



DEC 07 2009

MEMORANDUM FOR ALL EMPLOYEES

FROM: KRIS E. DURMER
GENERAL COUNSEL/
DESIGNATED AGENCY ETHICS OFFICIAL (L)

A handwritten signature in black ink, appearing to read "Kris E. Durmer", written over the printed name.

SUBJECT: Receipt of Holiday Gifts

In preparation for the holiday season, you are reminded of the rules relating to gifts from outside sources and gifts between employees.

I. Gifts from Outside Sources

During this time of year it is not uncommon for non-Federal individuals and organizations to offer hospitality and gifts of appreciation and good will to GSA employees. Greeting cards and modest items of food and refreshments (less than a meal), such as candy canes, cider and cookies are not considered gifts and may be accepted. However, an employee is precluded from, directly or indirectly, soliciting or accepting a gift from a prohibited source (an entity that does or seeks to do business with GSA, or seeks official action by GSA, or an organization in which a majority of its members are doing or seeking to do business with GSA) or a gift given because of the employee's official position.

There are several exceptions to the general prohibition on the acceptance of a gift from a prohibited source or a gift given because of the employee's official position. These exceptions can be found at 5 C.F.R. § 2635.204. Some of the more common exceptions include the one that allows an employee to accept an unsolicited gift (other than cash and items with investment interests) with an aggregate market value of \$20 or less per occasion, per source. An employee may accept no more than \$50 worth of gifts from any one source in a calendar year. Also, an employee may accept gifts from friends and relatives when the circumstances make it clear that the motivation of the giver is the personal relationship rather than the position of the employee. It is also permissible for an employee to accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons where the invitation is from a person who is not a prohibited source and there is no fee charged to any person in attendance.

Even though acceptance of a gift may be permitted under one of the exceptions listed at 5 C.F.R. § 2635.204, it is never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source or a gift given because of his or her official position.

In the event that a gift is received that cannot be accepted, the employee can either return the gift or pay market value for the gift. If the gift is a perishable item (such as flowers or food) the item may be given to charity, shared with the employee's office, or destroyed at the discretion of the employee's supervisor after consultation with the appropriate Deputy Standards of Conduct Counselor.

II. Gifts Between Employees

Generally an employee may not, directly or indirectly, give to or make a donation towards a gift for an official superior or solicit a contribution from another person for a gift to any official superior (includes all person's within the employee's supervisory chain). In addition, an employee may not, directly or indirectly, accept a gift from another employee receiving less pay unless: (1) the two employees are not in a subordinate-official superior relationship, and (2) there is a personal relationship between the two employees that would justify the gift. There are several exceptions to this prohibition. A gift may be given to an official superior or accepted from a subordinate or other employee receiving less pay on an occasional basis on which gifts are traditionally given or exchanged, such as Hanukkah, Christmas, or Kwanzaa. Such gifts include: (1) gifts, other than cash, with an aggregate market value of \$10 or less per occasion; (2) food and refreshments shared in the office among several employees; (3) personal hospitality in the employee's home that is the same as that customarily provided to personal friends; (4) gifts given in connection with the receipt of personal hospitality that is customary to the occasion; and (5) transferred leave provided that it is not to an immediate supervisor.

In addition, a gift may be given on special, infrequent occasions to an official superior and accepted from a subordinate or other employee receiving less pay. However, this exception is limited to gifts given in recognition of infrequently occurring occasions of personal significance (such as marriage, birth or adoption of a child, or illness) and upon the termination of a subordinate-official superior relationship (such as retirement, resignation, or transfer).

Finally, an employee may solicit voluntary contributions of a nominal amount from other employees, and may make voluntary contributions of a nominal amount to a gift to an official superior on a special, infrequent occasion as identified above. On an occasional basis on which gifts are traditionally exchanged, such as Hanukkah, Christmas or Kwanza, an employee may solicit voluntary contributions of a nominal amount for items such as food and refreshments to be shared in the office among several employees.

If you or any of your employees have questions about giving or accepting gifts, you should contact the Ethics Law Staff at (202) 501-0765 or your servicing legal office in the regions.

Please have a safe and enjoyable Holiday Season.