

NAFIS, MWR AND THE JER

I. REFERENCES.

- A. DODD 1015.2, Subject: Military Morale, Welfare, and Recreation (MWR) (June 14, 1995)(Certified current as of November 21, 2003)
- B. DODI 1015.10, Subject: Programs for Military Morale, Welfare, and Recreation (November 3, 1995, w/ch1, October 31, 1996, incorporating thru Change 2, 31 October 2007).
- C. Army: AR 215-1, Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities (31 July 2007, Rapid Action Revision (RAR) issue date 6 October 2008).
- D. Navy: SECNAV Instruction 1700.12A, Subject: Operation of Morale, Welfare and Recreation Activities (15 July 2005); BUPERS Instruction 1710.11C, Subject: Manual for Morale, Welfare and Recreation (MWR) Activities (25 Jul 01)
- E. Air Force: AFI 34-262, Subject: Services Programs and Use Eligibility (27 June 2002).
- F. USMC: MCOP 1700.27B: Appointing Order for the Marine Corps MWR Policy Review Board (9 March 2007); MCO P1700.27A, Marine Corps Community Services Policy Manual, (November 8, 1999)
- G. DODD 1330.9, Subject: Armed Services Exchange Policy (November 27, 2002)(Certified current as of 21 November, 2003).
- H. AR 60-10/AFR 147-7, Army and Air Force Exchange Service General Policies (17 June 1988); AR 60-20/AFR 147-14, Army and Air Force Exchange Service Operating Policies (15 December 1992).
- I. 10 U.S.C § 2783, Establishes fiduciary responsibility to the NAFI, and that penalties for waste, loss, or abuse should be the same as for APF waste, loss or abuse.
- J. 10 U.S.C. § 2241, APFs are authorized in support of Armed Forces MWR.

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- K. 10 U.S.C. § 2492, NAFIs may enter into support agreements and contracts with other Federal agencies to obtain goods and services beneficial to the management and operation of the exchange system, or MWR system.
- L. 37 U.S.C. § 1007 and 31 U.S.C, chapter 37, Debt collection from military personnel, other patrons, and businesses is authorized.

10 U.S.C. § 2494, Funds appropriated to DoD available for MWR may be treated as NAFs, and expended in accordance with laws applicable to NAFs. APFs shall be considered NAFs for all purposes and remain available until expended.

II. MWR RESOURCES.

Service MWR Headquarters:

Family and Morale, Welfare, and Recreation Command (FMWRC)
(<http://www.armymwr.com/>)

Navy Morale, Welfare, and Recreation Division (<http://www.mwr.navy.mil/>)

Air Force Services Agency (www.afsv.af.mil)

Marine Corps Community Service (MCCS) (www.usmc-mccs.org)

III. NONAPPROPRIATED FUND INSTRUMENTALITIES (NAFIs).

- A. Definition: A DoD organizational entity which performs an essential government function. It provides morale, welfare, and recreational programs for military personnel and authorized civilians. As a fiscal entity, it maintains custody and control over nonappropriated funds. It is not incorporated under the laws of any state and enjoys the legal status of an instrumentality of the United States.
- B. Purpose: DoD components shall establish MWR Programs to maintain mission readiness and productivity. To accomplish these ends, these programs promote fitness and esprit de corps of members of the Armed Forces, a strong sense of military community, and beneficial quality of life for authorized patrons. (DODI 1015.10, para. 4.1)
- C. First U.S. Military NAFI - 1775.

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- D. Objectives of the MWR Program. DODI 1015.10, para. 4.1.1. and 4.12; see also AR 215-1, para. 1-10; BUPERSINST 1710.11C, Enclosure (1), § 203.
1. Maintain a high level of esprit de corps.
 2. Maintain physical and mental well-being.
 3. Encourage the constructive use of time.
 4. Aid in recruitment and retention.
 5. Assist in the adjustment to military life.
 6. Provide a community support environment.
 7. Create a self-sustaining military community.
 8. Reinforce unit cohesion.
 9. Increase combat readiness.
 10. Not listed but ever-present objective, MAKE MONEY This is true for Category C NAFIs, but not the case for Category A and B.

E. Congressional Interest in NAFIs.

1. Initially, reaction to business and private concerns over PX, BX, and MWR activities.
2. Two congressional committees—the primary committee is the MWR Panel of the Readiness Subcommittee of the House Armed Services Committee.

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- a. Broad interests—construction, financing, and services.
- b. NAFIs should operate like a business.

IV. ORGANIZATION OF MWR ACTIVITIES.

A. Category A: Mission-Sustaining Activities.

1. These programs are considered most essential in meeting organizational objectives of the Military Services. Category A programs shall be supported almost entirely with appropriated funds. Programs in this category are considered to have virtually no capacity for the generation of nonappropriated revenues. DODI 1015.10, Encl. 7.; see also AR 215-1, paras. 3-7, 16-4.a.; BUPERSINST 1710.11C, Enclosure (1), § 409.
2. Supported with APF—up to 100%; DoD minimum is 85%. NAF funding only allowed for specific expenses for which APFs are not authorized, or when use is not otherwise prohibited and it is certified in writing that APF is not available.
3. Category A activities include: Armed Forces Professional Entertainment Program Overseas; Gymnasium/Physical Fitness/Aquatic Training; Library Programs and Information Services; On-Installation Parks and Picnic Areas; Recreation Centers/Rooms; Shipboard, Company, and or Unit Level Programs; Sports/Athletics (Self-Directed, Unit Level, Intramural).

B. Category B: Community Support Activities.

1. These programs are closely related, in terms of supporting the military mission, to those grouped in Category A. They satisfy the basic physiological and psychological needs of Service Members and families. Makes installations temporary home towns. Different than Category A because of their ability to generate some income. AR 215-1, para. 3-8. BUPERSINST 1710.11C, Enclosure (1), § 409

2. Category B activities requires substantial APF support. Their ability to generate revenue is limited. DoD target is at least 65% APF. DODI 1015.10 Ecl. 7, see also AR 215-1, para 16-4.b. MCOP 1700.27A, para. 1303.4.
3. Category B activities include: Arts and Crafts Skill Development; Bowling Centers (less than 13 lanes); Automotive Crafts Skill Development; Child Development Services; Entertainment (Music and Theater); Information, Ticketing, and Registration Services; Outdoor Recreation; Recreational Swimming Pools; Sports Programs (above the intramural level). Youth Services. Stars and Stripes. Better Opportunity for Single Soldiers (BOSS).

C. Category C: Revenue-Generating Activities.

1. Activities in this group have the business capability of generating enough income to cover most of their operating expense, but they lack the ability to sustain themselves based purely on their business activity. DODI 1015.10, Encl. 7; see also AR 215-1, para. 3-9 and App. D; BUPERSINST 1710.11C, Enclosure (1), § 409.
2. Category C activities have less impact on readiness and provide recreational opportunities to authorized patrons. Category C activities have the ability to generate income to cover most operating expenses. They are authorized limited APF support.
3. At designated MWR remote and isolated locations, Category C activities may receive APF on the same basis as Category B. (For Army remote sites see AR 215-1, Appendix D).
4. Category C activities include: Aero Clubs; Amusement Machine Locations and Centers; Armed Services Exchange and Related Activities; Armed Forces Recreation Centers; Audio/Photo and Retail Sales (Overseas); Bingo; Bowling Centers (over 12 lanes); Food, Beverage, and Entertainment Operations; Golf Courses; Military Clubs.

D. Other Categories.

1. Army: Supplemental Mission NAFs. AR 215-1, para. 5-10.

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- a. Supplemental mission NAFs support certain APF and NAF Army activities.
 - b. Supplemental mission income is derived from the mission. These monies are NAFs, but they are not Morale, Welfare and Recreation (MWR) -NAFs.
 - c. Examples include: Army Community Services supplemental mission program (AR 608-1); Veterinary Services supplemental mission program (AR 40-905); Supplemental Field Ration Dining Facility Funds (AR 30-1); Fisher House supplemental mission funds; Military Historical Museums supplemental mission funds (AR 870-20); Vehicle Registration supplemental mission fund; Disciplinary Barracks supplemental mission funds.
 - d. Supplemental mission NAFs provide quality of life services as adjuncts to the mission activity which generated those monies (DOD Instruction, 1015.15, Enclosure 5 para E5.2.1.1). They may not be used for activities which are authorized APF support (AR 215-1, para 5-10). For example, Army Community Services supplemental mission NAFs may be used to support volunteer recognition including volunteer recognition dinners (AR 608-1).
2. Marines: Category E, Personal Services. MCO P1700.27A, Appendix B.
- a. Created in 1999 as part of transformation from MWR to Marine Corp Community Services (MCCS); Funded entirely with APFs.
 - b. Examples:
 - (1) Preventive Services: Exceptional Family Member; Life Skills Management; New Parent Support; Personal Financial Management; Suicide Prevention.

- (2) Counseling Services: Clinical Counseling; Marriage and Family Counseling; Family Advocacy.
- (3) Mobility Support: Family Member Employment Assistance; Personal Sponsorship; Relocation & Transition Assistance.

V. FUNDING OF NAFI'S AND MWR.

- A. APF support for MWR personnel, operations, supplies, and other expenses. See DODI 1015.10, encl. 6, AR 215-1, ch. 5 & App D, BUPERSINST 1710.11C, Enclosure (1), §§ 331, 334 and 410, and 10 U.S.C. § 2241
- B. Nonappropriated funds.
 - 1. Cash and other assets received from sources other than monies appropriated by Congress. They are U.S. Government funds. They are used for the collective benefit of the authorized patrons who generate them.
 - 2. Sources include:
 - a. AAFES dividend. By far the largest source of NAFs for the Army and Air Force. AAFES also makes payments to Navy and MWR and MCCS for sales through on-line sources;
 - b. NEXCOM and Marine Corps Exchange;
 - c. Receipts generated by patrons of MWR activities;
 - d. Fundraising activities conducted by installation MWR Activities.

C. Construction funding.

1. Army Morale, Welfare, and Recreation Fund (AMWRF) for NAF construction. AR 215-1, para. 15-8.
2. Funded by AAFES revenues, monthly capital reinvestment assessment of all NAFI income, and interest. DODI 1015.10, para. D8; AR 215-1, para. 16-8.

D. Public-Private Ventures. DODI 1015.13, Department of Defense Procedures for Implementing Public-Private Ventures (PPVs) for Morale, Welfare and Recreation (MWR) and Armed Services Exchange, Category C Revenue-Generating Activities (March 11, 2004); AR 215-1, para. 15-12; SECNAV Instruction 7010.7 (6 Dec 99).

1. In order to meet MWR requirements, installations may identify activities that are unavailable through normal funding sources and that may be met by the private sector. The Family and Morale, Welfare, and Recreation Command negotiates and executes all Army PPV contracts, and coordinates with the Corps of Engineers who leases the land under the authority of 10 U.S.C. § 2667. The contractor builds and operates the facility at its expense, and the IMWRF receives a percentage of gross revenue.
2. Requires approval/coordination w/ Service MWR headquarters and an extensive local survey prior to approval. Congress notified by DoD.

E. Commercial Sponsorship.

1. Commercial Sponsorship is the act of providing assistance, funding, goods, equipment (including fixed assets), or services to an MWR program or event by an individual, agency, association, company, corporation, or other entity (sponsor) for a specific (limited) period of time in return for public recognition or advertising promotions. DODI 1015.10, Enclosure 9, para. 9.1.1.

2. Commercial Sponsorship is either solicited or unsolicited and is only authorized for support of the specific DoD MWR programs listed at Enclosure 4 of DODI 1015.10.
3. Solicited Commercial Sponsorship. DODI 1015.10, encl. 9; AR 215-1, chapter 11; BUPERSINST 1710.11C, Enclosure (1), Ch. 8. Allowed for all authorized MWR activities, and for Military Family Team Building, and Family Action Plan only.
 - a. Advertising, publicity, or other promotional consideration must be commensurate with the level of sponsorship offered.
 - b. Solicitation must be competitive and sponsorship award must be based upon the best value received and the appropriateness of the sponsor. No favored treatment allowed for sponsors and no penalties for nonsponsors.
 - c. All agreements must receive legal review (personnel involved in APF contracting may not be directly or indirectly involved in the solicitation).
 - d. All public recognition of sponsors must have disclaimers, i.e., “sponsorship does not imply endorsement.”
 - e. Contents of all proposed public recognition must be reviewed to ensure compliance with DoD Directives.
 - f. May not solicit alcohol or tobacco manufacturers, but may accept unsolicited offers.
 - g. Sponsorship agreement must be in writing and be for one year or less (extensions OK, up to five years). Also must include certification that no sponsorship costs will be charged to the Federal Government.
4. Open house programs are public affairs office events (not MWR). PAO must approve MWR events during open houses.

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F. Management of Installation MWR Funds. Commanders have great discretion, checked by a fiduciary obligation to ensure the NAFI's financial welfare. **IMWRF**: The "one fund." Treats installation MWR as a business. Allows for the reallocation of resources from profitable operations to non-profitable ones. Installation commander or governing council responsible to ensure budget balances at conclusion of FY. This may change under new IMCOM restructuring.

1. Uniform Funding and Management (UFM) replacing DoD MWR Utilization, Support and Accountability (DoD MWR USA) practice.2. DoD MWR Utilization, Support, and Accountability (USA) (AR 215-1, para. 5-3). Implemented DoD policy Ass't Sec Def (Force Management Policy) Memo, 23 July 1997, DoD Morale, Welfare, and Recreation Utilization, Support, and Accountability (DoD MWR USA) Practice.

a.. Designed to foster efficiency in the use of appropriated and nonappropriated funds.

b. Allowed the use of NAF contracting and personnel procedures to meet an APF MWR need. APF must then reimburse the IMWRF for the expenses. Must have a Memorandum of Agreement in place.

2. UFM Process replacing DoD MWR USA practice: Under regulations prescribed by the Secretary of Defense, funds appropriated to DoD and available for MWR may be treated as NAF, and expended in accordance with laws applicable to NAF. APFs shall be considered NAF for all purposes and remain available until expended (10 U.S.C. § 2494, enacted in the 2003 Defense Authorization Act).

a. UFM is available only if an MWR program is authorized to receive APF support,

b. in amounts,

c. and for the purpose the MWR program is authorized to receive the funds

d. which are available until expended (no expiration date)

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VI. THE JER AND MWR--GENERAL PRINCIPLES

- A. Public Service is a public trust (5 C.F.R. § 2635.101(b)(1).
- B. Employees shall not solicit or accept a gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties – (b)(4).
- C. Employees shall not use public office for private gain – (b)(7).
- D. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment that conflicts with official Government duties and responsibilities. – (b)(10).

VII. NAFI EMPLOYEES AND VOLUNTEERS.

- A. NAF Employees.
 - 1. NAF employees are not Federal employees for most purposes (5 USC §2105).
 - 2. They are not covered by the civil service laws and OPM regulations (5 USC §2105(c)), except where otherwise provided. They are covered by OPM regulations prohibiting discrimination based on race, color, creed, sex, or marital status (5 USC §2105(c)(1)(A).
 - 3. JER Applies to NAF Employees:
 - a. JER 1-211(a) A DoD employee is defined as any DoD civilian or employee (including special Government employees) of any DoD Component (including any non-appropriated fund activity).

- b. DODI 1015.10, para 4.20: The standards of conduct published in DoD Directive 5500.7 and DoD 5500.7-R are applicable to personnel assigned to or employed by MWR programs, services, and entertainment.

B. Volunteers.

1. Authorized under several statutes including:
 - a. 10 U.S.C. §1588, authorizes the Armed Forces to accept seven categories of volunteer services including family support programs, legal assistance attorneys, and museums.
 - b. 10 U.S.C. § 2606, Red Cross;
2. Voluntary services accepted under 10 U.S.C § 1588 are a statutory exception to the Anti-deficiency Act prohibition against the acceptance of volunteer labor.
3. Although volunteers are not Federal employees, they must be supervised in the same manner that Federal employees are supervised, and they are afforded certain statutory protections like Federal employees, including coverage under the Federal Tort Claims Act and Worker's Compensation. 10 U.S.C. § 1588 (d).
4. Volunteers may not perform duties for which there is an unfilled manpower requirement or as a means to circumvent the civil service system. Volunteer positions require a job description. Organizations which would like to accept volunteer labor should follow the requirements in AR 608-1. See Also SECNAV Instruction 5380.1
5. Volunteers may be sent to training using invitational travel authorizations paid for with APFs. Volunteers should be informed of their ethics obligations.
6. Typically, volunteers should be required to follow JER as a condition of volunteering. Should be part of volunteer agreement, conforming to statutory requirements.

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VIII. COMMON MWR ETHICS ISSUES

A. Gifts.

1. NAF employees are DoD Employees. The limitations on gifts in the JER apply to all NAF employees. There are no special exceptions to the JER for NAF employees.
2. Gifts to MWR. NAFIs can accept conditional or unconditional gifts from individuals or private organizations. AR 215-1, para. 13-14; BUPERSINST 1710.11C, Encl. (1), § 329.
 - a. Each Service has its own regulation on acceptance of gifts to the MWR program.
 - b. Army:
 - (1) Acceptance of the gift must be in the Service's best interest.
 - (2) Gifts may not be requested, and donors receive no preferential treatment.
 - (3) Fund managers may accept gifts of up to \$5,000 when delegated authority by local commander; Local commanders may accept gifts of up to \$25,000; IMCOM Region Directors may accept gifts up to \$50,000 in value; FMWRC, Strategic Planning, may accept gifts valued up to \$200,000; Secretary of the Army may accept gifts valued over \$200,000.
 - c. Air Force NAFI gifts are governed by AFI 34-201, Chapter 5. Like the Army, the acceptance authority depends upon the value of the donation.

- d. Navy NAFI gifts are governed by BUPERSINST 1710.11C, Encl. (1), § 329 and follow the same rules that apply to other gifts to the Navy. See OPNAV Instruction 4001.1D.

B. Other Gift Issues

1. Promotions.
2. Vendor provided goods and services.
3. Training of NAF employees. Ensure they understand that while gifts and giveaways are part of normal business in civilian equivalent, they are not in the military.
4. World Class Athlete Program (10 USC 717). Monetary benefits to military athletes- Subject to same rules regarding gifts, however, may in limited circumstances accept gifts that are bona fide awards/given for meritorious public service or achievement. See JER 2-100, 5 CFR 2635.204(d)(1).

C. Travel and Transportation.

1. Use of GSA Vehicles. Use of Government-owned or Government-contracted vehicles by MWR activities is governed by AR 58-1 in the Army and is limited to authorizations in appendix D. In the Navy, MWR APF vehicle use is governed by BUPERSINST 1710.11C, Encl. (1), § 513. Vehicles will not be acquired with APFs to provide transportation support either partially or wholly to MWR activities. AR 215-1, para. 13-4. The commander must determine that such vehicle use does not adversely affect the command mission. Government bus transportation may be provided on a non-reimbursable basis, in support of MWR programs for teams composed of personnel officially representing the installation in scheduled competitive events; DOD personnel or family member spectators attending local events in which a command or installation-sponsored team is participating; entertainers, guests, supplies, and/or equipment essential to MWR programs; MWR sponsored activities including recreational tours and trips when fees are not levied upon the passengers (except fees to cover driver cost) and when approved by the installation commander or Navy commanding officer. Additionally, MWR APF transportation may be provided for “official” functions, like changes of command ceremonies and official retirement ceremonies, BUPERSINST 1710.11C, Encl. (1), § 513.
 2. Use of NAF Vehicles. NAFI passenger carriers are used only for official NAFI business. Domicile to duty (home to work) transportation is prohibited by statute (31 USC 1344). Any exceptions require SA approval. Violations result in a minimum one month suspension without pay, or removal from office AR 215-1, para. 13-5, and AR 215-3; BUPERSINST 1710.11C, Encl. (1), §§ 509-512.
 3. Air Travel. First-class and business class air transportation accommodations are not authorized except for limited circumstances as allowed in the JTR. AR 215-1, para. 13-1.
- D. Support to NFEs and POs. Support may be provided by the Government in accordance with the JER, para. 3-211.b. NAFIs will not provide NAF financial assistance in the form of contributions, repairs, services, dividends, or other donations of money or other assets to POs or individuals unless authorized by other regulations, DoD policies, or statute. [i.e., Scouting organizations overseas. See DoDI 1015.9, Subject: Professional United States Scouting Organization Operations at United States Military Installations Located Overseas, (October 31, 1990, CH 1, June 8, 1999)]. AR 215-1, paras. 5-12, 5-13.

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- E Command Endorsement. "MWR is us" (not NFEs)--Commanders may endorse/recommend participation in MWR activities, but must be careful not to exert undue influence (i.e., forced membership in the installation community club).

- F Fundraising. Bingo, Monte Carlo Nights. NAFI employees of the sponsoring MWR activity, their families, and volunteers assisting in the games may not take part in any game or accept any prize. See AR 215-1, paras. 8-12, 8-14; BUPERSINST 1710.11C, Encl. (1), Ch. 9. These operations on military locations are not under exclusive federal jurisdiction. Garrisons must look to state law.

- G Conflicts of Interest. The JER applies to all personnel responsible for the supervision, and administration of APF or NAF resources. In addition, no individual, unit, organization or installation has any proprietary interest in NAFs or NAF assets. AR 215-1, para. 13-10.

- H Procurement Issues.
 - 1. Procurement Integrity Act applies only to procurements utilizing APFs. However, service regulations have established similar non-disclosure requirements. Navy see SECNAV Instruction 7043.5B.

 - 2. FAR does not apply to NAF procurements, providing greater flexibility than APF procurements. Little or no competition required, depending on type of procurement (non-resale v. resale), however, fiduciary responsibility remains to obtain the best value for the NAFI.

- I Mind-Set of MWR Staffs.
 - 1. Daily contact with civilian business entities.

 - 2. Most were trained in civilian environment.

 - 3. Identify specific training needs in your command.