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Bulletin

Title: ARS-Accepting Unconditional Gifts

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Originating Office: Acquisition and Property Division, Property and Support Services Branch, AFM, ARS

Distribution: Deputy Area Directors-Business Management
Area Property Management Officers
Area Budget and Fiscal Officers

This Bulletin revises the policies and procedures for accepting unconditional gifts, including monetary gifts, on behalf of USDA/ARS. It also clarifies the definition of a prohibited source.

1. Introduction

This bulletin revises policies and procedures when accepting unconditional gifts of personal property, including monetary gifts, on behalf of USDA/ARS. It clarifies the definition of a prohibited source, lists the two different levels of prohibited sources, and explains the process before accepting gifts from an agency-prohibited source. It also lists the annual reporting requirements. This Bulletin is in compliance with Department Regulation 5200-3, Gift Acceptance Policy. Refer to DR5200-3 for detailed information regarding USDA's Gift Acceptance Policy.

2. Unconditional Gifts

An unconditional gift is a gift where the potential donor establishes no specific terms for use or disposition, other than offering the gift with a general use statement, such as "to the Pest Management Center for continued research." Acceptance of the gift does not imply an endorsement of the gift or the donor. The gift does not impose any obligation on the part of the Government to provide data, materials, information, or results to the donor. **If there are specific outcomes or actions desired between the donor and the agency/office, the gift is not unconditional.** The office should pursue options available under cooperative agreements, if conditions exist.

Within ARS, Deputy Area Directors-Business Management (DAD's), have the authority to accept unconditional gifts on behalf of USDA/ARS. However, there are limitations:

- No USDA agency may accept a gift from sources prohibited by USDA. (See Section 3.)
- Agencies may accept a gift from a source defined as an "agency-prohibited source." (See Section 4.) However, acceptance is only allowed after obtaining approval from the Agency Administrator and USDA's Office of General Counsel (OGC).

3. USDA-Prohibited Sources

USDA prohibits all agencies from accepting gifts from:

- Any person or organization who conducts activities regulated by USDA or any of its staff offices or agencies.
- Any organization where either: a majority of its members are persons who conduct activities regulated by USDA, or any of its staff offices or agencies; or a majority of its funding is provided by persons who conduct activities regulated by USDA, or any of its staff offices or agencies.

- Any person or organization engaged in criminal, civil, or administrative litigation with USDA, with any staff office or agency of USDA, or with the US, based on issues relating to the programs or operations of USDA, or any of its staff offices or agencies.
- Any person whose ability to participate in USDA programs, including loans, grants, contracts, etc., has been suspended or terminated for cause by USDA, or any of its staff offices or agencies.

4. ARS-Prohibited Sources

With one exception, regulations prohibit ARS from accepting gifts from:

- Any person (which includes individual, corporation and subsidiaries, company, association, firm, partnership, organization) who is engaged with ARS or the REE mission area, as a contractor or contractor bidder, borrower, grantee, cooperator, lessee, permittee, or other program participant.

5. Exceptions to ARS-Prohibited Sources

ARS offices may request acceptance of a gift from an ARS prohibited source if:

- acceptance of the gift is in the public interest because the benefits relating to accepting the gift substantially outweigh the appearance of loss of impartiality by ARS in its dealings with the donor.

Before accepting a gift from a prohibited source, ARS offices must obtain approvals from the Agency Administrator and from USDA's Office of General Counsel.

6. Considerations

Before accepting any gift, ARS offices shall consider the following:

- Ensure that multiple gifts from one source, or multiple/duplicate gifts from sources with identical interests, are not being made in order to affect the impartiality of ARS.
- Do not solicit or accept gifts to create an additional funding stream to supplement the appropriations.

7. Conditions

When accepting a gift, offices will ensure that the donor is aware of the following conditions:

- The gift in no way implies an endorsement of the gift or the donor.

- The gift does not impose any obligation on the part of the recipient to data, information, or anything to the donor.
- The donor is responsible for establishing the estimated value of the gift. The Government will not provide value information.

8. Procedures

Potential donors should submit offers, in writing, stating the intention to offer an unconditional gift. The letter should include the following information:

- The complete property description,
- The value (the owner must provide this – not the Government),
- The gift is offered as an unconditional gift, and
- The donor is the sole owner of the gift.

Employees/Locations will forward a copy of the donor's offer to the Area for review and approval. The location should prepare a written justification to accept (or reject) the offer.

The Location/Area will determine whether the donor currently conducts business with the Agency (if the gift is from a prohibited source) by working with the Area Extramural Agreements Specialist and conducting searches via the Agricultural Research Information Systems/Agreements Information Management Systems (ARIS/AIMS). Note any information obtained on the donor.

If the donor is not an ARS prohibited source:

- Review all supporting information to ensure the gift meets gift acceptance criteria,
- Prepare an acceptance letter for the DAD's signature, ensuring the letter states the following:
 - Acceptance is on behalf of USDA/ARS,
 - The gift in no way implies an endorsement of the gift or the donor, and
 - The gift does not impose any obligation on the part of ARS to provide data, information, or any materials to the donor.

If the donor is an ARS prohibited source and acceptance is in the public interest:

- The location will forward a detailed justification to the DAD that thoroughly explains how acceptance is in the public interest and the benefits of accepting the gift substantially outweigh the appearance of loss of impartiality by ARS in its dealings with the donor.
- The DAD will obtain written support from the ARS Administrator. E-mail is acceptable.

- The DAD will forward the complete gift acceptance package to the Acquisition and Property Division (APD)/Personal Property and Support Branch (PPSB) who will work with OGC for approval. This includes:
 - gift offer from the donor,
 - detailed justification,
 - list of the type of work the donor currently conducts with the Agency, including geographic location, and
 - Administrator’s approval.

- APD/PSSB will review the information and forward it to OGC requesting approval. **(Please note that obtaining OGC approval is a lengthy process.)**

- If approved, APD/PSSB will prepare the gift acceptance letter for the Administrator’s signature, with a copy to the Area.

9. Reporting Requirements

Agencies must submit an annual report listing all gifts accepted during the calendar year that have a value of \$5,000 or more. The reporting requirements are:

- Date the gift was accepted,
- Donor name address and telephone number,
- Name of accepting official,
- Description of gift, and
- Estimated value.

This report is due to USDA’s Office of Procurement and Property Management (OPPM) and Departmental Management Science Ethics Branch by January 31 of each year. APD/PSSB will request information from each Area and prepare and submit a consolidated agency report.

10. Accountability

Monetary Gifts. Locations/Areas must establish proper receiving accounts for monetary gifts by working with the Area Budget and Fiscal Officer. The office must establish an accounting classification code for obligations of expenditure against monetary gifts. The Treasury Accounting Symbol for monetary gifts is 12x8203, followed by the agency code.

Personal Property. Gifts of personal property are subject to Federal and USDA property management regulations. Property management officers will update gifts of personal property with a value of \$5,000 or more to the official inventory system (PMIS/PROP or CPAIS) as a “donation”. When the gift is no longer needed or becomes unserviceable, property officials must follow excess/disposal regulations.

11. Conditional Gifts

A conditional gift is a gift where the donor has established specific terms for use and disposition. Only USDA's Chief Financial Officer (OCFO) or representative may accept conditional gifts. Follow the process for accepting gifts from a prohibited source. APD/PSSB will work with the OCFO's office to request approval.

12. Contacts

Refer questions regarding this bulletin to Cheryl Brumback, Chief, Property and Support Services Staff (PSSB)/APD. Call 202-720-2359 or email Cheryl.Brumback@ars.usda.gov

We may need to refer questions concerning ethics to the Science Ethics Branch and questions concerning legal aspects to OGC.

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