

# 7. Conduct and Ethics

*What must Forest Service employees and potential partners know about conduct and ethics?*

**The public expects and deserves everyone involved with government funds to demonstrate high professional and ethical standards through appropriate actions. Understanding and maintaining these standards and complying with relevant legal authorities play an important role in a partnership's success.**

While USDA Forest Service employees are primarily responsible for recognizing and understanding conduct and ethics guidelines, partners also need an awareness of these topics to ensure proper guidelines are followed. This chapter will bring clarity to the following areas involving the Forest Service and its partners:

- Federal employee roles and memberships in non-Federal organizations
- Involvement with partners who are fundraising
- Forest Service and National Forest Foundation gift and donation acceptance
- Appropriate partner recognition

## 7.1 Recognizing Ethics Issues and Asking for Help

Forest Service employees may wonder...

- May I join a partner organization or serve in an official capacity within such a group?
- How should I work with partners who are fund-raising for project support?
- May I accept a gift or donation from a partner?
- What are proper ways to recognize partners for their contributions?

Conduct and ethics issues are complex and frequently require further clarification and guidance. In addition to using the material provided in this chapter, Forest Service employees should consult with appropriate Agency and Department of Agriculture (Department) personnel before engaging in a specific partnership undertaking involving potential conduct and ethics issues. Offices that can provide guidance include the FS National Partnership Office, FS Grants & Agreements, and USDA Office of Ethics.

Contact [Ethics-NRE@oe.usda.gov](mailto:Ethics-NRE@oe.usda.gov) for ethics advice and guidance.

Partners should also find the information here useful while recognizing that the burden of maintaining proper conduct when partnering with a Federal agency lies with the agency and its employees.

## **7.2 Official Capacity and Personal Capacity Service in Non-Federal Entities**

Federal employees who become involved in non-Federal organizations must comply with legally defined ethical standards, which vary depending on whether the employee is serving in their official capacity or in their personal capacity as an involved and concerned citizen. The following sections describe how federal employees can serve in non-Federal organizations in both these capacities while upholding their responsibility to the government.

### **7.2.1 Official Service Definitions, Roles, and Benefits**

In an official capacity, Federal employees may serve in non-Federal organizations and their events solely as representatives of the United States. A Federal employee is considered to be serving officially in the following situations:

- A supervisor assigned the participation,
- The employee is working on official time,
- The employee is reimbursed for travel expenses or uses a government vehicle to attend events,
- The employee wears an official uniform when attending partner events or is invited to participate because of his or her official position, or
- The event takes place on Federal premises.

Forest Service employees *may* serve as a member of an organization in an official capacity in one of the following ways:

- Official Capacity Service with a Non-Federal Entity (Generally). This is pursuant to statutory authority or waiver.
- Official Capacity Service with a Nonprofit 501(c) Professional Association, upon determination of agency interest and completion of [Form OE-208](#), and Agency Approval.
- Official Capacity Service as Agency Liaison/Representative ([Use Federal Liaison Memorandum Template](#))

### 7.2.1.1 Official Capacity Service with a Non-Federal Entity (Generally)

In most instances, federal employees do not serve in an official capacity with non-federal entities because such service typically involves assuming a **fiduciary role**, such as officer, director, or trustee. Serving in such roles usually comes with certain duties—namely the legal duty where one is bound to act in the organization's best interest. Additionally, participation generally requires working on issues specific and internal to the organization, such as budgets, memberships, fundraising, bylaws, political action committees, or for-profit activities.

It is important to note that a conflict can also exist where an employee is already an active participant/member in the organization in a personal capacity before being assigned officially.

There are, however, situations where federal employees may serve in an official capacity within these entities. For instance:

- Where there is Express (Federal) Statutory Authority exists directing such participation. *A prime example of this "express statutory authority" would be the National Forest Foundation (NFF) Act. The NFF was created by an act of Congress, and that legislation expressly states that the Chief of the Forest Service shall be an ex-officio nonvoting member of the NFF board.*
- Official Capacity Service with a Nonprofit Professional Association
- Agency Liaison (Representative) Appointment

Absent express authority, another option is for the federal employee to obtain a waiver to serve. However, waivers are generally disfavored and rarely granted. They involve both internal (USDA) and external, (OGE) review and approval.

*(These topics are discussed below and in more depth at [Guidance on Participation in Outside Organizations in an Official Capacity](#) and [Participation in Non-Federal Organizations](#) ).*

### 7.2.1.2 Official Capacity Service with a Nonprofit 501(c) Professional Association

On March 6, 2013 the U.S. Office of Government Ethics (OGE) issued a new regulation providing a narrow exemption to the conflict of interest prohibitions just outlined. This exemption permits Government employees, under certain conditions and with prior agency permission, to serve **in an official Government capacity** as an uncompensated officer, director, or trustee of a **nonprofit professional association**.

Recently, OGE created an exemption to [18 U.S.C. 208](#) (a criminal statute) which had previously stood as a bar to employees serving as an officer or director of a nonprofit 501(c) professional association as part of their official duties. It is important, however, to understand that the exemption

**does not grant an affirmative right to any employee to serve in these positions in an official capacity; that determination remains one for the agency to make.**

The new exemption does not change the Department's policy with respect to USDA officials serving in outside **for-profit, industry, or other such organizations**, and it **does not change the requirement to obtain prior written approval.**

#### **7.2.1.2.1 Official Capacity Service: Nonprofit Professional Association (Appointment Procedures)**

Approval from the Approving Agency Official or his/her designee is required for a USDA employee to serve in a position with an outside nonprofit organization as an assigned duty or an official Department representative. In making their determinations, agency officials will likely find useful the Department's long-standing policy as set forth in [Office of Ethics Issuance #00-1, "Participation in Non-Federal Organizations."](#)

That policy provides, generally, that agency officials should consider the following policy considerations that are relevant to official participation in outside organizations.

- USDA must have a clear interest in having an employee represent the Department's interest in the particular organization
- Employees may not use Department resources to support the internal administration or management of an outside organization (such as budgets and personnel actions)
- Employees approved to serve must be appropriate representatives to the organizations in terms of their official responsibilities and their experience and qualifications
- The views articulated by employees serving in outside organizations in their official capacity must reflect the views of the Department
- Federal employees must not participate in matters that may affect the nonfederal organization and are not of official interest to USDA, such as the internal operation of an organization (finances, membership, fundraising, hiring, election of board members, etc.) with the exception of rare cases where the agency has approved such activities after an ethics review

The process begins by contacting the Office of Ethics: [Ethics-NRE@oe.usda.gov](mailto:Ethics-NRE@oe.usda.gov)

For more information on this topic please see our webinar on the subject: <https://usda.adobeconnect.com/p5gf0zbj208/>

#### **7.2.1.3 Official Capacity Service as Agency Liaison/Representative**

Where a non-Federal organization is closely aligned with a USDA program, it may be in the agency's interest and benefit to have an employee participate as the **designated agency liaison** with the organization's governing board. Some of the benefits of official capacity liaison service include sharing information; providing technical advice; and developing a mutual understanding of each other's goals, objectives, and organizational cultures. These benefits contribute to building trust, relationships, and more effective partnerships.

As the agency liaison, the employee must confine their actions to advice or consultation so that it is clear that they are representing USDA. To retain the clarity of the advisory, liaison or consultative nature of this role, an employee must not take on **decision-making** or **administrative responsibility** in the non-Federal organization. Thus agency liaisons may not serve in a management or fiduciary role—that is, a legal duty where one is bound to act in another’s best interest—in the non-Federal organization and may not participate or vote on matters integral to the organization (such as finances, membership, fundraising, hiring, etc.).

However, service as the chair or a member of a working committee or subcommittee that (1) imposes no managerial/fiduciary duty to the organization, (2) creates no employment relationship, and (3) deals with technical or professional matters and not with internal administrative matters in the organization, is permissible as part of an advisory, liaison or consultative role. An employee may also communicate USDA’s interests and policies to the governing body of the organization and inform USDA of the organization’s positions.

So that the designated employee liaison, supervisor, and non-federal entity (NFE) have a clear understanding of the liaison’s role and the parameters under which they serve, it is recommended that the supervisor formally designate the liaison to the position utilizing an appointment memorandum. [A model of the memorandum](#) can be found on the ethics website.

#### **7.2.1.3.1 Agency Liaison/Representative Objectivity**

Ethics issues concerning service in agency liaison/representative role normally do not arise since the employee is performing an assigned duty and is not legally responsible for the management of the organization (i.e., no fiduciary role or duties). Because liaison duties are considered official business, they can be performed using government resources such as time, equipment, supplies, and vehicles. Travel and expenses for fulfilling this liaison role can and should be covered by USDA since it is considered an official assignment. Because the sole responsibility of Federal employees serving in official capacities is to represent their agency, participation in non-Federal organizations must not affect Federal employees’ ability to do their jobs objectively, and any conflicts of interest or possible perception of impropriety must be avoided.

#### **7.2.1.3.2 Agency Liaison/Representative Appointment Information**

Forest Service managers or supervisors may appoint employees to liaison roles but may not appoint themselves. **Given the substantial decision-making authority conferred upon line-officers, it is recommended that they refrain from serving as designated agency liaisons.** It is recommended that Forest Service employees seeking an official appointment as Agency Liaison should first contact their ethics advisors at [Ethics-NRE@oe.usda.gov](mailto:Ethics-NRE@oe.usda.gov). At a minimum, the employee should complete and submit the [Appointment as Agency Liaison Memorandum](#) to their supervisor who will review, approve, and retain the form. Each employee who represents the Forest Service as Agency liaison should be reviewed and appointed individually; the Agency Liaison appointment attaches to the person and not a position.

#### 7.2.1.4 Personal Capacity Service

A Federal employee may serve in a managerial/fiduciary or employment role (officer, director, trustee, general partner or employee) with a non-Federal organization in their personal capacity. Service in a personal capacity means the Federal employee's participation is not derived from their Federal position, title, authority; does not entail official positions or policies of USDA; does not occur on official time; and does not involve the expenditure of appropriated funds. This includes reference/links to official titles and affiliations on the organization's website unless in accordance with [5 C.F.R. 2635.807\(b\)](#).

A Federal employee who serves in a managerial/fiduciary or employment role in a non-Federal organization is considered, for purposes of 18 U.S.C. § 208, to possess the financial interests of the organization with whom they serve. **This employee therefore subjects himself or herself to potential criminal penalties should he or she take official action on matters involving the non-Federal organization.** The criminal conflict of interest statute requires that Federal employees refrain from participating personally and substantially in an official capacity in any particular matter that will have a direct and predictable effect on the financial interests of any non-Federal organization in which the individual serves as an officer, director, trustee, or employee. If you serve as an officer or employee of a non-Federal organization, the interests of that organization are assigned to you and thus prohibit you from taking any official action that would impact the interests of that same organization.

Actions deemed "official matters" to which 18 U.S.C. § 208(a) would apply may include: (1) requesting that official travel funds be spent, accepting travel funds in kind, or approving other Government resources be utilized for conducting or participating in the affairs of the non-Federal organization; (2) signing a training or travel authorization to use appropriated funds to pay for yourself or a subordinate to attend a conference or other meeting of the non-Federal organization; or (3) speaking as an official duty activity, or directing a subordinate to speak, at any conference or other meeting of the non-Federal organization where attendance fees are charged. While the financial impact may be insignificant, that consideration is irrelevant under the statute.

Certain cases that **do not** involve a financial interest that would be disqualifying as a matter of law under 18 U.S.C. § 208 may still fall under the Impartiality regulation, [5 C.F.R. 2635.502](#). These include situations where an employee knows that a particular matter involving specific parties is likely to have a direct and predictable effect on the financial interests of either a member of the Federal employee's household or a person or entity with whom he has a **covered relationship**.<sup>\*</sup> However, the agency designee (Ethics Advisor) has broad discretion under this regulation to authorize the Federal employee's participation in the matter based on the determination that in light of all relevant circumstances, the interest of the Government in the employee's participation outweighs the concern that a reasonable person may question the integrity of the agency's programs. If an employee believes their situation might fall under 5 C.F.R. 2635.502, they should [Contact their Mission Area Ethics Advisor](#) for guidance on these issues before moving forward with participation in the matter involving the non-federal organization.

***\*A "Covered Relationship" includes:** (1) a person, other than a prospective employer with whom the employee has or seeks a business, contractual, or other financial relationship that involves other than a routine consumer transaction; (2) a person who is a member of the employee's household, or who is a relative with whom the employee has a close personal relationship; (3) a person for whom the employee's spouse, parent, or dependent child is, to the employee's knowledge, serving or seeking to serve as an officer,*

*director, trustee, general partner, agent, attorney, consultant, contractor or employee; (4) any person for whom the employee has, within the last year, served as an officer, director, trustee, general partner, agent, attorney, consultant, contractor or employee; or (5) any organization in which the employee is an active participant].*

For more on personal capacity service please see [Ethics Issuance 00-1](#).

#### 7.2.1.4.1 Important Note for Employees who are Financial Disclosure Filers

If you are a Forest Service employee required to file a public or confidential disclosure report (OGE-278 or OGE Form 450), you must seek prior approval before serving in a non-Federal organization for compensation or as an unpaid consultant (personal capacity). An ethics review and supervisory approval must be obtained by completing and submitting the Office of Ethics **OE-101 Outside Employment and Activities form** which is available on OE's forms page <https://ethics.usda.gov/forms.htm>. See 5 Code of Federal Regulations (CFR), part 8301 at <http://www.gpo.gov/fdsys/pkg/CFR-2006-title5-vol3/pdf/CFR-2006-title5-vol3-sec8301-102.pdf> for more information.

#### 7.2.2 Official Travel – Acceptance of Travel Expenses from Non-Federal Sources

Under the federal travel regulations, [31 USC 1353](#), Federal employees may accept unsolicited travel expenses from a non-federal source on behalf of their agency to attend meetings or similar functions related to their official duties. Federal employees must complete Form AD-1101 (Approval and Report of Travel Funds Received from Non- Federal Sources) and submit it and supporting materials to the [appropriate Mission Area Ethics Advisor](#) who will review the request and make a recommendation on acceptance to the Agency Approval Authority. The form and comprehensive instructions are available at <https://ethics.usda.gov/forms.htm>.

#### 7.2.3 Table Summary: Working in an Official Capacity with Non-Federal Organizations

What Forest Service employees <u>can</u> do:	What Forest Service employees <u>cannot</u> do:
Employees "May" be authorized to serve with Non-Profit Professional Associations only (subject to agency and ethics approval)	Serve in fiduciary roles (officer, director, or trustee) unless authorized by statute or a Departmental waiver.
Purchase memberships in non-Federal organizations to stay informed of the organizations' activities.	Participate in an official capacity if already an active participant in an organization in an unofficial or personal capacity.
Attend national conferences and meetings on official travel and time for professional development when it is part of an official training plan. Can schedule time for official participation with concurrence with supervisors.	Participate in internal matters of non-Federal organizations (for example, financial, fundraising, membership, bylaws, political, etc.), except in limited cases with agency and ethics approval.

<b>What Forest Service employees <u>can</u> do:</b>	<b>What Forest Service employees <u>cannot</u> do:</b>
Present proposals and ideas related to official duties within non-Federal organizations to appropriate Forest Service and Federal officials.	Endorse the products or services of non-Federal organizations (see Endorsements at 7.6.1.5).
Accept travel and subsistence costs (airfare, lodging, etc.) provided by non-Federal organizations in connection with official duties under 31 USC 1353. Traveling employees require prior approval from an agency Ethics Advisor.	Represent anyone other than the United States before a Federal agency or court in connection with a matter in which the United States is a party or has an interest.
Serve as official liaisons, technical advisors, committee chairpersons, or members representing the Agency when there are no conflict of interest or impartiality concerns (or those concerns have been officially waived). Their title or position must not appear to endorse the non-Federal organization or appear to affect impartiality.	Accept compensation for official duties performed with non-Federal organizations including honoraria, salaries, and contract payments.
	Utilize appropriated funds to accomplish, through non-Federal organization personnel, anything that Forest Service employees cannot be assigned to perform.
	Perform services in support of efforts by non-Federal organizations to lobby Congress.

#### 7.2.4 Table Summary: Serving in a Personal Capacity with Non-Federal Organizations

<b>What Forest Service employees <u>can</u> do:</b>	<b>What Forest Service employees <u>cannot</u> do:</b>
Serve in non-Federal organizations in a personal capacity. Informing supervisors is encouraged to ensure that Federal policies are followed.	Serve in a personal capacity as a non-Federal organization officer, board of directors member, or any similar position if it is offered based on employees' official Forest Service assignment or position.
	Take official action on matters involving the non-Federal organization with whom they serve in their personal capacity.
	Use their official position/title/etc. for fundraising, marketing, endorsement, or any other purpose.



What Forest Service employees <u>can</u> do:	What Forest Service employees <u>cannot</u> do:
	Act as agent or representative for the organization representing those interests back to the agency or other unit of the Federal government.
	Use government time and/or resources (email, phone, computer, fax, vehicles, etc.).

### 7.3 Working with Partners Who are Fundraising

Many partnership projects depend upon fundraising (by the non-federal entity) to obtain necessary implementation funds. Fundraising involves raising monies for a non-profit organization by soliciting funds, selling items, or participating in the conduct of an event (beyond attending) where some portion of the attendance cost may be taken as a charitable tax deduction.

Non-Federal organizations often support partnership projects by providing donations, gifts, in-kind services, and participating in fundraising campaigns. While important and appreciated, the Forest Service must approach these kinds of support carefully to avoid ethical issues. This section discusses Forest Service involvement in fundraising events, and the differences between fundraising and negotiating with partners in the context of partnership agreements.

It is important to understand that negotiating and documenting a partnership arrangement, where the Forest Service and a cooperator are coming together and contributing resources towards a mutually beneficial outcome, is not considered fundraising. In addition, the partner contributions to a partnership arrangement are not considered “gifts” subject to [Departmental Regulations on Acceptance of Gifts](#). Forest Service employees can negotiate with partners in the context of a partnership agreement and partners can then fundraise to generate their contribution to the partnership arrangement.

Partners can fundraise – by direct mail, conducting events, or other means – and use those funds to contribute towards a mutual benefit arrangement or other type of agreement. The manner in which the partner raises funds from outside sources is not governed by the Forest Service or Department of Agriculture Regulations. However, government ethics policy and regulations regarding conflict of interest and avoiding the appearance of impartiality make it important for the Forest Service to consider the source of partner contributions when considering whether to enter into a partnership arrangement. In addition, if Forest Service employees are involved in partner fundraising events, then conduct and ethics guidelines for federal employees apply, and are detailed below.

Forest Service employee involvement in a partner’s fundraising events is subject to the same conduct and ethics guidelines for Federal employees concerning any fundraising event. Fundraising in an official capacity is restricted to the Combined Federal Campaign (<http://www.opm.gov/combined-federal-campaign/contact-us/>) and special solicitations approved by the Director of the Office of Personnel Management, such as the Japanese Earthquake and Tsunami relief effort in 2011.

However, a Forest Service employee may give an official speech (given in an official capacity on subject matter that relates to the employee’s official duties) at a fundraising event, if the agency determines that the particular event is an appropriate forum for the speech. The employee may use his or her official time and resources to prepare and deliver the speech. The speaker may be identified by his or her official agency title or position. The speaker cannot make a request for funds or other support for the partner hosting the fundraising event. To make such a request during an official speech, or a meeting or other engagement with outside entities, would constitute fundraising on the behalf of the partner and is prohibited.

### 7.3.1 Table Summary: Forest Service Involvement in Partners' Fundraising Events

What Forest Service employees <i>can</i> do:	What Forest Service employees <i>cannot</i> do:
Attend fundraising events in an official capacity—but are restricted to approved and official remarks. Participation must not appear to endorse the fundraising effort or the organization.	Ask for money or support or receive donations on behalf of non-Federal organizations. However the employee may explain how contributions benefit Forest Service programs.
Be named on invitations as speakers (may include official title or position) but cannot be featured on such an invitation primarily to draw a crowd to a fundraising event. In addition, neither employees nor the Agency can be shown as sponsors for a fundraising event.	When raising funds in a personal capacity, a Forest Service employee cannot use or permit the use of his or her position, title, or authority to support the fundraising efforts.
Wear uniforms when attending meetings and fundraising events as representatives of the Agency. Remarks must be limited to programs, projects, or subjects related to the Agency's mission.	
Raise funds in a personal capacity for a charitable non-Federal organization that is completely separate from a person's Federal government job. Employee cannot raise funds from prohibited sources or subordinates.	
Review a partner's promotional materials (including fundraising outreach) to ensure the accurate representation of the Agency's priorities and partnership project interests. A partner's outreach materials may include the name of the Agency or the USFS insignia, provided there is an official partnership agreement in place and the use of the insignia has been approved by the Office of Communications. Additionally, the Agency name or insignia must not be adjacent to the partner's written request for donations and must not imply that the Agency is supporting the partner's fundraising efforts.	

## 7.4 Accepting and Soliciting Gifts

In the course of developing and documenting mutually beneficial partnership arrangements and working with grants and cooperative agreements, the involved parties typically discuss, negotiate, and document in-kind contributions, cash, and other program outlays. These contributions are not considered gifts or donations under the terms of gift acceptance laws and regulations, but rather part of overall partnership negotiations.

The following section describes Departmental regulations concerning gifts that are independent of a mutual benefit arrangement or other partnership negotiation. The terms gifts and donations are used interchangeably in the following discussion and apply to cash, real property, or other forms of contributions to the Forest Service and its employees.

Accepting gifts without statutory authority is an improper augmentation of Agency appropriations. Such gifts must be returned to the donor or turned in to the Treasury of the United States as miscellaneous receipts. The USDA and its agencies rely on two broad authorities for the acceptance of gifts:

- Gifts, donations and bequests to carry out functions of the Department of Agriculture are authorized under [7 USC 2269](#)
- Gifts, donations and bequests for forest and rangeland research are authorized under [16 USC 1643](#)

Solicitation involves asking for something of value either as a gift or at a price below its market value.

### 7.4.1 Personal Gift Acceptance or Solicitation

Federal employees may not solicit or accept gifts for themselves, their relatives, or a charity they recommend when these gifts are offered 1) because of their Federal title or position, 2) by a subordinate, or 3) by a prohibited source. A prohibited source is an entity or individual who:

- Seeks official action from the Forest Service
- Conducts or seeks to conduct business with the Forest Service
- Conducts activities regulated by the Forest Service
- Seeks to influence Forest Service policies or regulations
- Has an interest that may be substantially affected by Forest Service official duties or hopes to use a Forest Service employee's position to benefit its effort or mission

### 7.4.2 Agency Gift Acceptance and Solicitation

The Forest Service cannot solicit donations unless authorized by law to accept donations and may only solicit donations in the manner authorized by government regulations. The Department's Gift Act authority ([7 USC 2269](#)) authorizes the Secretary and Department agencies to accept donations. This law includes the authority to solicit, but only in the manner authorized under Departmental and government-wide ethics regulations, and the [Departmental Regulation on Acceptance of Gifts \(DR 5200-003\)](#). Navigating between these laws and regulations is challenging, so when a particular issue is raised, Forest Service employees should discuss the topic with Office of General Counsel (OGC) staff and if necessary their [appropriate Mission Area Ethics Advisor](#).

In addition to the Gift Act cited above, the Forest Service has other specific statutory authorities concerning gifts and donations primarily related to real property as outlined in [Forest Service Manual \(FSM\) 5420](#), [FSM 6510 Appropriations and Funds](#), and [FSM 6514 Acceptance and Use of Donated Funds](#). The Forest Service's authority to accept gifts under these statutes is subject to [Departmental Regulation 5200-003](#), and all Forest Service units should have copies of this regulation and be familiar with its contents while seeking guidance from the Office of Ethics and OGC when questions arise.

Gift: A donation of something of value in which less than market value is paid or given to the donor in return. Gifts can be cash, facilities, land, personal property, securities, and services.

Conditional gift: A gift made for a specific purpose or with conditions on its use.

Unconditional gift: A gift made that the Forest Service can use for any authorized purpose.

### 7.4.3 Table Summary: Gifts to the Forest Service

What Forest Service employees <i>can</i> do:	What Forest Service employees <i>cannot</i> do:
The Chief of the Forest Service or the Chief's Designee may accept unconditional gifts of personal property, including cash. Other Forest Service employees do not have this authority.	Accept gifts from Prohibited Sources, which are individuals or entities engaged with the Forest Service or USDA's Natural Resources and Environment mission area as a borrower, contractor or contract bidder, cooperator, grantee, lessee, permittee, or other program participant, with certain exceptions (made at Washington Office Executive Leadership Team level); or accept gifts from applicants for Forest Service grants, leases, or loans or other program participation ( <a href="#">DR 5200-003</a> ).*
The Department's Chief Financial officer or that official's designee can accept conditional gifts of personal property. Other Forest Service employees do not have this authority.	Solicit donations unless either consistent with USDA Gift Acceptance Policy or otherwise authorized by law. Many restrictions exist regarding gift solicitation. USFS employees cannot conduct any game of chance; direct mail appeals or fundraising events; or hire development officers. USFS employees cannot solicit gifts from any of the prohibited sources mentioned above, even if the gift could be accepted as an exception.
Accept gifts of real property under the provisions of <a href="#">FSM 5420 Land Purchases and Donations</a>	Solicit multiple or duplicate gifts to create a substitute funding stream for routine operational expenses.
Accept and use gifts of donated funds under the provisions of <a href="#">FSM 6510 Appropriations and Funds</a>	

*\*Some gifts can be accepted from 'prohibited' sources if they are commemorative in nature, specifically authorized by statute, or public benefit outweighs an appearance of loss of impartiality. Gifts must be documented with a letter that includes a statement that acceptance is not an endorsement. An annual report of gifts received or copies of all gift acceptance letters must be submitted to the Office of Procurement and Property Management (DR 5200-003). More information, process and procedures, can be found at the [USDA's Gift Acceptance Directive](#)*

## 7.5 National Forest Foundation—Gift Acceptance

Under the act that created the [National Forest Foundation \(NFF\)](#), the NFF can accept and administer gifts of funds and lands to benefit the national forests and grasslands in connection with Forest Service activities and services.

The NFF also provides financial and technical support for community-based organizations and other non-profits for partnership projects benefitting the National Forest System. More information can be found on the NFF Web site at <http://www.nationalforests.org/>.

## 7.6 Partner Recognition

The Forest Service continually seeks to honor its partners, who are essential to helping protect and restore forest and grassland health and the communities that depend on them. Recognition is most effective when focused on specific achievements and positive results at the local level. Recognizing partner contributions such as materials; volunteer time and expertise; funds; or other real or personal property emphasizes the value the Forest Service places on partnerships.

The Forest Service is authorized to use funds to provide non-monetary awards of nominal value and to incur necessary expenses for the recognition of private individuals and organizations making contributions to the Forest Service program. [FSM 6510](#) outlines acceptable activities and expenditures.

Conduct and ethics rules governing Federal employees place limits on the kinds of recognition they can give. This section provides general guidelines for Forest Service donor and partner recognition, including recommendations for recognizing both individuals and organizations. For the purposes of this section, a “partner” is considered an entity with a formal, documented partnership with the Forest Service (such as a Grants & Agreements instrument or a Volunteer Agreement). A “donor” is considered an entity who donates to a Forest Service partner, with the partner subsequently contributing the value of the donation towards a partnership project with the Forest Service. The “partner” has a direct relationship with the Forest Service. The “donor” has a direct relationship with the “partner,” but only an indirect relationship with the Forest Service.

### 7.6.1 Recognition General Guidelines

Basic donor and partner recognition principles follow:

- Appropriate recognition may take the form of appreciation letters, certificates, displays, mementos, plaques, press releases, public events, signs, and other items. Employees should also feel encouraged to think of new and creative way to thank their partners. If the donation is considered a gift under the USDA regulations detailed above, an acceptance letter is required.
- Donors/partners should be recognized within the context of the project or program benefiting from the donation or contribution.

- Recognition for a donation from a commercial partner must not give the impression of advertising, commercialization, or endorsement.
- USDA Departmental Regulation [5160-002](#) establishes policy for the erection of memorials, permanent plaques, cornerstones and naming of facilities and projects under the sole jurisdiction of the department.
- The installation of non-memorializing recognition items (partner/donor boards or walls with name plates or other markers) on a non-permanent basis must be approved by the Agency in accordance with the process described in Deputy Chief's letter of August 8, 2013 (see image of that letter at the end of this chapter).
- Signs and banners are regulated through [Engineering Manual EM7100](#).  
On-site recognition must be tasteful and subtle and may include banners, displays/exhibits, plaques, or signs. On-site recognition associated with providing a service should be posted in close proximity to the service.

#### **7.6.1.1 Donor/Partner Boards, Plaques, and Other Long-term, On-site Recognition**

Donor/partner recognition boards or plaques may be permitted in visitor centers or other appropriate developed facilities. In 2013, the U.S. Department of Agriculture (USDA) released revised regulations for erection of memorials, permanent plaques, cornerstones, and the naming of facilities and projects under the sole jurisdiction of the Department ([DR 5160-002](#)). The revised regulations distinguish memorials and "permanent" structures – which will continue to be governed by USDA – from "long-term but non-permanent" forms of on-site partner/donor recognition, such as donor boards and plaques – which can now be managed solely by the USFS.

Forest Service guidance is in the process of being updated to reflect the new regulations, and include guidelines to assist Forest Service units in responding to requests for on-site recognition. On August 8, 2013, the Deputy Chief of the National Forest System issued a controlled correspondence letter establishing an interim policy and process for long-term, on-site recognition. The letter explained that until the guidance updates are completed, regional foresters will have discretion for approving or disapproving donor and partner non-permanent recognition requests. The regional landscape architect must be consulted on design details, to ensure consistency with the Built Environment Image Guide (BEIG) and the Recreation Opportunity Spectrum (ROS) classes. The BEIG should be used to address issues of context and scale, eco-regional appropriateness, material, color, and to assure Forest Service image and identity are not compromised by single or cumulative actions.

Forest Service units are encouraged to reach out to the WO-National Partnership Office, the WO-Recreation, Volunteers, and Heritage Resource Staff, and the WO-Office of Communications for assistance in responding to requests for on-site recognition.

On-site recognition – which would persist longer than an event or the implementation period of a project – should be reserved for especially significant partnerships. Many other forms of recognition are available that do not encumber a Forest Service site. These include: press releases and other media, thank you letters, public events, mementos, and temporary banners and signage.



### 7.6.1.2 Special Events

The Forest Service is encouraged to recognize partner or donor support for, or sponsorship of, Forest Service-hosted special events such as clean-up days, festivals, or other volunteer events. This recognition may appear on banners, flyers, posters, and similar items. If the Forest Service is the primary host, it should be apparent that this Forest Service event is held in cooperation with XYZ organization. Donor recognition can include logos, names, and name script and may not include specific advertisements, product names, or slogans. All partners involved in the event must have the opportunity to be recognized in the same substantive way. For example, a banner for an event supported by a commercial entity through a donation to a non-profit partner of the Forest Service must include both the names and/or logos of both the commercial donor and the non-profit partner.

The Forest Service does not have control over non-Forest Service-hosted events in which it participates. Guidance concerning sponsorship recognition at concession sites was revised in 2013, and can be found in FSM 2300, chapter [2343.03](#).

### 7.6.1.3 Naming

This prohibition on naming is described in the USDA Departmental Regulation governing the erection of cornerstones and permanent plaques and the naming of facilities and projects ([DR 5160-002](#)). The Forest Service may not name features or facilities or otherwise permanently recognize monetary or other contributions to the Agency. The Chief of the Forest Service must approve any exceptions.

### 7.6.1.4 Endorsements

Promoting or recommending products, services, events, or enterprises is considered endorsement.

Generally, the federal government endeavors to maintain neutrality with respect to non-federal entities, their events, products, or services. Any words of praise or special favors levied toward a particular organization may give the appearance that the agency favors an organization to the exclusion and detriment of others. Since the federal government cannot possibly endorse all the worthy organizations and their activities it endeavors to praise and support none of them.

[5 CFR 2635.702c](#) explains endorsement requirements for individual employees:

(c) An employee shall not use or permit the use of his Government position or title or any authority associated with his public office to endorse any product, service or enterprise except:

(1) In furtherance of statutory authority to promote products, services or enterprises; or

(2) As a result of documentation of compliance with Agency requirements or standards or as the result of recognition for achievement given under an Agency program of recognition for accomplishment in support of the Agency's mission.

In addition to the prohibition on individual employee endorsement it is the standing policy of the USDA that making references to specific enterprises or brand names of commercial products in interviews and in written, audio, and visual material (hard copy or electronic) created for use by the Department's external audiences is generally prohibited [USDA Directive [1410-001](#) and [1440-002](#) ].

There are, however, situations when direct or implied endorsement is 'tolerated'. Agency Authorized Endorsement requires a high level review and determination that endorsement is in the public interest or otherwise justified and explained. This determination is usually made by the USDA, USFS Agency Head, or USFS Director of the Office of Communications under the following authorities [USDA Directive [1410-001](#) and [1440-002](#) ] in conjunction with OGC.

### **7.6.2 Recognizing Individual Effort of Federal Employees and Partners**

The individual efforts of both Federal employees and their partners may be recognized in a number of ways. The Forest Service may recognize individual non-Federal partners by awarding them non-monetary items such as briefcases, certificates, cups, gift certificates, letters, or plaques ([16 U.S.C. 556h](#)). Such awards should display a Forest Service shield or other appropriate inscription related to the recognition. Press releases, newsletters, and success stories featuring outstanding individuals, their work, and recognition ceremonies provide excellent opportunities to highlight and communicate successes to the general public and local community. Award ceremonies hosted by the Agency may include light refreshments and incur other miscellaneous costs to enhance the event's effectiveness. Using creative employees' talents to express gratitude and provide meaningful rewards is another option—a drawing, photo, poem, or song can provide special commemoration of a specific event or project. Monetary or cash awards cannot be offered to partners.

A successful partnership requires great work from both the partner and the Forest Service. Partners may want to recognize Forest Service employees however, both parties should be aware that Federal employees must follow ethical guidelines when receiving recognition. Forest Service employees should reach out to the Office of Ethics when they are offered a gift.

Overall, the Standards of Ethical Conduct at 5 CFR 2635, Subpart B prohibit an employee from soliciting or accepting gifts from individuals and/or organizations doing business, or seeking to do business, with USDA (see Prohibited Source definition below). The acceptance of gifts given because of employee's official position is also prohibited.

### **Definitions:**

- Gift: A gift includes: any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value.
- Prohibited Source: Means any person/organization (a majority of whose members are):
  - Seeking official action by USDA;
  - Conducting business or seeking to do business with USDA;
  - Conducting activities regulated by USDA; or
  - Having interests that may be substantially affected by performance or nonperformance of the employee's
  - official duties

### **Exclusions:**

Gifts do not include:

- Coffee, donuts and similar modest items of food and refreshments when offered other than as part of a meal;
- Greeting cards and most plaques, certificates and trophies;
- Prizes in contests open to the public;
- Commercial discounts available to the general public or to all Government or military personnel;
- Commercial loans, and pensions and similar benefits;
- Anything paid for by the Government, secured by the Government under Government contract or accepted by the Government in accordance with a statute; or
- Anything for which the employee pays market value.

### **Disposition of Gifts Received:**

When a gift cannot be accepted, the employee can:

Pay the donor the market value of the gift;

- Return the gift with a polite declination; or
- If a perishable item, the employee may obtain approval to:
  - Donate the gift to a charity;
  - Destroy; or
  - Share the gift within the office.

### **Exceptions:**

There are exceptions to the prohibition for receiving gifts from prohibited (outside) sources seeking to do business with USDA.

Employees may accept:

- Gifts with a market value of \$20 or less per occasion provided that the aggregate market value of individual gifts received from any one person/organization does not exceed \$50 in a calendar year. Cash may not be accepted as a gift. Cash may only be accepted in connection with awards. **(See Special Note below.)**
- Gifts clearly motivated by a family relationship or personal friendship.
- Commercial discounts and similar benefits offered to groups in which membership is not related to Government employment, or if membership is related to Government employment, where the same offer is broadly available to the public through similar groups or by persons who are not prohibited sources.
- Certain awards and honorary degrees **(see Special Note below)**.
- Gifts resulting from the outside business activities of employees and their spouses.
- Travel and entertainment in connection with employment discussions.
- Free attendance provided by the sponsor of an event for the day on which an employee is speaking or presenting information at the event.
- Free attendance provided by the sponsor of a widely attended gathering of mutual interest to a number of parties where the necessary determination of agency interest has been made. **(see Special Note below)**.
- Invitations to social events extended by persons who are not prohibited sources, provided no one is charged a fee to attend the event.
- Certain gifts of food and entertainment in foreign areas **(see Special Note below)**.
- Gifts accepted by the employee under a specific statute, or pursuant to a supplemental agency regulation.

### **Special Note**

All external awards of cash and gifts with an aggregate market value greater than \$200 (except those awards announced through the Agency's Awards Program) may be accepted only after a written determination is made the USDA Office of Ethics. *(External awards announced through the Agency's Awards Program do not require a written determination from the USDA Office of Ethics because they were reviewed by the Department.)*

**USFS Employees offered a gift from an outside source should consult their [Mission Area Ethics Advisor](#) to have the matter reviewed and any necessary paperwork completed.**

**USDA Ethics Website:** <https://www.ethics.usda.gov/>



Forest  
Service

Washington  
Office

1400 Independence Avenue, SW  
Washington, DC 20250

File Code: 2300

Date: August 8, 2013

Route To:

Subject: USDA Donor Recognition Policy

To: Regional Foresters

On May 29, 2013, the U.S. Department of Agriculture (USDA) released revised regulations prescribing policy for erection of memorials, permanent plaques, cornerstones, and the naming of facilities and projects under the sole jurisdiction of the Department. The regulations replace Departmental Regulation 5160-2, dated April 4, 2002.

Current Forest Service manual direction will be updated to reflect these new regulations and will include guidelines to assist forests in responding to requests. Until such updates to the directives are completed, regional foresters will have discretion for approving or disapproving donor and partner non-permanent recognition requests. The regional landscape architect must be consulted on design details, to ensure consistency with the Built Environment Image Guide (BEIG) and the Recreation Opportunity Spectrum (ROS) classes. The BEIG should be used to address issues of context and scale, eco-regional appropriateness, material, color, and to assure Forest Service image and identity are not compromised by single or cumulative actions.

I strongly encourage forests and regions to work collaboratively with their partnership coordinators and regional landscape architects to develop short-term partnership planning and design protocols to guide local requests and provide transparency to the decision-making process.

For further questions, and to obtain informational resources on partnership recognition planning, please contact Leanne Marten, Acting Director, National Partnership Office, at [lmarten@fs.fed.us](mailto:lmarten@fs.fed.us); or Joe Meade, Director, Recreation, Heritage, and Volunteer Resources at [jmeade@fs.fed.us](mailto:jmeade@fs.fed.us).

/s/ James M. Pena (for)  
LESLIE A. C. WELDON  
Deputy Chief, National Forest System

