



United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

MAY 20 2019

Memorandum

To: David L. Bernhardt, Secretary
Katharine S. MacGregor, Deputy Chief of Staff, Exercising the Authority of the Deputy Secretary
Joseph R. Balash, Assistant Secretary - Land and Mineral Management
Doug Domenech, Assistant Secretary - Insular and International Affairs
Timothy R. Petty, Assistant Secretary - Water and Science
Tara M. Sweeney, Assistant Secretary - Indian Affairs
Andrea Travnicek, Principal Deputy Assistant Secretary for Fish and Wildlife and Parks, Exercising the Authority of the Assistant Secretary for Fish and Wildlife and Parks
Daniel H. Jorjani, Principal Deputy Solicitor, Exercising the Authority of the Solicitor
Dan Smith, Deputy Director, National Park Service, Exercising the Authority of the Director of the National Park Service
Nicholas Goodwin, Acting Director, Office of Communications
Cole Rojewski, Director, Office of Congressional and Legislative Affairs
Todd M. Wynn, Director, Office of Intergovernmental and External Affairs
Lori K. Mashburn, White House Liaison

From: Todd Willens 
Chief of Staff

Subject: New Guidelines for Disbursement and Use of Tickets Provided to the Department by the Wolf Trap Foundation for the Performing Arts

On September 4, 2018, the Office of Inspector General for the U.S. Department of the Interior (Department) issued Report No.: 2017-WR-037-A, "Financial, Ethical, and Exclusive Use Concerns About the NPS' Agreement With the Wolf Trap Foundation For the Performing Arts," which recommended the Department "[o]btain an ethics review and legal opinion to determine the appropriateness and use of the eight free tickets provided to the Secretary of the Interior for each performance."

On February 28, 2019, the Office of the Solicitor issued an ethics review and legal opinion that determined that the tickets provided by the Wolf Trap Foundation for the Performing Arts (Foundation) are the property of the U.S. Government which may be used for statutorily authorized purposes and activities of the Department.¹ The Office of the Solicitor also

¹ For purposes of this memorandum the terms "Department," "DOI," and "Department employee" include the National Park Service (NPS) and employees of NPS, unless otherwise indicated.

concluded that, if the tickets are used for statutorily authorized purposes and activities of the Department, then the tickets are not properly considered as a personal gift to the Secretary or any other Department employee.

This memorandum implements the recommendations contained in the ethics review and legal opinion. It also sets forth the guidelines for the future disbursement and use of the tickets by the Department. Please note that these guidelines and procedures are subject to further review and may be updated at any time. Please review the information below and ensure that future requests and use of tickets complies with these guidelines.

I. Tickets May Be Disbursed and Used Only for Statutorily Authorized Purposes and Activities of the Department

The Department has determined that the tickets may be disbursed and used for one of the following four statutorily authorized purposes and activities:

1. Furthering the purposes and objectives set forth in 16 U.S.C. § 284d and in the cooperative agreement with the Foundation, including site visits and inspections of authorized activities at Wolf Trap.
 - Examples of tickets used for this purpose include, but are not limited to, instances where an employee site visit would help the Department better understand the operations and administer the cooperative agreement at Wolf Trap or would help build a closer working relationship with the Foundation.
2. Providing representatives of the Department with the opportunity to engage in a dialog with and to educate Members of Congress and other executive branch officials about the work of the Department, the National Park Service (NPS), and the impact of public-private partnership activities as authorized in 54 U.S.C. § 100101(a).
 - Examples of tickets used for this purpose include, but are not limited to, hosting Members of Congress with oversight authority of the Department, officials of other executive agencies that interact with the Department, potential private donors, or officials within the Department who work with other agencies within the Department, where the Department would benefit from a closer working relationship with the attendee.
3. Establishing and maintaining a public awareness campaign in cooperation with public and private organizations and individuals that instills in the public the importance of the appropriate use of, and appreciation for Federal, State, and local lands, facilities, and natural and cultural resources, to promote an attitude of stewardship toward them, and to promote participation in caring for them as authorized in 6 U.S.C. §§ 4601-4608.

- Examples of tickets used for this purpose include, but are not limited to, instances when the Department is working with a journalist, reporter, or other entity on a public awareness campaign about the work of the Department, NPS, and the impact of public-private partnership activities.
4. Providing honorary awards and recognition of the work of Department employees as authorized in 5 U.S.C. § 4503, consistent with the requirements of 370 DM 451.5, including the dollar limitations on items of more than nominal value.
- Prior to a request for tickets for this use, please coordinate with the appropriate servicing Human Resources Office to ensure compliance with the requirements of the DM, including the dollar limitations on items of more than nominal value in 370 DM 451.5.4. Only after this process is complete may the employee who receives the tickets as an award request tickets from the Wolf Trap Ticket Coordinator.

Therefore, you should request tickets only when your proposed use of the tickets will further one of the four statutorily authorized purposes and activities of the Department identified above.

All requests for tickets must be submitted in writing to the Wolf Trap Ticket Coordinator at wolftraptix@ios.doi.gov. All written requests must include the following information:

- The number of tickets requested;
- The names and official position of proposed attendees (*e.g.*, Member of Congress, “X” Department/Agency official, etc.);
 - If applicable, the number of guests accompanying the individual(s) identified above and, if known, whether the guests are a spouse or other personal guest or official guests, such as a staff member.
- The performance and date for which tickets are requested, including any alternate performances and dates; and
- Identification of which of the four statutorily authorized purposes of the Department listed above that the requested attendance will further.

In coordination with NPS, the Office of the Secretary will assess all internal or external requests for tickets for a given performance to determine which requested use of the tickets will best further the work of the Department. The final decision of the Office of the Secretary will be in writing and provide a record identifying the statutorily authorized purpose for which the tickets were disbursed.

Please be advised that it is the policy of the Office of the Secretary that any Department employee, other than an employee who receives tickets as a non-monetary honorary award, who requests tickets for a spouse or other personal guest(s) will be required in almost all cases to pay

the Foundation the fair market value of the ticket(s) for a spouse or other personal guest(s). Exceptions to this policy may be made at the discretion of the Office of the Secretary.

Additionally, requests for multiple tickets (in excess of a plus-one for each Department employee and/or non-Departmental invitee) will receive further consideration to determine whether the provision of multiple tickets will primarily further one of the authorized uses, and will not inadvertently allow Government property to be improperly used for personal purposes.

The Office of the Secretary will inform both internal and external requestors whose requests are approved by no later than 3 days before the date of the performance. This notification will include educational information about Wolf Trap, the work of NPS, and the mission of the Department. If your request for tickets is approved, you will be able to pick up the tickets at the will call window at the box office located at the Filene Center Main Gate. The Office of the Secretary may cancel any granted request up to 12 p.m. on the day of the performance.

Finally, if tickets are requested for non-Departmental invitee(s), and no Department employee will be in attendance, then a Department employee will be assigned to reach out to the non-Departmental invitee(s) either before or after the performance to discuss the work of the Department and the connection to the statutorily authorized purpose for which the tickets were disbursed and used.

II. Department Employees May Only Request and Use Tickets in Compliance with the Standards of Ethical Conduct for Employees of the Executive Branch

The tickets provided by the Foundation are the property of the Department and, as such, all requests, disbursement, and use of the tickets must be clearly tied to one or more statutorily authorized purposes discussed above and may not be for personal use and enjoyment. If it cannot be established that the use of the tickets is reasonably related to one or more of the statutorily authorized purposes, then the use of the tickets will likely not comply with the guidance in the Standards of the Ethical Conduct for Executive Branch Employees regarding the use of Government property.²

² One of the 14 general principles and basic obligations of public service, states that “[e]mployees shall protect and conserve Federal property and shall not use it for other than authorized activities.” 5 C.F.R. § 2635.101(b)(9). As defined in 5 C.F.R. § 2635.704(b)(1), Government property “includes any form of real or personal property in which the Government has an ownership, leasehold, or other property interest as well as any right or other intangible interest that is purchased with Government funds, including the services of contractor personnel.” The Office of Government Ethics defines “authorized purposes” as “those purposes for which Government property is made available to members of the public or those purposes authorized in accordance with law or regulation.” 5 C.F.R. § 2635.704(b)(2).

Because Department employees have “a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes,” all requests, disbursement, and use of the tickets must be clearly tied to one or more statutorily authorized purposes discussed above. 5 C.F.R. § 635.704(a). Additionally, Department employees “should not use their public office for their own private gain, . . . or for the private gain of friends, relatives, or persons with whom they are affiliated in a nongovernmental capacity.” 5 C.F.R. § 2635.702.

If the tickets cannot be used appropriately in their capacity as Government property, compliance in almost all cases cannot be secured by alternatively considering the tickets as gifts because the tickets generally may not be accepted as personal gifts to Department employees under 5 C.F.R. § 2635.201 *et. seq.* As a general matter, Department employees are prohibited from, directly or indirectly, (1) accepting a gift from a prohibited source or (2) accepting a gift given because of the employee's official position. 5 C.F.R. § 2635.202(b). Outside of the tickets provided under the cooperative agreement, the Foundation would generally be considered a "prohibited source" as defined in 5 C.F.R. § 2635.203(d).

Therefore, in order to comply with the Standards of the Ethical Conduct for Executive Branch Employees, use of the tickets by Department employees must either be clearly tied to one or more statutorily authorized purposes discussed above and may not be for personal use and enjoyment, or the tickets must be purchased from the Foundation for the fair market value of the tickets.

III. Tickets Do Include Free Parking

The free reserved parking that accompanies the tickets provided by the Foundation to the Department is likewise Government property because it accompanies the tickets, and any member of the public who purchases a ticket to a performance is also entitled to free parking at Wolf Trap. Therefore, Department employees and guests may utilize the free reserved parking that accompanies the tickets.

IV. Tickets Do Not Include Access to the Encore Circle Lounge

In contrast to prior years, access to the Encore Circle Lounge at Wolf Trap is not appropriately considered part of the tickets provided by the Foundation and therefore cannot be considered Government property that can be used for statutorily authorized uses. Accordingly, access to the Encore Circle Lounge, which is made available to "VIP" members of the Foundation and includes drinks and light appetizers for 90 minutes prior to and 45 minutes after each performance will no longer be offered with the tickets.

If you or your guests are separately offered access to the Encore Circle Lounge, that invitation will be considered as either a personal gift that must either be approved on a case-by-case basis by the Departmental Ethics Office before it can be accepted, or will be analyzed as a potential gift to the Department that would need to be reviewed by the Office of the Solicitor.

Finally, the ethics regulations direct that Department employees "shall not use or permit the use of [their] Government position or title or any authority associated with [their] public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom [they] are affiliated in a nongovernmental capacity." 5 C.F.R. § 2635.702(a).

V. Conclusion

As discussed above, tickets to Wolf Trap will only be disbursed and used pursuant to the guidelines and procedures set for in this memorandum. If you have further questions about requesting tickets, please direct them to the Wolf Trap Ticket Coordinator at wolftraptix@ios.doi.gov.

cc: Lori Mashburn, Wolf Trap Ticket Coordinator
Elinor Werner, Wolf Trap Ticket Coordinator
Elaine Hackett, Wolf Trap Ticket Coordinator