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NGMD-TAG

4 November 2015

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Holiday Guidance for Maryland National Guard Personnel

1. The holiday season is traditionally a time of parties, receptions, and exchanging gifts. However, even during the holiday season, the Standards of Conduct apply. To ensure you do not unwittingly violate the standards, a brief summary of the applicable rules is set out below. If you have any questions, please contact the Office of the Staff Judge Advocate.

2. General Gift Rule. MDNG personnel may not accept gifts offered because of their official positions or offered by a "prohibited source," unless an exception applies. A prohibited source is anyone who seeks official action by MDNG; does business or seeks to do business with MDNG; has interests that may be substantially affected by the employee's performance of duty; or is an organization composed of members described above.

3. Gifts Defined: Gifts include not only tangible items but most items of value; examples are free attendance at dinners and other meals, receptions, sporting events, and similar widely attended gatherings.

4. Gifts and Gift Exchanges:

a. Gifts and Gift Exchanges That Include Contractor Personnel.

(1) Gifts from contractors: Even during the holidays, gifts from contractors may not exceed \$20.

(2) Gifts to contractors: Check with the contractor, since many contractors have codes of ethics that are similar to Federal rules and therefore may preclude the acceptance of gifts.

b. Between MDNG Personnel. Supervisors may *not* accept gifts from subordinates or MDNG personnel who receive less pay, *unless* one of the following exceptions applies:

(1) During holidays, which occur on an occasional basis, supervisors may accept gifts (other than cash) of \$10 or less from a subordinate.

(2) Supervisors may accept food and refreshments shared in the office and may share in the expenses of an office party.

(3) 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.

c. There are no legal restrictions on gifts given to peers or subordinates, however, common sense and good taste should apply.

5. Parties, Open Houses, and Receptions.

a. MDNG personnel may attend social events sponsored by non-prohibited sources if no one is charged admission (e.g. most holiday receptions and open-houses). MDNG personnel may also attend events where an exclusion or exception applies (see below).

b. Exclusion & Exceptions. Gifts from Prohibited Source including MDNG Contractors: MDNG personnel may *not* accept gifts, including attendance at parties, events, open-houses, and receptions, from contractors and contractor personnel *unless* one of the following applies:

(1) De Minimus (Insignificant Value) Gift. MDNG personnel may accept gifts (other than cash) not exceeding \$20, as long as the total amount of gifts that the personnel accepts from that source does not exceed \$50 for the year.

(2) Personal Gift. MDNG personnel may accept gifts, even from a contractor employee that are based on a bona fide personal relationship. (Such personal gifts are actually paid for by the contractor employee rather than the contractor.)

(3) Widely-Attended Gathering. MDNG personnel may generally attend an open-house or reception, and accept any gift of refreshments if it is a widely-attended gathering, and the employee's supervisor determines that it is in the agency's interest that the employee attend.

(4) Open to the Public. MDNG personnel may accept invitations (even from contractors) that are open to the public, all Government employees, or all military personnel.

(5) Gifts unrelated to MDNG employment. MDNG personnel may accept invitations offered to a group or class that is not related to Government employment (For example, if the building owner where your office is located throws a reception for all of the tenants of the building).

(6) Modest Items of Food and Refreshments. MDNG personnel may accept refreshments consisting of soft drinks, coffee, pastries, or similar refreshments not constituting a meal since they are not considered to be a gift.

(7) Gifts based on Outside Business or employment relationships. MDNG personnel may accept attendance at events which are solely based on outside business or other employment relationships. For example, a MDNG employee's spouse works at a Defense contractor. The MDNG employee may accompany the spouse to the contractor's holiday party since the invitation is to the spouse as an employee, and not to the MDNG employee because of his or her position.

c. Between MDNG Personnel. MDNG personnel may accept gifts, including attendance at parties, open-houses, and receptions, from other MDNG personnel, if one of the following applies:

(1) Invitation from a subordinate (who earns less): MDNG personnel may accept personal hospitality at the residence of a subordinate that is customarily provided on the occasion.

(2) Invitations from a supervisor or a co-worker: No restrictions.

6. Miscellaneous Information. You may not solicit outside sources for contributions for your party. This includes funds, food, and items. Generally office parties are unofficial events, and you may not use appropriated funds to pay for them. Beware that door prizes or drawings could involve gambling, which would require compliance with state statutes and Federal regulations. The Joint Ethics Regulations prohibit gambling on Federal property or while in a duty status. GSA regulations ban gambling in GSA owned or controlled buildings. You may not use appropriated funds to purchase and send greeting cards. As a general rule, participation at holiday social events is personal, not official, and therefore use of government vehicles to/from such events would not be authorized. However, there may be very limited circumstances in which a senior official or officer is invited to attend because of his or her official position and where he or she will be performing official functions at the event as opposed to being invited because he or she is an important person. In these situations, use of a government vehicle may be authorized, subject to normal "home-to-work" transportation restrictions.

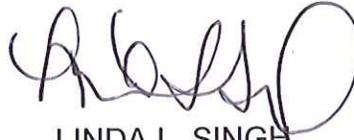
7. Rules Applicable to Contractor Employees. Many contractors have rules of ethics or business practices that are similar to the Federal rules. Take these rules into consideration before offering contractor employees gifts or opportunities that they may not be able to accept.

8. Rules Applicable to State Employees. Similarly, State employees are subject to rules of ethics that should be taken into consideration before offering them gifts or opportunities that they may not be able to accept. State employees should consult with the State Ethics Commission for appropriate guidance.

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9. POC for this matter is 1LT Rebecca Earlbeck at rebecca.o.earlbeck.mil@mail.mil or 410.576.6056.



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