



Chapter 3: Financial Management and Accounting

Section 3.17 – Gifts Received and Accepted on Behalf of ICE

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Introduction

This section of the Financial Management Policy Manual (FMPM) provides general principles, standards, and procedures to ensure compliance with the requirements regarding the acceptance of gifts to U.S. Immigration & Customs Enforcement (ICE).

Gifts are any goods, services, gratuity, favor, discount, entertainment, hospitality, loan, forbearance, intangible, real property, or other item having monetary value. Gifts do not include any items, services, facilities, or any other item offered or provided by a federal agency or activity.

This policy contains general principles, standards, and procedures to ensure compliance with requirements regarding ICE acceptance of gifts. It applies throughout ICE when accepting gifts under the authority granted pursuant to Title 6, U.S. Code, Section 453, “Use of appropriated funds”, 507 of Public Law 108-90, the Department of Homeland Security (DHS) Appropriations Act of 2004.

This is the initial policy concerning gifts, is effective immediately, and shall remain in effect until it is superseded.

Responsibilities

The **Director of ICE** is authorized to accept gifts on behalf of the agency in accordance with ICE Directive Number 1010.1, *Accepting and Soliciting Gifts to the Agency*, provided the acceptance of such gifts is consistent with law, policy, and ethical standards. ICE Directive 1010.1 ensures that the decision of whether to accept or decline any potential gift to ICE is carefully analyzed.

The **Field Responsible Officials (FROs)** are responsible for ensuring that all offers of a gift to ICE made to a field office are made on the *Gift Donation Form (DHS Form 112-02)* and are raised to the attention of their respective Headquarters Responsible Official.

The **Headquarters Responsible Officials (HROs)** are the Executive Associate Directors of Enforcement and Removal Operations, Homeland Security Investigations, and Management and Administration; the Principal Legal Advisor; the Associate Director of the Office of Professional Responsibility; the ICE Chief Financial Officer (CFO) and the Assistant Directors, Officers, or equivalent positions who report directly to the Director, Deputy Director, or Chief of Staff, or their designees. HROs are responsible for:

- a. Ensuring compliance with this policy, ICE Directive 1010.1, and related DHS Directives within their Directorate or Program Office.

- b. Approving and submitting a complete package of materials for gift acceptance to the ICE Director, including ensuring that DHS Form 112-02 is completed by the donor for any gift to their Directorate or Program Office.
- c. Advising the Office of Congressional Relations (OCR) and Office of Public Affairs (OPA) that a gift will not be accepted if such acceptance could potentially garner congressional or press attention.
- d. Ensuring that their Directorate or Program Office retains all records regarding any gift to and any gift accepted by ICE on behalf of their Directorate or Program Office.
- e. Ensuring that the Gift Package is submitted to ICE Office of Financial Management once approved by the ICE Director for recording and reporting.
- f. On at least a quarterly basis, reporting any gift(s) received to the ICE Office of Financial Management (OFM) Financial Policy Unit (FPU).
- g. In conjunction with FPU, ensuring that any gift to ICE is appropriately received by, inventoried, used by, and disposed of by the agency.

The **ICE Chief Financial Officer**, in accordance with ICE Directive 1010.1, is responsible for maintaining records of any gift accepted by ICE (i.e., a consolidated list of gifts accepted and recorded by the Program Offices) and for providing semi-annual reports of all gifts received by ICE to the DHS Under Secretary for Management (USM) through the DHS Chief Administrative Officer (CAO). DHS Directive 112-02-00, Gifts to the Department of Homeland Security requires that this reporting be accomplished via the submission of DHS Form 112-02 for any gift received.

The **Office of Financial Management (OFM)** is responsible for establishing internal controls and overseeing ICE financial management services. The OFM is also responsible for completing financial reporting, producing ICE's financial statements, accounting, and reporting of obligation transactions to include payables and disbursements, reconciliations, and reporting.

- a. The **Financial Policy Unit (FPU)** is responsible for gathering gift information from the Program Offices, tracking the receipt, approval, and denial of gifts to ICE, and preparing the semi-annual gift reporting by ICE to DHS.
- b. The **OFM Front Office** is responsible for tasking the ICE Program Offices in the ICE Correspondence and Task Tracking System (ICATT) and providing the responses back to FPU. See Appendix C for an example of the ICATT language submitted to the program offices.

The **Office of Budget and Program Performance (OBPP)** oversees allocating receipt of gift funds to programs and ensures that spend plans are updated to reflect these funds. If gift funds are to be used to reimburse an appropriated fund account, then OBPP will ensure that the correct account is reimbursed.

The **Office of Asset and Facilities Management (OAFM)** is responsible for portfolio management of real property, personal property and fleet to provide appropriate facilities, fleet and project management to all ICE Offices and Programs, including the recording of non-monetary gifts received.

The **ICE Ethics Office** reviews DHS Form 112-02 and the Gift Recommendation Memorandum for all gifts and advises of potential legal and ethical concerns.

Policy

1. General

ICE Directive 1010.1 provides guidance on the process for accepting gifts. DHS Delegation Number 006, Delegation to Accept and Utilize Gifts to the Department, defines a gift to include a “bequest or devise of money.”¹ Gifts also include services, use of facilities, property, as well as any tangible or intangible donation. Gifts do not include any items, services, facilities, or any other item offered or provided by a federal agency or activity.

1-1. Gift Donation form and Recommendation Memorandum

The details of a gift are memorialized and approved using the DHS Form 112-02 (see Appendix A). The ICE Ethics Office must concur with the acceptance of a gift. Once ICE receives a gift offer via the Gift Donation Form, ICE prepares a Gift Recommendation Memorandum (see Appendix B) indicating that the donor of the property understands that this property is given to ICE and will become property of the United States Government. Also, the donor must understand the donation is irreversible and the donor will retain no personal right of use, ownership, or possession. The gift is provided on a gratuitous basis without expectation of compensation. ICE will not consider accepting a gift unless it is accompanied by DHS Form 112-02 and the Gift Recommendation Memorandum.

ICE records gifts in the Gifts and Donations Treasury Account Symbol (TAS) (b)(6),(b)(7)(C) in the Federal Financial Management System (FFMS).

All gifts of non-monetary property received will be recorded in the Sunflower

¹ For purposes of this policy “bequest or devise of money” will be referred to as cash.

Asset Management System (SAMS) for tracking purposes.

1-2. ICE Director's Approval

Gifts to ICE may be accepted with approval of the Director, so long as the acceptance of such gift does not violate the law or DHS or ICE policy. Gifts that will aid and facilitate the work of ICE may be accepted upon approval of the Director. Gifts offered subject to conditions may be accepted if, in the judgment of the Director, the conditions do not unduly restrict or interfere with the work of DHS or ICE and do not attach conditions inconsistent with applicable laws and policies.

1-3. Exceptions to ICE Director's Approval

The ICE Director's approval is not required for the acceptance of certain gifts, including:

- a. To employees in their personal, individual capacities (5 Code of Federal Regulations (CFR) § 2635, Standards of Ethical Conduct for Employees of the Executive Branch).
- b. Gifts of minimal value to employees from foreign governments, foreign organizations, or representatives thereof (5 USC § 7342, Receipt and Disposition of Foreign Gifts and Decorations). However, gifts from foreign governments or entities that are beyond minimal value and offered to ICE must be reported to the General Services Administration (GSA) and treated in accordance with 41 CFR § 102-36.420, How do we Expose of Gifts from Foreign Governments or Entities and 41 CFR § 101-49, Utilization, Donation, and Disposal of Foreign Gifts and Decorations. This would, as discussed in this FMPM, require the submitting of a DHS Form 112-02, which in turn allows the CFO office to track and determine approval of gifts for potential acceptance by the Director (for reporting purposes).
- c. To pay for the expenses of official travel (31 USC § 1353, Acceptance of Travel and Related Expenses from Non-Federal Sources).
- d. Contributions, awards, or other expenses for training (5 USC § 4111, Acceptance of Contributions, Awards, and Other Payments).
- e. For a gift made by a political organization that may be accepted by an agency employee who, in accordance with the terms of the Hatch Act Reform Amendments of 1993, may take an active part in political management or political campaigns.
- f. Voluntary personal services to an Officer or employee of ICE during emergencies involving the safety of human life or the protection of property (31 USC § 1342, Limitation on Voluntary Services). As used in this

section, the term “emergencies involving the safety of human life or the protection of property” does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property.

- g. For volunteer services from a student (5 USC § 3111, Acceptance of Volunteer Service).
- h. Gifts which may be accepted under distinct gift acceptance authority vested in ICE.

2. Monetary Instruments

Monetary gifts must adhere to the following guidelines:

- a. ICE may not accept gifts of currency (i.e., cash). Donors who offer currency should be advised that such gifts must be made to ICE by check or money order payable to “U.S. Immigration and Customs Enforcement.”
- b. Monetary instrument gifts must be reflected in the general ledger at current value and on the financial statements.
- c. Monetary instrument gifts received for the benefit of ICE shall be deposited into the U.S. Treasury account identified in Section 1-1.
- d. Transmittal of deposits should include the following documentation:
 - 1) A copy of the gift offer letter from the donor, if available.
 - 2) A copy of the gift acceptance letter, thank-you letter to the donor, or memo/email describing the gift (donor, amount, conditions on use of gift, i.e., purpose of funds), a statement indicating acceptance of the gift on behalf of ICE, and name/title/signature.
 - 3) Disposition instructions. If the gift funds are to be disbursed by ICE to a unit/division then detailed instructions, including banking information, should be provided when processing the gift.
- e. If the gift funds are to be used to reimburse an appropriated fund account, such as a reimbursement of travel expenses, the disposition instructions shall contain the accounting and document identification number or travel order number to be credited.

3. Property

Gifts of property consist of both real and personal property. In addition, it may include tangible or intangible property, which includes stocks and bonds.

3-1. Real and Personal Property

Gifts of real and personal property are treated the same as items acquired by ICE with appropriated funds as follows:

- a. The appropriate Program Office will receive and hold gifts.
- b. The Program Office FRO and HRO are responsible for the receipt and holding of gifts that are offered and approved as real and personal.
- c. Real and personal property accepted on behalf of ICE shall be recorded in SAMS at the net book value if it meets the general criteria identified Section 3.1 Property, Plant, and Equipment. The fair market value may be substituted when net book value cannot be determined. Real and personal property would be capitalized as property, plant, and equipment according to the thresholds detailed in Section 3.1 Property, Plant and Equipment. Additional guidance on gifts of personal property can be found within the ICE Personal Property Operations Handbook.
- d. If a gift is determined to be unusable by ICE, it shall be sold in accordance with the Federal Management Regulations (FMR) (41 CFR § 102-38, Sale of Personal Property and 41 CFR § 101-49, Utilization, Donation, and Disposal of Foreign Gifts and Decorations). The funds from the sale shall be credited to the ICE suspense account and moved to the cash account when like items are purchased. Generally, such funds shall be committed to the project for which they were specifically donated for or, if a project was not designated by the donor, to the purpose designated by ICE.

3-2. Services, Use of Facilities, Tangible, or Intangible Donation

Donations from non-Federal sources are treated as gifts under the Secretary's Gift Acceptance (SGA) authority (see 6 USC § 453, Use of Appropriated Funds, Section 507 of Public Law 108-90, the DHS Appropriations Act of 2004, and DHS Delegation Number: 00006, *Delegation to Accept Gifts to the Department*). The term "gift" includes any tangible or intangible item, donation, bequest, or devise of money, use of facilities, property, or personal service. Gifts of this nature must be coordinated in advance with the ICE Ethics Office before acceptance or acceptance discussions can occur. Information, instructions and additional guidance are available on the ICE Ethics Office page.

4. Prohibited Gifts

A gift may not be accepted by ICE that:

- a. Is a gift of currency (i.e., cash).

- b. Requires the expenditure of appropriated funds that are not available to ICE.
- c. Requires ICE to adhere to particular requirements as to deposit, investment, or management of funds donated.
- d. Requires ICE to undertake or engage in activities that are not related to ICE's mission, programs, or statutory authorities.
- e. Reflect unfavorably on the ability of ICE, DHS, and/or their employees, to carry out their responsibilities or official duties in a fair and objective manner or would compromise or appear to compromise the integrity of ICE or DHS programs or any employee involved in those programs.
- f. Are from current ICE or DHS employees, employees of ICE or DHS contractors, or consultants to ICE or DHS, absent a compelling reason.

Additionally, with a limited exception, no employee of ICE may solicit or encourage the solicitation of a gift to ICE unless the Director, as well as the Secretary or Deputy Secretary of DHS, approves the solicitation in advance.

5. *Exceptions to Prohibited Gifts*

In accordance with 5 CFR § 2635.204, Exceptions to the Prohibition for Acceptance of Certain Gifts, certain gifts, including personal gifts, are not considered as gifts to U.S. ICE. These gifts include:

- a. Gifts of \$20 or less. An employee may accept unsolicited gifts having an aggregate market value of \$20 or less per source per occasion, provided that the aggregate market value of individual gifts received from any one person under the authority of this paragraph does not exceed \$50 in a calendar year. This exception does not apply to gifts of cash or of investment interests such as stock, bonds, or certificates of deposit.
- b. Gifts based on a personal relationship. An employee may accept a gift given by an individual under circumstances which make it clear that the gift is motivated by a family relationship or personal friendship rather than the position of the employee.
- c. Discounts and similar benefits.
- d. Awards and honorary degrees.
- e. Gifts based on outside business or employment relationships.
- f. Gifts in connection with political activities permitted by the Hatch Act

Reform Amendments. An employee who, in accordance with the Hatch Act Reform Amendments of 1993, may take an active part in political management or in political campaigns, may accept meals, lodgings, transportation, and other benefits, including free attendance at events, for the employee and an accompanying spouse or other guests, when provided, in connection with such active participation, by a political organization, Any other employee, such as a security officer, whose official duties require him or her to accompany an employee to a political event, may accept meals, free attendance, and entertainment provided at the event by such an organization.

- g. Gifts of free attendance at widely attended gatherings. When authorized in writing, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering.
- h. Social invitations. An employee may accept food, refreshments, and entertainment, not including travel or lodgings, for the employee and an accompanying spouse or other guests, at a social event attended by several persons if the criteria met in 5 CFR § 2635.204, Exceptions to the Prohibition for Acceptance of Certain Gifts are met.
- i. Meals, refreshments, and entertainment in foreign areas. An employee assigned to duty in, or on official travel to, a foreign area may accept unsolicited food, refreshments, or entertainment in the course of a breakfast, luncheon, dinner, or other meeting or event provided that the criteria outlined in 5 CFR § 2635.204, Exceptions to the Prohibition for Acceptance of Certain Gifts are met.
- j. Gifts authorized by supplemental agency regulation. An employee may accept any gift when acceptance of the gift is specifically authorized by a supplemental agency regulation issued with the concurrence of the Office of Government Ethics.
- k. Gifts accepted under specific statutory authority. The prohibitions on acceptance of gifts from outside sources contained in this subpart do not apply to any item which a statute specifically authorizes an employee to accept.
- l. Gifts of informational materials.

6. *Approval, Disapproval, and Exceptions*

This section outlines the procedures and requirements that must be completed or considered before ICE accepts a gift.

6-1. Considerations of Whether to Accept a Gift

- a. An offer of a gift to ICE must be made to a Directorate or Program Office via DHS Form 112-02, which must be completed by the donor.
- b. The Directorate or Program Office must draft a Gift Recommendation Memorandum that analyzes all relevant facts and circumstances regarding the Gift in recommending to the Director that the gift be accepted (if appropriate). The Gift Recommendation Memorandum must include, at a minimum, the following information:
 - 1) A description of the gift, including:
 - a) The nature of the gift (i.e., money, goods, or services), including whether the gift would be recurring in nature (i.e., more than a single transaction).
 - b) The current condition of the gift.
 - c) Any restrictions placed on its use by the donor.
 - d) Any conditions placed on the acceptance of the gift by the donor.
 - e) The Fair Market Value of the gift or the cost of the gift to the donor.
 - f) The identity of any other expected recipients of the gift on the same occasion, if any.
 - g) Whether the gift was solicited.
 - 2) The identity of the donor, including:
 - a) Whether the donor is a current DHS or ICE employee, the employee of a DHS or ICE contractor, or a consultant of DHS or ICE.
 - b) Whether the donor has done business with DHS or ICE in the past and, if so, the details of the past business.
 - c) Whether the donor is likely to do business with DHS or ICE in the future.
 - d) Whether the donor conducts activities or operations regulated by DHS or ICE.
 - e) The nature and sensitivity of any matter pending before DHS or

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ICE affecting the interest(s) of the donor, or the significance of any individual DHS or ICE employee's role in any matter affecting the donor, if benefits of the Gift will accrue to the employee.

- 3) The purpose of the gift, as described by the donor in any written or oral statements.
 - 4) If accepted, when the gift would be received by ICE.
 - 5) Explain how ICE would utilize or operationalize the gift, including how the gift will aid or facilitate ICE's mission or work.
 - 6) Set out whether the gift will require additional funds to be utilized and/or disposed of, as well as if ongoing funding will be required to continue to utilize the gift. If so, the Gift Recommendation Memorandum must reasonably estimate such ongoing funding requirements (timing and amount(s)).
 - 7) In consultation with the Office of the Principal Legal Advisor (OPLA) and the CFO, identify whether acceptance of the gift will have any appropriations impact and what those impacts would be.
 - 8) In consultation with OCR and OPLA, identify any potential congressional or press attention that is likely to be garnered by acceptance of the gift.
 - 9) Any other facts or circumstances relevant to whether the Director should accept the gift on behalf of ICE.
- c. HROs submit the DHS Form 112-02 and Gift Recommendation Memorandum to the ICE Ethics Office for review and concurrently notifies the Deputy Director of their interest in receiving the gift.
- d. The ICE Ethics Office and OPLA will prepare an addendum to the Gift Recommendation Memorandum that provides, at a minimum, an analysis of whether acceptance of the gift would create or appear to create a conflict of interest or ethical concerns, including:
- a) Whether acceptance of the gift would reflect unfavorably upon the ability of DHS or ICE, or any employee of DHS or ICE, to carry out their responsibilities or official duties in a fair and objective manner.
 - b) Whether acceptance of the gift would compromise the integrity or the appearance of integrity of DHS' or ICE's programs or operations, or any official involved in these programs or operations.

- c) Whether the donor is a Prohibited Source.
- e. If legal or ethical issues are identified, the Directorate or Program Office should work with the ICE Ethics Office or other appropriate OPLA component to attempt to mitigate or rectify the concerns.
- f. Following review by the ICE Ethics Office, if the HRO still desires to accept the gift, he or she must submit the DHS Form 112-02, Gift Recommendation Memorandum, and addendum from the ICE Ethics Office to the Office of the Deputy Director for review and, if appropriate, approval by the Director.

6-2. Procedures Following a Decision to Accept or Decline a Gift by the Director

When the Director accepts a gift on behalf of ICE, the Directorate or Program Office receiving the gift is responsible for ensuring that the gift is appropriately inventoried, utilized, and disposed of. The HRO of the Directorate or Program Office receiving the gift must report the acceptance of the gift to the ICE CFO, who will report receipt of the gift to the DHS USM through the DHS CAO. When the Director declines to accept a gift to ICE, the gift will be declined by the applicable Directorate or Program Office. The Directorate or Program Office is responsible for keeping all records associated with any decision by the Director regarding whether to accept or decline a gift to ICE.

7. Records and Maintenance

HROs are responsible for ensuring that their Directorate or Program Office keeps records of any gift, any documents prepared for or relied on by the Director in considering whether to accept a gift to ICE (i.e., DHS Form 112-02, Gift Recommendation Memorandum, and any addendum prepared by the ICE Ethics Office and OPLA), and any documents memorializing the Director's decision regarding whether to accept or decline a gift to ICE. Additionally, where a gift to ICE is accepted by the agency, the HRO of the receiving Directorate or Program Office shall ensure that all records regarding the receipt, use, and or disposal of the gift are retained. Such records must be maintained in accordance with a National Archives and Records Administration approved records schedule. Any records not covered under an approved schedule are considered unscheduled and must be maintained permanently until a schedule has been established.

Procedures and Internal Controls

ICE has developed and implemented procedures and internal controls to comply with this policy.

Authorities and References

Authorities

5 CFR § 2635, Standards of Ethical Conduct for Employees of the Executive Branch

5 CFR § 2635.204, Exceptions to the Prohibition for Acceptance of Certain Gifts

5 USC § 3111, Acceptance of Volunteer Service

5 USC § 4111, Acceptance of Contributions, Awards, and Other Payments

5 USC § 7342, Receipt and Disposition of Foreign Gifts and Decorations

6 USC § 453, Use of Appropriated Funds

10 U.S.C. § 2601, “General gift funds”

31 USC § 1342, Limitation on Voluntary Services

31 USC § 1353, Acceptance of Travel and Related Expenses from Non-Federal Sources

41 CFR § 101-49, Utilization, Donation, and Disposal of Foreign Gifts and Decorations

41 CFR § 102-36.420, How do we Dispose of Gifts from Foreign Governments or Entities

41 CFR § 102-38, Sale of Personal Property

Hatch Act Reform Amendments of 1993

FASAB, SFFAS No. 7, Accounting for Revenue and Other Financing Sources and Concepts for Reconciling Budgetary and Financial Accounting

Pub. L. 114-285, Federal Law Enforcement Training Centers Reform and Improvement Act of 2015

Section 507 of Public Law 108-90, the Department of Homeland Security (DHS) Appropriations Act of 2004

References

41 C.F.R. § 102-42, “Utilization, Donation, and Disposal of Foreign Gifts and Decorations”

DHS Delegation Number 00006, *Delegation to Accept and Utilize Gifts to the Department*

DHS Directive 112-02-00, Gifts to the Department of Homeland Security

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DHS Instruction No. 112-02-001, Instruction Guide on Gifts to the Department of Homeland Security

DHS Form 112-02

Gift Recommendation Memorandum

ICE Directive Number 1010.1, *Accepting and Solicitating Gifts to the Agency*

ICE Ethics Office page

ICE Personal Property Operations Handbook

Section 3.1 Property, Plant, and Equipment

Office of the Chief Financial Officer, Financial Management Division, Component Requirements Guide for Financial Reporting

Appendix A: Gift Donation Form

GIFT DONATION FORM DEPARTMENT HOMELAND SECURITY

This form must be completed upon receipt of a gift offer and forwarded to:

Chief Administrative Officer
Department of Homeland Security
Washington, DC 20528

The following gift was offered to the Department of Homeland Security:

Description of gift: Please ensure that the donor of the property understands that this property is given to the Department of Homeland Security and will become the property of the United States Government. Also, the donor must understand this donation is irreversible and the donor will retain no personal rights of use, ownership, or possession.

Donor's Name: _____

Donor's Full Address: _____

Present/past business with the Department: _____

Circumstances regarding donation of gift: _____

How gift will aid and facilitate the Department's mission: _____

Gift Value: _____ if non-cash list the donor's estimated market value: _____

Note: The value listed above is the donor's estimate, whether by fair market value or appraised value. The Department of Homeland Security does not confirm or endorse this as the value of nor make any representation of the value of this gift for any tax purpose.

Restrictions on the use of the gift: _____

Pending Matters/Activities: Please indicate below any matters pending or likely to arise in the future that might involve the donor or donor's organization. Give consideration to all individuals or members of an organization (if applicable) involved in the donation of this gift.

Identify the Department of Homeland employee who received the gift donation and under what circumstances: _____

If the gift was solicited, indicate the date of approval by the Secretary/Deputy Secretary: _____

I have determined that the acceptance of this gift is appropriate in accordance with the current Directive and accept the offer on behalf of the Department of Homeland Security

Concurrence by Authorized Agency Official's Ethics Officer:

Ethics Officer

Date

Secretary or Authorized Agency Official

Date

DHS Form 112-02 (3-08)

Appendix B: Gift to ICE Memo Template

[Insert Directorate or Program Office Name]

U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536



U.S. Immigration
and Customs
Enforcement

MEMORANDUM FOR: *[Insert Director Name]*
Director

THROUGH: *[Insert Deputy Director Name]*
Deputy Director

FROM: *[Insert Name of Directorate/Program Office Head Name]*
[Insert Directorate/Program Office Name]

SUBJECT: Recommendation to Accept Gift of *[Insert Gift]* to ICE

Purpose

To request that the Director of U.S. Immigration and Customs Enforcement (ICE) accept a Gift of *[Insert Gift]* to the agency.

The ICE Ethics Office and the Office of the Principal Legal Advisor *[concur/do not concur]* in the recommendation of *[Insert Directorate/Program Office Name]* that you accept this gift on behalf of ICE.

Background

Pursuant to Department of Homeland Security (DHS) policy, the Director of ICE is the only official who can accept a gift made to the agency. Where the acceptance of a gift is consistent with law, DHS policy directs that gifts to the agency that meet certain requirements may be accepted by ICE. Even where acceptance of a gift comports with the law and DHS policy, however, the Director of ICE has discretion to decline a gift for any reason.

Unconditional gifts that will aid and facilitate the work of DHS or ICE may be accepted, and gifts offered subject to conditions may be accepted if, in the judgment of the Director of ICE, the conditions do not unduly restrict or interfere with the work of DHS or ICE and do not attach conditions inconsistent with applicable laws and regulations. Acceptance of a gift must not compromise the integrity of ICE or DHS, its programs, operations, or employees. Moreover, acceptance of a gift may not, in any way be deemed to be or used as an endorsement of the donor, or the donor's products, services, activities, or policies.

Recommendation to Accept Gift of [Insert Gift] to ICE

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A gift may not be accepted by ICE that:

- 1) Requires the expenditure of appropriated funds that are not available to ICE;
- 2) Requires ICE to adhere to particular requirements as to deposit, investment, or management of funds donated;
- 3) Requires ICE to undertake or engage in activities that are not related to ICE's mission, programs, or statutory authorities;
- 4) Reflects unfavorably on the ability of ICE, DHS, and/or their employees, to carry out their responsibilities or official duties in a fair and objective manner, or would compromise or appear to compromise the integrity of ICE or DHS programs or any employee involved in those programs; and
- 5) Are from current ICE or DHS employees, employees of contractors, or consultants to ICE or DHS, absent a compelling reason.

With limited exception, no employee of ICE may solicit or encourage the solicitation of a gift to ICE unless the Director, as well as the Secretary or Deputy Secretary of DHS, approves the solicitation in advance. The gift at issue in this memorandum [was/was not] solicited.¹ [If solicited, include information regarding whether and when authorization for the solicitation was secured from the Secretary or Deputy Secretary of DHS, or whether an exception applies]

[Insert basic details about gift being offered to ICE]

Discussion

The below provides a detailed overview of the gift of [Insert Gift] being offered to ICE.

Description of the Gift

[Insert a detailed description of the gift, to include, at a minimum, (1) the nature of the gift (i.e., money, goods, or services), including whether the gift would recurring in nature (i.e., more than a single transaction); (2) the current condition of the gift; (3) any restrictions placed on its use by the donor; (4) any conditions placed on the acceptance of the gift by the donor; (5) the fair market value of the gift or the cost of the gift to the donor; and (6) the identity of any other expected recipients of the gift on the same occasion, if any]

¹ The Director has been delegated authority to solicit for specific Unaccompanied Alien Child (UAC) and family unit gifts without the prior approval of the Secretary or Deputy Secretary of DHS. Dep't of Homeland Sec., DHS Delegation No. 7107, Delegation to Accept and Utilize Gifts Related to Unaccompanied Alien Children and Family Units (July 24, 2014).

Recommendation to Accept Gift of [Insert Gift] to ICE

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Identity of the Donor

[Insert a detailed description of the donor, to include, at a minimum, (1) whether the donor is a current DHS or ICE employee, the employee of a DHS or ICE contractor, or a consultant of DHS or ICE; (2) whether the donor has done business with DHS or ICE in the past and, if so, the details of the past business; (3) whether the donor is likely to business with DHS or ICE in the future; (4) whether the donor conducts activities or operations regulated by DHS or ICE; and (5) the nature and sensitivity of any matter pending before DHS or ICE affecting the interest(s) of the donor, or the significance of any individual DHS or ICE employee's role in any matter affecting the donor, if benefits of the gift will accrue to the employee]

Purpose of the Gift

[Insert a description of the purpose of the gift, as described by the donor in any written or oral statements]

Expected Timing of the Gift

[Insert a brief statement of when the gift would expect to be received by the agency]

Intended Use of the Gift

[Insert a brief description of how the gift would be used by ICE and how the gift will aid or facilitate the DHS and/or ICE mission and work]

Appropriations and Funding Impacts and Ongoing Costs

[Insert a statement of whether the gift will require additional funds to be utilized and/or disposed of, as well as if ongoing funding will be required to continue to utilize the gift in the future (e.g., maintenance costs, required acquisition of inputs or supplies, etc.); if so, reasonably estimate such ongoing funding requirements (timing and amount(s))]

[Insert a statement that identifies whether acceptance of the gift will have any appropriations impacts and, if so, what those impacts are (this should be written in consultation with OPLA and the ICE Office of the Chief Financial Officer)]

Congressional and/or Public Affairs Implications

[Insert a brief statement that identifies any potential congressional or press attention that is likely to be garnered by acceptance of the gift (this should be written in consultation with the ICE Office of Congressional Relations and the ICE Office of Public Affairs)]

Ethical Considerations

Ethical considerations regarding the acceptance of this gift are addressed in an addendum to this memorandum that has been prepared by the ICE Ethics Office and OPLA.

Recommendation to Accept Gift of [Insert Gift] to ICE
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Other Considerations

[Insert a brief statement of any additional facts or circumstances relevant to the gift that the Director should be made aware of; if there are no such additional facts or circumstances, this section may be removed]

Recommendation

Based on the above, I recommend that you accept the gift of [Insert Gift] to ICE.

Approve: _____ Disapprove: _____

Modified: _____ Needs Discussion: _____

Attachment(s):

1. ICE Ethics Office/Office of the Principal Legal Advisor Addendum to Recommendation to Accept Gift of [Insert Gift] to ICE
2. DHS Form 112-02, Department of Homeland Security Gift Donation Form (Feb. 2013) for Gift of [Insert Gift] to ICE

Appendix C: ICATT Tasking Language

Instructions:

Please provide the requested information in the document provided regarding gifts. Report gifts to the Agency only; specifically, those accepted, received, approved, and denied by anyone in your Program Office (all divisions and fields) for Q[] FY[]. Please note, only gifts reported under DHS Form and Directive 112-02 “*Accepting and Soliciting Gifts to the Agency*” should be included.

Definition:

A gift to the Agency is anything of value offered by an outside source that would aid and facilitate the work of ICE. For example, personal protective equipment offered by local business to an ICE office for use by its employees would be considered a gift to ICE.

If you have any questions regarding gift reporting, please contact [redacted] (b)(7)(E)

Document to Complete:

- TO BE SUBMITTED [redacted] (b)(7)(E)

Background Document(s):

- DHS FMPM, Section 3.17 provides the financial management policy on gifts
- DHS Form 112-02: DHS Gift Donation Form
- DHS Directive 112-02: Gifts to DHS
- DHS Instruction Guide 112-002-001: Instruction Guide on Gifts to DHS
- ICE Directive 1010.1: Accepting and Soliciting Gifts to the Agency
- ICE Ethics: Gifts

Due Date:

- NLT 5pm on [].
-

Glossary

The following tables contain definitions of the acronyms and terms used in this policy.

Acronym	Definition
CAO	Chief Administrative Officer
CFO	Chief Financial Officer
CFR	Code of Federal Regulations
DHS	U.S. Department of Homeland Security
DHS Form 112-02	Gift Donation Form
OAFM	Office of Asset and Facilities Management
OFM	Office of Financial Management
FFMS	Federal Financial Management System
FMPM	Financial Management Policy Manual
FMR	Federal Management Relations
FPU	Financial Policy Unit
FRO	Field Responsible Official
GSA	General Services Administration
HRO	Headquarters Responsible Official
ICATT	ICE Correspondence and Task Tracking System
ICE	U.S. Immigration & Customs Enforcement
OBPP	Office of Budget and Program Performance
OCR	Office of Congressional Relations
OPA	Office of Public Affairs
OPLA	Office of the Principal Legal Advisor
SAMS	Sunflower Asset Management System
SGA	Secretary's Gift Acceptance
TAS	Treasury Account Symbol
USC	United States Code
USM	Under Secretary for Management

Term	Definition
Book Value	The net amount at which an asset or liability is carried on the books of account (also referred to as carrying value or amount). It equals the gross or nominal amount of an asset or liability minus an allowance or valuation amount.)
Fair Value	A value that an item would sell for on the open market. It is the price agreed upon by a willing buyer and a willing seller, with both having reasonable knowledge of the relevant facts and neither being required to act.
Gift	Any goods, services, gratuity, favor, discount, entertainment, hospitality, loan, forbearance, intangible, real property, or other item having monetary value.
Gift Recommendation Memorandum	A memorandum prepared by the Directorate or Program Office recommending to the Director that a gift to ICE be accepted
Minimal Value	Minimal Value means a retail value in the United States at the time of acceptance that is at or below the dollar value established by GSA and published in the FMR. GSA will adjust the definition of minimal value every three years, in consultation with the Secretary of State, to reflect changes in the Consumer Price Index for the immediately preceding 3-year period. Additionally, ICE may, by regulation, specify a lower value than this Government-wide value for its agency employees.
Money	Any currency, check, money orders or other forms of negotiable instruments.
Property	All property, both real and personal, tangible, or intangible, including stocks and bonds.
Services	All forms of uncompensated personal services other than voluntary services as that term used in 31. U.S.C 1342.
Use of Facilities	Includes the use of space, equipment, and related services.
Widely Attended Gathering	A gathering is widely attended if it is expected that a large number of persons will attend, that persons with a diversity of views or interests will be present, for example, if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter, and that there will be an opportunity to exchange ideas and views among invited persons.