



Department of Defense INSTRUCTION

NUMBER 1330.09
December 7, 2005

USD(P&R)

SUBJECT: Armed Services Exchange Policy

- References: (a) DoD Directive 1330.9, "Armed Services Exchange Policy," November 27, 2002 (hereby canceled)
- (b) Deputy Secretary of Defense Memorandum, "DoD Directives Review-Phase II," July 13, 2005
 - (c) DoD Instruction 1330.21, "Armed Services Exchange Regulations," July 14, 2005
 - (d) DoD Directive 1015.2, "Military Morale, Welfare and Recreation (MWR)," June 14, 1995
 - (e) through (w), see enclosure 1

1. REISSUANCE AND PURPOSE

This Instruction:

- 1.1. Reissues reference (a) as a DoD Instruction according to the guidance in reference (b).
- 1.2. Establishes policy, assigns responsibilities for operating Armed Services exchanges, and authorizes the publication of reference (c).

2. APPLICABILITY

This Instruction applies to:

- 2.1. The Office of the Secretary of Defense, the Military Departments, the Chairman of the Joint Chiefs of Staff, the Combatant Commands, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the Department of Defense (hereafter referred to collectively as the "DoD Components"). The term "Armed Services," as used herein, refers to the Army, the Navy, the Air Force, the Marine Corps, and the Coast Guard.

2.2. The Commissioned Corps of the Public Health Service and the National Oceanic and Atmospheric Administration under agreements with the Departments of Health and Human Services, and Commerce.

3. DEFINITIONS

3.1. Appropriated Funds (APF). Funds appropriated by Congress.

3.2. Military Morale, Welfare, and Recreation (MWR) Programs. Military programs defined in DoD Directive 1015.2 (reference (d)) located on DoD installations or on property controlled (by lease or other means) by a Military Department or furnished by a DoD contractor, that provide for the mission sustainment, community support, and revenue generating programs for authorized personnel.

3.3. Nonappropriated Funds (NAF). Monies derived from sources other than congressional appropriations and commissary surcharge funds, primarily from the sale of goods and services to DoD military and civilian personnel and their family members, used to support or provide MWR programs. Separate and apart from funds that are recorded on the books of the Treasurer of the United States, NAFs are Government funds used for the collective benefit of those who generate them.

3.4. Nonappropriated Fund Instrumentality (NAFI). A DoD organization supported, in whole or in part by NAF. It acts in its own name to provide or assist Secretaries of the Military Departments in providing programs for military personnel and authorized civilians. It is not incorporated under the law of any State or the District of Columbia, but has the legal status of an instrumentality of the United States. As a fiscal entity, it maintains custody of and control over its NAF and may also administer appropriated resources to carry out its purposes.

4. POLICY

It is DoD policy that:

4.1. The Armed Services exchange programs are vital to mission accomplishment and form an integral part of the non-pay compensation system for active duty personnel. As a military resale and category C revenue-producing MWR activity, the Armed Services exchanges have the dual mission of providing authorized patrons with articles of merchandise and services and of generating NAF earnings as a source of funding for DoD military MWR programs.

4.2. The Armed Services exchanges shall be the primary resale activity on DoD installations for non-food merchandise and patron services. This primacy for resale authority extends to the use of any lawful means for selling merchandise or services.

4.2.1. Exchanges are authorized to sell items of merchandise and provide retail services, except as restricted in reference (c). Merchandise restrictions apply to direct sales, including by special order or catalog, and indirect or concession activities.

4.2.2. Sale of Alcoholic Beverages. It is DoD policy to promote responsible use of alcohol. Reference (c) implements uniform DoD policy governing the sale of package alcoholic beverages in the exchange facilities, under the authority contained in Section 473 of title 50, United States Code (U.S.C.) (reference (e)).

4.2.3. Sale of Tobacco. Armed Services exchanges shall support DoD goals to communicate to Service members that tobacco use is detrimental to health and readiness. Reference (c) implements uniform DoD policy governing the sale of tobacco products in exchange facilities.

4.3. Only authorized patrons are entitled to exchange privileges. Patrons shall be identified and benefits authorized as prescribed in reference (c), except when prohibited by treaty or other international agreements in foreign countries.

4.4. Purchase Restrictions

4.4.1. Ration Controls Overseas. The Commander of a Combatant Command may establish restrictions on merchandise purchased by authorized patrons in Armed Services exchanges outside the United States located in the Commander's geographic area of responsibility, if necessary to prevent the resale of merchandise in violation of treaties of the United States or host-nation laws (to the extent such laws are not inconsistent with U.S. laws). Quantity or other restrictions may not discriminate among the various categories of patrons and shall be consistent with the purpose of the overseas exchanges to provide reasonable access for authorized patrons to purchase merchandise items made in the United States.

4.4.2. Purchase Limitations in the United States. The Secretaries of the Military Departments or their designees may prescribe purchase limitations to control the sale of any particular item of exchange merchandise in the United States, its commonwealths, possessions, territories, installations, or in other facilities under their respective jurisdictions.

4.5. Exchange programs shall use good business management practices to fulfill customer needs, while maintaining a readiness capability to support wartime missions and to meet quality, fiscal, health, and safety standards. The exchange services shall ensure short and long-term plans are established and maintained.

4.6. Methods of Operation. Each Military Department shall organize and operate its exchange system(s) in the most efficient and cost-effective way to meet Service-unique needs, maintain good customer service, ensure competitive pricing, and continue support for military MWR programs, unless prohibited by DoD policy. The Armed Services exchanges shall initiate and maintain best business practices through independent and cooperative efforts to maximize efficiencies, which shall offset operational costs, ensure modernization of facilities, improve

patron services, and ensure continued contributions to military MWR programs, unless prohibited by DoD policy.

4.6.1. Direct or by Concession. Resale activities may be operated directly by an exchange or operated as an exchange concession. Such decisions shall be based on a comparison of alternative costs according to procedures prescribed by each Military Service. Public-private ventures shall be examined as required by DoD Instruction 1015.13 (reference (f)).

4.6.2. Name-Brand Fast-Food Operations. When establishing name-brand fast-food operations, concession operations are preferred for military bases in the United States, and exchange direct-run operations are the preferred method for bases overseas. Both economic and non-economic factors shall be evaluated to decide upon the method of operation that best meets the exchange mission for each location. In addition, the following factors shall be considered in the aggregate: financial risk, customer service, employment opportunities, management control, operational risk, and investment opportunities. Primary consideration shall be given to the overall quality of life and welfare of the active duty community. Notice of deviations from the preferred method that result in major construction projects, as defined in DoD Instruction 7700.18 (reference (g)), shall accompany the major construction program submitted to the Principal Deputy Under Secretary of Defense (Personnel and Readiness) (PDUSD(P&R)). Such notice shall include the evaluation of the economic and non-economic factors.

4.6.3. Exchange Operations on Closed Installations. The Department of Defense shall continue to provide direct resale support to active duty personnel at or in the immediate vicinity of a closed installation when a significant active duty or Reserve component population remains. This support is a key element of the Service members' quality of life. As a general rule, when an installation is completely closed and no active duty or Reserve component personnel remain on the installation, or in the immediate vicinity, the exchange operations shall be closed unless continuation of the activity is endorsed by the Military Department and approved by the PDUSD(P&R).

4.6.4. Combined Commissary and Exchange Stores. In cases of installation closure or realignment decisions or where an independent, downscaled commissary is not economically feasible and not supportable based upon the specific criteria set forth in Chapter 5 of DoD 1330.17-R (reference (h)), a combined store may be considered. A combined store format shall normally be limited to Base Realignment and Closure locations or to other installations where military force structure changes have occurred or where nearby commissary and exchange stores produce overlapping or redundant delivery of the benefit. Before evaluating a combined store, the Military Department(s) concerned shall determine if a limited commissary benefit shall be supported at the location. A recommendation to create a combined store shall be based on the specific criteria set forth in reference (c). A decision to create a combined store must be approved by the PDUSD(P&R). The PDUSD(P&R) shall notify the Congress 90 days before action is taken.

4.7. Resource Management. APF and NAF resources shall be programmed to support exchange programs in conformance with the authorization in reference (c).

4.7.1. Financial Management of NAF. The exchange services shall manage NAFs according to DoD Directive 1015.14 and DoD Instruction 1015.15 (references (i) and (j)).

4.7.2. Fiduciary Responsibility. NAFs are entitled to the same protection as funds of the U.S. Treasury. NAFs are designated for the benefit of authorized patrons and for the specific purposes of the NAF instrumentality. An individual fiduciary responsibility exists to use NAFs properly and to prevent fraud, waste and unauthorized use. 10 U.S.C. 2758 (reference (k)) governs the penalties for violation of the regulations concerning the use and management of NAFs.

4.8. Auditing. DoD audit policy is contained in DoD Directive 7600.2 and DoD Instruction 7600.6 (references (l) and (m)).

4.9. Credit Programs. The Armed Services exchanges are authorized to accept nationally recognized credit cards. Exchange concessionaires may be authorized to accept charge cards or to conclude other credit arrangements customarily recognized in their commercial trade. The Armed Services exchanges shall maintain a joint memorandum of agreement to sell merchandise worldwide on a deferred payment basis with a finance charge that is commensurate with the exchange mission if:

4.9.1. A single exchange credit program shall be used with jointly owned accounts receivable.

4.9.2. A single account administrator is competitively awarded.

4.9.3. A single set of credit policies is in effect.

4.9.4. A single credit card is issued to exchange customers.

4.10. Merchandise Pricing. Merchandise and services sold through the Armed Services exchanges, whether by direct or concession sale, should be priced in a substantially uniform manner at the lowest practicable level consistent with the mission to provide authorized patrons with articles and services necessary for their health, comfort, and convenience. The creation of a supplemental source of funding for the military MWR program is to be considered a secondary mission when establishing prices. Prices shall be set according to the policies and procedures established by each Military Department. The pricing policies of the Military Departments shall achieve maximum pricing commonality among the Armed Services exchanges.

4.10.1. Pricing of Distilled Spirits in the United States. Prices of distilled spirits sold in the United States and the District of Columbia may be discounted no more than 10 percent less than the best local shelf price in Alcohol Beverage Control (ABC) States and 5 percent less than the best local shelf price in non-ABC States.

4.10.2. Pricing of Distilled Spirits Overseas. Distilled spirits sold outside the United States and the District of Columbia shall be priced within the range of prices established for

Armed Services exchange stores located in the United States unless the same alcoholic beverages are sold locally for less. Those alcoholic beverages may be sold for 10 percent less than the best local shelf price.

4.10.3. Pricing of Tobacco Products. Prices of tobacco products sold in military resale outlets in the United States, its territories and possessions, shall be no higher than the most competitive commercial price in the local community and no lower than 5 percent below the most competitive commercial price in the local community. Tobacco shall not be priced below the cost to the exchange. Prices of tobacco products sold in overseas military retail outlets shall be within the range of prices established for military retail system stores located in the United States.

4.11. Relationship to Commissaries. Armed Services exchange operations complement the commissary benefit. The exchange services and the Defense Commissary Agency shall achieve the full interchange of data between the resale activities to provide improved patron service while preserving both the commissary and the exchange benefits.

4.12. Procurement. Procurement shall be according to DoD Directive 4105.67 (reference (n)) and the implementing regulations published by the exchange services. Under 10 U.S.C. 2482a (reference (o)) exchanges are authorized to enter into contract or other agreements with another element of the Department of Defense or another Federal Department, Agency, or instrumentality for the purpose of providing or obtaining items and services that are beneficial to the efficient management and operation of the exchange. The authority in reference (o) does not waive the requirements of the Competition in Contracting Act, under 41 U.S.C. 251 (reference (p)) and 10 U.S.C. 2304 (reference (q)) for APF procurements, nor the applicable guidance for micro-purchases, including rotation of available sources for purchases.

4.13. Advertising Policy. The Armed Services exchanges must raise awareness of the quality-of-life benefit they provide and the availability of goods and services they offer to as many authorized patrons as possible. Such communication shall not reflect unfavorably on the Department of Defense. Armed Services exchanges may pay for or accept advertising according to reference (c) and DoD Instruction 5120.4 (reference (r)).

4.14. Dividend Distribution. The DoD Components shall ensure that funds received from Armed Services exchanges are equitably distributed by Military Service headquarters, major commands, local command, or a combination of these based upon demonstrated military MWR program nonappropriated funding requirements as specified in reference (d).

4.15. Standards of Conduct. DoD 5500.7-R (reference (s)), shall apply to military and civilian personnel assigned to or employed by Armed Services exchanges. Personnel subject to the Uniform Code of Military Justice and civilian employees serving at or employed by an Armed Services exchange who violate reference (s) or DoD Directive 5500.7 (reference (t)) shall be subject to appropriate disciplinary or administrative action.

4.16. Legal Status. The Armed Services exchanges are U.S. instrumentalities and are entitled to the privileges and immunities guaranteed under the Constitution, as well as the protection afforded by Federal statutes, established principles of law, and international treaties and agreements.

4.17. Taxation. The Armed Services exchanges are immune from both direct State taxation and State regulatory laws, such as licensing and price control statutes, the application of which may interfere with the Armed Services exchanges' performance of their assigned duties. Pursuant to 4 U.S.C. section 104 (reference (u)), Congress specifically permits the collection of State taxes on gasoline and other fuels sold through exchanges on United States military or other reservations when such fuels are not for the exclusive use of the United States.

4.18. Human Resource Management. NAF personnel management, including pay and employee benefits management, shall comply with DoD Instruction 1401.1; DoD 1400.25-M, Chapter 1400; and DoD 1401.1-M (references (v) through (x), respectively).

5. RESPONSIBILITIES

5.1. The Principal Deputy Under Secretary of Defense for Personnel and Readiness, under the Under Secretary of Defense for Personnel and Readiness, shall:

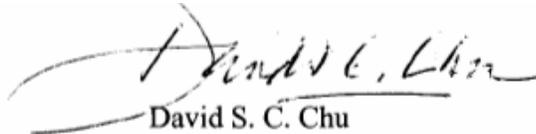
5.1.1. Serve as the principal point of contact on all Armed Services exchange service policy matters within the Department of Defense.

5.1.2. Develop uniform DoD policy and guidance to ensure proper administration and management of Armed Services exchange programs and monitor compliance thereof.

5.2. The Secretaries of the Military Departments, or their designees, shall comply with this Instruction.

6. EFFECTIVE DATE

This Instruction is effective immediately.



David S. C. Chu
Under Secretary of Defense
for Personnel and Readiness

Enclosures - 1

E1. References, continued

E1. ENCLOSURE 1

REFERENCES, continued

- (e) Section 473 of title 50, United States Code, Appendix
- (f) DoD Instruction 1015.13, "DoD Procedures for Implementing Public-Private Ventures (PPVs) for Morale, Welfare and Recreation (MWR) Category C Revenue Generating Activities," March 11, 2004
- (g) DoD Instruction 7700.18, "Commissary Surcharge, Nonappropriated Fund (NAF), and Privately Financed Construction Reporting Procedures," December 15, 2004
- (h) DoD 1330.17-R, "Armed Services Commissary Regulations," April 1987
- (i) DoD Directive 1015.14, "Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources," July 16, 2003
- (j) DoD Instruction 1015.15, "Procedures for Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources," May 25, 2005
- (k) Section 2783 of title 10, United States Code
- (l) DoD Directive 7600.2, "Audit Policies," March 20, 2004
- (m) DoD Instruction 7600.6, "Audit of Nonappropriated Funds Instrumentalities and Related Activities," January 16, 2004
- (n) DoD Directive 4105.67, "Nonappropriated Fund (NAF) Procurement Policy," May 2, 2001
- (o) Section 2482a of title 10, United States Code
- (p) Section 251 of title 41, United States Code
- (q) Section 2304 of title 10, United States Code
- (r) DoD Instruction 5120.4, "Department of Defense Newspapers, Magazines and Civilian Enterprise Publications," June 16, 1997
- (s) DoD 5500.7-R, "Joint Ethics Regulation (JER)," August 1, 1993
- (t) DoD Directive 5500.7, "Standards of Conduct," August 30, 1993
- (u) Section 104 of title 4, United States Code
- (v) DoD Instruction 1401.1, "Personnel Policy for Nonappropriated Fund Instrumentalities," November 15, 1985
- (w) DoD 1400.25-M, Chapter 1400, "Nonappropriated Fund Personnel Management," December 1996
- (x) DoD 1401.1-M, "Personnel Policy Manual for Nonappropriated Fund Instrumentalities," December 13, 1988