

**IC SOP: Preparation and Submission of Request for  
ACD Clearance of an Award with Cash Prize**

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NIH employees are frequently honored with awards from outside organizations, including awards with gifts of cash or an investment interest. Awards which include such gifts (“cash”) must be evaluated by an independent advisory committee before an employee may accept the cash gift. The committee will advise the NIH on whether the award constitutes a *bona fide* award given for meritorious public service or achievement as part of an established program of recognition under the criteria specified in 5 CFR 2635.204(d)(1)(I) and (ii). See the full discussion in the Preamble of the Federal Register notice of February 3, 2005 (Volume 70, page 5553). The independent advisory committee which will pre-screen these awards is the Advisory Committee to the Director, NIH (ACD). This review and determination is independent of and processed separately from, but parallel to, a specific employee request to accept the gifts associated with the award. The employee’s request is submitted and reviewed electronically using the NIH Enterprise Ethics System (NEES), with final determination made by the appropriate Deputy Ethics Counselor (DEC), i.e., Institute or Center (IC) DEC or NIH DEC depending on employee status (i.e., NIH Senior vs. non-Senior) or aggregate value of gifts. The process for ACD pre-screening of awards with gifts of cash or an investment interest may be initiated by an IC ethics official and is completed by the NIH Ethics Office (NEO) staff.

The purpose of this document is to provide step-by-step instructions for preparing and submitting a request to NEO for ACD review of a cash award. There are three scenarios in which an IC ethics official could submit a package for ACD clearance:

1. An IC employee has been named the recipient of an award with a cash prize, and the award is not on the pre-approved award list on the website. The IC Ethics Official conducts the review and prepares a review package.
2. The IC ethics official becomes aware of an award which has not been screened and approved. For example, the ethics official sees a notice about an award or the IC Director is asked to submit a nomination. In either case, the IC ethics official notes that an NIH employee could be a future recipient, and the award is not on the list of previously approved awards. The IC ethics official may conduct the review and prepares a review package.
3. An award conferring a cash prize is listed on the web site as previously cleared, but the ethics official knows there have been changes to the award **or** the review occurred more than three (3) years prior. The IC ethics official will check the EMIS module entitled “Award Review” for a copy of the prior review, or request a copy from NEO. The IC ethics official will then conduct a new analysis, and submit an updated package for the award to be reviewed again.

The process is the same for all scenarios. The ACD reviews the award itself, not the employee’s request. The ACD clearance process is tracked in EMIS, in the administrative module named “Award Review.” If there is an employee request, it is processed via NEES, and ACD clearance shall occur in parallel to review of the employee’s request.

NEES contains a list of awards previously cleared by the ACD, a duplicate of the list on the web site. If the employee will receive one of the pre-approved awards, the employee should choose it from the list during preparation of the request in NEES. If the employee does not choose from the list, the approving official must confirm that the award itself has been approved for NIH employees before approving the employee’s request.

## EARLY NOTIFICATION OF THE NIH ETHICS OFFICE (NEO)

When IC ethics officials become aware of an award which needs ACD review, they will forward the notification letter or similar information to their NEO Ethics Specialist to provide advance notice to NEO and, if desired, request input from the NEO Ethics Specialist.

## PREPARATION AND SUBMISSION OF THE REQUEST FOR ACD REVIEW

***IC ethics officials will submit the package for ACD review as quickly as possible, without waiting for final review of an employee's request. The ACD review process does not rely on an employee's request, and it may take longer if all information is not available. Obtain the information and submit the package as quickly as possible, as outlined below.***

***Prepare the Award Review Package:*** Obtain all required information from the employee, the donor organization, or the donor organization's web site. Complete the following steps to provide the required information and assemble the package as directed.

1. Enter information about the award in the ***EMIS Award Review administrative module***.
2. ***Complete the Summary of Analysis of Cash Award for ACD Review Form*** (Attachment A)
  - A. Answer all questions or enter "not applicable." Completion of this analysis sheet will provide the basis of the review and identify the required information which will be attached.
  - B. To enhance locating the documentation applicable to each review item, number the pages, label the items on the pages, e.g., Selection Criteria, and annotate the *Summary of Analysis of Cash Award for ACD Review* form to identify location of the applicable information, e.g., "page 3."
  - C. Provide full name and description of the award donor organization, including city and state. The organization's web page describing itself is one example of the source of this information.
  - D. ***Foundation Donor:*** If it appears that the donor may be a foundation, confirm whether the organization is a foundation, and if it is, whether it is private or public. If the donor is a private foundation, confirm whether the award is, or is not, open to all the relevant public (e.g., all neuroscientists, or all Federal employees). When an award is available to the "relevant public," covered Federal employees may not automatically be prohibited from accepting the cash. Document your findings. See the web page information, including the link to the IRS Publication 78 which identifies foundation status for many organizations. Contact the NEO for assistance as needed. <http://ethics.od.nih.gov/topics/foundatn.htm>
  - E. ***Foreign Donor:*** If the donor organization is foreign, confirm whether it is, or is not, part of a foreign government. If it is listed on the NIH Ethics Program web site foreign entities page, indicate that is the source of your determination. If it is not, include documentation to support your recommendation of foreign government or non-government.
  - F. ***US Government Donor:*** If the donor is a US Federal Government agency, confirm whether the funds to support the cash gift are derived from appropriated funds. If not, provide the source of the funds. Include documentation for how the determination was made, who was contacted at the donor agency, or other proof.
  - G. ***Name and Description of Award:*** Provide full name and description of the award, including the items required in the regulation.

- » Evidence that the award is intended to **recognize meritorious public service or achievement**.
  - » Evidence that it is part of an **established program of recognition**. Note that it can be the only award in the program, however there must be evidence that there is a program of recognition (e.g., next bullet).
  - » Evidence that it is **routinely given**, e.g., a list of previous recipients. For first time awards, provide evidence that it is funded to ensure continuation.
  - » **Written selection criteria**. This is not the same as nomination criteria. Selection criteria are the “measuring stick” against which each nominee is compared and scored, to identify the nominee which scores the best against the criteria. Include details of how the judges differentiate between the nominees, not just “we know” he or she is the best. Contact your NEO Ethics Specialist for assistance as needed.
- H. **Lecture Awards:** Indicate whether the recipient would give a lecture, and if so, would the donor organization present the award (and cash prize) even if the recipient does not give the lecture. An email from someone at the donor organization indicating this determination would be required. The requirement is to demonstrate that the employee is not giving a compensated speech, but rather that it really is an award. Examine how the event is characterized, lectureship or award, or both. Review the web site, the agenda at the event where the award will be presented, prior recipients. Thoroughly review and provide documentation to support your recommendation.
- I. **Presentation Date Past:** If an employee is the current recipient and the presentation date is past or in the near future, provide evidence that the employee was informed to not cash the prize check or otherwise spend the money until final approval is received. Include the employee’s confirmation.
- J. **Other types of Awards (Poster, Travel, etc):** Each award requires appropriate documentation to support a determination of *bona fide* before the employee may accept the cash prize.
3. **Review Organization/Award Web Site:** Review the organization’s web site for additional information, such as bylaws, which may provide solid evidence to support your recommendation. Search the internet for the award to determine if helpful information can be found elsewhere.
4. If the award is in **NEAC jurisdiction** and the recipient is your IC employee, print and attach a copy of the NIH-2854 from NEES. Also, in NEES, add a note in the Reviewer Recommendation block to account for any additional review time until the final DEC decision, e.g.,: “Package for ACD review of the award submitted separately.”
5. **Arrange the package** as follows:
- » **Summary of Analysis of Cash Award for ACD Review** form, with the IC DEC recommendation indicated in the applicable block.
  - » The employee’s letter of notification, or other communication which initiated the review.
  - » Documentation to support the recommendation of *bona fide*, in the order the requirements are mentioned in the regulation and above. Label each item and note on the Review Summary Form where it is located in the package.
  - » Reminder to employee to not cash the check, if applicable.
  - » Any other relevant information or emails.
6. **Review the package** and recommendation one more time. If it is not 100% complete and correct, with selection criteria and information labeled, it is not ready to send to NEO. Be critical in the re-review, convince others in the IC ethics office that it is ready to forward.

7. **Scan** the entire package to a single pdf file. Split package into multiple files only if necessary (e.g., there are more than 15 or 20 pages very full of text).
8. **Name the file using required format.** Include the donor name, award name, month of presentation, and “Inc” to indicate the incoming file. Truncate the names as needed. **Use hyphens between words; avoid blank spaces.** Use this format to enhance the future filing and purging of files. If there are multiple files for one award, add -1 and -2 after the name and before the dot to indicate sections of the same award package. Enter the file name on the *Summary of Analysis of Cash Award for ACD Review* form where indicated below the instructions. Ignore the portion in [brackets] as that applies to the location of files in NEO.

Example: The file for the Albert and Mary Lasker Foundation Medical Research Award to be awarded in June 2012 would be named: Lasker-Medical-Research-201206-Inc.pdf.

9. **Complete the EMIS Entry and Attach the Award Review Package.** Complete the EMIS entry in the Award Review module and attach the electronic award review package file, named per the instructions above. See detailed EMIS data entry instructions on the EMIS Help Menu, at: <http://ethics.od.nih.gov/EMIS2/HINTS/Award-Review-Module.pdf>
10. **Notify NEO.** Attach the package to an email addressed to NEO Action Coordinator in the NIH Ethics Office, as shown below. This is important to ensure timely and accurate assignment within NEO. Request a “Read Receipt” if desired

TO: NEO Action Coordinator (in the NIH Global Email list)  
CC: [insert name of your IC’s NEO Ethics Specialist]  
SUBJECT: ACD Review of Cash Award: [insert name of award, truncated is acceptable]  
ATTACHMENT: Lasker-Medical-Research-201206-Inc.pdf

11. **Save the file and keep track of when it was submitted.** Contact your NEO Ethics Specialist if you have questions.

## NEO REVIEW

Upon receipt of the award review package in NEO, the NEO SOP will be followed. In summary, the steps include actions by the NEO Action Coordinator, a NEO Ethics Specialist, the NEO Director, the NEO Program Specialist, the NIH Deputy Ethics Counselor, the ACD Awards Subcommittee, the ACD Executive Secretary, and the full Advisory Committee to the Director, NIH. Depending on the award, the process may also involve the Office of the General Counsel Ethics Division. When the review is complete, the ICs will be notified of the outcome.

## EMAIL NOTIFICATION

When data are added and saved for the first time in the EMIS fields **Full ACD Meet** and **Full ACD Action**, an email notification to the DEC/EC email group is sent from EMIS, informing the ethics community of the decision on the award. (Email will likely be sent only for approved awards.) The email text is as follows:

The **[name of award]** given by **[sponsor]** was reviewed by NEO, the NIH DEC, and the Awards Subcommittee of the Advisory Committee to the Director, NIH (ACD). The full ACD met on **[date, month/year]**. The decision was to **[full ACD action]** the recommendation that the award meets the regulatory criteria for designation as bona fide. If you have questions, contact the NEO Ethics Specialist assigned to your IC (301-402-6628).

## **ATTACHMENT**

A Summary Form: Analysis of Cash Award for ACD Review

## **DOCUMENT HISTORY**

File Name: Q:\SOPs\Award-ACD\IC\IC-SOP-ACD-Award-Review.wpd

New SOP: June 2011

11/12/11 Penultimate copy. For NEO review. FEP

11/22/11 Final. FEP

8/2/12 Revised following IC pilot test and EMIS module implementation. FEP