



United States
Office of Government Ethics
1201 New York Avenue, NW., Suite 500
Washington, DC 20005-3917

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MEMORANDUM

TO: Designated Agency Ethics Officials

FROM: Marilyn L. Glynn
Acting Director

SUBJECT: Reminder on the Rules Regarding Gifts of Travel

Recently, it has come to the attention of the Office of Government Ethics (OGE) that questions have been raised concerning the propriety of executive branch employees soliciting free air travel. It seemed appropriate, therefore, to review briefly the provisions in the Standards of Ethical Conduct for Executive Branch Employees (Standards) for soliciting and accepting gifts of travel, including both personal and official travel.

The Standards govern the solicitation and acceptance of personal gifts, including travel benefits. These rules govern the acceptance of gifts for travel where the circumstances indicate that the travel is for personal benefit, rather than the performance of the employee's official duties.

Generally, Federal employees may not, in their personal capacities, accept gifts from "prohibited sources," or gifts given to them because of their official positions. Prohibited sources of gifts include persons and entities which seek official action by the employee's agency, do business or seek to do business with that agency, are regulated by the agency, or have interests that can be substantially affected by the employee's official activities (as well as any organization the majority of whose members are prohibited sources). Executive branch employees may neither accept any gift from prohibited sources nor a gift given because of the employee's official position, except pursuant to an applicable exemption in

5 C.F.R. § 2635.204. Of particular note, the gift exceptions may not be used "to solicit or coerce the offering of a gift." 5 C.F.R. § 2635.202(c)(2).

Gifts of transportation accepted in connection with official duties are in actuality accepted on behalf of the agency itself, rather than the employee, although the employee might be accepting and using the travel gift. Gifts for official travel are not covered by the Standards; rather, they are regulated under the authority of any applicable agency gift-acceptance statute or other appropriate statutory authority. Generally, anti-augmentation principles bar agencies from accepting gifts without such statutory authority.

One statutory authority, 31 U.S.C. § 1353, authorizes executive branch agencies to accept travel gifts from non-Federal sources for employees to attend meetings and other similar functions. Under the General Services Administration's (GSA) implementing regulations an agency may accept payments (other than cash) from a non-Federal source for all official travel expenses to attend a meeting or other similar function, such as a speaking engagement, conference, or seminar that takes place away from an employee's official duty station. "Meeting," as defined in the GSA travel regulations, does not include a meeting to carry out an agency's statutory, regulatory, or other function essential to an agency's mission, or promotional vendor training or other meetings designed for marketing services to the Government from non-Federal sources.

Travel gifts, *including upgrades*, accepted under this authority may *never* be solicited. See 41 C.F.R. Part 300-2.

It is important to remember that agencies also must analyze whether accepting the gift would create a conflict of interest. See 41 C.F.R. § 304-5.3. Please note that, if an employee accepts payment from a non-Federal source in violation of the GSA travel regulations, an agency may require the employee to reimburse the Government the amount accepted, in addition to any other penalty provided for by law.

Where official travel is not in connection with attendance at a meeting or similar function, an agency would need other statutory authority, such as an agency gift acceptance statute, to accept or solicit travel gifts. The agency would have to determine whether a particular gift acceptance statute authorizes solicitation as well as acceptance of a gift of free travel.

Finally, whether the travel would be personal or official, it is never inappropriate and frequently prudent to consider whether appearance concerns counsel against the acceptance of a gift of free travel.