



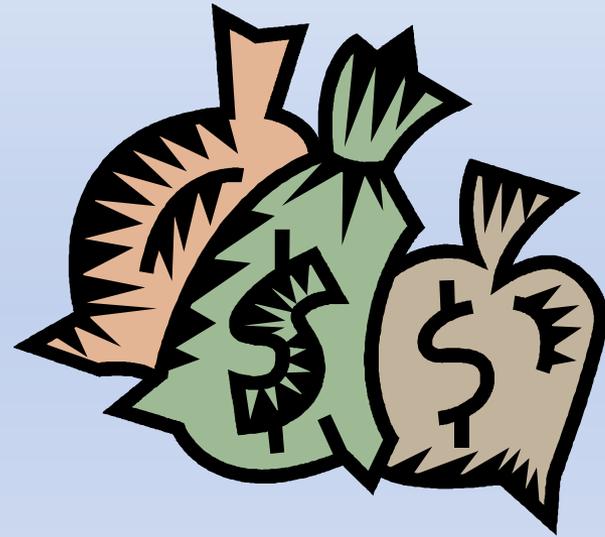
Fundraising 2010

Office of Army General Counsel

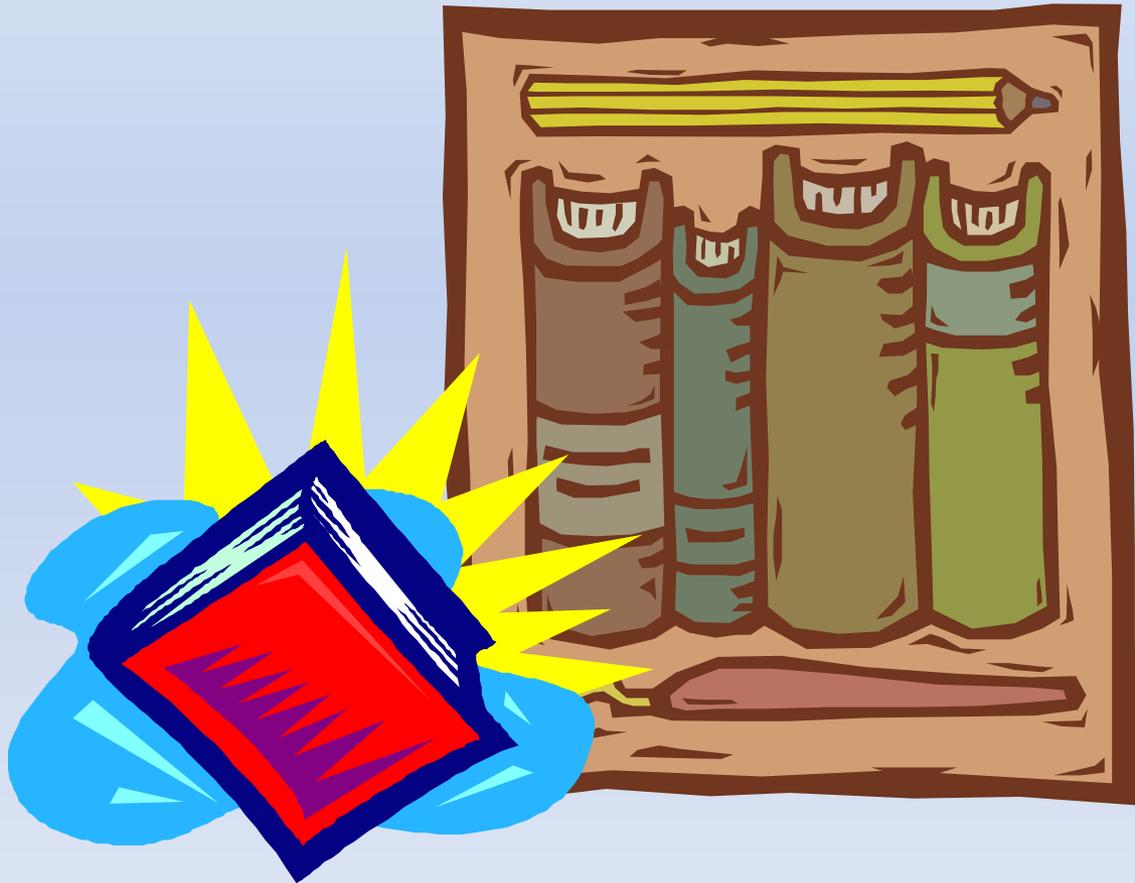


Overview

- References
- Principles
- Official
- Personal
- Other Concerns
- Specific Examples
- Problems



References

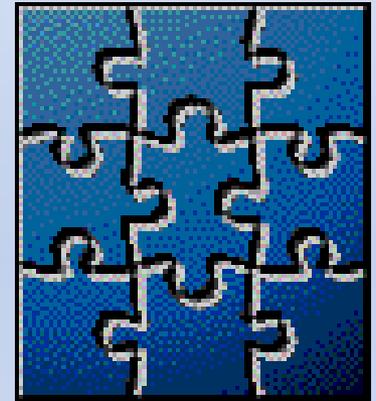


- Standards of Ethical Conduct for Employees of the Executive Branch
- Joint Ethics Regulation
- Executive Orders
- Agency Regulations
- Policy Guidance
- Internet Resources



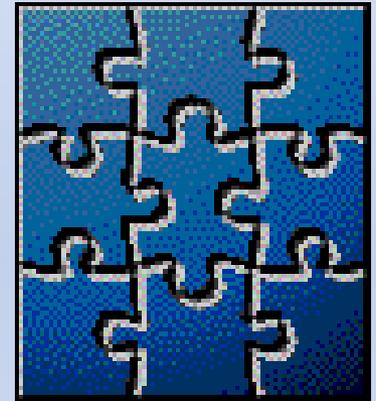
Why is Fundraising Difficult?

- What's the authority?
- Is it official or personal?
- Who is fundraising?
- Where is the fundraising?
- What support are you to give?
 - People
 - Equipment
 - Time
 - Endorsements



Pieces of the Puzzle

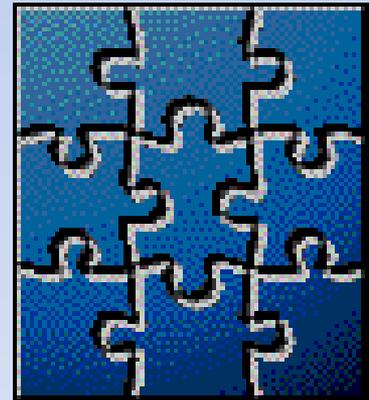
- Money or goods
- In or outside the workplace
- Us or someone else
- Official or personal
- Any logistical support



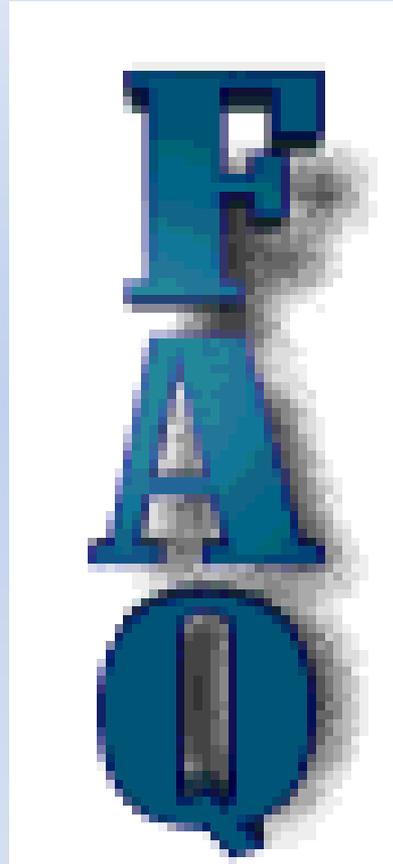
Complicated Often Appears Contradictory

No comprehensive guidance

- Site regulations
- Government-wide regulations
- Agency regulations
- Policy



What is Fundraising?



What is Fundraising?



- **5 C.F.R. § 2635.808(a)(1)**
- **Definitions.** For purposes of this section: Fundraising means the raising of funds for a nonprofit organization, other than a political organization as defined in 26 U.S.C. 527(e), through:
 - (i) Solicitation of funds or sale of items; *Or*
 - (ii) Participation in the conduct of an event by an employee where any portion of the cost of attendance or participation may be taken as a charitable tax deduction by a person incurring that cost

What is Fundraising?



- **Fundraising**. Any activity conducted for the purpose of collecting money, goods or other support for the benefit of others (AR 600-29)
- **Fund-raising Event**. An event or activity with the purpose of soliciting money or materiel for charitable, civic, or educational organizations, organizational operations, or similar purposes, by any means, beyond that necessary to cover the reasonable costs of the event (DoDI 5410.19, E2.1.26.)

What is Fundraising?



- All persons entering in or on Federal property are prohibited from soliciting alms (including money and non-monetary items) or commercial or political donations, vending merchandise of all kinds, displaying or distributing commercial advertising, or collecting private debts, except for— . . . (41 C.F.R. § 102-74.410)

But, see 5 C.F.R. § 950.102(b) does not apply to the collection of gifts in kind, such as food, clothing, and toys, if conducted in accordance with GSA regulations

But, see AR 600-29 which allows for the placement of collection boxes in public use areas of Federal buildings or installations for the voluntary donation of foods or goods for charitable causes.

What Ethical Principles

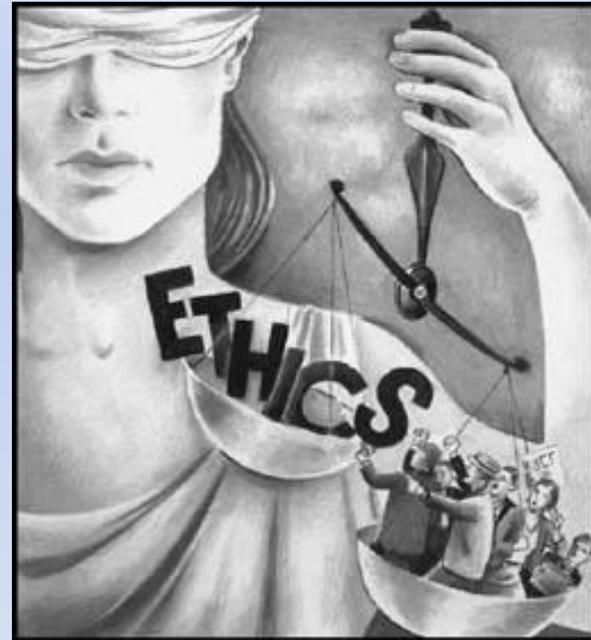
Should You Consider?



Ethics

Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

Is it a tilting scale?



Ethics Principles

- Public trust (#1, #7)
- Misuse of government resources (#9)
- Misuse of government position (#7)
- Preferential Treatment (#8)
- Conflicts of financial interest (#2)
- Effective workforce (See EO 12353)



Official Capacity



Official Capacity

Fundraising in an “official capacity” requires authorization pursuant to statute, Executive Order, regulation, or other authority making such activity part of an employee's official duties.



Statutory



“Notwithstanding any other provision of law, the Secretary [of the Army] may endorse, promote, and assist the efforts of the Foundation and NSC Discovery Center, Incorporated, to obtain--

"(A) funds for the management, operation, and maintenance of the center; and

"(B) donations of exhibits, equipment, and other property for use in the center.”

P.L. 104-106, § 280

Statutory



**NDAA, P.L. 110-181, § 593. GIFT ACCEPTANCE AUTHORITY.
Amendments to 10 U.S.C. § 2601**

LIMITATION ON SOLICITATION OF GIFTS.—The Secretary of Defense shall prescribe regulations implementing [10 U.S.C. § 2601], that prohibit the solicitation of any gift under such sections by any employee of the Department of Defense if the nature or circumstances of such solicitation would compromise the integrity or the appearance of integrity of any program of the Department of Defense or of any individual involved in such program.

Financial Management Regulation, Vol. 12, Chap. 30

“[P]ersonnel **shall not** solicit, **fundraise for**, or otherwise request or encourage the offer of a gift.”

Regulatory

- Executive Orders 12353 and 12404, Charitable Fundraising
- 5 C.F.R. Part 950
- Standards of Ethical Conduct for Employees of the Executive Branch
- Joint Ethics Regulation
- Service Regulations
- GSA Regulations



Otherwise determined by the Agency



- Means that there must be some statutory authority for official fundraising to be permissible.
- Rejects the argument that fundraising needs simply to be consistent with an agency's mission or for the fundraising simply to further the agency's programs.

Where?

- In the workplace



- Outside the workplace

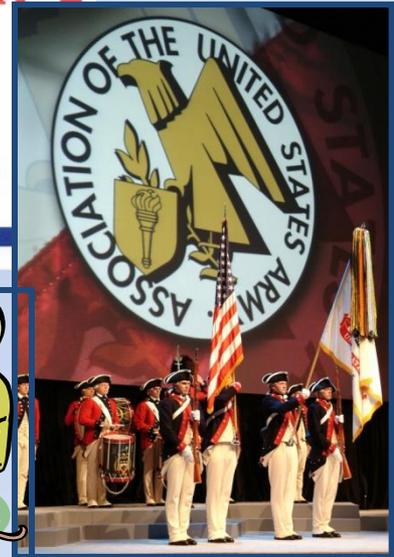


WHO

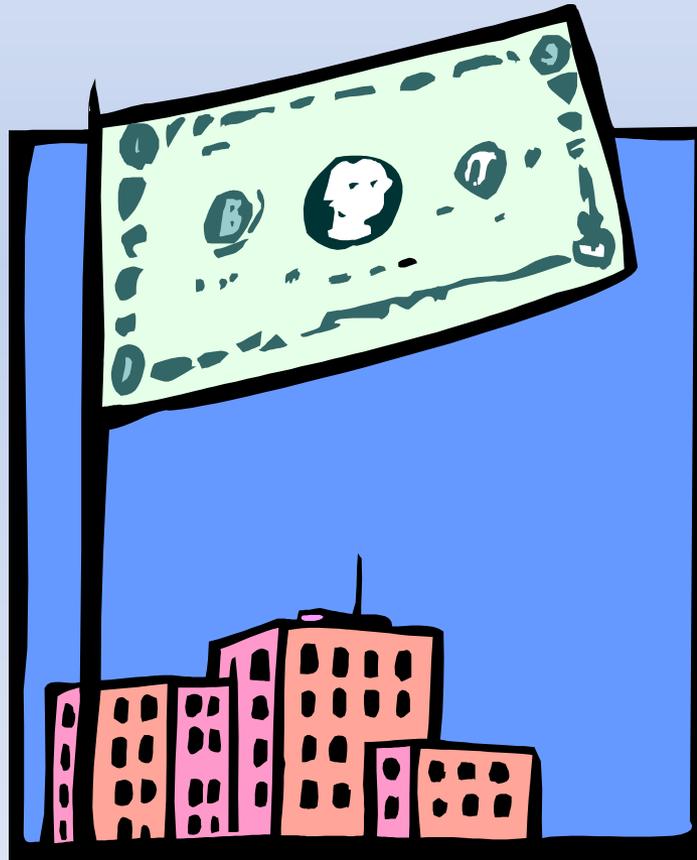
- Us



- Non-Federal Entities



Official Support In the Workplace



Official Support in the Workplace

- EO 12353/12404 –Charitable Fundraising
 - Authorizes the Combined Federal Campaign
 - Authorizes fundraising by orgs composed of civilian employees or members of the uniformed services among their own members for organizational support or the benefit of welfare funds for their members
 - For our own, by our own
 - Military Relief Societies



Combined Federal Campaign (CFC)

- **Objectives of the CFC** (E.O. No. 12404 (Feb. 10, 1983)):
 - Lessen the burdens of government and of local communities in meeting needs of human health and welfare;
 - To provide a convenient channel through which Federal public servants may contribute to these efforts;
 - To minimize or eliminate disruption of the Federal workplace and costs to Federal taxpayers that such fund-raising may entail.



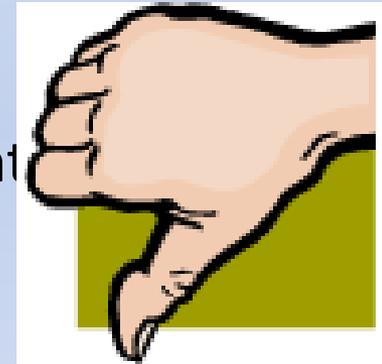
Combined Federal Campaign

- Permissible:
 - Duty hours
 - Use of official title position and authority
 - Endorsement of CFC (not individual charities)
 - Limited appropriated fund support
 - Kick-off events
 - Award ceremonies
 - Limited use of appropriated funds



Combined Federal Campaign

- Impermissible activities:
 - Cannot receive something of value in exchange for contribution
 - Cannot endorse a specific charity
 - May not solicit outside of the Government
 - Coercive
 - Solicitation by chain of command
 - Establishing personal \$ goals
 - Lists of non-contributors
 - Improper use of contributor lists

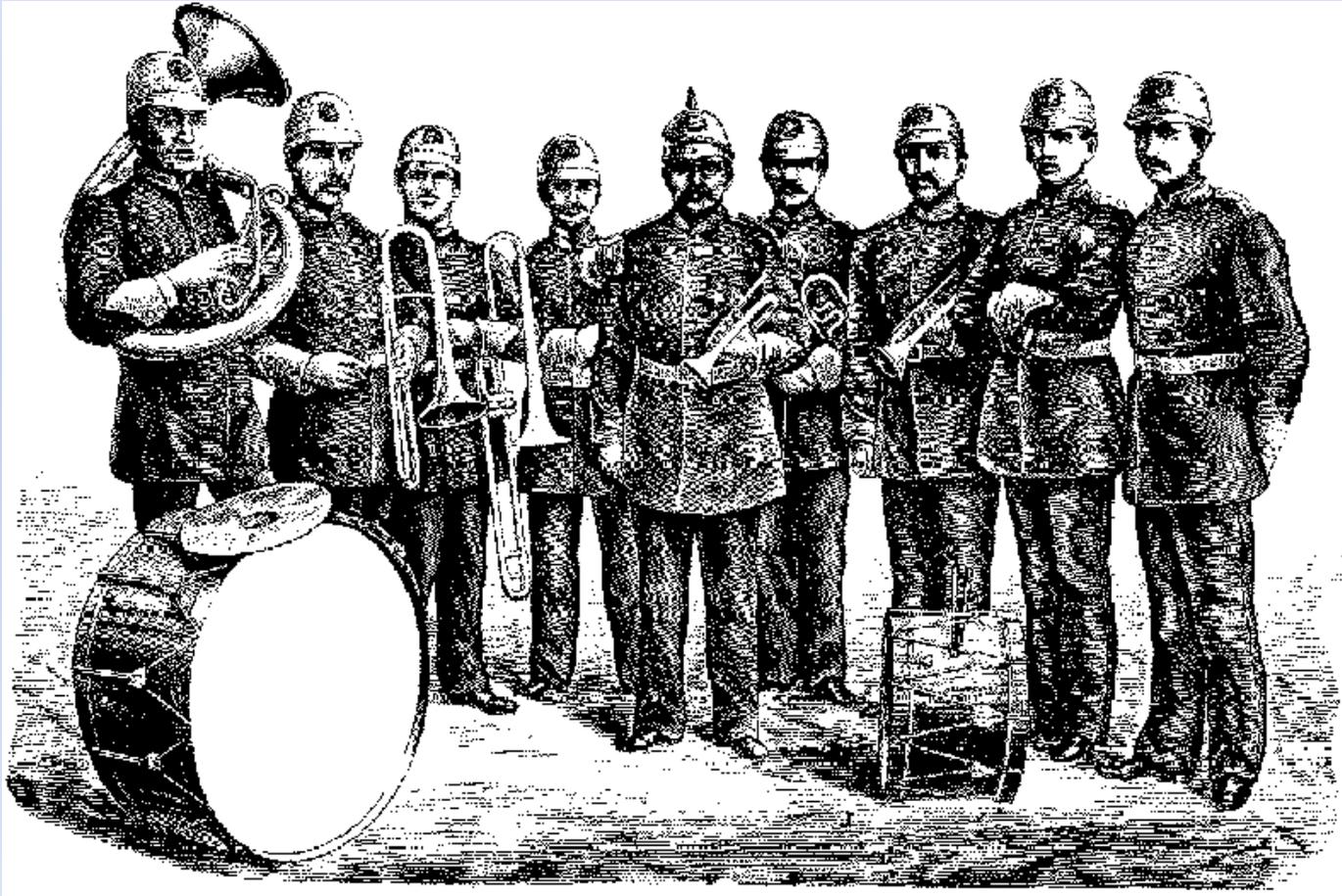


Combined Federal Campaign

- ***Remember:*** Organizations **cannot** conduct other charitable fundraising in the workplace unless Director OPM grants permission and then only in cases of emergencies and disaster
 - Haiti – Special Solicitation Authorized
- Inapplicable to the collection of gifts-in-kind
- Inapplicable to fundraising outside the workplace

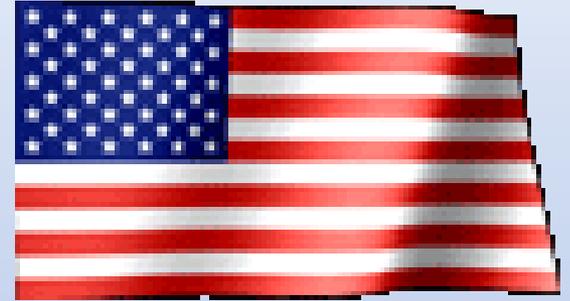


Effective Workforce



Official Support in the Workplace

- Military Relief Societies
 - Army Emergency Relief
 - Navy-Marine Corps Relief Society
 - Air Force Assistance Fund
- For our own, by our own
 - Family Readiness Groups



Caveat: Can support only when soliciting beneficiaries for its funds. If soliciting among the general public or if another non-Federal entity fundraises on its behalf, no official support or endorsement.

CAVEAT!



The American Soldier: A Photographic Tribute to the U.S. Ground Warfighter

EADS North America and the Women's Military Memorial will hold a VIP Opening Gala for the exhibit, scheduled for the week of May 12, 2008 (to be held at the Memorial and also underwritten by EADS North America). The Gala will be Washington's first opportunity to view the exhibit. All funds raised by the event will be donated to ***Army Emergency Relief and the Navy-Marine Corps Relief Society.***

Think you are not really appreciated?

Life Lessons of a Military Wife



Here are some ideas to get your creative braincells churning. I know I don't have any, so I have to dig in my memory for some of the things that have worked in the past and have included those as well. As with everything we do in an FRG, ***you gotta make sure you swing this stuff by your legal section.*** We had another unit on our post over here in Germany want to raffle off their commander's parking spot...what a great idea, right? It was great alright until legal slammed it down. . . .

“For Our Own By Our Own”



With the holiday season here, the spirit of giving was in full swing as Soldiers from the 101st Brigade Support Battalion, 1st Heavy Brigade Combat Team, 1st Infantry Division banded together in order to provide their fellow Soldiers and their Families with food during a food drive Dec. 18 at their headquarters building.

Remember - Voluntary



- **Cannot** enter fact of participation or nonparticipation into an individual's performance appraisal or evaluation report.
- **No** lists of non-contributors.
- **No** granting of special favors, privileges, or entitlements, such as special passes or leave privileges which are an inducement to contribute.
- **Cannot** be an express or implied requirement to give as a condition to the granting of normal privileges and entitlements, violates both the letter and spirit of this regulation.



Official Support in the Workplace

- Military Balls
 - Subject to the same rules
 - Who is sponsoring the military ball?
 - Do not analogize with the Army Birthday Ball
 - Category B NAFI



Official Support Outside the Workplace

- 5 C.F.R. 2635.808(a)(3) Official speeches
 - Appropriate forum for dissemination of the information
 - Agency Determination
 - Cannot request donations or other support
 - Cannot endorse the NFE's activities
 - Cannot be used as a draw, but speaker's name may be mentioned in literature advertising the event
 - Speaker attends in an official capacity



Definition

- Raising funds for a non-profit organization
- Selling items for a non-profit organization
- Participating in an event where cost or participation may be taken as a charitable deduction



Fort Hood

CHAPTER ACTIVITIES
ASSOCIATION OF THE UNITED STATES ARMY

A Community responds to the Fort Hood tragedy of November 5, 2009

The answer: Contribute to a Central Texas-Fort Hood Chapter, AUSA [Association of the United States Army] fund established to appropriately memorialize this tragedy, and care for the affected Soldiers and their Families.

At this moment, we do not know just what those needs might be, but we have learned from prior experience that such tragedies always create need - and Americans always want to help.

Fort Hood

Official Support ?



- Who is doing the fundraising?
 - AUSA (Association of the United States Army)
 - Non-Federal entity
- Who is the beneficiary of the fundraising?
 - Soldiers, Family Members, and Survivors
- What type of support is requested?
 - Endorsement
 - JER § 3-209



Nudge Words!

- We've always done it this.
- The Boss wants it.
- It's good for Soldiers.
- It's good for morale.
- They do good things for us
- It's the Right thing to do.
- We're different
- Show me where it says I can't do it.
- You're not a team player

If you think you have it tough!

- POTUS/FLOTUS EVENT AT FT MCNAIR
 - The President, First Lady and their children will participate in a book bag packing event with approximately 300 congressional family members including 70 members of Congress. The book bags will be distributed by the National Military Family Association to military children attending summer camp. Sponsors include: Feeding America, First Book, NMFA, Sierra Club and USO.
 - Wanted US Soldiers as backdrop to event.
- “Warm Up to Giving” Food Drive



Personal Capacity



Personal Capacity

- **JER, § 3-300**

- Purely personal, unofficial volunteer efforts to support fundraising outside the Federal Government workplace are not prohibited.
- Efforts **cannot** imply DoD endorsement.
- Did you ever think of 18 U.S.C. § 205?

But!

No Personal fundraising in the
Workplace



Such as . . .

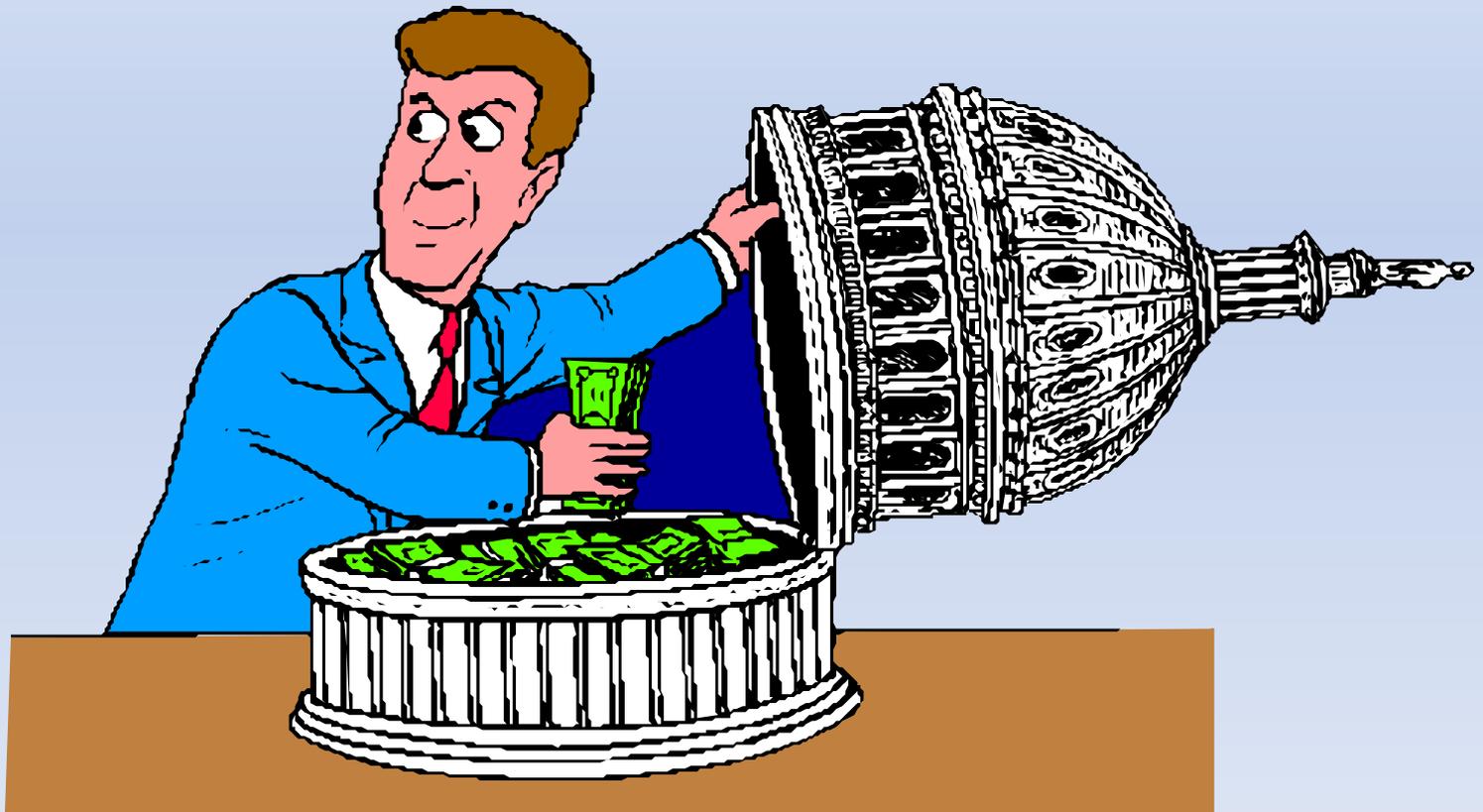


Follow-Up

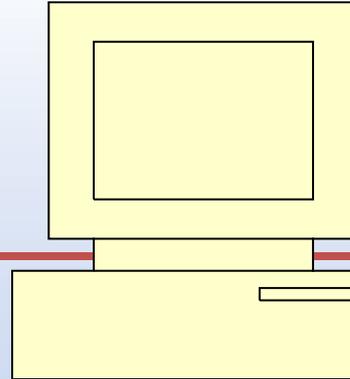


- In 2006, Superdance raised \$186,000.
The dance is run nearly entirely by students on committees, who set up the dance, contract the bands, count and collect the money, and provide nearly all the labor.

Misuse of Government Resources



Email



ALL,

My son's Boy Scout of America Troop is sponsoring a drive to raise funds to support the National Boy Scouts of America Organization.

If anybody is interested in ordering snacks to support Boy Scouts of America. I have placed a yellow folder with brochure/order form to place your orders in the SMA area. I will deliver any orders straight to this office when they come in.

Letter

Dear LTG Hardcharger:

We would like to extend to you an invitation to attend our Law Enforcement, US Armed Forces, Fire/Rescue 2nd Annual Basketball Tournament. . . .

*If you have questions please contact: Ms. Jane Doe,
Jane.Doe@us.army.mil.*

Sincerely,

Jane Doe

No No's



- **Email** - No unofficial advertising, soliciting or selling (JER 2-301)
- **Subordinates** - No solicitation of 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)
- **Contractors** – No solicitation of contractors

Misuse of Government Position



No No's



-----Original Message-----

From: LTC Name @us.army.mil [mailto:name@us.army.mil]

Mr Contractor:

Hello, hope this email finds you well. I miss the excitement of the ARH [Army Reconnaissance Helicopter] program- but school is keeping me in the books. . . .

How is the ARH program going from your perspective? . . . If possible, need a little assistance. As part of the Air War College we have a Horizon Association (non-profit and non-military) organization. This year we are trying to help four "youth camps" here in AL. As such, we are having a silent auction. We are trying to raise \$1000.00. Does Bell have anything that would like to donate for us to auction (doesn't have to be worth a \$1000.00). If so, let me know and I will provide the mailing address. Anything will help.

Impermissible Fundraising



Not Eligible for Support or
Endorsement

ArmyFundraisers.com

Problems?

- Fundraisers | Donations | Sponsorships | Do-It-Yourself | Bulletin Board | Shops | Partners

Fundraisers

Helping soldiers and organizations raise money for their units is what our site is all about. With ArmyFundraisers.com, any unit can quickly and easily create a fundraising page that provides an innovative alternative to chasing down orders for cookie dough, spending too much money on wrapping paper for a "good cause", or delivering candles in the rain. We have made the process of fundraising so easy, that it is actually enjoyable! Once your ArmyFundraisers page is set up, ***you can take the link that we provide you and place it on your unit's webpage***, in your blog, or in an email to your unit supporters.

ArmyFundraisers.com

You will be sent a link to your page, and all you need to do is promote that link. If you forget the link or someone loses it, just direct your customers to ArmyFundraisers.com and they can access all actively running fundraisers right from our home page. How you spread the word is up to you, but you can send your friends an ArmyFundraisers.com eGreeting



ArmyFundraisers.com

How Much Will I Make?

You will receive 20% of total sales during your fundraiser. So, if you sell an item for \$10.00, you'll receive a \$2.00 commission. Not bad for sending out a few emails! We handle the product, shipping, and all customer service. All of our sales are tracked through PayPal. You will receive an updated list of sales along with your commission check.

<http://www.cavhooah.com/btrp389cav.htm>



**Welcome to Bravo
Troop, 3rd
Squadron, 89th
Cavalry Regiment's
Online Fundraiser!**

**Thanks for
supporting our
soldiers and their
families!**



Examples – 5 C.F.R. § 2635.808(c)

A nonprofit organization is sponsoring a golf tournament to raise funds for underprivileged children. The Secretary of the Navy may not enter the tournament with the understanding that the organization intends to attract participants by offering other entrants the opportunity, in exchange for a donation in the form of an entry fee, to spend the day playing 18 holes of golf in a foursome with the Secretary of the Navy.



Example – 5 C.F.R. § 2635.808

An employee of the Department of the Army (DA) who signs a letter soliciting funds for a local private school does not “personally solicit” funds when 500 copies of the letter, which makes no mention of his Air Force position and title, are mailed to members of the local community, even though some individuals employed by DA or DA contractors may receive the letter.



Preferential Treatment





A Million Thanks

A Soldier's Wish List

Adopt a Platoon

Adopt a Soldier Ministries

Adopt-a-Chaplain

Adopt a Unit US, Inc

Adopt a US Soldier

American Legion Auxiliary . . .

Conflicts of Financial Interest



