



To enhance mission performance, TSA is committed to promoting a culture founded on its values of Integrity, Innovation, and Team Spirit.

REVISION: This revised directive supersedes TSA MD 200.58, *Non-Monetary Gifts To TSA*, dated May 8, 2007.

SUMMARY OF CHANGES: General changes were made throughout the document, including updated links and minor reformatting; Section 3, Authorities, removes an outdated and unrelated DHS authority; Section 6, Policy, updates the cash gifts policy and removes a DHS reference; and Section 7, Procedures, adds an additional property management procedure.

1. **PURPOSE:** This directive establishes TSA policy and procedures for the acceptance of non-monetary gifts to TSA from outside sources. This directive does not govern gifts from other Federal agencies or foreign governments, nor does it address gifts offered to individual TSA employees, which are governed by the standards of conduct rules (5 C.F.R. 2635). This directive does not apply to gifts of travel and transportation that may be accepted from a non-Federal source under 31 U.S.C. § 1353; see [TSA MD 1000.8, *Payment of Official Travel Expenses by Non-Federal Sources*](#), for additional guidance.
2. **SCOPE:** This directive applies to all TSA organizational elements and employees.
3. **AUTHORITIES:**
 - A. 49 U.S.C. § 114(m)
 - B. [DHS MD 0565, *Personal Property Management Directive*](#)
 - C. [TSA MD 200.57, *Personal Property Management*](#)
4. **DEFINITIONS:**
 - A. Cash Equivalent Gifts: Items that may be used like cash, such as gift cards or gift certificates permitting the purchase of a wide variety of products, and items that may be converted into cash, such as checks, stocks, and bonds.
 - B. Gift Acceptance Authority: The individual with responsibility for making a decision regarding the acceptance or rejection of any particular gift (see Section 5).
 - C. Non-Monetary Gifts: Contributions in the form of services, equipment, personnel, or facilities from any public or private entity that do not come in the form of cash, cash-equivalents, or other gifts that may be accepted under another statutory authority.

NOTE: Non-Monetary gifts may be either conditional (i.e., limitations on ownership and/or use by TSA) or unconditional (i.e., **no** limitations).

- D. Real Property Interest: As used in this directive, the right to exclusively possess a building, land, office space, etc., including a range of ownership options from outright ownership (in fee simple) to no cost leases. It does not include permission (e.g., a license) to use space also available to others.
- E. Senior Management Officials: As used in this directive, the DHS Assistant Secretary (also referred to as the Administrator), the Deputy Assistant Secretary (also referred to as the Deputy Administrator), the Special Counselor, the Chief Counsel, and each Assistant Administrator.
- F. Travel Related Gifts: Gifts involving travel and transportation not covered by 31 U.S.C. § 1353 and TSA MD 1000.8.

5. RESPONSIBILITIES:

- A. Assistant Administrator for Finance and Administration/Chief Financial Officer (AA/OFA) is responsible for:
 - (1) Administering the TSA Non-Monetary Gift Program.
 - (2) Accepting or rejecting all gifts involving the transfer of a real property interest, other non-monetary gifts having a fair market value in excess of \$10,000, and gifts of a lower value - the acceptance of which raises significant legal or policy (e.g., political, ethical, appearance) concerns.
- B. Senior Management Officials are responsible for:
 - (1) Accepting non-monetary gifts (except gifts of real property interests) having a fair market value of \$10,000 or less, where acceptance is clearly in the best interest of TSA.
 - (2) Rejecting non-monetary gifts of any value when acceptance is clearly not in the best interest of TSA (see Section 6D).
 - (3) Referring gifts involving the transfer of a real property interest, other non-monetary gift offers of a value in excess of \$10,000, and other gifts that raise significant legal or policy concerns, to the AA/OFA along with a description of the offered gift, advantages and risks of acceptance, and a recommendation for acceptance or rejection (see Section 7A).
 - (4) Delegating, if desired, the authority set out in (1) through (3) above to no more than one senior subordinate official under his or her authority.
- C. Office of Security Operations Area Directors are responsible for:
 - (1) Accepting non-monetary gifts (except gifts of real property interests) having a fair market value of \$2,500 or less where acceptance is clearly in the best interest of TSA.

NOTE: Except for the acceptance of gifts of transportation, this authority may be delegated, in whole or in part, to the Federal Security Directors (FSDs), who may not further redelegate.
 - (2) Rejecting non-monetary gifts of any value when acceptance is clearly not in the best interest of TSA.

- (3) Referring gifts involving the transfer of a real property interest, other non-monetary gift offers of a value in excess of \$2,500, and other gifts that raise significant legal or policy concerns, to the Assistant Administrator for Security Operations (\$10,000 or less) or AA/OFA (in excess of \$10,000), along with a description of the offered gift, advantages and risks of acceptance, and a recommendation for acceptance or rejection (see Section 7A).

D. Office of Chief Counsel (OCC) is responsible for:

- (1) Reviewing, through OCC Field Counsel, all gift offers of a value of \$2,500 or less to be accepted by an FSD in those cases where the FSD is exercising delegated authority from the Area Director to accept or reject gift offers. Field Counsel's review will, at a minimum, consider any and all legal issues that are presented, as well as policy and procedural matters (see Sections 6 and 7). As they deem appropriate, Field Counsel should coordinate with TSA Headquarters Counsel about acceptance of the gift.
- (2) Reviewing gift issues referred from the field and all other gift offers presented to an Area Director, Senior Management Official, or AA/OFA for acceptance.

E. Deputy Assistant Administrator for Finance and Administration/Chief Administrative Officer is responsible for:

- (1) Coordinating and advising on all offers of interest in the transfer of real property.
- (2) Accounting for all gifts in accordance with TSA MD 200.57 when notified of an approved gift acceptance.

F. Property Custodians are responsible for properly accounting for tangible personal property received in accordance with TSA MD 200.57.

6. POLICY:

- A. Cash Gifts: Generally, gifts of cash and cash equivalents will not be accepted under this authority. However, certain gift cards are so limited in use that they may be considered vouchers for specific products. Consult with OCC to determine whether extremely limited-use gift cards may be accepted under this authority
- B. Solicitation: TSA personnel will not request gifts for themselves, their official activities, or for TSA as an agency. However, in response to general offers or inquiries from potential donors, TSA personnel may explain TSA's gift acceptance policy or identify particular agency needs to assist the donor in choosing the best possible donation. TSA personnel may otherwise cooperate with donors to ensure that gift offers are accepted and used in a manner that maximizes the benefit of the gift.
- C. Documentation:
 - (1) General: All gift offers and acceptance must be documented in writing to clearly indicate the donor's intent to make a gift to TSA, along with a complete description of the intended gift and any conditions on acceptance.

- (a) For gifts of a fair market value of \$2,500 or more, the attached sample letters (Attachment 1, *Sample – Letter of Offer of Gift*, and Attachment 2, *Sample – Letter of Acceptance of Gift*) are **required**.
- (b) For gifts of a fair market value less than \$2,500, the written documentation may be in the form of an exchange of e-mails, an internal memorandum for record, a handwritten receipt, or similar documents (ref. Attachments).
- (c) All documents shall be maintained by the Gift Acceptance Authority or as otherwise directed by the Property Custodian.
- (d) A copy of all documents related to gift offers (whether accepted or rejected) shall be provided to the Office of Property Management.

(2) Timing:

- (a) Prepare written documentation in advance of delivery of the gift, whenever possible, and always prepare the document(s) before official acceptance.
- (b) If TSA assumes custody of tangible gifts before actual acceptance, inform the donor, in writing if the gift is valued at \$2,500 or more, that TSA cannot assume responsibility for any loss or damage to the gift before it is officially accepted.
- (c) Services are considered received when rendered. Gifts of services must be approved prior to being rendered (to avoid potential claims against the government).

(3) Authority:

- (a) Offers from a company, for-profit or nonprofit organization, or other entity may require accompanying documentation, which demonstrates or establishes the donor's authority to make the gift on behalf of the entity.
- (b) Address any questions to OCC, as other legal documents may also be required.

(4) Legal Review. All gift offers, regardless of value, shall be reviewed by OCC.

D. Consideration of Acceptance:

NOTE: For gifts from any entity regulated by TSA, see the additional gift acceptance criteria in Section 6E.

- (1) Gifts should ordinarily be accepted unless acceptance would not be in the best interest of TSA; however,
- (2) Gifts should be rejected, under the following circumstances:
 - (a) When acceptance involves the expenditure or use of funds prohibited by or in excess of amounts appropriated by Congress (e.g., sporting equipment that requires installation when no funds are available to TSA to perform the installation).

- (b) When the offered item is unacceptably dangerous (e.g., an electrical device that sparks or a gas heater with inadequate safety features).
 - (c) When the offered item is in bad taste (e.g., items of art that could be interpreted to reflect discriminatory animus).
 - (d) When acceptance of the gift would raise a serious question of impropriety in light of the donor's present or prospective business/regulated relationship with TSA (e.g., a prospective TSA contractor that offers a gift to TSA in advance of contract award; a regulated entity, such as an airport, offering food or entertainment to TSA when such gifts should not otherwise be accepted by the individual employees—the FSD and his staff—under the *Standards of Ethical Conduct for Employees of the Executive Branch*; or nominal gifts that are given with excessive frequency.).
 - (e) When the cost of acceptance and maintenance is disproportionate to any benefit (e.g., a motor vehicle in extremely poor repair that would likely cost more to fix and maintain than the gift is worth).
 - (f) When acceptance would not be in the best interest of TSA (e.g., items of a partisan political nature or an offer of conference facilities at an inaccessible location).
 - (g) When the conditions imposed render the gift unsuitable for use (e.g., screening equipment offered for use **only** in an airport area where no TSA screening occurs).
- E. Additional Considerations—Gifts from Regulated Entities: Conflicts of interest, or their appearance, can result when TSA regulates a potential donor (e.g., State and Local government authorities, airlines, trucking and railroad companies, and associations comprised of such entities), whether regulated directly or indirectly.
- (1) Balancing Test. A gift from a regulated entity will not be accepted if the Gift Acceptance Authority determines, in consultation with OCC, that acceptance under the circumstances would cause a reasonable person with knowledge of all the facts to question the integrity of TSA's programs or operations. In making this determination, all relevant factors will be considered including, but not limited to the:
 - (a) Identity of the donor and relationship (if any) to TSA oversight and/or operations.
 - (b) Conditions, if any, on acceptance of the gift.
 - (c) Nature and sensitivity of any matter pending before TSA that affects the interests of the donor.
 - (d) When the gift involves transportation, the availability and cost-effectiveness of Government or commercial transportation and the expected frequency of the offered transportation.
 - (e) When the donor is a State instrumentality, the effect on Federal-State cooperation.
 - (2) Compensation. In close or questionable cases, the Gift Acceptance Authority should consider whether any actual or perceived conflict of interest may be minimized by reimbursing the

donor the reasonable, mutually-agreed value of the gift. If reimbursement is a viable option, the Gift Acceptance Authority must forward the action to a contracting officer, who has authority to make a binding financial obligation.

- (3) Free Transportation or Other Tangible Services or Items. Gifts falling within these descriptions and such issues involving offers of payment of other costs related to official travel (e.g., travel to a conference, seminar, speaking engagement, symposium, training course, or similar event) are governed by TSA MD 1000.8.
- (4) Gifts from Foreign Governments. Gifts from foreign governments to TSA are handled in accordance with GSA Federal Management Regulation (FMR), 41 C.F.R. 102-42, which establishes the policies and procedures governing the acceptance of gifts and decorations received from foreign sources.
- (5) Advice to Donors Concerning Tax Benefits.
 - (a) TSA personnel will not advise a donor regarding the tax consequences of making a gift to TSA.
 - (b) TSA personnel will not place any value on a gift that a donor might offer to gain a tax benefit, but may suggest that the donor consult an expert for specific tax advice.
 - (c) All offers and acceptances will reflect actual, correct dates of action to preclude any manipulation of the transaction for tax purposes.
- F. Real Property Interest: All offers of interests in real property must be coordinated with the Office of Real Estate Services. Any legal questions concerning real property interests should be directed to OCC.

7. PROCEDURES:

- A. Forwarding: If an offer of a gift requires higher-level acceptance or rejection, the office seeking action on the gift will send it through channels to the Gift Acceptance Authority (see Section 5). The office that forwards the staff package to the decision authority must include:
 - (1) The donor's signed written gift offer, which should include, at a minimum:
 - (a) Item description (and the quantity);
 - (b) Item condition;
 - (c) Item material; *and*
 - (d) Item size and weight (may be an approximate); *or*
 - (e) Type of service to be rendered and any offer conditions and/or limitations.
 - (2) The present use, location, and availability of the item or service.
 - (3) Any unusual or large expense involved in accepting and using the item or service.

- (4) The donor's present or prospective business relationships with TSA.
- (5) A summary of the item's or service's benefits to TSA.
- (6) A recommendation whether to accept or reject the gift.

B. Transfer of Title:

- (1) The title to a gift of tangible or intangible personal property passes to the United States when the offer of the gift is accepted by a person authorized to do so.
- (2) Before the AA/OFA accepts a real property interest, OCC will ensure, as applicable, that the deed conveys good title, the lease contains no unacceptable terms, or other terms and conditions of the transfer are acceptable.

NOTE: Transfers of real property interests must be addressed at TSA Headquarters on a case-by-case basis.

C. Gifts of Historical Significance: Contact the DHS Historian directly concerning the assessment, collection, inventory, and disposition of historical items or properties. To contact the History Office, please email at DHShistoryoffice@historyassociates.com or call 202-282-8682.

D. Once the acceptance of the gifts have been finalized, gifts will become property of TSA and managed by Accountable Property Officers and Property Custodians, as described in TSA MD 200.57.

8. EFFECTIVE DATE AND IMPLEMENTATION: This policy is effective immediately upon signature.

APPROVAL

Signed

7/30/2009

David R. Nicholson
Assistant Administrator and Chief Financial Officer
Office of Finance and Administration

Date

Distribution: TSA Employees
Point Of Contact: Office of Property Management, TSA-Property@dhs.gov, 571-227-5486

ATTACHMENT 1

SAMPLE – Letter of Offer of Gift

[Date]

[Gift Acceptance Authority]
[Address]
[City, State, ZIP]

Dear [Gift Acceptance Authority]:

I, _____, on behalf of [the Name of Company], the owner of the property listed below, do hereby voluntarily give, transfer, convey, and assign said property, free and clear of all encumbrances, at no cost to the Transportation Security Administration, to have and to hold the same forever, hereby relinquishing for myself, my executors, administrators, heirs and assigns all ownership, rights, title, interest and possession therein to the donee absolutely: [Description of Property)].

- OR -

I, _____, having the authority to direct the services be provided, do hereby voluntarily offer to provide at no cost to the Transportation Security Administration: [Description of Services].

This offer is conditioned upon [Enter Terms and Conditions of the Offer].

Sincerely yours,

[Donor]

NOTE: Fill in appropriate information required in noted brackets.

This letter should ordinarily:

- (1) Describe the property briefly but completely enough to make the gift readily identifiable.*
- (2) Declare that the donor has the authority to make the gift*
- (3) Actually offer the gift.*
- (4) Clearly state any conditions.*
- (5) Be signed.*

ATTACHMENT 2

SAMPLE – Letter of Acceptance of Gift

[Date]

[Donor Name]
[Donor Company]
[Address]
[City, State, ZIP]

Dear [Donor Name]:

On behalf of the Transportation Security Administration, I am pleased to accept [(your) or (Donor Company's)] offer of [Date of Offer] to donate [Description of Item or Service Donated]. I hereby accept this gift under the provisions of Title 49, U.S. Code, sections 114(m) and 106(m), subject to [Enter Terms and Conditions of the Offer].

Please accept my sincere appreciation for this most generous and thoughtful gift.

Sincerely yours,

[Gift Acceptance Authority]

NOTE: Fill in appropriate information required in noted brackets.

This letter should ordinarily:

- (1) Acknowledge receipt of the offer of gift.*
- (2) Describe the property briefly but completely enough to make the gift readily identifiable.*
- (3) Actually accept the gift. (Advise where the donor may send the gift, when appropriate.)*
- (4) State that the gift is accepted under Title 49, U.S. Code, sections 106(m) and 114(m).*
- (5) Express sincere appreciation for the gift.*
- (6) Be signed.*

Cc: Office of Property Management, TSA-17