
GIFTS FROM OUTSIDE SOURCES

This handout provides a brief overview of gift rules concerning gifts from outside sources. It does not address gifts to subordinates.

What is a gift?

Almost anything of monetary value, such as cash, meals, paperweights, trips, concert tickets, and services. This may include "thank you" items received for speaking in one's official capacity.

What is not a gift?

A cup of coffee, modest refreshments that are not part of a meal, and items of little intrinsic value such as greeting cards, plaques, and certificates intended solely for presentation, loans on terms generally available to the public, anything paid for by the Government, anything paid for by the employee, any gift accepted by the Government under specific statutory authority.

THE BASIC RULE

Army personnel (military or civilian) may not solicit or accept a gift that is given because of their official position or that is given by a prohibited source, unless the item is either not considered to be a gift or falls within one of the exceptions to the basic rule.

What is a prohibited source?

A person or organization that seeks official action by the Army, does business or seeks to do business with the Army, has activities that are regulated by the Army, or has interests that may be affected by Army personnel when they are doing their job. This includes any organization the majority of whose members are described within one of these categories.

EXCEPTIONS TO THE BASIC RULE

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There are 21 total exceptions (the most commonly used are explained following this list):

- The \$20/\$50 rule
- Gifts based on a personal relationship
- Social invitations from other than a prohibited source
- Gifts in connection with a rollout and ship launch ceremonies
- Widely attended gatherings
- Speaking and other similar engagements
- Events sponsored by state or local governments or civic organizations
- Gifts from foreign governments
- Meals, refreshments and entertainment in foreign areas
- Awards and honorary degrees
- Scholarships and grants
- Gifts in connection with post-Army employment discussions
- Outside business or employment activities of the Army employee (civilian and military)
- Business or employment activities of the Army employee's spouse
- Gifts from a political organization
- Free attendance at training or meetings sponsored by nonprofit organizations
- Reduced fees for professional organizations
- Discounts to members of a group where membership is not related to Army (government) employment
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- Discounts to members of a group offered by a person who is not a prohibited source
- Gifts to the President or Vice President

EXCEPTIONS LIMITATION

Even if an exception allows Army personnel to accept a gift, it is NOT always appropriate to use the exception. Army personnel may never accept a gift for being influenced in the performance of an official act; may never solicit or coerce the offering of a gift; and may not accept gifts from the same or different sources so frequently that it appears they are using their public office for private gain.

THE \$20/50 EXCEPTION

This exception allows an Army employee (military or civilian) to accept gifts of \$20 or less on a single occasion, but not more than \$50 per year per source. (The source is the entire organization, so personnel may not accept gifts exceeding \$50 just because different employees in the same organization pay for them each time.) If several gifts are given at the same time, an Army member may keep those items whose total value when added together do not exceed \$20. Army Personnel may never accept gifts of cash, and may not pay the difference for gifts exceeding the \$20 limit. Finally, Army personnel may not accept gifts so frequently that they appear to be using their public office for private gain.

The \$20 limit was designed to be reasonable and simple. Reasonable, because it allows Army personnel to accept gifts that most people would agree are inconsequential. Simple, because it's an easy standard to apply.

There is no special exception for holiday or other celebrations. If the cost of attendance exceeds \$20, then personnel may not accept. Ethics officials can advise on whether any of the other gift exceptions or exclusions applies.

The \$20 exception to the gift rule states that an employee may accept gifts having a market value of \$20 or less "per occasion" from a prohibited source. Accordingly, contractors in the workplace may not contribute money towards special occasion (e.g., PCS) gifts if the gift exceeds \$20.

SPEAKERS GIFTS

Army personnel may not accept compensation from any source other than the government for speaking that is part of the member's official duty or relates to the member's official duties.

What is compensation?

"Compensation" includes any form of consideration, but does not include items that may be accepted under the exceptions to the general rule against gifts.

GIFTS IN THE FORM OF TRAVEL EXPENSES

Gifts of travel or travel reimbursement (e.g., airfare, lodging, meals) can be accepted with the approval of the Ethics Counselor and Commander. You must seek legal advice if this becomes an issue.

ACCEPTING FOREIGN GOVERNMENT GIFTS

Army personnel may accept a gift presented to them by a foreign Government if the value of the gift is \$335 or less. Gifts with a value of over \$335 given by a foreign Government belong to the Army.

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If you need advice on a particular situation please contact TRADOC-SJA at (757) 788-2302 or by email at

MONR-TRADOC-SJA@conus.army.mil

References: DOD 5500.7-R, JER, 2-100 (5 C.F.R. §2635.201)

GIFTS FROM FAMILY AND FRIENDS

As long as the circumstances make it clear that the gift is motivated by a personal friendship rather than one's position with the Army, Army personnel may accept any gift from a friend using the "family and friends" exception. Factors to consider include the history of the relationship and whether the friend personally pays for the gift. Army personnel can always decline the gift, pay market value for it, or abide by the \$20/\$50 rule if you are uncertain of the giver's motivation.

What is market value?

Market value is the retail price that the recipient of the gift, would have to pay to purchase it. If one cannot readily determine the retail value of a gift, its value may be estimated by reference to the retail cost of items of similar quality. If a ticket entitles one to buy food, refreshments, entertainment, or any other benefit, the market value is the face value printed on the ticket.

DISCOUNTS

Discounts offered to the public or to all Government employees are *not* considered to be gifts for purposes of the gift rule. Army personnel generally may NOT accept discounts that discriminate among Army personnel on the basis of type of official responsibility, or rank, or pay. These types of discounts, because they are limited or targeted, would be gifts for purposes of the gift rule and could only be accepted if an exception applied. There are several rather specific exceptions that would allow Army personnel to accept discounts (e.g., reduced membership fees or similar benefits) offered to limited groups or classes of Government employees (e.g., employee associations or agency credit unions) under certain circumstances. However, before applying any of these exceptions to an ethics official's advice.

GIFTS OF FREE ATTENDANCE

Army personnel may be able to accept the offer of free attendance to professional events hosted by private sector companies and other sponsors that do business with the Army based on the widely attended gathering exception for certain events. An ethics official or other authorized individual must make a determination that the Army members attendance is in the agency's interest because it will benefit Army programs and operations. The event must also be attended by a diverse group of people. Other factors to be considered are: the source of the invitation and whether that person has interests that may be substantially affected by the performance (or nonperformance) of the Army member's official duties; the number and identity of other participants expected to attend; and the market value of the gift of free attendance. Note that this exception does not permit Army personnel to accept travel and lodging expenses.

DISPOSING OF A GIFT

If Army personnel receive a gift they cannot accept they may pay the donor market value for the gift if they want to keep it. If not, Army personnel may return it. If the gift is perishable, such as food or flowers, it may be shared within the office, donated to charity or destroyed, as long as an ethics official or a supervisor grants approval.

SEEKING ADVICE

If you have any questions regarding gifts, always seek your ethics official's advice. Even if a gift falls under one of the exceptions to the gift rule, it is never inappropriate for Army personnel to decline a gift offered by a prohibited source or given because of one's official position. This is especially true when a person or organization giving the gift has interests that could be affected by the official actions of the Army member.