



OFFICE OF  
**INSPECTOR GENERAL**  
U.S. DEPARTMENT OF THE INTERIOR

# Investigation of Alleged Ethics Violation by Senior DOI Employee

**This is a revised version of the report prepared for public release.**

## **I. EXECUTIVE SUMMARY**

We investigated allegations that a senior political employee of the U.S. Department of the Interior (DOI) violated a Federal ethics pledge under Executive Order No. 13770 by meeting on two occasions with a former employer during the required 2-year recusal period following the senior employee's resignation from that organization. We also investigated whether the senior employee's attendance at the organization's events violated the section of the standards of ethical conduct for executive branch employees that governs the receipt of gifts from outside sources.

We found that the senior employee attended two events hosted by the organization, and we determined that this was permissible under Federal gift rules for executive branch employees. In addition, we obtained no evidence that the senior employee discussed official DOI matters with former colleagues at either of the events; therefore, the senior employee's actions on these occasions did not implicate Federal ethics rules or the ethics pledge.

We provided this report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

## **II. RESULTS OF INVESTIGATION**

In response to a complaint, we investigated a senior political U.S. Department of the Interior (DOI) employee's attendance at two events hosted by a former employer. These events occurred during the 2 years in which the senior employee was prohibited under a Federal ethics pledge from participating with the former employer in specific party matters. Although we found that the senior employee did not attend one of the events, we identified an unrelated event, a reception for former employees of the organization, that the senior employee did attend during the recusal period. We included this event in our investigation.

### **A. Facts**

#### *1. Employment at the Organization and Ethics Training as a DOI Employee*

The senior employee worked at the organization until starting at the DOI in early 2017. According to training materials from the DOI's Departmental Ethics Office (DEO), the senior employee received ethics training from an ethics official a few weeks after starting at the DOI. This training addressed the Federal ethics pledge and ethics regulations, including relationships covered under the pledge; regulations, rules, and restrictions concerning Federal employees' receipt of gifts; and restrictions against Federal employees contacting their former employers. The senior employee signed the ethics pledge in the spring of 2017.

#### *2. Invitation to and Attendance of an Event for Former Employees of the Organization*

In the fall of 2017, the senior employee received a personal email with an invitation to attend an event for former employees of the organization. The next day, the senior employee forwarded the invitation to the DEO for review, stating that it was received in a personal capacity but that the senior employee wanted to "clear it" with the DEO. Later that day, an attorney advisor replied to

the senior employee's email, stating that attending the event was permissible because the invitation had been issued due to the senior employee's previous affiliation with the organization, not the senior employee's DOI employment.

The senior employee attended the event. When interviewed, the employee did not recall many details about the event, stating, "I was not there . . . more than 20 minutes," but estimating that between 150 and 200 current and former employees of the organization attended; according to the senior employee, sodas were served, but the senior employee did not have any. The senior employee was not certain where all of the attendees worked at the time of the event, but recalled that some were from Federal agencies as well as non-Federal organizations.<sup>1</sup>

We found no evidence that the senior employee discussed any official DOI matters during or after the event. The senior employee recalled having a conversation with an official of the organization in the fall of 2017, but did not recall whether it was at this event. This official told us in his interview that he spoke with the senior employee at the event, but he said he did not specifically recall the details of their conversation. He stated, "We had a brief conversation about employment opportunities at, or my interest in employment at, [the] DOI. . . . It wasn't a deep conversation." We also obtained no emails that mentioned or evidenced any discussions of official DOI matters.

### *3. Invitation to a Second Event at the Organization*

Also in the fall of 2017, staff from the organization and the DOI's Immediate Office of the Secretary (IOS) scheduled Ryan Zinke, the Secretary of the Interior at the time, to speak at the organization, followed by a luncheon. An IOS administrative employee told us that she discussed the event with the then chief of staff for the Office of the Secretary, and the chief of staff suggested that the senior employee and three other DOI political appointees be invited to attend the event. The administrative employee told us that the chief of staff did not direct her to check with the DEO to see whether the senior employee could attend the event. The administrative employee said she informed the senior employee that the chief of staff wanted the senior employee to attend the event, and she asked the senior employee to reserve time for it.

The senior employee recalled being notified about the event by either the administrative employee or the chief of staff, and said that the senior employee had no role in scheduling or otherwise organizing the event. The senior employee also recalled the chief of staff mentioning that Zinke would be giving a speech at the organization and that Zinke wanted the senior employee to attend it.

### *4. Ethics Consideration of Attendance Before the Second Event*

The senior employee said the chief of staff did not say whether the DEO had approved the senior employee's attendance at the event. The senior employee believed the chief of staff knew about the senior employee's past employment at the organization because they had discussed this some months earlier.

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<sup>1</sup> The organization responded to our initial requests for information about the events the senior employee attended. However, when we attempted later in our investigation to obtain additional information about this particular event, we received no reply.

According to the senior employee, the administrative employee said that the DEO had reviewed the invitation and supporting documentation and had “cleared” the event. The senior employee had assumed this clearance also applied to the senior employee’s own attendance, but did not recall the administrative employee specifically saying so.

Documentation reflected that the DEO received information about the event for an ethics review, including a price per person of \$17.95 for lunch, 2 days before the event was to take place.<sup>2</sup> According to a senior DOI ethics official, documentation related to the event was slipped under his door. He said the senior employee’s name was not specified in the invitation when he received the documentation, and he said he did not recall speaking about the event or the documentation with an IOS staff assistant who had been involved in scheduling employees’ attendance at the event. The senior ethics official’s handwritten notes on the documentation reflect that the DEO began a review, but did not appear to have completed it.

In addition, the IOS administrative employee and the staff assistant exchanged emails in the days before the event, discussing the event from an ethical standpoint. The day before the event, the administrative employee wrote to the staff assistant that the lunch would cost \$17.95 per person. The staff assistant responded, “Because the cost per person is under \$20, Ethics has determined that the Secretary and four staff [including the senior employee] can all accept the lunch.” The administrative employee forwarded the staff assistant’s email to the senior employee and the other DOI attendees.

##### *5. Attendance at the Second Event*

The senior employee attended Zinke’s speech and the luncheon. The senior employee recalled speaking with three officials of the organization at the event but said that these conversations consisted of “reception conversation,” or small talk of little substance, and that no official DOI business was discussed.

One of the organization’s officials told us he did not recall specifically speaking to the senior employee at the event, but said that they “probably” greeted each other and exchanged pleasantries. Another official confirmed that he and the senior employee attended the event, but he said that if they had spoken it was only to exchange greetings. He said they did not discuss any official DOI business with each other.

##### *6. Discussions With DOI Officials About the Second Event*

The senior employee described becoming concerned about attending the event in the spring of 2018 (6 months after the event). The senior employee contacted then Principal Deputy Solicitor Daniel Jorjani, who said to contact the senior DOI ethics official. The senior ethics official told

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<sup>2</sup> As we discuss in the “Analysis” section of this report, this amount falls below the \$20 threshold for Federal employees accepting gifts from prohibited sources or because of their official positions. The administrative employee told us she learned the cost of the lunch from an employee of the organization who was helping to plan the event. An official of the organization told us the lunch actually cost \$23.28 per person, but could not explain the price difference to us.

us that Jorjani contacted him as well and that this was the first time he had heard that the senior employee had attended the event.

The senior employee discussed the event with the senior ethics official but came away from their meeting “very confused,” realizing during this discussion that clearance to attend the event may not have been given after all. The senior employee recalled becoming further confused when the senior ethics official said the DEO reviewed invitations only with respect to the Interior Secretary’s attendance, not that of other attendees. According to the senior employee, the senior ethics official never responded to a request to clarify what the senior employee had done wrong and whether any action should be taken.

### *7. Meeting With the Designated Agency Ethics Official About the Second Event*

Scott de la Vega, Director of the DEO and Designated Agency Ethics Official, told us he met with the senior employee in 2019 about the second event. When asked about the DEO’s process for reviewing attendance at such events, de la Vega said, “There is no such thing as an event being quote-unquote cleared by Ethics, . . . carte blanche, for an entire group of people.” De la Vega told us the DEO was required to review each matter case by case, based on the individual employees and their relationships to the organization issuing the invitation to the event. Because the senior employee had worked at this organization within the past 2 years and had a covered relationship with the organization, de la Vega said, the senior employee’s ethical obligations would not be the same as the other DOI employees invited to attend the event.

De la Vega confirmed that after meeting with the senior employee he drafted a memorandum to Todd Willens, the current Chief of Staff for the Office of the Secretary, stating that the senior employee had confirmed attending Zinke’s speech at the organization. De la Vega told us that because the senior employee did not discuss any specific party matters with anyone at the event, he concluded that the Federal ethics regulations and the ethics pledge had not been violated.

## **B. Analysis**

Due to the senior employee’s prior employment at the organization, the senior employee’s attendance at the two events hosted by the organization implicates the section of the standards of ethical conduct for executive branch employees that governs the receipt of gifts from outside sources. In general terms, executive branch employees are subject to restrictions on the gifts they may solicit or accept from sources outside the Government, such as the organization. Unless an exception applies, executive branch employees may not solicit or accept gifts that come from prohibited sources, such as a former employer who seeks official action from the employee’s agency, or that are given because of their official positions (5 C.F.R. § 2635.203(d) & (e)).<sup>3</sup>

One exception to this rule provides that “an employee may accept unsolicited gifts having an aggregate market value of \$20 or less per source per occasion” when a gift is given because of

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<sup>3</sup> Per 5 C.F.R. § 2635.203(d), “prohibited source” means any person who (1) is seeking official action by the employee’s agency, (2) does business or seeks to do business with the employee’s agency, (3) conducts activities regulated by the employee’s agency, (4) has interests that may be substantially affected by the performance or nonperformance of the employee’s official duties, or (5) is an organization a majority of whose members are described in (1) through (4). The organization discussed in this report is a prohibited source for DOI employees because it seeks official action by the DOI in programs the DOI oversees.

the employee's official position or by a prohibited source (5 C.F.R. § 2635.204(a)). Another gift rule exception provides that "an employee may accept meals, lodgings, transportation and other benefits provided by a former employer to attend a reception or similar event when other former employees have been invited to attend, the invitation and benefits are based on the former employment relationship, and it is clear that such benefits have not been offered or enhanced because of the employee's official position" (5 C.F.R. § 2635.204(e)(4)).

In addition to the gift rule, the senior employee's attendance at the organization's events implicates the ethics pledge signed in the spring of 2017. Paragraph 6 of the Federal ethics pledge under Executive Order No. 13770 states, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly or substantially related to my former employer."

In our analysis below, we consider the senior employee's attendance at the two events in light of the gift rule provisions and the ethics pledge.

### *1. Analysis of First Event*

We determined that the senior employee's attendance at this event fit within a gift-rule exception and that there is no evidence that the senior employee's actions at the event violated the ethics pledge. As noted above, 5 C.F.R. § 2635.204(e)(4) provides an exception to the ban on accepting gifts, stating that "an employee may accept meals, lodgings, transportation and other benefits provided by a former employer to attend a reception or similar event when other former employees have been invited to attend, the invitation and benefits are based on the former employment relationship, and it is clear that such benefits have not been offered or enhanced because of the employee's official position." We concluded that the senior employee's attendance at this event fell within the cited gift exception because other former employees of the organization were invited, and we found no evidence that the invitation and benefits were based on anything other than the former employment relationship, or that such benefits had been offered or enhanced because of the senior employee's official position at the DOI.

The senior employee was also permitted to attend the event because the senior employee sought and obtained clearance beforehand by forwarding the invitation to the DEO, which approved attendance under Section 204(e)(4). The DEO determined that the organization's invitation was based on the former employment relationship and was not offered or enhanced because of the senior employee's official position at the DOI. For this reason, even if the DEO's determination had been incorrect and the gift rules for ethics branch employees had been violated, the senior employee likely would not be subject to disciplinary action due to the "safe harbor" rule.<sup>4</sup>

In addition, we found no evidence that the senior employee discussed any official DOI matters during the event. We did not obtain any emails that mentioned or evidenced any such discussions, and the senior employee's statement that official DOI matters were not discussed at

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<sup>4</sup> In general terms, the safe harbor rule provides that disciplinary action will not be taken against an employee who obtains advice from a departmental ethics official after fully disclosing all relevant facts, and who acts in good-faith reliance on that ethics advice even if the advice is incorrect and the employee's action is later found to violate governing regulations (5 C.F.R. §2635.107(b)).

the event and that conversations there were purely social in nature was not refuted by anyone else we interviewed. We concluded that no interactions at this event rose to the level of a particular matter involving specific parties and, therefore, the senior employee's attendance did not violate the ethics pledge.

## *2. Analysis of Second Event*

We found that the senior employee's attendance at this event did not violate either the gift rule or the ethics pledge. As noted above, 5 C.F.R. § 2635.204(a) provides an exception to the gift rule: "[A]n employee may accept unsolicited gifts having an aggregate market value of \$20 or less per source per occasion" when a gift is given because of the employee's official position or by a prohibited source.

As described earlier in this report, DOI employees appeared to believe in good faith at the time of the event that the luncheon cost less than \$20 per person. The evidence showed that the senior employee received information about the event from DOI personnel who, the senior employee believed, had sufficient knowledge regarding the applicable gift rule. Therefore, we conclude that the senior employee acted on a good-faith belief that attending the event was permissible. While it would have been prudent for the senior employee to have had an ethics review of the luncheon, it was not required per the ethics regulations. So long as the gift was valued at \$20 or less, it was permissible for the senior employee to attend the event.<sup>5</sup>

With regard to the senior employee's ethics pledge, Paragraph 6 of the pledge states, "I will not for a period of 2 years from the date of my appointment participate in any particular matter involving specific parties that is directly or substantially related to my former employer." Based on statements from the senior employee and the officials with whom the senior employee spoke at the event, the available evidence shows that no official DOI matters were discussed during the event, and we found this did not rise to the level of a particular matter involving specific parties. Consequently, we did not find evidence that the senior employee violated the ethics pledge.

## **III. SUBJECT**

A senior political employee of the DOI.

## **IV. DISPOSITION**

We provided this report to the Chief of Staff for the Office of the Secretary for any action deemed appropriate.

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<sup>5</sup> As noted previously, one official of the organization told us that he believed the lunch cost \$23.28 per person, but he could not explain the cost difference to us. We concluded that the evidence established that, at the time, DOI personnel believed in good faith that the luncheon cost \$17.95.

