

MARYLAND STATE DEPARTMENT OF BUDGET AND MANAGEMENT MANUAL	Number: 02.01.08 Effective Date 11/1/96
	Section: DBM Procedure
	Subject: Gifts and Grants – Acceptance Policies and Procedures

I. PURPOSE

This directive prescribes procedures for the acceptance by Executive Branch agencies of gifts and Grants, excluding Federal grants. This procedure replaces the procedure issued on April 26, 1989.

II. DEFINITIONS

In this Directive, the following words have the meanings indicated.

- A. “Agency Head” means the secretary of a principal department of State government or the head of an independent agency.
- B. “Aircraft” means any motorized device used or designed for navigation or flight in the air.
- C. “Department” means the Department of Budget and Management.
- D. “Directive” means this DBM procedure on gift and grant acceptance.
- E. “Federal Grant” means, for purposes of this regulation, includes funds or monies given by the Federal Government or its agencies to the State or any of its officials or units for a specific purpose.
- F. “Gift” includes an inter vivos gift, inter vivos endowment, bequest, devise, legacy, or testamentary endowment of any interest in real or personal property. (Article 1, §22 of the Annotated Code of Maryland)
- G. “Grants” means the bestowing of a power, money, privilege, property, or other item of value that may be conditional, although without other consideration, by another party upon the State.
- H. “Real Property” includes land, and any interest or estate therein, or any right or easement affecting the same, including an oil or gas leasehold interest. It includes all buildings or other things erected upon or affixed to the land, and permanent fixtures, such as heavy machinery, that are firmly fixed and are not easily movable.
- I. “Secretary” means the Secretary of Budget and Management.

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- J. “Vehicle” means any motorized device in or by which any person or property may be transported or towed on a roadway, and includes farm and construction vehicles.
- K. “Vessel” means every description of watercraft, other than a seaplane, that may be used for transportation on water or ice. Ice boats are regarded as watercraft. The term includes the vessel’s motor, spars, sails, and accessories.

III. POLICY

It is the policy of the Department to ensure that all Executive Branch units comply with Section 2-201 of the State Finance and Procurement Article, which provides:

§2-201. Gifts.

(a) “Gift” defined. – In this section, “gift” has the meaning stated in Article 1, §22 of the Code.

(b) Assent to acceptance. – Except as otherwise expressly provided by law, an officer or unit of the State government may not spend any money that derives from a gift until the Governor assents to the acceptance of the gift.

(c) Use; spending (unappropriated) money. – If the Governor assents to the acceptance of a gift by an officer or unit, the officer or unit may use the gift in accordance with its terms. If the gift is money or generates money, the officer or unit may not spend the money until it is appropriated as provided in Title 7.

IV. SCOPE

A. General

Except as otherwise expressly provided by law, this Directive applies to all officers and units of the Executive Branch of State government.

B. Exclusions

This Directive does not apply to:

- 1. An officer or unit of the Executive branch of State government vested with independent constitutional or statutory authority to assent to the acceptance of a Gift or Grant.

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2. Federal Grants.
3. Any Gift or Grant to a State institution of higher education.
4. Any Gift or Grant to the Maryland Public Broadcasting Commission from the Maryland Public Broadcasting Foundation, Inc.
5. Remuneration received as a result of a contract for a product or service.

Items 1-5, above, will continue to be processed through the regular budget and budget amendment appropriation processes.

C. Restrictions

An officer or unit may not spend Gifts or Grants of funds or funds derived from any Gift or Grant, regardless of value, unless those funds have been anticipated and appropriated by the budget, or have been appropriated by an approved budget amendment.

V. RESPONSIBILITIES

This section describes the rights, privileges, and duties of the Secretary and the Agency Heads under the provisions of this Directive.

A. Secretary

Pursuant to a delegation of authority by the Governor, the Secretary may, on behalf of the Governor, assent to the acceptance of any Gift or Grant under the provisions of Section 2-201 of the State Finance and Procurement Article. In implementing this delegation, the Secretary:

1. May approve or disapprove a State agency request to accept a Gift or Grant.
2. Will provide the Governor with a full accounting of all Gifts and Grants accepted with values of \$1,000 or greater upon the request of the Governor or the Governor's designee.
3. Will use discretion to selectively forward to the Governor any extraordinary Gifts and Grants which the Governor may wish to personally accept.

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B. Agency Heads

1. The Agency Head may accept on behalf of the agency any Gift or Grant that does not require the Secretary's prior approval as set forth in Section VI.A.1 of this directive.
2. The Agency Head shall ensure that any Gift or Grant accepted by the agency is used in accordance with its terms.
3. Agency Heads must send donors written acknowledgment of acceptance of Gifts and Grants, and must maintain copies of these acknowledgments in a file for at least three full fiscal years. (In the case of anonymous gifts or donors who have not provided a mailing address, a memo should be placed in the file in lieu of an acknowledgment). The Department shall be granted access to this file upon request.

VI. PROCEDURES

Pursuant to this Directive, Executive Branch agencies shall comply with the following procedures:

A. Gift Acceptance Requiring the Secretary's Approval

1. The Secretary's approval is required for the acceptance by the agency of:
 - a. Any Gift or Grant valued at \$50,000 or more;
 - b. Any Gift or Grant valued at less than \$50,000 that entails an estimated initial or annual cost to the State of \$5,000 or more; and
 - c. Regardless of value, any Gift or Grant of:
 - (1) an aircraft;
 - (2) a vehicle;
 - (3) a vessel; or
 - (4) real property.
2. For each Gift or Grant requiring the Secretary's approval, the Agency Head shall submit a completed and signed Form DBM-OBA-1-88 to the Secretary (ATTN.: Executive Director of Budget Analysis) for review and signature.

B. Gift or Grant Acceptance Under Agency Head Authority

For those Gifts and Grants with a value of \$1,000 or more that do not require DBM approval, the Agency Head shall:

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1. Complete and sign a copy of Form DBM-OBA-1-88;
2. Retain the executed Form DBM-OBA-1-88 for at least three (3) full fiscal years following the agency's acceptance of the Gift or Grant; and
2. Submit to the Secretary (ATTN.: Executive Director of Budget Analysis) a copy of the executed Form DBM-OBA-1-88 within fifteen (15) working days after the end of the fiscal year.