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ATZP-JA

November 30 2018

MEMORANDUM FOR ALL

SUBJECT: Gifts Between Employees

1. PURPOSE: To summarize the Joint Ethics Regulation (JER) and Code of Federal Regulation (CFR) rules concerning gifts between employees

2. REFERENCES:

- a. DoD 5500.07-R, 17 November 2011, The Joint Ethics Regulation (JER).
- b. DoDD 5500.07, 29 November 2007, Standards of Conduct.
- c. 5 C.F.R. 2635.301-304, 1 January 2018, Gifts Between Employees.

3. DISCUSSION:

a. Generally, federal employees are not permitted to either give gifts to superiors in their chain-of-command or to accept gifts from employees receiving less pay.

b. However, if there is a personal relationship between the employees that would justify the gifts *and* the employees are not in a subordinate-official superior relationship, then the following gifts may be accepted from a lesser-paid employee on an occasional basis:

(1) Gifts with a value of \$10 or less per occasion (e.g., a souvenir gift upon return from a vacation). Note, however, that cash gifts ***are not permitted even if under the \$10 limit.***

(2) Refreshments shared in the office.

(3) Personal hospitality at an employee's home.

(4) Customary gifts given in connection with the receipt of hospitality. DoD 5500.07-R, para. 2-203(b).

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c. Additional limitations apply to gifts between a subordinate and their supervisor and generally, barring certain exceptions noted below, an employee may not:

(1) Give gifts to someone superior in the donor's chain of command.

(2) Solicit a contribution from another employee for a gift to either his own or the other employee's official superior.

d. Special and Infrequent Occasions: Subordinates may give a gift to a superior on special and infrequent occasions if it is appropriate to the occasion, such as a marriage, illness, or birth of a child. In addition, occasions that terminate the subordinate-official superior relationship, such as retirement, resignation, or transfer, are considered special and infrequent occasions. However, birthdays are not considered special and infrequent occasions. Likewise, promotions are not considered special and infrequent occasions *unless* the employee is also being transferred out of the Chain of Command. The above notwithstanding, the following restrictions apply to gifts offered by a subordinate under the special and infrequent occasion exception:

(1) Value of Gift: An employee may not accept a gift from a "donating group", regardless of the number of employees contributing, if:

(a) If the market value of the gift exceeds \$300, and;

(b) The employee knows or has reason to know that *any* member of the donating group is a subordinate. The definition of "donating group" depends on the circumstances (e.g., companies for battalion commander; battalions for a brigade commander). DoD 5500.7-R., para. 2-203(a).

(2) Solicitation for Contribution. Contributions must be voluntary and solicitations may not exceed a nominal amount. DoD defines a nominal amount as \$10. While more than \$10 may not be solicited, an individual may offer to contribute more. An employee should not contribute as part of more than one donating group. If he or she does, the different groups become one donating group and the value of each group will be aggregated. DoD 5500.7-R., para. 2-203.

e. Gifts to Spouses: Gifts from an employee's spouse to another employee's spouse will be considered a gift between employees subject to the above rules, unless there is an independent basis for the gift to the spouse.

f. Contractors and Gifts: Contractors constitute "non-federal entities" (NFEs). DoD 5500.7-R., para. 1-217. Thus, contractors are considered a "prohibited source", and generally, DoD may not solicit or accept gifts offered because of their official position from contractors. 5 C.F.R. 2635.303(d) and DoD 5500.7-R, para. 1-222. However, the

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above notwithstanding, a DoD employee *may accept* the following items from otherwise prohibited sources, including contractors:

(1) Non-gifts:

(a) Modest items of food and non-alcoholic refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal.

(b) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended primarily for presentation. 5 C.F.R. 2635.303(b)(1-2).

(2) Gifts

(a) An employee may accept *unsolicited* gifts having an aggregate market value of \$20 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person does not exceed \$50 in a calendar year. 5 C.F.R. 2635.304(a). endeavors

(b) An employee may accept a gift given by an individual under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee. 5 C.F.R. 2635.305(b).

4. Point of contact is the undersigned at (831) 242-6414.

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