

And the Award Goes to...



**HOLLI BECKERMAN JAFFE, NIH/OD
TRACI MELVIN, NIH/NIDDK
SANDIE DUNHAM, NIH/NCI**



Awards from Outside Organizations



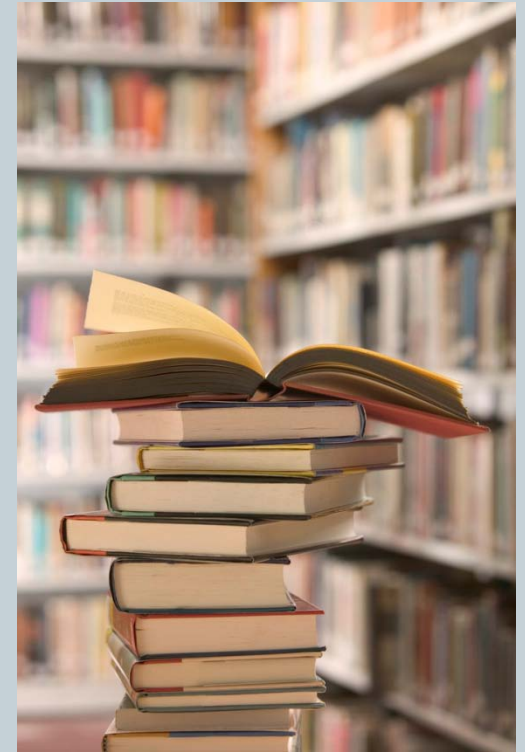
- Regulatory framework
- How to analyze awards
- Special considerations



Resources



- 5 CFR § 2635.204(d)
- Any agency supplemental regulations
- The granting organization's website



A Quick Review - Definition of a Gift



- A gift is a gratuity, favor, discount, entertainment, hospitality, loan, forbearance or other item having monetary value.
- It also includes services as well as gifts of training, transportation, local travel, lodging and meals.

General Prohibitions



An employee must not, directly or indirectly, solicit or accept a gift:

- **From a prohibited source; or**
- **Given because of the employee's official position.**

Exceptions to the Gift Rules



- The general prohibitions do not apply to a gift accepted under certain circumstances.
- Acceptance of a gift under an exception is considered not to violate the general principles of ethical conduct, including appearances.
- Award exception: 5 CFR 2635.204(d)



Take the Easy Way Out



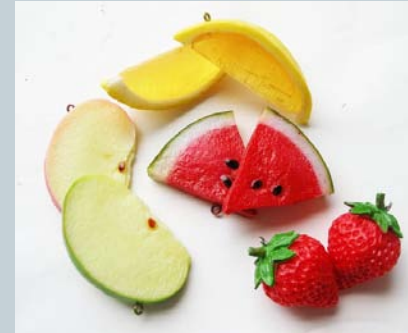
- **If Cash Prize, Must Use 2535.204(d)(1)**

- **If No Cash, “Slice and Dice”**
 - Gift of “little intrinsic value . . . which are intended solely for presentation.” 5 CFR § 2635.203(b)(2).
 - Awards gala could be a widely attended gathering. 5 CFR 2635.204(g)(1) or (2)
 - ✦ Note: if you conclude that awards meet “bona fide” criteria under 5 CFR § 2635.204(d)(1), then use 2635.204(d)(3)’s authority to accept “meals and entertainment given to him and to members of his family at the event at which the presentation takes place.”

The Easy Way



More Slicing and Dicing



- Gifts Accepted Under Specific Statutory Authority, 5 CFR § 2635.204(L), such as:
 - ✦ Foreign Gifts and Decorations Act for gifts from foreign governments with a value of less than \$350
 - ✦ 31 USC § 1353; 41 CFR § 304-2.1 for “travel” awards

- Agency Gift Acceptance Authority, if you have it
 - ✦ Research money

The Harder Way Out: 204(d)



- Written determination by Agency Ethics Official (NIH uses an award form: <http://ethics.od.nih.gov/forms/nih-2854-Award.pdf>) that:
- Award is part of an established program of recognition, and the program must:
 - regularly gives out awards (such a program does not necessarily have to include the award being offered to the employee (because it is a new award)); ***or***
 - be funded, wholly or in part, to ensure the program's continuation on a regular basis (e.g., funds available to give out award annually or bi-annually);
 - ✦ Endowment letter
 - ✦ Board of Directors' meeting minutes; ***and***
 - selects award recipients based on written standards



The Harder Way



- **Section 2635.204(d)(1) does not apply if:**
 - Offered by a particular type of “prohibited source,” i.e., a person who has interests that may be substantially affected by the employee’s duties (or an association or organization in which the majority of members have such interests)
 - Determine who is offering the gift and analyze whether that person can be affected by the employee’s official duties
 - The more senior the official, the harder it may be to find no affect. But note: need at least likely (“may”) involvement, not just pending under senior employee’s official responsibilities. See DAEOgram 04-011a.

Nomination Criteria vs. Selection Criteria



- Often, website posts nomination criteria, e.g.,:
 - Three Letters of Recommendations
 - Resume or CV
 - List of Publications
- Nomination criteria could be selection criteria, but may not. Confirm with organization.
- Presence of a selection committee does not necessarily mean the organization has written selection criteria.
 - Committee uses a rating and ranking form? If yes, request a copy.

Nomination vs. Selection



- Selection criteria is the basis for the award, i.e., how did the organization select the employee over the other candidates.
 - Produced high impact research, perhaps defined by where it was published
 - Holds leadership position in the community
 - Received other prestigious awards
- May be helpful to give the organization examples of criteria from other awards that have met the regulatory standard.

Awards Involving Lectures



Is it really an award?

- Ensure the employee is not being compensated to provide services as a speaker.



- See OGE DAEOgram 04-011 (5/27/2004)

“Lecture Awards”



4 Factors to analyze:

- 1) How Is the event characterized? An award or lecture series?
- 2) How is the event promoted? Opportunity to hear the particular speaker?
- 3) Is a lecture a condition of receiving the honor? Posthumous.
- 4) What is the topic of the lecture? Employee’s current research or an overview of employee’s career work?

“Lecture Awards”



- **Amount of the Cash Prize**

- \$2,000 vs. \$50,000
- Are Other Speakers Being Paid?



- **How Are Other Speakers Being Treated?**

- Special introduction or advertisement
- Reception in employee's honor
- Other gifts given to just the awardees such as plaques and annual membership fees

Honorary Degrees



- From an institution of higher learning
- Based on a written determination by agency ethics official that:
 - The timing of the award of the degree would not cause “a reasonable person to question the employee’s impartiality in a matter affecting the institution.”

Honorary Degrees: Gifts



- 5 CFR § 2635.204(d)(3) allows the employee to accept meals and entertainment given to him and to members of his family at the event at which the presentation takes place.
- Academic Regalia may not fall under gifts of little intrinsic value given solely for presentation. Thus, employee may have to pay for these gifts.

Example - The Obesity Society



Albert Mickey Stunkard Lifetime Achievement Award

- One-time award to the recipient
- \$1,000 cash and plaque
- Presented during the society's annual meeting
- Recipient asked to give a short speech following acceptance of the award
- Reimbursement of travel expenses to annual meeting

How would you handle this scenario?

Example - The Royal Chemistry Society



The Centenary Prize

- Awarded annually since 1949
- Written standards and selection committee
- Cash prize of £ 5,000, a medal, and travel expenses
- Presented at awards ceremony (along with other awards)
- Winner is asked to present 4 lectures at various events

How would you handle this scenario?



Holli Beckerman Jaffe, Senior Policy Officer
DHHS, National Institutes of Health (NIH), NIH Ethics
Office; jaffejb@od.nih.gov

Traci Melvin, Deputy Ethics Counselor
DHHS, NIH, National Institute of Diabetes and Digestive
and Kidney Diseases; melvint@niddk.nih.gov

Sandie Dunham, Senior Ethics Specialist
DHHS, NIH, National Cancer Institute;
dunhamsan@mail.nih.gov