

§ 1.3000 Purpose and scope.

The purpose of this subpart is to implement the Telecommunications Authorization Act of 1992 which amended the Communications Act by creating section 4(g)(3), 47 U.S.C. 154(g)(3). The provisions of this subpart shall apply to gifts, donations and bequests made to the Commission itself. Travel reimbursement for attendance at, or participation in, government-sponsored meetings or events required to carry out the Commission's statutory or regulatory functions may also be accepted under this subpart. The acceptance of gifts by Commission employees, most notably gifts of food, drink and entertainment, is governed by the government-wide standards of employee conduct established at 5 CFR part 2635. Travel, subsistence and related expenses for non-government-sponsored meetings or events will continue to be accepted pursuant to the Government Employees Training Act, 41 U.S.C. 4111 or 31 U.S.C. 1353, and its General Services Administration's implementing regulations, 41 CFR 304–1.8, as applicable.

§ 1.3001 Definitions.

For purposes of this subpart:

- (a) The term *agency* means the Federal Communications Commission.
- (b) The term *gift* means any unconditional gift, donation or bequest of real, personal and other property (including voluntary and uncompensated services as authorized under 5 U.S.C. 3109).
- (c) The terms *agency ethics official*, *designated agency ethics official*, *employee*, *market value*, *person*, and *prohibited source*, have the same meaning as found in 5 CFR 2635.102, 2635.203.

§ 1.3002 Structural rules and prohibitions.

- (a) *General prohibitions.* An employee shall not:
 - (1) Directly or indirectly, solicit or coerce the offering of a gift, donation or bequest to the Commission from a regulated entity or other prohibited source; or
 - (2) Accept gifts of cash pursuant to this subpart.
- (b) *Referral of offers to designated agency ethics official.* Any person who seeks to offer any gift to the Commis-

sion under the provisions of this subpart shall make such offer to the Commission's designated agency ethics official. In addition, any Commission employee who is contacted by a potential donor or the representative thereof for the purpose of discussing the possibility of making a gift, donation or bequest to the Commission shall immediately refer such person or persons to the Commission's designated agency ethics official. The designated agency ethics official shall, in consultation with other agency ethics officials, make a determination concerning whether acceptance of such offers would create a conflict of interest or the appearance of a conflict of interest. Agency ethics officials may also advise potential donors and their representatives of the types of equipment, property or services that may be of use to the Commission and the procedures for effectuating gifts set forth in this subpart. The Commission may, in its discretion, afford public notice before accepting any gift under authority of this subpart.

§ 1.3003 Mandatory factors for evaluating conflicts of interest.

No gift shall be accepted under this subpart unless a determination is made that its acceptance would not create a conflict of interest or the appearance of a conflict of interest. In making conflict of interest determinations, designated agency ethics officials shall consider the following factors:

- (a) Whether the benefits of the intended gift will accrue to an individual employee and, if so—
 - (1) Whether the employee is responsible for matters affecting the potential donor that are currently before the agency; and
 - (2) The significance of the employee's role in any such matters;
- (b) The nature and sensitivity of any matters pending at the Commission affecting the intended donor;
- (c) The timing of the intended gift;
- (d) The market value of the intended gift;
- (e) The frequency of other gifts made by the same donor; and
- (f) The reason underlying the intended gift given in a written statement from the proposed donor.