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## GIFTS

*As the holiday season approaches, we thought a reminder about the Gifts and Donor restrictions rules would be helpful. Below are a few important points to keep in mind when considering accepting or giving gifts.*

**Gifts; travel expenses; waivers (42 IAC 1-5-1)** - The [Gifts rule](#) prohibits a state employee or special state appointee from knowingly soliciting, accepting, or receiving any gift, favor, service, entertainment, food, drink, travel expenses, or registration fees from a person who has a business relationship with his agency or is seeking to influence action by him in his official capacity.

Business relationship is defined in IC 4-2-6-1 (a)(5) as: the "dealings of a person with an agency seeking, obtaining, establishing, maintaining, or implementing: (i) a pecuniary interest in a contract or purchase with the agency; or (ii) a license or permit requiring the exercise of judgment or discretion by the agency." "Person" is defined in IC 4-2-6-1 (a)(13) as "any individual, proprietorship, partnership, unincorporated association, trust, business trust, group, limited liability company, or corporation, whether or not operated for profit, or a governmental agency or political subdivision."

There are certain exceptions to this rule found in 42 IAC 1-5-1 (b) and this prohibition may be waived by an agency's appointing authority or ethics officer when a waiver is consistent with the public interest.

**Donor restrictions (42 IAC 1-5-2)** - The donor restrictions rule prohibits a person who has a business relationship with an employee's or special state appointee's agency from providing any gifts, favors, services, entertainment, food, drink, travel expenses or registration fees to the employee if the employee would not be permitted to accept the item under 42 IAC 1-5-1.

- \* *Please remember that in addition to the rules related to gifts, which set the minimum standard of conduct, it is important to avoid the appearance of impropriety when considering accepting or giving gifts. Individual agencies may also have stricter guidelines in place.*

## Gifts (continued)

### FAQs related to the Gifts rule:

***Can I accept a gift from one of my agency's vendors?***

No, unless the gift falls under one of the exceptions in the Gifts rule, you would be prohibited from accepting such a gift.

***What should I do if a vendor sends food items or other perishable items to my office?***

You should first attempt to return such items to the sender with a note of thanks, but clarifying that the State's ethics rules prohibit you from accepting such gifts and the donor restrictions rule prohibits them from offering these gifts to you. When it is not feasible to return the gift, we recommend it be donated to a charitable cause. As a last resort, if it is not feasible to return or donate the gift, it would be acceptable for the office to leave it in a common area for general consumption. However, a note should be sent to the vendor reminding them about the gift and donor restrictions.

***Can I give a holiday gift to a co-worker?*** Yes, the Gifts rule prohibits accepting gifts from those who have a business relationship with your agency or who are otherwise attempting to influence you in your official duties; it does not restrict state employees/appointees from giving gifts.

***Is it acceptable for members of our office to participate in a "Secret Santa" or similar gift exchange?*** Yes, so long as employees refrain from using state resources or time while participating in the exchange (i.e. you cannot buy gifts on state time) or accept gifts from those who have a business relationship with their agency. You may wish to confirm whether your agency has additional policies in place for these types of activities.

***A vendor has invited me to their office holiday party at which food and drink will be provided. Can I attend and partake of the offerings?***

No, you would not be able to accept food, drink, or entertainment from anyone who has a business relationship with your agency unless acceptance falls under one of the exceptions in 42 IAC 1-5-1 (b).

## Legal & Ethics Conference

The eighth annual Legal & Ethics Conference will be held on December 17<sup>th</sup> at the Indiana Convention Center. At least 6.0 hours of CLE credit are expected and CPE credit can also be earned. Registration is open until December 4, 2015; please contact your Ethics Officer or visit the [OIG website](#) for further information.

## Need advice?

Advice on the application of the Code of Ethics is always available through our office. A confidential, informal opinion can usually be delivered in writing within 1-3 days of receiving the request. Formal opinions can also be requested from the State Ethics Commission for a final, public determination at one of their monthly meetings. Please go to our [website](#) and click the "Advice" button to [submit a request](#) if you have questions about the ethics rules.

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**Save the Date:** The annual Legal & Ethics Conference will be held on December 17<sup>th</sup>

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