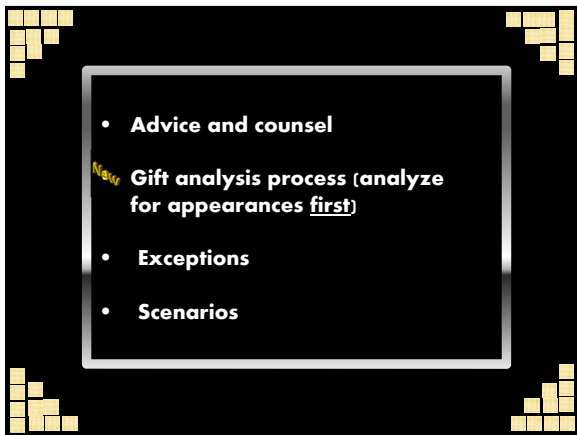
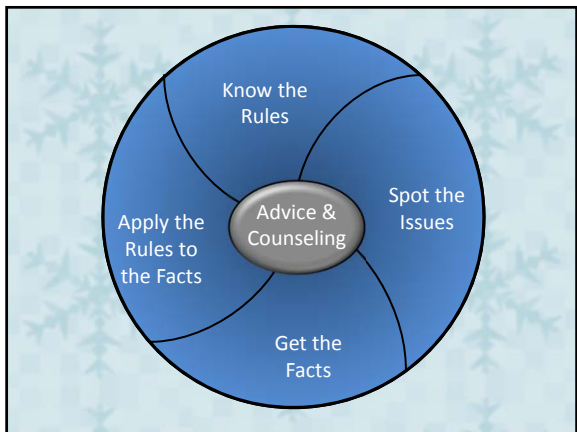
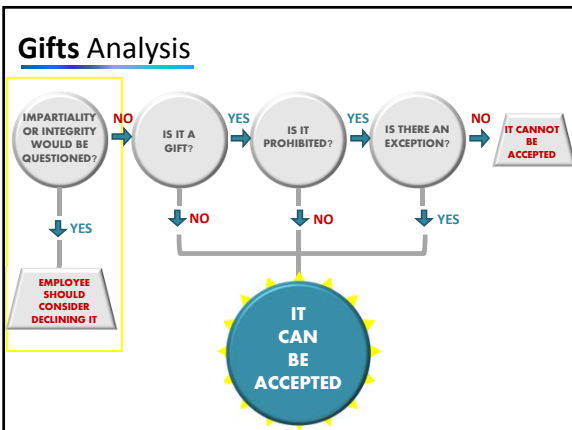




A SEASONAL LOOK AT GIFTS
FROM OUTSIDE SOURCES

- 
- Advice and counsel
 - **New** Gift analysis process (analyze for appearances first)
 - Exceptions
 - Scenarios





§ 2635.201(b)

.201(b)(1): “employees should consider declining otherwise permissible gifts if they believe that a reasonable person with knowledge of the relevant facts would question the employee’s integrity or impartiality as a result of accepting the gift.”

§ 2635.201(b)

.201(b)(2): Employees should consider these four factors (among others) prior to acceptance:


- Value
- Timing
- Identity (of donor)
- Access (the gift provides)

V-T-I-A Analysis

V Value	T Timing	I Identity	A Access
What is the market value of the gift? Is the gift expensive or relatively cheap?	Is the donor currently seeking business with the agency or does the donor currently have business with the agency?	Is the donor someone who has interests affected by the employee's official duties?	Will gift acceptance provide the donor with significantly disproportionate access to the employee and the agency?

The mnemonic: The first letter of each word helps recall:

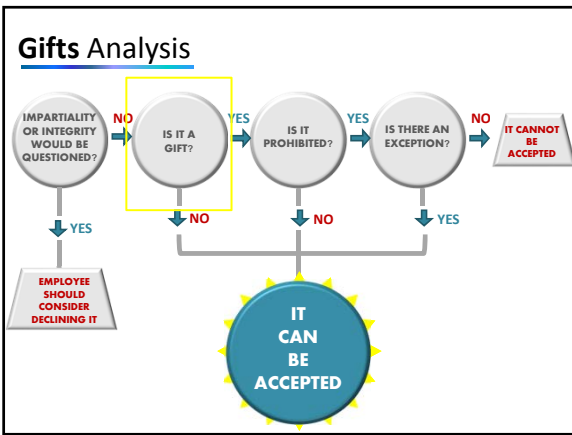
<p>Valiant Tigers Ice-skate Awkwardly</p>	<p>Value, Timing, Intity, Access</p>
---	--



Valiant Tigers Ice-skate Awkwardly
(V-T-I-A)

Applying the Standard and Factors (Mechanics)

- Employees should apply the Standard themselves
 - Unless an ethics official is required to do so by an exception in 2635.204 (i.e., certain social invitations and informational materials).
- Employees may not be punished for not applying the standard, nor may they be punished if they and their ethics official/supervisor disagree over whether the gift should be accepted.



5 C.F.R. 2635.203

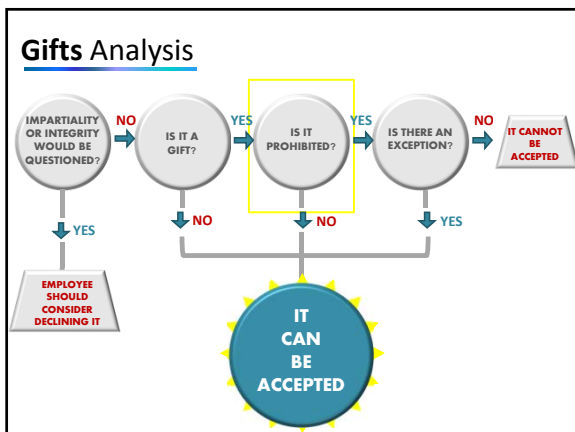
(b) *Gift* includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.



5 C.F.R. 2635.203

The term "gift" excludes the following:

1. Modest food items
2. Presentation items of little intrinsic value
3. Loans from financial institutions on terms generally available to the public
4. Opportunities/benefits
5. Rewards/prizes
6. Pensions/other benefits
7. Paid for by the Government
8. Free attendance provided by event sponsor
9. Statutory authority
10. Market value paid



5 C.F.R. 2635.202

Summary:

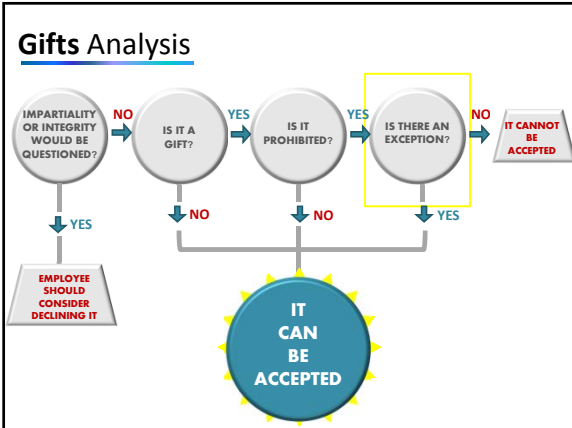
An employee may not, directly or indirectly accept a gift from a prohibited source, or accept a gift given because of the employee's official position *unless an exception applies*.

Also, an employee may not directly or indirectly solicit a gift from a prohibited source or given because of the employee's official position, *unless an exception applies*.

5 C.F.R. 2635.203

(d) *Prohibited source* means any person who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in paragraphs (d)(1) through (4) of this section.



§ 2635.204 Exceptions to the prohibition for acceptance of certain gifts.

Subject to the limitations in § 2635.205, this section establishes exceptions to the prohibitions set forth in § 2635.202(a) and (b). Even though acceptance of a gift may be permitted by one of the exceptions contained in this section, it is never inappropriate and frequently prudent for an employee to decline a gift if acceptance would cause a reasonable person to question the employee's integrity or impartiality. Section 2635.201(b) identifies considerations for declining otherwise permissible gifts.

Why?

Why analyze for appearances first?

Hoping You Have A

Gifts from vendors worth \$20 or less? Use an exception!

Trade association's holiday gala? As long as you get written approval, there's an exception! Spouses are permitted if all are allowed a guest.

Reception at an Embassy? The exception is even more generous!

Very Exceptional Holiday Season!

CAUTION - WARNING - RED FLAG

CAUTION - WARNING - RED FLAG

You are at a procurement outreach event hosted by your agency's IT department, where you work as a program manager. In just a couple hours, you talk with the representatives for 35 companies interested in bidding on parts of an upcoming computer contract.

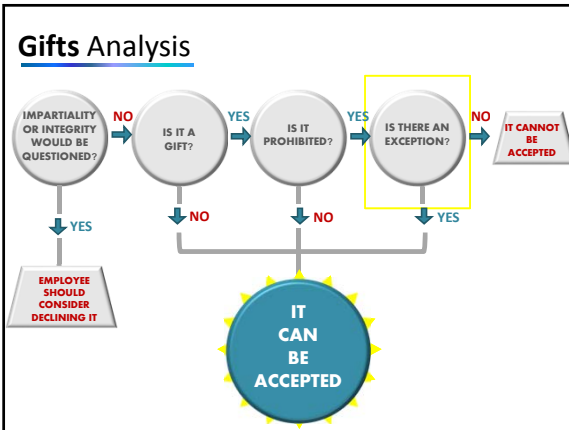
Near lunchtime, you strike up a conversation with the representative for RemoteWorks. Turns out, you went to the same college and both continue to avidly follow the sports program there.

He asks if you'll let him buy you lunch at the sandwich spot down the street. You've been there before, and they have a great \$8 lunch meal deal special.

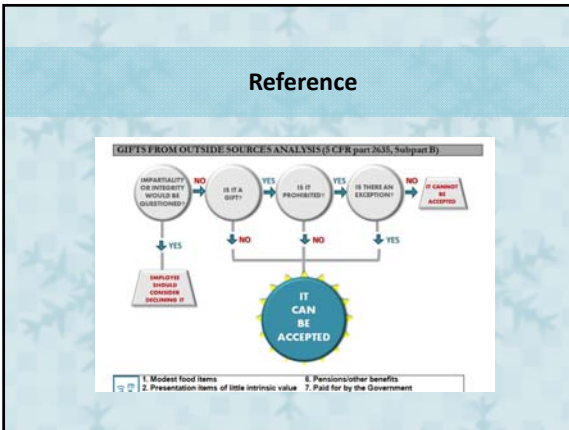
Summary

- It puts the employee's focus on "should I accept this?" rather than "how can I accept this?"
- It requires the employee to engage in ethical decisionmaking.
- Requires ownership by the employee of his/her actions.
- Relieves pressure on ethics officials. (First question is VTIA analysis, not "Can I accept this gift?")

Exceptions



§ 2635.204 Exceptions to the prohibition for acceptance of certain gifts.
 Subject to the limitations in § 2635.205, this section establishes exceptions to the prohibitions set forth in § 2635.202(a) and (b). Even though acceptance of a gift may be permitted by one of the exceptions contained in this section, it is never inappropriate and frequently prudent for an employee to decline a gift if acceptance would cause a reasonable person to question the employee's integrity or impartiality. Section 2635.201(b) identifies considerations for declining otherwise permissible gifts.



Lobbyist Gift Ban (Ethics Pledge, E.O. 13770)

The only exceptions to the lobbyist gift ban are ones that do not undermine the purpose of the lobbyist gift ban and are set out below:

- ◆ gifts based on a personal relationship, 5 C.F.R. § 2635.204(b);
- ◆ discounts and similar benefits, 5 C.F.R. § 2635.204(c);
- ◆ gifts resulting from a spouse's business or employment, 5 C.F.R. § 2635.204(e)(1);
- ◆ customary gifts/gratuities provided by a prospective employer, 5 CFR § 2635.204(e)(3);
- ◆ gifts to the President or Vice President, 5 C.F.R. § 2635.204(j);
- ◆ gifts authorized by an OGE-approved agency supplemental regulation, 5 C.F.R. § 2635.204(k); and
- ◆ gifts accepted under specific statutory authority, 5 C.F.R. § 2635.204(l).


Scenarios

Cal is a federal employee. He received an invitation to attend a holiday reception from a prohibited source.

What advice would you provide to the employee?

Relevant factors to consider include:

- VTIA: Value (market), Timing of gift, Identity (who from?), Access (acceptance would give the donor significantly disproportionate access to the recipient)
- (For appointees) From a registered lobbyist?
- Is it a gift?
- Is it prohibited?
- Is there an exception?




During an anonymous gift exchange at the agency's IT division's holiday party, Isabella, an IT specialist for the agency, receives a sugar cookie scented candle. Several of the agency's IT support contractors participated in the exchange.

What advice would you provide to the employee?

Relevant factors to consider include:

- VTIA: Value (market), Timing of gift, Identity (who from?), Access (acceptance would give the donor significantly disproportionate access to the recipient)
- From a registered lobbyist?
- Is it a gift?
- Is it prohibited?
- Is there an exception?




A court reporting and transcription services vendor, who would welcome being hired to provide services to your agency's office of Hearings and Appeals, drops off a box of chocolate eclairs for the department's Administrative Officer (AO) for the holidays. The AO comes to you for advice.

What advice would you provide to the employee?

Relevant factors to consider include:

- VTIA: Value (market), Timing of gift, Identity (who from?), Access (acceptance would give the donor significantly disproportionate access to the recipient)
- From a registered lobbyist?
- Is it a gift?
- Is it prohibited?
- Is there an exception?



TrainingRegistration@oge.gov
