

HOLIDAY GUIDANCE

A Gift For: Department of Defense Personnel¹
From: DoD Standards of Conduct Office, Office of General Counsel
2016

The holiday season is traditionally a time of parties, receptions, and exchanging gifts. However, the Standards of Conduct still apply! To ensure you do not unwittingly violate the standards, a brief summary of the applicable rules are set out below. If you have any questions, please contact your organization's ethics counselor.

GIFTS

General Rule: Federal personnel may not accept gifts offered because of their official positions or offered by a “prohibited source.” A prohibited source is anyone who:

- Seeks official action by the employee’s agency;
- Does business or seeks to do business with the employee’s agency;
- Conducts activities regulated by the employee’s agency;
- Has interests that may be substantially affected by the employee’s performance of duty; or
- Is an organization composed of members described above?

Gifts Defined: Gifts include most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely attended gatherings.

Lobbyist Gift Ban: Except in very limited instances, *full-time civilian political appointees may not accept gifts from registered lobbyists or lobbying organizations.* Political appointee includes all full-time non-career Presidential appointees, non-career Senior Executive Service (SES) appointees, and non-career appointees excepted from the competitive service by reason of being of a confidential or policymaking character (e.g., Schedule C, politically appointed term SES or equivalent).

Gifts and Gift Exchanges Between Supervisor and Subordinate: Supervisors may **not** accept gifts from subordinates or Federal personnel who receive less pay.

- Exception #1: On an occasional basis, including any occasion on which gifts are traditional given or exchanged, supervisors may accept gifts (other than cash) valued at **\$10 or less** from a subordinate.
- Exception #2: Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.

¹ Including Guidance on Receptions, Parties, and Gift Exchanges Involving Co-workers, Contractors, and Supervisors

- Exception #3: If a subordinate is invited to a social event at the supervisor's residence, the subordinate may give the supervisor a hospitality gift of the type and value customarily given on such an occasion.

Gifts and Gift Exchanges Between Peers and Coworkers: There are no legal restrictions on gifts given to peers or subordinates, however, common sense (and good taste) should apply.

Gifts and Gift Exchanges That Include Contractor Personnel:

1. Gifts from contractors: may never exceed \$20.
2. Gifts to contractors: Check with the contractor, since many contractors have codes of ethics that are similar to Federal rules and therefore may preclude the acceptance of gifts.

PARTIES, OPEN-HOUSES, AND RECEPTIONS

Parties, Open-Houses, and Receptions Hosted by Non-Prohibited Sources:

1. Federal personnel may attend social events sponsored by non-prohibited sources if none of the guests are charged admission (e.g. most holiday receptions and open-houses).

Parties, Open-Houses, and Receptions Hosted by Prohibited Sources Including

Contractors: The general rule is that Federal personnel may **not** accept gifts from prohibited sources, including contractors and contractor personnel.

- Exception #1: Federal personnel may accept gifts (other than cash) not exceeding **\$20**, as long as the total amount of gifts that the personnel accepts from that source does not exceed \$50 for the year.
- Exception #2: Federal personnel may accept gifts that are based on a **bona fide personal relationship**. (Such personal gifts are actually paid for by the friend/contractor employee rather than the contractor.)
- Exception #3: Federal personnel may generally attend an open-house or reception, and accept any gift of refreshments if the ethics official determines that the event is a widely attended gathering, and the employee's supervisor determines that it is in the agency's interest that the employee attends.
- Exception #4: Federal personnel may accept invitations that are open to the public, all Government employees, or all military personnel.
- Exception #5: Federal personnel may accept invitations offered to a group or class that is not related to Government employment. (For example, if the building owner where your office is located throws a reception for all of the tenants of the building.)

- Exception #6: Refreshments consisting of soft drinks, coffee, pastries, or similar refreshments not constituting a meal may be accepted since they are not considered to be a gift.
- Exception #7: Gifts based on a spouse's outside business or employment relationship may be accepted. For example, a Federal employee's spouse works at ABC. The Federal employee may accompany the spouse to the ABC employee's holiday party since the invitation is to the spouse as an ABC employee, and not to the Federal employee because of his or her position.

Remember: Federal personnel may not accept a gift from an outside source, even where one of the exceptions applies, if the gift was solicited or is given in return for being influenced in the performance of an official act (this is called a bribe).

Parties, Open-Houses, and Receptions Hosted by Other Federal Personnel:

1. Invitation from your subordinate: You may accept personal hospitality at the residence of a subordinate that is customarily provided on the occasion.
2. Invitations from your boss or a co-worker: No restrictions. Enjoy!

OTHER IMPORTANT INFORMATION

1. You may not solicit outside sources for contributions for your party. This includes funds, food, and items.
2. Generally office parties are unofficial events, and you may not use appropriated funds to pay for them.
3. Beware that door prizes or drawings could involve gambling, which would require compliance with state statutes and Federal regulations. DoD regulations prohibit gambling in the Pentagon and on Federal property or while in a duty status. GSA regulations ban gambling in GSA-owned or controlled buildings.

4. You may not use appropriated funds to purchase and send Greeting cards.

5 As a general rule, participation at holiday social events is personal, not official, and therefore use of government vehicles to/from such events would not be authorized. However, there may be very limited circumstances in which a senior official or officer is invited to attend because of his official position and where he will be performing official functions at the event as opposed to being invited because he or she is an important person. In these situations, use of a government vehicle may be authorized, subject to normal "home-to-work" transportation restrictions. Note, however, that it would be difficult, if not impossible, to justify the use of a government vehicle when a function involves one's immediate staff/office or events comprised of personal friends. All requests for use of a government vehicle to attend holiday social events should be reviewed on a case-by-case basis.

Rules Applicable to Contractor Employees: Many contractors have rules of ethics or business practices that are similar to the Federal rules. Take these rules into consideration before offering contractor employees gifts or opportunities that they may not be able to accept.

EXAMPLES

1. **Office Party (non-duty time):** Your office is having a holiday party during the non-duty lunch hour or after work and asks each person attending to pay \$5 to cover refreshments and to bring a pot luck dish or dessert. Contractor employees may attend, pay \$5, and bring food because these contributions are not considered to be gifts, but a fair share contribution to the refreshments. **Remember**, contributions must be voluntary, so soliciting must be done with care to ensure there is no pressure. Also, ensure this is non-duty time for the contractor employees as well.

2. **Office Party (duty time):** What about a party that cuts into duty hours? The Government usually may not reimburse a contractor for its employees' morale and welfare expenses. The contractor has to decide whether to let its employees attend and forego payment for their time, or insist that they continue to work. If contractor employees are allowed to attend, the contractor must also decide whether it would pay its employees for that time, even though the Government would not reimburse it. The contractor does not have to pay its employees for that time. Consult the contracting officer and ethics counselor before inviting contractor employees to a function during their duty hours.

3. **Gift to Supervisor:** Your office wants to give the office supervisor a gift. However, you can't solicit other employees for contributions to a group gift. (Group gifts are permitted only for special, infrequent events such as retirements.) As for contractor employees, you can't ask them to contribute anything, as it is considered soliciting a gift from a prohibited source. Even if contractor employees volunteer to contribute cash, it may not be accepted because the \$20 exception does not apply to cash.

4. **Exchange of Gifts:** Your office, including the contractor employees, wants to exchange gifts at the party. . If gifts are chosen at random or traded, there are no monetary limits because the purchaser of the gift does not know who will eventually receive it. Gift exchanges in which employees purchase gifts for other employees whose names they drew at random are more troublesome. Where contractor personnel are involved, a \$20 limit applies. Where an employee may buy a gift for a superior, the \$10 limit is prudent.

5. **Private Parties (Federal Personnel):** One of your Government co-workers is having a party at his house and has invited office personnel, including the contractor employees. Providing food and refreshments to a contractor employee does not violate Government ethics rules. The contractor employees may want to check with their contractor's rules before accepting (since many contractors have similar ethics rules). If the contractor employee brings a hospitality gift, it may not exceed \$20.

6. Private Parties (Contractor Employee): If a contractor employee is having a personal party and invites Government personnel, normally Government personnel may attend since the contractor is not paying for the event.

7. Private Parties (Contractor-sponsored): If the contractor is sponsoring an employee's party or open-house, and you are invited by the contractor (or an employee of the contractor), you may not attend unless one of the exceptions applies. For example, under the \$20 rule, if the average cost per guest does not exceed \$20, Government personnel may accept. (However, if the cost per guest is \$40, the "I won't eat more than \$20 worth of food." defense will not work.) Also, Government personnel may accept if the invitation is based on a bona fide personal relationship with the contractor employee. Finally, if the party qualifies as a widely-attended gathering (involving a large number of persons representing a diversity of views) and the employee's supervisor determines that it is in the agency's interest for the employee to attend, the employee may enjoy the food, drink, and entertainment. Government personnel who desire to take a gift to show their appreciation for the hospitality should consult with the contractor employee to determine if he or she may accept such a gift in accordance with the contractor's rules of ethics.

Have a wonderful holiday season.

Please remember this guidance only highlights common questions
and does not cover every situation.

If you are unsure, contact your ethics counselor.