

§ 106.402

(b) Gifts of cash accepted for Non-Fee Based SBA-Sponsored Activities are subject to §106.500, internal SBA policies and procedures as well as applicable U.S. Treasury rules and guidelines; and

(c) Written approval must be obtained as outlined in §106.403.

§ 106.402 What provisions must be set forth in a Non-Fee Based Record?

A Non-Fee Based Record must contain the following:

(a) A narrative description of the Non-Fee Based SBA-Sponsored Activity;

(b) A certification by the Responsible Program Official that he or she will abide by the requirements contained in this part, as well as all other applicable statutes, regulations, policies and procedures for Non-Fee Based SBA-Sponsored Activities;

(c) If applicable, a list of Donors supporting the activity; and

(d) With regard to any donations made in support of a Non-Fee Based SBA-Sponsored Activity, the Non-Fee Based Record will reflect the following:

(1) Each Donor may receive appropriate recognition for its Gift; and

(2) Any printed or electronically generated material recognizing a Donor will include a prominent disclaimer stating that the acceptance of the Gift does not constitute or imply an endorsement by SBA of the Donor, or the Donor's products or services.

§ 106.403 Who has authority to approve and sign a Non-Fee Based Record?

The appropriate Responsible Program Official, after consultation with the designated legal counsel, has authority to approve and sign each Non-Fee Based Record.

Subpart E—Gifts

§ 106.500 What is SBA's Gift authority?

This section covers SBA's Gift acceptance authority under sections 4(g), 8(b)(1)(G), 5(b)(9) and 7(k)(2) of the Small Business Act.

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§ 106.501 What minimum requirements are applicable to SBA's solicitation and/or acceptance of Gifts?

While SBA may subject the solicitation and/or acceptance of Gifts to additional requirements through internal policy and procedure, the following requirements must apply to all Gift solicitations and/or acceptances under the authority of the Small Business Act sections cited in §106.500:

(a) SBA is required to use the Gift (whether cash or in-kind) in a manner consistent with the original purpose of the Gift;

(b) There must be written documentation of each Gift solicitation and/or acceptance signed by an authorized SBA official;

(c) Any Gift solicited and/or accepted must undergo a determination, prior to solicitation of the Gift or prior to acceptance of the Gift if unsolicited, of whether a conflict of interest exists between the Donor and SBA; and

(d) All cash Gifts donated to SBA under the authority cited in §106.500 must be deposited in an SBA trust account at the U.S. Department of the Treasury.

§ 106.502 Who has authority to perform a Gift conflict of interest determination?

(a) For Gifts solicited and/or accepted under sections 4(g), 8(b)(1)(G), and 7(k)(2) of the Small Business Act, the General Counsel, or designee, must make the final conflict of interest determination. No Gift shall be solicited and/or accepted under these sections of the Small Business Act if such solicitation and/or acceptance would, in the determination of the General Counsel (or designee), create a conflict of interest.

(b) For Gifts of services and facilities solicited and/or accepted under section 5(b)(9), the conflict of interest determination may be made by designated disaster legal counsel.

§ 106.503 Are there types of Gifts which SBA may not solicit and/or accept?

Yes. SBA shall not solicit and/or accept Gifts of or for (or use cash Gifts to purchase or engage in) the following:

(a) Alcohol products;