

FINANCIAL AFFAIRS

Can the city, using city funds, purchase employees Christmas gifts such as cash, fruit baskets, gift certificates, etc.?

Generally speaking, no. The Attorney General has issued a series of opinions on this and other related expenditures. See Attorney General Opinion Nos. 91-410, 91-411, 93-416, 94-298, 94-317 and 94-397.

The Attorney General has pointed out that analyzing these types of situations requires very careful factual scrutiny. Because of this, if your city is facing any such issue, you should immediately contact your city attorney, or if you are a member of the Municipal Legal Defense Program, contact the League for assistance.

The law in this area is fairly well settled. Article 12, Section V of the Arkansas Constitution prevents municipalities from donating or appropriating money to private corporations, associations, institutions, or individuals.

Further, the public purpose doctrine as recognized by general case law is also applicable. It states that monies may only be spent on items that will benefit the entire public. Pursuant to these principles, the Attorney General has found that the expenditure of such monies is unconstitutional as a donation and does not serve the general public purpose.

In Attorney General Opinion No. 94-397, the Attorney General reviewed those expenditures which he believes are unlawful. They include:

Expenditures for Christmas, birthday or other parties for city employees and family members; traveling expenses of municipal officials' spouses, flowers, gifts and cards for city employees and families; Christmas presents (hams) for employees; employee picnics; and monetary payments to employees for long, faithful service. *Id.* See also Attorney General Opinion Nos. 94-410 and 94-317.