



Office Of The General Counsel

DEPARTMENT OF THE AIR FORCE
WASHINGTON DC

21 NOV 2005

MEMORANDUM FOR MAJOR COMMAND STAFF JUDGE ADVOCATES

FROM: SAF/GC


SUBJECT: Professional Military Associations as "Prohibited Sources"

The Chief of Staff of the Air Force recently issued a memo to commanders encouraging support for professional military associations (PMAs), in accordance with the Joint Ethics Regulation (JER). In connection with this action, I was asked to address the question of whether PMAs should be considered "prohibited sources" under the JER. For the reasons discussed below, I conclude that, in most situations, PMAs are not covered by this term.

Under 5 CFR 2635.202(a), employees may not solicit or accept a gift from a "prohibited source" or offered because of their official position. Under 5 CFR 2635.203(d), the term "prohibited source" includes any person or entity that: (1) seeks official action by the employee's agency; (2) does business or seeks to do business with the employee's agency; (3) conducts activities regulated by the employee's agency; (4) has interests that may be substantially affected by the performance of the employee's official duties; or (5) has a membership base with a majority of any of the above categories. The most common examples of "prohibited sources" are current contractors or business entities seeking future Air Force business.

In contrast, PMAs are non-profit, non-commercial, tax-exempt organizations that focus on advancing the interests of the Armed Forces and military professionalism. They have their own management, membership, and agendas. They are legally independent organizations that are not regulated or controlled by the Air Force. While their membership base usually consists of individuals who are associated with the Armed Forces, the majority of them are individuals, not corporations. While PMAs may occasionally seek official support for their activities from Air Force officials, the PMAs are not in a position to influence these decisions. In the event a PMA becomes significantly involved with an Air Force project or activity, which is focused on a particular Air Force organization, the PMA may be considered a "prohibited source" for personnel of the organization in question, if gift issues arise.

Finally, even though PMAs are not "prohibited sources" in most cases, Air Force officials may not solicit gifts from them, nor may they accept gifts given because of their official positions. Gifts to Air Force personnel based on their positions always trigger the JER gift rules.


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cc:
HQ USAF/JA