SECTION 7 GIFTS

The acceptance of gifts by persons in public office has given rise to much criticism and even to the resignation of a small number of people. For some considerable time the acceptance of gifts of any value was prohibited. This was based on very ancient usage. As long ago as 1236 Venice forbade its Ambassadors at the court of Rome from taking any favors or profits without the consent of the Doge or Assembly. A decree of 1268 required Ambassadors to surrender to the government all gifts on their return.

In the United States, under Section 0, Article 1 of the Constitution, public officials have been forbidden to "accept any present, emolument, office, or Title, of any kind whatever, from any King, Prince, or foreign State...*without the Consent* of Congress." Congressional requirement has been handled in various ways over the years, but on October 15, 1996, the United States Congress passed a law "To grant consent of Congress to the acceptance of certain gifts and decorations from foreign governments and for other purposes."

The State Department issued the following regulations governing the acceptance of Gifts and Decorations from foreign governments (in part):

General Policy. No person shall request or otherwise encourage the gift or decoration.

Gifts of minimal value. Table favors, mementoes, remembrances or other tokens bestowed at an official function, and other gifts of minimal value received as souvenirs or marks of courtesy from a foreign government may be accepted and retained by the donee. The burden of proof is upon the donee to establish that the gift is of minimal value as defined by these regulations.

Gifts of more than minimal value. When a gift of more than minimal value is tendered, the donor should be advised that it is contrary to the policy of the United States for persons in the service thereof to accept substantial gifts. If, However, the refusal of such a gift would be likely to cause offense or embarrassment to the donor, or would adversely affect the foreign relations of the United States, the gift may be accepted and shall be deposited with the Chief of Protocol for disposal in accordance with sect. 621.7 of the Foreign Affairs manual.

The United States Office of Government Ethics publishes a handbook entitled *"An Ethics Handbook for Executive Branch Employees"* which offers guidance on the subjects of:

Gifts from Outside Sources
Gifts between Employees
Conflicting Financial Interests
Impartiality in Performing Public Duties
Seeking Other Employment
Restrictions on Former Employees
Misuse of Position
Outside Activities
Special Government Employees and Procurement Officials

The **VA Office of General Counsel** also provided guidelines for senior VA officials on the acceptance of gifts in the performance of their official duties and further defines which gifts are acceptable and those, which are prohibited. A "Prohibited Source" is defined as 'those having or seeking business with the Department of Veterans Affairs, having interests that may be substantially affected by performance of official duties, those regulated by the Department of Veterans Affairs, or those attempting to influence employees' official actions'. This would include veterans' organizations. (38 C.F.R. 0.735-11).

Gifts Permitted

- From family members or personal friends.
- Food and refreshments of nominal value, even from a "prohibited source", infrequent accepted during the ordinary course of a working meeting where there is no acceptable, gracious means to pay. Can attend a dinner or reception if it is in your official capacity. (OGE Letter 85 X 9 (July 12, 1985) and (October 23, 1987)).
- Nonexcessive food and refreshments, even from a "prohibited source," at widely-attended gatherings of mutual interests to the Department of Veterans Affairs and the non-Federal sector. (This exception cannot be used until amended regulations are published. OGE Letter (October 23, 1987)).
- Loans from banks or financial institutions at customary rates.
- Unsolicited advertising or promotional materials of nominal value.
- Common courtesy gifts as flowers on appropriate occasions. (38 C.F.R. 0.735-11).

Gifts Prohibited

- **Anything** of monetary value from a "prohibited source."
- Those from any Department of Veterans Affairs employee except gifts of nominal value on special occasions, as marriage or illness. (38 C.F.R 0.735-11).
- Those from a foreign government, or its agencies, including travel expenses of more than "minimal" value, defined at $180. (5 U.S.C. 7342).