

## Department of State

## § 3.9

minimal value, must be deposited by the employee with the designated depository office for the employing agency within sixty days after acceptance, for retention for official use or for disposal in accordance with § 3.9.

(b) The decision as to whether a decoration has been awarded for outstanding or unusually meritorious performance will be made:

(1) For the Department of State, by the supervising Assistant Secretary of State or comparable official, except that, in the case of a decoration awarded to an Assistant Secretary or other officer of comparable or higher rank, the decision shall be made by the Office of Protocol;

(2) For IDCA, by the Assistant Director for Administration;

(3) For AID, by the Director of Personnel Management; and

(4) For USICA, by the Supervising Associate Director, the General Counsel, or the Director of the Office of Congressional and Public Liaison (for domestic employees), and by the Director of Area Offices (for overseas employees).

(c) To justify an affirmative decision, a statement from the foreign government, preferably in the form of a citation which shows the specific basis for the tender of the award, should be supplied. An employee who has received or been tendered a decoration should forward to the designated depository office of the employing agency a request for review of the case. This request should contain a statement of circumstances of the award and such documentation from the foreign government as has accompanied it. The depository office will obtain the decision of the cognizant office as to whether the award meets the statutory criteria and thus whether the decoration may be retained and worn. Pending receipt of that decision, the decoration should remain in the custody of the recipient.

### **§ 3.8 Approval of retention of gifts or decorations with employing agency for official use.**

(a) At the request of an overseas post or an office within the employing agency, a gift or decoration deemed to have been accepted on behalf of the United

States may be retained for official use. Such retention should be approved:

(1) For the Department of State, by the Chief of Protocol;

(2) For IDCA, by AID's Director of Management Operations;

(3) For AID, by the Director of Management Operations; and

(4) For USICA, by the Associate Director for Management.

However, to qualify for such approval, the gift or decoration should be an item which can be used in the normal conduct of agency business, such as a rug or a tea service, or an art object meriting display, such as a painting or sculpture. Personal gift items, such as wristwatches, jewelry, or wearing apparel, should not be regarded as suitable for "official use". Only under unusual circumstances will retention of a decoration for official use be authorized. Every effort should be made to place each "official use" item in a location that will afford the largest number of employees, and, if feasible, members of the public, the maximum opportunity to receive the benefit of its display, provided the security of the location is adequate.

(b) Items approved for official use must be accounted for and safeguarded as Federal property at all times under standard Federal property management procedures. Within 30 days after the official use of a gift has been terminated, the gift or decoration shall be deposited with the designated depository office of the employing agency to be held pending completion of disposal arrangements by the General Services Administration.

### **§ 3.9 Disposal of gifts and decorations which become the property of the United States.**

(a) Gifts and decorations which have been reported to an employing agency shall either be returned to the donor or kept in safe storage pending receipt of instructions from the General Services Administration for transfer, donation or other disposal under the provisions of the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, and the Federal Property Management Regulations (41 CFR part 101-49). The employing agency shall examine each gift or decoration

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and the circumstances surrounding its donation and assess whether any adverse effect upon the foreign relations of the United States might result from a return of the gift (or decoration) to the donor, which shall be the preferred means of disposal. If this is not deemed feasible, the employing agency is required by GSA regulations to report deposit of the gift or decoration within 30 calendar days, using Standard Form 120, Report of Excess Personal Property and, as necessary, Standard Form 120A, Continuation Sheet, and citing section 7342 of title 5, U.S. Code (1976), on the reporting document. Such reports shall be submitted to the General Services Administration, Washington National Capital Region (WDPO), Attention: Federal Property Resources Service, Seventh and D Streets, SW., Washington, DC 20407.

(b) No gift or decoration deposited with the General Services Administration for disposal may be sold without the approval of the Secretary of State, upon a determination that the sale will not adversely affect the foreign relations of the United States. When depositing gifts or decorations with the designated depository office of their employing agency, employees may indicate their interest in participating in any subsequent sale of the items by the Government. Before gifts and decorations may be considered for sale by the General Services Administration, however, they must first have been offered for transfer to Federal agencies and for donation to the States. Consequently, employees should understand that there is no assurance that an item will be offered for sale, or, if so offered, that it will be feasible for an employee to participate in the sale. Employees are reminded in this connection that the primary aim of the Act is to discourage employees' acceptance of gifts of more than minimal value.

#### **§3.10 Enforcement.**

(a) Each employing agency is responsible under the Act for reporting to the Attorney General cases in which there is reason to believe that one of its employees has violated the Act. The Attorney General in turn may file a civil action in any United States District Court against any Federal employee

who has knowingly solicited or accepted a gift from a foreign government in violation of the Act, or who has failed to deposit or report such gift, as an Act required by the Act. In such case, the court may assess a maximum penalty of the retail value of a gift improperly solicited or received, plus \$5,000.

(b) Supervisory officials at all levels within employing agencies shall be responsible for providing periodic reorientation of all employees under their supervision on the basic features of the Act and these regulations, and for ensuring that those employees observe the requirements for timely reporting and deposit of any gifts of more than minimal value they may have accepted.

(c) Employees are advised of the following actions which may result from failure to comply with the requirements of the Act and these regulations:

(1) Any supervisor who has substantial reason to believe that an employee under his or her supervision has violated the reporting or other compliance provisions of the Act shall report the facts and circumstances in writing to the senior official in charge of administration within the cognizant bureau or office or at the post abroad. If that official upon investigation decides that an employee who is the donee of a gift or is the recipient of travel or travel expenses has, through actions within the employee's control, failed to comply with the procedures established by the Act and these regulations, the case shall be referred to the Attorney General for appropriate action.

(2) In cases of confirmed evidence of a violation, whether or not such violation results in the taking of action by the Attorney General, the senior administrative official referred to in paragraph (c)(1) of this section as responsible for forwarding a violation report to the Attorney General shall institute appropriate disciplinary action against an employee who has failed to (i) Deposit tangible gifts within 60 days after acceptance, (ii) account properly for the acceptance of travel expenses or (iii) comply with the Act's requirements respecting disposal of gifts and decorations retained for official use.

(3) In cases where there is confirmed evidence of a violation, but no evidence