



Gifts and Travel From Lobbyists, Employers of Lobbyists and Clients of Lobbyists Congress and the Executive Branch

April 2013

Opening Considerations

- **Special Gift Rules Apply to Appointees.** President Obama's Executive Order No. 13490 (Jan. 21, 2009) instituted a lobbyist and lobbyist employer gift ban with respect to non-career Presidential and Vice-Presidential appointees and appointees in the SES and excepted service.
 - **Gift Rules Are Part of the Law.** The Congressional gift and travel rules are incorporated into the Lobbying Disclosure Act (LDA), the violation of which is subject to criminal and civil penalties. Thus the rules apply to the givers as well as to the recipients
 - **Semiannual Certification as to Adherence to the Gift Rules.** All in-house employers of lobbyists and their individual lobbyists are required to certify semiannually that they have "not provided, requested, or directed a gift, including travel, to a Member of Congress or an officer or employee of either House of Congress with knowledge that receipt of the gift would violate rule XXXV of the Standing Rules of the Senate or rule XXV of the Rules of the House of Representatives."
 - **Semiannual Certification as to Familiarity with the Gift Rules.** All in-house employers of lobbyists and their individual lobbyists are required to certify semiannually that they have "read and [are] familiar with those provisions of the Standing Rules of the Senate and the Rules of the House of Representatives relating to the provision of gifts and travel."
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Gifts From Lobbyists, Employers of Lobbyists, and Clients of Lobbyists

Gift: Any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value; includes gifts of services, transportation, lodging, and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

Source: Organization with which the paying individual is affiliated as well as the individual.

Recipient: Members and staff of House and Senate as well as spouses, family members, and others when (1) gift is given with the knowledge and acquiescence of the Member or staff person and (2) the Member or staff person has reason to believe the gift was given because of his or her official position.

	HOUSE OF REPRESENTATIVES	SENATE	GENERAL EXECUTIVE BRANCH
✓ Annual Aggregate Limit	Lobbyists and entities that employ or retain lobbyists may not provide gifts outside the exceptions. This includes non-lobbyist employees of covered entities.	Lobbyists and entities that employ or retain lobbyists may not provide gifts outside the exceptions. This includes non-lobbyist employees of covered entities.	\$50 (Exception not applicable to political “Appointees.”)
✓ Individual Gift Limit	Prohibited from lobbyists and lobbyist employers/clients as well as non-lobbyist employees of covered entities. See above.	Prohibited from lobbyists and lobbyist employers/clients as well as non-lobbyist employees of covered entities. See above.	No single item valued at more than \$20 (Exception not applicable to political “Appointees.”)
✓ De Minimis Gift Exclusion	Less than \$10. This is not meant to cover food items.	Less than \$10. This is not meant to cover food items.	Modest items of food and refreshments such as soft drinks, coffee & donuts not offered as part of a meal.

INTERPRETIVE ISSUES

	HOUSE OF REPRESENTATIVES	SENATE	GENERAL EXECUTIVE BRANCH
Value for Reimbursements	Retail value is to be used. For tickets to events, the value is the face value of the ticket. If the ticket has no face value or an artificially low face value, then the ticket is valued at the highest individually-priced ticket for the event. A printed face value shall be deemed the face value only if it is the price at which the issuer offers the ticket to the public. Members must also pay the market value for other benefits such as food, beverages, or parking.	Retail value is to be used. In the case of skyboxes and executive suites, the value will be the face value of the ticket, plus the value of any food and parking privileges. If the ticket has no face value, the value will be the value of the ticket with the highest face value for the event unless a ticket holder can establish in advance to the Ethics Committee that the ticket at issue is equivalent to another ticket with a face value. Written, independently-verifiable information is required (location, parking, food, access to venue areas not open to the public).	Retail value is to be used. The value of a ticket is its face value. If a ticket has no <i>bona fide</i> face value (such as admission to a skybox or private suite), then the value of attendance is the market value for the most expensive publicly-available ticket to the event plus the market value of the food, parking, and other tangible benefits provided in connection with the gift of attendance.
No Buydowns	N/A	N/A	A covered individual may not pay the amount in excess of \$20 to bring the gift within the limit.
Multiple Gifts Divisible	N/A	N/A	Multiple gifts given at one time are deemed to be worth the aggregate of all of the gifts. But, if a gift is divisible such as dinner and a ticket, then the covered individual may pay for an item to keep from receiving a gift of more than \$20.

Widely-attended Events under Senate and House Rules

A widely-attended event is an exception to the House and Senate gift rules. Members and staffers may accept free attendance to such events, even from lobbyists and the clients of lobbyists, under the following circumstances:

- The invitee’s participation or attendance is appropriate to official duties (internal approval necessary for staff members);
- There is a reasonable expectation of at least 25 attendees from outside Congress; and
- The event is open to members from throughout a given industry or profession or to a range of persons interested in the issue.

Invitations to widely-attended events may come from the event sponsor only, which does not include persons or entities that merely support an event financially. Non-sponsors may not earmark funds for the attendance of Members or staff but may request that the sponsor invite such individuals. Permissible “free attendance” includes admission fees, local transportation, refreshments, and integral entertainment.

Widely-attended Gatherings under Executive Branch Rules

(not applicable to political “Appointees” when sponsored by lobbyists or lobbyist employers)

Where it is determined that attendance is in the interest of the agency because it will further agency programs or operations, an employee may accept from the event sponsor free attendance at a widely-attended gathering. A gathering is widely attended if it is expected that a large number of persons with a diversity of views or interests or from throughout an interested industry or profession will attend. If more than 100 persons are expected and the value of the free attendance is \$335 or less (including applicable spousal attendance), the employee may accept free attendance from a person other than the sponsor. Free attendance for widely-attended gatherings and conferences does not include travel expenses, lodging, entertainment collateral to the event, or meals taken other than in a group setting with all other attendees.

General Exemptions to the House and Senate Rules

- 1) **Gifts for which the recipient pays fair market value.**
- 2) **Political contributions.**
- 3) **Personal gift provided on the basis of personal friendship unless the gift is provided because of the official position of the recipient and not because of the personal friendship.**
 - Was there a history of the relationship including prior exchanges of gifts?
 - Was the gift paid for personally or a tax deduction or business reimbursement sought?
 - Was a similar gift given to other Members, officers, or employees?
- 4) **Personal hospitality (other than by registered lobbyists).**
 - Personal residence unrelated to the individual's business.
 - Does not include hospitality in a restaurant, nightclub, or other commercial establishment.
 - Must be paid for by the individual, not a corporation.
 - Must be for a non-business purpose.
- 5) **Free attendance at widely-attended events:** see page 4 above.
- 6) **Free attendance at a charity event.**
 - May accept the entrance fee to a charitable event from the sponsor only.
 - In the House, may accept travel, lodging, meals, or other travel expenses for *bona fide* charitable events that are “substantially recreational” in nature.
 - In the Senate, may not accept travel (other than local transportation), lodging, meals, or other travel expenses for events that are “substantially recreational” in nature.
- 7) **Food or refreshments other than as part of a meal.**
 - Reception where attendees consume hors d'oeuvres or drink while standing up.
 - Continental breakfast (not a hot meal).
- 8) **Items of little intrinsic value:** greeting cards, baseball caps, or T-shirts, and items worth less than \$10.

- 9) **Informational materials.**
- 10) **Opportunities and benefits available to a wide group.**
- 11) **Plaques, trophies, or other commemorative items.**
- 12) **Donations of home state products, intended for promotional purposes, to Members from that state.**
- 13) **Training, if such training is in the interest of the House or Senate.**
- 14) **Constituent Events:** In the Senate only, Members and staff may accept a meal of less than \$50 at an event in the Senator's home state sponsored by constituents of the Senator or a group that consists primarily of constituents where at least five constituents attend, no registered lobbyist attends, and the Senator or staffer participates in the event as a speaker or panel member or performs an appropriate ceremonial function. (The House also has a constituent event exception in its *Ethics Manual*.)
- 15) **Gifts from relatives.**
- 16) **Contributions to Legal Expense Funds (except by registered lobbyists).**
- 17) **Gifts from another Member.**
- 18) **Food, refreshments, lodging, and other benefits of outside activity.**
- 19) **Pension and other benefits.**
- 20) **Awards and prizes.**
- 21) **Honorary degrees and other awards.**
- 22) **Bequests, inheritances, and other transfers at death.**
- 23) **Gifts from federal, state, or local governments.**
- 24) **Items for which a waiver is granted.**
- 25) **In House (per its *Ethics Manual*), certain meals and local (outside the District of Columbia) transportation incident to a visit to a business site for legitimate official activity.**

Special Rules for Registered Federal Lobbyists

- Registered lobbyists may not provide any gifts to Members or staffers unless the item falls within an exception to the gift rules.
- Registered lobbyists may not provide privately-sponsored travel to Members or staffers.
- Registered lobbyists may not participate in the planning, organizing, requesting or arranging of privately-sponsored travel of another person or entity, except in a *de minimis* fashion.
- Registered lobbyists may not make a gift to any entity maintained or controlled by a Member or staff member.
- Registered lobbyists may not make a charitable contribution on the basis of designation, recommendation, or specification of a Member or staff member (unless in lieu of honorarium).
- Registered lobbyists may not make a contribution to a Congressional legal expense fund.
- Registered lobbyists may not make a financial contribution or expenditure relating to a conference, retreat, or similar event sponsored by or affiliated with an official congressional organization.
- Registered lobbyists may not provide gifts to political “Appointees” in the Executive Branch unless the item falls within one of the exceptions applicable to Appointees.

General Exemptions to the Executive Branch Rules

(a different set of exceptions applies to political “Appointees”)

- 1) Gifts given based upon a personal relationship.**
- 2) Free attendance from the event sponsor at a conference or event where attendee is asked to participate as a speaker or panel participant on behalf of the agency.**
- 3) Free attendance at a widely-attended gathering (see page 4 above).**
- 4) Social invitations from persons other than prohibited sources.**
- 5) Discounts and similar benefits offered to the public, a class of all government employees, or a class unrelated to government service.**
- 6) Certain bona fide awards for public service from persons who do not have interests that may be substantially affected by the employee’s official duties.**
- 7) Meals, transportation, lodging, and other benefits resulting from the business activity of a spouse, the employee’s own outside business activity, or customarily provided by a prospective employer.**
- 8) Free attendance to political events, meals, lodging, etc. provided by a political organization as long as such participation is sanctioned by the Hatch Act.**
- 9) Certain gifts in foreign areas.**
- 10) Gifts for which the recipient pays fair market value.**
- 11) Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation.**
- 12) Rewards and prizes given to competitors in contests or events, including random drawings, open to the public unless the employee’s entry into the contest or event is required as part of his official duties.**
- 13) Pension and other benefits resulting from continued participation in an employee welfare and benefits plan maintained by a former employer.**
- 14) Anything which is paid for by the Government or secured by the Government under Government contract.**

Exceptions to the Lobbyist and Lobbyist Employer Gift Ban Applicable to Executive Branch Political “Appointees”

- **Gifts based on a personal relationship;**
- **Modest items of food and refreshments, such as soft drinks, coffee and donuts, offered other than as part of a meal;**
- **Free attendance from the event sponsor at a conference or event where attendee is asked to participate as a speaker or panel participant on behalf of the agency.**
- **Greeting cards and items with little intrinsic value, such as plaques, certificates, and trophies, which are intended solely for presentation;**
- **Opportunities, benefits, favorable rates, and discounts available to the public, to a class consisting of all government employees, or to a class unrelated to government employment;**
- **Travel, subsistence, and related expenses accepted by an agency under specific rules in connection with attendance at a meeting or similar function relating to the employee’s official duties;**
- **Anything for which market value is paid by the appointee;**
- **Meals, lodging, transportation, and other benefits resulting from the business or employment activities of a spouse when it is clear that the benefits have not been enhanced or offered because of the employee’s official position;**
- **Meals, lodging, transportation, and other benefits customarily provided by a prospective employer in connection with bona fide employment discussions;**
- **Gifts to the President or Vice President;**
- **Gifts authorized by supplemental agency regulations; and**
- **Anything paid for by the government or secured by the government under government contract.**
- **The Office of Governmental Ethics (OGE) has indicated that the widely-attended gathering exception only applies in the case of press events and charitable events.**

Officially-Connected (Fact-Finding) Travel Rules

	HOUSE OF REPRESENTATIVES	SENATE	GENERAL EXECUTIVE BRANCH
✓ When Permissible	Meetings, speaking engagements, fact-finding trips, or similar events connected with official duties. (The company must be the sponsor of the event.)	Meetings, speaking engagements, fact-finding trips, or similar events connected with official duties. (The company may be the sponsor or part of an organization that sponsors the event.)	Transportation/lodging may be reimbursed to the agency for employee’s attendance at a meeting or similar function related to official duties.
✓ Authorization	Prior approval from ethics committee required after review of certification from sponsor regarding funding, lobbyist involvement, and reasonableness of expenses.	Prior approval from ethics committee required after review of certification from sponsor regarding funding, lobbyist involvement, and reasonableness of expenses.	Agency must determine that “the travel is in the interest of the Government[,] relates to the employee’s official duties,” and does not create a conflict of interest.
✓ Location	Not permissible for travel to home district (unless part of a larger delegation).	No travel to local duty station (or 35-mile radius).	As authorized by agency.
✓ Time Limits	<p>If the sponsor employs or retains a lobbyist, then the trip is limited to 1 day and night (exclusive of travel time).</p> <p>If sponsor does not employ or retain a lobbyist or is an institution of higher education:</p> <ul style="list-style-type: none"> • 4 days domestic travel (including travel time) • 7 days foreign travel (exclusive of travel time) 	<p>If the sponsor employs or retains a lobbyist, then the trip is limited to 1 day and night (exclusive of travel time).</p> <p>If sponsor does not employ or retain a lobbyist or is a 501(c)(3) charity:</p> <ul style="list-style-type: none"> • 3 days domestic travel (exclusive of travel time) • 7 days foreign travel (exclusive of travel time) 	As authorized by agency.

	HOUSE OF REPRESENTATIVES	SENATE	GENERAL EXECUTIVE BRANCH
✓ Lobbyist Involvement	<p>If sponsor employs or retains a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip. • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>If sponsor does not employ or retain a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip • No lobbyist may plan, organize, request or arrange trip. <p>(These restrictions do not apply to trips sponsored by institutions of higher education.)</p>	<p>If sponsor employs or retains a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyists may be present for any segment of the trip. • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>If sponsor does not employ or retain a lobbyist:</p> <ul style="list-style-type: none"> • No lobbyist may accompany a Member or staffer “at any point throughout the trip” • Lobbyist planning, organizing, requesting or arranging of trip must be <i>de minimis</i>. <p>(The 1 day/night restriction does not apply to 501(c)(3) charities, although, without a limitation to 1 day/night, no lobbyist may accompany a Member or staffer “at any point throughout the trip.”)</p>	<p>No current restrictions as long as the agency pays.</p>
✓ Who	<p>Member or staff member and one relative.</p>	<p>Senator or staff member and a spouse or child if “appropriate” (staff travel requires advance approval).</p>	<p>Employee. Spouse only in some authorized circumstances.</p>
✓ Permissible Expenses	<p>Food, lodging and transportation. Entertainment only if provided to all attendees as an integral part of an event. Only reasonable and necessary expenses permitted. reasonableness of expenses.</p>	<p>Food, lodging, and transportation. Entertainment only if provided to all attendees as an integral part of an event. Only reasonable and necessary expenses permitted.</p>	<p>Travel, subsistence and related expenses comparable to other attendees, provided in-kind or via direct payment to agency.</p>

	HOUSE OF REPRESENTATIVES	SENATE	GENERAL EXECUTIVE BRANCH
✓ Use of Private Aircraft	Prohibited except in a few very limited circumstances.	Free use prohibited, although reimbursement at charter rate permissible.	As authorized by the agency.
✓ Exclusions	Excludes events “substantially recreational in nature.” No payments by lobbyists or foreign agents.	Excludes events “substantially recreational in nature.” No payments by lobbyists or foreign agents.	As authorized by agency.
✓ Post-Travel Disclosure	[For travel on or after April 1, 2013:] Trip sponsor must provide House traveler with a post-travel disclosure form, on which the trip sponsor must certify the accuracy of trip information, including actual expenses paid.	No obligations placed directly on trip sponsor.	No obligations placed directly on trip sponsor.

Summary of House Travel Rules*

* This chart is from page 86 of the *House Ethics Manual* (2008 ed.). See http://www.house.gov/ethics/2008_Ethics_Manual.pdf.

	Permissible Sponsor	Lobbyist Involvement in Planning, Organizing, Requesting, or Arranging	Lobbyist and Foreign Agent Accompaniment	Certification, Committee Approval, and Post-travel Disclosure Required?	Notes
One-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist or foreign agent	<i>De minimis</i>	Not permitted	Yes	Travel may be extended to a two-night stay when determined by the Committee to be practically required for traveler to participate in the one-day event
Trip Sponsored by an Institution of Higher Education	Private universities and colleges	Permitted	Permitted	Yes	
Multiple-day Event Trip	Any sponsor <i>OTHER</i> than a lobbyist, foreign agent, or private entity that retains or employs such an individual	Not permitted	Not permitted	Yes	
Government-sponsored Travel	Federal, state, and local governments, including a public university or college	Permitted	Permitted	No	
Foreign Government-sponsored Travel	Foreign government with a MECEA-approved trip, or in-country foreign travel permitted under the FGDA	Permitted	Permitted	No	Special disclosure requirements for FGDA travel