

## FUNDRAISING

### Support to the Air Force Aid Society (AFAS)

AFAS is a private, non-profit organization that “promotes the Air Force mission by helping to relieve financial distress of Air Force members and their families....The Society also assists Airmen and their families with their educational goals, and looks for opportunities to improve Quality of Life through proactive programs.” While not an Air Force organization, the AFAS is sometimes referred to as the “official charity of the Air Force.”<sup>1</sup>

DoD officials may not endorse, solicit donations for, provide logistical support to, or otherwise grant preferential treatment to private entities.<sup>2</sup> However, two significant exceptions apply to these well-recognized prohibitions. DoD officials may generally endorse, provide certain logistical support, and give preferential treatment to the annual fundraising campaigns of the Combined Federal Campaign (CFC) and the Air Force Assistance Fund (AFAF) drives. CFC and AFAF are officially-sanctioned events for which official endorsement and support is authorized.<sup>3</sup>

AFAS is authorized by statute to receive certain logistical support, without charge, from Service Secretaries.<sup>4</sup> In addition, the Secretary may authorize Air Force personnel “to serve without compensation as a director, officer, or trustee, or to otherwise participate, in the management of (designated entities, include AFAS).”<sup>5</sup> Specified senior Air Force leaders are authorized to participate in AFAS management in order to provide oversight and advice to, and coordinate with, the organization.<sup>6</sup> Such authorization may not extend to participation in the day-to-day operations of the entity, nor involve the expenditure of appropriated funds except in the direct support of the employee. However, senior Air Force leaders may not participate in the day-to-day operations of

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<sup>1</sup> AFI 36-3111, *Air Force Aid Society*, (15 October 2014), para. 1.1.

<sup>2</sup> *Joint Ethics Regulation (JER)*, DoD 5500.07-R, paras 3-209, 3-210 and 3-211.

<sup>3</sup> See 10 U.S.C. § 2566; E.O. 12353 (CFC). This opinion addresses only the annual Air Force designated “AFAF” fundraising campaign. Reference to the CFC campaign is made by comparison, as authorities applicable to CFC are similar, but not identical to, those applicable to the AFAF campaign. This opinion does not address other charitable organizations and AFAS fundraising activities, e.g., the United States Air Force Charity Ball which is co-sponsored by the AFAS and the Air Force Officers’ Spouses Club (both non-Federal entities). It also does not specifically address rules applicable to entities sponsored by AFAS, such as the General Henry H. Arnold Education Grant Program and the Youth Employment Skills Program. See AFAS 2015 Annual Report, p. 10.

<sup>4</sup> 10 U.S.C. § 2566. This support may include “lighting, heating, cooling, electricity, office furniture, office machines and equipment, telephone and other information technology services (including installation of lines and equipment, connectivity, and other associated services), and security systems (including installation and other associated expenses)” and is generally provided only by Headquarters Air Force to the AFAS national headquarters IAW 10 U.S.C. § 2566. At the installation level, most support for AFAS will be through assignment of duties to existing Air Force organizational staff positions using their offices/support structure. Other forms of support should take into account Department of Defense guidance on support to various non-Federal entities issued in December 2014.

<sup>5</sup> 10 U.S.C. § 1033(b)(2)(B); see also JER para 3-202

<sup>6</sup> The AFAS Board of Trustees, which provides policy direction for AFAS operations and for the control and disposition of AFAS property and funds, consists of not more than 23 members and provides that: “the Secretary of the Air Force; Chief of Staff of the Air Force and spouse; Deputy Chief of Staff for Manpower, Personnel and Services; Deputy Assistant Secretary of the Air Force (Budget); Judge Advocate General of the Air Force; Surgeon General of the Air Force; and Chief Master Sergeant of the Air Force and spouse are Board trustees by virtue of their position.” AFI 36-3111, para. 1.1.2.1. Other trustees are elected and serve 3-year terms.

AFAS in their official capacity. Participation in the management of the non-Federal entity may not constitute the employee's primary duty.<sup>7</sup>

AFAF and CFC are the only two officially-sanctioned fundraising campaigns affiliated with the Air Force.<sup>8</sup> Installation commanders are required to “[f]urnish necessary facilities and assign qualified personnel to perform the AFAS function.”<sup>9</sup> Wing commanders appoint an AFAS Staff Advisor in the grade of O-3 or above (or civilian equivalent) who in turn designates an AFAS Officer (AFASO) and assistant AFASOs as needed.<sup>10</sup> These AFAF key workers “will solicit Air Force personnel including active duty, Air Force Reserve, and Air National Guard members for contributions to support the AFAF charities that benefit Air Force military personnel and their families.”<sup>11</sup> Also, AFAS key workers “may solicit active duty military, non-extended active duty reservists and Air National Guardsmen at their duty locations (and) may also conduct special events or benefits to solicit funds for the AFAF campaign.”<sup>12</sup> This is the classic “by our own, from our own, for our own” purpose upon which AFAS was founded and that justifies special consideration when it comes to fundraising.

Other than the support allowed under 10 USC §2566, appropriated funds may not be obligated in direct support for AFAS. However, appropriated funds may be used incidental to those activities authorized or required to be conducted in support of AFAS (at the installation or organization level), such as solicitation or campaign organizational meetings, using office space, office equipment/materials, kick-off functions, rallies, victory events, award ceremonies and other similar events that build support for the campaign but are not directly involved in fundraising. AFAF-focused fundraising events themselves, such as car washes or sporting events, may not use appropriated funds. Likewise, refreshments, personal gifts, or any other item or activity that is not essential to support the campaign is not authorized.”<sup>13</sup> Support to AFAS should not impair operational, training or other readiness requirements.<sup>14</sup>

The following are examples of permissible activities related to AFAF annual campaign fundraising efforts and events. As AFAS exists solely to benefit airmen in need and their families, its focus has a direct relationship to the Air Force mission. Commanders at all levels are encouraged to liberally authorize, advance and support the activities of AFAS within the following constraints outlined.

- The Secretary of the Air Force, Chief of Staff and all subordinate officials may support fundraising for AFAS using their official titles and positions. This includes issuing a memorandum to all Air Force personnel encouraging them to donate to AFAS. However, officially sanctioned fundraising activities are limited to solicitation of Air Force members

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<sup>7</sup> JER 3-202

<sup>8</sup> AFI 36-3101, *Fundraising within the Air Force*, (12 July 2002), para. 1.

<sup>9</sup> AFI 36-3111, para. 2.3.1.

<sup>10</sup> AFI 36-3111, paras. 2.3.1; 2.4.2.

<sup>11</sup> AFI 36-3101, para. 1

<sup>12</sup> AFI 36-3101, para. 22.

<sup>13</sup> AFI 36-3101, Table 1, n. 1; *see also* JER 3-202.

<sup>14</sup> DoDD 5410.18, *Public Affairs Community Relations Policy*, (20 November 2001, certified current as of 20 May 2007) paras. 4.1.2.3; 4.2.2.

(in the “by our own, for our own, from our own” spirit). Air Force officials are not authorized to solicit outside parties for donations to AFAS in their official capacities.

- Commanders and supervisors at any level may pose for photographs or be videotaped in uniform while filling out AFAS donation forms, which can be used to demonstrate leadership’s support for AFAS.
- Military members appointed as AFAS representatives or to otherwise support the AFAS annual drive may use official time to perform duties related to those responsibilities. Any use of Air Force resources (for example, Government equipment, including computers, copy machines and telephones) to accomplish those duties should be consistent with the authorities discussed herein.
- Military bands may perform at AFAS campaign events.
- Commanders may hold mandatory commanders’ calls during which they endorse AFAS and solicit donations from military personnel in attendance.

All personnel must be mindful of situations where the fundraising for the AFAS goes beyond the “by our own, from our own, for our own” context (for example, where outside entities, including DoD contractors, are solicited or have contributed to support an AFAS affiliate, including AFAS). AFAS affiliates are not prohibited from soliciting or receiving donations from these groups, but Air Force personnel should play no role in either the solicitation or the receipt of such gifts. This restriction would include not singling out the particular donor for recognition. Recognition of “all donors” which would include but not reference outside donors is permissible.

Questions about the propriety of particular proposed conduct in conjunction with a fundraising effort should be referred to the local servicing legal office or the Fiscal, Ethics and Administrative Law Division of the General Counsel’s office (SAF/GCA – DSN 227-7430).

The Administrative Law Directorate (AF/JAA) and the Deputy General Counsel for Fiscal, Ethics and Administrative Law (SAF/GCA) join in this opinion.