

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY



Office of Government Ethics

March 14, 2013

**VIA EMAIL TO:**

xx. xxxxxxxx xxxxxxxx  
xxxxx  
D.C. xxxx xxx xxx  
xxxxxxx.xxxxxxx@dc.gov

xx. xxxxx xxxxxxxxxxxx  
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Dear xxxxx xxxxxxxx and xxxxxxxxxxx xxxxx xxxxxxxxxxx:

This responds to the March 4, 2013 email, submitted by the xxxx xxx xxx General Counsel, requesting guidance concerning whether both of you permissibly may accept an invitation to the xxxxxx University xxxxxxxx xx xxxxxxxxxxx xxxxx xx xxxxxxx xxxxxx Dinner and Awards Luncheon. You both have been invited by the xxxxxx University xxxxxxx xx xxxxxxxxxxx to attend the black-tie dinner and awards luncheon and have requested advice on whether you are permitted to accept this invitation while serving in your current capacities as employees of D.C. xxxx xxx xxx.

The acceptance of gifts by employees of the District government is governed by Chapter 18, Title 6B of the D.C. Municipal Regulations.<sup>1</sup> To answer your question, we must first look to the definition of “gift.”<sup>2</sup> The DPM defines gift as, “any gratuity, favor, loan, entertainment, or other like thing of value.” While we acknowledge that the invitation to the xxxxxx Dinner and Awards Luncheon may not have value, the food and refreshments you will receive at the xxxxxx Dinner and Awards Luncheon do have value. Therefore, although the invitation itself may not be considered a gift, we find that the food and refreshments that will be provided are a gift as defined by the DPM.

We then look to the definition of “prohibited source”.<sup>3</sup> The DPM defines a prohibited source as, “any person or entity that:

- (1) Has or is seeking to obtain contractual or other business or financial relations with the District government;
- (2) Conducts operations or activities that are subject to regulation by the District government; or

<sup>1</sup> Hereinafter, Title 6b of the D.C. Municipal Regulations will be referred to as the District Personnel Manual or DPM.

<sup>2</sup> DPM § 1803.2(b)

<sup>3</sup> DPM § 1803.2(b)(1-3)

- (3) Has an interest that may be favorably affected by the performance or non-performance of the employee's official responsibilities.

Under the DPM, District government employees shall not solicit or accept, either directly or through the intercession of others, any gift from a prohibited source.<sup>4</sup> xxxxxx University has a financial relationship with the District and is, to an extent, regulated by the District. Therefore, under the DPM, xxxxxx University is a prohibited source. As District government employees, neither of you may accept gifts from xxxxxx University. That said, despite the fact that xxxxxx University is a prohibited source, this event could fall under an exception to the gift prohibitions found in the DPM. This exception provides that the acceptance of food and refreshments of nominal value on infrequent occasions is permissible:

In connection with an annual holiday party or event sponsored by an entity other than the District government, provided that the employee shall notify his or her supervisor in time sufficient for the supervisor to make a meaningful judgment to approve or disapprove the employee's attendance. When making the determination the supervisor may consider such factors as the agency's interests and any appearance of a conflict of interest. The supervisor shall disapprove the employee's attendance if there is an actual conflict of interest.<sup>5</sup>

The xxxxxx Dinner and Awards Luncheon are events sponsored by the xxxxxx University xxxxxxxx xx xxxxxxxxx, an entity other than the District government. We have found no evidence to suggest that a conflict of interest exists between xxxxxx University and D.C. xxxx xxx xxx, because there is no direct contractual relationship between the two entities. In addition, it would likely be in the interest of D.C. xxxx xxx xxx to have the agency represented at this event by the xxxxx and xxxxxxxxxx xxxxx. Therefore, pending the approval of your supervisor, under this exception to the prohibition on the receipt of gifts from prohibited sources, your acceptance of food and refreshments of nominal value at the xxxxxx Dinner and Awards Luncheon would be permissible.

The federal government's Office of Government Ethics (OGE) also has provided guidance on the issue of accepting a gift of event attendance. In a 2007 advisory memorandum,<sup>6</sup> OGE discussed an exception to its gift prohibitions that concerned "widely attended gatherings." A gathering is widely attended if it is expected that a large number of persons will attend and that persons with a diversity of views will be present.<sup>7</sup> To qualify for this exception, the employee's attendance must be in the interest of the agency because it will further agency programs and operations.<sup>8</sup> A higher standard must be met if the gift donor has interests that may be substantially affected by the performance of the employee's official duties.<sup>9</sup> The exception permits a waiver of all or part of any attendance fee, as well as food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event.<sup>10</sup> The exception does not cover entertainment collateral to the event, or meals taken other than in a group setting with all other attendees, nor does the exception cover travel and lodging.<sup>11</sup>

The OGE advisory memorandum specifically addresses "University Events" like the xxxxxx University xxxxxxxx xx xxxxxxxxxx xxxx xx xxxxxxx xxxxxxx Dinner and Awards Luncheon. OGE advises that such events generally qualify as widely attended gatherings, as long as they are

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<sup>4</sup> DPM § 1803.2(a)

<sup>5</sup> DPM § 1803.3(b)(2)

<sup>6</sup> Office of Government Ethics Advisory Memorandum DO-07-047: Widely Attended Gatherings

<sup>7</sup> 5 C.F.R. § 2635.204(g)(2)

<sup>8</sup> 5 C.F.R. § 2635.204(g)(3)

<sup>9</sup> Id.

<sup>10</sup> 5 C.F.R. § 2635.204(g)(4)

<sup>11</sup> Id.



