Money received for the government must be deposited in Treasury as miscellaneous receipts. 31 U.S.C. § 3302(b)

Donations, Gifts, and Free Services

What do they want to give?

Money

Gift acceptance authority?

If so, check parameters of statutory authority. Does it allow acceptance of money? Consider:

- Whether authority allows acceptance of conditional gifts. B-316246, Sept. 1, 2010
- Purposes for which gifts may be used. 55 Comp. Gen. 1059 (1976); B-196730, Dec. 10, 1986
- Other restrictions on use. Gift funds are still public funds. B-274855, Jan. 23, 1997; see also B-275669.2, July 30, 1997; 68 Comp. Gen. 237 (1989); 47 Comp. Gen. 314 (1967); B-211149, Dec. 12, 1985; B-165492, Mar. 18, 1980
- Whether donated or appropriated funds may be used to solicit gifts. B-211149, Dec. 12, 1985; B-211149, June 22, 1983

Grant application context – B-255474, Apr. 3, 1995

Some considerations:
- Appearance issues
- Avoidance of favoritism/conflict of interest
- Delegations of authority – who can accept money?
- What if gift of money imposes future costs on government?
- How to document?

Property

Gift acceptance authority?

Absent statutory authority, agencies may not augment their appropriations from sources outside the government. B-300248, Jan. 15, 2004

If agency receives property it doesn’t have authority to retain → talk to GSA

- See also 31 U.S.C. § 1301(a) (purpose statute); 18 U.S.C. § 209 (prohibition on compensation of government employees from any source other than the U.S. government)
- If agency receives money it doesn’t have authority to retain → miscellaneous receipts

Services

Gift acceptance authority?

If agency has specific statutory authority to accept voluntary services, check parameters. (Follow similar analysis to acceptance of gifts.)

Consider the following:

- Other specific authorities, such as:
- Gratuious services agreement
- No-cost contract

The Antideficiency Act prohibits the acceptance of voluntary services. 31 U.S.C. § 1342

Intergovernmental Personnel Act, 5 U.S.C. §§ 3371-3375

Students, 5 U.S.C. § 3111

Experts and consultants, 5 U.S.C. § 3109

Some considerations:
- Personnel law issues
- Union issues
- Conflicts of interest (institutional, individual, actual, and perceived)
- Whether a function is inherently governmental


See B-324214, Jan. 27, 2014, regarding the Antideficiency Act.

Some considerations:
- What if an outside organization wants to compensate this person?
- Is the entity asking for anything non-monetary in exchange for the services?
- Who is authorized to sign the agreement?
- Any other ethical concerns? GAO-11-85, Oct. 29, 2010

- Should you compete?
- Source/appearance
- What if government terminates contract and contractor does not get what was contemplated?

*See Chapter 6 of the Red Book for more cases & details.