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Gift Rules for the Executive Branch

Employees of the Executive Branch are subject to regulations related to gifts that they may accept.¹ The term “gift” refers to any gratuity, favor, discount, entertainment, hospitality, loan or other item having monetary value. In particular, the term includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

A gift is deemed to be ‘solicited’ if it is from a person other than an employee and would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his Federal position.²

General Provisions

In general, an employee of the Executive Branch may accept a gift only if it is unsolicited and the:

- Favors or benefits are not offered under circumstances that might be construed by reasonable persons as influencing the performance of their governmental duties;³
- Gift is not cash or a cash equivalent (e.g. stocks and bonds);⁴
- Gift is valued at \$20 or less;⁵ and the
- Aggregate value of gifts from one source in a calendar year is less than \$50.⁶

These limitations seem to make Executive Branch gift rules very strict. However, numerous exceptions reduce the scope of regulation dramatically.

Exceptions to Executive Branch Gift Rules

An employee of the Executive Branch may accept gifts that exceed the \$20 value limit for individual gifts and \$50 annual limit for gifts from one source if they are subject to one of 12 exceptions:⁷

- 1. Anything for which the employee pays the market value, or does not use and promptly returns.** If it is not practicable to return the item to the giver because it is perishable, it may be given to an appropriate charity or discarded.
- 2. Gifts based on a personal or family relationship.** Relevant factors in making such a determination include the history of the relationship and whether the family member or friend personally pays for the gift.

3. **Discounts and similar benefits that are not directly related to government employment.**
4. **Awards (other than cash) and honorary degrees with an aggregate market value of \$200 or less.** If aggregate market value is in excess of \$200, acceptance is contingent upon the written determination by an agency ethics official.
5. **Meals, lodgings, transportation and other benefits that result from the outside business or employment of that employee or his/her spouse.** The benefits should be customarily provided and not offered or enhanced because of the government employee's position.
6. **Gifts in connection with political activities permitted by the Hatch Act.** An employee may take an active part in political management or in political campaigns. Meals, lodgings, transportation, and other benefits in connection with such active participation may be accepted.
7. **Admission into widely attended gatherings.** An employee may accept free admission to represent the agency as a speaker or panelist by the sponsor only. If the event is considered to be in the best interests of that agency, the employee may accept free attendance as a gift from a person other than the sponsor of the event only if there will be more than 100 persons expected to attend and the free admission has a market value of \$285 or less.
8. **Social invitations from persons other than prohibited sources or where there is no admission charge.** An employee may accept food, refreshments and entertainment, not including travel or lodgings, at a social event attended by several persons.
9. **Meals, refreshments and entertainment in foreign areas.**
10. **Gifts to the President and Vice President.** Both offices may accept any gift on his own behalf or on behalf of any family member, provided that such acceptance does not violate conflict of interest or anti-bribery laws,⁸ or the Constitution of the United States.
11. **Gifts authorized by supplemental agency regulation.** An employee may accept any gift if it is specifically authorized by a supplemental agency regulation.
12. **Gifts accepted under specific statutory authority.**

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Endnotes

¹ 5 CFR 2635.203 - 205 Revised as of Jan 1, 2005

² 5 CFR 2635.204(d)

³ 5 U.S.C. 7353 (b)(2)(B)

⁴ 5 CFR 2635.204(a)

⁵ 5 CFR 2635.204(a)

⁶ Id.

⁷ 5 CFR 2635.204 (a – f)

⁸ Sec. 2635.202(c)(1) or (2), 18 U.S.C. 201(b) or 201(c)(3)