



CDC has revised the Operational Policy “**Administration of Gifts to CDC**”

1. **Summary of Policy:** The purpose of this policy is to implement requirements and provide information concerning the acceptance, acknowledgment, and administration of gifts (including bequests, devises of real property, legacies, and donations from living donors) to CDC in general, or to support any of its activities or components.
2. **Reason for Revision:** This policy provides updated information regarding:
 - Roles and responsibilities
 - Clarification of prohibited source information
 - OMB guidance and authority references
3. **Related Issuances:** [CDC-FM-2014-01, Purchase of Food with Appropriated Funds](#), dated 1/21/2014.
4. **Responsible Organizations:** Office of the General Counsel, the Ethics and Compliance Activity, Human Resources Office, and the Office of the Chief Operating Officer, CDC
5. **Material Superseded:** CDC-ET-2007-1, Administration of Gifts to CDC, dated 5/11/2007
6. **Recertification:** This document is scheduled for recertification on or before the last working day of July 2019.
7. **Points of Contact:** Kim Jennings, Office of the Chief Operating Officer, 678-475-4784 or Thomas Jones, Management Analysis and Services Office, 770-488-4777.
8. To go directly to the Policy, enter the following URL into the location line of your browser: <http://isp-v-maso-apps.cdc.gov/Policy/Doc/policy505.pdf>.

/s/ Sherri A Berger, MSPH
Chief Operating Officer

ADMINISTRATION OF GIFTS TO CDC

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1. PURPOSE

This policy establishes requirements and procedures for the acceptance, acknowledgment, and administration of gifts (including bequests, devises of real property, legacies, and donations from living donors) to the Centers for Disease Control and Prevention (CDC¹) in general or to support any of its activities or components. This policy applies to the receipt of all monetary and non-monetary gifts accepted under the authority of Section 231 of the Public Health Service Act (42 U.S.C. Section 238), as amended; Section 399G of the Public Health Service Act (42 U.S.C. Section 2803-11), as amended, and 29 U.S.C. Section 671.

This policy does not apply to the transfer of funds between federal agencies, which are generally considered Interagency Agreements (IAAs); Cooperative Research and Development Agreements (CRADAs); or the gifts accepted by individual employees from foreign governments or international organizations. Gifts from foreign governments or international organizations, if authorized by the agency, are subject to the Foreign Gifts and Decorations Act (5 U.S.C. Section 7342), and questions and issues relating to such gifts should be referred to the Human Resources Office (HRO), CDC Ethics and Compliance Activity.

The policy provides CDC with guidance on implementing its statutory and delegated authorities to accept gifts. Compliance enables CDC management to efficiently control acceptance and utilization of these resources and ensures that CDC employees avoid conflicts of interest and violations of law regarding unauthorized augmentations of appropriations, supplementation of federal salary, expenditures in excess of appropriations, and handling of miscellaneous receipts. The Chief Operating Officer (COO) provides oversight, administration, and management of the Gift Fund Program for all gift fund activities.

¹ References to CDC also apply to the Agency for Toxic Substances and Disease Registry (ATSDR).

2. BACKGROUND

As a rule, an agency may not augment its appropriation from an outside source without specific statutory authority to do so. [See 31 U.S.C. §§ 1301,1532; Matter of Contribution of Telecommunications Services to the D.C. Courts, Comptroller General Decision B-286,182 (Jan. 11, 2001) (“Because of the longstanding rule against augmenting appropriations, a government agency may not accept for its own use gifts of money or other property in the absence of specific statutory authority.”)] The miscellaneous receipts statute, 31 U.S.C. § 3302(b), requires that any “official or agent of the Government receiving money for the Government from any source shall deposit the money in the [general fund of the] Treasury as soon as practicable.” Therefore, if an agency accepts money from an outside source, those funds must be deposited into the general fund of the Treasury, unless the funds constitute an authorized repayment, or unless the agency has specific statutory authority to retain the funds.

CDC has specific statutory authority, as delegated by the Secretary of HHS, to accept gifts [(Section 231 of the Public Health Service Act (42 U.S.C. Section 238)], as amended. CDC may also accept gifts from the National Foundation for the Centers for Disease Control and Prevention (CDCF or the CDC Foundation), in accordance with Section 399G of the Public Health Service Act (42 U.S.C. Section 280e-11), as amended. The National Institute for Occupational Safety and Health may accept gifts in accordance with 29 U.S.C. Section 671.

3. POLICY

CDC’s policy is to accept all monetary gifts, subject to any limitations imposed by applicable federal law, by HHS or CDC policies, or by the donor. CDC will accept monetary gifts in lieu of gifts in kind when feasible. Therefore, where a bequest or legacy is all or part of a general estate of a deceased individual (for example, a bequest of 1/3 the rest, residue, and remainder of the estate), CDC requests that the executor liquidate the assets and make distribution in cash, as authorized under the applicable probate or other law.

Gifts are not accepted if the conditions imposed by the donor are:

- Illegal
- Contrary to public policy
- Unreasonable to administer
- Contrary to generally accepted public standards
- An actual conflict of interest
- An apparent conflict of interest to a reasonable person

In utilizing its gift acceptance authority, CDC determines whether acceptance of a gift would compromise or appear to compromise the integrity of CDC or any of its employees, require CDC to undertake activities unrelated to its mission, or exert influence over its priorities. Additionally, when determining whether or not to accept a gift, CDC must consider the identity of the immediate donor and may consider the identity of any entity that fund the donor.

A. Conditional and Unconditional Gifts

A gift is considered conditional if the donor restricts its purpose or imposes conditions:

- To support a specific research study, project, or conference
- To support activities of a CDC employee identified by name or organizational title
- For specifically identified functions, such as observances, ceremonies, particular public information or health promotion campaigns, and community outreach activities
- For purchase of specific items of equipment or other specific uses

Examples of conditional purposes include a gift to CDC to support only an identified research project extramurally; an identified research project performed by a specific center laboratory; or restricting the expenditure of donated funds to certain categories of expenditure, such as equipment and salaries.

Gifts supporting activities of individual employees are acceptable only if the principal beneficiary of the gift is CDC rather than the employee, and the gift is given in such a form that the money can be used even if the employee leaves CDC.

Under Section 231 of the PHS Act, CDC may not accept gifts if conditioned upon any expenditure that cannot be met from the gift itself or from the income of the gift. Additionally, neither the gift nor any conditions associated with the gift should exert influence over CDC program priorities.

A gift is unconditional if made to or for CDC, a CIO, or any other constituent part of CDC for the benefit of all or any of these organizations, or for any of their functions, without further specification as to its purpose or manner of use.

A gift is unconditional if limited to one or more of the general purposes of any part of the PHS Act administered by CDC, or to one or more of the general purposes of any CDC CIO. [For example, even though a bequest to CDC may be limited to assisting with the prevention of work-related injuries and illness, the gift is considered unconditional, because this is the general purpose of the National Institute for Occupational Safety and Health (NIOSH), a component of CDC.]

Unconditional gift funds support only authorized functions of CDC. When a donor limits a gift to a particular CIO or other CDC component, or to support research on a specific disease or activity without further specification as to its purpose or manner of use, the gift is unconditional and may be used to carry out the mission of the CIO or related research on that specific disease or activity.

If there is a question determining whether a gift is conditional or unconditional, request assistance from the CDC Branch of the HHS Office of the General Counsel (OGC).

If there is a valid question about the classification of the gift, in the opinion of OGC, it will be deemed conditional, and letters of acceptance are prepared accordingly by the CDC official authorized under a delegated authority to accept the gift at issue. In all circumstances, gift funds are collected in advance of use.

B. CDC Foundation Gifts

The National Foundation for the Centers for Disease Control and Prevention (hereafter referred to as the CDC Foundation), established in accordance with Section 399G of the Public Health Service Act (42 U.S.C. Section 280e-11), as amended, is an independent, private, nongovernmental, non-profit enterprise that forges effective partnerships between CDC and others to fight health and safety threats. The CDC Foundation, which began operating in 1995, supports numerous program activities that boost the important work of CDC. CDC and Departmental policy prohibit the solicitation of gifts from the CDC Foundation or other donors; nor is CDC authorized to make requests to the CDC Foundation in an effort to steer its fundraising efforts.

The CDC Foundation may provide funding to CDC for the purpose of aiding or facilitating the work of the CDC in accordance with Section 399G of the Public Health Service Act (42 U.S.C. Section 280e-11), as amended. Specifically, the Director, CDC, may accept and utilize, on behalf of the federal government, any gift, donation, bequest, or devise of real or personal property from the CDC Foundation to aid or facilitate CDC work. The Director, CDC may accept and utilize funds from the CDC Foundation without regard to whether the funds are designated as general purpose funds (unconditional) or special purpose funds (conditional).

CDC may not direct the CDC Foundation to make a gift to CDC. A donor however, may place a condition on the gift to the CDC Foundation that the item must be donated to the CDC. The CDC Foundation may make conditional or unconditional gifts to the CDC. Gifts from the CDC Foundation to CDC are subject to the requirements of this policy.

Should the CDC Foundation accept a gift from a vendor that is considered a prohibited source for CDC, CDC will follow the steps outlined in in part G of this section, Prohibited Sources.

C. Non-Monetary Gifts

It is the policy of CDC to accept non-monetary gifts, except real property, where they can be of use to CDC, subject to the same limitations imposed by this policy. However, non-monetary gifts are not accepted if the total costs associated with acceptance are expected to exceed the cost of purchasing a similar item and the cost of normal care and maintenance. The donor is responsible for any valuation of gifts.

Normally, CDC accepts the valuation the donor places on a tendered gift, unless the value is clearly unreasonable. Although determination of any tax consequences is a matter between the donor and the Internal Revenue Service, it is noted that under Sections 170, 2055, and 2522 of the Internal Revenue Code of 1986, as amended (26 U.S.C. §§ 170, 2055, 2522), donations to the United States Government for exclusively public purposes are deductible for income, gift, and estate tax purposes.

The lease or hire of property accepted as gifts is authorized by Section 231(d) of the PHS Act (42 U.S.C. § 238(d)), as amended. Any income from lease or hire is transferred within 24 hours of receipt to the Office of the Chief Financial Officer (OCFO) for deposit with the Secretary of the Treasury, as required by law. These funds will be available for expenditure toward the operation of CDC or the performance of those functions relating to the purpose designated by the donor. Similarly, proceeds from the liquidation of personal property under Section 231(b) of the Public Health Service Act (42 U.S.C. Section 238(b)), as amended, are to be transferred to OCFO within 24 hours after receipt for deposit with the Secretary of the Treasury. Title to all personal property accepted under the gift acceptance authority vests in the United States Government.

D. Gifts of Real Property

Under the authority of Section 231 of the PHS Act, the Office of the Assistant Secretary for Financial Resources (ASFR) retains authority for the acceptance of gifts of real property.

E. Wills and Trusts

Copies of wills and trusts naming CDC as beneficiary and letters of transmittal are forwarded to OGC. The receiving CIO is responsible for promptly acknowledging receipt of the will or trust and notifying the Deputy CFO when the estate is settled. Once that has occurred, guidelines are the same as those used for any other gifts.. Since any gift from a will or trust CDC might receive may be contingent upon or subject to prior interests or could be revoked during the life of the person making the bequest, no entry will be made in the accounts until the estate is settled. Proceeds from wills or trusts, either revocable or irrevocable, will not be entered in the accounts until realized.

F. Financial Intermediary Restriction

Under federal law 31 U.S.C. § 1321(b), funds received by or for the United States Government or its agencies, including gifts, are deposited in and administered through United States Government accounts and may not be deposited with or otherwise administered by other persons or organizations. Therefore, an outside organization, including a foundation whose mission is solely or in part to support CDC activities, may not serve as a financial intermediary for a third party in the donation of funds, equipment, supplies, or other resources to be used in support of CDC activities or employees in the performance of their official duties, such as intramural research, unless authorized by law. CDC policy is that the statutory gift acceptance authorities provide an adequate basis for accepting such donations, if otherwise proper, directly from the donors, while allowing CDC managers to control the administration of these gift resources.

G. Prohibited Sources

CDC must evaluate a gift offered by a private entity, e.g., company, foundation, enterprise, etc., when it may create a conflict of interest or may be from a prohibited source. A prohibited source is any individual or entity that:

- Is seeking official action by CDC
- Does business or seeks to do business with CDC
- Conducts activities regulated by CDC
- Has interests that may be substantially affected by performance or nonperformance of an employee's official duties
- Benefits from work performed by CDC, such that they can use it to promote their business
- Is an organization, a majority of whose members are described in Section VI. I. 2 (5 C.F.R. Section 2635.203(d))

The fact that a potential donor is a prohibited source does not necessarily mean that a proposed gift may not be accepted; only that it must be carefully evaluated for possible conflicts of interest.

If the donor is a prohibited source, CDC must perform a balancing test to determine whether CDC's interest in accepting the gift outweighs the concern that accepting the gift reflects unfavorably upon CDC. For example, if any employee's ability to carry out their responsibilities or official duties in a fair and objective manner is influenced, or acceptance of the gift could compromise the integrity of a government program, or any official involved in that program, the gift from the prohibited source is not accepted.

When a prohibited source offers a gift, the approving official performs the three-step validity test described in [Appendix 2](#) to determine whether the gift may be accepted. In the case of a gift offered from a prohibited source, the official authorized to accept the gift must be especially aware of the increased probability that an actual or apparent conflict of interest may exist. Where the donor expresses, directly or indirectly, an expectation of receiving a future benefit such as a contract award, the gift is not accepted.

Disposition of Prohibited Gifts

CDC may authorize disposal or return of prohibited gifts at government expense. For additional guidance, contact the Ethics and Compliance Activity or the OCFO, Office of Debt Management. Written notification must accompany all gift returns. Employees may use first-class mail for the limited purpose of forwarding reimbursements to donors. If a gift cannot be accepted, the following are possible alternatives:

- Return tangible items to the donor
- Subject to approval as a legally permissible use of appropriated funds, pay the donor market value (retail cost of an item or service of like quality. For example, for a ticket or an invitation to an event, the printed face value of the ticket or the amount suggested as a contribution or donation to gain entrance to the event). Items may be destroyed, shared within the office, or donated subject to approval of a supervisor or organization head.

H. Additional Limitations

- 1) No gift will be accepted that is conditioned upon any expenditure that cannot be covered by the gift itself or from income earned from the gift, unless an Act of Congress has approved such expenditure. The Secretary's delegation of authority states: "Offers of property will not be accepted if the total costs associated with acceptance are expected to exceed the cost of purchasing a similar item and the cost of normal care and maintenance."
- 2) Gifts may not be accepted if conditions create a conflict of interest. An actual conflict of interest arises when an employee has or would have official responsibilities with an outside organization with which that employee has a financial interest (their own or an interest that is imputed to the employee) or affiliation. Such a situation puts the employee in the position of having an official responsibility or action, which could directly influence his or her own financial interests or those interests imputed to him or her (financial interests of spouse, minor children, outside employers, and other entities). This situation is in violation of

both statute (18 U.S.C. Section 208) and regulation (5 C.F.R. Section 2635).

- 3) Gifts tendered in order to secure an endorsement are not accepted.
- 4) Donors from commercial organizations must be advised that the acceptance of a gift does not constitute an endorsement.
- 5) Gifts may not be accepted when the donor expresses, directly or indirectly, an expectation of receiving a future benefit, such as a contract award from CDC.
- 6) CDC officials cannot accept conditional gifts of real property, but the Secretary, HHS, may accept them.
- 7) Gifts for the purpose of supporting or supplementing a current permanent employee's salary may not be accepted.

I. Expenditure of Gift Funds

CDC's statutory authority to accept gifts does allow some discretion in the expenditure of the funds. An agency's discretion in administering its gift funds, however, is limited. Generally, donated funds are not subject to all of the restrictions applicable to direct appropriations. However, they are still considered "public funds." Gift funds can only be used further authorized agency purposes and in accordance with the terms of the donation (Comp. Gen B-198730, September 24, 1980).

In evaluating the propriety of a proposed use of gift funds, the precise terms of the statute authorizing the agency to accept the gift must be examined. Limitations imposed by that statute must be followed. Once it is determined that the proposed use will not conflict with the terms of the agency's authorizing statute, the agency, as stated above, will have some discretion regarding expenditure of the funds.

The matter of using gift funds to pay federal employee salary and benefits often arises. When a CDC federal employee performs work associated with administering the gift or carrying out the work of the gift, a portion of the gift funds may be used to pay employee salary and benefits. In these cases, the employee's total salary must remain consistent with applicable statutes and regulations governing federal employee compensation.

Gift funds are generally "no year" monies and, as such, are available until expended. Subject to any restrictions or limitations imposed by donors, gift funds may be expended for any authorized purpose in the performance of CDC functions. Gift fund expenditures are subject to the same examination and audit processes as appropriated funds.

Additionally, it is CDC policy that expenditures from gift funds be regulated in the same manner as expenditures of appropriated funds. The burden rests with the Director, CDC, or the CIO directors to show that those gift fund expenditures carry out CDC activities that are consistent with the purposes of the gift, meet the necessary expense rules, and are in accordance with the guidelines set forth above.

1) Official Entertainment

"HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting, Food, Promotional Items and Printing and Publications" limitations apply to all sources of funds, including gifts funds. (<http://isp-v-maso-apps.cdc.gov/Policy/Doc/policv579>). The purchase of food is allowed in some cases in accordance with specific authority, or in limited circumstances, with appropriation justification and documentation as a necessary expense in accordance with the CDC Policy, [CDC-FM-2014-01, Purchase of Food with Appropriated Funds](#).

Gift funds may be expended for official "entertainment," if consistent with the purposes of the gift and subject to the conditions below. For the purposes of this policy, the term "entertainment" is an umbrella term that

includes but is not limited to: food and drink, either as formal meals or as snacks or refreshments; receptions, banquets, and the like; music, live or recorded; live artistic performances; and recreational facilities.²

Gift funds *may* be used for entertainment if:

- The entertainment furthers a valid, authorized function of CDC
- The function could not be otherwise accomplished from the government's viewpoint without the expenditure
- The expenditure does not violate any restrictions imposed by the donor on the use of the funds

Gift funds expenditures for entertainment must be preapproved by OCFO and meet the necessary expense test. The "official purpose" must further an authorized function of the CDC. For example, gift funds donated to support epidemiology activities *may* be used to fund a reception dinner for visiting epidemiologists attending a conference on advances in epidemiology that is sponsored by CDC. However, donated funds *may not* be used for entertainment that does not bear a legitimate official purpose (e.g., an office holiday party, etc.). Such functions must be paid for with personal funds.

Whether entertainment is necessary or essential to CDC's purposes, must be determined by the particular facts and circumstances involved, and in light of the general objectives of CDC.

The particular facts in each case must reasonably justify not only that the entertainment will further a purpose of CDC, but that CDC's functions could not be accomplished as satisfactorily or as effectively, from the government's standpoint, without such expenditures.

Once received by CDC, gift funds become public funds and should be spent in the same manner as appropriated funds. The agency should always be a good steward of public funds, whether appropriated or provided through the gift authority.

2) Official Travel

Gift funds may be used to pay for necessary travel expenses for attendance at official receptions, award ceremonies, conferences, and similar events under the same regulations and procedures in effect for travel supported by appropriated funds. Sponsored travel, also known as reimbursable travel or 348 travel, is not covered by this policy.

J. Grants

CDC may also accept "grants" as conditional gifts and may use CDC-appropriated funds to cover any cost incurred in applying for these grants. All statutory requirements regarding the acceptance of conditional gifts must be met, grant funds must be used to advance CDC's mission, and there must be no legal objections to CDC's acceptance of these grants. In some situations, where unsolicited grants or other types of awards are made to CDC employees for scientific or other professional purposes, it is necessary to determine whether the funds are intended for CDC or for the employee serving in an individual capacity.

If an employee receives funds from any outside organization that supports the costs of CDC activities, then CDC will accept the funds as a gift and, by law, deposit them into the appropriate CDC gift fund account. Such a gift should not be a gift to the employee. Employees and managers should seek guidance as necessary from the CDC Ethics

² "Principles of Federal Appropriations Law," Third Edition, Volume I, Chapter 4, "Availability of Appropriations: Purpose, Subsection (5)(2)(2), P. 4-102.

and Compliance Activity to avoid the potential for conflict of interest or other impropriety in the acceptance of funds from outside sources.

K. Solicitation Prohibition

In permitting acceptance of gifts, Congress did not authorize HHS component organizations to solicit funds from the private sector to augment the funds authorized through the appropriations process. CDC policy prohibits employees, either directly or through a third party, from requesting or suggesting donations to CDC or any of its components funds or other resources intended to support activities, except grant funds as authorized by the Comptroller General (Decision B-255474 [April 3, 1995])³.

When an outside organization or individual expresses an unsolicited interest in supporting CDC activities, an employee may provide information on the authority of CDC to accept gifts and the procedures regarding the offering and acceptance of gifts. Where there is not a clear distinction between activities acquainting potential donors with the existence of a gift fund (permissible) and activities that are active solicitations (not permissible), the CIO point of contact designated to deal with gift issues should seek case-by-case guidance from the OGC.

This prohibition of solicitation of gifts does not preclude CDC employees from seeking outside collaboration for specific CDC activities, such as a particular research project or scientific conference, as long as these activities constitute:

- A permissible co-sponsorship between CDC and the outside entity
- A formal collaboration between CDC and the outside activity
- A grant
- A collaborative research project under provisions of the Federal Technology Transfer Act (FTTA)

For more guidance on collaboration and co-sponsorship activities, employees should see the Guidance on Co-Sponsorship issued by the HHS Ethics Division on August 8, 2002.

<http://intraspn.cdc.gov/maso/policy/Doc/policy11.htm>.

Additional information for administering and processing a gift is located in Appendix 1, Procedures.

5. RESPONSIBILITIES

A. Office of the Director, CDC

Monetary or non-monetary gifts received by the Office of the Director are assigned to the referenced CIO for handling. When a CIO is not specified for a gift, the Office of the Chief of Staff handles the responsibilities as outlined for CIOs under 5.B.

B. CIOs

- 1) Following OGC review, the CIO directors are responsible for accepting gifts within their statutory or delegated authority (limited to monetary gifts valued at not more than \$2 million, and unconditional gifts of personal property valued at not more than \$5,000.), approving expenditures from gift funds and approving the amount of funds and type of investments. CIO executive or management officials are responsible for consulting the CIO's Associate Director for Science to review gift amounts of more than \$100,000 to ensure

³ Although GAO is part of the Legislative Branch (see *Bowsher v. Synar*, 478 U.S. 714, 727-732 [1986]), and therefore CDC is not bound by its legal opinions (see Memorandum for George Barclay, Acting General Counsel, General Services Administration, from Daniel L. Koffskv, Acting Deputy Assistant Attorney General, Office of Legal Counsel, Re: Legality of Obtaining Government Funds for Advertising by the General Service Administration at 4 & 5 (Jan. 19, 2001) ("GSA Advertising")). GAO's decisions in this area have been historically helpful.

the gift fits within the CIO's overall mission and priorities and is based on sound science and the public good.

- 2) CIO executive or management officials are responsible for the development of their respective organization's annual gift fund plan that should include available annual gift balances and proposed obligations by object class within the official planning system. The annual gift fund plan should include an explanation of how the gift funds are used based on the specifications of the gift and the mission of the organization. This plan should become part of the official CIO record that support the expenditure of gift funds.

The CIO is also responsible for maintenance, execution, development of the acceptance letter, and maintaining copies of letters from donors; providing copies of documentation to OCFO; and requesting required CANs. Maintain the gift fund files on site as long as they are in an active status. After closure, records may be retired, based upon requirements as outlined in the CDC Record Management Policy. <http://isp-v-maso-apps.cdc.gov/Policy/Doc/policv449.pdf>

- 3) CIO property custodians are responsible for consulting with the Logistics Management Branch, OSSAM, when outside organizations propose gifts of personal property to ensure that the property management requirements are met and information on gifts is provided for the Property System.

C. Office of the General Counsel

The CDC Branch, Office of the General Counsel (OGC), HHS, provides guidance on legal issues in the administration of gifts, including gift conditions, use of gift funds, and statutory authorities; negotiates with attorneys representing potential donors or donors' estates; and coordinates, as needed, with HHS on the interface of general legal and ethics issues.

HHS Ethics Division, OGC, provides advice and guidance on ethics issues pertaining to gifts, including assistance with the determination of whether a potential donor is a prohibited source and whether the agency's interest in accepting a gift outweighs any concern that acceptance will reflect unfavorably upon agency programs. The CDC Branch, OGC, and Ethics Division, OGC, coordinates on the review of gifts as needed. The CDC Branch, OGC, must review approval of the gift and all associated paperwork, prior to the CIO requesting budget authority or CANs.

D. The Ethics and Compliance Activity (ECA)

The CDC/ATSDR Ethics and Compliance Activity provides advice and guidance on issues concerning gifts from outside sources. The ECA works to ensure that CDC and ATSDR employees avoid situations that could violate ethics laws and undermine the public's trust in government.

E. Office of the Chief Financial Officer (OCFO)

The OCFO Debt Management Branch and Office of Budget maintain responsibility for the allocation and tracking of gift fund accounts. Monthly reports are available through the agency financial system. Specialized reports can be requested from the Office of Budget, Budget Operations Unit, through the OCFO Service Desk (ocfoservicedesk@cdc.gov). These OCFO offices finalize coordination and submission of the CDC Gift Fund Plan to Congress (when required) and the issuance of advice regarding allotments.

F. Office of Safety, Security, and Asset Management (OSSAM)

The Director, OSSAM, through the Logistics Management Branch, will ensure compliance with the limitation that “offers of personal property will not be accepted if the total costs associated with acceptance are expected to exceed the cost of purchasing a similar item and the cost of normal care and maintenance.”

Property received as a gift is added to CDC property records. The same degree of custody and control is required over this property, as all other government-owned property.

As with other forms of personal property, it is the responsibility of the Logistics Management Branch, OSSAM, to notify OCFO of changes in the status of property that should be reflected in the general ledger.

G. CDC Employees and Staff

It is the responsibility of all CDC staff to become familiar with this policy and follow the procedures provided in this document in responding to a gift made to CDC. If additional assistance is required, employees should contact the Office of the General Counsel or the CDC Ethics and Compliance Activity.

6. REFERENCES

CDC Delegations of Authority. Administrative Authorities/General Gifts. January 21, 2010.

Comptroller General of the United States. Decisions B-198730. September 24, 1980.

Memorandum from the Assistant Secretary for Health to Public Health Services Agency Heads for “Delegation of Authority to Accept Gifts Under Title XXI of the Public Health Service Act (PHS), Miscellaneous” (July 10, 1995).

Memorandum from the Special Counsel for Ethics and Designated Agency Ethics Official for “Holiday Gifts, Parties, and Charitable Fundraising” (Nov. 04, 1996).

“Principles of Federal Appropriations Law.” Third Edition. Volume I. Chapter 4. “Availability of Appropriations: Purpose.” Subsection (5) (2) (2). P. 4-102. February, 2006.

Utilization, Donation, and Disposal of Foreign Gifts and Decorations. 41 CFR Part 101-49. July 1, 1999.

7. ABBREVIATIONS AND ACRONYMS

CIO -- Centers, Institute, or Offices
COO -- Chief Operating Officer
CFR -- Code of Federal Regulations
CAN -- Common Account Number
CRADA -- Cooperative Research and Development Agreement
ECA -- Ethics and Compliance Activity
FTTA -- Federal Technology Transfer Act
FY -- Fiscal Year
HHS -- Department of Health and Human Services
OD -- Office of the Director
OCFO -- Office of the Chief Financial Officer
OCOO -- Office of the Chief Operating Officer
OCoS -- Office of the Chief of Staff
OGC - Office of the General Counsel
OSSAM - Office of Safety, Security, and Asset Management

PGO - Procurement and Grants Office

PHS - U.S. Public Health Service

U.S.C. - United States Code

8. DEFINITIONS

Cash - CDC does not accept cash in the physical form of currency such as banknotes and coins. For purposes of this policy, cash refers to a money order, cashier check, or personal check.

Conditional gift - A gift in which the donor imposes some condition or restriction on the use of the gift or specifies a condition to be met to receive the gift. CDC is not authorized to expend conditional gift funds to support functions not stated within the terms of the conditions of the gift. For purposes of HHS statutes authorizing the acceptance of gifts, a grant from a federal or non-federal source to CDC may qualify as a conditional gift.

Gift - Something bestowed voluntarily and without consideration or compensation. For purposes of this policy, "gifts" are defined as "gratuitous conveyances or transfers of ownership in property without any consideration." (25 Comp. Gen. 637, 639 (1946))

Inter vivos gift - A gift made when the donor is living and requests that the gift take effect while the donor is living.

Personal property - A tangible item that is not real property; including artwork, furniture, equipment, office machines, vehicles, materials, and supplies. It excludes intangible items such as money, stocks, and bonds.

Real property - A tangible item that may be land, buildings, utility systems, fixtures, and other property that is installed and becomes an integral part of the real property.

Reverter clause - A legal term meaning "to return to the former owner or to the former owner's heirs; used in terms of money or property."

Unconditional gift - A gift in 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.

Testamentary gift - Pertaining to a will or testament, a gift that is derived from, founded on, or appointed by a testament or will--a gift that takes effect upon the death of the donor.

Appendix 1. Procedures

A. Immediate Processing

- 1) In accordance with Cash Management Policy, all offices must forward the cash or cash equivalents for deposit to the Deputy Chief Financial Officer within 24 hours of receipt. The gift transmittal should be accompanied by a brief memorandum stating that the gift is pre-decisional. Any documentation that accompanied the gift should be included.
- 2) Gift fund checks should be mailed to:

Centers for Disease Control and Prevention (CDC)
Office of the Chief Financial Officer
Address for United States Postal Service (USPS)
CDC/OCFO
P.O. Box 15580
Atlanta, GA 30333

Address for Private Carrier Delivery (FedEx, UPS)
CDC/OCFO
University Office Park - Columbia Building
2900 Woodcock Boulevard
Atlanta, GA 30341
Attn: Debt Management Branch
- 3) Wired funds should be transmitted via pay.gov:
<https://www.pay.gov/paygov/forms/formInstance.html?agencyFormId=37474841>
- 4) OCFO will deposit the gift in a suspense account unless it is officially accepted within the 24-hour period.
- 5) Monetary gift checks more than 90 days old are not accepted by OCFO for deposit and will be returned to the recipient organization for return to the donor for reissuance.

B. Acceptance Determinations

- 1) Within ten working days, the approving official must determine whether to accept the gift and must notify the donor (monetary or non-monetary). For monetary gifts valued at not more than \$2 million and unconditional gifts of personal property valued at not more than \$5,000, authority rests with the CIO director. For monetary gifts of more than \$2 million, authority rests with the Chief Operating Officer. The timeframe may be extended in cases where the decision on the acceptance of a gift is difficult (e.g., negotiation with the donor is required).
- 2) When making a decision on the acceptance of a monetary gift, approving officials utilize the gift acceptance validity survey and gift acceptance checklists (see Appendices A and B). These checklists are submitted by the receiving party through OGC and OCFO to the designated approving official for review and approval before acceptance occurs. OGC will review the proposal and provide legal advice on the administration of the gift to the approving official. The Deputy Chief Financial Officer ensures that the gift meets the criteria of the pre-acceptance checklist and that all supporting documentation is complete.
- 3) For conditional monetary gifts, the potential donor must agree in writing that upon completion of the stipulated conditions, the remaining funds of \$1,000 or less will be transferred to the unconditional gift account for the support of any other objectives of the recipient organization. The letter of acceptance of the

gift must acknowledge the donor's agreement to this condition. The donor will be contacted by the CIO executive or management official to obtain permission in writing to use amount remaining exceeding the \$1,000 threshold.

- 4) Once approval is obtained, the OCFO coordinates establishing a CAN for the gift. Gifts from the CDC Foundation or any other donor require both a letter of acceptance and a check in order for a new CAN to be established. Funds cannot be committed or obligated until the CIO is notified that the Office of Budget, OCFO, has approved budget authority and a CAN.
- 5) The letter of acceptance from CDC to the donor should state only that the monetary gift is being deposited into the "component's gift fund account," and state the purpose for which the funds will be used. (Reference to a "Breast Cancer Gift Fund" or an "Emphysema Gift Fund," for example, is technically incorrect and, therefore, should not be used.) The Office the Associate Director for Communication is available to assist in preparing acceptance letters. Acceptance letters require OGC approval prior to transmittal.
- 6) If the monetary gift is accepted, OCFO will deposit the money into the gift fund account. It will be recorded as "conditional" or "unconditional" and will be coded with the appropriate program segment code.
- 7) If the monetary gift is not accepted, or the donor refuses to accept CDC terms, any uncashed checks tendered by the donor will be promptly returned to the donor. If the donor's check has already been deposited, OCFO will draw a refund check from the Department of the Treasury.
- 8) Normally, for non-monetary gifts, the donor should be thanked and informed that the donation will be considerate for acceptance, and that the donor will be advised of a decision at a later timeframe. The responsibility for the administration of non-monetary gifts rests with the Logistics Management Branch, OSSAM.

C. Gifts of Personal Property

- 1) CIO property custodians should notify the Logistics Management Branch, OSSAM, of proposals for personal property gifts. The notification should include:
 - A description of the item, including the manufacturer and model number and estimated value;
 - The accountable area that will be receiving the item (custodial location code); and
 - The purpose specified by the donor.

Upon receipt of the personal property gift, the CIO property custodian submits a copy of the document accepting the gift to OSSAM.

- 2) The Logistics Management Branch, OSSAM, will create a basic record in the on-line property system upon notification of acceptance of the gift by the CIO property custodian. The record will include:
 - Estimated value,
 - Manufacturer's serial number,
 - Month and year the item was received,
 - Physical location (building and room number),
 - CDC decal number assigned to the item, and
 - Purpose specified by the donor.

D. Investment of Gift Fund Monies

The director of each CIO determines at least annually if there will be excess funds not used within a 12-month period, usually the fiscal year. If it is determined that there are excess funds and the amount of these funds is \$50,000 or more, the CIO director will request in writing that the Chief Financial Officer invest the excess funds in interest-bearing obligations of the United States (that is, U.S. Treasury bills, notes, or bonds) or as otherwise authorized by law. This notification should include information concerning when these investments will be redeemed in order to meet planned outlays.

The director's memorandum must include the amount of funds invested, the source of funds, and any recommendations regarding purchase of the U.S. Treasury bills, notes, or bonds. OCFO gives CIOs quarterly status sheets of all invested funds, including amounts, dates of investment, and maturity. Invested gift funds and income from these investments retain the same limitations as the original gifts. Upon liquidation of investments, the monies must be returned to the same gift fund account to be used for the benefit of the CIOs, within the limits and restrictions of the original gift or gifts. It should be noted that if an investment is redeemed before the maturity date, there may be loss of principal. The spend plan must be aligned with the investment of the securities and redemption of the securities.

E. Funds Control

The OCFO controls gift funds in accordance with strict internal funds controls that require they be received prior to obligation or expenditure.

Appendix 2: THE GIFT ACCEPTANCE VALIDITY SURVEY

CDC determines whether its interest in accepting a gift outweighs any concern that accepting the gift reflects unfavorably upon the ability of the agency or any employee to carry out responsibilities or official duties in a fair and objective manner; or compromises the integrity, the appearance of the integrity, of a government program or any official involved in that program. This survey helps in analyzing the process. All responses answered unfavorably should be given considerable scrutiny.

1. Does CDC have an interest in accepting the gift?		
yes _____	no _____	Do not know _____
2. Will this gift enhance and enable CDC to accomplish its mission?		
yes _____	no _____	Do not know _____
3. Is the donor an acceptable source?		
yes _____	no _____	Do not know _____
4. Does the gift meet generally acceptable public standards?		
yes _____	no _____	Do not know _____
5. Is the gift reasonable to administer?		
yes _____	no _____	Do not know _____
6. Will the principal beneficiary of the gift be CDC?		
yes _____	no _____	Do not know _____
7. Does CDC control activity when the donors have an interest, or the potential for interest in such as CRADAs, research and development, or other contract programs, grant programs, or clinical trials? If so, which activities?		
yes _____	no _____	Do not know _____
8. Will acceptance of the gift compromise the integrity, or the appearance of the integrity of a governmental program or of any official involved in that program?		
yes _____	no _____	Do not know _____
9. Is there an actual or apparent conflict of interest?		
yes _____	no _____	Do not know _____
10. Was the gift solicited by a CDC employee?		
yes _____	no _____	Do not know _____
11. Will the size or the nature of the gift alone raise a significant concern?		
Yes _____	no _____	Do not know _____

12. Is the gift offered to support the activities of an individual employee?		
yes _____	no _____	Do not know _____
13. Will accepting the gift reflect unfavorably on the ability of CDC or any employee to carry out responsibilities or official duties in a fair and objective manner?		
yes _____	no _____	Do not know _____
14. Is the gift offered for endorsement purposes?		
yes _____	no _____	Do not know _____
15. Are there donor-imposed restrictions or conditions?		
yes _____	no _____	Do not know _____
16. Is there sensitivity in any matter pending before CDC that would affect the interest of the donor? If so, what?		
yes _____	no _____	Do not know _____
17. Are there any effects of accepting the gift on entities that are inside/outside the agency or component? For example, would any identifiable class or persons or entities receive benefits from or be disadvantaged by the acceptance of the gift by CDC or CIO? If so, to what extent?		
yes _____	no _____	Do not know _____
18. Has the Office of the General Counsel been consulted to provide guidance on problematic issues about acceptance of the gift?		
yes _____	no _____	Do not know _____
19. What is the practical impact of the gift within CDC or CIO?		
_____	_____	Do not know _____
20. Why is the gift offered to CDC or CIO?		
yes _____	no _____	Do not know _____
<p>If your answer was “no” to any questions 1 through 7, or “yes” to any questions 8 through 18, then careful scrutiny should be given to any unfavorable responses, and the CDC Ethics and Compliance Activity and the Office of the General Counsel should be consulted as a precautionary measure.</p> <p>Comments:</p>		

Signature	Date

APPENDIX 3: CDC GIFT PRE-ACCEPTANCE CHECKLIST

CDC Organization:		Date:
Person to Contact in Receiving Office: Telephone: FAX:		
Monetary ___ / Non-monetary ___	Conditional ___ / Unconditional ___	
Amount of Gift: \$	Personal Property ___ / Real Property ___	
Name of Donor: Donor's Address: Street: City: State: Zip Code: Telephone: Point of Contact:		
Description or Purpose of Gift:		
Donor imposed restrictions or conditions:		
Recommendation: Acceptance ___ / Non-acceptance ___		
Reason(s) for non-acceptance: Comments:		
Concurrence ___ / Non-concurrence ___		
Signature of Recommending Official _____		Date _____
Concurrence ___ / Non-concurrence ___		
Signature of Approving Official _____		Date _____

APPENDIX 4: SAMPLE LETTERS OF ACCEPTANCE FOR CONDITIONAL AND UNCONDITIONAL GIFTS

(Use CIO letterhead if the CIO Director is the signature authority)

Marshall Dillon, Ph.D.

President

Acme Laboratories

1234 56th Avenue

Metropolis, VA 23456

Dear Dr. Dillon:

On behalf of the Centers for Disease Control and Prevention (CDC) and by the authority delegated to me through Section 231 of the Public Health Service Act (42 U.S.C. Section 238), as amended, I am pleased to accept Acme Laboratories' gift of \$100,000. In accordance with your wishes, the funds will be deposited in the (Name of CIO or OD component) Conditional Gift Fund Account and will be used by (Name of CIO or OD component) to support (Name of specific project and/or researcher).

In the event that any unobligated funds remain in the account after completion of the project, the unexpended balance will be deposited in the (Name of CIO or OD component) Unconditional Gift Fund and made available to support other activities of the (Name of CIO or CDC). By signing and returning a copy of this letter where indicated below, you acknowledge acceptance of this condition.*

Support from organizations such as yours makes it possible for CDC to work toward understanding and preventing disease. We deeply appreciate your help.

Sincerely yours,
(Signature) Recipient CIO Director

Use of excess funds acknowledgement: By: _____ Date: _____

Bcc: OCFO, OD, OGC

SAMPLE LETTER OF ACCEPTANCE FOR UNCONDITIONAL GIFTS

(Use CIO letterhead if CIO Director is the signature authority)

Marshall Dillon, Ph.D.
President
Acme Laboratories
1234 56th Avenue
Metropolis, VA 23456

Dear Dr. Dillon:

On behalf of the Centers for Disease Control and Prevention (CDC) and in accordance with the authority of Section 231 of the Public Health Service Act (42 U.S.C. Section 238), as amended, I am pleased to accept Acme Laboratories' generous donation of \$100,000 to the (Name of CC/CO or NC or OD component) Gift Fund Account. In accordance with the mission of CDC, the gift will be used to carry out the mission of (Name of CIO or OD component) to support (purpose, e.g. cancer research).

Support from organizations such as yours makes it possible for CDC to work toward understanding, preventing, and eradicating disease. We deeply appreciate your help.

Sincerely yours,

(Signature) (Recipient CIO Director)

Bcc: OCFO, OD, OGC