

>> A presentation of the United States Fish and Wildlife Service

>> E. McDonnell: Hello, everybody and welcome to the spring 2009 ethics satellite broadcast we're glad to be here. My name is Ed McDonnell I'm with the departmental ethics office, located at the main Interior building in D.C Here today with me, are Terry Grush, a contract analyst with Minerals Management Service. And out at our remote table here we have Ms. Donna Houston. She is with minerals management service, as an assistant ethics counselor. And Mr. Matt Parsons, and he is a new addition to the departmental ethics office. He is an ethics attorney in Denver in the solicitors office Let's see, I have a few people I'd like to thank before we get started. Randy Robinson is helping us with NTCT, he is in the studio, keeping us straight Mark is working video in the back room and Lars is doing audio for us Cathy here has provided a lot of administrative help and Margaret at the department ethics office, is extremely dedicated trying to get this thing on the road and keep it moving Thanks to all them Today what are we going to look at? Contractor issues, contractors issues Terry and I will present what I'll call substantive matter, we'll go over authorities, rules, laws and some basic discussion And then after that, we're going to take about a 5 minute break and we'll, Terry and I will move to the remote table with Matt and Donna we're going to do a little final exam, a little quiz and hopefully you'll be able to call in, using the push-to-talk technology or by phone and work with us on those questions, see what we have learned today As far as that goes, with the how to communicate, there are a number of ways During the first part of the broadcast before the quiz, phone us on 1-888-212-0803, fax us, or E-mail any questions, comments to broadcast at FWS.GOV My favorite gizmo, the push-to-talk microphone, it has a thing that says push-to-talk with an arrow pointing to the button Place it on the desk about 12 inches away from you when you want to talk, you press the button Say I'm calling in, hi, this Bill from Montana, I have a question Then I let go of the button when you push on the button, you won't be able to hear anything That cuts off our audio wait for us to acknowledge you, we'll say Bill, we hear you, go ahead with your question Press the button and give us your question Then let go again and we can talk to you, give you an answer We may run into the circumstance where more than one person tries to talk to us at the same time If that happens, we'll probably hear more than one voice in the studio and I'll give everybody a time out Then if everybody would let go of their microphones we'll try to take the first person who tried

to click in and try to answer their question Before I go on, I have one administrative thing I want to cover A number of you I'm sure are watching because you're required to take annual ethics training because you're an OG 450 filer or financial disclosure reports If that's the case, you're required to get some instruction on basic ethics principles found in the executive order The criminal statutes range from bribery through representation al restrictions, post government employment all the way through supplementation of salary You need to learn about the D.O.I. specific rules and laws governing ethics situations and we have also added, these are in the supplemental handouts A couple slides may say supplemental ethics materials, all of this is in there, and we've added some information on the contractor arena, and at the very end we have ethics contact information, for the department office, all of the information is in there so you will know how to contact your ethics counselor in your bureau or office One last thing, we're going to tell you at the end after we complete our quiz, how you can get credit for this course That will be important especially for those required to have the course so you can get it in your record But that's might last administrative comment Let's turn it over to Terry who will take us through what we are going to cover today

>> T. Grush: Nice to hear from all of you folks from around the country from all those wonderful places I have been and wish I could go Thank you for attending Let's talk about the topics for today that we're going to chat about the authorities, no good government briefing starts without what you can do, where it is We're going to talk about prohibited sources, give you a better understanding of what a prohibited source is and how to deal with them Impartiality is always a huge matter with folks like me We're going to talk about conflicts of interest, and particularly with procurement Everybody's favorite subject is gifts we like them and take them, and it becomes a sticky issue when it comes to government employees we're going to chat about that a little bit And since there is no better teacher than fear, we will give you a rigorous final exam and your entire career depends on how you do on that why is this important? In 2005, the office of government ethics did a survey and it shows that three quarters of all the conflict of interest prosecutions -- that's go to court stuff -- involve contracts in some way or another We thought that was a pretty good reason to bring in a procurement aspect to this year's training We all know high profile incidents hurt all of us Appearances are

important Remember that the secretary of interior calls this the department of America with good reason, because no department has a larger foot print across the country than the department of interior we're virtually everywhere We need to always represent an ethical outlook toward the public in general Finally, we can't do our jobs unless the people trust us to do our jobs If they don't think we are doing things in a legal and proper way, ethical way, all sorts of roadblocks come up and it's difficult for us to get to our mission who should this be important to? Everybody obviously but contracting officers, contracting officer representatives Those are folks delegated some authority on a contract to help look over how a contractor is doing in their work, CORs Requisitioners and scope writers They decide how much we're going to purchase Source selection That's anybody who has a part in deciding what contractor is going to get a contract Anybody who is marketed by outside sources That's quite a few of us We get calls, being told whatever you need, we can sell it to you People who have purchase authority on their cards, program officials and finally, employees who interface with contract personnel and that, friends, is most of us because we all have people who work at desks next to us, next office who are contract people Wonderful folks, we form very fine relationships with them occasionally but we have to remember that there's a difference between them and us

>> E. McDonnell: I would like to mention, it applies to everybody We're focusing on contractors and contractor issues but many of the rules we're going to discuss, they apply with whether you're dealing with a contractor, for instance prohibited sources could be anybody, it could be a contractor, a friends group, partner association Don't think that if you're not in that list of people that Terry just went through that these rules don't apply to you could get something from this even if you're not in that list Okay?

>> T. Grush: what we need to maintain then -- I'm sorry We want to talk about who says this matters these are some of the authorities The C.F.R. part 2635, and 41 U.S.C. 423, the FAR and part 3 improper business practices and you all want to listen to my wife's bulldog, Dan And this is the first paragraph out of the FAR part 3 A lot of mom and apple pie I have highlighted in red some of the records that stand out as particularly -- above reproach, standard of conduct, we are human so it's written out I thought this was an interesting way to present it what I like

the best is at the bottom, it says we shall have no reluctance to make a full public disclosure of what we do In other words, if somebody comes by, you can show them without hesitation, you don't have files in your trunk if the auditor comes by I thought that was a pretty good test, am I doing something that I'm embarrassed about or not Arm's length is an old-time procurement term and still useful today In the current environment, we have a lot of contractors in our organization, we depend on them for things we don't have the expertise to do or enough government employees to do Their there, they're wonderful They help us do our mission we share our office space and work with them in the field we develop good business and personal relationships with them, as well but we have to remember they are not government employees When I joined the Army and Ed joined the services we took an oath that we would defend the constitution against enemies, foreign and domestic, and when I joined civilian, I took a similar oath Contractors, as wonderful a job as they may do really haven't taken that oath and what Melinda likes to say, we take an oath, they take profit That isn't to put down contractors in any way but they have a different boss than we do Let's talk about prohibited sources a little bit Let's define it Any organization or individual that seeks action by your agency Anybody who wants to do business with the agency If they want a contract, they are a prohibited source

>> E. McDonnell: Or grant

>> T. Grush: Thanks, Ed Conducts activities regulated by the employee's agency Oil and gas industry, grazing, recreational groups The list goes on forever I'm sure and I'm sure you folks know who those are Has interests that may be substantially affected by the employee's performance of duty, or organization composed of members described above, clubs that may be affected

>> E. McDonnell: Possibly trade associations

>> T. Grush: The next slide talks about who some of these folks might be Contractors, vendors obviously, they come with open coats, trying to sell you stolen CDs, watches whatever they are, most are very up front Governments, state, local or foreign under some circumstances The tribes sh the department of interior is a little unique They could certain be a prohibited source in some circumstances Universities and colleges and foundations and not for profits and everybody's favorite, Lobbyists

>> E. McDonnell: We are going to talk about gifts and prohibited sources is a term that comes up in the gift arena because we're talking about a source from which you're prohibited from taking a gift from that source I'm going to start picking up a slide or two here Right now we wanted to take a brief pause and see if anybody has any questions from the field Remember, you can call in You can fax or E-mail Or you can use the push-to-talk

>> T. Grush: Is somebody there?

>> E. McDonnell: We think we might have heard somebody

>> Participant: My name is Rita, I'm with bureau of Indian affairs Could you give us some examples of prohibited source

>> E. McDonnell: A non-governmental entity, and the tribes are not part of the federal government Now, I must say, tribes of all of these groups that we have listed under our slide, tribes are probably the more difficult category to deal with because they are -- they're sovereign nations I'm not an expert in Indian law or anything but they happen to be sovereign nations in and of themselves and there's a very interesting relationship between the department of the interior and the tribes On the one hand it's almost a regulatory kind of a relationship and a more at-arm's length relationship and there's caretaker or assistance type of relationship, type of role that the department of interior plays I can give you an instance where they would be a prohibited source Actually, talking about a gift, if a tribe intends or member of a tribe intends to give a different to a government employee, we would have to analyze that gift under the gifts rules Does that answer your question, Rita?

>> Participant: Yes, thank you

>> E. McDonnell: Okay

>> Participant: [INAUDIBLE]

>> E. McDonnell: I'm sorry, was that a question? Okay, I guess we'll move along then we looked at prohibited sources Because we're going to talk about gifts in a few minutes, we're going to focus on another aspect, impartiality And I'm sure you have heard at ethics training before, maybe seen or read 18 U.S.C. 208 That statute, if you violate it you can be sent to jail,

fined up to \$250,000 what it does is makes it illegal for a government employee to take an official action that can directly and predictably affect her own financial interests, interests of spouse, employer, general partner, various listed individuals Their financial interests are imputed to the employee If the employee takes an official act that would benefit one of those people, they violate the statute Let's say one's spouse owns a company, like a consulting company or something like that Let's say my spouse owned a consulting company, I'm a government employee, I need some advice so I make out a contract and I give that contract to my spouse who is this consulting company or individual That would be a violate of U.S.C. -- 18 U.S.C. 208 Even if you don't have a violation of 18 U.S.C. 208, there are some people, some relationships that could raise a question on the part of someone watching what you do that could make them wonder, hey, I'm not really sure what he is doing is for the public's benefit, the government's benefit or maybe for his own benefit or for the benefit of that other person We've got a number of covered relationships Let me list them, they're on the slide Your spouse A member of your household or a close personal relative Anyone with whom you have a or seek -- you could have or be looking for a business relationship with someone That includes essentially any kind of financial relationship other than a routine consumer transaction, like going to a retail market and picking something on your way home from work Anyone for whom your spouse, parent, or dependent child serves or seeks to serve as officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee You have a covered relationship with your spouse's employer, if you take an action that can affect your spouse's employer's interests A couple of more Anyone that you have served as an officer, director, trustee or any of that long laundry list I just went through, including employer, for a period of one year after you leave employment in the private sector and come to work for the government For one year after you left work with that previous employer, you can't take an official action where that previous employer is or represents a party You couldn't throw a contract to your previous employer within that one year period or any organization in which you're an active participant I'm going to turn it over to Terry again

>> T. Grush: we want to talk about procurement integrity act, there are four overriding principles involved Let's chat about each of those First of all, there's a ban on disclosure of bid or proposal information what this means is often times when

proposals come in, there is a team of people, more than just the contracting officer, who was asked to help evaluate the information in the proposal and it's okay for that person to see that proposal information obviously because they need to evaluate it. However, if you are not officially designated as an evaluator by the contracting officer, you are not supposed to know that information. It's protected, proprietary, very important to those contractors because it's how they do business. That would include prices, what they are offering for how much they want for the job. Business strategies would include how they do their work, who they partner with, how they, who they are going to subcontract to, perhaps. It could be who they are going to present to do a particular job as a project manager or whatever. Technology and processes, that's the nuts and bolts of how they would perform the work if it's a service contract or if they are making something for us, how they make it. This stuff is protected and you are not allowed to know it. The second is a ban on anyone, knowingly obtaining procurement information before award except as permitted by law. You are not supposed to know that and you cannot disclose it to anyone. The third one, a government employee who participates in a procurement in excess of \$100,000 and if you contact an offeror or contacted by an officer regarding a possible employment offer, then you've got to report it. Period. You have to do that. And you report it to, I would suggest your supervisor obviously, and also your -- the ethics counselor who covers your work area. What they will do is make a note in the file so if anything comes up in the future with respect to this, it's yes, this person did report it. So you've got to report it and you've got to make a choice of doing two things, reject it on the spot, sorry, not interested, or if you really are interested in the job and want to talk about them, with them about a job, you've got to pull yourself away from the procurement. Go to the contracting officer, say I'm in negotiations for a possible job. We need to get me off this procurement right away. Then the fourth point, Ed will expand on this a little bit, if a contract is worth \$10 million or more, if it's a contract for multiple years, let's say a base year plus four options for a total of five years, in some cases even longer than that, if the total contract over that time period is worth \$10 million or more, there is a one-year ban on accepting compensation from the contractor if you are a government official. That's fairly narrowly defined as a contracting officer, source selection authority. What's a source selection -- selection authority? Sometimes in more complex contracts there is separate selection authority, an individual who goes through

the evaluation materials and makes a recommendation to the contractor about who is going to get the job There is a source selection board sometimes which is, we call them gray beards because they're old and smart like Ed and me All right But they are part of a team that helps analyze the proposals So they would be part of this, defined as government officials in this instance The chair of the financial or technical evaluation team These are people evaluating proposals in a fairly narrow sense They may be looking at the money or how the contractor proposes to do the work Sometimes they have whole committees that look at this If you're a chair of one of those committees you are included in this group Obviously, the program manager and deputy program manager If it's more than \$10 million you have to wait a year, before you can take any compensation from that employer There is more and Ed can talk about that

>> E. McDonnell: Okay Let's see The same one year ban that Terry just talked about, that exists for people who have personally made a decision to award a contract, a subcontract mod -- modification You must have personally made the decision to do these things, even if you're not the source selection authority these will trigger the rule If you establish overhead or other rates over \$10 million, or approve issuance of contract payment or payments over \$10 million or pay or settle a claim over \$10 million The common thread, over \$10 million

>> T. Grush: We want to talk about some things that we have three slides on, any government employee must recuse themselves from any contract involving a spouse's employer, if the agency determines that a reasonable question would question impartiality Think about it, your husband or wife is doing business with them, it's going to raise eye brows The next slide is similar, a government employee should not participate in a contract if a contractor employee is working on the same contract -- with whom they reside That could be roommates that you're sharing a house or apartment with You need to be aware of that Here again, it's an appearance issue and there's a possible conflict of interest as stated in 502 Quickly, the third one, you shouldn't give -- well, you should consider potentially impartiality questions before you give a contract to a friend Sometimes there are instances when that might have to happen, if there's a consultant who nobody else on the planet can possibly do what this person needs to do for you, it's a possibility but I would call the ethics counselor Bribes, illegal contract, offer of compensation of some kind in return for something that

you would do for somebody It's offer and acceptance so it's a contract but toward an illegal purpose so technically not a contract You do something for me, I'll do something for you and it's go to jail stuff

>> E. McDonnell: Bottom line, bribe, something of value with intent that it influence your official actions and it is a criminal offense and can net up to \$250,000 fine and I believe it's five years in prison It's criminal prosecution and that's not a happy time for anybody why don't we take a quick break for questions here we've talked about impartiality and covered relationships, we talked about the procurement integrity act and mentioned bribes Anybody have questions on those areas or anything we covered earlier if a question just sprung to mind?

>> Participant: Ellen, Boston Historical National Park The one year ban, at what point does that one year ban start?

>> E. McDonnell: That's a wicked good question The one-year ban You want to talk to your ethics official to figure out when that one-year ban starts Let me try to talk through a little bit when you cease to be that person, then the one year ban starts when you're personally making those decisions, when you have completed that decision, the one-year period starts Now, if for whatever reason you have to make another of those decisions personally, then that one-year period would start again Does that answer your question?

>> Participant: Yes

>> E. McDonnell: Okay, great Do we have any other questions?

>> T. Grush: Let's go ahead then, I'm going to turn it over to Ed to talk about gifts, everybody's favorite subject

>> E. McDonnell: Getting back to prohibited sources Let's look first at the definition of a gift Generally speaking a gift is anything of value, anything having monetary value Doesn't have to be anything tangible, doesn't have to be money, merchandise Anything like that It can be a discount, a benefit If any value is conveyed to the recipient, then it's considered a gift Okay? Now, there are some exclusions Let me cover this quickly In the business world, gifts may be acceptable There might be an accepted way of doing business However, some contractors, I know specifically in the Department of Defense, some contractors have

their own rules prohibits gifts They make a rule that says my employees cannot accept gifts from anyone, nor can they give gifts Generally speaking, there may not be a ban on gifts in the business arena, however, for executive branch employees, we do have a gift ban So -- I'm not sure we missed any slides A summary of all this, you can accept a gift from a prohibited source or if that gift is given because of your official position And remember, too, that you can't accept what they call an indirect gift A gift given to your spouse, child, parent or sibling that is given to them because of their relationship to you Also, you can't designate a clarity Generally speaking now, and we'll have a little exception to this later but if someone wants to give you a gift because of your official position, you realize I can't accept that because I'm an executive branch employee, that's a prohibited gift under the gift rules, then you say, gee, how about giving it to XYZ charity? That seems like a good way to solve that, right? It isn't That would be an indirect gift under the regulation and you can't do that, you can't designate a third party for, to whom that gift can be given, whether a charity or not No third parties In that gift definition, there are some exclusions In other words, there are some things of value that have monetary value that the drafters of that regulation decided they don't want to include in the definition of a gift For instance, snacks when they don't really make up a meal So coffee and doughnuts perhaps A prize in a contest that's open to the public That truly has to be open to the general public One situation where you might think it's open to the public but not, let's say you attend a conference in your official capacity You go there and at that conference they're going to have a door prize Anyone in the conference has a chance at the door prize If you had to pay a fee, your agency had to pay a fee for you to get to this conference, only conference attendees can win a prize, that's not truly open to the public That's not excluded from the gift definition Certain items that are meant for presentation, and they have little intrinsic value A plaque or a trophy Generally not real expensive in and of themselves, presented to Ed thanks a lot for your work on this project Nobody else wants that, it's got my name on it Gee whiz, it doesn't have a lot of intrinsic value to it, no one else would want to buy it or own it Be careful, just engraving somebody's name on a trophy or gold brick, that gold brick could be melted down and is worth a lot of money The name isn't the decision here Discounts Let's say an auto maker wants to give \$750 off Or anything you pay for at market value which really isn't a gift, you bought it There are other gift exceptions that

may arise but you want to talk to your ethics official and run through them with him or her to make sure These are the ones that we see most commonly One thing you want to think about -- those were the exclusions to the definition Even if there is something that is a gift, there might be an exception that allows you to accept the gift We have the \$20 rule Some people mistakenly believe it's the \$25 rule You can accept a gift from a prohibited source worth \$20 per less per source, per occasion Left's say a given contractor, maybe you go to a conference and there's contractors giving out pens or something like that, you could accept something from a giving contractor on that occasion worth up to \$20 There's a \$50 a year maximum on that So if you accept something that's worth \$20 one time, two months later you accept something else worth \$20 Now you're up to \$40 You may be able to next accept a gift up to \$10, up to your \$50 If this is somebody that you knew since you were a little kid, you have been close friends, giving gifts to each other for birthdays, going on for many a year, that's most likely, we look at it it's probably a gift based on a personal relationship what if that old friend takes a job with a contractor that I deal with? what if the friend isn't paying for the gift this year, what if the contractor is paying for it? That would not be a gift based on personal friendship and I could not accept that You want to look at those closely and talk to your ethics counselor about them Groups, that can be a complicated area You want to talk to an ethics official if there's a discount given to groups, certain groups of government employees but not all If that's what you are dealing with, talk to your ethics official A gift based on outside employment relationship, maybe you are working outside of the department of the interior, there are some jobs where that would require prior approval of your supervisor and ethics official, if you're working outside and as part of that, say your employer gives out a turkey at Christmas or something like that, if that's based on the employer-employee relationship, that may come under the exception One kind of complex rule is where you can possibly accept free admission to what we call a widely attended gathering You'll need to talk to your ethics official In DOI you have to fill out a form 1958 We have that form on our website at DOI.GOV/ethics Fill that out, submit it to your supervisor The supervisor if they recommend approval it goes up to the ethics official and the ethics official can sign off on that kind of a complicated process or it can be in some cases so you want to get that started early And well before the event if at all possible Okay? So those are a number of exceptions to the gift prohibition There are others If you are

offered a gift, get with your ethics official and talk about it
Let's look at what sometimes comes up with contractors or
employees dealing with contractors in the workplace we work in
cubicles so we've got a lot of things going on A lot of times Or
maybe even an open office where people don't have cubicle,
there's just a bunch of desks there Contractor employee, they
seem kind of like one of us They look like us, walk like us,
talk like us Maybe the only difference is the ID badge they have
You have to remember, though, that you can't solicit a gift
either for yourself or for another government employee from a
contractor And this sometimes comes up with government employee
retirements or holidays or life events Maybe a marriage, could
be birth of a child, illness, something like that You can't
solicit contractors for that type of gift On the other hand, can
you give a gift to a contractor? well, you can't pay for a gift
to a contractor with appropriated funds That's bottom line Other
than that, there are still some concerns and you would want to
look into those One, that contractor may have rules against its
employees accepting gifts from government personnel? Remember I
talked to you about that before? Contractors have that kind of
rule You don't want to put them in a sticky situation so you
might want to check with the employee or the contractor employee
or check with the contractor If you're giving a gift to a
contractor employee because you think they're the best thing
since sliced bread and you think they're doing a great job on
the contract what if the contracting officer is in the process
of terminating that contract for cause? You may muddy the waters
by giving a gift to a contractor employee when the powers that
be don't believe that they're performing, either it's that person
or someone else in the contractor's employ is not doing the job
they're supposed to do That's especially important if you
fashion this as an award or reward for this You can make things
sticky, judging by what they expect the contractor to do,
they're not living up, now you're giving them awards for doing a
great job I would never give a gift to a contractor employee
unless you talk to the contracting officer Maybe that's a little
too strong statement Never? If we're talking Christmastime and
you want to give cookies to the custodian or something like that
as long as we don't pay for the cookies with appropriated funds
If we're talking anything else and certainly in this award,
reward area, be careful and talk to a contracting officer first
Okay? All right I'm almost tired but I'll keep going

>> T. Grush: Keep going, Ed, you can do it

>> E. McDonnell: Let's say there is no way you're supposed to accept it There's a few things you can do First if possible, you can return it That's not all possible Maybe you could pay market value for it As I talked about before, you're not accepting a gift, you bought it That takes you out of trouble There's a rather narrow exception where if the gift is perishable, and it's impractical to return it to the donor if you get your supervisor's or ethics counselor approval, you may give it to a charity or share it in the office Remember I said it would be an indirect gift to gift it to a charity? You may be able to give it to a charity or if it is food, share it in the office And how is that going to come about? We can all imagine perishable stuff What if it's delivered by a delivery service and the donor is on the other side of the country? It may not be so easy to get a hold of the people and get this taken back, it may not survive the trip There could be instances where this rule would come into effect You generally wouldn't want to do this but you could destroy an improper gift if it's perishable and have you supervisor or ethics counselor approval for it Let's think of an appearance problem with the gift Let's say it might be legal to accept the gift, it doesn't violate the exception or doesn't violate the prohibition Accepting that gift under those circumstances might not look so good to someone looking from the outside The rule tells you even if an exception applies, it's never inappropriate and prudent to decline a gift if it's going to create an appearance problem Mere compliance with minimum ethics requirements is not enough, ratchet your thoughts up, be careful Even if it's legally acceptable, it might not be the wise thing to do to accept that Okay? We're going to shift gears quickly here It might be a good point to take any questions you might have on gifts

>> Participant: [INAUDIBLE]

>> E. McDonnell: Hi

>> Participant: If you need to return a gift, what type of documentation do you need to show that you returned the gift, to protect yourself?

>> E. McDonnell: There's no set rule I think it depends on the situation I guess you go anywhere, it might be relatively formal to get something back from the delivery agent or from the individual But certainly it might be a note to the record or maybe your supervisor acknowledging that it's done I think what

I would be most mindful of is how much of a problem might it have caused if you didn't return it? In other words, was it a very, very expensive gift? Was it a very, very sensitive situation where you were about to award a contract to that donor? The more potential for mischief that might cause, the more careful I might be about documenting the return. I think that's the best way to handle it. Does that answer your question?

>> Participant: Yes

>> E. McDonnell: Okay, great

>> T. Grush: Any others? I guess not

>> E. McDonnell: Then let's move on. Another topic that we would like to touch on because it can come up easily in the contractor arena. That is seeking employment. How can this come up? Well, like to use the example, let's say Terry and I -- Terry is a government employee, let's say, I'm a government employee, we work in the same office. Maybe beside each other at opposite desks or something. And we have worked together for a couple of years. I have watched Terry work, he does good work. Has a great work ethic, he knows our contract, etc., etc. Why wouldn't my company want him coming to work for us once he leaves the government? I know Terry is a few months out from retirement, let's say. It's not a real stretch to think that I as a contractor employee, to ask Terry, when you leave government employment, would you consider coming to work for us? I talked to my boss, he would be interested in talking to you. Right there I have made what is called an unsolicited contact of Terry. He didn't ask for it, but out of blue I have asked him, do you want to work for my company? Let's say he is working on my contract well, now the rule says that he can't take any official action that could affect someone with whom he is seeking employment. He has considered seeking employment. As soon as he gets that unsolicited contact unless he tells me, unconditionally no. As said before in one of the other questions, thank you, Ed, I'm not interested. I'm not looking for anything. I'm happy with my job right now. Something to that effect, unconditional rejection unless he says that, he is considered to be seeking and he can't take any official action with that contract. He makes the unconditional rejection or has to recuse himself, disqualify himself from taking action on that contract. He would have to talk to his supervisor and try and work that out. That's the seeking employment rule. That's a regulation. And it only applies

if I've made this unsolicited contact If Terry starts talking back to me, you know, Ed, I've been thinking the same thing I enjoy what I'm doing here, I think you're a great guy I would love to come work for your company It doesn't -- once we start a discussion of possible employment, then he is considered negotiating for employment It doesn't have to get to brass tacks about how much he is going to be paid, where is he going to work, conditions of employment, anything like that You start negotiating for employment when you discuss things with an eye toward future employment Once you jump into that realm, you're in the 18 U.S.C. 208, easy situation to fall into, serious situation, so you want to deal with that very precisely and very quickly If anything like that comes up, remember one thing Don't say anything essentially until you have talked to your ethics official and decide what you can, and what you should do about it Okay? That's seeking employment But then we also have rules, a couple of statutes that apply once you actually get out of government employment And maybe you don't feel like retiring totally, you might want to go back to work There's two statutes can restrict your post government employment The first is 18 U.S.C. 207 Again, criminal position -- provision If you violate it, you can get jail time, fines And the way that works, what's commonly called the revolving door statute It won't prohibit you from going to work for anyone You could go to work for the contractor on whose contract you were the contracting officer while in government employment what that statute -- maybe that's -- we have to be very careful This statute says that you can't represent back on that contract you were involved in This one doesn't prevent you from going to work for that contractor 18 U.S.C. 207, prevents representations back to the government on matters you were involve in while working for the government Now the 900 pound gorilla, procurement integrity act You may be subject to that one-year ban You might have been a contracting officer, that's not a factor but under the procurement integrity act for one year after I have stopped being a contract officer on that contract, I can't take employment, I can't accept compensation from that contractor Two statutes One prevents you -- doesn't prevent you from going to work for somebody but may prevent representations to the government, the other one may prevent you from going to work for a particular employer if you have held one of those positions or made one of those listed decisions Okay? There's more information on that, on both of those, I believe, but certainly on 207 in the supplemental ethics materials at the end of our participant guide well, jumping past post government employment, seeking employment,

something to keep in mind There's information in the work space Terry talked about some of it before There's other stuff, too Privacy act information, confidential use information There's a lot of information that we as government employees are not allowed to share with someone else what happens sometimes in the workplace? we may have shared printers, we may have shared copiers A lot of conversations take place on speaker phones Even if not on speaker phones, you might be in the cubicle world an whatever I'm saying everybody else in the office is hearing You might have stuff, you've got to work on things, in a cubicle world or open office, I might have information on my desk that I'm not allowed to share Keep those things in mind If we have contractors in our work space, there may be something you're not allowed to share with them so keep that stuff protected we've talked about a lot of things Certainly too much, there's too much in ethics to cover in one hour of training How do you know when you should be seeking advice on any of these issues? Hopefully you have been somewhat sensitive now If you are not sure if something is okay, and sometimes even if you're sure, you should check, talk your ethics That said, what might you expect from your ethics official? They may not be able to tell you exactly, give you an exact answer in a given case You may get, well possibly if this is the situation, then this is the result Or maybe if you do this, you might be able to, you know, carry on working on that contract Or it depends on whether you do this or that Or in some cases that could be a problem and in some cases it isn't what's important is that you give your ethics official as much information as possible, as much of the facts and when they ask for more facts, help them get them These rules can be complex An one little fact can turn an answer Okay? So we will always give you advice It might not be that we can say that would definitely, you will be prosecuted for that and convicted We may not be able to say that but if we're concerned about, enough about the situation, about the facts that you have given us, we can always tell you, I can't tell you that you will be prosecuted and convicted for that, however there is a good likelihood that conduct would violate the statute and you risk possible conviction for that Be prepared Ethics is not an exact science we have talked about impartiality and appearances It might not be illegal to do something but your ethics official might say it would be wisest not to do that

>> T. Grush: I think we'll get into that in the questions Some of these are purposely gray and takes some judgment

>> E. McDonnell: where can you seek ethics advice? Talk to your bureau ethics officer As I mentioned at the outset, at the end of your supplemental training material, a fax number, website, possibly an E-mail address is there Get a hold of your ethics official They can either help you to answer your question, talk to us up at the department ethics office, we can help them You may for whatever reason want to come directly to our office We are available, yes However, things usually work out best if you work through your ethics official who can come up to us and raise any questions with us But all seek advice within your bureau ethics hierarchy or at the department ethics office That's ethics issues You may have procurement or acquisition questions, what is the FAR? Can I do this with my credit card? For cases like that, you want to talk to the office of solicitor or regional solicitor's office, they have people who can answer contracting question The office of government ethics website, WWW.USOGE.GOV and under their training materials they have a very good handout It's 20-some pages long, entitled working with contractors, questions and answers That's listed first on your slide there we will have the hyper links on the website in the next few days If you want to reach these and can't find them by going to the OGE website, you'll be able to come to our website and link to them in the future They have a couple of computer online training modules, working with contractors, what you need to know That's for government employees The next one, interacting with government employees for contractors, that's an online interactive training module for contractors who want to know more about the ethics rules that affect government employees with whom they may be dealing There's a couple of booklets, working with government contractors and ethics and procurement integrity In addition, we have on our website the department of interior ethics guide for DOI employees Here is a shot of the printed version, which some of the bureaus have purchased and given out to their employees This last version was November 2008 There's an October 2007 version that some of you may have They're almost identical Minor changes on the update to the November 2008 edition If you have the 2007, you're still in good shape You could go to our website at DOI.GOV/ethics The text version of the ethics guide is on the website It's listed as a January 2009 edition because that's the date we placed -- that's the month we placed it on the website However, the text, the content is exactly the same as the November 2008 version If you can't get a hold of the pocket versions you can still get the ethics guide on our website We're going to take a break and when we come back, we'll be at the table with Matt and Donna

Please feel free to contact in If you want to join the discussion, try to answer the question or even ask more facts, anything like that, please feel free to do that without further ado, we'll take our break and see you in a few minutes

>> welcome back, everybody we have gotten a couple of questions by E-mail we would welcome to you, if you have questions that relate to the first part you can continue to send in fax or E-mail or call in push-to-talk when we start asking quiz questions, it's probably much more efficient to try to contact us by phone or by push-to-talk

>> E. McDonnell: Donna, our first question

>> from Keith of national park service what if an employee of NPS is approached by a corporate entity that wants help with an issue not related to NPS but does relate to another DOI bureau Can an employee contact and work on her own time? There is no overlap with what the employee does or with the work the employee is contracting to perform?

>> You want to make sure there is not overlap between official duties we have rules where you may need to request permission but getting to what's the heart of the question here, can I work for someone outside where there is no conflict, yes, but you need to be careful of any federal employee cannot represent another outside party back to the government while they're still serving as a federal employee Keith, you would want to be real careful not to be making communications back to the government even if it's a different bureau or agency because you can't represent that outside entity back to the government in any form Doing that is a criminal violation and a bad thing and you don't want to do that In our technical language, we call that working behind the scenes That's again assuming there aren't any con -- conflict issues that is something you can do but it has to be behind the scenes

>> E. McDonnell: The reference on requirements for prior approval of outside employment 5 C.F.R.3501.105, I think that might be in our materials, our supplemental materials but I'm not so there that we went into that FAR detail It is in the C.F.R. The other one, the concerns that Matt raised with criminal prohibition I was able to look into the supplemental material There is some information on both That good answer, Matt That is a dangerous area to be in You would want to be

careful

>> D. Houston: David's question is a little more general, what sort of training does corporate world offer their employees about working with the government? He points out ethics is a two-way street and if there's any lesson to be learned from the current financial crisis, corporate ethics needs to be elevated. What's happening in the corporate world about instilling ethics in dealing with government employees?

>> T. Grush: Let me talk about that, I have some familiarity with it, not terribly currently with respect to the current financial crisis. The larger companies do have some fairly stringent ethics rules. They take training very similar to what we do here. Some of the gift restrictions they have are much more restrictive than we have as government employees. Some of them monitor it hard, frankly some of them don't. The problems that I have seen tend to come from the smaller companies that may not have a robust ethics or gift program in place, don't do a lot of training, call them mom and pops, whatever you want. Sometimes you'll see difficult situations with respect to those. Here again, I think any large company does have a program. How deeply they try to project that down into the work force probably depends company to company. I couldn't agree more with the question, with all the thing going on with respect to ethics and business practices it is something we would expect them to pay a little more attention to.

>> M. Parsons: Terry, the outside contractors are required to have a code of ethics they follow.

>> T. Grush: That is true.

>> M. Parsons: We are requiring them to do it in some circumstances as well.

>> E. McDonnell: Okay. Anybody else have anything? Does anybody in the audience have questions on anything we have covered so far? Very, very quiet. Okay. Then I guess it's time for Terry's rigorous final exam.

>> T. Grush: Right.

>> E. McDonnell: So, the way we'll work this is, each of us will take a question and we'll put them on the screen. We'll read them.

off and give you folks some time to think about each Then you can call in by phone or push-to-talk Again, you could fax or E-mail, we'll try to get it out here as quickly as we can We'll see what we come up with on these Okay Look at the first question I'll take it You deal frequently with a company located in New Orleans On Fat Tuesday, a bakery truck pulls up and the driver brings a king cake to the front desk and asks for you A note on the box from the company says that these cakes are a tradition in New Orleans and they hope you enjoy it what should you do? First off, we'll give you a chance to think about this We'll let Terry explain a few things what is a king cake?

>> T. Grush: I have seen them and eaten them, cakes maybe 10 or 12 inches around, maybe three or four inches thick Very, very tasty, very, very good In the middle of it is baked a small plastic baby Then as it's cut apart and the pieces are passed out, someone ends up with the baby and whoever that is expected to have a really lucky year

>> E. McDonnell: It might be hard to value the gift, how do you value luck? Does anybody out in the field there have any questions on that? Or do you have any comments? Would you like to take a swing at answering that?

>> Participant: Gary wouldn't you accept it as perishable and share it?

>> E. McDonnell: would it be possible to share that with the office? Perhaps Let's look at things, step back for just a second How could you do a gift analysis? First you want to look at and figure out, is it a gift? Is it something of value? Generally that's going to be satisfied Then you want to look and see is there an exclusion, a snack, not meant as a meal, not a discount to given to employees we still have a gift was it given by a prohibited source or based on my official position? It was a contractor so it's a prohibited source And it's also probably based on my official position So now we have to look and see if there's an exception Panel, what would be the first exception that might come to mind?

>> The first one that jumps to mind is what's the value Is it more than \$20? Less than \$20? If it's less than \$20, then we've got that exception that might apply here Kind of get you under the wire in terms of being technically legal with regard to possibly accepting the gift

>> E. McDonnell: Remember with the \$20 rule, you have also got that \$50 a year max If you have accepted gifts \$20 or less, you can't go over that \$50 a year max Good question would be, what's the value, how much is this cake worth? Assuming it's worth more than -- less than \$20, it doesn't violate the gift rule, it would come under an exception You still might have a -- appearance Remember that? It might be prudent to decline -- prudent to decline the gift?

>> The question is how do you dispose of an improper gift As we discussed earlier, you have a number of options We're talking about a food item here and is it perishable? If the guy pulls up in a delivery truck and drives off, the ability return it, maybe you can't really do that If it's perishable, well you probably ought to call your ethics counselor and say here's what I've got, what should I do? One option might be, it's a food item, it's perishable One option we talked about was sharing it as a common item within the office Another option might be well, let's give it to charity Somebody is doing a food drive and wants king cakes There are a number of ways to dispose of the gift assuming it's worth more than \$20 --

>> D. Houston: I think that our caller said, couldn't we consider it perishable and share it within the office? It is totally correct we have decided it's worth more than \$20, so it would be prohibited And a good thing to stress is this is how we deal with a prohibited gift rather than sharing it within the office makes it okay It's still a prohibited gift but this is how we're going to deal with it A thought I had, if we decide to share it within the office, something we should do, because we have decided based on the value it is a prohibited gift, assuming our delivery person is long gone, to contact the person that sent the gift, acknowledge it, assuming they had good intentions but point out it is prohibited under our ethics guidelines and we would appreciate if they want to in the future say thanks, send a card, don't send something with that level of value

>> Don't send any more stuff

>> E. McDonnell: Please Randy is telling me Woo have a question from Sean at BLM Go ahead

>> Participant: Leasing and drilling and often they do have

supply companies that have like pen lights and other things is it, since we do not deal directly with those supply companies, we deal with leasing companies, would the gift limitation apply to those supply companies where we do not have a direct relationship with them?

>> E. McDonnell: The first part of your question, Sean, was cut off I get the, I understand that the item, you said like a pen or something like that, maybe with a logo, company logo comes from the supplier How does it get to you?

>> Participant: I would be at an industry work shop, a trade show where they would have these available and it would be available to everybody who is at the workshop It could be simple as a pen or something more expensive as a flash drive would it be improper for me to accept that flash drive from that service company even though I do not directly work with that company, I would be working with somebody that the service company might deal with, we might be dealing with that secondary I would be going through an intermediate company This happens all the time across the board with many employee, we are at service companies, whether mining, leasing or whatever, there's a lot of gifts that are given out or trinket

>> E. McDonnell: The most effective rule would be the \$20 gift exception I suspect they are not giving out things worth more than that It may be possible to accept that trinket under the \$20 gift exception I'm not going to go through the whole analysis, it may be a prohibited source even though it's not somebody you do business with You're with BLM, there's a kind of, something you want to talk to your ethics official about, but how one determines what agency you're talking about for prohibited sources You have to look at 5 C.F.R. 3501.102, for most employees in BLM, if you're in BLM you're talking about somebody who does business with or seeks to do business with BLM It may be a supplier who does business with BLM but not with you, and still a prohibited source Most likely, the \$20, \$50 max rule would be, the likeliest way that you could accept a gift like that It still could be a prohibited gift even if you're not doing business with that company

>> D. Houston: Probably, I'm sure you have the same thought, it would fall under the second category of prohibited source

>> E. McDonnell: You're probably there because of your official

position You could get hooked into that what I mean, that could be a basis for the gift being prohibited

>> the other thing to keep in mind, even if it is not a company that we have not directly contracted with, the fact that a company or entity is a subcontractor or supplier to somebody who contracts with us, they are indirectly providing services to us Generally speaking, the fact that gift comes from a subcontractor as opposed to the prime contractor doesn't mean they are not a prohibited source If all we're talking about are some promotional items, as Ed said, being offered at an open table at a conference or convention available to everyone, probably the best basis, is the \$20 gift exception Then you have clearly got some authority or cover for authority to accept those types of items Again, we're really focusing on the fact that they're promotional items, low dollar value In that context, in some ways that's the heart of the \$20 gift exception

>> E. McDonnell: Anything, Terry?

>> T. Grush: But you guys said

>> E. McDonnell: Question number 2, Donna

>> D. Houston: Question number 2 A colleague in another division as a temporary project to finish The onsite contractor agrees to hire someone for a couple of months to complete it Your kid is on summer vacation, has been looking for work so you figure you'll mention it to the contractor's site manager You don't have anything to do with that office so you're clean, right?

>> E. McDonnell: Okay, we'll give you a few minutes to ponder that one

>>> We'll see if we have some ideas

>> I hope we know the answer

>> D. Houston: That wasn't as easy as the first one

>> E. McDonnell: Anybody on the panel?

>> It looks like we may have a couple of different issues here The first part of the question focuses on a colleague When we say colleague, we read that to mean another government employee

has a temporary project to finish and we have the onsite contractor agrees to hire someone for a couple of months to perform task The question that raises really is, is this work within the scope of the contract or are we asking the contractor to do something outside of the scope of the contract Remember what we talked about at the beginning where those contractor employees don't work directly for us we have contracted with them to perform a function but we don't give them work outside of the scope of what we contracted for That's something to be sensitive there or sensitive about there and again, the ultimate authority in terms of what's within the scope and what should we be asking, that's the contracting officer's job That's where you need to go on that issue The second part of the question, though, you have a kid, don't know the age, but looking for a summer job You go to the contractor and say, do you have some work my kid could do? He needs something The first thing to remember is the non-solicitation rule We don't go out and ask for a personal favor from the contractor You cannot do that So that's something you shouldn't be doing in any event But some other issues there, depending on what your job is, if you have a job in connection with the contract, are you asking for a personal favor from that contractor where your own job has to do with that contractor Let's say maybe you're responsible for evaluating the performance of the contract and that contractor wants to make sure he gets a good performance report Now you have asked him if he has a job for your child That's an issue There's also the question about, again, with regard to the child, depending upon the age, maybe this is a minor child and again, that becomes an imputed interest to you personally If he is living in your home, member of your household, we have some impartiality concerns there based on what we talked about earlier The last thing to keep in mind is we don't make hiring decisions or shouldn't be getting in the position of affecting hiring decisions by contractors because again, that is not our role, that's not our job And so we need to kind of stay away from that because one of the things that happens when we get too involved in what the contractor is doing, we run the risk of the contractor or contractor employee being considered De facto employees

>> D. Houston: The bottom line is, don't ask a contractor for anything, be it contribution toward the boss' retirement gift or a job for your child

>> If it's within the scope of the contract, absolutely but if

it's a personal -- don't do it

>> T. Grush: A lot of these questions are real The majority of these are things that I have seen happen Just so you know

>> E. McDonnell: I would like to emphasize what Matt said, you may have an imputed interest if it's a minor child The facts are not clear The child is home on summer vacation Is it from a boarding school, a high school student? It doesn't say they're home, they're on summer vacation They may be a high school student or so and they're living in your house or a household member If it's a minor child, then you may well, if you're taking the official act of asking the contractor to hire someone to do work for your agency, you might have an 18 U.S.C. 2 08 criminal violation A dependent or household member, you could have a regulatory issue, the impartiality question Okay If we don't have anything else, Matt, you want the next question?

>> M. Parsons: The holiday season, the contract custodian who takes care of your office is a jewel of a person You might want to give him a gift out of our own pocket Is that okay?

>> E. McDonnell: we'll give you about 20 seconds for out in the field if you want to call in

>> Participant: It's okay It depends on the amount of money

>> E. McDonnell: Someone responded, it's okay, it depends on the amount of money

>> There's no legal reason that says we can't give personal gifts We can't do it with appropriated funds obviously During the presentation, on the gifts, we talked about some difficulties that might stem from us giving gifts to contract employees First of all, there may be a prohibition against it in their own employee rules Maybe they are not allowed to give or take gifts If there are other actions going on with the contract, like we mentioned, you could be muddying the waters If that person isn't doing as good a job as you perceive, and there is some action coming up against the person or the contract as a whole -- I guess again, that's actually, we got questions about this It's a little uncomfortable for the contract employee because he or she is getting a gift from us and at what point do they feel they need to reciprocate Suddenly we're in very dark territories there So again, legally, yeah, it's okay But there's

a lot of other ramifications or per mutations to that problem I guess I would be very hesitant to recommend that you do that A pat on the back and gee, you're doing a great job That's wonderful

>> E. McDonnell: I think a nice personal gesture like maybe even a small box of candy or something like that, again, not illegal for starters But -- and the more it's on the personal side and has nothing to do with their performance but it says here they're a pleasant, cheerful person A small token of appreciation, just for their personal, just for their presence, probably not too bad But there's always potential Look at the facts and talk to your supervisor Go ahead, Terry

>> T. Grush: Question 4 You need to get a new projector for the conference room You peruse the catalogs but you know that the local distribution company that your wife works for will give you a good price All right? You ask your purchase card holder to buy it from her company, your wife's company, because it will save money You didn't make the purchase yourself so there isn't any foul Isn't that correct?

>> E. McDonnell: Take about 20 seconds for the folks to call in

>> E. McDonnell: Okay, haven't gotten anything from the field Let me take a first swing on this and Matt I know you have some interesting thoughts My concern, I would consider this an official action And so remember you're not allowed to take an official action that can affect your spouse's employer That could be a covered relationship when your wife's employer represents a party or is a party You would have a potential 502 issue here Even if your wife isn't affected by, you know, she's not going to get a bonus or the sales don't go on her quota However, if something like that should occur where your wife is actually going to get, have some kind of compensation for it, like a bonus or even if she is in a profit-sharing situation with the company or owns stock in the employee, you may wind up with imputed relationships, under 18 U.S.C. 208 You could have a potential criminal problem there You generally want to talk to your ethics official about that But Matt, I know you had some thoughts on it

>> M. Parsons: Depending upon the motivation of the individual here, the basic idea of a federal employee coming up and saying, hey, I know how we can get a better deal or I know how we can

get better value for the government, that's generally speaking that's a great thing But again, where it begins to touch on an area where you've got to separate your personal interests from the government One of the key things that wasn't right in this scenario but could have been made right, you go to the person who is making the decision and say I've got some information for you ought to consider this company because I believe that they'll give us a better deal, but you're not telling them, hey, you should buy it or I want you to buy it, but just provide information The other thing, again, in this particular scenario, given that you do have a spouse that may or may not have some financial interest here, full disclosure So you would need to make sure that you mention that to the purchaser so that they were aware of it And they would probably want or they and you might want to talk tower ethics official to make sure that everything was aboveboard and there wasn't any improper influence that the employee making the suggestion was trying to exercise over the decision-making process Again, information on how to get a better value is a good idea but we have to make sure that we're separating any possibility of personal interest or financial interests that are going to be imputed to you from that decision-making process The employee has an obligation to make sure that that happens

>> E. McDonnell: I do think that there's a, still it could end up as an uncomfortable situation if it gets questioned and could even be investigated, you see that all the time where contract with a spouse's company comes up in investigation Matt made some very good points Again, even if you're doing the right thing and it's not illegal, that doesn't mean you're necessarily out of the woods It might be an uncomfortable time for you Remember, too, you always have that catch-all 502 It might not be a good idea for you to do that Appearances might outweigh the government benefit You should talk to your ethics official and the contracting officer I'm sorry, I understand that we lost a call on that we had a caller trying to get to us and we lost that So we'll try to get to you more quickly next time I also understand we only have --

>> Participant: I have a comment

>> E. McDonnell: go ahead

>> Participant: This is Mary with NCPTT, wouldn't you start by looking at your GSA advantage and your government contracted

purchase cost?

>> It doesn't matter whose company it is if it's going off GSA advantage, I wouldn't see a problem

>> E. McDonnell: As long as the employee didn't influence that Let's say there are two at the same price or cheaper you doesn't want to walk in there and say you should go with this company I think you run a substantial risk Hopefully we wouldn't get in this situation although I'm sure it happens, Terry is this a live one from your past?

>> T. Grush: No, this is one I made up

>> E. McDonnell: It could be sensitive Be careful

>> D. Houston: Something, too, we don't know The word tell is used You tell the person to order it from this particular company If the person doing the telling is the supervisor of the person placing the order, then you're more likely to have an appearance issue

>> E. McDonnell: Yeah, definitely would make it worse Even if it's not a supervisory position, you're still running a risk Donna, we don't work together but if I tell you, you should hire my wife's company to do something -- That's not an element of the rules Taking official action where you've got a representative or a representor is a party to that transaction Very interesting question Difficult one I think we're probably down to about 10 minutes left or 11 minutes We're going to step right out here, get to question number 5 I'll read that You have dealt with a local cabling company for some time with a series of small orders One day the owner is chatting with you and offers a pair of tickets to a local college basketball game He says he has season tickets but can't go to this game You look at the tickets and see that they are about \$8 each what should you do? Let me give you about 20 seconds Panel, what would you say about this one?

>> Looking at the facts as they exist, you add up the price of the tickets, two of them, worth \$16 Under the \$20 threshold, assuming you haven't taken more than that in the past in the same year from the same company So it's probably legally okay But... there's always a but You have to think about appearances If you were in a community where everybody knows who the owner

of the cabling company is, he always sits in the same seats at the basketball game, suddenly you are sitting there, whose eyebrows would that raise? That's the question you need to ask Nothing illegal but you always have to have that extra factor of thought

>> M. Parsons: We talked about the impartiality rule You're the one in this question, I mean the person being offered the tickets is the person placing the orders, making the decision on where the orders are placed And again, you're being offered a benefit in the form of the tickets Is that something that a reasonable person would consider to possibly influence you in terms of how your decisions are made, notwithstanding the fact the value is below the gift rule? I would see some concerns there personally If that employee called me for some advice on what should I do, I would be inclined to say no because of the appearance concern here given that you are the one placing the orders

>> D. Houston: I think the first question I would ask myself even before I did the math to get up to the \$20 gift rule is why the person was offering the tickets to me That feeds right in --

>> E. McDonnell: To an appearance question Very good Let's go to question number 6 Donna

>> D. Houston: Question number 6 You -- you regularly right requisitions for network equipment and send them on to procurement The buyer often places the orders with a local company because the price is good and the delivery is prompt Your roommate just took a job with the company Now what? we'll give you a minute to think about that

>> E. McDonnell: Okay Anybody on the panel have anything they would like to say about that one? Let's try to be brief We are running low on time, we have about 7 minutes left

>> M. Parsons: The first red flag is your roommate The discussion about impartiality, a roommate or somebody you share living accommodations with is someone you have a covered relationship with From the employee's standpoint, that's the thing you ought to recognize Hey, I'm involve with this procurement action and I've got a roommate now working for the company At least for me, the teaching point there, is once you recognize that, you ought to consult with your ethics counselor

within your bureau giving that person all the relevant facts and then getting some advice on what the answer is, what should you do

>> E. McDonnell: I know we discussed previously, do you have knowledge they would be going to your roommate's company? You may not know You may not know who is going to end up with it but the fact -- the devil is in the details If you know and you know that you're going to affect your roommate's company, you might have a straight-up 502 situation, the catch-all situation where it doesn't look good Yes, you should go to your ethics, supervisor and ethics official right away Matt, could you read question 7?

>> M. Parsons: Remember the company from New Orleans that sent the king cakes -- we're going back to question 1, think about that -- well, this time another truck pulls up The driver gets out a handcart and rolls up the sidewalk with a big package of frozen Kansas city strip steaks addressed to you what do you do this time? what now, batman?

>> E. McDonnell: Okay Team what have we got?

>> T. Grush: I think it's reasonable to presume this is worth more than \$20 Instantly, and it's prohibited source obviously I think we're in the improper gift category, aren't we? Then we come back to the issue of what do you do with improper gifts There are a couple of options we talked about earlier in question 1 we could destroy it Probably the preferable thing is try to return it if the driver is still there, say no, we can't accept this, send it back we get to the issue of will it make it back, with the packaging and so forth we come to the third option Here again, this is something I have seen happen what we have done in this case is it was taken in, somebody called the ethics folks and they donated the entire case to a local food bank

>> M. Parsons: The other thing that jumps out about this, given the discussion about question 1, if you recall, one of the things that we suggested was that you call the company and tell them, hey, knock this off we can't accept these gifts we do business with you, and we're not supposed to be accepting gifts from you At this point, assuming that you have done that and they do this anyway, you really ought to be going back to your ethics advisor to let that person know You ought to be going to

the contracting officer and let them know as well Now we've got what may be a course of conduct where someone has been put on notice and they are still trying to do these things

>> E. McDonnell: Let's move quickly to question 8 We're going to go straight into trying to answer it because we have somewhere around three minutes left

>> T. Grush: The owner of the same cabling company we talked about earlier drops past your office He thanks you for doing business with him and mentions that he has some more tickets to basketball games Same seats as last time when he gets the next order from you and happens to be in the building, he will drop them off to you Sounds like the last time, right, panel?

>> D. Houston: Not exactly, we should question why he is giving them to you in the first place You can see there's a slight hint of bribery The next time he is in the building, the next time he receives the next order, then he will give you the tickets

>> M. Parsons: All the red lights ought to be flashing

>> E. McDonnell: You have traveled to Florida to visit a contractor facility The owner says he would like to talk business with you, and why don't you do it over dinner dutch treat You meet at a really nice cafe You figure what the heck, I'll blow today's per diem on a nice meal It comes to \$55 The owner just orders soup when the check comes, he says just split it down the middle It raises appearance problems This is not safe

>> to the extent the contractor is offering to do this, probably going to write it off as a business expense, if there's an investigation, there's evidence that the contractor provided you with a gift that you should have never received

>> E. McDonnell: Okay, folks we have just gotten the signal that we have got to wrap it up So let me talk, remember we wanted to talk about how you can get credit for this course To have been or in the future register for this course, the registration will remain open until the end of the year, some may watch it on DVD or pick it up from the BLM knowledge resource center Go back to DOI learn to complete the survey, go to the DOI website, go to my courses, click on survey, on the far right, and complete the survey question Then you will get credit for the course If you

don't have that option, then you -- and you have a sign-in sheet or something in your viewing room, then you could fax your, fax the sign-in sheet to one of these numbers depending on whoever handles your ethics training here I would like to thank everybody again leer at NCTC, Margaret at our office, panel participants and folks here, Randy, mark, and Lars back in the control room And I want to say, we have coming up after this broadcast, NCTC is going to broadcast Secretary Salazar's budget discussions They are going to play that for you Does anybody have anything to add?

>> Thank you for participating

>> E. McDonnell: Thanks very much We hope to see you in October when we come back, we usually do one then or again next spring From the departmental ethics office and our folks here, thank you very much.