

# 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-AM68

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

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Office of Personnel Management (OPM) is issuing a proposed rule to amend the Combined Federal Campaign (CFC) regulations in order to strengthen the integrity, streamline the operations and increase the effectiveness of the program to ensure its continued growth and success.

**DATES:** OPM must receive comments on or before June 7, 2013.

**ADDRESSES:** Send written comments to Keith Willingham, Director, Combined Federal Campaign, U.S. Office of Personnel Management, Room 6484A, 1900 E Street NW., Washington, DC; or email [cfc@opm.gov](mailto:cfc@opm.gov), include "RIN 3206-AM68" in the subject line of the message, or FAX to (202) 606-5056 Attn: Keith Willingham. You may also submit comments using the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Mary Capule at [mary.capule@opm.gov](mailto:mary.capule@opm.gov) or (202) 606-2564.

**SUPPLEMENTARY INFORMATION:** This proposed rule would replace the current regulations for the CFC. OPM proposes these new regulations to govern the solicitation of Federal civilian and uniformed services personnel at the workplace. These proposed regulations are issued under the authority delegated to OPM by Executive Order 12353 (March 23, 1982), 47 FR 12785 (Mar. 25, 1982), as amended by Executive Order

12404 (February 10, 1983), 48 FR 6685 (Feb. 15, 1983).

In 2011, the CFC celebrated its 50th anniversary. In connection with this landmark anniversary, OPM announced the formation of the CFC-50 Commission. The Commission, formed under the Federal Advisory Committee Act, was asked to study ways to streamline and improve the program; improve accountability, increase transparency and accessibility and make it more affordable.

The Commission delivered its report to the OPM Director on July 20, 2012. The report contained 24 recommendations for improvement in the following areas: donor participation, CFC infrastructure, and standards of accountability and transparency.

OPM has reviewed these recommendations. This proposed rule reflects changes that OPM has concluded will improve the CFC, based on its experience administering the program and its considered judgment.

(1) *Changing the Campaign Solicitation Period.* Under current regulations, the CFC campaign solicitation period runs from September 1 to December 15. OPM proposes to change its regulation at § 950.102 to shift the campaign solicitation period by one month, so that it would begin on October 1 and end on January 15. This will allow the many employees who take leave during the month of December to contribute through the campaign when they return in the month of January. It also enables employees to consider the impact of future pay and other benefits (which often take effect the first full pay period in January) before making donations.

(2) *Immediate eligibility.* Under current regulations, new employees may not begin participating in the CFC until the next scheduled campaign solicitation period begins. OPM proposes to amend its regulation at § 950.102 to allow new employees to make CFC pledges immediately upon entering Federal service. Under OPM's proposal, new employees would be provided information on the CFC at orientation and be able to make pledges within 30 days of being hired if hired outside of the solicitation period. This will enable those employees who wish to make an immediate contribution to do so.

(3) *Disaster Relief Program.* Under current regulations, the OPM Director is

authorized to allow special solicitations to respond to disasters. There is no standing mechanism in place, but rather each disaster requires a new authorization from the Director for a special solicitation period. OPM proposes to create a permanent structure to streamline and facilitate solicitations tied to disaster relief. Accordingly, OPM proposes to amend its regulations at § 950.102 to provide for the creation of a Disaster Relief Program that would be available to donors within hours after a disaster.

(4) *Local Governance Structure.* Currently, the CFC is managed locally through Local Federal Coordinating Committees (LFCC). The number of LFCC representatives, the level of engagement, and knowledge of CFC rules and regulations varies greatly among the 184 campaign regions in the U.S. and overseas. In some areas, campaigns have difficulty identifying Federal employees who can dedicate the time to fulfill the LFCC's oversight responsibilities, including the selection of a Principal Combined fund Organization (PCFO), review and approval of reimbursable campaign expenses, review of local charity applications, and oversight of the PCFO's CFC functions. OPM is proposing to modify its regulations at § 950.103 to change the LFCC to a Regional Coordinating Committee (RCC) structure. Under this proposed change, the Director would maintain sole authority with regard to any revisions to the established geographical regions, establish limits for the RCC Chair, set requirement for a Vice Chair and establish new requirements for Agency head to appoint employees to assist with the campaign. At a minimum, the RCCs will be comprised of representatives of Federal inter-agency organizations, such as Federal Executive Boards and Federal Executive Associations, or personnel assigned to the military installation and/or Federal agency identified as the lead agency in that region. The responsibilities of the RCC will be similar to those of the LFCC with the exception of the selection and oversight of a PCFO. OPM believes the reduction in responsibilities, in addition to larger campaign regions from which members will be selected, will attract more individuals to serve in this important leadership role.

(5) *Electronic Donations.* OPM proposes to modify § 950.103 to eliminate the use of cash, check and money order contributions. Instead, all donations will be required to be made through electronic means. Electronic transfers are now widely available and by moving to an exclusively electronic donation system, we will increase the efficiency of administration of the CFC program, eliminate burdensome paperwork, and save resources.

(6) *Training and Oversight.* OPM proposes to modify § 950.104 to provide for additional training and oversight of the RCC. The training will be conducted by OPM staff and will focus on oversight responsibilities, charity eligibility requirements, and how to select a marketing organization and review/approve its reimbursable marketing expenses.

(7) *Elimination of Paper Processes.* OPM is also proposing to modify § 950.104 to eliminate paper processes within the CFC as much as possible. Specifically, OPM proposes changes in this section to eliminate printing and distributing the Charity List. Rather, this list will be made available exclusively through electronic means. This change will reduce overhead costs and increase efficiency in the administration of the CFC program.

(8) *Streamlining Campaign Administration.* Under current regulations, many campaign administration functions are performed by a number of Principal Combined Fund Organizations (PCFOs) supporting local campaigns throughout the country. We believe that a centralized approach will benefit from economies of scale and ultimately reduce overhead costs. Accordingly, OPM proposes to modify its regulations at § 950.105 to eliminate the PCFOs. In their place, we propose to consolidate responsibilities for back office functions and establish one or more Central Campaign Administrators (CCA). The CCA would either perform these functions itself or would set up regional receipt and disbursement centers. We further propose that the RCC may engage a marketing firm to continue outreach to Federal, Postal and military personnel, functions currently coordinated by the PCFOs.

(9) *Administrative Costs.* Currently, the overhead administrative costs of much of the CFC program are paid for out of donor contributions to the campaign. We believe that more transparency with respect to administrative overhead would be beneficial to the program, to the donors, and to the charitable organization that receive donations through the program. Accordingly, OPM proposes that the

cost of the campaign previously outlined in § 950.106 instead be recovered through application fees paid by the charitable organizations that apply for participation in the CFC. This section also establishes how the fees will be collected and the permissible uses of the fees.

(10) *Streamlined Application Process.* OPM believes there are efficiencies to be gained in its charity application process. We are proposing to modify the regulations at § 950.201 to reduce the burden on charities that have previously been admitted to participate in the program. Thus, these charities would be required to produce a more limited specified set of documents, via a reduced application form, to be admitted for the subsequent two years. We think this approach will afford us with sufficient information to evaluate the charity's continuing eligibility while reducing unnecessary administrative burdens on the charity.

(11) *Audit of Small Charities.* OPM is proposing to modify its regulations at § 950.203 to waive the audit requirement for organizations reporting less than \$100,000 in annual revenue to the IRS. In addition, we propose that an organization with annual revenue of at least \$100,000 but less than \$250,000 not be required to undergo an audit, but have their statements reviewed by an independent certified public accounting firm. This would remove a disproportionate burden on small charities.

(12) *Oversight of Federations.* OPM proposes to strengthen its regulations regarding federations to increase accountability and transparency. OPM proposes changes to § 950.301 to specify that federations provide a copy of each member organization's application, require dates upon which disbursements must be made to members, adds additional reporting requirements, and prohibit deductions of dues/fees from the disbursement of CFC contributions.

(13) *Payroll Deduction Disbursements.* OPM has decided to standardize and improve how payroll offices provide donor pledge reports to campaigns. OPM proposes changes to former § 950.901 (§ 950.801 in these proposed regulations) to require payroll offices to either distribute funds to the charities directly or, if funds are transmitted to the CCA, provide more detailed reports. Currently, Federal payroll office disbursement reports vary in format and level of detail, which adds to the administrative costs of the campaign administrators responsible for ensuring the accuracy of disbursements to designated charities.

These proposed changes will introduce efficiencies and cost savings into the CFC by leveraging technology that was not widely available just a few years ago. They will make the CFC more efficient, more transparent, more accountable and more relevant to Federal, Postal and military service personnel who want to make the biggest impact with their donations.

While these proposals would make significant changes in the operation of the CFC, OPM remains committed to ensuring the broad participation of a multitude of charities in the CFC, and to preserving the local character, sense of community, and employee involvement that has been a hallmark of the CFC. We welcome comments on how to best maintain these important attributes as we take steps to improve the CFC for the future.

### Section-by-Section Analysis

#### *Section 950.101 Definitions.*

Definitions were reviewed and updated to conform to the proposed regulatory changes. Accordingly, we propose to eliminate terms no longer applicable (Campaign Period, Designated Funds, Domestic Area, Local Federal Coordinating Committee (LFCC), Overseas Area, Principal Combined Fund Organization (PCFO), Undesignated Funds), add new terms (Campaign Expenses, Central Campaign Administrator (CCA), Charity Application Fees, Regional Coordinating Committee (RCC)), and revise definitions of some of the terms that remain in place (Administrative Expenses, Charity List, Organization or Charitable Organization, Solicitation).

*Section 950.102 Scope of the Combined Federal Campaign.* Adjusts solicitation dates to October 1–January 15 from September 1–December 15. This shift addresses concerns about having the campaign end in December, while maintaining the current length of the solicitation period, as well as eliminating the requirement for the LFCC to establish campaign dates. It also provides the opportunity for new employees to pledge within 30 days if hired outside the solicitation period, and establishes standard guidance for Disaster Relief support.

*Section 950.103 Establishing Regional Coordinating Committees.* Changes Local Federal Coordinating Committee (LFCC) to Regional Coordinating Committee (RCC) to better reflect the proposed responsibilities of this committee of Federal personnel. Requires appointment of RCC Chair and Vice Chair, limits Chair term to no more than 3 consecutive years. Establishes new requirement for Agency heads to

appoint employees in support of the campaign. Eliminates use of cash, check and money order, limits pledging to electronic means using only payroll deduction or credit cards, and also eliminates restriction on soliciting non-Federal personnel. Removes campaign boundaries with regard to donors, as universal giving is supported in a completely electronic process.

**Section 950.104 Regional Coordinating Committee responsibilities.** Provides for a transition from a large number of "local" campaigns to a smaller number of "regions," requiring a reduced number of Federal personnel for oversight purposes. Requires committee members to gain a complete understanding of regulations and procedures by attending specific training and achieving certification in RCC operations.

Eliminates the local application review responsibility, and tasks the RCC to assist OPM with application review as assigned. Reassigns the responsibility for training the campaign personnel from the PCFO to the RCC. Establishes the ability for RCC to hire campaign marketing support. Eliminates the need for Loaned Executives in a fully electronic pledging environment.

**Section 950.105 Federal Agency Head responsibilities.** Outlines specific responsibilities of Agency Heads to include identification of employees in support of the campaign. Previously defined duties are also indicated to include providing support to the campaign, becoming familiar with the regulations, and assuring the campaign is conducted in accordance with those regulations.

**Section 950.106 Central Campaign Administrator (CCA)** Establishes CCA requirements, roles and functions and eliminates requirement for PCFO and all references thereto. Provides guidance for circumstances where no qualified CCA can be retained.

**Section 950.107 Campaign Expense recovery.** Shifts the expense of the campaign from the donor to the charities via a charity application fee and changes PCFO expenses to campaign expenses (CCA and marketing costs).

**Section 950.108 Preventing Coercive activity.** No changes.

**Section 950.109 Avoidance of Conflict of Interest.** Removed references to LFCC and PCFO, added reference to RCC.

**Section 950.110 Prohibited discrimination.** Updated to meet current legal standards.

**Section 950.201 Charity eligibility.** Combines all current charity eligibility guidance into one subpart, eliminating

separate sections for national/international and local. Eliminates annual application requirement and instead establishes a streamlined verification process for two "renewal" years after the year in which the initial full application is approved.

**Section 950.202 Charity eligibility requirements.** Establishes in one section requirements for national/international and local charities. Codifies several OPM guidance memoranda into the regulation (2006–21 and 2008–08). Removes requirement to submit IRS verification letter if the organization can be verified in the IRS Business Master File (BMF). Outlines verification requirements for local affiliates, churches and Family Support and Youth Activities/Family Support and Youth Programs FSYA/FSYPs.

**Section 950.203 Public accountability standards.** Specifies 'calendar year' where previous reference was unclear and updated sample dates. Specifies requirement for US or International Accounting Standards, and modifies transition levels for audit requirements. Removes requirement for Attachment A of IRS Form 990, and removes definition of 'pro forma 990' so requirements can be modified easily as the IRS updates the form.

**Section 950.204 Eligibility decisions and appeals.** All local eligibility requirements merged from this section into section 950.203. New section 950.204 establishes process for decisions and appeals in lieu of certified or registered mail. Codifies appeal information in OPM guidance memorandum 2012–03.

**Section 950.301 Federation eligibility.** Establishes specific requirements, combining national/international and local federation eligibility requirements into one section. Requires federations to submit a copy of each member organization's application as outlined in the Charity Eligibility section. Specifies 'calendar year' where previous reference was unclear.

**Section 950.302 Responsibilities of federations** Combines national/international and local federation responsibilities into one section. Establishes requirement for federations to disburse funds to members on a quarterly basis, and prohibits federations from deducting fees or charges from disbursements made to member organizations. Requires that CFC funds are identified as such when payments that include non-CFC funds are made to member organizations.

**Section 950.401 Campaign and publicity information.** Removes references to PCFO, changes references from LFCC to RCC. Eliminates use of

paper Charity List and pledge form, as all donations must be entered electronically. Removes the undesignated gift option. Removes guidance for confidential gifts as gifts will be made electronically. Adds requirement and references for credit card usage. Adds the organization's Web site address as a standardized item in each charity list entry, and revises the 25 word statement to a 256 character statement.

**Section 950.402 Pledge form** Removes use of paper pledge forms, and all references thereto. Also removes undesignated option, as well as all references with regard to undesignated pledging.

**Section 950.501 Release of contributor information.** Eliminates references to PCFO, and replaces those references with CCA. Requires federations to provide donor information to its member organizations in a specific time frame. Codifies CFC Memo 2003–2.

**Section 950.502 Solicitation methods.** Prohibits fund raising at events and activities, eliminates references to specific CFC events and activities, and requires that Agencies obtain approval from ethics officials to approve all events and activities.

**Section 950.503 Sanctions and penalties.** Removes all references to PCFO and LFCC, and added references to CCA where appropriate.

**Section 950.504 Records retention.** Changed PCFO reference to CCA. Updated years in sample dates.

**Section 950.505 Sanctions compliance certification.** Corrects "unaffiliated" to "independent." Corrects official name of OPM's Office of CFC (OCFC).

**Section 950.601 Campaign schedule.** Eliminates references to National/International applicants since all applications and eligibility process requirements apply to all charities. Eliminates references to PCFO and LFCC regarding specifics of local application review process which has been eliminated.

**Section 950.701 Payroll allotment.** Eliminates references to paper pledge forms, which have been discontinued. Changes dates of payroll deductions to coincide with new extended solicitation period. Changes minimum pledge to \$1 per pay period per designated charity.

**Section 950.801 Accounting and Distribution.** Outlines requirement for remittance and transmission of funds by payroll offices to CCA or charities. Changes references from PCFO to CCA, outlines requirements for distribution of credit card funds.

**Regulatory Flexibility Act**

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would reduce reporting and recordkeeping requirements for small organizations that wish to participate in the CFC.

**Executive Order 13563 and Executive Order 12866**

This proposed rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 13563 (January 18, 2011), 76 FR 3821 (Jan. 21, 2011), and Executive Order 12866 (September 30, 1993), 58 FR 51735 (Oct. 4, 1993).

**List of Subjects in 5 CFR Part 950**

Administrative practice and procedure, Charitable contributions, Government employees, Military personnel, Nonprofit organizations, Reporting and recordkeeping requirements.

U.S. Office of Personnel Management.

**John Berry,**  
*Director.*

Accordingly, the U.S. Office of Personnel Management is proposing to revise 5 CFR part 950 to read as follows:

**PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS****Subpart A—General Provisions**

- Sec.
- 950.101 Definitions.
  - 950.102 Scope of the Combined Federal Campaign.
  - 950.103 Establishing Regional Coordinating Committees.
  - 950.104 Regional Coordinating Committee responsibilities.
  - 950.105 Federal Agency Head responsibilities.
  - 950.106 Central Campaign Administrator (CCA).
  - 950.107 Campaign expense recovery.
  - 950.108 Preventing coercive activity.
  - 950.109 Avoidance of conflict of interest.
  - 950.110 Prohibited discrimination.

**Subpart B—Eligibility Provisions**

- 950.201 Charity eligibility.
- 950.202 Charity eligibility requirements.
- 950.203 Public accountability standards.
- 950.204 Eligibility decisions and appeals.

**Subpart C—Federations**

- 950.301 Federation eligibility.
- 950.302 Responsibilities of federations.

**Subpart D—Campaign Information**

- 950.401 Campaign and publicity information.
- 950.402 Pledge form.

**Subpart E—Miscellaneous Provisions**

- 950.501 Release of contributor information.
- 950.502 Solicitation methods.
- 950.503 Sanctions and penalties.
- 950.504 Records retention.
- 950.505 Sanctions compliance certification.

**Subpart F—CFC Timetable**

- 950.601 Campaign schedule.

**Subpart G—Payroll Withholding**

- 950.701 Payroll allotment.

**Subpart H—Accounting and Distribution**

- 950.801 Accounting and distribution.

**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.**

As used in this part:

*Administrative Expenses* means the overhead costs of the participating organization based on information from the Internal Revenue Service Form 990.

*Campaign Expenses* means the cost of the administration of the campaign by the Central Campaign Administrator and any regional marketing organizations.

*Central Campaign Administrator* means the organization(s) responsible for developing and maintaining the CFC Web site and charity application module, and to which OPM may assign responsibility for making distributions to charities.

*Charity Application Fees* means the charge to charities applying for listing in the CFC to pay the Campaign Expenses.

*Charity List* means the official list of charities approved by OPM for inclusion in the CFC.

*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.

*Director* means the Director of the Office of Personnel Management or his/her designee.

*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.

*Family Support and Youth Activities (FSYA)* means an organization on a domestic military base recognized by the Department of Defense as providing

programs for military families on the base.

*Family Support and Youth Programs (FSYP)* means an organization on a non-domestic military base recognized by the Department of Defense as providing programs for military families on the base.

*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.

*Independent Organization* means a charitable organization that is not a member of a federation for the purposes of the Combined Federal Campaign.

*International General Designation Option* means an option available to donors under which his or her gift is distributed to all of the international organizations listed in the International Section of the Charity List 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 to persons in areas outside of the United States.

*Organization* or *Charitable Organization* means a non-profit, philanthropic, human health and welfare organization.

*Regional Coordinating Committee* means the group of Federal officials designated by the Director to oversee the CFC in a region and to assist the Director with the charity application reviews.

*Solicitation* means any action requesting a monetary donation, either by payroll deduction or credit card, on behalf of charitable organizations.

**§ 950.102 Scope of the Combined Federal Campaign.**

(a) The CFC is the only authorized solicitation of employees in the Federal workplace on behalf of charitable organizations. A campaign may be conducted only during the period running from October 1 through January 15. It must be conducted at every Federal agency in accordance with the regulations in this part. No other monetary solicitation on behalf of charitable organizations may be conducted in the Federal workplace, except as follows:

(1) Federal agencies must provide information about the CFC to new employees at orientation. New employees may make pledges within 30 days of hiring if hired outside of the campaign period.

(2) The Director may grant permission for solicitations of Federal employees, outside the CFC, in support of victims in 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. Any special solicitations will be managed through a Disaster Relief Program developed by OPM.

(b) The regulations in this part 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 and any other applicable laws or regulations.

(c) The Director may exercise general supervision over all operations of the CFC, and take all necessary steps to ensure the achievement of campaign objectives, including but not limited to the following:

(1) Any disputes relating to the interpretation or implementation of this part may be submitted to the Director for resolution. The decisions of the Director are final for administrative purposes.

(2) The Director may audit, investigate, and report on the administration of any campaign, the organization that administers the campaign, and any national, international and local federation, federation member or independent organization that participates in the campaign for compliance with these regulations. The Director may resolve any issues reported and assess sanctions or penalties, as warranted under § 950.503.

(d) Current Federal civilian and active duty military employees may be solicited for contributions using payroll deduction or by electronic means, including credit cards, as approved by the Director. Contractor personnel, credit union employees and other persons present on Federal premises, as well as retired Federal employees, may make single contributions to the CFC by electronic means, including credit cards, as approved by the Director.

(e) 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 Regional Coordinating Committees.**

(a) The Director, in his or her sole discretion, will establish, maintain, and, from time to time, revise an official list of campaign regions.

(b) For each campaign region, the Director will establish a Regional Coordinating Committee (RCC) for the purpose of governing the campaign for that region. The RCC shall consist of the following:

(1) A minimum of three members to be drawn from local Federal inter-agency organizations, such as Federal Executive Boards and Federal Executive Associations, or from personnel assigned to the military installation and/or agency identified as the lead agency in that region;

(2) Representation from local Federal agencies; and

(3) If approved by the Director, representatives of employee unions and other employee groups.

(c) The members of each RCC must select a Chair and a Vice Chair. The Chair and Vice Chair positions will be rotated among the RCC members. The term of the Chair and Vice Chair may not exceed three consecutive years. Any RCC Chair or Vice Chair is subject to removal by the Director, in his sole and unreviewable discretion.

(d) The RCC will ensure that, to the extent reasonably possible, every employee is given the opportunity to participate in the CFC.

#### **§ 950.104 Regional Coordinating Committee responsibilities.**

(a) The RCC is to serve as the central source of information regarding the CFC among Federal employees in their region. All members of the RCC must develop an understanding of campaign regulations and procedures.

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

(1) Attend required RCC training and obtain certification in RCC operations;

(2) Maintain minutes of RCC meetings and respond promptly to any request for information from the Director;

(3) Name a RCC Chair and Vice Chair and notify the Director when there is a change in either position;

(4) Assist in determining the eligibility of organizations that apply to participate in the campaign as required and assigned by OPM;

(5) Provide training to employees in the methods of non-coercive solicitation;

(6) Provide instructions to employees regarding the process for making

donations and designating the charitable organizations to receive their donations.

(7) Take appropriate measures to protect potential donors from coercion to participate in the campaign.

(8) Bring any allegations of potential donor coercion to the attention of the employee's agency and provide a mechanism to review employee complaints of undue coercion in Federal fundraising. Federal agencies shall provide procedures and assign responsibility for the investigation of such complaints. The agency official responsible for conducting the campaign is responsible for informing employees of the proper channels for pursuing such complaints.

(9) Notify the Director of issues concerning the campaign that the RCC cannot resolve by applying these regulations. The RCC must abide by the Director's decisions on all matters concerning the campaign.

(10) Monitor the work of the marketing organization, ensuring compliance with these regulations, as well as performance as outlined in agreement between the RCC and the marketing organization.

(11) Review, approve and provide authorization to the Central Campaign Administrator for payments to the marketing organization in an efficient and effective manner as outlined in the agreement.

(c) The RCC may hire an organization to provide regional operation marketing support to their campaign, including developing marketing plans and materials, employee training, and campaign event and activity support.

#### **§ 950.105 Federal Agency Head responsibilities.**

(a) The agency head at each Federal installation within a campaign area should:

(1) Become familiar with all CFC regulations.

(2) Cooperate with the members of the RCC in organizing and conducting the campaign.

(3) Initiate official campaigns within their offices or installations and provide support for the campaign.

(4) Assure the campaign is conducted in accordance with these regulations.

(5) Appoint an employee to oversee the Agency campaign.

(6) Establish a network of employees in support of the Agency's campaign.

(b) Agency heads may not discontinue solicitation of Federal employees during the campaign solicitation period within their organization without the written approval of the Director.

**§ 950.106 Central Campaign Administrator (CCA).**

(a) OPM may contract with one or more organizations classified by the Internal Revenue Service as 501(c)(3) organizations, to perform the centralized fiscal and administrative functions of the CFC. One organization will be responsible for developing and maintaining a centralized Web site for the CFC that will include an online application function for charities applying to participate in the CFC and an online pledging function for Federal donor use. All organizations will be responsible for disbursing funds received from the Federal payroll offices or service providers. If OPM contracts with more than one organization, the disbursement responsibilities will be divided between them based on Federal Shared Service Centers and Federal payroll offices. For example, if OPM contracts with four organizations, one would handle all agencies that use National Finance Center as their Shared Service Center. Only non-CFC participating organizations may be selected as CCAs.

(b) In the event that there is no qualified CCA, no workplace solicitation of any Federal employee may be authorized and CFC payroll allotments would not be accepted or honored.

**§ 950.107 Campaign expense recovery.**

(a) The costs of the regional marketing approved by the RCC, training and traveling for the RCC, and CCA will be recovered through application fees paid by charitable organizations applying for participation in the CFC. The fee structure will be determined annually by the Director based on estimated costs of administering the campaign. This structure will be announced no later than October 31 of the year preceding the campaign. Any excess funds from applications fees over expenses will be rolled over to the following campaign and be considered when setting the rates. Marketing expenses will not exceed a percentage of receipts as determined by the Director. No expenses for food or entertainment may be reimbursed to the marketing firm. Only travel related food expenses may be reimbursed to the RCC in accordance with the Federal Travel Regulations.

(b) Charity application fees are due at the time of the filing of the application or the application deadline, whichever occurs last. A charity that has not paid the full application fee at that time may not participate in the CFC that campaign year.

(c) Charity application fees will not be refunded, even if the charity has

withdrawn its application or fails to meet the public accountability standards or eligibility requirements for participation.

**§ 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 that 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 § 950.501.

(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 RCC, or as a Federal agency fundraising program employee, shall not serve in any official capacity or participate in any decisions where, because of membership on the board or other affiliation with a charitable organization, there could be or appear to be a conflict of interest under any statute, regulation, Executive order, or applicable agency standards of conduct.

**§ 950.110 Prohibited discrimination.**

Discrimination for or against any individual or group on account of race, ethnicity, color, religion, sex (including pregnancy and gender identity),

national origin, age, disability, sexual orientation, genetic information, or any other non-merit-based factor 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, ethnicity, color, religion, sex, gender identity, national origin, age, disability, sexual orientation, or genetic background.

**Subpart B—Eligibility Provisions****§ 950.201 Charity eligibility.**

(a) The Director shall annually:

(1) Determine the timetable and other procedures regarding application for inclusion in the Charity List; and

(2) Determine which organizations among those that apply qualify to be included in the National/International, International and Local parts of the Charity List. In order to determine whether an organization may participate in the campaign, the Director may request evidence of corrective action regarding any prior violation of regulation or directive, sanction, or penalty, as appropriate. The Director retains the ultimate authority to decide whether the organization has demonstrated, to the Director's satisfaction, that the organization has taken appropriate corrective action. Failure to demonstrate satisfactory corrective action or to respond to the Director's request for information within 10 business days of the date of the request may result in a determination that the organization will not be included in the Charity List.

(b) The Charity List will include each organization's CFC code and other information as determined by OPM.

(c) A charity must submit the full application the initial year it applies to participate in the CFC. In lieu of a full application, a charity may submit a verification application for the two years immediately following its submission of a full application.

(1) A verification application consists of certification of all applicable statements required by §§ 950.202 and 950.203, and submission of an IRS Form 990 or pro forma IRS Form 990, as defined in § 950.203(a)(3).

(2) An organization that did not apply or was not approved for participation in the preceding campaign must submit a full application.

**§ 950.202 Charity eligibility requirements.**

(a) The requirements for an organization to be listed in the Charity List shall include the following:

(1) Certification that it provides or conducts real services, benefits, assistance, or program activities, in 15 or more different states or one or more foreign countries over the 3 calendar year period immediately preceding January 1 of the campaign application year. A schedule listing a detailed description of the services in each state (minimum 15) or foreign countries (minimum 1), including the year of service and documenting the location and date and year of each service, and the number of beneficiaries of each such service must be included with the CFC application. The schedule must make a clear showing of national or international presence. Broad descriptions of services and identical repetitive narratives will not be accepted in the sole discretion of OPM if they do not allow OPM to adequately determine that real services were provided or to accurately determine the individuals or entities who benefited. It must be clear in the documentation submitted that the organization provided at least one human health and welfare service in the calendar year prior to the year for which the organization is applying. Publications or other documents in lieu of a schedule detailing this information are not acceptable.

(i) Local charitable organizations are not required to have provided services or benefits in 15 states or a foreign country over the prior 3 years. The schedule for local organizations is only required to document services in their local area. Local organizations must also certify that the Organization Address submitted with the application is the primary location where the organization's services are rendered and/or its records are maintained.

(ii) This requirement cannot be met solely by the provision of services via telephone, unless the service is emergency in nature such as a suicide prevention hotline. The requirement is also not met solely by disseminating information and publications via the U.S. Postal Service or the Internet, unless it meets the criteria for web-based services as described in § 950.202(a)(1)(iii), or a combination thereof.

(iii) Real services or benefits for web-based service organizations may be considered if the organization provides service logs or other records indicating the geographic distribution of users in each state. The organization must demonstrate the scope of services

received by users over the three-year period immediately preceding the start of the campaign year involved. Reports that reflect only the number of hits or visits to a Web site are not sufficient to establish the provision of real services. In addition, two of the three following types of information must be provided to demonstrate the provision of real services, benefits, assistance, or program activities:

(A) Evidence that recipients, including members of the general public, dues paying members or affiliate organizations, have registered for use of the Web site;

(B) Summary reports that document customer feedback, through service satisfaction or utilization surveys or other mechanisms; and

(C) Documented evidence that recipients of web-based services paid a fee for the service.

(iv) Providing listings of affiliated groups does not demonstrate provision of real services by the applicant. Location of residence of organization members or location of residence of visitors to a facility does not substantiate provision of services. Schedules that describe activities conducted by an entity other than the applicant, such as a chapter or a support group, must include information documenting the applicant's role in the delivery of the service. Details may include items such as whether the chapter is funded by the applicant or how the applicant assisted in the delivery of the service. Applications that fail to include a description of how the applicant itself provides service may result in a denial.

(v) Organizations that provide student scholarships or fellowships must indicate the state in which the recipient resides, not the state of the school or place of fellowship. Mere dissemination of information does not demonstrate acceptable provision of real services.

(vi) While it is not expected that an organization maintain an office in each state or foreign country, a clear showing must be made of the actual services, benefits, assistance or activities provided in each state or foreign country. Organizations that provide services in one location may only count the state in which the services are provided toward their eligibility to participate on the national charity list. However, an organization may have beneficiaries from several states and want service to those beneficiaries considered toward the 15-state requirement to participate on the national Charity List. If an organization can document that the services are subsidized or were provided free-of-

charge, and list the value of those services to each of the beneficiaries, then the service to the beneficiary may be considered a service in the state of the beneficiary's residence, similar to a financial grant or scholarship. For example, a medical institution providing free housing to family members of the patient during the length of the patient's stay must list the location of the medical institution, the city/state of residence of each beneficiary, the dates of service, and the value of the housing provided to each beneficiary's family members.

(vii) An organization's role in providing information to the media, such as authorship of an article for a newspaper, magazine, or journal, or serving as an interviewee or reference for a television news program, or the authorship of a book, does not in itself constitute a real service for CFC purposes. Likewise, the production and/or distribution of information, such as a report based on research, surveys conducted by the applicant organization, or publication of a policy position paper, does not, in itself, constitute an eligible service. With regard to media-related activities, research, and reports, the applicant must describe the manner in which beneficiaries requested or used the document or information in order to establish the provision of a real services, benefit, assistance, or program activity.

(viii) De minimis services, benefits, assistance, or other program activities in any state or foreign country will not be accepted as a basis for qualification as a national or international organization. Factors that OPM will consider in determining whether an organization's services, benefits, assistance or other program activities are de minimis include, but are not limited to: nature and extent of the service, benefit, assistance or activity; frequency, continuity, and duration; value of financial assistance awarded to individuals or entities; impact on, or benefit to, beneficiaries; and number of beneficiaries.

(2) Certification that it is an organization recognized by the Internal Revenue Service as tax exempt under 26 U.S.C. 501(c)(3) to which contributions are deductible under 26 U.S.C. 170(c)(2). The CFC will verify that each applicant's name and Employer Identification Number appears in the IRS Business Master File (BMF). If the organization does not appear in the BMF, one of the following must accompany the application:

(i) An affirmation letter from the IRS, dated on or after January 1 of the campaign year to which the

organization is applying, that verifies the organization's current 501(c)(3) tax-exempt status.

(ii) A local affiliate of a national organization that is not separately incorporated must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the national organization stating that it operates as a bonafide chapter or affiliate in good standing of the national organization and is covered by the national organization's 26 U.S.C. 501(c)(3) tax exemption. The letter must be signed and dated on or after October 1 of the calendar year preceding the campaign year for which the organization is applying.

(iii) For central organizations that are churches, the CFC will accept a copy of its most recently published listing (such as a church directory) of section 501(c)(3) organizations that are included in the group exemption held by the central organization. A subordinate may alternatively obtain a letter from the central organization affirming the subordinate's status as an organization exempt under section 501(c)(3) of the Internal Revenue Code that is included in the group exemption held by the central organization.

(iv) Family Support and Youth Activities (FSYA) located on military installations in the United States and Family Support and Youth Programs (FSYP) located on military installations overseas must provide a copy of certification by the commander of a military installation, as outlined in paragraphs (a)(3) and (4) of this section, to demonstrate tax-exempt status.

(3) Family support and youth activities or programs certified by the commander of a military installation as meeting the eligibility criteria contained in paragraphs (a)(3) and (4) of this section may appear on the list of local organizations and be supported from CFC funds. Family support and youth activities may participate in the CFC as a member of a federation at the discretion of the certifying commander.

(4) A family support and youth activity or program must:

(i) Be a nonprofit, tax-exempt organization that provides family service programs or youth activity programs to personnel in the Command and be a Non-Appropriated Fund Instrumentality that supports the installation MWR/FSYA/FSYP program. The activity must not receive a majority of its financial support from appropriated funds.

(ii) 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.

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

(iv) 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.

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

(vi) 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.

(b) [Reserved]

#### **§ 950.203 Public accountability standards.**

(a) To ensure organizations wishing to solicit donations from Federal employees in the workplace are portraying accurately their programs and benefits, each organization seeking eligibility must meet annually applicable standards and certification requirements. Each organization, other than FSYA or FSYP, 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 health and human welfare benefits provided by the organization within the previous calendar year;

(2) Subject to the exceptions listed in this section, certify that it accounts for its funds on an accrual basis in accordance with United States or International generally accepted accounting principles and that an audit of its fiscal operations is completed annually by an independent certified public accountant in accordance with generally accepted auditing standards. A copy of the organization's most recent annual audited financial statements must be included with the application. The statements must include all statements required for voluntary health

and welfare organizations by the United States Financial Accounting Standards Board or the International Accounting Standards Board. The audited financial statements must cover the fiscal period ending not more than 18 months prior to the January of the year of the campaign for which the organization is applying. For example, the audited financial statements included in the 2014 application must cover the fiscal period ending on or after June 30, 2012.

(i) An organization with annual revenue of less than \$100,000 reported on its IRS Form 990 or pro forma IRS Form 990 submitted to the CFC is not required to undergo an audit, submit audited financial statements, or to account for its funds on an accrual basis in accordance with generally accepted accounting principles. Rather, the organization must certify that it has controls in place to ensure that funds are properly accounted for and that it can provide accurate and timely financial information to interested parties.

(ii) An organization with annual revenue of at least \$100,000 but less than \$250,000 is not required to undergo an audit. The organization must certify that its financial statements are reviewed by an independent certified public accountant on an annual basis or are audited by an independent public accountant on an annual basis. A copy of the reviewed or audited financial statements must be included with the application.

(3) Certify that it prepares and submits to the IRS a complete copy of the organization's IRS Form 990 or that it is not required to prepare and submit an IRS Form 990 to the IRS. Provide a completed copy of the organization's IRS Form 990 submitted to the IRS covering a fiscal period ending not more than 18 months prior to the January of the year of the campaign for which the organization is applying, including signature, and all supplemental schedules, with the application, or if not required to file an IRS Form 990, provide a pro forma IRS Form 990. Pro forma IRS Form 990 instructions will be posted on the OPM Web site and included in the application instructions. IRS Forms 990EZ, 990PF, and comparable forms are not acceptable substitutes. The IRS Form 990 and audited financial statements, if required, must cover the same fiscal period.

(4) Provide a computation of the organization's percentage of total support and revenue spent on administrative and fundraising. This percentage shall be computed from information on the IRS Form 990



submitted pursuant to paragraph (a)(3) of this section.

(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.

(6) Certify that the organization's fundraising practices prohibit the sale or lease of its CFC contributor lists.

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

(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 Charity 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 the date of 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.

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

#### **§ 950.204 Eligibility decisions and appeals.**

(a) Organizations applying for participation in the CFC will be notified of the eligibility decision electronically via the email address(es) listed in the charity application.

(b) Organizations that apply and are denied eligibility for inclusion on the Charity List may appeal the decision by submitting a request for reconsideration. This request must be received within 10 business days from the date the decision to deny eligibility was sent via email and shall be limited to those facts justifying the reversal of the original decision.

(c) All appeals must:

(1) Be in writing;

(2) Be received by the Director within 10 business days of the date the decision to deny the application was sent via email;

(3) Include a statement explaining the reason(s) why eligibility should be granted; and

(4) Include a copy of the communication from OPM disapproving the original application and supporting information to justify the reversal of the original decision.

(d) Applications or appeals of an adverse eligibility determination must be submitted in a timely manner as indicated above.

(e) Appeals may not be used to supplement applications with documents that did not exist or were not set forth in final form prior to the application deadline. For example, audited financial statements that were not prepared or were in draft form at the time of the deadline cannot be used to document eligibility. Similarly, charities that had applied for, but had not obtained, 501(c)(3) status from the IRS by the CFC application deadline are not eligible to participate for that campaign year.

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

#### **Subpart C—Federations**

##### **§ 950.301 Federation eligibility.**

(a) The Director may recognize federations that conform to the requirements set by the Director and are eligible to receive designations. In order to determine whether the Director will recognize a federation, the Director may request evidence of corrective action regarding any prior violation of regulation or directive, sanction, or penalty, as appropriate. The Director retains the ultimate authority to decide whether the federation has demonstrated, to the Director's satisfaction, that the federation has taken appropriate corrective action. Failure to demonstrate satisfactory corrective action or to respond to the Director's request for information within 10 business days of the date of the request may result in a determination that the federation will not be included in the Charity List. The Director also reserves the authority to place a moratorium on the recognition of federations from time to time.

(b) By applying for inclusion in the CFC, federations consent to allow the Director complete access to its 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 federation to participate in the CFC if the applicant has, as members of the proposed federation, 15 or more charitable organizations, in addition to the

federation itself, that meet the eligibility criteria of §§ 950.202 and 950.203. The federation must submit the applications of all its proposed member organizations annually.

(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 Charity 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 withdrawal of federation status subject to a hearing on the record.

(e) An applicant for 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/International or International/Local part of the Charity List. Applicants must provide a complete list of those member organizations it certified in addition to each organization's complete application.

(2) That it meets the eligibility requirements and public accountability standards contained in § 950.202 and § 950.203. The federation can demonstrate that it has met the eligibility requirement in § 950.202(a) either through its own services, benefits, assistance or program activities or through its 15 members' activities.

(i) The federation must complete the certification set forth at § 950.203(a)(2) without regard to the amount of revenue reported on its IRS Form 990 and must provide a copy of its audited financial statements. The audited financial statements provided must verify that the federation is honoring designations made to each member organization by distributing a proportionate share of receipts based on donor designations to each member. The audit requirement is waived for newly created federations operating for less than two years from the date of its IRS tax-exemption letter to the closing date of the CFC application period.

(ii) The federation must provide a listing of its board of directors, beginning and ending dates of each member's current term of office, and the board's meeting dates and locations for the calendar year prior to the year of the campaign for which the organization is applying.

(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 administrative tasks.

(f) The Director will notify a federation if it is determined that the federation does not meet the eligibility requirements of this section. A federation may appeal an adverse eligibility decision in accordance with § 950.204.

(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 paragraph (c) of this section.

#### **§ 950.302 Responsibilities of federations.**

(a) 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 federations. If the Director requests information supporting a certification of 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) 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. The proportionate share of receipts is determined by donor designations to the individual member organization as compared to total campaign designations.

(d) Federations must disburse CFC funds to each member organization without any further deductions. Membership dues, fees, or other charges to member organizations must be assessed outside of the CFC disbursement process.

(e) Federations must disburse CFC funds to member organizations on a quarterly basis, at a minimum. The disbursements must be made within the months of June, September, December, and March.

(f) Disbursements to federation members that include funds from a non-CFC campaign must include a report

that clearly identifies the amount of CFC funds.

#### **Subpart D—Campaign Information**

##### **§ 950.401 Campaign and publicity information.**

(a) The specific campaign marketing and publicity information will be developed locally, except as specified in the regulations in this subpart. All information must be reviewed and approved by the RCC for compliance with these regulations and will be developed and supplied by the RCC or contracted agent.

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

(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) Agency Heads are further authorized to permit the distribution by organizations of promotional information to Federal personnel in public areas of Federal workplaces in connection with the CFC, provided that the manner of distribution accords equal treatment to all charitable organizations furnishing such information for local use, and further provided that no such distribution shall utilize Federal personnel on official duty or interfere with Federal government activities. RCC 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. Nothing in this section shall be construed to require a RCC to distribute or arrange for the distribution of any material other than RCC approved marketing materials.

(e) The Campaign Charity List and pledge form are the official sources of CFC information and shall be made available in electronic format to all potential contributors. The Charity List and pledging system must inform

employees of their right to make a choice to contribute or not to contribute.

(f) Campaign marketing materials must be comprised of a simple and attractive design that is donor focused and has fundraising appeal and essential working information. The design must focus on the CFC without undue use of charitable organization symbols and logos or other distractions that compete for the donor's attention.

(g) The following applies specifically to the campaign Charity List:

(1) OPM will provide the approved Charity List as well as general campaign information. This will include:

(i) An explanation of the payroll deduction privilege.

(ii) A description and explanation of other electronic pledging, to include credit cards.

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

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

(v) A description of employees' rights to pursue complaints of undue pressure or coercion in Federal fundraising activities.

(2) The Charity List will consist of National/International, International, and Local organizations. The order of these organizations will be rotated annually in accordance with OPM instructions. The order of listing of the federated and independent organizations will be determined by a random selection process. The order of organizations within each federation will be determined by the federation. The order within the National/International, International and Local independent groups 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 256 characters, of its services and programs, plus a Web site address and telephone number for the Federal donor to obtain further information about the group's services, benefits, and administrative expenses. Each listing will include the organization's administration and fundraising percentage as calculated pursuant to § 950.203(a)(4). Neither the percentage of administrative and fundraising expenses, nor the Web site address or telephone number count toward the 256 character description.

(3) Each federation and charitable organization will be assigned a code in

a manner determined by the Director. At the beginning of each federated group's listing will be the federation's name, code number, 256 character description, percentage of administrative and fundraising expenses, Web site address and telephone number. Each organization will be identified as National/International, International and Local, respectively.

(h) *Listing of national and local affiliate.* Listing of a national organization, as well as its local affiliate organization, is permitted. Each national or local organization must individually meet all of the eligibility criteria and submit independent documentation as required in § 950.202 and § 950.203 to be included in the Charity List. However, a local affiliate of a national organization that is not separately incorporated, in lieu of its own 26 U.S.C. 501(c)(3) tax exemption letter and, to the extent required by § 950.203(a)(2), audited financial statements, may submit the national organization's 26 U.S.C. 501(c)(3) tax exemption letter and audited financial statements, but must provide its own pro forma IRS Form 990, as defined in § 950.203(a)(3), for CFC purposes. The local affiliate must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the national organization stating that it operates as a bonafide chapter or affiliate in good standing of the national organization and is covered by the national organization's 26 U.S.C. 501(c)(3) tax exemption, IRS Form 990 and audited financial statements.

(i) *Listing local offices.* Listing of a local organization, as well as its satellite offices, is permitted, as long as there is no more than one location within a county or parish. Each office must individually meet all of the eligibility criteria and submit independent documentation as required in § 950.202 and § 950.203 to be included in the Charity List. However, a satellite office that is not separately incorporated, in lieu of its own 26 U.S.C. 501(c)(3) tax exemption letter and, to the extent required by § 950.203(a)(2), audited financial statements, may submit the local organization's 26 U.S.C. 501(c)(3) tax exemption letter and audited financial statements, but must provide its own pro forma IRS Form 990, as defined in § 950.203(a)(3), for CFC purposes. The satellite office must submit a certification from the Chief Executive Officer (CEO) or CEO equivalent of the local organization stating that it operates as a bonafide office in good standing and is covered by the local organization's 26 U.S.C.

501(c)(3) tax exemption, IRS Form 990 and audited financial statements.

(j) *Multiple listing prohibited.* Except as provided in paragraphs (h) and (i) of this section, once an organization is deemed eligible, it is entitled to only one listing in the Charity List, regardless of the number of federations to which that organization belongs.

#### § 950.402 Pledge form.

(a) The Director will provide guidance with regard to the data required for electronic pledge processing.

(b) An employee may not make a designation to an organization not listed in the Charity List. All pledges must be designated to specific CFC participating organization(s). No undesignated pledges will be allowed.

### Subpart E—Miscellaneous Provisions

#### § 950.501 Release of contributor information.

(a) The pledge form, designed pursuant to § 950.402, must allow a contributor to indicate if the contributor will allow his or her name, contribution amount, and home contact information to be forwarded to the charitable organization or organizations designated.

(b) The pledge form shall permit a contributor to specify which information, if any, he or she wishes released to organizations receiving his or her donations.

(c) It is the responsibility of the CCA to forward the contributor information for those who have indicated that they wish this information to be released to the recipient organization directly, if the organization is independent, and to the organization's federation if the organization is a member of a federation. The contributor information must be forwarded as soon as practicable after the completion of the campaign, but in no case later than a date to be determined by OPM. The date will be part of the annual timetable issued by the Director under § 950.601(b). The federation is responsible for ensuring the information is released to the appropriate member organization. The CCA may not sell or make any other use of this information. Federations may not retain donor information for their own use unless the donor made a direct designation to the federation itself. This policy also prohibits the sharing of donor information, even free of charge.

#### § 950.502 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 events, are permitted during the campaign if approved by the appropriate agency head or government official, consistent with agency ethics regulations. No costs for food or entertainment at a special event may be charged to the CFC. CFC special events must be undertaken in the spirit of generating interest in the CFC and be open to all individuals without regard to whether an individual participates in the CFC. If prizes are offered, they must be modest in nature and value. Examples of appropriate prizes may include opportunities for lunch with agency officials, agency parking spaces for a specific time period, and gifts of minimal financial value. Any special CFC event and associated prize or gift must be approved in advance by the Agency's ethics official to ensure that the special event is consistent with Office of Government Ethics regulations and its own regulations and policy. No funds may be raised at these events.

#### § 950.503 Sanctions and penalties.

(a)(1) The Director may impose sanctions or penalties on a federation, charitable organization or marketing organization for violating these regulations, other applicable provisions of law, or any directive or instruction from the Director. The Director will determine the appropriate sanction and/or penalty, up to and including expulsion from the CFC. In determining the appropriate sanction and/or penalty, the Director will consider previous violations, harm to Federal employee confidence in the CFC, and any other relevant factors. A federation, charitable organization or marketing organization will be notified in writing of the Director's intent to sanction and/or penalize and will have 10 business days from the date of receipt of the notice to submit a written response. The Director's final decision will be communicated in writing to the federation, charitable organization or marketing organization.

(2) The Director may withdraw federation status with respect to a National/International, International or Local federation that makes a false certification or fails to comply with any directive of the Director, or to respond in a timely fashion to a request by the Director for information or cooperation, including with respect to an investigation or in the settlement of disbursements. As stated in § 950.301(d), failure to meet minimum

federation eligibility requirements shall not be deemed to be a withdrawal of federation status subject to a hearing on the record. Eligibility decisions shall follow the procedures in § 950.301(f). A federation will be notified in writing of the Director's intent to withdraw federation status for a period of up to one campaign and will have 10 business days from the date of receipt of the notice to submit a written response. On receipt of the response, or in the absence of a timely response, the Director or representative shall set a date, time, and place for a hearing. The federation shall be notified at least 10 business days in advance of the hearing. A hearing shall be conducted by a hearing officer designated by the Director unless it is waived in writing by the federation. After the hearing is held, or after the Director's receipt of the federation's written waiver of the hearing, the Director shall make a final decision on the record, taking into consideration the recommendation submitted by the hearing officer. The Director's final decision will be communicated in writing to the federation.

(3) A federation, charitable organization or marketing organization sanctioned or penalized under any provision of these regulations must demonstrate to the satisfaction of the Director that it has taken corrective action to resolve the reason for sanction and/or penalty and has implemented reasonable and appropriate controls to ensure that the situation will not occur again prior to being allowed to participate in subsequent CFCs.

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

#### **§ 950.504 Records retention.**

Federations, CCAs and other participants in the CFC shall retain documents pertinent to the campaign for at least three completed campaigns. For example, documentation regarding the 2014 campaign must be retained through the completion of the 2015, 2016 and 2017 campaigns (*i.e.* until early 2019). Documents requested by OPM must be made available within 10 business days of the request.

#### **§ 950.505 Sanctions compliance certification.**

Each federation, federation member and independent organization applying for participation in the CFC must, as a condition of participation, complete a certification that it is in compliance with all statutes, Executive orders, and regulations restricting or prohibiting U.S. persons from engaging in transactions and dealings with countries, entities or individuals subject to economic sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC). Should any change in circumstances pertaining to this certification occur at any time, the organization must notify OPM's Office of CFC immediately. OPM will take such steps as it deems appropriate under the circumstances, including, but not limited to, notifying OFAC and/or other enforcement authorities of such change, suspending disbursement of CFC funds not yet disbursed, retracting (to the extent practicable) CFC funds already disbursed, and suspending or expelling the organization from the CFC.

#### **Subpart F—CFC Timetable**

##### **§ 950.601 Campaign schedule.**

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

(1) During a period between December and January, as determined by the Director, OPM will accept applications from organizations seeking to be listed on the Charity List.

(2) The Director will determine a date after the closing of the receipt of applications by which the Director will issue notices to each applicant organization of the results of the Director's review. The date will be part of the annual timetable issued by the Director under paragraph (b) of this section.

(b) The Director will issue a timetable annually for accepting and processing applications. The Director will issue the timetable for a campaign no later than October 31 of the year preceding the campaign.

#### **Subpart G—Payroll Withholding**

##### **§ 950.701 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 Title.

(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 sufficient 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.* Allotments will be totally voluntary and will be based upon contributor's individual authorization.

(1) The CFC Pledge Form, in conformance with § 950.402, is the only form for authorization of the CFC payroll allotment and may be reproduced. The pledge forms and official Charity List will be made available to employees electronically when charitable contributions are solicited.

(2) The electronic pledge is transmitted to the contributor's servicing payroll office in real time via the centralized pledge system.

(d) *Duration.* Authorization of allotments will be in the form of a term allotment. 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 after January 15 and ending with the last pay period that includes January 15 of the following year. Three months of employment is considered the minimum amount of time that is reasonable for establishing an allotment.

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

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

(2) No change of amount will be authorized for term allotments.

(3) 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) *Discontinuance*. 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.

(1) An allotter may revoke a 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.

(2) A discontinued allotment will not be reinstated.

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

### Subpart H—Accounting and Distribution

#### § 950.801 Accounting and distribution.

(a) *Remittance*. One electronic funds transfer (EFT) will be transmitted by the payroll office each pay period, in the gross amount of deductions on the basis of current authorizations, to each charity/federation or to the CCA as determined by the Director.

(1) Should the distribution be made to the CCA, the EFT will be accompanied by an electronic transmittal identifying the Federal agency, the dates of the pay period, the pay period number, employee names and deduction amounts per individual employee.

(2) [Reserved]

(b) *Accounting*. (1) OPM may require Federal payroll offices to oversee the establishment of individual allotment accounts, the deductions each pay period, and the reconciliation of employee accounts in accordance with agency and Federal Accounting Standards and Office of Management and Budget requirements. OPM may further require that Federal payroll offices ensure the accuracy of remittances, as supported by current allotment authorizations, and internal accounting and auditing requirements.

(2) The CCA shall notify the federations, national and international organizations, and local organizations as soon as practicable after the completion of the campaign, but in no case later than a date to be determined by OPM, of the amounts, if any, designated to them and their member agencies. The date will be part of the annual timetable issued by the Director under § 950.601(b). The CCA is also responsible for distributing credit card receipts and, if determined by the Director, payroll deductions transmitted by the payroll offices. It is responsible

for the accuracy of disbursements it transmits to recipients. The CCA will distribute all CFC receipts beginning April 1, and quarterly thereafter. It shall remit the contributions to each organization or to the federation, if any, of which the organization is a member. At the close of each disbursement period, the CFC account shall have a balance of zero, based on the last reconciled bank statement.

(3) Federated organizations, or their designated agents, are responsible for:

(i) The accuracy of distribution among the charitable organizations of remittances from the payroll offices and/or CCA; 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 ENERGY

### 10 CFR Parts 429 and 430

[Docket No. EERE-2011-BT-TP-0061]

RIN 1904-AC65

#### Energy Conservation Program for Consumer Products and Certain Commercial and Industrial Equipment: Test Procedures for Showerheads, Faucets, Water Closets, Urinals, and Commercial Prerinse Spray Valves

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Supplemental notice of proposed rulemaking.

**SUMMARY:** The U.S. Department of Energy (DOE) proposes amendments to its May 2012 notice of proposed rulemaking related to DOE test procedures for showerheads, faucets, water closets, urinals, and commercial prerinse spray valves. The amendments proposed in this supplemental notice of proposed rulemaking include revisions to the definitions of showerhead and hand-held showerhead; removal of body sprays from the proposed showerhead definition; requirements pertaining to testing of showerheads that are components of shower towers; a standardized test method to be used when verifying the mechanical retention of a showerhead flow control insert when subjected to 8 pounds force; clarification of permissible trim adjustments for tank-type water closets; and amendments to the required static test pressures to be used when testing flushometer valve siphonic and blowout

water closets. DOE also proposes further clarification of the definition of basic model with respect to flushometer valve water closets and urinals, as well as associated changes to certification reporting requirements for these products.

**DATES:** DOE will accept comments, data, and information regarding this SNOPR no later than May 8, 2013. See section IV, “Public Participation,” for details.

**ADDRESSES:** Interested parties may submit comments, identified by docket number EERE-2011-BT-TP-0061 or Regulation Identifier Number (RIN) 1904-AC65, by any of the following methods:

1. *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.

2. *Email:* [PlumbingPrds-2011-TP-0061@ee.doe.gov](mailto:PlumbingPrds-2011-TP-0061@ee.doe.gov). Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE-2J, 1000 Independence Avenue SW., Washington, DC 20585-0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L’Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586-2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section IV of this document (“Public Participation”).

*Docket:* The docket, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at [regulations.gov](http://www.regulations.gov). All documents in the docket are listed in the [regulations.gov](http://www.regulations.gov) index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at: <http://www.regulations.gov/#!docketDetail;dt=FR%25BPR%25BN%25BO%25BSR%25BPS;rpp=10;po=0;D=EERE-2011-BT-TP-0061>. This Web page will contain a link to the docket for this notice on the [regulations.gov](http://www.regulations.gov) site. The [regulations.gov](http://www.regulations.gov) Web page will contain simple instructions on how to access all documents, including public comments,