

Information Paper

SUBJECT: Gifts and Gratuities from Outside Sources, 5 C.F.R. § 2635.201-205, and Gifts and Gratuities between Employees, 5 C.F.R. § 2635.301-304

1. "The Standards of Ethical Conduct for Employees of the Executive Branch," which became effective for all executive agencies, including the Department of Defense, on 3 February 1993, state that an employee shall not solicit or accept any gift or other item of monetary value from prohibited sources (generally someone who has an interest in the performance of official Army missions), given because of official position, or given by employees receiving less pay. There are a number of exceptions to the general prohibition.

2. Non-Gifts: Some things are not considered gifts and may be accepted. Some of the more common are:

a. Modest items of food and refreshments, such as soft drinks, coffee, and donuts, offered other than as part of a meal.

b. Greeting cards and most plaques, certificates and trophies.

c. Opportunities and benefits available to the public or generally available to all Government employees or members of the military (for example, a military discount for a movie ticket).

d. Rewards and prizes in contests open to the public.

3. Exceptions: Some things that are gifts may be accepted anyway, under certain circumstances. The exceptions to the general rule are as follows. NOTE: Regardless of any exception, a government employee may not (1) accept gifts in exchange for being influenced in the performance of an official act, (2) solicit or coerce the offering of a gift, (3) accept gifts on such a frequent basis that it looks like the employee is using public office for private gain, (4) accept gifts in violation of any existing law, and (5) accept promotional training from vendors unless the training is related to a Government contract.

a. An employee may accept an unsolicited gift from outside sources having an aggregate market value of \$20 (except cash or investments) or less per occasion, provided the aggregate market value of individual gifts received from any one person shall not exceed \$50 in a calendar year.

b. Gifts based on an outside family or personal relationship.

c. Discounts and similar benefits offered to groups in which membership is not related to Government employment (or "Government discounts" where the same offer is broadly available to the public through similar groups), and certain benefits offered by professional associations or by persons who are not prohibited sources. NOTE: An employee may not accept for personal use any benefit to which the Government is entitled as the result of an expenditure of Government funds.

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d. Awards and honorary degrees that are part of a regular and established program of recognition for meritorious public service. Also includes certain educational scholarships or grants for DoD employees and dependents.

e. Gifts based on outside business or employment relationships.

f. Free attendance (not travel and lodging) provided by the sponsor of a widely-attended gathering, speaking engagement, or other event where the agency has determined its interest in the event.

g. Food, refreshments, and entertainment at certain social events extended by persons who are not prohibited sources, where no one is charged a fee to attend the event. Meals and refreshments in foreign areas provided the market value does not exceed the per diem rate for the foreign area.

h. Unsolicited gifts of free attendance for DoD employees (and spouses) at events sponsored by State or local governments or non-profit, tax exempt civic organizations, where the agency has determined its community relations interests in the event.

i. Gifts accepted under specific statutory authority. The Foreign Gifts and Decorations Act, 5 U.S.C. § 7342, permits acceptance of gifts from foreign governments and international organizations that do not exceed a maximum value (currently \$375.00).

4. Gifts between employees. The general rule prohibits an employee from giving, donating to, or soliciting contributions for a gift to an official superior and from accepting a gift from an employee receiving less pay. Exceptions are as follows.

a. Occasions on which gifts are traditionally given or exchanged. These are items, other than cash, with a value of \$10 or less; food and refreshments to be shared in the office among employees; personal hospitality provided at a residence of a type customarily given (i.e., flowers, bottle of wine); and leave transferred under OPM regulations to an employee other than the immediate supervisor.

b. Special infrequent occasions. An event-appropriate gift for "special, infrequent occasions" (i.e., birth of child, wedding, or serious illness), or occasions that terminate the superior - subordinate relationship, may be accepted. All solicitations for contributions must be voluntary and may not seek more than \$10 per contributor. The gift itself may not exceed \$300 (Joint Ethics Regulations 2-203).

c. Voluntary contributions of nominal amounts for the meal and attendance of the guest of honor at an official function like a dining-in.

ACTION OFFICER:
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