

## § 1050.102

## 10 CFR Ch. X (1–1–11 Edition)

### § 1050.102 Applicability.

These regulations apply to all DOE employees, including special Government employees, and civilian and military personnel of other Government agencies regularly detailed to DOE, and to spouses and dependents of such personnel. These regulations apply to all employees of the Federal Energy Regulatory Commission (FERC) to the extent the Commission by rule makes these regulations applicable to FERC employees. These regulations do not apply to gifts and bequests accepted by the Department as authorized by section 652 of the Department of Energy Organization Act (42 U.S.C. 7262), except as set forth in § 1050.202(d) of this part. These regulations do not apply to assistance from a foreign government for participation by DOE employees in foreign cultural exchange programs pursuant to the Mutual Educational and Cultural Exchange Act (22 U.S.C. 2458a).

### § 1050.103 Definitions.

(a) *Employee* means—

(1) An employee of DOE or FERC as defined by 5 U.S.C. 2105 (employees of DOE contractors are specifically excluded);

(2) A special Government employee as defined in 18 U.S.C. 202(a), and an expert or consultant who is under contract to the DOE pursuant to 5 U.S.C. 3109, including, in the case of an organization performing services under such section, any individual involved in the performance of such services;

(3) A member of a Uniformed Service or an employee of another Government agency assigned or detailed to the DOE or FERC;

(4) The spouse of an individual described in paragraphs (a)(1) through (a)(3) of this section (unless such individual and his or her spouse are legally separated) or a dependent (within the meaning of section 152 of the Internal Revenue Code of 1954) of such an individual, other than a spouse or dependent who is an employee under paragraphs (a)(1) through (a)(3).

(b) *Foreign government* means:

(1) Any unit of 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 foreign government described in paragraph (b)(1); and

(3) Any agent or representative of any such unit or such organization, while acting as such.

(c) *Gift* means a tangible or intangible present (other than a decoration) tendered by, or received from, a foreign government.

(d) *Decoration* means an order, device, medal, badge, insignia, emblem, or award tendered by, or received from, a foreign government.

(e) *Minimal value* means that value as defined in regulations prescribed by the Administrator of General Services, in consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period in accordance with the definition of “minimal value” as set forth in the Federal Property Management Regulations of title 41 of the Code of Federal Regulations as applied to the Utilization, Donation, and Disposal of Foreign Gifts and Decorations.

(f) *The Act* means the Foreign Gifts and Decorations Act, 5 U.S.C. 7342.

(g) *Appropriate General Counsel* means either the DOE General Counsel when the employee involved is an employee of that portion of the DOE which excludes FERC, or the FERC General Counsel when the employee involved is an employee of FERC.

[45 FR 53972, Aug. 13, 1980, as amended at 59 FR 44896, Aug. 31, 1994]

### § 1050.104 Responsibilities and authorities.

(a) The Director of Administration shall:

(1) Assure that all employees are given access to or a copy of the Act and these regulations;

(2) Maintain liaison with the Department of State and prepare Departmental reports to the Department of State consistent with the Act and these regulations;

(3) Provide advice and assistance on implementation of the act and these regulations, in coordination with the Assistant Secretary for International

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Affairs (IA) and the appropriate General Counsel;

(4) Collect and maintain for public inspection all employee statements submitted pursuant to these regulations;

(5) Arrange for independent appraisal of the value of gifts or decorations, upon the request of the General Services Administration or the Inspector General (or other appropriate DOE official); and

(6) Accept and maintain custody and make all determinations regarding the use and disposition of all gifts and decorations accepted by employees on behalf of the United States, in coordination with IA, the appropriate General Counsel, and, for gifts to the Secretary, Deputy Secretary or Under Secretary, the appropriate official in the Office of the Secretary.

(b) The Assistant Secretary for International Affairs (IA) shall assist the Directorate of Administration, where appropriate, in making determinations concerning the effects of the proposed acceptance, use, or disposition of a foreign gift or decoration on the foreign relations of the United States.

(c) The appropriate General Counsel shall assist the Directorate of Administration in matters relating to the interpretation and application of the Act, and these and any related regulations, and shall provide counseling and interpretation regarding the Act, and these and any related regulations, to employees.

(d) The Inspector General shall investigate suspected violations of these regulations pursuant to § 1050.303 below.

### Subpart B—Guidelines for Acceptance of Foreign Gifts or Decorations

#### § 1050.201 Policy against accepting foreign gifts or decorations.

(a) The Constitution of the United States, Article I, section 9, clause 8, provides that “\* \* \* no Person holding any Office of Profit or Trust under \* \* \* [the United States], shall, without the consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any \* \* \* foreign State.” In the Foreign Gifts and Decorations Act the Congress

consented to the acceptance by Federal employees of gifts and decorations with certain constraints and under certain procedures. Acceptance of any gift or decoration not consistent with this Act, the Department of Energy Organization Act, or the regulations in this part is prohibited.

(b) No employee shall request or otherwise encourage the tender of a gift or decoration from a foreign government. No employee shall accept a gift or decoration from a foreign government except as provided in §§ 1050.202 or 1050.203 of this part and in accordance with the additional procedures set forth in §§ 1050.204 and 1050.301 of this part.

#### § 1050.202 Allowable acceptance of gifts.

(a) An employee may accept and retain gifts from foreign governments where the gift is tendered or received as a souvenir or mark of courtesy, and is of minimal value. Initial responsibility for determining the value of a gift lies with the employee.

(b) Subject to the prior approval requirements described in § 1050.204(a) of this part, an employee may accept gifts of more than minimal value, tendered as a souvenir or mark of courtesy, where it appears that refusal of the gift would likely cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States. Otherwise, an employee, when offered a gift of more than minimal value from a foreign government, other than a gift designated in paragraph (c) of this section, should advise the donor that acceptance of such gifts by the employee is contrary to the policy of the United States. If a gift described in this paragraph is accepted by an employee and not immediately returned thereby, it shall be deemed to have been accepted on behalf of the United States. Upon acceptance it becomes the property of the United States. Within 60 days after acceptance by the employee, the gift shall be deposited with the Directorate of Administration for disposal or official Departmental use as determined by the Directorate of Administration, in accordance with § 1050.302 of this part, and an appropriate statement shall be filed by the