

## Information Paper on Fundraising by Air Force Employees

### On Behalf of Base-Affiliated Private Organizations or Unofficial Activities/Organizations

Note: CFR stands for Code of Federal Regulations. JER is short for Joint Ethics Regulation (DoD 5500.7-R). AFI stands for Air Force Instruction. TJAG stands for The Judge Advocate General. The term “Air Force employees” includes commissioned military officers, enlisted military personnel and civilian employees. “Unofficial fundraising” means any fundraising other than for CFC or the Air Force Assistance Fund (AFAF).

#### A. Rules that apply to fundraising by Air Force employees on behalf of ANY non-Federal organization.

1. Participating in unofficial fundraising activities in a personal capacity. Employees may participate in unofficial fundraising activities in their personal, off-duty capacities, if they act exclusively outside the scope of their official position. [[JER 3-300a](#)]
2. Participating in unofficial fundraising activities on base in a personal capacity. “Air Force employees may conduct on-base fundraising efforts in their personal capacity (i.e., on personal time), if the event has been approved by base officials, and the event will take place away from the workplace. [JER 3-211b](#); [AFI 36-3101](#), Table 1.” [TJAG Special Subject Letter 2000-16: [Participation in Private Organizations in a Personal Capacity](#), 18 Dec 00, Attachment, page 4 (NOTE: [FLITE](#) access required)] For fundraising purposes, “the workplace” includes offices, hangars, and the flight line. “Away from the workplace,” for fundraising purposes, includes base quarters, entrances, lobbies or concourses of buildings, schools, and chapels. [[AFI 36-3101](#), para. 13.3.]
3. General ban on official endorsement of unofficial fundraisers. Executive Branch employees generally may not officially endorse non-Federal organizations, or their events, products, services, or enterprises (including fundraising events). [[5 CFR 2635.702\(c\)](#)] Also, DoD employees are generally prohibited from endorsing or appearing to endorse unofficial fundraising efforts. [[JER 3-210a](#)]
4. Limited exception to general ban on official endorsement of unofficial fundraisers. [AFI 36-3101](#), Fundraising Within The Air Force, 12 Jul 02, paragraph 19, states:

Official Endorsement. Under DoD 5500.7-R, Section 3-210.a., Air Force employees may not officially endorse, or appear to endorse, fundraising for any non-Federal entity except for those specifically identified in JER Section 3-210.a. That section permits official support and endorsement of the CFC and AFAF. Under Section 3-210.a.(6), officials may also officially endorse and support fundraising activities when conducted by organizations composed primarily of DoD employees (or their dependents) when fundraising among their own members for the benefit of welfare funds for their own members (or dependents)

when approved by the installation commander, after consultation with an ethics official.

5. Informative memos. Official channels may be used to notify other employees of events of common interest sponsored by non-Federal organizations. [[JER para. 3-208](#)] For example, [AF/CC Memo, Support for Professional Military Associations \(PMAs\)](#), 30 Jan 06, page 1 of [Atch](#), states:

Commanders can issue informative memos on the existence of PMAs and can announce their membership/fundraising drives. Pursuant to DoD/GC guidance, when referring to membership/fundraising activities, commanders need to remain neutral and detached. Informative memos should avoid the use of certain words (including “endorse,” “encourage,” “recommend,” and “urge”). DoD/GC Memo, *Endorsement vs. Information Memoranda*, 28 May 96.

6. Informative e-mails. [AF/CC Memo, Support for Professional Military Associations \(PMAs\)](#), 30 Jan 06, page 1 of [Atch](#), states:

Commanders can permit PMAs to post notices of special events on bulletin boards and television or radio programs in the same way other organizational information is disseminated. However, unless the base has an E-mail bulletin board set up for non-official postings, commanders should avoid using official E-mail systems to disseminate information on PMA or other private organization activities.

A pamphlet on the SAF/GCA website entitled “[Fundraising](#)” (NOTE: [FLITE](#) access required) states: “Informative Emails -- Air Force employees should avoid using official email systems to inform other employees about unofficial fundraising activities unless approved by the organization’s commander.”

7. Publicity of off-base fundraisers. “Commanders can publicize off-base fundraising activities, requests for volunteers, and so on in daily bulletins, base radio or television stations, or on bulletin boards. Commanders must not discriminate among organizations. During CFC or AFAF, don’t publicize any organizations.” [[AFI 36-3101](#), Table 1, Rule 6 & Note 6]

8. Government time. Employees may not use official time to support an unofficial fundraising event or effort (including using official time to serve on a planning committee, advisory board, or oversight board). [[5 CFR 2635.705\(a\)](#); [AFI 36-3101](#), Table 1, Column C & Note 1]

9. Government resources. Employees may not use government resources (e.g., funds, equipment, vehicles, supplies, postage) to support an unofficial fundraising event or effort (except to notify other employees of the event, as described above). [[5 CFR 2635.704\(a\)](#); [5 CFR 2635.808\(c\)](#) (Example 2)]

10. Reference to government title and government organization. Employees may not use (or allow others to use) their official title or the name of their government organization in connection with an unofficial fundraising event or effort. [[5 CFR 2635.808\(c\)\(2\)](#)] & Ex. 3 thereto; [[JER 3-300a\(1\)](#)]

11. Reference to rank and branch of service. Military members may use (and may permit others to use) their military rank and branch of service in connection with their participation in an unofficial fundraising event or effort. [[5 CFR 2635.808\(c\)\(2\)](#); [JER 3-300a\(1\)](#)]

12. Subordinates. Employees may not ask or allow subordinates to use their official time in support of an unofficial fundraising event or effort. [[5 CFR 2635.705\(b\)](#); [JER 3-305b](#)] Employees may not solicit funds or other support (e.g., personal time) from subordinates in connection with an unofficial fundraising event or effort. [[5 CFR 2635.808\(c\)\(1\)](#)]

13. Junior personnel. Employees may not solicit personnel junior in rank or grade to purchase items (such as tickets) in connection with an unofficial fundraising event or effort. [[JER 2-205](#) & [5-409](#)]

14. Expressing a preference for a gift to charity. An employee who will make a speech to a group as part of his official duties may not inform the group that he would prefer the group to make a donation to a charity, rather than give the employee the standard gift or memento in connection with the speech. [DoD/GC Ltr, 20 Feb 96; [OpJAGAF 1995/21](#), 1 Mar 95]

15. Collection boxes. Putting out boxes to collect toys, clothing, canned goods, etc., in public areas (e.g., building entrances or lobbies) is not considered to be “fundraising” and can be approved by the installation commander. [[AFI 36-3101](#), Table 1, Rule 5, Note 5 (and the definitions on page 20); HQ USAF/JAG Ethics Update pamphlet, August 2001, pages 131-132]

16. Military balls. For guidance on military ball fundraisers, see the 14 Apr 04 DoD Standards of Conduct Office (DoD/GC-SOCO) memo entitled “[Guidance regarding DoD participation in a military ball sponsored by a non-Federal entity.](#)”

17. Raffles. See [JER para. 2-302](#) (entitled “Gambling”) and [AFI 34-223](#), Private Organization (PO) Program, 8 Mar 07, para. 10.16 (raffles by base-affiliated private organizations).

18. Raising money by dressing down. In Air Force Materiel Command, allowing military members to wear civilian clothing instead of the uniform in exchange for a monetary contribution is prohibited. [[AFI 36-2903, AFMC Supplement](#) (dated 14 Feb 97), Table 1.3, Note 5]

19. Raising money by reselling commissary products. See [DoD 1330.17-R](#), para. C4.2.

20. Charging admission to, or charging for photos of persons seated in, military aircraft or equipment. See [DoD Directive 5410.18](#), para. 4.1.1.2 & 4.3.9, and [DoD Instruction 5410.19](#), para. E3.2.9.

21. Facilities. [JER section 3-211b](#) permits logistical support to be provided to a non-Federal entity charitable fundraising event if seven conditions are satisfied. Section 3-211b states:

The head of a DoD Component command or organization may provide, on a limited basis, the use of DoD facilities and equipment (and the services of DoD employees necessary to make proper use of the equipment), as logistical support of a charitable fundraising event sponsored by a non-Federal entity when the head of the DoD Component command or organization determines (1) through (6) of subsection 3-211a of this Regulation... and the sponsoring non-Federal entity is not affiliated with the CFC (including local CFC) or, if affiliated with the CFC, the Director, OPM, or designee, has no objection to DoD support of the event. OPM has no objection to support of events that do not fundraise on the Federal Government workplace (which is determined by the head of the DoD Component command or organization).

The six criteria that Section 3-211b refers to (which are actually in JER section 3-211a) are:

- (1) The support does not interfere with the performance of official duties and would in no way detract from readiness;
- (2) DoD community relations with the immediate community and/or other legitimate DoD public affairs or military training interests are served by the support;
- (3) It is appropriate to associate DoD, including the concerned Military Department, with the event;
- (4) The event is of interest and benefit to the local civilian community, the DoD Component command or organization providing the support, or any other part of DoD;
- (5) The DoD Component command or organization is able and willing to provide the same support to comparable events that meet the criteria of this subsection and are sponsored by other similar non-Federal entities;
- (6) The use is not restricted by other statutes... or regulations.

Thus, to provide logistical support to a charitable fundraising event sponsored by a non-Federal entity, one must determine that seven criteria are satisfied – the six criteria

immediately above (which are in JER 3-211a) and the following criterion (which is in JER 3-211b):

The sponsoring non-Federal entity is not affiliated with the CFC (including local CFC) or, if affiliated with the CFC, the Director, OPM, or designee, has no objection to DoD support of the event. OPM has no objection to support of events that do not fundraise on the Federal Government workplace (which is determined by the head of the DoD Component command or organization).

Test number six of the seven-part test refers to other regulations. There are other regulations that apply to the use of certain facilities. For example, if the event will be at a Services facility (e.g., golf course, bowling facility, athletic field), it must comply with [AFI 34-262](#), 27 Jun 02, para. 2.8.2. If the event will be at the base golf course, it must comply with [Air Force Manual 34-130](#), 1 Nov 95, para. 2.1. Finally, if the event will be at an Air Force club (such as the Officers Club), it must comply with [Air Force Manual 34-228](#), 1 Apr 02, para. 1.5.

22. Special event for CFC. If the purpose of the event or effort is to raise funds for the CFC, then the following guidance applies. [AFI 36-3101](#), Fundraising Within The Air Force, 12 Jul 02, paragraph 15.2.2, states:

Get key persons to solicit employees at duty locations. Project officers may also conduct innovative promotional events and activities such as car washes, carnivals, bake sales, or athletic events during the campaign period if approved by the appropriate agency head and the events are consistent with agency ethics regulations (maintained by the installation Staff Judge Advocate). For these approved special fundraising events, the project officers must do one of the following: allow donors to designate their money to any of the local CFC organizations or Federations published in the local CFC brochure, or advise all donors that their donation will be counted as an “undesigned contribution.” Conducting a special event for a specific organization or charity must be avoided.

23. Local rules on fundraising activities. Individual Air Force bases may have policies on fundraising events/efforts. For example, at Wright-Patterson AFB, there is a policy that all on-base fundraising events (excluding CFC and AFAF) must be approved by Services (i.e., 88 MSG/SVH).

24. Soliciting gifts, contributions or other support. The Executive Branch ethics regulation contains the following five provisions regarding solicitations.

General prohibitions. Except as provided in this subpart, an employee shall not, directly or indirectly, solicit or accept a gift: (1) From a prohibited source; or (2) Given because of the employee's official position. [[5 CFR 2635.202\(a\)](#)]

Notwithstanding any exception provided in this subpart..., an employee shall not: ... solicit or coerce the offering of a gift. [[5 CFR 2635.202\(c\)](#)]

Fundraising in a personal capacity. An employee may engage in fundraising in his personal capacity provided that he does not... personally solicit funds or other support from a subordinate or from any person [or company or organization]... known to the employee... to be a prohibited source within the meaning of Sec. 2635.203(d)... [[5 CFR 2635.808\(c\)](#)]

Use of public office for private gain. An employee shall not use his public office for his own private gain, for the endorsement of any product, service or enterprise, or for the private gain of friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity, including nonprofit organizations of which the employee is an officer or member, and persons with whom the employee has or seeks employment or business relations. [[5 CFR 2635.702](#)]

Inducement or coercion of benefits. An employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that is intended to coerce or induce another person, including a subordinate, to provide any benefit, financial or otherwise, to himself or to friends, relatives, or persons with whom the employee is affiliated in a nongovernmental capacity. [[5 CFR 2635.702\(a\)](#)]

Here are some definitions that relate to the above rules.

Definition: "Gift includes any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of training, transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred." [[5 CFR 2635.203\(b\)](#)]

Definition: "Prohibited source means any person [or company or organization] who:

- (1) Is seeking official action by the employee's agency [e.g., the Air Force];
- (2) Does business or seeks to do business with the employee's agency;

- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties, or
- (5) Is an organization a majority of whose members are described in [numbers] (1) through (4)...." [\[5 CFR 2635.203\(d\)\]](#)

Also, please note employees of "prohibited sources" are also considered to be "prohibited sources." [\[5 CFR 2635.102\(k\)\]](#)

Definition: "A gift is solicited or accepted because of the employee's official position if it... would not have been solicited, offered, or given had the employee not held the status, authority or duties associated with his Federal position." [\[5 CFR 2635.203\(e\)\]](#)

The DoD Standards of Conduct Office (DoD/GC-SOCO) has issued the following three pieces of guidance concerning solicitations. On 30 Jun 04, that office issued [SOCO Advisory 04-06](#). Paragraph 1 states:

1. Read My Lips: Federal Personnel May Not Solicit (In Their Official Capacity).

Recently, a DoD organization held its annual awards banquet honoring its military and civilian personnel. To raise funds for the event, the organization solicited donations from the local business community. Businesses that contributed \$1000 received six seats at the banquet and appropriate recognition. Contributors of \$700 received four seats and the display of their business logo, while contributors of \$350 received two seats and the display of their business logo. Promotional literature, signed by a senior official in the organization, promised contributors that, "Your generosity will not go unnoticed or unmentioned."

While such marketing may be commonplace for private organizations and charities, it is prohibited for Federal organizations and Federal personnel acting in their official capacities.

The Standards of Ethical Conduct for Employees of the Executive Branch prohibit employees from both accepting and soliciting gifts from prohibited sources. 5 C.F.R. 2635.202. In addition, solicitations of anyone, by personnel using their official position or capacity, violates 5 C.F.R. 2635.702 (use of public office for private gain.)

Bottom line, Federal personnel, in their official capacities (in uniform or using their office or authority) may not solicit outside of their organizations. If you need to raise funds for private organizations (scouts, athletic clubs, civic groups, etc.) or for unofficial activities of your DoD organization (banquets, picnics, etc.) ensure Federal personnel who are soliciting funds do so without referring to their

office, title, position, or authority; are not in uniform; do not solicit from subordinates; and do not solicit from prohibited sources.

Better yet -- before soliciting or starting a fundraising campaign, consult your legal counsel or staff judge advocate. [Underlining in original.]

On 13 May 04, the DoD Standards of Conduct Office issued [SOCO Advisory 04-05](#). Paragraph 4 states:

#### 4. Solicitation Prohibited by Federal Personnel in an Official Capacity

The Standards of Ethical Conduct for Employees of the Executive Branch prohibit employees from both accepting and soliciting gifts from prohibited sources. 5 C.F.R. 2635.202. Thus, Federal personnel may accept free product samples if they are offered, provided the samples are under \$20 in value, but Federal personnel may not solicit for such items. The ban on solicitations also applies to requests for donations to charities and other non-profit organizations. The fact that the employee does not personally benefit from the gift is not relevant, since it still creates a sense of obligation on the part of the employee to reciprocate to the donor. No matter how good the cause, Federal personnel may not ask for gifts, especially from Defense contractors, for awards banquets such as sponsoring a table. [Underlining in original.]

On 10 Oct 02, the DoD Standards of Conduct Office issued [SOCO Advisory 02-17](#). Paragraph 3 states:

#### 3. Reminder -- Federal Personnel may not Solicit for Funds from Prohibited Sources, even overseas.

Federal personnel may not solicit or accept gifts from prohibited sources. 5 C.F.R. 2635.202(a)(1). Nor may Federal personnel fundraise in an official capacity unless it is for the CFC... or other exceptions available at 3-210 of the Joint Ethics Regulation, DoD Directive 5500.7-R. Recently, a U.S. military attaché in a foreign country used official letterhead and his title to solicit funds from a large defense contractor (prohibited source). Please remember that such solicitations are prohibited, even overseas.

On 6 Jul 98, the Air Force issued Opinion of The Judge Advocate General of the Air Force [1998/71](#). It is entitled "Personal Solicitations for Private Organizations" and it states:

The JER [Joint Ethics Regulation] prohibits Air Force employees from, directly or indirectly, soliciting a gift in an official capacity, either from a prohibited source or a gift to be given because of the employee's official position. JER Sec. 2-100 (5 CFR 2635.202(c)(2)). Thus, it is clear that Air Force members and employees may not solicit money, gifts or prizes in their official capacity for any Air Force

programs, private organizations, unofficial activities, or special events, absent specific statutory or regulatory authority.

B. Additional rules that apply when Air Force employees are fundraising on behalf of a “private organization” or “unofficial activity/organization” as defined in Air Force Instruction 34-223.

Note: [AFI 34-223](#), Private Organizations (PO) Program, 8 Mar 07, describes and distinguishes between private organizations and unofficial activities as follows:

1. Private Organizations (POs). POs are self-sustaining special interest groups, set up by people acting exclusively outside the scope of any official capacity as officers, employees, or agents of the Federal Government. They operate on Air Force installations with the written consent of the installation commander.

1.1. POs are not Federal entities and are not to be treated as such. Accordingly, they are not NAF instrumentalities (NAFIs) as defined in AFI 34-201, *Use of Nonappropriated Funds*, nor are they entitled to the sovereign immunities and privileges given to NAFIs or the Air Force.

2.2. Small unofficial activities (like coffee funds, flower funds, sunshine funds, and other small operations) are generally not considered POs. However, if their current assets (which include cash, inventories, receivables, and investments) exceed a monthly average of \$1,000 over a 3-month period, the activity/organization must become a PO, discontinue on-base operations, or reduce its current assets below the \$1,000 threshold.

25. Competition with AAFES or Services or NAFIs. [AFI 34-223](#), paragraph 10.8, states: “POs and unofficial activities/organizations must not engage in activities that duplicate or compete with the Army and Air Force Exchange Services or Services activities or NAFI.”

26. Gambling. [AFI 34-223](#), paragraph 10.9, states:

POs and unofficial activities/organizations will not operate amusement machines, slot machines, or any other games of chance (except as authorized in paragraph 10.16. below)....

[AFI 34-223](#), paragraph 10.15.2, states:

POs may not conduct games of chance, lotteries, raffles, or other gambling-type activities except as provided in paragraph 10.16. Unofficial activities/organizations may not conduct games of chance, lotteries, raffles, or other gambling-type activities under any circumstances.

27. Resale activities. [AFI 34-223](#), paragraph 10.9, states that POs and unofficial activities/ organizations will not “engage in frequent or continuous resale activities either

directly, through third parties, or in their media (e.g., newsletters, handouts, posters, special-order brochures, websites, etc.).”

28. Occasional fundraising activities. [AFI 34-223](#), paragraphs 10.9.1 and 10.9.2, state:

10.9.1. The installation commander may authorize (may delegate to the Mission Support Group Commander, or the Services Squadron Commander or Division Chief) continuous thrift shop sales operations and occasional sales for fund-raising purposes (e.g., bake sales, dances, carnivals, car washes, or similar functions) which the PO or unofficial activity/organization conducts directly, through a third party, or in its media. “Occasional” is defined as not more than two per calendar quarter. The prohibition against frequent or continuous resale activities does not preclude collective purchasing and sharing of purchased items by members of POs or unofficial activities/organizations so long as there is no actual resale. See AFI 36-3101, *Fundraising within the Air Force*, for fundraising authority during Combined Federal Campaign.

10.9.2. The occasional sales limitation for funding [sic] does not apply to PO sales of Air Force School or unit souvenirs or memorabilia to members of the school or unit involved, provided AAFES or Services resale activities elect not to provide this service and the PO chartering documentation authorizes resale under these circumstances.

29. Advertising for commercial businesses. [AFI 34-223](#), paragraph 10.9.3, states:

POs and unofficial activities/organizations operating on an Air Force installation are prohibited from engaging in any conduct which has the effect of advertising for, making referrals to, or encouraging use of any commercial business concerns. The only exception to this policy is when a PO or unofficial activity/organization conducts an approved fund-raising event through a third-party (e.g., the spouses club conducts an art sale as an approved fund raiser and contracts with an art dealer (third party) to provide the artwork to be sold).

30. Alcoholic beverages. [AFI 34-223](#), paragraph 10.10, states: “POs and unofficial activities/organizations may not sell or serve alcoholic beverages.”

31. Compliance with applicable laws. [AFI 34-223](#), paragraph 10.13, states:

POs and unofficial activities/organizations must comply with all applicable federal, state, local, and foreign laws governing like civilian activities. Some POs may qualify for tax-exempt status. The regional Internal Revenue Service office and the state taxing authority provide tax-exempt information.

32. Discrediting the U.S. Government. [AFI 34-223](#), paragraph 10.15, states: “PO officer and member and unofficial activities/organizations actions must not prejudice or discredit the United States Government or conflict with governmental activities. ...”

33. Soliciting funds, gifts or donations on base. [AFI 34-223](#), paragraph 10.15.1, states: “POs and unofficial activities/organizations may not solicit funds for their organization on base.” AFI 34-223, paragraph 10.15.1.3, states in relevant part: “POs and unofficial activities/organizations... will not solicit gifts or donations on base.”

34. Co-sponsoring events with Services. [AFI 34-223](#), para. 10.15.1.1, states: “Services may not co-sponsor events with POs or unofficial activities/organizations for the purpose of obtaining commercial sponsorship, contributions, donations, gifts, advertising or generating revenue for them.” AFI 34-223, para. 10.15.1.2, states: “POs and unofficial activities/organizations are not authorized use of the DoD MWR Commercial Sponsorship policy.”

35. Equipment and supplies. [AFI 34-223](#), paragraph 11, states in relevant part: “Logistical Support. POs must furnish their own equipment, supplies, and other materials.”