

INFORMATION PAPER

SUBJECT: Processing and Reviewing Agency and Individual Acceptance of Gifts

1. Purpose. To provide a summary of policies and procedures for accepting and administering gifts to the Army and to military personnel.
2. References. 10 U.S.C. § 2601; 31 U.S.C. § 484; AR 1-100, Gifts and Donations, Nov. 15, 1983; AR 1-100, Gifts to the Army, AR 1-101, Gifts for Distribution to Individuals, May 1, 1981.
3. Background. A gift is a voluntary offer of goods by individuals or organizations for distribution to Army personnel for their personal use. A conditional gift is offered with specified limitations on its ownership and use. An unconditional gift is money (over \$1,000) or real or personal property offered with no limitation on its ownership or use. If a donor does specify that a gift be used in a certain place, manner, or for a certain purpose, but the condition is for normal use, the gift is to be considered unconditional.

4. Discussion.

- a. Gifts to the Agency. The recipient must consider the nature of the gift, the intrinsic value to the Army, and the cost of acceptance and maintenance. The Secretary of the Army (SA) will accept and manage conditional gifts that are used for the benefit of, or in connection with, the establishment, operation, maintenance, or administration of any school, hospital, library, museum, cemetery, or other similar institution or organization under the jurisdiction of the Department of the Army (DA). All DA personnel may receive offers of conditional gifts and may send the offers to the commander of the installation chosen to receive the gift; however, the SA must accept or reject the gifts. Upon acceptance, The Adjutant General will issue instructions on its disposition.

- i. *Processing Conditional Gifts*. Normally, gifts with a value of more than \$1,000 will be treated as conditional gifts (for exceptions see AR 1-100, para. 5a(1)). An installation commander receiving the offer of a conditional gift will advise the donor that the SA or other appropriate authority must formally approve acceptance of the gift. The donor must submit a signed, written offer of the gift. The commander sends the written offer, full details of the conditions, and a recommendation through the MACOM commander for review and recommendation to HQDA where the offer will be processed for formal acceptance. If the conditional gift offered is to construct a building or other permanent structure (museum, library, etc.), the plans must be approved by the Army installation facilities engineer and sent to the MACOM engineer for review and recommendation to HQDA.

- ii. *Processing Unconditional Gifts*. Normally, a gift with a value of \$1,000 or less and whose acceptance and maintenance entail minimal costs will be treated as unconditional. When consistent with the intent of the donor, unconditional gifts of money or tangible personal

AFYB-SJA-AL

SUBJECT: Processing and Reviewing Agency and Individual Acceptance of Gifts

property made directly to Army units will be treated as gifts to the unit welfare fund or other non-appropriated fund and not as gifts to the US Government. If unconditional gifts cannot be construed as gifts to the unit welfare fund or other NAF, they will be treated as unconditional gifts to the US Government and must be deposited in the US Treasury as miscellaneous receipts by the officer accepting the gift. This money may not be expended by the officer or retained by the unit (see 31 U.S.C. § 484).

b. Gifts for Distribution to Individuals. A service member may accept only those gifts that promote health, comfort, convenience, and morale. Accepting alcoholic beverages is not authorized. The donor must pay all transportation charges from point of origin to recipient.

i. Acceptance Authority. AR 1-101 authorizes MACOM commanders, the Superintendent of the US Military Academy, and the heads of HQDA Staff agencies with command jurisdiction over subordinate commanders to accept gifts for distribution within their respective commands. The aforementioned commanders may delegate this authority to subordinate commanders.

ii. Restrictions on Acceptance. Accepting gifts is subject to the following restrictions:

- Advertising marked on articles must not discredit the military service.
- Soldier cannot be the medium for redistributing the material to others.
- Donor will not restrict public release of information regarding the gift.
- DA will make no public announcement of gifts received.
- In cases specifically authorized by the SA, gifts will not be acknowledged publicly; however, the commander authorized to accept gifts will send a suitable acknowledgment to the donor on behalf of the Soldier.
- No special concessions or privileges for the donor.
- Commanders decide the category of personnel to receive gifts.
- If two or more corporations or agencies donate similar items, distribute them equally. Do not issue more than one item or collection of items to an individual without DA authorization.

c. Practice Tips. A legal advisor should review all commanders' letters of acceptance for gifts to individuals to ensure there is no implication of DA endorsement or solicitation of donations from private organizations or groups. All gift packets should be reviewed by the installation commander's legal advisor prior to being forwarded to the MACOM level.

5. Gifts on Fort Carson are to be referred to the Donations Coordinator, Warrior Family Community Partnership (WFCP): 719.526.0423.

6. The point of contact for this information paper is the Administrative Law Department @ 719.526.0538.