

Reported Office of Congressional Ethics Investigation Highlights Range of Ethics Considerations Surrounding Foreign Gifts Under Congressional Rules

6/4/2015

[Media coverage](#) reporting recent findings of the [Office of Congressional Ethics' \(OCE\)](#) investigation into foreign travel of a number of Members and staffers of the U.S. House of Representatives has highlighted issues about the permissible sources of funding for congressional travel. Although the investigation has been widely reported, its findings have not been made public and notably do not indicate a determination that any Member or staff acted in violation of congressional rules or federal law. Rather, as discussed in [CRS Report R40760](#), OCE investigates allegations of misconduct and refers matters to the [House Committee on Ethics](#) only if it finds substantial reason to believe the allegations are true. The OCE's findings and report [may be made public](#) by the Committee, depending on what action it takes in response to the referred matter. Because these documents have not yet been made public, the details of alleged violations are unclear. According to the news reports, the allegations involve receipt of gifts and acceptance of travel expenses paid for by nonprofit organizations funded by foreign governments. This Sidebar will not address the substance of these allegations, but instead will review the various congressional rules and federal laws that may be implicated by the circumstances of personal gifts and official travel paid for by a foreign government or its agents.

Members and staff are bound by several restrictions on the acceptance of gifts from foreign entities. The [Emoluments Clause of the U.S. Constitution](#) bars government employees from accepting anything of value from a foreign government unless authorized by Congress. [House ethics rules](#) ("the rules") generally prohibit the acceptance of gifts by Members and staff from private outside sources, including foreign agents, unless the gift falls under a specifically enumerated exception. Both restrictions may be overcome in some circumstances because Congress has authorized receipt of a limited range of gifts – and acknowledged such in the enumerated exceptions to the rules – under the [Foreign Gifts and Decorations Act](#) (FGDA). Specifically, the FGDA permits employees, to accept "a gift of minimal value ... [given] as a souvenir or mark of courtesy." The statute requires the definition of minimal value to be adjusted every three years, and [current regulations](#) set the threshold at \$375. The FGDA also states that expenses for travel taking place entirely outside of the United States may be accepted from an official foreign entity if such acceptance is appropriate, in the interests of the United States, and if permitted by the employing agency (i.e., the House). If Members or staff receive tangible gifts in excess of the minimum value, the gifts must be delivered to the House for disposal or deposited with the House for official use.

The House Gift Rule applies to anything of value, including travel expenses. Following [changes to the rules spurred by concerns](#) about improper influence of congressional Members and staff through gifts and sponsored travel, the rules now require that travelers and sponsors submit documentation of privately-funded, officially-connected travel. The [House Ethics Committee](#) must provide prior written approval prior for every officially-connected trip paid for by private sources. Within 15 days of the conclusion of travel, Members and staff must provide a detailed disclosure of the expenses reimbursed and the events in which they participated.

The House ethics rules specifically restrict Members and staff from accepting travel expenses paid for by agents of a foreign principal or entities retaining foreign agents. To avoid a situation where foreign agents or their clients are "indirectly" providing sponsorship or payment for otherwise permissible travel, part of the certification required for pre-approval of any privately financed "officially connected" trip is that the sponsoring entity has not and will not accept funds from a foreign agent or its clients, which are "earmarked" for the purpose of financing the proposed travel. Entities that sponsor the travel must certify that the travel will not be paid for by a foreign principal; that the source of the funding either does not retain a foreign agent or is an exempt organization permitted under House or Senate rules to provide travel expenses; that the trip meets the requirements and restrictions of House or Senate rules; that the congressional traveler will not be accompanied on any segment of the trip by a foreign agent as prohibited by rule; and

that no foreign agent has requested or arranged for the travel to be provided. [House regulations](#) also provide that any materially false or misleading statements in travel documentation are subject to [criminal penalties](#).