

INFORMATION PAPER

SUBJECT: Soliciting AAFES and Other Non-appropriated Fund Instrumentalities (NAFI) for Gifts and Donations Including Defense Commissary Agency (DeCA)

1. PURPOSE: To explain that AAFES property and other NAFI and DeCA resources cannot be donated or given away, and solicitations for such gifts or donations must be rejected.

2. BACKGROUND: Units, staff offices, and private organizations frequently solicit AAFES, DeCA, and MWR resale outlets for gifts for holiday parties or other events. However, laws forbid these entities from donating NAFI or DeCA property to individuals or organizations.

3. LAW:

a. A recent opinion from Ms. Mary Waldsmith, an Associate General Counsel with AAFES, concludes that AAFES and other NAFI must refuse requests for donated items of NAFI property:

(1) DoDI 1015.15, *Procedures for Establishment, Management, and Control of Non-appropriated Fund Instrumentalities and Financial Management of Supporting Resources* (May 05) controls NAF Property Management. Paragraph 5.2.9 of the instruction states:

"Unauthorized use of NAF. NAF are to be used for the general welfare of the military community. Individuals, units, organizations, or installations shall have no proprietary interest in NAFI funds or other assets."

(2) Paragraph 5.2.9.2.2 adds: "NAF are not authorized to be used to support the following functions: Scholarships, free mailing and postage, or to provide any other specific benefit for select individuals or groups."

(3) AAFES is a NAFI, so these principles apply to it (AR 60-10).

b. Donation of unusable food by DeCA is governed by 10 U.S.C. §2485 which provides that donations may only be made to:

- (1) a non-profit charitable foodbank;
- (2) a state or local governmental agency;

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(3) a chapter or other local unit of a recognized national veterans organization that provides services to persons without adequate shelter; or

(4) a not-for-profit organization that provides care for homeless veterans; and

(5) only those entities in (1) through (4) that have been designated by the Secretaries of Defense, Health and Human services or for (3) and(4), the Secretary of Veterans Affairs.

c. AR 215-1, paragraph 4-13, has additional language applicable to MWR NAFI:

*c. Support of private organizations (POs).* NAFIs will not provide NAF financial assistance in the form of contributions, repairs, services, dividends, or other donations of money or other assets to private organizations or individuals unless authorized by other regulations, DOD policies, or statutes. For assistance to Scouting organizations, see DOD 1015.9.

*d. Distributions to charities.* NAFIs support only those activities and functions for which the NAFI is organized. Excess or residual assets may be redistributed by proper authority. NAFIs do not contribute to or engage in fundraising activities for charities, foundations, and similar organizations nor collect or disburse donations of a private or personal nature.

4. DISCUSSION: Non-appropriated fund resources belong to the military community as a whole. Soliciting the local exchange for "donations" is the equivalent of asking the NAFI to give its resources to specific individuals or groups. This is inconsistent with the cited regulations.

5. CONCLUSION: Commanders must ensure their personnel do not solicit donations from any NAFI, including AAFES stores, commissaries, installation golf pro shops, or any other MWR facility. This information should be disseminated through command channels to Private Organizations operating on installations under the provisions of AR 210-22.

APPROVED: COL NEVEU, Judge Advocate

23 Jun 06