

Information Paper

DAJA-SC
As of 18 April 2003

Subject: Gifts to Soldiers, Army Civilian Employees, and their Family Members

1. Introduction. Since the start of Operation Enduring Freedom and Operation Iraqi Freedom as part of the Global War on Terrorism, numerous individuals and organizations have come forward expressing a desire to help soldiers and Army civilian employees, especially those who have been wounded or killed during the operations, and their families. These individuals and organizations have offered every conceivable thing, including money, discounts, services, and tangible items.
2. Purpose. To provide information on rules concerning gifts and offers of assistance from non-Federal sources to soldiers and their family members.
3. Gifts to Soldiers, Army Civilian Employees, and their Family Members.
 - a. Generally, a soldier or Army civilian employee cannot directly or indirectly solicit or accept a gift that is given because of the soldier's or employee's official position or that is from a prohibited source. Standards of Ethical Conduct for Employees of the Executive Branch, JER 2-100; 5 CFR 2635.201 *et seq.*
 - b. A gift is accepted because of a soldier's or employee's *official position* if it would not have been offered or given had the employee not held the status, authority or duties associated with his/her Federal position. 5 CFR 2635.203 (e).
 - c. *Prohibited sources* include companies that have (or seek to have) contracts with the Department of the Army, companies whose conduct or activities are regulated by the Army; or are organizations a majority of whose members are prohibited sources. 5 CFR 2635.203(d)
 - d. A gift offered to or received by a family member (parent, sibling, spouse, child or dependent relative) of a soldier or Army civilian employee is considered to be an *indirectly accepted* by the soldier or employee if it was given with the soldier's or employee's knowledge and acquiescence and because of their relationship to the soldier/employee. 5 CFR 2635.203(f)

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- e. A gift that may be properly accepted by a soldier or a civilian employee may be accepted by his/her family member.
 - f. Gift to soldiers or civilian employees (or their family members) may create a financial conflict of interest and create the appearance of loss of impartiality in the performance of official duties. The existence of a financial conflict of interest will prevent a soldier or civilian employee from taking any official actions that could benefit the financial interests of the organization or person who gave the gift. 5 CFR 2635.501 and 5 CFR 2635.502.
4. Pursuant to the Joint Ethics Regulation (JER) 2-100 and the *Standards of Ethical Conduct for Employees of the Executive Branch*, 5 CFR 2635.203 and 204, soldiers, Army civilian employees, or their family members may accept items such as:
- a. Gifts with a market value of \$20 or less, not to exceed \$50 in a calendar year from any one source.
 - b. Gifts to a group of Federal employees or class of individuals, such as discounts or special offers, that is not based on official position or grade, whether or not restricted on the basis of geographic considerations.
 - c. Gifts based on a personal relationship (must be clearly motivated by a family or other personal relationship).
 - d. Gifts permitted by other statutes, such as gifts from foreign governments accepted under the authority of 5 US Code 7342 (retail value in United States may not exceed \$285).
5. Some gifts should not be accepted:
- a. A gift may never be solicited or coerced.
 - b. Exceptions to gift rules do not authorize bribes. If a gift buys influence, it violates 18 US Code 208 (a criminal statute).
 - c. If the frequency of gifts would lead a reasonable person to believe that the soldier or civilian employee is using his/her public office for private gain, the gift may not be accepted.

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6. Some items that could not be accepted by soldiers, civilian employees or their family members may be accepted by the Department of the Army under specific statutory or regulatory authority. 10 US Code 2601, AR 1-100, Gifts to the Army and AR 1-101, Gifts for Distribution to Individuals.
7. Gifts to Family Members of Deceased Soldiers or Army Civilian Employees.
 - a. The Joint Ethics Regulation, DoD 5500.7-R and the Standards of Ethical Conduct for Employees of the Executive Branch, 5 CFR 2635 are not applicable to non-DOD civilians. The above-cited restrictions and limitations are not applicable after the death of a soldier or civilian employee.
 - b. The Army has no authority to accept gifts for distribution to family members of deceased soldiers. The Privacy Act of 1974 prohibits the Army from providing a deceased soldier's personal information (e.g., name of next of kin or family members, address, and telephone number) to third parties. Such information may only be released by written consent of the soldier or civilian employee.

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