

DST POLICIES AND PROCEDURES

DST Reference:	OST-POL-5014-ALL
Title:	Charitable Donations Policy
Cross reference:	Not applicable
Chapter:	Legal
Current Effective Date:	December 1, 2009
Revision History:	
Original Effective Date:	December 1, 2009

Background

In a published advisory opinion (“Donations to a Charitable Organization Organized by Members of the General Assembly,” AO-E-07-0100) about legislators and their solicitation for donations of a charitable organization, the State Ethics Commission said:

N.C.G.S. § 138A-32(a) prohibits a covered person . . . from directly or indirectly soliciting anything of value to benefit the legislator or another person (such as the Organization) [defined as nonprofit organization] in return for being influenced in the legislator’s official responsibilities. This provision, therefore, would prohibit a legislator from soliciting donations to the Organization from anyone, including lobbyists and lobbyist principals, or indirectly soliciting those donations, in return for taking a particular legislative action. However, this solicitation of a donation alone would not be a violation of this provision. There would have to be a demonstratable connection between the solicitation and being influenced in the discharge of the legislator’s official responsibilities as a legislator in order for this prohibition to apply.

The State Ethics Commission further opined, “[u]nder certain circumstances, these donations could be an indirect gift to a legislator, legislative employee, or public servant.”

To avoid both indirect gifts and the appearance of indirect gifts to the Department of State Treasurer (“DST”) and to further clarify the manner in which the agency conducts business, the following policy is set forth.

Purpose and Authority

The State Government Ethics Act permits heads of state agencies to develop and implement “in-house educational programs, procedures, or policies tailored to meet the agency’s particular needs for ethics education, conflict identification, and conflict avoidance.” N.C.G.S. § 138A-15. In addition, this Act does not prevent DST “from adopting additional or supplemental ethics standards” applicable to the agency’s operations and consistent with the Act. N.C.G.S. § 138A-41.

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Consistent with the Act, the purpose of DST's ethics policy is to ensure that DST's head and all other covered persons at DST "exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence." N.C.G.S. § 138A-2.

Coverage

This policy extends to the heads of all divisions and their confidential assistants, employees in exempt positions in accordance with N.C.G.S. §§ 126-5(d)(1), (2) or (2a), and any other employees the State Treasurer, Chief of Staff, and General Counsel deem to be "covered" persons.

Charitable Donation Limitations

1. DST shall establish a list of contractors doing business with the agency that (1) have a direct contract with the DST; and (2) do over \$10,000 worth of business during the fiscal year. DST shall update the list every fiscal year, at a minimum. This list shall include the contractor's name and address. Such a list will be developed, maintained, and updated by the Chief Financial Officer in a manner so as to ensure its reasonable accuracy and completeness.
2. As a means to reasonably avoid both an indirect gift and the appearance of an indirect gift, those employees found in the coverage section above shall rely on the list of contractors and not solicit contributions from those contractors found on the list for more than \$150. If the covered employee would like to solicit contributions over \$150 from a contractor on the list, then he or she must seek written approval from the Chief of Staff or his or her designee and the General Counsel or his or her designee.
3. DST shall review the policy with covered employees and inform such employees that a violation of this policy may subject any employee found to have violated the policy to disciplinary action. In addition, DST shall require that covered employees review, on a regular basis, the list of contractors available on DST's intranet site so they are aware of the contractors doing business with DST.
4. DST shall distribute this policy to all covered employees in the agency and require such employees to acknowledge and sign the policy, as set out below.
5. DST shall also incorporate into new employee orientation a process to provide a copy of all documents specified in this policy to each covered employee, and DST shall also require new covered employees to acknowledge and sign the policy, as set out below.
6. DST shall include a provision regarding this policy in all new requests for proposals and invitations to bid through the North Carolina terms and conditions. In addition, DST shall notify current contractors regarding the provisions of this policy.

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Enforcement

Employees who violate this policy shall be subject to disciplinary action, including the possibility of termination.

Revision History

Version/Revision	Date Approved	Description of Changes
1.0	December 1, 2009	New Policy

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Compliance

Immediately after the date of promulgation of this policy or upon hire, whichever is applicable, employees who fall under coverage will be required to date and sign this policy in acknowledgment of its terms. The signed and dated form will be kept in each employee's personnel file. Failure to comply with above policy will be grounds for immediate disciplinary action, up to and including dismissal.

"I hereby acknowledge that I have read the above policy and that I understand it and intend to comply with its terms. I acknowledge that failure to comply with the requirement that I sign this form could result in my dismissal."

Printed Name: _____

Signature: _____

Date: _____

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