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ATZP-JA

30 November 2018

MEMORANDUM FOR ALL

SUBJECT: Ethical Principles for Changes of Command

1. Purpose: To provide guidance on common ethical concerns relating to changes of command, including acceptance of gifts

2. Reference

- a. DoD 5500.07-R, 17 November 2011, the Joint Ethics Regulation (JER).
- b. DoDD 5500.07, 29 November 2007, Standards of Conduct
- c. DoDI 7250.13, Incorporating Change 1, 27 Sept 2017, Use of Appropriated Funds for Official Representation Purposes
- d. 5 CFR 2635.301-304, 1 January 2018, Gifts Between Employees
- e. AR 37-47, 21 June 2018, Representation Funds of the Army

3. Discussion

a. Gifts between a Subordinate and Superior: Generally, a subordinate is prohibited from giving a gift to an official superior. 5 CFR 2635.301. However, this general prohibition is subject to certain exceptions, including circumstances when the superior-subordinate relationship ends because of PCS or retirement. Under this exception, a gift appropriate to the nature of the special or infrequent occasion may be given to an official superior by a subordinate. 5 CFR. 2635.304(b)(2).

b. Solicitation and Group Gifts to a Superior: An employee may solicit donations in order to purchase a group or office wide gift and recognize an occasion as noted above. However, such solicitation must conform to the following requirements:

- (1) No more than \$10 may be solicited per person.
- (2) Gifts may not exceed \$300 in value per donating group.

(3) Contributions by employees donating to more than one group are combined for purposes of the \$300 limit.

(4) Gifts must be voluntary.

(5) Gifts of cash are prohibited. DoD 5500.07-R 2-203(a-b).

c. Gifts to Family Members: Gifts to a departing or retiring employee's spouse or other family member are considered gifts to the employee. As such, they are subject to the same rules listed above.

d. TDY Travel: The Secretary of the Army Travel Policy provides that changes of command are considered official business. Therefore, TDY travel is limited to the minimum number of personnel, days, and the most economical means of transportation necessary to accomplish the mission.

e. Funding: Unless otherwise authorized, the use of Official Representation Funds (ORFs) for events such as retirement, change of command, activation or deactivation, or establishment or disestablishment of command is generally prohibited. Local instillation chain-of-commands at POM *may not* authorize the use of ORF funds for the events above. *Only* the Secretary of the Army, or designated general officers or Senior Executive Service (SES) officers, may approve limited expenditures for such ceremonies that he or she deems in the Army's interest. AR 37-47, para. 2-10(a)(2).

(1) ORFs may be used to extend courtesies or invites to "authorized guests" to attend receptions for newly assigned commanders. AR 37-47, para. 2-1(d). Authorized guests can include local dignitaries, government or university officials, and other community leaders. Although ORF are permitted for change of command events, ORF expenditures should be kept to a minimum in accordance with the attendance guidelines articulated in AR 37-47, para. 2-5.

(2) The use of ORFs to pay for expenses of DOD personnel in excess of the applicable ratio is not authorized without the prior approval of the Secretary of the Army. DOD personnel in excess of the applicable ratio will pay a pro rata share of expenses prior to attending the event. AR 37-47, para. 2-5(c)

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

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