



Department of Defense

DIRECTIVE

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Incorporating Change 1, December 6, 2002

DA&M

SUBJECT: Gifts and Decorations from Foreign Governments

- References: (a) DoD Directive 1005.13, "Gifts from Foreign Governments," July 20, 1996 (hereby canceled)
- (b) Section 7342 of title 5, United States Code
 - (c) DoD Instruction 1348.33, "Military Awards Program," August 26, 1985
 - (d) DoD 1348.33-M, "instruction booklet of Military Decorations and Awards," September 1996
 - (e) through (j), see enclosure 1

1. REISSUANCE AND PURPOSE

This Directive reissues reference (a) to implement reference (b) and update DoD policy and responsibilities governing the acceptance and retention of gifts and decorations from foreign governments.

2. APPLICABILITY

This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as "the DoD Components").

3. DEFINITIONS

Terms used in this Directive are defined in enclosure 2.

4. POLICY

4.1. No DoD employee may request, or otherwise encourage, the offer of a gift from a foreign government.

4.2. Table favors, mementos, remembrances, or other tokens bestowed at official functions, and other gifts of minimal value received as souvenirs or marks of courtesy from a foreign government (e.g., plaques or paper certificates) may be accepted and retained by the recipient.

4.3. Decorations from a foreign government awarded for outstanding or unusually meritorious performance may be accepted and retained by the recipient only when approved in advance by the Component Head, or, for members of the Armed Forces, when consistent with the provisions of DoD Instruction 1348.33 and DoD 1348.33-M (references (c) and (d)). Decorations accepted without meeting these conditions are deemed to have been accepted on behalf of the United States Government.

4.4. Whenever possible, foreign gifts of greater than minimal value, and foreign decorations not approved in advance by the recipients DoD Component, shall be refused. When a gift of more than minimal value, or a foreign decoration not approved in advance by the recipients DoD Component, is tendered, the donor shall be advised that statutory provisions and DoD policy prohibit employees from accepting such gifts or decorations, unless it appears that refusal of the gift or decoration may offend or embarrass the donor, or could affect adversely the foreign relations of the United States. Under such circumstances, the gift or decoration may be accepted on behalf of the United States. The gift or decoration then becomes the property of the United States and shall be deposited with the employing DoD Component, in accordance with 41 CFR Part 102-42 (reference (e)) and enclosure 3, within 60 days for return to the donor, for use within the Component, or for disposition by the General Services Administration (GSA).

4.5. The burden of proof is on the recipient to establish that the gift is of minimal value.

4.6. When more than one tangible gift is included in a single presentation from the same donor to an employee, or jointly to an employee and spouse, they shall be considered to be a single gift and the aggregate value shall be used to determine whether or not the gift exceeds minimal value.

4.7. Gifts or decorations from foreign governments shall be subject to adequate security measures to protect areas that need protection, as required by DoD Instruction 5240.5 (reference (f)).

4.8. DoD guidance pertaining to gifts received from other sources is provided in DoD 5500.7-R, "Joint Ethics Regulation" (reference (g)).

5. RESPONSIBILITIES

5.1. The Director of Administration and Management, Office of the Secretary of Defense shall develop overall policy and provide guidance to DoD employees regarding the acceptance and retention of gifts and decorations offered by foreign governments.

5.2. The Heads of the DoD Components shall designate an official who shall:

5.2.1. Ensure compliance with this Directive.

5.2.2. Establish procedures to ensure that employees are familiar with the requirements and restrictions of this Directive governing acceptance of gifts and decorations from foreign governments. Procedures for the receipt and disposition of gifts and decorations are provided in enclosure 3.

5.2.3. Report to the Attorney General, through the General Counsel of the Department of Defense, when it is determined administratively that an employee who is the recipient of a gift or decoration, or recipient of travel or travel expenses from a foreign government, has failed to comply with the procedures established by 5 U.S.C., 7342 (reference (b)) through actions or circumstances within the recipient's control.

5.2.4. Approve or disapprove employee acceptance of gifts that exceed minimal value or decorations from foreign governments. However, if the recipient of the decoration is in fact the Head of the DoD Component, the approval or disapproval determination shall be made by the Assistant Secretary of Defense (Force Management Policy) (ASD(FMP)).


5.3. The Director, Washington, Headquarters Services, shall carry out the responsibilities of paragraph 5.2. for the DoD Components serviced by Washington Headquarters Services (WHS).

6. INFORMATION REQUIREMENTS

The reporting requirement identified at subparagraph E3.1.1.1.3 of enclosure 3, has been cleared in accordance with FIRMR 201-9.202-2 (reference (h)), and assigned interagency report control number 0216-DOS-AN.

7. EFFECTIVE DATE

This Directive is effective immediately.



Paul Wolfowitz
Deputy Secretary of Defense

Enclosures - 3

E1. References, continued

E2. Definitions

E3. Procedures for the Receipt and Disposition of Gifts or Decorations

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Title 41, Code of Federal Regulations, Parts 101-42 and 102-42
- (f) DoD Instruction 5240.5, "DoD Technical Surveillance Countermeasures (TSCM) Survey Program," May 23, 1984
- (g) DoD 5500.7-R, "Joint Ethics Regulation," August 1993
- (h) Federal Information Resources Management Regulation (FIRMR), Part 201-9.202-2
- (i) Section 152 of title 26, United States Code
- (j) DoD 1400.25-M, "Department of Defense Civilian Personnel Manual (CPM)," December 1996

E2. ENCLOSURE 2

DEFINITIONS

E2.1.1. Decoration. An order, devices, medal, badge, insignia, emblem, or award tendered by or received from a foreign government.

E2.1.2. Employee. An employee of a DoD Component, as defined in 5 U.S.C. 2105 (reference (b)); an expert or consultant under contract with a DoD Component, including any individual performing services for a DoD Component under Section 3109 of reference (b) and members of the Military Services (including retired members and Reservists) regardless of duty status; the spouses of all such individuals (unless legally separated) and their dependents, as defined in 26 U.S.C. 152 (reference (i)); and nonappropriated fund employees under the Department of Defense's awards policy, subchapter 451 of DoD 1400.25-M (reference (j)).

E2.1.3. Employing Component. The DoD Component in which the recipient is appointed, employed, or enlisted. If a recipient is a spouse or dependent of a serving individual, then the employing DoD Component is that in which the serving individual is appointed, employed, or enlisted.

E2.1.4. Foreign Government. Includes any unit of a foreign governmental authority, including any foreign national, State, local, and municipal government; any international or multinational organization whose membership is composed of any unit of foreign government; and any agent or representatives of any such unit or organization while acting as such.

E2.1.5. Gift. Anything of tangible or intangible value that is tendered by or received from a foreign government, except for educational scholarships or medical treatment.

E2.1.6. Minimal Value. A retail value in the United States at the time of acceptance not in excess of the amount specified by the Administrator of General Services under 5 U.S.C. 7342 (reference (b)) (currently **\$285.00**).

E2.1.7. Travel Expenses. Costs of transportation, food, and lodging incurred during the travel period.

E3. ENCLOSURE 3

PROCEDURES FOR THE RECEIPT AND DISPOSITION OF GIFTS OR DECORATIONS

E3.1.1. Use or Disposal of Gifts that Become the Property of the United States

E3.1.1.1. Any gift or decoration that becomes the property of the United States under 5 U.S.C. 7342 (reference (b)) may be retained for official use by the employing DoD Component. In such cases, the Head of the employing DoD Component shall:

E3.1.1.1.1. Avoid to the maximum extent possible arbitrary action in approving or retaining gifts or decorations.

E3.1.1.1.2. Ensure that gifts or decorations retained by the DoD Component are not used for the benefit or personal use of any individual employee, as defined in enclosure 2, but that all employees are provided the opportunity to receive their indirect benefit.

E3.1.1.1.3. Report the gifts or decorations retained to the General Services Administration (GSA) under 41 CFR 101-49, subpart 2 (reference (e)), within 30 calendar days after termination of the official use.

E3.1.1.2. Gifts or decorations that the employing DoD Component does not wish to retain or that are not approved for retention should be reported to the GSA within 30 calendar days after depositing the gift with the employing DoD Component. In this case, the employing DoD Component shall:

E3.1.1.2.1. Complete Standard Form (SF) 120, "Report of Excess Personal Property," and forward to the GSA, Property Management Division, Washington, DC 20406.

E3.1.1.2.2. Exercise responsibility for the custody and security of gifts or decorations and hold them until instructions are received from the GSA regarding their disposition.

E3.1.1.2.3. Exercise responsibility for, and bear the cost of, the care, and handling of gifts or decorations in its custody and for delivery of the gifts or decorations to the physical custody of the GSA after the screening period.

E3.1.1.3. Gifts or decorations for which there are no Federal requirements, as determined by the GSA, may be offered for sale to recipients before donation when so requested by recipients.

E3.1.1.3.1. If a recipient indicates an interest in purchasing a gift, the gift is to be reported to the GSA on SF 120 for utilization screening before sale to the recipient. The employing Agency shall obtain a commercial appraisal and forward a copy of it, attached to a copy of the original SF 120. The GSA shall notify the employing Agency if the gift will be offered for negotiated sale to the recipient. The sales price, to be paid to the GSA, shall be the appraised value of the *gift*.

E3.1.1.3.2. The GSA normally will not take custody of gifts or decorations for which recipients have expressed an interest in purchasing. Such gifts or decorations shall remain in the physical custody and be the responsibility of the employing Agency until recipients either purchase or decline to purchase them. The GSA will accept physical custody of gifts or decorations that recipients decline to purchase and that are not retained for official use or returned to the donors.

E3.1.2. Return of Gifts or Decorations to Donor. Before returning the gift or decoration to the original donor, the disposing DoD Component shall consult with appropriate officials in the Department of State to ensure its return will not adversely affect U.S. foreign relations.

E3.1.3. Disposal of Firearms. Firearms received as foreign gifts may be offered for transfer to Federal Agencies, including law enforcement activities. Firearms not required for Federal use may be sold to interested recipients at the discretion of the GSA. A certification that the recipient shall comply with all State and local laws regarding purchase and possession of firearms must be received by the GSA prior to release of such firearms to the purchaser. Those firearms not transferred to a Federal activity or sold to recipients shall be destroyed in accordance with Section 101-42.1102-10 of 41 CFR (reference (e)).

E3.1.4. Recording of Gifts of More Than Minimal Value or Decorations

E3.1.4.1. Each employing DoD Component shall maintain records of gifts of more than minimal value or decorations received by their employees from foreign governments. A compilation shall be made each year and transmitted to the Secretary of State no later than January 31. This compilation shall include the following information:

E3.1.4.1.1. Name and title of recipient.

E3.1.4.1.2. Brief description of the gift or decoration, date of acceptance, estimated value, and current disposition or location.

E3.1.4.1.3. Identity of foreign donor and government.

E3.1.4.1.4. Circumstances justifying acceptance.

E3.1.4.2. An employing DoD Component is not required to report travel or travel expenses of more than minimal value that were authorized by that DoD Component under conditions stipulated in paragraph E3.1.7. of this enclosure, below.

E3.1.5. Donations or Transfer of Gifts or Decorations. A gift or decoration may be recommended for donation or transfer by the recipient to an eligible public agency or nonprofit tax-exempt institution for public display, reference, or use.

E3.1.5.1. The employee recipient may indicate a recommendation for donation with a statement on the SF 120 citing the specific donee. Justification for the request must be supported by a letter from the recipient outlining any special significance of the gift or decoration to the proposed donee. The mailing address and telephone number of both the recipient and donee shall be included in the letter.

E3.1.5.2. The employee recipient may indicate a recommendation for transfer of a gift or decoration to an eligible public agency for public display or other authorized agency use. This request shall be indicated on the SF 120 citing the specific donee, and shall include a brief justification of the display or official use of the gift or decoration.

E3.1.6. Sale or Destruction of Tangible Gifts, of Minimal Value or Less, or Decorations. Employing DoD Components are authorized to sell or destroy tangible gifts of less than minimal value or decorations not retained by the recipient.

E3.1.7. Travel Expenses. Employing DoD Components shall include in their implementing documents criteria to be applied in determining the propriety of accepting travel expenses of more than minimal value, such as:

E3.1.7.1. The travel shall begin and end outside the United States, except when travel across the continental United States is the shortest, least costly, or only available route to destination.

E3.1.7.2. The travel shall be in the best interests of the DoD Component and the U.S. Government considering all the circumstances.

E3.1.7.3. The travel does not contravene any other DoD Component regulation.