

OFFICE OF GOVERNMENT ETHICS

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Letter to a Company dated  
October 28, 1998

We recently became aware of an advertisement that your company sent to a number of Government employees. This advertisement, among other things, indicates that [the company] will:

. . . give [an item] with every order of \$2000 or more on the Government IMPAC card . . . So don't delay your order. Call today to get the best price, best service, and *your free [item]!!!* (italics added)

Your advertisement suggests that employees may keep the purchase incentive that your company is offering, in this case [an item]. Because any purchase made with the Government I.M.P.A.C. card is by definition an official transaction, any benefit resulting from that purchase is the property of the United States Government. Therefore, employees may not keep the [item] for their own personal use. The Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct), found at 5 C.F.R. part 2635, prohibit executive branch employees from misusing Government property. The Standards of Conduct also prohibit executive branch employees from using their public office for private gain. Employee retention of the [item] purchase incentive would violate the Standards of Conduct and may implicate the illegal gratuities statute, 18 U.S.C. § 201(c). This statute, which carries criminal penalties, prohibits even the offering of anything of value to any public official when the offer is extended because of an official act performed by that official. 18 U.S.C. § 201(c)(1)(A).

For these reasons, future advertisements concerning marketing incentives offered in connection with Government purchases should make it clear that any benefits accruing as a result of an official transaction are the property of the employee's agency, not the personal property of the individual employee.

Thank you for your time and attention in this matter.

Sincerely,

Marilyn L. Glynn  
General Counsel