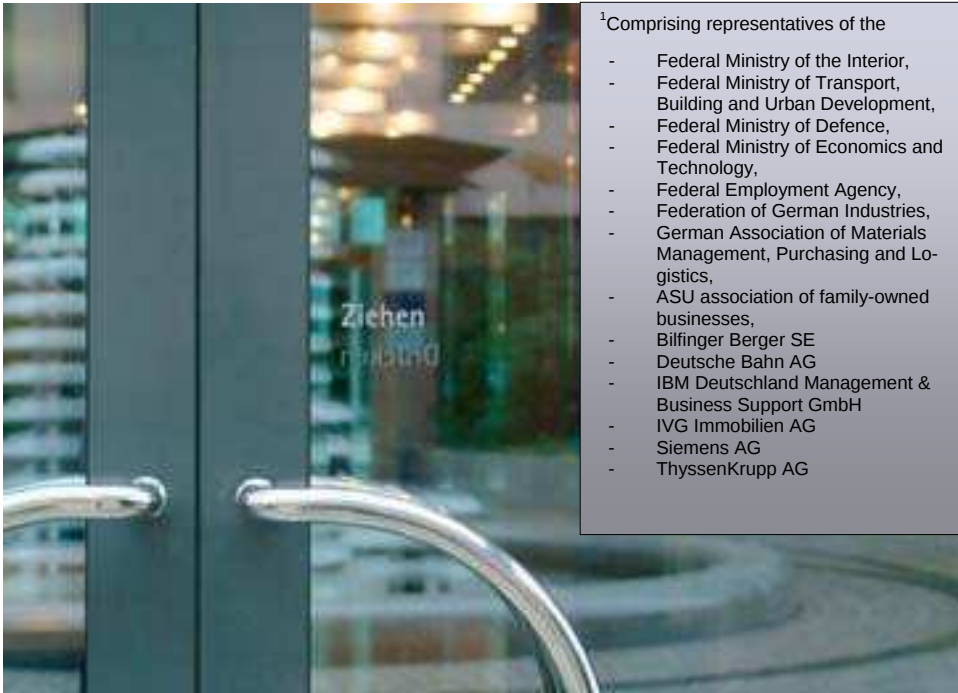


Private Sector/Federal Administration Anti-Corruption Initiative¹



¹Comprising representatives of the

- Federal Ministry of the Interior,
- Federal Ministry of Transport, Building and Urban Development,
- Federal Ministry of Defence,
- Federal Ministry of Economics and Technology,
- Federal Employment Agency,
- Federation of German Industries,
- German Association of Materials Management, Purchasing and Logistics,
- ASU association of family-owned businesses,
- Bilfinger Berger SE
- Deutsche Bahn AG
- IBM Deutschland Management & Business Support GmbH
- IVG Immobilien AG
- Siemens AG
- ThyssenKrupp AG

Answers to frequently asked questions
about accepting gifts, hospitality or other benefits

Keywords

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Gifts

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- Prohibition on (9)
- Criminal prosecution (16)
- Exceptions (10)
- Approval (13, 15, 17, 21)
- Cash value limits (13, 13, 20, 20)
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Introduction:

The Private Sector/Federal Administration Anti-Corruption Initiative¹ has addressed the issue of accepting gifts, hospitality and other benefits. In business transactions between the public administration and the private sector, there is still too little awareness of the standards in this area. The following catalogue of frequently asked questions is intended to help recognize the boundaries of permissible behaviour with regard to gifts, hospitality and other benefits for federal administration employees. The questions are asked primarily from the perspective of federal administration employees and are intended to foster understanding within the private sector as to the

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boundaries set by public service law. In addition, both sides must comply with the relevant provisions of criminal law.

In general, criminal and public service law prohibits employees of the federal administration from accepting gifts in connection with their office unless approved. This catalogue of questions is intended to indicate the framework in which such approval can be issued. However, there is no absolute certainty when it comes to accepting gifts; there are always grey areas in which you should consult your agency's anti-corruption office in case of doubt.

Conflicts of interest may arise with regard not only to the federal administration but also to local, state and foreign officials, who may be subject to different laws.

Part A: Basic information

Gifts include all advantages which benefit the recipient materially or immaterially and to which the recipient has no legal claim. This includes payments in cash and in kind, such as vouchers, free tickets, free admission, invitations with hospitality, free services, discounts, trips and payment of expenses for travel to events of a business partner or third party such as trade fairs or conventions.

Gifts to administration employees should be distinguished from gifts to a government agency. The Administrative Regulation on Sponsoring determines when such gifts may be accepted.² Like gifts to employees, the acceptance of sponsoring offers requires approval.

1. Are federal administration employees allowed to accept gifts?

All employees of the federal administration are in principle prohibited from accepting gifts, hospitality or other benefits (Section 71 of the Act on Federal Civil Servants (BBG), Section 3 (2) of

² General administrative regulation to promote activities by the Federal Government through contributions from the private sector (sponsoring, donations and other gifts) of 7 July 2003 (VV Sponsoring) Federal Gazette no. 126, p 14906; http://www.verwaltungsvorschriften-im-internet.de/bsvwwbund_07072003_O463414017.htm

the Collective Agreement for the Public Service (TVöD) and Section 19 of the Act on the Legal Status of Soldiers (SG)). Section 71 BBG and Section 19 SG also cover former civil servants and soldiers. In addition, the provisions of Sections 331 and 332 of the German Criminal Code apply.

2. Are there exceptions to the general rule against accepting gifts?

Yes. An employee may accept a gift if the responsible administrative authority gives its explicit or implicit approval. However, approval may be given only to a limited extent and when taking into account all circumstances of the individual case, possibly subject to certain conditions, such as donating the cash value of the gift to a charitable organization or to the Federal Cash Office. For more details, please see the circular of 8 November 2004 concerning the prohibition of gifts in the federal administration.³ Please note, however, that individual federal agencies may have stricter rules than the circular, for example regarding the cash value of gifts.

³ Circular of 8 November 2004 concerning the prohibition of gifts in the federal administration (Rundschreiben des Bundesministeriums des Innern vom 8. November 2004 zum Verbot der Annahme von Belohnungen und Geschenken in der Bundesverwaltung), http://www.bmi.bund.de/SharedDocs/Downloads/DE/Themen/OED_Verwaltung/Korruption_Sponsoring/RS_Verbot_Annahme_Belohnungen.pdf?__blob=publicationFile

3. Are there additional rules to be followed when accepting gifts?

Yes, if you accept a gift, you may have to pay tax on its cash value, for example if the giver did not or could not use the possibility of flat-rate taxation under Section 37b of the Income Tax Act, meaning that the recipient must estimate the gift's value when declaring his or her income.

4. Who is considered a federal administration employee?

Employees of the federal administration include civil servants, judges, military personnel and employees of the direct and indirect federal administration who are not civil servants. The indirect federal administration includes for example the Federal Employment Agency, the German Bundesbank, the social insurance funds and other institutions under public law and subject to federal legal supervision. Federal administration employees may also work in former federal enterprises which have been partly or fully privatized, such as Deutsche Telekom AG, Deutsche Bahn AG and Deutsche Post AG.

Federal administration employees are also those persons who have contracted to perform services for the federal administration and who have been given equal status with federal administration employees under the Act on the Formal Assignment of Responsibilities to Persons other than Civil Servants due to the special nature of the contract (Section 11 (1) no. 4 German

Criminal Code). However, such persons are subject only to the provisions of the German Criminal Code and any provisions agreed under private law, not the stricter provisions of public service law.

5. What is meant by gifts, hospitality and other benefits?

Gifts, hospitality and other benefits include the following:

- money (e.g. cash, money transfers, interest-free or low-interest loans),
- material goods (e.g. books, CDs, liquor, clothing, jewellery),
- in-kind benefits (e.g. vouchers, free tickets, free admission, invitations including hospitality, discounts),

to which the recipient has no legal claim. They may also include benefits resulting in real advantages to the recipient, such as gifts to a third party (e.g. family member or charitable organization) or non-material advantages such as honours or secondary employment.

6. Are federal administration employees allowed to accept money?

No. Gifts of cash can never be approved.

7. Must federal administration employees always explicitly request approval to accept a gift?

No. The circular concerning the prohibition of gifts in the federal administration allows for the possibility of implicit approval in some cases, such as certain types of hospitality and services having a low cash value, such as sharing a taxi from the airport. In certain cases, such as gifts of low commercial value (as a rule up to €25), the gift must nonetheless be reported. Some agencies may have stricter rules.

8. What about the €25 limit?

The €25 limit refers to the gross value of the gift and helps simplify the administrative requirements concerning gifts. Gifts worth up to €25 need only to be reported to one's employer. As a rule, this limit applies to individual gifts, not to the total of gifts received from a single giver. See question 9 regarding stricter limits.

9. Does the €25 limit apply to the entire federal administration?

Yes, it applies as the upper limit for implicit approval to accept a gift. Every agency may set lower limits. In particular, some institutions working in the field of procurement do not allow any gifts to be accepted. Different ministries apply the following special rules, for example:

Federal Foreign Office:

Informational materials (e.g. brochures, illustrative materials, books) may be considered approved as long as their value is appropriate and not excessive and they are given to the Federal Foreign Office or diplomatic representation abroad.

Federal Government Commissioner for Culture and the Media:

One-time gifts worth less than €10 do not need to be reported.

Federal Ministry of Justice:

Implicit approval of gifts worth up to €5. No reporting requirement.

Federal Ministry of the Interior; Press and Information Office of the Federal Government:

Total gifts worth up to €25 per year and giver do not need to be reported.

Federal Ministry for Economic Cooperation and Development;

Federal Ministry of Defence:

Simple promotional items worth up to €10 do not need to be reported. The Federal Ministry of Defence also has a wide variety of special rules.

Federal Ministry of Transport, Building and Urban Development:

Special rules apply in individual agencies within the Ministry's remit, e.g. the German Meteorological Service – simple promotional items worth up to €5 do not need to be reported.

10. When is explicit approval of the responsible authority required?

According to the circular on the prohibition of gifts in the federal administration, explicit approval is required in the case of gifts worth more than €25 or of hospitality which exceeds the usual or appropriate. An agency may set a lower limit for its area of authority.

11. Where can I find further information?

The following sections deal with specific issues. You may also ask your agency's designated corruption prevention representative.

Part B: Dealing with gifts

I. General information

1. What constitutes a gift?

Gifts include all advantages which benefit the recipient materially or immaterially and to which the recipient has no legal claim (see also the definition in Part A: Basic information).

2. Does accepting a gift make an employee or the gift giver subject to criminal prosecution?

In the private sector, gifts are subject to criminal prosecution only when they are intended as compensation for past or future unfair preference over the competition.

In the case of public employees, however, gifts may be subject to criminal prosecution even when they are not linked to preference given in a specific instance but are intended to foster a favourable attitude by someone in an official position. It is not necessary for the recipient to have violated his or her official duties in return for the gift: Accepting a gift without the approval or permission of one's employer may constitute taking a bribe, even if the employee has not violated his or her official duties; for the private-sector giver, it may constitute giving a bribe. If the employee violates his or her duty, he or she may be prosecuted for taking bribes and the giver may be prosecuted for giving bribes.

Accepting low-value gifts without approval may also be subject to criminal prosecution, as the Criminal Code does not specify any limits on the value of gifts.

If the employer has approved acceptance of the gift, then neither the giver nor the recipient are subject to criminal prosecution. This does not apply in the case of taking or giving bribes.

3. Is approval always required for accepting a gift, even promotional items?

According to the Federal Ministry of the Interior circular on the prohibition of gifts, implicit approval of low-value gifts (e.g. simple promotional items such as calendars, ballpoint pens or writing tablets) may be assumed within the federal administration. However, implicit approval cannot be assumed if such items are more than low-value gifts; the upper limit is set at a cash value of €25, but every agency may set stricter rules (see question A.9).

In principle, under public service law even low-value gifts must be reported to the responsible authority. The employee must report the item, its estimated value, the occasion at which it was given and the giver (individual/institution). Some federal administration agencies have set additional limits here, e.g. no reporting requirements for gifts worth up to €10.

4. Can a gift be sent to the recipient's home address?

Gift-giving should always be transparent. Sending gifts to a recipient's home address is no longer transparent and puts giver and recipient in a bad light. For this reason, gifts should not be sent to an employee's home address and any gifts received at home should be immediately returned. In the interest of both parties, the return should be documented, also by witnesses in case of doubt.

5. What should I do if I'm not sure whether it is legal to give or accept a gift?

In case of doubt or suspicion, never give or accept a gift!

Ultimately, each case must be considered individually. Gift-giving should not appear to influence recipients in any way. The rules concerning the prohibition on gifts are aimed at avoiding even the appearance of influence on federal employees in their official duties. Gift givers should therefore ask themselves whether a gift might have such an appearance in the eyes of third parties, such as the recipient's colleagues or supervisor or members of the public. To avoid the appearance of influence, it may be helpful to ask the following questions:

- **What is the connection between the gift-giver and the employee's official duties?**

If the giver's company is expecting an administrative service from the employee, such as issuing a permit or granting a contract, then every gift should be viewed with a critical eye.

- **How business-oriented is the gift?**

In principle, a gift may be accepted as long as it is predominantly business-oriented, for example transport to a business meeting or hospitality for a longer meeting.

- **What is the gift's value and how many gifts has the recipient received?**

The most important thing is that the gift should not be worth more than €25 (see also question A.9). One should also be aware that multiple gifts of similar or different kinds within a short period could result in influence or the appearance of influence. See also B II, question 9 below.

II. Gifts in kind

1. Does the €25 limit refer to gifts within a specific period of time?

No, this limit applies to each gift and recipient. At the Federal Ministry of the Interior and the Press and Information Office of the Federal Government, this limit applies per year, per recipient and giver (see also question A.9).

However, it should be noted that whether a gift is acceptable depends not only on its cash value. More frequent gifts to the same person, even if they remain below the €25 limit, are not often likely to be appropriate. It is important to avoid the appearance of influence in every case (see also B II, question 9 below).

2. What happens if a gift is worth more than €25?

Approval is always required before accepting gifts worth more than €25. If it is not possible to obtain prior approval, then approval must be requested immediately after the fact.

Approval may be subject to certain conditions, such as donating the estimated cash value of the gift to a charitable organization or to the Federal Cash Office.

3. Is it enough for an employee to get approval from his or her supervisor?

No, approval from a supervisor is not sufficient. As a rule, neither the recipient nor his or her supervisor may decide whether the gift may be accepted; instead, the authority designated by the agency's executive, usually the human resources department, is responsible for issuing approval.

4. What should the giver do if the gift is refused?

An employee who refuses a gift will typically refer to the applicable rules. The gift-giver should accept the refusal and not insist that the employee should keep the gift. The gift-giver should show understanding for the refusal and be aware that it is not easy to turn down a gift.

5. How should federal employees handle gifts brought by guests?

Gifts brought by guests are not personal gifts but rather gifts presented to an employee as the representative of his or her employer. In most cases, refusing or returning gifts brought by guests would offend the giver, so federal administration employees do not have to refuse them. Gifts which are accepted must be handed over to the employer.

6. What about giving a book or professional journal related to the employee's field of expertise?

Such books and journals would exceed the cash value limit and would therefore have to be approved. If the recipient needs the book or journal for daily use, he or she will usually turn it over to the agency's library and may use it on permanent loan.

7. Is it possible to distribute office supplies at an expert conference?

Federal employees attending conferences are allowed to accept small gifts such as ballpoint pens or writing tablets bearing the company logo. Such gifts usually do not require approval, though employees may have to report them, depending on their agency's cash value limits for reporting. In principle this also applies to simple, inexpensive flash drives containing conference documents, although these are considered electronic devices and may be prohibited by some agencies.

8. What about giving out prizes for contests or raffles at an event?

Being a contest winner is usually not a problem. However, if the prize is worth more than the applicable limits (usually €25), then approval is required for the winner to accept the prize. Approval is usually subject to the condition that the prize-winner donates

all or part of the cash value of the prize to the Federal Cash Office or charitable causes. The same applies to raffle prizes.

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9. Is there a problem if a federal administration employee repeatedly receives gifts?

Especially in the case of long-term business relationships, special attention must be paid to how the acceptance of gifts may appear to third persons. For this reason, bestowing large numbers of gifts should be avoided (see also B II, question 1).

III. Invitations, hospitality

1. When can an event be considered specialist-oriented?

When the event primarily serves to convey and exchange specialist information in the form of lectures, presentations, discussions, etc.

2. Is it possible to invite employees to a buffet meal or snack during or after a specialist event?

In principle, federal employees may be invited to a buffet meal or snack in the context of an event which they are attending for official reasons. Such hospitality must be socially appropriate to the event, i.e. usual and reasonable food and drink are offered. Appropriateness depends also on the employees' functions and the event setting (e.g. occasion, length, location, content, audience). Past court decisions have not set any concrete cash value limits. If hospitality is usual and appropriate, one may assume implicit approval, unless specific agencies have different rules.

3. Is it possible to invite an employee to a meal with a select number of participants during or after a specialist event?

This is possible in individual cases, for example if the employee has been invited to the event as a speaker or guest of honour. Again, the principle of appropriateness applies.

4. What should be considered when choosing an event venue?

Specialist conferences and events to which federal administration employees are invited should be held in a conference atmosphere. The conference venue should be chosen for practical reasons, such as the availability of suitable conference rooms (e.g. business or production premises of the conference organizer) and accessibility for speakers and participants. Unsuitable venues are those where the focus is on entertainment (e.g. theatres) or which give an impression of exclusivity and luxury.

5. What else should be considered when organizing specialist events with hospitality?

Inviting federal employees to an event with hospitality will not cause any problems if the responsible authority has approved the attendance of its employees in advance. For this reason, the invitation should be in writing, which ensures transparency

and enables employees to acquire approval in time if necessary. In order for the employer to make an informed decision, the invitation should include all relevant information, including information about the hospitality and any accompanying social events or entertainment.

6. What about specialist events accompanied by a social programme or entertainment?

Sometimes specialist events, for example a conference lasting several days, may include a non-specialist component. A social programme or entertainment does not change the specialist nature of the event as long as it has only a subordinate role. The social programme and any related hospitality must also be usual and appropriate to the character of the overall event – occasion, length, location, content, audience, etc. Employees may be invited as long as the requirement of appropriateness is met. According to the Federal Ministry of the Interior circular on the prohibition of gifts, federal administration employees may be required to get prior approval.

7. Is it possible to invite employees to events not specifically intended to convey specialist information?

Employees may attend annual receptions, opening events, anniversary celebrations and the like if the event provides an opportunity to represent the federal administration in public, if

the employee's status enables him or her to represent his or her agency and he or she is supposed to perform this social obligation. Multiple employees of the same agency, not only heads of agencies, may also be considered. Hospitality at such events must also be usual and appropriate based on the occasion and setting of the event and the group of persons invited.

Invitations to other events, such as cultural or sporting events, may be accepted only in special individual cases, if there is a plausible reason for doing so and all appearance of influence is avoided (e.g. an event sponsor inviting a high-ranking employee as a representative of his or her agency). However, the employee will usually have to obtain prior approval from the responsible authority. Employees may accept invitations to public events, for example to a VIP lounge at a sporting event, only in exceptional cases and may have to donate the cash value of the invitation to the Federal Cash Office or a charitable organization.

8. Is it possible to invite spouses or life partners to events?

As a rule, spouses, life partners or family members of a federal employee may not be invited, as this would imply that the entertainment character of the event predominates. Exceptions may be made only in specific cases, subject to prior approval, when the event is a social occasion to which employees' spouses or

life partners would normally invited (such as a ball) and failure to invite them would be a breach of social etiquette. In such cases, the employee's representative function plays a central role.

9. Which general guidelines should be followed regarding invitations to non-specialist events?

In general, one should ask oneself the following questions:

Does the event come at a time when the invited employee has to make a decision on important projects involving the issuer of the invitation, and could the invitation influence this decision in any way? This typically does not apply to invitations to regularly recurring events with a large number of guests, such as an organization's annual reception. By contrast, an employee will as a rule not get approval for an individual invitation from a football team's sponsor to watch a match in the sponsor's VIP box.

Could accepting the invitation to an event result in the employee becoming personally dependent on the issuer of the invitation?

Would the employee's attendance place him or her in a bad light?

Would the employee or the issuer of the invitation hesitate to inform a supervisor, co-workers or neutral third parties of the matter?

Has the employee been repeatedly invited to non-specialist events, creating the appearance of an attempt to exert influence?

If you have answered “yes” to one or more of these questions, you should refrain from issuing an invitation.

10. How should an invitation be made?

Invitations should be made in writing and sent to the employee at work, in line with objective standards of transparency. When the function of representation is desired, a general invitation may be issued to the agency, asking it to designate an appropriate representative.

11. When does a meal constitute official business, so that employees may be invited?

A business meal is one focused on the business meeting aspect, so that the food is secondary or is served during the meeting to save time. The catering should not be elaborate or “gourmet”, as this would overshadow the business nature of the meeting (see also B III, question 4). If an employee is invited, the individual case will be evaluated; approval will be required

and as a rule will be given only under certain conditions. The principle of appropriateness applies in every case (usual and appropriate hospitality). Appropriateness depends among other things on the employee's function, the occasion and setting of the meal (length, location, content, participants, etc.).

12. What special conditions apply to spontaneous invitations?

Spontaneous invitations are those for which no written invitation can be issued due to lack of time or other reasons. As a result, employees are unable to obtain prior approval for a spontaneous invitation. In such cases, it is crucial for usual and reasonable hospitality to be offered (principle of appropriateness); in case of doubt, it is best to err on the side of restraint.

In principle, spontaneous invitations can be approved, but a more modest event setting (e.g. length, location, content) should be chosen than for a planned event.

IV. Paying for travel expenses

1. What are travel expenses?

Travel expenses are those costs arising from business-related travel, in particular accommodation (hotels and the like) and transport (rail or air travel, rental car, etc.). They do not include incidentals such as minibar or pay-TV charges.

2. Is it possible for a third party to pay an employee's travel expenses?

Under the Federal Travel Expenses Act, it is generally possible to pay for an employee's travel expenses resulting from a business trip as long as no money passes directly between the employee and third parties. There is no problem if travel expenses are reimbursed for conference speakers, panel participants and the like. Otherwise the third party will have to declare intent to pay travel expenses.

Expenses for travel and accommodation should not be unreasonably high; the travel expense guidelines of the guest's employer should offer orientation. In any case, there should be no possibility of influence on any decision-making. In case of doubt, the guest's employer should pay the travel expenses.

3. What should a federal employee do if offered a ride in a taxi or rental car by a business partner?

The employee may accept, especially if both parties are traveling to the same destination (e.g. between the train station and the meeting venue). In such cases, implicit approval may be assumed.

4. What should a federal employee do when given free admission to a trade fair or specialist event?

The provisions of the circular on the prohibition of gifts apply: As a rule, implicit approval may be assumed for gifts worth up to €25 (rules may vary depending on the agency). If the gift is worth more than €25, explicit approval is required.

The use of an admission ticket to participate in a required official event (e.g. making a presentation at a trade fair on behalf of one's employing agency; visiting a trade fair to participate in a product presentation necessary for the agency) also requires approval. Different units within the agency may be responsible for issuing approval: the unit designated in the Administrative Regulation on Sponsoring or in the circular on the prohibition of gifts, or one's supervisor.

V. Delegation travel

1. What are delegation visits/factory visits/product presentations?

Delegation visits, factory visits and product presentations include visits to any kind of business sites in Germany and abroad, visits to reference sites, visits to inspect products or production sites, informational events, in-house exhibitions, test drives of special machinery (e.g. agricultural or construction machinery on specially prepared courses or premises) and the like organized for actual or potential public- or private-sector customers or other business partners. Such visits may take place before a contract is awarded or in the context of ongoing customer relations (post-sale). Visitors may be federal administration employees (including staff/supervisors of public undertakings, regardless of their legal form), staff of the event host or third persons employed by a client or other business partner.

2. What should one be aware of regarding delegation or factory visits?

First of all, the visit should serve a legitimate, business-related purpose relevant to the federal employee's official duties.

In addition to the business component, delegation and factory visits may include an evening or cultural event, and the host

may assume some travel expenses, such as meals, accommodation or transport. These costs should be carefully checked, as they lead directly to advantages for the participant. They must remain within reasonable limits and serve the business-related purpose of the trip.

The host must avoid even the appearance of granting advantages in order to exert unfair influence on future official acts or to achieve an unfair competitive advantage. In the same way, the employee must avoid even the appearance of being receptive to personal advantages when carrying out his or her duties.

3. What should one be aware of regarding gifts in kind during delegation or factory visits?

If gifts in kind are planned, the circular of 8 November 2004 on the prohibition of gifts should be referred to, which states that approval to attend a conference also includes approval to accept conference documents, writing tablets and ballpoint pens, for example. Hosts planning to give additional gifts should decide whether to present them officially to the agency representative (who will then hand them over to his or her agency), or whether participants should be given a personal gift which they will have to report or gain approval for (e.g. a model vehicle following a visit to the vehicle factory).

4. Is approval required to take part in delegation or factory visits?

Federal employees must follow in-house procedures in order to get approval before the visit. It should be noted that approval of official travel is necessary but not sufficient by itself. Federal administration employees are subject to stricter laws and in-house regulations than private-sector business partners or clients. If the agency unit responsible for issuing approval has not explicitly approved the visit, taking part in the visit may create the risk of criminal prosecution for both the employee and the host.

The employee's agency will have to determine whether participating in the visit is justified. Depending on the circumstances, attendance of accompanying events may also be required. If so, the visit in principle constitutes official travel, and the resulting expenses should be paid by the employer according to the agency's rules on travel expenses. Nonetheless, in some cases it may be possible and reasonable for the visit host to pay some or all of the costs. If the agency and the host have not agreed on such payment as a sponsoring arrangement, then the participating employee will require approval from his or her agency's responsible unit for the host to pay some or all of the cost of the employee's participation.

5. What should be noted when requesting reimbursement for travel expenses for a delegation or factory visit?

If the host of the visit intends to pay participants' travel expenses, the participating employees should clarify beforehand with the responsible unit of their agency how this should be done. In some cases, the agency will require participants to submit their travel expenses to its travel unit and will then submit an invoice to the visit host.

6. Are spouses, children or other family members allowed to go along on delegation or factory visits?

Including spouses, children or other family members of invited employees on delegation or factory visits is highly problematic, as it undermines the official nature of the visit. The host of the visit should not pay for such persons to attend, as doing so could create the impression that the costs were paid with the official duties of a federal administration employee in mind, resulting in a serious risk of criminal prosecution for all involved. Approval of participation by employees' family members is extremely unlikely under public service law.

VI. Private use of discounts

1. Are there rules on giving discounts to federal administration employees?

There are no explicit rules on discounts.

Discounts given to all employees of the public service or of a particular agency or to a larger, definable group of employees (e.g. all employees at a certain location) are unproblematic, as long as they do not depend on business relationships between the federal administration and the party giving the discount (e.g. insurance, fitness studios). However, discounts given only to certain persons are always problematic. Neither the employee nor the party granting the discount should expose themselves unnecessarily to suspicion of wrongdoing, even if such suspicion is unjustified. In any case, when using such discounts it is always necessary to report or get approval for them.

This applies in particular when employees necessarily have both official and private business with providers of discounts. Others will inevitably suspect that such employees have been granted advantages even if this is not the case. In such cases, in addition to public law obligations to report or get approval of the discount, it is advisable to inform one's employer of the official and private business relationship, thereby creating transparency and removing all grounds for suspicion in advance.

2. What principles must be observed regarding agency discounts for private use or special advantages for employees?

The same discount must be granted to all employees of an agency or to a larger, definable group of employees (such as all employees in a particular state) under the same conditions.

3. What is meant by discounts granted to an individual employee for private use?

In this context, discounts for private use refer to benefits for the private advantage of a federal administration employee or someone close to him or her (family, friends, acquaintances, organizations, etc.) in buying goods or services, when such discounts are personally granted by the employer's business partners (discounts for hotel accommodation, discounts from suppliers or service providers, special customer loyalty programmes).

4. When can the private use of discounts be approved?

The private use of discounts may be approved if there is no risk of a conflict of interest arising from the employee's use of the discount. An employee may use a discount for private purposes in compliance with the relevant tax law (for example to buy or rent a car, rent a hotel room, buy office supplies or other goods or services) in particular if the employee has no official business

with the employer's business partner and there is no reason to believe that the provider of the discount is guided by the knowledge that the employee works for the public service.

5. When is the private use of discounts prohibited?

Federal employees may not ask for or receive any personal advantages from a business partner in connection with their office. This also applies to advantages on behalf of persons close to them (family, friends, acquaintances, organizations, etc.). Employees should avoid even the appearance of violating this rule.

For this reason, employees should not take advantage of a discount for private use if they are in direct official contact with the business partner of their employer which provided the discount and if they cannot rule out the possibility of a conflict of interest arising from the private advantage. There is otherwise a risk that an initial suspicion will be viewed as confirmed.

Further, employees must not use a discount for private purposes when the discount has been given to only one employee or a small group of employees who are directly involved with a specific business transaction, in connection with this transaction or to pave the way for one.