

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 950

RIN 3206-AG50

Solicitation of Federal Civilian and Uniformed Service Personnel for Contributions to Private Voluntary Organizations

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing proposed regulations governing the solicitation of Federal civilian and uniformed services personnel for contribution to private voluntary organizations under the authority of Executive Order 12353 (March 23, 1982). Private voluntary organizations and OPM's Inspector General have indicated a need for clarifying or changing current procedures for soliciting Federal employees in the workplace. These regulations propose a number of changes to improve procedural operations and accountability for the annual charitable solicitation campaign conducted by Federal personnel in their Government workplaces and set forth ground rules under which charitable organizations may receive contributions from Federal personnel through the Combined Federal Campaign.

DATES: Comments must be submitted on or before April 17, 1995.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Gerri Mason Hall, Counsel for Extragovernmental Affairs, U.S. Office of Personnel Management, 1900 E Street NW., Room 6H28, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Jeffrey C. Lee, Assistant Counsel for Extragovernmental Affairs, (202) 606-2564.

SUPPLEMENTARY INFORMATION: These regulations are proposed to implement a number of procedural changes to the

operations of the Combined Federal Campaign (CFC). These proposed changes to the regulations include, but are not limited to:

More clearly defining the scope and meaning of workplace solicitations in the Federal government;

Identification of the circumstances where the Director may authorize solicitations of Federal employees in the workplace outside of the CFC;

Clarification of procedural requirements for charitable organizations seeking participation in the CFC;

Expanding local eligibility by defining and enumerating criteria for organizations that provide services on a statewide basis;

Authorizing the use of a "perpetual" payroll allotment (pledge card) that, once completed, would remain in effect until changed or cancelled by the donor-employee;

Removing all general designation options not required by statute.

Expanding the solicitation methods and the pool of potential donors.

These proposed regulations are consistent with the restrictions placed on OPM by section 618 of the Treasury, Postal Service, and General Government Appropriations Act for 1988.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because it will only effect those charitable organizations that participate in the CFC.

Paperwork Reduction Act

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 3206-0131.

List of Subjects in 5 CFR Part 950

Administrative practice and procedures, Charitable contribution, Government employee, Military personnel, Nonprofit organizations, Reporting and recordkeeping requirements.

Office of Personnel Management.

Lorraine A. Green,
Deputy Director.

Accordingly, OPM proposes to revise 5 CFR part 950 as follows:

PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS

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Authority: E.O. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982). 3 CFR 1982 Comp., p. 139. E.O. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983), Pub. L. 100-202, and Pub. L. 102-393 (5 U.S.C. 1101 Note).

Subpart A—General Provisions**§ 950.101 Definitions.**

Administrative Expenses, PCFO Expenses, Campaign Expenses, or CFC Expenses means all documented expenses identified in the PCFO application relating to the conduct of a local CFC and approved by the LFCC in accordance with these regulations.

Campaign Year means the calendar year in which Federal employees are solicited for contributions to the Combined Federal Campaign.

Combined Federal Campaign or Campaign or CFC means the charitable fundraising program established and administered by the Director of the Office of Personnel Management (OPM) pursuant to Executive Order No. 12353, as amended by Executive Order No. 12404, and all subsidiary units of such program.

Designated Funds means those contributions which the contributor has designated to a specific charitable organization(s), federation(s), or general option(s).

Director means the Director of the Office of Personnel Management.

Domestic Area means the several United States, the District of Columbia, the Commonwealth of Puerto Rico, and the United States Virgin Islands.

Employee means any person employed by the Government of the United States or any branch, unit, or instrumentality thereof, including persons in the civil service, uniformed service, foreign service, and the postal service.

Federation or Federated Group means a group of voluntary charitable human health and welfare organizations created to supply common fundraising, administrative, and management services to its constituent members.

International General Designation Option means that the donor wishes that his or her gift be distributed to all of the international organizations listed in the International Section of the campaign brochure in the same proportion as all of the international organizations received designations in the local CFC. This option will have the code IIII.

International Organization means a charitable organization that provides services either exclusively or in a substantial preponderance in the overseas area or primarily on behalf of non-U.S. citizens in the overseas area.

Local Federal Coordinating Committee or LFCC means the group of Federal officials designated by the Director to conduct the CFC in a particular community.

Organization or Charitable Organization means a private, non-

profit, philanthropic, human health and welfare organization.

Overseas Area means the Department of Defense (DoD) Overseas Campaign which includes all areas other than those included in the domestic area.

Principal Combined Fund Organization or PCFO means the federated group or combination of groups, or a charitable organization selected by the LFCC to administer the local campaign under the direction and control of the LFCC and the Director.

Solicitation means any action requesting money, either by cash, check or payroll deduction, on behalf of charitable organizations.

Undesignated Funds means those contributions which the contributor has not designated to a specific charitable organization(s), federation(s), or the International General Designation Option.

§ 950.102 Scope of the Combined Federal Campaign.

(a) The CFC is the only authorized charitable fundraising drive in the Federal workplace. A campaign may be conducted during a 6 week period, as determined by the LFCC, from September 1 through December 15 at every Federal agency in the campaign community in accordance with these regulations. Except as provided in this section, no other solicitation on behalf of charitable organizations may be conducted in the Federal workplace. Upon written request, the Director may grant permission for solicitations of Federal employees in support of victims of cases of emergencies and disasters. Emergencies and disasters are defined as any hurricane, tornado storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, or other catastrophe in any part of the world. No such permission will be granted for such solicitations during the period September 1 through December 15.

(b) These regulations do not apply to the collection of gifts-in-kind, such as food, clothing and toys, or to the solicitation of Federal employees outside of the Federal workplace as defined by the applicable Agency Head consistent with General Services Administration regulations 41 CFR 101–20.308, government ethics regulations 5 CFR part 2635, and any other applicable laws and/or regulations.

(c) The Director exercises general supervision over all operations of the CFC, and takes all necessary steps to ensure the achievement of campaign objectives. Any disputes relating to the

interpretation or implementation of this part may be submitted to the Director for resolution. The decisions and rulings of the Director are final for administrative purposes.

(d) Heads of departments or agencies may establish policies and procedures applicable to solicitations conducted by organizations composed of civilian employees or members of the uniformed services among their own members for organizational support or for the benefit of welfare funds for their members. Such solicitations are not subject to these regulations, and therefore do not require permission of the Director.

§ 950.103 Establishing a local campaign.

(a) The Director establishes and maintains the official list of local campaigns and the geographical area each covers. There is no prerequisite regarding the federal employee population needed to establish or maintain a CFC. However, rather than establishing or maintaining small campaigns, OPM encourages mergers and expansions of campaigns to promote efficiency and economy.

(b) The Director establishes an LFCC to govern the conduct of the local CFC. The LFCC will, whenever possible, be comprised of members of local Federal inter-agency organizations, such as Federal Executive Boards, Federal Executive Associations, Federal Business Associations or, in the absence of such organizations, self-organized associations of local Federal officials. These groups will include local Federal agency heads or their representatives. It will also include, wherever possible, representatives of employee unions and other employee groups. The LFCC Chair should be rotated among its members. For continuity, each LFCC should appoint a Vice Chair who would be expected to serve as the Chair in the following year.

(c) The agency head to each Federal installation within a campaign area shall:

- (1) Become familiar with all CFC regulations,
- (2) Cooperate with the representatives of the LFCC and PCFO in organizing and conducting the campaign,
- (3) Initiate official campaigns within their offices or installations and provide support for the campaign, and
- (4) Assure the campaign is conducted in accordance with these regulations.

(d) Once a campaign has been established, agency heads may not discontinue solicitation of Federal employees within their organization without the written approval of the Director.

(e) Any change in the geographical boundaries of local campaigns may be made only upon the express written permission of the Director.

(f) Each year the LFCC must establish the 6 week time period to solicit employees. Each campaign should not be conducted for more than a 6 week period. However, in unusual circumstances the LFCC may extend the campaign as local conditions require. The solicitation may not begin before September 1 and in no event will it extend beyond December 15 of each year.

(g) Current Federal civilian and active duty military employees may be solicited for contributions using payroll deduction, checks, money orders or cash. Contractor personnel, credit union employees and other persons employed on Federal premises may make single contributions to the CFC through check or money order. Retired Federal employees may also make single contributions to the CFC through check or money order.

(h) A Federal employee whose official duty station is outside the geographic boundaries of an established CFC may not be solicited in that CFC. A Federal employee may participate in a particular CFC only if that employee's official duty station is located within the geographic boundaries of that CFC.

§ 950.104 Local Federal Coordinating Committee responsibilities.

(a) All members of the LFCC should develop an understanding of campaign regulations and procedures. The LFCC is the central point of information regarding the CFC among Federal employees.

(b) The responsibilities of the LFCC include, but are not limited to, the following:

(1) Maintaining minutes of LFCC meetings and responding promptly to any request for information for the Director.

(2) Naming a campaign chairperson and notifying the Director when the chairperson changes.

(3) Determining the eligibility of local organizations that apply to participate in the local campaign. This is the exclusive responsibility of the LFCC and may not be delegated to the PCFO.

(4) Ensuring that the list of charities found by the Director to be nationally eligible to participate in all local campaigns is reproduced in the local brochure in accordance with these regulations.

(5) Ensuring that the local brochure and pledge card are produced in accordance with these regulations and instructions for the Director.

(6) Encouraging local Federal agencies to appoint loaned executives to assist in the campaign. Federal agency heads are encouraged to grant administrative leave to all loaned executives appointed to assist in the conduct of the CFC. Federal loaned executives are prohibited from working on non-CFC fundraising activities.

(7) Establishing a thorough network of employee keyworkers and volunteers; and participating in interagency briefing sessions and kick-off meetings.

(8) Ensuring that, to the extent reasonably possible, every employee is given the opportunity to participate in the CFC, and ensuring employee designations are honored.

(9) Ensuring that the PCFO includes in keyworker training instructions to encourage employees to designate the charitable organizations they wish to receive their donations and specific information on how general designation monies are distributed.

(10) Ensuring that contributions are distributed in accordance with the method described in these regulations.

(11) Ensuring that no employee is coerced in any way to participate in the campaign.

(12) Bringing allegations of coercion to the attention of the Director and the employee's agency and providing a mechanism to review employee complaints of undue pressure and coercion in Federal fundraising. Federal agencies shall provide procedures and assign responsibility for the investigation of such complaints.

Personnel offices should be responsible for information employees of the proper channels for pursuing such complaints.

(13) Notifying the Director of any other significant problems or controversies concerning the campaign that the LFCC can not resolve by applying these regulations. The LFCC must abide by the Director's decisions on all matters concerning the campaign.

(14) Ensuring the PCFO selected or retained does not use the services of consulting firms, advertising firms or similar business organizations to perform the policy-making or decision-making functions in the CFC. A PCFO may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its ministerial tasks.

(15) Ensuring that the activities and functions required of the PCFO are kept separate from any non-CFC operations of the organization. The LFCC must verify that the PCFO keeps and maintains CFC financial records and interest bearing bank accounts separate

from the PCFO's non-CFC financial records and bank accounts.

(16) Monitoring the work of the PCFO, and inspecting closely the annual audit required of the PCFO pursuant to § 950.105(d)(9) for compliance with these regulations.

(17) Authorizing to the PCFO the administrative fee described in § 950.106(d) and reimbursement of only those campaign expenses that are legitimate CFC costs and are adequately documented. Total documented expenses may not exceed the approved campaign budget by more than 10 percent.

(c) The LFCC must annually solicit applications for the PCFO via public notice no later than February 1 of each calendar year. Costs incurred in providing the public notice should be added to the PCFO budget for the current campaign year as an administrative cost. The LFCC shall select a PCFO to act as its fiscal agent and campaign coordinator on the basis of presentations made to the local committee as described in § 950.105. The LFCC shall consider the efficiency and effectiveness of the campaign as the primary factors in selecting a PCFO.

(d) A federated group(s) or charitable organization may be barred from serving as PCFO for 1 year if found by the Director to have violated these regulations. A federated group(s) or charitable organization serving as PCFO will be notified of the Director's intent to bar and have an opportunity to submit written comments prior to its becoming effective. The Director's decision as to debarment shall be communicated in writing to the LFCC and PCFO, and the LFCC shall not consider an application from such group(s) or organization to serve as the PCFO during terms of debarment.

§ 950.105 Principal Combined Fund Organization (PCFO) responsibilities.

(a) Only federations, charitable organizations or combinations thereof may serve as the PCFO.

(b) The primary goal of the PCFO is to conduct an effective and efficient campaign in a fair and even-handed manner aimed at collecting the greatest amount of charitable contributions possible. Therefore, PCFO's should afford federated groups and agencies with representatives in the local campaign area adequate opportunity to offer suggestions relating to the operation of the campaign, printed campaign material, and training. If requested in writing to either the LFCC or PCFO, federated groups and agencies must be given the opportunity to attend all campaign meetings, kick-off events,

and training sessions. The PCFO must provide representatives of federated groups, agencies and the general public the opportunity to review at the PCFO office all reports, budgets, audits, training materials, and other records pertaining to the CFC.

(c) Any federation, charitable organization or combinations thereof wishing to be selected for the PCFO must submit to the LFCC no later than March 1 of each year an application that includes:

(1) A written campaign plan sufficient in detail to allow the LFCC to determine if the applicant could administer an efficient and effective CFC. The campaign plan must include a CFC budget that details all estimated costs required to operate the CFC. The budget may not be based on the percentage of funds raised in the local campaign.

(2) A statement signed by the applicant's local director or equivalent pledging to:

- (i) administer the CFC fairly and equitably,
- (ii) conduct campaign operations, such as training, kick-off and other events, and fiscal operations, such as banking, auditing, reporting and distribution separate from the applicant's non-CFC operations, and
- (iii) abide by the directions, decisions, and supervision of the LFCC and/or Director.

(3) A statement signed by the applicant's local director or equivalent acknowledging the applicant is subject to the provisions of § 950.403 and § 950.603.

(d) The specific responsibilities of the PCFO include but are not limited to:

- (1) Honoring employee designations.
- (2) Helping to ensure no employee is coerced in any way regarding participation in the campaign and that allegations of coercion are brought to the attention of the appropriate Federal officials.

(3) Training agency loaned executives, coordinators, and keyworkers in the methods of non-coercive solicitation. This training must be completely separate from training given for other types of charitable campaign drives. Additionally, keyworkers should be trained to check to ensure the pledge card is legible on each copy, verify arithmetical calculations, and ensure the block on the pledge card concerning the release of the employee's name and address is completed fully.

(4) Ensuring that no employee is questioned in any way as to his or her designation or its amount except by keyworkers in accord with paragraph (d)(3) of this section.

(5) Preparing pledge cards and brochures that are consistent with these regulations and instructions by the Director.

(6) Honoring the request of employees who indicate on the pledge card that their names not be released to the organization(s) that they designate.

(7) Maintaining a detailed schedule of its actual CFC administrative expenses with, to the extent possible, itemized receipts for the expenses. The expense schedule must be in a format that can be reconciled to the PCFO's budget submitted in accordance with paragraph (c)(1) of this section

(8) Keeping and maintaining CFC financial records and interest bearing bank accounts separate from the PCFO's internal organizational financial records and bank accounts. Interest earned on all CFC accounts must be distributed in the same manner as undesignated funds pursuant to § 950.502. All financial records and bank accounts must be kept in accordance with generally accepted accounting principles.

(9) Submitting to the LFCC an audit of collections and disbursements for each campaign managed no later than June 15 of the year in which the last disbursement is made. For example, for the 1994 CFC the audit of the 1994 campaign must be submitted to the LFCC no later than June 15, 1996. The audit must be performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(10) Absorbing the cost of any reprinting of campaign materials due to its noncompliance with these regulations, embezzlement, or loss of funds. A PCFO must also absorb campaign costs exceeding 10 percent of the approved budget.

(11) Designing and implementing CFC awards programs which are accessible to all employees and which reflect the Government's commitment to non-coercion. Awards to Federal agencies or employees by individual federations or organizations for CFC accomplishments is prohibited.

(12) Communicating to all local applicants the date, time, and place of the open public meeting where the LFCC will announce eligibility decisions.

(13) Producing any documents or information requested by the LFCC and/or the Director within 10 calendar days of the receipt of that request.

(14) Responding in a timely and appropriate manner to reasonable inquiries from participating organizations.

§ 950.106 PCFO expense recovery.

(a) The PCFO shall recover from the gross receipts of the campaign its expenses, approved by the LFCC, reflecting the actual costs of administering the local campaign. The amount recovered for campaign expenses shall not exceed 10 percent of the estimated budget submitted pursuant to § 950.105(c)(1) unless approved by the Director.

(b) The PCFO may only recover campaign expenses from receipts collected for that campaign year. Expenses incurred preparing for and conducting the CFC in the fall cannot be recovered from receipts collected in the previous year's campaign. The PCFO may absorb the costs associated with conducting the campaign from its own funds and be reimbursed, or obtain a commercial loan to pay for costs associated with conducting the campaign. If the commercial loan option is used, the amount of a reasonable rate of interest is an allowable campaign expense, subject to the approval of the LFCC when the PCFO budget is submitted.

(c) The campaign expenses will be shared proportionately by all the recipient organizations reflecting their percentage share of gross campaign receipts.

(d) In addition to recovering campaign expenses, PCFO's shall also collect a fee of 15 percent of the undesignated funds in each local campaign for performing the functions of PCFO.

§ 950.107 Lack of a qualified PCFO.

There is no authority in statute or regulation for an LFCC or any Federal official or employee to assume the duties and responsibilities of the PCFO. In the event that there is no qualified PCFO, the LFCC Chairman will promptly inform the Director in writing. The Director will assist the LFCC in merging the campaign with an adjacent campaign that has a qualified PCFO or identifying an eligible organization to function as the campaign's PCFO. If the LFCC's of the adjacent campaigns elect not to merge and a qualified PCFO cannot be found, the local CFC will be canceled. No workplace solicitation of any Federal employee in the campaign area is authorized and payroll allotments cannot be accepted and honored during the duration of the cancellation of the CFC.

§ 950.108 Preventing coercive activity.

True voluntary giving is fundamental to Federal fundraising activities. Actions that do not allow free choices or create the appearance employees do not have a free choice to give or not to

give, or to publicize their gifts or to keep them confidential, are contrary to Federal fundraising policy. Activities contrary to the non-coercive intent of Federal fundraising policy are not permitted in campaigns. They include, but are not limited to:

(a) Solicitation of employees by their supervisor or by any individual in their supervisory chain of command. This does not prohibit the head of an agency to perform the usual activities associated with the campaign kick-off and to demonstrate his or her support of the CFC in employee newsletters or other routine communications with the Federal employees.

(b) Supervisory inquiries about whether an employee chose to participate or not to participate or the amount of an employee's donation. Supervisors may be given nothing more than summary information about the major units that they supervise.

(c) Setting of 100 percent participation goals.

(d) Establishing personal dollar goals and quotas.

(e) Developing and using lists of non-contributors.

(f) Providing and using contributor lists for purposes other than the routine collection and forwarding of contributions and allotments, and as allowed under § 950.601.

(g) Using as a factor in a supervisor's performance appraisal the results of the solicitation in the supervisor's unit or organization.

§ 950.109 Avoidance of conflict of interest.

Any Federal employee who serves on the LFCC, on the eligibility committee, or as a Federal agency fundraising program coordinator, must not participate in any decisions where, because of membership on the board or other affiliation with a charitable organizations, there could be or appear to be a conflict of interest under any statutes, Executive order, or applicable agency standards of conduct. Under no circumstances may an LFCC member affiliated with an organization applying for inclusion on the local list, participate in the eligibility determinations.

§ 950.110 Prohibited discrimination.

Discrimination for or against any individual or group on account of race, color, religion, sex, national origin, age, handicap, or political affiliation is prohibited in all aspects of the management and the execution of the CFC. Nothing herein denies eligibility to any organization, which is otherwise eligible under this part to participate in the CFC, merely because such

organization is organized by, on behalf of, or to serve persons of a particular race, color, religion, sex, national origin, age, or handicap.

Subpart B—Eligibility Provisions

§ 950.201 National List eligibility.

(a) The Director shall annually:

(1) Determine the timetable and other procedures regarding application for inclusion on the national list,

(2) Determine which organizations among those that apply qualify to be part of the national list and then provide the national list of qualified organizations to all local campaigns.

(b) The national list shall be reproduced in all local brochures in accordance with these regulations. The list will include each organization's national list number code. These number codes must be faithfully reproduced in the local brochures.

(c) An organization on the national list may elect to be removed from the national list and have its local affiliate or subunit listed on the local list of organizations in its stead. For the local affiliate or subunit to be listed in lieu of the organization on the national list, the following procedures must be followed:

(1) The organization must send a letter to the local affiliate or subunit in that particular CFC waiving its listing on the national list so that is eligible local affiliate or subunit on the local list of organizations will appear as that organization's sole list in the CFC Brochure.

(2) The local affiliate or subunit will include in its application to the LFCC a copy of the letter authorizing the removal of the organization from the national list as well as all the required materials for completing a local organization application.

(3) Upon finding the local organization eligible, the waiver letter from the organization on the national list authorizes the LFCC to delete that organization from the national list.

§ 950.202 National List of eligibility requirements.

All organizations seeking national list eligibility must:

(a) Certify that it provides or conducts real services, benefits, assistance, or program activities, in 15 or more different states or a foreign country over the 3 year period immediately preceding the start of the year involved. This requirement cannot be met on the sole basis of services provided through an "800" telephone number or by sending materials via the U.S. Mails or a combination thereof. In addition, this requirement cannot be met by providing

a service, benefit, assistance or program activity in only one state to recipients who live in a different state. A schedule listing those states (minimum 15) or the foreign countries (minimum 1) where the program activities have been provided and a detailed description of the activities in each state or foreign country must be included with the application. Clear evidence must be submitted that the services, benefits, assistance or activities were provided in each state or foreign country.

(b) Certify that it is recognized by the Internal Revenue Service as tax-exempt under 26 U.S.C. 501(c)(3) and to which contributions are tax-deductible pursuant to 26 U.S.C. 170. A copy of the letter from the Internal Revenue Service granting tax-exempt status under the Internal Revenue Code, 26 U.S.C. 501(c)(3) must be included with the application.

(c) Certify that the organization has no expenses connected with lobbying and attempts to influence voting or legislation at the local, State, or Federal level or alternatively, that those expenses would classify the organization as a tax-exempt organization under 26 U.S.C. 501(h).

§ 950.203 Public accountability standards.

(a) To insure organizations wishing to solicit donations from Federal employees in the workplace are portraying accurately their programs and benefits, several standards and certifications must be met annually by each organization seeking national list eligibility. Each organization wishing to participate must:

(1) Certify that the organization is a human health and welfare organization providing services, benefits, or assistance to, or conducting activities affecting, human health and welfare. The organization's application must provide documentation describing the human health and welfare benefits provided by the organization within the previous year.

(2) Certify that it accounts for its funds in accordance with generally accepted accounting principles and that an audit of the organization's fiscal operations is completed annually by an independent certified public accountant in accordance with generally accepted auditing standards. Such audit must show expenses by function. A copy of the organization's most recent annual audit must be included with the application. The audit must cover the fiscal year ending not more than 18 months prior to the January of the campaign year to which the organization is applying. For example, the audit included in the 1994

application must cover the fiscal period ending on or after June 30, 1992.

(3) Provide a completed copy of the organization's IRS Form 990, including signature, with the application regardless of whether or not the IRS requires the organization to file this form. IRS Forms 990EZ, 990PF, and comparable forms are not acceptable substitutes. The IRS Form 990 and audit must cover the same fiscal period and, if revenue and expenses on the two documents differ, these amounts must be reconciled in an accompanying signed statement by the certified public accountant who completed the audit.

(4) Provide a computation of the organization's percentage of total support and revenue spent on administration and fundraising. This percentage shall be computed from information on the IRS Form 990, submitted pursuant to § 950.203(a)(3), by adding the amount spent on "management and general" (line 14) to "fundraising" (line 15) and then dividing the sum by "total revenue" (line 12).

(i) If an organization's administrative and fundraising expenses exceed 25 percent of its total support and revenue, it must certify that its actual expenses for administration and fundraising are reasonable due to special circumstances. It must provide an explanation with its application and also include a formal plan to reduce these expenses below 25 percent.

(i) The Director may reject any application from an organization with fundraising and administrative expenses in excess of 25 percent of total support and revenue, unless the organization demonstrates to the satisfaction of the Director that its actual expenses for those purposes and its plan to reduce them are reasonable under the circumstances. Failure to reduce the expenses to the 25 percent level within one application year will render the organization ineligible for the succeeding campaign.

(5) Certify that the organization is directed by an active and responsible governing body whose members have no material conflict of interest and, a majority of which serve without compensation. A list of the organization's Board of Directors and a description of each Directors' participation in the conduct of the organization's affairs, such as official positions and committee memberships, must be included with the application.

(6) Certify that the organization's fundraising practices protect against unauthorized use of its CFC contributor lists as described in § 950.601(d).

(7) Certify that its publicity and promotional activities are based upon its actual program and operations, are truthful and non-deceptive, and make no exaggerated or misleading claims.

(8) Certify that contributions are effectively used for the announced purposes of the charitable organization.

(9) Certify under which governmental entity the charitable organization is chartered, incorporated or organized (congressionally chartered or the state in which it is registered).

(10) Certify that the organization has received no more than 80 percent of its total support and revenues from government sources as computed by dividing line 1c by line 12 from the IRS Form 990 submitted pursuant to § 950.203(a)(3).

(11) Certify that the organization prepares and makes available to the public upon request an annual report that includes a full description of the organization's activities and supporting services and identifies its directors and chief administrative personnel. A copy of the organization's annual report must be included with the application. The annual report must cover the fiscal year ending not more than 18 months prior to January of the campaign year to which the organization is applying. A more frequently published document, such as a quarterly newsletter, may be used to meet this requirement provided that such document is available to the general public upon request and describes the organization's activities and supporting services and identifies its directors and chief administrative personnel.

(12) Provide a statement that the certifying official is authorized by the organization to certify and affirm all statements required for inclusion on the national list.

(13) Provide a statement in 25 words or less describing the program activities of the charitable organization. The 25-word statement need not include the organization's name. In addition, organizations must provide a telephone number, dedicated solely for the organization's use, through which the donors may receive further information about the organization. Except as provided in § 950.401(k), this information will be included in the campaign brochure listing of agencies along with the organization's administrative and fundraising percentage computed pursuant to § 950.203(a)(3).

(b) The Director shall review these applications for accuracy, completeness, and compliance with these regulations. Failure to supply any of this information may be judged a failure to

comply with the requirements of public accountability, and the charitable organization may be ruled ineligible for inclusion on the national list.

(c) The Director may request such additional information as the Director deems necessary to complete these reviews. An organization that fails to comply with such requests within 10 calendar days from receipt of the request may be judged ineligible.

(d) The required certifications and documentation must have been completed and submitted prior to the application filing deadline. Applications received that are incomplete may not be perfected during the appeal process described in § 950.205.

(e) The Director may waive any of these standards and certifications upon a showing of extenuating circumstances.

§ 950.204 Local list eligibility.

(a) The LFCC shall establish an annual application process consistent with these regulations for organizations that wish to be listed in the local brochure.

(b) The requirements for an organization to be listed in the local brochure shall include the following:

(1) An organization must demonstrate to the satisfaction of the LFCC, that it has a substantial local presence in the geographical area covered by the local campaign, a substantial local presence in the geographical area covered by an adjacent local campaign, or substantial statewide presence.

(i) *Substantial local presence* is defined as a staffed facility, office or portion of a residence dedicated exclusively to that organization, available to members of the public seeking its services or benefits. The facility must be open at least 15 hours a week and have a telephone dedicated exclusively to the organization. The office may be staffed by volunteers. Substantial local presence cannot be met on the basis of services provided solely through an 800 telephone number or the U.S. Mails or a combination thereof.

(ii) *Substantial statewide presence* is defined as providing or conducting real services, benefits, assistance or program activities covering 30 percent of a state's geographic boundaries or providing or conducting real services, benefits, assistance or program activities affecting 30 percent of a state's population. Substantial statewide presence cannot be met on the basis of services provided solely through an 800 telephone number or the U.S. Mails or a combination thereof.

(2) An organization seeking local eligibility also must meet all requirements for national list eligibility in § 950.202 and § 950.203, with the following two exceptions:

(i) Local charitable organizations are not required to have provided services or benefits in 15 states or a foreign country over the prior three years,

(ii) Local charitable organizations with annual revenue less than \$100,000 are not required to be audited in accordance with generally accepted auditing standards and, hence, are not required to submit an audit report. Annual revenue is determined by line 12 of the IRS Form 990 covering the organization's most recent fiscal year ending not more than 18 months prior to the January of the campaign year to which the organization is applying.

(3) An organization seeking local eligibility based upon a substantial statewide presence, need only submit a complete application to the LFCC of the largest campaign in the state, as determined by OPM. OPM will annually publish a list of the largest campaigns in each state. The decision of the aforementioned LFCC, or OPM in the event of an appeal, is binding upon all other campaigns in the state. The applicant organization must forward a copy of the LFCC's decision to any other campaigns in which it would like to participate as a statewide organization.

(c) Family support and youth activities certified by the commander of a military installation as meeting the eligibility criteria contained in § 950.204(d) may appear on the list of local organizations and be supported from CFC funds. Family support and youth activities may not participate in the CFC as a member of a federation.

(d) A family support and youth activity must:

(1) Be a nonprofit, tax-exempt organization that provides family service programs or youth activity programs to personnel in the Command. The activity must not receive a majority of its financial support from appropriated funds.

(2) Have a high degree of integrity and responsibility in the conduct of their affairs. Contributions received must be used effectively for the announced purposes of the organization.

(3) Be directed by the base Non-Appropriated Fund Council or an active voluntary board of directors which serves without compensation and holds regular meetings.

(4) Conduct its fiscal operations in accordance with a detailed annual budget, prepared and approved at the beginning of the fiscal year. Any significant variations from the approved

budget must have prior authorization from the Non-Appropriated Fund Council or the directors. The family support and youth activities must have accounting procedures acceptable to an installation auditor and the inspector general.

(5) Have a policy and practice of nondiscrimination on the basis of race, color, religion, sex or national origin applicable to persons served by the organization.

(6) Prepare an annual report which includes a full description of the organization's activities and accomplishments. These reports must be made available to the public upon request.

(e) Within 15 business days after the closing date of the application period, the LFCC shall communicate its eligibility decisions at an open public meeting. The open public meeting date, place, and time must be communicated to local applicant organizations during the application process and in the public notice section of principal local newspaper(s). The open public meeting is the only notification local organizations will receive regarding their original applications. At the meeting, LFCC's must provide written explanations to an organization for its denial of its application and the procedures and deadline for appealing the decision. LFCC's may authorize PCFO's to release eligibility determinations to applicant organizations via telephone, after the open public meeting. This has no effect on the deadline for LFCC's to receive local appeals. Applicants denied eligibility may appeal in accordance with § 950.205.

(f) No LFCC may print the campaign brochure while there are appeals of eligibility decisions from their campaign pending with the Director. LFCC's are obligated to check with OPM 21 calendar days after the mailing of the local appeal decision as to whether the Director is on notice of a pending timely appeal.

§ 950.205 Appeals.

(a) Organizations who apply and are denied eligibility for inclusion on the national list will be notified of the Director's decision by registered or certified mail of the U.S. Postal Service. Organizations may appeal the Director's decision by submitting a written request to reconsider the denial to the Director. This request must be received within 10 business days from the date of receipt of the Director's decision to deny eligibility and shall be limited to those facts justifying the reversal of the original decision. Petitions for

reconsideration may not be used to supplement applications that had missing or outdated documents, and any such documents submitted with the petition will not be considered.

(b) Applicants denied listing in the local brochure must first appeal in writing to the LFCC to reconsider its original decision. Such an appeal must be received by the LFCC within the 7 business days from the date of the open public meeting announcing local eligibility decisions. The LFCC must consider all timely appeals and notify the appealing organization within a reasonable time period, not to exceed 22 business days from the date of the open public meeting. Denial of the appeal by the LFCC must be sent via U.S. Postal Service certified or registered mail with a return receipt (PS Form 3811). Approval of local appeals may be sent via U.S. Postal Service regular first class mail.

(c) A local applicant which is unsuccessful in its appeal to the LFCC may appeal to the Director. All appeals must:

- (1) Be in writing;
- (2) Be received by the Director within 10 business days of the date of receipt of the letter from the LFCC denying eligibility on appeal;
- (3) Include a statement explaining the reason(s) why eligibility should be granted;
- (4) Include a copy of the letter from the LFCC disapproving the original application, the organization's appeal to the LFCC, and the letter from the LFCC denying the appeal.

(d) If an organization fails to file a timely application or a timely appeal of an adverse eligibility determination in accordance with these regulations, such application or appeal to OPM will be dismissed as untimely.

(e) Appeals to the Director may not be used to supplement original applications that had missing or outdated documents. Any such supplemental documents will not be considered. Such appeals shall be limited to those facts justifying the reversal of the original decision.

(f) The Director's decision is final for administrative purposes.

Subpart C—Federations

§ 950.301 National federations eligibility.

(a) The Director may establish national federations that conform to the requirements of these regulations and are eligible to receive designations.

(b) By applying for inclusion in the CFC, federations consent to allow the Director complete access to it and its members' CFC books and records and to

respond to requests for information by the Director.

(c) An organization may apply to the Director for inclusion as a national federation to participate in the CFC if the applicant has, as members of its proposed federation, 15 or more charitable organizations that meet the eligibility criteria of § 950.202 and § 950.203. The initial year an organization applies for federation status, it must submit the applications of all its proposed member organizations in addition to the federation application. Federations must re-establish eligibility each year, however, the applications of its member organizations need not accompany the annual federation application once an organization has obtained federation status, unless requested by the Director.

(d) After an organization has been granted federation status, it may certify that its member organizations meet all eligibility criteria of § 950.202 and § 950.203 to be included on the national list. Federation status in a prior campaign is not a guarantee of federation status in a subsequent campaign. Failure to meet minimum federation eligibility requirements shall not be deemed to be a decertification subject to a hearing on the record.

(e) An applicant for national federation status must annually certify and/or demonstrate:

(1) That all member organizations seeking participation in the CFC are qualified for inclusion on the national list. Applicants must provide a complete list of those member organizations it certified.

(2) That its financial records, practices and procedures conform to generally accepted accounting principles and that it is annually audited by an independent certified public accountant in accordance with generally accepted auditing standards. A copy of the audit must be included with the application. The audit must verify that the federation is honoring designations made to each member organization. The audit requirement is waived for newly created federations operating for less than a year.

(3) That it does not employ in its CFC operations the services of private consultants, consulting firms, advertising agencies or similar business organizations to perform its policy-making or decision-making functions in the CFC. It may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its ministerial tasks.

(f) The Director will notify a federation if it is determined that the

federation does not meet the eligibility requirements of § 950.301(e). A federation may appeal an adverse eligibility decision in accordance with § 950.205.

(g) The Director may waive any eligibility criteria for federation status if it is determined that such a waiver will be in the best interest of the CFC.

(h) Two organizations—American Red Cross and United Service Organization—are exempt from the 15-member requirement of § 950.301(c).

§ 950.302 Responsibilities of national federations.

(a) National federations must ensure that only those member organizations that comply with all eligibility requirements included in these regulations are certified for participation in the CFC.

(b) The Director may elect to review, accept or reject the certifications of the eligibility of the members of the national federations. If the Director requests information supporting a certification of national eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 business days of the receipt of the request constitutes grounds for the denial of national eligibility of that member.

(c) The Director may elect to decertify for up to one campaign year a federation which makes a false certification, subject to the requirement that any federation that the Director proposes to decertify shall be offered the opportunity to have a hearing on the record on the proposed decertification, followed by a written decision stating the grounds for the decertification. False certifications are presumed to be deliberate. This presumption may be overcome by evidence presented at the hearing.

(d) The failure of a national federation to respond in a timely fashion to a request by the Director for required information or cooperation in an investigation or a settlement of disbursements may be grounds for decertification, provided that a decision to decertify is preceded by a hearing on the record and communicated in writing.

(e) Each federation, as fiscal agent for its member organizations, must ensure that Federal employee designations are honored in that each member organization receives its proportionate share of receipts based on the results of each individual campaign.

§ 950.303 Local federations eligibility.

(a) LFCC's must approve local federations that conform to the requirements of these regulations.

(b) By applying for inclusion in the CFC, federations consent to allow the LFCC and Director complete access to it and its members' CFC books and records and to respond to requests for information by the LFCC, the Director.

(c) An organization may apply to the LFCC for inclusion as a local federation if the applicant has as members of its proposed federation, 15 or more charitable organizations that meet the eligibility criteria of § 950.202, § 950.203, and § 950.204. The initial year an organization applies for federation status, it must submit to the LFCC applications of all its proposed member organizations in addition to the federation application. Federations must re-establish eligibility each year, however, the applications of its member organizations need not accompany the annual federation application once an organization has obtained federation status.

(d) After an organization has been granted federation status, it may certify that its member organizations meet all eligibility criteria of §§ 950.202, 950.203 and 950.204 to be included on the Local List. The LFCC or the Director may require any member organization of a local federation to supply independent evidence of its eligibility. Federation status in a prior campaign is not a guarantee of federation status in a subsequent campaign. Failure to meet minimum federation eligibility requirements shall not be deemed to be a decertification subject to a hearing on the record.

(e) An applicant for local federation status must certify and/or demonstrate:

(1) That all member organizations seeking participation in the CFC are qualified for inclusion on the Local List and provide a complete list of those member organizations it certified.

(2) That its financial records, practices and procedures conform to generally accepted accounting principles and is annually audited by an independent certified public accountant in accordance with generally accepted auditing standards. A copy of the annual audit must be included with the application. The audit must verify that the federation is honoring designations made to each member organization. The audit requirement is waived for newly created federations operating for less than a year.

(3) That it does not employ, in its CFC operations, the services of private

consultants, consulting firms, advertising agencies or similar business organizations to perform the policy-making or decision-making functions in the CFC. It may, however, contract with entities or individuals such as banks, accountants, lawyers, and other vendors of goods and/or services to assist in accomplishing its ministerial tasks.

(f) The LFCC will notify a federation if it is determined that the federation does not meet the eligibility requirements of § 950.301(e). A federation may appeal an adverse eligibility decision in accordance with § 950.205.

(g) The Director may waive any eligibility criteria for federation status if it is determined that such a waiver will be in the best interest of the CFC.

§ 950.304 Responsibilities of local federations.

(a) Local federations must ensure that only those member organizations that comply with all eligibility requirements included in these regulations are certified for participation in the CFC.

(b) LFCC's may elect to review, accept or reject the certifications of the eligibility of the members of local federations. If the LFCC requests information supporting a certification of local eligibility, that information shall be furnished promptly. Failure to furnish such information within 10 business days of the receipt of the request constitutes grounds for the denial of local eligibility.

(c) The Director, upon recommendation by the LFCC, may elect to decertify a federation which makes a false certification for up to one campaign year, subject to the requirement that any federation that the Director proposes to decertify shall be offered the opportunity to have a hearing on the record on the proposed decertification, followed by a written decision stating the grounds for the decertification. False certifications are presumed to be deliberate. The presumption may be overcome by evidence presented at the hearing.

(d) The failure of a local federation to respond in a timely fashion to a request by the Director or the LFCC for required information or cooperation in an investigation may be grounds for decertification, provided that a decision to decertify is preceded by a hearing on the record and communicated in writing.

(e) Each federation, as fiscal agent for its member organizations, must ensure that Federal employee designations are honored in that each member organization receives its proportionate

share of receipts based on the results of each individual campaign.

Subpart D—Campaign Materials

§ 950.401 Campaign and publicity materials.

(a) The specific campaign and publicity materials, such as the official brochure, will be developed locally, except as specified in these regulations. All materials must be reviewed by the LFCC for compliance with these regulations and will be printed and supplied by the PCFO. Any disputes over local materials will be resolved by the LFCC. All publicity materials must have the approval of the LFCC before being used. Federations must notify the PCFO in writing of their desire to participate in the development of campaign and publicity materials. The PCFO must respond in a timely manner to a federation's request to participate in the development of campaign and publicity materials. Federations must also respond in a timely fashion in the development of campaign and publicity materials.

(b) During the CFC solicitation period, participating CFC organizations may distribute bona fide educational materials describing its services or programs. The organization must be granted permission by the Federal agency installation head, or designee to distribute the material. CFC Coordinators, Keyworkers or members of the LFCC, are not authorized to grant permission for the distribution of such materials. If one organization is granted permission to distribute educational materials, then the Federal agency installation head must allow any other requesting CFC organization to distribute educational materials.

(c) Organizations and federations are encouraged to publicize their activities outside Federal facilities and to broadcast messages aimed at Federal employees in an attempt to solicit their contributions through the media and other outlets.

(d) LFCC's are further authorized to permit the distribution by organizations of promotional pamphlets to Federal personnel in public areas at or near Federal workplaces in connection with the CFC, provided that the manner of distribution accords equal treatment to all charitable organizations furnishing such pamphlet for local use, and further provided that no such distribution shall utilize Federal personnel on official duty or interfere with Federal government activities. LFCC members and other campaign personnel are to be particularly aware of the prohibition of assisting any charitable organization or

federated group in distributing any type of literature, especially during the campaign period. Nothing in this section shall be construed to require an LFCC to distribute or arrange for the distribution of any material other than the Campaign Brochure and the pledge card.

(e) The Campaign Brochure and pledge card is the official CFC information package and shall be made available to all potential contributors. All CDC Brochures must inform employees of their right to make a choice to contribute or not to contribute; to designate or not to designate; and to give a confidential gift in a sealed envelope.

(f) Campaign materials must constitute a simple and attractive package that has fundraising appeal and essential working information. The package should focus on the CFC without undue use of charitable organization symbols and logos or other distractions that compete for the donor's attention. Extraneous instructions concerning the routing of forms, tallying of contributor's receipts, and similar reports, which are primarily for keyworkers must be avoided.

(g) The following applies specifically to the campaign brochure:

(1) Contributor's Information Section will include:

(i) A description of the CFC arrangement and explain the payroll deduction privilege. It will clearly state that the Federal donor can direct his or her gift to specific charitable organizations or federations of his or her choice, or to the international general designation option, and urge them to do so. It will further explain that failure to designate a specific organization or federation will result in the undesignated donation being distributed proportionately to all recipient organizations in the local campaign, minus a 15 percent administration fee to the PCFO.

(ii) A statement that the donor may only designate charitable organizations or federations that are listed in the brochure and that write-ins are prohibited.

(iii) Instructions as to how an employee may obtain more specific information about the programs and the finances of the organizations participating in the campaign.

(iv) A description of employees' rights to pursue complaints of undue pressure or coercion in Federal fundraising activities. The Campaign Brochure will advise civilian employees to consult with their personnel offices and military personnel with their commanding officers to identify the organization

handling such complaints in their respective Federal agencies.

(2) Organization Listing Section.

(i) The listing of organizations shall be in three major divisions. The first is referred to as introductory pages, the second shall be labelled national list and will consist of a faithful reproduction of the list of national and international organizations provided by OPM as described in § 950.201(b). The third division will consist of the Local List. In odd-numbered campaign years the Local List shall appear before the national list and after the introductory pages. In even-numbered campaign years the national list shall appear before the Local List and after the introductory pages. The order of the listing of the federated and unaffiliated organizations within the National and Local Lists will be determined by a random drawing. The order of organizations within each federation will be determined by the federation. The order of organizations within the unaffiliated lists will be alphabetical. Absent specific instructions from OPM to the contrary, each participating organization and federated group listing must include a description, not to exceed 25 words, of their services and programs, plus a telephone number for the Federal donor to request further information about the group's services, benefits, and administrative expenses. Each listing will include a statement of the percentage of the organization's total receipts and revenues that are used for administration and fundraising. Neither the percentage of administrative and fundraising expense, nor the telephone number count toward the 25-word statement.

(ii) Each national federation and charitable organization will be assigned a code number by OPM. Local federations and local charitable organizations will be assigned code numbers by the LFCC. At the beginning of each federated group's listing will be the federation's name, code number, 25-word statement, percentage of administrative and fundraising expenses, and telephone number. The sections of the brochure where the unaffiliated agencies are listed will begin with the titles National Unaffiliated Organizations, International Unaffiliated Organizations and Local Unaffiliated Organizations respectively.

(iii) Preceding any other listing of the eligible organizations, the Organization Listing Section will begin with the heading Definition of a Federation followed by this definition of a federation: A federation is a group of voluntary charitable human health and welfare organizations established for the

purpose of providing common fundraising, administrative, and management services to its members. Federations may be either national, representing national and/or international organizations, international, representing only international organizations; or local, representing local and/or regional organizations. If you wish to designate all or some portion of your contribution to a federation, record that federation's corresponding code number in one of the boxes on your pledge card. Contributions designated to a federation will be shared in accordance with the federation's policy.

(iv) In even-numbered campaign years, immediately following the definition of a federation will be the heading National Federations which will be followed by the list of all the national federations. Following the list of national federations will be the list of all the international federations. Immediately following the end of that list the heading, Local Federations will begin the list of local federations. In odd-numbered campaign years, the local federations will immediately follow the definition of a federation. After each federation will be the statement, Federation and federation member listings begin on page _____.

(v) Immediately following the list of federations will be the heading, Unaffiliated Organizations. This section will inform the donor on which pages the list of national, international and local unaffiliated organizations begins.

(vi) Immediately following the unaffiliated section will be the heading, International General Designation Option. This option will include the following explanation and the code for designating it: "III—All Organizations in the International Section of the national list. I request that my gift be shared among all the international organizations listed in the International Section of the Organization Listing in the same proportion that they received designations."

(vii) Immediately following the International General Designation Option will be the heading Undesignated Funds. Beneath this heading the following explanation of the distribution of undesignated funds will appear: "Even if you choose not to designate to a specific organization or federation, your contribution will still be accepted. These undesignated funds will be distributed to all organizations in the brochure in the same proportion that the organizations and federations received designations in the CFC."

(viii) The international general designation option on the introductory

pages will be printed in the same format and font as the organizations listed in the brochure. No special prominence or emphasis may be placed on the federations listed.

(h) Pledge Card. The pledge card as described in § 950.402 will be distributed with the campaign Brochure.

(i) Omission of an eligible charitable organization from the Brochure may require that all Brochures be reprinted and redistributed. The Director or LFCC may direct that the cost of such reprinting and redistribution be borne by the PCFO or charged to CFC administrative expenses.

(j) Dual listing. Listing of a national organization, as well as its local affiliate organization, is permitted. However, a national organization may only waive its listing in the national section of the brochure in favor of its eligible local affiliate. The local affiliate must include in its application the written waiver from its national organization.

(k) Multiple listing. Each national or local organization must individually meet all of the eligibility criteria and submit independent documentation as required in § 950.202, § 950.203 or § 950.204. Once an organization is deemed eligible, it is entitled to only one listing in the CFC Brochure, regardless of the number of federations to which that organization belongs.

(l) The LFCC may omit the 25-word program description from the CFC Brochure if, in the immediately preceding campaign year, contributions received in the local CFC totalled less than \$100,000.

§ 950.402 Pledge card.

(a) The Director will make available each campaign year at least one model pledge card which shall be faithfully reproduced at the local level. This will be the only authorized pledge card for use in that year's CFC.

(b) Campaigns may incorporate additional giving levels to the Director's authorized pledge card. Campaigns may also include their award recognition program. No further modifications to the pledge card are permitted unless approved in advance by the Director.

(c) An employee may not make a designation to an organization not listed in the Brochure. In addition, an employee may not make a CFC contribution to an organization listed in the Brochure of a campaign covering a geographic location different from the campaign where the employee works. Designations made to organizations not listed in the Brochure are not invalid, but will be treated as undesignated funds and distributed accordingly.

(d) In the event the PCFO receives a pledge card that has designations that add up to less than the total amount pledged, the PCFO must honor the total amount pledged and treat the excess amount as undesignated funds. In the event that a PCFO received a pledge card that has a total amount pledged that is less than the sum of the individual designations, the PCFO must honor the designations by assigning a proportionate share of the total gift to each organization designated. For example, if an employee indicates a total gift of \$100 in the upper portion of the pledge card, but designates \$25 each to five organizations in the lower part of the pledge card, the PCFO must adjust each organization's designation to \$20.

§ 950.403 Penalties.

A PCFO's failure to comply with subpart D of these regulations may result in either disqualification from future service as PCFO, disqualification as a participating federation, or both penalties. These penalties may only be imposed after a hearing on the record and communication of the Director's decision in writing.

Subpart E—Distribution of Undesignated Funds

§ 950.501 Applicability.

The distribution of undesignated funds described in § 950.401(g)(2)(vii) and § 950.502 applies to all domestic area campaigns. It does not apply to the DOD Overseas Campaign.

§ 950.502 Distribution of undesignated funds.

The PCFO shall collect from undesignated funds a 15 percent administration fee for performing the services of PCFO as set forth in § 950.106(d). All remaining undesignated funds shall be distributed to all of the organizations in the CFC Brochure in the same proportion that they received designations in the campaign.

§ 950.503 Review by the Director.

The Director may alter an LFCC's distribution of undesignated funds:

(a) To reverse any allocation to ineligible organizations;

or

(b) To enforce the distribution method described in §§ 950.401(g)(2)(vii) and 950.502.

Subpart F—Miscellaneous Provisions

§ 950.601 Release of contributor names.

(a) The pledge card, designed pursuant to § 950.402, must allow an employee to indicate if the employer

does not wish his or her name and home address forwarded to the charitable organization or organizations designated. A PCFO's failure to honor an employee's wish may result in the decertification of the PCFO.

(b) The pledge card will direct an employee to provide his or her complete home address on the pledge card should he or she wish his or her name and home address released to organizations receiving their donations.

(c) It is the responsibility of the PCFO to forward the names and addresses of employees who have indicated that they wish their names be forwarded, to the recipient organization directly, if the organization is unaffiliated, and to the organization's federation if the organization is a member of a federation. The PCFO may not make any other use of these employees' names and addresses.

(d) Recipient organizations that receive the names and addresses of employees must segregate this information from all other lists of contributors. This segregated list may not be sold or in any way released to anyone outside of the recipient organization. Federations may not use a member organization's list for its own purposes or share its member's lists among federation members. Failure to protect the integrity of this information may result in penalties up to and including permanent expulsion from the CFC.

(e) Organizations must cooperate fully with OPM investigations into the care and appropriate use of these lists. Should an organization ignore or fail to respond to OPM's requests for cooperation or hamper an investigation, the Director may propose that the organization be suspended or expelled from the CFC. The Director will consider any response in issuing a decision.

§ 950.602 Solicitation methods.

(a) Employee solicitations shall be conducted during duty hours using methods that permit true voluntary giving and shall reserve to the individual the option of disclosing any gift or keeping it confidential. Campaign kick-offs, victory events, awards, and other non-solicitation events to build support for the CFC are encouraged.

(b) Special CFC fundraising events, such as, raffles, lotteries, auctions, bake sales, carnivals, athletic events, or other activities not specifically provided for in these regulations are prohibited unless approved by the appropriate agency head or government official consistent with agency ethics regulations.

(c) In all approved special fundraising events the donor must have the option of designating to a specific participating organization or federation or be advised that the donation will be counted as an undesignated contribution and distributed according to these regulations.

§ 950.603 Sanctions.

(a) Sanctions not specifically provided for elsewhere in these regulations, may be imposed on an organization, federation or PCFO for violating any provisions of these regulations, other applicable provisions of law, or any directive or instruction from the Director. The Director will determine the appropriate sanction, up to and including permanent expulsion from the CFC, based on a progressive schedule which is related to the severity of the violation. In determining the appropriate sanction, the Director will consider all elements such as previous violations, harm to Federal employee confidence in the CFC, and any other relevant factors. The Director shall provide written notification to the organization, federation or PCFO regarding the alleged violation and of the intent to impose a sanction. Prior to implementation of sanctions under this section, the organization, federation or PCFO shall be provided an opportunity to address in writing why the sanctions should not be imposed. This submission must be received within 10 calendar days from the date of receipt of the Director's notification letter.

(b) At the Director's discretion, PCFO's and Federations may be directed to suspend distribution of current and future CFC donations from Federal employees to recipient organizations. Federations and PCFO's shall immediately place suspended contributions in an interest bearing account until directed to do otherwise.

§ 950.604 Records retention.

Federations, PCFO's and other participants in the CFC shall retain documents pertinent to the campaign for at least three (3) campaign years. Documents requested by OPM must be made available within 10 business days of the request.

Subpart G—DoD Overseas Area

§ 950.701 DoD overseas campaign.

(a) A Combined Federal Campaign is authorized for all Department of Defense (DoD) activities in the overseas areas during a 6 week period in the fall. Organizations that may participate in the Overseas Campaign will consist of

organizations found nationally eligible by OPM.

(b) The DoD must select an organization or combination of organizations to serve as PCFO as it deems in the best interests of the overseas campaign.

(c) Federal civilian agencies with overseas personnel may elect to have these employees participate in the DoD campaign or in the National Capital Area campaign.

(d) The overseas campaign brochure shall not include the All International Organizations Designation Option-III.

(e) Family support and youth activities established in overseas locations may be supported from CFC funds.

(f) Undesignated funds contributed in the Overseas Campaign equal to up to 6 percent of the gross campaign contributions will be allocated to the Overseas family support and youth activities. No other funds may be used for this purpose. If the undesignated funds exceed 6 percent of the gross campaign contributions, this excess shall be distributed to all other organizations in the same proportions as designations.

(g) Overseas family support and youth activities shall not be charged any share of campaign costs. All other organizations participating in the Overseas Area CFC will be charged for campaign costs in the same proportion that they received gross campaign receipts, net of that amount of receipts set aside for family support and youth activities.

(h) The overseas campaign brochure must explain the allocation policy utilized by each of the military services to allocate funds received from the Overseas campaign to their overseas family support and youth activities.

Subpart H—CFC Timetable

§ 950.801 Campaign schedule.

(a) The Combined Federal Campaign will be conducted according to the following timetable.

(1) During one 30-calendar day period between January and March, as determined by the Director, OPM will accept applications from organizations seeking to be listed on the national list.

(i) Included with the annual notice of the campaign schedule and OPM guidance will be a list of the LFCCs responsible for making statewide determinations for local eligibility.

(ii) Organizations seeking statewide recognition must contact the applicable LFCC for detailed information on the local application process.

(2) Within 35 calendar days of the closing of the receipt of applications,

the Director will issue notices to each national applicant organization of the results of the Director's review.

(3) Local Federal Coordinating Committees must select a PCFO no later than March 15.

(4) The Director will issue a national eligibility list to all local campaigns by June 30.

(5) Local Federal Coordinating Committees must accept applications from organizations seeking local eligibility for 30 calendar days as determined by the LFCC, and must issue notice of its eligibility decisions within 15 business days of the closing date for receipt of applications.

(b) The Director will annually issue a timetable for accepting and processing national applications.

Subpart I—Payroll Withholding

§ 950.901 Payroll allotment.

The policies and procedures in this section are authorized for payroll withholding operations in accordance with the Office of Personnel Management Pay Administration regulations in part 550 of this chapter.

(a) *Applicability.* Voluntary payroll allotments will be authorized by all Federal departments and agencies for payment of charitable contributions to local CFC organizations.

(b) *Allottees.* The allotment privilege will be made available to Federal personnel as follows:

(1) Employees whose net pay regularly is sufficient to cover the allotment are eligible. An employee serving under an appointment limited to 1 year or less may make an allotment to a CFC when an appropriate official of the employing Federal agency determines that the employee will continue employment for a period to justify an allotment. This includes military reservists, National Guard, and other part-time and intermittent employees who are regularly employed.

(2) Members of the Uniformed services are eligible, excluding those on only short-term assignment (less than 3 months).

(c) *Authorization.* (1) Allotments will be totally voluntary and will be based upon contributor's individual authorization.

(2) The CFC Pledge Card, in conformance with § 950.402, is the only form for authorization of the CFC payroll allotment and may be printed or purchased from a central source by each PCFO. The Pledge Cards and Official Brochure will be distributed to employees when charitable contributions are solicited.

(3) The original copy of each pledge card (payroll allotment authorization)

should be transmitted to the contributor's servicing payroll office as promptly as possible, preferably by December 15. However, if pledge cards are received after that date they should be accepted and processed by the payroll office.

(d) *Duration.* Authorization of allotments will be perpetual or in the form of a term allotment. A perpetual authorization becomes effective the first pay period beginning in January and will remain in effect from year-to-year until cancelled by the Federal employee/donor. Perpetual authorizations may only be changed during the campaign solicitation period as defined by the LFCC. Term authorizations will be in effect for 1 full year—26, 24, or 12 pay periods depending on the allotter's pay schedule—starting with the first pay period beginning in January and ending with the last pay period that begins in December. Three months of employment is considered the minimum amount of time that is reasonable for establishing an allotment.

(e) *Amount.* (1) Allotments will make a single allotment that is apportioned into equal amounts for deductions each pay period during the year.

(2) The minimum amount of the allotment will be determined by the LFCC but will not be less than \$1 per payday, with no restriction on the size of the increment above that minimum.

(3) No change of amount will be authorized for term allotments. Changes in amounts for perpetual allotments may only occur during the solicitation period, unless the donation is based on a percentage of the employees pay.

(4) No deduction will be made for any period in which the allotter's net pay, after all legal and previously authorized deductions, is insufficient to cover the CFC allotment. No adjustment will be made in subsequent periods to make up for missed deductions.

(f) *Remittance.* (1) One check will be sent by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to the Central Receipt and Accounting Point (CRP) at each local CFC location for which the payroll office has received allotment authorizations. The Director will provide a list of the authorized CRP's to Federal payroll offices.

(2) The check will be accompanied by a statement identifying the agency, the dates of the pay period, and the total number of employee deductions. There will be no listing of allotments included or of allotter discontinuances.

(g) *Discontinuance.* (1) Term allotments will be discontinued

automatically on expiration of the 1 year withholding period, or on the death, retirement, or separation of the allotter from the federal service, whichever is earlier.

(2) An allotter may revoke a perpetual or term authorization at any time by requesting it in writing from the payroll office. Discontinuance will be effective the first pay period beginning after receipt of the written revocation in the payroll office.

(3) A discontinued allotment will not be reinstated.

(h) *Transfer*. When an allotter moves to another organizational unit served by a different payroll office in the same CFC location, whether in the same office or a different Department or agency, his or her allotment authorization should be transferred to the new payroll office.

(i) *Accounting*. (1) Federal payroll offices will oversee the establishment of individual allotment accounts, the deductions each pay period, and the reconciliation of employee accounts in accordance with agency and General Accounting Office requirements. The payroll office will accept responsibility for the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The PCFO shall notify the federated groups, national agencies, and local agencies as soon as practicable after the completion of the campaign, but in no case later than February 15, of the amounts, if any, designated to them and their member agencies and of the amounts of the undesignated funds, if any, allocated to them.

(3) The PCFO is responsible for the accuracy of disbursements it transmits to recipients. It shall transmit at least monthly for campaigns of \$500,000 of more or quarterly if less than that amount, minus only the approved proportionate share for administrative cost reimbursement and the PCFO fee set forth in § 950.106(d). It shall remit the contributions to each organization or to the federated group, if any, of which the organization is a member. For campaigns with gross receipts in excess of \$500,000, the PCFO will distribute all CFC receipts beginning April 1, and monthly thereafter. For campaigns with gross receipts of \$500,000 or less, the PCFO will distribute all CFC receipts beginning June 1, and quarterly thereafter. At the close of each disbursement period, the PCFO's amount shall have a balance of zero.

(4) The PCFO may make one-time disbursements to organizations receiving minimal donations from Federal employees. The LFCC must determine and authorize the amount of

these one-time disbursements. The PCFO may deduct the proportionate amount of each organization's share of the campaign's administrative costs and the average of the previous 3 years pledge loss from the one-time disbursement. This is the only approved application of adjusting for pledge loss.

(5) Federated and national charitable organizations, or their designated agents, will accept responsibility for:

(i) The accuracy of distribution amount the charitable organizations of remittances from the PCFO; and

(ii) Arrangements for an independent audit conducted by a certified public accountant agreed upon by the participating charitable organizations.

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR PART 51

[Docket Number FV-94-302]

Bermuda-Granex-Grano Type Onions and Onions (Other than Bermuda-Granex-Grano and Creole Type); Grade Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the United States Standards for Grades of Bermuda-Granex-Grano Type Onions and United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type). The proposal would set a minimum sample size for consumer size packages, provide a "Colossal" size classification, eliminate Export size classifications and designate a U.S. No. 1 Peeled Grade. It would also include other technical revisions to update the standards in accord with current handling and marketing practices.

DATES: Comments must be postmarked or courier dated on or before April 17, 1995.

ADDRESSES: Interested parties are invited to submit written comments concerning this proposal. Comments must be sent to the Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, P.O. Box 96456, Room 2056 South Building, Washington, DC 20090-6456. Comments should make reference to the date and page number of this issue of the **Federal Register** and will be made

available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank O'Sullivan, at the above address or call (202) 720-2185.

SUPPLEMENTARY INFORMATION: The U.S. Department of Agriculture is issuing this proposed rule in conformance with Executive Order 12866.

Pursuant to the requirements set forth in the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*), the Administrator of the Agricultural Marketing Service (AMS) has determined that this action will not have a significant economic impact on substantial number of small entities. This proposed rule for the revision of U.S. Standards for Grades of Bermuda-Granex-Grano Type Onions and U.S. Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Type) will not impose substantial direct economic cost, recordkeeping, or personnel workload changes on small entities, and will not alter the market share or competitive position of these entities relative to large businesses. In addition, under the Agricultural Marketing Act of 1946, the use of these standards is voluntary.

This proposed rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. This proposed rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Agencies periodically review existing regulations. An objective of the review is to ensure that the grade standards are serving their intended purpose, the language is clear, and the standards are consistent with AMS policy and authority.

The United States Standards for Grades of Bermuda-Granex-Grano Type Onions was last revised February 20, 1985, and the United States Standards for Grades of Onions (Other Than Bermuda-Granex-Grano and Creole Types) was last revised October 1, 1971. In general, the Bermuda-Granex-Grano Type (BGG) standard is applied to southern grown onions that have thin papery outer scales, are harvested in the spring and summer and are not typically kept in storage. The Other Than Bermuda-Granex-Grano and Creole Types (Other Than) standard is generally applied to northern grown onions that have thick outer papery scales, are harvested in the fall and are