BY ORDER OF THE
SECRETARY OF THE AIR FORCE

AIR FORCE INSTRUCTION 51-901

2 DECEMBER 2003

Law

GIFTS FROM FOREIGN GOVERNMENTS

COMPLIANCE WITH THIS PUBLICATION IS MANDATORY

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OPR: HQ USAF/ JAA (Lt Col Edwin H. Daniel)

Certified by: HQ USAF/JAA (Mr. Harlan G. Wilder)

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This instruction implements AFPD 51-9, *Civil Law for Individuals*, Title 5 United States Code (U.S.C.) section 7342, and DoD Directive 1005.13, *Gifts from Foreign Governments*, February 19, 2002 (including Change 1, December 6, 2002). It provides guidance for accepting or refusing gifts from foreign governments. It prohibits Air Force personnel from accepting certain gifts and directs recipients to report foreign gifts to a designated authority within a specified time. Paragraphs **4.1.**, **5.**, **5.1.**, **5.2.**, **9.**, and **9.2.** impose specific obligations on Air Force members, violations of which are punishable under Article 92 of the Uniform Code of Military Justice (UCMJ). It applies to members of the Air Force including US Air Force Reserve and National Guard, to Air Force civilian employees, to experts and consultants employed by the Air Force, and to their dependents. Violations of these provisions by civilian employees may result in administrative action being taken without regard to other applicable criminal or civil sanctions for violations of related laws.

SUMMARY OF REVISIONS

This revision adds language addressing the requirement in DoDD 1005.13 that the Department of State be consulted prior to returning gifts to foreign government donors to ensure their return will not adversely affect US foreign relations. It also adds language directing consideration of force protection issues and a reference regarding records disposition. It updates minimal value to $285 to comply with DoD guidelines. Finally, the responsibility for oversight of gifts from foreign governments has been changed from HQ AFPC/DPPPRS to SAF/AA. A bar (|) indicates revisions from the previous edition.

1. Gifts Covered By This Instruction. This instruction applies to gifts from foreign governments to military members and civilian employees of the Air Force and to their dependents, as defined in **Attachment 1**.

2. Gifts Not Covered By This Instruction. This instruction does not apply to:

2.1. Gifts to the Department of the Air Force or gifts for distribution to individual members or employees.

2.2. Gifts to nonappropriated fund activities.

2.3. Gifts to superiors and gifts that constitute a conflict of interest.

2.4. Purely personal gifts from family and friends to Air Force personnel that are not specifically prohibited by other law, regulation, or instruction.

2.5. Any order, device, medal, badge, insignia, emblem, award, or decoration.

3. Legal Basis For Regulating Gifts. The Constitution of the United States prohibits any person holding any office of profit or trust with the United States from accepting a gift from foreign personages and governments without the consent of the Congress (US Constitution, Article 1, Section. 9, Clause 8). Congress has consented to accepting and retaining certain gifts from foreign governments (Title 5 U.S.C. section 7342).

4. Rules for Gift Acceptance:

4.1. **General.** Persons subject to this instruction will not request, solicit, or otherwise encourage gift offers, will not accept or retain a gift except as permitted by this instruction, and are required to refuse acceptance of gifts from foreign governments whenever it is possible to do so, unless the gift is of minimal value. Prior to refusal of any gift, recipients will notify **SAF/AA**, 1720 Air Force Pentagon, Washington, DC 20330-1720, who will consult with the Department of State. A violation of this provision may result in disciplinary action. *See paragraph **12.***

4.2. **Gifts of Minimal Value** . A person may accept a gift of minimal value (defined in **Attachment 1**) presented by a foreign government. The recipient should keep a brief record of the circumstances surrounding the presentation of the gift (date and place of presentation, identity of foreign government, name and official position of donor, description of gift, US retail value of gift and means by which value was determined), and evaluate any necessary force protection measures.

4.2.1. A recipient must take all reasonable steps to determine the US retail value of the gift. The recipient may use the price of the same or a substantially similar item offered for sale in a legitimate US retail market such as in department and specialty stores; in a US military exchange; in a US mail order catalog; or by a similarly reliable method for determining fair market value.

4.2.2. If none of the methods suggested in paragraph **4.2.1.** reveals the value of the item, or there is genuine doubt as to the actual US retail value, the recipient may obtain an appraisal from a reputable appraiser who can provide a US retail value.

4.2.3. In each case, consult the local staff judge advocate or servicing legal office as to whether or not to obtain an appraisal.

4.3. **Gifts of More Than Minimal Value** . A person subject to this instruction is required to refuse the offer of a gift of more than minimal value from a foreign government whenever it is practical to do so. The gift may not be declined until so advised by the Department of State, via SAF/AA, to ensure that its return will not adversely affect US foreign relations. When a gift of more than minimal value is offered, and the Department of State permits, the recipient must advise the donor that US law prohibits persons in the service of the United States and their dependents from accepting the gift. No person may accept or retain a gift from a foreign government except as expressly permitted by this

instruction. A person may accept a gift of more than minimal value under the following circumstances:

4.3.1. When refusal is likely to offend or embarrass the donor or could adversely affect US foreign relations. In such a case, the gift becomes the property of the United States upon acceptance by the recipient. Recipients must seek approval to retain the gift for official Air Force use or obtain instructions for disposition. See paragraph **5.** herein.

4.3.2. When such a gift is in the nature of an educational scholarship, medical treatment, or travel. The recipient may accept travel or expenses for travel, including transportation, food and lodging, only if that travel:

4.3.2.1. Will take place entirely outside the United States, except when travel across the continental United States (CONUS) is necessarily the shortest, least costly or only route available to the destination.

4.3.2.2. Is in the best interest of the Air Force and the United States government.

4.3.2.3. Is proper and consistent with other Air Force directives.

4.3.2.4. Is approved in advance as provided in paragraph **9.**

4.3.2.5. Does not fall within the category of travel expense governed by Title 31 U.S.C. section 1353, as implemented by 41 CFR Part 300-2 and 41 CFR Chapter 304.

4.3.2.5.1. Title 31 U.S.C. section 1353 details the conditions under which Executive Branch agencies may accept payments for travel-related expenses from a non-federal source (to include foreign governments). It is the controlling authority with respect to a DoD member's or employee's attendance at any meeting or similar function relating to the official duties of the employee, but which does not include meetings or functions required to carry out the Uniformed Services' statutory and regulatory functions (See Glossary of Terms in **Attachment 1**). Payments from non-federal sources may be accepted only in the manner directed by the statute and its implementing regulations. Members or employees accepting payments in violation of those provisions are subject to civil penalties. Consequently, proposed gifts or payments relating to travel must be carefully scrutinized to determine how they should be processed. Gift recipients should seek assistance from their servicing legal office to ensure proper classification and compliance with applicable directives.

5. Acceptance Procedures for Gifts that Exceed the Minimal Value. Gifts of more than minimal value become property of the United States and must be deposited with the Air Force within 60 days for return to the donor; approval for official use within the Air Force; or for disposition by the General Services Administration (GSA). Accordingly, gift recipients must obtain approval from SAF/AA to retain a gift item for official Air Force use (paragraph **5.1.**) or to obtain disposition instructions (paragraph **5.2.**). The recipient should evaluate any necessary force protection measures. A violation of this paragraph may result in disciplinary action. *See paragraph **12.***

5.1. **Request for Retention for Official Use.** Any person who receives a gift of more than minimal value who wishes to retain it for official Air Force use, must within 60 days from receipt, request SAF/AA to approve its retention by the recipient's organization or any other unit. The request will include the information required by paragraph **5.2.** and will detail where and how the gift will be used.

If it is shown that the members of the unit, command, Air Force or the general public will have an opportunity to receive the indirect benefits of the gift, the request is likely to be approved. A violation of this paragraph may result in disciplinary action. *See paragraph 12.*

5.1.1. The custodian of gifts, which are approved for retention, will:

5.1.1.1. Place the gift item on the appropriate equipment authorization inventory using the allowance source code established by HQ USAF/ILGP.

5.1.1.2. Place the gift item on the appropriate custodian authorization/custody receipt listing (CA/CRL), with disposition remarks requiring SAF/AA be notified in writing within 30 days after the date official use ends.

5.1.1.3. When the gift item is no longer displayed or its official use has ended, turn in the gift item to the Logistics Readiness Squadron (LRS) in sufficient time for LRS to notify SAF/AA within the 30-day time period required.

5.1.2. The LRS will notify SAF/AA in writing of all gift turn-ins within 30 days from the date the official use ended. The notification letter will request disposition instructions and will provide all the information required in paragraph **5.2.**

5.2. **Request Disposition Instructions From SAF/AA.** If the recipient does not wish to retain the gift (i.e. of minimal value), or does not receive approval to retain the gift item for official Air Force use after making a retention request IAW this paragraph, the recipient will, within 60 days after acceptance, send a memorandum to SAF/AA (except as provided in paragraph **9.**), requesting instructions as to disposition. Do not forward the gift to SAF/AA unless directed to do so. A violation of this paragraph may result in disciplinary action. *See paragraph 12.* If not previously provided, include the following information:

5.2.1. Recipient's name, grade, title, organization and place of assignment.

5.2.2. Detailed gift description and circumstances surrounding presentation.

5.2.3. Identity of foreign government and full name, grade, title, or position of the foreign official who presented the gift.

5.2.4. Date gift was accepted.

5.2.5. Estimated value of gift at time of acceptance.

5.2.6. If applicable, a statement by recipient indicating he or she wishes to purchase the gift item if it is subsequently offered for sale by the Air Force or GSA.

5.2.7. If a recipient wishes to recommend that the Air Force donate the gift to a public agency or nonprofit, tax-exempt institution for public display, reference, or use, the recipient must submit a statement including the recommended donee's name, mailing address, and commercial telephone number. Provide reasons for the recommendation including how the donee will use the gift and any special significance of the gift to the donee.

6. Action By SAF/AA. After receiving a request to retain a gift for official use, SAF/AA will:

6.1. Review and approve a request to keep a gift for official Air Force use if the gift can be properly and beneficially used for official purposes (see paragraph **5.1.**).

6.2. If a retention request is disapproved, advise the recipient to return the gift to the donor if this can be done without embarrassing the donor and without adversely affecting foreign relations of the United States. Under these circumstances, SAF/AA will seek guidance from the Department of State.

6.3. If the gift retention request is disapproved or the Air Force no longer wishes to keep a gift, report the gift to SAF/AA, as directed by paragraph **5.2.**, and DoDD 1005.13.

6.4. Obtain a commercial appraisal or, in the alternative, a comparable cost of a similar item from a retailer or retail catalog when the recipient has expressed an interest in purchasing the gift and the Air Force will no longer retain the gift.

7. Disposition Of Gifts Not Retained. When SAF/AA disapproves the retention of a gift or when the Air Force or recipient no longer wishes to keep a gift, SAF/AA will:

7.1. Complete **SF 120, Report of Excess Personal Property**, and send it to GSA, Property Management Division, Washington DC 20406 (IRCN: 0015-GSA-AN). Attach a copy of any commercial appraisal obtained under paragraph **6.4.**, as well as any request from the recipient expressing an interest in purchasing the gift or recommending the gift be donated to a public agency or nonprofit institution.

7.2. If GSA directs that the gift be forwarded to GSA for disposition, SAF/AA will provide forwarding instructions to the recipient.

7.3. If GSA determines that no federal requirements exist for the gift, offer it for sale to the recipient if he or she previously expressed interest in buying the gift. The sale price, to be paid to GSA, will be the appraised value of the gift plus the cost of the appraisal. If the recipient declines to purchase the gift, advise the recipient to turn in the gift to the LRS and provide that LRS with forwarding instructions.

7.4. If approved by GSA, donate the gift to a public agency or nonprofit tax-exempt institution.

7.5. Gifts of minimal value or less that are not retained by the recipient may be disposed of or discarded by the recipient.

8. Disposition of Firearms Received as Foreign Gifts. SAF/AA may approve retention of a firearm received as a foreign gift. Follow the procedures in paragraphs **5.** and **6.**, except as indicated below.

8.1. Firearms may be sold to recipients only if they certify that they will comply or have complied with all state and local laws regarding purchase and possession of firearms.

8.2. Firearms not retained by the Air Force, transferred to another agency, or sold to a recipient will be destroyed pursuant to 41 Code of Federal Regulations, section 101-45.309-4.

8.3. When approved by GSA, SAF/AA may transfer a firearm to any federal agency.

9. Procedures For Accepting Gifts Of Medical Treatment, Educational Scholarships, and Travel or Travel Expenses. Before accepting offers for gifts of medical treatment, educational scholarships, and travel or travel expenses as defined in paragraph **4.3.2.**, any person accepting such a gift must request approval from the proper authority in **Table 1.** (A violation of this paragraph may result in disciplinary action. *See paragraph **12.** herein*.) Paragraph **9.** does not apply to any grant or other form of assistance offered under the Mutual Educational and Cultural Exchange Act of 1961 (Title 22 U.S.C. section 2452) nor to any non-Department of Defense medical treatment received under a "status of forces agreement" or

similar agreement providing for the treatment of Air Force personnel. It also does not apply to offers for payment of travel-related expenses from non-federal sources which must be processed in accordance with Title 31 U.S.C. section 1353. Procedures governing the acceptance of emergency medical treatment are in paragraph **9.2.**

9.1. Include in the approval request:

9.1.1. Name, grade, title, organization and place of assignment of the recipient.

9.1.2. Gift description, its estimated value, and the circumstances surrounding its offer and justification for acceptance.

9.1.3. Identity of the foreign government, and name, grade, title or position of the foreign official making the gift offer or presentation.

9.1.4. Date the gift was offered or accepted.

9.2. A person may accept emergency medical treatment from a foreign government without prior approval. However, within 30 days after accepting treatment, the recipient must send the information required in paragraph **9.1.** to the appropriate approval authority. A violation of this paragraph may result in disciplinary action. *See paragraph **12.***

9.3. The approval authority reviews and evaluates a request to ensure that accepting the gift is proper, consistent with the interests of the United States, and not prohibited by this instruction or any other law, directive, or policy.

9.4. The approval authority notifies the applicant of the decision on the request. If the request is approved, send a copy to SAF/AA.

Table 1. Approval Authorities For Medical, Educational, and Travel Gifts.

	A	B	C
RULE	**If the person is**	**and is**	**then the approval authority is**
1	a member on active duty, an employee, or an expert or consultant	assigned or employed in the CONUS	the commander of assignment or employment (see note)
2		assigned or employed outside CONUS	the commander of the overseas major command (MAJCOM) in which the recipient is located (see note)
3		assigned to or employed by a SAF office	SAF/AA
4		assigned to or employed by an Air Staff (Air Force Headquarters) office	AF/CVA
5	a retired member of the regular Air Force who is entitled to pay	not covered by the above procedures	SAF/AA
6	a reserve component member not on active duty		
7	a dependent of any of the above		the same approval authority as the sponsor

NOTE: Commanders may delegate approval authority to their vice commanders or command staff or executive directors.

10. Reports. Not later than 15 January annually, SAF/AA will prepare a report listing each gift of more than minimal value that has been sent or reported to SAF/AA during the preceding year. For each gift, report the information required under paragraphs **5.** and **9.** Also, if possible, give the current location of the gift or describe its disposition. SAF/AA will obtain SAF/GC review before signing and sending the report to the Secretary of State. The report must reach the Secretary of State no later than 31 January (IRCN: 0216-DOS-AN, Report of Foreign Gifts and Decorations).

11. Information Program. Each commander will develop an information program designed to familiarize members and employees with the requirements of this instruction. Commanders will also ensure that persons subject to this instruction receive refresher information at least annually thereafter as long as they remain on active duty or employed by the Air Force; however, an annual reminder is not necessary for people who are not likely to be offered a gift by a foreign government.

11.1. Stress the mandatory requirements to:

11.1.1. Report every gift that has more than minimal value within 60 days after acceptance.

11.1.2. Report and account properly for gifts of travel expenses and emergency medical treatment of more than minimal value.

11.1.3. Dispose of gifts retained for official use after termination within 60 days of such use.

11.2. Use every available information program and resource to inform dependents, retirees, and reserve component members of the Air Force not on active duty.

11.3. As appropriate, present this information at commanders' calls, military law seminars, and newcomer briefings, and publish it in the base newspaper, daily bulletin, and similar publications.

11.4. Advise that legal advice is available from the Office of the Staff Judge Advocate or servicing legal office on questions relating to statutory or regulatory provisions on gifts from foreign governments.

12. Enforcement Provisions. Failure to comply with the mandatory requirements of paragraphs **4.1.**, **5.**, **5.1.**, **5.2.**, **9.**, and **9.2.** of this instruction constitute an offense under Article 92, UCMJ, for military members. Commanders will take appropriate administrative or disciplinary action against violators.

13. Additional Review for Civil Action. Commanders will report each violation of the mandatory provisions of this instruction through their respective approval authorities (**Table 1.**) to SAF/AA. Send all available evidence, whether or not any other action is taken.

13.1. SAF/AA will review the case file and refer the case to The Judge Advocate General, United States Air Force, who will decide whether to refer it to the Department of Justice.

13.2. The Attorney General may bring a civil action in any court of the United States against any person who:

13.2.1. Knowingly solicits or accepts a gift from a foreign government not consented to by the Congress.

13.2.2. Fails to deposit or report such a gift as required by this instruction. The court may assess a penalty in any amount, not to exceed the retail value of the gift, plus $5,000.

14. Records Disposition . Ensure that all records created by this Instruction are maintained and disposed of IAW AFI 37-139, *Records Disposition Schedule*.

THOMAS J. FISCUS, Major General, USAF
The Judge Advocate General

Attachment 1

GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION

References

United States Constitution, Article I, Section 9, Clause 8

Title 5, United States Code, section 2105

Title 5, United States Code, section 3109

Title 5, United States Code, section 7342

Title 22, United States Code, section 2452

Title 26, United States Code, section 152

Title 31, United States Code, section 1353

41 Code of Federal Regulation, section 101-45.309-4

41 Code of Federal Regulation, Part 300-2

41 Code of Federal Regulation, Chapter 304

DoDD 1005.13, *Gifts from Foreign Governments*, February 19, 2002

AFPD 51-9, *Civil Law for Individuals*

AFI 37-139, *Records Disposition Schedule*

Abbreviations and Acronyms

CFR—Code of Federal Regulations

CONUS—Continental United States

GSA—General Services Administration

JFTR—Joint Federal Travel Regulation

JTR—Joint Travel Regulation

UCMJ—Uniform Code of Military Justice

U.S.C.—United States Code

Terms

Decoration—Any order, device, medal, badge, insignia, emblem, or award.

Dependent—Spouse (except a legally separated spouse) or dependent (as defined by the Internal Revenue Code, Title 26 U.S.C. section 152) of a member or an employee of the Air Force. This does not include a spouse or dependent who is also an employee or member of the Air Force.

Employee—A civilian employee of the Air Force (Title 5 U.S.C. section 2105) or an expert or consultant who is under contract with the Air Force (Title 5 U.S.C. section 3109).

Foreign Government—The term includes:

1. Any unit of a foreign governmental authority, including any foreign national, state, local, or municipal government.
2. Any international or multinational organization whose membership is composed of any unit of a foreign government.
3. Any agent or representative of any such unit or organization while acting as such.

Gift—Any tangible or intangible present, other than a decoration, tendered by or received from a foreign government.

Meeting or Similar Function—(For travel payments covered under Title 31 U.S.C. section 1353) A conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the member's or employee's official duty station, and is sponsored or cosponsored by a non-federal source. This term does not include a meeting or other event required to carry out the Uniformed Service's statutory and regulatory functions (i.e., a function that is essential to the Uniformed Service's mission) such as investigations, inspections, audits, site visits, negotiations, or litigation. The term also does not include promotional vendor training or other meetings held for the primary purpose of marketing the non-federal source's products or services. A meeting or similar function need not be widely attended for the purpose of this definition and includes, but is not limited to the following:

1. An event at which the member will participate as a speaker or panel participant, including an event at which the member will give an oral presentation focusing on his/ her official duties or on the policies, programs, or operations of the Uniformed Services;
2. A conference, convention, seminar, symposium or similar event the primary purpose of which is to receive training other than promotional vendor training, or to present or exchange substantive information concerning a subject of mutual interest to a number of parties; or,
3. An event at which the member will receive an award or honorary degree, which is in recognition of meritorious public service that is related to the member's official duties, and which may be accepted consistent with the applicable standards of conduct regulation.

   (Reference: JFTR, Chapter 7, Part W, paragraph U7901 (DoD Uniformed Services) and JTR, Chapter 4, Part Q, C4901 (DoD Civilian Personnel))

Member—A member of the Air Force on active duty, a retired member of the regular component of the Air Force who is entitled to pay, a member of a reserve component of the Air Force regardless of duty status, and members of the Air National Guard when federally recognized.

Minimal Value—A gift that has a retail value in the United States at the time of acceptance of $285 or less, or such other amount as the Administrator of General Services may prescribe after the date of this instruction. If more than one gift is received at one time, the value of all the gifts will be added together to determine whether the gift is of minimal value.