



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON DC 20350-1000

SECNAVINST 4001.2J
AAUSN/OGC
12 August 2009

SECNAV INSTRUCTION 4001.2J

From: Secretary of the Navy

Subj: ACCEPTANCE OF GIFTS

Ref: (a) SECNAVINST 1650.1H
(b) DoD 5500.7-R of 1 Aug 93
(c) Section 2601 of Title 10, United States Code (U.S.C.)
(d) Section 6973 of Title 10, U.S.C.
(e) Section 7220 of Title 10, U.S.C.
(f) Section 7221 of Title 10, U.S.C.
(g) Section 1353 of Title 31, U.S.C.
(h) Parts 301-1 and 304-1 of Title 41, Code of Federal Regulations
(i) SECNAVINST 11100.8A
(j) Section 111 of Title 3, U.S.C.
(k) SECNAVINST 5340.2D
(l) SECNAVINST 5720.44B
(m) Section 3131 of Title 10, U.S.C.
(n) Section 3132 of Title 40, U.S.C.
(o) Department of the Navy Financial Management Policy Manual, NAVSO P-1000
(p) SECNAVINST 1730.7D
(q) OPNAVINST 1730.1D
(r) SECNAVINST 4001.1E
(s) DoD Travel Regulations Volumes 1 and 2, NAVSO P-6034
(t) SECNAVINST 11011.47B
(u) SECNAVINST 7320.10A
(v) Chapter 33 of Title 44, U.S.C.
(w) SECNAV M-5210.1
(x) DoD Financial Management Regulation (DoD FMR) Volume 12, Chapter 30
(y) SECNAV M-5214.1

1. Purpose. This instruction revises Department of the Navy (DON) guidance on gift acceptance and outlines procedures for gift processing. This issuance is a complete revision requiring full review. This guidance does not pertain to gifts given to individuals covered under references (a) and (b).

2. Cancellation. SECNAVINST 4001.2H.

3. Scope

a. Acceptance of gifts for the benefit of, or in connection with, the establishment, operation, or maintenance of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the Secretary of the Navy (SECNAV), authorized by section (a) of reference (c).

b. Acceptance of gifts for the benefit of members of the Military Services, who incur a wound, injury, or illness while in the line of duty; civilian employees of the Department of Defense who incur a wound, injury, or illness while in the line of duty; dependents of such members or employees; and survivors of such members or employees who are killed, authorized by section (b) of reference (c).

c. Acceptance of gifts made specifically to the U.S. Naval Academy (USNA) and the USNA Museum, authorized by reference (d).

d. Acceptance of gifts for the recreation, amusement and contentment of enlisted members of the Navy or Marine Corps, authorized by reference (e).

e. Acceptance and care of such gifts of silver, colors, books, or other articles of equipment or furniture, as in accordance with custom, are made to vessels of the Navy, authorized by reference (f).

f. Acceptance of payment from a non-Federal source of travel expenses authorized under reference (g) (implemented by reference (h)).

4. Definitions

a. "Acceptance authority" is the official or officer in the Department of the Navy who, on behalf of SECNAV, may accept gifts satisfying acceptance criteria found in paragraph 6 of this instruction. Acceptance authorities for particular categories of gifts are listed in paragraph 5 below.

b. "Gift," unless otherwise qualified, means a gift, devise, or bequest of real or personal property, without consideration. The Department of the Navy considers lending of an item other than money a gift only if reference (d) applies. The term "gift" does not generally include "services"; however, services may be accepted as a gift as authorized by section (b) of reference (c). The acceptance and use of voluntary services in the Department of the Navy are governed by OPNAVINST 5380.1A.

c. "Money" means cash, checks, or other forms of negotiable instruments.

d. "Other institution," as used in reference (c), includes any institution or organization under the jurisdiction of the Department of the Navy that is similar or comparable to a school, hospital, library, museum, or cemetery. The term "other organization" means any defined organizational unit or activity under the Department of the Navy, including morale, welfare, and recreation activities (non-appropriated fund instrumentalities, such as child care centers, family support centers, employee recreation funds, etc.). This instruction includes research and development facilities within the term "other institutions or organization."

e. "Personal property" includes clothing, jewelry, household furnishings, money, vehicles, stocks, bonds, intangibles, and all property not defined as real property.

f. "Prohibited source" means any person who:

(1) Is seeking official action by the Department of the Navy;

(2) Does business or seeks to do business with the Department of the Navy;

(3) Conducts activities regulated by the Department of the Navy;

(4) Has interests that may be substantially affected by the performance or nonperformance of a DON employee's official duties; or

(5) Is an organization, a majority of whose members are described in (1) through (4) of this paragraph. The Department of the Navy shall deem no person or organization a prohibited source for the purpose of this instruction:

(a) Solely because of the offer of a gift; or

(b) Where the stated purpose of the organization includes the provision of financial support to the Department of the Navy, its components, or DON personnel.

g. "Real property" includes land and any buildings, improvements, or fixtures on that land.

5. Acceptance Authority. Authority to accept or reject a gift offered to the Department of the Navy rests with SECNAV and designees assigned herein. SECNAV may approve additional delegations. Authority to accept a gift offer depends upon the value and kind of property offered. There are several levels of authority as outlined below.

a. The Under Secretary of the Navy (UNSECNAV) shall be the acceptance authority for all gifts of real property, other gifts of a value in excess of \$60,000 and gifts requiring an exception to any of the policies in paragraph 6.

b. The following officials may accept gifts other than real property valued at \$60,000 or less:

(1) The Chief of Naval Operations (CNO), the Vice Chief of Naval Operations (VCNO), and the Director of Navy Staff (DNS) for gifts acceptable under references (c), (e), (f) and (g), offered to any institution or organization under CNO's command.

(2) The Commandant of the Marine Corps (CMC), Assistant Commandant of the Marine Corps (ACMC), and Director of Marine Corps Staff (DMCS) for gifts acceptable under references (c), (e) and (g), offered to any institution or organization under CMC's command.

(3) The Assistant for Administration, Under Secretary of the Navy (AAUSN) for gifts acceptable under references (c) and (g), to any institution or organization not under the command of either the CNO or CMC, but under the jurisdiction of SECNAV.

(4) The Chief of Naval Research (CNR) for gifts acceptable under references (c) and (g), offered to any institution or organization reporting to CNR.

(5) The Superintendent, U.S. Naval Academy (SUPT, USNA) for gifts acceptable under either (d) or (g), offered to any institution or organization reporting to SUPT, USNA.

c. The CNO, VCNO, DNS, CMC, APMC, DMCS, AAUSN, and CNR may delegate their authority to accept gifts of a value of \$12,000 or less.

d. SECNAV or his/her designees as assigned in reference (i), in accordance with reference (j), note, with written concurrence of the Office of the Vice President, shall accept funds or gifts of property that donors offer to the Vice President of the United States' Residence with the intent to furnish or make improvements in or about the residence, or for use at official functions in or about the residence.

e. Heads of institutions or organizations, as defined in subparagraph 4d of this instruction, may accept and distribute gifts of consumable or perishable products, such as fruits, flowers, or candy intended for their institution's or organization's personnel. Acceptance criteria found in paragraph 6 of this instruction apply to gifts accepted under this delegation.

f. Except for gifts authorized by section (b) of reference (c), activities must process any foreign government gift to a DON employee under the procedures in chapter 9 of reference (a). Designated acceptance authorities may also accept gifts of travel offered by foreign governments under the authority of reference (g), as implemented by reference (h), and chapter 4 of reference (b).

6. Acceptance Criteria

a. Policy. Acceptance authorities shall decline gifts under the following circumstances:

(1) The use of the gift is in connection with any program, project, or activity that would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

(2) The gift or conditions attached to the gift are inconsistent with applicable law or regulation;

(3) The use of the gift would reflect unfavorably on the ability of the Department of the Navy or any DON personnel to carry out any responsibility or duty in a fair and objective manner;

(4) The use of the gift would compromise the integrity or appearance of integrity of any program of the Department of the Navy or any individual involved in such a program; and

(5) Acceptance of the gift would not be in the best interest of the Department of the Navy, including but not limited to the following, where it:

(a) Creates the appearance or expectation of favorable consideration as a result of the gift;

(b) Creates the appearance of an improper endorsement of the donor, its events, products, services, or enterprises (except for those charitable organizations recognized by reference (k));

(c) Raises a serious question of impropriety in light of the donor's present or prospective business relationships with the Department of the Navy;

(d) Involves the expenditure or use of funds in excess of amounts appropriated by Congress; or

(e) Requires substantial expenditures or administrative efforts and maintenance are disproportionate to any benefit.

b. Solicitation of Gifts. Unless authorized by SECNAV, DON personnel shall not initiate requests for gifts or contributions for DON institutions or organizations. Acceptance authorities shall not accept gifts initiated contrary to this policy.

Further, as provided in reference (b), the Department of the Navy prohibits naval personnel from soliciting gifts from prohibited sources or because of their official position for themselves or their spouses, minor children, or members of their household. Such activity may result in disciplinary action.

c. Fund-Raising by Naval Personnel. DON policy prohibits naval personnel from participating in their official military capacity in fund-raising activities not recognized for on-the-job solicitation with the Federal Service. Naval personnel are cautioned concerning use of their official position or the appearance of using their official position in fund-raising activities not recognized for the on-the-job solicitation with the Federal Service. When in doubt, consult with an ethics counselor. Policy also governs participation by naval personnel in activities to raise funds for future presentation to the Department of the Navy, or for the purchase of real or personal property for future presentation to the Department of the Navy. This prohibition applies to official participation during duty and non-duty hours, but does not preclude participation in fund-raising activities as a private citizen during non-duty hours. See references (b), (k), and (l).

d. Offer of Future Gifts. Applicable gift acceptance statutes do not provide authority to accept a gift before the gift is actually available for transfer to the Department of the Navy. However, the Department of the Navy may accept offers of future gifts (e.g., pledges to raise money, or offers to purchase real or personal property for delivery to the Department of the Navy) under the following two-step procedure:

(1) Acknowledgement. When a donor makes a pledge or offer of a future gift, whether a one-time gift or a gift made in several installments, the total cumulative amount of the future gift determines the appropriate acceptance authority. The acceptance authority shall determine whether the Department of the Navy is likely to accept the gift under the criteria of this instruction when the actual donation occurs. If the Department of the Navy is likely to accept the gift, the acceptance authority will acknowledge the gift and advise the donor that gift acceptance will likely occur after actual presentation of the gift, portion, or installment to the Department of the Navy.

(2) Acceptance. When the donor presents the gift, portion or installment to the Department of the Navy, the value of the gift presented on that occasion determines the proper acceptance authority for that gift, portion or installment. The acceptance authority will determine whether to accept the gift, or that portion or installment thereof, applying the acceptance criteria and utilizing the procedures set forth in this instruction. Activities may request a one-time delegation of authority to accept a gift, portion or installment of gifts in amounts greater than their acceptance authority for gifts previously acknowledged in step one.

e. Gifts from Prohibited Sources. Acceptance of gifts from prohibited sources requires heightened sensitivity because acceptance may create embarrassment to the Department of the Navy or the appearance of influencing official decision-making or actions of the Department of the Navy. Consequently, before accepting a gift of more than \$10,000 from a prohibited source, the legal counsel (Office of General Counsel (OGC) or Navy/Marine Corps judge advocate) for the gift acceptance authority shall consult OGC (Assistant General Counsel (Ethics)) to determine whether the donor is involved in any claims, procurement actions, litigation, or other matters involving the Department of the Navy that might cause the acceptance authority to decline an offered gift.

f. Gifts to Unified Combatant Commands. The Department of the Navy shall process gifts from foreign governments received by individuals for whom the Department of the Navy is the employing component under reference (a). Other offers of gifts to a Unified Combatant Command not under the jurisdiction of SECNAV are not acceptable by the Department of the Navy under reference (c).

g. Gifts from Foundations and Similar Entities. While foundations and other non-profit organizations may provide valuable support to the Department of the Navy, they should not be used as conduits to make indirect gifts that DON gift acceptance policies would not permit if offered directly to the Department of the Navy.

h. Gifts of Copyrighted or Patented Items. The Department of the Navy should evaluate offers of gifts of copyrighted or patented items with the same degree of scrutiny with which all

other offers of gifts are evaluated. If the donor owns the patent or copyright, the Department of the Navy should accept the gift only if the donor also grants a royalty-free license commensurate with the Department of the Navy's intended use of the gift, or assigns the copyright or patent to the United States.

i. Gifts Accepted Under Section (b) of Reference (c). Acceptance authorities may not accept a gift of services from a foreign government or international organization under section (b) of reference (c). Acceptance authorities may accept gifts of real or personal property from foreign governments or international organizations under section (b) of reference (c) only if the gift is not designated for a specific individual. Acceptance authorities shall consult with their appropriate ethics counselor before accepting gifts valued in excess of \$10,000 to ensure that:

(1) The gift is not offered in a manner that specifically discriminates among DON personnel merely on the basis of type of official responsibility or of favoring those of higher rank or rate of pay; and

(2) The donor does not have interests that may be affected substantially by the performance or nonperformance of the DON employee's official duties.

7. Processing Gifts

a. Donors should make checks payable to the "Department of the Navy."

b. AAUSN is responsible for processing gifts requiring acceptance by SECNAV or UNSECNAV. Activities receiving offers requiring SECNAV or UNSECNAV or AAUSN acceptance must promptly notify AAUSN upon receipt of such offers.

c. This instruction assigns responsibility for processing gift offers of personal property to the acceptance authorities designated in paragraph 5, except when that authority is specifically delegated by SECNAV to other officials.

d. After official acceptance by the acceptance authority, benefiting activities should inform the chief of information of any gift having substantial public affairs implications.

e. Whenever possible, the DON officials should not accept custody of a gift before official acceptance. If the Department of the Navy assumes custody of the gift, the benefiting activity shall advise the donor in writing that acceptance of the money, property or endorsement of negotiable instruments does not constitute official acceptance of the gift. Activities shall not add property to applicable property account records prior to official acceptance. Activities shall not deposit money into the applicable trust fund prior to official acceptance.

f. Activities receiving a gift offer must inform the prospective donor that the Department of the Navy cannot assume responsibility for any expenses incurred, loss or damage before officially accepting the offered gift, even if the gift is in the temporary custody of the Department of the Navy. The Department of the Navy will not pay interest on money or the value of negotiable instruments returned to a prospective donor.

g. Prospective donors should be advised to submit gift offers in writing explicitly specifying any conditions associated with gift acceptance. Upon receipt, activities must promptly forward offers through the chain of command via the appropriate acceptance authority's legal counsel or judge advocate.

h. In exceptional circumstances where a time sensitive offer must be expeditiously accepted, e.g., an offer of tickets to a near term event or a gift of travel to an event taking place in short time, activities may forward the offer directly to the acceptance authority via facsimile or e-mail, informing the chain of command.

i. Forwarding correspondence concerning acceptance of gifts, other than gifts of real property, should include:

(1) A complete description of the gift, including the quantity, condition, material and approximate size and weight, value and intended uses.

(2) An indication of the item's location and availability. Activities should consider gifts not immediately available as offers of future gifts and process these offers as detailed in subparagraph 6d.

(3) A description of any unusual or large expense which would be incurred by accepting and using the gift.

(4) Any conditions or implicit assumptions under which the offer of gift is being made.

(5) All pertinent facts concerning the donor's present and prospective business relationships with the Department of the Navy and any documentation relevant to the gift or donor.

(6) A summary of the item's significance to the Department of the Navy.

(7) An activity recommendation for acceptance/rejection based on criteria contained in paragraph 6. If recommending acceptance, the activity should include a proposed acceptance letter as an enclosure to the forwarding correspondence. Acceptance letters must indicate that the acceptance authority is accepting the gift on behalf of the Department of the Navy. Activities should address acceptance letters specifically to the donor and suitably convey the Department of the Navy's appreciation for the gift.

j. Activities shall forward any offer of a gift of real property or of an improvement to real property to UNSECNAV through the chain of command as detailed in subparagraph 7g, with a copy to the Naval Facilities Engineering Command (NAVFAC) and Commander, Naval Installations Command (CNIC). Gifts of improvement to real property are subject to the bonding requirements of references (m) and (n). Benefiting activities must consult with NAVFAC or CNIC as required to provide the information needed to properly assess gifts of real property. Forwarding correspondence for gifts of real property should, if applicable, include:

(1) A complete general description and geographic location of the real property, or if the gift offer is land, a legal description.

(2) Any initial costs and anticipated recurring costs to the Department of the Navy upon acceptance of the gift.

(3) An assessment of the best use and current use of the real property.

(4) The proposed DON possession date.

(5) Any utility services available.

(6) The approximate current fair market value of the gift.

(7) An assessment of the gift's impact on the civilian economy, including the community, other agencies, and individuals.

(8) Any conditions under which the donor is making the gift offer.

(9) All pertinent facts concerning the donor's present and prospective business relationships with the Department of the Navy and any documentation relevant to the gift or donor.

(10) A summary of the gift's significance to the Department of the Navy; and

(11) An activity recommendation for gift acceptance/rejection based on criteria contained in paragraph 6. If recommending acceptance, the activity should include a proposed acceptance letter as an enclosure to the forwarding correspondence. Acceptance letters must indicate that the acceptance authority is accepting the gift on behalf of the Department of the Navy. Activities should address acceptance letters specifically to the donor and suitably convey the Department of the Navy's appreciation for the gift.

k. All gifts of money or securities accepted under reference (c) shall be deposited into the Navy General Gift Fund (NGGF). No money should accompany the acceptance documentation through the chain of command, and the Department of the Navy cannot deposit money into the NGGF prior to official acceptance. Process formally accepted gifts of money accepted under this authority as follows:

(1) Activities and commands will coordinate with AAUSN to determine if local deposit of funds into the NGGF is optimal. If AAUSN determines that local deposit is not optimal, activities must forward checks directly to AAUSN through an expedited and guaranteed mailing process;

(2) Activities will fax or e-mail acceptance documentation to AAUSN;

(3) AAUSN will establish new gift allotment or project as required; and

(4) Activities may not execute funds until AAUSN verifies proper acceptance, verifies deposit into the NGGF, and issues a fund allotment (NAVCOMPT 372) to the intended receiving organization via e-mail.

1. Paragraph 074700 of reference (o) provides additional guidance for processing and accounting for gifts of money under subparagraphs 3a, 3b, 3c, and 3e of this instruction. The Department of the Navy places all gifts of money received under these subparagraphs in a trust fund. Activities may use a trust fund only as specified by the terms of the trust. Disbursements of deposited funds shall strictly follow the terms of the gift, devise, or bequest. If the purpose of a gift, devise, or bequest has been satisfied, activities may apply residual funds to related items or activities.

m. Gifts of money to a ship's morale, welfare, and recreation fund will be accepted by the appropriate authority under reference (e) and then forwarded to the ship with instructions that the ship is to deposit the gift in the "Ships' Stores Profit, Navy" account.

n. A contribution to the Religious Offering Fund (ROF) designated as a specific gift for a specific purpose other than as set forth in references (p) and (q), will be processed under either reference (c) or (d), as appropriate. Such a gift designation creates a trust with corresponding fiduciary responsibilities, which would not permit funds from the trust to be disbursed at the desire of the congregation, commanding officer, or ROF administrator. Examples of ROF donations that

should be treated as gifts include donations of money for the express purpose of purchasing musical instruments or stained-glass windows.

o. Activities shall accomplish inventory control of gifts of silver service under reference (r). Activities shall inventory gifts to vessels other than silver service under procedures established by the Naval Supply Systems Command.

p. The Department of the Navy shall account for and process any gift of payment from a non-Federal source for travel and related expenses for attendance of DON personnel in an official travel status under volume 1, chapter 1, part B and volume 2, chapter 2, part D of reference (s). Also see reference (b).

q. Real and personal property accepted pursuant to this instruction must be received, accounted for and disposed of consistent with property accountability policy in references (t) and (u). Gift records must document the transfer of non-monetary gifts to the property records of the receiving organization.

8. Mandatory Investment of Monetary Gift Accepted Under References (a) and (d). Even though by statute all monetary gifts must be deposited in the NGGF or USNA Museum and Gift Fund prior to disbursement, the DON's policy is to maximize the benefits of monetary gifts formally accepted by the Department through investment in government securities.

a. Authority is delegated to AAUSN to:

(1) Request that the Secretary of the Treasury retain money, securities and the proceeds from the sale of securities in the NGGF;

(2) Invest money and the proceeds from the sale of securities in the NGGF in instrumentalities of the United States Treasury or in securities guaranteed, as to principal and interest, by the United States Government; and

(3) Deposit to the credit of NGGF and disburse as provided in reference (a), the interest and profits accruing from those investments.

b. Authority is delegated to the SUPT, USNA to:

(1) Request that the Secretary of the Treasury invest, reinvest, or retain investments of money or securities comprising any part of the USNA Gift and Museum Fund in instrumentalities of the United States Treasury or in securities guaranteed, as to principal and interest, by the United States Government; and

(2) Deposit and disburse the interest and benefits accruing from those securities to the credit of the USNA Gift and Museum Fund as detailed in reference (d).

c. Benefiting activities must promptly evaluate gifts of money accepted under the authority of reference (c) or (d), to determine if investment of funds pending disbursement is advantageous. Investment of funds is mandatory in the following cases:

(1) If activities do not intend to disburse monetary gifts exceeding \$10,000 within 1 year of deposit into the NGGF or the USNA Museum and Gift Fund.

(2) If the purpose of a gift, devise, or bequest is satisfied and residual funds exceeding \$10,000 are not intended for disbursement within a 1-year period for a related purpose or activity as detailed in subparagraph 71 of this instruction.

9. Federal Income, Estate and Gift Taxes. For the purposes of Federal income, estate and gift taxes, gifts accepted under reference (c) or (d) are considered to be gifts or bequests to the United States. While written notification of acceptance of a gift constitutes receipt by the Department of the Navy, the Department of the Navy will not render any opinions of value on a specific gift that a donor has offered. Activities are directed to advise donors that it is their responsibility to consult private tax experts for specific advice concerning tax implications of gift giving.

10. Conveyance or Transfer of a Gift. SECNAV may pay all expenses in connection with the conveyance or transfer of an accepted gift. Authority to pay such expenses is hereby delegated to the activity heads whose appropriations are properly chargeable with such costs.

11. Retention of Records. Primary program records for the acceptance of gifts are permanent per reference (v). Records created as a result of this instruction, regardless of media and format, shall be managed in accordance with reference (w). Acceptance authorities shall ensure that the record keeping requirements of paragraph 300701.B of reference (x) are satisfied.

12. Reporting Requirements

a. Semi-annual Reports of Gifts of Travel. Individuals granted acceptance authority in subparagraph 5b((1) through 5b(5) to accept gifts of travel under reference (g) are required to submit semi-annual reports of gifts accepted under their delegation. The report is due to OGC (Assistant General Counsel (Ethics)) and will be prepared in accordance with reference (h).

b. Individuals granted authority to accept gifts under section (a) or (b) of reference (c) are required to report quarterly the information in paragraph 300701 of reference (x) to the Defense Finance and Accounting Service. The report (official form pending) is due to AAUSN not later than 7 days after the end of each quarter. The report may be sent to: Assistant for Administration, Under Secretary of the Navy, 1000 Navy Pentagon, Washington, DC 20350-1000 or faxed to (703) 693-0144

c. The report contained in subparagraph 12a above is assigned SECNAV Report Control Symbol 4001-1 per reference (y).


RAY MABUS

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