

INFORMATION PAPER

AFZC-JA-AL

15 September 2001

SUBJECT: Gifts from Outside Sources; Solicitation of Gifts by Government Employees

1. The purpose of this memorandum is to provide information on the ethical rules relating to gifts from outside sources and solicitation of gifts by government personnel.
2. The Joint Ethics Regulation (JER), DoD Dir. 5500.7-R, prohibits federal employees from, directly or indirectly, soliciting or accepting a gift from a prohibited source, or a gift that is given because of the employee's official position.
 - a. "Gift" is broadly defined by the JER. A gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or any item having a monetary value. It includes services, as well as gifts of training, transportation, local travel, meals, lodging, etc. A gift does not include the following:
 - (1) Modest items of food and refreshment, such as soft drinks, coffee and donuts, offered other than as part of a meal;
 - (2) Greeting cards and items of little intrinsic value, such as plaques, certificates and trophies, which are intended solely for presentation;
 - (3) Loans from banks or other financial institutions on terms available to the public;
 - (4) Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees or all uniformed military personnel;
 - (5) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee's entry is required as part of official duties;
 - (6) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer;
 - (7) Anything that is paid for by the Government or is secured by the Government under Government contract. However, any benefit earned on the on the basis of Government-financed travel (i.e. frequent-flier miles) belongs to the Government and not the employee.
 - (8) Any gift accepted by the Government under specific statutory authority;
 - (9) Anything for which market value is paid by the employee.

AFZC-JA-AL

SUBJECT: Gifts from Outside Sources; Solicitation of Gifts by Government Employees

b. "Prohibited source" is defined as any person or organization who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be affected by employee's official duties;

3. The JER contains exceptions to the general prohibition against Government employees accepting or soliciting gifts given by prohibited sources or given because of the employee's official position. Relevant exceptions include the following:

a. Gifts of \$20 or less. An employee may accept an unsolicited gift with a market value of \$20 or less, per occasion, provided the aggregate value of gifts received from one person shall not exceed \$50 in a calendar year. This exception does not apply to gifts of cash or other financial instruments.

b. Gifts based on a personal relationship. An employee may accept a gift given under circumstances that make it clear that the gift is motivated by a family relationship or personal friendship, and not the employee's official position.

c. Gifts based on outside business or employment relationships. An employee may accept meals, lodging, transportation and other benefits resulting from:

(1) business or employment activities of employee's spouse when it is clear that such benefits have not been offered because of the employee's official position;

(2) outside business or employment activities of the employee, when it is clear that such benefits have not been offered because of official status.

d. Widely attended gatherings and other events. An employee may accept a gift of free attendance, provided by the sponsor of an event, when the employee is speaking or presenting information at the event. In addition, an employee may accept a gift of free attendance at a widely attended conference or event, when there is an agency determination that the employee's attendance will further agency programs and operations.

e. Social invitations from persons other than prohibited sources. An employee may accept food, refreshments and entertainment, not including travel and lodging, at a social event, provided that the invitation is not from a prohibited source, and no fee is charged to any person in attendance.

AFZC-JA-AL

SUBJECT: Gifts from Outside Sources; Solicitation of Gifts by Government Employees

f. Awards. An employee may accept gifts, other than cash, with an aggregate market value of \$200 or less if such gifts are a bona fide award or incident to a bona fide award that is given for meritorious public service or achievement. Gifts with a value in excess of \$200 may be accepted upon a written determination by the agency ethics counselor that the award is part of an established program of recognition where selection of award recipients is made pursuant to written standards.

g. Gifts from a foreign government. The Foreign Gifts and Decorations Act, 5 U.S.C. 7342, allows Government employees to accept gifts from a foreign government in the following situations:

(1) Employees may accept a gift of “minimal value” from a foreign government. Minimal value is presently defined as \$260 or less, based on retail value in the United States. The employee receiving the gift has the burden of proving that the gift is of minimal value.

(2) When the gift offered by the foreign government is more than the minimal value, an employee may accept the gift, if it appears that refusal would likely cause offense or embarrassment, or otherwise adversely affect the foreign relations of the United States. An employee accepting a gift under this circumstance must accept the gift on behalf of the United States, and upon acceptance the gift becomes the property of the United States. Department of the Army personnel must report and deposit such gifts with the Personnel Command.

4. The JER and AR 1-100 prohibit the solicitation of gifts from outside sources by soldiers, civilian employees and family members. Unit commanders may not solicit local businesses, individuals or private organizations to raise funds, gifts or goods to support unit or installation events. As a general rule, only MWR commercial sponsorship personnel at the Directorate of Community Activities (DCA) are authorized to solicit gifts from commercial sources. Contact DCA for information regarding MWR support.

5. Questions may be directed to the Office of the Staff Judge Advocate, Administrative Law Division, at 526-0618.