

Office of Government Ethics

83 x 10 -- 07/21/83

Letter to a DAEO dated July 21, 1983

You have advised us that the [an official of your agency] received [a specific] award from [an Organization]. The award is in the category of "Greatest Public Service Performed by an Elected or Appointed Official" and consists of a medallion and five thousand dollars cash. You have asked us to confirm in writing our opinion that acceptance of the cash award by [the official] does not violate applicable statutes and regulations.

We understand that the [Organization] is a non-profit organization the purpose of which is to give awards in recognition of public service. You advised us that the award has been offered over the past ten years and that previous recipients include William Simon, Arthur Burns, and Alan Greenspan. Officials from Federal, state, and local governments are eligible for the award.

Under the circumstances as you have presented them to us, we believe that [the official] may accept the award. The Department of Justice has consistently held that 18 U.S.C. § 209(a) applies only to payments made or received with the intent to compensate for Government services and that the requisite intent cannot be inferred from the bestowal upon a Government official of a bona fide award for public service or other meritorious achievement.¹ Based upon your representations to us, we conclude that the award is a bona fide award and is therefore not prohibited by 18 U.S.C. § 209(a).

Because, as we understand it, the [Organization] is not an organization which does business with or is regulated by [your agency], acceptance of the award by [the official] would not, in our view, be barred by the applicable standards of conduct relating to gifts. See [citation to agency regulations omitted] and 5 C.F.R. § 735.202. Nor, under the circumstances, does it appear that acceptance of the award would constitute a violation of the regulations regarding outside employment and other activity. See [citation to agency regulations omitted] and 5 C.F.R. § 735.203.

Sincerely,

David H. Martin
Director

1 Letter from John M. Harmon, Assistant Attorney General, Office of Legal Counsel, to Robert Lipshutz, Counsel to the President (April 7, 1977); Letter from Leon Ulman, Deputy Assistant Attorney General, Office of Legal Counsel, to Stuart R. Reichart, Acting General Counsel, Department of the Air Force (April 7, 1977); and Letter from Paul A. Sweeney, Acting Assistant Attorney General, Morgan, Special Counsel to the President (June 26, 1959).