

# NIH POLICY MANUAL

## 1160-1 - Entertainment

Issuing Office: OFM (301) 496-4379 or (301) 402-8831

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8/16/06,\*\*\*\*\* 1/28/08,\*\*\*\*\* & 4/8/08\*\*\*\*\*

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1. **Explanation of Material Transmitted:** This NIH Manual contains revised policies and procedures as they pertain to the use of gift funds and appropriated funds for entertainment related activities. These activities may include, official entertainment, events involving the entertainment of domestic and foreign visitors, entertainment of delegations traveling under bilateral agreements, and the purchasing of mementos or souvenirs. It is intended to assist delegated officials by outlining the various circumstances and corresponding limitations when the use of such funds may be authorized to cover entertainment expenses.

*\* Note: Section F, "Responsibilities" was revised 9/24/02. Specifically, the oversight and monitoring of all funds for entertainment activities now rests with the IC Directors/Deputy Directors. Previously, the Deputy Director for Management, NIH, had this responsibility.*

*\*\*Note: Appendices 3 and 4 were added 10/15/03. The matrices are intended to assist delegated officials by outlining the various activities and events under which they can authorize the use of either appropriated funds or gift funds, for the provision of light refreshments and meals to both, Federal employees and nonfederal persons.*

*\*\*\*Note: Sections E through H have been revised to: 1) reflect recent changes in HHS policy guidance regarding the use of appropriated funds to provide light refreshments during morning and afternoon breaks at conferences; and 2) reflect corresponding new internal NIH policy guidance and procedures, and delegations of authority, governing the use of both gift funds and appropriated funds for entertainment expenses. New Appendices 5 and 6 have been added.*

*\*\*\*\*Note: Bolded Sections of E (1), E (2), and E (3) have been revised to clarify language and references to the chapter*

*appendix information.*

**\*\*\*\*\*Note:** *Bolded Sections of D1, E3(a)(2) have been revised and H5 is a new paragraph. These changes have been to clarify issues of classifying entertainment expenses, subobject class-wise.*

**\*\*\*\*\*Note:** *Appendix 7 was added 1/28/08. The appendix contains guidance that pertains to NIH Manual 6031. Specifically, the information in the new appendix includes when it is appropriate to charge a registration fee for the provision of light refreshments and/or meals as part of the conference.*

**\*\*\*\*\*Note:** *Section E(3) "Limitations" paragraph (a)(5) had the following note inserted on 4/8/08 to amend language for requirements surrounding the charging and collecting of registration fees from specified individuals attending certain NIH sponsored conferences (non-training):*

Note: As per NIH Manual 6031 "Conference Support/Collection and Retention of Registration Fees Under Contract," the NIH is allowed to charge a registration fee to specified individuals that may include the provision of light refreshments, meals, etc., when certain conditions are met. In addition, Appendix 7 of this chapter (NIH Manual 1160-1) can be referenced for guidelines surrounding the procurement of an all-inclusive conference services package.

## 2. **Filing Instructions:**

**Remove:** NIH Manual Chapter 1160-1, Official Entertaining, dated 2/3/97

**Insert:** NIH Manual Chapter 1160-1, Entertaining, dated: 8/31/00

**PLEASE NOTE:** To sign up for email notification of future changes, please go to the [NIH Manual Chapters LISTSERV](#) Web page.

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**A. Purpose:** This chapter provides information on policies and procedures governing the use of appropriated and gift funds for: 1) official entertainment; 2) events involving the entertainment of domestic and foreign visitors; 3) entertainment of delegations traveling under bilateral agreements; and 4) the

purchase of mementos or souvenirs.

**B. Background:** NIH, under special statutory authorities, may accept and use gifts in addition to appropriations. The NIH is authorized to accept conditional and unconditional gifts under Sections 231 and 405 (b)(1)(H) of the Public Health Service Act, as amended (42 U.S.C. 238, 284 (b)(1)(H)). Institutes/Centers (IC) may use appropriated and gift funds to support official entertainment, whether directly or under a support contract, only in accordance with the policies set forth in this chapter (**NOTE: The use of support contracts may not be used to circumvent limitations on the expenditure of appropriated funds for entertainment.**)

**C. References:**

1. 42 U.S.C. 238 and 42 U.S.C. 284
2. 41 CFR 101-49 (Utilization, Donation, and Disposal of Foreign Gifts and Decorations)
3. U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, pages 4-84-103, 4-128-131, (1991 Edition).
4. Memorandum from Assistant Secretary for Health to Public Health Service Agency Heads for "Delegation of Authority To Accept Gifts Under Title XXI of the Public Health Service Act (PHS), Miscellaneous," (July 10, 1995).
5. NIH Manual Chapter 1130 - [Finance #5](#) "Accept Gifts Under Section 231 of the PHS Act"
6. NIH Manual Chapter 1130 - Program: [General #10](#) "National Library of Medicine"
7. NIH Manual Chapter 1130 - [General Administration #31](#) "Alcohol for Official Entertaining"
8. NIH Manual Chapter [1135](#) - "Gifts Administration"
9. NIH Manual Chapter [1500-08](#) - "Acceptance of Payment From a Nonfederal Source to Cover Travel Expenses (Sponsored Travel)"
10. NIH Manual Chapter [6013-2](#) "Internal Procedures For The Purchase Card (I.M.P.A.C.) Program"

## D. Definitions

**1. Entertainment** - Providing: 1) food and/or drink, either as meals, picnics, or as snacks or light refreshments **at conferences, meetings, workshops, symposia, special events, employee awards ceremonies**, etc.; 2) personal items including small mementos; 3) music, live or recorded, live artistic performances; 4) recreational facilities; and 5) similar activities. The term includes all costs associated with these activities and events.

**2. Light Refreshments** - for morning, afternoon, or evening breaks are defined to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins (41 CFR 301-74.11).

**3. Gift** - something bestowed voluntarily and without consideration or compensation.

**4. Conditional gift** - a gift on or upon which the donor imposes some condition or restriction on the use of the gift or as a condition to be met to obtain the gift. NIH is not authorized to expend conditional gift funds to support functions not encompassed within the terms of the conditions of the gift. IC Directors are responsible for accepting gifts within their statutory or delegated authority (See NIH Manual Chapter 1130, [Finance #5](#)). NOTE: For purposes of the Department of Health and Human Services statutes authorizing acceptance of gifts, a grant to NIH may qualify as a conditional gift. In ordinary usage, "grant" means "a gift" usually for a particular purpose.

**5. Unconditional gift** - a gift on or upon which the donor does not impose some condition or restriction on the use of the gift or as a condition to be met to obtain the gift. NIH is authorized to expend unconditional gift funds to support any of its authorized functions, within the scope of the intended use designated by the donor, including research on a specific disease. When a donor requests that a gift be used for research on a specific disease or activity without further specification as to its purpose or manner of use, the gift is considered unconditional and may be used to carry out the mission of the recipient IC relating to research into that specific disease or activity. IC Directors are responsible for accepting unconditional gifts within their statutory or delegated authority. (See NIH Manual Chapter 1130, [Finance #5](#)).

**6. Domestic visitor** - person(s) residing in one of the states or territories of the United States, visiting officially on a short stay

or sojourn as a guest and not employed by, or under contract with, the Federal government.

**7. I.M.P.A.C.** - International Merchant Purchase Authorization Card

**8. IC** - an NIH organizational term referencing the research institutes, centers, and the National Library of Medicine.

**9. Memento** - a keepsake or souvenir to commemorate or remember an event or occasion.

**10. Request for waiver** - a request for an exception to or waiver of provisions of the policies contained in this Manual Chapter. (See E(5) below).

**11. Bilateral travel** - travel that occurs as part of a bilateral agreement between the United States and a foreign government. Examples of these agreements are the U.S./Japan Cooperative Medical Sciences Program, the Indonesia/U.S. Subcommission on Science and Technology, the U.S./Mexico Mixed Commission on Science and Technology, and various Health Scientist Exchange Programs.

**E. Policy:** It is the intent of the NIH to maximize the use of resources for research. Therefore, expenditure of funds for entertainment will be limited to those activities clearly in support of the goals and objectives of NIH and as authorized by this policy. Documentation of the correct usage of funds for entertainment is necessary. Entertainment activities must comply with all legal and policy requirements, and be designed to encourage each employee of NIH to observe high standards of ethical conduct. ICs shall appoint someone with overall responsibility for monitoring the expenditure of funds for entertainment. The appointed individual shall develop policies and procedures to ensure that gift and appropriated funds are expended for entertainment only as permitted by this Manual Chapter. All expenditures shall be documented and approved based upon the policies and procedures as stated in this Manual Chapter.

**Entertainment expenditures must be authorized in advance as provided in paragraph (G) of this chapter.** Approving officials are IC Directors or their designated representatives. ICs should obtain legal advice from the NIH Legal Advisor's Office, as necessary.

**1. Use of Appropriated Funds.** Unless specifically appropriated for entertainment, appropriated funds may not be used for entertainment except as authorized by statute or other controlling authority and by this Manual Chapter. The basis for the rule is that entertainment is essentially a personal expense even where it

occurs in a business-related context. Appropriated funds may be used for entertainment only as permitted by: 1) the Government Employees Incentive Awards Act (5 U.S.C. 4502(d)); and 2) 60 Comp. Gen. 303(1981) which concluded that appropriated funds could be used for entertainment associated with the Government Employee's Training Act, 5 U.S.C. 4109 (see E(1)(b) below) and an agency's Equal Employment Opportunity Program (see E(1)(c) below).

**Appropriated funds may be used for the following activities addressed by the above statutory authorities and may also be used for additional activities as contained in Appendix 3 of this manual chapter. (NOTE: Gift funds and appropriated funds may be used interchangeably for a variety of activities as displayed in Appendix 3 and Appendix 4 of this manual chapter.)**

a. The provision of light refreshments, plaques, lump-sum cash, certificates, honorary awards, merchandise of nominal value, e.g., spectator event tickets or jacket bearing agency insignia at employee recognition and awards ceremonies as part of the Employee Recognition and Incentive Awards Program (65 Comp. Gen. 738 (1986)).

**NOTE:** This may include "small mementos" of nominal value to outgoing Federal Advisory Council members in recognition of their public service.

b. Under the Government Employees Training Act (GETA), to reimburse employees for necessary expenses incident to an authorized training program (5 U.S.C. 4109). "Necessary expenses" include meals if necessary to achieve the objective of the training program. "Training means the process of providing for or making available to an employee and placing or enrolling the employee in a planned, prepared and coordinated program, course, curriculum... which will improve individual and organizational performance and assist in achieving the agency's mission and performance goals." (5 U.S.C. 4101(4)).

c. With regard to entertainment expenses associated with an agency's equal employment

opportunity program, you may use appropriated funds to sponsor: 1) live entertainment; 2) lunches for guest speakers away from their homes or places of business; and 3) and "small samples" of ethnic foods served at a formal ethnic awareness programs (meaning small servings that do not constitute a meal). (60 Comp. Gen. 303 (1981)).

For additional information, please reference Appendix 5 of this chapter.

## 2. Use of Gift Funds

Gift funds for entertainment may be used only if the entertainment will further a valid function of NIH, if the function could not be accomplished as effectively from the Government's standpoint without the expenditure, and if the expenditure does not violate any restrictions imposed by the donor on the use of the funds. Gift funds may not be used for entertainment which does not bear a legitimate relationship to official agency purposes.

**NOTE:** For the purpose of this chapter, the term "gift funds" may be used interchangeably with "donated funds." **Expenditures of gift funds for the purposes listed below are permissible subject to any limitations specified herein and any other corresponding restrictions outlined in this manual chapter and its appendices:**

**a.** Light refreshments during scientific workshops, symposia, and lectures;

**b.** Light refreshments during meetings of individuals and groups serving as advisors to the NIH;

**c.** Meals for postdoctoral trainees and senior executive staff and scientists being recruited through a formal search process for NIH positions, e.g., intramural tenure and tenure-track scientists, and senior extramural staff. This mechanism may also fund the meals of NIH employees who accompany that person. It is understood that these meals are "working meals" with discussion centering on NIH-related employment and

science;

**d.** Small mementos to official foreign guests of the Federal government, distinguished Visiting Scientists, or other dignitaries visiting NIH;

**e.** Receptions honoring foreign dignitaries or prominent U.S. citizens who are involved in activities related to the NIH mission;

**f.** Events (including "working meals") involving the entertainment of official foreign delegations traveling under bilateral agreements;

**g.** Light refreshments at special events that further the objectives of NIH and include individuals who are not Government employees (e.g., the NIH Open House, new building dedications, or Research Day), or authorized events for solicitation of Federal employees for contributions to charities i.e., (CFC or U.S. Savings Bond Drives).

### **3. Limitations.**

#### **a. Gift Funds and Appropriated Funds.**

1) Generally, neither appropriated nor gift funds may be used to provide meals to Government employees.

2) Lavish receptions or other entertainment shall be avoided. Every effort should be made to obtain the best price available for the planned entertainment. **IC Officials procuring entertainment services should make every effort to find out how much a hotel or conference center is charging for e.g, light refreshments. For example, the cost of LR per person during an afternoon break should not exceed the cost of a lunch**



**allowance, per diem-wise, at a particular geographic location.** Entertainment activities should be held at one of the sites listed in E(4) below.

3) Expenditures for entertainment shall exclude any activity that may be questionable, poses a potential embarrassment to the agency or department, or primarily benefits employees e.g., individual memberships in any society or club, cards or gifts.

4) Reasonable gratuities incurred in connection with entertainment are reimbursable

5) When gift funds or appropriated funds are authorized for the provision of light refreshments at an NIH sponsored conference/meeting (Event Type "C") on campus or in the local area, as outlined in Appendix 3 and Appendix 4 of this chapter, no separate registration fee may be authorized. Any costs for conference space, equipment, supplies, conference materials, etc. must be included in the conference space fee itself. Light refreshments **only** may be included in the conference space fee if the applicable conditions in the aforementioned appendices, are met.

**Note:** As per NIH Manual 6031 "Conference Support/Collection and Retention of Registration Fees Under Contract," the NIH is allowed to charge a registration fee to specified individuals that may include the provision of light

refreshments, meals, etc., when certain conditions are met. In addition, Appendix 7 of this chapter (NIH Manual 1160-1) can be referenced for guidelines surrounding the procurement of an all-inclusive conference services package.

**b. Gift Funds.**

1) Gift funds may not be expended for any event that could be viewed as purely social in nature, e.g., annual employee picnics or holiday parties. Any use of gift funds must have an obvious and legitimate connection with the objectives of the NIH research mission.

2) Gift funds from private corporations may not be used for entertainment purposes, if it would create a real or apparent conflict of interest.

3) Care should be taken to assure that attendees provided "working meals" are not receiving duplicate payments for subsistence via per diem allowances or professional services contracts.

4) The number of NIH staff whose meals are funded at recruitment activities or receptions for foreign or domestic visitors should be minimal, and the amount spent per person must be moderate. IC Directors or their designees have final approval authority.

**Note: Use of appropriated funds and gift funds for entertainment**

**purposes may be subject to further restrictions as outlined in Appendix 3, Appendix 4, and Appendix 5 of this manual chapter.**

#### **4. Facilities Locations.**

The approved sites for holding entertainment functions are as follows:

- NIH facilities;
- Places of business in the vicinity of NIH; and
- Facilities within foreign countries if consistent with the purpose of the visit.

#### **5. Exceptions/Waivers**

**a.** All requests for waiver of or exceptions to this policy must be submitted to the Deputy Director for Management (DDM) for approval. No exception or waiver of this policy may be obtained for proposed expenditures of **appropriated funds**, unless a statute or other controlling legal authority would permit the proposed entertainment expenditures, as determined by the NIH Legal Advisor's Office.

**b.** Requests for exceptions or waivers of this policy as it applies to **gift funds** must include a justification, addressing specific conditions and any evidence supporting the need for exception or waiver to policy and the consequences if the exception is not granted. Exceptions and waivers may be granted upon the determination that the expenditure is: 1) necessary to carry out the mission of NIH in the most effective manner; 2) consistent with any conditions imposed upon the gift; 3) reasonable; and 4) cost effective. When you submit an exception or waiver request, you should also include the applicable Form [NIH 2408-1](#) "Request for Use of Appropriated Funds/Gift Funds for Light Refreshments/Meals and Other Entertainment Expenses." (For

information on the Form NIH 2408-1, refer to Section (G) "Procedures" of this chapter. To access a copy of the form, see Appendix 6 of this chapter.)

The Fogarty International Center and the Howard Hughes Medical Institute have separate authority to serve alcohol in conjunction with official entertaining. (NIH Manual Chapter 1130, [General Administration #31](#)). All other ICs must receive specific permission to use alcohol on the NIH enclave from the Director of Research Services.

**F. Responsibilities:** The Director, NIH has assigned responsibilities of the program as follows:

1. The IC Directors/Deputy Directors have the oversight responsibility for reviewing and monitoring the use of all funds for entertainment.
2. IC Directors have responsibility for the use of funds (gift funds and appropriated funds) for entertainment within their respective institutes and centers and for ensuring a process is in place by which they can satisfactorily determine that all expenditures for entertainment are in compliance with this Manual Chapter.

Authorization and approval for the use of appropriated funds and gift funds for entertainment expenses as outlined in Appendix 3 and Appendix 4 of this chapter, will be retained at the IC Executive Officer level, without further redelegation. ICs may opt to retain this authority at a higher level.

3. The Office of Financial Management, OD obligates all funds for official entertainment expenditures.

**G. Procedures:** The hosting IC is responsible for submitting the Form NIH 2408-1, "Request for Use of Appropriated Funds/Gift Funds for Light Refreshments/Meals and Other Entertainment Expenses," (see Appendix 6) to the authorizing official. This form must be properly completed and signed for each transaction, accordingly. This form will serve as the supporting documentation to the payment mechanism used for all such entertainment expenditures.

**H. Payment Information:**

1. Entertainment requests must contain the signature of the

individuals responsible for approving payments and a requested method of billing/payment. Payments will not be made until services or goods being acquired /rendered are actually received/issued and accepted by the organization.

2. Services and/or goods, acquired by the ICs for entertainment are paid through one of the following methods of payment:

- a) [SF 1034](#) "Public Voucher for Purchases and Services Other than Personal";
- b) I.M.P.A.C. card;
- c) SF 44 "Purchase Order-Invoice-Voucher" or
- d) Contract mechanisms, e.g., Purchase Order, Contract, etc.

NOTE: The properly completed and signed NIH Form 2408-1 must accompany each above payment mechanism and must be maintained in the IC's official procurement files.

3. All purchases using a SF-1034 or SF-44 must be submitted along with the NIH Form 2408-1 to the OFM Cashier's Office. All purchases using a contract mechanism, e.g., Purchase Order, Contract, etc., must be submitted along with the NIH Form 2408-1 to the OFM Commercial Accounts Section.

4. Following an approved event, where the host has paid for the entertainment expenses out-of-pocket, the host will prepare an SF-1034, "Public Voucher for Purchases and Services Other than Personal" (available on line at: <http://forms.cit.nih.gov/adobe/procurement/SF1034.PDF>) with bills or receipts attached, and forward it to the OFM, Financial Services Branch, Commercial Accounts Section, if applicable.

**5. Classification of Entertainment Expenses - In accordance with the HHS Accounting Standards, Chapter 4-50, all procurements of entertainment services exercised through the delineated mechanisms in Paragraph No. 3 above, and applied in conjunction with the activities outlined in Appendix 3 and Appendix 4 of this manual chapter, are to reflect subobject class 25.2X.**

**Exceptions:**

**a) If the entertainment services are in connection with Reception and Representation Funds, earmarked in the HHS/Labor Appropriations Bill, and allocated to the Director, NIH, you should use subobject class 25.2C.**

**b) If the entertainment services are in connection with the purchase of food and beverage for patients participating in a clinical or research protocol, or for voluntary health procedures, you should use subobject class 26.61.**

**I. Records Retention and Disposal:** All records (e-mail and non-e-mail) pertaining to this chapter must be retained and disposed of under the authority of NIH Manual [1743](#), "Keeping and Destroying Records, Appendix 1, "NIH Records Control Schedule," Items 1900-F and 1100-M-1.

NIH e-mail messages (messages, including attachments, that are created on NIH computer systems or transmitted over NIH networks) that are evidence of the activities of the agency or have informational value are considered Federal records. These records must be maintained in accordance with current NIH Records Management guidelines. Contact your IC Records Officer for additional information.

All e-mail messages are considered Government property, and, if requested for a legitimate Government purpose, must be provided to the requester. Employees' supervisors, NIH staff conducting official reviews or investigations, and the Office of Inspector General may request access to or copies of the e-mail messages. E-mail messages must also be provided to Congressional oversight committees if requested and are subject to Freedom of Information Act requests. Since most e-mail systems have back-up files that are retained for significant periods of time, e-mail messages and attachments are likely to be retrievable from a back-up file after they have been deleted from an individual's computer. The back-up files are subject to the same requests as the original messages.

**J. Management Controls:** In accordance with NIH Manual Chapter [1750](#) "NIH Management Control Program", the OD/OLAO/Division of Acquisition Programs (DAP) performs the following reviews: 1) a review of monthly invoices associated with IMPAC Card purchases for any questionable charges inclusive of entertainment related expenses; 2) a review of quarterly charges which includes examining Gift Fund CANs or direct CANs that reflect entertainment expenses (This review entails checking for appropriate permission request forms and accompanying documentation); 3) a periodic DELPRO node review report which is transmitted to OFM. This encompasses a comprehensive sampling of three months of orders which may include orders reflective of entertainment expenses; and 4) a monthly review of SF-44s "Purchase

Order/Invoice/Voucher" for appropriate gift fund expenditures including entertainment costs. All reviews are assessed for accuracy, and the need for improvements and/or corrective actions. An annual report of the results of the reviews is submitted to the DDM.

## **Appendix I - Glossary of Acronyms**

**CAN** - Common Account Number

**C.F.R.** - Code of Federal Regulation

**DHHS** - Department of Health and Human Services

**DDM** - Deputy Director for Management

**IC** - Institutes and Centers

**I.M.P.A.C.** - International Merchant Purchase Authorization Card

**G.E.T.A.** - Government Employees Training Act

**NIH** - National Institutes of Health

**OFM** - Office of Financial Management

**OGC** - Office of General Counsel

**PHS** - Public Health Service

**U.S.C.** - United States Code

**Form SF 44** - Purchase Order/Invoice Voucher

**Form SF 1034** - Public Voucher for Purchases and Services Other Than Personnel

**Form OF 1129** - Cashier Reimbursement Voucher and/or Accountability Report

## **Appendix 2 - Directory**

### **Deputy Director for Management**

Bldg 1, Room 103

496-3271

### **Office of Financial Management**

#### **Division of Finance**

Bldg. 31, Room B1B63

496-3368

### **Office of Financial Management**

#### **Financial Services Branch**

#### **Government Accounting Section**

Bldg. 31, Room B1B11

402-9123

### **Office of Financial Management**

#### **Financial Services Branch**

#### **Commercial Accounts Section**

Bldg. 31, Room B1B32

496-1418

**Office of the General Counsel**

**NIH Legal Advisor**

Bldg. 31, Room 2B50

496-6043

**Office of Procurement Management**

**Division of Small Purchasing (IMPAC Card) EPS**

Suite 772

496-5212

**Office of Logistics and Acquisitions Operations**

**Division of Acquisition Programs**

(IMPAC Card)

6011 Executive Blvd.

Room 549E

496-2215

**Office of Research Services**

Bldg.1, Room 160

496-2215

**[Appendix 3 - Matrix on Use of Appropriated Funds to Provide Light Refreshments/Meals](#)**

**[Appendix 4 - Matrix on Use of Gift Funds to Provide Light Refreshments/Meals](#)**

**[Appendix 5 - Using Appropriated Funds for Light Refreshments and Meals](#)**

**[Appendix 6 - Form NIH 2408-1](#)**

**[Appendix 7 - Application of Registration Fees for the Provision of Light Refreshments \(LR\) and Meals](#)**