UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF THE GENERAL COUNSEL

December 5, 2002

Note to Jim Lynch:

Re: Use of Appropriated Funds for Gifts and Awards

Gifts

This note is in response to your request for advice regarding the use of appropriated funds for gifts and awards. In general, appropriated funds may not be used for personal gifts unless there is specific statutory authority. In cases where an agency does choose to purchase items using appropriated funds, the "necessary expense doctrine" must be utilized in order to determine whether such purchases are allowable. This analysis applies to gifts given to Department of Education employees as well as to persons outside the executive branch. *See* 68 Comp. Gen 226 (1989).

Specifically, whether a particular expenditure is permissible (if not specifically authorized in the law) depends on two factors. First, the expenditure is "permissible if it is reasonably necessary in carrying out an authorized function or will contribute materially to the effective accomplishment of that function, and if it is not otherwise prohibited by law." B-23421, May 3, 1989. Second, "there must be a reasonable nexus between each expenditure and a benefit to the agency's function." *Id*.

Examples of unauthorized purchases of gifts:

- Decorative ashtrays distributed to federal employee participants of a conference sponsored by the agency. Purpose: to generate conversation concerning the conference. Decision: justification was not sufficient because the recipients were officials who were already charged by law to cooperate with the objectives of the agency, therefore there was no necessity that ashtrays be given away. 53 Comp. Gen 770 (1974).

- Key chains distributed to educators who attended seminars sponsored by the Forest Service were not allowable even though agency stated that their distribution would generate future responses from participants. GAO decided that the key chains were not necessary to implement the appropriation and were therefore improper expenditures. 54 Comp. Gen 976 (1975).

- Novelty plastic garbage cans containing candy in the shape of solid waste distributed by EPA to attendees at an exposition. Agency argued that the candy was used to attract people to an exhibit on the Resource Conservation and Recovery Act and to promote

solid waste management. Decision – not allowable use of funds. 57 Comp. Gen 385 (1978).

- Cost of jackets and sweaters as Christmas presents to corpsmen at a Job Corps Center in order to increase program support and morale. Decision – not a necessary expense, therefore not allowed. B-195247 (August 29, 1979).

- T-shirts stamped with CFC logo to be given to employees contributing a certain amount of money. Decision – not allowed. 70 Comp. Gen. ___ (B-240001, Feb 8, 1991).

- Winter caps to be given to volunteer participants in weather observation program to enhance motivation. Decision – not allowed. B-201488 (February 25, 1981).

- Photographs taken at a dedication of a visitor center to persons attending ceremony. Decision – not allowed. B-195896 (October 22, 1979).

- Buttons procured by GSA and given out to members of the public to show support for certain energy policies. Decision – not allowed. B-192423, August 21, 1978).

- Gift boxes of convenience food, leather products, and paperweights to be given to foreign visitors and other dignitaries. Decision – not allowed. B-151668 (June 30, 1970).

- Cuff links and bracelets given to foreign visitors by Commerce to promote tourism. Decision – not allowed. B-151668 (December 5, 1963).

<u>Examples of approved uses because they were found necessary to carry out purpose of the agency's appropriation:</u>

- Purchase and distribution of lava rocks by Interior. Appropriation was for "expenses necessary for the management, operation and maintenance" of areas and facilities administered by the National Park Service. The distribution was effective in preserving the monument by discouraging visitors from removing lava rock elsewhere in the monument. B-193769 (January 24, 1979).

- Army could use appropriations to give away framed recruiting posters as "prizes" in drawings at national conventions of student organizations. Students had to fill out raffle tickets that could be used for recruiting. B-230062 (December 22, 1988).

<u>Supplies</u>

Items that can be classified as supplies may be given to employees. For example, if an Agency would like to provide pens, mouse pads, or other items with the Agency's insignia, that is authorized as long as these items are not significantly more expensive than such items without an insignia.

Awards

The Government Employees Incentive Awards Act, 5 U.S.C. §§ 4501-4507, authorizes an agency to pay a cash award to a federal employee of the executive branch who "by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork" or performs a special act or service in the public interest related to his or her official employment.

Awards under the Act may take forms other than cash. ie., marble paperweights, and walnut plaques. 55 Comp. Gen 346 (1975). Desk medallions, telephones of nominal value, jackets bearing agency insignia, administrative leave are also allowable. Awards of merchandise to be selected from catalogs are not authorized.

Additionally, the agency may incur "necessary expenses" in connection with an incentive award program. *See* 5 C.F.R. Parts 451 and 540. The "necessary expenses" language of the Incentive Awards act may encompass refreshments at an agency's award ceremony. 65 Comp. Gen 738 (1986).

I hope these examples are helpful. Please feel free to call me at 401-6699 with any questions regarding this information.

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Lee S. Harris