

Office of Government Ethics

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**Letter to the President of an Association
dated October 9, 2002**

This responds to your letter dated September 9, 2002, seeking guidance in connection with certain gifts provided by [an] Association to several offices of [an agency within a Department] in December 2001. We appreciate your organization's interest in ensuring compliance with the Federal ethics rules. Based on the information you provided and on discussions with [an agency employee], the ethics official for the [agency], it appears that the gift baskets were provided to the Government, not to individual employees for their personal benefit. Accordingly, we believe the matter would be best resolved under authority of the Department's gift acceptance statute.

As a general matter, when a gift is made to an agency, as opposed to an employee personally, the question is one involving the interpretation of the agency's gift acceptance statute. Whenever a gift is accepted by the Government under the specific authority of an agency's gift acceptance statute, the gift rules in the Standards of Ethical Conduct for Employees of the Executive Branch do not apply even though the employee may be receiving and utilizing the gift. See 5 C.F.R. § 2635.203(b)(8)(ii). Based on your letter, it appears as if the [Association] provided the gift baskets to several offices of the [agency], not to particular individuals. Specifically, your letter states that the [agency] gave four gift baskets, each costing approximately \$40, to the following [agency] offices: "Administrative, Occupation Health, Comptroller, and the Phone Center." Your e-mail to [the ethics official], dated December 31, 2001, further refers to the baskets as "Office Gift[s]." Accordingly, we believe it is reasonable to conclude that the [Association] provided the gifts to the [agency], not to individual employees.

We understand that the Department, like many agencies, has statutory gift acceptance authority to accept particular categories of gifts under certain circumstances. According to [the ethics official], the authority to accept gifts on behalf of the [Department] has been delegated down to the [agency head]. Although executive branch agency gift authorities vary widely, gifts accepted by a Government agency in accordance with such statutes generally can only be accepted by the Government agency, and must be accepted in accordance with the agency's established policies and procedures.

Whether the gift baskets in question could have been accepted by the [agency] pursuant to the [Department's] gift acceptance authority depends on the specific circumstances and is not for us to answer. The type, value, purpose, and timing of the gift, as well as circumstances, may be relevant to the agency's decision. Moreover, an agency generally will decline a gift that may create embarrassment to the agency or the appearance of an improper relationship or undue influence. The interpretation of an agency's statutory authority is normally the agency's decision, and OGE will not substitute its own judgment for that of an agency. For additional guidance about the [Department's] gift acceptance authority, or if you would like to request advance approval for a proposed gift to the [agency], you may wish to consult [the ethics official] directly.

Alternatively, your organization may want to note the exception to the gift rules, which permits an *individual* employee to accept an unsolicited gift that has a market value of \$20 or less per source per occasion (provided that the aggregate value of gifts received from the same source does not exceed \$50 in a calendar year). See 5 C.F.R. § 2635.204(a).

We hope that this information is helpful to you. Please do not hesitate to contact us if you have additional questions.

Sincerely,

Marilyn L. Glynn
General Counsel