

MEMORANDUM FOR ALL DEPARTMENT OF ENERGY EMPLOYEES

FROM: SUSAN F. BEARD

DESIGNATED AGENCY ETHICS OFFICIAL

SUBJECT: Restrictions on Federal Employees Acceptance of Gifts

As the holiday season approaches, it is important to remember there are restrictions on Federal employees accepting gifts from outside sources and from other Federal employees. Just as there is no "working lunch" exception to the gift prohibition, there is no "holiday party" exception. A gift includes anything of monetary value, including a gratuity, favor, discount, entertainment, training, transportation, lodging, and meals.

Gifts from outside sources. Generally, as a Federal employee, you may not solicit or accept a gift (1) from a "prohibited source" or (2) if given because of your official position. A "prohibited source" is a person or organization seeking official action by DOE; a contractor or grantee of DOE; a person or organization with an interest that may be substantially affected by the performance or nonperformance of your official duties; or an organization whose members are any of the above. There are certain common exceptions to this rule that may permit acceptance of an otherwise prohibited gift:

- Individual gifts of \$20 or less per source per occasion, provided that the aggregate market value of the individual gifts received from any one source under this exception does not exceed \$50 per year.
- Gifts based on outside business or employment relationships, such as a gift from a personal friend (one with whom you have a history of exchanging gifts of the nature proposed), or a gift to your spouse unaffected by your official position.
- Invitations to certain widely attended events (events where a large number of people with common interests, but diverse perspectives are expected to attend).

You may not, under any circumstance: (1) accept a meal in return for being influenced in the performance of an official act; (2) solicit or coerce the offer of a meal; (3) accept meals from the same or different sources on a basis so frequent that a reasonable person would be led to believe you are using your public office for private gain; or (4) accept a gift in violation of any statute.

Contractors and others with DOE-related interests may offer gifts, including meals, or host events that include food. Whether you may accept or attend is dependent upon whether the gift falls into one of the three exceptions described above or you pay the full value of the gift as described below. If you are invited to an event you believe may qualify as a widely attended event, contact an ethics counselor before accepting the invitation.

If you choose to pay for a gift, you must pay the donor its full value. You are responsible for ensuring that the amount you pay is an accurate reflection of the full value. The full value for an event that has tickets, such as a sporting event, is the price on the face of the ticket. However, even when you pay the face-value questions concerning loss of impartiality may still exist. For an event without tickets such as a meal, it is the full cost that the donor paid. This not only includes the value of the food and drink, but also a portion of the related costs for room rental, wait staff, decorations, etc. You may not accept a gift simply by paying the amount that exceeds the \$20 limit. If you are offered a meal as a gift, be wary of situations in which the host may quote the value at a suspiciously low price, or one off the top of his/her head. It is your responsibility to verify that the value of the meal does not exceed the \$20 limit. Although an exception to the gift rule may apply, it is never inappropriate to refuse a gift if to accept it will create an appearance of impropriety. Acceptance of gifts from contractors, even under \$20, is generally discouraged.

In addition, political appointees may not accept gifts from registered lobbyists or lobbying organizations. Several of the exceptions discussed above concerning the general gift prohibition do not apply to political appointees who are offered gifts from registered lobbyists or lobbying organizations. Political appointees should seek specific guidance before accepting any gift from a registered lobbyist or lobbying organization.

Gifts between employees. Generally, you may not give a gift to a supervisor unless the gift is given under one of the following situations:

- Occasional gifts of \$10 or less.
- Food and refreshments shared in the office.
- Personal hospitality at one's home and gifts given in connection with the receipt of personal hospitality from a supervisor, if it is of the type and value customarily given on such occasions; and special infrequent occasions (such as marriage, illness, retirement, or the birth or adoption of a child).

Questions frequently arise regarding employee holiday parties and gift exchanges. You may collect voluntary contributions for holiday parties. Employees who wish to participate in attending a party may be required to contribute a set amount to pay per person costs. However, supervisors cannot require participation. You, including your supervisor, may participate in a gift exchange, provided the gift value limit does not exceed \$10. You and your co-workers may not contribute to a group holiday gift for your supervisor.

If you have any questions, headquarters employees, other than those who are employees of NNSA, should call the Office of the Assistant General Counsel for General Law at 202-586-1522 or send an e-mail to: <mailto:standardssofconduct@hq.doe.gov>. NNSA employees who are duty-stationed at Headquarters should contact the NNSA Office of the General Counsel at 202-586-8514. Employees who are duty stationed in the field should contact their local site counsel.