fiscal and Budget

Policy Name: Exceptions to the Prohibition on the Purchase of Gift Cards

Policy Owner: Controller-Treasurer Department

Policy Purpose

The purpose of this policy is to provide Departments with exceptions to the prohibition on the use of public funds entrusted to the County to purchase gift cards, gift certificates, or similar monetary-like instruments ("Gift Cards"), and to provide guidelines to County Agencies and Departments regarding the limited exceptions to the prohibition. This prohibition covers all manner of County funds whether part of the General Fund or not, including grants and trust funds.

Policy Summary

The use of County funds to purchase Gift Cards is prohibited. However, the County Administration recognizes Agencies and Departments may be required to provide Gift Cards to their clients or to conduct County business under limited circumstances as described in this policy. This prohibition applies to the purchase of Gift Cards for any purposes, including for use as an incentive. The unrestricted purchase of Gift Cards with County funds has the potential to result in losses and waste of County resources, impermissible gifts of public funds, violations of tax reporting and withholding regulations, and a lack of transparency regarding disbursements to individuals.

Acceptable purchase of gift cards/certificates



Notwithstanding the general prohibition on the purchase of Gift Cards, County programs may have a need to purchase Gift Cards in lieu of providing assistance by other methods, due to the critical and emergency nature of their operations and services provided. The use of Gift Cards in these types of limited circumstances require a pre-approval from the County Executive, or designee, describing the purpose(s) served by the Gift Cards.

Examples of reasons to request an exemption include programs that use Gift Cards to purchase emergency supplies for children removed from their homes at short notice or to pay for hotels for crime victims needing emergency shelter.

In an unanticipated emergency to where prior approval is not possible, and it is to preserve the general welfare of an individual(s), the Department needs to submit a subsequent exemption request and include a listing of recipients stating full name, contact information, amount, and type of gift card(s) received.

The Controller-Treasurer Department may perform periodic reviews or audits of County programs that have been approved to purchase and distribute Gift Cards.

In order for a Department to be granted an exception to the general prohibition on the purchase of Gift Cards, a Department must submit an exception request to the County Executive, or the Director of Finance, or designee, and the program must meet the standards below:

- 1) Strictly follow the guidelines and internal control procedures agreed upon at the time the exception was granted;
- 2) Under no circumstances, grant the Gift Cards to employees as any kind of incentive or award;



- 3) Use the Gift Cards in the manner specified in the exception. Thus, if the exception is to give the Gift Cards as an incentive to clients for participation in a program, the Gift Cards cannot be used by staff to purchase items required for any activities or events related to the program.
- 4) Departments providing Gift Cards to patients or providers of County Health services must pay particular attention to compliance with unique state and federal regulations related to anti-kickback, referral, and inducement.
- 5) Ensure that the Gift Cards are excludable from the recipients' gross income as defined by the Internal Revenue Service, or that reportable payments are properly reported.
- 6) Use County-authorized procurement methods to purchase the Gift Cards. Preferred procurement methods are purchase order or field purchase order. The County's P-Card Policy specifically prohibits the use of a P-Card for the purchase of Gift Cards or similar product. Departments shall receive separate P-card authorization if that is the only other method available. With each Gift Card purchase request, the Department must attach the exception approval to the supporting documentation packet. To avoid benefits from County business being conferred to employees in the form of cash back, travel rewards, etc., reimbursement requests by employees are not allowed.
- 7) Monitor the validity date of Gift Cards on hand to ensure they are used before their expiration date.
- 8) Upon request, provide supporting documentation to the Controller-Treasurer Department.

If a County program is unable to comply with the above standards, the Department's written request for an exception must include an explanation of why the program cannot meet these standards, including a reference to any state or federal law that prevents the program from complying with these standards, and a list of internal controls the Department would implement if the exception is approved.



If an Agency or Department believes it has an operational need to purchase Gift Cards as the only feasible means to achieve programmatic objectives, the Agency or Department Head will request an exception from the County Executive, or the Director of Finance, or designee, directly. Such an appeal would be in the form of a memorandum that addresses the emergent public purpose and the enumerated factors above. Follow the detailed procedures below.

If approval by the County Executive, or the Director of Finance, or designee, is granted, the Internal Audit Division, or designee, retains the authority to define appropriate internal control procedures. It is the County Agency or Department's responsibility to inform the Controller-Treasurer Department of the approval of an exception granted by the County Executive, or the Director of Finance or designee, and to provide the approved memorandum and internal control procedures.

The Controller-Treasurer Department shall publish and maintain a list of County programs that have been approved to purchase Gift Cards.

Procedures

The following process must be followed to request an exception to this policy:

- 1) The **operating Department's Fiscal Officer and Department Head** must submit the **Exception Request Form** for an exception to the County Executive, or designee. The request must include the following:
 - 8a) Details of the program, including any documentation of approval by the Board of Supervisors, or official with delegated



authority, to make the expenditures that the operating Department is seeking to make by Gift Card;

- 8b) Business justification as to the need for an exception;
 - 8c) Amount and frequency of the Gift Cards expected to be purchased;
 - 8d) Funding source;
 - 8e) Related fund and general ledger accounts to be used;
 - 8f) Forms to be used for approval and disbursement;
 - 8g) Department's proposed internal control procedures;
 - 8h) If applicable, identify why the distribution of Gift Cards cannot meet the Controller-Treasurer Department's program standards as outlined above and provide a list of internal controls the Department would implement if the use of Gift Cards is approved; and
 - 8i) Other relevant information.
- 9) The **County Executive**, or the Director of Finance **or designee**, will review the request to determine if an exception is needed.
- 1a) If the exception is denied, the **County Executive, or the Director of Finance or designee**, will notify the operating Department.
 - 9a) If the exception is approved for policy objectives, the **County Executive, or the Director of Finance or designee**, will refer the matter to the Internal Audit Division to determine whether the operating Department's internal control procedures are adequate for the purchase, storage, and distribution of Gift Cards.
- 10) The **Controller-Treasurer Department** will review the operating Department's request and internal control procedures and provide recommendations for improvement, if any.



- 11) The **operating Department's Fiscal Officer, or designee**, will make the required changes and re-submit the final version of the exception request to the Controller-Treasurer Department.
- 12) The Controller-Treasurer, or designee, will:
 - 12a) Review the final exception request;
 - 12b) Verify that the County Executive, or designee, has approved the use based upon policy grounds;
 - 12c) Validate that adequate controls are in place;
 - 12d) Notify the operating Department in writing that the exception is approved; and
 - 12e) Reiterate to the Department to abide with guidelines.
- 13) The **Controller-Treasurer Department** shall retain a copy of the exception approval and shall publish a list of County programs that have been approved to purchase Gift Cards.

Definitions

For the purposes of this policy, the following definitions apply:

- 1) **"Gift Card"** means a prepaid card or certificate which entitles the holder to receive goods or services of a specified value from the issuer. Gift Cards are also known as gift vouchers, gift tokens, cash cards, store value, benefit cards, etc.

Related Policies

- County of Santa Clara Procurement Card (P-Card) Policy
<https://saecommon.sccgov.org/countypolicy/Procurement-Card-Policy.pdf>



- County of Santa Clara Prohibition on the Purchase of Gift Cards for Employees –

<https://saecommon.sccgov.org/countypolicy/Prohibition-on-the-Purchase-of-Gift-Cards-for-Employees.pdf>

Related Forms and Information

- Exception Request Form -
[url]/sites/policies/FormsrelatedtoPolicies/Program-Gift-Card-Exception-Request-Form-Fillable.pdf

- Controller-Treasurer’s December 14, 2006 Memo regarding Gift cards –
<https://sccconnect.sharepoint.com/sites/controller/Disbursement/Documents/gift-card.pdf>

History

Date	Changes Made
02/17/2022	New Policy (codifies Controller-Treasurer directive of 12/14/2006)
02/18/2022	Policy Uploaded