

DEPARTMENT OF THE NAVY
Office of the Secretary
1000 Navy Pentagon
Washington DC 20350-1000

CH-1 of 16 Apr 1997
SECNAVINST 4001.2G
AAUSN/OGC
16 September 1996

SECNAV INSTRUCTION 4001.2G

From: Secretary of the Navy
To: All Ships and Stations
Subj: ACCEPTANCE OF GIFTS

- R) Ref: (a) SECNAVINST 1650.1F
(b) DOD 5500.7-R, Joint Ethics Regulations, 30 Aug 93 (NOTAL)
(c) SECNAVINST 1730.7A (NOTAL)
(d) OPNAVINST 1730.1C
(e) NAVCOMPT Manual, Volume 7
(f) SECNAVINST 4001.1D (NOTAL)
(g) Joint Federal Travel Regulations
(h) SECNAVINST 5340.2C (NOTAL)
(i) SECNAVINST 5720.44A
(j) SECNAVINST 5212.5C

1. Purpose. To revise guidance on the acceptance of gifts to the Department of the Navy (DON) and to outline procedures for gift processing. This issuance is a complete revision and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 4001.2F.

3. Scope

- a. Acceptance of gifts for the benefit of, or in connection with the establishment, operation, or maintenance, of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of the DON, authorized by 10 U.S.C. §2601.
- b. Acceptance of gifts made specifically, to the Naval Academy and the Naval Academy Museum, authorized by 10 U.S.C. §6973 and U.S.C. §6974, respectively.
- c. Acceptance of gifts for the recreation, amusement and contentment of enlisted members of the naval service, authorized by 10 U.S.C. §7220.
- d. Acceptance and care of such gifts of silver, colors, books, or other articles of equipment or furniture, as, in accordance with custom, are made

to vessels of the Navy, authorized by 10 U.S.C. §7221.

e. Acceptance of gifts made specifically to the Naval Historical Center, authorized by 10 U.S.C. §7222.

f. Acceptance of payment from a non-Federal source for travel expenses authorized under 31 U.S.C. §1353 (implemented by 41 C.F.R. Parts 301-1 and 304-1).

g. All previous delegations of gift acceptance authority flowing from the Secretary of the Navy are hereby rescinded. Such authority may be delegated under this instruction only.

4. Definitions

a. "Acceptance authority," is the official or officer in the DON who, on behalf of the Secretary of the Navy, may accept gifts which satisfy the acceptance criteria in paragraph 9. The acceptance authorities for particular categories of gifts are listed in paragraph 10.

b. "Gift," unless otherwise qualified, means a (R) gift, devise, or bequest of real or personal property, without consideration. A loan other than a loan of money is considered a gift only if 10 U.S.C. §§7222 and 6974 apply.

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

d. "Other institution," as used in 10 U.S.C. §2601, includes any institution or organization under the jurisdiction of the DON which is similar or comparable to a school, hospital, library, museum, or cemetery. The term "other ... organization" means any defined organizational unit or activity under the DON, including morale, welfare, and recreation activities (NAFI's, such as Child Care Centers, Family Support Centers, employee recreation funds, etc.). Research and development facilities are included within the term "other institution or organization."



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SECNAV INSTRUCTION 4001.2G
CHANGE TRANSMITTAL 1

From: Secretary of the Navy
To: All Ships and Stations

Subj: ACCEPTANCE OF GIFTS

Encl: (1) Revised pages 1 and 2

1. Purpose. To clarify Navy policy regarding definition of "gifts" and processing gifts from a foreign government.
2. Action. Remove pages 1 and 2 and replace with enclosure (1) of this change transmittal.

RICHARD DANZIG
Acting

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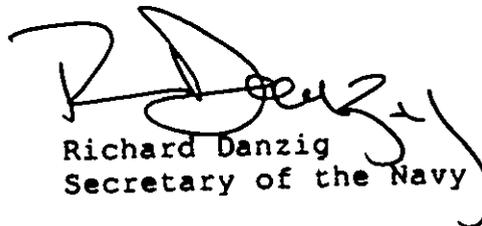
SECNAV INSTRUCTION 4001.2G CHANGE TRANSMITTAL 2

From: Secretary of the Navy
To: All Ships and Stations

Subj: ACCEPTANCE OF GIFTS

Encl: (1) Revised page 5 and new page 5a

1. Purpose. To delegate to the Under Secretary of the Navy acceptance authority for gifts of personal property over \$50,000, including all real property.
2. Action. Remove pages 5 and 6 and replace with enclosure (1) of this change transmittal.


Richard Danzig
Secretary of the Navy

Distribution:
(Same as basic)

16 September 1997

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

f. "Prohibited source," means any person who (1) is seeking official action by DON; (2) does business or seeks to do business with DON; (3) conducts activities regulated by DON; (4) has interests that may be substantially affected by the performance or nonperformance of a DON employee's official duties; or (5) is an organization a majority of whose members are described in (1) through (4) above. No person or organization shall be deemed a prohibited source for the purpose of this instruction:

(1) solely because of the offer of a gift; or

(2) where the stated purpose of the organization includes the provision of financial support to DON, its components, or DON personnel.

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

5. Processing Gifts

R) a. Any foreign government gift to a DON employee must be processed under the procedures in Chapter 7 of reference (a). Notwithstanding the previous sentence, gifts of travel offered by foreign governments may also be accepted under the authority of 31 U.S.C. §1353, as implemented by 41 C.F.R. Parts 301-1 and 304-1 and Chapter 4 of reference (b).

b. Gifts of consumable or perishable products, such as fruit, flowers, or candy, intended for the personnel of any organization or institution under the jurisdiction of the DON, may be accepted and distributed by the head of the institution or organization. The acceptance criteria in paragraph 9 apply.

c. Responsibility for processing offers of gifts of personal property is vested in the acceptance

authorities designated in paragraph 10 except when specifically granted by the Secretary of the Navy to other officials.

d. The Assistant for Administration to the Under Secretary of the Navy (AAUSN) is responsible for processing gifts forwarded to the Secretary of the Navy or the Under Secretary of the Navy for acceptance.

e. When any activity receives notice of a proposed gift, it shall acknowledge receipt of the offer and advise the prospective donor that the offer has been forwarded to the acceptance authority.

f. Offers of gifts should be forwarded promptly to the acceptance authority via the chain of command. Forwarding correspondence should contain as a minimum a complete description of the gift, including value and intended use, the identity of the donor, including any known relationship with the DON, and a recommendation for acceptance/rejection, applying the criteria contained in paragraph 9. In exceptional circumstances where a limited time offer must be expeditiously accepted, such as an offer of tickets to a near term event or a gift of travel taking place in short time, the offer may be forwarded to the acceptance authority in message format or by facsimile, informing the chain of command.

g. If personal property of any kind is received, the receiving activity shall, except in the case of money, temporarily assume custody of the property. The property shall not be taken up in the property account records until final acceptance.

h. A gift of money or securities acceptable under 10 U.S.C. §2601 shall be forwarded to AAUSN regardless of where acceptance authority is vested. Once a gift has been properly accepted, AAUSN will deposit the funds in the Navy General Gift Fund and issue a fund allotment (NAVCOMPT 372) to the intended receiving organization.

i. In the case of a gift of money made to a ship's morale, welfare, and recreation fund,

acceptance shall be made under 10 U.S.C. § 7220 by the appropriate authority, who will then forward to the ship the donation with instructions that the gift is to be deposited in the "Ships' Stores Profit, Navy" account.

j. Checks should be made payable to the "Department of the Navy."

k. Contributions to the Religious Offering Fund (ROF) made as a specific gift for a designated purpose other than as set forth in references (c) and (d) shall be processed following this instruction as a gift acceptable under either 10 U.S.C. § 2671 or 10 U.S.C. § 4973, as appropriate. Such a designation creates a trust with corresponding fiduciary responsibilities which would not permit those funds to be disbursed at the desire of the congregation, commanding officer, or ROF administrator. Examples of donations that should be treated as gifts are donations of money for the express purpose of purchasing musical instruments or stained-glass windows.

l. Paragraph 074700 of reference (e) provides additional guidance for processing and accounting for gifts of money under paragraphs 3a, b, c, and e of this instruction. All gifts of money received under these paragraphs are placed in a trust fund. A trust fund may be used only as specified by the terms of the trust. Disbursements of deposited funds shall strictly follow the terms of the gift, devise, or bequest. If the purpose of a gift, devise, or bequest has been satisfied, residual funds may be applied to related items or activities.

m. Any offer of a gift of real property or of an improvement to real property shall be forwarded to the acceptance authority through the Engineering Field Division of the Naval Facilities Engineering Command serving the area where the real property is located, in addition to the normally appropriate intermediate addressees in the chain of command. All gift processing should be handled in the same general manner. Gifts of an improvement to real property are subject to the bonding requirements of 40 U.S.C. § 270a.

n. Inventory control of gifts of silver service shall be accomplished under reference (f). Inventory control of gifts to vessels other than silver service shall be accomplished under procedures established by the Naval Supply Systems Command.

o. Any gift of payment from a non-Federal source for travel and related expenses for attendance of DON personnel in an official travel status shall be accounted for and processed under Volume 1, Chapter 7, Part W and Volume 2, Part Q of reference (g). See reference (b).

p. The Chief of Information shall be informed of any gift having substantial public affairs implications.

6. Legal Questions. Any question of law which may arise in connection with a proposed gift will be referred to the legal counsel or assigned judge advocate for the appropriate acceptance authority.

7. Federal Income, Estate and Gift Taxes. For the purposes of Federal income, estate and gift taxes, 10 U.S.C. § 2601, 6973, 6974, and 7222 specifically provide that property accepted thereunder shall be considered as a gift or bequest to the United States. Donors should be advised to consult private tax experts for specific advice concerning permissible deductions.

8. Conveyance or Transfer of a Gift. The Secretary of the Navy may pay all expenses in connection with the conveyance or transfer of a gift accepted thereunder. Authority is hereby delegated to the activity head whose appropriations are properly chargeable with such costs, in connection with the particular institution or organization to be benefited, to pay such expenses.

g. Acceptance Criteria

a. Policy. It is Secretary of the Navy policy to decline any gift which, at some future

time, might embarrass the DON, by reason of favors expected as a result of the gift, by creating the appearance of a relationship in which favors are granted, or which might result in unwarranted publicity for the donor at the expense of the department. The offer of a gift from any commercial enterprise, non-profit organization or other entity, except for those charitable fund-raising organizations recognized by reference (h), will be declined if acceptance would appear to be an endorsement of the donor, its product or its services. Further, an offer of a gift with specified conditions, other than designated use, or requiring substantial expenditures of funds or administrative efforts should be carefully evaluated to determine whether acceptance is desirable.

b. Solicitation of Gifts. Unless authorized by the Secretary of the Navy, requests for gifts or contributions for institutions or organizations of the DON, shall not be initiated by persons in the Department. Gifts initiated contrary to this policy shall not be accepted. Further, as provided in reference (b), the solicitation of gratuities from prohibited sources by naval personnel for themselves or their spouses, minor children, or members of their household is prohibited and may result in disciplinary action.

c. Fund-Raising by Naval Personnel. Participation by naval personnel in activities to raise funds for future presentation to the DON, or for the purchase of real or personal property to be presented to the Department in the future is governed by the DON policy which prohibits naval personnel from participating in their official military capacity in fund-raising activities which are not recognized for on-the-job solicitation with the Federal Service. This prohibition applies to official participation during duty and non-duty hours, but does not preclude participation in fund-raising activities as a private citizen during non-duty hours. See references (b), (h), and (i).

d. Offer of Future Gifts. Applicable gift acceptance statutes do not provide authority to accept a gift before the gift is actually offered.

However, offers to give future gifts (e.g., pledges to raise money, or offers to purchase real or personal property for delivery to the DON) may be accepted under the following two step procedure:

(1) When a pledge or offer of a future gift is made, whether a one-time gift or several installments, the acceptance authority shall determine whether the gift, when actually donated, is likely to be accepted under the criteria of this instruction. If the gift is likely to be accepted, the donor should be advised that acceptance of the gift will occur after actual presentation of the gift, portion, or installment to the DON;

(2) When the gift, portion or installment is actually presented to the DON, the acceptance authority, as determined in paragraph 10e, will determine whether to accept the gift, or that portion or installment thereof, utilizing the procedure set forth in this instruction.

e. Gifts from Prohibited Sources. Acceptance of gifts from prohibited sources requires heightened sensitivity because acceptance may create embarrassment to the DON or the appearance of influencing official decision-making or actions of the DON. Consequently, before accepting a gift of more than \$5,000 from a prohibited source, the legal counsel (Office of General Counsel or Judge Advocate General) for the gift acceptance authority shall consult with and request a determination from the Office of General Counsel (Attn: Assistant General Counsel (Ethics)) whether the donor is involved in any claims, procurement actions, litigation, or other matters involving the DON and will provide this information to the gift acceptance authority. Additionally, gift acceptance authorities shall provide a copy of each gift acceptance decision involving a gift from a prohibited source to the OGC.

f. Gifts to Unified Combatant Commands. Gifts received from foreign governments by individuals for whom the DON is the employing component shall be processed under reference (a). Other offers of gifts to a Unified Combatant

Command, not under the jurisdiction of the Secretary of the Navy, are not acceptable under 10 U.S.C. § 2601.

g. Gifts from Foundations and Similar Entities. Foundations and other non-profit organizations may provide valuable support to the DON. However, such organizations should not be used as a conduit for such sources to make gifts indirectly that would not be permitted under the DON gift acceptance policies if they were offered directly to the DON. To prevent appearances of impropriety, DON personnel should not refer potential donors to foundations for the purpose of accomplishing gifts that would not be permitted by the DON gift statutes or this instruction. Furthermore, DON acceptance authorities should review gifts from foundations and decline them if it reasonably appears that the gift is inappropriate.

10. Acceptance Authority

a. The Under Secretary of the Navy will accept gifts of real property or other gifts of a value in excess of \$50,000 and gifts which require an exception to any of the policies in paragraph 9.

b. Gifts other than real property, of a value of \$50,000 or less may be accepted by the following officials:

(1) The Chief of Naval Operations (CNO) for gifts acceptable under 10 U.S.C. § 2601, § 7220, § 7221, or § 7222, and 31 U.S.C. § 1353 offered to any institution or organization under CNO's respective command.

(2) The Commandant of the Marine Corps (CMC) for gifts acceptable under 10 U.S.C. § 2601 or § 7220, and 31 U.S.C. § 1353 offered to any institution or organization under CMC's respective command.

(3) The AAUSN for gifts acceptable under 10 U.S.C. § 2601 and 31 U.S.C. § 1353, to any institution or organization not under the command of either the CNO or CMC, but under the jurisdiction of the Secretary of the Navy.

(4) The Chief of Naval Research (CNR) for gifts acceptable under 10 U.S.C. § 2601 and 31 U.S.C. § 1353, offered to any institution or organization reporting to CNR.

(5) The Superintendent, U.S. Naval Academy (SUPT, USNA) for gifts acceptable under either 10 U.S.C. § 6973 or § 6974 and 31 U.S.C. § 1353, offered to any institution or organization reporting to SUPT, USNA.

c. The CNO, CMC, AAUSN, and CNR may delegate their authority to accept gifts of a value of \$10,000 or less. Additional redelegations may be permitted upon approval of the Secretary of the Navy.

d. The determination of the appropriate acceptance authority for future gifts in paragraph 9d, under step one shall be based on the total, cumulative amount of the future gift. The acceptance authority for future gifts in paragraph 9d under step two for each payment shall be based on the total amount actually presented on each occasion. One-time authority to accept installment payments in greater amounts may be requested in step one.

11. Retention of Records. Primary program records for the acceptance of gifts are permanent per reference (j).

12. Action. The Chief of Naval Operations and the Commandant of the Marine Corps are directed to issue implementing regulations.

13. Reporting Requirements. Paragraph 039101(4)(b) of reference (d) requires each Fund Administering Activity to prepare and forward an annual letter report notifying AAUSN that the obligation validation review has been completed and certifying to the accuracy of that validation. This requirement is exempt from reports control by SECNAVINST 5214.2B.

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