



# Directive on the acceptance of rewards and gifts for DESY employees

DESY gift directive version 1.0

As of 10 July 2019

For questions and remarks please contact [vq-regelwerke@desy.de](mailto:vq-regelwerke@desy.de).



## *Revision history*

Ver- sion	Author	Date	Summary
1.0	Heidrun Bojahr / AKP-DESY	10 July 2019	coordinated with DESY Central Works Council (27 June 2019), <b>brought into force on 1 August 2019</b> acc. to DESY Directorate's decision of 18 April 2019

# Directive on the acceptance of rewards and gifts by DESY employees

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## 1. Fundamentals

### 1.1. Subject

DESY as a beneficiary of institutional funding is committed to correspondingly apply the Federal Government Directive to prevent corruption<sup>1</sup> and to take action against corruption at DESY. Corruption damages the reputation of DESY and involved employees will be personally prosecuted. In order to protect DESY and its employees, it is necessary to prevent corruption and to avoid any apparent exercise of personal advantage.

### 1.2. Aim

This directive specifies the applicable rules and procedures at DESY concerning the acceptance of rewards and gifts from third parties by DESY employees.

### 1.3. Field of application

This directive is to be observed by all DESY employees. It applies accordingly for DESY leading scientists and members of the DESY directorate. Arrangements made elsewhere, e.g. a permit requirement by the directorate or the foundation council, are unconcerned.

All other persons of other employers working at DESY are subject to the applicable regulations of their institutions.

### 1.4. Definition: gifts

Analogous to the circular of the BMI<sup>2</sup>, rewards and gifts are

all monetary and in-kind gifts, benefits, rewards or invitations,

which are offered by a giver to employees with regard to their work at DESY (see 1.5) and which either directly or indirectly, materially or immaterially, will improve the employee's economic situation (benefit) to which the recipient has no legal claim.

This does not only include cash money but also all kinds of in-kind benefits. These are for example:

- the possibility to obtain or use goods (motor vehicles, machines, fuel, or the like) without costs or for a lower price, e.g. through discounts or rebates
- gift coupons, free passes or entrance cards, travel or flight tickets
- benefits for private business dealings, such as interest-free or low-interest loans
- provision of shopping opportunities at a preferential price, participation in supplies to DESY
- invitations including hospitality without official reasons
- free or cost-reduced provision of accommodation without official reasons
- invitation to information and representative events without official reasons
- invitation to or taking along somebody on holiday trips, or payment of these

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<sup>1</sup> Federal Government Directive to prevent corruption in Federal Administration as of 30 July 2004.

<sup>2</sup> Circular of the Federal Ministry of the Interior (BMI) as of 08 November 2004 concerning the prohibition to accept rewards or gifts in the federal administration (DI3-210170/1).

- inheritance law benefits (legacy or appointment as heir)

For the purpose of simplification, the above-mentioned gifts, rewards and benefits will be defined as “gifts” hereafter.

### **1.5. Definition: giver**

This policy defines as givers or giving entities all enterprises, institutes, institutions which are not DESY, and persons, which act as representatives of these enterprises and additionally private persons which are not from DESY.

### **1.6. Definition: acceptance of gifts**

Accepting a gift must not be explicitly declared, conclusive behaviour will be sufficient. A gift addressed, sent or presented to a person is regarded as accepted if it is not explicitly refused or returned. It is also regarded as accepted if it is received on behalf of the donee by others, e.g. by the secretary's office.

A gift is also regarded as accepted when it is given away immediately, e.g. distributed among colleagues or donated to a charitable institution.

### **1.7. Legal basis**

According to collective labour agreement (§ 3 Abs. 2 TV-AVH), DESY employees are not allowed to accept rewards, gifts, provisions or other benefits relating to their work from third parties (a giver, see 1.4). Exceptions are only possible with the approval<sup>3</sup> of the employer (exemptions). In case that such benefits are offered to employees, this must be reported immediately to the employer (duty of disclosure).

### **1.8. DESY principle**

As a principle, any appearance is to be avoided that for personal benefits, DESY employees are susceptible and corruptible (avoidance of appearance). Therefore, in principle, any gifts presented by a giver should be refused directly if possible, and acceptance should be declined. If DESY employees are offered gifts from a giver, they must report this immediately to their disciplinary supervisor (duty of disclosure).

In exceptional cases, gifts may be accepted with the approval of DESY. These exceptions are indicated hereafter in chapter 2, chapter 3 and chapter 4.

### **1.9. Responsibilities**

The employees are responsible for compliance with the regulations of accepting gifts from a giver; gifts are always personal.

For counselling, DESY employees have the opportunity to contact a reference person from the DESY corruption prevention office via [korruptionspraevention@desy.de](mailto:korruptionspraevention@desy.de). More information is available at [korruptionspraevention.desy.de](http://korruptionspraevention.desy.de).

## **2. Gifts regarded as approved in principle without duty of disclosure**

With this policy DESY in principle approves the following gifts without duty of disclosure. These gifts may be accepted without a separate report to supervisors and need no extra approval by supervisors.

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<sup>3</sup> according to German Civil Code (BGB § 182ff) an agreement can be granted or refused; a consent is a prior agreement; an approval is a subsequent agreement.

## 2.1. Widely distributed promotional items

Gifts of low value, with purchasing or manufacturing costs of less than 10 euros, aimed at a not precisely specified group of persons, are regarded as widely distributed promotional items<sup>4</sup>. These include low value promotional articles such as pencils, notepads, sweets, small calendars. Those widely distributed gifts may always be accepted.

## 2.2. Minor Services

Minor services, as long as these facilitate or speed up the execution of professional affairs (e.g. by picking up somebody from the station by car) and services within the framework of courtesy (taking along somebody by car, making use of somebody's telephone for a short time, etc.), may be accepted.

## 2.3. Participation in hospitality

### 2.3.1. Refreshments, Business courtesies

Hospitality by a giver, including refreshments, so-called courtesies such as cold and hot beverages, pastry, sandwiches or the like, during an official action or when participating at events within the framework of official work, may be accepted.

### 2.3.2. Hospitality

Hospitality invitations from a giver on occasion of events to which employees assist in performance of their official duties or for further training may be accepted in principle if DESY is predominantly interested in the hospitality participation and if there is a time- and location-related connection to the official duty. This for example includes work and closed meetings, further training, committee meetings, seminars, colloquiums, workshops, symposiums, conferences and congresses. It is necessary to ensure that such hospitality will be appropriate. In case of an official journey an additional business trip application is needed, which has to be approved. This does not concern invitations as described in chapter 5.3.

## 2.4. Payment of travel expenses by giver

Invitations from a giver to employees with the offer to completely or partly pay for the travel expenses for journeys of conference speakers, panel participants, counsellors or for other purposes of scientific or administrative exchange, which have been accepted in the interest of DESY and are carried out as an official journey, are not considered as gifts in accordance with this policy and may be accepted in principle. A business trip application has to be done and approved the usual way. DESY must be informed about these payments in this travel application and in the accounting of this journey.

## 2.5. Private gifts

The prohibition to accept gifts does not apply to gifts purchased privately by a person from the staff who within a customary extent wants to give a present to another employee, e.g. on occasion of a birthday, an anniversary, the birth of a child, etc. – i.e. private gifts with no reference to work and duty at DESY.

## 3. Gifts subject to disclosure which do not require approval

For the following gifts from a giver; with this policy, DESY grants a tacit agreement. However, they are subject to disclosure according to DESY procedure (see chapter 7.1), but do not need a further approval by DESY.

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<sup>4</sup> Circular of the Federal Ministry of Finance (BMF) as of 19 May 2015 (IV C 6 - S 2297-b/14/10001 BStBl 2015 I S. 468) on the generalisation of the income tax regarding tangible gifts

### 3.1. Gifts which are not worth more than 25 EUR

Gifts which are not worth more than 25 EUR per giver per year may be accepted by employees but have to be disclosed. This particularly includes promotional gifts of higher value which are addressed or are delivered to or for individual persons.

### 3.2. Socially acceptable gifts from guests which are not worth more than 25 EUR

It is possible to receive socially acceptable gifts from guests<sup>5</sup> and traditional courtesies which are not worth more than 25 EUR per giver per year, presented to the donee with regard to his or her role at DESY by partners from abroad, partner universities or political personages, and when it is to be expected that its refusal would have a negative impact on DESY's reputation. However, these gifts must be reported to the disciplinary supervisor.

### 3.3. Scientific promotional awards

In order to meet the special requirements of DESY research, there are special regulations for the acceptance of scientific promotional awards, based on the letter of the Federal Ministry of Education and Research of 21 February 2007<sup>6</sup>. According to this, awards within the framework of "pure" basic research are classified as not being subject to approval (in compliance with the law § 70 BBG<sup>7</sup>). Nevertheless, they must be disclosed.

### 3.4. Other professional prizes and awards

Prizes obtained within the framework of official work, e.g. awards for apprentices, awards for a particular achievement in the project, awards from the state, etc. are subject to the duty of disclosure.

## 4. Gifts subject to disclosure and approval

The following gifts are subject to disclosure and require approval according to DESY procedure (see chapter **Fehler! Verweisquelle konnte nicht gefunden werden.**).

### 4.1. Gifts which are worth more than 25 EUR

Gifts which are worth more than 25 EUR per giver per year may only be accepted by the employee after disclosure and approval by the corresponding supervisor. This particularly includes promotional gifts of higher value which are addressed or are delivered to or for individual persons.

### 4.2. Socially acceptable gifts of guests which are worth more than 25 EUR

Socially acceptable gifts from guests<sup>5</sup> and traditional courtesies which are worth 25 EUR and more per giver per year, presented to the gift recipient with regard to his or her role at DESY by partners from abroad, partner universities or political personages, and when it is to be expected that its refusal would have a negative impact on DESY's reputation, are subject to disclosure and approval. The directorate decides on the final use of these socially acceptable gifts from guests.

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<sup>5</sup> socially acceptable, out of courtesy to the host

<sup>6</sup> Letter of the Federal Ministry of Education and Research (BMBF) (GZ Z12-06250-3(2002)) of 21 February 2007 referring to the circular of the BMI (AZ: D I 3 - 210170/1) page 3: awards within the framework of "pure" basic research are classified as not being subject to approval in compliance with the law § 70 of the Federal Civil Servants Act BBG<sup>7</sup>.

<sup>7</sup> Suspended on 12 February 2009 by article 17 paragraph 11 sentence 2 of the law of 5 February 2009 (BGBl. I p. 160) replaced by § 71 BBG.

### 4.3. Invitations to attend an event without or with reduced costs

Invitations of givers to attend information and presentation events without or with reduced costs, such as product presentations, machine demonstrations, factory tours, or symposiums, workshops and conferences, which are offered to employees obviously with regard to their work at DESY, may only be accepted if there is an official reason for participation. It must be evident that the work for DESY will not be unfavourably affected or impaired and that there is not the slightest suggestion of accepting an advantage. These invitations are subject to disclosure and need approval.

Acceptance is prohibited for cost-free or reduced tickets to trade fairs if the giver is one of the exhibitors, when these tickets are offered to employees or colleagues obviously with regard to their work at DESY.

Exceptions are cost-free or reduced trade fair tickets which were acquired either due to a club membership of the employee or DESY or if DESY itself could hand out those cost-free or reduced trade fair tickets because of being an exhibitor. These tickets may be accepted and used when there is an official reason for participation. These cost-free or reduced tickets of givers to trade fairs are subject to disclosure and need approval.

## 5. Book gifts

Gifts such as books, print media, electronic media (e.g. CD's, DVD's, USB sticks, ebooks, downloads) and electrical devices (e.g. tablets, ebook reader, smartphones, laptops) are in-kind gifts (see 1.4). These are considered as gifts in accordance with this policy. They are subject to the indicated rules of disclosure and approval.

Book gifts subject to approval<sup>8</sup> worth more than 25 EUR which are given to employees with regard to their work at DESY and which are relevant for their official tasks may be accepted in principle on condition that these will be provided to DESY. These book gifts should be handed over to the DESY library. They will be registered with the possibility to borrow them in the usual way.

Book and journal gifts which are given to those who have participated in its making, for example as an author, editor, referee or proofreader are not regarded as gifts within the meaning of this gift directive.

Media (e.g. books, electronic media, tablets, e-book readers, etc.) which are distributed at trainings and further education measures are not regarded as gifts but as working materials within the meaning of this directive. They belong to the group funding the further education measures. These media have to be registered in the DESY inventory or at the DESY library.

## 6. Gifts which are not approvable - prohibition of acceptance

The following gifts are not approvable and can by no means be accepted.

### 6.1. Gift of money

Gifts of givers in the form of cash, e.g. donations for the kitty, tips or the like, or other means of payment such as coupons, tokens, fuel cards etc. which are given to employees with regard to their work at DESY must not be accepted.

### 6.2. Contest prizes

Employees are not allowed to participate in contests at fairs and conferences which are attended for official reasons.

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<sup>8</sup> This applies to printed books, CD's, DVD's, media, which the DESY library usually administers and supplies.

In case givers invite employees to participate in raffles, contests, tombolas, etc., obviously with regard to their work at DESY, and without the approval of DESY, they must refuse this. Prizes of such games must never be accepted.

Exceptions are prize games which are carried out with the approval of DESY. Prizes of games approved by DESY may be accepted.

### **6.3. Invitations of firms to events without reference to official duties**

Employees are not allowed to accept invitations from firms, obviously with regard to their work at DESY, to events with the purpose to establish or strengthen customer relation, without any official interest on the part of DESY, as for example invitations to lunch or dinner without official reason, specialty meals (asparagus, fish, mulled wine, etc.), sightseeing tours, promotional trips, museum or factory tours, city or holiday trips, etc..

### **6.4. Contributions to private events**

Gifts, which employees receive from givers, obviously with regard to their work at DESY, as contributions to private events among DESY colleagues, such as beverages for an office or Christmas party, a cake for an anniversary party, a suckling pig for a farewell party or to celebrate the start of the new job, or money contributions for these parties, must not be accepted.

## **7. Disclosure and approval procedures at DESY**

### **7.1. Disclosure Obligation**

Gifts from givers which are subject to disclosure have to be reported immediately to the disciplinary supervisor of the donee. The superior must be informed promptly in written form<sup>9</sup> or by email about what (description with estimated value in EUR) was given by whom (name, function, firm) when (date and reason) and to whom (name, function, division). In this case, a personal verbal message will not be sufficient.

The disclosure information must be confirmed to the donee by the disciplinary supervisor in written form or by email.

An optional sample form for a gift disclosure is available at the DESY corruption prevention office which will also answer questions on the procedure, see <http://korruptionspraevention.desy.de>.

### **7.2. Requirement of approval**

Gifts from givers which do not only require disclosure but are also subject to approval have to be reported by the donee to his or her disciplinary supervisor. The disciplinary supervisor has to submit it to the authorising executive for approval. The supervisor has to be informed promptly in written form<sup>9</sup> or by email about what (description with estimated value in EUR) was given by whom (name, function, firm) when (date and reason) and to whom (name, function, division) together with the request for approval to keep the gift. In this case, a personal verbal message will not be sufficient.

The disciplinary supervisor of the donee forwards the gift disclosure to the authorising executive for approval. The authorising executive is the corresponding deputy director.

An optional sample form for a gift disclosure with a request for approval is available at the DESY corruption prevention office which will also answer questions on the procedure, see <http://korruptionspraevention.desy.de>.

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<sup>9</sup> according to German Civil code (BGB § 126) written form means: a statement written on paper and personally signed by the person who has stated it.



### ***7.2.1. Approval by the authorising executive***

The request of the donee for approval must be thoroughly reviewed by the authorising executive and decided at his or hers dutiful discretion.

For the exercise of dutiful discretion, the following must be taken into consideration: Each individual case must be viewed separately. Approval should only be given if there is no reason to assume that the exercise of work will be unfavourably affected or impaired and there should not be the slightest suggestion of accepting an advantage. Therefore, it is necessary to consider which service might be expected from the donee as a return for the gift.

In case of invitations to participate in events it must be considered if there is an occupational connection to the event and if the interest of DESY in participation is predominant. When this is true for both, the request for participation may be approved. In case of an official journey a business trip application is additionally needed which must be approved in the usual manner.

Approval may also be given under certain conditions. For example, it can be determined that the gift may only be officially used or made available for general use (e.g. book gifts) or to hand it over to DESY for purposes of presentations (e.g. for a permanent exhibition).

The authorising executive has to inform the donee about the decision via the disciplinary supervisor in written form<sup>9</sup> or by email. In case of approval under certain conditions, these conditions must be specified and the decision must be justified in the notification about the decision. The contact person for corruption prevention at DESY will receive a copy of the notification from the authorising executive.

### ***7.2.2. Refusal of approval by the authorising executive***

If the authorising executive has concerns to allow the acceptance of the gift, the approval must be dismissed.

The authorising executive has to inform the donee about the decision via the disciplinary supervisor in written form<sup>9</sup> or by email. The refusal of the approval must be justified in the notification about the decision. The contact person for corruption prevention at DESY will receive a copy of the notification from the authorising executive.

## **8. Returning or sending back gifts**

In case the donee already accepted the gift but does not want to keep the gift or if the donee obtained no approval to accept the gift, the donee must return or send back the gift to the giver.

Returning the gift to the giver can be done by the donee personally or by a third person. The returning of the gift or the redemption of the gift by the giver must be documented (e.g. with a receipt of redemption).

Sending back the gift to the giver can be done by using the customary dispatch service at DESY. The shipping costs will be paid by DESY.

When sending back a gift, the giver is to be asked to refrain from sending gifts in the future. A sample letter is available at the DESY corruption prevention office which will also answer questions on the procedure, see <http://korrupsionspraevention.desy.de>.

The returning or the redemption of the gift must be documented by the donee.

If returning or sending back is not possible, for example because it is a socially acceptable gift (see 3.2 and 4.2) or because sending back the gift is uneconomic, or for other reasons, the gift has to be handed out to DESY, to the DESY corruption prevention officer. The gift is to be assigned to DESY,

together with a copy of the corresponding gift documentation. The directorate will decide on the final use of these gifts.

## **9. Gift documentation**

It is necessary to document all decisions which have been made in connection with the acceptance, refusal or the return and sending back of gifts. These documents must be stored safely, together with the correspondence conducted to fulfil the duty of disclosure and approval because suspicions of corruption may take action many years later. The authorising person who made the decision must document the approval or refusal procedures of gifts which have been subject to approval. The donee too should act in his or her own interest by safely storing the documents belonging to such a procedure.

## **10. Other**

The violation of the rules in this policy may have consequences under criminal, civil or labour law. DESY reserves the right to investigate and prosecute each infringement.

## **11. Final clause**

This gift directive was brought into force on 1 August 2019. The DESY personnel will be informed about it by circular and at the next work or employees meeting.