



DCMA Office of General Counsel, Ethics & Personnel Division

Shutdown/Furlough Ethics Guidance September 28, 2023

DCMA personnel often ask whether and to what extent Federal ethics laws and regulations still apply during a Government shutdown or furlough. The answer is that individuals remain a Federal employee during a Government shutdown, even if they are furloughed. While individuals may be permitted to engage in outside employment activities during this time, they must still ensure that such activities comply with Federal ethics laws and regulations.

Outside Employment

Can I seek and/or accept a job with a non-Federal employer while I am on furlough?

It depends upon the potential non-Federal employer, and your official duties and responsibilities as a DCMA employee. You are required by the ethics laws to avoid “conflicts of interest” and the appearance of a “lack of impartiality” between your work for the DCMA and a potential non-Federal employer.

Additional ethics rules apply to non-Federal employment for a “prohibited source,” which is defined for DCMA employees as any person, company, or organization that does business with DCMA or DOD, is seeking to do business with DCMA or DOD, conducts operations that are regulated by the DCMA or DOD, or has any interests that might be affected by the performance or non-performance of your official duties, or is an organization a majority of whose members are described above. Examples of prohibited sources include contractors, partners, or entities that do or seek to do business with the DCMA or DOD.

Are there limitations on what I can do for an outside employer?

Yes. Employees are prohibited from representing outside parties before the federal government. For example, a furloughed employee may not contact a federal government agency or court that is open during a lapse in appropriations in order to sell a company’s products or services. Employees considering outside employment which involves representation before the federal government should seek guidance from your local ethics counselor.

May I use my official title or position in connection with my non-Federal employment?

No. Other than on a resume or to explain your qualifications, you may not use your official status, title, or position with the DCMA in order to obtain any non-Federal employment, nor may you use your official status, title, or position to benefit your non-Federal employer.

May I volunteer to continue to carry out my DCMA duties during a government shutdown?

No. Employees deemed non-expected may not volunteer their services and may not continue working on DCMA business during the government shutdown.

May I volunteer for a partisan political campaign or candidate during the government shutdown?

It depends. Remember under the Hatch Act (5 U.S.C. § 7321–7326), employees have different restrictions on their political activities based upon their positions at DCMA. Please refer to the Office of Special Counsel’s website (www.osc.gov) and the DCMA General Counsel’s Ethics Law Site (<https://dod365.sharepoint-mil.us/sites/DCMA-PH-GC/SitePages/Ethics.aspx>). If there is a risk that your contemplated activity violates the Hatch Act, then we recommend that you refrain from participating in the activity.

Gifts

Do the gift rules apply during the government shutdown?

Yes. All of the ethics rules continue to apply to employees during a government shutdown. Employees may not accept a gift during a furlough that he or she could not accept during regular Federal government operations. The general rule concerning gifts from an outside or non-Federal source (versus gifts between employees) is that a Federal employee may not accept a gift from a “prohibited source” or given because of his or her official position with the DCMA. A gift is considered to be given because of your official position when the circumstances make it clear that you would not have received the gift, but for your employment status with the Federal government generally and/or the DCMA specifically.

As discussed above, a “prohibited source” for DCMA employees, is any person, company, or organization that does business with the DCMA or DOD, is seeking to do business with the DCMA or DOD, conducts operations that are regulated by the DCMA or DOD, or has any interests that might be affected by the performance or non-performance of your official duties, or is an organization a majority of whose members are described above, including non-profit groups and other organizations, groups that do or seek to do business with the DCMA, contractors, concessionaires, partners, and entities that receive permits, grants, or other assistance from the DCMA, etc.

How do I determine whether I can accept a gift from a non-Federal source during the government shutdown?

It will depend upon the value of the gift and who offers it to you. The general rule is that you may not solicit or accept gifts given because of your official position or offered by a “prohibited source.” A “gift” is anything that has monetary value which you obtain for less than “market value.” A gift may include, but is not limited to, a gratuity, favor, discount, cash, gift certificate, gift card, entertainment, hospitality, loan, forbearance, or other item having monetary value. It also applies to services, training, transportation, travel, lodging, and meals. "Market value" is the retail price that you, the recipient of the gift, would have to pay to purchase it. However, the ethics regulations provide a few exceptions and exclusions to the general rule and those that have been asked about most frequently by furloughed employees are discussed below.

May I accept free meals or discounts offered to all federal workers or the general public?

Yes. Many restaurants and other businesses extend offers of free meals, discounts, and other support to federal workers during a government shutdown. As long as the offer is extended to all federal employees, it may be accepted as a benefit available to a class consisting of all Government employees

or all uniformed military personnel, even if the offer is restricted by geography. For example, an employee may accept a free meal or Metro ride made available to anyone in the metro Washington D.C. area who shows a federal employee ID card. Additionally, an employee may ask for and accept assistance from organizations that provide aid to members of the general public, such as food banks or religious institutions.

May I accept any benefits offered only to furloughed federal workers?

It depends on who is offering the benefit. Employees may accept gifts offered to a class of government employees that does not discriminate on the basis of official duties or rank (such as all furloughed federal employees) given by an organization or person who is not a “prohibited source” (such as an organization or person that has business with DCMA, as described more fully above). For example, an employee may accept a free month of gym membership available to all furloughed federal employees as long as the gym is not a prohibited source for that employee.

May I accept a low or no interest loan from a bank or credit union?

It depends. Employees may accept loans from banks or financial institutions on terms available to the general public or to all federal employees, whether or not restricted by geographic considerations. If an offer is limited only to furloughed federal employees, the employee may accept as long as the bank or credit union making the offer is not a prohibited source for that employee.

May I accept a small gift, other than cash, offered as an individual gesture of goodwill?

Yes, provided certain conditions are met. A career government employee may accept such offers as long as the offer is unsolicited, the offered gift’s value is \$20 or less, the offered gift is not cash or a cash equivalent (such as a VISA or MasterCard gift card), and the employee does not accept more than \$50 from the same person in a year. For example, an employee may accept an unsolicited offer to provide or pay for the employee’s lunch as long as the lunch bill is \$20 or less. However, most political appointees cannot use this exception to accept a gift from a lobbyist.

May I accept financial assistance offered by a friend and/or family member?

In most cases, yes. Employees may accept gifts that are based on personal relationships as long as the circumstances make clear that the relationship is the motivating factor, rather than the employee’s federal position. Relevant factors include the history and nature of the relationship and whether the family member or friend is personally offering assistance. For example, an employee may likely accept a \$1,000 cash loan offered by a family member or close friend. However, an employee would generally need to decline a similar offer from a friend who works for an agency’s contractor where the employee’s official duties affect the contractor.

May I offer or accept financial assistance from co-workers?

The limitations on gifts between employees remain in effect. Generally, employees may not give, donate to, or solicit contributions for, an official supervisor, and may not accept gifts from employees receiving less pay. However, employees may accept the following from subordinates or employees receiving less

pay: (1) non-cash gifts with a value of \$10 or less, (2) gifts of personal hospitality of a type and value customarily provided, or (3) food and refreshments to be shared in the office. Additionally, while appropriate gifts may be given on infrequently occurring occasions of personal significance, a lapse in appropriations in itself is not such an occasion. DCMA encourages employees to discuss offers of financial assistance between co-workers with their local ethics counselor.

Can I accept a Visa cash gift card from an organization that does business with the DCMA?

No. You may never accept cash, cash gift cards issued by a credit card company or other financial institution (Visa, Mastercard, American Express, etc.) or checks made out to you, in any amount, from a “prohibited source” or if given because of your official position, under any circumstances.

Can I accept an American Express cash gift card offered to only furloughed employees by a local organization that has no business before the DCMA?

No. You may never accept cash, cash gift cards issued by a credit card company or other financial institution (Visa, Mastercard, American Express, etc.) or checks made out to you, in any amount, given because of your official position (in this case because you are a furloughed employee) under any circumstances.

Can I accept a grocery store gift card that is offered to me by a local organization that does business with the DCMA?

In this case, it generally will depend on the donor and the amount of the gift card offered to you. The ethics regulations distinguish between gift cards issued by a credit card company or other financial institution, which are viewed as the equivalent of a gift of cash and may not be accepted, and gift cards issued by specific stores such as restaurants and grocery and retail stores, which may be accepted in certain circumstances. In the question above, although the local organization is a “prohibited source” because it does business with the DCMA, you may still accept a gift card to a grocery store offered to furloughed employees and valued at \$20 or less per occasion, so long as the total value of these gifts to you from the local organization does not exceed \$50 in a calendar year, and you do not accept gifts so frequently from the local organization that a reasonable person would question your impartiality.

Additionally, if an organization was handing out packets of gift cards issued by specific stores or restaurants to all Federal employees, all Federal employees in a specific geographic area (e.g., all Federal employees in Oakland County), or anyone impacted by the government shutdown (and the offer is not limited only to certain Federal employees, such as those employed by DOD, the DCMA or only to furloughed employees), then you can accept the packet of gift cards even if the total amount of the various gift cards exceeds \$20.

Also, if a local organization offers packets of gift cards issued by specific stores or restaurants to any family or individual in need in the community, you could accept the packets of gift cards. Under the gift rules, any opportunities and benefits, including favorable rates and commercial discounts, available to the general public or to a class consisting of all Federal employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations is not considered a prohibited gift and may be accepted.

Can I accept a commercial discount or benefit offered by a local business?

Yes, you may accept commercial discounts or benefits available to the general public, to all Federal government employees, or to anyone impacted by the government shutdown (so long as the offered discount or benefit is not limited only to certain Federal employees, such as those employed by DOD, the DCMA or only to furloughed employees). Additionally, there is no limit on the value/amount of the discount or benefit offered, so long as it is offered as described above. Please note that the discount can be limited to all Federal government employees in a specific geographic area.

A local non-profit group or other partner organization has offered to provide DCMA employees with interest free loans of \$1,000 during the government shutdown. Can I accept this offer?

In almost all circumstances, no. If you accepted any such offered loan, then you would be required under 18 U.S.C. § 208, a criminal statute, and 5 C.F.R. § 2635.502, to recuse yourself from any official matters involving that entity when you return from furlough until the loan was completely repaid. Finally, beware of entering into financial transactions with entities that are not accredited or licensed financial institutions.

If an accredited or licensed financial institution, such as a credit union, offers low or no interest loans, can I accept such a loan?

It will depend on the terms of the loan offer. The ethics regulations exclude from the definition of gifts “loans from banks and other financial institutions on terms generally available to the public.” Additionally, you may accept opportunities and benefits, including favorable loan rates and commercial discounts, available to the general public or to a class consisting of all Federal employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations. The ethics regulations also permit you to accept opportunities and benefits, including favorable loan rates and commercial discounts, offered to members of an organization, such as an employee association or credit union.

Can I or my spouse set up a GoFundMe page or other online fundraising request to help with expenses?

Generally, not without a high likelihood of violating the ethics rules.

First, you cannot use your position for your own private gain or the private gain of another under the misuse of position rules. Therefore, any such online solicitation could not reference your employment with the DCMA or your employment status with the Federal government.

Second, you are prohibited from soliciting or accepting gifts given from “prohibited sources” or given because of your official position unless an exception or exclusion applies. This includes both direct and indirect solicitation and acceptance of gifts. A gift which is solicited or accepted indirectly includes a gift given with the employee's knowledge and acquiescence to the employee's parent, sibling, spouse, child, dependent relative, or a member of the employee's household because of that person's relationship to the employee. Therefore, if you are aware of and acquiesce to the solicitation and the acceptance of gifts given to your spouse or another person because of your position with the DCMA, you would

potentially be in violation of the gift rules as a result of their solicitation.

As a result, you would need to ensure that no donors provide gifts in violation of the rules about gifts from prohibited sources and the established dollar limits. Due to the high likelihood of violating the ethics rules, we recommend that employees and others refrain from engaging in personal online fundraising related to the furlough.

May I present my Federal government identification badge to receive a permissible discount or benefit offered to all Federal employees?

Yes. Employees may show their Federal government ID to prove they are eligible for an existing discount or benefit. Please remember that you may not use your Federal government ID to solicit or encourage a gift or special treatment - this is a misuse of position.

Can I donate money and other items to help out other co-workers impacted by the furlough?

Yes, but the limits on gifts between employees, on fundraising for charitable organizations, and on fundraising in the Federal workplace, including those on gifts between supervisors and subordinates continue to remain in effect. You may give gifts of cash or non-cash gifts to employees who are not above you in your supervisory chain or who do not make more money than you. However, you may not give cash gifts in any amount or non-cash gifts in excess of \$10, to your supervisor(s) or to a DOD employee who makes more money than you, with the exception gifts of personal hospitality which can be of the value normally given in such situations. Please note that the furlough does not qualify for the “special, infrequent occasion” exception to the ethics rules on gifts between employees.

For specific questions, please contact your local Ethics Counselor. You can easily locate your local Ethics Counselor(s) by visiting the General Counsel’s home page <https://dod365.sharepoint-mil.us/sites/DCMA-PH-GC/SitePages/Ethics-Counselors.aspx>

During a lapse in appropriations / shutdown, send your ethics questions to the GC Ethics Messenger Inbox at dcma.gregg-adams.hq.mbx.gc-ethics-messenger@mail.mil.