

Letter to the Executive Vice President
of an Organization dated March 9, 2007

This is in response to your February 9, 2007, letter requesting our opinion on whether the receipt of cash awards by Government employees under an awards program administered by your organization would be permissible. In February 2002, we reviewed a prior version of this awards program for compliance with applicable gifts provisions in the Standards of Ethical Conduct for Employees of the Executive Branch (Standards of Conduct) and related ethics laws. We concluded then that awards under that earlier program could be accepted under applicable gifts requirements. Upon reviewing your most recent request and the accompanying award program materials, this "newer" version of your awards program would continue to meet applicable gifts requirements as discussed below.

Your letter and accompanying program materials show that a few changes have been made to your organization's awards program, including how the current program is being administered. While in your previous request in 2002, your organization was partnering with three other entities in administering the program, your organization will now be administering the awards program on its own. Your letter stated the awards program is, however, "essentially unchanged" from the predecessor program by this new arrangement for the current program's administration.

In general, the "new" program will continue to make awards pursuant to written criteria that you have enclosed with your letter. Cash awards ranging from \$3,000 to \$10,000 will be attached to these awards. The cost of the awards program will be underwritten by corporate sponsors who will not play any role in the selection process for awardees. Moreover, your organization will not permit any corporate sponsor to "brand" a particular award, which we understand to mean that no award will be identified with any particular corporate sponsor.

As you know, section 2635.204(d) of the Standards of Conduct is the regulatory provision that pertains to the acceptance of awards by employees. That section, which provides an exception to the statutory and regulatory gift prohibitions, states that:

An employee may accept . . . a bona fide award . . . that is given for meritorious public service or achievement by a person who does not have interests that may be substantially affected by the performance or nonperformance of the employee's official duties or by an association or other organization the majority of whose members do not have such interests [Such awards in excess of \$200 require] . . . a written determination by an agency ethics official that the award is made as part of an established program of recognition: (i) [u]nder which awards have been made on a regular basis or which is funded, wholly or in part, to ensure its continuation on a regular basis; and (ii) [u]nder which selection of award recipients is made pursuant to written standards.

Based on our current review, we conclude that employee awards under the newer version of your awards program would comply with the gift requirements identified above. However, employees could only accept awards under this gift exception as long as the award recipients are not employees who could substantially affect the interests of [your organization]. Since your previous partners are not involved in administering the new awards program, it is no longer necessary to consider whether an employee awardee could substantially affect the interests of those entities.

As we have stated previously, employees who are permitted to accept these employee awards could also accept free attendance at an event at which the presentation takes place (such as the gala awards ceremony mentioned in your letter), as well as travel expenses to the event for themselves and their families. However, prior to granting the awards, you should continue to contact the employee's Designated Agency Ethics Official (DAEO) to insure that the agency concurs that the employee is not one who could substantially affect the interests of your organization through the employee's official duties; to determine what restrictions apply if the employee is such a person; and to determine if any agency-specific rules might

apply to these awards. As you know, a current list of agency DAEOs is available on our website at www.usoge.gov by clicking the "Forms, Publications, and Other Ethics Documents" tab.

We appreciate your continued efforts to recognize the contributions of outstanding Federal employees in your Federal employee awards program. Your program will help to remind the American people of the importance of Federal service and will encourage talented citizens to consider serving their country through Government employment. We hope this information will assist you. If you have any further questions, please feel free to contact my Office.

Sincerely,

Robert I. Cusick
Director