DEPARTMENTAL MANUAL

TRANSMITTAL SHEET

PART	SUBJECT	RELEASE NUMBER
374 DM 6	ETHICS AND CONDUCT	3772
FOR FURTHER INFORMATION, CONTACT Office of Conservation, Partnerships, and Management Policy	Employee Responsibilities and Conduct Donations	DATE DEC 7 2007

EXPLANATION OF MATERIAL TRANSMITTED:

This Departmental Manual Release updates 374 DM 6 (Donations Policy). The policy was revised in response to bureau and donor concerns that implementing the guidelines in the policy absorb time and incur costs without generating commensurate benefits; impede Interior's ability to partner effectively with the public; and, may impact the National Park Service's ability to implement the Centennial Challenge. The revised policy addresses the concerns while upholding the principle that integrity, impartiality, and public confidence in the Department, are key considerations in the acceptance of donations. Key changes to the policy include:

- Raising the thresholds for formal donor evaluation, including requiring coordination among the bureaus and offices; review by the Office of the Solicitor; and consultation with the Office of Inspector General.

- Incorporating donor certification for donations above $25,000; donations above $250,000 are referred for review to bureau senior managers, the Solicitor, and as needed, the Inspector General.

- Eliminating the requirement to evaluate donations from Federal, state, and local governments, and educational institutions; and including an exception for donations offered during natural disasters and other emergencies.

- Providing for evaluation of donor organizations, not each officer or director.

- Clarifying and streamlining the roles of responsible parties in the donation acceptance process.

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Associate Deputy Secretary

FILING INSTRUCTIONS:

Remove:	Insert:
374 DM 6 (5 sheets)	374 DM 6 (5 sheets)

Department of the Interior
Departmental Manual

Effective Date: 12/7/07
Series: Ethics and Conduct
Part 374: Employee Responsibilities and Conduct
Chapter 6: Donations

Originating Office: Office of Conservation, Partnerships, and Management Policy

374 DM 6

6.1 **Purpose.** This chapter establishes Departmental policy for the acceptance, use, recognition, and, where appropriate, solicitation of donations.

6.2 **Policy.** Donations are important and appropriate tools authorized by Congress for the Department and its bureaus to accomplish their missions. The Department's policy is to accept, use, recognize, and solicit donations when it has statutory authority and in a manner that promotes and enhances the Department's programs, activities, and operations, consistent with applicable laws.

A. An employee authorized to accept or solicit donations for the Department must first determine that circumstances of the donation maintain:

(1) The integrity of the Department's programs and operations;

(2) The impartiality, and appearance of impartiality, of the Department and its employees; and

(3) Public confidence in the Department, its programs, and its personnel.

B. The Department retains the discretion to decline any particular donation.

6.3 **Scope.**

A. Applicability. This chapter covers the acceptance of donations to bureaus and offices with explicit statutory authority to accept donations. The policy applies to the use of the statutory donation acceptance authority provided in a variety of statutes.

B. Exceptions. The following are not subject to this chapter:

(1) Services of individual volunteers or groups of volunteers under a bureau's volunteer acceptance authorities.

(2) Contributions in the nature of a person or entity's share of costs where there is independent authority for such cost sharing, e.g., challenge cost-share programs where there is no public fundraising for the partner's cost share.

(3) Moneys received as fees for services.

(4) Reports or analyses prepared or funds received by the Department to prepare such documents pursuant to applicable authority, e.g., a National Environmental Policy Act analysis funded by an applicant.

(5) Donations of expenses related to official travel covered by 31 U.S.C. § 1353 for attendance at a meeting or similar function (subject to separate approval under 43 CFR Part 20.302).

(6) Donations associated with the exercise of the Department's regulatory authorities, such as mitigation measures involving the donation of land or interests in land to be used by the Department for conservation purposes.

(7) Gifts to individual employees that are separately governed by the Standards of Ethical Conduct for Employees of the Executive Branch at 5 CFR Part 2635.

(8) Funds received through agreements where there is an independent statutory authority (e.g. the Economy Act, the Intergovernmental Cooperation Act, the Intergovernmental Personnel Act, the Stevenson-Wydler Technology Innovation Act, a bureau-specific statute that authorizes a bureau or office to accept funds through an agreement, etc.).

6.4 **Authorities.** A variety of authorities that allow acceptance and/or solicitation of donations apply to the policy in this chapter. For a list of such authorities, see the Partnership Legal Primer, available online at http://www.doi.gov/partnerships/.

6.5 **Definitions.**

A. Authorized Employee. Refers to an individual authorized to accept a particular donation and who is responsible for ensuring that this policy and bureau procedures are followed in evaluating donors and donations to their bureau. Authorized employees must have sufficient experience, training, and organizational responsibility to be able to fully consider all relevant factors and circumstances when accepting donations.

B. Bureau. In this chapter, refers to any bureau or office of the Department that has explicit statutory authority to accept donations.

C. Donation. Includes "gifts" and refers to something of value received from a non-federal source without consideration or an exchange of value. Permissible donations depend on the specific provisions of the authorizing statutes; often donations of real and personal property, services, and money are allowed.

D. Senior Manager. Refers to the bureau employee with responsibility for overseeing the donation-related activities; ensuring compliance with the policy in this chapter and bureau procedures; and reviewing and making determinations on specific donations as identified in this chapter.

E. Solicitation. Refers to any request to a non-Federal entity, group, or individual seeking donations to be made directly or indirectly to the Department in support of its programs.

6.6 **Acceptance Considerations.** Acceptance of donations must be done in a legally and ethically appropriate manner. This section provides considerations for the authorized employee to use in determining whether the circumstances of the donation and its acceptance would maintain the integrity and impartiality of the Department and public confidence in the Department. This list is neither intended to be exclusive nor to imply that any one of these factors absolutely requires acceptance or declination of a donation, but rather to illustrate what should be considered when evaluating the totality of circumstances and making donation-related decisions. The authorized employee must weigh the circumstances from the perspective of a reasonable person with knowledge of the relevant facts.

A. Maintaining the integrity of the Department's programs and operations.

(1) The donation is not, or does not appear (such as by its size or circumstances) to be, an attempt to influence the exercise of any regulatory or other authority of the Department.

(2) The donation meets a legitimate need of the Department and does not require the commitment of funding that is not planned or available.

(3) The donation is consistent with, and does not otherwise circumvent, law, regulation, or policy.

(4) The Department is able to properly utilize or manage any donated real property, including land or interests in land, or personal property within policy, programmatic, and management goals.

(5) Any conditions on the donation are consistent with authorized purposes and any relevant policy or planning documents.

(6) The donation will not be used by the donor to state or imply endorsement by the Department of the donor or the donor's product or services.

(7) The donation, if it consists of personnel or funding to hire personnel, is structured such that the donated or funded personnel do not inappropriately influence any Departmental regulatory action or other significant decision.

B. Maintaining the impartiality, and appearance of impartiality, of the Department and its employees.

(1) The proposed donation is made in an amount that would not influence or appear to influence any pending Department decision or action involving the donor's interests.

(2) There is neither an actual nor an implied commitment to take an action favorable to the donor in exchange for the donation.

(3) The donor will not obtain or appear to obtain special treatment in dealing with the Department.

C. Maintaining public confidence in the Department, its programs, and its personnel.

(1) Acceptance would not likely result in public controversy.

(2) Any conditions on donations are consistent with the Department's policy, goals and programs.

(3) The donation does not involve any inappropriate goods or services.

6.7 **Responsibilities.**

A. Assistant Secretary - Policy, Management and Budget. The Assistant Secretary - Policy, Management and Budget (A/S-PMB) is responsible for Departmental policy concerning donations. The A/S-PMB will review the implementing procedures of each bureau for consistency with the policy in this chapter and will periodically assess compliance. The A/S-PMB review will include consultation with the Office of the Solicitor.

B. Heads of Bureaus. Heads of bureaus with authority and intent to accept donations will designate a senior manager to be responsible for donations and will submit the name of the individual to the A/S-PMB in writing.

C. Senior Managers.

(1) Serve as the bureau official responsible for ensuring that the employees and the implementing procedures adhere to the policy in this chapter.

(2) Develop procedures for implementing the donation guidelines within the bureau mission and legal authorities. Procedures must clearly identify authorized employees by position or job responsibility.

(3) Oversee the bureau donation acceptance activity and provide such guidance, advice, and consultation as necessary to ensure effective and appropriate use of the bureau donation acceptance authorities.

(4) Issue written authorizations where statutorily authorized and when appropriate to allow employees to solicit non-federal sources directly for donations.

(5) Serve as the authorized employee to make the final determination for all donations of $250,000 or more; or for donations of any dollar amount that contain conditions that may have significant implications for the budget or programs.

(6) Coordinate with other bureaus to obtain their review of proposed donations of $1,000,000 or more.

(7) Serve as bureau contact for review of other bureaus' proposed donations of $1,000,000 or more.

D. Authorized Employees.

(1) Ensure compliance with the guidelines in this policy and specific bureau procedures whenever a donation is offered.

(2) Gather sufficient information about a prospective donor and the proffered donation to facilitate evaluation of the donation.

(3) Evaluate the totality of the circumstances, including the value and purposes of the donation and the nature and interests of the donor, to determine whether to accept the donation. See Section 6.6 and 6.10.

(4) Must seek guidance from the bureau's designated senior manager, bureau ethics personnel, A/S-PMB, or the Office of the Solicitor, whenever the circumstances are unclear or questionable, to resolve issues associated with particular donations.

(5) Consider additional concerns raised by donations:

(a) Made to an outside non-profit entity or partner when the non-federal entity subsequently makes a related donation to the Department;

(b) That may reasonably be expected to result in involvement with marketing or advertising;

(c) With conditions;

(d) In which the donor is involved in litigation with the Department; or

(e) In which the donor is regulated by the Department.

6.8 **Fundraising/Solicitation Activities by Department of the Interior Employees.** The extent of a bureau's authority to solicit gifts is determined by the scope of its statutory gift-acceptance authority.

A. Bureaus must obtain review by the Office of the Solicitor regarding the scope of their solicitation authority.

B. Bureau procedures must reflect the scope of its solicitation authority.

C. To maintain integrity and impartiality of the Department and public confidence in the Department, direct solicitations by employees to private individuals or non-federal entities will be authorized only in limited circumstances and consistent with statutory authorities.

D. Employees may engage in solicitations of non-federal sources for donations only when authorized in writing by their bureau senior manager.

E. Employees may provide information, when appropriate, regarding their authority to accept donations in support of their programs. As part of this informational activity, employees may develop lists of programs or activities that the bureau could undertake with donated support, and disclose these to non-federal entities.

F. Employees must ensure that they comply with 18 U.S.C. § 1913 entitled "Lobbying with Appropriated Moneys" and with other restrictions on lobbying activities.

G. In communications with donors or potential donors, employees may not portray Congress, the Department, or their bureau as having failed to provide adequate resources to any bureau, office or program.

6.9 **Fundraising by Non-federal Entities On Behalf of the Department**. Although the Department does not directly regulate the conduct of fundraising by non-federal entities, fundraising conducted on its behalf is appropriate only when consistent with the Department's mission and goals, and the standards enunciated in this policy.

A. Fundraising Agreements. A written agreement must be executed prior to any fundraising by non-federal entities on behalf of the Department or bureaus. The agreement must require that the fundraiser explicitly state they are seeking financial or other resources on behalf of the Department. The Department will not accept donations raised on its behalf without such an agreement, unless the relevant senior manager determines that acceptance is appropriate under the totality of the circumstances and considerations of Section 6.6. A fundraising agreement may be written for a particular short-term effort or may broadly cover a long-term relationship encompassing numerous specific fundraising activities.

B. Content of Fundraising Agreements. Fundraising agreements may vary in format and substance, but should enable the bureau, as necessary, to evaluate fundraising objectives, plans, and schedules, minimize overlap with other fundraising efforts, and ensure compliance of the fundraising effort with Departmental policy. The agreement will require fundraising on behalf of the Department to be conducted in a manner that ensures the integrity and impartiality of the Department and public confidence in the Department, its programs, and personnel. The fundraising agreement must contain at a minimum appropriate provisions that:

(1) Detail the fundraising objectives and timeframe;

(2) Require that all printed and other informational and fundraising materials be approved by the authorized employee in advance of distribution or communication to the public;

(3) Provide for accountability of all funds raised and, when appropriate, for the security of funds invested by the partner related to a fundraising campaign;

(4) Allow the Department to terminate the agreement at its discretion and without cost;

(5) Prohibit actions that are not consistent with this policy and the bureau implementing procedures;

(6) Identify the applicable processes for reviewing prospective donors; and

(7) Specify the role, if any, that Departmental employees may have in the campaign.

C. Exception to Fundraising Agreements. The Department does not require small-scale events that raise funds to support the Department to have a written fundraising agreement. A small-scale event is one that is local or community based, is locally publicized, and is not expected to raise funds exceeding $25,000. Donations from small scale events nonetheless must be evaluated using the acceptance considerations listed in Section 6.6 of this policy.

6.10 **Evaluation**. To ensure donation-related decisions are supported by sufficient information, documenting the acceptance considerations in Section 6.6, the following apply:

A. Each bureau will ensure its donation procedures comply with the policy in this chapter when obtaining information to evaluate prospective donors and donations.

B. Donors are evaluated by a bureau only once during a fiscal year, unless their donation total for the fiscal year triggers a higher evaluation requirement.

C. The authorized employee is required to determine what information is necessary to evaluate the circumstances of a donation. Information that may be required for such an evaluation includes, but is not limited to:

(1) Whether the donor is involved in litigation or other controversy with the Department;

(2) Whether the donor is seeking or is otherwise engaged in any type of financial or business relationship with the Department, for example, a contract, permit, lease, grant, or cooperative agreement;

(3) Whether the donor has been debarred, suspended, proposed for debarment, excluded or disqualified under the non-procurement common rule, or otherwise declared ineligible from doing business with any Federal government agency as specified in the CFR.

(4) Whether the donation is expected to be involved with marketing or advertising;

(5) The value and any applicable conditions of the donation; and

(6) Whether the donation is a singular event or part of a series of donations.

D. If the authorized employee has any reason to believe that the donor was the subject of a DOI or Office of Inspector General (OIG) investigation, the proposed donation should be referred to the OIG or appropriate investigating office to obtain information.

E. Required Information. Following are the minimum information gathering processes that employees must use to ensure donations are properly evaluated. All requirements listed for lower donation levels apply to all higher donation levels.

(1) Evaluating Donations of Land or Interests in Land.

(a) For any donation valued at $25,000 or more, the donor will be requested to provide specific information in a format provided by the A/S-PMB.

(b) The donations will be reviewed by the field or regional lands/realty offices and approved at the appropriate organizational level as specified in bureau procedures.

(c) If concerns exist, the lands/realty offices will request an evaluation by the Office of the Solicitor, and include specific information in a format provided by the A/S-PMB in the title package submitted.

(2) Evaluating Donations that are Not Land or Interests in Land.

(a) For any donation valued at $25,000 or more, the donor will be requested to provide specific information in a format provided by the A/S-PMB.

(b) Any donation valued at $250,000 or more will also be referred to:

(i) The bureau senior manager responsible for donations;

(ii) The Office of the Solicitor for a litigation search; and

(iii) May also be referred to the OIG to obtain information from its systems.

(c) Any donation valued at $1,000,000 or more will also be simultaneously referred to the senior managers responsible for donations in other bureaus for identification of any concerns regarding the proposed donation.

F. Exceptions. The following donations are not subject to the requirements of this subsection; however, they will be evaluated using the acceptance considerations listed in Section 6.6 of this policy:

(1) Donations from Federal, state and local governments.

(2) Donations from accredited educational institutions.

(3) Donations offered during and related to natural and other emergencies.

6.11 **Recognition of Donors**. Donors who have contributed either directly or indirectly to the Department through a fundraising partner may receive appropriate, reasonable recognition and thanks, which may be expressed by the Department, its fundraising partners or both in letters of appreciation, press releases, public events, certificates, and similar items. The means of recognition is at the discretion of the bureau and the authorized employee, but decisions about recognition must include consideration of the appearances associated with the particular donation and whether the cost of the recognition is a proper expenditure of appropriations. No recognition may be made in a form that implies endorsement by the Department of the donor's products, services, or activities (other than the donation itself). Each bureau's implementation procedures will include specific donor recognition guidelines.

6.12 **Documentation Requirements**. Each bureau must develop standard procedures to document its donation activities in accordance with applicable statutes and regulations, including the Federal Records Act, the Paperwork Reduction Act, and the Privacy Act, if applicable. Such documentation will allow for audit or investigation by the OIG or the Government Accountability Office. Procedures promulgated in accordance with the requirements in this section must provide for:

A. Documentation of receipt and disposition of all real or personal property, regardless of the method or source of acquisition, in accordance with the Interior Property Management Directives, 410 DM Addition to the IPMD 114-60.5;

B. Establishment of distinct accounting elements to comply with donor requirements for conditional donations;

C. Accounting for all monetary donations in the bureau financial system at a level that will allow accountability for individual donations; and

D. Internal controls as required in Office of Management and Budget Circular A-123.