

INFORMATION PAPER

SUBJECT: DAOGC Guidance on Events Sponsored by the Association of the United States Army (AUSA) Annual Meeting

1. **PURPOSE.** To inform Fort Belvoir Garrison personnel on the ethical rules while attending events sponsored by the AUSA Annual Meeting and when providing logistical support to non-federal entity events.
2. **BOTTOM LINE.** Federal employees are generally prohibited from accepting gifts from non-federal entities given because of their official position. However, DAOGC has determined that certain events at the AUSA Annual Meeting qualify as a widely-attended gathering, and therefore federal personnel may accept gifts of free attendance to certain events, subject to the rules outlined below. When the 7 criteria outlined in the Joint Ethics Regulation (JER) are met, logistical support may be provided to non-federal entity events.
3. **DISCUSSION.** From 25 – 27 October 2010, the AUSA will be holding its Annual Meeting. As part of the Annual Meeting, AUSA sponsors a number of breakfasts, luncheons, meetings, and receptions. These events include:

<u>Event</u>	<u>Date</u>	<u>Approximate meal cost</u>
Guard/Reserve Breakfast	25 October	\$35.00
President's Reception	25 October	\$45.00
SMA Luncheon	25 October	\$35.00
Eisenhower Luncheon	26 October	\$55.00
Army Civilians Luncheon	27 October	\$45.00
Marshall Memorial Reception	27 October	\$40.00
Marshall Memorial Dinner	27 October	\$95.00

AUSA routinely offers Army personnel free attendance at these various events. Under the Standards of Conduct regulations (“ethics rules”), Soldiers and employees are generally prohibited from accepting, directly or indirectly, a gift from a prohibited source or given because of one’s official position. In this instance, the gift of free attendance is offered from a prohibited source and is offered because of the official positions of Army personnel. The ethics rules, however, detail a number of exceptions to this general prohibition. One of the exceptions includes gifts of free attendance to personnel in their personal capacities to widely attended gatherings (WAGs). To be acceptable under this exception, there must also be a determination that acceptance (1) will further the programs, operations, and policies of the particular command or organization and (2) will never denigrate the integrity of the Army’s operations or programs.

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a. DAOGC has determined that the above cited events are widely attended gatherings and that acceptance of an offer by AUSA of free attendance to the above events will further Army programs and that acceptance will not undermine the Army's integrity. Under this exception, personnel may also accept the gift of food and entertainment at the above events, **but this determination does not allow personnel to accept any other gifts that are offered at these events, the Annual Meeting, or other events held during this period.** Further, this determination is restricted as follows:

(1) The offer of free attendance must be from AUSA and not another industry, entity or person. Army personnel should contact their ethics counselor for further guidance on acceptance of offers from an entity other than AUSA.

(2) Industry or contractor offers of free attendance to these events may not be accepted if the offeror has interests that may be substantially affected by the performance or nonperformance of the recipient's official duties. As noted in subparagraph (1), Army personnel should contact their ethics advisor.

(3) This determination is not applicable to events sponsored by local AUSA chapters, industry, or other persons or entities. Further, this determination is not applicable to invitation-only events. Army personnel should contact their ethics counselor for additional guidance.

b. Acceptance of the gifts of free attendance to these events under the WAG exception is a personal gift to the individual. Army personnel must be in a non-duty status to attend these events and are prohibited from using official travel resources, unless approved by the Secretary of the Army under the provisions of 10 U.S.C. 2558. AR 670-1 sets forth the policy for the wear of the uniform at non-duty events.

c. **This determination does not permit personnel to accept any other gift offered regardless of the source of the gift.** For example, personnel may not accept gifts given at the Marshall Reception unless such gifts are valued at \$20 or less and as long as the value of all gifts accepted from the same source or donor does not exceed \$50 in a calendar year.¹ Personnel may

¹ An example is illustrative of this gift exception:

During 2010, MAJ Charger has attended four AUSA breakfasts. At each breakfast, MAJ Charger received a T-shirt valued at \$10 each, for an aggregate value of \$40.00. On Oct 26th, while attending the AUSA Annual Meeting, MAJ Charger accepts another T-shirt valued at \$10.00 from AUSA. On October 27th, he

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not accept prizes offered by AUSA or any vendor, such as prizes given as part of drawings or raffles, unless the general public (to include persons not attending the AUSA Annual Meeting) are eligible for these prizes.²

d. In accordance with Executive Order 13490, persons appointed by the Obama administration who signed the Ethics Pledge may not accept gifts from any *currently registered lobbyist or lobbying organizations*, including the organizations' employees, regardless of whether organizations lobby the Army. **Registered** lobbyist is a lobbyist or lobbying firm that meets the registration requirement (2010 quarterly reporting period, \$3,000 in lobbying income for each client). **Registered** lobbying organization is an entity that employs in-house lobbyists and meets the registration requirement (2010 quarterly reporting period, \$11,500 in lobby expenses). Lobbying organizations include many DoD contractors.

(1) It has been determined that AUSA is a non-profit organization with tax exempt status as a 501(c)(3) charitable organization. The Office of Government Ethics has provided guidance that appointees of the Obama administration who sign the Ethics Pledge may accept offers of gifts under applicable standards of conduct from 501(c)(3) organizations registered as lobbying organizations. Therefore, Presidential appointees who have signed the Ethics Pledge may accept the offers of free meals offered by AUSA at the WAG events listed above.

e. There are gifts that Presidential Appointees who have signed the Ethics Pledge **may not accept** during the 2010 AUSA Annual Meeting, whether the gift is from AUSA, any other registered lobbying organization or registered lobbyist. The prohibited gifts include:

- (1) Items valued at \$20 or less per occurrence (\$50 maximum from one source per year).
- (2) Awards for meritorious public service or achievement.
- (3) Gifts based on Appointee's business relationship.

is offered a bag, valued at \$10.00 from AUSA. MAJ Charger may not accept the bag offered to him on October 27th because he has already accepted gifts with an aggregate value of \$50.00 from AUSA during the calendar year, four prior to the Annual Meeting and one at the Meeting.

² For example, if AUSA raffles a ceremonial rifle and bayonet and the raffle participants are limited to Army personnel who have registered their attendance and provided their Army Command and AKO contact information, then the raffle is not open to the public. Any soldier who wins the prize must either return the prize or pay fair market value.

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(4) Invitations to social events for which no fee is charged where the sponsor is not a prohibited source.

f. Army personnel are prohibited from manning AUSA, contractor, or industry booths and, accordingly, travel and travel-related benefits may not be accepted by Army personnel for this purpose.

g. Army personnel attending the 2010 AUSA Annual Meeting in a temporary duty status (TDY), whereby they will receive per diem, could accept an offer of free attendance to the above listed events as travel-related benefits under 31 U.S.C. 1353. Acceptance of these benefits for TDY travelers requires advance approval by the travel approval authority and concurrence of the appropriate servicing ethics counselor. Personnel who accept the offer of attendance at these events under the authority of 31 U.S.C. 1353 are attending in an official capacity. Meals must be listed on the voucher to offset authorized per diem. Personnel may not accept other gifts offered during these events. See the Secretary of the Army's Travel Policy, Army Directive 2007-01 for further information.

h. Section 3-211 of the JER states, "The head of a DoD Component command or organization may provide DoD employees in their official capacities to express DoD policies as speakers, panel members or other participants, or, on a limited basis, the use of DoD facilities and equipment (and the services of DoD employees necessary to make proper use of the equipment), as logistical support of an event sponsored by a non-Federal entity, except for fundraising and membership drive events, when the head of the DoD command or organization determines all of the following:

- (1) The support does not interfere with the performance of official duties and would in no way detract from readiness;
- (2) DoD community relations with the immediate community and/or other legitimate DoD public affairs or military training interests are served by the support;
- (3) It is appropriate to associate DoD, including the concerned Military Department, with the event;
- (4) The event is of interest and benefit to the local civilian community, the DoD Component command or organization providing the support, or any other part of DoD;
- (5) The DoD Component command or organization is able and willing to provide the same support to comparable events that meet the criteria of this subsection and are sponsored by other similar non-Federal entities;

(6) The use is not restricted by other statutes (see 10 U.S.C. 2012 (reference (f)) which limits support that is not based on customary community relations or public affairs activities) or regulations; and

(7) No admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the event, no admission fee (beyond what will cover the reasonable costs of sponsoring the event) is charged for the portion of the event supported by DoD, or DoD support to the event is incidental to the entire event in accordance with public affairs guidance.

JER Section 1-219 defines “Head of DoD Component Command or Organization” as “a commander, commanding officer, or other military or civilian DoD employee who exercises command authority within a DoD Component.

Section 3-211.c. of the JER states, “Speeches by DoD employees at events sponsored by non-Federal entities are not precluded when the speech expresses an official DoD position in a public forum in accordance with public affairs guidance.”

4. This guidance does not authorize personnel to accept any other gifts at the Annual Meeting or at other functions held in conjunction with the Annual Meeting. Fort Belvoir personnel should consult with Mr. Jason B. Smith, Ethics Counselor, (703) 805-4378 before accepting any other gifts that may be offered or for requests for logistical support from non-federal entity events.