

Information Paper

1. **SUBJECT:** Guidelines for Widely attended gatherings.

2. **REFERENCES:**

5 U.S.C. § 2635.204 (g)(2)

3. **PURPOSE:** To provide information concerning the widely attended gatherings rule.

4. **KEY CONCEPTS:**

a. Even though acceptance of a gift may be permitted by one of the exceptions contained in § 2635.204 (a) through (l) of this section, it is never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source or because of his official position.

b. Under the widely attended gathering rule set forth in § 2635.204 (g)(2), an employee may accept free attendance at an event if all the following five criteria are met:

1) It is expected that a large number of persons will attend the event.

- Spouses and guests *may* be counted in determining whether a large number of persons is expected to attend.
- With regard to how many people would be considered a “large” number of persons, there is a 19 Mar 96 DoD/GC-SOCO memo (subject “DoD Employee Participation in Sporting Events”) which states that 20 people can be considered a large number of persons. Also, there is a 13 Aug 98 Information Paper by the Army Standards of Conduct Office (subject: “Free Attendance at Seminars, Conferences, and Similar Functions”) that says a large number means “at least 20 or more individuals.”

2) It is expected that persons with a diversity of views or interests will be present at the event. This requirement can be satisfied:

- If the event is open to members from throughout the interested industry or profession, OR
- If those in attendance represent a range of persons interested in a given matter, OR
- If there is *otherwise* a diversity of views or interests present.

3) The agency designee has determined that the employee’s attendance will further agency programs or operations (orally or in writing). Examples include promoting community relations, and providing an opportunity for the exchange of views and information between leaders within the agency and leaders within a defense-related industry or profession. A 19 Mar 96 DoD/GC-SOCO opinion recognizes the “opportunity to exchange ideas” with a “wide range of persons interested in a given

matter” as a valid basis for accepting a gift of free attendance under the widely attended gathering rule.

4) The cost of the event for employees who attend (& their spouses/guests) will be paid for:

- By the sponsor of the event, OR
- By someone other than the sponsor (for example, by a contractor where the event is sponsored by an association), if either of the following is true:
- The company or organization that pays the cost of the employee’s attendance does not pick which employee it will pay for (for example, a company buys five tickets and gives them to the sponsor of the event, which then selects the five government employees who will be offered those free tickets), OR
- More than 100 people are expected to attend the event, and the gift of free attendance has a market value of \$335 or less (or \$167.50 or less per person if the employee’s spouse/guest will also receive free attendance). Spouses and guests *may* be counted in determining if 100 people are expected to attend.

5) If the employee’s duties can substantially affect the interests of the person or company who invited, and is paying for, the employee (or the interests of a **majority** of the members of an **association** that invited, and is paying for, the employee), then the employee may not accept free attendance unless there is a written finding by the employee’s Agency Designee that the government’s interest in the employee’s participation outweighs the concern that the gift of free attendance may (or may appear to) improperly influence the employee in the performance of his duties.

c. Spouses & Guests. Under the widely attended gathering rule, an employee may accept free attendance for his or her spouse or guest if: (1) others in attendance at the event will generally be accompanied by a spouse or guest, and (2) the invitation to the spouse/guest is from the same person who invited the employee.

d. Free attendance. Under the widely attended gathering rule, one may accept “free attendance” at an event.

1) Free attendance includes: (1) food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event, and (2) the waiver of all or part of a conference or other fee.

2) Free attendance does not include: (1) travel expenses, (2) lodgings, (3) entertainment collateral to the event, or (4) meals taken other than in a group setting with all other attendees.

e. Sporting events. Here are four items of guidance on the application of the widely attended gathering rule to attendance at sporting events.

1) If there is an event or gathering that qualifies as a "widely attended gathering" (WAG) in addition to (i.e., before or after) the round of golf, free attendance at that event or gathering may be accepted under the WAG rule. However, the costs of playing golf (e.g., greens fees and golf cart) may not be accepted under the WAG rule.

2) If there is a gathering of people that takes place at a sporting event, such that people can watch the sporting event while at the gathering (a gathering in a luxury box or party deck at a baseball stadium, for example), and the gathering meets the requirements of the WAG rule, then free attendance may be accepted under that rule, and the fact that the gathering is at a sporting event does not change this result.

3) If a group of people will sit together in the seats at a sporting event (such that they can only really interact with the people immediately around them), then the WAG rule cannot be used to permit a government employee to accept free attendance at the event and sit with this group of people.

4) Example: A professional golf tournament will be held at a golf course at a country club. The cost of admission to the tournament is more than \$20 (and may be a substantial amount). The admission cost enables one to watch the golfers competing in the tournament, but does not permit one to play golf. A company will have a hospitality tent at the golf course during the tournament. To get access to the hospitality tent, one must be admitted to the golf course (either by paying the cost of admission or by using a complimentary ticket). The company has invited a number of people to attend a social gathering in its hospitality tent during the golf tournament. When in the hospitality tent, one cannot see the golfers playing golf.

An Air Force employee has been invited to attend the social gathering in the hospitality tent. Thus, the gift consists of free attendance at the social gathering and free admission to the golf tournament (since one has to enter the golf course in order to physically get to the hospitality tent). It has been determined that the employee may, under the widely attended gathering rule, accept free attendance at the social gathering in the hospitality tent. Of course, it is possible for the Air Force employee to attend the social gathering in the hospitality tent and not watch any of the golfers play golf before or after attending the social gathering. It is also possible for the Air Force employee to watch the golfers play golf before or after attending the social gathering.

If the employee accepts the invitation and spends a reasonable amount of time furthering the AF's interest by socializing at the widely attended gathering, it is permissible for the employee to also spend some time watching the golfers play at the golf tournament, either before or after attending the social event. We trust Air Force officials who attend a social function at a sporting or entertainment event to understand

that their primary function is to further AF interests. They do so by interacting with the diverse group, not by simply watching the sporting event or entertainment attendant to the function. The fact that they may also have an opportunity to view the sporting event without the group is an incidental benefit that does not preclude the applicability of the widely attended gathering exception.

Note: The Air Force General Counsel's Office (SAF/GCA) informally concurred in the above four items of guidance on 9 Feb 06.

e. Charitable fundraising events. For application of the rule to these events, see OGE Informal Advisory Opinion 99 X 2, March 15, 1999, and OpJAGAF 1998/103, October 9, 1998.

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