

HOLIDAY GUIDANCE



FOR: Department of Defense Personnel
FROM: DoD Standards of Conduct Office,
Office of the General Counsel

The holiday season is traditionally a time of parties, receptions, and gift exchanges. However, ethics rules still apply! To ensure you do not inadvertently violate the ethics rules, or other related laws and regulations, a brief summary of the applicable rules and some common situations you might encounter is set out below.

If you have any questions, please contact your organization's Ethics Counselor.

Best wishes from SOCO for a wonderful holiday season!

QUICK REFERENCE

- Office Parties:
 - Contributions must be voluntary. Don't have a boss 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 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.
- Gifts
 - Gifts from contractors and other prohibited sources are generally limited to non-cash items worth \$20 or less.
 - Gifts from subordinates are generally limited to non-cash items worth \$10 or less.

- Be careful when pooling contributions for a holiday gift for a supervisor... it still cannot exceed \$10!
- Traditional hospitality or hostess gifts may exceed \$10 when the boss is hosting a party at his/her home (e.g. flowers, a bottle of wine). However, good judgement and reason apply to avoid any appearance of currying favor.
- There is no limit on the value of a gift a supervisor may give to subordinates, but good taste and avoiding any appearance of favoritism should be taken into account.
- The President's Ethics Pledge further limits political appointees from accepting most gifts offered by a lobbyist or lobbying organization.

GENERAL PRINCIPLES

- You may not solicit outside sources (which includes contractor-employees working in your office) for contributions to your party. This includes solicitations for funds, food, and items.
- Holiday parties are unofficial events, and you may not use appropriated funds to pay for them.
- You may not use appropriated funds to purchase and send greeting cards.
- 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. Door prizes or drawings where individuals purchase a chance to win something constitute gambling.
- 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. There may be limited circumstances that justify the use of a Government vehicle, such as when a senior official is invited to attend the event because of his/her official position and where the official will be performing an official function. Note 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.
- Many contractors have ethics rules and policies that are similar to the Federal rules. Consider these rules before offering contractor-employees gifts or opportunities that they may not be able to accept.

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

Lobbyist Gift Ban (Political Appointees Only): Except in very limited instances, *civilian political appointees may not accept gifts from registered lobbyists or lobbying organizations.* Political appointees are 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). Most of the gift exceptions to the general prohibition on gift acceptance do NOT apply for gifts to political appointees from a lobbyist/lobbying organization, unless the organization is a 501(c)(3) non-profit.

Gift Exchanges Between Supervisors and Subordinates: Absent an applicable exception, supervisors may **not** accept gifts from subordinates or Federal personnel who receive less pay. Below are exceptions that may apply for holiday gifts and events:

- Exception #1: On an occasional basis, including any occasion on which gifts are traditionally 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.
- Exception #3: When a supervisor invites a subordinate 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, and supervisors should avoid any appearance of favoritism toward a particular subordinate.

Gifts and Gift Exchanges That Include Contractor Personnel:

- *Gifts from contractors:* Federal personnel are prohibited from soliciting gifts from contractor employees. Furthermore, as a general rule, Federal employees may not accept unsolicited gifts from contractor-employees. Contractor-employees are considered prohibited sources since their employers currently do business with the Government. Below are two common exceptions that apply for holiday gifts and events:
 - Exception #1: Federal personnel may accept gifts (other than cash) not exceeding **\$20**, as long as the total amount of gifts that the individual accepts from that source (the contractor-employee and the employer) does not exceed \$50 for the year.
 - Exception #2: Federal personnel may accept gifts that are based on a **bona fide personal relationship**. Personal relationships are generally limited to family and close personal friendships arising outside the work place. A key indicator of whether a gift is based on a personal relationship is whether the gift is paid for or reimbursed by the contractor employer. However, if the contractor employer gives a gift or invitation to its employee and the employee, without direction from the company, then re-gifts to or invites a Federal official based upon a family or close personal relationship, the personal relationship exception may still apply.
- *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

Raising Funds for Office Holiday Parties: 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 (i.e., bake sale) within the workplace to raise funds for the holiday party. You may only hold such a sale in your office area, or areas primarily occupied by the members of the group who will benefit (e.g. prospective holiday party invitees/attendees). 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 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.

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.

- Exception #1: Federal personnel may generally attend an open-house or reception, and accept any gift of refreshments if an Ethics Counselor 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. This determination must be in writing in advance.
- Exception #2: Federal personnel may accept invitations to events that are open to the public, all Government employees, or all military personnel.
- Exception #3: 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 #4: Federal personnel may accept modest refreshments, such as soft drinks, coffee, pastries, or similar refreshments that are not served as part of a meal.
- Exception #5: Federal personnel may accept gifts based on a spouse's outside business or employment relationship. For example, a Federal employee's spouse works for ABC Corp. The Federal employee may accompany the spouse to the ABC Corp's holiday party. The invitation is to the spouse as an ABC Corp employee, and not to the Federal employee because of his or her Federal 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.

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

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

COMMON 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 or solicitation of gifts, but rather merely an attendee contributing their fair share of the costs of the event that they are attending. **Remember**, contributions must be voluntary, so soliciting must be done with care to ensure there is no pressure or appearance of pressure. Also, be sure to verify that the time contractor-employees spend at the party does not get billed to the Government.

2. **Office Party (duty time):** What about a party that cuts into duty hours? In addition to the rules in the example above regarding solicitation and contributions by Federal employees, as a general rule, the Government may not reimburse a contractor for morale and welfare expenses. The contractor has to decide whether to let its employees attend and forego payment for their time, or direct that they continue to work. Consult the contracting officer and Ethics Counselor before inviting contractor-employees to a function during their duty hours.

3. **Exchange of Gifts:** Your colleagues, including contractor-employees, want to exchange gifts at the office holiday party. Gift exchanges in which employees purchase gifts for other employees whose names they drew at random may create situations where a subordinate is purchasing a gift for a superior. If contractor personnel participate in the gift exchange, a \$20 limit applies. Where an employee may buy a gift for a superior, a \$10 limit applies. The best practice when organizing the gift exchange is to tell participants to limit gifts to non-cash items with a value of \$10 or less.

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

5. **Private Parties (Contractor-Sponsored):** If the contractor is sponsoring their 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 discussed above 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 and no other exception applies, the Federal employee would have to pay for the meal in order to attend the event.

Please remember that this guidance highlights the common ethics issues we encounter during the holiday season. It does not cover every situation. For advice tailored to your particular circumstances, contact your Ethics Counselor.