

**Private Organizations and
Unofficial Activities Handbook**

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Air Force Materiel Command

Office of the Staff Judge Advocate

INTRODUCTION

Welcome to the Air Force Material Command Private Organization and Unofficial Activities Handbook. This handbook will acquaint you with some recurring challenges your private organization (PO) or unofficial activity (UA) may face during its initial organization and subsequent operation. This handbook is designed to supplement the most recent version of the Air Force Services Private Organization Guide and Air Force Instructions. It does not constitute legal advice.

If you have questions, please direct them to your base Force Support Squadron's PO Monitor. You may also contact your base legal office with general questions, but they may not represent or advise POs since they serve as the command's legal advisor on PO activities. The PO monitor will help keep you and your members in compliance with Federal and state laws and regulations.

Additionally, we would like to extend our appreciation to the AMC HQ and installation staff judge advocate offices for their work to develop this handbook.

We wish you great success and much personal enjoyment as you make selfless contributions of your valuable private time to the welfare of other Air Force members by participating in the PO of your choice.

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I. PRIVATE ORGANIZATIONS

1. SOURCES OF AUTHORITY

Under Air Force Instruction 34-223, *Private Organization (PO) Program*, 8 March 2007, self-sustaining special interest groups, such as Spouses' clubs, unit booster clubs, and professional associations, set up by people acting outside the scope of any official position they may have in the federal government, are considered to be private organizations. A PO is a separate entity, having no formal organizational lines connecting it to other POs, and it derives its authority from the club membership by common consent. Although a club is a private organization and not a business, its activities may subject it to state and federal laws and regulations (e.g., state or federal income tax on a retail sales outlet). Further, because the club operates on an Air Force installation, its membership must comply with Air Force Instruction 34-223 which governs the basic responsibilities, policies, and practices of private organizations.

2. APPROVAL TO OPERATE AND ORGANIZATIONAL DOCUMENTS

a. Approval to Operate. A private organization can only operate on a base after approval by the installation commander. To gain approval to operate, the PO submits its constitution, bylaws, or other similar documents to the installation PO Monitor. The PO Monitor works for the Force Support Squadron commander and coordinates approval with other base agencies, such as the resource manager and legal office. The installation commanders often delegate authority to approve POs to the support group commander. AFI 34-223, paragraph 9, requires that, among other things, the nature, function, and objectives of the organization be contained in organizational documents. These documents must be updated every two years or when there is a change in the purpose of the PO, whichever comes first. Although there is no official relationship between POs and the Air Force, traditional roles played by the POs are certainly recognized and should be embod-

ied in the club's constitution, if for no other reason than to assist in seeking tax exempt status. A sample statement of purpose, which gives a good summary of the various roles of a typical PO, would be:

The Spouses' Club is organized to provide a medium for effective coordination of social, charitable, and educational activities undertaken by Spouses' of officers associated with _____ Air Force Base. The Spouses' Club sponsors social and recreational activities. The social activities are financed through dues and user charges. The Spouses' Club raises funds for charitable and educational purposes through operation of the _____ Air Force Base Thrift Shop and occasional fundraising activities. These fundraising activities are carried on through the work of Spouses' Club members who volunteer their time. The funds so raised, in addition to excess funds generated by Spouses' Club social activities, are used to provide college scholarships, and to make donations to civilian-oriented charitable organizations and to the United States Air Force for various projects which benefit the military community.

b. Withdrawal of Authority. A private organization may operate on a base only as long as it continues to make a positive contribution in terms of the quality of life of base personnel. The installation commander may withdraw the PO's authorization to operate when it no longer makes a contribution; fails to comply with applicable laws, instructions or policies; prejudices or discredits the United States government; conflicts with government activities; or for any other reason or just cause.

3. RESTRICTIONS ON PRIVATE ORGANIZATIONS

Commanders provide limited control and supervision over POs and ensure compliance with the provisions of AFI 34-223, but they are not charged with dictating its specific internal policies or activities. Those are left to the membership and its elected officers. There are some restrictions contained in the AFI, however,

which govern all POs:

a. Name. The Instruction prohibits the use of the following in a PO's title or letterhead:

- (1) The name or seal of the Department of Defense.
- (2) The seal, logos, or insignia of any DoD component or instrumentality.
- (3) The seal, insignia, or other identifying device of the local installation.
- (4) Any other name, abbreviation, seal, logo, insignia, or the like, used by any DoD component to identify any of its programs, locations, or activities.
- (5) POs operating on DoD installations may use the name or abbreviation of the Air Force organizational unit or installation in the PO name only if the below criteria are met:
 - (i) The status of the PO is apparent and unambiguous and there is no appearance of official sanction or support by DoD;
 - (ii) The PO must have written approval from the installation commander allowing the use of the name or abbreviation of the installation or organizational unit; and
 - (iii) Use of the name or abbreviation of the installation or organizational unit must not mislead members of the public to assume the PO is part of the Air Force.
 - (iv) PO's must prominently display the following disclaimer on all print and electronic media mentioning the PO's name confirming that the PO is not a part of DoD: **“This is a private organization. It is not part of the Department of Defense or any of its components and it has no governmental status.”**

b. Membership. Discrimination based on race, religion, creed, color, age, disability, national origin, or gender is prohibited (AFI 34-223, paragraph 10.2). This does not, in our opinion, require a Spouses' club to change the club's name to a more gender-neutral title, such as Spouses' Club, if husbands are allowed to join. POs may organize around a culture or ethnic focus as long as they do not restrict their membership on the basis of that culture or ethnicity.

c. Fundraising. POs must not engage in activities that duplicate or compete with any base MWR activities or the activities of any nonappropriated fund instrumentality, including the Army and Air Force Exchange Service. With the exception of thrift shop sales of used clothing and other used merchandise, POs are generally prohibited from engaging in resale activities. POs may not engage in frequent or continuous resale activities or operate amusement or slot machines. However, the installation commander may authorize (or the FSS squadron commander or division chief may authorize, if the authority is delegated) continuous thrift shop sales operations and occasional sales for fundraising purposes like bake sales, dances, carnivals or similar occasional functions. This prohibition against frequent or continuous resale activities does not preclude collective purchasing and sharing of purchased items by PO members so long as there is no actual resale. (see AFI 34-223, para 10.9)

Examples of fundraising activities that are commonly approved are:

- i. Bake sales
- ii. Carnivals
- iii. Dances
- iv. Miscellaneous, occasional sales or events

(1) Obtaining Approval. Fundraising activities may not

be on a continuing or frequent basis, and each must be specifically approved in writing by the installation commander or his designee. Plan ahead to get approval well in advance of the date you want to conduct the activity. The PO should submit the proposal in writing with a description of the purpose, nature, and extent of the activity. The proposals normally should be sent to the Force Support Squadron commander for review (or approval if the approval authority has been delegated) before being forwarded to the installation commander for approval.

(2) Limitations. If you are raising money for the social side of a PO which has a tax-exempt status under Section 501(c) (7), remember the 35 percent/15 percent limitations on funds raised from nonmembers. See Appendix 1, paragraph a(4) and (5) for a more complete discussion.

(3) Raffles. AFI 34-223, paragraph 10.16, allows POs to conduct fundraising raffles on Air Force installations on an occasional, infrequent basis when authorized in advance by the installation commander or designee. The provision does not cover Unofficial Activities. (AFI 34-223, para 10.15.2) All requests to conduct raffles must be reviewed by the servicing staff judge advocate's office, and be approved by the installation commander. For example, commanders may approve raffles when the proceeds would be used for new playground equipment at a child development center or new furnishings at a youth center; to fund scholarship programs for DoD personnel and their family members; to donate money to base scouting organizations; or to provide food, clothing, shelter, or other relief to needy DoD personnel or their families. Raffles must not violate the law of the city, county, state, or country in which the installation is located and must comply with any applicable requirements such as securing required licenses or permits, filing application documents and/or reports, and the like. The raffles must be for the benefit of DoD personnel or their family members and serve charitable, civic, or other community welfare purposes within the DoD community. Raffles may not be authorized to raise money for local or national groups such as a regional or national Heart or Cancer Association

whose funds would not benefit primarily DoD personnel or their family members. Requests for approval must identify the purpose for which the funds are being raised and the intended beneficiaries of the proceeds, as well as how the PO will ensure the proceeds are used only for that purpose and those beneficiaries. Raffles to sponsor pending recreational, social, or entertainment purposes which benefit only individual PO members and/or their family members will not be approved. The raffles may not be officially endorsed or supported, may not be conducted in the workplace, and will not be conducted by military members or civilian employees during their duty time.

(4) Food Sales. Regularly Scheduled Service. When holding a sale of food, check to ensure that you meet the requirements of AFI 48-116, *Food Safety Program*, or only sell prepackaged food and beverages prepared by approved food sources.

d. Prohibitions.

(1) Soliciting Funds. POs may not solicit funds for their organization on the installation. Solicitation of funds and asking for donations should not be confused with approved fund-raisers such as a bazaar or auction. In a fund-raiser, the person giving the money receives value for the money spent. POs may accept gifts as donations. They will not solicit gifts or donations on base. Off base solicitations must clearly indicate that they are for a PO or an unofficial activity/organization and not the base or any official part of the Air Force. Donor/gift recognition may not be made publicly. Recognition can only be made to members of the PO or those present at an event benefiting from the donation/gift. POs are prohibited from actions which make it appear that the installation is endorsing or giving special treatment to the donors/givers involved.

(2) Games of Chance. POs may not conduct lotteries, Bingo or other games of chance, except raffles, as mentioned above.

(3) Alcohol. POs are prohibited from selling or serving alcoholic beverages (AFI 34-223, paragraph 10.10).

(4) Fundraising (AFI 36-3101). POs must submit their fundraising requests to the base PO monitor. The PO monitor will review the request and submit it to the installation commander (or subordinate commander, if delegated) for approval.

(a) Fundraising activities may be restricted or prohibited during Combined Federal Campaign (CFC) or Air Force Assistance Fund (AFAF) drives. Additionally, fundraisers are limited to two per calendar quarter.

(b) No individual dollar goals or quotas may be established when raising money. Participation (whether by the buyer or seller) must be voluntary. Coercive practices are prohibited.

(c) A PO may not operate a snack bar (a resale activity) to create a major fund for mementos, going away gifts, etc. The commander does not have the authority to approve resale activities. However, they may sell food and drink items to its members at a small markup. The markup may only be large enough to sustain the existence of the sales activity, not to make money. Remember: Any facility that provides any kind of food service that operates under AFI 34-223 must comply with all the requirements of AFI 48-116, *Food Safety Program*, or they are restricted to serving prepackaged foods and beverages prepared in facilities operating according to that regulation.

(d) POs may not fundraise in the workplace, while on duty, or in uniform.

e. Financial Reporting. Private organizations must use budgets and financial statements as financial management tools (AFI 34-223, paragraph 10.6).

(1) Budget. The budget details financial plans for annual operations. It includes projected activities (income and ex-

pense) and capital purchases (equipment and property).

(2) Financial Statements. POs also must prepare an income and expense statement, which can be done either on an accrual basis or cash basis.

f. Audits. POs with annual gross revenues (sales income, dues, service charges, and donations) of less than \$100,000, but more than \$5,000, are not normally required to conduct an independent audit or financial review. However, they must submit annual financial statements to the FSS/FRS 20 days following the end of the PO's fiscal year (AFI 34-223, paragraph 10.7.3). The installation commander may require more frequent submissions. For those clubs with annual gross revenues of \$100,000 or more, but less than \$250,000, a financial review performed by an accountant once every year is required (AFI 34-223, paragraph 10.7.2). Finally, all POs with annual gross revenues of \$250,000 or more must have an annual audit done by a certified public accountant. Few POs, if any, fall into this category. All audits and reviews are at the PO's own expense.

g. Internal Controls. Private organizations must implement internal control procedures that ensure:

- (1) Adequate segregation of duties
- (2) Proper procedures for authorizations
- (3) Adequate documents and records
- (4) Physical control over assets and records
- (5) Independent check on performance

h. Liability. Private organizations must have adequate insurance to provide liability coverage against personal injury or property damage claims that may arise from their activities. The installation commander determines their insurance needs based upon advice from the staff judge advocate and the FSS commander. PO members must be made aware that they are jointly and severally liable for the obligations of the PO, and their understanding of the liability must be documented. The absence of liability in-

insurance places the member's personal assets immediately at risk in the event of PO liability. The United States Air Force is not liable for any debts or damage caused by a member of a PO.

(1) Waiver. The installation commander is authorized to waive the insurance requirement if he or she determines that the PO has an extremely low liability exposure. If your PO does receive a waiver, however, remember that it only releases you from complying with the regulation and will not protect the PO from liability should someone have a valid claim against you or if they successfully sue the PO.

(2) Special Events. A waiver of insurance normally only applies when NOT holding special events. Depending on what the event is, the commander may require you to obtain insurance. If you desire a waiver for the special event, you should request the waiver at the same time you request permission to hold the event.

(3) Member Liability. Generally, members are personally liable for unsatisfied obligations of the PO. This may include any civil suit that results in liability for the PO.

(4) Fidelity Insurance. Fidelity insurance is an optional type of coverage to protect the PO against misappropriation or embezzlement by members. We recommend the PO consider purchasing the insurance if it deals in large amounts of cash-on-hand or large amounts of cash flowing through its bank accounts. At a minimum, the PO should have rules in effect which require multiple signatures for banking transactions.

i. Soliciting Gifts. The actions of a PO must not prejudice or discredit the Air Force. Solicitation by POs of gifts or money from local civilian merchants could be wrongly perceived as a request officially sanctioned by the Air Force. The Executive Branch ethics regulation (5 CFR 2635.202(a)) states that AF members and employees are prohibited from soliciting gifts from DoD contractors or their employees, or gifts that would be given

because of their official position (i.e., gifts that would be based on their official status, authority or duties). Although care should be taken before accepting any donation to ensure that there is no appearance of impropriety, extra care should be taken when the gift is for the social side of a PO, as opposed to a gift that merely passes through the organization and to a legitimate charitable recipient.

j. Logistical Support. Private organizations must furnish their own equipment, supplies, and other materials. Nonappropriated or appropriated funds will not be used to support them. Government-owned equipment, however, may be loaned or rented. POs may be provided space for meetings without reimbursement if the use of the space is occasional and only a minor part of the space's other official uses. Exclusive use of space or facilities requires special approval, and reimbursement may be required. Air Force personnel may use official email to send messages on behalf of their POs per AFMAN 33-152, para 3.1.3.4. However, AFI 34-223, para 11.1.3 restricts this privilege when off-installation fundraisers and volunteer requests are the subject of the email message. Specifically, Air Force personnel may not use official email to advertise unofficial off-installation fundraisers and volunteer requests. Additionally, this provision prohibits the use of "official email, mail, computers, copiers, BITS, etc." in support of such activities. However, POs may provide notice of such fundraisers and volunteer requests using "daily bulletin boards or electronic public folders." See para 11.1.3.

4. SCHOLARSHIPS

a. Many POs have some type of scholarship program, and the funding of those scholarships is usually done using its general welfare or charitable funds to finance the program. The question about scholarships that is most often asked is whether members of the PO may receive one of the scholarships. The answer is YES. Scholarships may be awarded to members of the "Air Force family" or the general public and, therefore, members of the PO may

receive a scholarship, but only if:

(1) The selection of the recipient is made by someone or a group other than the PO, and

(2) The scholarship competition is open to at least the entire "Air Force family" or a significantly large group encompassing more than just PO members.

b. Note the distinction between providing funds for scholarships and selecting the recipient. The PO may fund the scholarship no matter who the recipient is. However, it may not select one of its own members as the recipient. In order for a member to receive the scholarship, the foregoing rules must be complied with. Moreover, no other criteria can be imposed which would favor the selection of a PO member over nonmember applicants.

c. The restrictions listed above are designed to eliminate two problems.

(1) The first is to avoid the appearance of impropriety. Without an independent panel acting as a "buffer" between the PO and a member recipient, the award of a scholarship to a member would create such an appearance.

(2) The second matter involves protection of the PO's tax exempt status. The tax laws prohibit any of the PO's net earnings from inuring to the benefit of its members. Thus, if scholarship competition was restricted to PO members or members of their families, the PO would constitute a mutual benefit association and not a charitable organization. The independent panel is designed to create a sufficient buffer between the money and the organization in the sense that the PO cannot control who will receive the scholarship. While the use of such an independent panel has not been directly sanctioned by the Internal Revenue Service, we believe they will view the loss of control of the funds as the factor that exempts the scholarship award to a member from the normal rule that no net earnings may inure to a member.

d. POs should consider submitting their scholarship application to the PO monitor for a legal review before it is distributed and the system for the selection of recipients. Such a review may clear up any potential misunderstandings.

5. THRIFT SHOPS

Most Spouses' clubs operate principally as social clubs with a heavy emphasis on charitable activities benefiting the Air Force community. To finance those activities, many clubs operate thrift shops on a continuing basis, either exclusively as an Officers' Spouses' club or Noncommissioned Officers' Spouses' club function or perhaps as a joint venture. When both clubs operate the thrift shop, there should be either a formal or informal agreement that governs distribution of the net proceeds. Regardless, you should be aware of some of the special rules which apply to thrift shops.

a. Consignment Contracts. Thrift shops should use a clearly worded consignment contract and no merchandise should be accepted for sale unless the owner has signed the contract which should then be kept on file. It is legally permissible to provide in the consignment contract that merchandise becomes the property of the thrift shop if not claimed within a stated period (usually 90 days). It is a good idea to point out this provision in the contract to the consignor when the contract is signed and have the consignor initial or otherwise acknowledge understanding of it. However, even if such language is in the contract, we believe the better practice is to provide reasonable notice to the consignor near the end of the period to allow the person the opportunity to either claim the goods or sign another contract. Keeping written memos of efforts to contact consignors and what was discussed is a good practice should questions later arise. If the consignor does not act within the prescribed time, then the thrift shop would have the discretion to dispose of the property--governed, of course, by the terms of the contract.

b. Checks. Thrift shops may void checks which are not cashed within a certain period of time (usually 60 days). We believe that if such a policy is instituted, the rule should be clearly stated in the consignment contract and printed conspicuously on the check. Of course, voiding the check does not necessarily void the underlying obligation to pay the debt. For example, if the thrift shop sends a check by mail and the check is lost, the legal obligation to pay would still exist. If a consignor receives a check for consigned goods but fails to cash it within the prescribed time, a reasonable effort should be made to contact the consignor to determine the status of the check.

c. Federal Taxes. Exemption from federal income tax is discussed in Appendix 1, but income tax may not be the only tax problem encountered by a thrift shop. Other laws, such as those respecting social security and employer contributions, will apply if there are paid employees. Generally, receiving recognition as a tax-exempt organization does not exempt a thrift shop from these laws. To avoid these problems, we recommend that you not establish an employer-employee relationship but rather deal with the person as an independent contractor. Of course, with an individual that is paid to do work at the thrift shop, such as a manager, bookkeeper, or janitor, this means that you will have to have a contract drawn up or use the form provided by the contractor. The arrangement cannot be a sham and must be based on a legitimate contract which clearly establishes an "arms-length" relationship between the club and the contractor.

(1) This rule applies not only to thrift shop operations but also to any person paid by the Spouses' club to perform services for the club under what might appear to be an employer-employee relationship. Be sure to consult a tax consultant in this regard because severe IRS penalties exist for the failure of "responsible parties" to properly withhold federal income taxes. You will have to report to the Internal Revenue Service the amount you pay this individual, but this method is still less cumbersome than the employer-employee method.

(2) When dealing with tax exempt status for your club and thrift shop, remember that all reasonable expenses in running the shop are excluded when considering whether all the income is used for charitable purposes. All net income must be used for charitable purposes, and all expenses must be reasonable. Most administrative and overhead costs are reasonable.

d. State Taxes. Since thrift shops are not instrumentalities of the federal government, they are not entitled to be treated as such under state laws. While most states will exempt from income tax those clubs which are exempt from federal income tax, state and local sales tax are a different matter and an increasing number of states are assessing sales taxes against thrift shops operating on military installations. Given the various laws concerned, we can't make any uniform statement here other than to once again caution you to seek a tax consultant's advice on these matters.

e. Insurance. The installation commander may have waived the insurance requirement of AFI 34-223 for the Spouses' club and Thrift Shop, but remember that this waiver only releases you from complying with the provisions of AFI 34-223. It does not protect you should someone sue either for personal injury incurred at the Thrift Shop or for negligent damage to consigned property. The Air Force cannot indemnify you against such liability.

6. ART AUCTIONS

Spouses' clubs and other POs often use art auctions as an enjoyable way to raise money for their operational or charitable account. Due to an increase in the number of investigations by the OSI and other agencies into fraudulent art sales on military bases, you need to consider several factors before deciding to sponsor such an event. Art auction participants are predisposed to trust you as the sponsor and impute a degree of this trust to the auctioneer you have contracted with. Since proceeds from auctions generally go to charities, participants are inclined to give generously. Combining these factors with the fact that the art auction industry is by

and large unregulated puts prospective buyers of misrepresented art at a greater risk of fraud. There are several steps your club can take to minimize these risks.

a. Understanding Questionable Marketing Strategies. Some art auction companies misrepresent the value of their products by leading buyers to believe that they are purchasing a lithograph as an investment that will appreciate in value when, in fact, the picture is merely a copy of a lithograph which has been reproduced by a high speed printer. Be particularly aware of the use of terms such as "fine art print" which can be used to misrepresent a high-speed copy as if it were an investment quality lithograph. Recent investigations have repeatedly found that when the seal is removed from the back of an "investment quality lithograph," it was, in fact, a high speed copy printed on the back of a calendar. These "calendar art prints" are of nominal value and certainly will not appreciate in value over time.

(1) Beware of some companies offering your organization an exceptionally high percentage of the gross sales. Legitimate auctioneers generally offer between 8 percent and 15 percent. Questionable companies may offer significantly more, between 20 percent and 30 percent. With gross sales generally averaging between \$10,000 and \$15,000, this higher percentage can be a significant inducement. Fraudulent art dealers can afford to pay these higher commissions because the purchasers are paying excessive amounts for copies of nominal value. However, the percentage should not be the sole basis on which you judge the honesty of the company.

(2) Beware of blanket return policies which guarantee customer satisfaction. These broad assurances tend to lull buyers into a false sense of security by implying that the "investment quality lithograph" will appreciate in value, thereby protecting the buyer through potential resale. When questionable art auction companies are pressed for proof of authenticity on a particular piece of art, they either provide documentation of questionable validity or they fail to provide any authentication whatsoever.

Some companies will attempt to protect themselves from liability by defining certain terms in flyers sent to the sponsor which generally are not made available to prospective purchasers. "Fine Art Print," for example, may be defined as, "A term used to describe high quality prints," (i.e., calendar art prints). The company will rely on this definition to defend themselves against a misrepresentation allegation, while a prospective purchaser may be misled by the "fine art" reference. In some investigations, staff judge advocates have found that the actual written documents used by these companies protected them from an allegation of intentionally misrepresenting their product or misleading prospective buyers.

b. Reputable Auction Practices. Legitimate auctioneers will often make available to you in advance of a planned auction a listing of the fair market values of all their products. Some will even encourage prospective sponsors to contact local art dealers to compare their prices with those listed by the auctioneer and to comment to the sponsor if the prices seem unreasonable. Some auctioneers will also stop taking bids on a piece of art when the price reaches the fair market value and offer to sell prints to all those still engaged in the bidding at that price.

c. Other Considerations. Prospective sponsors should be aware that in at least one art fraud investigation, a US Attorney concluded that the sponsor could be held criminally liable for complicity in a crime if the sponsor was aware of the potential for a criminal act to be perpetrated during an auction. To avoid this potential, all sponsors should coordinate all prospective art auctions with the base PO monitor. Additionally, you may want to check with your local law enforcement agency to see if the auctioneer is under investigation. If you do find a reputable auctioneer and are planning an auction, consider the following points before entering into a contract:

(1) Insist upon a detailed contract setting forth the respective rights and obligations of the parties, including a requirement that the auctioneer announce the "status" (e.g., original, lith-

ograph, copy, etc.) of each item before bidding begins.

(2) Require the auctioneer, by contract, to settle all fund disbursements at the conclusion of each day's sales. All checks for purchases should be made payable to the auctioneer and not to your club. You should require the auctioneer to agree to a hold harmless provision protecting your club from any claims or lawsuits brought against him as a result of this event.

(3) Consider negotiating with the auctioneer to enter into an indemnity agreement to protect your club from potential apportionment of liability, despite the hold harmless provision.

d. Caution. Remind your club members they should not make any recommendations about any piece of artwork being sold. This includes any "hype" about what will be for sale or statements suggesting that the artwork will be worth the price paid. In the heat of an auction, a person may well bid more than the piece is worth and possibly even more than he/she wanted or intended to pay.

7. DEACTIVATION OR DISSOLUTION OF A PO

a. General. In case of dissolution of a PO, the PO should do the following:

(1) Notify the FSS commander or division chief of their intent to dissolve the PO.

(2) Prepare a time-phased plan to terminate the PO's operations.

(3) Revise the budget, if necessary.

(4) Limit expenditures to those required to liquidate liabilities or pay essential bills.

(5) Notify vendors of the pending dissolution and cancel

outstanding orders.

(6) Funds in the treasury should first be used to satisfy any outstanding debts, liabilities, or obligations.

(7) The balance of the assets will be disposed of as determined by the membership. This is a topic that *must* be addressed in the PO's constitution or bylaws. Also, see below.

b. Distribution of Assets: If a PO has a tax exempt status, its earnings, income, or the results thereof are prohibited from inuring to the benefit of its individual members. Funds may not be divided among the members when a PO disbands or spent in a lavish manner on the members. Assets and money should be disposed of for the reason for which they were raised (e.g., scholarships), redistributed within the command, or given to a charitable organization (on or off base) with similar goals so long as the recipient reflects favorably upon the PO and the Air Force. This means that should an organization dissolve, its assets must be distributed for an exempt purpose or given to the federal, state, or local government for a public purpose. If the assets are distributed for any other purpose, the tax-exempt status is at risk. If the IRS challenges that status, each member may be liable for back taxes, interest, and penalties.

(1) There is no prohibition in Air Force regulations concerning the sale of assets to PO members. The primary guide should be the PO's constitution and bylaws. To ensure that there is not an appearance of impropriety or a violation of the tax-exempt status of the PO (which prohibits benefits from inuring to members) all sales must be arms-length, fair market value sales. There can be no discount, good deals to members.

(2) In order to ensure that the deal is arms-length, you may want to have an appraisal done by an independent third party. Self-appraisal, though not prohibited, may not be done by anyone making a purchase and is generally discouraged.

(3) Don't forget that local museums, military museums, and the like may have an interest in obtaining historic pieces concerning the base and the PO. Making gifts to these organizations can be a boon for public relations. Assets that would otherwise be abandoned may be acquired by the installation or another installation under the terms of AFI 51-601, *Gifts to the Department of the Air Force*, or by a NAFI.

(4) The bottom line in disposing of assets is to protect the integrity of the system, the PO, and the members. The appearance of wrongdoing may be just as bad as intentional wrongdoing.

c. Records. A potential problem is safeguarding the records after dissolution. It is possible that your organization could be audited for six years or more if the IRS believes that you failed to report income. An unfavorable audit could make the PO board and members personally liable for any deficiency. Make sure that the records are safely secured and that they can be located, if required.

8. LEGAL SUPPORT

Installation legal offices may provide **limited legal information, general guidance, and support** to POs such as the Spouses' club. This advice is generally rendered to the installation commander, his designees or the FSS commander in their role as approval authorities for PO operations and activities on base, as well as in their roles of monitoring PO activities to insure compliance with Air Force instructions. The installation legal offices and their lawyers **are not allowed to enter into attorney-client relationships** with the Spouses' club, or members of the Spouses' club acting in their official capacity. Among other things, this means that base lawyers may not act as advocates for spouses' club nor are they bound by the rules on confidentiality that ordinarily apply.

The following examples illustrate the level of support a installa-

tion legal office may provide:

Example 1: Tax-exempt status – Installation legal offices may advise the Spouses’ club on the requirements for obtaining tax-exempt status, to direct attention to IRS Publication 557, and to distinguish between 501(c)(3), (c)(4) and 501(c)(7) organizations. The spouses’ club must fill out and file the appropriate forms.

Example 2: Raffles and other gambling type activities on base – Installation lawyers may provide information on state and local law regarding restrictions on raffles and gambling type activities. The Spouses’ club would be required to complete, sign, and file for permission to conduct an on base raffle, which the wing legal office will then probably review at the approval authority’s request for legal sufficiency.

Example 3: Consumer complaints – Judge advocates may provide advice on consumer matters if the Spouses’ club encounters problems with retailers. They may give Spouses’ clubs information regarding federal, state and local law as well as guidance from Federal Trade Commission consumer handbooks. They may give recommendations regarding how to frame issues or pursue recovery. The Spouses’ club would be required to write their own correspondence and otherwise pursue the matter on their own.

Example 4: Club Organizational documents: The installation legal office will review your constitution and bylaws on start-up and during requisite reviews required by instruction. Any problems or issues noted will be passed to the FSS/CC and then to you.

II. UNOFFICIAL ACTIVITIES

1. SOURCES OF AUTHORITY

Many organizations on base are not organized as POs but rather

are unofficial activities with limited assets. Unofficial activities are small groups of individuals who are not required to be formally authorized as POs because of limited scope, membership, and funds. Although the organizations are not "official," they are still subject to control by the installation commander. Typically, this control is exercised in such a way as to treat unofficial organizations in the same manner as POs when it comes to fund-raising and approval for other activities. Unofficial activities are organizations with current monthly assets of less than \$1,000. Examples of these are unit coffee funds, flower funds, a squadron Spouses' club, and other small operations.

2. CONSTITUTIONS, BYLAWS, AND ACCOUNTING

Although there are no formal constitution, bylaw, or formal accounting requirements, it is advisable to have written rules to follow covering, but not limited to, the following: membership requirements, dues (if any), how the money will be spent, and what will happen on dissolution of the organization. Although there are no formal accounting requirements or requirements that money be kept in a bank account, if large sums of money are being handled by the club, for accountability and accounting purposes, a bank account and some form of an accounting system are a good idea.

3. ASSETS

Monthly assets, including cash, inventories, receivables, and investments, may not exceed a monthly average of \$1,000 over a 3-month period. If they do, the activity must either:

- a. Become a PO,
- b. Discontinue operations, or
- c. Reduce its current assets below the \$1,000 threshold.

If gross receipts are \$5,000 a year, there may be tax consequenc-

es. Check with your local staff judge advocate.

4. FUNDRAISING

Money may be raised by sales to members at a small markup, by dues, carnivals, dances, car washes, and by sales to nonmembers on an infrequent, nonrecurring basis. Fundraising sales must be approved by the installation commander or a designee. See Chapter I, Sections 3(c) and (d) above on rules for fundraising and prohibitions.

5. LIMITATIONS

Other limitations on unofficial activities:

- a. They may not hire employees.
- b. They may not sell alcohol. This does not preclude members of these activities from collectively purchasing such beverages for their own consumption if the requirements of AFI 34-219, *Alcoholic Beverage Program*, are met.
- c. No games of chance under any circumstance.
- d. Fundraising activities may be restricted or prohibited during Combined Federal Campaign (CFC) or Air Force Assistance Fund (AFAF) drives.

III. PROFESSIONAL MILITARY ASSOCIATIONS

Professional Military Associations (PMA) are non-profit, non-commercial organizations that exist to support, promote and develop the interest of our Armed Forces and military professionals. These organizations have increased awareness of the Air Force mission with the American public and have fostered mutually beneficial relationships among government, industry and civic leaders. In limited circumstances, to the extent that the Joint Ethics Regulations allow, the Air Force may be able to assist with

certain limited logistical support. All requests for assistance should be coordinated with the local staff judge advocate. Although, the Air Force is allowed to provide limited logistical support to PMA in some circumstances, this should not be construed as an endorsement or favoritism by the Air Force.

IV. ROLE OF THE SPOUSE

It is the choice of a spouse to pursue employment, to be a homemaker, to attend school, or to serve as a volunteer. This is a private matter and decision. The Air Force has a history of volunteers making tremendous contributions to the morale and well-being of the Air Force family. However, it must be exactly that--voluntary. There is a fine line in recruiting volunteers. Calling the spouse of a lesser ranking individual and asking them to volunteer could raise the question of whether participation is actually "voluntary." A decision of a spouse may not affect, favorably or adversely, the performance appraisals, assignment, or promotion opportunities of the member. If a military member takes action against another military member because of the decision of a spouse, the member taking action is subject to disciplinary action.

V. FINAL COMMENTS

The comments and interpretations above are not all-inclusive. There are too many different situations that can arise to discuss them all in any pamphlet. We hope that this pamphlet is of some value in operating your PO and in avoiding embarrassing situations.

Also note that while most of the comments above apply worldwide, additional restrictions and unique tax laws and consequences may apply overseas. When in doubt, consult the local staff judge advocate.

One problem we often see is the failure of POs to follow their constitution and bylaws. At a minimum, you must update the constitution and bylaws every two years or when there is a change in the

purpose, function, or membership eligibility of the PO, whichever comes first. It is a good idea to annually go over the constitution and bylaws at a meeting. When was the last time you read your constitution and bylaws? Are they still meeting the needs of your PO? Are you following them? Your PO may not need to make changes every year or ever. But it is nice to be familiar with the limitations that have been placed on the operation of the PO. It is also important that the PO follow those limitations.

Finally, interpretations of what is legal and what isn't appear to change from base to base; they shouldn't. Everyone seems to have different ways to interpret the same words. There is no authorized way to "get around the rules." Remember, not only do we need to abide by the letter of the law, but we should also follow the spirit of the law.

VI. APPENDICES

APPENDIX 1. TAXES

POs must comply with all applicable federal, state, and local laws, including the laws of taxation. Since most POs generate income from dues, assessments, fundraising activities and other sources, they are subject to federal (and usually state) taxes on that income. It is therefore desirable for each PO to seek federal tax exempt status whenever possible so that a greater percentage of its money can be put to good use. In order to qualify for federal tax exempt status, however, POs must be organized for one or more of the purposes specifically outlined in the Internal Revenue Code. This is an area where your staff judge advocate can be of great assistance to you in compiling the documentation you need to accompany your application, but, generally speaking, three of the categories under the Internal Revenue Code under which tax exempt status may be granted appear applicable to Spouses' clubs.

a. Section 501(c)(7), Social and Recreation Clubs

(1) A PO organized for pleasure, recreation, and other nonprofitable purposes is entitled to tax exempt status if most of its activities relate to these purposes and no part of the net earnings inure to the benefit of any member. Application must be made on IRS Form 1024. In general, a Section 501(c)(7) club should be supported solely by membership fees, dues, and assessments, but a club will not necessarily lose its exempt status if it receives a limited amount of income from nonmember sources if the money is raised in furtherance of the club's exempt purpose.

(2) In applying for a Section 501(c)(7) exemption, a PO should submit evidence that personal contact, commingling, and fellowship exist among its members. Members must be bound together by recreation, pleasure, or other nonprofitable purposes. Limitations on admissions to membership must be consistent with the character of the organization. The fact that an organization has an associate class of membership will not be, in and of itself, a cause for non-recognition of exemption, but if one class of membership pays substantially lower dues than another class, there may be a benefit of income to one class resulting in a denial of the exemption. Discrimination on the basis of race, religion or color is not permitted.

(3) No part of a Section 501(c)(7) PO's net earnings can be used to benefit any person having a personal or private interest in the activities of the PO.

(4) There are two "percentage tests" that apply to a PO granted tax-exempt status under Section 501(c)(7). First of all, since the PO should be supported principally by dues, fees, and assessments, no more than 35 percent of its gross receipts, including investment income, should come from sources outside the membership. Having outside income in excess of 35 percent may place the tax-exempt status in jeopardy. For example, a PO that receives \$60,000 directly from its members through dues but raises another \$40,000 from bazaars or other fund-raisers open to nonmembers would run afoul of the 35 percent test since, in our example, 40 percent (not just 35 percent) of the PO's receipts are

coming from outside the membership. In this situation, the Internal Revenue Service would look at all the facts and circumstances to determine whether the club's tax exempt status should be withdrawn. A second "percentage test" is that no more than 15 percent of the PO's gross receipts may come from use of the PO's facilities or services by the general public.

(5) Take the previous example and modify it slightly. This time the PO receives \$70,000 in dues and assessments from its members and only \$30,000 from outside sources. Here, there is no problem with the 35 percent rule we've already talked about. Of the \$30,000 from outside sources, however, \$20,000 comes from thrift shop income and \$10,000 comes from other fundraisers. Because the thrift shop is a continuing activity open to the general public and 20 percent of the PO's gross receipts are from this source, the 15 percent rule is violated. Again, the Internal Revenue Service will look at all the facts and circumstances before they rule on whether the PO should lose its tax-exempt status. **Remember, though, that these 35 percent and 15 percent tests do not apply to POs exempted under sections 501(C)(3) or 501(C)(4).**

(6) A Section 501(c)(7) PO may, if it desires, establish a fund separate and apart from its other funds to be used exclusively for charitable purposes. A fund with those characteristics must be organized in such a manner as to prohibit the use of its money, upon dissolution or otherwise, for the general purposes of the organization creating it. Such a fund may qualify for exemption as an organization described under Section 501(c)(3), and contributions made to it are deductible as a charitable contribution for income tax purposes. (CAVEAT: Any such separate fund established after October 9, 1969, will not be treated as tax exempt unless application is made for recognition of exemption by filing IRS Form 1023 with the key District Director of Internal Revenue. Any such separate fund or organization, however, whether established before or after October 9, 1969, which fits the requirements of Section 501(c)(3), is not required to file IRS Form 1023 for tax exempt recognition if annual gross receipts normally do

not exceed \$5,000.) Thus, a Section 501(c)(7) Spouses' club that establishes a fund separate and apart from its basic organization and funded by a thrift shop with gross receipts of \$5,000 or less is not required to seek formal recognition of the separate fund by the filing of IRS Form 1023. Such an organization would be exempt automatically, although it would not be precluded from filing IRS Form 1023 and receiving formal recognition.

b. Section 501(c)(3), Charitable Organizations

(1) A PO may qualify for exemption from federal income tax under Section 501(c)(3) if it is organized and operated exclusively for charitable purposes. The PO must serve a public, not a private interest. Moreover, it must meet certain requirements at the time of organization and cannot engage in activities (such as political or lobbying activities) that do not further its exempt purposes. The net earnings of a Section 501(c)(3) PO cannot be used for the benefit of its members. A Section 501(c)(7) social club cannot therefore establish a separate charitable fund as a Section 501(c)(3) organization and use that separate fund for the benefit of members of the social club.

(2) If a Section 501(c)(3) PO plans to award scholarships, the following information must be submitted on IRS Form 1023:

(a) Criteria used for selecting recipients, including the rules of eligibility.

(b) Describe how you determine the number of grants that will be made annually.

(c) Describe any requirement or condition that you impose on recipients to obtain, maintain, or qualify for renewal of a grant.

(d) Describe your procedures for supervising the scholarships, fellowships, educational loans, or other educational grants.

(e) Describe whether you obtain reports and grade transcripts from recipients, or you pay grants directly to a school under an arrangement whereby the school will apply the grant funds only for enrolled students who are in good standing.

(f) Describe your procedures for taking action if the terms of the award are violated.

(g) Who is on the selection committee for the awards made under your program, including names of current committee members, criteria for committee membership, and the method of replacing committee members?

(h) Are relatives of members of the selection committee, or of your officers, directors, or substantial contributors eligible for awards made under your program? If "Yes," what measures are taken to ensure unbiased selections?

c. Section 501(c)(4), Civic Leagues and Social Welfare Organizations

(1) A PO may qualify for federal tax exempt status under Section 501(c)(4) if it is not organized for profit and operates exclusively for the promotion of social welfare. Application for tax exempt status under this provision is made by filing IRS Form 1024. The PO must be operated on a nonprofit basis and must operate primarily to, in some way, further the common good and general welfare of the people of the community. (We are concerned that the Internal Revenue Service may be reluctant to recognize the Air Force community as a "community" as contemplated by this provision.)

(2) If social activities constitute the primary purpose of the organization, exemption under Section 501(c)(4) will be denied. An exemption should be applied for as a social club (Section 501(c)(7)).

d. Annual Information Returns

(1) A Section 501(c)(3), Section 501(c)(4), and Section 501(c)(7) Spouses' club or private organization must file an annual information return on IRS Form 990 if the club has annual gross receipts in excess of \$25,000.

(2) If a club has \$1,000 or more gross income from unrelated business, it must also file an IRS Form 990-T, Exempt Organization Business Income Tax Return. Remember that this requirement to file the IRS Form 990-T, if applicable, is in addition to the requirement to file the IRS Form 990.

e. Tax on Unrelated Business Income

(1) Even though a PO may be granted tax-exempt status, it still may be liable for tax on its unrelated business income. Unrelated business income is income from a trade or business, regularly carried on, that is not substantially related to the purposes constituting the basis for the exemption of the PO. The primary objective of the tax is to eliminate unfair competition to taxpaying businesses by taxing exempt organizations on the same basis. Income from a thrift shop used exclusively for welfare purposes is exempt from the unrelated business income tax.

(2) A Section 501(c)(7) PO does not pay tax on dues, fees, and similar charges paid by members for group services rendered to them, their dependents, or their guests. They neither pay tax on investment income that is set aside for charitable, religious, or educational purposes. Income from an organization's unrelated business, however, cannot be set aside and exempted from taxes.

(3) Intermittent income-producing activities are not considered as a trade or business "regularly carried on." For example, income-producing or fundraising activities lasting only a short period of time will not ordinarily be treated as "regularly carried on" if they occur only occasionally or sporadically. Further, such activities will not be regarded as "regularly carried on"

merely because they are conducted on an annually recurring basis.

(4) If a PO has unrelated business income, it must make quarterly payments of estimated tax for such income if the estimated tax for the year can be reasonably expected to be \$40 or more.

f. Benefits to Members

As stated previously, the tax laws prohibit any net earnings of the PO from inuring to the benefit of its members. In other words, a PO member may not receive any financial or other private gain from the PO. Paying a member reasonable compensation for services rendered to the PO (such as bookkeeping or editing a monthly newsletter) does not violate this rule. Allowing a member to use PO activities to benefit their private business interests would probably be deemed improper. Violations of this rule could result in it losing its tax-exempt status, so care should be exercised to avoid questionable situations.

g. Summary

(1) While most POs will not be able to qualify for a Section 501(c)(7) exemption as a social organization or as a Section 501(c)(3) exemption as a charitable organization, most Spouses' clubs are able to qualify.

(2) A thrift shop, operated by a fully recognized Section 501(c)(7) Spouses' club, may qualify as a Section 501(c)(3) organization, if all proceeds are earmarked for charitable purposes after payment of reasonable expenses.

(3) A Section 501(c)(7) PO operating a thrift shop that has not been exempted under Section 501(c)(3) may not have to obtain a Section 501(c)(3) exemption for the thrift shop if proceeds from the thrift shop do not exceed the 15 percent limit on the Section 501(c)(7) organization's income generated from out-

side sources (i.e., services open to the general public). However, we recommend seeking Section 501(c)(3) tax exempt status for the thrift shop.

(4) Because there are eight District Directors of the Internal Revenue Service that are responsible for granting tax exempt status for organizations, there will probably be varying results on the types of exemption granted to Spouses' clubs. Applicants for tax exempt status must be thoroughly familiar with the operation of the club, to include a thorough knowledge of its financial records. (An excellent resource that discusses the rules and procedures for organizations seeking tax exemptions is IRS Publication 557, *Tax-Exempt Status for Your Organization*. It can be obtained online.) So armed, applicants can be more persuasive in convincing district directors of entitlement to tax exempt status or responding to challenges to the status or expenditures.

(5) Remember that federal income tax may not be the only tax problems your PO encounters. It may be liable for other types of taxes; e.g., state taxes, as well as liability for social security payments for employees.

(6) Finally, remember tax issues should not be taken lightly. When a PO receives any notice from a government agency concerning its tax status, the PO's accountant (if any) should be consulted immediately to ensure the PO's interests are protected. The base staff judge advocate may also be able to assist in helping the PO with referral services that can assist it in answering tax notices. PO officers should also see to it all required reports and tax forms are timely filed.

APPENDIX 2. QUESTIONS AND ANSWERS

Questions and answers to some commonly encountered Spouses' club issues are as follows:

1. Can a PO pay the baby-sitting expenses of volunteers?

Yes. Under certain circumstances, the expenses may be paid. For example, ordinary and necessary payments in carrying on charitable activities (501(c)(3)), such as administrative expenses, are permissible unless the amount is unreasonable. Balanced against this rule is the prohibition for 501(c)(7) social clubs which states that no part of the net earnings of the organization inures to the benefit of any private member. When a member volunteers to work at the thrift shop or other charitable fundraising activity, the payment of the member's baby-sitting costs can be classified as an ordinary and necessary administrative expense of the fundraising activity. However, payment should be made by the organization directly to the baby sitter, e.g., base childcare center or individual sitter. Direct payment to the member/volunteer may be technically more difficult to justify. Baby-sitting services may be paid for as ordinary administrative expenses of a 501(c)(4) social welfare organization as long as they are ordinary and necessary expenses for carrying on the social welfare activities of the organization. The payment of baby-sitting expenses for members to work on social functions would be permissible for 501(c)(7) social clubs as an incidental administrative expense of providing social or recreational activities unless the amount is unreasonable. However, the payment of baby-sitting expenses to attend a social or charitable function would not be permissible, e.g., payment of sitters so that members could attend a dinner or dance.

2. Mrs. Jones, a talented artist, has been asked to teach an art class to other club members. Can she be paid? By whom? What about her expenses?

For 501(c)(7) social clubs, Mrs. Jones may be paid by the club because such organizations are formed for social and recreational purposes of its members. If the club pays Mrs. Jones more than \$600 in a calendar year, the club must provide her with an IRS Form 1099-Misc. The members attending would pay the club, and the club may purchase the supplies directly for Mrs. Jones. The club may reimburse Mrs. Jones for the cost of supplies if a detailed statement with receipts is provided.

Unfortunately, 501(c)(3) charities and 501(c)(4) social welfare organizations cannot pay Mrs. Jones to teach an art class unless the activity is being sponsored as a charitable fundraising event. If the art class is open to the general public, a 501(c)(4) social welfare organization would be able to pay Mrs. Jones as an incidental administrative expense in promoting social welfare and art appreciation.

3. The Spouses' club thrift shop needs administrative supplies. May these be purchased from the welfare fund?

Yes. A reasonable percentage of publicly raised funds may be used for administrative requirements. This should be thought of as a function of both the amount needed and the relationship to the welfare fund as a whole. It would be wise to consult a tax advisor prior to making large expenditures of this nature.

4. Mrs. Smith has been very impressed with the PO activities in support of a local tax-exempt charity and wants to give a donation for the charity's use. May she? Is it tax deductible?

Mrs. Smith may, of course, make a donation to the club and ask that it be used to support a specific charity. However, under that scenario, Mrs. Smith's gift may not be tax deductible, depending on the club's status. Gifts to 501(c)(4) and (c)(7) Spouses' clubs are not deductible. To ensure the deductibility of her gift, Mrs. Smith should make the payment directly to the charity. A similar situation arises with "charity balls" sponsored by Spouses' clubs. Such activities, themselves, should be the recipients of attendee payments and therefore would also be responsible for expenses. Gifts to a 501(c)(3) club may be deductible.

5. Mr. Johnson slips and falls on the base club steps on his way to a club luncheon sponsored by the Spouses' club. Who is liable for his injuries? What if this occurred at a private residence? What if he broke his tooth on another member's cookie at the annual cookie exchange?

The government does not insure Spouses' club activities. However, if a club member (or guest) is injured on base at a base facility, such as slipping on the base club steps, the government might be liable. Spouses' club liability in this instance would be negligible. In an accident occurring at a member's home, the club, as well as the member, might be liable.

While Air Force regulations require Spouses' clubs and other private organizations to carry liability insurance, it is possible to get a waiver of that requirement. The decision whether to request waiver of this requirement depends upon many factors, the most important being the risk associated with the club's planned activities. Where there is low risk, a request to waive the insurance requirement may be appropriate.

6. Do club/PO officers have any special risks?

Officers (not military officers, but club board members or PO officers) may be held liable for adverse consequences of club activities depending on many factors, particularly their involvement in the planning and execution of such activities. The government does not provide insurance for such officers. There are insurance policies available that would provide protection specifically for club officers. If Spouses' clubs purchase liability insurance, specific coverage for club officers should be included in the package. Many states have laws protecting officers of nonprofit organizations from liability for injuries stemming from organizational activities. Clubs are encouraged to check with the staff judge advocate regarding the status of the law on this matter in their particular jurisdiction.

7. A local merchant wants to donate a television for a raffle to raise money for scholarships. This sounds like a great idea to have in conjunction with the annual ball. Is it O.K.? Raffles may be authorized under certain circumstances. The organi

zation holding the raffles must comply with all local laws and regulations concerning raffles. The proceeds of the raffle must benefit DoD members and their dependents. Raffles to support local or national groups not primarily supporting DoD personnel and their dependents are not authorized. Likewise, raffles held by a private organization to support purely social, recreational, or entertainment purposes solely for members of the organization and/or their family members (such as to fund a ski trip) are not authorized. Another means of giving away a television, to use this example, would be to give each attendee a chance. Attendees desiring to make a voluntary donation could do so. The price of a ticket to a function may be increased by an appropriate amount and a door prize, in this instance the television, given. Consult the local staff judge advocate for any planned events in this thorny fundraising area.

8. Our PO wants to host tours of on-base privatized housing to raise money. Can we charge? What about donations?

Although the installation commander retains authority to regulate fund raising activities in privatized housing, the military no longer owns the actual housing. If the housing on your installation is privatized, there is no legal prohibition to the fundraiser charging admission fees or accepting donations. However, POs and participants still must gain the installation commander's permission and should be sensitive to appearances of impropriety and undue influence over subordinates such as the possible perception that a subordinate can curry favor by making a donation to tour a senior officer's personal residence and support their fundraising effort. Also, be sure and check with the privatized housing officer for any additional company restrictions.

**ATTACHMENT 1
SAMPLE FORMAT**

**CONSTITUTION
(Organization Title)**

**ARTICLE I
NAME AND PURPOSE**

The [Private Org name] is a private organization as defined in AFI 34-233, and will be referred to herein as the Association. It will be operated and administered in the manner outlined in AFI 34-223. The Association is not an appropriated fund instrumentality, nor is it entitled to the privileges or immunities of the federal government. The purpose of the Association is to serve as a vehicle for communications to all levels of command, promote esprit-de-corps, and benefit the [Private Org name] and associated personnel.

**ARTICLE II
GENERAL PROVISIONS**

SECTION I:

The Association will operate on ____ AFB with the consent of the installation commander. Operation is contingent on compliance with the requirements and conditions of all applicable ____ AFB and Air Force directives.

SECTION II:

The membership is generally jointly and severally proportionally liable for Association debts and obligations in the event the Association assets are insufficient to discharge liabilities.

**ARTICLE III
OFFICERS AND GOVERNING BODY**

The Executive Committee (President, Vice President, Recorder, and Treasure) will be elected by the membership at large as specified in the Constitution and Bylaws to administer the Association. The [Organization name] Superintendent will act as a non-voting advisor to the Association.

**ARTICLE IV
MEMBERSHIP**

(Include membership eligibility (should primarily be limited to members of the DOD community))

All active duty Senior Noncommissioned Officers, including selectees, and retired Senior Non commissioned Officers are eligible for membership in the Association.

ARTICLE V METHOD OF FINANCING

The Association's fundraising will be for the benefit of activities and programs that provides for the morale, welfare, and recognition of [Private Org name] personnel. Fundraising will be authorized by the [Organization name] Commander and approved by a vote of the general membership at large. The Association may also be financed through donation from the membership at large, collected by the treasurer of the [Private Org name].

ARTICLE VI MEETINGS AND QUORUMS

Meetings will normally be convened once a month and are open to all members. Special meetings may be convened at any time, as deemed necessary by the President or Executive Committee. A quorum is not required to conduct business as a general membership meeting.

ARTICLE VII ADOPTION AND AMENDMENTS

(Include "subject to final review by the installation commander.")

Subject to the written approval of the installation commanders, the Constitution and Bylaws may be adopted and amendments made by a majority vote of the members present at any meeting subject to Article VI. All proposals to change the Constitution and/or Bylaws will be submitted in writing to the Executive Committee at least 30 days prior to the next general membership meeting.

ARTICLE VIII INSURANCE

The Association will obtain insurance coverage as the situation or the installation commander may require.

ARTICLE IX
DISSOLUTION OF ASSOCIATION AND FUNDS

In case of the dissolution of the Association, funds in the treasury will be used to satisfy any outstanding debts, liabilities, or obligations. The balance of these funds will then be disposed of as determined by the general membership. If the Association is dissolved, it will be done IAW AFI 34-223, paragraph 12.3. Base Commander will be notified of the pending dissolution in writing.

signature
NAME, rank, USAF
Position, PO

**ATTACHEMENT 2
SAMPLE FORMAT
[PO name]**

BYLAWS

The following Bylaws are set forth for the normal operation and administration of the Association and will be directed on and a guide for association officers and members.

**ARTICLE I
DUTIES OF OFFICERS**

1. President:
 - a. Responsible for enforcement of the Constitution, Bylaws, and standing rules of the Association and ensuring the Association is governed by such rules and regulations.
 - b. Presides at all meetings of the Association.
 - c. Ex-officio member of all committees except the Nomination Committee.
 - d. Appoints special committees as deemed necessary.
 - e. Signs all minutes of the Association
 - f. Authorized to approve for payment by the treasure any bills, not included in the budget, for the Association operation, not to exceed \$50.00 or the balance, whichever is lesser.
 - g. Appoint a nominating committee prior to each election.
 - h. May co-sign checks.
 - i. Will notify Base Commander in writing of intent to dissolve the Association. The intent letter will include a time-phased action plan IAW AFI 34-223 paragraph 12.3.

2. Vice President:
 - a. Assumes the duties of the President in his/her absence.
 - b. Insures the accounts of the Association are audited prior to being turned over to the incoming Treasure.
 - c. May co-sign checks.

3. Recorder:
 - a. Records proceedings of each meeting of the Association and Executive committee
 - b. Maintains a copy of the Constitution, Bylaws, and current standing rules which will be available to the membership.
 - c. Acts as Chairperson in absence of both the President and Vice President.

- d. Forwards approved minutes of each meeting to the group commander, senior enlisted advisor, FSS commander, and members.
 - e. Maintains a correspondence file.
 - f. May co-sign checks.
4. Treasurer:
- a. Receives and disperses funds belonging to the Association as directed by the general membership or the Executive Committee.
 - b. The custodian of all Association funds.
 - c. Will maintain all authenticated receipts on all fund transactions.
 - d. Provides a financial statement at each monthly meeting. The statement will contain the status of all financial transactions and the current financial balance.
 - e. Provides an annual financial statement to Base FSS Resource Management Flight.
 - f. May co-sign checks.

ARTICLE II ELECTIONS AND VOTING

1. Officers shall be elected at the September meeting. Officers will hold office for one-year term starting on the first day of the fiscal year.
2. Nominations shall be submitted at the August meeting. Nominations may include a brief resume about the nominee.
3. A simple majority vote (via secret ballot or tracked email) of the general shall be required to elect an officer.
4. The President may request the resignation of an officer at a special meeting. An officer may also be voted out of office by a majority vote at a special or general membership meeting. In either situation, the officer concerned must be notified in writing of the pending action and given the opportunity to present his/her appeal before the general membership. Voluntary resignation must be submitted to the president in writing at least one month prior to vacating office.
5. Filling Vacancies:
 - a. All vacancies created by removal or resignation will be filled by special election for the remaining term of office.
 - b. The President may fill a vacancy by an interim appointment until an election can be held.

ARTICLE III STANDING COMMITTEES

1. Executive Committee:
 - a. Charged with ensuring compliance with the Constitution and Bylaws.
 - b. Will review all proposed constitutional changes.
 - c. Will annually review the Constitution and Bylaws.The Executive Committee will meet as required.

2. Ways and Means Committee:
 - a. Shall be the fiscal and monetary guidance for the Association.
 - b. Chairperson of the Ways and Means Committee shall be responsible for the purchase of supplies and equipment of any fundraising activities.
 - c. The committee will be composed of at least two volunteers from the Association general membership.
 - d. The committee shall meet as required and the following activities shall be ongoing functions:
 - i. The membership will be briefed monthly by the Chairperson of this committee.
 - ii. Estimate yearly expenditures on fiscal year basis.
 - iii. Plan and suggest activities to meet estimated yearly expenditures for general membership approval.
 - iv. Take suggestions from the general membership on possible fund raising activities.
 - e. [Overseas the POs fundraising activities]

ARTICLE IV INSURANCE COVERAGE

1. The President will request the installation commander to waive the liability insurance required in accordance with AFI 34-223. The request for wavier will describe in detail the nature of the Association's activities.

2. If the request is denied, liability coverage against personal injury and property damage, with a coverage limit as specified by the installation commander, naming the U. S. Air Force as an additional insured, shall be obtained and kept in force until this Association is dissolved.

3. If the request is granted as to general coverage, the President will notify the installation commander of planned special events and obtain coverage as required.

ARTICLE V
MEETINGS, QUORUMS, AND DUTIES

SECTION I:

General membership meetings normally will be third or fourth Monday of each month.

SECTION II:

No quorum of the membership is required to be present to conduct business at a general membership meeting.

A quorum of not less than 75 percent of the Executive Committee must be present in order to conduct business.

SECTION III:

Members are highly encouraged to pay dues in the amount of \$1 per month or \$10 per year, dues are, however, not mandatory.

[Consider adding a requirement to follow Robert's Rules of Order]

signature
NAME, rank, USAF
Position, PO

