MEMORANDUM

TO: ALL USDA EMPLOYEES

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RE: **ETHICS RULES GOVERNING HOLIDAY SEASON EVENTS AND GIFTS**

The holiday season is traditionally a festive time of parties, receptions, and exchanging of gifts. However, please remember that the Ethics rules do not take a holiday. To ensure that you don't unintentionally trespass the Ethics requirements, we are issuing this reminder. Key reasons for the gift rules are: (1) to maintain public confidence in the actions of government employees, and (2) to avoid any appearance that government employees are biased towards a gift giver. It is also important to note that the Federal Ethics rules provide several common-sense exceptions to the Federal gift ban where acceptance of a gift (such as an invitation to partake of refreshments at a reception) would be approved in advance by an Ethics Advisor as meeting certain conditions discussed in detail below. Remember you can, and should, always contact the Office of Ethics if you have specific questions.

I. General Rule

As a general rule, you may not, directly or indirectly, solicit or accept a gift from a **prohibited source**[1] or solicit or accept a gift offered because of your official position.

a. What is a gift?

A gift is an item of value, including invitations to and free attendance at events, free meals, receptions, and certain other widely-attended gatherings.

II. Common Ethics Exceptions Under Which You Can Accept Gifts at the Holidays

a. The De Minimis (Small Value) Exception

You may accept holiday gifts (but never cash), from a prohibited source having a market value

[1] **What is a prohibited source?** A prohibited source is any person or entity who:
- is seeking official action by USDA;
- does business or seeks to do business with USDA;
- conducts activities regulated by USDA;
- has interests that may be substantially affected by performance or nonperformance of your official duties; or
- is an organization a majority of whose members are described in the above bullets.

of $20 or less per occasion, provided that the aggregate market value of the individual gifts received from any one non-federal source does not exceed $50 in a calendar year.

b. Personal Relationship Exception

You may accept holiday gifts given under certain circumstances which make it clear that the gift is motivated by a family relationship or long-standing personal friendship rather than your official USDA position.

c. Widely Attended Gathering Exception

Throughout the years and especially at holiday time, you may be invited to various large receptions and gala events hosted by various trade associations and agricultural groups that have interests before USDA. Because these widely-attended events often bring together many individuals representing a wide variety of different entities, the Ethics rules provide a commonsense exception to the gift ban that allows Federal employees to mingle at these large events and exchange views on current topics related to agriculture. The reason for the widely-attended gathering exception is because it is beneficial for the government to informally exchange ideas and views with stakeholders and other members of the public – and then bring those views back to USDA to further inform policy-making considerations.

Because of the widely-attended gathering exception to the gift ban, you may accept the gift of free attendance at a widely attended holiday event, **with prior ethics approval,** when it has been determined that your attendance will be in the interest of the Department.

Quick Ethics Tip: *An event is considered widely attended if it is expected that: (1) a large number of persons will attend; (2) the attendees will include those with a wide variety of interests; (3) there will be a reception or other event offering an opportunity to mingle and informally discuss current topics of interest to USDA. For example, a widely-attended gathering includes those events that are open to many representatives from different entities throughout a given industry or profession.*

There are other exceptions to the gift rules. For additional information about exceptions to the general prohibitions regarding gifts from non-Federal sources, please consult with the USDA Office of Ethics.

III. Limitations on Holiday Gift Giving between Federal Employees

As a general rule, you are prohibited from giving, donating to, or soliciting contributions for, a gift to your superiors.

Exceptions to the General Rule

- During holidays, which occur on an occasional basis, if you are a supervisor, you may accept gifts (other than cash) of $10 or less from a subordinate.
- Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.

- If a subordinate is invited to a social event at the supervisor's residence, the subordinate may give the supervisor a hospitality gift of the type and value customarily given on such an occasion.

IV. Contributions to Holiday Parties and Office Gift Exchanges

Employees may make **voluntary** contributions to an office holiday party. Please note that a contribution is not voluntary unless it is made in an amount determined by the contributing employee and, if an amount is recommended for donation, then employees should be advised that the employee may choose to contribute less, or not at all. Finally, an employee who declines to contribute may not be excluded from a holiday celebration that is held in the office during business hours.

- Office gift exchanges: Even "anonymous" gift exchanges rarely are—so please keep the gifts to $10 or less.

For any additional guidance regarding ethics-related matters, please contact the USDA Office of Ethics.

HOLIDAY SEASON & ETHICS -- FREQUENTLY ASKED QUESTIONS (FAQs)

As the holiday season approaches, it is often filled with gift exchanges, parties, and invitations to receptions and other celebrations, Federal Ethics requirements continue to apply to all Federal employees. To help you navigate the holiday season, below are answers to frequently asked ethics questions.

If you have any questions about the guidance below or need assistance on any other Ethics matter, please contact the USDA Office of Ethics by using the contact information that can be found on the OE website at: https://www.usda.gov/about-usda/general-information/staff-offices/office-ethics/ethics-advisors.

Office Holiday Celebrations and Gift Exchanges

What is considered a gift?

Under the ethics rules applicable to Federal employees, a "gift" is generally anything that has monetary value. Traditionally, a gift during the holiday season can include wrapped or unwrapped tangible items (*e.g.,* book, t-shirt, calendar, etc.), food shared in the office, a free meal, and complimentary invitations to events, including holiday receptions, etc.

Can employees contribute to an office holiday celebration?

Yes, employees may contribute to an office holiday celebration **so long as** the contribution is **voluntary**. A contribution is considered voluntary if the contributing employee determines for themselves whether to donate and chooses the amount they wish to give. The key is that the contribution is given freely, without coercion from a supervisor.

Is it appropriate to exclude employees who do not make voluntary contributions to an office

holiday celebration from the event?

No, an employee who declines to make a voluntary contribution to an office holiday celebration should not be excluded from that holiday celebration.

Can I collect voluntary contributions using a payment app (*e.g.,* Venmo) for an office holiday celebration among staff employees?

Generally yes, but please be very careful if you decide to use a payment app! In order for contributions for an office holiday celebration to be considered voluntary, they must be given freely, without pressure or coercion. Payments made through some apps publicly identify the donor or source of the payment and this in turn may inadvertently create inappropriate pressure on employees to contribute. To avoid such pressure, the collecting employee should **not** be a supervisor.

I am supervisor, can I treat my staff to an in-office pizza party during the holidays?

Yes. A shared meal provided amongst colleagues to celebrate the holidays, or another special occasion is generally permissible. The gift rules permit food and refreshments to be shared in the office among several employees. Therefore, a supervisor could host an in-office pizza party as a holiday gift for their subordinate employees. As an alternative option, a supervisor could treat their team to a meal at a restaurant.

So long as a supervisor does not participate, may our office organize a holiday gift exchange among staff with a gift price limit?

Office gift exchanges should generally be limited to an amount of **$10 or less** in order to ensure compliance with the gift rules. Remember, even if a supervisor does not participate in a holiday gift exchange, the gift rules generally prohibit employees from accepting a gift from an employee making less pay unless a gift exception applies. An exception exists for gifts valued at $10 or less that are given on occasions when gifts are traditionally given, like the annual holiday season. As an added benefit, a $10 limit will allow a supervisor to participate in the festivities! Further, make sure any invitation to participate in a holiday gift exchange clearly indicates that participation is voluntary and have an employee other than a supervisor send out the invitation. If you are not sure whether your invitation complies with the ethics rules, please send the invitation to the Office of Ethics before sending.

Holiday Gifts Between Employees

Can I give a holiday gift to my supervisor? Can I accept a holiday gift from a subordinate?

Generally, yes so long as the gift has a market value of $10 or less. During the holidays, a subordinate employee may give to their supervisor, and a supervisor may accept from a subordinate, an unsolicited gift (other than cash or cash equivalent, such as a prepaid credit card) with an aggregate market value of $10 or less.

I am hosting a holiday party at my home. Can I invite my supervisor?

Yes. A supervisor is allowed to accept from a subordinate, and a subordinate may give to their supervisor, personal hospitality at the residence of a subordinate which is of the type and value customarily provided on the occasion, such as a holiday party. Therefore, a subordinate may invite their supervisor to their home for a holiday party, and the supervisor may attend.

My supervisor is hosting a holiday party at her home, and I want to bring a bottle of wine. Can I give my supervisor a $15 bottle of wine as a gift?

Yes. A supervisor is allowed to accept from a subordinate, and a subordinate may give to their supervisor an item of the type and value that is customarily given in connection with personal hospitality provided at a residence. Although the $15 bottle of wine exceeds the $10 limit for gifts to a supervisor, such a gift is permissible under the circumstances as it is customary to give the host of a holiday party a bottle of wine

Our entire office appreciates the work of our supervisor and what the supervisor does for the team. Can our office set up a voluntary collection of funds to purchase a $40 coffee maker as a holiday gift for our supervisor?

No. The voluntary collection of funds to purchase a gift for a supervisor is limited to special infrequent occasions or for items of food and refreshments to be shared in the office by employees on an occasional basis such as an office celebration during the holiday season. Just like birthdays, the holiday season occurs once a year and, unlike a marriage, illness, or birth/adoption of a child, is not considered a special infrequent occasion that permits the voluntary collection of funds to purchase a gift for a supervisor. Further, the $10 limit on items given to a supervisor is on a per-gift basis. In other words, collecting $10 each from four employees to purchase a $40 coffee maker would not meet the $10 exception for gifts given to supervisors – unless it was for a special, unique occasion, such as the supervisor getting married, celebrating the birth or adoption of a new child, retiring or leaving the agency.

Reminders for Holiday Gifts from Outside Sources

What is considered a gift?

As noted above, under the ethics rules applicable to Federal employees, a "gift" is generally anything that has a monetary value. Traditionally, a gift during the holiday season may include a wrapped or unwrapped tangible item (*e.g.,* book, t-shirt, calendar, etc.), food shared in the office, a free meal, and invitations to and free attendance at events, including holiday receptions, holiday concerts, or other entertainment.

What is considered an "outside source"?

The term "outside source" includes any non-Federal persons or entities. A "prohibited source" is

any person or entity who:

- is seeking official action by the Department;
- does or seeks to do business with the Department;
- conducts activities regulated by the Department;
- has interests that may be substantially affected by the performance or nonperformance of your official duties; or
- is an organization a majority of whose members are described above.

In sum, the term "prohibited source" is determined based on whether the person or entity is seeking official action, doing or seeking to do business, or conducting activities regulated by the Department of Agriculture.

Can I accept a holiday gift from an "outside source"?

It depends. Your ability to accept a gift from an "outside source" will depend on the identity of the donor and the nature of the gift. Each gift will need to be reviewed on a case-by-case basis. If the gift from an "outside source" is excluded from the definition of a gift, or fits within one of the gift exceptions, then you may be able to accept it. Please be careful though as the exceptions for gifts from outside sources are not the same as those discussed above for gifts between Federal employees.

Of course, even if a gift exception applies, you should consider declining otherwise permissible gifts if you believe that a reasonable person with knowledge of the relevant facts would question your integrity or impartiality as a result of accepting a gift. If you don't see a gift exception that applies to your particular gift, or if you think that your impartiality may be questioned depending on the situation, please consider declining the gift or contact the Office of Ethics for assistance.

Are there special restrictions on accepting gifts for Food Safety Inspection Service (FSIS) Employees under the Federal Meat Inspection Act?

Yes. The Federal Meat Inspection Act, at 21 U.S.C. § 622, imposes a very strict ban against accepting gifts from the meat industry for those USDA employees involved in meat safety inspections. This ban applies year round. Section 622 provides, in part, that:

> ". . . [A]ny inspector, deputy inspector, chief inspector, or other officer or employee of the United States authorized to perform any of the duties prescribed by this chapter who shall **accept any money, gift, or other thing of value** from any person, firm or corporation, or officers, agents, or employees thereof, given with intent to influence his official action, or who shall receive or accept from any person, firm, or corporation engaged in commerce any gift, money, or other thing of value, given with any purpose or intent whatsoever, shall be deemed guilty of a **felony** and shall, upon conviction thereof, be summarily discharged from office and shall be punished by a fine not less than $1,000 nor more than $10,000 and by imprisonment not less than one year nor more than three years."

The Federal Meat Inspection Act is more stringent than the regular Federal Ethics rules and will preclude FSIS and other employees involved in meat inspections from accepting any gift of value from the meat industry. Employees with questions about the Federal Meat Inspection Act should contact their supervisor and the USDA Office of Ethics.

Examples of Common Exceptions That Permit You To Accept Gifts from Outside Sources During the Holidays

While we have highlighted the most common gift exceptions below, there are other gift exceptions that may apply to gifts you are offered during this holiday season. For additional information and guidance on gifts, please refer to the USDA Office of Ethics website and consult with an Ethics Advisor as needed, https://www.usda.gov/about-usda/general-information/staff-offices/office-ethics/ethics-advisors

My long-time friend from college works for a company that submitted a bid for a contract with the Department and has invited me to a party at their home to celebrate the holidays. Can I go to the party?

Yes. Where the gift is clearly motivated by a long-standing personal friendship rather than your position or a business relationship, you may accept the gift. Factors to consider in determining whether a relationship is personal include the history and nature of the relationship and whether the friend or family member personally pays for the gift. Additional restrictions may apply where a friend is also a Federal employee, contractor, or grant or loan recipient.

I received a holiday ornament as a gift from a contractor. Can I accept it?

It depends. You may accept a holiday gift (but never cash or cash equivalent, such as a prepaid credit card), from a prohibited source (*e.g.*, a contractor's employee) or offered to you because of your official position, so long as: (1) the market value of the gift **does not exceed $20, AND** (2) the **total amount** of gifts that you accept from that same source **does not exceed $50 for the calendar year**. Therefore, if the market value of the holiday ornament is $20 or less, and the total value of gifts you will have received this calendar year from the same contractor won't exceed $50, you may accept it.

Can I attend a holiday reception hosted by a contractor or key stakeholder under the "holiday party" exception?

There is **no** broad "holiday party" exception under the gift rules. A holiday party, open house, or reception, even if no one is required to pay an admission fee to attend, is considered a gift. However, you potentially may attend these holiday celebrations when hosted by an "outside source," such as a contractor or other key stakeholder, if the event meets the regulatory requirements to apply the "widely attended gathering" exception (as determined by an Ethics Advisor in the USDA Office of Ethics) **and** it has been determined **in advance of your attendance**

at the event that it is in the Department's interest that you attend because it will further USDA's programs and operations.

My father works for a contractor. Can I celebrate the holidays at my parents' home?

Absolutely! As an employee of a contractor, your father is technically considered a prohibited source under the ethics regulations. However, under the "personal relationship" gift exception, where the invitation to attend a holiday party, open house, or reception is **clearly motivated** by a personal relationship rather than your position, you may accept the gift. The same would apply to holiday celebrations hosted by parents, other family members, close friends (*e.g.,* college roommate, best friend, groomsmen, etc.), and neighbors.

As a reminder, the USDA Office of Ethics is available to assist all USDA employees with questions about the Ethics and Hatch Act rules. At holiday time, and year-round, you should not hesitate to contact the Office of Ethics for further specific guidance about the gift rules.