

Office of Government Ethics
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Letter to a Designated Agency Ethics Official
dated January 30, 1991

This is in response to your letter of December 28, 1990, regarding the relationship between the procurement integrity gift prohibitions at 41 U.S.C. § 423 and agency standards of conduct prohibitions on gifts from prohibited sources.

The procurement integrity provisions are superimposed upon the standards of conduct. Both apply during the conduct of a procurement to employees who are procurement officials. Thus, during the conduct of a procurement, a procurement official offered something by a competing contractor that falls within the procurement integrity \$10 de minimis exception can accept the item only if it is permissible under agency standards of conduct. Where agency standards of conduct regulations contain an exception that would permit acceptance of something in excess of \$10, the procurement integrity rules limit a procurement official's use of that regulatory exception. It should be kept in mind that violation of the procurement integrity gift restrictions can result in the imposition of civil fines in addition to the administrative sanctions applicable for violation of the standards of conduct.

We understand your concern with the fact that there are two sets of rules applicable to procurement officials. The procurement integrity regulations issued on May 11, 1989, adopted a definition of the phrase "money, gratuity or other thing of value" that enabled procurement officials to accept anything allowed under agency standards of conduct. In November 1989, the statute was amended to preclude this accommodation of agency standards of conduct by the procurement integrity regulations. As amended, 41 U.S.C. § 423(o)(2) mandates a definition of the term "thing of value" that includes a "single uniform Government wide exclusion at a specific minimal dollar amount." There is no single dollar amount that will accommodate or reconcile the many differences that exist between agency standards of conduct gifts exceptions. In fact, a single de minimis exception cannot encompass the several exceptions that exist in a single agency's standards of conduct regulations.

Sincerely,

Stephen D. Potts
Director