

## § 451.102

cash awards under 5 U.S.C. 4505a to be paid to categories of employees who would not be eligible otherwise.

(c) This subpart applies to employees as defined by section 2105 and agencies as defined by section 4501 of title 5, United States Code, except as provided in §§ 451.105 and 451.201(b).

(d) For the regulatory requirements for granting performance awards to Senior Executive Service (SES) employees under 5 U.S.C. 5384, refer to § 534.405 of this chapter.

(e) An agency may grant performance-based cash awards (*i.e.*, on the basis of a rating of record) under the authority of 5 U.S.C. 4505a and the provisions of this part to eligible non-GS employees who are covered by 5 U.S.C. chapter 45 and this part, and who are not otherwise covered by an explicit statutory authority for the payment of such awards, including 5 U.S.C. 5384 (SES performance awards).

[60 FR 43946, Aug. 23, 1995; 60 FR 47646, Sept. 13, 1995, as amended at 69 FR 70359, Dec. 6, 2004]

### § 451.102 Definitions.

*Award* means something bestowed or an action taken to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the Government or is otherwise in the public interest. Such awards include, but are not limited to, employee incentives which are based on predetermined criteria such as productivity standards, performance goals, measurement systems, award formulas, or payout schedules.

*Award program* means the specific procedures and requirements established by an agency or a component of an agency for granting awards under subchapter I of chapter 43 and subchapter I of chapter 45 of title 5, United States Code, and this subpart.

### § 451.103 Agency award program(s).

(a) Agencies shall develop one or more award programs for employees covered by this subpart.

(b) Agencies are encouraged to involve employees in developing such programs. When agencies involve em-

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ployees, the method of involvement shall be in accordance with law.

(c) An agency award program shall provide for—

(1) Obligating funds consistent with applicable agency financial management controls and delegations of authority; and

(2) Documenting justification for awards that are not based on a rating of record (as defined in § 430.203 of this chapter).

[60 FR 43946, Aug. 23, 1995; 60 FR 47646, Sept. 13, 1995]

### § 451.104 Awards.

(a) An agency may grant a cash, honorary, or informal recognition award, or grant time-off without charge to leave or loss of pay consistent with chapter 45 of title 5, United States Code, and this part to an employee, as an individual or member of a group, on the basis of—

(1) A suggestion, invention, superior accomplishment, productivity gain, or other personal effort that contributes to the efficiency, economy, or other improvement of Government operations or achieves a significant reduction in paperwork;

(2) A special act or service in the public interest in connection with or related to official employment; or

(3) Performance as reflected in the employee's most recent rating of record (as defined in § 430.203 of this chapter), except that performance awards may be paid to SES employees only under § 534.405 of this chapter and not on the basis of this subpart.

(b) A cash award under this subpart is a lump sum payment and is not basic pay for any purpose.

(c) An award is subject to applicable tax rules, such as withholding.

(d) When an award is approved for—

(1) An employee of another agency, the benefiting agency shall make arrangements to transfer funds to the employing agency to cover the award. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs and pay the award; and

(2) A member of the armed forces for a suggestion, invention, or scientific achievement, arrangements shall be

## Office of Personnel Management

## § 451.107

made to transfer funds to the agency having jurisdiction over the member in accordance with E.O. 11438, "Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces".

(e) An award may be granted to a separated employee or the legal heir(s) or estate of a deceased employee.

(f) A time-off award granted under this subpart shall not be converted to a cash payment under any circumstances.

(g) When granting an award paid as a percentage of basic pay under 5 U.S.C. 4505a(a)(2), the rate of basic pay used must include any applicable locality payment under 5 CFR part 531, subpart F; special rate supplement under 5 CFR part 530, subpart C; or similar payment or supplement under other legal authority. For an employee receiving a retained rate under 5 CFR part 536, subpart C (or similar authority, such as 5 CFR 359.705), the rate of basic pay is the maximum payable rate for the employee's grade or level, rather than the retained rate.

[60 FR 43946, Aug. 23, 1995, as amended at 69 FR 70359, Dec. 6, 2004; 70 FR 31287, May 31, 2005; 70 FR 74995, Dec. 19, 2005]

### § 451.105 Award restrictions.

(a) In accordance with 5 U.S.C. 4508, agencies shall not grant awards under this subpart during a Presidential election period to employees who are—

(1) In a Senior Executive Service position and not a career appointee as defined under 5 U.S.C. 3132(a)(4); or

(2) In an excepted service position of a confidential or policy-determining character (schedule C).

(b) In accordance with 5 U.S.C. 4509, agencies shall not grant cash awards under this subpart to employees appointed by the President with Senate confirmation who serve in—

(1) An Executive Schedule position, or

(2) A position for which pay is set in statute by reference to a section or level of the Executive Schedule.

### § 451.106 Agency responsibilities.

(a) In establishing and operating its award program(s), an agency shall assure that a program does not conflict

with or violate any other law or Governmentwide regulation.

(b) When a recommended award would grant more than \$10,000 to an individual employee, the agency shall submit the recommendation to OPM for approval.

(c) Agencies shall provide for communicating with employees and supervisors (e.g., through formal training) about the relevant parts of their award program(s).

(d) Agencies shall evaluate their award program(s).

(e) Agencies shall document all cash and time off awards in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PROCESSING PERSONNEL ACTIONS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(f) Agencies shall file award documents in the Official Personnel Folder in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PERSONNEL RECORDKEEPING, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(g) Agencies shall report award data to the Central Personnel Data File in Compliance with instructions in the OPM Operating Manual, FEDERAL WORKFORCE REPORTING SYSTEMS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(h) Agencies shall maintain and submit to OPM such records as OPM may require.

(i) Agencies shall give due weight to an award granted under this part in qualifying and selecting an employee for promotion as provided in 5 U.S.C. 3362.

(j) Agencies shall take any corrective action required by OPM to ensure conformance with applicable law, regulation, and OPM policy.

### § 451.107 OPM responsibilities.

(a) OPM shall review and approve or disapprove each agency recommendation for an award that would grant more than \$10,000 to an individual employee.

(b) When a recommended award would grant more than \$25,000 to an individual employee, OPM shall review

## 42 U.S.C. § 2459f-1 : US Code - Section 2459F-1: Prize authority

### Search 42 U.S.C. § 2459f-1 : US Code - Section 2459F-1: Prize authority

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(a) In general

The Administration may carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the performance of the space and aeronautical activities of the Administration. The Administration may carry out a program to award prizes only in conformity with this section.

(b) Topics

In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

(c) Advertising

The Administrator shall widely advertise prize competitions to encourage participation.

(d) Requirements and registration

For each prize competition, the Administrator shall publish a notice in the Federal Register announcing the subject of the competition, the rules for being eligible to participate in the competition, the amount of the prize, and the basis on which a winner will be selected.

(e) Eligibility

To be eligible to win a prize under this section, an individual or entity -

(1) shall have registered to participate in the competition pursuant to any rules promulgated by the Administrator under subsection (d) of this section;

(2) shall have complied with all the requirements under this section;

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) shall not be a Federal entity or Federal employee acting within the scope of their employment.

(f) Liability

(1) Registered participants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise. For the purposes of this paragraph, the term "related entity" means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(2) Participants must obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Administrator, for claims by -

- (A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and
- (B) the Federal Government for damage or loss to Government property resulting from such an activity.

(g) Judges

For each competition, the Administration, either directly or through an agreement under subsection (h) of this section, shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described pursuant to subsection (d) of this section. Judges for each competition shall include individuals from outside the Administration, including from the private sector. A judge may not -

- (1) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or
- (2) have a familial or financial relationship with an individual who is a registered participant.

(h) Administering the competition

The Administrator may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

(i) Funding

(1) Prizes under this section may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The Administrator may accept funds from other Federal agencies for such cash prizes. The Administrator may not give any special consideration to any private sector entity in return for a

donation.

(2) Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

(3) No prize may be announced under subsection (d) of this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source. The Administrator may increase the amount of a prize after an initial announcement is made under subsection (d) of this section if -

(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

(4) No prize competition under this section may offer a prize in an amount greater than \$10,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(5) No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the Administrator.

(j) Use of NASA name and insignia

A registered participant in a competition under this section may use the Administration's name, initials, or insignia only after prior review and written approval by the Administration.

(k) Compliance with existing law

The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

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Requirement for  
independent cost  
analysis




EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR  
FOR MANAGEMENT

March 8, 2010

M-10-11

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jeffrey D. Zients   
Deputy Director for Management

SUBJECT: Guidance on the Use of Challenges and Prizes to Promote Open Government

At the outset of his Administration, President Barack Obama signed the Memorandum on Transparency and Open Government, committing the Administration to creating a more transparent, participatory, and collaborative government. On December 8, 2009, the Director of the Office of Management and Budget (OMB) issued the Open Government Directive (Directive), which required executive departments and agencies to take specific actions to further the principles established by the President's memorandum. The Directive also tasked the OMB Deputy Director for Management with issuing guidance for the increased use of challenges and prizes to develop new tools and approaches to improve open government. This memorandum highlights for agencies policy and legal issues related to the implementation of the Obama Administration's commitment to increase the use of prizes and challenges as tools for promoting open government, innovation, and other national priorities.

**I. Policy**

**A. Background**

In September 2009, the President released his *Strategy for American Innovation*, calling for agencies to increase their ability to promote and harness innovation by using policy tools such as prizes and challenges. Some agencies already have started to effectively use prizes and challenges. For example, Defense Advanced Research Projects Agency's "grand challenges" have advanced the state of the art of robotic cars that drive themselves. The National Aeronautics and Space Administration's (NASA) Centennial Challenges have triggered an outpouring of creative solutions from students, citizen inventors, and entrepreneurial firms for technologies such as lunar landers, space elevators, fuel-efficient aircraft, and astronaut gloves. The Department of Energy has sponsored the L Prize, designed to spur the development of high-quality, highly efficient solid-state lighting products to replace today's inefficient light bulbs. The Environmental Protection Agency has used prizes to encourage students and others to develop videos to promote environmental stewardship. The Department of State has sponsored highly successful video and writing contests that have attracted contestants from a broad diversity of countries and geographic regions, and that have furthered the U.S. public diplomacy mission.

## **B. Potential Benefits of Prizes**

The Administration believes that prizes and challenges have a number of potential benefits. Under the right circumstances, they may allow the government to:

- Establish an important goal without having to choose the approach or the team that is most likely to succeed;
- Pay only for results;
- Highlight excellence in a particular domain of human endeavor to motivate, inspire, and guide others;
- Increase the number and diversity of the individuals, organizations, and teams that are addressing a particular problem or challenge of national or international significance;
- Improve the skills of the participants in the competition;
- Stimulate private sector investment that is many times greater than the cash value of the prize;
- Further a Federal agency's mission by attracting more interest and attention to a defined program, activity, or issue of concern; and
- Capture the public imagination and change the public's perception of what is possible.

Accordingly, it is Administration policy to strongly encourage agencies to:

- Utilize prizes and challenges as tools for advancing open government, innovation, and the agency's mission;
- Identify and proactively address legal, regulatory, technical, and other barriers to the use of prizes and challenges;
- Select one or more individuals to identify and implement prizes and challenges, potentially in partnership with outside organizations, and to participate in a government-wide "community of practice" led by the Office of Management and Budget and the Office of Science and Technology Policy; and
- Increase their capacity to support, design, and manage prizes, potentially in collaboration with external partners.

To support agencies in the execution of prizes that further the policy objectives of the Federal Government, the Administration will make available a web-based platform for prizes and challenges within 120 days. This platform will provide a forum for agencies to post

problems and invite communities of problem solvers to suggest, collaborate on, and deliver solutions. Over the longer term, the General Services Administration (GSA) will also provide government-wide services to share best practices and assist agencies in developing guidelines for issuing challenges. Additionally, GSA will develop, as expeditiously as possible, a contract vehicle to provide agency access to relevant products and services, including technical assistance in structuring and conducting contests to take maximum benefit of the marketplace as they identify and pursue contest initiatives to further the policy objectives of the Federal Government.

## II. Use of Prizes and Challenges – Policy Issues for Consideration

In considering the use of prizes and challenges, agencies should have a clear idea of what they are trying to accomplish by supporting or encouraging the creation of a prize, and how the prize will help them achieve that goal. A prize should not be an end in itself, but one means within a broader strategy for spurring private innovation and change. Furthermore, agencies should plan appropriately for all stages of prize development and, where permissible, consider partnering with other entities that might administer, support, or catalyze the prize.

### A. Choose the Right Prize for the Goal

Experts often make a distinction between “recognition” prizes that honor past achievements, and “inducement” or “incentive” prizes that encourage participants in the competition to achieve a particular goal. These experts have developed different characterizations of prize types. A recent study identified six prize archetypes.<sup>1</sup> Drawing from this framework, this section provides examples of different prize types that agencies may wish to consider, subject to their own analysis of legal and ethical issues, including those identified in sections III and IV.

As noted, a prize should not be an end in itself, but one means within a broader strategy for spurring change. When considering prizes, agencies should select the type of prize best able to accomplish the broader aim.

- *Exemplar prizes*, such as the Nobel Prize, define excellence within an area. Historically, most prizes have been exemplar prizes that recognize past general achievement in a field, but other prize designs may more effectively spur *future* innovation.
- *Point solution prizes* aim to reward and spur development of solutions for a particular, well-defined problem. NASA, for example, is using an online “innovation marketplace” with 180,000 participants to spur solutions to problems such as forecasting solar activity, keeping food fresh in space, and developing a compact aerobic device for astronauts. An advance market commitment may be one vehicle for spurring specific solutions by providing a commitment to purchase a product that does not yet exist. In the private sector, for example, five governments and the Gates Foundation have pledged \$1.5

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<sup>1</sup> McKinsey & Company, “And the winner is...”  
([http://www.mckinsey.com/App\\_Media/Reports/SSO/And\\_the\\_winner\\_is.pdf](http://www.mckinsey.com/App_Media/Reports/SSO/And_the_winner_is.pdf)).



billion to support the purchase of pneumococcal vaccines for children in developing countries, which could save the lives of 7 million children by 2030.

- *Exposition prizes* help identify and promote a broad range of promising ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties. Successful exposition prizes can mobilize capital and institutions in support of ideas and practices developed during a prize competition. For example, the Director of National Intelligence sponsors the Galileo Award to encourage Federal employees to propose creative solutions for the Intelligence Community, and provides winners with a cash prize and the opportunity to brief senior officials on their ideas.
- *Network prizes* build networks and strengthen communities by organizing winners into new problem-solving communities that can deliver more impact than individual efforts. One example would be a contest encouraging people worldwide to share their thoughts and ideas on a variety of topics of universal interest and then organizing participants into an active online community, creating a global, cross-cultural dialogue in furtherance of the public diplomacy mission of the United States.
- *Participation prizes* create value during and after the competition – not through conferral of the prize award itself but through their role in encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and beyond the competition. As part of his “Educate to Innovate” campaign, for example, President Obama has highlighted the FIRST robotics competitions, which engage over 200,000 students, and are designed to motivate young people to pursue opportunities in science, technology, engineering, and mathematics. A contest encouraging good nutrition on the part of school cafeterias or school children would be an example of a participation prize; contestants participate not necessarily to collect the reward, but for the fun and benefits of the competition itself.
- *Market stimulation prizes* try to establish the viability of a market to address a potential market failure, mobilize additional human talent and financial capital to jumpstart the development of a new industry, or change public perceptions about what is possible. The goal of the Ansari X Prize, for example, was to serve as a catalyst for the private spaceflight industry.

#### **B. Focus on All Stages of the Prize, including Pre-Prize and Post-Prize Stages**

Agencies should plan appropriately for all stages of prize development and administration. The design of a prize and the award process often receive the bulk of sponsors’ attention, but effective sponsors devote extensive time to defining the broader goals of the prize and analyzing the motivations of participants before they consider the prize type or the purse. Agencies also should take care to plan for the post-prize phase, reinforcing the impact of an award with other investments and follow-up activities. In some cases, it may be helpful and appropriate to increase the visibility of a prize by involving senior agency officials in the launch. It may be further helpful in some

instances for an agency to identify government actions that would increase the impact of the prize over the long-term.

### **C. Choose the Right Vehicles and Partners for the Prize**

Agencies should think broadly about the role that effective partners can play in administering or publicizing contests. It may be appropriate, where legally permissible, to seek Federal agency or non-federal partners to help meet agency goals. Some or all of the following vehicles may, in appropriate circumstances, be worthy of consideration:

- Designing, administering, and paying for the prize internally within the agency;
- Providing a grant, cooperative agreement, or contract to an outside organization that covers some or all of the costs associated with the prize purse and prize administration; or
- Encouraging the formation of a public-private partnership to fund and administer a prize.

## **III. Potential Legal Authority – Issues for Consideration**

There are a number of authorities under existing statutes that agencies potentially could rely upon to structure prize competitions. The following, which lists some possible legal authorities, does not purport to be exhaustive. Moreover, these authorities will not be available for all agencies. Agencies considering prizes and competitions should consult with their general counsels concerning legal issues relevant to their agencies and to ensure that each use of a prize or competition is consistent with congressional authorization or appropriation.

### **A. Direct Prize Authority**

A number of agencies have direct statutory authority to conduct prizes contests. Pursuant to these authorities, agencies have been able to structure prize competitions with a variety of features.

1. Agency-Funded and Agency-Administered Prizes. Some agencies can directly administer prize competitions and provide the funding for the prize purse. NASA (42 U.S.C. § 2459f-1) and the Departments of Defense (10 U.S.C. § 2374a) and Energy (42 U.S.C. § 16396) possess the authority to directly administer prize competitions and use appropriated funds to provide the prize purse.
2. Third-Party Administered Prizes. Third-party administration of prize contests has also been specifically authorized by statute. NASA (42 U.S.C. § 2459f-1(h)) and the Department of Energy, with respect to the Bright Tomorrow Lighting Prize (42 U.S.C. § 17243), have the discretion to select a third party to administer a prize competition. Congress has required that the Department of Energy H Prize (42 U.S.C. § 16396(f)) be administered by third parties.
3. Outside Funding. Several statutes provide for agencies to seek outside funding for prize contests. For example, NASA (42 U.S.C. § 2459f-1(i)(1)) and the

National Science Foundation (42 U.S.C. § 1870(f)) are permitted to receive private contributions for the purposes of funding prize competitions.

4. Recognition Awards. Recognition prizes can be used to support several of the prize contests referenced in section II. A number of agencies have explicit authority to offer recognition prizes and awards. For example, the Department of Commerce is authorized to present a Commercial Space Achievement Award under 15 U.S.C. § 5808. The Department of Transportation is authorized to provide a medal and cash prize to private sector recipients or Federal laboratory personnel whose efforts have “substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact.” 15 U.S.C. § 3711c. The Department of Education recognizes “Blue Ribbon Schools” under 20 U.S.C. § 7243(b)(5).

## **B. Grants and Cooperative Agreements**

Some agencies have authority to award grants and/or participate in cooperative agreements and may be able to conduct prize competitions through that authority. A “grant” is defined in the Federal Grant and Cooperative Agreement Act (and in OMB Circulars) as financial assistance by the Federal Government that provides support or stimulation to accomplish a public purpose; a “cooperative agreement” is similarly defined, with the additional criterion that the agency expects to have substantial involvement with the recipient in carrying out the activities contemplated in the agreement. Neither instrument may be used to acquire goods or services for the direct use or benefit of the Federal Government, such as to conduct an agency’s own prize contest; agencies must use procurement contracts for that purpose. Accordingly, where grants or cooperative agreements are appropriate mechanisms under a given statute to distribute funds, then a “cash prize for a competition” could potentially also be a type of grant or the subject of a cooperative agreement that could be used if otherwise consistent with the specific authorizing statute for the grant. Discretionary, competitive grant programs (in contrast to formula grants or block grants) may be best suited as vehicles for prize competitions, since discretionary, competitive grants are often authorized by statutes that do not specify the manner in which grant funds must be distributed. As part of their consideration of using grants to facilitate prize competitions, agencies may examine their authority to make fixed obligation awards without requirements for Federal monitoring of actual costs.

## **C. Necessary Expense Doctrine**

An agency without explicit prize authority might be able to conduct a contest and/or offer a prize if doing so bears a direct relationship to the agency’s statutorily authorized mission. Agencies should consult their general counsels to determine whether such a relationship exists.

Under the “necessary expense” doctrine, an agency has reasonable discretion in determining how to carry out the objects of an appropriation. To qualify as a “necessary

expense,” the expenditure must: (1) make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available; (2) not be prohibited by law; and (3) not be an item that falls within the scope of some other appropriation or statutory funding scheme. See Government Accountability Office, Principles of Federal Appropriations Law, 4-19 to 4-29, 4-162 to 4-164 (discussing Comptroller General’s view of the “necessary expense” doctrine and government-sponsored contests).

For example, the Comptroller General has viewed an agency’s decision to sponsor a contest as a permissible exercise of administrative discretion in implementing a statutory objective to provide “recreational services.”<sup>2</sup> See id. at 4-163. Similarly, where an agency has a statutory mandate to collect information from the public, the Comptroller General has approved contests incentivizing the public to provide such information. See id. Another example of agencies’ use of the necessary expense doctrine to directly host competitions with prize purses includes NASA’s reliance on its statutory authority to seek and encourage the commercial use of space to sponsor a contest in 2005 to develop technologies that could be useful in developing a space elevator, although in that case there was no contest winner and no funds were distributed.<sup>3</sup>

Statutory authorities in areas such as public education, outreach, and cooperation with nongovernmental entities may also be an appropriate basis for agencies to pursue participation prizes or certain types of prizes, or to assist prize competitions even if not directly sponsoring the contest or funding a prize purse. For example, relying on its authority under the “Laboratory cooperative science centers and other authorized education activities” provision established in the Energy Policy Act of 2005 (42 U.S.C. § 7381b), DOE issued grant funds to support the outreach and educational efforts of the nonprofit X Prize Foundation, which is conducting a contest for the successful development of vehicles with 100 mile per gallon efficiency.

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<sup>2</sup> GAO decisions are not binding on Executive branch agencies. See Memorandum Opinion for Sara D. Lipscomb, General Counsel, Small Business Administration, from Jeannie S. Rhee, Deputy Assistant Attorney General, *Re: Permissibility of Small Business Administration Regulations Implementing the Historically Underutilized Business Zone, 8(a) Business Development, and Service-Disabled Veteran-Owned Small Business Concern Programs*, at 13 (August 21, 2009) (noting that the Office of Legal Counsel “has on many occasions issued opinions and memoranda concluding that GAO decisions are not binding on Executive Branch agencies and that the opinions of the Attorney General and of this Office are controlling” and providing citations). Nonetheless, GAO rulings and analysis may be helpful to the Executive in its own determinations as to availability of appropriations and the permissibility of expenditures of public funds.

<sup>3</sup> NASA at that time did not have explicit statutory prize authority; however, its appropriations act anticipated the conduct of prize competitions where “otherwise authorized.”

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(2) A special act or service in the public interest in connection with or related to official employment; or

(3) Performance as reflected in the employee's most recent rating of record (as defined in §430.203 of this chapter), except that performance awards may be paid to SES employees only under §534.405 of this chapter and not on the basis of this subpart.

(b) A cash award under this subpart is a lump sum payment and is not basic pay for any purpose.

(c) An award is subject to applicable tax rules, such as withholding.

(d) When an award is approved for—

(1) An employee of another agency, the benefiting agency shall make arrangements to transfer funds to the employing agency to cover the award. If the administrative costs of transferring funds would exceed the amount of the award, the employing agency shall absorb the award costs and pay the award; and

(2) A member of the armed forces for a suggestion, invention, or scientific achievement, arrangements shall be

## Office of Personnel Management

## § 451.107

made to transfer funds to the agency having jurisdiction over the member in accordance with E.O. 11438, "Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces".

(e) An award may be granted to a separated employee or the legal heir(s) or estate of a deceased employee.

(f) A time-off award granted under this subpart shall not be converted to a cash payment under any circumstances.

(g) When granting an award paid as a percentage of basic pay under 5 U.S.C. 4505a(a)(2), the rate of basic pay used must include any applicable locality payment under 5 CFR part 531, subpart F; special rate supplement under 5 CFR part 530, subpart C; or similar payment or supplement under other legal authority. For an employee receiving a retained rate under 5 CFR part 536, subpart C (or similar authority, such as 5 CFR 359.705), the rate of basic pay is the maximum payable rate for the employee's grade or level, rather than the retained rate.

[60 FR 43946, Aug. 23, 1995, as amended at 69 FR 70359, Dec. 6, 2004; 70 FR 31287, May 31, 2005; 70 FR 74995, Dec. 19, 2005]

### § 451.105 Award restrictions.

(a) In accordance with 5 U.S.C. 4508, agencies shall not grant awards under this subpart during a Presidential election period to employees who are—

(1) In a Senior Executive Service position and not a career appointee as defined under 5 U.S.C. 3132(a)(4); or

(2) In an excepted service position of a confidential or policy-determining character (schedule C).

(b) In accordance with 5 U.S.C. 4509, agencies shall not grant cash awards under this subpart to employees appointed by the President with Senate confirmation who serve in—

(1) An Executive Schedule position, or

(2) A position for which pay is set in statute by reference to a section or level of the Executive Schedule.

### § 451.106 Agency responsibilities.

(a) In establishing and operating its award program(s), an agency shall assure that a program does not conflict

with or violate any other law or Governmentwide regulation.

(b) When a recommended award would grant more than \$10,000 to an individual employee, the agency shall submit the recommendation to OPM for approval.

(c) Agencies shall provide for communicating with employees and supervisors (e.g., through formal training) about the relevant parts of their award program(s).

(d) Agencies shall evaluate their award program(s).

(e) Agencies shall document all cash and time off awards in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PROCESSING PERSONNEL ACTIONS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(f) Agencies shall file award documents in the Official Personnel Folder in compliance with instructions in the OPM Operating Manual, THE GUIDE TO PERSONNEL RECORDKEEPING, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(g) Agencies shall report award data to the Central Personnel Data File in compliance with instructions in the OPM Operating Manual, FEDERAL WORKFORCE REPORTING SYSTEMS, for sale by the U.S. Government Printing Office, Superintendent of Documents.

(h) Agencies shall maintain and submit to OPM such records as OPM may require.

(i) Agencies shall give due weight to an award granted under this part in qualifying and selecting an employee for promotion as provided in 5 U.S.C. 3362.

(j) Agencies shall take any corrective action required by OPM to ensure conformance with applicable law, regulation, and OPM policy.

### § 451.107 OPM responsibilities.

(a) OPM shall review and approve or disapprove each agency recommendation for an award that would grant more than \$10,000 to an individual employee.

(b) When a recommended award would grant more than \$25,000 to an individual employee, OPM shall review

## 42 U.S.C. § 2459f-1 : US Code - Section 2459F-1: Prize authority

### Search 42 U.S.C. § 2459f-1 : US Code - Section 2459F-1: Prize authority

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(a) In general

The Administration may carry out a program to competitively award cash prizes to stimulate innovation in basic and applied research, technology development, and prototype demonstration that have the potential for application to the performance of the space and aeronautical activities of the Administration. The Administration may carry out a program to award prizes only in conformity with this section.

(b) Topics

In selecting topics for prize competitions, the Administrator shall consult widely both within and outside the Federal Government, and may empanel advisory committees.

(c) Advertising

The Administrator shall widely advertise prize competitions to encourage participation.

(d) Requirements and registration

For each prize competition, the Administrator shall publish a notice in the Federal Register announcing the subject of the competition, the rules for being eligible to participate in the competition, the amount of the prize, and the basis on which a winner will be selected.

(e) Eligibility

To be eligible to win a prize under this section, an individual or entity -

(1) shall have registered to participate in the competition pursuant to any rules promulgated by the Administrator under subsection (d) of this section;

(2) shall have complied with all the requirements under this section;

(3) in the case of a private entity, shall be incorporated in and maintain a primary place of business in the United States, and in the case of an individual, whether participating singly or in a group, shall be a citizen or permanent resident of the United States; and

(4) shall not be a Federal entity or Federal employee acting within the scope of their employment.

(f) Liability

(1) Registered participants must agree to assume any and all risks and waive claims against the Federal Government and its related entities, except in the case of willful misconduct, for any injury, death, damage, or loss of property, revenue, or profits, whether direct, indirect, or consequential, arising from their participation in a competition, whether such injury, death, damage, or loss arises through negligence or otherwise. For the purposes of this paragraph, the term "related entity" means a contractor or subcontractor at any tier, and a supplier, user, customer, cooperating party, grantee, investigator, or detailee.

(2) Participants must obtain liability insurance or demonstrate financial responsibility, in amounts determined by the Administrator, for claims by -

- (A) a third party for death, bodily injury, or property damage, or loss resulting from an activity carried out in connection with participation in a competition, with the Federal Government named as an additional insured under the registered participant's insurance policy and registered participants agreeing to indemnify the Federal Government against third party claims for damages arising from or related to competition activities; and
- (B) the Federal Government for damage or loss to Government property resulting from such an activity.

(g) Judges

For each competition, the Administration, either directly or through an agreement under subsection (h) of this section, shall assemble a panel of qualified judges to select the winner or winners of the prize competition on the basis described pursuant to subsection (d) of this section. Judges for each competition shall include individuals from outside the Administration, including from the private sector. A judge may not -

- (1) have personal or financial interests in, or be an employee, officer, director, or agent of any entity that is a registered participant in a competition; or
- (2) have a familial or financial relationship with an individual who is a registered participant.

(h) Administering the competition

The Administrator may enter into an agreement with a private, nonprofit entity to administer the prize competition, subject to the provisions of this section.

(i) Funding

(1) Prizes under this section may consist of Federal appropriated funds and funds provided by the private sector for such cash prizes. The Administrator may accept funds from other Federal agencies for such cash prizes. The Administrator may not give any special consideration to any private sector entity in return for a



donation.

(2) Notwithstanding any other provision of law, funds appropriated for prize awards under this section shall remain available until expended, and may be transferred, reprogrammed, or expended for other purposes only after the expiration of 10 fiscal years after the fiscal year for which the funds were originally appropriated. No provision in this section permits obligation or payment of funds in violation of the Anti-Deficiency Act (31 U.S.C. 1341).

(3) No prize may be announced under subsection (d) of this section until all the funds needed to pay out the announced amount of the prize have been appropriated or committed in writing by a private source. The Administrator may increase the amount of a prize after an initial announcement is made under subsection (d) of this section if -

(A) notice of the increase is provided in the same manner as the initial notice of the prize; and

(B) the funds needed to pay out the announced amount of the increase have been appropriated or committed in writing by a private source.

(4) No prize competition under this section may offer a prize in an amount greater than \$10,000,000 unless 30 days have elapsed after written notice has been transmitted to the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(5) No prize competition under this section may result in the award of more than \$1,000,000 in cash prizes without the approval of the Administrator.

(j) Use of NASA name and insignia

A registered participant in a competition under this section may use the Administration's name, initials, or insignia only after prior review and written approval by the Administration.

(k) Compliance with existing law

The Federal Government shall not, by virtue of offering or providing a prize under this section, be responsible for compliance by registered participants in a prize competition with Federal law, including licensing, export control, and non-proliferation laws, and related regulations.

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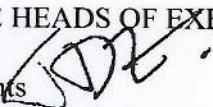
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

DEPUTY DIRECTOR  
FOR MANAGEMENT

March 8, 2010

M-10-11

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Jeffrey D. Zients   
Deputy Director for Management

SUBJECT: Guidance on the Use of Challenges and Prizes to Promote Open Government

At the outset of his Administration, President Barack Obama signed the Memorandum on Transparency and Open Government, committing the Administration to creating a more transparent, participatory, and collaborative government. On December 8, 2009, the Director of the Office of Management and Budget (OMB) issued the Open Government Directive (Directive), which required executive departments and agencies to take specific actions to further the principles established by the President's memorandum. The Directive also tasked the OMB Deputy Director for Management with issuing guidance for the increased use of challenges and prizes to develop new tools and approaches to improve open government. This memorandum highlights for agencies policy and legal issues related to the implementation of the Obama Administration's commitment to increase the use of prizes and challenges as tools for promoting open government, innovation, and other national priorities.

**I. Policy**

**A. Background**

In September 2009, the President released his *Strategy for American Innovation*, calling for agencies to increase their ability to promote and harness innovation by using policy tools such as prizes and challenges. Some agencies already have started to effectively use prizes and challenges. For example, Defense Advanced Research Projects Agency's "grand challenges" have advanced the state of the art of robotic cars that drive themselves. The National Aeronautics and Space Administration's (NASA) Centennial Challenges have triggered an outpouring of creative solutions from students, citizen inventors, and entrepreneurial firms for technologies such as lunar landers, space elevators, fuel-efficient aircraft, and astronaut gloves. The Department of Energy has sponsored the L Prize, designed to spur the development of high-quality, highly efficient solid-state lighting products to replace today's inefficient light bulbs. The Environmental Protection Agency has used prizes to encourage students and others to develop videos to promote environmental stewardship. The Department of State has sponsored highly successful video and writing contests that have attracted contestants from a broad diversity of countries and geographic regions, and that have furthered the U.S. public diplomacy mission.

## **B. Potential Benefits of Prizes**

The Administration believes that prizes and challenges have a number of potential benefits. Under the right circumstances, they may allow the government to:

- Establish an important goal without having to choose the approach or the team that is most likely to succeed;
- Pay only for results;
- Highlight excellence in a particular domain of human endeavor to motivate, inspire, and guide others;
- Increase the number and diversity of the individuals, organizations, and teams that are addressing a particular problem or challenge of national or international significance;
- Improve the skills of the participants in the competition;
- Stimulate private sector investment that is many times greater than the cash value of the prize;
- Further a Federal agency's mission by attracting more interest and attention to a defined program, activity, or issue of concern; and
- Capture the public imagination and change the public's perception of what is possible.

Accordingly, it is Administration policy to strongly encourage agencies to:

- Utilize prizes and challenges as tools for advancing open government, innovation, and the agency's mission;
- Identify and proactively address legal, regulatory, technical, and other barriers to the use of prizes and challenges;
- Select one or more individuals to identify and implement prizes and challenges, potentially in partnership with outside organizations, and to participate in a government-wide "community of practice" led by the Office of Management and Budget and the Office of Science and Technology Policy; and
- Increase their capacity to support, design, and manage prizes, potentially in collaboration with external partners.

To support agencies in the execution of prizes that further the policy objectives of the Federal Government, the Administration will make available a web-based platform for prizes and challenges within 120 days. This platform will provide a forum for agencies to post

problems and invite communities of problem solvers to suggest, collaborate on, and deliver solutions. Over the longer term, the General Services Administration (GSA) will also provide government-wide services to share best practices and assist agencies in developing guidelines for issuing challenges. Additionally, GSA will develop, as expeditiously as possible, a contract vehicle to provide agency access to relevant products and services, including technical assistance in structuring and conducting contests to take maximum benefit of the marketplace as they identify and pursue contest initiatives to further the policy objectives of the Federal Government.

## II. Use of Prizes and Challenges – Policy Issues for Consideration

In considering the use of prizes and challenges, agencies should have a clear idea of what they are trying to accomplish by supporting or encouraging the creation of a prize, and how the prize will help them achieve that goal. A prize should not be an end in itself, but one means within a broader strategy for spurring private innovation and change. Furthermore, agencies should plan appropriately for all stages of prize development and, where permissible, consider partnering with other entities that might administer, support, or catalyze the prize.

### A. Choose the Right Prize for the Goal

Experts often make a distinction between “recognition” prizes that honor past achievements, and “inducement” or “incentive” prizes that encourage participants in the competition to achieve a particular goal. These experts have developed different characterizations of prize types. A recent study identified six prize archetypes.<sup>1</sup> Drawing from this framework, this section provides examples of different prize types that agencies may wish to consider, subject to their own analysis of legal and ethical issues, including those identified in sections III and IV.

As noted, a prize should not be an end in itself, but one means within a broader strategy for spurring change. When considering prizes, agencies should select the type of prize best able to accomplish the broader aim.

- *Exemplar prizes*, such as the Nobel Prize, define excellence within an area. Historically, most prizes have been exemplar prizes that recognize past general achievement in a field, but other prize designs may more effectively spur *future* innovation.
- *Point solution prizes* aim to reward and spur development of solutions for a particular, well-defined problem. NASA, for example, is using an online “innovation marketplace” with 180,000 participants to spur solutions to problems such as forecasting solar activity, keeping food fresh in space, and developing a compact aerobic device for astronauts. An advance market commitment may be one vehicle for spurring specific solutions by providing a commitment to purchase a product that does not yet exist. In the private sector, for example, five governments and the Gates Foundation have pledged \$1.5

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<sup>1</sup> McKinsey & Company, “And the winner is...”  
([http://www.mckinsey.com/App\\_Media/Reports/SSO/And\\_the\\_winner\\_is.pdf](http://www.mckinsey.com/App_Media/Reports/SSO/And_the_winner_is.pdf)).

billion to support the purchase of pneumococcal vaccines for children in developing countries, which could save the lives of 7 million children by 2030.

- *Exposition prizes* help identify and promote a broad range of promising ideas and practices that may not otherwise attract attention, facilitating further development of the idea or practice by third parties. Successful exposition prizes can mobilize capital and institutions in support of ideas and practices developed during a prize competition. For example, the Director of National Intelligence sponsors the Galileo Award to encourage Federal employees to propose creative solutions for the Intelligence Community, and provides winners with a cash prize and the opportunity to brief senior officials on their ideas.
- *Network prizes* build networks and strengthen communities by organizing winners into new problem-solving communities that can deliver more impact than individual efforts. One example would be a contest encouraging people worldwide to share their thoughts and ideas on a variety of topics of universal interest and then organizing participants into an active online community, creating a global, cross-cultural dialogue in furtherance of the public diplomacy mission of the United States.
- *Participation prizes* create value during and after the competition – not through conferral of the prize award itself but through their role in encouraging contestants to change their behavior or develop new skills that may have beneficial effects during and beyond the competition. As part of his “Educate to Innovate” campaign, for example, President Obama has highlighted the FIRST robotics competitions, which engage over 200,000 students, and are designed to motivate young people to pursue opportunities in science, technology, engineering, and mathematics. A contest encouraging good nutrition on the part of school cafeterias or school children would be an example of a participation prize; contestants participate not necessarily to collect the reward, but for the fun and benefits of the competition itself.
- *Market stimulation prizes* try to establish the viability of a market to address a potential market failure, mobilize additional human talent and financial capital to jumpstart the development of a new industry, or change public perceptions about what is possible. The goal of the Ansari X Prize, for example, was to serve as a catalyst for the private spaceflight industry.

#### **B. Focus on All Stages of the Prize, including Pre-Prize and Post-Prize Stages**

Agencies should plan appropriately for all stages of prize development and administration. The design of a prize and the award process often receive the bulk of sponsors’ attention, but effective sponsors devote extensive time to defining the broader goals of the prize and analyzing the motivations of participants before they consider the prize type or the purse. Agencies also should take care to plan for the post-prize phase, reinforcing the impact of an award with other investments and follow-up activities. In some cases, it may be helpful and appropriate to increase the visibility of a prize by involving senior agency officials in the launch. It may be further helpful in some

instances for an agency to identify government actions that would increase the impact of the prize over the long-term.

### **C. Choose the Right Vehicles and Partners for the Prize**

Agencies should think broadly about the role that effective partners can play in administering or publicizing contests. It may be appropriate, where legally permissible, to seek Federal agency or non-federal partners to help meet agency goals. Some or all of the following vehicles may, in appropriate circumstances, be worthy of consideration:

- Designing, administering, and paying for the prize internally within the agency;
- Providing a grant, cooperative agreement, or contract to an outside organization that covers some or all of the costs associated with the prize purse and prize administration; or
- Encouraging the formation of a public-private partnership to fund and administer a prize.

## **III. Potential Legal Authority – Issues for Consideration**

There are a number of authorities under existing statutes that agencies potentially could rely upon to structure prize competitions. The following, which lists some possible legal authorities, does not purport to be exhaustive. Moreover, these authorities will not be available for all agencies. Agencies considering prizes and competitions should consult with their general counsels concerning legal issues relevant to their agencies and to ensure that each use of a prize or competition is consistent with congressional authorization or appropriation.

### **A. Direct Prize Authority**

A number of agencies have direct statutory authority to conduct prizes contests. Pursuant to these authorities, agencies have been able to structure prize competitions with a variety of features.

1. Agency-Funded and Agency-Administered Prizes. Some agencies can directly administer prize competitions and provide the funding for the prize purse. NASA (42 U.S.C. § 2459f-1) and the Departments of Defense (10 U.S.C. § 2374a) and Energy (42 U.S.C. § 16396) possess the authority to directly administer prize competitions and use appropriated funds to provide the prize purse.
2. Third-Party Administered Prizes. Third-party administration of prize contests has also been specifically authorized by statute. NASA (42 U.S.C. § 2459f-1(h)) and the Department of Energy, with respect to the Bright Tomorrow Lighting Prize (42 U.S.C. § 17243), have the discretion to select a third party to administer a prize competition. Congress has required that the Department of Energy H Prize (42 U.S.C. § 16396(f)) be administered by third parties.
3. Outside Funding. Several statutes provide for agencies to seek outside funding for prize contests. For example, NASA (42 U.S.C. § 2459f-1(i)(1)) and the

National Science Foundation (42 U.S.C. § 1870(f)) are permitted to receive private contributions for the purposes of funding prize competitions.

4. Recognition Awards. Recognition prizes can be used to support several of the prize contests referenced in section II. A number of agencies have explicit authority to offer recognition prizes and awards. For example, the Department of Commerce is authorized to present a Commercial Space Achievement Award under 15 U.S.C. § 5808. The Department of Transportation is authorized to provide a medal and cash prize to private sector recipients or Federal laboratory personnel whose efforts have “substantially improved domestic motor vehicle research and development in safety, energy savings, or environmental impact.” 15 U.S.C. § 3711c. The Department of Education recognizes “Blue Ribbon Schools” under 20 U.S.C. § 7243(b)(5).

## **B. Grants and Cooperative Agreements**

Some agencies have authority to award grants and/or participate in cooperative agreements and may be able to conduct prize competitions through that authority. A “grant” is defined in the Federal Grant and Cooperative Agreement Act (and in OMB Circulars) as financial assistance by the Federal Government that provides support or stimulation to accomplish a public purpose; a “cooperative agreement” is similarly defined, with the additional criterion that the agency expects to have substantial involvement with the recipient in carrying out the activities contemplated in the agreement. Neither instrument may be used to acquire goods or services for the direct use or benefit of the Federal Government, such as to conduct an agency’s own prize contest; agencies must use procurement contracts for that purpose. Accordingly, where grants or cooperative agreements are appropriate mechanisms under a given statute to distribute funds, then a “cash prize for a competition” could potentially also be a type of grant or the subject of a cooperative agreement that could be used if otherwise consistent with the specific authorizing statute for the grant. Discretionary, competitive grant programs (in contrast to formula grants or block grants) may be best suited as vehicles for prize competitions, since discretionary, competitive grants are often authorized by statutes that do not specify the manner in which grant funds must be distributed. As part of their consideration of using grants to facilitate prize competitions, agencies may examine their authority to make fixed obligation awards without requirements for Federal monitoring of actual costs.

## **C. Necessary Expense Doctrine**

An agency without explicit prize authority might be able to conduct a contest and/or offer a prize if doing so bears a direct relationship to the agency’s statutorily authorized mission. Agencies should consult their general counsels to determine whether such a relationship exists.

Under the “necessary expense” doctrine, an agency has reasonable discretion in determining how to carry out the objects of an appropriation. To qualify as a “necessary

expense,” the expenditure must: (1) make a direct contribution to carrying out either a specific appropriation or an authorized agency function for which more general appropriations are available; (2) not be prohibited by law; and (3) not be an item that falls within the scope of some other appropriation or statutory funding scheme. See Government Accountability Office, Principles of Federal Appropriations Law, 4-19 to 4-29, 4-162 to 4-164 (discussing Comptroller General’s view of the “necessary expense” doctrine and government-sponsored contests).

For example, the Comptroller General has viewed an agency’s decision to sponsor a contest as a permissible exercise of administrative discretion in implementing a statutory objective to provide “recreational services.”<sup>2</sup> See id. at 4-163. Similarly, where an agency has a statutory mandate to collect information from the public, the Comptroller General has approved contests incentivizing the public to provide such information. See id. Another example of agencies’ use of the necessary expense doctrine to directly host competitions with prize purses includes NASA’s reliance on its statutory authority to seek and encourage the commercial use of space to sponsor a contest in 2005 to develop technologies that could be useful in developing a space elevator, although in that case there was no contest winner and no funds were distributed.<sup>3</sup>

Statutory authorities in areas such as public education, outreach, and cooperation with nongovernmental entities may also be an appropriate basis for agencies to pursue participation prizes or certain types of prizes, or to assist prize competitions even if not directly sponsoring the contest or funding a prize purse. For example, relying on its authority under the “Laboratory cooperative science centers and other authorized education activities” provision established in the Energy Policy Act of 2005 (42 U.S.C. § 7381b), DOE issued grant funds to support the outreach and educational efforts of the nonprofit X Prize Foundation, which is conducting a contest for the successful development of vehicles with 100 mile per gallon efficiency.

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<sup>2</sup> GAO decisions are not binding on Executive branch agencies. See Memorandum Opinion for Sara D. Lipscomb, General Counsel, Small Business Administration, from Jeannie S. Rhee, Deputy Assistant Attorney General, *Re: Permissibility of Small Business Administration Regulations Implementing the Historically Underutilized Business Zone, 8(a) Business Development, and Service-Disabled Veteran-Owned Small Business Concern Programs*, at 13 (August 21, 2009) (noting that the Office of Legal Counsel “has on many occasions issued opinions and memoranda concluding that GAO decisions are not binding on Executive Branch agencies and that the opinions of the Attorney General and of this Office are controlling” and providing citations). Nonetheless, GAO rulings and analysis may be helpful to the Executive in its own determinations as to availability of appropriations and the permissibility of expenditures of public funds.

<sup>3</sup> NASA at that time did not have explicit statutory prize authority; however, its appropriations act anticipated the conduct of prize competitions where “otherwise authorized.”



Agencies may have increased latitude to offer cash prizes in competitions that involve artistic design. See Government Accountability Office, Principles of Federal Appropriations Law, 4-162 to 4-164. Any prize purse awarded must be related to the reasonable cost of producing the design. See id. For example, using artistic merit as the primary selection criteria, EPA has conducted prize contests for educational videos under its authorities in the Clean Water Act, 33 U.S.C. § 1254(a)(1), and Clean Air Act, 42 U.S.C. § 7403(a)(5), to provide training to the public.

**D. Authority to Provide Non-Monetary Support to Prize Competitions**

Agencies may have statutory authorities in areas such as public education, outreach, and the like that can serve as a basis for supporting prize competitions without providing funds. For example, the EPA entered into a no-funds “co-sponsorship” agreement with the American Le Mans Series (ALMS) to provide technical assistance and visibility to “Green Challenge” racing competitions using its authority to cooperate with nonprofit entities to reduce air pollution under section 103 of the Clean Air Act (42 U.S.C. § 7403(b)(2)).

**E. Procurement Authority**

Agencies may be able to conduct a procurement in a contest-like manner to encourage greater innovation and private sector participation, when the payment of a prize is for a good or service for the benefit of the government. Where appropriate, an agency could thus use existing procurement authority, such as that provided by the Federal Acquisition Regulation (48 C.F.R. Chapter 1), to issue a solicitation seeking offers that would have to meet certain technical criteria – essentially the rules of the contest – for which the agency would pay a fixed amount (the prize). In situations where small monetary prizes or small procurements are considered (in particular, below the \$100,000 simplified acquisition procedure threshold), agencies might also be able to leverage the flexibilities afforded by simplified acquisition procedures to allow for innovative, contest-based approaches to such procurements.

In addition, a contractor may be able to conduct a prize competition among sub-contractors to encourage innovative means of satisfying the contract and achieving the agency’s procurement needs. Agencies should work with their Office of General Counsel and procurement officials to structure competitions that are compliant with applicable rules and regulations.

**F. Other Transactions Authority**

Some agencies are authorized to enter into “other transactions” (OTs), which may provide those agencies with the flexibility to structure prize competitions that draw in entities that do not traditionally do business with the Federal Government or to leverage private sector funding. These authorities differ by agency, so those agencies that possess OT authority should consult their general counsels and examine their specific implementing regulations and guidance documents.

While OTs can resemble contracts, grants, and cooperative agreements in function, OTs are typically not subject to the FAR or other Federal laws and regulations governing normal Federal transactions. Innovative companies often cite government requirements governing intellectual property rights and cost accounting standards, among others, as bases for avoiding doing business with the government. In some cases, OTs are able to provide flexibility for some of these requirements in order to allow government agencies to: (1) attract nontraditional contractors who engage in cutting-edge research and development without requiring these entities to change most of their existing business practices; (2) to enter into agreements with traditional or nontraditional contractors in which there is significant private sector cost-sharing; or (3) enter into other innovative arrangements with contractors that would not be feasible under procurement contracts, grants, or cooperative agreements. Some protections of the government's interest in the use of funds remain, as implementing regulations for certain agencies' OTs established minimum requirements, such as auditing and reporting requirements. In particular, OTs that are structured as fixed-support, rather than expenditure-based, may provide these benefits (10 C.F.R. § 603.315; 32 C.F.R. § 3.4).

Individual OT agreements can vary in support of individual program objectives. For example, the Department of Defense (10 U.S.C. § 2371) has made use of this authority to procure prototype weapons systems from nontraditional government contractors. In 2007, the Department of Energy (42 U.S.C. § 7256(g)) entered into an OT agreement with a nontraditional contractor to design, construct, and operate an integrated ethanol biorefinery in which the Federal Government agreed to provide 21 percent of the total project cost.

The flexibility afforded to agencies with OT authority may allow those agencies that possess this authority to structure prize competitions. Prior to receiving its direct prize authority, NASA used its OT authority (42 U.S.C. § 2473(c)(5)) to enter into an agreement with a nonprofit organization to assist in the development of its 2005 Beam Power Challenge and Tether Challenge.

Agencies with OT authority should work with their Offices of General Counsel to determine whether this authority would be beneficial in structuring competitions.

#### **G. Agency Partnership Authority**

Agencies may have statutory authority to form partnerships with other agencies. *See, e.g.,* 49 U.S.C. § 106(l)(6), 106(m) (providing FAA with the authority to enter into "other transactions" with and to accept "services, equipment, personnel, and facilities" from other Federal agencies). Such authority may prove useful to agencies that want to further their statutory missions by working with or supporting other agencies' prize endeavors. If contemplating such a partnership, an agency should be sure to consult with its Office of General Counsel.

#### **H. Public-Private Partnership Authority**

Agencies may have authority to partner with outside entities such as foundations and nonprofit organizations that may elect to award cash prizes or other forms of recognition directly to the winners of government prize competitions. A supplemental award from the private sector can increase the incentives for participation in a competition. An agency considering such partnerships should consult with its Office of General Counsel, and should specifically consider issues relating to its solicitation or gift acceptance authorities to ensure compliance with the rule against augmenting appropriations.

#### **IV. Other Prize-Related Legal Issues**

There are a number of common issues that must be addressed by agencies in structuring prize competitions.

##### **A. FACA Compliance**

The Federal Advisory Committee Act (FACA) imposes requirements related to certain groups formed to advise agencies or officers of the Federal Government. See 5 U.S.C. app. § 1 et seq. Agencies should be sure to comply with FACA's requirements, where applicable, when establishing a method of selecting a prize or contest winner. FACA may apply to a prize committee unless it is composed entirely of Federal officers or employees, and unless any outside individuals participating in committee meetings are not given a "vote or veto" over committee matters. See In re Cheney, 406 F.3d 723, 728 (D.C. Cir. 2005) (en banc). FACA may also apply when Federal agencies receive input from non-federal employees unless the agencies solicit advice from a group of individuals or entities on an individual basis, rather than the group as a whole. See Association of Am. Physicians & Surgeons v. Clinton, 997 F.2d 898, 913 (D.C. Cir. 1993); see also 41 C.F.R. § 102-3.40(e).

##### **B. Ethical Issues and Federal Endorsement of Products or Services**

Federal employees must comply with the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. Part 2635, and the general principle that employees will act impartially and not give preferential treatment to any private organization or individual. Any competition, challenge, or contest run by or with the involvement of a Federal agency must be run so as to ensure participants are treated equally and there is no conflict of interest, or appearance of a conflict, on the part of the contest judges or administrators.

Moreover, agencies should avoid any improper Federal endorsement of products or services when creating contests and prizes. See 5 C.F.R. 2635.702(c). Federal endorsement is not improper when it is "[i]n furtherance of statutory authority to promote products, services or enterprises" or "[a]s a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency's mission." Id. Thus, agencies contemplating contests or prizes that could lead to the appearance of Federal endorsement should examine their statutory authorities to

determine if they have authority to promote products, services, or enterprises, or whether the contest or prize is offered “in support of” their statutory mission. Agencies should consult with their Offices of General Counsel on avoiding conflicts of interest and engaging in or permitting Federal endorsement, or the appearance thereof, in connection with government contests.

**C. Intellectual Property**

Agencies should carefully consider whether a competition will involve intellectual property and determine in advance how to assign the rights to such works between themselves and the winning contestants. For example, under the Bayh-Dole Act (35 U.S.C. § 200 et seq.): (1) small businesses, universities, and other nonprofit organizations that develop inventions with Federal funds received through procurement contracts, grants, and cooperative agreements can elect to retain title to and profit from these inventions, provided adherence to certain requirements; and (2) the Federal Government retains nonexclusive, nontransferable, irrevocable, royalty-free licenses to utilize these inventions. Pursuant to a 1983 Presidential memorandum to the heads of executive departments and agencies, and Executive Order 12951 of April 10, 1987, the requirements of the Bayh-Dole Act apply to large businesses as well. Agencies should also be cognizant of the potential need to address trademark, copyright, patent, and publicity rights. Agencies should consult with their general counsels in determining how to assign intellectual property rights.

**D. Compliance with State Law**

Agencies should evaluate the need for potential contests and prizes to comply with varying state laws. To the extent that state laws apply to a Federal prize competition at all, be aware that states generally regulate contests of chance much more heavily than they do contests of skill, and that injecting any element of chance into the selection of a contest or prize winner may significantly alter the state legal requirements with which the agency must comply.

**E. Standard Requirements for Procurement Contracts, Grants, and Cooperative Agreements**

Agencies that enter into procurement contracts, issue grants, or enter into cooperative agreements regarding prize competitions should consider standard requirements for documentation, reporting, and audits, and the Bayh-Dole Act (35 U.S.C. § 200 et seq.). Depending on the objectives, types, and sizes of prize competitions to be awarded, agencies may be able to modify the standard requirements to better match the administration and purposes of these awards. Agencies may consider applying all standard requirements pertaining to pre-award and audit requirements, and modifying – to the extent allowable by law – the requirements for post-award requirements and compliance with the OMB cost principles. For example, agencies may retain the requirements for recipients to have the necessary certifications, comply with conflicts of interest principles, maintain adequate proper internal control systems for funds accountability, and have the awards covered and reviewed under the Single Audit Act, where applicable. But, agencies may modify the post-award and cost compliance



# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

**JUL 26 2002**

PERSONNEL BULLETIN NO. 02- 11 (451)

**Subject: Non-monetary Recognition**

Non-monetary recognition awards are granted to employees to recognize their contributions to the Department of the Interior (DOI). These contributions may include superior accomplishment of regularly assigned duties; exceptional achievements of project goals; noteworthy accomplishments over a sustained period; or specific contributions to the organization's mission.

Approving officials should exercise care in selecting an appropriate item for non-monetary recognition to avoid potential appearance of misuse of Government funds. The approving official should consider whether public disclosure of the item would cause embarrassment to the Department. If there is some level of discomfort or concern, a cash award could be an alternative.

The recognition method selected should be based on the employee's effort expended, the behavior exemplified or the results achieved. Supervisors can tailor recognition of their employees based on the personal interests of the individual. Supervisors gain insight into the values of their employees and their personal interests, hobbies, or activities. Supervisors may ask an employee how he/she would like to be rewarded.

**Who can receive a non-monetary award?**

Employees of the Department of the Interior and other Federal agencies.

**Who cannot receive a non-monetary award?**

Private-sector organizations and their employees, customers, volunteers, private citizens, etc., whose contributions directly or indirectly support the mission of the DOI are not permitted to receive awards under Chapter 45 of title 5, United States Code.

Also, contract employees are not permitted to receive awards under Chapter 45 of title 5, United States Code. It is anticipated that contractors will be used by Federal agencies on an on-going basis in the future. Bureaus/equivalent offices are encouraged to consider providing written provisions in contracts whereby a contract employee may receive recognition.

However, your bureau and equivalent office's budget and procurement offices can provide additional information on a budget authority to use to recognize individuals other than employees. For example, some bureaus can use the Department's Appropriations Act of 1992, (Sec. 115 of H.R. 2686, Department of the Interior and Related Agencies Appropriations Act, 1992), for the authority,

that states: "Notwithstanding any other provision of law, in fiscal year 1992 and thereafter, any appropriations or funds available to the Department of the Interior in this Act may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Department of the Interior programs."

**What are the criteria and dollar amount for a non-monetary award of nominal value?**

The item must take an appropriate form to be used in the public sector to be purchased with public funds. Where appropriate, a non-monetary award item should contain the bureau or Departmental name, logo, award title, and/or mission.

The threshold for non-monetary recognition of nominal value in the Department of the Interior is \$50 cash value. The Department may increase this amount in succeeding years based on the inflation rate.

**What types of nominal non-monetary recognition items may be granted?**

Nominal value items can be gift certificates, tickets to events, balloons, lapel pins, coffee cups, key chains, pens, paperweights, pen and pencil sets, clocks, plaques, jackets, caps, T-shirts, watches, fruit baskets, or other appropriate items.

**Can a non-monetary recognition item exceed a nominal cash value?**

Yes, but the cost of any non-monetary item in excess of the nominal value must be included in the employee's gross wages and would be taxable.

If a non-monetary award item will exceed nominal value, it is suggested that the employee be advised that the award would be taxable and concur in the decision.

**What is the criteria for a non-monetary item that exceeds a nominal value?**

The item must be something that the recipient could reasonably be expected to value, but not something that conveys a sense of monetary value.

The item must have a lasting trophy value. An employee can show the item to coworkers and friends as a "trophy" given in appreciation of good work.

The item must clearly symbolize the employer-employee relationship in some fashion.

The item must take an appropriate form to be used in the public sector and be purchased with public funds.

**What types of recognition items may be granted if the item exceeds a nominal cash value?**

Items can be plaques, pen and pencil sets, clocks, desk organizers, jackets, watches, briefcases, or other appropriate items.

Where appropriate, a non-monetary award item should contain the bureau or Department's name, logo, award title, and/or mission.

**Can a gift certificate exceed nominal value?**

No, gift certificates may be used only as informal recognition awards, and cannot exceed nominal value.

Because a gift certificate conveys a clear monetary value and does not have a lasting "trophy" value, it does not meet the honorary awards criteria. Also, a gift certificate does not symbolize the employer-employee relationship.

**Can a savings bond exceed nominal value?**

Yes. A U. S. Savings Bond does convey a sense of monetary value; however, because the minimum 6 months holding time period gives it some lasting value, it is considered to show an employer-employee relationship. Therefore, a savings bond may be of nominal value or can exceed the nominal value.

**Is there a limit on how many non-monetary awards an employee can receive in a fiscal year?**

No. However, supervisors should avoid granting non-monetary awards and presenting award items several items throughout the fiscal year to avoid any possibility of abuse in granting awards, and to prevent creating tax liabilities for the employee (even if the individual awards are under the nominal value).

**How are non-monetary award items processed?**

A DI-451 Award Certification Form must be submitted only if the non-monetary award exceeds the nominal value.

The specific item should be purchased through normal procurement channels. To effect cost savings and provide for immediate recognition, bureaus and equivalent offices should order supplies of specific award items.

**Are there other forms of non-monetary recognition?**

Yes, **informal honors** such as certificates, letters of commendation, thank you notes, or other similar items.

In addition, **time-off recognition**, an excused absence awarded to an employee without charge to leave, may be granted. The minimum time-off recognition is one hour; there is no maximum time-off recognition or any time limit for a time-off award. A time-off award must be used while employed in DOI; the time-off award cannot be transferred to another agency upon separation of the employee.

**Length of Service (LOS)** recognition is awarded at various milestones in an employee's career.

Recognition items include certificates and/or pins. Recognition is usually given in 10-year increments. However, bureaus may give recognition in 5-year increments.

Bureaus may develop their own LOS service certificates or order Government-issued certificates through the publication rider process.

Pins for 10, 20, 30, 40 and 50 years of Government service are available for procurement through a Departmental contract. Bureaus may use Government-issued LOS pins if they choose to do so through the GSA procurement process.

**What are the authorities for granting non-monetary awards?**

5 U. S. C. 4303; 5 U.S.C. 4502(e)

5 CFR 451.102 and 5 CFR 451.104(a)

Comptroller General Decisions: B-243025, dated May 2, 1991, and B-256399, dated June 27, 1994.

**Who should you call for additional information?**

The awards coordinator for your bureau/office equivalent.

The point of contact in the Office of Personnel Policy for awards and recognition is Jackie Johnston, phone (202) 208-0144, fax (202) 219-2184, Mail Stop 5221 MIB.



This policy will be included in the Departmental Manual chapter on Awards and Recognition when revised.



Carolyn Cohen

Director, Office of Personnel Policy

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# NASA Procedural Requirements

**NPR 3451.1B**Effective Date: June 04, 2009  
Expiration Date: June 04, 2014**COMPLIANCE IS MANDATORY**

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## NASA Awards and Recognition Program

**Responsible Office: Office of Human Capital Management**

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# Preface

## P.1 Purpose

a. NASA is committed and strives to improve the effectiveness and efficiency of Government operations by recognizing and rewarding its employees for results-based performance and others who, through contracts and partnerships, support NASA's mission, while utilizing the full authorities available under the Government Employee's Incentive Awards Act. This NASA Procedural Requirements (NPR) establishes the responsibilities, procedures, and guidelines for the enactment and administration of the Agency's awards program, based on individual and group performance results, that directly support, enhance, and achieve the Agency's mission and strategic goals. It also emphasizes focus on recognizing cross-functional activities and teamwork across the Agency. In addition to recognizing its employees with the vast array of Agency and Center-level awards, NASA nominates its employees for many external awards sponsored by other Government agencies and private sector organizations.

b. This NPR provides the Agency's award program direction which should be followed in conjunction with the referenced statutory and regulatory requirements under P.3 Authority. Center Human Resources Offices should be consulted for further information and guidance.

c. Current Awards Vision states that all NASA Awards are given:

**for the RIGHT CONTRIBUTION...** advances the Agency's agenda to align values and performance expectations, provides organizational learning, and strengthens the relationship between employees and management.

**to the RIGHT PERSON...** when fully deserved, to those employees who meet clearly understood criteria and with full explanation of the accomplishment being recognized.

**at the RIGHT TIME/EVENT...** in an appropriate manner, without undue delay, and of sufficient value to be meaningful.

## P.2 Applicability

a. This NPR is applicable to NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. Unless otherwise indicated, use of the word Center(s) in the text of this NPR includes NASA Headquarters and the NASA Shared Services Center. Any reference to Center Director(s) includes the Executive Director, Office of Headquarters Operations and the Executive Director, NASA Shared Services Center. This language applies to the Jet Propulsion Laboratory and other contractors only to the extent specified or referenced in the appropriate contract.

b. The Office of the Inspector General has statutory independence and may create a separate award and recognition system that more effectively meets its mission requirements.

## P.3 Authority

a. 5 U.S.C. Chapter. 43, Performance Appraisal.

- b. 5 U.S.C. Chapter. 45, Incentive Awards.
- c. 5 U.S.C. § 5336, Additional Step Increases.
- d. 5 U.S.C. § 5384, Performance Awards in the Senior Executive Service.
- e. 42 U.S.C. § 2457, The National Aeronautics and Space Act of 1958, as amended.
- f. 42 U.S.C. § 2458, The National Aeronautics and Space Act of 1958, as amended.
- g. 5 U.S.C. § 9813, The NASA Flexibility Act of 2004.
- h. Executive Order No. 11438 (1968), Prescribing Procedures Governing Interdepartmental Cash Awards to the Members of the Armed Forces.
- i. 5 C.F.R. Part 430, Performance Management.
- j. 5 C.F.R. Part 451, Awards.
- k. 5 C.F.R. Part 531, Quality Step Increases.

## **P.4 Applicable Documents**

- a. 14 C.F.R. Part 1240.1, Awards for Scientific and Technical Contributions.
- b. 65 Comp. Gen. 738 (1986), Refreshments at Awards Ceremony.
- c. NPD 1000.0, NASA Governance and Strategic Management Handbook.
- d. NPR 1441.1, NASA Records Retention Schedules.
- e. NPD 3000.1, Management of Human Resources.
- f. NPR 3430.1, NASA Employee Performance Communication System (EPCS).
- g. NPD 3713.2, Federal Equal Opportunity Programs of NASA.
- h. NPD 5101.1, Requirements for Legal Review of Procurement Matters.
- i. IRS Publication 525 (2008), Taxable and Nontaxable Income.

## **P.5 Measurements/Verification**

Centers shall periodically evaluate their awards process and assess trends to improve NASA's awards program. The Office of Human Capital Management will cooperate with periodic data gathering and other evaluation activities.

## **P.6 Cancellation**

NPR 3451.1, dated May 7, 1999.

/S/  
Thomas Luedtke  
Associate Administrator for  
Institutions and Management



# Chapter 1. Responsibilities

## 1.1 Administrator

1.1.1 The Administrator retains the authority to:

1.1.1.1 Appoint the Chair of the NASA Incentive Awards Board (IAB).

1.1.1.2 Approve Senior Executive Service (SES), Senior Scientific and Technical (ST), and Senior Level (SL) employee performance bonuses.

1.1.1.3 Hold senior management officials accountable for ensuring that all covered employees receive timely and complete performance plans and appraisals in accordance with NPR 3430.1.

1.1.1.4 Submit the following to the Office of Personnel Management (OPM) for approval by the Director of OPM or by the President:

1.1.1.4.1 Individual employee award recommendations over \$10,000.

1.1.1.4.2 Recommendations for Presidential Awards.

1.1.1.4.3 Individual employee award recommendations over \$25,000 for approval by the President.

1.1.1.5 Submit NASA nominations for external awards when the Agency is asked to provide Agency-approved nominations or when there is an Agency nomination allocation.

## 1.2 Deputy Administrator

1.2.1 The Deputy Administrator shall:

1.2.1.1 Provide leadership to the NASA awards program to gain maximum benefit for the Government through high levels of performance and productivity from individuals and groups of employees.

1.2.1.2 Approve performance awards that exceed ten percent but not more than twenty percent of a General Schedule (GS) and Federal Wage System (FWS) employee's annual rate of basic pay limited to \$10,000.

## 1.3 Officials-in-Charge of Headquarters Offices

(OICs of Headquarters Offices are listed in NPD 1000.3, The NASA Organization.)

1.3.1 The OICs shall:

1.3.1.1 Establish and communicate the annual performance goals for/to their organization prior to the beginning of the appraisal period.

1.3.1.2 Prior to the end of the appraisal period, communicate their organization's performance in achieving the annual performance goals and provide guidance to subordinate managers and supervisors on how the organization's performance is to be considered when assessing the performance of individual employees.

1.3.1.3 Ensure fairness and consistency in the appraising and rewarding of employees.

1.3.1.4 Ensure that all covered employees receive timely and complete performance plans and appraisals.

1.3.1.5 Be responsible for the general policy, direction, operations, and evaluation of their special awards programs (e.g., Financial Management Award).

1.3.1.6 Ensure that the NASA Automated Awards System (NAAS) is used to capture all awards.

## **1.4 Assistant Administrator for Human Capital Management**

1.4.1 The Assistant Administrator for Human Capital Management is responsible for:

1.4.1.1 The general policy, direction, and evaluation of the NASA awards program and for reviewing requests for new special NASA awards prior to submission to the IAB for review and to the IAB Chair for approval.

1.4.1.2 Serving as the Vice Chair of the IAB.

## **1.5 NASA Center Directors**

1.5.1 NASA Center Directors shall:

1.5.1.1 Establish and communicate the annual performance goals for/to their organization prior to the beginning of the appraisal period.

1.5.1.2 Communicate their organization's performance in achieving the annual performance goals prior to the end of the appraisal period and provide guidance to subordinate managers and supervisors on how the organization's performance is to be considered when assessing the performance of individual employees.

1.5.1.3 Ensure fairness and consistency in the appraising and rewarding of employees.

1.5.1.4 Direct, support, implement, and maintain awards programs in accordance with this NPR, OPM regulations, and other NASA and Center procedures and guidelines.

1.5.1.5 Approve cash awards for a NASA employee's performance and superior accomplishments not to exceed \$10,000. (This does not apply to SES/ST/SL Rank Awards or SES bonuses.)

1.5.1.6 Ensure that the NAAS is used to capture the submission and approval of all awards.

1.5.1.7 Establish and ensure that the Center's recognition program is administered in accordance with Agency established policies and regulations.

1.5.1.8 Establish Center-specific procedures for local implementation.

## **1.6 Supervisors and Managers**

1.6.1 Supervisors' and managers' responsibilities to the awards program are shown by their timely communication of planned goals and objectives to employees, observation of employees' performance, continuous two-way communication about performance, creating an accountability culture, and in ensuring fairness and consistency in the appraising and rewarding of their employees. Supervisors and managers are responsible for actively participating in and supporting NASA awards programs as follows:



1.6.1.1 Shall encourage subordinate employees to improve productivity, efficiency, economy, and effectiveness of Government operations.

1.6.1.2 Shall ensure that all individuals or groups of employees, regardless of grade or occupational area, are promptly considered for recognition when criteria for awards programs are met.

1.6.1.3 Shall have a general knowledge and understanding of the various awards available to employees in order to recognize and reward employees in a fair, equitable, and appropriate manner.

1.6.1.4 Shall give first-line supervisors authority to grant time-off awards (TOAs) without further review or approval for periods not to exceed one workday.

1.6.1.5 Shall ensure that all award nominations, including performance-based cash awards and TOAs, requiring supervisory/management approval, are linked to the employees contribution and that the amount and time off accurately reflect the value of the contribution.

1.6.1.6 Shall establish and maintain a work environment that is conducive to the development and free exchange of ideas. The supervisor is also responsible for reviewing employee ideas and providing suggesters with input and assistance in refining ideas, if requested, or refer to the appropriate evaluation authority for evaluation of suggestion.

1.6.1.7 Shall ensure that the NAAS is used to capture all awards.

## **1.7 Executive Director, NASA Shared Services Center**

1.7.1 The Executive Director shall:

1.7.1.1 Administer the NAAS. This includes:

1.7.1.1.1 Working with the user community to:

- a. Identify new (or revisions to) system requirements.
- b. Establish priorities and release dates.
- c. Communicate and provide guidance prior to any new release.

1.7.2 Administer the NASA Honor Awards process.

1.7.3 Maintain a supply of all Agency awards materials (medals, length-of-service pins, standardized certificates, folders, frames, other memorabilia, and Center awards certificates) to be used for the Agency and Center Honor Award programs.

1.7.4 Ensure the timely submission of Center certificates and award items.

1.7.5 Maintain and update the Agency Awards Calendar.

1.7.6 Notify the Centers in advance, on a semiannual basis, of the upcoming call for external award nominations and provide the award criteria, nomination forms, and other pertinent information about the external awards, and when nominations are due to the sponsoring organization or to the NSSC.

1.7.7 Annually, by June 1, request Centers to provide the number of their on-site and near-site (within 20 miles) prime and support service contractor workforce employed as of May 30. This data will be used in determining contractor Agency Honor Award allocations. (Includes contractors located at Component Facilities and Technical and Service Support Centers.)

## **1.8 Center Incentive Awards Program Officers**

1.8.1 Center Incentive Awards Program Officers shall:

1.8.1.1 Ensure that Center out-of-cycle requests meet Agency policy.

1.8.1.2 Disposition and approve award nominations submitted into the NAAS.

1.8.1.3 Notify their Center's organizations of upcoming External Awards and apprise organizations of any updates in a timely manner.

1.8.1.4 Process Center nominations for External Awards when the sponsor's instructions require Agency-approved nominations or when there is an Agency nomination allocation.

1.8.1.5 Conduct and/or facilitate training for NAAS users at the Centers.

1.8.1.6 Manage NAAS for the Center.

1.8.1.7 Participate in, implement, and manage award policies, procedures, and practices at the Center.

1.8.1.8 Provide guidance and strategic recommendations to managers on the appropriate use of incentives and Honor Awards.

1.8.1.9 Coordinate Center-level awards ceremonies.

## **1.9 Chair, IAB**

1.9.1 The Chair is responsible for the following:

1.9.1.1 Shall appoint members of the NASA IAB (Also see 5.5, Expert Panels and Evaluation of Nominees, for selection of chairs of expert panels).

1.9.1.2 Shall appoint the Chair of the Outstanding Leadership Medal Panel.

1.9.1.3 Shall approve nominations for NASA Honor Awards.

1.9.1.4 Shall approve special NASA-wide awards and recognition programs (Appendix A).

## **1.10 NASA IAB**

1.10.1 The NASA IAB is responsible for the following:

1.10.1.1 Shall provide advice and recommendations to the Chair, IAB, on broad policy issues and specific award cases for Agency-wide honorary recognition.

1.10.1.2 May appoint special technical advisors and/or panels comprised of NASA officials, employees, or non-Government subject experts to advise in the review of nominations for awards.

1.10.1.3 Does not review actions coming under the purview of the Inventions and Contributions Board (See 14 C.F.R. Part 1240.1, Awards for Scientific and Technical Contributions).

1.10.1.4 The IAB membership is shown in Appendix B.

# Chapter 2. Awards Based on Performance

## 2.1 Background

2.1.1 In addition to an annual performance award, an employee may be rewarded with a Special Act or Service Award or a TOA in recognition of a specific achievement or contribution.

2.1.2 When an award is approved for an employee of another NASA Center, the nominating Center shall make arrangements to transfer funds to the employee's home Center to cover the award (including the employer's portion of the payroll taxes). If the administrative costs of transferring funds would exceed the amount of the award, the employee's home Center shall absorb the award cost and pay the award. Administrative costs must be clearly stated. This would also apply to another Federal agency giving a NASA employee an award.

2.1.3 When processing monetary or TOAs in NAAS, at least two individuals (one being the Center Awards Officer) must be included in the nomination/approval process to provide the necessary checks and balances.

## 2.2 Performance Award

### 2.2.1 Definition

A performance award is a lump-sum cash and/or TOA based on a rating of record of Fully Successful or higher. Refer to NPR 3430.1, Employees Performance Communication System, Chapter 5, subparagraph 5.8, Award Eligibility, for further requirements regarding performance awards.

### 2.2.2 Eligibility

2.2.2.1 An employee in a GS or FWS position with a rating of record of Fully Successful or higher on the last day of the appraisal period is eligible for a performance award.

2.2.2.2 An employee who serves less than the full appraisal period under a performance plan (i.e., a new employee or a current employee who was on extended sick leave or leave without pay) may receive a reduced, prorated award.

2.2.2.3 Members of the SES are eligible for performance awards in accordance with NPR 3435.1, NASA Performance Management Plan for the Senior Executive Service.

### 2.2.3 Requirements

2.2.3.1 The amount of the award must be linked to an employee's performance and be based upon the summary performance rating level.

2.2.3.2 An employee may be rewarded with cash, time off, or a combination of cash and time off. An employee with a higher performance summary rating level (e.g., Distinguished) must receive a greater monetary performance award (including combined monetary and time off), based on a percentage of salary, than an employee with a lower performance summary rating level (e.g., Accomplished).

2.2.3.3 The narrative summary that documents the overall performance of the employee shall serve as justification for a performance award.

2.2.3.4 When granting an award paid as a percentage of basic pay, the rate of basic pay used must include any applicable locality payment.

## **2.2.4 Restrictions**

2.2.4.1 Only one performance award may be granted based on any one rating of record.

2.2.4.2 A maximum of ten percent of basic pay may be awarded under usual circumstances. In the case of unusual outstanding performance, awards over ten percent and up to 20 percent of basic pay must be approved by the Administrator (e.g., for outstanding leadership in a significant, high-visibility, project/program).

2.2.4.3 An award over \$10,000, regardless of the percentage, must be submitted through the Office of Human Capital Management to be forwarded to the Office of Personnel Management for approval.

2.2.4.4 Awards in excess of \$25,000, regardless of the percentage, require Presidential approval.

2.2.4.5 The Internal Revenue Service has ruled that a cash award is part of an employee's wages; therefore, taxes will be withheld from the award payment.

2.2.4.6 Any performance award must be submitted and approved through the NAAS.

## **2.3 Quality Step Increase (QSI)**

### **2.3.1 Definition**

2.3.1.1 A QSI is a faster-than-normal within-grade increase (WGI) to an employee's rate of basic pay given in recognition of and to reward an employee for sustained performance of high quality.

2.3.1.2 A QSI maybe granted to an employee who has received a rating of record of Distinguished.

2.3.1.3 A QSI produces higher, long-term costs to the Agency than other types of awards and shall be considered the highest monetary performance award an employee can receive.

### **2.3.2 Eligibility**

2.3.2.1 A QSI is not required, but may be granted to a GS employee who receives a performance summary rating of Distinguished in accordance with 5 C.F.R. § 531.504.

2.3.2.2. Career SES members and FWS employees are not eligible to receive a QSI.

### **2.3.3 Requirements**

2.3.3.1 A QSI must be effected within 120 calendar days following the end of the appraisal period. No QSI may be effected more than 120 days after the end of the appraisal period on which the Distinguished rating was based.

2.3.3.2 A QSI does not affect the timing of an employee's next regular WGI unless the QSI places the employee in step 4 or step 7 of his or her grade. In these cases, the waiting period is extended an additional 52 weeks.

2.3.3.3 A QSI may be granted as long as the employee has not received a QSI during the past 52 weeks.

2.3.3.4 A QSI may be granted as long as the employee has not reached the maximum step of his/her

grade.

2.3.3.5 When a QSI is granted, no other award (monetary, i.e., lump-sum cash, and/or nonmonetary, i.e., time-off) shall be given in conjunction with a QSI.

2.3.3.6 QSI awards must be submitted and approved through the NAAS.

2.3.3.7 Unlike other awards, QSI awards must be processed as a personnel action in order to affect the award.

## **2.4 Special Act or Service Award**

### **2.4.1 Definition**

A Special Act or Service Award is a lump-sum cash award given in recognition of a specific accomplishment and to reward an employee's performance that has exceeded expectations as a one-time occurrence (e.g., significant contribution in support of a program and/or project).

### **2.4.2 Eligibility**

2.4.2.1 All civil service employees, individually or as a group, are eligible to receive a Special Act or Service Award.

2.4.2.2 Special Act or Service Awards are not based upon an employee's performance rating of record or a particular appraisal period.

2.4.2.3 An individual or group, a former employee, an employee of another Government agency, or the estate of a deceased employee is eligible for a Special Act or Service Award, provided the achievement took place while the person was a Government employee.

2.4.2.4 A Special Act or Service Award may be granted to members of the Armed Forces, but only in accordance with regulations prescribed by the Department of Defense.

### **2.4.3 Requirements**

2.4.3.1 A Special Act or Service Award must be supported by written justification other than what is documented in the employee's most recent rating of record.

2.4.3.2 Approval at a management level higher than the individual who recommended the award is required.

2.4.3.3 Approval is required for an SES employee by the Center Director for an award not exceeding \$10,000.

2.4.3.4 Approval is required for a GS and FWS employee by the Center Director for an award of \$7,500-\$10,000.

2.4.3.5 Special Act or Service Award nominations are to be submitted and approved through the NAAS.

## **2.5 On-the-Spot Award (OTS)**

### **2.5.1 Definition**

A kind of special act or service award that may be monetary or non-monetary involving minimal paperwork and approval time in order to provide immediate recognition for employees who perform

short-term quality acts or service in an exceptional manner that otherwise might go unrecognized. Examples include:

- a. Performing high-quality work under tight deadlines.
- b. Performing emergency tasks in addition to regular duties.
- c. Exercising extraordinary initiative or creativity in addressing a critical need or difficult problem.

### **2.5.2 Eligibility**

2.5.2.1 An employee in a GS or FWS position is eligible to receive an OTS Award.

2.5.2.2 A customer, peer, or supervisor may recommend an employee for an OTS Award, but it is the responsibility of the supervisor or manager of the employee to approve the award (monetary or non-monetary).

2.5.2.3 Career and non-career SES members are not eligible to receive an OTS Award.

### **2.5.3 Requirements**

2.5.3.1 An OTS Award must be supported by a written justification other than the employee's most recent rating of record.

2.5.3.2 OTS Award nominations shall be submitted and approved through the NAAS.

## **2.6 Time-Off Award (TOA)**

### **2.6.1 Definition**

A TOA is an award that takes the form of paid time off from work, without charge to leave, for performance as reflected in the most recent rating of record or for a specific accomplishment and to reward an employee's performance that has exceeded expectations as a one-time occurrence.

### **2.6.2 Eligibility**

Any Federal civilian employee may receive a TOA, either as an individual or member of a group. Volunteers, contract employees, and members of the military services may not receive TOAs. See 2.6.4.6 for Presidential appointees and 2.6.5 for astronauts.

### **2.6.3 Requirements**

2.6.3.1 A customer, peer, or supervisor may recommend an employee for a TOA, but only the immediate supervisor or manager of the employee may grant the TOA.

2.6.3.2 Supervisors and managers may recommend an award across organizational boundaries when an employee has made contributions outside his/her parent organization; however, only the employee's immediate supervisor can actually grant the award, since this action impacts salary dollars.

2.6.3.3 TOAs may be granted in amounts of eight to 80 hours for a single contribution and up to a total of 80 hours of time off during a leave year for a full-time employee.

2.6.3.4 TOAs shall be used to recognize a variety of employee contributions. Primarily, it is intended to recognize employee(s)' contribution(s) of a specific accomplishment or to reward an employee's performance that has exceeded expectations as a one-time, non-recurring nature. It may also be used to recognize a continuous improvement of a process, product, program, or service.

Types of contributions an employee must make in order to be eligible for a TOA:

- a. Making a high-quality contribution involving a difficult or important project or assignment.
- b. Producing an exceptionally high-quality product under a tight deadline.
- c. Displaying special initiative and skill in completing a quality assignment or project significantly ahead of the deadline while maintaining quality and other task requirements.
- d. Performing an added or emergency assignment in addition to regular duties.
- e. Using initiative and creativity in making improvements in a product, activity, program, or service.
- f. Providing outstanding customer service to clients or colleagues that is highly responsive, courteous, respectful, and exceeds expectations.
- g. Exercising initiative by taking action to plan, perform, and follow through with a task that benefits his/her office without prompting or direction from others.
- h. Independently taking action to promote a safe working environment.
- i. Sustaining a high level of performance for an extended period as reflected, for example, in a rating of record.

2.6.3.5 A TOA should be presented as soon as possible after the completion of the act or service for which the nomination is made.

2.6.3.6 TOA award nominations shall be submitted and approved through the NAAS.

#### **2.6.4 Restrictions**

2.6.4.1 If illness occurs during time-off leave, sick leave may be granted for the period of incapacitation.

2.6.4.2 The following are examples in which a TOA may not be an appropriate incentive: (Please consult with your Human Resources Office for guidance.)

- a. The employee has been awarded a total of 80 hours of time off within the current leave year.
- b. The employee has use-or-lose and/or restored leave, annually.
- c. The employee will not be able to use the TOA due to project commitments.
- d. There are problems with the employee's attendance and leave, i.e., leave abuse, failure to follow leave procedures, or unexcused or unauthorized absence.
- e. TOAs are not to be a substitute form of compensation for overtime work that should be directly compensated through paid overtime or compensatory time off.

2.6.4.3 Under no circumstances will a TOA be converted into a cash payment upon separation from Federal service.

2.6.4.4 A TOA will be available for use after the number of hours awarded appear on the Leave and Earnings Statement.

2.6.4.5 Presidential appointees with Senate confirmation, non-career appointees in SES positions, and Schedule C appointees may not receive a TOA during Presidential election periods, which is any period beginning June 1 in a calendar year in which the popular election of a President occurs and ending on January 20 following the date of such election. At all other times, these individuals

are not prohibited from receiving TOAs.

2.6.4.6 A TOA should be taken within a reasonable time period, usually 12 months of the date of the award. The employee should be encouraged and permitted to use the incentive in a timely manner.

2.6.4.7 TOAs are not transferable from one Federal Agency to another, but they shall be transferable from one NASA Center to another. To avoid the loss of a TOA, the employee should be encouraged and allowed to use the incentive before transferring to another Federal agency.

2.6.4.8 Since a TOA is not annual leave, TOA balances cannot be transferred to approved leave recipients under the Voluntary Leave Transfer Program.

2.6.4.9 While there is no specific restriction on the maximum value of combined time off and monetary awards for Special Act or Service Awards, Centers shall remain sensitive to the perceptions that could arise from combining large TOAs with substantial cash awards, particularly in the case of statutory limits, such as the \$10,000 limitation placed on individual awards. The combined cash value should be an amount appropriate for the accomplishment.

2.6.4.10 Centers shall establish the level of management approval for granting more than four workdays off.

2.6.4.11 All TOA nominations are to be submitted and approved through the NAAS.

2.6.5 The following pertains to TOAs for civilian astronauts:

2.6.5.1 The Director of Flight Crew Operations at the Johnson Space Center is delegated the authority to approve TOAs for civilian astronauts returning from spaceflight missions.

2.6.5.2 Up to eight hours time off may be granted for each weekend day and Federal holiday that the crewmember was in space, up to a maximum of 160 hours.

2.6.5.3 No more than one TOA may be granted within a 12-month period.

2.6.5.4 TOAs may not be converted to cash and must be taken within 12 months of the date of the award.

2.6.5.5 TOAs must be properly documented in advance.

2.6.5.6 All TOA nominations for civilian astronauts are to be submitted and approved through the NAAS.



# Chapter 3. Employee Suggestion Program

3.1 Employees are eligible for awards and recognition in response to adopted suggestions made in accordance with the Government Employee's Incentive Awards Act, Title III of Public Law 763, enacted September 1, 1954.

3.2 The law established a Government-wide program encouraging all employees to improve the efficiency and economy of Government operations.

3.3 A suggestion is a constructive proposal that results in a saving or an improvement to the Federal Government and/or NASA. It poses a solution to a problem, a solution to a potential problem, or an opportunity to effect change.

3.4 Any Government employee or group of employees and contractors may submit a suggestion.

3.5 A former Government employee or the estate of a deceased employee may submit a suggestion, provided the suggestion was based on knowledge gained while the individual was a Government employee.

3.6 Contractor employees are ineligible for cash awards under the NASA Employee Suggestion Program; however, if a team contains a contractor employee, that team member shall receive a certificate and no cash award.

3.7 A cash award may be awarded to members of the Armed Forces but only in accordance with regulations prescribed by the Department of Defense.

3.8 A suggestion, whether adopted as submitted, or in part, that directly contributes to the economy or efficiency or directly increases effectiveness of Government operations, qualifies for a non-monetary recognition, time-off, or monetary recognition, depending on the potential savings or profitability of the idea.

3.9 The suggestion can be outside the suggester's job responsibilities or, if within their job responsibilities, so superior that it warrants special recognition.

3.10 The suggestion must be submitted in writing either before adoption or within a specified time thereafter to the Center's Suggestion Program.

3.11 The amount of the award must be in proportion to the benefits realized by the Government.

3.12 If a cash award is deemed appropriate, the amount can range from \$25 to \$25,000.

3.12.1 Award should not exceed recipient's annual salary.

Benefit	Award
Up to \$10,000	10 percent of the benefits
\$10,001 - \$100,000	\$1,000 for the first \$10,000 in benefits, plus three percent of benefits over \$10,000

\$100,001 or more	\$3,700 for the first \$100,000 in benefits plus .005 of benefits over \$100,000.
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3.13 A suggester is an employee who submits an idea for improvement, either individually or as a member of a group. All NASA employees are potential suggesters under this program.

3.14 Suggestion Program Coordinators are responsible for the administration and promotion of the NASA Suggestion Program within their Centers. Coordinators receive and process suggestions, monitor the evaluation process, facilitate award recommendations, promote the program, and educate employees on the Suggestion Program.

3.15 Suggestion Evaluators are responsible for reviewing and analyzing employees' ideas, determining the feasibility of adoption, and in some instances, making final decisions on adoption.

3.16 Evaluation procedures may include any or all of the following positions:

- a. Individual Evaluator--an individual assigned to review suggestions and determine the feasibility of implementation. This person is usually a supervisor or manager in the area(s) impacted by the suggestion or is responsible for implementation.
- b. Evaluation Team--a group of persons assigned by the Center to review suggestions, determine the feasibility of implementation, and/or make final decisions on adoption.
- c. Subject-Matter Expert--a person with a specific expertise related to the suggestion being evaluated. This person could be called upon by the evaluator or evaluation team to provide technical input and otherwise assist with the evaluation of the suggestion.

3.17 Comments made by the evaluator shall be thorough, understandable, and non-offensive because they form the basis for the reply to the suggester and are provided as an attachment to that reply.

3.18 Suggestions can result in tangible dollar savings, a higher-quality product, or make it easier to get work done. Implemented suggestions also result in process improvement that saves the Government time and/or money and may include:

- a. Reduction in the cost of operations or service.
- b. Elimination of unnecessary operation or service.
- c. Improvement in the quality of operations or service.
- d. Development of new tools, equipment, processes, or procedures to accomplish the preceding purposes.
- e. Improved employee morale.

3.19 The suggestion need not be new or original and shall result from the suggester's previous work, experience, research, or education.

3.20 The suggestion shall clearly define what is proposed, explain why the suggester feels the idea would improve effectiveness or efficiency of Government operations, outline how the suggester proposes that the idea be implemented, and include estimated savings (including the formula used to estimate the savings) to be realized.

3.21 Suggestions approved for adoption within the originating Center and determined to merit consideration at other NASA Centers, as well as other agencies or departments of the Federal

Government, are the responsibility of the originating Center.

3.21.1 The originating Center is responsible for identifying other organizations that may benefit from the suggestion and should coordinate directly with the appropriate NASA organizations or Centers or other Federal Government agencies to coordinate the efforts for implementation.

3.22 Suggestions approved for adoption with tangible benefits exceeding the amount authorized for payment within a Center should be forwarded to the NASA Headquarters Workforce Management and Development Division for appropriate coordination and approval.

# Chapter 4. Non-monetary Awards

## 4.1 Definition

Non-monetary recognition can take on many forms including a letter of appreciation, letter of commendation, honorary medals and certificates, career service recognition awards, and TOAs.

## 4.2 Eligibility

4.2.1 Supervisors may grant these awards to employees for specific instances of contributions or achievements that warrant special recognition.

4.2.2 Contractors, academia, industry partners, and other stakeholders may be eligible for certain NASA Honor Awards and Center awards programs. Consideration must be given to avoid preempting the authority of Federal contracting officers and contractor management.

4.2.3 In general, appropriated funds may not be spent on awards for contractors or contractor employees. Exceptions to this general rule must be coordinated through the Office of Chief Counsel at the Centers or the Office of General Counsel at NASA Headquarters.

## 4.3 Restrictions

Non-monetary awards are permitted during a Presidential election period (any period beginning June 1 in a calendar year in which the popular election of a President occurs and ending on January 20 following the date of such election) provided that the form of the non-monetary award avoids the appearance of replacing a bonus. As non-monetary awards may take on a wide variety of forms with a wide variance, both in terms of direct costs and the appearance of such value, recognition by non-monetary awards should create the inherent impression of symbolic value (an honor being bestowed) rather than monetary worth (cash value).

## 4.4 Career Service Recognition

4.4.1 A career service recognition award and certificate are presented to all civil service employees as an emblem upon completion of each five years of service.

4.4.2 Certificates of service, appropriate emblems, and appropriate length of service mementoes for 35 years and above, are presented for each five-year interval thereafter.

4.4.3 Employees with 40 years or more of Federal service are eligible to receive certificates from the Administrator.

4.4.4 Employees with 60 years or more of Federal service are eligible to receive a letter from the President. This must be requested through the Center Incentive Awards Program Officer.

4.4.5 Eligibility for these awards is based on the total years of Federal service (including all honorable military service) to calculate the total service.

## 4.5 Awards Ceremony

The Government Employees Incentive Awards Act specifically authorizes agencies to “incur necessary expense(s) for the honorary recognition” of employees who meet the statutory criteria of Title 5 U.S.C. § 4503, Agency Awards. An agency head may expend funds for food at an awards ceremony if it is determined that light refreshments will “materially enhance” the effectiveness of the ceremony.

# Chapter 5. NASA Honor Awards Program

## 5.1 Background

Agency Honor Awards are NASA's most prestigious honor awards. They are approved by the Chair of the IAB and presented to a number of carefully selected individuals and groups of individuals, both Government and non-Government, who have distinguished themselves by making outstanding contributions to the Agency's mission. Recognition should be extended to deserving candidates from NASA's total workforce. Incumbents of all occupational groups and all grade levels are eligible in accordance with the individual award criteria.

## 5.2 Eligibility

5.2.1 Jet Propulsion Laboratory employees are eligible for Government employee awards under the NASA Honor Awards Program.

5.2.2 Individuals working for NASA under the Intergovernmental Personnel Act (IPA) are treated as employees and are eligible for Agency Honor Awards.

5.2.3 NASA employees and employees of other Federal agencies may be nominated for the following awards:

- a. Distinguished Service Medal.
- b. Outstanding Leadership Medal.
- c. Exceptional Achievement Medal.
- d. Exceptional Service Medal.
- e. Exceptional Scientific Achievement Medal.
- f. Exceptional Engineering Achievement Medal.
- g. Equal Employment Opportunity Medal.
- h. Exceptional Bravery Medal.
- i. Exceptional Technology Achievement Medal.
- j. Exceptional Administrative Achievement Medal.
- k. Space Flight Medal.
- l. Group Achievement Award.
- m. Certificate of Appreciation.

5.2.4 Non-Government personnel may be nominated for the following awards:

- a. Distinguished Public Service Medal.
- b. Exceptional Scientific Achievement Medal.
- c. Exceptional Technology Achievement Medal.
- d. Exceptional Engineering Achievement Medal.
- e. Exceptional Public Service Medal.
- f. Equal Employment Opportunity Medal.
- g. Exceptional Bravery Medal.
- h. Public Service Group Achievement Award.
- i. Group Achievement Award.
- j. Certificate of Appreciation.

## 5.3 Description of NASA Honor Awards

5.3.1 Distinguished Service Medal (DSM)--Is awarded to any individual in the Federal service who, by distinguished service, ability, or courage has personally made a contribution representing substantial progress to the NASA mission in the interest of the United States. The contribution must have been so extraordinary that other forms of recognition by NASA would be inadequate. This is the highest honor that NASA confers.

5.3.2 Distinguished Public Service Medal (DPSM)--Is awarded to any individual who is not an employee of the Federal Government or was not a Government employee during the period in which the service was performed. The award is granted only to individuals whose distinguished accomplishments contributed substantially to the NASA mission. The contribution must have been so extraordinary that other forms of recognition by NASA would be inadequate. This is the highest honor that NASA confers on a non-Government individual.

5.3.3 Outstanding Leadership Medal (OLM)--Is awarded for notably outstanding leadership that affects technical or administrative programs of NASA at an organizational, directorate, Agency, Government, or industry level. It is awarded for the sustained contributions of a leader's effectiveness in advancing the Agency's quality result and building the organization's capacity for future performance while exemplifying NASA values in the work environment. The criteria are as follows:

- a. Demonstrated excellence in leadership performance.
- b. Consistent and exemplary behavior that models NASA's core values and promotes these values within the Agency.
- c. Complexity of effort in terms of projects, organizations, or a wide range of personnel.
- d. Innovative approaches used in the conception, design, or execution of projects, programs, initiatives, and activities.
- e. Impact and importance of work achievements to NASA's missions and the image that is created by the individual's contributions and efforts.

5.3.4 Exceptional Achievement Medal (EAM)--Is awarded to any individual in the Federal service for a significant, specific accomplishment or substantial improvement in operations, efficiency, service, financial savings, science, or technology which contributes to NASA's mission. The criteria are as follows:

- a. Work-related achievements yielding high-quality results and/or substantial improvement that support NASA's mission or organizational accomplishment.
- b. Innovative approaches used in the conception, design, or execution of the individual's work.
- c. Impact and importance of the individual's achievement to the NASA Mission Directorate's, Center's, or organizational component's goals and image.

5.3.5 Exceptional Service Medal (ESM)--Is awarded for significant, sustained performance characterized by unusual initiative or creative ability that clearly demonstrates substantial improvements or contributions in engineering, aeronautics, spaceflight, administration, support, or space-related endeavors that contribute to NASA's mission. The criteria are as follows:

- a. Excellence and recognition of achievement that has set a benchmark for which others may strive.

- b. An innovative approach used in the conception, design, or execution of the Agency's projects, programs, initiatives, and activities.
- c. Impact and importance of the individual's service to NASA's mission and image.

5.3.6 Exceptional Scientific Achievement Medal (ESAM)--Is awarded to both Government and non-Government individuals for an unusually significant scientific contribution toward achieving NASA's mission. This award may be given for individual efforts that have resulted in a contribution of fundamental importance in this field or have significantly enhanced the understanding of this field. The criteria are as follows:

- a. Accomplishments are far above others in quality or excellence--a rare, outstanding, clearly superior achievement.
- b. This is a prestigious scientific award for specific, concrete scientific achievement(s). (More credit will be given for recent contribution(s), except in unusual circumstances where a contribution was overlooked at the time it occurred.)

5.3.7 Exceptional Engineering Achievement Medal (EEAM)--Is awarded to both Government and non-Government individuals for unusually significant engineering contributions toward achieving NASA's mission. This award may be given for individual efforts or application of engineering principles/methods that have resulted in contributions of fundamental importance in this field or have significantly enhanced the understanding of this field. The criteria are as follows:

- a. Accomplishments are far above others in quality, scope, and impact.
- b. Accomplishments are explicit, demonstrate results, and are perceived as outstanding or significant by peers and impacted targeted groups. (More credit will be given for recent contribution(s) except in unusual circumstances wherein a contribution was overlooked at the time it occurred.)

5.3.8 Equal Employment Opportunity Medal (EEOM)--Is awarded to both Government and non-Government individuals for outstanding achievement and material contribution to the goals of NASA's Equal Employment Opportunity Programs either within the Government or within community organizations or groups. The criteria are as follows:

- a. Accomplishments are clearly superior in quality, scope, and impact.
- b. Accomplishments are explicit, demonstrate results, and are perceived as outstanding or significant by peers and impacted target groups. (More credit will be given for recent contribution(s) except in unusual circumstances wherein a contribution was overlooked at the time it occurred.)

5.3.9 Exceptional Technology Achievement Medal (ETAM)--Is awarded to both Government and non-Government individuals for technology contributions achieved in one of the following areas:

- a. Early technology development significantly contributing to NASA's mission.
- b. Exemplary collaborative effort in achieving significant technology transfer.
- c. Exceptional utilization of a NASA-developed technology resulting in a significant commercial application.

5.3.10 Exceptional Administrative Achievement Medal (EAAM)--Is awarded to any individual in the Federal service (NASA Classification 500 Group clerical/assistant and related support positions only) for a significant, specific accomplishment or contribution characterized by unusual initiative



or creativity that clearly demonstrates a substantial improvement in administrative support contributing to NASA's mission. The criteria are as follows:

- a. Exceptional initiative in carrying out office/program support activities that resulted in improved processes and operations.
- b. Development and improvement of administrative support methods and processes that resulted in substantial benefit to the office or program.
- c. Notable competence and resourcefulness in accomplishing and improving office/program processes and operations.

5.3.11 Exceptional Bravery Medal (EBM)--Is awarded to both Government and non-Government individuals for exemplary and courageous handling of an emergency by an individual who, independent of personal danger, has acted to prevent the loss of human life and/or Government property.

5.3.12 Exceptional Public Service Medal (EPSM)--Is awarded to any individual who was not a Government employee during the period in which the service was performed. The award is given for exceptional contributions to NASA's mission.

5.3.13 Space Flight Medal (SFM)--Is awarded to Space Transportation System (STS) flight crewmembers (civil and military astronauts, mission specialists, payload specialists, and civilians) to recognize individual participation in an STS flight mission. The medal is granted for participation in initial flight. The NASA Space Flight Cluster is awarded for subsequent flight(s).

5.3.14 Group Achievement Award (GAA)--Is awarded to either a group of Government employees or a group comprised of both Government and non-Government personnel for an outstanding accomplishment through the coordination of many individual efforts which have contributed substantially to NASA's mission, with explicit consideration given to: (1) the quality of results and the level of impact on NASA's programs or operations; (2) effective management of cost and schedule; (3) customer satisfaction; (4) team growth and capacity for future contribution; and (5) additional credit for development of innovative approaches, use of and contributions to lessons-learned data banks, and/or success in responding to unforeseen crises.

5.3.15 Public Service Group Achievement Award (PSGAA)--Is awarded to a group of non-Government personnel for an outstanding accomplishment while participating in a significant program or project that has contributed substantially to NASA's mission, with explicit consideration given to: (1) the quality of results and the level of impact on NASA's programs or operations; (2) effective management of cost and schedule; (3) customer satisfaction; and (4) additional credit for development of innovative approaches and/or success in responding to unforeseen crises.

5.3.16 Certificate of Appreciation (COA)--Is awarded to both Government and non-government individuals in recognition of outstanding accomplishment which has contributed substantially to NASA's mission.

## 5.4 Annual Call for Nominations

5.4.1 An annual call for nominations will be released to all Center Directors and Officials-in-Charge of Headquarters Offices in July.

5.4.2 Nominations will be submitted to the NSSC through the NAAS during the period beginning October 1 through November 1 each year. All nominations must be received by the NSSC no later than November 1.

### 5.4.3 Numerical Allocations

- a. For determining allocations, Center Incentive Awards Officers will inform the NSSC by June 1 of the number of on-site and near-site contractor workforce as of May 30. For Centers where the contractor workforce baseline is less than 2,000, a maximum of two noncivil service medals are allocated.
- b. The civil service workforce is the number of on-duty employees (includes part-time and full-time permanent, terms, and interns; excludes employees on LWOP, student and temporary appointments).
- c. The contractor workforce is comprised of each Center's on-site and near-site prime and support service contractor workforce (within 20 miles). Contractor workforce located outside the 20-mile radius also includes the Wallops Flight Facility, the NASA Independent Verification & Validation Facility, and the Goddard Institute for Space Studies.
- d. A Center's numerical allocation will be downwardly adjusted to reflect any out-of-cycle medals awarded during the period October 1 through September 30 (see out-of-cycle Honor Awards process at 5.6).
- e. Using the workforce strength and contractor workforce data as of May 30, the NSSC will determine and inform the Centers of their numerical allocations for DSMs, DPSMs, ESMs, EAMs, and EPSMs by July 1.

5.4.4 Numerical guidelines will be determined as follows:

- a. For civil service nominations: 1.5 percent of the permanent and term civil service population.
- b. For contractor nominations: 0.1 percent of the full-time, on-site and near-site, prime and support service contractor workforce.
- c. All fractions are rounded to the nearest whole number.
- d. Centers have the discretion to use civil service allocations for non-civil service nominations and vice versa.
- e. Centers will not submit nominations in excess of their numerical allocations for covered medals.

## 5.5 Expert Panels and Evaluation of Nominees

5.5.1 Expert Panels and the evaluation of nominations for OLMs, ESAMs, EEAMs, ETAMs, EAAMs, and EEOMs apply to the Agency-level evaluation process. These nominations will be reviewed by a panel of experts in their category to determine which of the nominees' accomplishments are sufficiently significant to warrant receipt of the respective medal.

5.5.2 The NSSC will coordinate the selection of the Chairs of the Expert Panels and receive their proposed nominations through the NAAS.

5.5.2.1 The Chair of the IAB names the Chair of the OLM Panel.

5.5.2.2 The Associate Administrator for the Science Mission Directorate names the Chairs of the ESAM and ETAM Panels.

5.5.2.3 The Chief Engineer names the Chair of the EEAM Panel.

5.5.2.4 The Executive Director for the Office of Headquarters Operations names the Chair of the

EAAM Panel.

5.5.2.5 The Assistant Administrator for Diversity and Equal Opportunity names the Chair of the EEOM Panel.

5.5.3 Panel Membership

5.5.3.1 The Chairs of the Expert Panels will select their Panel's members from NASA and/or other Government employees. With the exception of the OLM Panel, the size of the panel is at the discretion of the Chair.

5.5.4 OLM Panel

5.5.4.1 The OLM Panel will include those Center Directors and Associate Administrators of Mission Directorates who are not members of the IAB.

5.5.4.2 The Chair of the OLM Panel is named by the Chair of the IAB.

**Center OLM Panel Representation - Center Director  
(or designee)**

2009	2010	2011	2012
GRC	MSFC	HQ	ARC
JSC	JPL	GSFC	KSC
MSFC	HQ	ARC	SSC
JPL	GSFC	KSC	LaRC
HQ	ARC	SSC	DFRC

**Mission Directorate OLM Panel Representation - Associate Administrator  
(or designee)**

SMD	SOMD	SOMD	SMD
ARMD	ESMD	ESMD	ARMD

5.5.5 Evaluation of Nominees

5.5.5.1 The criteria used to evaluate nominees is also used to describe the medals listed in paragraph 5.3. The Chairs of the Panels will direct their panel members on how to apply the medal criteria.

5.5.5.2 The Chair of the Panels will record the reasons why any nominee is not recommended for receipt of the medal. These reasons will be recorded in NAAS and shared with the nominating Center.

5.5.5.3 There is no reclama process for nominees rejected by an expert panel.

5.5.5.4 Centers may, at their discretion, nominate a nominee rejected by a panel for a medal covered by an allocation, provided their allocation ceiling is not exceeded or, if exceeded, they withdraw another nomination in order to stay within their allocation.

5.5.5.5 The NSSC will set the deadline for any adjustments to nominations covered by allocations.

5.5.5.6 Chairs of Expert Panels will not recommend nominees for other medals.

## **5.6 Out-Of-Cycle Agency Honor Awards**

5.6.1 Requests for NASA Honor Awards outside the annual call for nominations will be rare and based on extraordinary circumstances that warrant an out-of-cycle review.

5.6.2 All requests must include a detailed explanation and justification of the reasons why the honor award must be presented outside the annual cycle. A situation created by an individual retiring, resigning, or otherwise not being available for the ceremony is not, under most circumstances, adequate justification for an out-of-cycle review.

5.6.3 All requests must be signed by the Center Director or Official-in-Charge of a Headquarters Office and be approved by the Chair of the IAB.

5.6.4 All Distinguished Service Medals, Distinguished Public Service Medals, Exceptional Service Medals, Exceptional Achievement Medals, and Exceptional Public Service Medals awarded out-of-cycle during the fiscal year will be deducted from the Center's or Headquarters' numerical allocation for that award year (see paragraph 5.4.3.d). Center and Headquarters Incentive Awards Officers will monitor and account for all approved out-of-cycle awards and reduce their annual Honor Awards submission by that number.

5.6.5 Requests for Outstanding Leadership Medals, Exceptional Scientific Achievement Medals, Exceptional Engineering Achievement Medals, Exceptional Technology Achievement Medals, Equal Employment Opportunity Medals, and Exceptional Administrative Achievement Medals will not be reviewed by an expert panel as they are during the annual Honor Awards process. Therefore, a request for one of these medals must be based on such clearly exceptional accomplishments related to the award criteria that a panel review is unnecessary.

5.6.6 Center Incentive Awards Program Officers will personally review all requests for out-of-cycle awards from their Center or Headquarters and certify that all of the requirements in this guidance have been met. This review and certification may not be redelegated.

5.6.7 The OHCM will review all requests for out-of-cycle awards for compliance with this guidance and then forward, with a recommendation, to the Chair of the IAB for decision and approval.

5.6.8 If approved, the Center Incentive Awards Program Officer will submit, when appropriate, and approve the nomination in the NAAS.

5.6.9 After successful completion of a Shuttle or Expedition flights mission, a written request from the Director of Human Resources of the Johnson Space Center may request out-of-cycle awards to the OHCM for the Shuttle and International Space Station crewmembers and Lead Flight Directors. A Decision Memorandum dated November 22, 2006, signed by the Deputy Administrator, preapproves this request. The Center Incentive Awards Program Officer will submit and approve the nomination in the NAAS.

## Chapter 6. External Awards

6.1 Various governmental organizations, together with a number of professional societies and similar organizations, give honorary and monetary awards for outstanding achievement and professional excellence. Typical of the many organizations that give awards for accomplishments in space-related efforts are the American Institute of Aeronautics and Astronautics, the American Astronautical Society, the American Society of Mechanical Engineers, and the National Air and Space Museum Trophy.

6.2 NSSC maintains the calendar for external awards and notifies the Centers, on a semi annual basis, of the upcoming call for nominations, the criteria, and when they are due to the sponsoring organization or to the NSSC. It is not a requirement that such nominations be submitted through the Center Incentive Awards Program Officers or the NSSC; however a courtesy copy of such nominations should be provided to the Center Incentive Awards Program Officers for informational purposes to senior management.

6.3 Any NASA employee may nominate someone for an external award when the nominating procedures, established by the award sponsor, permit nominations from the general public. These nominations will be submitted directly from the nominating employee to the sponsoring organization.

6.4 When the award nominating criteria specifically request an Agency-approved nomination or otherwise restrict the number of Agency or organizational nominations, award nominations will be solicited at the Center level according to prevailing Center practices and forwarded through the NSSC to Headquarters for review and approval by the Administrator or designee.

6.5 The Standards of Ethical Conduct For Employees of the Executive Branch, 5 C.F.R. Part. 2635, apply to all NASA civil servants and must be considered prior to the acceptance of any award given by a non-Federal entity. A written approval from an ethics counselor in the NASA Office of General Counsel or in a Center's Chief Counsel's office is required prior to the acceptance of an honorary degree, non-monetary awards with a market value in excess of \$200, or any award of cash or an investment interest.

6.6 Agency employees who are required to file a financial disclosure must note the acceptance of any gift valued over the Office of Government Ethics' threshold on their annual financial disclosure form.

## Appendix A. Special NASA Awards Programs

Award Program	Purpose	Applicability	Responsibilities	Administered	Form Of Recognition
NASA Financial Management Award	Recognizes innovative and effective financial management techniques, procedures, and policies that aid in the improvement of Government-wide financial management functions.	All NASA Centers, with the exception of HQ Office of the Chief Financial Officer employees.	Office of the Chief Financial Officer	Annual Call Letter	Monetary award
NASA Procurement Award Program	Recognizes outstanding procurement in ten categories?specific performance of individuals and Centers.	All NASA Centers	Office of Procurement	Annual Call Letter	Plaque or certificate
<a href="#">Acquisition Improvement Awards</a>	Rewards NASA individuals and groups for creating and implementing improved results on individual contracts, or innovative changes in contracting processes that save resources and enhance mission attainment.	All NASA Centers	Office of Procurement	NPD 3451.5	Monetary or certificate
<a href="#">NASA Small Business Advocates Awards</a>	Recognizes four categories of outstanding contributions to NASA's achievements in small business programs (one award in each	All NASA Centers	Office of Small Business Programs	Annual Call Letter	Trophy and/or Certificate accompanied by a cash award

	category).				
<a href="#">Space Flight Awareness (SFA) Employee Motivation and Recognition Program</a> - SFA Honoree - SFA Team - SFA Silver Snoopy - SFA Flight Safety - SFA Leadership - SFA Supplier	Recognizes exemplary performance and significant achievements leading to safe, cost-effective program modifications that increase reliability, efficiency, and performance to ensure mission success and human safety.	All NASA Centers, supporting Government agencies, private industry, and international organizations supporting human spaceflight programs	Space Operations Mission Directorate	Call Letter (details are contained in SFA brochure and are available from SFA Program Manager)	Various awards and motivational materials
<a href="#">Military Awards and Decorations to Military Personnel Assigned to NASA</a>	Recognizes individual military personnel, on detail to NASA, based on a heroic, meritorious, or extraordinary act, achievement, or service.	All NASA Centers	Office of External Relations, in coordination with the Department of Defense	NPD 3280.8	Military awards and decorations
<a href="#">Quality and Safety Achievement Recognition Award</a>	Recognizes Government and contractor employees at NASA who have displayed or exhibited exemplary performance in contributing to quality products and services in safety and mission assurance-related activities.	All NASA Centers	Office of Safety and Mission Assurance	Annual Call Letter	Award Plaque Cash Award
<a href="#">George M. Low Award NASA's Quality and Excellence Award</a>	Recognizes NASA's prime and subcontractors for outstanding performance in the categories of large and small business, product,	All NASA Mission Directorates and Centers nominate select contractors to be evaluated	Office of Safety and Mission Assurance	Annual Call Letter	Trophy

	and service organizations.	for the Award			
<a href="#">External Awards Program</a>	Recognizes the exemplary accomplishments of NASA employees by participating in recognition programs sponsored by organizations external to NASA.	All NASA Centers	Office of Human Capital Management	Solicitations from external organizations issued through quarterly call e-mails from NSSC	Varies by sponsoring organizations
<a href="#">Congressional Space Medal of Honor</a>	Authorizes the President to recognize, in the name of Congress, an astronaut who, in the performance of his/her duties, has distinguished himself/herself by exceptionally meritorious efforts and contributions to the welfare of the Nation and humanity.	Astronauts	Office of Human Capital Management	As occasion deems appropriate.	Congressional Space Medal of Honor
<a href="#">Blue Marble Award</a>	Recognizes individuals and groups in three categories: - NASA Environmental Quality Award for programs, projects, or processes such as Greening the Government initiatives, environmental, management, sustainability, cultural resources, remediation, or environmental education. - The NASA Excellence in	All NASA Centers	Office of Institutions and Management, Environmental Management Division	Biannual Call Letter	Blue Marble Trophy



	<p>Energy and Water Management Award recognizes initiatives in energy efficiency, water conservation, or renewable energy use.</p> <p>- NASA's Director's Environmental &amp; Energy Award recognizes exceptional leadership or professionalism in implementing NASA's mission and vision while understanding and protecting the home planet.</p>				
<p><a href="#">Awards for Scientific and Technical Contributions-</a>                  Inventor of the Year                  - Software of the Year                  - Board Awards</p>	<p>Provides monetary recognition for scientific and technical inventions and contributions to NASA that have significant value in the conduct of aeronautical and space activities (applies whether or not patentable).</p>	<p>All NASA Centers</p>	<p>NASA Inventions and Contributions Board</p>	<p>14 CFR 1240.1</p>	<p>Cash</p>

# Appendix B. Incentive Awards Board Membership

The Chair.

The Vice Chair is the Assistant Administrator, Office of Human Capital Management.

Members include the following:

## Six Center Directors (or designees)

2009	2010	2011	2012
GSFC	GRC	GRC	GRC
ARC	JSC	JSC	JSC
KSC	KSC	MSFC	MSFC
SSC	SSC	JPL	JPL
LaRC	LaRC	LaRC	GSFC
DFRC	DFRC	DFRC	HQ

## Associate Administrators (or designee) of two Mission Directorates

SOMD	SMD	SMD	SOMD
ESMD	ARMD	ARMD	ESMD

Chief, Safety and Mission Assurance.

Assistant Administrator, Office of Diversity and Equal Opportunity.

Executive Secretary - Director, Workforce Management and Development Division, OHCM (non-voting).

Additional members may be appointed on an ad hoc basis at the Chair's discretion to augment the IAB composition.