



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 4/1/2016.
4. **Responsible Organizations:** Office of the Chief of Staff, CDC
5. **Material Superseded:** None
6. **Recertification:** This document is scheduled for recertification on or before the last working day of December 2019.
7. **Points of Contact:** Diana Yassanye, Office of the Chief of Staff, 404-639-7454 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:

/s/ Sherri A Berger, MSPH
Chief Operating Officer

Category: Ethics
Policy #: CDC-ET-2007-1
Date Issued: 05/11/2007, Updated 12/21/2016
Proponent: Office of the Chief of Staff
Applicable: All staff
Application: All CDC locations domestic and international

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 (CDC)¹ in general or to support any of its specific activities or components. This policy applies to the receipt of all monetary and non-monetary (or in-kind)² gifts accepted under the authority of Section 231 of the Public Health Service (PHS) Act (42 U.S.C. Section 238), as amended; Section 399G of the PHS Act (42 U.S.C. Section 280e-11), as amended, and 29 U.S.C. Section 671 (e) 2 and 3. This policy applies to all CDC domestic and international locations, and to CDC's Centers, Institute, and Offices (CIOs) and Business Services Offices, which are hereafter called "CDC Components" unless otherwise noted.

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); sponsored travel; or the gifts accepted by individual employees from foreign governments, international organizations, or organizations outside the federal government. Collaborations between the agency and partners that include day-to-day interactions for a common goal may not be subject to this policy; however, when a partnership reaches a point of potential monetary or in-kind gift (non-monetary), then the application of the policy may be appropriate.

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

² For purposes of this policy, the terms "in-kind gifts" and "non-monetary gifts" are used interchangeably

CDC has approved this operational policy to be published on CDC.gov for everyone to access. We removed internal hyperlinks for reader convenience. This is the current version of the policy at the date of posting. Please direct questions about this policy to the CDC Operational Policy Management Team at operationalpolicy@cdc.gov.

Direct questions regarding appropriate collaborative activities to the Office of the General Counsel (OGC), CDC Branch, Department of Health & Human Services (HHS). 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). Gifts to individual employees from organizations outside the federal government are subject to the government-wide ethics regulations. Refer questions and issues relating to such gifts to the Human Resources Office (HRO), CDC Ethics and Compliance Activity.

This policy provides CDC with guidance on implementing its statutory and delegated authorities to accept gifts. Compliance with this policy enables CDC management to control the acceptance and use of these resources and ensures that CDC mitigates any risks from potential 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. This policy also describes the procedures required at CDC for reviewing gifts to determine if a conflict of interest exists.

2. BACKGROUND

As a rule, an agency may not augment its appropriation from an outside source without specific statutory authority to do so.³ The miscellaneous receipts statute, 31 U.S.C. Section 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, HHS, to accept gifts directly.⁴ CDC may also accept gifts from the National Foundation for the Centers for Disease Control and Prevention (hereafter referred to as the “CDC Foundation” or CDCF), in accordance with Section 399G of the PHS Act (42 U.S.C. Section 280e-11), as amended. The National Institute for Occupational Safety and Health (NIOSH) may additionally accept gifts in accordance with 29 U.S.C. Section 671 (e) 2 and 3.

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.

The CDC does not accept gifts if the conditions imposed by the donor are any of the following:

- 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

³ 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.”)

⁴ Section 231 of the Public Health Service Act (42 U.S.C. Section 238)], as amended.

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 to accept a gift, CDC must consider the identity of the immediate donor and may consider the identity of any entity that funds the donor. In order to accomplish these goals, CDC has an established process for reviewing gifts for conflicts of interest.

A. Conditional Gifts

A gift is considered conditional if the donor restricts its purpose or imposes a requirement that the gift be used:

- 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 the purchase of specific items of equipment or other specific uses

Examples of conditional purposes include gifts to CDC that 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.

Conditional gifts do not include “fee-for-service” transactions in which CDC is providing goods or services for the benefit of the donating party above and beyond what is normally available to the general public. Questions about such transactions may be addressed by the Office of the Chief Operating Officer’s (OCCO) Office of Financial Resources (OFR) and the OGC.

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.

B. Unconditional Gifts

A gift is unconditional if it is made to or for CDC, a Centers/Institute/Offices (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 it is 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. A gift is unconditional when a donor does limit a gift to a particular CIO, other CDC component, or to support research on a specific disease or activity without further specification as to its purpose or manner of use. Such a gift may be used to carry out the mission of the CIO or research related to that specific disease or activity.

If there is a question determining whether a gift is conditional or unconditional, request assistance from the OGC.

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

CDC Foundation Gifts

The CDC Foundation⁵ is an independent, private, nongovernmental, non-profit enterprise that forges 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 allow CDC employees to propose project ideas to the CDC Foundation and cultivate partnerships around program opportunities.

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 CDC Director 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 CDC Director 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. The CDC Foundation will conduct a conflict-of-interest review of the potential donor prior to accepting the gift, as required in the administrative cooperative agreement between CDC and the CDC Foundation. In addition, the CDC Foundation will provide CDC with relevant information about the donor (see Appendix 5) to enable CDC to conduct its own conflict of interest review.

C. Gifts In-Kind (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. These non-monetary gifts are subject to the same limitations imposed by this policy. However, the CDC does not accept non-monetary gifts if the total costs to CDC 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. Sections 170, 2055, 2522), that 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. Section 238(d)), as amended. Any income from lease or hire is transferred within 24 hours of receipt to OFR 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 OFR 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.

⁵ Established in accordance with Section 399G of the Public Health Service Act (42 U.S.C. Section 280e-11), as amended.

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

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.⁶ 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 Chief Financial Officer (CFO) when the estate is settled. Once these activities have occurred, the guidelines are the same as those used to accept a monetary gift. Proceeds from wills or trusts, either revocable or irrevocable, will not be entered in the accounts until realized.

F. Receipt and Administration of Gifts

Under federal law, 31 U.S.C. Section 1321(b), funds received by or for the United States Government or its agencies, including gifts to the government, are to be 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 (this includes 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. The CDC Foundation, however, is authorized by law to accept donations to “support and carry out activities for the prevention and control of diseases, disorder, injuries, and disabilities, and for promotion of public health.” The CDC Director is authorized by law to accept such funds from the CDC Foundation. However, CDC policy is that the statutory gift acceptance authorities also provide an adequate basis for accepting donations, if otherwise proper, directly from donors, while allowing CDC managers to control the administration of these gift resources.

G. Conflict of Interest Review

Conflict of Interest Review Requirements

All gifts subject to this policy must undergo conflict of interest review at CDC. This includes gifts from the CDC Foundation and gifts given directly to CDC, whether they be monetary or non-monetary. CDC Foundation gifts will also undergo a separate, independent conflict of interest review by the CDC Foundation. The CDC Foundation is required by its cooperative agreement to apply the same standard for vetting donors for projects managed at CDC Foundation, even when no funds come to CDC.

Conflict of interest reviews begin within the CIO. The responsibilities, structure, and documentation of a conflict of interest review are described in section 5 of this policy and in [supporting internal documents](#). It is a requirement that the CDC Conflict of Interest Review Panel review all monetary gifts over \$500. See Appendix 1, Section B, Subsection 2 for instructions for receipt of gifts under \$500. For more information about the requirements that must be met before a gift can be reviewed by the panel, how to request a gift conflict of interest review, and guidance for presenting to the panel, please go to:

⁶ Since any gift from a will or trust that 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.

In evaluating whether to accept a gift from a donor, CDC must perform a balancing test to determine whether the benefits outweigh the risk that accepting the gift would reflect unfavorably upon CDC. For example, the gift should not be accepted if any employee's ability to carry out his or her responsibilities or official duties in a fair and objective manner is influenced; if acceptance of the gift could compromise the integrity of a government program or any official involved in that program; or if the donor has an expectation of receiving a future benefit such as a contract award.

Under Section 231 of the PHS Act, CDC may not accept a gift if it is 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 undue influence over CDC programs and priorities.

A gift may exert undue influence when an individual or organization is able to persuade the agency's decision due to the relationship between the two parties. In exerting undue influence, the individual or organization donor is able to gain an advantage. Examples of undue influence include, but are not limited to, the following:

- 1) Any attempt to interfere with the standard procedures of the agency or to place pressure on the agency in order to obtain a specific outcome from the agency or its staff
- 2) Influence by which a person is induced to act otherwise than by his or her own free will or without adequate attention to the consequences
- 3) A situation in which someone uses his or her power or authority in an unfair way in order to influence a legal decision
- 4) When one party to a transaction is able to influence the decisions of another party to a transaction

Review of Gifts In-Kind (Non-Monetary Gifts)

The CIO Gift Review Official described in section 4B of this policy, is responsible for review, determination, and record keeping of non-monetary gifts for projects within their CIO. A center-level conflict of interest review includes documentation of the review, the donor, and a description of the in-kind gift. For guidance and templates, refer to section 5 of this policy and in these [supporting internal documents, just as with a monetary gift](#). The CIO Gift Review Official should consider what the monetary value of a gift would be, if possible, and record that value in review documentation. For example, if a company is donating a piece of lab equipment and the market value is \$250,000, then that should be noted as part of the CIO consideration for acceptance of the gift.

If a CIO makes a determination that there is a potential conflict of interest concern, then the CIO must first consult with OGC and then can request a CDC COI Panel Review if it requires further elevation.

Review of Gifts for an Emergency Response

When the Emergency Operations Center (EOC) is activated for a public health emergency, an emergency response conflict of interest review process is followed. The process is an abbreviated version of the conflict-of-interest review described above, in order to expedite gift offers in light of the pressing emergency response. This process includes a review from OGC and the Ethics Desk of the EOC. When there is a potential Prohibited Source, or there is need for additional review, the Office of the Director completes a Gift Acceptance Validity Survey (Appendix 2) and any further considerations are relayed back to OGC, the Ethics Desk, and the CDC Foundation as appropriate. The CDC Foundation also follows a conflict-of-interest review process for potential gifts and donors during an emergency response.

Prohibited Sources

Gifts offered by a prohibited source (whether a CDC Foundation gift or a direct gift) must undergo an extra layer of scrutiny including completion of the Gift Acceptance Validity Survey (Appendix 2) before possibly being accepted by CDC. 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. 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\(d\)](#)).

Examples of private entity partners that may be considered a prohibited source include, but are not limited to the following scenarios:

- 1) Company X has competed or is competing for a contract with CDC to develop an evaluation tool for a CDC priority issue. An offer of a monetary or non-monetary gift to CDC directly or through the CDC Foundation from the same company for a related or unrelated project would require additional scrutiny through completion of the [Appendix 2: Gift Acceptance Validity Survey](#) before the new project gets to the CDC and CDC Foundation Conflict of Interest reviews.
- 2) Company Y had a contractual relationship with CDC years ago but has not recently sought CDC engagement. This year, the company was scrutinized in the media for questionable employee health practices. It is interested in creating a funded partnership with CDC to study an unrelated public health issue. Company Y would not be considered a prohibited source as defined above due to the length of time between engagements. However, given the negative public image of the company, additional scrutiny may be warranted to determine if the company should be excluded as a gift source.
- 3) Company Z had a contract with CDC to develop a surveillance system for a CDC priority issue. Now it would like to contribute funds to a communications campaign through the CDC Foundation for the same priority issue. Company Z would need scrutiny by the relevant program using [Appendix 2: the Gift Acceptance Validity Survey](#) before the proposed gift undergoes conflict of interest review by the CDC and CDC Foundation.

When a prohibited source offers a gift, the CIO gift review official completes the Gift Acceptance Validity Survey to determine whether the gift is acceptable to the CIO and therefore required to be evaluated further by the CDC Conflict of Interest Review Panel. In the case of a gift offered from a prohibited source, the CIO gift review official must be especially aware of the increased probability that an actual or apparent conflict of interest may exist.

Excluded Sources

An excluded source is one for which CDC has made a determination that no gifts should be accepted from that source because of CDC's audience and mission and the donor's values and attitudes, characteristics, or products and services.

The CDC has established conditions for when a donor should be considered an excluded source. This includes the following situations:

- The donor is a tobacco corporation, or a foundation related to tobacco corporations
- The donor is a private interest involved in the manufacture, sale, or distribution of products or services that in CDC's view directly conflict with agency mission and do unequivocal harm to the public's health
- The donor is a private entity that seeks to fund an investigation into its own conduct and practices
- The donor seeks to exercise undue influence over the design, management, reporting of results, or the dissemination of findings and will not agree to modifications that permit the CDC to maintain control of all phases of the project and avoid undue influence, either in fact or appearance⁷

If there is any question that a potential donor may be an excluded source, the CIO gift review official, in collaboration with OGC, should review recommendations regarding excluded sources made by the Advisory Committee to the Director in its May 2016 report.

Disposition of Prohibited or Unwanted Gifts

CDC may authorize the disposal or return of prohibited (i.e., illegal or otherwise inappropriate) or unwanted gifts back to the donor at government expense. For disposition of such gifts to the agency, contact OFR, 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. For guidance regarding disposition of such gifts to individual employees, contact the CDC Ethics and Compliance Activity. If a gift cannot be accepted, the following are possible alternatives:

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

H. Additional Limitations

- 1) CDC will not accept a gift 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 the conditions placed on the gift 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 (his or her 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 that could directly influence his or her own financial interests or those interests of a spouse, minor children, outside employers, and

⁷ Examples and definition of undue influence are provided in section 7.

other entities. This situation is in violation of both statute (18 U.S.C. Section 208) and regulation (5 C.F.R. Part 2635).

- 3) Gifts tendered in order to secure an implied or direct endorsement are not accepted.
- 4) Donors from commercial organizations must be advised that the acceptance of a gift does not constitute an implied or direct 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; gifts of real property may only be accepted by the Secretary, HHS/ASFR.

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 to 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, if the gift conditions do not create a conflict of interest, as described in the section above. In these cases, the employee's total salary must remain consistent with applicable statutes and regulations governing federal employee compensation. Given the finite nature of gift funds, however, it is recommended that only the salary of term employees be paid using gift funds.

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 used 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.

CDC policy requires 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.

Official Entertainment

Limitations outlined in the ["HHS Policy on Promoting Efficient Spending: Use of Appropriated Funds for Conferences and Meeting, Food, Promotional Items and Printing and Publications"](#) apply to all sources of funds, including gifts funds. 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; live or recorded music; live artistic performances; and recreational facilities.⁸

Gift funds **may** be used for entertainment if any of the following applies:

- 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 pre-approved by OFR and meet the necessary expense test. The “official purpose” must further an authorized function of the CDC. However, donated funds **may not** be used for entertainment that does not bear a legitimate official purpose, such as an office holiday party. 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 also 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.

Official Travel

CDC may use gift funds to pay for necessary travel expenses to attend official receptions, award ceremonies, conferences, and similar events. The same regulations and procedures in effect for travel supported by appropriated funds apply for gift funds.

Sponsored Travel

Sponsored travel⁹ is not covered by this policy. Please consult with the [OFR](#) or the [Ethics and Compliance Activity Office](#) for assistance with this type of travel.

J. Grants

CDC may also accept “grants” as conditional gifts and may use CDC’s 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, CDC must determine whether the funds are intended for CDC or for the employee serving in an individual capacity.

⁸ “Principles of Federal Appropriations Law,” Third Edition, Volume I, Chapter 4, “Availability of Appropriations: Purpose, Subsection (5)(2)(2), P. 4-102.

⁹ Travel which has some or all costs paid for in part or completely by a non-Federal Source; also known as reimbursable travel or 348 travel.

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 and Compliance Activity to avoid the potential for conflict of interest or other impropriety in the acceptance of funds from outside sources. Employees and managers should also seek guidance from OGC to ensure that conditions set out in grant award documents and agreements are legally appropriate.

K. Solicitation Prohibition

CDC policy prohibits employees, either directly or through a third party, from requesting or suggesting donations to CDC or any of its components, except grant funds as authorized by the Comptroller General (Decision B-255474 [April 3, 1995]).¹⁰

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 gift review official should seek case-by-case guidance from the OGC.

This prohibition on the 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 one of the following:

- 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 CDC Policy CDC-GA-1997-02, [“Guidance on Co-Sponsorship.”](#) Additional information for administering and processing a gift is located in Appendix 1, Procedures.

4. RESPONSIBILITIES

A. CDC Employees and Staff

It is the responsibility of all CDC staff to become familiar with this policy and follow the processes provided in this document, to respond to a gift made to CDC. Employees should contact the Office of the General Counsel, the Office of Financial Resources, or the CIO CDC Foundation Liaison.

¹⁰ 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”). However, GAO’s decisions in this area have been historically helpful.

B. CIOs

- Designate a CIO Gift Review Official, responsible for adherence to this policy. The CIO Gift Review Official must establish internal policies and procedures for CIO conflict of interest review
- Accept 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.)
- Approve expenditures from gift funds, approving the amount of funds and type of investments (if applicable)
- Document consultation with the CIO Associate Directors of Science to review gift amounts of more than \$100,000 to ensure the gift fits within the CIO's overall mission and is based on sound science and the public good
- Develop of their respective organizations' annual budget planning process that should include projections of gift funds for stated priority projects and activities, when possible
- Develop, execute, and maintain of the acceptance letter; maintain copies of letters from donors; providing copies of documentation to OFR; and request required common account numbers (CANs)
- Maintain the gift fund files on site as long as they are in an active status, retiring records after gift closure based upon requirements outlined in the CDC Policy CDC-GA-2005-07, "Records Management."
- Ensure CIO property custodians consult 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 (OGC)

The CDC/ATSDR Branch, OGC, HHS, provides guidance on legal issues in the administration of gifts, including gift conditions, use of gift funds, and statutory authorities. It also negotiates with attorneys representing potential donors or donors' estates and provides assistance in determining 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. OGC coordinates on the review of gifts with the Ethics Division, OGC, as needed. The CDC Branch, OGC, may review approval of the gift and all associated paperwork, prior to the CIO's requesting budget authority or CANs.

Questions regarding user fees, collaborations, co-sponsorships and the applicability of this policy in general to a given activity or gift should be directed to OGC.

D. The Ethics and Compliance Activity (ECA)

ECA has oversight of the CDC Ethics Program. ECA provides advice and guidance on issues concerning gifts from outside sources to individual employees. ECA works to ensure compliance with ethics laws and regulations, so that CDC employees avoid situations that may violate ethics laws and undermine the public's trust in government. ECA does not provide advice and guidance on agency ethics issues; such questions should be directed to OGC.

Employees must contact ECA regarding gifts to individual employees that are not covered by this policy including all gifts from within or outside of the Federal government. Common examples include but are not limited to gifts of sponsored travel, widely attended gatherings (WAGs), awards, gifts of free attendance to conferences, gifts between individual employees, meals or anything of monetary value. If CDC employees have questions regarding the acceptance of gifts as an individual and not to or on behalf of the agency, they should contact the Ethics and Compliance Activity at ethics@cdc.gov.

E. Office of Financial Resources (OFR)

The OFR Office of Finance & Accounting Services (Debt Management Branch) and Office of Budget Services (OBS) has 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 OFR Office of Financial Information Services, through the MISO Help Desk (magichelp@cdc.gov). These OFR offices finalize the coordination and submission of the CDC Gift Fund Plan to Congress (when required) and providing 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 CDC receives as a gift is added to CDC property records. CDC must exercise the same degree of custody and control 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 OFR of changes in the status of property that should be reflected in the general ledger.

G. CDC Office of the Director

Monetary or gifts in kind received by the Office of the Director are assigned to the referenced CIO for coordinated handling. When a CIO is not specified for a gift, the Office of the Chief of Staff (OCoS) handles the responsibilities as outlined for CIOs in section 4.B. The responsibilities associated with the Office of the Director relating to the conflict-of-interest review process are described above in section 3.F.

5. REFERENCES

- A. [CDC GA-2005-07, Record Management Policy, 7/30/2014.](#)
- B. [CDC GA-1997-02, Securing Approval for Sponsorship of Conferences, 9/22/2008.](#)
- C. [CDC FM-2014-01, Purchase of Food with Appropriated Funds, 4/1/2016.](#)
- D. [CDC Delegations of Authority. Administrative Authorities/General Gifts. 08/20/2015.](#)
- E. [Comptroller General of the United States. Decision B-198730. 12/10/1986.](#)
- F. 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”, 7/10/1995.
- G. Memorandum from the Special Counsel for Ethics and Designated Agency Ethics Official for “Holiday Gifts, Parties, and Charitable Fundraising” 11/04/1996.

- H. "Principles of Federal Appropriations Law." Third Edition. Volume I. Chapter 4. "Availability of Appropriations: Purpose." Subsection (5) (2) (2). P. 4-102. 2/2006.
- I. [Utilization, Donation, and Disposal of Foreign Gifts and Decorations. 41 CFR Part 101-49. 7/1/1999.](#)

6. ABBREVIATIONS AND ACRONYMS

CIO – Centers, Institute, or Offices
COI – Conflict of Interest
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 – U.S. Department of Health and Human Services
OD – Office of the Director
OCOO – Office of the Chief Operating Officer
OCoS – Office of the Chief of Staff
OGC – Office of the General Counsel
OGS – Office of Grant Services
OFR – Office of Financial Resources
OSSAM – Office of Safety, Security, and Asset Management
PHS – U.S. Public Health Service
U.S.C. – United States Code

7. DEFINITIONS

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

CIO Gift Review Official – A senior-level official (such as Deputy Director, Management Official, Associate Director for Science, Associate Director for Policy) who is designated by a CIO Director to review the appropriateness, acceptability, and potential conflicts of interest of all proposed gifts to the CIO. This person also is responsible for ensuring that the gift complies with all other CDC policies and procedures.

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 in order for CDC 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. 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))

Personal Property – A tangible item that is not real property. This includes 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.

Unconditional Gift – A gift in which the donor does not impose some condition or restriction on the use of the gift, or a condition to be met to obtain the gift.

Undue Influence – A gift may exert undue influence when an individual or organization is able to persuade the agency's decision due to the relationship between the two parties. In exerting undue influence, the individual or organization donor is able to gain an advantage.

APPENDIX 1. PROCEDURES

A. Immediate Processing

- 1) In accordance with the Cash Management Policy, CDC-FM-2009-02, 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:

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

Address for Private Carrier Delivery (FedEx, UPS)
CDC/OFR
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) OFR will deposit the gift in a suspense account unless it is officially accepted within the 24-hour period.
- 5) OFR does not accept monetary gift checks more than 90 days old. OFR will return these checks to the recipient organization for return to the donor for reissuance.

B. Acceptance Determinations

- 1) The accepting official in OFR must determine if:
 - The proposed gift has been recommended for approval by the Conflict-of-Interest panel
 - Whether to accept the gift
 - Notify the donor (monetary or non-monetary) of the determination

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 CDC COO. 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, CIO gift review officials use the gift acceptance checklists for all gifts and the gift acceptance validity survey for Prohibited Sources (see [Appendix 2](#) and [Appendix 3](#)). The gift also must have been recommended for approval by the Conflict-of-Interest panel. These checklists are submitted by the receiving party through OGC and OFR 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. In addition, the Deputy Chief Financial Officer has the authority to accept gifts less than \$500 without CDC Conflict of Interest Panel Review, having performed a balancing test within OFR to determine that the donor and gift are an acceptable source.

- 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 any amount remaining exceeding the \$1,000 threshold.
- 4) Once approval is obtained, the OFR 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.
- 6) If the monetary gift is accepted, OFR 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, OFR 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)
 - 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
- 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, then 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. OFR 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 OFR controls gift funds in accordance with strict internal funds controls that require they be received prior to obligation or expenditure.

APPENDIX 2. 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
2. Will this gift enhance and enable CDC to accomplish its mission?	Yes
3. Is the donor an acceptable source?	Yes
4. Does the gift meet generally acceptable public standards?	Yes
5. Is the gift reasonable to administer?	Yes
6. Will the principle beneficiary of the gift be CDC?	No
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?	N/A
Comments:	
8. Will acceptance of the gift compromise the integrity, or the appearance of integrity of a governmental program or of any official involved in that program?	No
Comments:	
9. Is there an actual or apparent conflict of interest?	Yes
Comments:	
10. Was the gift solicited by a CDC employee?	No

11. Will the size or the nature of the gift alone raise a significant concern?	No
Comments:	
12. Is the gift offered to support the activities of an individual employee?	No
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?	No
14. Is the gift offered for endorsement purposes?	No
15. Are there donor-imposed restrictions or conditions?	No
16. Is there sensitivity in any matter pending before CDC that would affect the interest of the donor? If so, what?	No
Comments:	
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 the CDC or CIO? If so, to what extent?	No
Comments:	
18. Has the Office of the General Counsel been consulted to provide guidance on problematic issues about the acceptance of the gift?	Yes
19. What is the practical impact of the gift within CDC or CIO?	
Comments:	
20. Why is the gift offered to CDC or CIO?	
Comments:	
If you 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.	
Additional Comments:	

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 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: OFR, 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: OFR, OD, OGC

APPENDIX 5: PROSPECTIVE DONOR/PROPOSED GIFT BACKGROUND INFORMATION

Available at: