



# INVITATIONS

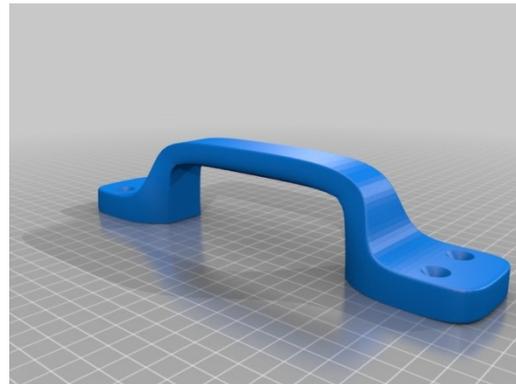
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# What is an INVITATION?

1. the act of inviting; solicitation to do something or to be somewhere; the requesting of a person's company, as to visit or to dine.
2. a written, printed or spoken message requesting one's presence.
3. temptation; enticement; attraction.

# Why are invitations tricky?

- They are like law school exam questions, **chock full of issues that you have to spot**, and no two are exactly the same
- How can you, as a brand new ethics counselor, get a handle on invitations?



# Peel the Onion



- You need to understand the *entire* event, and all that will occur at it, so that you can:
  - provide sound legal advice
  - protect your agency
  - protect the employee
- You peel the onion by researching the host, the event, and asking lots of questions

# 1) Start with the W questions--

- Who?
- What?
- When? (track by date)
- Where?
- By Whom?
- Why?
- How?



# Who was invited?

- Your highest ranking agency official?
- SSA in a BIG acquisition?
- A rank & file employee?
- A group of agency employees?



# To What?

- Award ceremony?
- Brown bag luncheon?
- Conference?
- Contractor open house?
- Embassy event?
- Fundraiser?
- Gala?
- Luncheon?
- Political event?
- Promotion ceremony?
- Retirement party?
- Round table event?



# When?

- Duty time?
- Early morning?
- After hours?
- In the lead up to a BIG acquisition?
- During TDY?



# Where?

- Contractor employee's home?
- Local?
- Out-of-town?
- Foreign location?
- In the corporate space of a prohibited source?



# From Whom?

- Association?
- Battle Buddy?
- Contractor?
- Candidate for office?
- Incumbent running for office?
- Executive Branch agency?
- Foreign government?
- Media?
- Prohibited source?

# Why?

- To speak?
- To advance agency missions & programs?
- To show the agency flag at an award event?
- So the host can pump your employee for valuable marketing information?
- So the host can curry favor?



# How?

- How does the employee participate in the event?
  - Anything out of the ordinary like arriving by helicopter transport?



## 2) Then go to your toolbox--



- Award
- Based on outside business relationship
- Message for audience (for speaker request)
- Modest items of food & refreshment (no alcohol)
- Rubber chicken (meal for speaker)
- \$20 gift exception (working/brown bag lunch)
- Social invitation
- Speaker meal (separate meal for participating speakers)
- Widely-attended-gathering (WAG)
- Last, but not least: **\*Invitee pays own way\***

And it's a WAG because the Ethics Official (not host) says it is, based on:

- Large number of guests present
- Represent a diversity of views
- Share a community of interests
- And invited employee's boss determines:
  - the employee will further agency missions and programs in conversations w/other guests; and
  - Bad appearance is outweighed by good the employee will do for the agency by attending

# More about that WAG

- DoD views a WAG as a personal event—not on duty time (employee is on leave to attend)
- Some events that are not WAGs:
  - Baseball game
  - Football game
  - Golfing tournament
  - Opera
  - Play



# 3) Then answer the question--

- **YES** because

- the agency has a message for this audience
- it fits a gift exception
- there is no 501 or 502 appearance issue
- **or** employee pays



- **NO** because

- controversial
- no nexus between agency & group
- no agency message
- no gift exception
- appearance issue



## 4) Be Prepared for *Pushback--*

- Verify that you are correct before you give your answer
- And ask yourself if there is a way to get to yes that you have not considered
- Make friends now w/ another ethics colleague so you have a sounding board



## 5) Beware of Pitfalls--

- Cost of attendance at event (exceeds SOCO cap of \$759 per day?)
- Frequent eater/speaker
- Last minute requester (pattern?)
- Playing favorites
- Sponsor is a competitor in an upcoming or ongoing acquisition



## 6) Special Considerations--

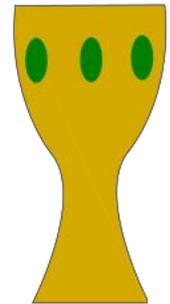
- Travel gifts from non-Federal sources (§1353)
  - for a meeting or similar function
  - approved in advance of travel taking place
  - NOT solicited
- Ethics Pledge (EO 13770) for political appointees (for PAS, non-career SES, and Schedule C)
  - Lobbyist gift ban





The slides that follow may assist  
you in your event vetting,

And they are YOUR gift, compliments of  
the DHA:



# Vetting of Events

## No OGC Review Needed

- Gifts \$20 or less or of little intrinsic value or a meal when official is a speaker at the event that includes the meal (little intrinsic value includes plaques, certificates of appreciation, coffee mugs)
- Invitations from an Executive Branch entity (e.g., any Cabinet Department or Federal Agency such as a Military Service, the VA, Commerce, or NASA)
- Local speaking to non-Federal groups on topics related to official's duties/DHA business PROVIDED no ethical issues presented by host/sponsor (e.g., request for official to fundraise on behalf of or endorse the event sponsor/host or to serve as an event planner)
- Media invitations to be interviewed (on camera, radio, or print) if speaking in official capacity about Agency business
- Promotion, retirement, and recognition ceremonies of military members and Federal employees

## OGC Review Needed

- Any event or action before an audience of individuals with a politically subversive agenda, intended to foment political discord or bring discredit on the Administration and on national security interests
- Award from a non-Federal entity
- Conference sponsored/hosted by non-Federal entities (e.g., AMSUS, HIMSS, Mayo Clinic, etc.)
- Contractor open house or holiday party
- Dinner (or any other event) the evening before & associated w/ a speaking event
- Frequency (the Admiral has participated in this event previously (gives rise to allegations of favoritism))
- Fundraiser
- Gala
- Geographic Region (hometown)
- Gifts (to include gifts of perishable items )
- Government vehicle to/from home
- Invitation from DHA contractor or prospective contractor
- Invitation from a foreign government
- Meals & entertainment in foreign areas
- Political activity
- Requests to meet w/ the Admiral by former Gov & Military officials & other associates who now work for contractors
- Social invitation—from someone other than a DHA contractor or other prohibited source, but not from a personal friend or acquaintance
- Speaker request, if travel involved or if requester is DHA contractor or prospective contractor or nexus to DHA is questionable
- Spouse, invitations from persons connected to the official's spouse , children and family members
- Travel gift (\$1353) and offers of local transportation
- Vendor promotional training
- Widely attended event (host describes it as such invitation)
- Or, if the least bit questionable for reasons of perception

# Sample WAG Email

- From: Ethics Official
- Sent: Date
- To: Three Identified DHA Employees
- Cc: Common DHA Manager of the Three DHA Employees
- Subject: APPROVAL REQUEST: An Evening of Hope, for the Children's Inn at NIH, Ritz-Carlton, Tysons Corner (May 11, 2019)
- 
- Good morning. Each of you three has asked whether you may accept an invitation to attend An Evening of Hope to benefit the Children's Inn at the National Institutes of Health (NIH). It will be held at the Ritz-Carlton at Tysons Corner on May 11, 2019. The event includes a silent auction, reception, and dinner. Many of the event's sponsors are DHA contractors. As detailed below, Admiral Manager, DHA Director, may approve your attendance. I have copied her on this e-mail message, and she may approve your attendance by simply responding to this e-mail.
- 
- The Children's Inn was established in 1990 as a private, non-profit residence for children and their families who are participating in research at NIH. More than 12,000 seriously ill children and their families have stayed at the Inn since it opened its doors 25 years ago.
- 
- As you know, as a Federal official, you are prohibited from accepting gifts offered to you because of your status as a Federal official or offered by someone who does business with your agency. However, there are a number of gift exceptions to this general prohibition. One exception is the widely attended gathering exception found in the Standards of Conduct at 5 CFR 2635.204(g). It permits a Government official to accept an invitation to an event attended by a large number of people that represent a diversity of views if they also share a community of interest, when the employee's agency determines that it is in the agency's interest for the employee to attend the event. Attendance is in the agency's interest when the employee's participation in the event outweighs the 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.
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- Here, approximately 800 people are expected to attend this event, including members of Congress, Executive Branch officials, members of the local community and Government contractors such as Lockheed Martin, Deloitte, Booz Allen Hamilton, General Dynamics and PWC as well as private persons. Tickets to attend are approximately \$800 per person. (The per head cost of the meal is approximately \$152.) Attendees represent a diversity of views, but share a community of interest. Permitting you to attend will provide you with an opportunity to discuss matters of mutual interest with other guests. Therefore, this event meets the definition of the widely attended gathering gift exception, and Admiral Manager may approve your attendance if she determines that your attendance will further agency programs and this benefit outweighs any appearance of impropriety. 5 CFR 2635.204(g). Because the invitation includes a guest, you may bring your spouse or another guest.
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- If you accept this invitation, then you will need to report this gift on your Public Financial Disclosure Report (OGE Form 278) for CY2019 or your Confidential Financial Disclosure Report (OGE Form 450) for CY2019. The value of this gift, at \$800 (or \$1,600 if you take a guest), is above the de minimus aggregation exception of \$134.
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- Please contact me if you have any questions.



## Questions?

Don't be shy. Speak up now.



**Laurie Rafferty**

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