

**U.S. DEPARTMENT OF THE INTERIOR  
MINERALS MANAGEMENT SERVICE**

TRANSMITTAL SHEET

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Release No. 309

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SUBJECT: Administrative Series  
Part 374 Ethics and Conduct  
Chapter 6 Donations

EXPLANATION OF MATERIAL TRANSMITTED:

Policy and procedures for the acceptance of donations from outside entities as authorized by 374 DM 6.

Director, Minerals Management Service

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FILING INSTRUCTIONS:

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OPR: Administration and Budget, Chief of Staff's Office  
Date: 6/20/2008

**Minerals Management Service  
Minerals Management Service Manual**

**Effective Date:** June 20, 2008

**Series:** Ethics and Conduct

**Part 374:** Employee Responsibilities and Conduct

**Chapter 6:** Donations

**Originating Office:** Chief of Staff, Office of Administration and Budget.

**1. Purpose.** This chapter establishes the MMS policy for the acceptance, use, recognition, and, where appropriate, solicitation of donations. It also establishes responsibility for the administration of this policy.

**2. Policy.** Donations are important and appropriate tools authorized by Congress for the Minerals Management Service (MMS) to accomplish its mission. The MMS's policy is to accept, use, recognize, and solicit donations when it has statutory authority and in a manner that promotes and enhances the MMS's programs, activities, and operations, consistent with applicable laws. The MMS retains the discretion to decline any particular donation.

**3. Scope.**

A. **Applicability.** This chapter covers the acceptance of all donations within the MMS's explicit statutory authority to do so. The policy applies to all use of the statutory donation acceptance authority provided for 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 the MMS's volunteer acceptance authority.
- (2) Contributions in the nature of a person or entity's share of costs where there is independent authority for such cost sharing.
- (3) Moneys received as fees for services.
- (4) Reports or analyses prepared or funds received by the MMS 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 the MMS's regulatory authorities.

(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.

**4. Authorities.** A variety of authorities which allow acceptance and/or solicitation of donations apply to the policy in this chapter. For a list of such authorities refer to 374 DM 6.4.

## **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 the procedures described in the MMS Donation Handbook are followed when evaluating donors and donations to the MMS. 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. 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.

C. Senior Manager. Refers to the MMS employee with responsibility for overseeing the donation-related activities; ensuring compliance with the policy in this chapter and the procedures described in the MMS Donation Handbook; and reviewing and making determinations on specific donations based on criteria identified in this chapter.

**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 MMS and public confidence in the MMS. 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 MMS’s programs and operations

(1) The donation is not, or does not appear (because of its size or surrounding circumstances) to be, an attempt to influence the exercise of any regulatory or other authority of the MMS.

(2) The donation meets a legitimate need of the MMS 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 MMS 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 MMS 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 MMS regulatory action or other significant decision.

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

(1) The proposed donation is made in an amount that would not influence or appear to influence any pending MMS 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 MMS.

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

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

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

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

## **7. Responsibilities.**

A. Director. The Director will be responsible for

(1) MMS policy concerning donations, and

(2) Designation of a Senior Manager and submission of the name of that individual to the Assistant Secretary – Policy, Management and Budget (A/S-PMB).

B. Associate Director for Administration and Budget (AD/AB). AD/AB will

(1) Serve as the MMS's designated Senior Manager and will be the MMS official responsible for ensuring that the MMS donation procedures and employees adhere to the policies in this chapter.

(2) Develop and maintain a procedural handbook for implementing the donation guidelines within the MMS's mission and legal authorities. Procedures must clearly identify Authorized Employees by position or job responsibility.

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

#### C. Authorized Employees.

(1) Ensure compliance with the guidelines in this policy.

(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.

(4) Must seek guidance from the MMS'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.

**8. Documentation Requirements.** The MMS will document its donation activities in accordance with those statutes and regulations that are applicable (e.g. the Federal Records Act, the Paperwork Reduction Act, and the Privacy Act). These documentary procedures will provide for the following:

A. Documentation of receipt and disposition of all real or personal property, regardless of the method or source of acquisition;

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

C. Accounting for all monetary donations in the MMS's financial system level that will track individual donations; and

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