

MEMORANDUM FOR 82 FSS

FROM: 82 TRW/JA

SUBJECT: Prohibitions on the Use of Government IT Resources to Publicize Fundraisers by Private Organizations

1. You have asked for an opinion regarding permissible use of Air Force computer resources, specifically email, by on-base private organizations as a mode of publicizing fundraising events, and soliciting donations and membership. I have reviewed the Joint Ethics Regulations, as well as the Air Force Instructions for private organizations. Based on my review, I conclude that existing regulations prohibit use of government email resources by private organizations to publicize fundraisers, or solicit donations or membership.
2. The following listing of regulatory directives address the use of government resources by Private Organizations and the Federal Government employees who make up their members:

AFI 33-129, *Communications and Information*, Web Management and Internet use, para. 2.1 provides that "Government-provided hardware and software are for official use and authorized purposes only. Appropriate officials may authorize personal uses consistent with the requirements of DoD 5500.07-R, Joint Ethics Regulation, after consulting with their ethics counselor."

That regulation (AFI 33-129) specifically lists certain prohibited activities as inappropriate uses:

- 2.2.1. Use of Federal government communications systems for unauthorized personal use.
- 2.2.2. Uses . . . such as . . . unofficial soliciting, or selling except on authorized bulletin boards established for such use.

The AFI governing the creation and operation of Private Organizations further prohibits fundraising activities on-base or in any manner that suggests Air Force support:

AFI 34-223, *Private Organizations*, Para. 1. PO's (Private Organizations) are self-sustaining special interest groups, made up by people acting exclusively outside the scope of any official capacity as officer, employees, or agents of the Federal Government. POs are not Federal entities and are not to be treated as such.

10.15. POs may not:

10.15.1 Solicit funds for their organization on base.

*(comment: these email solicitations are not only being made from on-base but being delivered to on-base computers in the work area.)*

10.15.1.3.1. POs and unofficial activities/organization are prohibited from actions which make it appear that the installation is endorsing or giving special treatment to the donors/givers involved.

11. Logistical Support. POs must furnish their own equipment, supplies, and other materials. (*comment: use of Air Force IT networks makes an end run around this requirement that POs use their own resources.*)

11.1.1. A PO must reimburse for services (to include utilities) when it uses a facility or space on an other-than-occasional basis unless a separate directive or instruction authorizes non-reimbursable support.

Those regulatory directions all must be read so as to comply with the Joint Ethics Regulations (JER). The JER makes it abundantly clear that Federal resources may never be used to advance fundraising activities for POs.

JER 2-205. Limitation on Solicited Sales. See 5 C.F.R. 3601.106. A DoD employee shall not knowingly solicit or make solicited sales to DoD personnel who are junior in rank, grade or position, to the family members of such personnel, on or off duty.

JER 2-301. Use of Federal Government Resources

a. Communication Systems. Federal Government Communication systems and equipment including Government owned telephones, facsimile machines, electronic mail, internet systems, and commercial systems (when use is paid for by the Federal Government) shall be for official use and authorized purposes only. (*comment: As clarified in AFI 33-129, POs are NOT official entities and must not be connected in any way with official Air Force activity. Use of Air Force email systems undermines this crucial separation.*)

JER3-211. Logistical Support of Non-Federal Entity Events

a. The head of a DoD Component command or organization may provide DoD employees in their official capacities to express DoD policies as speakers, panel members or other participants, or 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 an event sponsored by a non-Federal entity, **EXCEPT FOR FUNDRAISING AND MEMBERSHIP DRIVE EVENTS**, when the head of the DoD command or organization determines all of the following: (*emphasis added; comment: the list of criteria for an exception is omitted here because fundraising is prohibited. No further discussion should be required.*)

The JER makes one further point regarding the interplay between the official and unofficial activities of DoD employees. Essentially, they must not cross. Use of official Air Force email to solicit for POs operated by DoD employees violates this standard. The following provision identifies “official activities,” which, in the current discussion, includes emails sent from official DoD email addresses composed in the workplace and also received by DoD employees in the workplace:

JER 3-302 Impartiality of DoD Employees. DoD employees are generally prohibited from engaging in any official activities in which a non-Federal entity is a party or has a financial interest if the DoD employee is an active participant in the non-Federal entity or has been an officer in the non-Federal entity within the last year.

DoD employees are ethically prohibited from soliciting funds by their official email for the non-Federal entity (the Private Organization) to which they belong. It is an improper use of Federal resources, creates the impression of government support, and reflects conflicting interests.

3. CONCLUSION. Use by a DoD employee of his or her official Air Force email account to solicit for fundraising activities or sales for a PO is prohibited under current Air Force and DoD regulations. DoD employees must comply with this rule or face disciplinary action for the ethical violation.