



You're the Judge

Joe G. works in a small government office with five other government employees, three of whom are detailed from the military departments. Joe G. and his office-mates (one of whom is Bob M., active duty military) routinely serve as contracting officer technical representatives on contracts to obtain services in support of their work. A contractor who has done business with Joe's office decides to host a four-course celebration dinner with an open bar to recognize the contractor's 20 years of operation. After several months of planning and announcements of the upcoming event, the contractor invites Joe and his office-mates, as well as hundreds of other guests including other government personnel, contractors, and competitors. *Should Joe and his colleagues attend the dinner?*

Bob is detaching from the office after an almost four-year tour and moving to a new assignment at a very large organization that doesn't do business with the party-hosting contractor. *Should Bob attend the dinner?*

The verdict is on page 46.

Krieg Issues Updated "Acquisition of Services" Policy Memorandum

Under Secretary of Defense (Acquisition, Technology and Logistics) Ken Krieg has issued an "Acquisition of Services" policy memorandum effective Oct. 2, 2006. Krieg's latest policy memorandum complies with Section 2330 of Title 10, U.S.C., as amended by Section 812 of the National Defense Authorization Act for FY 2006, which requires the establishment and implementation of a management structure for the acquisition of services in the Department of Defense. It is intended to ensure that acquisitions of services support and enhance the warfighting capabilities of the Department of Defense and achieve the following objectives:



- Acquisitions of services are based on clear, performance-based requirements.
- Expected cost, schedule, and performance outcomes are identifiable and measurable.
- Acquisitions of services are properly planned and administered to achieve outcomes consistent with customer's needs.
- Services are acquired by business arrangements that are in the best interests of the Department of Defense and are in compliance with applicable statutes, regulations, policies, and other requirements, whether the services are acquired by or on behalf of the Department of Defense.
- Services are acquired using a strategic, enterprise-wide approach, which is applied to both the planning and the execution of the acquisition.

The updated policy memorandum supersedes the "Acquisition of Services" memorandum issued on May 31, 2002, and Enclosure 8, "Acquisition of Services," to DoD Instruction 5000.2, dated May 12, 2003. Read Krieg's memorandum in its entirety at:

<<http://akss.dau.mil/docs/2006-3064-ATL%20Complete.pdf>>

You're the Judge: The Verdict

(from page 14)

The Verdict

The general rule is that federal personnel may not accept gifts from prohibited sources, including contractors and contractor personnel. The applicable law is 5 C.F.R. Part 2635 Subpart B sections 201-205.

There are some exceptions. The exception that applies here states that a federal employee may generally attend an open house or reception and accept any gift of refreshments if the gathering is widely attended, and if the employee's supervisor determines that it is in the agency's interest that the employee attend. The Office of Government Ethics provides a brief synopsis of the exceptions at <www.usoge.gov/pages/common_ethics_issues/common_ethics_issues_pg2.html#Anchor-Gif-60385>.

Should Joe and his Colleagues Attend?

The proposed dinner meets the widely attended gathering criterion. But is it in the agency's best interest that Joe and his colleagues attend? In this case, after consulting with the Office of General Counsel, Joe's supervisor decided attendance was not advisable and instructed the employees not to attend the party. The office was in the process of evaluating several bids for services, including some they expected the party-hosting contractor to bid on, so attendance at the event could be perceived as an attempt by the contractor to in-

fluence current bids. Even though the contractor event had been planned and announced months in advance, a competitive bidder could have perceived a linkage and later used attendance at the dinner to protest contract decisions adverse to his/her company.

What About Bob?

Does Bob's assignment to a different government agency impact his decision? In this case, the answer is "yes." Prior to arrival at his gaining command, Bob consulted with the government agency's Office of General Counsel. After considering information on food costs (approximately \$65 not counting bar costs), evaluating Bob's prospective duties, and taking into account Bob's arrival at the gaining command before the date of the party, the new agency decided that he could attend the event.

Each employee must be aware of the laws governing gifts from outside sources. Consulting the Standards of Conduct Office at <www.dod.mil/dodgc/defense_ethics/main.html> will enable you to reach the right decision. Be sure to supply all the information; accurate advice depends on knowing all the facts.