



Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



Procedural Reform Recommendation for the Department of Justice

PROCEDURAL REFORM RECOMMENDATION FOR THE DEPARTMENT OF JUSTICE

SYNOPSIS

As a result of a related investigation, the Office of the Inspector General (OIG) has concerns that the Department does not provide sufficient guidance regarding the circumstances under which an employee may accept an offer from a third party to purchase tickets to a special event at face value. In some situations, such purchases can create the appearance that Department employees are benefiting from or misusing their official positions.

DETAILS

The Problem

In the course of an investigation, the OIG learned of allegations that certain supervisory law enforcement officials had received and accepted from a sports league the opportunity to purchase tickets to a major sporting event at face value in 2017. This opportunity to purchase face value tickets was only made available to a very limited number of supervisory law enforcement officials. Ordinarily, members of the general public are unable to purchase tickets for such events at face value, and those wishing to obtain tickets would have to purchase them on the secondary market at a significant markup from the face value of the ticket. Had the supervisory law enforcement officials bought the tickets from the league at face value and then sold them on the secondary market, rather than use them as they did, they could have made a substantial profit.

The Policy

The Standards of Ethical Conduct for Employees of the Executive Branch state that an employee "shall not use his public office for his own private gain." 5 C.F.R. § 2635.702. In particular,

[a]n employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity.

5 C.F.R. § 2635.702(a).

The Standards of Ethical Conduct also state that "an employee may not, directly or indirectly, accept a gift given because of the employee's official position." 5 C.F.R. § 2635.202(b)(2). However, the definition of "gift" in 5 C.F.R. § 2635.203(b)(10) excludes "[a]nything for which market value is paid by the employee." The

regulations further specify that the "market value" of a ticket means "the face value of the ticket." 5 C.F.R. § 2635.203(c).

Under the applicable Standards of Ethical Conduct, accepting an offer to purchase a ticket at face value would not violate the rules, and the OIG did not substantiate the allegations against the supervisory law enforcement officials who took advantage of this opportunity. However, as the ethics official at the law enforcement component at issue told the OIG, when tickets to an event are scarce or otherwise difficult to obtain at face value, the opportunity to purchase them at face value is itself a thing of value. Moreover, the actual value of such tickets on the secondary market may far exceed the face value. In addition, where the Department is providing law enforcement assistance at the special event, or has an ongoing law enforcement relationship with the third party, an offer of such tickets by the third party to a small group of senior law enforcement officials has the potential to create an improper appearance. In this situation, the gift rules as written are not sufficient to avoid creating an appearance that Department employees are benefiting from or misusing their official positions to obtain at face value tickets that are scarce and worth far more than their face value.

RECOMMENDATION

The OIG recommends that the Department issue guidance regarding the circumstances under which it is permissible for an employee to accept an offer to purchase tickets from a third party at face value, when the offer is made to the employee solely because of the employee's official position, and is not also available to the general public.



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