



Federal Aviation Administration

Memorandum

Date: December 11, 2009

To: FAA Employees

From: Senior Managing Attorney for Ethics, AGC-90

Prepared by:

Subject: ANNUAL HOLIDAY GUIDANCE FOR FEDERAL AVIATION
ADMINISTRATION EMPLOYEES

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

The holiday season is traditionally a time of parties, receptions, and exchanging gifts. However, even at the Holiday Season, the Standards of Conduct apply. To ensure you don't unwittingly violate the standards, a brief summary of the applicable rules is set out below. If you have any questions, please contact your Headquarters, Region, or Center ethics counselor.

General Rule

Federal personnel may not accept gifts offered because of their official positions or offered by a "prohibited source." A prohibited source is any one 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?

Agency Policy

"It is a far better practice both for the agency and our employees to simply refuse any offered gift. Particularly when the entity offering the free meal or camera or training or transportation is an FAA contractor or prospective contractor or an entity regulated by the FAA, the answer should be a polite refusal or at most an offer (that is accepted) to pay for the full market price of

the gift. It is not worth an employee's career to accept a free dinner nor is it worth tarnishing the agency's image." Quote from "Just Say No" Agency Memo dated October 8, 2009

Lobbyist Gift Ban: *Full-time political appointees may not accept gifts from registered lobbyists or lobbying organizations.* For purposes of the lobbyist gift ban, "gifts" are most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely attended gatherings. Political appointee includes 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 of a confidential or policymaking character (e.g., Schedule C, politically appointed term SES or equivalent).

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

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

Here are some exceptions to the rule. **Note:** If you are involved in official matters that could affect the interests of the gift offeror, you should not look to use any of the exceptions, even during the holidays. Instead, you should remember that it is always prudent to say "no, thank you" or, of course, pay the market value of the gift.

- a. Exception #1: Federal employees may accept gifts (other than cash) valued at or below **\$20** per occasion, as long as the total amount of gifts that the personnel accepts from that source does not exceed **\$50** for the year.
- b. Exception #2: Federal employees may accept gifts that are based on a **bona fide personal relationship**.
- c. Exception #3: Federal employees may generally attend an open-house or reception and accept any gift of refreshments if – (1) it is a **widely-attended gathering**, (2) it has been determined by the agency that it is in the agency's interest that the employee attends, and (3) there is no pending matter that the employee or his/her organization is participating in that involves the sponsor of the event. Consult your ethics counselor for guidance.
- d. Exception #4: Federal employees may accept invitations, even from contractors, that are open to the public or all Government employees, not just FAA or the customers of the contractor.
- e. Exception #5: Federal employees 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).

- f. **Exception #7:** Outside business or other relationship results in attendance at an event. For example, a Federal employee's spouse works at SAIC. The Federal employee may accompany the spouse to the SAIC employee's holiday party since the invitation is to the spouse as an SAIC employee, and not to the Federal employee because of his or her position.
- g. **Exclusion to the Gift Rule:** Light 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.

Parties, Open-Houses, and Receptions Hosted by Other FAA Employees:

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!

Gifts and Gift Exchanges between Federal Employees:

1. **General Rule:** Supervisors may **not** accept gifts from subordinates or Federal employees who receive less pay.
 - a. **Exception #1:** During holidays, which occur on an occasional basis, supervisors may accept gifts (other than cash) of **\$10 or less** from a subordinate.
 - b. **Exception #2:** Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.
 - c. **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.
 - Please note, there are no legal restrictions on gifts given to peers or subordinates, however, common sense should apply.

Gifts and Gift Exchanges That Include Contractor Employees:

1. Gifts from contractors, even during the holidays, may not 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.

Other Important Information:

1. You may not solicit prohibited 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. You may not use appropriated funds to purchase Greeting cards, or the government's mail services to send them.
4. As a general rule, participation at holiday social events is personal, not official, and therefore use of government vehicles for the sole purpose of transportation to/from such events should not be authorized.

Rules Applicable to Contractor Employees:

1. 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. 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. Because it is difficult to have truly **anonymous** gift exchanges, you will want to restrict the value of such “random or exchanged” gifts to the authorized \$10.00 or less especially if employees receiving different pay levels are involved. 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 per contractor company limit applies. Where an employee may buy a gift for a superior, the \$10 limit is prudent. Some organizations consider such a gift exchange to be exchanges of items of equivalent value, and that everyone participating is paying market value for the items, so no one is receiving a gift. Only in that case would the suggested monetary limits not apply. The best practice is to limit gifts to \$10 or less when involving more than a very small group of equivalently paid co-workers.
5. **Private Parties (Federal Employees):** One of your Government co-workers is having a party at his house and has invited office personnel, including the contractor employees. A gift of 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. If such a gift is edible, even if it exceeds \$20, the host may accept it on behalf of all the guests and share it with them.
6. **Private Parties (Contractor Employee):** If a contractor employee is having a personal party and invites Government personnel, normally Government personnel must decline, since the food, drink, and entertainment is a gift from a prohibited source. Several exceptions may permit attendance, however. 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.)
7. **Private Parties (Company-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 in paragraph #6, above, apply.

Have a wonderful holiday season. Please remember that this guidance only highlights common questions, and does not cover every situation. If you are unsure, contact your ethics counselor.


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