



# Federal Government Ethics

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# Play the Ethical Midfield



I expect every member of the Department to play the ethical midfield. I need you to be aggressive and show initiative without running the ethical sidelines, where even one misstep will have you out of bounds.

I want our focus to be on the essence of ethical conduct: doing what is right at all times, regardless of the circumstances or whether anyone is watching

# Training Objectives

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- Provide an overview of the most common ethics issues faced by Staff with a focus on Holiday Guidance, Gift Giving, and Retirement
- To empower staff to identify potential ethics issues and provide them tools to address those issues or seek additional guidance

# Roadmap



- Quiz Rules
- 14 Principles of Ethical Conduct
- Brief Overview of some Common Ethics Issues
  - Conflicts of Interest/Impartiality
  - Fundraising
  - Holiday Parties
  - Gifts
- Using OGC as a Resource

# Quiz Rules



- As you read each question, hold up the number of fingers corresponding to what you believe is the correct answer.
- No Cheating! Don't look to see what others are holding up before declaring your own answer.
- Hold your fingers up loud and proud!
- Everyone must answer! If you have no clue as to the correct answer, you are free to express your ignorance by loudly declaring "GO PATS!"



## Sample Question



How Many Former U.S. Presidents are NOT Buried within the United States?

1. Zero
2. Two
3. Four
4. Five



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How Many Former U.S. Presidents are NOT Buried within the United States?

1. Zero
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3. Four
4. **Five**

**(Now be honest, for those of you who knew the right answer, how many of you held up five fingers instead of four?)**



## Sample Question



How Many Former U.S. Presidents are NOT Buried within the United States?

1. Zero
2. Two
3. Four
4. **Five (Carter, Clinton, Bush II, Obama, Trump)**





# 14 Principles of Ethical Conduct

## The Eight “Shalls”



1. Public Service is a **public trust**, requiring employees to **place loyalty to the Constitution**, the laws, and ethical principles above private gain.
2. Employees shall put forth **honest effort** in the performance of their duties.
3. Employees shall **act impartially** and not give preferential treatment to any private organization or individual.
4. Employees shall **protect and conserve Federal property** and shall not use it for other than authorized activities.
5. Employees shall **disclose waste, fraud, abuse, and corruption** to appropriate authorities.
6. Employees shall **satisfy in good faith their obligations as citizens**, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.
7. Employees shall adhere to all laws and regulations that **provide equal opportunity** for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.
8. Employees shall endeavor to **avoid any actions creating the appearance that they are violating the law or ethical standards**. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.



## The Six “Shall Nots”

1. Employees shall not **hold financial interests that conflict** with the conscientious performance of duty.
2. Employees shall not engage in financial transactions **using nonpublic Government information** or allow the improper use of such information to further any private interest.
3. An employee shall not, except as [provided for by regulation], **solicit or accept any gift or other item of monetary value** from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
4. Employees shall not knowingly **make unauthorized commitments or promises** of any kind purporting to bind the Government.
5. Employees shall not **use public office for private gain**.
6. Employees shall not **engage in outside employment or activities**, including seeking or negotiating for employment, that **conflict with official Government duties and responsibilities**.

# Question 1



Which of the following is NOT a Principal of Ethical Conduct?

1. Employees shall not use public office for the public gain.
2. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.
3. Employees shall put forth honest effort in the performance of their duties.
4. Employees shall not hold financial interests that conflict with the conscientious performance of duty.

# Question 1



Which of the following is NOT a Principal of Ethical Conduct?

1. Employees shall not use public office for **the public** gain.
2. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those--such as Federal, State, or local taxes--that are imposed by law.
3. Employees shall put forth honest effort in the performance of their duties.
4. Employees shall not hold financial interests that conflict with the conscientious performance of duty.





# Conflicts of Interest and Impartiality in Performing Official Duties



## The Criminal Rule:

**You may not work on a “particular matter” (e.g. a contract) that could affect the financial interests of:**

- You
- Your spouse
- Your minor children
- Your general partner, or
- An organization with whom you are negotiating or have arranged employment.
- A former employer within two years of leaving employment.

NOTE – A particular matter is a specific decision involving specific parties.

# Procurement Integrity



- The Procurement Integrity Act prohibits the release of source selection and contractor bid or proposal information. Also, a former employee who served in certain positions on a procurement action or contract in excess of \$10 million is barred for one year from receiving compensation as an employee or consultant from that contractor.
- 48 C.F.R. § 3.104-1-11





- If an employee is **participating personally and substantially** in a procurement, **and** the employee is contacted by a bidder/offeror regarding possible future employment the employee is required to:
  - Report it promptly in writing to their supervisor and ethics official and **explicitly reject it** or disqualify themselves from the procurement.
  - Report all suspected violations to the contracting officer for investigation.



# Conflicts of Interest and Impartiality



## Conflicts of Interest

- Federal employees may not take any actions that could affect the finances of a close family member, business partner or organization with whom they are seeking employment
- May also apply to relationships with outside organizations

## Impartiality

- Federal employees may not take any action that provides a benefit to a covered individual or take any actions where a reasonable person would question their impartiality in the matter.
- Broader in scope than the criminal statute but with a lesser penalty.

# Problematic Situations



- Meeting with a former colleague who is now employed by a DFAS contractor
- Seeking post-government employment with a DoD contractor
- Assisting a friend or relative who is seeking a position with the federal government
- Friendships with subordinates

## Question 2



Tom Brady, a DFAS SES Site Director, is in charge of the DFAS Rome Project to build a new employee gymnasium. Joel Glazer, the President of ACME Corps, the bidder selected for the project, says to Tom “I heard you might be a free agent soon and I have loved the work you did on this project. Would you consider working for us after you retire?” Tom responded “ I am not ready to even think about that right now. I am focused on the task at hand.” Which of the following is correct?

1. Tom shut it down right away so he can keep working on the gym project.
2. Tom is now considered to be “seeking employment” with ACME so he has to recuse himself from the gym project.
3. Tom is OK for now, but once he restarts the conversation with Joel Glazer, he will need to recuse himself from the project.
4. Tom Brady can do no wrong; this is all Gisele’s fault.



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# Fundraising

# Fundraising



- Generally, fundraising is prohibited in the Federal workplace
- Exceptions
  - Combined Federal Campaign
  - OPM-authorized disaster relief
  - By Our Own, For Our Own
  - Military Relief Societies
  - In-kind, non-cash donation



# Fundraising



- 5 C.F.R. § 2635.101, Basic Obligation of Public Service
- 5 C.F.R. § 2635.808, Fundraising Activities
- DoD 5500.07-R, Joint Ethics Regulation, Para. 3-210
- 5 C.F.R. § 950.102, Scope of the Combined Federal Campaign



# Fundraising



- 5 C.F.R. § 2635.808, Fundraising activities
- What is fundraising?
- The raising of funds for a nonprofit organization through:
  - Solicitation of funds;
  - Selling items; or
  - Official Participation in the conduct of an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax deduction.
    - Participation: active and visible participation in the event
    - Includes: honorary chairperson; sitting at head table; standing in a reception line; speaking\*
    - Does NOT include: mere attendance (provided not used to promote event)
- What is not fundraising?
  - In-kind collection of items (non-cash), like food or toy drive





# Fundraising



- DoD 5500.07-R, Chapter 3, Para 3-210 Fundraising and Membership Drives
- Prohibits official endorsement of membership drives or fundraising for any non-Federal entity except:
  - CFC
  - Emergency and disaster appeals approved by OPM
  - Service relief/assistance organizations (Army Emergency Relief; Navy-Marine Corps Relief Society; Air Force Assistance Fund)
  - Other organizations composed primarily of DoD employees or their dependents when fundraising among their own members for the benefit of welfare funds for their own members...when approved by DoD component command or organization after consultation with the DAEO or designee.





## Permitted

- Endorsement (CFC, not individual charities)
- Use of official title, position, and authority
- Limited APF support (e.g., kick-off events, award ceremony)
- Modest prizes at CFC events
  - Lunch with Agency official
  - Use of parking space for specific period

## Prohibited



# By Our Own, For Our Own Fundraising



- Organizations composed primarily of DoD personnel and their dependents
- When fundraising among their own members for the benefit of welfare funds for their own members or their family members
- When approved by the head of the DoD component, command, or organization
- After consultation with an ethics official (this includes MWR programs)
- Outside of workplace (breakroom, common area OK if in accordance with installation policy)



# Fundraising



- JER 2-302 prohibits gambling on Government-owned or leased property and/or while on official duty
- Fantasy Football/March Madness is gambling if you pay to participate
- Gambling defined
  - Consideration
  - A game of chance, and
  - An offering of a reward or prize
- Exception - Can you hold a drawing using CFC pledge cards that is not considered gambling?
  - Yes, provided it is made clear to participants that a contribution (pledge) is not required to enter the drawing.



## Question 3



Every year the members of Bill Belichick's DFAS office voluntarily have a march madness NCAA bracket competition. Without using government resources, they complete their brackets. They also each pitch in 10 dollars. During the championship game they have a party (paid for with the ten dollars) and the winners are announced. Are they doing anything wrong?

1. Yes, they are gambling in the federal workplace
2. Yes, they are fundraising in the federal workplace.
3. Both 1 & 2 (above) are correct.
4. No. (I mean c'mon, has Bill Belichick ever done something wrong outside of Cleveland?)



## Question 3



Every year the members of Bill Belichick's DFAS office voluntarily have a march madness NCAA bracket competition. Without using government resources, they complete their brackets. They post the current results in the office breakroom. They also each pitch in 10 dollars. During the championship game they have a party (paid for with the ten dollars) and the winners are announced. Are they doing anything wrong?

1. Yes, they are gambling in the federal workplace
2. Yes, they are fundraising in the federal workplace.
3. Both 1 & 2 (above) are correct.
4. **No. (I mean c'mon, has Bill Belichick ever done something wrong outside of Cleveland?)**



## Question 4



The new guy, Mac Jones, is very excited to support the CFC. He even volunteers to serve as the office CFC coordinator. As the coordinator, he sponsors a free raffle for everyone in the office. Winner gets a CFC T-Shirt. To enter you must complete a CFC donation card, but the amount on the card can be zero. He then gets permission from the boss for everyone who contributes to the CFC to be able to come to work in a costume on Halloween! Finally, he has a poster in the office break room that tracks the “Naughty” list of office employees that have not contributed to the CFC. Which of Mac Jones’ actions are NOT wrong?

1. The raffle.
2. The Halloween Costume Benefit.
3. The Naughty List.
4. All of the above. Mac Jones can do nothing right.



## Question 4



The new guy, Mac Jones, is very excited to support the CFC. He even volunteers to serve as the office CFC coordinator. As the coordinator, he sponsors a free raffle for everyone in the office. Winner gets a CFC T-Shirt. To enter you must complete a CFC donation card, but the amount on the card can be zero. He then gets permission from the boss for everyone who contributes to the CFC to be able to come to work in a costume on Halloween! Finally, he has a poster in the office break room that tracks the “Naughty” list of office employees that have not contributed to the CFC. Which of Mac Jones’ actions are NOT wrong?

1. **The raffle.**
2. The Halloween Costume Benefit.
3. The Naughty List.
4. All of the above. Mac Jones can do nothing right.







# Holiday Parties & Gifts



# Holiday Party Rules-Fundraising



- Fundraising for the Office Holiday Party. How about an Office Bake Sale?
  - “By our Own, for our Own Exception.”
  - May occur in the office area, but everyone working on the bake sale must be in a non duty status.
  - Must get permission of the Site Director (after consulting with OGC)
  - Can’t sell to folks outside the group!
  - Must be completely voluntary.
- Fundraising for the Office Holiday Party. How About Collecting 10\$ from everyone that plans to attend?
  - This is also Ok as long as it is completely voluntary and all the funds are going to be spent on the party for all attendees.

## Question 5



Can Contractors be included in the office party fundraising bake sale and/or collecting the 10\$ per attendee to cover party costs?

1. No. The “By our Own, for our Own Exception” is limited to federal employees.
2. Yes, but only for the Bake sale, since they are immediately getting something back for the money they spend.
3. Yes, but only for the 10\$ per attendee collection since it is an equal amount for everyone.
4. Yes.



## Question 5



Can Contractors be included in the office party fundraising bake sale and/or collecting the 10\$ per attendee to cover party costs?

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2. Yes, but only for the Bake sale, since they are immediately getting something back for the money they spend.
3. Yes, but only for the 10\$ per attendee collection since it is an equal amount for everyone.
4. **Yes.**



# Holiday Party Rules-Official Support



- **DFAS Supervisors are authorized to grant administrative leave to attend an office holiday party.**
  - Attendance is voluntary.
  - If an employee is granted administrative leave, they must actually attend the party.
  - Holiday parties are not official events. Other than the granting of administrative leave, and the use of government information systems, and potentially government space, government resources (such as vehicles) should not be used to support holiday parties.
  - We cannot give time off to contractors to attend the Holiday party.
- **Holiday Parties do not change the Federal Workplace Rules**
  - Alcohol is not permitted in the federal workplace, even during a holiday party.
  - Gambling is not permitted in the federal workplace, even during a holiday party.
  - Partisan Political Activity not permitted in the federal workplace, even during a holiday party.

# Gifts from Outside Sources



- Unless an exception applies, federal employees may not solicit or accept gifts that are given because of their official positions or that come from certain interested sources ("prohibited sources").
- Even if the gift falls within an exception or is otherwise permissible, senior leaders should consider declining gifts when they believe that their integrity or impartiality would be questioned if they were to accept the gift.
- In making this judgment, employees may consider, for example, the value of the gift, the timing of the gift, whether the employee's actions could affect the donor, and whether accepting the gift would provide the donor with significantly disproportionate access.
- Note that this includes the gift of an invitation to an event and there is NO Christmas exception to the rules on gifts from prohibited sources.

# Gifts from Outside Sources



## What is not considered a gift?

- Modest items of food and refreshments (e.g. coffee and donuts; not a meal and no alcohol)
- Prizes in contests open to the public;
- Greeting cards and items with little intrinsic value such as plaques, certificates, and trophies;
- Commercial discounts available to the public or to all Government civilian or military personnel.

## Common Exceptions

- 20/50 rule:
- Gifts motivated by personal relationships.
- Awards for meritorious public service or achievement, and honorary degrees.
- “Widely Attended Gatherings” – an event where a large number of persons with a diversity of views or interests will be present and there will be an opportunity to exchange ideas and views among invited persons.



# Superior-Subordinate Gifts



Generally, federal employees may not accept a gift given by a subordinate or any employee that is lower in a grade or rank unless

- There is no subordinate-superior relationship; and
- There is a personal relationship that would justify the gift.
- Gifts may never be coerced!





# Common Exceptions



## Occasional basis

- Includes any occasion where gifts are traditionally given (e.g., birthdays, holidays).
- Valued at \$10 or less. No cash!
- Food and refreshments shared in the office among several employees.
- Customary hospitality at a residence.
- Gifts to host or hostess for dinner party.

## Special, Infrequent Occasions

- Infrequently occurring occasions of personal significance (e.g., marriage, birth of child, illness).
- Occasions that terminate a subordinate – official superior relationship (retirement, transfer, resignation).
- Employees other than the recipient may solicit voluntary contributions of up to \$10/person.
- If the group includes a subordinate, the value of the group gift cannot exceed \$300.



## Question 6



Tedy Bruschi, a DFAS employee, knows that his boss, Bill Belichick, is a big collector of civil war artifacts. When Tedy draws Bill's name from the office Secret Santa gift exchange, he goes looking for the perfect gift, but he needs to stay under the 20\$ price limit everyone agreed to for the exchange. Tedy's uncle sells Tedy a mint condition civil war bayonet for only 10 dollars and Tedy gives it to Bill at the Holiday party. If Bill accepts the gift, is he doing something wrong?

1. No. Bill also had to buy a gift to participate so he is basically breaking even.
2. No. Bill had no idea that Tedy was his Secret Santa, so he can accept any gift that complies with the 20\$ limitation.
3. Probably yes. Regardless of how much Tedy paid for it, a mint condition civil war bayonet is probably worth a lot more than \$10 or even \$20.
4. No. Bill Belichick can do no wrong.

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4. No. Bill Belichick can do no wrong.



## Question 7



**Tedy decides the bayonet is better as a retirement Gift for Bill, who is retiring right after the Holiday Party. Which of the following does NOT violate the rules?**

1. Tedy gives the Bayonet, worth \$300, as an individual gift to Bill.
2. Tedy collects \$10 from each of his thirty nine co-workers (voluntarily) and then gives the bayonet, worth \$400, to Bill.
3. Tedy collects \$10 from each of his nineteen co-workers (voluntarily) and then gives the bayonet, worth \$200, to Bill as a group retirement gift. To complete the set, Tedy's office mate Suzy collects \$10 from Tedy and nine other co-workers to buy an engraved scabbard worth \$110 to also give to Bill as a retirement gift.
4. Same facts as 3, above, except that Bill returns \$10 to Suzy to cover part of the cost of the scabbard.

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## Question 8



**To save money, rather than rent a venue, Bill volunteers to host the office party at his house. Tedy arrives and presents Bill's wife with a bouquet of flowers worth \$15. This is not part of the gift exchange and Tedy does not have a personal relationship with Bill's wife. Is there anything wrong if she accepts the flowers?**

1. No. She is not the federal employee, Bill is.
2. Yes. This exceeds the \$10 limitation on gifts from subordinates to superiors.
3. Probably not if the \$15 flowers are considered an appropriate gift to a host.
4. Yes, Tedy should never give flowers to someone else's spouse.



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## Question 9



**Bill, a DFAS employee, attends a Christmas reception held by VISA, a DFAS contractor. The event is open to all DFAS employees. There is a lavish buffet that includes king crab legs and steak offered to all guests. Those who choose not to partake of the buffet are offered a prepaid 20\$ VISA card as a Christmas gift instead. In an effort to stay ethical, Bill decides to just have a single piece of cake from the buffet. Which of the following is correct?**

1. As long as the piece of cake is worth less than \$20, Bill maintained his professional ethics.
2. Bill should have accepted the gift card instead of the cake if he wanted to stay ethical and keep the value of the gift \$20 or under.
3. Bill can stay ethical, but only if he reimburses VISA the full per person cost of the buffet.
4. Bill could have eaten as much as he wanted because the event was open to all DFAS employees.



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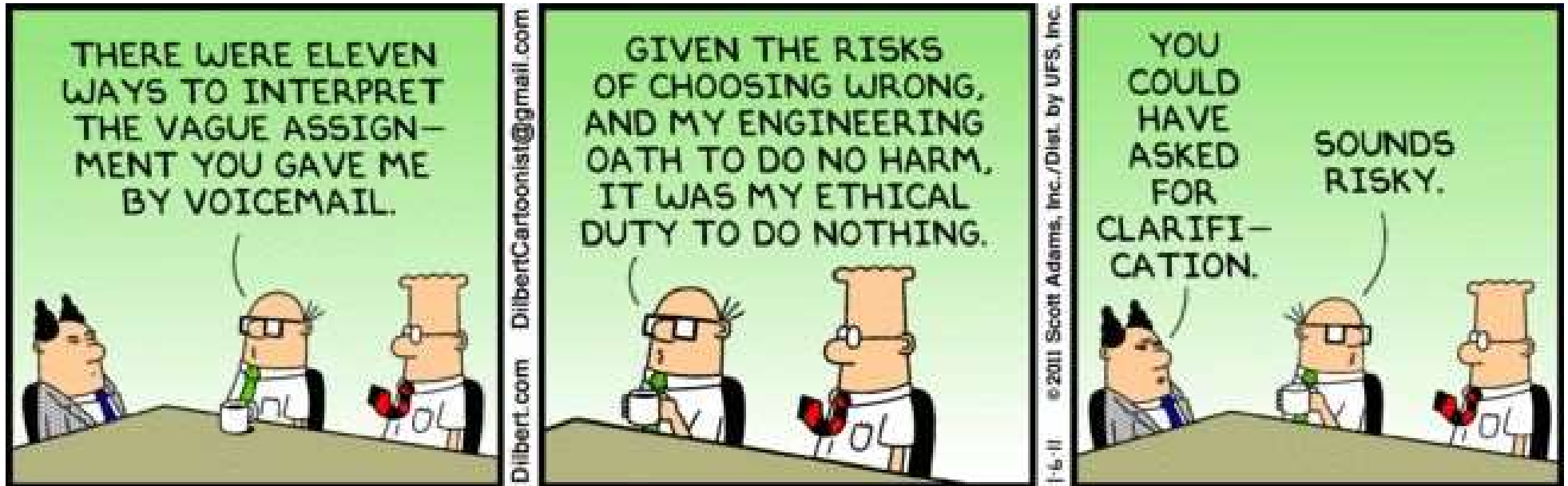
## Using OGC as a Resource

# Using OGC as a Resource



- The OGC Ethics Program exists to help DFAS employees avoid ethics issues and can help you:
  - Interpret potentially complex ethics regulations
  - Analyze fact-specific situations for exceptions and exclusions
  - Provide ethically permissible alternatives to otherwise prohibited actions
  - Fully explain the legal and public relations risks of potentially unethical conduct

# When All Else Fails...



ASK!



# Thank you for attending!

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