

# HOLIDAY GUIDANCE For Department of Defense (DoD) Personnel<sup>1</sup>

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The holiday season is traditionally a time of parties, receptions, and exchanging gifts. However, even during the holiday season, the Standards of Conduct apply. To ensure you do not unwittingly violate the standards, a brief summary of the applicable rules is set out below. If you have any questions, please contact your local ethics counselor.

## **General Gift Rule:**

DoD personnel may not accept gifts offered because of their official positions or offered by a “prohibited source,” unless an exception applies.

A prohibited source is anyone who:

- Seeks official action by DoD;
- Does business or seeks to do business with DoD;
- Has interests that may be substantially affected by the employee’s performance of duty;  
or
- Is an organization composed of members described above.

**Lobbyist Gift Ban:** In addition to the above rule, *full-time civilian 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 excepted 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:**

DoD personnel may attend events where an exclusion or exceptions applies (see below).

### **Exceptions & Exclusions:**

**Gifts from Prohibited Source including DoD Contractors:** DoD personnel may *not* accept gifts, including attendance at parties, open-houses, and receptions, from contractors and contractor personnel, event *unless* one of the following applies:

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<sup>1</sup> Including Guidance on Receptions, Parties, and Gift Exchanges Involving Co-workers, Contractors, and Supervisors

1. Deminimus Gift: DoD personnel may accept gifts (other than cash) not exceeding **\$20**, as long as the total amount of gifts that the personnel accepts from that source does not exceed \$50 for the year.
2. Personal Gift: DoD personnel may accept gifts, even from a contractor employee that are based on a **bona fide personal relationship**. (Such personal gifts are actually paid for by the contractor employee rather than the contractor.)
3. Widely-Attended Gathering: DoD personnel may generally attend an open-house or reception, and accept any gift of refreshments if it is a **widely-attended gathering**, and the employee's supervisor determines that it is in the agency's interest that the employee attend.
4. Open to the Public: DoD personnel may accept invitations (even from contractors) that are open to the public, all Government employees, or all military personnel.
5. Gifts unrelated to DoD employment: DoD personnel 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).
6. Modest Items of Food and Refreshments: DoD personnel may food items 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.
7. Gifts based on Outside Business or employment relationships: DoD personnel may accept attendance at events which are solely based on outside business or other employment relationships. For example, a DoD employee's spouse works at a Defense contractor. The DoD employee may accompany the spouse to the contractor's holiday party since the invitation is to the spouse as an employee, and not to the DoD employee because of his or her position.

Between DoD Employees: DoD personnel may accept gifts, including attendance at parties, open-houses, and receptions, from other DoD personnel, if one of the following applies:

1. Invitation from a subordinate (who makes less): DoD personnel may accept personal hospitality at the residence of a subordinate that is customarily provided on the occasion.
2. Invitations from a supervisor or a co-worker: No restrictions. Enjoy!

## **GIFTS AND GIFT EXCHANGES**

Gifts and Gift Exchanges That Include Contractor Personnel:

1. Gifts from contractors, even during the holidays, may not exceed \$20.
2. Gifts to contractors: Check with the contractor about their restrictions on gift acceptance.

Between DoD Personnel: Supervisors may **not** accept gifts from subordinates or DoD personnel who receive less pay, **unless** one of the following exceptions applies:

1. During holidays, which occur on an occasional basis, supervisors may accept gifts (other than cash) of **\$10 or less** from a subordinate.

2. Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.
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 (and good taste) should apply.

#### **OTHER IMPORTANT INFORMATION:**

1. You may not solicit outside 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. Beware that door prizes or drawings could involve gambling, which would require compliance with state statutes and Federal regulations. DoD regulations prohibit gambling in the Pentagon and on Federal property or while in a duty status. GSA regulations ban gambling in GSA owned or controlled buildings.
4. You may not use appropriated funds to purchase and send Greeting cards.
5. As a general rule, participation at holiday social events is personal, not official, and therefore use of government vehicles to/from such events would not be authorized. However, there may be very limited circumstances in which a senior official or officer is invited to attend because of his official position and where he will be performing official functions at the event as opposed to being invited because he or she is an important person. In these situations, use of a government vehicle may be authorized, subject to normal "home-to-work" transportation restrictions. Note, however, that it would be difficult, if not impossible, to justify the use of a government vehicle when a function involves one's immediate staff/office or events comprised of personal friends. All requests for use of a government vehicle to attend holiday social events should be reviewed on a case-by-case basis.

#### **RULES APPLICABLE TO CONTRACTOR EMPLOYEES:**

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:**

- a. **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. The contractor does not have to pay its employees for that time. 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 if personnel 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 Personnel):** 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). Also, Government personnel may accept if the invitation is based on a bona fide personal relationship with the contractor employee. Finally, if the party qualifies as a widely-attended gathering (involving a large number of persons representing a diversity of views) and the employee's supervisor determines that it is in the agency's interest for the employee to attend, the employee may enjoy the food, drink, and entertainment. Government personnel who desire to take a gift to show their appreciation for the

hospitality should consult with the contractor employee to determine if he or she may accept such a gift in accordance with the contractor's rules of ethics.

7. **Private Parties (Contractor-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.***