good afternoon and welcome to the national government ethics virtual Summit I'm Patrick Shephard and I'm Ryan seagrist and uh we're sorry that we're

0:28

getting started a little bit late we are having some technical difficulties uh quite literally and uh we are uh going

0:34

to be uh getting right into the slides and moving pretty quickly here today so uh let's uh let's go ahead and get

0:41

started I've got some announcements that uh do for the uh for the for the uh the

0:47

rest of the summit so uh let's uh talk about that real quick the first thing that I want to remind everyone of is uh

0:54

that we will have our uh second of our gift exception sessions uh starting at 1:00 this afternoon uh that's eastern

1:01

time it's going to go from 1:00 p.m. to 2:00 p.m. then uh also

1:07

on uh September uh 17th tomorrow we're going to be doing a special session in

1:13

the morning from 11:00 a.m. to uh 12m covering the wag exception exclusively

1:20

and then finally on uh the uh the the 17th we will also be doing from 1:00 p.m. to 2: p.m. a session on uh the the

1:29

rest of the gift exceptions and we're also going to talk about the exclusions to the definition of a

1:35

gift on on September uh 19th also don't forget that we're going to be live

1:41

streaming the entire day Forum day two live at NIH uh we have an entire day's

1:47

worth of sessions uh ready to go for you that are going to be really good and we

1:53

are looking forward to uh presenting those and you'll see Patrick and I in between the sessions there uh

1:58

commentating and bringing speakers on uh to to get a little bit more information for those of you who are participating

2:04

virtually on September 22nd I would also uh this will be that

2:10

that will be the final day of bonus virtual only content that we'll be doing and we're going to cover uh a couple of

2:16

more advanced topics than we usually do the first one is going to be uh

2:21

regulations that apply uh to non-career employees and there's a whole galaxy of

2:27

regulations that could be applicable there uh in the second session we're going to talk about how to brief uh

2:33

leaders on ethics and uh how to get some buy in for your program on that that's right so we're really going to progress

2:39

from uh the basic Cannon of government ethics laws and regulations and uh get into some more uh Advanced and uh

2:45

leadership oriented uh concept that's right and I think that's going to be a really interesting session so uh we hope

2:52

that you tune on that day and then finally uh the the last the last day of the the entire Summit is going to be on

2:58

September 23rd uh we're we're going to be live streaming from fhfa and we're going to have a lot of uh interesting

3:04

speakers for that day too because we're going to be covering a bunch of uh outside uh issues that are related to

3:10

ethics with outside stakeholder groups like the media uh Congress uh good

3:15

government groups yeah we're really going to have the opportunity to hear from some folks we uh often uh don't think about as stakeholders in the

3:21

executive branch Ethics program but they are important folks and it'll be good to hear from them right

3:27

so after those announcements how's about let's just get right into the slides again we apologize for starting late

3:32

today yeah so let's take a look at uh the slides for the gifts presentation and what we're going to be doing in the

3:44

next for the practice if you've been doing gifts for a long time you may find this to be a little bit rudimentary uh

3:50

this is a a basic introduction to the rule the goal here is not to make anyone an expert but again keeping with the

3:56

idea that we are replicating the new ethics official orientation track of previous conferences we want to make

4:02

sure that we Orient folks to what is a fairly complex rule I think and the gift rule has a lot of pieces a lot of moving

4:08

Parts one of the difficulties I find is just remembering that they're all there that's right uh remembering that they're all there because there are how how many

4:15

Gift exceptions are there there there are a lot there's more than a dozen at least uh and the uh each of them has its

4:21

own little moving parts and considerations and things that you need to think about while you're analyzing any given situation and uh if you joined

4:28

us for the month of gift in August uh we spent some time looking at uh specific gift uh exceptions like we spent an

4:35

entire day talking about widely attended Gatherings we're going to talk about that again uh tomorrow but uh yeah so

4:41

there's some complexity there that we could spend you know hours and hours talking about single exceptions but

4:46

because there are some exceptions that are complicated we tend to give short trift to some of the more

4:52

straightforward exceptions and if you're new to the practice that doesn't really help you you really need um an introduction to those basic exceptions

4:59

of those are more straightforward so that's what we want to do today we want to cover some of the more common exceptions that we don't teach about a

5:05

lot because uh they are fairly straightforward but if you're new um knowing about them is really important

5:11

right and we're going to address some commonly commonly asked questions with some of these too uh they're uh some

5:17

classic classic questions that we've gotten at OG in the past that we're going to address briefly exactly but

5:23

before we get into the exceptions let's talk a little bit about the rule um

5:28

because I think it's def ult to understand uh the gift exceptions absent and understanding of the advice and

5:33

counseling process generally and the gift rule in general so what you can see here is is our diagram of the advice and

5:40

counseling process and if you're a frequent viewer of our events you'll know that we use this a lot that's right

5:47

uh and and there's a reason why uh why we use it a lot is because it's a continuous process uh you may notice

5:53

that it is circular rather than linear uh and why is that Ryan why do we have a circular process instead of a linear one

5:59

1 two 3 4 process the reason why is because we uh often have to take more bites from different parts of the apple

6:05

as we're as we're working our way around the circle uh you know it's it's we do we do need to know the rules we need to

6:11

know at least know where they're at and we're going to spend some that's our primary objective here today is to

6:17

orient you to the rules to know that the rules exist right and then after that we need to spot the issues uh for any

6:22

situation that we might uh that that might come up so in any given fact pattern we need to we need to be able to

6:28

say okay okay what ethics problems or what issues are are uh potentially going to be ones that we need to think about

6:35

uh very carefully and I think this is where experience comes in and uh you know when we make distinctions between

6:41

very experienced ethics officials and folks who are new uh your ability to spot the issues comes with experience

6:46

right and also a little bit with getting the facts you need to know what

6:52

kind of question you need to make a full consideration that's right and then we apply those rules to the facts uh so

6:59

today what we're going to try and do is Orient you to those rules um and then give you some hints about what facts

7:05

might be missing from your scenarios uh and give you some hints about spotting the issues right um so you know

7:10

hopefully we'll help you with your advice and counseling process so besides this sort of diagram that we have for advice and counseling in general we also

**Gifts Micro Process**

7:17

have one very specific to GIFS analyses yeah and this is what we call the gifs

7:22

micro process or process within a process so when you're advising on gifts uh this is an analysis process that

7:29

helps you to take a complex regulation and break it down in some to some simple steps and there are three things we need

7:35

to do the first thing we need to do is determine whether or not the item being offered qualifies as a gift and that

7:41

doesn't mean in the in the normal parants in it doesn't mean in the vernacular sense of a gift but in the specific meaning of a gift within the

7:48

regulation that's right uh just because someone offers you something does not mean that for purposes of the ethics

7:54

regulation it is it gift and we do have a definition of gift in the regul

8:00

and if you've not taken a look at that I'd encourage you to do so because it does have a number of exclusions and

8:06

exclusions are items uh that are being offered that don't qualify as gifts and you can take a look at those uh there

8:12

are a number of them there are nine exclusions and we would encourage you to take a look at them and we're going to

8:17

be talking about those a little bit if we have time at the end of the last session that's right and and one other thing uh just real quick if you uh don't

8:24

have your regulations in front of you or you don't have regulations in general uh you can go to OG's site under the

8:30

statutes and regulations Tab and access the regulations uh for the gifts and the

8:35

citation specifically for it is 5cfr 26352 that's right uh and for this

8:42

course in the next three courses I'd really encourage you to have those because this is a a very regulation

8:48

heavy presentation right so the first thing we need to do is determine whether or not the item being offered qualifies

8:53

as a gift um if it does meet the definition of a gift and is not excluded from the definition of a gift M uh then

8:59

then we can go look at the prohibition and I think this is important uh you know once we've decided that the thing

9:05

being offered qualifies as a gift for purposes of subpart B of the standards then we look at the prohibition you know

9:11

is this a gift that is prohibited under the the reg and where do we find the prohibition Ryan uh we can find the

9:18

prohibition right there at 2635 .202 so we have 202 a gen General prohibitions

9:24

accept as provided in this subport employee shall not directly or indirectly solicit or accept a gift uhuh

9:30

from a prohibited Source or given because of the employees official position so we have two prongs to the

9:35

prohibition it we can't accept gifts from prohibited sources mhm and we also

9:41

can't accept gifts given because of the employees's official position regardless of who's offering it

9:47

right so that's that's important we need to only meet one of criteria so we could

9:52

have a gift being offered by a prohibited Source uh that is given for reasons other than an employees official

9:58

position right and would meet the general prohibition so real quick though I got a question for you Patrick sure um

10:05

so I I feel like I kind of understand given because of an employees official position because the harm we're trying to prevent there is pretty obvious we

10:11

don't we don't want to it want it to look like someone's accepting a bribe right but what is this prohibited Source

10:17

thing that you're talking about so let's take a look here R we have a definition of prohibited source and we're at uh

10:23

5cfr 2635 203d uh and the prohibited source is

10:28

someone who is seeking aici official action by the employees agency okay so if if a person or an organization uh is

10:34

seeking official action by the agency uh there will prohibited Source okay that makes sense so if they were to offer a

10:39

gift to an employee of our agency regardless of motivation that would meet the general prohibition okay that that

10:45

makes sense because I can just imagine someone from the outside looking at that process if I was trying to say for

10:51

example I was trying to get uh OG to do something in particular right and I you

10:57

happen to be involved with that process and I gave you a right we don't want any ingratiation to stakeholders by way of

11:03

gratuities right uh so we also have anyone who seeks uh or uh does or seeks to do business with the employees agency

11:09

so you know seeking official action doing business or seeking to do business so prospective contractors prospective

11:14

grantees current contractors current grantees right anyone who does business with us and the theory is the same here

11:21

we don't want any uh any undoing grati uh and then we have uh anyone who

11:27

conducts activities regulated by the employees agency that that makes sense to me too so for the regulatory agency

11:33

uh our regulated industry uh is our prohibited sources for purposes of the

11:39

gift um and the other thing we want to talk about is uh has interests that may

11:44

be substantially affected by the performance or non-performance of the employees uh of the of the employee okay

11:52

uh so if the employee can through performance and non-performance of their duties affect an outside entity personally they're also a prohibited s a

11:59

gift okay well that that makes that makes the prohibition much more that makes it much more sense now because

12:05

that's uh those are obviously people who we don't want uh our employees receiving gifts from right regardless of of the

12:11

purpose okay and then any any other person a non-prohibited source who offers a gift to an employee because of

12:17

their official position so this could be someone other than a regulated entity other than someone who does business with our agency who offers a gift

12:24

because of the employees official position that's also prohibited and you know I think two ideas here one is we

12:30

don't want any uh undo ingratiation of outside entities before the government okay we also want to avoid the

12:36

appearance that employees are using their public office for private gain ah yeah and I think that's more uh more the

12:42

the the the the Crux of that that other prong of our our prohibition right so

12:47

that's our second step first the definition of a

12:56

gift and the next is it being given because of the official position okay many times both will be satisfied but we

13:02

only need to satisfy one of those two prongs and then our last step is is to ask whether there is an exception to the

13:08

prohibition and one way that I like to think about this like you had mentioned exclusions earlier Patrick that's

13:14

correct I like to think of these as not gifts like just mush the two words together not gifts and exceptions are

13:22

gifts that are okay despite the prohibition gifts that may be okay may be okay despite so these are these are

13:29

gifts uh that that are prohibited so they are gifts they are prohibited um but there are exceptions that can be

13:36

used to allow an employee to accept them right um that's very important they can

13:41

be used to allow an employee to accept them it's not the case that we should always uh accept a gift if an exception

13:48

applies um but if an exception applies we may accept the gift uh you know if that's a good thing to do if that makes

13:54

sense so that's what we're going to be talking about over the next couple of days is you know what are these exceptions and some of them you'll read

14:00

and say that's perfectly common sensical right that makes perfect sense to me I understand why we have that exception if

14:06

we didn't uh there would be absurdities yes and others you're going to look at and you're going to kind of scratch your head and you

14:12

say wait okay okay now I get it uh but you know it takes a little bit little

14:17

bit of thought but we want to get into some of the ones we don't talk about that often uh

14:22

actually be you're looking at a gift question you'll have an orientation to the universe of exceptions that may be

14:28

available to you in your agency right so let's go ahead and get into it okay let's do it uh as a as a side note uh

14:36

for those of you who accessed uh the broadcast from OG's website on the watch now page uh you can find this handout in

14:43

there and this is just a uh a reference for you it's a job aid that will be useful for you when doing uh doing gifts

14:49

analyses it has the gifts from outside sources micro process on there and also

14:54

uh has uh some other uh advice and counsel tips on there yeah yeah so uh we encourage you to keep this out uh while

15:02

we are going through the next uh four presentations okay so the first one that

**Gifts of 20 or Less**

15:08

we've got is uh the gifts of $20 or less and uh this is very unusual rhyme so

15:14

you're going to start with the the letter A exception right uh because it comes

15:19

first right that's that's a that might be a new thing for us we're going in order wow how did that happen okay so

15:27

let let's let's start with that one that makes sense uh so this is the the first exception and uh you may he hear this

15:33

exception referred to as uh the $20 rule employees are very fond of calling it the $20 rule it's not a rule it's not a

15:40

rule it's an exception to the rule uh that may be used uh where appropriate uh you also sometimes hear employees

15:46

describe it as the $25 rule that is wrong yeah it's a sort of a inflationary

15:52

yeah yeah so we want to be mindful of that but it is $20 and it is an exception not a rule right so let's take

15:58

a quick look at this uh basically what does this say Ryan so what what this is saying is that uh on any one occasion an

16:06

employee can accept an unsolicited gift okay that is worth $20 or less okay from

16:12

a single prohibited Source okay or given because the employal decision so a

16:18

prohibited gift uh a gift that's otherwise prohibited may be accepted on a single occasion if it's valued at less

16:23

than $20 right but then there's there there's also a second part to this rule there's a second part to the rule right it's a there's a a temporal aspect to

16:30

this oh no yes I know I know I have trouble with calendars and watches as you know right and we're going to and

16:36

also I have problems with keeping track of things so all right another problem so let's try the temporal uh aspect so

16:42

there's also uh from the same uh the same uh source source right the employee

16:48

can't accept uh more than $50 worth of prohibited gifts okay over the course of

16:54

a year okay so you can accept sort of Two and a Half gifts over the course of a year two $20 gifts and a $10 gift uh

17:03

that that would be one way of doing it doing doing math is always fun here we're 105 gifts except except at the end

17:09

of this uh you know one thing to remember uh and this is a this is a caution to everyone is that you're also

17:16

not supposed to accept gifts so often uh that it may cause someone to question your impartiality in doing your official

17:22

duties or allege that you're using your public office for private game right all right well this is the question that

17:27

always comes up immediately on saying well you know I can accept a gift of $20 or less uh does that include tip does it

17:36

I I think it I think it would right yeah uh so tip tip is included so if I go out to lunch I order the 1975

17:43

entree uh it comes the person taking me out to lunch leaves a tip I've accepted

17:48

a prohibited gift and the exception would not apply in that case right all right unless it's a really lousy tip

17:55

yeah here's your quarter sir all right so tip is included how about tax I think tax would be included too

18:03

tax is also included another question that I always receive or if rece ause is

18:08

uh where do we do the valuation of a gift right so someone goes on a trip uh

18:14

to a country that's known for producing something and they uh procure something uh very inexpensively and then it come

18:19

come back here and give it to something they say well I only paid $15 when I was visiting such and such country but that

18:25

item would have a value of 50 or $60 or $100 here in the states and the question

18:30

is you know is is that prohibited you know could we use the exception uh to accept that gift because when we were

18:35

visiting country why uh we could uh we could buy that for less than $20 and I

18:40

think what we've said in this case is the the place in which we value the gift is where it's received right uh so we we

18:47

don't ask about what it cost to purchase the gift because they're difficult to value in that way right because what is

18:52

the value of the transit of that gift and you get some sort of absurdities right uh so if we're looking to find out

18:58

if a gift is worth more than $20 we ask is it worth more than $20 here where it's being offered where the employee is

19:05

receiving the gift and if we have difficulty with that you know sometimes you have to do a little bit of market research and see if you can find a

19:11

comparable item uh and see what it would cost to receive that item here although since the uh since Amazon came about

19:18

it's become a little bit easier to find out what the market value of something is yeah I think a lot of Internet retailers uh give us uh an easier

19:25

Baseline for some items that used to be more difficult to value right and and that's that that's just uh one tool that

19:32

you can use that Amazon is not the the end all Beall when you're doing your market research you should be thorough

19:38

with that yeah and but yeah the idea is to get a sense of what the valuation of an item is in the place where it's being

19:43

received right another question that we get some that that uh I've gotten a number of times is you know well let's

19:48

say let's go back to your example where uh you know you're at the restaurant yes and let's say with the cost of your

19:55

dinner okay uh your tax and your tips it came out to be $25 okay let's say I

20:02

had a cocktail as well uh so another $10 this good cocktail so we're at $35 okay

20:08

all right so I I know the question I can see this coming uh so can I just give my

20:13

my my friend taking me out to dinner 15 bucks and he pays for the $20 uh on the

20:19

number no I can't do that you cannot do that there you can't break apart a single a gift like that clearly it's all

20:27

together it's one thing so I can't pay it down to the level of $20 right there is no paying down all right what if my

20:33

friend just gives me a $20 bill and then the money for his check and then I pay

20:38

the bill can I accept the cash no you cannot you cannot accept cash I can't accept cash either well this is not very

20:45

fun Ryan no no okay and also if he gives you a prepaid debit card you can't do that either anything that's cash or same

20:51

as cash is not is not permissible yeah so no cash or investment interests no stock bonds or certificates of divesture

20:57

deposit okay or uh as a side note I think that the cash acceptance I think that's called a bribe maybe yeah so we

21:04

want to be very careful about that okay so we we can't pay down the difference we can't accept cash or cash

21:09

equivalents um tax and tip are included how about this what if my friend offers

21:15

me three gifts okay uh one of them is valued at $15 and uh there are two

21:20

others valued at you know 20 or $30 each can I just accept the one of the three

21:26

uh say is a tennis racket uh a box of tennis balls uh and a pair of

21:32

tennis shorts and it was otherwise prohibited could I accept just the tennis balls yeah okay yeah so I I could

21:38

disaggregate if I'm being offered multiple gifts I could accept the one uh that would made the exception uh and then decline the others that's right you

21:45

could to you could totally do that that's uh you could decline the others or you can pay for them yourself okay

21:51

because if you pay for them yourself then they're no longer gets ah yes and I I believe that is one of our exclusions

21:56

exclusion number nine uh-huh excellent all right well I think we could probably sit here and do hypotheticals about the

22:03

$20 uh exception for the rest of the day oh we could beat this to death Patrick uh but I think in the interest of time

22:09

maybe we should move on to uh our next exception okay uh this next exception is uh one of those Common Sense ones gifts

**Gifts Based on a Personal Relationship**

22:16

based on a personal relationship because if uh if we did not have this one uh there would be uh some absurd results

22:24

like Christmas time or birthdays or Hanukkah anniversaries yeah you could get in a

22:29

lot of trouble right you could have a spouse who's a federal employee you're a prohibited Source no anniversary gift and then there's domestic trouble right

22:36

yeah okay so let's take a look at this okay so so what's this one saying

22:42

Patrick okay so an employee can accept a gift under circumstances that make it clear the gift is motivated by a family

22:47

relationship or personal friendship rather than position of an employee so that's kind of tricky right we have to

22:53

we have to sus out the motivation of the gift but basically what this says is if it's customary for you to receive from a

22:59

friend or family member a gift and it's clear that that gift is being given because they're your friend or family member uh it's okay to accept that under

23:07

the exception uh so so how do we know like

23:13

what are some what are some factors that we could use to to to sort of uh delve down and sus that out so we we do have

23:19

some factors here we have the history of the relationship uh and whether the the family me member or friend personally

23:26

pays for the gift okay okay so say my spouse is a prohibited Source MH uh and I receive a gift uh for my birthday uh

23:34

some things we would want to look at is easy normal for my spouse to buy your birthday present and uh not withstanding

23:39

uh anything else that might happen throughout the year we do normally exchange birthday gifts right okay so that's cool and then we'd ask who paid

23:46

for the gift uh so say my spouse for uh prohibitive source and the employer paid for the gift and said uh please give

23:52

this to your husband on our behalf oh that might be a little tricky right that might be a case where that that seems

23:58

like your spouse would just be sort of playing corer and yes walking just walking the gift to you that was from it

24:05

seems to me the company right okay so that that might be a case in which we have a problem uh so those two criteria

24:12

are pretty straightforward right what if we have a situation like this um let's

24:17

say I have a family member who is in the sales business uh and you know in sales uh particularly direct sales you often

24:24

have like incentive prizes at you at the end of the month if you reach a goal you know sometimes you earn a trip or you

24:32

are awarded by your employer uh box seats in the football game or something like that so let's say my uh my cousin

24:40

um was very successful this year and they had a contest at the end of the month for the sale staff and he or she

24:47

uh won Redskins tickets okay okay and uh they won three tickets to the Redskins

24:52

game and we we do a lot of things together where we socialize frequently and they decid they'd like to take me

24:59

the employer I guess technically paid for those tickets right um but that that seems like the

25:05

sort of gift that U maybe in some circumstances uh employee should be able to accept because it's not as if the

25:11

employer gave the gift uh or gave the the tickets to the employee well right your cousin earned it in a sense yeah

25:19

yeah in in a sense they they received them without any um they could he could have gone and sold the tickets he could

25:24

have done whatever he wanted whatever he wanted with those tickets he decided he'd like to share with me uh so that

25:30

seems kind of different I think I think it is different so that's something maybe we could we could think about

25:35

using the personal relationship exception for right and again these are exceptions uh so we don't have to use

25:40

these uh there could certainly be circumstances in which maybe uh we wouldn't want to exercise the exception

25:46

in that circumstance uh for any number of reasons uh but there would be maybe cases in which that would be available

25:52

and we might want to use it might want to yeah but it wouldn't be precluded uh

25:57

absolutely if if the give if the the item was given to the uh to my cousin

26:02

without any direction okay okay that's that seems pretty good those are the two questions

26:08

that always always trouble me when this comes up um you know the the the the application of those two relevant

26:14

factors but I think I feel better about that now yeah and and really I mean this one again is a is mostly a common sense

26:21

based one uh you know if if it's if you're doing an analysis and you're trying to determine whether or not it's

26:27

a personal relationship ship you know just you use common sense when you're thinking about it yeah and and look at

26:33

those relevant factors and I always find that coming back to the examples can be helpful MH okay well that's good well

26:39

that's good to know that that's there uh you know birthdays and anniversaries are saved uh domestic tranquility can be

26:44

maintained yep uh sorry uh prohibited sources there's no excuse for not getting your uh your friends and family

26:52

uh presence on the appropriate occasions that's right so let's go ahead and move

26:57

on to the next one uh this one is tricky I think uh there there's several moving

**Discounts and Similar Benefits**

27:03

this is this is now we're getting into sort of the move one of these ones that has a lot of moving Parts yeah and this I would like to think about this is as

27:09

several exceptions honestly I think uh and in here and for those of you who are following along with your regs at home

27:15

we're at a 2635 204c and what we're trying to do today is actually walk through the reg itself

27:21

uh when you're advising employees this is the way you do it uh you come into your RS you read the regulations you try

27:27

and make sense of them uh and then you apply them best you can to the fact pattern after you've gotten the facts and spotted the issues and all that sort

27:34

of thing so the thing we're trying to do here today is Orient you to the regulation itself MH uh and point out

27:40

some traps for the unwary in the regulation right and I think even before

27:45

we get here we've come through a trap yeah uh because you know we're talking about discounts and similar benefits I

27:51

remember the definition section we also have an exclusion for Discount and similar benefits we do and if we use our

27:57

gift micro process we would go there first right and what that basically says

28:03

is that government employee discounts that apply to any government employees um aren't gifts right so if there's a

28:09

government rated hotel or your cell phone company gives all government employees a break uh your dry cleaner

28:15

gives all employees a break uh it's excluded from the definition of a gift it doesn't even we don't even have to look at the prohibition right so this is

28:21

for discounts and similar benefits that are other than for all government employees which this is going to be a

28:27

lot more tricky because you're you're talking about classes and categories and segments of the government Workforce

28:33

right we're slicing and dicing it a little bit okay this is Count some similar benefits

28:38

that uh are available to segments of the federal Workforce um that meet the prohibition

28:43

so if it's from a prohibited Source or given because of official position and these in most cases are going to be given because of official position uh

28:50

then we look to heat to this exception to see if we might be able to accept those discounts and similar benefits uh

28:57

by using the ex right all right and there are a number of cases in which that's possible so let's go ahead and look at

29:04

C1 good um so what does this what does this say here Patrick reduce membership

29:10

or other fees for participation and organization uh uh activities offered to

29:15

all government employees or All Uniform military personnel by professional organizations okay and then if the only

29:22

restriction on membership relates uh to professional qualifications so I think this one uh

29:30

this sounds kind of a lot like the exclusion it does right it says uh

29:36

reduce membership or uh or reduce fees for participation in organization activities offered to all government

29:42

employees or or all all is the same but then we have a criteria right we've got

29:48

this uh limitation uh based on professional qualifications so so this

29:53

can be offered to a subset of federal employees provided that the only only restriction is that they must meet a

30:00

professional qualification so let's say that we've got a a a bunch of uh Federal accountants okay and they uh so what

30:09

this looks like it's saying to me is that just because that they can have a reduced uh membership fee in the

30:16

National Accounting Standards Board right so so the group activity uh we can offer a

30:22

discount right uh we can offer a discount to uh federal attorneys mhm we

30:28

could offer a discount uh of membership and other activity fees uh to the

30:34

Infantry in the Marine Corps um I'm not sure can we do that now it has to be to All Uniform military personnel we need

30:41

the the restriction on membership to relate only to professional qualifications okay so it has to be a

30:47

professional qualification uh so if we have people who are CPA or attorneys uh or medical

30:54

doctors uh we by the federal government a special rate uh for participating in a professional organization or Associated

31:01

activities right okay that makes sense uh because we wouldn't make the uh we wouldn't meet the exclusion uh because

31:08

there was a restriction Beyond geography which is that you have to be a medical doctor right but as long as it's only a

31:13

professional uh qualification that we're making the restriction on then we can use C1 okay all right well that seems

31:20

pretty good that's fairly straightforward and seems fairly common sense once we kind of untangled that

31:25

uhhuh so let's look at C2 two oh this one this one is even uh in

31:32

some way in parts of it this is more confusing uh because we've got some uh and here I'd like to just forget about

31:39

C1 so we've dealt with C1 that's a specific set of circumstances we're talking about new set of circumstances

31:44

so we have opportunities and benefits including favorable rates and discounts not precluded by C3 offered to members

31:51

of a group or class in which membership is unrelated to government employment well that seems pretty straightforward

31:57

to me I like to think of this as the the the AAA exception ah okay so if you

32:03

receive uh a discount because of your uh AAA membership uhhuh and it happens to

32:09

be from a prohibited Source uh and another exclusion or exception doesn't apply you can accept that because your

32:15

membership in AAA is completely unrelated to your government service that's right okay that's a that actually

32:21

that's really nice I like that I'm going to use that example excellent uh when we teach this again yeah so I think you

32:27

know that's that's pretty straightforward uh but I think the hard part is that you have to you have to

32:32

separate it from C1 C1 is its own thing for professional organizations C2 is kind of the AAA uh uh exception

32:40

yeah and then we have C2 to little ey right um which gets a

**C2 Too Little**

32:48

little more complicated yeah so this says that it's offered to members of an organization such as an employees Association or agency Credit Union in

32:55

which membership is related to government employ mment if the same offer is broadly available to large segments of the public through

33:02

organizations of similar size okay so let's say that I was a member of the

33:07

federal communicators Network okay a Professional Organization for communications Professionals in the

33:12

government okay so I'm a member of that organization by virtue of my federal employment um and let's say that um a a

33:21

training provider provides a favorable rate to fcn members uh so that is kind

33:26

of because of my of official position uh but let's say that training provider offers the same discount

33:33

to um uh the private sector communicators Network okay uh so a

33:38

different organization similar to the federal communicators network but the the private sector communicators Network

33:43

okay uh there's the same benefit okay so I could use C to to little eye uh to

33:49

accept that gift I I could I could uh accept the reduced rate of training even though my uh participation in the uh

33:56

Federal commuter KS network is related to my government service okay that that makes sense to me doesn't that make

34:02

sense yeah because because especially when you're talking about you know other big parts of the population having the

34:07

exact same kind of discount right you know I that that makes sense okay so the

34:13

this next one is my least favorite one of these uh because this so so

34:18

uh uh these are ones offered by a person who is not a prohibited source to any

34:24

group or class that is not defined in a manner that specifically discriminates among government employees

34:31

on the basis on a basis that favors those of higher rank or rate of pay so

34:36

this is like sort of the the everything else kind of deal yeah but that that was a very confusing sentence that is a very

34:43

confusing I think that I think that was written to me so first we have to have somebody

34:48

who's not appr prohibit Source uh so this is something that might be uh nominally given because of an official

34:55

position right uh but as long long as that discount doesn't discriminate on

35:01

the uh or official uh uh rank uh type of official responsibility or on basis that

35:06

favors those of higher rank or rate of pay uh then that might be acceptable so this is the sort of everything else MH

35:13

um do we have an example of that I I I think we have an example here

**C2 Example**

35:20

um oh yeah example two yep uh that that explains it very nicely uh for those of

35:26

you who don't have your RS in front of you I'll read it briefly uh an assistant secretary may not accept a local Country

35:32

Club's offer of membership to all members of Department secretariats which includes a waiver of its $5,000

35:38

membership Initiation fee even though the country club is not a prohibited Source the offer discriminates in favor

35:44

of higher ranking officials uh so we we can't have discounts for all gs-1 15s or all members of the SCS or even all GS5

35:52

right uh but we might be able to have a discount um for federal employees living

35:57

in a particular place which made the exclusion uh or engaged in a certain kind of work yeah uh like law

36:02

enforcement work for example okay all right well that makes sense and then we have uh uh this this C3 which is sort of

36:09

a limitation on the use of these exceptions right uh so an employee cannot accept for personal use any

36:14

benefit to which the government is entitled as the result of expenditure of government funds I think that's pretty straightforward if the government paid

36:20

for it uh you can't keep it personally yeah uh this comes up sometimes and procurement officials uh vendors like to

36:27

give them things or provide them benefits uh that are actually due to the government you can't hang on to that

36:33

stuff okay okay uh well that was confusing um but I think I feel better

**Review**

36:38

now that we've unpacked it a little bit so we have uh just to review we have C1 um so that's uh the professional

36:47

qualifications so we can accept favorable rates to to join and participate with professional organizations if the only restriction is

36:54

uh professional qualifications right so we can have uh discounts for government doctors to participate in professional

37:02

organizations then we have uh what we can call the uh the tripa exception right where we can accept discounts uh

37:09

that are offered for reasons that are unrelated or memberships that are unrelated to our federal service yeah

37:15

and then we have this non-prohibited Source uh as long as they don't uh discriminate based on rank right okay so

37:23

that's really three exceptions and I think it's best to look at those uh in order and separately and not try and

37:29

lump them all together right because if you do you'll get them all confused and mushed up

**Awards**

37:35

together okay uh so should we move on to the uh the final one that we're going to talk about this morning yeah I think so

37:41

we have uh just a few minutes left and I think we can uh we can jump into the awards and honorary degrees so for this

37:47

one th this one uh comes up an awful lot uh because there are lots of organizations that like to hand out

37:54

awards for good you know good government work yes uh so this is this is one that we actually deal with uh uh fairly often

38:03

so so what does this one say and we want our superlative federal employees to be recognized you know this is something

38:08

that's uh good for the government it's good for the Civil Service and the workforce yeah yeah so we have an employee we can accept uh gifts other

38:14

than cash again no cash or investment interests uh with an aggregate market value of less than

38:21

$200 uh if their Bonafide award or incident to a Bonafide award that is given for meritorious public service for

**Employee**

38:29

achievement and by a person whose interest that may uh that who does not

38:34

have interests that may be substantially affected by the performance and non-performance of the employees official duties so when we talk about uh

38:41

source that may be affected by the performance or non-performance of an employees's official Duty sometimes in

38:47

the short hand uh we call that a baded source right uh so this is someone who's

38:52

not just uh you know their relationship to the agency isn't the only thing that makes them appropriate Source they' also

38:57

got relationship to the employee in the sense that the employee can affect them right in their in their government

39:02

capacity so other than from apropriate Source or a person whose interest may be affected by the performance or

39:07

non-performance of an employees official duties the employee May accept up to $200 worth of stuff provided it's not

39:14

cash or investment interests um provided that it's in connection with a

39:19

Bonafide award for meritorious public service so wait so what it sounds like Patrick is that uh if we if we if we

39:27

have not so let's just say that randomly someone says you're a great public servant Patrick I'm going to give you a

39:32

$200 chachki right we'd have to find out that that was uh a a Bonafide award program

39:40

that there something established that we have written standards uh those kinds of things

39:45

right uh yeah it would have to be it would have to be something that that uh you know it could be the first time that

39:50

they're doing it but as long as there's some kind of framework set up for it to actually happen uh and it it is being

39:58

giving out given out for uh Superior Public Service all right so that's

40:03

interesting um so that's just for up to $200 right we have a uh we have some some more

**Additional Requirements**

40:10

requirements if it gets up above $200 so if we get up above $200 uh in addition to being a Bonafide award for Public

40:16

Service uh and being from other than a non uh other than a pred Source who would be affected by the performance and

40:22

non-performance of our employee right uh we have something else so if we have more than $200 and this isn't that

40:28

uncommon uh you know you might have an awards dinner and a banquet uh the ticket price to that might be $150 or

40:35

$200 just just for the attendance at the event to receive the uh the the the award that's right uh and there may be

40:41

some award in addition to that uh so what do we have to do then we have to have a written determination so this is

40:47

familiar to those of us who do wag determinations and authorizations and stuff like that so what do we have to do

40:53

so well well I mean first and foremost we have to write it down we have to write it down because because uh you know more than $200 can become very very

41:00

substantial some of the awards can be quite large okay uh and we want to make sure that we have in writing uh our

41:07

determination that it's not going to negatively affect the employees uh services to the government uh and what

41:13

do we have to attest to the the ethics official has to determine that it's being made as as part of an established program of recognition right uh and

41:19

there are many of these uh under which Awards have been made on a regular basis or which is funded wholly or in part to

41:26

ensure its Contin ation on a regular basis so an awards program that that ex

41:31

exists in just to give out the award and this this allows us uh as you mentioned before to uh have these things start

41:38

there there is a possibility to accept the award on the first year of the awards uh being offered provided that we

41:44

have some indic that uh this organization intends to carry forward and make this a Bonafide or continue it as a Bonafide award program right and

41:51

the next thing that we need to look at is we need to make sure that the selection of the award recipients is made pursuant to written standards so

41:57

organization has to have some criteria be that voting by by m by the public or

42:03

just a set of criteria that they apply uh to determine who should uh who should receive the award that's right they

42:08

can't just uh they can't just randomly say out of nowhere you know what let's we're going to give an award this year to Ryan so from a common sense

42:15

perspective what we're looking for here is not that a prohibit a prohibited Source or someone who wanted to influence a government employee just

42:22

sets up an awards program you know Fly by Night today we're having an awards program we're going to give some stuff

42:27

to this person whose uh cooperation we need and then we're going to disappear again yeah we want to make sure that doesn't happen so we want a set of

42:33

standards and we want to make sure that it's uh it's a it's a legitimate uh organization offering Awards okay so

**Honorary Degrees**

42:40

should we move on to the second part or did you have any other points you wanted to I think that's that's a that's a good introduction here and again this is an

42:47

exception made of several exceptions uh so there we were talking about Public Service Awards and if you have Public

42:53

Service Awards you want to look at uh uh at at um G there and there were two parts to that one and now we've got a

42:59

whole another D2 a whole another separate uh exception within an exception and this one we're talking

43:05

about honorary degrees okay so we can accept an honorary degree uh it says here from an institution of higher

43:11

education and then we have a citation for uh the definition 20 USC

43:17

1141a um and I think you know these are our Bonafide Institutes of Higher Learning right these are these are not

43:24

uh uh these are ones that that have to meet that definition and they're not

43:30

like they meet the the accreditation requirement be public or private universities but your your universities

43:36

uh typically are going to meet this definition right and and usually uh W with these you're when you're talking

**Universities**

43:42

about uh like private for-profit training acmy a lot of times those ones

43:47

you have to look at those yeah you have to look very closely at those so so just be careful about that but your private

43:53

universities public universities you know degree granting institutions are almost always going to this definition

43:58

right all right so that's cool uh based on determination uh that the timing of the award uh would not cause a

44:04

reasonable person to question the employees impartiality okay in a matter affecting

44:09

the institution so this would only be a problem if we had an employee who is going to be participating in government

44:14

matters affecting the the institution of higher education right so if we if if we didn't have that person participating at

**Appearance Determination**

44:21

all Yes uh then that would go into your written determination that you know this

44:26

they just think awesome right so generally speaking we can accept honorary degrees unless there's something weird with the timing uh and a

44:33

government matter that would affect the university right okay so that actually that's fairly straightforward and uh you

44:39

know in some ways quite generous yeah and it just asks us to make the appearance determination here and I think you know making the appearance

44:45

determination or thinking about appearance is always good when you're considering gift I agree but it's good

44:50

here that we have a reminder and what's this so this third part um says you can go to to the party

44:57

in order to receive the the honorary degree or award well that's very generous too yeah that is it be kind of

45:03

embarrassing to be able to accept the honorary degree but not be able to go to the dinner where uh you're recognized uh

45:08

so that that's what that's what D3 allows us to do okay okay so we are

45:14

about out of time for uh for this one for the for the first part here of our honorary degree um and uh we will be

45:22

back in about an hour uh at 1 p.m. eastern Daylight Time to talk about some

45:28

more exceptions that's right and uh hopefully we've remedied our technical issue and we will start right on time

45:34

and have plenty of time but today we managed to get this in uh in in the allotted hour uh we we hope you found

45:40

this helpful and these will be available on the YouTube channel and the Google+ hangout page so if you have colleagues Who start tomorrow and they miss this

45:46

one uh you can send them a link and they can check that out uh but thank you very much for joining us for this part of

45:52

understanding gifts exceptions and we will see you in about an hour

46:00

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