Holiday Guidance

Tis the season! It is the time of year for parties, receptions, and exchanging gifts. Amid the joys of the holiday season, please remember the ethics rules still apply. Here are a few reminders as you enjoy this festive time.

This handout is for information purposes only and is not a substitute for advice from an ethics official. Please check our website for additional ethics guidance and materials.

1. **May employees exchange holiday gifts?**

Generally, you may exchange gifts with colleagues. However, please keep in mind:

- Supervisors and managers may not accept gifts valued at *more than $10* from subordinates. Therefore, holiday gift exchanges must have a maximum value for gifts of $10. *See* 5 C.F.R. § 2635.304.
- You may not accept gifts valued at more than $10 from another federal employee who receives less pay than you unless:
  - There is no supervisor-subordinate relationship *and*
  - There is a personal relationship justifying the gift. *See* 5 C.F.R. § 2635.302(b).
- Any gifts supervisors accept from subordinates must be "non-cash." Gift cards valued at $10 from a specific vendor (e.g., a coffee shop or similar card) are acceptable, but prepaid charge/debit cards (e.g., Visa or MasterCard) are not. *See* 5 C.F.R. § 2635.304(a).
- Subordinates may not pool their contributions to buy a supervisor a holiday gift worth more than $10.
- There is no limit on the value of a gift a supervisor may give to a subordinate; however, supervisors should be cautious to avoid perceptions of favoritism.
- You may accept personal hospitality at the home of a subordinate or someone who earns less money than you. *See* 5 C.F.R. § 2635.304(a)(3).
- If invited to a subordinate/colleague/supervisor/manager's home, you may bring a gift appropriate in type and price to the occasion. *See* 5 C.F.R. § 2635.304(a)(4).

Best Practice: Limit gift items to a value of $10 or less, including gift exchanges, to avoid inadvertently violating these rules.

2. **May contractor employees participate in office gift exchanges?**

Contractor employees may *not* voluntarily participate in holiday gift exchanges.

3. **May I accept a gift from a DOC contractor or other "prohibited source?"**

Generally, you may ***not*** accept gifts from contractors or other "prohibited sources." A

"prohibited source" is a person or an organization made up of a majority of persons who
is seeking official action by, is doing business with, or is regulated by DOC; or
has interests that may be substantially affected by performance or nonperformance of the employee's official duties. However, exceptions to the prohibition on accepting gifts include:

- *De Minimis* Gift. You may accept gifts valued at $20 or less per occasion from a prohibited source; however, there is a $50 cap on what you can accept from that source in the calendar year. *See* 5 C.F.R. § 2635.204(a).

- Personal Relationship. Gifts received based solely on a family relationship or personal friendship are allowable when it is clear that such gifts have *not* been offered because of your official position. Qualifying personal relationships would be those developed prior to a working relationship or based on friendships developed outside of the work setting. *See* 5 C.F.R. § 2635.204(b).

Best Practice: These exceptions are fact specific. Consult an ethics official to determine if your situation meets one of these exceptions.

4. Do I have to report gifts from non-federal sources?

Maybe. It depends on (1) whether you file a financial disclosure report and (2) if the gift is above the "reporting threshold."

If a financial disclosure filer, you must aggregate all gifts that you receive from the same donor that are valued above $192 and, if the total value exceeds $525 in a calendar year, you must report the gifts on your next financial disclosure, *unless* the gifts are from a family member. *See* 5 C.F.R. § 2634.304; 5 C.F.R. § 2634.907.

5. May I accept a gift from a foreign government representative?

While generally the U.S. Constitution prohibits officers and employees from accepting gifts from foreign governments, the Foreign Gifts and Decorations Act provides an exception. The Act allows an employee to accept a gift from a foreign government, tendered and received as a souvenir or mark of courtesy, on behalf of the U.S. Government.

- Those gifts may require reporting using CD-342.
- If the gift is of minimal value (currently $525), it may be personally retained with DOC approval; seek ethics guidance for the approval process.
- You may also accept free attendance to an event hosted solely by a foreign government representative valued at $525 or less. Keep in mind that events hosted at embassies may not always be hosted solely by a foreign government. *See* 5 U.S.C. § 7342.

Best Practice: Gifts from foreign governments present several legal issues. Consult an ethics official to determine if your gift from a foreign government may be accepted.

6. **May I accept invitations to holiday parties from non-government entities or persons?**

It depends. You may only accept free attendance to an event offered because of your government position or by a "prohibited source" (i.e., regulated entities, or entities that seek or do business with DOC) if an exception applies. Some common exceptions at 5 C.F.R. § 2635.204 include:

- Events that qualify as a "widely attended gathering," if you receive advance written approval by your supervisor based on a determination that your attendance is in the interest of the Department (after consulting an ethics official). To receive approval, please complete the Invitation Questionnaire and submit it to EthicsDivision@doc.gov.
- The invitation is motivated by a family or personal friendship, rather than your position.
- The invitation results from business or employment activities of you or your spouse when it is clear that this relationship is the motivation for the offer and it is not enhanced because of your official position.
- The event is open to the public or to all government officers and employees.
- The fair market value for admission to or attendance at the event is $20 or less.

Best Practice: Consult an ethics official to determine if your situation meets one of these exceptions and whether written authorization is required.

7. **May contractors participate in office holiday parties?**

Contractors may participate in office parties on their own time and if the contractor does not charge the time to the government contract. Many contractors have business practices similar to our government ethics rules. Take these rules into consideration before offering contractors gifts or opportunities they may not be able to accept.

Best Practice: If a contractor expresses an interest in attending, consult the appropriate contracting officer for guidance.

8. **May we use appropriated funds to pay for a party?**

Generally, office parties are unofficial events and you may not use appropriated funds to pay for them. You also may not use appropriated funds to purchase or send holiday greeting cards.

9. **May our office serve alcohol or host raffles at our holiday party in a government space?**

Alcohol consumption in government space is generally prohibited; however, GSA permits agency heads to authorize the use of alcohol under certain circumstances. Check with Facilities for the approval process.

Door prizes or drawings have the potential to involve gambling. Gambling may violate Department policy, regulations, and state or municipal laws. Additionally, GSA regulations ban

gambling in buildings that are operated under, or subject to, GSA authorities (e.g., GSA-owned or -controlled buildings). In every instance, participation must be voluntary and may not require a cash donation.

Best Practice: Please consult an ethics official before including these types of activities in your holiday plans.

10. May we host virtual festivities like holiday contests?

Yes, contests and competitions are permissible and are subject to the same ethics rules as traditional festivities. However, please be sure the prizes for any contest do not exceed the $10 value for non-cash gifts (if supervisors participate). As mentioned in question #8, as office parties are unofficial events, you may not use appropriated funds to purchase any prizes offered for the contests.

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