



DEPARTMENT OF THE AIR FORCE
WASHINGTON DC 20330

OFFICE OF THE GENERAL COUNSEL

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MEMORANDUM FOR DISTRIBUTION C

FROM: SAF/GCA & AF/JAC

SUBJECT: Air Force Ethics Office Advisory – 2021 Holiday Parties and Gifts Guidance

The Headquarters Air Force Ethics Team wishes you a very happy holiday season!

This time of year marks parties, receptions, and exchanging of gifts. To help ensure you do not unwittingly violate the *Standards of Ethical Conduct for Executive Branch Employees*, a brief summary of the applicable rules are set out below pertaining to: 1) gifts, 2) parties and events, 3) contractor personnel, 4) fundraising, and 5) other helpful information. Questions regarding the guidance contained herein should be directed to SAF/GCA at saf.gca.ethics.workflow@us.af.mil or to AF/JAC at af.jacf.all@us.af.mil.

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 (or non-performance) of duty; or
- Is an organization whose membership is composed of persons described above.

Gifts Defined: Gifts include any item of value. Examples of gifts include free attendance at dinners and other meals, receptions, sporting events, and widely-attended gatherings.

Gifts to a Supervisor: Supervisors **may not** accept gifts from subordinates or Federal personnel who receive less pay. **Exceptions:**

- On an occasional basis, including those on which gifts are traditionally given (including major holidays), supervisors may accept non-cash gifts valued at \$10 or less from a subordinate (pooled gifts to a supervisor cannot exceed \$10).
- Supervisors and subordinates may accept food and refreshments shared in the office and may share in the expenses of an office party.
- 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 (e.g., host/hostess gift). The \$10 limit delineated above is not an absolute cap on such a hospitality gift.

Gifts and Gift Exchanges between Peers and Co-workers: There are no legal restrictions on gifts given to peers or subordinates; however, common sense (and good taste) should apply. Supervisors should avoid any appearance of favoritism.

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

PARTIES, OPEN-HOUSES, AND RECEPTIONS

Office Parties:

- Contributions must be voluntary. Do not have a supervisor solicit for contributions.
- Special considerations apply if a contractor's employees will be invited. See the examples below and consult with your contracting officer and Ethics Counselor.

Holiday Parties Outside the Office:

- Personnel generally may attend holiday parties hosted personally by their superiors, peers, or subordinates.
- There is not a "holiday party exception" to the ethics rules for accepting free attendance at events hosted by contractors and other non-Federal organizations – read the examples below. Some events may require written approval – check with your Ethics Counselor if you have questions.

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

- Federal personnel **may** accept non-cash gifts not to exceed \$20, as long as the total amount of gifts accepted from that source does not exceed \$50 for the year.
- Federal personnel **may** accept gifts that are based on a bona fide personal relationship.
- 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 (often times referred to as a "WAG"), and the employee's supervisor determines **in writing** that it is in the agency's interest that the employee attend.
- Federal personnel **may** accept invitations that are open to the public, all Government employees, or all military personnel. This exception would not apply to discounts to subgroups based on rank, position, or organization.
- 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.)

- 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. (Alcohol does not fall into this exception.)
- 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 holiday party since the invitation is to the spouse as an ABC employee, and not offered to the Federal employee because of his or her official 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 constitutes a bribe).

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.

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 potluck 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. 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.

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 will pay its employees for that time, even though the Government will 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.

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

Exchange of Gifts: Your office, including the contractor employees, want 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.

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.

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 (*i.e.*, the contractor employee is paying).

Private Parties (Contractor-sponsored): If the contractor is sponsoring an employee 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. (If the cost per guest is \$40, the "I won't eat more than \$20 worth of food" defense will not work.)

FUNDRAISING

As a general rule, Federal personnel may not engage in fundraising in an official capacity, unless authorized by statute, executive order, regulation, or agency determination. One such exception is "by our own, from our own, for our own" internal fundraisers. Under this exception, you may have a fundraising event (*e.g.* bake sale) within the workplace to raise funds to offset the total cost for the holiday party. You may only hold such a sale in your office area, as opposed to a public area, and everyone who is working in the bake sale must be in a non-duty status (leave or pass, lunch break, etc.). You must also comply with AFI 36-3101, *Fundraising*, and any local policies pertaining to fundraising, which may limit where you may hold the fundraising event, how you may publicize it, and who may authorize it. You may not solicit outside sources for contributions for your party.

OTHER IMPORTANT INFORMATION

You **may not** solicit outside sources for contributions for your organizational holiday party. This includes funds, food, entertainment, door/raffle prizes, and party materials.

Generally, office parties are unofficial events and you **may not** use appropriated funds to pay for them. Non-appropriated "unit morale funds" may be available for such events.

Depending on how they are structured, 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. The General Services Administration (GSA) regulations ban gambling in GSA-owned or controlled buildings.

You **may not** use appropriated funds to purchase and send holiday greeting cards.

As a general rule, personnel participate in holiday social events in a personal, not official, status. 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 their official position and he or she will be performing official functions at the event (such as presenting information on behalf of the Agency), 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 composed 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.

Lastly, we cannot forget about COVID-19 related restrictions. Thus, build into your holiday plans compliance with DAF and local meeting restrictions (*e.g.*, DoD Chief Management Officer memorandum “COVID-19 – Gatherings/Holiday Events/Ceremonies on the Pentagon Reservation” dated 24 November 2020), and flexibility if those restrictions change. DepSecDef memorandum “Updated Coronavirus Disease 2019 Guidance Related to Travel and Meetings” of 24 September 2021, limits gatherings to 50 persons (unless USecAF permission is obtained) who can provide proof of full vaccination. If holiday events are virtual this year, just remember that the *Standards of Conduct* provisions discussed herein apply to virtual events and that the gift limits/restrictions apply to gifts, meals, flowers, and other items that are ordered online and delivered to personal residences. Finally, remember that any gift to charity based upon the “designation or recommendation” of the recipient employee is an indirect gift imputed to the employee, per 5 CFR 2635.203(f)(2).

Have a wonderful holiday season! Please remember this guidance highlights common questions and does not cover every situation in which you may encounter.

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