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Office of Government Ethics
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LEGAL ADVISORY

TO: Designated Agency Ethics Officials
Inspectors General

FROM: Don W. Fox
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SUBJECT: A REMINDER ABOUT HOLIDAY GIFTS AND FUNDRAISING

During the holiday season, questions often arise about the solicitation and acceptance of gifts. As you know, even during the holidays the Standards of Ethical Conduct apply to gifts from outside sources and gifts between Government employees. Therefore, please remind your agency's employees of the rules regarding gifts between employees, gifts from outside sources (including contractor personnel), and acceptance of free attendance at holiday parties. In addition, please emphasize that "appointees," as defined in Executive Order 13490, must also comply with the lobbyist gift ban. You are welcome to make use of the attached poem – it was originally distributed in 1994, updated in 2009 to include stanzas concerning gifts from foreign governments and the lobbyist gift ban, and edited this year to reflect the current foreign gift limit.

The holiday season is also a time when employees remember those who are in need of assistance. Therefore, this would be an opportunity to remind employees about the rules related to fundraising in the Federal workplace for charitable organizations. Of course, the Combined Federal Campaign (CFC) is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations. Employees may engage in fundraising in an official capacity in the Government workplace only in accordance with CFC rules. *See* 5 CFR part 950.

Beyond the CFC rules regarding official fundraising, an employee who wishes to engage in fundraising in a personal capacity in the Federal workplace must comply with Subparts G and H of the Standards of Ethical Conduct. Thus, an employee may not solicit funds or other support from a subordinate for a favorite charity. 5 CFR 2635.808(c)(1). Additionally, employees may not use their title, position, or other authority associated with their public office to further any fundraising effort. 5 CFR 2635.808(c)(2). And, of course, an employee may not use Government resources such as e-mail and photocopier equipment, or Government time, in support of a private fundraising effort. 5 CFR 2635.704 and 2635.705.

While some agencies may have *de minimis* use policies that permit certain personal uses of Government resources, it is unlikely that any of these policies would permit broad

solicitations for charitable contributions. Moreover, any such use would still have to comply with the restrictions related to solicitation of subordinates and the misuse of Government title, position, and the authority associated with public office.

Thank you for your assistance in these matters, and please accept my best wishes for a happy holiday season for you and your family.

THE HOLIDAY SEASON

*The holiday season - a time for good cheer!
For egg nog, for parties, for friends to be near.
But I must be careful
Lest I accept free
A gift not permitted, no matter how wee.*

*Part two six three five of the 5 CFR
Explains in detail the relevant bar.
It defines the term gift
To mean all things worth money.
That's NBA tickets or jars full of honey.*

*Some gifts may be taken but some are verboten.
The source is the key - it's the rule that I'm quotin'.
When from me or others
The source seeks some act,
I must find an exception or I could be sacked*

*Even others who give can cause problems for me.
If my job prompts the giving - my position, you see.
But lucky for me,
Some exceptions exist.
They're in subpart B and should not be missed.*

*I can pay market value if the gift I do like,
Or I can at my option say "go take a hike."
I can always say no,
But I need not decline.
If worth twenty or less then the gift can be mine.*

*This exception has prompted some very loud hollers.
It says gifts are okay if worth twenty dollars.
But surely the public
Is certain to see,
I could never be bought for a sandwich and tea.*

*Restrictions apply so it does not suffice
To pay twenty bucks for a gift twice the price.
And in any one year
I can't use it, of course,
To go over the limit - fifty dollars per source.*

*For gifts that a friend or my sister might send,
The rules recognize I don't want to offend.
Regardless of value,
It only must be
That their motive to give wasn't business, but me.*

*The rule's much the same in the case of my spouse
Who happens to work as she can't stand our house.
Although her employer
Is one of those sources,
I can go to their fete and avoid more divorces.*

*In the case of most parties, the rule's not so clear
As the agency must have an interest, I fear.
If worth more than twenty
And it's no friend true,
Then I'd better seek guidance or I could be blue.*

*When foreign officials are giving the gift,
The rules are less strict so I don't cause a rift.
I can take it if
Fair market value U.S.
Is three hundred fifty dollars or less.*

*I can give to my boss to a limit of ten -
A baseball, a cap, or a blue ballpoint pen.
If not to my boss
Or my chain of command,
To a friend I can give more without being canned.*

*I always look forward to my office party.
We're all in good moods and the food is so hearty.
If no arm is twisted,
Collecting is okay
To make sure that everyone has a good day.*

*But finally, how would these rules affect me
If I served the President as "appointee"?
I know that appointees
Must sign when they're hired
A short ethics pledge (or they risk being fired.)*

*The same rules apply to a person who signed
Except there's an extra gift rule that's enshrined:
No gifts from a source
Listed as "lobbyist" -
Though no friend or kin is required to be dissed.*

*So go forth with good cheer and know there's no reason
To think that the gifts rules will ruin your season*