

A Review of the U.S. Marshals Service's Use of Appropriated Funds to Purchase Promotional Items



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EXECUTIVE SUMMARY

The Department of Justice Office of the Inspector General (OIG) conducted a review of purchases of promotional items, also known as “swag,” by the Investigative Operations Division (IOD) of the United States Marshals Service (USMS). This review was initiated in response to an anonymous letter to the OIG alleging that senior managers in IOD had spent excess end of year funding on promotional items including, among other things, silk ties, pillows, and various items bearing the USMS name and seal.

We found that the IOD spent at least \$793,118 on promotional items during fiscal years 2005 to 2010 and that these expenditures were excessive and, in some instances, in contravention of Department Policies and Government Accountability Office (GAO) decisions and guidance. Furthermore, IOD’s spending on promotional items increased by 975 percent during the 6-year period examined by the OIG and vastly outpaced the growth of the USMS’s appropriation during the same period. As an illustration of some of the IOD’s spending, we found that in six years the IOD branches spent \$155,081 on USMS challenge coins, \$11,338 on neckties and silk scarves bearing the USMS seal, \$13,605 on USMS-themed Christmas ornaments, \$16,084 on USMS-themed blankets and throws, and \$36,596 on USMS lapel pins.

We found that the growth in spending on promotional items was the result of the absence of internal controls and accountability within the USMS, and the failure of USMS personnel who were given purchasing responsibilities to exercise good judgment. Furthermore, the spending on some promotional items was not allowable under Department regulations or GAO guidance, in that certain promotional items purchased by the IOD could not be considered “necessary expenses” for the USMS to fulfill its congressionally mandated missions.

In examining promotional items that were used as gifts to publicize the USMS, we found that some items, such as the Sex Offender Investigation Branch’s (SOIB) challenge coins, arguably served an authorized purpose by reminding the recipient that the SOIB was available to assist local law enforcement agencies with unregistered sex offenders. However, the coins did not provide the recipient with specific information about the SOIB or its activities, apart from its name, and therefore might not be considered a necessary expense. We found that other promotional items, such as silk scarves, were purchased using appropriated funds and distributed for the purpose of promoting goodwill. Under applicable statutes and policies, these items should have been purchased using

Representation and Reception funds (R & R funds), which, under USMS guidelines, were subject to strict controls and documentation and an annual budgetary cap determined by Congress. Had the USMS applied these “goodwill” purchases to the R & R fund, it would have exceeded Congress’s legislated cap.

Witnesses told us that they used promotional items such as challenge coins to reciprocate the receipt of similar gifts from law enforcement officials in other agencies who worked with USMS. The GAO has stated that gifts which are intended to promote reciprocal respect, goodwill, and cooperation between a federal agency and its state or local level counterparts are not necessary expenses. A 1993 USMS memorandum stated that the practice of exchanging promotional items “may be justified as essential to the [USMS’s] mission since the practice of exchanging these items is so widespread and the lack of reciprocity would have an impact on mission success.” Several witnesses with whom we spoke expressed similar justifications for this practice. We are skeptical of the justifications provided to us and found that eliminating the practice of funding the routine exchange of promotional items would not likely undermine the USMS’s ability to obtain or retain other law enforcement agencies’ cooperation.

We found that promotional items also were distributed as informal awards to both USMS employees and task force officers assigned to Regional Fugitive Task Forces by their local agencies, given out as gifts by USMS managers to build morale, and disseminated as retirement and ceremonial gifts. While using the promotional items as informal awards did not clearly violate USMS policies in place during the period of time that we examined, we found that distributing promotional items, such as Christmas ornaments, as gifts to build morale was an unnecessary expense and that appropriated funds should not have been used to purchase such items. In regard to retirement and ceremonial gifts, we found that while the cumulative budgetary impact of these purchases was small, there were instances of excessive spending, such as the purchase of \$149 lamb wool blankets and custom boxes with USMS seal and \$125 crystal statues.

On January 21, 2011, the Attorney General issued a directive to all Department components to reduce expenditures to only mission-essential programs, projects and activities. In a June 17, 2011, e-mail sent to all USMS management, in which he referenced Attorney General Holder’s directive, USMS Chief Financial Officer Albert Hemphill stated that USMS was developing a promotional items policy and that “all expenditures for [promotional items]...[were] suspended pending issuance of a formal policy.” The Department and the USMS subsequently issued policies that provide explicit guidance on the purchase and use of promotional items in the future.

We found that the new policies will encourage restraint and enhance accountability with respect to the purchase of these types of items. However, we also found that the USMS policy contains flaws that the USMS should rectify. For instance, the USMS Policy authorizes gifts of promotional items to employees and others for “contribution or services to the USMS,” and for “participation/performance” at USMS conferences or training events, which is a broader standard than allowed by Department and GAO guidance. The USMS Policy also authorizes the purchase of items for the express purpose of reciprocating similar gifts from other agencies “and to foster and maintain cooperation and goodwill,” which is also contrary to Department and GAO guidance.

We are recommending (1) that the USMS revise its promotional items policy for the purpose of making it consistent with the Department’s policies, (2) that the USMS should enhance its new internal controls for monitoring the purchase and use of promotional items to ensure compliance with its own and Department policies, and (3) that the USMS should direct the IOD and its branches to conduct a full inventory of promotional items currently on hand.

I. Introduction

In October 2010, an anonymous author sent a letter to the Department of Justice Office of the Inspector General (OIG) alleging, among other things, that senior managers in the United States Marshals Service (USMS) were spending “excess end of year funding on ‘swag.’”¹ The writer specifically alleged that senior managers in the USMS’s Investigative Operations Division (IOD) had authorized the purchase of approximately 400-500 silk ties with the USMS seal and star outlined within the pattern, approximately 200 hand embroidered pillows, and costly retirement gifts for senior managers.

Based upon the allegations made in the anonymous letter, the OIG examined the purchasing of promotional items by all of the IOD branches.²

This report is divided into six sections, including this introduction. Section II provides an overview of the methodology we used to investigate the anonymous writer’s claims. Section III examines applicable statutes and regulations. Section IV provides some background information about the USMS and Section V contains our factual findings. In Section VI we describe our overall conclusions regarding the IOD’s spending of appropriated funds on promotional items and provide recommendations to the USMS to help it avoid repeating such activity in the future.

Appendix A contains the USMS’s response to our report. Appendices B through E contain material described in the body of our report.

II. Methodology of the Investigation

To investigate the issues raised in the October 2010 anonymous letter, the OIG conducted 30 interviews of individuals currently or formerly employed by the USMS or the Department’s Justice Management Division (JMD). We also received and reviewed more than 127,000 documents. These documents included e-mails from the accounts of current and former USMS personnel, requisition requests and corresponding invoices for

¹ The anonymous letter was also sent to the Acting Comptroller General of the United States, the Department of Justice’s Office of Management and Budget, the Acting Deputy Attorney General, and the Assistant Attorney General for Administration.

² “Swag” is a slang term for promotional items that are often marked with a particular organization’s name or logo and may be given away. Some sources claim that swag is an acronym for “Stuff We All Get” or “Souvenirs, Wearables, And Gifts.” In this report we use the term “promotional items” interchangeably with “swag.” Examples of promotional items include clothing, coffee mugs, and the like. Another term sometimes used for items of this type is “trinkets.”

promotional items purchased between 2005 and 2010, procurement training materials provided to the USMS by JMD during procurement training seminars, USMS guidance, and the current Department and USMS policies covering promotional items, which did not exist during the period of time examined in this report.³ We also reviewed relevant information in the Government Accountability Office's (GAO) "Redbook," (GAO Red book) which is a multi-volume treatise containing GAO decisions and opinions, judicial decisions, statutory provisions, and other materials concerning federal procurement law.⁴

III. Applicable Statutes and Regulations

A. 31 U.S.C. § 1301 and the Necessary Expense Doctrine

Pursuant to the United States Constitution, federal agencies may only spend money if Congress has given them the explicit authority to do so through an appropriation. U.S. Const. art I, § 9. An appropriation is defined as:

An authorization by an act of the Congress that permits Federal agencies to incur obligations and to make payments out of the Treasury for specified purposes. An appropriation usually follows enactment of authorizing legislation

Appropriations do not represent cash actually set aside in the Treasury for purposes specified in the appropriation act; they represent limitations of amounts which agencies may obligate during the time period specified in the respective appropriations acts."⁵

³ JMD, through its Office of General Counsel, provides advice and assistance to senior Department and Department component officials relating to Department policies for budget and financial management, procurement and other matters relating to organization, management and administration. It is also responsible for providing legal advice regarding, among other things, appropriations, budget and financial management, and procurement. JMD provides this guidance and legal advice to the Department and its components through training seminars, which are provided at a component's request, and through "Financial Management Policies and Procedures Bulletins."

⁴ GAO is an independent nonpartisan agency that works for Congress and investigates how the federal government spends taxpayer dollars. Its Office of General Counsel issues legal decisions, opinions, and reports on appropriations law and other matters. GAO opinions and legal decisions are not binding on Executive Branch departments, such as the Department, or Department components, such as the USMS, because it is an agency of Congress. However, GAO decisions and opinions provide guidance to the Department and its components regarding procurement matters and the advice given by JMD to Department agencies.

⁵ *Andrus v. Sierra Club*, 442 U.S. 347, 359 n.18 (1979), *See also* 31 U.S.C. §§ 701(2) and 1101(2).

Chapter 13 of Title 31 of the United States Code governs appropriations. Section 1301 of Title 31 states that appropriations may only be spent on the objects for which they were legislated by Congress. However, Section 1301 does not require that permissible expenditures be specified in the act setting forth an agency's appropriation.⁶ Consequently, the spending agency has reasonable discretion in determining how to use its appropriation.⁷

GAO and the courts have consistently interpreted Section 1301 to permit an appropriation to be used to pay any expense that is necessary or incident to the achievement of the agency's underlying objectives. This is known as the "necessary expense doctrine."⁸ Thus, where an agency believes that the expenditure bears a logical relationship to the objectives of the appropriation and will make a direct contribution to the agency's mission, the appropriation may be used for such purpose.⁹

Necessary expense determinations "are evaluated in light of the specific circumstances and statutory authorities," but the necessary expense test is sometimes articulated as a three-part rule:

1. The expenditure must bear a logical relationship to the appropriation sought to be charged. In other words, it must make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available;
2. The expenditure must not be prohibited by law; and
3. The expenditure must not be otherwise provided for, that is, it must not be an item that falls within the scope of some other appropriation or statutory funding scheme.¹⁰

In a 1986 legal opinion, the Department's Office of Legal Counsel (OLC) pronounced that a Department component may spend money as long

⁶ 31 U.S.C. § 1301(a), *see also* U.S. General Accounting Office, Office of the General Counsel, Principles of Federal Appropriations Law, 4-20 (3d ed. 2004) (GAO Red Book).

⁷ GAO Red Book at 4-20.

⁸ GAO Red Book at 4-21.

⁹ *See Lincoln v. Vigil*, 508 U.S. 182, 192 (1993), *Int'l Union, United Auto., Aerospace v. Donovan*, 746 F.2d 855, 861 (D.C. Cir. 1984), *Matter of Prize Drawing by Gen. Serv. Admin. Pub. Bldgs. Serv.*, B-242391, 70 Comp. Gen. 720, Sep. 27, 1991 (Cash prizes for providing information relating to an agency's mission is a necessary expense under 31 U.S.C. § 1301(a)), *Matter of Certification of Voucher for Materials Used in Savings Bond Campaign*, B-225006, June 1, 1987, (Lump-sum appropriation may be used to fund limited amounts of promotional materials for savings bond campaign administratively determined to be necessary).

¹⁰ GAO Red Book at 4-21.

as it is not prohibited from doing so and the purchased items are reasonably within the component's purpose. The OLC opinion is consistent with GAO guidance, which states that expenditures are illegal in the absence of either statutory authority or an adequate justification under the necessary expense doctrine.¹¹

B. Gifts

As detailed below, some of the promotional items purchased by the USMS were given away as gifts. As a general rule, appropriated funds may not be used to purchase personal gifts for government employees or the public.¹² However, an agency may want to use appropriated funds for gifts to attract attention to the agency or agency programs. Under the necessary expense doctrine, described above, an agency may purchase items in the nature of gifts or souvenirs only if there is a direct link between the items and the agency's purpose for which Congress has appropriated funding.¹³

Although GAO opinions are not binding on the Department, we found several GAO decisions that provide useful guidance for analyzing the issues raised by the USMS's purchases of promotional items. In one case, the GAO examined expenditures by a Veterans Administration medical center on a variety of novelty items, such as holiday rope pens, folding scissors, and shoe laces imprinted with the medical center's logo or slogan, to distribute in support of its recruiting efforts. The GAO held that gifts such as these, which act only as "favorable reminders" and do not provide recipients with essential information about the agency, are not "necessary expenses" under the doctrine.¹⁴ In another GAO decision, the Director of the Department of the Army sought to procure marble paperweights and walnut plaques for the purpose of giving them to "appropriate governmental officials and other individuals in recognition of their support for the United States Army Criminal Investigation Command." As a justification for the expense, the Army Director stated that "mission essential cooperation [from other law enforcement agencies was] maintained through the vehicle of reciprocal respect" and that these items acted as that vehicle. The GAO disagreed, holding that gifts which are intended to promote reciprocal respect,

¹¹ GAO Red Book at 4-26.

¹² GAO Red Book at 4-155.

¹³ *Matter of Expenditures of the Department of Veterans Affairs for the Oklahoma State Fair*, B-247563.2 at 3, May 12, 1993.

¹⁴ *Matter of Expenditures by the Dept. of Veterans Affairs Medical Center, Oklahoma City, OK*, B-247563.3, April 5, 1996, at 2, 4.

goodwill, and cooperation between a federal agency and its state or local level counterparts are not necessary expenses.¹⁵

In 1993, the USMS Office of General Counsel transmitted a memorandum to the Office of Policy and Communications (the OGC memorandum) for the purpose of providing advice concerning the purchase of promotional items.¹⁶ The OGC memorandum addressed the subject of gifts to non-USMS personnel:

“Gifts” to non-USMS Persons

- A. Items of nominal cost that have no intrinsic value or function other than publicizing the agency may be given to non-USMS personnel. Allowable items are buttons, patches, lapel pins, sticker badges, pens and pencils.
- B. Gifts to non-federal personnel other than the items noted [in A] above may be made by the Director from the reception and representation fund.¹⁷
- C. Gifts to non-federal government persons may be made where essential to the mission of the agency. Allowable items are caps, T-shirts, (inexpensive) cuff links, (inexpensive) paperweights, mugs and items in [A] above. (Emphasis in original).

With respect to the last category, the memorandum stated that gifts to non-federal officials “may be justified as essential to the mission since the practice of exchanging these items is so widespread and the lack of reciprocity would have an impact on mission success,” but it cautioned that “this justification is extremely restricted and should not be used to support large purchases.” The memorandum stated that higher cost items should be carefully scrutinized and are generally not permitted. It also recommended that the requesting office for such purchases document the use of any promotional items at the time of purchase or distribution.

In our review of e-mails from the period covered by this report and witness interviews, we found no evidence that the OGC memorandum was broadly disseminated within USMS, and we found no indication that it was

¹⁵ *Matter of use of U.S. Army Criminal Investigation Command (USACIDC) Appropriated Funds for Purchase of Marble paperweights and Walnut Plaques*, B-184306, 55 Comp. Gen. 346, October 2, 1975.

¹⁶ The 1993 USMS OGC Memo to the Office of Policy and Communications is attached as Appendix B to this report.

¹⁷ The Reception and Representation Fund is addressed below in Section III(D).

consulted in connection with the purchases of promotional items described in this report.

C. Awards

Some of the promotional items at issue in this investigation were purportedly used to reward USMS employees or others for a job well done. Unlike the case with gifts, there is explicit authority for certain employee awards. The Federal Employees Incentive Awards Act (FEIA) allows federal agencies to provide incentive awards to employees for superior accomplishments and cost saving disclosures.¹⁸ Federal regulations under the FEIA define an award as “something bestowed or an action taken to recognize and reward individual or team achievements that contribute to meeting organizational goals or improving the efficiency, effectiveness, and economy of the government or is otherwise in the public interest.”¹⁹ The FEIA does not limit the nature of the awards and authorizes the use of merchandise awards, such as coffee mugs.

In another GAO opinion offering guidance relevant to this report, the Naval Sea Systems Command proposed purchasing “desk type medallions” for the purpose of awarding them to its civilian and military personnel in recognition of their “significant accomplishments.”²⁰ The GAO concluded that pursuant to the Department of Defense’s award policy the Navy had issued appropriate guidelines for the distribution of honorary awards, which justified the purchase of the “desk type medallions.” The GAO concluded that in light of the FEIA and other authorities, the Naval Sea Systems Command had the authority to purchase the items and award them to its employees.

On December 14, 1978, the Department of Justice issued its own policy on employee awards. The Department’s policy states that each DOJ Component may create its own award program and that component heads, such as the Director of the USMS, must ensure that there is documentation supporting any awards and that funds are available for their distribution.²¹ Awards may be given to Department employees and honorary awards may be given to non-Department employees who perform a service for the

¹⁸ 5 U.S.C. §§ 4501-4509.

¹⁹ 5 C.F.R. § 451.102.

²⁰ *Matter of Awarding Desk Medallion by Naval Sea Systems Command*, B-184306, August 27, 1980.

²¹ DOJ 1451.1A, Dept. of Justice, Office of Mgmt & Fin., Incentive Awards Program, (1978).

Department. Additionally, awards may only be given from supervisors to employees.²²

The USMS OGC memorandum issued in 1993 (discussed above with respect to gifts) also addressed employee awards. It stated:

Awards to Employees

USMS management is authorized to purchase traditional awards (plaques, medallions in lucite, etc.) as well as emblems, picture frames, clocks, coffee mugs, desk sets, T-shirts, paperweights, vinyl tablet portfolios, or similar items that meet the agency's recognition needs, to present to employees as bona fide awards for their performance. (Performance is distinct from mere participation, for which no authority exists to make awards) (Emphasis in original).

Again, the OGC memorandum stated that “[h]igher cost items should be carefully scrutinized and [are] generally not permitted.”

The USMS also addressed awards in USMS Policy Directive 3.3 (September 27, 2007). It states that the USMS awards program was established to “recognize employees who, individually or through a team effort, contribute to meeting USMS-, DOJ- and/or government-wide goals.” The policy states further that “there should be a direct relationship between organizational goal attainment and performance recognition.” The types of awards contemplated in the policy include cash payments, paid leave, quality step increases, and a specific “Director’s Honorary Award,” which can be cash or “honorary without cash.” The policy has no provision for rewarding its employees with merchandise awards or for awarding non-USMS individuals, such as Task Force Officers.

D. Official Reception and Representation Expenses

As detailed below, many witnesses told us that promotional items were sometimes given out to members of other law enforcement agencies or the public to promote goodwill toward the USMS. Congress has appropriated moneys to agencies, known as “official reception and representation funds” (R & R funds), that allow agencies to pay for entertainment and similar expenses to promote goodwill.²³ Congress defined “official reception and representation expenses” for DOJ as “official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions, . . . in accordance

²² *Id.*, see also Pol. & Proc. Bull. No. 11-04 (August 12, 2011).

²³ GAO Red Book at 4-136.

with distributions and procedures established, and rules issued, by the Attorney General.”²⁴

Reception and representation expenditures must be in compliance with DOJ Order 2110.31B (March 22, 2002). The Order states that R & R funds “are authorized for expenses incurred by the Department . . . for officials whose positions entail responsibilities for establishing and maintaining relationships of value to the Department” It states further that R & R expenditures are authorized for the purpose of:

1. Extending courtesies to representatives of foreign countries.
2. Funding official activities that further the Department’s interests.
3. Hosting events and *providing mementos* to state and local officials and community leaders, in furtherance of the Department’s interests. (Emphasis added).

DOJ Order 2110.31B also states that each component of the Department “should establish procedures to separately record and classify expenditures” of R & R funds. Furthermore, the Order directs each component to “establish control procedures to assure that the monetary limitation set by statute or the Attorney General is not exceeded.” *Id.*

In 2009, the USMS issued written “Reception and Representation Guidelines.” According to a Special Assistant in the USMS Director’s Office, the guidelines were only provided to USMS employees who were requesting to expend R & R funds and were not disseminated throughout the agency.²⁵ These guidelines define reception and representation as “official agency events, typically characterized by mixed ceremonial, social and/or business purpose relating to the function of the agency, and hosted in a formal sense by high level agency officials.” The Guidelines state that the “events must further the interests of the USMS in interacting and hosting various individuals [with] whom and organizations with which the USMS officially does business.” The Guidelines also require that “[a]ll R & R expenditures must be approved by the Director” of the USMS and all purchases made in accordance with DOJ procurement regulations.

The USMS guidelines do not specifically state that purchasing promotional items is an appropriate use of R & R funds. However, in a sub-

²⁴ 28 U.S.C. § 530C(b)(1)(D).

²⁵ The Special Assistant told the OIG that prior to the written guidelines, all requests to use the R & R funds were made through the USMS OGC and that USMS issued the written guidelines in 2009 because Congress increased USMS’s R & R funding to \$30,000 from \$6,000.

heading entitled “Documentation should include,” the guidelines state that for a “presentation or gift” the requesting employee should identify the “[o]ccasion or purpose” of the item and the “[n]ame and title of recipient.” In a second sub-heading entitled “[e]xamples of permissible uses of the R & R fund,” the guidelines identify “[e]xtending courtesies to representatives of foreign countries or state/local law enforcement officials,” and “[h]osting events and providing mementos to visiting dignitaries and community leaders, in furtherance of USMS interests,” both of which could apply to promotional items.

In November 2005, Congress passed the Science, State, Justice, Commerce, and Related Agencies Appropriations Act. In the Act Congress appropriated approximately \$800,000,000 to the USMS and specifically stated that \$6,000 was available for official reception and representation expenses.²⁶ Over the next four years, Congress passed several continuing resolutions and the USMS budget increased slightly, but the funds available for reception and representation remained at \$6,000. In March 2009, Congress passed an Omnibus Appropriations Act that increased the USMS appropriation to \$950,000,000 and made up to \$30,000 of the appropriation available for reception and representation expenses.²⁷ In November 2011, Congress increased the USMS budget to \$1,174,000,000, but reduced its R & R fund back to \$6,000.²⁸

IV. Background Regarding the U.S. Marshals Service

The USMS’s core missions are to provide physical security in courthouses, safeguard witnesses, transport and produce prisoners for court proceedings, execute court orders and arrest warrants, apprehend fugitives, and seize forfeited property. All USMS duties and responsibilities emanate from these core missions.

A. The Investigative Operations Division

The IOD is one of six “operational” divisions in the USMS.²⁹ It is responsible for providing support to both district and regional task forces to

²⁶ Science, State, Justice, Commerce and Related Appropriation’s Act, Pub. L. No. 109-108 (2005).

²⁷ Omnibus Appropriations Act, Pub. L. No. 111-8 (2009).

²⁸ Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55 (2011).

²⁹ The other divisions include: Judicial Security Division, Witness Security Division, Justice Prisoner and Alien Transportation System, Tactical Operations Division, and Prisoner Operations Division.

assist in the capture of state, local, and federal felony fugitives; participating in federal task forces; processing, reviewing, and coordinating the pursuit and apprehension of international fugitives and foreign fugitives; managing the USMS 15 Most Wanted Fugitives program; providing investigative and intelligence support to other USMS units; and providing support for USMS districts to assist in identifying, targeting, investigating, and prosecuting non-compliant sex offenders pursuant to the Adam Walsh Act. The IOD fulfills its mission through specialized branches, units and task forces, including:

1. **Regional Fugitive Task Forces (RFTFs)** – The USMS currently operates seven RFTFs that combine the efforts of federal, state, and local law enforcement agencies to locate and arrest dangerous fugitives and serve as a focal point for information sharing on fugitive matters. The large majority of RFTF members are “Task Force Officers” (TFO) assigned to the RFTF by state and local law enforcement agencies.³⁰ The first RFTF was the New York/New Jersey Regional Fugitive Task Force (NY/NJ RFTF). The requisition activities of this Task Force are discussed in Section V(C) of this report.
2. **Domestic Investigations Branch** – This branch is responsible for developing, managing and overseeing programs relating to domestic fugitive operations, such as the Organized Crime Drug Enforcement Task Forces (OCDETF) and the High Intensity Drug Trafficking Areas (HIDTA) program.
3. **International Investigations Branch** – This branch is responsible for tracking fugitives who flee the U.S. and locating and apprehending fugitives wanted by foreign nations suspected of being in the U.S. Some of the requisition practices of this branch are discussed in Section V(B) of this report.
4. **Sex Offender Investigations Branch (SOIB)** – In 2006, Congress designated the USMS as the lead federal agency in locating sex offenders who fail to register or do not comply with their state’s registry requirements. The USMS launched the SOIB in 2009. Some of the requisition practices of this branch are discussed in Section V(B) of this report.
5. **Criminal Intelligence Branch** – This branch provides tactical and strategic intelligence in support of criminal investigations, manages data sharing projects with other agencies, provides oversight of law enforcement and commercial information systems and tools used for investigations, and administers the

³⁰ TFOs are not USMS employees, but report to USMS Chief Inspectors who are in charge of the RFTFs. The TFOs’ salaries are paid for by the law enforcement agencies that assign them to the task forces.

Justice Detainee Information System – the USMS’s central law enforcement information system.

6. **Technical Operations Group (TOG)** – The TOG is made up of three branches that provide technical support to the USMS operational divisions and include an Electronic Surveillance Branch, Air Surveillance Branch, and Tactical Support Branch.

The IOD is responsible for the 15 Most Wanted Fugitives program, which prioritizes the investigation and apprehension of dangerous and high-profile fugitives. These cases are often referred to IOD by other USMS components, other federal agencies, state and local police agencies, or the National Center for Missing and Exploited Children. The IOD also ran other programs through its branches during the period of time examined in this report, including the “Fugitive Safe Surrender” program, which was an “initiative that encourage[d] persons wanted for non-violent felony or misdemeanor crimes to voluntarily surrender to the law enforcement officials in a faith-based or other neutral setting.”

B. The USMS Procurement Process

When a USMS employee determines the need to purchase a supply or service, he or she completes a form entitled “Requisition for Procurement of Supplies, Services, and Equipment,” which is also known as a USM-157. The person doing so is referred to as “the requester” and fills in the necessary portions of the form, including the request date, the delivery address, a description of the item, and the object class code. The USM-157 is then given to requester’s unit administrative officer who determines whether sufficient funds exist to purchase the item, and, if so, signs the USM-157. After this, the administrative officer submits the USM-157 to the “approving officer,” who is usually a senior USMS employee, such as a section chief or director, who then either approves or denies the request.

Once the senior official approves the USM-157, the requester purchases the items, which are then shipped to the chosen destination. After the items arrive, the requester or another third-party verifies that all items were received and then someone else conducts a secondary verification. The items are then put into storage.

For larger purchases, the USMS must obtain bids from at least three different vendors. However, if the cost of the purchase is less than \$3,000 for supplies or \$2,500 for services (known as the “micro-purchase level”), the purchase can be made by USMS employees to whom the USMS has issued “purchase cards,” without obtaining competitive bids. All of the USMS requisitions for promotional items examined in this report were “micro-purchases,” which do not require competitive bidding, and paid for using the requesters’ purchase cards.

The USMS uses object classes to place requisition purchases into categories for budgeting purposes. According to numerous witnesses there was no object class specifically for promotional items and IOD employees typically classified promotional items using a miscellaneous supplies object class, which acted as a “catch-all” for items without specific object class codes.

V. Factual Findings

This section presents the factual findings from the OIG’s investigation. In subpart A we discuss the overall purchase and use of promotional items in IOD, examining both data and testimony. In subpart B we address selected categories of promotional items, including challenge coins, Christmas ornaments, silk scarves, and neckties. In subpart C we examine the purchase and distribution of promotional items in a single, selected component of the IOD – the NY/NJ RFTF – which was one of the components of IOD that purchased and distributed the largest amount of promotional items.

A. IOD’s Purchases of Promotional Items, 2005-2010

In this section, we examine the amount of appropriated funds the IOD spent on promotional items and the types and amounts of promotional items purchased by the IOD.

1. Financial Analysis of IOD Promotional Items Purchases between 2005-2010

Figure 1 presents the amount of appropriated funds that the IOD spent on promotional items, by category, during each fiscal year from 2005 to 2010 and the total amount spent during that entire 6-year period. The chart is based upon a review of USMS requisition forms and/or invoices submitted to the USMS by vendors that sold promotional items to the IOD branches.³¹

³¹ The USMS provided the OIG with USM-157 requisition requests and corresponding invoices relating to the purchase of promotional items. In some instances, USMS provided the requisition request without a corresponding invoice or an invoice without a corresponding USM-157. We included data from all of the requisition documents we received when creating Figures 1, 2, and 3.

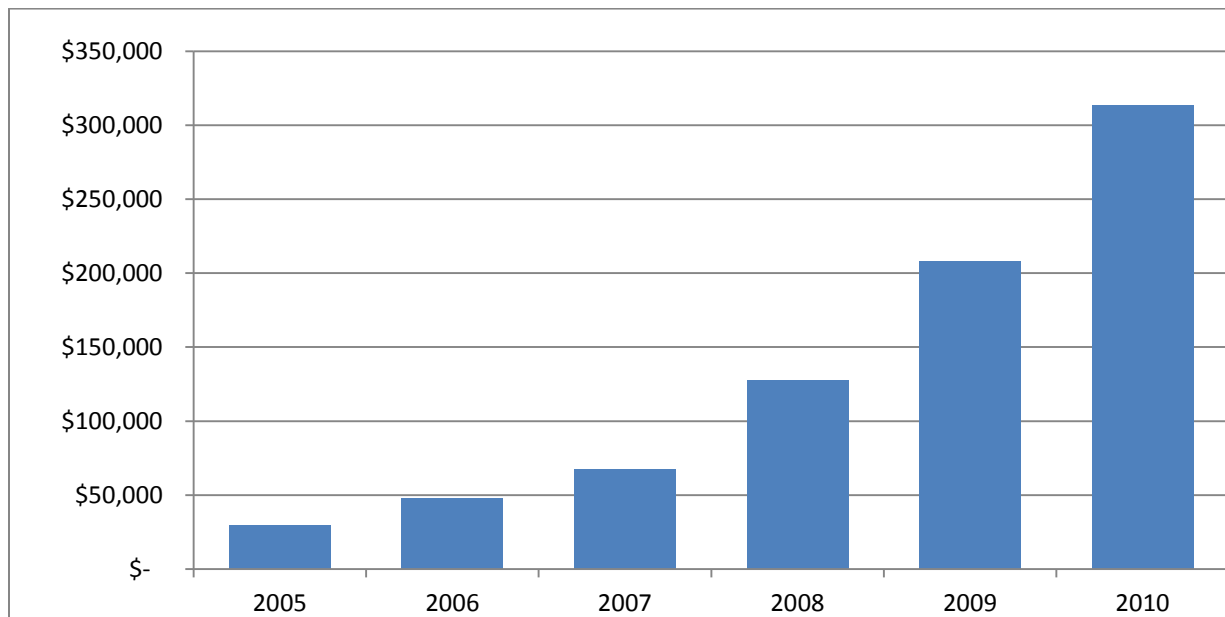
Figure 1: Dollars Spent by the IOD Branches on Promotional Items, Fiscal Years 2005-2010³²

Item	2005	2006	2007	2008	2009	2010	TOTALS
Coins							
Challenge	\$ 6,615.85	\$ 4,625.20	\$ 8,099.90	\$ 29,872.01	\$ 32,309.96	\$ 73,559.07	\$ 155,081.99
Sets	\$ 296.60	\$ -	\$ 6,025.86	\$ 198.06	\$ 1,573.88	\$ 800.73	\$ 8,895.13
Drinkware	\$ 3,838.19	\$ 2,984.78	\$ 12,590.89	\$ 9,644.52	\$ 18,609.53	\$ 43,290.50	\$ 90,958.41
Pins							
Lapel	\$ 3,044.50	\$ 5,494.67	\$ 7,005.38	\$ 6,815.90	\$ 7,265.59	\$ 6,970.28	\$ 36,596.32
Sets	\$ -	\$ 645.00	\$ 1,340.50	\$ 6,359.28	\$ 4,242.83	\$ 14,463.23	\$ 27,050.84
Patches, Emblems, Badges	\$ 4,908.15	\$ 4,109.00	\$ 6,956.24	\$ 20,692.64	\$ 7,586.65	\$ 15,048.30	\$ 59,300.98
Writing Implements							
Pens or Pen Sets	\$ 53.00	\$ 5,949.11	\$ 11,228.25	\$ 12,541.63	\$ 11,746.45	\$ 29,766.90	\$ 71,285.34
Pencils	\$ 104.00	\$ -	\$ -	\$ -	\$ 611.69	\$ 947.96	\$ 1,663.65
Other Stationary	\$ 776.50	\$ 2,637.61	\$ 133.75	\$ 4,022.79	\$ 10,900.39	\$ 17,056.98	\$ 35,528.02
Clothing	\$ 3,340.10	\$ 7,975.50	\$ 4,523.25	\$ 10,425.65	\$ 12,968.56	\$ 17,794.46	\$ 57,027.52
Neckties	\$ -	\$ -	\$ -	\$ -	\$ 4,178.00	\$ 2,932.00	\$ 7,110.00
Scarves	\$ -	\$ -	\$ -	\$ -	\$ 3,162.00	\$ 1,056.00	\$ 4,218.00
Bags	\$ 59.85	\$ 335.00	\$ 226.50	\$ 553.50	\$ 1,880.10	\$ 1,784.48	\$ 4,839.43
Cufflinks or Tie Pins/Bars	\$ -	\$ -	\$ 120.00	\$ 206.32	\$ 5,176.14	\$ 3,287.14	\$ 8,789.60
Blankets or Throws	\$ 3,222.50	\$ 2,655.00	\$ 345.00	\$ 1,215.38	\$ 4,687.90	\$ 3,958.79	\$ 16,084.57
Key chains, Tags or Rings	\$ 513.30	\$ 4,050.00	\$ 2,901.72	\$ 2,231.50	\$ 4,628.84	\$ 7,218.50	\$ 21,543.86
Stuffed Bears	\$ -	\$ 107.00	\$ 758.00	\$ 1,094.00	\$ 3,100.80	\$ 1,206.24	\$ 6,266.04
Christmas Ornaments	\$ -	\$ -	\$ -	\$ 2,875.00	\$ 4,622.70	\$ 6,108.25	\$ 13,605.95
Crystal Statues	\$ -	\$ -	\$ 630.50	\$ -	\$ 3,044.63	\$ 1,317.56	\$ 4,992.69
Other	\$ 2,366.08	\$ 102.00	\$ 4,236.62	\$ 13,858.31	\$ 40,696.00	\$ 45,208.77	\$ 106,467.78
Other: Not Itemized	\$ -	\$ 5,867.00	\$ 134.00	\$ 5,200.50	\$ 25,193.55	\$ 19,417.32	\$ 55,812.37
TOTALS	\$ 29,138.62	\$ 47,536.87	\$ 67,256.36	\$ 127,806.99	\$ 208,186.19	\$ 313,193.46	\$ 793,118.49

As revealed in Figures 1 and 2, the growth in IOD promotional items expenditures from fiscal years 2005 to 2010 was dramatic. The amount of money that IOD spent on promotional items increased by 63 percent between fiscal years 2005 and 2006, 42 percent between fiscal years 2006 and 2007, 90 percent between fiscal years 2007 and 2008, 63 percent between fiscal years 2008 and 2009, and 50 percent between fiscal years 2009 and 2010. Between fiscal years 2005 and 2010, a 6-year period, the total amount spent by IOD on promotional items increased by 975 percent.

³² As described in Sections IV(B) and (C), IOD did not have a “promotional items” object class with which to categorize these purchases at the time they were purchased. Instead, IOD employees used a generic object class entitled “miscellaneous supplies” to categorize promotional items purchases. Based upon witness interviews and the definition of “promotional items” developed by the USMS in Policy Directive 1.2, issued on October 5, 2011, and attached to this report as Appendix C, we concluded that the items contained in this chart were promotional items.

Figure 2: Total IOD Promotional Item Expenditures by Fiscal Year



In fiscal year 2005, the IOD had 112 full-time operational employees who, according to witnesses, were in a position to distribute promotional items.³³ That same year, as illustrated in Figure 1, the IOD spent \$29,138.62 on promotional items, or \$260.17 per operational employee.³⁴ In fiscal year 2006, the IOD spent \$308.68 on promotional items for each of its 154 operational employees. In the next fiscal year, 2007, there were 206 full-time operational employees and the IOD spent \$326.49 per operational employee on promotional items. In fiscal year 2008, the IOD had 210 operational employees and spent an average of \$608.61 per employee on promotional items. In fiscal year 2009, the number of operational employees increased to 259 and spending on promotional items was \$803.81 per operational employee. The next fiscal year, the number of operational employees was 293 and spending on promotional items increased to \$1,068.98 per person. IOD's spending on promotional items per operational employee more than tripled between fiscal years 2005 and 2010.

³³ Full-Time operational employees include deputy U.S. Marshals and others who were in a position to interact with other law enforcement agencies. It does not include administrative personnel.

³⁴ We are not asserting in this report that each full-time operational employee distributed promotional items, but instead are expressing the cost of promotional items on a per-employee basis to give a different perspective on the magnitude of these expenditures.

Figure 3 presents the amount of appropriated funds spent on promotional items by the individual IOD components between fiscal years 2005 and 2010. The 7 RFTFs accounted for 43 percent of total promotional items purchased by the IOD. The NY/NJ RFTF, which we examined as part of this report, was responsible for 48 percent of the promotional items purchased by the RFTFs. In just 2 years, the Sex Offender Investigations Branch spent \$166,288.97 on promotional items, which made up 21 percent of IOD's total spending on promotional items for all 6 years. Combined, the RFTFs and the SOIB accounted for 64 percent of all purchases of promotional items made by IOD during the 6 fiscal years.

Figure 3: Total Promotional Items Expenditures by IOD Division/Branch, Fiscal Years 2005-2010

	2005	2006	2007	2008	2009	2010	Totals	Branch total
Headquarters	\$0.00	\$528.00	\$13,118.55	\$25,414.98	\$15,083.95	\$22,456.31	\$76,601.79	\$76,601.79
Regional Fugitive Task Forces								\$337,419.52
Capital Area (CARFTF)	\$11,302.10	\$2,727.50	\$1,836.00	\$4,481.00	\$900.00	\$780.00	\$22,026.60	
Gulf Coast (GCRFTF)	\$0.00	\$0.00	\$9,554.26	\$6,832.16	\$14,525.30	\$13,365.52	\$44,277.24	
Great Lakes (GLRFTF)	\$1,424.09	\$9,898.37	\$2,829.50	\$6,741.50	\$9,308.75	\$14,319.17	\$44,521.38	
NY/NY (NY/NJ RFTF)	\$5,384.80	\$17,482.88	\$7,492.50	\$27,389.68	\$43,227.75	\$60,821.51	\$161,799.12	
Pacific Southwest (PSWRFTF)	\$834.50	\$1,876.00	\$0.00	\$3,440.00	\$2,595.50	\$1,405.00	\$10,151.00	
Southeast (SERFTF)	\$1,488.25	\$4,477.00	\$7,717.49	\$18,568.49	\$10,399.55	\$9,025.90	\$51,676.68	
Florida (FRFTF)	\$0.00	\$0.00	\$0.00	\$2,967.50	\$0.00	\$0.00	\$2,967.50	
Domestic Investigations Branch (DIB)	\$1,421.00	\$1,383.86	\$1,995.00	\$3,350.00	\$4,001.56	\$2,748.00	\$14,899.42	\$55,873.40
OCDETF	\$0.00	\$6,373.00	\$12,445.08	\$7,992.75	\$7,457.25	\$6,705.90	\$40,973.98	
International Investigations Branch	\$1,220.54	\$2,364.26	\$0.00	\$7,821.00	\$22,779.75	\$23,535.27	\$57,720.82	\$57,720.82
Sex Offender Investigations Branch (SOIB)	\$0.00	\$0.00	\$0.00	\$0.00	\$45,241.55	\$121,047.42	\$166,288.97	\$166,288.97
Criminal Intelligence Branch (CIB)	\$0.00	\$0.00	\$1,611.60	\$0.00	\$0.00	\$17,291.00	\$18,902.60	\$18,902.60
Technical Operations Group (TOG)	\$800.00	\$426.00	\$7,835.30	\$12,302.88	\$29,889.28	\$19,692.46	\$70,945.92	\$70,945.92
Unspecified/Unable to Determine	\$5,263.34	\$0.00	\$821.08	\$505.05	\$2,776.00	\$0.00	\$9,365.47	\$9,365.47
Totals	\$29,138.62	\$47,536.87	\$67,256.36	\$127,806.99	\$208,186.19	\$313,193.46	\$793,118.49	\$793,118.49

2. Witness Accounts Regarding IOD Purchases and Uses of Promotional items

Witnesses from the IOD stated that during the 2005 to 2010 time period neither the USMS nor the Department had a specific policy regarding the purchase, tracking, or distribution of promotional items. According to one witness, the IOD was relying on the hope that its employees would use “good judgment” when purchasing promotional items. A large majority of witnesses told us that when promotional items were received they were stored in desk drawers, locked closets, and distributed to IOD employees on an as-needed basis without identifying or tracking who took the promotional items, the number of promotional items taken, the purpose for which the promotional items would be used, or to whom they would be given. Furthermore, the vast majority of witnesses had no knowledge, or limited knowledge, of the R & R fund. The former chief of IOD’s Policy and Programs Division told us that there was no policy limiting the amount of money that IOD could spend on promotional items and the agency was not required to keep track of the promotional items it was purchasing and distributing.

The USMS had approved vendors that marketed and sold USMS-themed merchandise, including promotional items, through websites. The retailers sold a variety of USMS-themed items, such as challenge coins, hats, stuffed animals, patches, T-shirts, sweatshirts, blankets, drink ware, holiday ornaments, pens, cufflinks, lapel pins, clocks, watches, coasters, plaques, medallions, podium banners, and crystal statues, among many other types of items.

IOD witnesses, including USMS managers and deputy U.S. Marshals, told us that they gave promotional items to foreign and domestic dignitaries, state and local law enforcement officers, chiefs of police, non-USMS individuals who provided assistance to the USMS, federal officials from other law enforcement agencies and TFOs assigned to RFTFs. These witnesses told us they needed to reciprocate similar gifts from their counterparts in other agencies. They also provided various justifications for providing promotional items to these individuals. Some witnesses stated that promotional items were given to people attending USMS conferences to thank them and to provide the attendees with USMS contact information. Others told us that promotional items were given to people to express USMS’s appreciation of their assistance (or the assistance of their agency) during USMS investigations. Witnesses also told us that they used promotional items to provide “goodwill” and promote the USMS and, in particular, their IOD branch, to state and local law enforcement agencies for the purposes of securing the participation and support of those agencies, explaining the role of the USMS and the Adam Walsh Act, developing

relationships, and convincing the law enforcement agencies to work in partnership with the USMS on various projects.

Several witnesses told us that promotional items were used for informal awards and given to USMS employees and state and local TFOs. While the USMS did not have a specific policy on promotional items, as described above in Section III, both the Department and the agency did have policies relating to internal awards. According to witnesses, those policies only involved the awarding of cash and paid leave and did not include the distribution of promotional items or providing awards to TFOs.

According to Joanne Pearlman, an attorney-advisor with the JMD's Office of General Counsel, the USMS relies on the public for help with fugitive apprehensions and, to a certain extent, relies upon the goodwill of others to perform its missions.³⁵ She stated that the USMS has some discretion on how to spend its appropriated funds and that USMS officials have a better sense of what furthers the agency's mission than others. Consequently, according to Pearlman, if the USMS could document valid reasons for the use of promotional items and if the promotional items furthered the USMS's mission, a legal argument could be made to support the USMS's purchase of the promotional items.

B. Selected IOD Purchases of Promotional Items

In this section we describe the IOD's purchase of selected categories of promotional items between 2005 and 2010, including challenge coins, Christmas ornaments, neckties and silk scarves, and retirement gifts.

1. Challenge Coins

Challenge coins are small coins or medallions bearing an organization's insignia or emblem and are carried by the organization's members. In a military setting, challenge coins are normally presented by unit commanders in recognition of special achievements by members of the unit. Until recently, challenge coins were uniquely military, but law enforcement agencies throughout the U.S. at both the state and federal level, including the USMS, have adopted their use. According to several USMS employees, challenge coins promoted unit pride.

³⁵ Joanne Pearlman is a pseudonym. We used pseudonyms throughout this report to protect the privacy of USMS and DOJ employees who are not current or former Senior Executive Service personnel.

Photo 1: IOD Challenge Coins



Figures 1 and 3 show the annual number and cost of challenge coins purchased by IOD during 2005 to 2010. As shown in the figures, the different branches within IOD purchased 28,586 challenge coins for \$155,081.99 (an average cost of \$5.43 per coin) during this 6-year period.³⁶ The money used to purchase these challenge coins came from funds appropriated to the USMS by Congress. The amount of appropriated funds spent on challenge coins between 2005 and 2010 increased 1000 percent.

Several witnesses told us that every division and unit within the USMS, including the Director and Associate Director of the USMS, had a unique challenge coin. Robert Finan, a former Associate Director for Operations, who served in that position from 2008 to 2011, told us that he gave his associate director coin (depicted in Photo 1) to visiting dignitaries, such as senior leadership officials from the California Judiciary. He stated that he was not trying to cement a relationship with the officials, but by giving them a challenge coin he was being friendly. Finan also told us that he would give his challenge coins to USMS employees who were leaving one of his divisions or retiring from the USMS.

A contractor who ordered many of the challenge coins for the IOD told us that the coins were “used basically towards awards,” and given to dignitaries and to police departments that assigned officers to fugitive task forces. Other witnesses, including USMS managers and deputy U.S. Marshals, made similar statements, telling us that the challenge coins were used for “diplomacy,” awards for local police officers assigned to task forces, “networking,” “pride,” “goodwill,” and for promoting the different branches or task forces. The witnesses also told us that obtaining the cooperation and assistance of local community leaders, law enforcement agencies, and others is of paramount importance to the functioning of the USMS and that

³⁶ This figure includes the cost of the coin itself, set-up charges, and shipping and handling expenses for the challenge coins. On a per-operational employee basis, the volume of coins purchased was 10 coins per employee in fiscal year 2005, 3 coins in fiscal year 2006, 7 coins in fiscal year 2007, 26 coins in fiscal year 2008, 22 coins in fiscal year 2009, and 48 coins per operational employee in fiscal year 2010.

the ability to give challenge coins or other promotional items to individuals was valuable to that effort. Others told us that they simply traded challenge coins with officers and agents from other domestic and foreign law enforcement agencies.

The IOD purchased 14,026 challenge coins in fiscal year 2010, which was an increase of 8,429 (150 percent) over fiscal year 2009. One explanation for that jump in challenge coin expenditures was the creation of the SOIB in late 2009, which was formed to handle the USMS's responsibility under the Adam Walsh Act of assisting state and local jurisdictions with locating and apprehending sex offenders who violated sex offender registration requirements. Patricia Albright, a Management and Program Analyst in the SOIB, told us that the Chief of the SOIB approved the design of an SOIB coin in 2009 and then the unit placed orders for challenge coins for 15 different offices located in 8 different SOIB regions and additional coins to distribute at training seminars.³⁷

A Chief Inspector of the SOIB, told us that when he was launching the SOIB in 2009, he was directed by the SOIB's then-Acting Chief to "get [SOIB's] name out there," explain the SOIB's purpose, and to purchase challenge coins to provide to individuals with whom the unit made contact. The then-Acting Chief told us that he probably directed the regional SOIB chiefs to purchase 500 challenge coins each to give away to local police departments. He stated that because the majority of the SOIB's cases started at the state and local level, it was important for Deputy U.S Marshals to make connections with local officials and that giving them challenge coins would provide a token for state or local agents to remember to call the USMS for cases involving non-compliant sex offenders. Albright made similar comments and told us that the purpose of the SOIB challenge coin was to promote the SOIB and that challenge coins could help build relationships with local law enforcement, whose assistance was necessary to the fulfillment of the Adam Walsh Act requirements.

Ultimately, SOIB management approved the purchase of 7,805 SOIB challenge coins, for \$41,658.53 in March, May, and September 2010. The SOIB challenge coins accounted for approximately 56 percent of the IOD challenge coins purchased in 2010, and 57 percent of the money spent on coins that year.

SOIB also purchased challenge coins for special events that were unrelated to SOIB's mission. For example, in 2009, the USMS celebrated its 220th anniversary. In August of that year, SOIB ordered 290 of the 220th anniversary challenge coins (see Photo 1, above) for \$1,950. According to

³⁷ Patricia Albright is a pseudonym.

witnesses, the USMS was celebrating its anniversary nationally, and agency employees were using the challenge coins and other items to promote the USMS. The 220th Anniversary coins were distributed at various functions, including a rodeo.

In another instance, IOD personnel approved the purchase of 350 “America’s Most Wanted 1000th Capture” challenge coins for \$1,680.³⁸ A contractor who provided budget support to the International Investigations Branch told us that the branch used appropriated funds to purchase the coins. According to Supervisory Inspector Carla Russert, the producers of the television show “America’s Most Wanted” held a celebration in New York City to mark the 1000th capture of a fugitive profiled on the television show.³⁹ Gift bags, which included the challenge coins purchased by the IOD, were distributed to all of the party attendees, which included USMS employees, state and local law enforcement officials, and private citizens associated with the show.

2. Christmas Ornaments

Beginning in approximately 2008 and continuing into 2010, IOD management authorized the purchase with appropriated funds of 1,679 USMS-themed Christmas ornaments.⁴⁰ The ornaments cost a total of \$13,605.95, an average cost of \$8.10 per ornament.

Photo 2: 2008, 2009 and 2010 USMS Christmas Ornaments

Source: Charles G. Brown, Inc. (t/a: API).



³⁸ America’s Most Wanted was a television show that reenacted true crimes and profiled the individuals accused of those crimes. The purpose of the show was for viewers to provide law enforcements officials with information leading to the apprehension and arrest of the individuals suspected of committing the oftentimes violent offenses.

³⁹ Carla Russert is a pseudonym.

⁴⁰ Because of a USMS directive banning the purchase and distribution of promotional items, which we discuss below, none of the 453 ornaments that were purchased in 2010 were distributed. According to one witness, the 453 ornaments, which cost \$2,725, were still in his office at the time of his interview in June 2012.

According to witnesses, the ornaments were typically ordered by the Assistant Director of IOD for the purpose of distributing them to IOD personnel and guests at the annual Christmas party. Finan, who was Associate Director for Operations and oversaw the Operations Divisions, including IOD, for two of the years we examined in this report, told us that he never authorized the purchase of ornaments, but knew that they were given out as gifts. According to Assistant Chief David Kellerman, the ornaments were given to IOD employees as a “word of encouragement” and “recognition of their work done throughout the year.”⁴¹ He also stated that the ornaments improved morale and that the USMS employees were “generally appreciative” for receiving them. Other witnesses told us that USMS delivered Christmas ornaments to the individuals operating the tip-lines at America’s Most Wanted.

The Financial Program Manager for the Sex Offender Branch of IOD, who verified that funds were available for the purchase of 285 ornaments in 2008 and 310 in 2009 told us that she did not know why she signed the request for the ornaments, but that doing so was “stupid.”⁴² She also told us that IOD’s purchase of the ornaments was “insane” and “financially irresponsible.” Russert, who approved the purchase of 285 ornaments in 2008, told the OIG that she “didn’t think much” of ordering the ornaments and that she thought they were “cute.” A Deputy Chief in the IOD told us that he approved the purchase of 250 ornaments in 2009 because the individual coordinating the order of the ornaments worked in his division and likely told him that (former) Assistant Director Mike Earp authorized the purchase.⁴³ The Deputy Chief also said that he did not know for what purpose the ornaments were used, but “assum[ed] they were given out” and “never felt there was an issue with [promotional items].”

3. Neckties and Silk Scarves

Beginning in August 2009, several IOD branches began purchasing silk scarves and neckties. Between 2009 and 2010, IOD purchased 104 silk scarves for \$4,218, or \$40.55 per scarf and 246 silk ties for \$7,110, or \$28.90 per necktie. These items were particularly popular with the International Investigations Branch, which is responsible for apprehending fugitives that are wanted by foreign nations and believed to be in the United

⁴¹ David Kellerman is a pseudonym.

⁴² The Financial Program Manager also signed off on the purchase of 450 ornaments in 2010, but, in that instance, the request did not identify the items being purchased, but instead listed the requested items as “supplies.”

⁴³ Mike Earp retired from the USMS in 2011 and initially agreed to an interview with the OIG. However, he cancelled the interview and did not return our telephone calls or e-mails to reschedule the interview.

States. Witnesses from the International Investigations Branch told us that the silk ties and scarves were given to their foreign counterparts as a gesture of goodwill, as an expression of thanks, and in some instances, as farewell gifts to foreign officials whose embassy tours had ended. A Chief Inspector with the International Investigations Branch told us that there were a lot of promotional items to share as “goodwill” and that he wanted to purchase promotional items that he thought were appropriate, such as ties, cufflinks, and scarves for women. He explained to us that these items were appropriate because when he travelled to foreign jurisdictions, he received similar items from his foreign counterparts.

The purchasing of scarves and neckties was not limited to the International Investigations Branch. We also learned that in addition to the first order of neckties, IOD officials from other branches ordered both items plus personalized boxes for the neckties bearing the names of the chiefs of the TOG and the SOIB, as well as boxes that only had the USMS logo.⁴⁴ According to the Financial Program Manager for the SOIB, she placed the order for personalized boxes for the ties because she thought it was “awesome.” However, she told us that when the boxes arrived with the various unit chiefs’ names and titles printed upon them, the managers were “mortified” and removed the items from the boxes and never used them. The Financial Program Manager also told us that purchasing the boxes and the ties was “poor financial management...poor taste and poor judgment.”

4. Retirement Awards

The anonymous letter to the OIG alleged that IOD managers were using appropriated funds to purchase costly retirement gifts for other IOD and USMS managers. Witnesses told us that certain promotional items, such as 4-inch and 8-inch crystal statues, horse blankets in a decorative box, pewter desk sets, and plaques were used as retirement gifts for USMS employees and, in some instances, non-USMS law enforcement officers. (See Photo 3, below) Kellerman stated that someone from senior management, either the Assistant Director of IOD, Branch Chiefs, or Chief of Investigative Operations would determine what type of items to purchase for retirements. He stated further that he was never given “firm direction” on how much money to spend on retirement gifts and that the senior managers would tell him what they wanted him to purchase. Finan told us that the retirement gifts were paid for using funds appropriated to the USMS and that it was appropriate for USMS to do so because it was a “gift

⁴⁴ We could not determine the cost of the individual personalized boxes, as the fee appears to have been included in the cost of the necktie, which was \$25 per tie. However, the “Personalization Setup” for each manager’s boxes was \$50, for a total cost of \$100.

of service” to the employees who had served the USMS for an extended period of time.

Photo 3: USMS Large Crystal Statue and Plaque

Source: Charles G. Brown, Inc. (t/a API).



Between 2005 and 2010, IOD purchased 485 blankets or throws for a total price of \$16,084.57 for an average of \$33.16 per blanket or throw. The blankets ranged in price from \$25 for a fleece blanket to \$149 for a lamb wool blanket and custom box with the USMS seal. The division also purchased 63 crystal statues in both large and small sizes for \$4,992.69 for an average of \$79.24 per statue. The large statue cost \$125 and the small statue cost \$38.

C. The New York/New Jersey Regional Fugitive Task Force

In this section, we examine the expenditures of the NY/NJ RFTF to illustrate how an individual IOD branch purchased and used its promotional items.

In 2000 Congress passed the Presidential Threat Protection Act, which directed the Department to “establish permanent Fugitive Apprehension Task Forces consisting of federal, state, and local law enforcement authorities in designated regions of the U.S., to be directed and coordinated by the USMS, for the purpose of locating and apprehending fugitives.”⁴⁵ According to Walter Blanco, the Chief Inspector of the NY/NJ RFTF, the mission of the RFTFs is to “target the most dangerous, violent felony fugitives.”⁴⁶

In May 2002, the USMS launched the NY/NJ RFTF, its first RFTF. Blanco, who became the task force’s commander in 2008, told us that it is

⁴⁵ Presidential Threat Protection Act of 2000, Pub. L. No. 106-544, § 6, 114 Stat. 2718, (December 19, 2000).

⁴⁶ Walter Blanco is a pseudonym.

the “flagship and the model” of all other regional fugitive task forces.⁴⁷ He told us that in order to start the task force the USMS had to get federal, state, and local law enforcement agencies to join the NY/NJ RFTF. This included convincing those agencies to refer cases to the task force for investigation and assigning law enforcement officers and agents, known as TFOs, to the program on a full-time basis. Blanco also stated that the law enforcement agents assigned to the NY/NJ RFTF become “deputized U.S. Marshals” who have all of the authorities of Deputy U.S. Marshals.

Blanco, Laura Ballard (the Administrative Officer of the NY/NJ RFTF), and Deputy Commander John Erickson told us that the size of the task force and the number of participating law enforcement agencies has grown dramatically since 2002.⁴⁸ The NY/NJ RFTF began with 3 offices in 2002, added an additional office in 2003, increased to 6 offices in 2004, and jumped to 13 offices in 2007. It initially had 30 TFOs when it began, added 20 more in 2003, increased by 75 between 2004 and 2006, and expanded to 350 in 2007. At present, the NY/NJ RFTF is working with 80 federal, state, or local agencies. It has 13 offices and 316 full-time investigators from participating agencies.

The TFOs assigned to the NY/NJ RFTF are not USMS employees and do not qualify for awards under the FEIA. Consequently, according to Blanco and Erickson, as managers they cannot give time-off or similar awards to TFOs who work for the task force for performing beyond expectations or closing difficult or dangerous fugitive apprehension cases. Blanco and Erickson told us that in order to compensate for this deficiency they provided promotional items, such as challenge coins and plaques, to award TFOs for the purpose of incentivizing them to continue in their efforts for the NY/NJ RFTF. Erickson told us that doing so was “good for camaraderie,” and a way to distinguish people for “good work” and “keep good morale.” NY/NJ RFTF Supervisory Inspector Richard Danvers told us that providing awards to the TFOs at the end of the year was a way of fostering “friendly competition” and “productivity” in the task force and made the TFOs feel appreciated.⁴⁹ Danvers also told us that he did not view the awards as promotional items, but instead as operational expenses.

As part of working with local police and state law enforcement agencies, the NY/NJ RFTF runs yearly training programs for all task force members. The NY/NJ RFTF sent 4,132 TFOs to 47 different training programs between 2005 and 2010. Blanco told us that everyone who

⁴⁷ Blanco was preceded as commander of the NY/NJ RFTF by two different Deputy U.S. Marshals during the period of time examined in this report.

⁴⁸ Laura Ballard and John Erickson are pseudonyms.

⁴⁹ Richard Danvers is a pseudonym.

attends the training, whether a USMS employee or TFO, receives a shirt, pants, and hat in order to make them identifiable at the training facility. Erickson told us that in addition to the clothing, the TFOs attending training are sometimes given tactical gear, such as mini-flashlights that can be used for “lowligh emanation searching.”⁵⁰ As another part of training, Erickson told us that the trainee with the best shooting score is awarded with a “Top Gun” challenge coin (See Photo 4).

Photo 4: NY/NJ RFTF “Top Gun” Challenge Coin

Source: EPolice Supply



During the period of time examined by the OIG, the NY/NJ RFTF also participated in the Federal and Local Cops Organized Nationally (FALCON) and Fugitive Safe Surrender programs, in which the NY/NJ RFTF worked with local law enforcement officers and civilian volunteers to help fugitives surrender and clear their warrants at non-threatening locations, such as churches. The NY/NJ RFTF supervised 9 of these programs between 2005 and 2010. Erickson told us that the majority of people involved in the programs are non-USMS individuals and included, among other things, volunteers from social services agencies and local law enforcement agencies. He stated further that as part of the program, the NY/NJ RFTF provided pins to the volunteers so that the participants would recognize volunteers and to thank people for their support.

Blanco and Erickson also told us that promotional items were often given to dignitaries, law enforcement officers from state and local police forces and other federal agencies, and, on occasion, to other USMS personnel. Blanco also told us that he used promotional items as a means to say “thank you” to other law enforcement personnel and to promote

⁵⁰ We found that the T-shirts, pants, and hats, distributed by the NY/NJ RFTF at these training sessions were parts of a uniform, that the mini-flashlights were “tactical”, and that neither were promotional items. Consequently, we did not include items identified on the USMS invoices as being a “uniform” or “tactical” in our analysis of promotional items purchased by the IOD.

goodwill toward the USMS, and that networking with corporate or department heads, law enforcement, and community and religious leaders was paramount to the USMS's mission. He also told us that he was embarrassed by the fact that he can no longer give out promotional items, especially when his counterpart is likely to give him a promotional item from his or her agency.

Like the other units in the IOD, the NY/NJ RFTF purchased and used challenge coins. The NY/NJ RFTF purchased different types of challenge coins, including a unit coin, and a "commander's coin." Danvers said he gave unit coins to his TFOs so that they could give them to other law enforcement agencies while on travel related to apprehending fugitives. Blanco told us he gave "commander's coins" to individuals visiting the NY/NJ RFTF headquarters and to thank people for assisting the USMS. (See Photo 5).

Photo 5: NY/NJ RFTF Commander's Coin



The NY/NJ RFTF gained notoriety in 2008, 2009, and 2010, when several of its deputy U.S. Marshals and TFOs were featured in the Arts & Entertainment Network's (A & E) reality television show entitled "Manhunters: Fugitive Task Force." According to A & E's website, it had "unparalleled and unprecedented access, granted by the Department of Justice and the U.S. Marshals, to ride along with the agents of the NY/NJ Task Force, the busiest in the country, as they track[ed] down violent criminals on the run."

Photo 6: Manhunters: Fugitive Task Force Promotional Posters



Blanco and Danvers told us that the Manhunters program was very important to the USMS and Director John Clark. Blanco told us that Director Clark and the USMS OGC approved the NY/NJ RFTF's participation in the program and that he was told by his regional chief that Director Clark viewed the Manhunters program as a "homerun" for the USMS and believed that Blanco should keep promoting the show.

A & E developed merchandise to promote the Manhunters program, including hooded sweatshirts, T-shirts, and coffee mugs, and produced DVDs of the series, all of which are available for purchase from A & E's website. According to Blanco, A & E provided him with some of its merchandise, including posters, T-Shirts, and DVDs and in other instances the USMS purchased these same types of items for the NY/NJ RFTF. He told us that he used promotional items related to the Manhunters program at seminars, college career days, and similar events and gave the items away to people who asked for them. Blanco also stated that after Manhunters premiered, distributing promotional materials related to the show made "the Marshals Service look great," which was good for "public awareness" and "community relations."

Blanco told us that there were no policies for him to rely upon when approving USM-157s for the purchase of promotional items. He stated further that he followed "standard business practices from previous

commanders” when approving requisition requests. However, as detailed below, we found that the quantities of promotional items purchased in recent years by the NJ/NY RFTF (like other components of IOD) were unprecedented.

Blanco and Erickson, who acted as approver and/or budget officer on all of the NY/NJ RFTF promotional items purchases, were located in two different offices and travelled often. According to Blanco, Erickson, and Ballard, when a NY/NJ RFTF deputy marshal wanted to make a purchase, he or she would send an e-mail to Blanco and Erickson making the request. The three witnesses told us that if Blanco approved the purchase, he would do so through an e-mail response to the requester and Erickson and copy Ballard. Ballard would then complete the USM-157 and would use signature stamps to sign the document for Blanco and Erickson. Blanco told us that he used this process, rather than the process described in Section IV(B), above, because he was often travelling and that this was most efficient way to handle requisition requests. Blanco and Ballard told us that they ceased engaging in this activity when they were advised it was inappropriate.

Figure 4 below details the amount of money spent by the NY/NJ RFTF on promotional items during fiscal years 2005 through 2010. Blanco, Erickson, and Ballard told us that the reason for the increase in spending on promotional items during this period was because the size of the NY/NJ RFTF was growing.⁵¹ As illustrated in Figure 4, the task force’s spending on promotional items grew by 1,029 percent during the 6-year period examined by the OIG.

⁵¹ As discussed above, the NY/NJ RFTF grew from 3 offices and 30 TFOs in 2002 to 13 offices and 350 TFOs in 2007.

Figure 4: Promotional Items Purchased by the NY/NJ RFTF, Fiscal Years 2005 - 2010⁵²

Item	Fiscal Year						TOTALS
	2005	2006	2007	2008	2009	2010	
Challenge Coins				\$6,173.50	\$,349.74	\$5,757.20	\$18,280.44
Drinkware ⁵³	\$856.80		\$1,178.00	\$1,821.73	\$1,363.00	\$9,938.34	\$15,157.87
Pins							
Lapel	\$1,382.50	\$870.00	\$888.25	\$1,411.00	\$271.92	\$562.57	\$5,386.24
Sets				\$2,505.00	\$160.75	\$3,113.54	\$5,779.29
Patches, Emblems, Badges	\$660.50	\$1,833.00	\$1,325.25	\$1,711.99	\$2,277.88	\$1,853.25	\$9,661.87
Writing Implements							
Pens or Pen Sets		\$2,245.00	\$1,815.00	\$1,800.81	\$1,199.69	\$730.11	\$7,790.61
Pencils					\$58.22		\$58.22
Other Stationery ⁵⁴		\$522.88		\$498.75		\$206.38	\$1,228.01
Clothing			\$152.00	\$2,145.00		\$7,813.00	\$10,110.00
Neckties					\$785.00	\$1,400.00	\$2,185.00
Bags						\$52.56	\$52.56
Cufflinks or Tie Pins/Bars					\$654.00	\$900.00	\$1,554.00
Blankets or Throws	\$2,485.00	\$2,655.00				\$2,997.00	\$8,137.00
Key chains, Tags or Rings		\$3,490.00	\$1,200.00	\$1,700.00	\$1,468.00	\$1,246.20	\$9,104.20
Other ⁵⁵			\$800.00	\$2,421.40	\$3,446.00	\$4,834.04	\$11,501.44
Other: Not Itemized ⁵⁶		\$5,867.00	\$134.00	\$5,200.50	\$25,193.55	\$19,417.32	\$55,812.37
TOTALS	\$5,384.80	\$17,482.88	\$7,492.50	\$27,389.68	\$43,227.75	\$60,821.51	\$161,799.12

⁵² Costs include pro rata share of shipping charges calculated based on number of items in the shipment.

⁵³ Drinkware includes mugs, glasses, tumblers, and water bottles.

⁵⁴ Other stationery includes padfolios, journals, and rulers.

⁵⁵ Other includes business card cases, mini-bats, wall plaques, pillows, coasters, poker chips, engraved cutting tools, ornamental bookmarks, mouse pads, and mug wraps.

⁵⁶ We analyzed the requisition requests provided to us by the USMS for purchases made by the NY/NJ RFTF to determine the amount of appropriated funds spent on promotional items and compared our findings to a spreadsheet created by Ballard depicting her analysis of total dollars spent by the NY/NJ RFTF on promotional items. Ballard apparently included requisition requests that were not provided to the Inspector General and we have included the difference in our analysis as "Other: Not Itemized" to account for the difference.

D. Actions Taken After the Complaint

After the OIG received the anonymous letter and opened this investigation, the JMD and the USMS took several steps to address the issue of purchasing promotional items by Department personnel.

1. JMD Seminars

In late 2010, representatives from the Offices of the Controller and the Assistant Attorney General provided seminars to all of the Department's components, including the USMS, regarding "Trinkets, Travel, and Other Talked About Uses of Government Funds." Pearlman, the attorney-advisor with JMD's OGC, told us that the seminars were given in response to the anonymous letter and concerns about fiscal responsibility. The USMS received training on November 3, 2010. The two and one-half-hour program included a half-hour discussion on appropriations, awards, and gifts, and a 20-minute group discussion. JMD's attorneys provided specific situational examples in a handout given to the attendees in which they described scenarios involving the use of appropriated monies for promotional items. In a subheading entitled "Purchasing of Silk Neckties with Agency Seal," JMD provided the following example and commentary:

As a "thank you" for several government and non-government staff, an Assistant Director decided that he wanted to purchase silk neckties as a way to not only thank everyone but also as a way to help convey the agency's mission with a specific agency logo. The neckties were a big hit and they ordered hundreds so that they could have them on hand to hand out to other federal, state and local personnel.

Take Away: It is unclear whether the first purchase was appropriate, and the additional purchase of "hundreds" was definitely not appropriate. The initial purchase was arguably in the nature of an award, if the "thank you" was for a specific accomplishment or work performance. Again, we caution that such purchases and presentations should be done within the component's awards program, and should be well-documented, especially those given to outside individuals. The purchase of "hundreds" to have on hand to give out is even more of an issue. It appears that these will just be "giveaways" to outsiders, which are not appropriate, in part because they cannot be justified as awards. To the extent they include the "logo" it still creates problems in that (a) they do not appear to be targeting a specific audience for the "message" and (b) they are not being fiscally prudent regarding the method to convey the logo.

In another subheading entitled “Recognition of Component Task Force Activities (involving state and local personnel), JMD provided the following example and commentary:

Due to the important and successful recent Law Enforcement Mission called “Operation Redbud” the commander of the Task Force wanted to recognize state and local law enforcement personnel that had worked collaboratively with federal personnel to make [“]Operation Redbud” successful. Given that the efforts were effective and there was a need to continue close law enforcement information sharing, the commander wrote a justification requesting approval for the purchasing of pens and highlighters that included the name, phone number and web site that personnel could use for future collaborative efforts. Was this OK????

Take Away: Given that the items to be purchased were of “nominal” value, coupled with the fact that there was a specific continuing message contained on the item/trinket, this was an appropriate purchase. In this case, the trinkets with a message serve a mission-related purpose by making the task force contacts known by giving the phone number, website, etc. These types of things can be purchased, but their dollar value should be conservative/appropriate and they should only be given to recipients that need to receive the message.

In a third subheading entitled “Use of ‘Challenge Coins’,” JMD provided the following hypothetical and commentary:

One agency Director wanted to further the outreach and understanding of his organization involved in law enforcement activities to federal, state and local personnel that they dealt with on a regular daily basis. The Director designed a coin with a specific logo for his organization, included his personal name and phone number and sent the necessary procurement forward to purchase 500 of this type of coin. Within weeks, he had the stockpile of coins that he could give out to all personnel that contributed to helping further the outreach of his organization. Also, within a month, word has spread of these coins and every other Director decided to design a coin for his/her group. Any problems with this?

Take Away: You have to ask, is this an “appropriate use” of government funds? Are the coins being given as awards? If so the purchase and recipients should be documented and the accomplishment/performance should be described. Is the inclusion of the Director’s name and phone number being given

as a message? Is there a reason the recipients need this information? It also concerns us that the personal phone number is being used; such items should not contain such personal information, so if there is a message here it should be conveyed in another way. To the extent that these are being given to outside individuals as a goodwill gesture, it might be appropriate to use the [Representation] Fund – this should be discussed with the Director’s office. If the coins are not awards or message-conveyors and [Representation] Funds are not being used then they are not permissible and should not be given as mere motivational items or morale boosters.

The contractor who was responsible for ordering the IOD promotional items and attended the seminar in October, 2010, told us that the message he took from the training was that IOD’s spending was “out of hand” and that it was going to “cease.”

2. Suspension of USMS Promotional Items Purchases

On January 21, 2011, the Attorney General issued a directive to all Department components to reduce expenditures to only mission-essential programs, projects and activities. In a June 17, 2011, e-mail sent to all USMS management, in which he referenced Attorney General Holder’s directive, USMS Chief Financial Officer Albert Hemphill stated that USMS was developing a promotional items policy and that “all expenditures for promotional items...[were] suspended pending issuance of a formal policy.” According to witnesses, since the issuance of this directive from Hemphill, all promotional items purchases by IOD employees have, in fact, stopped.

3. The Department’s Issuance of Policies and Guidance Regarding the Purchase of Promotional Items

On October 5, 2011, the Deputy Attorney General issued a memorandum entitled “Continued Restrictions on Non-Essential Spending.” Through this memorandum, the Department directed all of its components to “[s]uspend purchases of all trinkets, including logo-supplies, logo-portfolios, ‘message-related’ items, clothing, etc., until further notice...”.

On August 12, 2011, the JMD issued Financial Management Policies and Procedures Bulletin No. 11-04 (FMPPB 11-04), entitled “Restrictions on Using Department of Justice Funds to Purchase Trinkets” (the “JMD Trinket Policy”). The JMD policy defined a “trinket” as “an item of nominal value such as a hat, mug, t-shirt or coin.” Furthermore, FMPPB 11-04 explicitly stated that Department agencies and components “may not use Department funds to purchase trinkets to be distributed to Department employees

and/or members of the public,” unless the purchase qualifies under one of four exceptions.⁵⁷

The Department issued DOJ Policy Statement 1400.01 “Planning, Approving, Attending and Reporting Conferences,” on June 7, 2012.⁵⁸ This policy statement explicitly states that “[t]rinkets (items such as hats, mugs, portfolios, t-shirts, coins, etc., regardless of whether they include the component or conference name or logo) must not be purchased as giveaways for conferences.”⁵⁹ DOJ Policy Statement 1400.01 permits DOJ components to purchase trinkets for the purpose of giving them away to “individuals outside of the Department,” but only when the trinkets are paid for with R & R funds.

The Department issued Policy Statement 1400.02 on January 30, 2013, and implemented it Department-wide on February 4, 2013.⁶⁰ This Policy Statement replaces FMPPB 11-04. While DOJ Policy Statement 1400.02 adopts FMPPB 11-04’s definition of a “trinket,” it eliminates the four exceptions and further restricts Department components’ authorities to purchase trinkets and commemorative items.

In particular, DOJ Policy Statement 1400.02 permits Department components to give commemorative items, such as framed certificates or plaques, as honorary awards to employees, but only if the award is given within the components’ guidelines or policies. It also allows components to give “honorary award items of nominal value (commemorative items or trinkets as appropriate) to individuals outside of the Department who have provided a service” to the component. However, Policy Statement 1400.02 states, with a minor exception, that such honorary awards “must not cost more than \$100.”⁶¹

⁵⁷ The four exceptions were: (i) Trinkets to be given as awards pursuant to an established component awards program; (ii) Trinkets used to convey a message necessary to accomplish the component’s mission; (iii) Trinkets purchased using Representation Funds; or (iv) Trinkets purchased pursuant to a component’s specific statutory authority allowing for such purchases.

⁵⁸ DOJ Policy Statement 1400.01 is attached as Appendix D to this report.

⁵⁹ DOJ Policy Statement 1400.01 also states that “[b]asic supplies that are necessary for use during the conference (*e.g.*, pens, paper, nametags) may be purchased.”

⁶⁰ DOJ Policy Statement 1400.02 is attached as Appendix E to this report.

⁶¹ DOJ Policy Statement 1400.02 allows honorary awards to exceed the \$100 limit only when the award is being given in conjunction with Department- or Component-level awards ceremonies or a Component Head or Principal Deputy has approved the purchase of an item exceeding \$100.

Furthermore, Department components are permitted to purchase commemorative items and trinkets to promote goodwill towards the Department, its components and their missions. However, DOJ Policy Statement 1400.02 requires DOJ components to use their R & R funds when doing so, in accordance with DOJ Order 2110.31B.⁶²

DOJ Policy Statement 1400.02 also requires Department components to establish adequate internal controls for the purposes of documenting and monitoring the purchase and distribution of trinkets and ensuring that the restrictions on using Department funds to purchase trinkets are followed. To this end, DOJ Policy Statement 1400.02 requires each component to include trinket purchases in the Department's existing internal control process conducted under Office of Management and Budget Circular A-123, "Management's Responsibility for Internal Control."⁶³

DOJ Policy Statement 1400.02 specifically allows components to develop their own policies regarding the use of Department funds to purchase trinkets. Component policies must not conflict with the DOJ Policy Statement, but may be more restrictive.

4. USMS Policy Directive 1.2

On October 5, 2011, the same day that the Deputy Attorney General issued the memorandum entitled "Continued Restrictions on Non-Essential Spending," USMS Director Stacia A. Hylton authorized and approved USMS Policy Directive 1.2.⁶⁴ The USMS policy addresses two categories of items: "Promotional Items" and "Ceremonial Items."

The USMS policy defines "Promotional Items" as:

Low-cost items available for purchase containing USMS insignia (seal, badge, logo, name, etc.) to be given to either USMS employees or non-USMS employees for promotional purposes.

⁶² DOJ Order 2110.31B is discussed in Section III.D of this report.

⁶³ OMB Circular A-123 requires "[a]gencies and individual Federal managers [to] take systematic and proactive measures to (i) develop and implement appropriate, cost-effective internal control for results-oriented management; (ii) assess the adequacy of internal control in Federal programs and operations; (iii) separately assess and document internal control over financial reporting ... (iv) identify needed improvements; (v) take corresponding corrective action; and (vi) report annually on internal control through management assurance statements." Memorandum from Executive Office of the President, Office of Management and Budget to the Heads of Executive Departments and Establishments (December 21, 2004) (available at http://www.whitehouse.gov/omb/circulars_a123_rev).

⁶⁴ The USMS policy is attached as Appendix C to this report.

Only the following types of promotional items may be purchased with USMS workplan funds: hats/caps, pins, coins, pens, pencils, t-shirts, key chains, business card holders, mouse pads, notepads, patches, drinking glasses or mugs, paperweights, tin badges, lapel pins, tablet portfolios, and stickers.

The USMS policy states that “Promotional Items” may be purchased and distributed for the following specific reasons:

- a. As recognition to employees and others 1) for “contributions or services to the USMS,” or 2) for “participation/performance” at USMS conferences or training events;
- b. As necessary to accomplish recruitment objectives;
- c. By the Office of Public Affairs “as necessary to accomplish informational/promotional objectives;”
- d. To make targeted audiences aware of a “specific program/initiative/priority of the USMS,” provided that the item contain the “specific message of the program being publicized;” and
- e. To law enforcement officers from other agencies “to reciprocate receipt of similar items, and to foster and maintain cooperation and goodwill in the furtherance of the USMS operational mission.”

Additionally, the cost of promotional items “should be under \$10 per item.”

The policy defines “Ceremonial Items” as:

Plaques, statues, embossed clothing items, and office items bearing USMS insignia that may be given to employees, retiring employees, state/local employees and retirees, visiting dignitaries and guests, and other non-employees in recognition of contributions or services performed for the USMS....

The policy states that the cost of ceremonial items should not exceed \$150 per item, and states: “The intent of these items is for presentation in appropriate ceremonies.”

The new USMS policy also sets up internal procedures for the purchase of items covered by the policy. Any USMS district or division must submit a request and obtain approval to purchase the promotional items (but not ceremonial items) from the Chief Financial Officer or designee before making any such purchase. In addition, each USMS district, division

or staff office “must assign an administrative employee to maintain a log of the promotional and ceremonial items in inventory.” Any employee authorized to distribute promotional or ceremonial items must provide information to the administrative employee “indicating to whom they presented the item, when, and for what purpose.”

VI. Analysis and Recommendations

We found that the growth in IOD’s expenditures on promotional items during fiscal years 2005 to 2010 was excessive. As detailed in Figure 1, spending on promotional items grew from \$29,138.62 in fiscal year 2005 to \$313,193.46 in 2010; a 975 percent increase. By comparison, the USMS’s budget increased from \$800,000,000 in fiscal year 2005 to \$1,174,000,000 in 2010; an increase of 46.75 percent. IOD’s spending on promotional items far exceeded the USMS’s budgetary growth during the same period of time.

The growth in spending on promotional items was the result of the absence of internal controls, accountability, and good judgment. USMS’s purchasing policies contributed to this uncontrolled growth because they left the discretion to purchase promotional items with the branch offices, where managers essentially, and, in some cases actually, rubber-stamped the USM-157 requisition requests as “miscellaneous supplies” without reference to any limitations on overall spending for promotional items. As noted, there was no unique object class for promotional items that would have facilitated any overall monitoring or control over purchases of this type. The use of “micro purchasing” authority further facilitated this growth in spending.

In many instances, the spending was not allowable under Department regulations or GAO guidance. The promotional items purchased by IOD, for the most part, could not be considered to be “necessary expenses.” We address several different categories of purchases of promotional items below.

Gifts Publicizing the USMS: Some of the promotional items described in this report arguably had the purpose of publicizing the USMS or conveying a message about a mission or program of the USMS. For example, SOIB’s distribution of challenge coins in 2009 and the NY/NJ RFTF’s dissemination of Manhunters promotional material arguably promoted the Marshal Service. The guidance available to USMS personnel prior to 2011 was ambiguous as to this category of gifts. The 1993 OGC memorandum stated that items of this sort could be given to non-USMS personnel provided they were of nominal cost and had no intrinsic value or function other than publicizing the agency. However, we did not find that this memorandum was widely disseminated within the USMS. Moreover, as

noted above, the GAO subsequently held that gifts of this sort that act as “favorable reminders” but do not convey essential information about the agency are not permissible under the “necessary expense” doctrine.⁶⁵ In general, the promotional items purchased by the USMS did not convey essential information about the agency or its programs. Typically, the items merely contained the logo of the USMS or one of its components.

In some cases, the question of whether the expenditure would be allowable under then-available guidance is difficult to answer. For example, the SOIB spent almost \$40,000 on challenge coins in 2010 to help promote the newly established SOIB and build relationships with local law enforcement, whose assistance was necessary in connection with the implementation of the Adam Walsh Act. The coins arguably provided information to the recipient that the SOIB existed and could act as a reminder that the USMS and SOIB were available to assist local authorities with unregistered sex offenders. However, the coins themselves did not provide the recipients with specific information about the SOIB or its activities apart from its name, and therefore might not have been considered necessary expenses under GAO guidance.

In 2011, after this investigation was initiated, the USMS provided much-needed clarity to its employees on the circumstances under which this type of expenditure is allowable. The 2011 USMS Policy Directive permits the purchase of promotional items to make targeted audiences aware of a “specific program/initiative/priority of the USMS,” provided that the items contain the “specific message of the program being publicized.” The SOIB challenge coins would not be deemed allowable under this policy because they did not contain any specific message other than the fact that the SOIB exists.

Gifts Given To Promote Goodwill: Some of the promotional items that IOD purchased, such as silk ties and scarves, were given as gifts to law enforcement agents from other agencies, and to foreign dignitaries to promote goodwill toward the USMS. As noted in the 1993 OGC memorandum, such gifts may be made from the R & R fund. Under the memorandum, this category was not limited to items “that have no intrinsic value or function other than publicizing the agency,” and may thus include items like scarves and neckties. Gifts of this nature are also authorized under DOJ Order 2110.31B and the USMS Reception and Representation Guidelines. However, gifts purchased under the R & R fund must be authorized by the Director and are subject to strict control and documentation procedures and to a very low ceiling of cumulative annual

⁶⁵ *Matter of Expenditures by the Dept. of Veterans Affairs Medical Center, Oklahoma City, OK, B-247563.3*, (April 5, 1996).

expenditures – \$6,000 per year during 2005 to 2008 and in 2011, and \$30,000 per year in 2009 and 2010. The vast majority of the witnesses we interviewed had never heard of the R & R fund.

We found no evidence that any of the money spent on promotional items as described in this report was deducted from the R & R fund. With respect to scarves and neckties alone, if the USMS had charged the purchases of these items against the R & R fund in 2008, the USMS would have exceeded the statutory limit imposed by Congress by \$1,340. We believe that many other of the more expensive promotional items identified in this report, such as business card cases and engraved cutting tools, were also used to promote goodwill and therefore were subject to R & R fund limitations. Items distributed by USMS employees for goodwill purposes also include certain challenge coins, such as the 220th anniversary coin and the America's Most Wanted 1000th capture coin, and the Christmas ornaments (to the extent they were given away to non-USMS personnel).

Following the initiation of this review, JMD has acknowledged in its training materials and in Bulletin No. 11-04 that expenditures for promoting goodwill are subject to R & R fund requirements and limitations. (See Sections D.1 and D.3 above.) However, the USMS Policy Directive 1.2 makes no reference to the R & R fund, despite authorizing gifts “to foster and maintain cooperation and goodwill in the furtherance of the USMS operational mission.”

Gifts Given to Reciprocate Gifts from Others: Many witnesses told us that they used promotional items such as challenge coins to reciprocate similar gifts received from law enforcement officials in other agencies who worked with the USMS. This sort of reciprocation has been a common practice among law enforcement personnel for many years, and was acknowledged in the 1993 OGC memorandum, which stated that expenditures for this purpose “may be justified as essential to the mission since the practice of exchanging these items is so widespread and the lack of reciprocity would have an impact on mission success.”⁶⁶ However, as noted above, the GAO has stated that gifts which are intended to promote reciprocal respect, goodwill and cooperation between a federal agency and its state or local level counterparts are not necessary expenses.⁶⁷ Moreover, to the extent that purchases of this type are used to promote goodwill between law enforcement agencies, they are arguably subject to R & R fund

⁶⁶ As discussed in Section III, above, we found no indication that the 1993 USMS memorandum regarding promotional items was distributed within USMS.

⁶⁷ *Matter of use of U.S. Army Criminal Investigation Command (USACIDC) Appropriated Funds for Purchase of Marble paperweights and Walnut Plaques*, B-184306, 55 Comp. Gen. 346, October 2, 1975.

restrictions, discussed above. We also note that to the extent that the gifts received from other law enforcement officials in exchange were retained as the personal property of the USMS official who received them (which we believe was commonly the case), the USMS purchase was effectively a personal gift to the USMS employee who got something in return. Such uses of appropriated funds are not permissible.⁶⁸

We are skeptical that the elimination of the practice of funding the routine exchange of promotional items will not likely undermine the ability of the USMS to obtain the cooperation of other law enforcement agencies, many of which presumably face the same budget issues challenging the USMS. The tradition may be perpetuated, albeit likely in a more restrained form, through private purchases by the USMS employees who routinely participate in such exchanges and receive promotional items from others.

In sum, although the use of promotional items for reciprocal exchanges appears to have been a longstanding tradition in the law enforcement community, there is little or no legal or policy support for using appropriated funds for this purpose.

JMD pronouncements in recent years have not supported the use of appropriated funds for reciprocal exchanges. In JMD's 2010 training regarding promotional items, the JMD trainers wrote that "[t]o the extent that [the challenge coins] are being given to outside individuals as a goodwill gesture, it might be appropriate to use the [R & R] fund" and not treat such expenditures as "necessary expenses." Additionally, JMD's Policies and Procedures Bulletin No. 11-04, which is binding on USMS, states that Department components, such as the USMS "may not use Department funds to purchase trinkets to be distributed to... members of the public" unless the purchase: (1) qualifies as an award given pursuant to an established component award program; (2) conveys a message necessary to accomplish the component's mission; (3) is made using the R & R Fund; or (4) is purchased pursuant to a component's specific statutory authority. Reciprocal exchanges do not fall within these categories.

However, USMS Policy Directive 1.2, promulgated in October 2011, authorizes the purchase of promotional items "to reciprocate [for the] receipt of similar items, and to foster and maintain cooperation and goodwill in the furtherance of the USMS operational mission." We believe that USMS Policy Directive 1.2 is inconsistent with a GAO decision holding that purchases to enable such reciprocal exchanges are not "necessary expenses," and with JMD training materials and JMD's Policies and Procedures Bulletin No. 11-

⁶⁸ GAO Red Book at 4-155.

04, which state that such expenditures may only be made subject to the R & R fund limitations and requirements.

Awards: Witnesses told us that some promotional items, in particular challenge coins, were distributed as informal awards to both USMS employees and TFOs for USMS-related accomplishments. In particular, we saw this type of activity in the NY/NJ RFTF, whose managers stated that doing so was necessary because they could not award TFOs under the FEIA, which only applied to federal employees. They told us that awarding challenge coins or plaques was good for morale and incentivized the TFOs to continue working diligently for the task force. The 1993 OGC memorandum allowed for promotional items to be used for awards, so long as the presentation was for a bona fide award for performance (and not merely participation). While the 1993 OGC memorandum and USMS Policy Directive 3.3 (establishing the USMS awards program) do not specifically speak to awards for TFOs, we found that the NY/NJ RFTF practice of awarding promotional items for performance to TFOs did not clearly violate USMS policies in place at that time. However, because the task force did not maintain records of the awards we were unable to determine if all of the promotional items given by the NY/NJ RFTF to the TFOs were, in fact, bona fide awards rather than gifts to promote goodwill.

Gifts to Build Morale: Christmas ornaments, some challenge coins, and other promotional items were given to USMS employees to promote morale. As a general rule, appropriated funds may not be used to purchase personal gifts for government employees.⁶⁹ Under the necessary expense doctrine an agency may purchase items in the nature of gifts to employees or non-employees, but only if there is a direct link between the items and the agency's purposes for which Congress has appropriated funding. Assistant Chief Kellerman told us that the purpose behind giving the Christmas ornaments to USMS employees was for offering a "word of encouragement," recognizing the "work done throughout the year," and improving morale. None of the reasons provided by Kellerman established that such purchases were necessary expenses.

Retirement and other Ceremonial Gifts: We found evidence of incidents of spending within the IOD on ceremonial gifts, including crystal statues costing an average of approximately \$80 each and blankets costing an average of approximately \$33 each. These items appear to have been used primarily as retirement gifts or gifts to dignitaries. Although the cumulative budgetary impact from the purchase of retirement gifts was relatively small, we believe that some retirement gifts, such as the lamb wool

⁶⁹ *Matter of Christmas Gifts and Sweaters Distributed to Job Corps Participants by the Forest Service*, B-195247 (August 19, 1979), see also, GAO Red Book 4-155.

blanket and custom box with the USMS seal, which cost \$149, and the large crystal statue, which cost \$125, were excessive and that USMS personnel should use better judgment and discretion when purchasing such items.

Current Circumstances: Witnesses told us that notwithstanding the issuance of the Department's policies and guidance and USMS Policy Directive 1.2, their branch of IOD has not resumed purchasing promotional or ceremonial items. If such purchases are resumed, the Department's policies and guidance and USMS Policy Directive 1.2 will likely result in far more restraint and have accountability in IOD and other components of the USMS and the Department with respect to purchases of promotional items. The Department's policies and guidance are strong and clear statements of principles which, if followed, will likely prevent abusive purchases of promotional items in the future. They also require components to adopt internal controls to document and monitor the purchase of promotional items and to ensure compliance with the Policy.

We believe that USMS Policy Directive 1.2 will also encourage restraint and enhance accountability with respect to the purchase of promotional and ceremonial items. However, we believe that the USMS Directive is flawed in several respects and is inconsistent with some of the Department's policies. For instance, the USMS Policy authorizes gifts of promotional items to employees and others for "participation/performance" at USMS conferences or training events. However, providing trinkets for participating in conferences is explicitly forbidden by DOJ Policy Directive 1400.01.

In addition, the USMS Policy authorizes purchases of a special category of promotional items for use by the USMS Office of Public Affairs "as necessary to accomplish informational/promotional objectives." This authority appears to be very broad and to the extent that it does not require that the informational or promotional message to be on the item, it may not comply with current Department policies and GAO guidance.

Lastly, the USMS Policy continues to authorize the purchase of items for the express purpose of reciprocating similar gifts from other agencies "and to foster and maintain cooperation and goodwill." This authority is problematic for the reasons discussed above. It contravenes DOJ Policy Directive 1400.02 and GAO guidance on necessary expenses because it authorizes expenditures for goodwill – which are subject to R & R fund requirements and limitations – without a specific requirement that such expenditures be made from the R & R fund.

We acknowledge that the USMS Policy limits the cost of promotional items to under \$10, which is a modest amount per item. We note that a very large proportion of the excessive expenditures for promotional items

documented in this report were for items, such as challenge coins, drinkware, and badges, that individually cost under \$10. The excessive expenditures were substantially attributable to the quantity of items purchased rather than to the cost of the individual items. Therefore, we believe that controls on the cumulative spending for promotional items are particularly important.

The 2011 USMS Policy Directive also provides some guidance as to ceremonial items. In particular, it limits spending on ceremonial gifts to no more than \$150 and allows USMS managers to present such items to “employees, retirees, federal officials, foreign officers, TFO, state/local officers, and retirees of these organizations, and citizens” for the purpose of recognizing them “at appropriate ceremonies” for “contributions or services for the USMS.” However, this \$150 limit is in conflict with DOJ Policy Statement 1400.02’s \$100 price limitation on ceremonial items.

Policy Directive 1.2 requires its districts, divisions, and staff offices to assign an administrative employee to maintain an inventory log of the promotional and ceremonial items. Employees must also provide information to the administrative employee maintaining the log that indicates to whom they presented the item, when, and for what purpose. Furthermore, managers “must reasonably” limit the distribution of promotional items in their districts and divisions. We believe that Policy Directive 1.2, if followed, will help USMS to adequately track the purchase, distribution and use of promotional items.

Recommendations:

1. Prior to resuming the purchase of promotional items, the USMS should revise USMS Policy Directive 1.2 to be consistent with all Department policies and guidance; in particular DOJ Policy Directives 1400.01 and 1400.02, as well as R & R fund requirements and limitations.
2. Prior to resuming the purchase of promotional items, the USMS should establish internal controls to document and monitor the purchase of promotional items and to ensure compliance with all Department policies and guidance and, when completed, the revised USMS Policy Directive 1.2. Such controls should include, but not be limited to, establishing a separate and unique object class code for promotional and ceremonial items.
3. USMS should direct IOD and its branches to conduct a full inventory of promotional items currently on hand.

APPENDIX A



U.S. Department of Justice

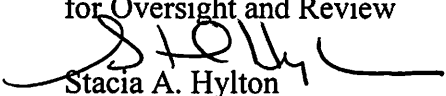
United States Marshals Service

Office of the Director

Alexandria, Virginia 22301-1025

October 25, 2013

MEMORANDUM TO: Carol F. Ochoa
Assistant Inspector General
for Oversight and Review

FROM: 
Stacia A. Hylton
Director

SUBJECT: Response to OIG Draft Report: United States Marshals Service's
Use of Appropriated Funds to Purchase Promotional Items

Thank you for the opportunity to comment on the subject draft audit report. We appreciate the recommendations contained in the report and are confident that their implementation will further the efforts we have already made to strengthen internal controls over spending on promotional items.

I have taken this matter very seriously since learning of this issue shortly after my appointment as Director in 2011. In fact, an agency-wide moratorium was put in place in 2011, along with a number of mitigating efforts. These efforts, taken early on in 2011, included: drafting a policy; emphasizing messaging in Executive Staff Meetings and Quarterly National Management Calls that stress the importance of Financial Integrity; including a block of instruction in our Managers Training Conference August 2011 on Financial Integrity and a presentation at that conference by the DOJ Controller on Promotional items; and finally, establishing internal controls in 2011 immediately and concurrent with drafting policy. I am committed to reinforcing those internal controls into the USMS review process that is addressed in response to your recommendations with which we concur.

Following the mitigating efforts we took early in 2011, we finalized and issued the USMS Policy Directive 1.2. Subsequently in 2012, DOJ issued Policy Directive 1400.02, which superseded USMS Policy Directive 1.2.

Pursuant to DOJ's Policy Directive 1400.02, the only allowable promotional expenditures, other than those that are part of the Director's Award Ceremony, will be for USMS employee award and retirement plaques not to exceed \$100.00, nominal commemorative items for guest speakers, and the use of Official Representation Funds (ORF) to purchase items pursuant to DOJ Order 2110.31 B.

From 2011 forward we have endeavored to ensure the previous behavior from 2005 through 2010 did not continue. This effort is proven in the review of our financial records which show that in FY 2011 IOD spent less than \$600 on "promotional and ceremonial" items and less than \$221 in FY 2012. Additionally we have incorporated a review of promotional item purchases into our Compliance Review Program.

We appreciate OIG's acknowledgement in the report that the use of promotional items to reciprocate similar gifts received from law enforcement partners has been a common practice among law enforcement personnel for many years, with the intended purpose of solidifying partner relationships and promoting goodwill.

Please find attached our responses to the report's recommendations. Should you have any questions, please contact Michael J. Prout, Assistant Director, Office of Inspection, 202-307-9523.

Attachments

cc: Richard Theis
Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

Andrew Barker, Assistant Chief Inspector
External Audit Liaison Team Leader
United States Marshals Service

Melinda Morgan, Director
JMD Finance Staff

USMS Response to OIG Draft Report
A Review of the USMS's Use of Appropriated Funds to Purchase Promotional Items

Recommendation 1: Prior to resuming the purchase of promotional items, the USMS should revise USMS Policy Directive 1.2 to be consistent with all Department policies and guidance, in particular DOJ Policy Directives 1400.01 and 1400.02, as well as R & R fund requirements and limitations.

Response (Concur): USMS Directive 1.2 was superseded by DOJ Order 1400.02 dated January 30, 2013. Under DOJ Order 1400.02, promotional and ceremonial items are limited to honorary awards such as plaques, purchases pursuant to a compelling mission need approved by the Assistant Attorney General for Administration, and purchases with reception and representation funds. The USMS has been governed and limited by DOJ Order 1400.02 since its issuance. A new USMS Directive re-iterating the requirements and restrictions of DOJ Order 1400.02 will be formally issued to assure full notice and dissemination. The updated USMS Directive will be finalized and signed by November 30, 2013, and a copy will be provided to OIG at that time.

Recommendation 2: Prior to resuming the purchase of promotional items, the USMS should establish internal controls to document and monitor the purchase of promotional items and to ensure compliance with all Department policies and guidance and, when completed, the revised USMS Policy Directive 1.2. Such controls should include, but not be limited to, establishing a separate and unique object class code for promotional and ceremonial items.

Response (Concur): In 2011 the USMS implemented tighter controls which suspended expenditures for promotional items and provided that only the Chief Financial Officer (CFO), in consultation with the Office of General Counsel, could approve ceremonial items such as plaques. This was in line with the Attorney General's message that all Department components reduce expenditures to only mission essential programs, projects, and activities. Since then, the USMS was aware of and further considered additional guidance from the Department in the form of Policy Statements and memorandums from the Deputy Attorney General (DAG) and Attorney General (AG), when providing guidance to their Districts and Divisions. These included:

February 4, 2013, DAG memorandum entitled "Updating Restrictions on Commemorative Items and Trinkets" – The memorandum clarifies prior AG and DAG memorandums based on the issuance of the DOJ Policy Statement 1400.02.

January 30, 2013, DOJ Policy Statement 1400.02 "Restricted Use of Department Funds to Purchase Commemorative Items and Trinkets."

November 16, 2012, AG Memo entitled "Continued Freeze of Hiring and Non-Essential Spending/Exemption Process Modification" – The memorandum stated, "You must completely suspend trinket and commemorative item spending."

June 7, 2012, DOJ Policy Statement 1400.01 “Planning, Approving, Attending and Reporting Conferences,” Section II.I. Trinkets, states, “Trinkets (items such as hats, mugs, portfolios, t-shirts, coins, etc., regardless of whether they include the component or conference name or logo) must not be purchased as giveaways for conferences.”

October 5, 2011, DAG memorandum entitled, “Continued Restrictions on Non-Essential Spending” – The memorandum states “...Suspend purchases of all non-essential spending” – and further states “...Suspend purchases of all trinkets, including logo-supplies, log portfolios, “message-related” items, clothing, etc., until further notice (this applies to conference related purchases and those that are not associated with a conference).”

The USMS has been committed to following all guidance issued by the Department, including the requirements outlined in DOJ Policy Statement 1400.02 which were implemented at the beginning of the calendar year. Commemorative items purchased by the USMS consist primarily of retirement plaques for departing USMS employees for an amount not to exceed \$100, with approval by the CFO. The approval is required to be kept on file by the requestor.

The additional controls and guidance put in place, as well as training provided by the USMS and the Department, appear to be working. The USMS has noted a sharp decline in this type of spending. Updated financial reports specifically from the IOD indicate that in FY 2011, the Division spent less than \$600 on these types of items, and in FY 2012 spent less than \$221.

To further tighten these controls, the USMS will request a sub-object class (SOC) spending code in the Department-wide accounting system, the Unified Financial Management System (UFMS), for purchase of “promotional and ceremonial” items from the Justice Management Division (JMD). This request will be made formally to JMD as soon as the currently ongoing upgrade to UFMS is complete.

Recommendation 3: USMS should direct IOD and its branches to conduct a full inventory of promotional items currently on hand.

Response (Concur): USMS Policy Directive 1.2 requires recordkeeping and an inventory of promotional items. The inventory and recordkeeping requirement was tested as part of the Compliance Review Program in nine districts and two divisions in FY13. Additionally, key processes regarding the inventory and records keeping requirement have been added to the FY14 Self-Assessment Guide (SAG), which must be completed by districts and divisions in the first half of FY14. The SAG is an effective management tool that is used by the agency to ensure compliance with policy and procedures.

Every component of IOD, including regional fugitive task forces, regional Technical Operations Group field offices, and all other offices located in the field, have been asked to provide their current inventory of promotional items. The inventories will be compiled and delivered to OIG within two weeks.

APPENDIX B



U.S. Department of Justice

United States Marshals Service

General Counsel

600 Army Navy Drive
Arlington, VA 222024210

January 26, 1993

MEMORANDUM

TO: Kathy Deoudes
Executive Assistant for
Policy and Communications

FROM: Janice M. Rodgers *JMR*
Senior Associate General Counsel

The following is a discussion and advice concerning the purchase by the U.S. Marshals Service (USMS) of so-called "trinkets," or promotional items such as T-shirts, caps, mugs, cuff links, lapel pins, etc.

Background

In the past the USMS has purchased the types of items noted above for several uses. Some are given to officials of state, local and foreign law enforcement organizations. Some are given to USMS personnel, some to personnel in other federal agencies, and some to general visitors to USMS headquarters, occasionally including family members of USMS personnel. When the Enforcement Division undertakes a special operation such as Operation Sunrise or Gunsmoke, they order a T-shirt and cap for each employee participant, USMS and non-USMS (they usually have a special logo done for the operation). If the participants want additional pants or shirts for themselves, they order and pay for them personally. In addition, by Red Stripe dated May 17, 1991, the USMS authorized the districts to purchase certain items in connection with the FIT program.

There is little existing guidance for the authorized distribution of these items. The purchasing has been handled primarily by the Office of Policy and Communications (OPC). This office also organizes the USMS annual award ceremony and purchases award plaques and similar items for the USMS.

It appears that almost all purchases of this nature are made by OPC on a case by case basis or under the Blanket Purchase Agreements (BPA) in effect with specific vendors. In addition, similar purchases are made by other offices. It is also possible that U.S. Marshals are making small purchases of this nature at the district level.

summary

In the USMS, the available appropriations for purchases of these types of items are the general salary and expense amount, or from the Director's reception and representation fund. There is no specific provision or limitation within the USMS appropriations which addresses these purchases. Therefore, they must be made consistent with general appropriations and spending principles but there is no predetermined limit. Certain purchases, if made, must be made from the reception and representation fund; others may be made under authority to make awards to employees and private persons;--others must be justified as essential to the mission of the USMS.

Legal Authority

The basic statutory requirement is that "[a]ppropriations . . . would be applied only to the objects for which the appropriations were made except as otherwise provided by law." 31 U.S.C. § 1301(a). The Comptroller General has interpreted this as meaning that "appropriated funds may be used for objects not specifically set forth in an appropriation act only if there is a direct connection between such objects and the purpose for which the appropriation was made, and if the object is essential to the carrying out of such purposes." 55 Comp. Gen. 346 (1975).

The general rule is that appropriated funds may not be used to purchase personal gifts without specific statutory authority. For example, in 54 Comp. Gen. 976 (1975), the Comptroller General held that decorative key rings given to those attending a seminar sponsored by the U.S. Forest Service could not be purchased with appropriated funds since they were personal gifts. The Comptroller General has issued similar rulings regarding caps in B-201448, February 25, 1981; novelty plastic garbage cans in 57 Comp. Gen. 385 (1978); jackets and sweaters in B-195247, August 29, 1978; and paperweights in 55 Comp. Gen. 346 (1975). No distinction is made between gifts to employees and gifts to non-employees.

Employee Awards

While there is no authority to purchase personal gifts, there is authority to purchase similar items where they are bona fide awards to employees. "Awards" given for participation rather than performance are not bona fide awards. However, group awards based on group performance are appropriate.

The FPM, Chapter 451, Incentive Awards, authorizes agencies to give awards to employees and specifically authorizes non-monetary awards. The award itself as well as publicity about the awards program is important to the overall goals of the incentive awards program, which is to motivate employees to increase

productivity and creativity by rewarding their efforts which benefit the government. Informal, or on-the-spot awards, to recognize an exceptionally good job on a particular project, for example, are encouraged as well as more formal types of awards.

An upcoming revision of the Federal Personnel Manual (FPM), Chapter 451, will provide agencies guidance on granting merchandise awards. OPM is encouraging agencies to make full, creative, and effective use of non-monetary awards authority. Such non-monetary awards must be items of an honorary nature that can be worn, displayed, or used in a work environment. Items should have the agency's seal or logo. Such awards could include emblems, picture frames, clocks, coffee mugs, paperweights, desk sets, small vinyl tablet portfolios, or similar items that meet the agency's recognition needs. T-shirts would also be acceptable. A basic principle that agencies should use in selecting these items is that their primary value should be as an award and not an object with monetary value.

This type of informal award may be given to USMS and non-USMS federal employees or other law enforcement agencies. However, we emphasize that the award must be given for performance actually rendered, not as an incentive prior to such performance.

Awards to Private Citizens

~~FPM Chapter 451 also authorizes honorary awards of moderate value to private citizens or organizations for significant contributions that benefit the department or agency. Recommended forms for such awards are medals, certificates, plaques, or other items that can be worn or displayed. This authority should not be used without sufficient justification.~~

"Gifts" to Non-USMS employees

If an item is not given as an award, there are two rationales to support such purchases. The first is a non-personal item which publicizes the agency or a particular program. The items used for this purpose should be non-functional items that have no intrinsic value other than as publicity for the agency or program. Clearly these would be low cost items. Buttons, patches, pens, pencils and inexpensive lapel pins fit this category. These items are not personal in nature and therefore are not "gifts". There are no cases directly on this point, but this seems to be part of OPM's rationale in the upcoming guidance noted above which OPM will issue authorizing similar "non-functional" items for employee awards. Therefore, since these items are not "gifts," they could be given out more freely to both employees and non-employees.

Clearly, the circumstances will determine the appropriateness of giving away these items. Providing them at a recruiting event bears a direct relationship to the recruiting function. Providing

them to an audience with little or no interest with or connection to the USMS would be more questionable.

The second justification for using appropriated funds is if "there is a direct connection between the object and the purpose for which the appropriation was made, and if the object is essential to the carrying out of such purposes." 55 Comp. Gen. 346 (1975). In our case, the Operations Directorate states that giving out caps, patches, cuff links and coffee mugs to state, local, foreign and other federal law enforcement officials is an integral part of obtaining the cooperation and assistance of these officials. The practice of giving (and receiving) these items from law enforcement counterparts is widespread. According to Operations personnel, it is essential to securing the added effort which often makes the difference in a successful operation.

The Comptroller General has ruled that "gifts" to individuals who are required to assist the USMS as part of their job responsibilities, cannot be justified on these grounds. 53 Comp. Gen. 770 (1974). Therefore, in the case of other federal officials, who are required to cooperate with the USMS in mission-related functions, giving gifts presents a problem, although the non-functional items such as patches and lapel pins may be justified on publicity grounds. Presenting state, local and foreign officials with caps, T-shirts, mugs, etc. may be justified as essential to the mission since the practice of exchanging these items is so widespread and the lack of reciprocity would have an impact on mission success. However, this justification is extremely restricted and should not be used to support large purchases, but should be carefully monitored to ensure that such purchases are in fact essential. It is advisable that certain specific items be identified as appropriate for this purpose and that no other items be purchased.

Reception and Representation Funds

Agencies may utilize official reception and representation funds to purchase gifts in some instances. The USMS currently has specific appropriation per year for reception and representation purposes. The Director may authorize funds from this appropriation for gifts in fulfilling his representation duties. Therefore, gifts to non-governmental persons that are not bona fide awards as discussed above, may properly be purchased using these funds.

Conclusion and Recommendation

Based on the foregoing, we advise that purchases be made consistent with the following criteria. These criteria are supportable under decisions of the Comptroller General and the guidance of OPM.

I. Awards to employees

USMS management is authorized to purchase traditional awards (plaques, medallions in lucite, etc.) as well as emblems, picture frames, clocks, coffee mugs, desk sets, T-shirts, paperweights, vinyl tablet portfolios, or similar items that meet the agency's recognition needs, to present to employees as bona fide awards for their performance. (Performance is distinct from mere participation, for which no authority exists to make awards).

II. "Gifts" to Non-USMS persons

- A. Items of nominal cost that have no intrinsic value or function other than publicizing the agency may be given to non-USMS personnel. Allowable items are buttons, patches, lapel pins, sticker badges, pens and pencils.
- B. Gifts to non-federal personnel other than the items noted in II.A above may be made by the Director from the reception and representation fund.
- C. Gifts to non-federal government persons may be made where essential to the mission of the agency. Allowable items are caps, T-shirts, (inexpensive) cuff links, (inexpensive) paperweights, mugs and items in II.A above.

Higher cost items should be carefully scrutinized and generally not permitted.

We recommend that the requesting office document the use of any of these items at the time of purchase or distribution. Especially with category II. C (Gifts to non-federal employees) the justification must adequately support a determination that the gift is essential to the mission of the agency. Please feel free to seek specific advice on items that do not appear to fit within the above criteria.

APPENDIX C



United States Marshals Service POLICY DIRECTIVES

OFFICE OF GENERAL

COUNSEL

1.2 EXPENDITURES FOR PROMOTIONAL AND CEREMONIAL ITEMS

- A. Proponent:** Office of General Counsel (OGC), Telephone: 202-307-9054, Fax: 202-307-9456.
- B. Purpose:** This policy directive establishes policies and procedures for the United States Marshals Service (USMS) concerning expenditures for promotional and ceremonial items for USMS employees and non-USMS employees.
- C. Authority:** The Director's authority to supervise the USMS and issue written directives is set forth in [31 USC 1301\(a\)](#).
- D. Policy:**
1. **Promotional Items:** Promotional items may only be purchased for the specific purposes and circumstances described below:
 - a. **Recognition:**
 - 1) USMS managers may give promotional items as recognition to employees, retirees, federal officials, foreign officers, task force officers (TFOs), state/local officers, and citizens for contributions or services to the USMS.
 - 2) Promotional items may be given to attendees at USMS conferences/training for participation/performance in the conferences/training. This includes conferences which the USMS attends as a sponsor, exhibitor, or presenter.
 - b. **Recruitment:** The Human Resource Division (HRD), Office of Equal Employment Opportunity (EEO), and district offices may give promotional items containing specific recruitment-related messages as necessary to accomplish recruitment objectives.
 - c. **Public Affairs:** The Office of Public Affairs (OPA) may give promotional items as necessary to accomplish informational/promotional objectives.
 - d. **Targeted Audiences:** USMS managers may give a targeted audience promotional items to make the chosen audience aware of a specific program/initiative/priority of the USMS to "get out the message" in furtherance of the USMS mission. The items must contain the specific message of the program being publicized. Targeted audience designs and messages must be approved by the Deputy Director or designee, with OGC concurrence.
 - e. **Furtherance of Law Enforcement Relations:**
 - 1) Promotional items may be given to state/local law enforcement officers (LEOs) and other federal LEOs for exchange to further law enforcement objectives. The objective of giving such items is to reciprocate receipt of similar items, and to foster and maintain cooperation and goodwill in the furtherance of the USMS operational mission.
 - 2) Promotional items may not be exchanged among employees within the USMS.
 2. **Ceremonial Items:** Ceremonial items bearing USMS insignia may be purchased only for the specific purposes and circumstances described below. Prior approval for such purchases must be obtained from the Chief Financial Officer (CFO) or designee, in consultation with OGC.
 - a. **Ceremonial Recognition:**

USMS managers may present ceremonial items as recognition to employees, retirees, federal officials, foreign officers, TFOs, state/local officers, and retirees of these organizations, and citizens as recognition at a public ceremony for contributions to the USMS.

E. Procedures:

1. Purchase of Promotional Items:

- a. Districts or divisions wishing to purchase promotional items must submit a request for approval to the CFO or designee before such purchases may be made. The request must include the nature of the item(s) to be purchased, the quantity of each item to be purchased, the purpose for each such purchase, and the total cost. Approval of requests is made by the CFO taking into account the propriety of the purchase(s), consistent with this policy, the current budget situation of the Agency, and prior approvals for the requesting office. If approved, the CFO provides an allocation of funds to the district/division for purchase of specifically-approved items.
- b. The costs of unauthorized purchases outside these guidelines are the personal responsibility of the authorizing official. Authorizing officials may not purchase promotional items for personal use or personal distribution.
- c. The cost of promotional items should be under \$10 per item. If a district/division would like to purchase any other type of low-cost promotional item not included in the list contained in F.2, below, approval is required from OPA, in consultation with OGC.

2. **Records Keeping:** Districts, divisions, and staff offices must assign an administrative employee to maintain a log of the promotional and ceremonial items in inventory. Employees authorized to give promotional and ceremonial items must provide information to the administrative employee maintaining the log, indicating to whom they presented the item, when, and for what purpose. Districts and divisions must reasonably limit the number of items distributed for the purposes described in this policy.

F. Definitions:

1. **Ceremonial Items:** Plaques, statues, embossed clothing items, and office items bearing USMS insignia that may be given to employees, retiring employees, state/local employees and retirees, visiting dignitaries and guests, and other non-employees in recognition of contributions or services performed for the USMS. Items other than those listed above must be approved by the Deputy Director or designee, with OGC concurrence. The cost should not exceed \$150 per item. The intent of these items is for presentation in appropriate ceremonies.
2. **Promotional Items:** Low-cost items available for purchase containing USMS insignia (seal, badge, logo, name, etc.) to be given to either USMS employees or non-USMS employees for promotional purposes. Only the following types of promotional items may be purchased with USMS workplan funds: hats/caps, pins, coins, pens, pencils, t-shirts, key chains, business card holders, mouse pads, notepads, patches, drinking glasses or mugs, paperweights, tin badges, lapel pins, tablet portfolios, and stickers.

- G. **Cancellation Clause:** This is a new USMS policy directive and remains in effect until cancelled or superseded.

H. Authorization and Date of Approval:

By Order of:

Effective Date:

/S/

10/5/11

Stacia A. Hylton

Director

U.S. Marshals Service

APPENDIX D



JUNE 2012

DOJ POLICY STATEMENT

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

- PURPOSE:** This Policy provides Department of Justice (Department or DOJ) guidance on planning, approving, attending and reporting conferences. In addition, it implements the requirements of the Office of Management and Budget (OMB) memorandum M-11-35, titled *Eliminating Excess Conference Spending and Promoting Efficiency in Government*, dated September 21, 2011, and OMB Memorandum M-12-12, *Promoting Efficient Spending to Support Agency Operations*, dated May 11, 2012, which remind agencies that they must operate with the utmost efficiency and eliminate unnecessary or wasteful spending.
- SCOPE:** This Policy applies to all Department Components and extends to conferences held by contractors and cooperative agreement recipients using Department funding. This policy does not apply to conferences funded by Federal grantees using Federal grant funds.
- ORIGINATOR:** Justice Management Division (JMD), Finance Staff (FS)
- CATEGORY:** (I) Administration, (II) Financial Management and Accounting
- AUTHORITY:**
- a) 5 U.S.C. § 4101(6), Definitions, Non-Government Facility
 - b) 31 U.S.C. § 3302, Custodians of Money ("Miscellaneous Receipts Act")
 - c) 31 U.S.C. § 6305, Using Cooperative Agreements
 - d) Department of Justice Appropriations Act, 2012 (Title II, Division B, Public Law 112-55)
 - e) The Violence Against Women and Department of Justice Reauthorization Act of 2005 (Public Law 109-162)
 - f) Federal Travel Regulation (FTR), 41 C.F.R. § 300-3.1 and § 301-74
 - g) Uniform Administrative Requirements for Grants and Cooperative Agreements with Non-Profit Organizations (28 C.F.R. part 70)
 - h) Federal Acquisition Regulation (FAR), Volume 1, Part 10
Office of Management and Budget (OMB) Cost Principles Circular A-122, 2 C.F.R. 230
 - i) Office of Justice Programs Financial Guide
 - j) Office on Violence Against Women Financial Guide
 - k) OMB Circulars A-21, "Cost Principles for Educational Institutions" (2 C.F.R. part 220); A-87, "Cost Principles for State, Local and Indian

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Tribal Governments" (2 C.F.R. part 225); and A-122, "Cost Principles for Non-Profit Organizations" (2 C.F.R. part 230)


- l) OMB Circular A-123, Management's Responsibility for Internal Control
- m) OMB Memorandum M-11-35, *Eliminating Excess Conference Spending and Promoting Efficiency in Government*, September 21, 2011
- n) OMB Memorandum M-12-12, *Promoting Efficient Spending to Support Agency Operations*, May 11, 2012

- CANCELLATION:**
- a) Financial Management Policies and Procedures Bulletin 08-08, Conference Planning, Conference Reporting, and Approvals to Use Non-federal Facilities
 - b) Financial Management Policies and Procedures Bulletin 00-10, Conference Travel

DISTRIBUTION: This Department Policy Statement is distributed electronically to all components as well as posted to the DOJ Directives website:
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ACTION LOG: Maintained in the Appendix.

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PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

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PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

I. POLICY DEFINITIONS.

A. Conference.

The Federal Travel Regulation (FTR) defines a conference, in part, as a meeting, retreat, seminar, symposium, or training activity. 41 C.F.R. § 300-3.1. A conference is typically a pre-arranged event with designated participants and/or registration, a published substantive agenda, and scheduled speakers or discussion panels on a particular topic. The following are definitions of specific types of conferences:

1. *Meeting.* A meeting is a gathering of people for a specific purpose such as to discuss the agency mission or other issues.
2. *Retreat.* A retreat is a meeting that is held outside the office to ensure privacy and to limit interruptions.
3. *Seminar.* A seminar is a gathering of people to study or research an issue or to discuss and exchange information on a particular topic.
4. *Symposium.* A symposium is a gathering for the discussion of a particular subject where there is a speaker(s) and attendees.
5. *Training activity.* Training is an educational or instructional activity. Training conferences can be for federal employees and/or non-federal individuals. Training may enhance an attendee's qualifications for a current job or be mandatory in order to qualify for and/or maintain a position (*e.g.*, mandatory supervisor's training). Unless otherwise excluded in this policy, training activities qualify as conferences.

B. Conference Exemptions.

For the purposes of this policy, the following types of meetings and events do not qualify as conferences and therefore do not need to be approved or reported as described below. Note, however, that the following types of meetings and events may be covered by other statutes, regulations, policies and approval requirements, and should only be held when they are essential to accomplishing a core mission requirement. Further, any related expenditures of Department funds must be fiscally prudent; in particular, costs of travel, food and beverages, where permitted, must be kept to a minimum.

1. Conferences held by *grant recipients* (note: conferences held by cooperative agreement recipients *are* covered by this policy).

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2. *Awards ceremonies* (note: an awards ceremony that is part of an event that otherwise qualifies as a conference is covered by this policy).
3. *Special events* (e.g., Equal Employment Opportunity diversity programs, job fairs, memorial services) and events funded exclusively with Representation Funds¹ (note: a special event that is part of a larger event that otherwise qualifies as a conference is covered by this policy).
4. *Law enforcement operational activities*, including staging, surveillance, investigation, intelligence, and undercover activities.
5. *Prosecutorial activities* in connection with a specific case or criminal activity.
6. *Testing activities* where the primary purpose of the event is to evaluate an applicant's qualifications to perform certain duties necessary to perform his or her job. This includes firearms and weaponry proficiency testing and certifications. A majority of the event must be devoted to the administration and taking of the test. Testing activities that are incidental to a training course or conference or are given upon its completion to determine satisfactory participation are not exempt from this policy.
7. *Training courses* taught at federal training centers.²
8. *Training courses* taught in federal facilities if there are no costs for logistical conference planning, government-provided food or beverages.
9. *Routine operational meetings* (e.g. staff meetings, all hands meetings) and *site visits*, if **held in a federal facility** (or, for meetings held by cooperative agreement recipients only, held in a non-federal facility that does not charge for its use) and there are no costs to the Department for logistical conference planning, government-provided food or beverages.
10. *Video conferences and webinars* where there are no costs to the Department for logistical conference planning, government-provided food or beverages.

¹ "Representation Funds" can be used to pay for "official expenses of a social nature intended in whole or in predominant part to promote goodwill toward the Department or its missions." (28 U.S.C. § 530C(b)(1)(D)). The Department's Representation Funds are strictly limited, and any expenditures must be in compliance with DOJ Order 2110.31B and be approved by the head of the component making such expenditure or his or her authorized delegate. Such expenditures must also be tracked to ensure that they do not exceed the annual limit.

² Examples of federal training centers include: the National Advocacy Center, the Federal Law Enforcement Training Center, the Federal Bureau of Investigation Academy, the Bureau of Prisons National Corrections Academy, and the Drug Enforcement Administration Training Academy. Contracted training venues that are managed by a private entity, such as the Bolger Center, are *not* considered federal training centers.

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11. *Peer Reviews*, performed primarily by non-federal independent evaluators, to evaluate grant and cooperative agreement applications, where there are no costs to the Department for government-provided food or beverages.
12. *Federal advisory committee meetings* covered by 5 U.S.C. App. 2.

C. Department-Sponsored Conference.

“Department-sponsored conference” means any conference planned and conducted by the Department, or a conference planned and conducted by an outside entity through the use of a contract or a cooperative agreement entered into by the Department. A Department-sponsored conference can be a no-cost conference. With respect to conferences where the Department provides part of the funding and the rest of the funding is provided by one or more other federal agencies or non-federal entities,³ the conference is considered “Department-sponsored” if the Department provides more funding than any other agency or entity and the Department controls a majority of the conference. If the Department has received some or all of the funding for the conference from another agency through a reimbursable agreement, the Department is considered the sponsor of the conference for the purposes of this policy if the Department controls a majority of the conference and is responsible for obligating the funds. Components should consider this when entering into reimbursable agreements with other agencies and ensure that the agencies providing funds are aware of the policies that will need to be followed if the Department controls the conference. With respect to conferences funded by more than one Department component, the component providing the majority of funding is considered the primary sponsor and will be responsible for any required approvals and reporting. (See § III for guidance on determining conference costs.)

D. Non-Department-Sponsored Conference.

A “non-Department-sponsored conference” is any conference that is not covered by § I(C).⁴ This includes conferences where the Department is only paying for the registration fees and/or travel of the attendees.

E. Predominantly Internal Conference.

A “predominantly internal conference” is a Department-sponsored conference (including a training activity) where a majority (more than 50%) of the attendees are Department employees.

³ To the extent that Department components consider co-sponsoring or partnering with a non-federal entity when putting on a conference they should only do so in consultation with their Ethics Office.

⁴ Examples of non-Department-sponsored conferences include conferences conducted by the Association of Government Accountants and the International Association of Chiefs of Police.

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F. External Conference Planner.

An “external conference planner” is a contractor or cooperative agreement recipient (including a contractor of a cooperative agreement recipient) hired or selected to assist in the planning of a conference. (Note that general references to “conference planners” include external planners and internal Department staff planning a conference.)

1. *Logistical* conference planners perform the logistical planning necessary to hold a conference, which may include: recommending venues, advertising, setting the stage and audio-visual (A/V) equipment, securing hotel rooms, interacting with caterers, and other non-programmatic functions.
2. *Programmatic* conference planners develop the conference agenda, content, and written materials. They may also identify and/or provide appropriate subject matter experts and conference *participants*.

G. Conference Trainer/Instructor/Presenter/Facilitator.

These terms refer to a subject matter expert who provides training, instruction, presentation or facilitation during the conference. This individual may conduct classes, lead sessions to ensure the purposes of the conference are met, give presentations on the conference topic, or staff a booth or table providing information. A conference attendee, by contrast, is an individual who is attending the conference and is not engaging in the activities described above.

H. Federal Facility.

“Federal facility” means property or building space owned, leased, or substantially controlled by the federal government or the Government of the District of Columbia.

I. Non-Federal Facility.

“Non-federal facility” is any facility that is not a federal facility. State and local government facilities are considered “non-federal facilities.”

J. Cooperative Agreement.

A “cooperative agreement” is an agreement whereby a Department component transfers funds or something of value to another entity in order to perform an activity that accomplishes a public purpose, and substantial involvement by the component is anticipated during the performance of the activity. A cooperative agreement may not be chosen by a component in order to avoid the statutory and regulatory requirements associated with the use of a contract.

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The decision to use a cooperative agreement, as opposed to a contract or grant, should be made in consultation with the component's legal counsel, applying the standards set forth in 31 U.S.C. § 6305. A cooperative agreement may be used for a conference that carries out a public purpose of support or stimulation of outside entities, and substantial involvement by the Department is expected. Although the standards in § 6305 must govern the choice of legal instrument, in determining if a conference would carry out such a public purpose (as opposed to merely providing a direct benefit to the Department or its employees), a significant factor is whether the primary beneficiaries of the conference are outside the federal Government.

II. POLICY FOR DEPARTMENT-SPONSORED CONFERENCES.

The requirements in §§ A-I of this part apply to ALL Department-sponsored conferences conducted by the Department or a contractor. Cooperative agreement recipients must follow the requirements in § J.

A. Necessity and Fiscal Prudence Written Justification.

The decision to sponsor a conference requires fiscal prudence and is subject to the availability of funds. Components must document a written justification for each conference it sponsors that certifies that the conference is essential to accomplishing core mission requirements and includes a programmatic reason to hold the conference. Components must consider whether they can conduct a conference using the least expensive alternatives available, such as video conferences and webinars. The individuals planning the conference must exercise fiscal prudence to ensure that conference costs (including administrative, travel and time costs) are limited and that government funds are not being expended for items or activities that do not support the Department's core missions. Components are also required to follow, to the extent applicable, the guidance in the FTR (41 C.F.R. 301-74, "Conference Planning"), OMB guidance, and any component guidance and/or Financial Guides. To the extent that components hire contractors, all procurements must be in compliance with the Federal Acquisition Regulation (FAR), and components must retain all documentation of any cost comparisons conducted in evaluating potential contractors for the conference. The documentation required in this section and those below must be maintained in a file pursuant to § VII.

B. Interaction with Entities Doing Business with the Department.

1. When contracting for goods and services associated with conferences, components must adhere to all applicable legal and ethical requirements in working with contractors. Guidance related to specific types of contractors (e.g., conference planners) can be found below.

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Components may also interact with other outside entities (e.g., associations of retired former federal employees, private companies with business before the component or the Department) in the planning and running of conferences. Such entities may offer to fund or otherwise “sponsor” meals, refreshments, or portions of a conference, set up a trade show targeted at conference attendees, or otherwise seek to interact with conference attendees. There is no one test for determining when such offers should be accepted. When such entities have interests or matters before the component or the Department, extra care must be taken to avoid giving the appearance that it is a jointly sponsored event. In addition, it is important that the Department not be seen as endorsing private enterprise, membership organization, particular products and services, or a point of view. Components should obtain guidance from appropriate ethics and legal offices to prior to agreeing to these kinds of arrangements with external parties.

C. Location.

A conference location is comprised of two variables: the city and the facility in which the conference takes place. To ensure that the government obtains the best conference location for the best value, individuals planning the conference must compare multiple facilities in multiple cities, unless an overriding operational reason is documented to hold the conference in a specific city. Adequate cost comparisons must compare and document the availability of lodging rooms at per diem rates, the convenience of the conference location, availability of meeting space, equipment and supplies, and the commuting or travel distance of attendees. When selecting the most cost effective location and facility, components are required to follow procurement regulations, including the competitive bid process, as appropriate. Individuals planning a conference should also consider their proximity to the locations they are considering and make every effort to minimize the costs and need for site visits.

To ensure that components maximize the use of federal facilities and minimize total costs to the Department, individuals planning a conference must first consider all federal facilities in the locations identified via city-level cost comparison analyses. A list of some federal facilities is available on the Conference Reporting and Non-federal Facility Request Center web site: <http://dojnet.doj.gov/jmd/fs/nfrc/>. The component may only consider non-federal facilities if:

1. Federal facilities are not available or do not meet the component’s requirements (e.g., size of the meeting room, necessary technological equipment, sufficient lodging at the facility or in the proximity of the facility); or
2. The component documents that a non-federal facility can be procured at a lower cost taking into account all costs described in § III of this policy. This must be documented in writing following the federal procurement regulations, including the competitive bid process, as appropriate.

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If a component is considering non-federal facilities, the conference planner must conduct and maintain documentation of market research to determine the facility that best meets the needs of the conference as set forth in the Federal Acquisition Regulation (FAR), Volume 1, Part 10. In order for this market research to be effective, the components must communicate the same sufficiently detailed requirements to all potential facilities. During the market research, components must not make any commitments to any of the facilities. The market research must determine the cost of the conference with respect to each of the three (or more) facilities, with the costs listed as required in § III.

Conference planners must exercise special care when considering holding a conference in any location that may give rise to appearance issues, such as a resort location. Conference planners must ensure that the choice to hold a conference in such a location is made only when there is a determination that it is the most cost-effective option, such as when the majority of conference attendees are stationed at or near the location.

D. Charging Conference Fees.

A component cannot charge fees to conference attendees to cover its costs without specific statutory authority to do so. See 31 U.S.C. § 3302. However, if the component uses a private contractor (such as an external conference planner, hotel, or other third party) to facilitate the conference or provide goods and services to the attendees, the contractor may charge fees. It is important that the fees charged by the contractor cover only the goods and/or services provided to the attendees by the contractor (or subcontractor(s)) and do not cover or defray costs that are the responsibility of the component. For example, if a contractor such as a hotel is providing attendees with lodging, meals and refreshments for a conference, the hotel may charge attendees directly for the costs of those items. The contractor must deal directly with the attendees to collect the fees; the component must not be involved in any such collection.

E. Use of External Conference Planners.

Minimizing conference costs must be a critical consideration in a component's decision whether to plan a conference with internal Department staff or to enter into a contract with an external conference planner. Because of their cost, external conference planners may be used only in exceptional circumstances when they are critically necessary.

The cost allowed for *logistical* conference planners is limited to \$50 for each attendee,⁵ not to exceed a cumulative cost total of \$8,750. For example, if the number of attendees at a conference is 100, the cost allowed for a logistical planner is \$5,000 (\$50 X 100 attendees). If it is expected that an external logistical conference planner will meet these limitations, no

⁵ Costs of trainers, instructors, presenters and facilitators are to be included as attendees when calculating thresholds.

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further justification is needed. If these limitations are expected to be exceeded, the costs must be justified in writing and approved by the Assistant Attorney General for Administration (AAG/A) as described in § IV(E) **in advance of the component signing a contract.**

The cost allowed for *programmatic* conference planners is limited to \$200 for each attendee,⁶ not to exceed a cumulative cost total of \$35,000. For example, if the number of attendees at a conference is 100, the cost allowed for a programmatic planner is \$20,000 (\$200 X 100 attendees). If these limitations are met, no further justification is required. If these limitations are exceeded, the costs must be justified and approved by the AAG/A as described in § IV(F).

F. Conference Space and Audio-visual Equipment and Services.

The cost allowed for conference space and audio-visual equipment and services is limited to \$25 per day per attendee,⁷ not to exceed a cumulative cost total of \$20,000.⁸ If these limitations are met, no further justification is required. If these limitations are exceeded, the costs must be justified and approved by the AAG/A as described in § IV(F).

G. Food and Beverages.

Food and beverages are generally considered personal expenses for which government funds should not be used. A rare exception will be made for working meals at a conference that are necessary to accomplishing official business and enhancing the cost effectiveness of the conference. For example, a meal may be permissible where the conference would need to be extended if the working meal is not provided. While meals may at times be permissible, as a general rule Department funds may not be used to provide refreshments, food and/or beverages at any other time of day; *i.e.*, as part of a refreshment break and/or as part of a reception (including welcoming, networking, social or working receptions). If a component determines that providing food and beverages at a refreshment break is necessary based on the unique and extenuating circumstances of the conference, AAG/A approval is needed as described in § IV(F). Receptions may only be funded by the Department if they are appropriately paid for using Representation Funds (*see* fn. 1).

⁶ See footnote 5.

⁷ See footnote 5.

⁸ *Example 1* – Does not require additional justification:

The number of attendees at a 3 day conference is 100 and the total cost of conference space and A/V equipment is less than \$7,500. (\$25 X 3 days X 100 attendees = \$7,500)

Example 2 – Requires additional justification and approval by the AAG/A:

The number of attendees at a 4 day conference is 225 and the total cost of conference space and A/V equipment is \$22,000. Although the total is below the per person threshold of \$22,500 (\$25 X 4 days X 225 attendees = \$22,500), the total cost exceeds the \$20,000 threshold.

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In addition to the limitations above, the following sections discuss the general rules regarding when meals can be provided to federal government employees, non-federal individuals, when attendees can be charged, and cost limits for meals. Note that even if these rules are followed, further evidence of the necessity of the meals will need to be provided in order for them to be approved.

1. *Federal Government Employees.* Meals may be paid for by the Department and provided to federal Government employees at conferences where all three of the following are true:

- a. The meals are incidental to the conference or training;
- b. Attendance at the meals is important for the host agency to ensure attendees' full participation in essential discussions, lectures, or speeches concerning the purpose of the conference or training; AND
- c. The meals are part of a conference or training that includes not just the meals and discussions, speeches, lectures, or other business that may take place when the meals are served, but also includes substantial functions occurring separately from when the food is served.

Note: While as a general rule the Department does not pay for meals for Department employees at their duty stations, if a conference or training meets the above criteria, meals may be served to employees who are not on travel. (Note, however, that meals should rarely, if ever, be provided at a conference where a majority of attendees are at their duty stations.) With respect to Department employees who are on travel, they must deduct from their per diem the appropriate amount for each meal provided by the Department.

2. *Non-Federal Government Attendees.* The Department can only pay for the meals of non-federal attendees at conferences if one of the following applies:

- a. The component has specific statutory authority permitting it (*e.g.* 42 U.S.C. § 3788(f) for programs covered by the Omnibus Crime Control and Safe Streets Act; 42 U.S.C.A. § 3771 and note);
- b. The non-federal attendees qualify as individuals serving the Department pursuant to 5 U.S.C. § 5703;⁹ or

⁹ Non-federal attendees who are provided any travel, lodging or meals by the Department pursuant to 5 U.S.C. § 5703 must be issued invitational travel orders. These are required even when a non-federal attendee is “local” to the conference and is only being provided meals.

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- c. The expenses can be considered “official reception and representation expenses” (28 U.S.C. § 530C(b)(1)(D)), are appropriately approved as such and are counted towards the Department’s Representation Fund limitations (see DOJ Order 2110.31B).
3. *Charging Non-Federal Attendees.* As discussed in § II(D), a private contractor (such as an external conference planner, hotel, or other third party) can charge fees to non-federal attendees to cover the costs of such goods and services as meals. The contractor must deal directly with the attendees to collect the fees for the meals; the component must not be involved in any such collection.
4. ***Minimizing costs of meals. Components, contractors and cooperative agreement recipients must adhere to the following cost thresholds for the costs of the meals provided at a conference.*** The cost of any meal provided, plus any hotel service costs and tax, cannot exceed 150% of the locality M&IE rate per meal. For example, if dinner will be provided in a locality with a \$46.00/day M&IE rate, the dinner rate in the locality is \$23.00 per dinner. Therefore, the cost of the dinner provided at the conference cannot exceed \$34.50 (\$23.00 x 150%) per person. All attendees being reimbursed per diem for attending the conference must ensure that the provided meal is deducted from their claimed M&IE; in this example the employee would deduct \$23.00 from claimed M&IE for the provided dinner.

H. Entertainment.

Department funds may not be used for costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).¹⁰ Department funds may only be used for work-related activities. The only exception is for entertainment that is appropriately paid for using Representation Funds (*see* fn. 1).

I. Trinkets.

Trinkets (items such as hats, mugs, portfolios, t-shirts, coins, etc., regardless of whether they include the component or conference name or logo) must not be purchased as giveaways for conferences. The only exception is for trinkets to be given to individuals outside the Department that are appropriately paid for using Representation Funds (*see* fn. 1). Basic supplies that are necessary for use during the conference (*e.g.*, pens, paper, nametags) may be purchased.

¹⁰ This definition is taken from OMB Circulars A-21, "Cost Principles for Educational Institutions;" A-87, "Cost Principles for State, Local and Indian Tribal Governments;" and A-122, "Cost Principles for Non-Profit Organizations."

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J. Requirements that Apply to Cooperative Agreement Recipients.

1. *Necessity and Fiscal Prudence Written Justification.* A component must exercise fiscal prudence when deciding whether to enter into a cooperative agreement (*see* § I(J)) that contemplates a conference. Components must document a written justification for each conference for which it enters into a cooperative agreement that certifies that the conference is essential to accomplishing core mission requirements and includes a programmatic reason to hold the conference. Components must consider whether the cooperative agreement should require the conference to be a less expensive alternative such as a video conference or webinar. Minimizing all conference costs (including administrative, time and travel costs) should be the priority when approving the proposed budget for the cooperative agreement.
2. *Directives.* To the extent they are applicable, cooperative agreement recipients must comply with the following: the Uniform Administrative Requirements for Grants and Cooperative Agreements with Non-Profit Organizations (28 CFR Part 70), OMB Cost Principles Circular A-122, 2 C.F.R. 230, the Office of Justice Programs Financial Guide, the Office on Violence Against Women Financial Guide, and/or any other component-specific guidance.
3. *Reasonable Standard.* The amount spent on conference costs is governed by the general principle that the costs be reasonable, which is further defined in OMB Circular A-122, Attachment A, paragraph 3, and this policy. Furthermore, cooperative agreement recipients must comply with the travel guidelines at OMB Circular A-122, Attachment B, paragraph 51, and the applicable component's Financial Guide, which require that if a cooperative agreement recipient does not have a written travel policy, the recipient must abide by the rates and amounts established by the General Services Administration (GSA) in the FTR, 41 C.F.R. 301.¹¹
4. *Location.* Minimizing costs must be the primary goal of a cooperative agreement recipient (or their sub-contractor) when determining the city and facility in which to hold a conference. Cooperative agreement recipients and sub-contractors should consider multiple facilities in multiple cities, unless there is an overriding operational reason to hold the conference in a specific location. Cooperative agreement recipients must make every effort to use no-cost facilities (including available government facilities) to the extent practicable. Special care should be taken when considering holding a conference in a location or facility that may raise appearance issues (such as a resort location), and these should only be used when they are the most cost-effective option (such as when the majority of attendees live in that location).

¹¹ GSA's regulations and per diem rates may be found at www.gsa.gov.

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5. *Conference Planners.* Minimizing conference costs must be a critical consideration in a cooperative agreement recipient's decision regarding whether to plan a conference with internal staff or to enter into a contract with an external conference planner. Cooperative agreement recipients must track the costs of both logistical and programmatic conference planning regardless of whether they are conducted by internal staff or external planners. General activities of internal staff or contractors that further the broader goals of the cooperative agreement but are not directly related to the conference do not need to be counted towards conference planning costs, but the cost of any work that is directly related to the conference must be counted. Indirect cost rates must be applied to conference planning costs in accordance with negotiated agreements, must be included when calculating cost thresholds, and must be included as part of the total conference planning costs. The costs allowed for logistical conference planning (whether being handled internally or through a contractor) must be in compliance with the amounts in § II(E); otherwise the cooperative agreement recipient must submit a written justification of the additional charges to the component for specific **advance** approval by the AAG/A as described in § IV(E). The costs allowed for programmatic conference planning (whether being handled internally or through a contractor) must be in compliance with the amounts in § II(E); if these limitations are exceeded the cooperative agreement recipient must submit a written justification of the additional charges to the component for specific AAG/A approval as described in § IV(F).
6. *Conference Space and Audio-Visual Equipment and Services.* Cooperative agreement recipients must limit the cost of conference space and audio-visual equipment to \$25 per day per attendee, not to exceed a total of \$20,000 for the conference. Indirect cost rates must be applied to conference space and audio-visual equipment costs in accordance with negotiated agreements, must be included when calculating cost thresholds, and must be included as part of the total conference cost. If these limitations are exceeded, the cooperative agreement recipient must submit a written justification of the additional charges to the component for specific approval by AAG/A as described in § IV(F).
7. *Food and Beverages.* Food and beverages are generally considered personal expenses for which government funds should not be used. A rare exception will be made for working meals at a conference that are necessary to accomplishing official business and enhancing the cost effectiveness of the conference. For example, a meal may be permissible where the conference would need to be extended if the working meal is not provided. The requirements and cost limitations in § II(G)(4) apply to meals provided by cooperative agreement recipients at conferences. Indirect cost rates must be applied to food and beverage costs in accordance with negotiated agreements. While meals may at times be permissible, as a general rule Department funds may not be used to provide refreshments, food and/or beverages at any other time of day; *i.e.*, as part of a refreshment break and/or as part of a reception (including welcoming, networking, social or working receptions)

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without specific approval. If a component determines that a cooperative agreement recipient must provide refreshment breaks based on the unique and extenuating circumstances of the conference, AAG/A approval is needed as described in § IV(F). Receptions may only be funded by the Department if they are appropriately paid for using Representation Funds (*see* fn. 1).

8. *Entertainment.* Department funds may not be used for costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities).¹² Department funds may only be used for work-related activities.
9. *Trinkets.* Trinkets (items such as hats, mugs, portfolios, t-shirts, coins, etc., regardless of whether they include the component or conference name or logo) must not be purchased with Department funds as giveaways for conferences. Basic supplies that are necessary for use during the conference (*e.g.*, pens, paper, name tags) may be purchased.

III. DETERMINING COSTS OF DEPARTMENT-SPONSORED CONFERENCES.

When determining the cost of a Department-sponsored conference, all costs incurred by the Department must be included, including costs funded by another agency pursuant to a reimbursable agreement.

If a component sponsors a conference and Department employees from another component attend and/or are involved in the conference, travel costs of the attendees and the trainers/instructors/presenters/facilitators must be included in the total cost of the conference. The sponsoring component must provide the attendees and trainers/instructors/presenters/facilitators with instructions on how to report such costs to the sponsoring component. The sponsoring component must also include the costs of any non-Department attendees and the trainers/instructors/presenters/facilitators for which the Department is paying their travel expenses pursuant to an invitational travel order. Therefore, *all* travel costs being paid for by the Department (including travel costs for: attendees and trainers/instructors/presenters/facilitators, regardless of whether they work for the sponsoring component, another Department component, or outside the Department) must be included in the travel cost categories (#6-9) below.

If a cooperative agreement recipient charges fees for conference attendance or receives other income and uses that income to pay for certain conference costs, those costs are not considered costs incurred by the Department and are not to be included in the total conference cost.

¹² See footnote 10.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

A. Cost Categories.

The following are cost categories to be included when determining the total conference cost:

1. Conference meeting space (including rooms for break-out sessions);
2. Audio-visual equipment and services;
3. Printing and distribution;
4. Meals provided by the Department (breakfast, lunch, and dinner);
5. Refreshments (if AAG/A approval given, § IV(E)) provided by the Department;
6. Meals and incidental expenses (M&IE portion of per diem) paid by the Department;
7. Lodging paid by the Department;
8. Common carrier transportation to/from conference location paid by the Department;
9. Local transportation (*e.g.*, rental car, POV to and from airport, taxi) paid by the Department;
10. Logistical conference planner;
11. Programmatic conference planner;
12. External trainers/instructors/presenters/facilitators;
13. Other costs: all other costs must be identified individually;
14. Indirect Costs: In accordance with negotiated agreements, all indirect costs associated with a conference must be applied to the above categories, as appropriate. The request and reporting format for including indirect costs is shown in Attachment 1.

B. “All Inclusive” Costs.

For locations where the cost is all-inclusive (*e.g.* National Conference Center, Leesburg, VA), meals and lodging need to be allocated to those categories based on per diem rates established by GSA, the Department of Defense, or the State Department, as appropriate.

IV. APPROVALS FOR DEPARTMENT-SPONSORED CONFERENCES.

Components must not proceed with a conference, or enter into a conference-related contract (except as allowed below for logistical conference planners), until approval has been given, as required by this policy. Components must also ensure that its cooperative agreement recipients: (1) do not proceed with a conference until appropriate approval has been given, and (2) comply with the approval process regarding logistical conference planning below; and (3) keep their Department contacts informed of all decisions being made during the conference planning process to ensure that they are complying with the relevant policies.

Logistical Conference Planning: Prior to conference approval a component may enter into a contract for logistical conference planning services as long as there is an expectation that the cost of such a contract will be within the threshold in § II(E). If the contract is expected to exceed the threshold, the component must get advance approval from the Assistant Attorney General for

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Administration (AAG/A) as described in § IV(E) before entering into such a contract. With respect to cooperative agreement recipients, if the cooperative agreement recipient is planning the conference internally, advance approval from the AAG/A as described in § IV(E) is needed before the costs of such planning can exceed the threshold in § II(E). Cooperative agreement recipients are permitted to contract for logistical planning services as long as there is an expectation that the cost of such a contract will not exceed the threshold in § II(E); if the contract is expected to exceed the threshold the cooperative agreement recipient must notify the component and the component must get advance approval from the AAG/A as described in § IV(E) before the cooperative agreement recipient can enter into such a contract.

A. Approval for Predominantly Internal Conferences Held in Non-Federal Facilities.

Predominantly internal conferences (including training) held in non-federal facilities must be approved first by the Component Head or Principal Deputy¹³ and then by the AAG/A *regardless of the cost*. This authority has not been redelegated. See § I(E) for a definition of a predominantly internal conference and § IV(H) for information on submitting requests for approval.

B. Approval for Conferences that Cost the Department more than \$500,000.

Conferences estimated to cost the Department more than \$500,000 are prohibited unless a waiver is granted by the Attorney General (AG). The AG must determine that exceptional circumstances exist that justify that the conference is the most cost-effective option to achieve a compelling purpose. Conferences estimated to cost the Department more than \$500,000 must be approved first by the Component Head or Principal Deputy, the Deputy Attorney General (DAG), and then the Attorney General. See § IV(H) for information on submitting requests for approval.

C. Approval for Conferences that Cost the Department more than \$100,000 through \$500,000.

Conferences estimated to cost the Department more than \$100,000 but less than \$500,000 must be approved first by the Component Head or Principal Deputy and then by the DAG. See § IV(H) for information on submitting requests for approval.

¹³ In every place in this policy where authority is delegated to the Component Head or Principal Deputy, in the case of the Federal Bureau of Investigation the authority is also delegated to the Associate Deputy. Further, if there is a situation in which a component does not have a Principal Deputy or an individual who has been designated as the Acting Principal Deputy, the AAG/A may delegate approval authority to a senior official in the component until the time at which a Principal Deputy or Acting Principal Deputy is named.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

D. Approval for Conferences that Cost the Department \$100,000 or Less.

Conferences estimated to cost the Department \$100,000 or less require Component Head or Principal Deputy approval. AAG/A approval is also required to the extent the conference includes refreshments and/or expenditures exceeding the thresholds for conference planners, conference space and audio-visual equipment and services (*see* IV(F)).

E. Advance Approval for Logistical Conference Planners

If a component expects a contract for logistical conference planning services will exceed the threshold in § II(E), or a cooperative agreement recipient expects their internal or contractor logistical conference planning costs will exceed the threshold in § II(E), advance approval from the AAG/A is required before a contract can be signed or cooperative agreement recipient costs can exceed this threshold. Components must submit Attachment 1 and include as much information as available about the conference, and include an explanation as to why the logistical conference planning costs are expected to exceed the threshold.

F. Approval for Refreshments, and Programmatic Conference Planners, Conference Space and Audio-visual Equipment and Services that Exceed the Cost Thresholds.

The AAG/A must specifically approve conference expenditures for refreshments and costs that exceed the thresholds for: programmatic conference planners (§ II(E)) and conference space and audio-visual equipment and services (§ II(F)). See § IV(H) for information on submitting requests for approval.

G. Ethics Approval for Gift Acceptance.

In cases where a non-Federal entity offers to allow a component to use a conference location, facility or room at no cost, or offers to fund food or beverages at the conference, this will raise ethics and/or gift acceptance questions and may require approval by a Component Head and/or the AAG/A prior to acceptance. Components must contact their Ethics Official and appropriate legal offices for a determination of whether specific approval for gift acceptance is required in such cases.

H. Conference Approval Request Process for AG, DAG and AAG/A Approved Conferences.

Conference approval requests must be submitted at least 90 calendar days prior to the expected date of contract award or the conference itself if there is no contract to be awarded or if the conference is being held by a cooperative agreement recipient. Components will receive a response to each request within 30 calendar days of receipt.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

1. Requests for all Department-sponsored conferences requiring the AAG/A, DAG, or AG approval must be submitted by the Component Head or Principal Deputy via email to the JMD Finance Staff at Conferences.and.Non-federal.Center@usdoj.gov. The submission responsibility may be redelegated to the Chief Financial Officer or the Executive Officer; however, the required certification may not be redelegated. These requests must be in the format presented in Attachment 1. Requests on any other form will be returned to the submitter unless approval to use a different form has been granted by the Director, Finance Staff.
2. *Certifications and Conference Agendas.* A conference approval request for a conference requiring AAG/A, DAG, or AG approval must include a certification (Attachment 2) and the conference agenda. The certification must be in writing from the Component Head or Principal Deputy and state that the conference complies with all Department guidelines and controls set forth in this policy. The certification also must explain how the conference is essential to accomplishing the component's core mission. This cannot be redelegated.
3. Requests must be consolidated by the component and submitted for approval no more than once per week.
4. *Blanket Requests* are permissible. Components may request approval for more than one conference (blanket request) at the same time if the name and purpose of each conference are the same and they occur during the same fiscal year. The locations and dates of the conferences must be identified in the request (if known). The requirements for a blanket request are the same as for requesting individual conferences. Each conference must be reported individually as required by § VI.

V. APPROVALS FOR NON-DEPARTMENT-SPONSORED CONFERENCES AND ATTENDANCE AT CONFERENCES HELD OUTSIDE THE UNITED STATES

A. Approval For Expenditures Over \$100,000 At Non-Department-Sponsored Conferences.

To the extent that the Department proposes to spend more than \$100,000 on a non-Department-sponsored conference (as defined in § I(D) of this policy), whether through funding support, travel expenses for sending attendees, trainers/instructors/presenters/facilitators, registration fees, and/or another type of support, such expenditures must be approved first by the DAG. Any proposed expenditure on a non-Department-sponsored conference that exceeds \$500,000 must have a waiver signed by the AG. The Finance Staff will conduct data calls in order to ensure that any such conference expenditures are properly tracked and approved. If conference attendance or support arises in between data calls, the component must immediately resubmit the data call response to include the new information.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

B. Approval for Attendance At Conferences Held Outside The United States.

The Department is statutorily prohibited from sending more than 50 employees¹⁴ to a single conference occurring outside the United States (regardless of whether it is Department-sponsored or not),¹⁵ unless:

1. The conference is a law enforcement training or operational conference for law enforcement personnel; *and*
2. The majority of Federal employees in attendance are law enforcement personnel stationed outside the United States.¹⁶

Each component is responsible for determining if the criteria listed above are met. The Justice Management Division, Finance Staff, will track attendance at conferences held outside the United States that do not meet the above criteria. Therefore, if a component intends to send employees (regardless of their duty stations) to a conference held outside the United States that does not meet the above criteria, the Component Head, or designee, must complete Attachment 3 at least 30 calendar days prior to the conference and send it to Conferences.and.Non-federal.Center@usdoj.gov, with the subject line “Attendance at a Conference Held Outside the United States.” Component Heads may redelegate this responsibility to no lower than the component Chief Financial Officer or Executive Officer consistent with good management. The Director, Finance Staff, will notify the component within 14 calendar days if the attendees are within the 50 attendee Departmental limitation. Once the 50 attendee limitation is reached, additional attendees will not be approved to attend.

VI. REPORTING REQUIREMENTS.

Components must report the following Department-sponsored conferences (including those sponsored by cooperative agreement recipients, but excluding those listed in § I(B)) quarterly no later than 45 calendar days after the end of each quarter.

A. Predominantly Internal Conferences Held in Non-federal Facilities.

Components must report the costs of all predominantly internal conferences held in non-federal facilities regardless of the cost using Attachment 1. A “predominantly internal conference” is a Department-sponsored conference (including a training activity) where a majority (more than 50%) of the attendees are Department employees (§ I(E)).

¹⁴ Note that trainers/instructors/presenters/facilitators, as defined in § I(G), are not to be included when calculating the number of conference attendees. If an employee is both an attendee and a trainer/instructor/presenter/facilitator, the employee should not be included in the attendee count.

¹⁵ The “United States” include the 50 United States and the District of Columbia.

¹⁶ Section 531, Division B, Public Law 112-55.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

B. Conferences that Cost the Department more than \$20,000.

Components must report the costs of each Department-sponsored conference for which the total cost is more than \$20,000 using Attachment 1. The AG is required to submit this information to the Department's Inspector General. The Department is also required to post information on its web site regarding all Department-sponsored conferences that cost the Department more than \$100,000.¹⁷ The web posting will include: the total conference expenses incurred by the Department for the conference; the location and date(s) of the conference; a brief explanation of how the conference advanced the mission of the agency; and the total number of individuals whose travel expenses or other conference expenses were paid by the Department. Further, with respect to a conference that cost the Department more than \$500,000, the Department is required to post the Attorney General's waiver that identified the exceptional circumstances that necessitated exceeding this threshold.

C. Attendance at Non-Department-sponsored Conferences.

Components must report conference attendance quarterly, no later than 45 calendar days after the end of each quarter using Attachment 4. This form should be used only to report attendance at non-Department sponsored conferences; attendance at Department-sponsored conferences will be captured in the § VI(A) reporting.

D. Required Report Formats.

Components must submit conference reports using Attachments 1 and 4. Reports on any other form will be returned to the submitter unless approval to use different forms has been granted by the Director, Finance Staff. Each component must consolidate its reports so only one report per component is submitted. Negative reports are required if no conferences were sponsored or attended. Reports, including negative reports, must be signed by the Component Head or Principal Deputy and be submitted via email to: Conferences.and.Non-federal.Center@usdoj.gov. The submission responsibility may be redelegated to the Chief Financial Officer or the Executive Officer; however, the required signature on the report may not be redelegated.

VII. INTERNAL CONTROLS.

Components are required to include a review of planning, approving, and reporting Department-sponsored conferences during its testing required by OMB Circular A-123, Management's Responsibility for Internal Control. In addition, on a quarterly basis, the JMD FS Quality Control and Compliance Group will select a sample of conferences reported for review against this policy.

¹⁷ See OMB Memorandum M-12-12, *Promoting Efficient Spending to Support Agency Operations*, May 11, 2012.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Components must keep on file for review accurate records documenting the conference planning and approval process, procurement records and methodologies, cost comparisons and actual costs, etc.

VIII. QUESTIONS.

Questions regarding these requirements may be directed to Chris Alvarez, Deputy Director, Finance Staff, Justice Management Division, on (202) 616-5234, or Lori Fears, Assistant Director, Travel Services Group, Finance Staff, Justice Management Division, on (202) 616-5216.

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Attachment 1: Department of Justice-Sponsored Conference Request and Report



Department of Justice-Sponsored Conference
Request and Report

A **RED** cell indicates that your entry exceeds the DOJ meal threshold AND cannot be submitted unless within the meal threshold.

A **YELLOW** cell indicates that your entry exceeds the DOJ threshold, and additional justification must be provided.

A **GREY** box indicates that no entry is required.

JMD FINANCE STAFF USE ONLY:	
JMD Tracking Number	
Date Received	

COMPONENT USE ONLY:	

A. GENERAL CONFERENCE INFORMATION:	
1. Name of Requestor	
2. Component Name <i>(Drop Down)</i>	
3. Is this submission for a conference request or report? <i>(Drop Down)</i>	
4. JMD Tracking # <i>(Report Only)</i>	
5. If this is a Re-Submission of a previously disapproved conference, indicate original JMD Tracking Number.	
6. Official Title of the Conference <i>(No Abbreviations)</i>	
7. Is this a blanket request? (Y/N) <i>(Drop Down)</i> <i>If "YES" Skip A9-13,A16 and Sections C,D,& E1, If "NO" Skip A8</i>	
8. If this is a Blanket Request, indicate the number of occurrences this fiscal year, locations, and dates	

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

9. Conference Start Date		
10. Conference End Date		
11. Location: Country <i>(Drop Down)</i>		
12. Location: State / Territory / Possession <i>(Drop Down)</i>		
13. Location: City		
14. Justification that conference is essential to accomplishing core mission		
15. Funding Appropriation Symbol		
16. Facility Name <i>(Specific)</i>		
17. Facility Type (Federal/Non-federal) <i>(Drop Down)</i>		
18. Cooperative Agreement (Y/N) <i>(Drop Down)</i>		
19. Reporting Period <i>(Required when reporting actuals) (Drop Down)</i>		
	Conference REQUEST Information	Conference REPORT Information
20. Number of DOJ Federal Attendees		
21. Number of Other Federal Attendees		
22. Number of Non-Federal Attendees		
23. Total Number of Attendees <i>(Auto-populates)</i>		
24. Total number of attendees whose travel expenses are paid for by DOJ		
25. Total Cost <i>(Auto-populates from entries below)</i>		
26. Predominately Internal Event held at a Non-federal Facility (Y/N) <i>(Auto-populates)</i>		
Competitive Contracting:		
27. Were Federal procurement regulations followed as appropriate? <i>(Drop Down)</i>		
28. Were all market research documents used in conference planning decisions retained? <i>(Drop Down)</i>		

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

When **REPORTING** quarterly conferences, only complete the request information if JMD approved your request and you have a JMD tracking number

B. TOTAL CONFERENCE COSTS:	Conference REQUEST Information				Conference REPORT Information				
	ESTIMATED DIRECT COST	ESTIMATED INDIRECT COST	ESTIMATED TOTAL COST <i>(Auto-populates)</i>	% OF TOTAL COST <i>(Auto-populates)</i>	ACTUAL DIRECT COST	ACTUAL INDIRECT COST	ACTUAL TOTAL COST <i>(Auto-populates)</i>	VARIANCE <i>(Between Actual and Estimate) (Auto-populates)</i>	VARIANCE JUSTIFICATION (Provide justification if variance is >\$1,000 and >10% or exceeds cost thresholds, as indicated by a white cell)
1. Conference Meeting Space (including rooms for break-out sessions)									
2. Audio-visual Equipment and Services									
3. Printing and Distribution									
4. Meals Provided by DOJ									
a. Breakfast									
b. Lunch									
c. Dinner									
5. Refreshments Provided by DOJ									
6. M&IE for Attendees									
7. Lodging									
8. Common Carrier Transportation									
9. Local Transportation									
10. Conference Planner - Logistical									
11. Conference Planner - Programmatic									
12. External Conference									
13. Other Costs: <i>(Itemize Below)</i>									
14. Total Conference Cost: <i>(Auto-populates)</i>									

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

C. MEALS & REFRESHMENTS THRESHOLD CALCULATOR				
CONFERENCE LOCATION:		PER DIEM RATE		
1. Continental United States MI&E		GSA Per-Diem Rates		
2. Hawaii, Alaska, US Territories & Possessions MI&E		DOD Per-Diem Rates		
3. Foreign Country MI&E		State Department Per-Diem Rates		
D. MEALS	NUMBER OF TIMES MEALS SERVED	NUMBER OF ATTENDEES	PER PERSON THRESHOLD (\$)	TOTAL JMD THRESHOLD (\$)
1. Breakfast				
2. Lunch				
3. Dinner				
E. OTHER THRESHOLDS CALCULATOR				
COST CATEGORY:	NUMBER OF ATTENDEES	PER PERSON THRESHOLD (\$)	TOTAL JMD THRESHOLD (\$)	
1. Conference Space & Audio-visual Equipment and Services				
2. Logistical Conference Planner				
3. Programmatic Conference Planner				
F. JUSTIFICATION IF SUBMITTING CONFERENCE REQUEST FORM WITH ESTIMATED COSTS OVER THRESHOLD (Complete if cells turn WHITE)				
1. Conference Space & Audio-visual Equipment and Services				
2. Refreshments				
3. Logistical Conference Planner				
4. Programmatic Conference Planner				
G. JUSTIFICATION REQUIRED FOR CONFERENCES WITH MEALS				
Government Provided Meals				
H. JUSTIFICATION FOR NON-FEDERAL FACILITY (Complete if cells turn WHITE):				
Justification for Using a Non-Federal Facility (Drop Down)				

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

I. FACILITIES CONSIDERED				
NAME	FACILITY TYPE (Drop Down)	TOTAL EST. COST	SELECTED (Y/N)	REASON FOR USE OR NON-USE

J. ESTIMATED ATTENDEE INFORMATION		
ATTENDEE DUTY STATION	ATTENDEE ORGANIZATION	NUMBER OF ATTENDEES
TOTAL - (Breakout must match entry on line A23)		0

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Attachment 2: Component Certification

From: Component Head or Principal Deputy

To: AAG/A, DAG, or AG

Subject: Conference Approval Requests

Attached are conference requests for (Insert Number) conferences planned by (Name of Component) for the time period of (date of first conference to date of last conference). These are being submitted for approval in compliance with the policy titled "Planning, Approving, Attending and Reporting Conferences." This certifies that these conferences are in accordance with applicable policies, procedures, and sound financial management principles.

Provide written justification that the conferences are essential to accomplishing core mission requirements.

1. Conference name:

Dates:

Justification that conference is essential to accomplishing core mission:

2. Conference name:

Dates:

Justification that conference is essential to accomplishing core mission:

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Attachment 3: Attendance at Conferences Held Outside the U.S.



**Department of Justice
Attendance at Conferences Held Outside the United States**

Component:	
Point of Contact:	
Telephone:	
Email:	

GENERAL CONFERENCE INFORMATION:	
Title of Conference	
Location: Country <i>(Drop Down)</i>	
Location: City	
Start Date:	
End Date:	
Number of Attendees:	

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

Attachment 4: Attendance at Non-Department-Sponsored Conferences Report



**Department of Justice
Attendance at Non-Department-Sponsored Conferences Report**

Component:	
Point of Contact:	
Telephone:	
Email:	
Reporting Period:	
Fiscal Year:	

1	2	3	4	5	6	7	8	9	10	11	12	13	14
Title of Conference	Location: Country (Drop Down)	Location: State / Territory / Possession (Drop Down)	Location: City	Start Date	End Date	# of DOJ Component Employee Attendees	# of Non-DOJ Attendees Funded by DOJ Component	Primary Conference Sponsor	Frequency of Conference (# of times held per year)? (Drop Down)	Travel and Transportation (\$)	Registration Fees (\$)	Other (\$)	Total Cost (\$) (Auto-populates)

PLANNING, APPROVING, ATTENDING AND REPORTING CONFERENCES

APPENDIX: ACTION LOG

All DOJ directives are reviewed, at minimum, every five years and revisions are made as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive. A brief summary of all revisions will be noted. In the event this directive is cancelled, superseded, or supersedes another directive, that also will be noted in the action log.

Action	Authorized by	Date	Summary
Initial Approval	Director, Finance Staff	June 8, 2012	

APPENDIX E



JANUARY 30, 2013

DOJ POLICY STATEMENT

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE COMMEMORATIVE ITEMS AND TRINKETS

PURPOSE: This Policy Statement updates Department of Justice (Department or DOJ) policy on the restricted use of Department funds to purchase commemorative items and trinkets and requires that all such items must, to the extent possible, be manufactured, produced or assembled in the United States, its territories or possessions. This Policy Statement applies to all procurement mechanisms used to obtain commemorative items and trinkets, including purchase cards and purchase orders.

SCOPE: This Policy Statement applies to all DOJ Components regardless of funding source.

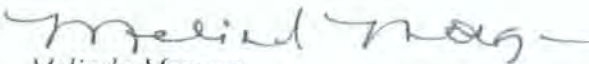
ORIGINATOR: Justice Management Division (JMD). Finance Staff (FS)

CATEGORY: (I) Administration, (II) Financial Management

AUTHORITY: DOJ Order 2110.31B; Section 507 of Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012 (Title V, Division B, Public Law 112-55); OMB Circular A-87.

CANCELLATION: JMD FS Financial Management Policies and Procedures Bulletin No. 11-04, *Restrictions on Using Department of Justice Funds to Purchase Trinkets*.

DISTRIBUTION: This Policy Statement is distributed electronically to all components listed in the Scope Section as well as posted to the DOJ Directives Management website <https://portal.doj.gov/dm/Pages/Home.aspx>.

APPROVED BY: 
Melinda Morgan
Director
JMD Finance Staff

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE
COMMEMORATIVE ITEMS AND TRINKETS

ACTION LOG

All DOJ directives are reviewed, at minimum, every five years and revisions are made as necessary. The action log records dates of approval, recertification, and cancellation, as well as major and minor revisions to this directive. A brief summary of all revisions will be noted. In the event this directive is cancelled, superseded, or supersedes another directive, that will also be noted in the action log.

Action	Authorized by	Date	Summary
Initial Document	Melinda Morgan	1/30/2013	Approval of Policy Statement

DOJ POLICY STATEMENT 1400.02

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE
COMMEMORATIVE ITEMS AND TRINKETS

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DEFINITIONS

Commemorative Item	Commemorative item means a plaque, certificate, picture (framed or unframed), or other type of item typically given to an individual or group to acknowledge particular achievements or exceptional contributions.
Trinket	Trinket means an item (typically of nominal value) such as a hat, mug, t-shirt, or coin.
Component	Component means an Office, Board, Division or Bureau of the Department of Justice as defined in 28 C.F.R. Part 0 Subpart A, Paragraph 0.1.
Department	Department means the Department of Justice

ACRONYMS

AAG/A	Assistant Attorney General for Administration
DAG	Deputy Attorney General
DOJ	Department of Justice
FS	Finance Staff
JMD	Justice Management Division

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE COMMEMORATIVE ITEMS AND TRINKETS

I. POLICY.

The use of Department funds to purchase commemorative items and/or trinkets for distribution to employees or the public is prohibited except as provided for in this policy. Note that trinkets to be used as message conveyors and similar giveaways (whether they are conference-related or otherwise) are generally impermissible unless special approval is granted pursuant to § I(C). Pending further guidance, the following policies and limitations apply to the permissible categories of commemorative items and trinket purchases:

A. Honorary Awards.

It is permissible to give an employee a commemorative item, such as a framed certificate or plaque, as an honorary award in conjunction with a cash award or on its own. Employees must comply with their respective components' guidelines/policies and document the purchases, recipient(s) and their achievements. Honorary awards may be given at the time of an employee's retirement or departure where the employee's service merits such an award. Components may also give honorary award items of nominal value (commemorative items or trinkets, as appropriate) to individuals outside of the Department who have provided a service, such as speaking at a Department-sponsored event.

Fiscal prudence and good judgment must be exercised when purchasing items to be given as awards and typically such items must not cost more than \$100 except when they are to be given in conjunction with a Department or Component-level awards ceremony. Component Head or Principal Deputy¹ approval is required before a component may purchase any award item that costs more than \$100 if it will not be given during a Department or Component-level awards ceremony. To the extent that purchases of such honorary award items are permissible, they must comply with the requirements in §I(D).

B. Representation Fund Purchases.

The purchase of commemorative items and trinkets to promote goodwill towards the Department and its missions is permissible when Representation Funds are properly used pursuant to DOJ Order 2110.31B, *Expenditures of Representation Funds*. To the extent that such purchases are permissible, they must comply with the requirements in §I(D).

¹ In the case of the Federal Bureau of Investigation the Associate Deputy is authorized to approve such purchases. Further, if there is a situation in which a component does not have a Principal Deputy or an individual who has been designated as the Acting Principal Deputy, the AAG/A may delegate approval authority to a senior official in the component until the time at which a Principal Deputy or Acting Principal Deputy is named.

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE
COMMEMORATIVE ITEMS AND TRINKETS

C. Purchases Pursuant to a Compelling Mission Need with AAG/A Approval.

As a general matter, the above two categories (honorary awards and Representation Fund items) are the only permissible justifications for the purchase of commemorative items and/or trinkets. If a component has a compelling mission need to purchase commemorative items and/or trinkets for any other reason it must submit a request to the Director, JMD FS prior to making any such purchases. Note that such a request is required even if a component has specific statutory authority to purchase trinkets for other purposes. Each request must contain the justification (compelling mission need); description, quantity, and cost of the items; and a description of the individuals to whom the items will be distributed. A component must not proceed with any such purchases unless it receives approval from the AAG/A or his designee. To the extent that the purchase of such items is deemed to be permissible, the component must comply with the requirements in §I(D).

D. American-Made Requirement.

Commemorative item and trinket purchases must comply with a provision enacted as part of the Department's appropriations act that such items be "American-made," as follows:

To the extent practicable, with respect to authorized purchases of promotional items, funds made available by this Act shall be used to purchase items that are manufactured, produced, or assembled in the United States, its territories or possessions.²

Out of an abundance of caution, this policy applies that provision to all purchases of commemorative items and trinkets. Accordingly, components purchasing commemorative items or trinkets must first consider whether there are American-made options for such purchases. Components must buy American-made items unless:

1. American-made items are unavailable,
2. The cost of American-made items is unreasonable, or
3. There is another compelling reason to purchase items made outside the United States.

² Section 507 of Commerce, Justice, Science, and Related Agencies Appropriations Act, 2012 (Title V, Division B, Public Law 112-55). The provision refers to the definition of "promotional items" in Office of Management and Budget Circular A-87, Attachment B, Item (1)(f)(3), which restricts purchases of "promotional items and memorabilia, including models, gifts, and souvenirs."

RESTRICTED USE OF DEPARTMENT FUNDS TO PURCHASE COMMEMORATIVE ITEMS AND TRINKETS

If a component chooses not to buy American-made items, such a decision must be documented in writing and retained with the purchasing documentation.

E. Component Policies.

Components are permitted to establish their own policies on using Department funds to purchase commemorative items and trinkets. Such policies must not conflict with this Policy Statement, but may be more restrictive, at the discretion of the component. Component policies should include internal controls for such expenditures, such as providing for written approval of such expenditures by designated officials and periodic reporting of expenditures in accordance with Part II of this Policy Statement.

II. OVERSIGHT RESPONSIBILITIES.

The review of commemorative item and trinket purchases is required as part of the Department's existing internal control assessment conducted under Office and Management and Budget Circular A-123, *Management's Responsibility for Internal Control*. Each component is required to include testing of commemorative item and trinket purchases in its A-123 review, to ensure the restrictions on using Department funds are followed. Specific testing procedures will be provided by the JMD Internal Review and Evaluation Office as part of the Sensitive Payment test plan.

III. QUESTIONS AND COMMENTS.

If you have any questions or comments about this policy please contact the JMD FS Quality Control and Compliance Group at QCCG.FINANCIAL.MANAGEMENT.POLICY.QUESTIONS@USDOJ.GOV.
