

## **Solicitation in the Federal Workplace**

The general rule is that employees may not solicit the sale of magazine subscriptions, cosmetics, household products, hair replacement systems, vitamins, candy, cookies, insurance, weight loss programs, etc. while on the job or in their offices. Even if off the job and outside the workplace, they may not knowingly solicit DoD employees who are junior to them. A specific provision of the *Joint Ethics Regulation* says that "[a] DoD employee may not knowingly solicit or make solicited sales to DoD personnel who are junior in rank, grade or position, or to the family members of such personnel, on or off duty." JER 2-205. In addition, employees may not solicit money to give gifts to nice people or good causes. There are some limited exceptions, but this is the starting point: **no solicitation in the Federal workplace!**

Does this mean that you cannot discuss cars, mechanics, home maintenance problems, and the like with your colleagues and tell them what products, services or service providers you particularly like? Of course not! We do this all the time with our friends and colleagues. We pass on personal experiences as to what we think was helpful and what was not; how we were scammed; or where we found a particularly helpful product or service provider. The problem begins when you bring your business cards, brochures, or advertisements or other offers to sell good or services to fellow-employees. It is also a problem to "hawk" the wares for someone else while on the job.

It would be permissible for a co-worker to approach you and ask that, if you are still selling collectible sports cards in your part-time business, he or she would like to buy the latest Topps Gallery Baseball set from you; and the next day you bring in this set and complete the transaction at your car at the end of the work day. But, it would *not* be permissible for you to keep a few boxes of various Topps sets in your desk and let it be known that you are selling them. A fine distinction? Perhaps... but, it is an important distinction. The latter case represents improper solicitation.

If a co-worker has a toothache but no dentist, it would be permissible for you to provide the name, address and phone number of your dentist with whom you are very satisfied. However, it would not be permissible to pass out your dentist's card (with your name on the back) to all your co-workers so that you can obtain a \$25 credit for every referral.

It would be permissible for you and a co-worker to decide to sign up for a tour together with a travel agency. However, it would not be permissible for you to "pitch" the trip to each of your co-workers so that you could get 50% off your tour price for signing up four other travelers.

It would be permissible for you to do a favor at the request of a co-worker by obtaining a particular shade of cosmetic from your neighbor who sells the particular brand, order and buy it for your friend, and deliver it to your friend and accept reimbursement. But, it would not be permissible for you to bring in to the office various samples, color charts, and order forms; and then take orders, accept payments and make deliveries at the office to help your neighbor expand his or her business.

There can be a fine line between what is and is not permissible. Hopefully, the examples will help you evaluate the situations that you might be faced with.

Yes, there are some exceptions to the rule of **no solicitation in the Federal workplace**, but they are limited. Employees may solicit in the Federal workplace in the following circumstances:

For a fellow-employee for a special, infrequent occasion such as wedding, birth or adoption of a child, transfer out of the supervisory chain, and retirement. A promotion is not considered a "special, infrequent occasion." [Yes, I know, promotions are "special," and they certainly are "infrequent;" but the fact of the matter is that they are not "special, infrequent occasions" for purposes of the ethics rules unless the promotion is accompanied by a transfer outside of the supervisory chain.] We can solicit no more than \$10 from other employees, and contributions must be entirely voluntary. The value of the gifts usually may not exceed \$300.

For food and refreshments to be shared in the office. Again, participation must be voluntary.

For the Combined Federal Campaign and Army Emergency Relief. Again, whether to contribute and how much must be entirely voluntary.

To raise money among ourselves for our own benefit when approved by the commander or head of the organization (e.g., selling shirts and hats to subsidize the AMC organization day picnic).

If it doesn't fit one of the above situations, don't solicit. Not only will you be in compliance with the ethics rules, but your colleagues will appreciate it. In more cases that you might realize, your co-workers are just too nice to tell you that they do not want to be subjected to solicitations in the workplace. They often feel compelled to buy something to maintain "peace," especially if they work for you. Workplace solicitation can create a lot of resentment and bad feelings.

Even if the solicitation fits one of the exceptions, be careful. Voluntariness is the "key." It should not be a senior employee who does the solicitation. Don't make repeated entreaties. Don't require the employee who declines to explain him or herself. Always make a provision for an employee to "opt out" of the gift contribution that is included in the price of the luncheon.

If you aren't sure or think that a particular situation might or should fit an exception, discuss it with your Ethics Counselor before you engage in the solicitation.

Mike Wentink, Rm 7E18, 617-8003  
Ethics Counselor  
Associate Counsel

or

Alex Bailey, Rm 7E18, 617-8004  
Ethics Counselor  
Associate Counsel