

Department of the Interior Departmental Manual

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Chapter 6: Donation Guidelines

Originating Office: Office of the Solicitor

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6.1 **Purpose.** This chapter establishes new policy and provides guidelines for the acceptance, utilization, recognition, and, where appropriate, solicitation of donations. The guidelines provided are intended to be practical standards under which the Department may fully use its donation acceptance authorities, while maintaining integrity, impartiality, and public confidence.

6.2 **Policy.** Donations are appropriate tools authorized by Congress for the Department and its bureaus to accomplish their missions. The Department=s policy is to accept, utilize, recognize, and solicit donations in a manner that promotes and enhances the Department=s programs, activities, and operations, consistent with applicable law and the donation guidelines.

A. Before accepting, utilizing, recognizing, or soliciting donations to the Department, an employee authorized to accept donations must determine that the totality of the circumstances of the donation:

- (1) maintains the integrity of the Department=s programs and operations;
- (2) maintains the impartiality, and appearance of impartiality, of the Department and its employees; and
- (3) maintains public confidence in the Department, its programs, and its personnel.

B. The Department retains the discretion to decline any particular donation.

6.3 **Scope.**

A. The donation guidelines cover the acceptance of donations to the Department. Specifically, they apply to the use of the statutory donation acceptance authority provided in a variety of statutes, such as that contained in the Federal Land Policy and Management Act (43 U.S.C. ' 1737) and the National Park Service Organic Act (16 U.S.C. ' 6). The Partnership Legal Primer, available online at <http://www.doi.gov/partnerships/>, contains a list of statutes that authorize acceptance of donations to the Department. Employees are encouraged to consult the

Primer as well as the Office of the Solicitor to determine whether authority exists that authorizes the acceptance of particular proposed donations.

B. For purposes of the guidelines, the term ADepartment@ refers to the entire Department of the Interior, including each of its bureaus and offices. It is used to designate provisions that must be followed by employees of each bureau and office. The term Adonation@ includes Agifts@ and refers to something of value received from an outside source without consideration or an exchange of value. Funds or other items received as a result of a competitively awarded grant from a foundation are also covered by the term Adonation.@

C. The following are not subject to the donation guidelines:

(1) Services of individual volunteers or groups of volunteers, e.g., a girl scout troop, under a bureau=s volunteer acceptance authorities (however, the Guidelines cover a statutorily-authorized donation of Aservices,@ entailing an entity assuming full responsibility for completing a task for the Department but without Departmental supervision).

(2) Contributions in the nature of a person or entity=s share of costs where there is independent authority for such cost sharing, e.g., challenge cost-share programs where the partner does not engage in public fundraising.

(3) Moneys received as fees for services.

(4) Reports or analyses prepared or paid for by outside parties or funds received by the Department for such purposes pursuant to appropriate authority, e.g., a NEPA analysis funded by an applicant.

(5) Donations of official travel covered by 31 U.S.C. ' 1353 for attendance at a meeting or similar function.

(6) Donations associated with the exercise of the Department=s regulatory authorities, such as mitigation measures involving the donation of interests in land to be used by the Department for conservation purposes.

(7) Gifts to individual employees that are separately governed by the Government-wide Standards of Ethical Conduct at 5 C.F.R. Part 2635.

6.4 **Implementation.**

A. The Assistant Secretary - Policy, Management and Budget (AS-PMB) is responsible for Department-level guidance concerning the Department=s donation acceptance activities. Each bureau director shall designate in writing a senior manager who shall be responsible for developing the procedure for implementing the donation guidelines within the bureau=s mission and legal authorities. The bureau director shall submit the bureau=s implementing procedures to the AS-PMB for review for consistency with these guidelines, and for approval. This review

will include a review by the Office of the Solicitor to assure that both gift acceptance and solicitation activities covered by each bureau=s procedures are consistent with the bureau=s statutory authority. The bureau senior manager also shall oversee the bureau=s donation acceptance activity and provide such guidance, advice, and consultation as necessary to ensure effective and appropriate use of the donation acceptance authorities. Finally, the bureau senior manager will issue written authorizations when appropriate to allow bureau employees to directly solicit outside sources for donations.

B. Bureau procedures must clearly identify, by level or job responsibility, those employees who are authorized to accept donations (hereinafter Authorized employee@). Authorized employees must have sufficient seniority and organizational responsibility to be able to fully consider all relevant factors and circumstances when accepting donations. Bureaus should designate authorized employees at more senior levels of authority for higher value donations. This will enable bureaus to assure that the evaluation of the donation is commensurate with its significance.

C. Bureaus that establish relationships with local partner organizations (often called Friends groups@) shall include in their procedures guidelines for interaction with such organizations concerning fundraising and solicitation of donations.

6.5 Responsibilities of Authorized Employees. Once designated, each authorized employee is individually responsible for ensuring compliance with the policy and guidelines in this chapter and specific bureau procedures whenever a donation is offered. Each authorized employee is individually responsible for gathering sufficient information about a prospective donor and the proffered donation to facilitate evaluation of the donation. Authorized employees must, at a minimum, follow their bureau=s procedures to gather the necessary information. Once the necessary information is gathered, the authorized employee shall evaluate the totality of the circumstances, including the value and purposes of the donation and the nature and interests of the donor, to determine whether to accept the donation. Authorized employees must seek guidance, whenever the circumstances are unclear or are questionable, from their bureau senior manager, bureau ethics personnel, the office of the AS-PMB, and/or the Solicitors Office, to resolve issues associated with particular donations.

6.6 Considerations When Accepting Donations. Receiving support through donations is very important to successful accomplishment of the Department=s mission, but it must be done in a legally and ethically appropriate manner. Donation acceptance issues arise in a wide variety of contexts, rarely lending themselves to bright-line distinctions or rules. This section provides examples of circumstances in which it would be appropriate to accept a donation under the guidelines. This list is neither intended to be exclusive nor to imply that any one of these factors absolutely requires acceptance or declination of a donation, but rather to illustrate what to consider when making donation-related decisions. The authorized employee must weigh the circumstances from the perspective of a reasonable person with knowledge of the relevant facts.

A. Maintaining the integrity of the Department=s programs and operations.

(1) The donation is not, or does not appear (such as by its size or circumstances) to be, an attempt to influence the exercise of any regulatory or other authority of the Department with respect to the donor.

(2) The donation meets a legitimate need of the Department or bureau and does not require the commitment of funding that is not available.

(3) The donation is consistent with, and does not otherwise circumvent, law, regulation, or policy.

(4) The Department or bureau is able properly to utilize or manage any donated real or personal property within policy, programmatic, and management goals.

(5) Any conditions on the donation are consistent with authorized purposes and any relevant policy or planning documents.

(6) The donation will not be used by the donor to state or imply endorsement by the Department of the donor or the donor's product or services.

(7) The donation consists of personnel or funding to hire personnel, provided that the donated or funded personnel do not make or inappropriately influence the merits of any Departmental regulatory action or other significant decision.

B. Maintaining the impartiality, and appearance of impartiality, of the Department and its employees.

(1) The proposed donation is made to a program or made in an amount that would not influence or appear to influence any significant pending Department decision or action involving the donor's interests.

(2) There is neither an actual nor an implied commitment to take an action favorable to the donor in exchange for the donation.

(3) The donor will not obtain or appear to obtain special treatment in dealing with the Department, its offices, or any of its bureaus.

C. Maintaining public confidence in the Department, its programs, and its personnel.

(1) Acceptance would not likely result in public controversy.

(2) The donation comes only with conditions that are consistent with the Department's program and policy goals.

(3) The donation consists of only appropriate goods or services.

(4) The proposed donor has no significant recent known history of violations, whether criminal or civil in nature (revealed by the evaluation process described in the following paragraph).

6.7 Evaluating Donations. Each bureau shall establish as part of its donation procedures a process for Avetting@ (meaning examining or reviewing) a prospective donor and the prospective donation to determine whether acceptance is appropriate. Each bureau should designate a **senior** person to be its donation vetting point of contact and additional employees to conduct the vetting process. Bureau procedures must ensure that necessary information is gathered about a prospective donor and the proffered donation to enable the authorized official to fully evaluate the donation. The level of information and verification needed will vary depending on the nature and size of the donation. Bureaus may specify levels of donations that are sufficiently minimal as to not require vetting. When it is required, however, the vetting at a minimum should ensure that decisions to accept donations can be measured against the policy principles of the Guidelines: to maintain the integrity, impartiality and public confidence of the Department, its programs, and personnel.

A. Information to be gathered through the vetting process includes, but is not limited to:

(1) Whether the donor or its officers or directors is involved in litigation or other disputes with the Department or its bureaus.

(2) Whether the donor is seeking a permit from the bureau, or is otherwise engaged in any type of business relationship with the bureau or the Department.

(3) Whether the donor has been debarred from contracting with the Department or another government agency.

(4) Whether the donation is connected to corporate marketing.

(5) The size of the donation.

(6) Whether the donation is a singular event or part of a series of donations.

B. These minimum requirements shall be met as part of the vetting process to assure that high-value donations made directly to a bureau or the Department are properly evaluated:

(1) For any donation valued at \$2,500 or more, the authorized employee must perform a thorough internet search to determine whether any publicly available information exists that would raise concerns about the propriety of accepting the donation. The AS-PMB will develop standard guidance for conducting such internet searches.

(2) For any donation valued at \$100,000 or more, and for all donations of real property, the authorized employee shall refer the proposed donation to the Office of the Solicitor and the vetting points of contact in the other bureaus.

(3) For any donation valued at \$250,000 or more, the authorized employee shall, in addition to the action and referrals noted above, seek the assistance of the Office of Inspector General (OIG) for the purpose of vetting through OIG=s existing information systems.

6.8 **Specific Donation Circumstances.**

A. Donations Through Non-Profit Partners. In many instances, a donor provides a donation directly to a non-profit entity or partner of the Department or a bureau, with the non-profit entity or partner subsequently making the donation to the Department. The manner in which these donations are accomplished is among the totality of the circumstances to consider when deciding to accept a donation. Specifically, the nature of the relationships between the original donor, the non-profit, and the Department should be considered in the Department=s decision to accept the donation. For example, where a nonprofit arranges a donation without any involvement from the Department, acceptance of the donation may or may not give rise to an appearance of a loss of integrity or impartiality, or otherwise reduce public confidence in the Department.

B. Donations and Corporate Marketing Campaigns. Businesses occasionally wish to engage in marketing campaigns that associate their products or services with the mission and goals of the Department, usually either in the context of a significant donation or as part of a fundraising effort. These marketing campaigns, also known as Acause-related marketing,@ promote corporate goodwill while providing resources for the Department to carry out its mission. These campaigns differ from purely philanthropic donations, however, in the entities= use of paid media and marketing activities to highlight their association with the Department. Because these marketing campaigns are specifically intended to further corporate interests, they raise additional questions of appropriateness beyond those that apply to the acceptance of philanthropic donations. As a result, bureaus must ensure that their acceptance of the donation and resulting involvement with such marketing is conducted only with high standards that maintain the integrity, impartiality, and public confidence of the Department, its employees, and its partners. The level of approval for bureau corporate marketing campaigns shall be commensurate with the scope of the marketing campaign and the level of expected contributions.

C. Donations When the Donor is Involved in Litigation With the Department. The Department generally will not accept a gift from a donor involved in litigation with the Department or its bureaus because it may appear that the donor is attempting to influence the handling or outcome of the litigation. There may be circumstances, however, in which the litigation is sufficiently removed from the context of the proposed donation as to not create the appearance of an attempt to influence the litigation. These circumstances, for example, may exist when a donor proposes a donation to a bureau unrelated to the litigation and in an amount that is not significant enough to appear to have any effect on the litigation. Accordingly, donations offered by a donor involved in litigation must be closely scrutinized under the guidelines. The bureau procedures must ensure that the bureau=s senior manager designated under these Guidelines to oversee its donation acceptance activity approves such donations.

D. Types of Donations. The types of permissible donations depend on the specific provisions of the authorizing statute(s), which usually allow donations of real and personal property, services, and/or money.

E. Donations With Conditions. The Department may accept donations on which the donor has placed restrictions or conditions, provided the restrictions or conditions are consistent with applicable laws, regulations, program policies, and any pertinent planning documents. Unless specifically authorized by statute, no donation may be accepted that will commit the Department to the expenditure of funds unavailable to the Department (e.g., in excess, or in advance, of appropriations), or require deposit or investment of the donation. Even where such donation is specifically authorized by statute, it may still have significant implications for the bureau=s budget or programs. Accordingly, bureaus must identify in their procedures a senior official with broad fiscal and policy responsibilities to review and approve conditional donations under these circumstances. Bureau procedures also must provide for appropriate budget execution and financial accountability elements for conditional donations, as detailed in Section 6.12, below.

6.9 Fundraising by Outside Entities Under Authority or on Behalf of the Department.

A. Policy. While the Department does not directly regulate the conduct of fundraising by third parties, fundraising conducted in its name is appropriate only when consistent with the Department=s mission and goals and the standards enunciated in the guidelines. It is also important to ensure that the intentions and expectations of any fundraising entity and/or the donors align with those of the Department. Accordingly, a written agreement (Afundraising agreement@) must be executed prior to any fundraising, whether by fundraiser or donor, that explicitly states or in any way implies that the fundraiser or donor is seeking financial or other support under the authority, or on behalf, of the Department, any of its bureaus, or programs. A solicitation letter stating that a local civic group is raising funds to be donated for a new trail on a nearby National Wildlife Refuge, for example, would trigger the requirement for a fundraising agreement. Absent such an agreement, neither the Department nor a bureau will accept donations raised in its behalf, unless the relevant bureau senior manager determines that acceptance is appropriate under the circumstances.

B. Content of Fundraising Agreements.

(1) Fundraising agreements may vary in format and substance as appropriate to the fundraising effort, but should enable the bureau as necessary to coordinate fundraising, minimize overlap with other fundraising efforts, and ensure compliance of the fundraising effort with Department and bureau policy. A fundraising agreement may be for a particular short-term effort or may broadly cover a long-term relationship encompassing numerous specific fundraising activities, such as when a non-profit friends group has an on-going relationship with a particular park, refuge, or monument. Whatever the scope, the agreement should allow fundraising for the Department to be conducted in a manner that ensures the integrity, impartiality, and public confidence of the Department, its bureaus, and programs.

(2) The fundraising agreement should contain appropriate provisions that, for efforts associated with the Department: (1) identify projects or objects for which funds may be raised; (2) require that all printed and other informational and fundraising materials for distribution or communication to the public will be subject to the advance approval of the authorized employee; (3) provide for accountability of all funds raised and, when appropriate, for the security of funds invested by the partner related to a fundraising campaign; (4) allow the Department to terminate the agreement at its discretion and without cost; (5) detail the fundraising objectives and timeframe; (6) prohibit actions that imply that the Department endorses the business, products, or services of the prospective donors; (7) describe how donors will be recognized; (8) identify the applicable vetting process for prospective contributions; and (9) identify the means for addressing various contingencies including cost overruns, dissolution of the assets if necessary and frequency of reporting. The complexity of the fundraising agreement is generally a product of the scope, size, and length of the fundraising effort, including whether it is a single instance or a long-term campaign. Examples of model agreements will be made available through the AS-PMB.

C. Exception. The Department does not require that small-scale events that raise funds for the Department have a written fundraising agreement. A small-scale event is one that is local or community based, is locally publicized, and is not expected to exceed \$2,500 in donations or involve more than 250 participants. Bake sales, car washes, and benefit breakfasts are examples of such events, as is a request from a local service club to a hardware store for an in-kind donation of supplies for use in the service club=s volunteer painting efforts. Authorized employees, however, must evaluate donations from such events in the same manner as any other donations, including as a factor the minimal value of the donations.

6.10 Fundraising/Solicitation Activities by Departmental Employees.

A. Policy. The extent of a bureau=s authority to solicit gifts is determined by the scope of its statutory gift acceptance authority. Accordingly, bureaus must obtain legal review by the Office of the Solicitor regarding the scope of its solicitation authority, and bureau procedures must reflect the scope of solicitation authority.

(1) In order to maintain the Department=s integrity, impartiality, and public confidence, however, solicitations must be carefully managed and authority to solicit may only be narrowly delegated. The term Asolicitation@ means any request to a non-Federal entity, group, or individual seeking donations to be made directly or indirectly to the Department in support of its programs.

(2) The Department will authorize direct solicitations by Department employees to unrelated third parties only in limited circumstances, while maintaining its integrity, impartiality, and public confidence in its programs and personnel.

B. Procedure. Department employees may engage in solicitations of outside sources of donations only when authorized in writing by their bureau senior manager. The written authorization will delineate the scope of authorized solicitations, including the means and

methods that may be employed, the timeframe, permissible entities that may be solicited, and any appropriate restrictions on the solicitation activity.

C. Permissible Activities.

(1) Employees may provide information, when appropriate, regarding their ability to accept donations in support of their programs. As part of this informational activity, employees may develop lists of programs or activities that the bureau could undertake with donated support, and disclose these in interactions with outside entities. Department employees interact frequently with non-profit support groups who solicit on behalf of the Department. This interaction generally is permissible.

(2) Authorized employees nonetheless may not portray Congress, the Department, or their bureau as having failed to meet their responsibilities. Furthermore, all employees must ensure, consistent with anti-lobbying provisions such as 18 U.S.C. § 1913, that they do not make any statement or take any action that may be construed as encouraging any contact of a government official to influence them in any way.

6.11 Recognition of Donors. Donors are entitled to receive appropriate, reasonable recognition and thanks, which may be expressed in letters of appreciation, press releases, public events, certificates, and/or plaques and similar items. The means of recognition is at the discretion of the bureau and the authorized employee, but decisions on recognition must include consideration of the appearances associated with the particular donation and whether it is a proper expenditure of appropriations. No recognition may be made in a form that implies endorsement by the Department of the donor's products, services, or activities (other than the donation itself). Each bureau's policy shall include specific donor recognition guidelines.

6.12 Documentation and Reporting Requirements.

A. Each bureau must develop standard procedures to document its donation activities in accordance with applicable statutes and regulations, including the Federal Records Act and the Paperwork Reduction Act. Such documentation will allow for audit or investigation by the Office of Inspector General or the Government Accountability Office. Bureau procedures promulgated in accordance with this section must provide for:

(1) Documentation of receipt and disposition of all real or personal property, regardless of the method or source of acquisition, in accordance with the Interior Property Management Regulations, 410 DM Addition to the IPMD 114-60.5; and

(2) Accounting for all monetary donations in the bureau's financial system at a level that will allow accountability for individual donations.

B. Conditional donations (see Section 6.8E) may require the establishment of distinct accounting elements to comply with donor requirements.

C. Budget execution and financial accountability practices and systems should ensure consistency with the specified use designation and reporting as prescribed in Section 6.12D.

D. The AS-PMB will develop standard procedures and requirements for an annual report from each bureau and office that identifies donations received and solicitations made in the relevant fiscal period. At a minimum, for any donation exceeding \$1,000 such reporting must identify the source, the date and the amount of the donation.

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