

# Analyzing Widely Attended Gatherings Gift Exception: A Worksheet

Use this worksheet to determine whether acceptance of the gift of free attendance is permitted under the widely attended gatherings gift exception at 5 CFR § 2635.204(g)(2). This worksheet may not completely capture the analysis necessary for all specific factual cases. When giving advice, always consult the full set of laws, rules, and opinions that apply to the situation.

**\*\*\* Reminder, WAG authorizations must be made in writing. See 5 CFR 2625.204(g)(3).**

1. GIFTS OFFERED		
<p><b>1.1.</b> Is there a gift of free attendance as defined in 5 CFR § 2635.203 (g)?</p>	<p style="text-align: center;"><input type="checkbox"/> <b>YES</b> (check all that apply):</p> <p><input type="checkbox"/> Waiver of all or part of conference or other fee AND/OR</p> <p><input type="checkbox"/> Provision of any of the following to <b>all attendees as integral part of event</b>:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Food/refreshments</li> <li><input type="checkbox"/> Entertainment</li> <li><input type="checkbox"/> Instruction</li> <li><input type="checkbox"/> Materials</li> </ul> <p style="text-align: center; color: blue;">Go to question 1.2</p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center;"><b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b></p> <p style="text-align: center;">Go to question 1.3 to determine if another authority can be used.</p>
<p><b>1.2.</b> Are other gifts offered?</p>	<p style="text-align: center;"><input type="checkbox"/> <b>YES</b> (check all that apply):</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Travel expenses</li> <li><input type="checkbox"/> Lodgings</li> <li><input type="checkbox"/> Entertainment collateral to the event</li> <li><input type="checkbox"/> Meals taken other than in a group setting with all other attendees</li> </ul> <p style="text-align: center; color: blue;">Go to question 1.3</p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center; color: blue;">Go to question 2.1</p>
<p><b>1.3.</b> Do other gift exceptions or statutory authorities permit acceptance of these gifts? E.g., gifts of \$20 or less exception; social invitations from persons other than prohibited sources exception; meals, refreshments and entertainment in foreign areas exception; 31 U.S.C. § 1353; 5 U.S.C. § 4111; or other specific statutory authority.</p>	<p style="text-align: center;"><input type="checkbox"/> <b>YES</b></p> <p style="text-align: center;">Specify the gift exception or statutory authority:</p> <p style="text-align: center;">_____</p> <p>TIP: Save analysis time by using a gift exception or statutory authority, if applicable, to analyze the <b>entire</b> invitation.</p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center;">These gifts <b>cannot be accepted</b>.</p>

## 2. TYPE OF GATHERING AND AGENCY INTEREST

<p><b>2.1.</b> Is this a widely attended gathering of mutual interest to a number of parties?</p>	<p style="text-align: center;"><input type="checkbox"/> <b>YES</b></p> <p><input type="checkbox"/> Expect a large number of persons will attend AND  <input type="checkbox"/> Expect persons with a diversity of views or interests will be present (e.g. if event is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter) AND  <input type="checkbox"/> Will be opportunities for the exchange of ideas and views among invited persons</p> <p style="text-align: center;"><a href="#">Go to question 2.2</a></p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center;"><b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b></p>
<p><b>2.2.</b> Is the employee's attendance in the agency interest?</p>	<p><input type="checkbox"/> <b>YES</b>, because it will further agency programs and operations.</p> <p style="text-align: center;"><a href="#">Go to question 2.3</a></p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center;"><b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b></p>
<p><b>2.3.</b> Does the agency's interest in the employee's participating in the event outweigh concern that acceptance of the gift of free attendance may or may appear to improperly influence the employee in the performance of his official duties?</p>	<p style="text-align: center;"><input type="checkbox"/> <b>YES</b></p> <p><b>Relevant Factors</b> include (5 C.F.R. § 2635.204(g)(4)):</p> <ol style="list-style-type: none"> <li>1. Importance of the event to the agency</li> <li>2. Nature and sensitivity of any pending matter affecting the interests of the person who extended the invitation</li> <li>3. Significance of the employee's role in any such matter</li> <li>4. Purpose of the event</li> <li>5. Identity of other expected participants</li> <li>6. Whether acceptance would create appearance of preferential treatment to donor</li> <li>7. Whether the Government is providing persons with views/interests that differ from donor with access to the Government</li> <li>8. Market value of the gift of free attendance</li> </ol> <p style="text-align: center;"><a href="#">Go to question 3.1</a></p>	<p style="text-align: center;"><input type="checkbox"/> <b>NO</b></p> <p style="text-align: center;"><b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b></p>

### 3. SPONSOR

<p><b>3.1. Who is the sponsor(s) of the event?</b> Indicia that an entity is the event sponsor<sup>1</sup>:</p> <ul style="list-style-type: none"> <li>• takes responsibility for actively organizing, planning, or conducting the event;</li> <li>• determines the topics to be covered, the intended audience, the agenda, the speakers, the date, or the location for the event;</li> <li>• serves as the primary point of contact for the event</li> <li>• does more than merely provide financial support for the event</li> </ul>	<p>Name of the sponsor(s)</p> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <p style="text-align: center; color: blue;"><a href="#">Go to question 3.2</a></p>	
<p><b>3.2. Is the cost of the employee's attendance provided by the sponsor(s) of the event?</b><sup>2</sup></p>	<input type="checkbox"/> <b>YES</b>  <a href="#">Go to question 4.1</a>	<input type="checkbox"/> <b>NO</b>  <a href="#">Go to question 3.3</a>
<p><b>3.3. Are more than 100 persons expected to attend the event?</b></p>	<input type="checkbox"/> <b>YES</b>  <a href="#">Go to question 3.4</a>	<input type="checkbox"/> <b>NO</b>  <b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b>
<p><b>3.4. Is the market value of the gift of free attendance \$390 or less?</b></p>	<input type="checkbox"/> <b>YES</b>  <a href="#">Go to question 4.1</a>	<input type="checkbox"/> <b>NO</b>  <b>THE GIFT DOES NOT MEET THE WAG EXCEPTION</b>

<sup>1</sup> While none of these activities is necessarily dispositive, each is informative when considering the totality of the circumstances. LA-17-04 provides examples to illustrate how these factors may be applied to identify an event's sponsor.

<sup>2</sup> Cost is **NOT** considered to be provided by the sponsor and the invitation is not considered to be from the sponsor of the event **where a person other than the sponsor:** Designates the employee to be invited AND bears the cost of the employee's attendance through contribution or other payment intended to facilitate that employee's attendance.

Payment of dues or a similar assessment to a sponsoring organization does not constitute a payment intended to facilitate a particular employee's attendance.

**4. SPOUSE'S OR GUEST'S FREE ATTENDANCE WHERE EMPLOYEE'S ATTENDANCE IS PERMITTED**

<p><b>4.1.</b> Has the gift of free attendance been extended to the employee's spouse or a guest?</p>	<p><input type="checkbox"/> <b>YES</b></p> <p><a href="#">Go to question 4.2</a></p>	<p><input type="checkbox"/> <b>NO</b></p> <p><b>CANNOT AUTHORIZE SPOUSE OR GUEST</b></p>
<p><b>4.2.</b> Is the invitation from the same person who invited the employee?</p>	<p><input type="checkbox"/> <b>YES</b></p> <p><a href="#">Go to question 4.3</a></p>	<p><input type="checkbox"/> <b>NO</b></p> <p><b>CANNOT AUTHORIZE SPOUSE OR GUEST</b></p>
<p><b>4.3.</b> Will others in attendance generally be accompanied by a spouse or guest?</p>	<p><input type="checkbox"/> <b>YES</b></p> <p><a href="#">Go to question 4.4</a></p>	<p><input type="checkbox"/> <b>NO</b></p> <p><b>CANNOT AUTHORIZE SPOUSE OR GUEST</b></p>
<p><b>4.4.</b> Who is providing the cost of the employee's attendance?</p>	<p><input type="checkbox"/> <b>SPONSOR</b></p> <p><b>MAY AUTHORIZE SPOUSE OR GUEST.</b></p>	<p><input type="checkbox"/> <b>NONSPONSOR</b></p> <p><a href="#">Go to question 4.5</a></p>
<p><b>4.5.</b> When aggregated, is the market value of the spouse's or guest's gift of free attendance and the market value of the employee's own gift of free attendance \$390 or less?</p>	<p><input type="checkbox"/> <b>YES</b></p> <p><b>MAY AUTHORIZE SPOUSE OR GUEST</b></p>	<p><input type="checkbox"/> <b>NO</b></p> <p><b>CANNOT AUTHORIZE SPOUSE OR GUEST</b></p>