

*Office of Personnel Management*  
*Retirement and Insurance Service*



1920



1954



1959



1986

**Benefits Administration Letter**

*Number:* 97-204

*Date:* April 2, 1997

**SUBJECT: Gratuities Offered by Federal Employees Health Benefit Carriers**

Recently, the U.S. Office of Personnel Management (OPM) became aware that Federal employees, including several Agency Benefits Officers, received invitations from a Federal Employees Health Benefits (FEHB) carrier for free admission to a sporting event.

You no doubt are aware that there are strict standards governing the offering and acceptance of gifts and gratuities involving organizations doing business with the Federal Government. Under certain circumstances, civil as well as criminal sanctions can be imposed on both the organization and the Federal employee. You should contact an agency ethics official for further guidance or for advice involving a specific situation.

Furthermore, under Contract Clause 5.3, which is included in each carrier's contract with OPM, a carrier which offers or gives a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government with the intent of obtaining favorable treatment, may have its contract terminated and be subject to any other damages provided by law. A copy of the contract clause is enclosed.

Agency Benefits Officers who receive an offer of a gratuity from an FEHB carrier should report this information to the OPM Office of the Inspector General by calling its Fraud Hotline at (202) 418-3300.

Abby L. Block, Chief  
Insurance Policy and  
Information Division

Enclosure

SECTION 5.3  
GRATUITIES (APR 1984) (FAR 52.203-3)

(a) The right of the Contractor to proceed may be terminated by written notice if, after notice and hearing, the agency head or a designee determines that the Contractor, its agent, or another representative -

(1) Offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official, or employee of the Government; and

(2) Intended, by the gratuity, to obtain a contract or favorable treatment under a contract.

(b) The facts supporting this determination may be reviewed by any court having lawful jurisdiction.

(c) If this contract is terminated under paragraph (a) above, the Government is entitled

-

(1) To pursue the same remedies as in a breach of the contract; and

(2) In addition to any other damages provided by law, to exemplary damages of not less than 3 nor more than 10 times the cost incurred by the Contractor in giving gratuities to the person concerned, as determined by the agency head or a designee. (This subparagraph (c)(2) is applicable only if this contract uses money appropriated to the Department of Defense.)

(d) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.