

## **Office of Government Ethics**

**86 x 7 -- 07/22/86**

### **Letter to an Agency Ethics Official dated July 22, 1986**

This is in response to your letter of July 2, 1986, requesting our comments on the acceptance of discounts offered to Federal Government employees by the Hertz Corporation.

The Hertz Corporation distributed a letter, dated April 1986, to Federal Government employees, promoting its discounts for Federal travelers. In the letter, Hertz offers special rates, which are the negotiated Federal Government rates, for both official and leisure travel. The issue you have raised relates to the acceptance of the discounts for personal travel.

On September 17, 1985, this Office issued a memorandum on the acceptance of commercial discounts. A portion of that memorandum focused on discounts offered to Federal Government employees as a group, such as the discount Hertz is offering. According to the memorandum, although most commercial discounts are not considered gifts, when the commercial entity is a prohibited source under 5 C.F.R. § 735.202, the concern for appearances may preclude acceptance.

One example discussed in the memorandum, the acceptance of the Government rate for a hotel room, is analogous to the acceptance of the discount Hertz is offering. Regarding that practice, our memorandum indicated that an employee may accept the Government rate while on personal travel, subject to two limitations. First, an employee should not accept the Government rate if the offeror has or is seeking to do business with the agency, is regulated by the agency, or has interests that could be substantially affected by the employee's performance of his duties. Second, the employee may not misrepresent the purpose of the travel, i.e., say that he is on business, in order to obtain rates that are not available for personal travel. In this case, it appears that Hertz is making these rates available for leisure travel, so this limitation is not a factor.

Since commercial discounts are not generally considered gifts, particularly when offered to a group as large and diverse as "all federal government employees," agencies may be somewhat flexible in granting permission to accept a discount such as the one Hertz

is offering. An agency may permit its employees to accept a discount from an entity doing business with the agency if the discount is being offered to all Federal employees and, under the circumstances, acceptance by its employees would not create an actual or apparent conflict. For example, an employee may accept the Government rate if the employee's only official involvement with the entity occurs in the course of arranging his own business travel accommodations, assuming no other conflicts issues are present.

Based upon this analysis, it appears that [an employee of your agency] may accept the discount Hertz is offering, unless it would create an actual conflict of interest with his Government position.

I hope you find these comments helpful.

Sincerely,

David H. Martin  
Director