

INFORMATION PAPER

ARNO-JA
11 March 2014

SUBJECT: Processing Gifts to the Army

1. Purpose: To provide information concerning processing of Gifts to the Army through the Army Gift Program.

2. Background: Statutory authority must exist for a Federal agency or department to accept gifts and donations, including real and personal property, money, and services.

a. Gifts. Federal agencies may not augment their appropriations unless otherwise authorized by Congress. Acceptance of gifts of property, both real and personal, as well as money without statutory authority is an impermissible augmentation of funds.

b. Services. Under 31 U.S.C. § 1342, Federal agencies and departments are prohibited from accepting voluntary services, unless otherwise approved by law. Authority for the Army to accept certain types of voluntary services is at 10 U.S.C. § 1588. Authority for the Army to accept services for the benefit of certain injured Army personnel is at 10 U.S.C. § 2601(b).

c. Army Gift Program. The Administrative Assistant to the Secretary of the Army (AASA) is the proponent for gifts and donations under the Army Gift Program. The Army Gift Program includes the acceptance of gifts on behalf of the Department of the Army under the following statutory authorities:

i. Title 10, U.S.C. § 2601 – General Gift Funds.

ii. Title 10, U.S.C. § 2608 – Acceptance of contributions for defense program, projects, and activities; Defense Cooperation Account.

iii. Title 5, U.S.C. § 7342 - Foreign Gifts and Decorations Act.

d. Applicable Regulations. Army Regulations 1–100 and 1-101 (currently under revision) provide implementing guidance.

e. Army Gift Program Coordinator. The Army Gift Program Coordinator (Mr. George Cannizzaro/703-697-3067) administers the Army Gift Program on behalf of the AASA and performs the following actions:

i. Gifts for SA Approval. Processes all gift actions for approval and acceptance by the SA.

ARNO-JA

SUBJECT: Processing Gifts to the Army

ii. SA Delegations. Processes and maintains all Gifts to the Army delegations granted by the SA.

iii. Reporting. Provides Quarterly Reports of all Gifts to the Army accepted Army-wide, to DFAS . Reports gifts the SA accepted pursuant to 10 U.S.C. § 2608 to the Under Secretary of Defense (Comptroller). Reports all Foreign Gifts to the State Department under 5 U.S.C. 7342.

iv. DFAS Coordination. Assists in establishing all new limits (subaccounts) in the DFAS - Army General Gift Fund.

v. Gifts to the Army Website. Serves as a centralized point of contact to the Army and public to answer gift and donation questions. Responds to all questions and comments submitted through the Gifts to Army Web site or to the email address usarmy.pentagon.hqda-oaa.mbx.army-gift-program@mail.mil, except the online credit card section, which is managed by the Commanding General, U.S. Army Installation Management Command.

vi. Records Maintenance. Maintains the records of all gifts the SA accepted as prescribed by DOD 7000.14-R and AR 25-400-2.

vii. Foreign Gifts. Approves Foreign Gifts for official display. Coordinates receipt, turn in and purchase of foreign gifts given to individual Soldiers with General Services Agency.

3. Procedures.

a. Acceptance Authority. Only the SA may accept gifts pursuant to 10 U.S.C. § 2608. The SA is the acceptance authority for most gifts and services under 10 U.S.C. § 2601(a) and (b). He has provided limited delegations of authority to accept gifts pursuant to 10 U.S.C. § 2601 to the following personnel:

i. The Surgeon General (who may accept gifts not to exceed \$250,000, for hospitals and medical treatment facilities. She has authority to further delegate to Regional Commanders to accept gifts not to exceed \$50,000.)

ii. Superintendent, U.S. Military Academy (who may accept gifts not to exceed \$500,000. He may not further delegate.)

iii. Commanding General, U.S. Installation Management Command (who may accept gifts not to exceed \$250,000, for non-appropriated funds and activities only. He may further delegate this authority.)

iv. Director, U.S. Army Center of Military History (whose authority is currently under the provisions of AR 870-20).

v. Executive Director, Army National Military Cemeteries (who may accept monetary and personal property up to \$50,000 for Army cemeteries under his purview, including Arlington National Cemetery and the Soldiers' and Airmen's Home National Cemetery. He may not further delegate.)

ARNO-JA

SUBJECT: Processing Gifts to the Army

b. Processing gifts. Gifts are processed in accordance with AR 1-100 and DoD 7000.14-R, Volume 12, Chapter 30 (Gifts under 10 U.S.C. § 2601) and Volume 12, Chapter 3 (Gifts under 10 U.S.C. § 2608). The following are procedures for processing gift of personal property, money, and services (if allowed by law). Gifts of real property require additional information and processing.

i. Army personnel may NOT solicit gifts or donations but may provide information, such as needs, to a prospective donor once contacted regarding a potential gift.

ii. The donor must submit a written offer to the command or organization that will benefit from the gift. The written offer should include:

-A description of the item (and quantity), its condition, material, and approximate size and weight, if applicable.

- Any conditions and limitations of the offer. All conditions and limitations must be expressed in the written offer to ensure that any condition attached to the gift is not prohibited by law or regulation, puts in question the integrity of the Army, or discriminates.

iii. The command or organization which will benefit from the gift must send an offer of a gift requiring Secretariat-level through command channels to the Army Gift Program Coordinator for staffing to the SA, which contains the following information:

-The donor's offer letter.

-The item's present use, location, and availability.

-The coordination of any functional office that may be affected by the acceptance of an offer, such as public works, engineering, or contacting.

-Gifts of Real Property must include the construction plans and complete details (including cost of construction and location site) with the associated DD Form 1391. All offers of gifts involving future construction on Army land must meet requirements outlined in DOD Instruction 7700.18.

-Any expenses associated with accepting and using the item (such as site preparation, maintenance expenses, or transportation expenses). If the receiving official recommends that the Army pay expenses in connection with a gift, the gift action will detail the expenses. Gifts may not be accepted if acceptance results in substantial expenditures or administrative efforts and maintenance that are disproportionate to any benefit. Funds for payment of expenses are the responsibility of the command or activity whose appropriations are properly chargeable with such costs. If a donor requires the Army to pay transportation expenses as a condition of the gift, the command, organization, or activity that will benefit from the gift must arrange transportation and include the details in the gift action.

-A summary of the significance, if any, to the Army if it accepts the item.

ARNO-JA

SUBJECT: Processing Gifts to the Army

-A unique identifier or data element used to track the same or similar items from different sources.

-The recommendation of the commander (or equivalent), who is required to transmit the offer and any recommendations from intermediate commands to the gift acceptance authority. If the receiving official recommends that the Army pay expenses in connection with a gift, the gift action will detail the expenses. Intermediate commanders do not have the authority to accept or reject gift offers.

-The serving legal counsel to the command or activity must provide a written legal opinion for gifts valued at \$10,000 or more, which must be included in the packet submitted to the gift acceptance authority.

-The donor's present or prospective business relationships with the Army.

c. Other limitations.

i. All gifts must be reported through the Army Gift Program to OSD on a quarterly basis.

ii. If a copyrighted or patented gift is to be used for governmental purposes (within the scope of the copyright or patent), it may be accepted only if the donor grants the Army a royalty-free license, to the extent necessary under the copyright or patent, or gratuitously assigns the copyright or patent to the United States.

iii. For the purposes of Federal income, estate, and gift taxes, gifts accepted under 10 U.S.C. §2601 and § 2608 are considered gifts or bequests to the United States. While written notification of acceptance of a gift constitutes the Army's acceptance and receipt, the Army will not render any opinion of value on a specific gift a donor has offered. Acceptance may not be backdated. Commands and activities must advise donors that it is the donor's responsibility to consult a private tax expert for specific advice concerning the tax implications of gift-giving.

iv. All bequests or gifts of money may be made payable to "The Department of Treasury" with "Army General Gift Fund" written in the memo line.