



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC



Office of the General Counsel

22 May 2017

MEMORANDUM FOR AF/A1

FROM: SAF/GC

SUBJECT: Authority to Use Appropriated Funds to Buy Key Spouse Program Items

I. EXECUTIVE SUMMARY

You asked SAF/GCA to review whether unit commanders may spend appropriated funds (APF) on certain items to support the Airman & Family Readiness Center Key Spouse Program (KSP) and, if they can, to identify the sources of that authority. You seek to use this information to create a standardized list of items that the Air Force may purchase with APF for the KSP, specifically: (1) low-value promotional items (e.g., magnets, pens, pencils, key chains) to promote awareness and education of eligible KSP customers; (2) KSP uniform shirts; (3) personalized KSP business cards; and (4) KSP coins.

On 20 April 2016, this office issued a memorandum opinion in response to the above question. Since that time, we have conducted further research and analysis that provides more clarity and insight into the questions posed and, hence, the responses given. Accordingly, to avoid any confusion, I am issuing this superseding memorandum.

After review and deliberation, SAF/GCA concludes¹:

- (1) Promotional Items: The purchase of low-cost items with little to no intrinsic value discussed herein is authorized if they are imprinted with useful KSP program information and used to promote program awareness and to publicize services. Further advice from SAF/GCA should be sought if there is a desire to purchase items not discussed herein.
- (2) Uniform Shirts: Normally, because items of clothing are personal items, they are not eligible for purchase with APF. Because clothing purchases with APF could not be given to the volunteers as a gift, they would have to remain with the installation as a government asset. Fortunately, however, there is statutory authority that will allow reimbursement to volunteers for the cost of a shirt required for program participation. AF/A1 may update or amend regulations to implement this authority. Because non-appropriated funds (NAF) may also be used for reimbursing volunteers, SAF/GCA recommends that this option be considered before expending APF.

¹ This is an Executive Summary of the analysis and is not to be independently relied upon as justification for expenditure of APF on items or activities. Readers must consult the language and analysis for each item below.

- (3) Personalized Business Cards: APF are not available to purchase business cards, but, resources permitting, government resources may be provided to create and print business cards.
- (4) Coins: Current regulations do not authorize the expenditure of APF to procure coins for presentation to Key Spouses. However, AF/A1 may update or amend regulations to permit this.

II. BACKGROUND

Title 10, United States Code Section 136, requires the Under Secretary of Defense for Personnel and Readiness (USD(P&R)), subject to the authority, direction, and control of the Secretary of Defense (SecDEF), to “perform such duties and exercise such powers as [SecDEF] may prescribe in the areas of military readiness, total force management, . . . [and] military and civilian family matters. . . .”² Department of Defense Directive (DoDD) 5124.02 in turn assigns to USD(P&R) the function of developing programs for (1) “readiness to ensure forces can execute the National Military Strategy” including coordinating with officers in the Office of the Chairman of the Joint Chiefs of Staff (OCJCS) on other aspects of readiness, and (2) quality of life for U.S. military personnel and their families, including support during the deployment cycle.³

Title 10, United States Code Section 153, assigns to the Chairman of the Joint Chiefs of Staff (CJCS), subject to the authority, direction, and control of the President and SecDEF, responsibility for assisting the President and SecDEF in providing for the strategic direction of the Armed Forces of the United States, conducting assessments to determine the capabilities of the Armed Forces, providing SecDEF with advice on requirements, programs, and budget, and developing doctrine for the joint employment of the Armed Forces.⁴ In September 2011, the CJCS issued CJCS Instruction (CJCSI) 3405.01, “Chairman's Total Force Fitness [TFF] Framework.” This framework, incorporated into Joint Publication 1, *Doctrine of the Armed Forces of the United States*, is “designed to keep Service members resilient and flourishing in the current environment of sustained deployment and combat operations.”⁵ One TFF tenet upon which the framework is built is family resilience.⁶ The framework recommends employing strategies focused on, inter alia, strengthening family resilience. CJCS tasked the Joint Staff Directorate for Manpower and Personnel with “synchroniz[ing] the Joint Staff TFF effort with

² 10 U.S.C. §136(b).

³ DoDD 5124.02 (23 Jun 2008), ¶¶ 4.1.6, 4.1.7.

⁴ 10 U.S.C. §153(a)(1), (a)(2)(C), (a)(4), (a)(5)(A).

⁵ CJCSI 3405.01 (1 Sep 2011), Enclosure A at A-1.

⁶ This tenet is “Total fitness extends beyond the Service member; total fitness should strengthen resilience in families, communities, and organizations.” *Id.* at A-2-A-3.

Service component and Office of the Secretary of Defense, Personnel and Readiness (OSD (P&R)) wellbeing, quality of life, and family readiness efforts.”⁷

TFF has been incorporated as one of the four pillars of DoD’s approach to well-being and into the Services’ like efforts.⁸ AFI 90-506 establishes the Comprehensive Airman Fitness (CAF) program, “a key readiness component for understanding, maintaining, and assessing the well-being of Airmen and their families while sustaining their ability to carry out the Air Force mission. . . . CAF provides an integrated framework that encompasses many cross-functional education and training efforts, activities, programs, and other equities that play a contributory role in sustaining a fit, resilient, and ready force.”⁹ One such program is the Airman & Family Readiness Center KSP. Installation commanders “at all levels are responsible for establishing and executing CAF in compliance with [AFI 90-506].”¹⁰ The installation commander is charged with ensuring “CAF efforts, activities, and emphasis for Airmen and families are implemented locally,” including ensuring that “unit Key Spouses . . . are appointed/trained and help[] inform families about . . . available resources.”¹¹

Consistent with the TFF and CAF, the KSP is an official Air Force unit family readiness program “designed to enhance readiness and resiliency and establish a sense of community.”¹² The Airman and Family Readiness Center of each installation hosts the program. A Key Spouse acts as a communication link between unit leadership and families, and provides information and referral services.¹³ “The mission of the [KSP] is to provide information and resources to military spouses, supporting families in successfully navigating throughout the military life cycle.”¹⁴ Key Spouses are volunteers, selected and formally appointed by the unit commander as authorized by 10 U.S.C. § 1588.¹⁵ They must be spouses of enlisted service members, officers, or DoD civilians. Key Spouses are trained on how to support Air Force families in accordance with a standardized curriculum.¹⁶

⁷ *Id.*, Enclosure C at C-1.

⁸ *Id.*, Enclosure B at B-1.

⁹ AFI 90-506 (2 Apr 2014) at 1, 3.

¹⁰ *Id.* at 7.

¹¹ *Id.*

¹² AFI 36-3009, *Airmen and Family Readiness Centers*, para. 3.8.4 (May 7, 2013).

¹³ Key Spouse Program, Commander’s Key Spouse Program Desktop Guide, Appendix E (February 2016). According to the Key Spouse position description, “The KS serves as the focal point for communication with spouses and actively markets the program . . . by deliberate communication through phone, email or social networks.”

¹⁴ *Id.*, at 1. Although the KSP participates in CAF resiliency efforts, it is this informational mission that is key to the analysis that follows. The items found to be acceptable are those that carry the information the KSP is charged with distributing to the KSP target audience. The CAF itself has no apparent specific informational mission. Therefore, this memo is inapplicable to the CAF, and should not be used to support the expenditure of CAF APF on promotional items or other gifts, such as gifts of clothing.

¹⁵ AFI 36-3009, para. 3.8.4.3.

¹⁶ *Id.*, at para. 3.8.4.2.

To support the KSP, installation commanders seek to use APF to purchase low-value items to promote awareness and education of the KSP to eligible individuals. Commanders would also like to purchase items the Key Spouses can use to identify themselves to the unit's community, newly-arrived spouses, and family members to facilitate the provision of services, including unique shirts and personalized business cards. Commanders also propose using APF to buy coins to provide to all Key Spouses who complete required KSP training and, separately, to give to specific Key Spouses at events acknowledging individual contributions to the unit's quality of life.

The following discusses: (1) the extent to which APF may be used to purchase promotional items; (2) how APF may be used to reimburse Key Spouses for the cost of a program shirt; (3) how APF may be legally available to enable Key Spouses to print their own business cards using government-supplied equipment and supplies (subject to the availability of funds and resources); and (4) when APF may be used to purchase Key Spouse coins.

III. DISCUSSION

A. The Basic Operative Principle – The “Necessary Expense” Rule

“Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.”¹⁷ This embodies Congress’s Constitutional “power of the purse” – only Congress gets to say how the nation’s funds will be spent.

While Congress can be very specific as to the object for which a particular appropriation is made, more generally Congress enacts appropriations language that is broad and non-specific. The language of the operations and maintenance (O&M) appropriation for the Air Force is an example. For fiscal year 2016, it reads in pertinent part: “For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law, \$35,727,457,000....”¹⁸

Absent specific Congressional direction in the appropriation itself or some other statute, agency expenditures must comply with the necessary expense rule (NER). The NER recognizes that Congress could not possibly articulate every possible permissible use of an appropriation, leaving to the agencies a measure of discretion in spending their appropriations within accepted fiscal law principles. Under the NER, an expenditure is permissible if it is “...reasonably necessary to carry out an authorized function or will contribute materially to the ... accomplishment of that function, and is not otherwise prohibited by law....”¹⁹ The function must

¹⁷ 30 U.S.C. § 1301(a).

¹⁸ P.L. 114-113, Division C, Title II.

¹⁹ *In re Food and Drug Administration—Use of Appropriations for “No Red Tape” Buttons and Mementoes*, B-257488 (November 6, 1995) (“No Red Tape Buttons”) (Unless otherwise noted, all GAO opinion citations are to the B-series indicator.)

be one authorized or assigned by Congress, reflecting the constitutional fiscal constraints on Executive Branch discretion.

The O&M appropriation language above contains no specific provision for purchasing the enumerated items. Accordingly, the proposed purchases may be lawful if either separate statutory authority exists or they qualify as a necessary expense under the NER (*i.e.*, one directly connected to furthering a statutory mission of the Air Force).

B. Other Statutory Authority Exists to Reimburse Volunteers for Certain Items and the Secretary has Delegated this Authority to AF/Al.

The Secretary may accept voluntary services for programs providing services to military members and their families, including family support programs.²⁰ The Secretary is also statutorily authorized to provide for reimbursement from APF or NAF for incidental expenses incurred by volunteers.²¹

The Department of Defense implemented these authorities through a DoD Instruction.²² The stated purpose of the DoDI is to implement “policies, responsibilities, and procedures for the acceptance and use of voluntary services in DoD programs,” describe the “Government support of authorized volunteers when performing their official duties,” and delegate authority “to accept voluntary services pursuant to 10 USC 1588” to the DoD Components.²³ The DoDI requires the Secretaries of the Military Departments to “[o]utline reimbursable expenses and method of payment of claims for reimbursement.”²⁴ Note that this authority extends only to reimbursing an expense incurred by a volunteer; it does not allow purchasing the item outright nor does it allow advancing funds to the volunteer. Lastly, mirroring the language of the statute, the DoDI authorizes the DoD Components to accept voluntary “services to members of the Armed Forces and their families,” including, among many others, “Family support.”²⁵

²⁰ 10 U.S.C. § 1588(a)(1)(A).

²¹ 10 U.S.C. § 1588(e).

²² DoDI 1100.21, *Voluntary Services in the Department of Defense* (March 11, 2002, incorporating Change 1, December 26, 2002.)

²³ *Id.*, at para. 1 (emphasis supplied.)

²⁴ *Id.*, at para. 4.2.

²⁵ *Id.*, at para. E3.2. Paragraph E3.8 of this Instruction, pertaining to reimbursement for expenses, states, the “...commanding officer of official in charge of the facility or activity accepting the voluntary services may, in accordance with applicable Service regulations, provide reimbursement for incidental expenses not normally provided to employees. Reimbursements may include, but are not limited to long distance phone calls, commuting, and child care. This applies when such reimbursements are *determined to be necessary to obtain the voluntary services* and are reasonable in amount and in relation to the value of the voluntary services involved to the facility or activity.” (Emphasis supplied.)

If the appropriate authority determined that the shirts were necessary to obtain the voluntary services, then it could mandate that Key Spouse volunteers purchase them and, if reasonable in amount and relation to the services provided, could provide reimbursement. As stated in the text, this authority only permits reimbursement; it does not allow purchasing shirts to provide to volunteers or advancing funds to volunteers.

The Secretary of the Air Force delegated this statutory authority in HAF Mission Directive (MD) 1-32 to the Deputy Chief of Staff, Manpower, Personnel, and Services (AF/A1). Specifically, MD 1-32, para. A1.6.2, delegates “Authority relating to the *acceptance and use* of voluntary services as delegated to the Secretary of the Air Force pursuant to DoDI 1100.21, *Voluntary Services in the Department of Defense*” (emphasis supplied). Importantly, the MD uses the exact same language found in the very first statement describing the purpose of the DoDI. Accordingly, we read the Secretary’s delegation to AF/A1 regarding the “acceptance and use” of voluntary services to encompass all aspects of the DoDI’s delegation to the Secretary, including the ability to outline reimbursable expenses. To date, however, we have not located any such outline.

IV. BACKGROUND ON GIFT ITEMS

A. *Distinguishing “Award” Cases*

Before delving too deeply into an analysis of “gifts,” we must first distinguish “award” cases. Many GAO opinions include an analysis of the propriety of using APF to purchase memento-type items. However, a good deal of these cases concern the purchase of items used for an “award” under the Government Employees’ Incentive Awards Act (GEIAA), 5 U.S.C. § 4501-4506, which authorizes agencies to purchase items for use in recognizing employee conduct. OPM regulations define an “award” as “something bestowed or an action taken to recognize and reward individual or team achievement that contributes to meeting organizational goals or improving the efficiency, effectiveness, and economy of the government or is otherwise in the public interest.”²⁶ Award items may be purchased with APF as awards, so long as they are “bestowed ... to recognize and reward ... achievement ...” and presented to honor and recognize the achievement in accordance with the OPM regulations.²⁷ The Department of Defense and the Air Force have promulgated award program regulations reflecting these principles.²⁸ These “standards are clear that government-procured gifts are only appropriate for certain, limited, circumstances.”²⁹

For example, APF may be used “to purchase medallion and acrylic block tokens as special recognition for individuals who perform meritorious duty outside of their normal duty assignments in furtherance of the mission.”³⁰ Food and vouchers may meet the requirements of an award under the GEIAA.³¹ While special or group achievements eligible for recognition are usually limited to an individual or a specifically defined group who has achieved a mission-

²⁶ 60 Fed. Reg. 43936 (to be codified at 5 C.F.R. § 451.102).

²⁷ B-257488 (1995) (a.k.a. FDA’s “No Red Tape” case).

²⁸ See DoD 1400.25-M, *DoD Civilian Personnel Management System*, Dec 96; AFI 65-601, Volume 1, *Budget Guidance and Procedures*, 16 Aug 12; AFI 36-1004, *The Air Force Civilian Recognition Program*, 3 Dec 09.

²⁹ OpJAGAF 2013-13, Inspector General, 25 Oct 13.

³⁰ OpJAGAF 1992/74, 21 July 1992, *Awards and Decorations*; See also, 1980 U.S. Comp. Gen. LEXIS 2597 (August 27, 1980) (finding award of desk medallion may qualify under GEIAA).

³¹ B-271511 (1997); B-270327 (1997).

related accomplishment, GAO approved the “award” of coffee mugs to all of its employees because “every person at GAO had played a role in getting the [particular] job done.”³²

Under this rule set, however, an agency’s appropriations are not available to purchase items for other distribution. For instance, while FDA could use APF to purchase mugs and pens for use as employee awards under the GEIAA program, the items could not be distributed to all conference attendees as a memento of the event because they were not “honorary” in nature.³³ Similarly, the Army Corps of Engineers was prohibited from using APF to procure clock radios and tricycles as award items because GEIAA prohibits use of merchandise prizes.³⁴ Because the KSP is generally seeking to spend APF on items that would be distributed to others to promote awareness and to provide information, analogies to GAO “award” cases, while instructive, are not on point.³⁵

B. General Guidance on Gifts

Agencies frequently want to use APF to purchase items as recruiting tools or for promotional purposes. There is a long history of GAO opinions discussing whether or not such items constitute impermissible personal gifts, but there is no one-size-fits-all rule. Absent a specific statutory authorization, outcomes turn on a case-by-case analysis of the rationale provided by the agency for its desired use of funds and whether the item will directly further the agency’s statutory mission or function:

Occasionally, an item that would typically be viewed as a personal gift may, in other circumstances, help advance an agency’s mission. In making the analysis, it makes no difference whether the ‘gift items’ are given to federal employees or to others. The connection is either there or, far more commonly, it is not. In each of the cases in which funds have been found unavailable, there was a certain logic to the agency’s justification, and the amount of the expenditure in many cases was small. The problem is that, in most cases, were the justification put forward by the agency deemed sufficient, there would be no stopping point. If a free ashtray might generate positive feelings about an agency or program or enhance motivation, so would a new car or an infusion of cash into the bank account. The rule prohibiting the use of appropriated funds for personal gifts reflects the clear potential for abuse. Because a necessary expense analysis is, of course, case specific, it is impossible to draw a rational line identifying those gift items that are acceptable and those that are not. . . . It is important that anyone confronting a ‘gift’ issue

³² B-287241 (2001).

³³ *Id.*

³⁴ B-223608 (1988).

³⁵ Moreover, GEIAA only applies to a Government “employee,” (see 5 U.S.C. § 4501(2)) which is defined as someone “appointed in the civil service...” (see 5 U.S.C. §2105(a)). Volunteers under 10 U.S.C. § 1588 are not appointed in the civil service. Moreover, a volunteer is considered to be an “employee” only for the specific purposes noted in the volunteer statute (see 10 U.S.C. §1588(d)). None of the stated purposes include for awards or recognition under GEIAA.

scrutinize the case law carefully to appreciate distinctions that may not be apparent at first read.³⁶

C. Examples Where Purchase of Gifts with AFP were Permitted

The GAO has rendered many decisions describing facts and circumstances under which no specific statutory language permitted the expenditure of APF on particular items, yet the expenditures were proper under the NER. The common element to these cases is that the agency was able to demonstrate a direct connection between the stated purpose of the appropriation used, the agency's statutory mission or function, and the proposed expenditure. Some examples are:

- The National Park Service (NPS) properly used APF to purchase quarried volcanic rock with APF to discourage visitors from removing naturally occurring “lava rock” inside a national park. This was proper because one of the NPS statutory missions for which it received appropriated funds was to conserve natural objects in the park. 16 U.S.C. §1. GAO found that “Park Service officials have made a reasonable finding that this [conservation] purpose can be accomplished by providing samples of rocks to visitors to deter them from taking rocks from the Monument.”³⁷
- The United States Forest Service properly used its appropriation for “Forest Protection and Utilization” to purchase and distribute litter bags to visitors of the Superior National Park. The appropriation was provided for “the administration, improvement, development and management of lands under Forest Service administration” among other things. GAO found that the litter bags “would appear to be reasonably necessary or incident to” the activities encompassed by the appropriation in question.³⁸
- The Army properly used its O&M appropriation to purchase framed posters for distribution via a drawing at events in exchange for potential recruits filling out cards with their contact information. Title 10, United States Code Section 503, charges the military departments with conducting “intensive recruiting campaigns to obtain enlistments.” In evaluating the Army’s justification for the poster purchases, GAO found “a direct connection between the use of framed recruiting posters as prizes for potential recruits and fulfillment of the Army's mission to ‘conduct an intensive recruiting campaign.’”³⁹
- VA properly used its medical care appropriation to purchase and distribute at the Oklahoma State Fair matchbooks and jar openers imprinted with the VA seal and telephone number of the medical center so that veterans and potential job applicants

³⁶ GAO, Principles of Federal Appropriations Law, 3d ed., Vol I at 4-156.

³⁷ B-193769 (1979).

³⁸ B-171616 (1971).

³⁹ B-230062 (1988).

could call for information.⁴⁰ Title 38, United States Code Section 703(d), authorized VA to "provide for the ... display of exhibits, photographic displays, moving pictures, and other visual educational information and descriptive material" and to "purchase or rent equipment" in carrying out that function. GAO found VA's use of its medical care appropriation to rent a booth at the Oklahoma State Fair to be a proper use of the appropriation "in light of this [statutory] authority and the medical center Director's determination that the booth would be useful for educational and recruiting purposes." GAO also found the matchbooks and jar openers were properly paid for with APF because "the Medical Center was acting within its authority to inform veterans as to its services and for recruiting purposes by renting a booth at the state fair" and that "[a]s an operator of a booth, it was entirely appropriate for the Medical Center to attempt to attract the attention of those attending the event. The booth would serve little purpose if the Medical Center could not engage in inexpensive advertising to attract attention." GAO noted that "[t]he means chosen, imprinted matchbooks and jar openers, was appropriate for the objective to be accomplished. [In keeping with the educational and recruiting purpose of the booth, e]ach of these items contained the Medical Center's telephone number so that veterans and potential job applicants could call to obtain information."⁴¹ In short, GAO found that the use of APF to purchase matchbooks and jar openers was directly connected to furthering the agency's statutory educational mission.

- The Army Chaplain's Office and the Army Community Services (ACS) program properly used APF to purchase calendars imprinted with contact, location, and program information. 10 USC §3547 requires Chaplains "to hold religious services for the commands to which they are assigned." As implemented by AR 165-20(e), Chaplains must coordinate religious services held for different faiths represented among military personnel. Publicizing the schedule of services "is an appropriate extension of this duty." Chaplains were also charged by regulation with providing pastoral care, including through "visitation, counseling, religious ministrations, and other aid." To do so effectively, GAO agreed that chaplains "may find it necessary to place their names and telephone numbers before those who may need their services." It found that a calendar was an appropriate means to do so because "wall calendars ... are readily visible in emergency situations, are not easily lost, available to all family members at home and used throughout the year." Similarly, ACS was, by regulation, responsible for providing a number of services, such as "information and referral services, ... financial planning and assistance, ... and child support services" and for "mak[ing] personnel and their families aware of the types of services offered and the location of the ACS Center." GAO noted that, while calendars were not specifically provided for in regulation, nor were they prohibited. Therefore, because disseminating information about their programs was directly connected to furthering

⁴⁰ B-247563.2 (1993).

⁴¹ *Id.*

their statutory and regulatory missions, GAO did not dispute the agencies' use of APF to purchase calendars.⁴²

- The FDA properly used its APF to purchase buttons inscribed with the logo “No Red Tape” to be worn voluntarily by its employees “as part of an office campaign to promote team building, efficiency, and effectiveness.”⁴³ GAO agreed with FDA that the buttons were “not personal gifts but, rather, are a management tool that would provide a cost-effective way of displaying the [FDA unit’s] mission.”⁴⁴ Recognizing that the buttons had no intrinsic value to a recipient helped the FDA establish that this was not a disguised gift to employees, but was “designed solely to assist in achieving internal agency management objectives” in carrying out the FDA mission and purpose of its Salary & Expenses appropriation.⁴⁵ GAO concluded that “We think FDA has demonstrated the requisite nexus between its appropriation’s purpose and the ‘No Red Tape’ buttons. The message is clearly informational and directed at the promotion of an internal agency management objective. The button serves much the same purpose as other internal agency informational media such as posters, memos, etc., reminding agency employees of institutional objectives and goals.”⁴⁶

D. Examples Where Purchase of Gifts with APF were Not Permitted

GAO has also decided a litany of cases where the expenditure of APF on gifts for certain purposes was not permitted. In these cases, the agency was unable to demonstrate a direct connection between the stated purpose of the appropriation used, the agency’s statutory mission or function, and the proposed expenditure. For example:

- GSA improperly used its APF to purchase and distribute to the public “Sun Day” buttons to demonstrate GSA’s commitment to the Sun Day energy alternative program. GAO did not identify which appropriation GSA intended to charge for this expense, nor did it identify the purpose GSA asserted the buttons furthered. However, GAO concluded that “there is nothing to show a direct connection between distribution of the buttons and GSA’s mission or to show, in other words, that without the distribution of the buttons, GSA would have been unable to show its support of Sun Day (assuming that to have been an authorized purpose of GSA.)”⁴⁷ From GAO’s conclusion, it appears that GSA had failed to establish that showing support of the Sun Day energy alternative program was something GSA was supposed to be

⁴² B-211477 (1983).

⁴³ B-257488 (1995).

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ *Id.*

⁴⁷ B-192423 (1978). (Note: the GAO opinion states the proposed buttons were to be purchased from “Sun Day,” a private organization, in support of GSA’s commitment to the Sun Day Energy Alternative Program. It is unclear from the opinion the impact of this information, if any, on the conclusion reached by GAO.)

doing (*i.e.*, was part of GSA's statutory mission). Even if it had, GSA also failed to establish a direct connection between the use of APF on "Sun Day" buttons and that mission.

- Small Business Administration (SBA) improperly used APF to purchase decorative ashtrays with the SBA seal and lettering for distribution to attendees of an interagency conference. The conference was one held annually by SBA as part of its statutory mission of consulting and cooperating with federal agencies to effectuate the purposes of the Small Business Act. SBA asserted that the ashtrays "would serve as a continuing reminder to [each federal agency attendee] of ... the responsibilities of his department or agency to cooperate with SBA in pursuance of small business programs authorized by the Small Business Act, and thereby further the accomplishment of such programs."⁴⁸ In determining it was improper to use APF for the ashtrays, GAO stated "while SBA is charged by law to cooperate with other government agencies in carrying out its function, the officials of those other government agencies are likewise required by law to cooperate with SBA when requested to do so by the Administrator." It found "no basis on which payment for items in the nature of personal gifts may be authorized in order to secure the cooperation of such other agency officials."⁴⁹ In other words, APF may not be used to give personal gifts to other agency officials in exchange for them doing something they are already legally obligated to do.
- The Forest Service improperly used APF to purchase specially made key chains for distribution to college and university educators who attended a Forest Service-sponsored seminar. The key chains, purchased with the Forest Service's "forest protection and utilization" appropriation, depicted the logos for the Forest Service and the Sawtooth National Recreation Area. They were given to the attendees in addition to maps, pictures, and other printed seminar information. The Forest Service asserted that the key chains would serve as a future reminder to the attendees of its request for each individual's expert assistance, thus generating future responses. GAO acknowledged Congress's recognition that "forestry research efforts of the State colleges and universities and of the Federal Government will be more effective if there is close cooperation between such programs." It also noted that Congress had authorized the Department of Agriculture to provide financial assistance to state educational institutions and had "legislatively authorized [other] programs ... to foster cooperation between the Secretary and the States" In the end, however, GAO did "not feel that the Congress, in encouraging cooperation, intended that funds appropriated to the Forest Service could properly be used to purchase personal gifts" such as the key chains. It found that the relationship to the Forest Service mission was too attenuated to call the key chains anything other than "being in the nature of

⁴⁸ B-175434 (1974).

⁴⁹ *Id.*

personal gifts” concluding that their purchase did “not constitute a necessary and proper use of appropriated funds.”⁵⁰

- EPA improperly used its APF to purchase novelty plastic trash cans containing candy in the shape of solid waste to attract attendees to an EPA booth at an International Waste Equipment and Technology Exposition.⁵¹ EPA asserted these candy-filled cans attracted attendees to the EPA booth, where they “had an opportunity to learn about the provisions of the new Resource Conservation and Recovery Act, to receive copies of the Federal Register indicating the first steps [EPA’s Office of Solid Waste] is taking to implement the Act, and to see samples of many OSW publications.” GAO noted that the Solid Waste Disposal Act, as amended by RCRA, authorizes EPA’s solid waste activities, including providing “technical assistance to state and local governments to help them find solutions to solid waste management problems, issu[ing] guidelines and recommended procedures, and undertak[ing] demonstrations of advanced technology.” Finding it improper to have used APF to purchase the candy-filled cans, GAO did not dispute EPA’s assertion that the candy attracted persons to visit its booth, but found that “there is nothing to show that without the distribution of the novelties, the EPA would have been unable to reach its intended audience and disseminate its informational brochures.”⁵² As in similar cases, there was no “direct connection between the novelties and the agency’s mission.”⁵³

Likewise, GAO has found many other gift purchases not to comply with the NER, including photographs taken as mementos,⁵⁴ baseball caps for personnel recruitment,⁵⁵ pens, scissors, and shoe laces to promote agency remembrance,⁵⁶ and gift certificates to celebrate women’s equality.⁵⁷ None of these items were found to pass the NER because the agencies had not demonstrated a direct connection between the appropriation used, the agency’s statutory mission, and the purchase.

E. Principles Recognized in Air Force Instructions

Air Force Instructions recognize the tension found in using APF to purchase gift items for different purposes. Items having intrinsic value that are considered “merchandise” (*e.g.*, that have utility and value in and of themselves) are qualitatively different from the category of items

⁵⁰ B-182629 (1975).

⁵¹ B-191155 (1978).

⁵² *Id.*

⁵³ *Id.*

⁵⁴ B-195896 (1979).

⁵⁵ B-260260 (1995).

⁵⁶ B-247563.3 (1996).

⁵⁷ *Id.*

the AF has determined are reasonably necessary and effective for carrying out AF statutory missions:

Items of a utilitarian nature, having intrinsic value, such as TVs, radios, cameras, briefcases, etc., fall into the category of merchandise. The Comptroller General considers them as personal gifts. Existing statutes do not permit the purchase of such items with appropriated funds for use as incentives. This rule also applies to lower-value ‘merchandise-type’ items, such as coffee mugs, key chains, ashtrays, luggage tags and similar items. ... Additionally, there is no authority which allows the use of appropriated funds to procure mementos, i.e., coins or medallions, for Air Force individual military or civilian personnel or units if the reason for the presentation is not specifically addressed as a mission accomplishment award published in the Command or Base supplements to AFI 36-XXXX (sic). However, Air Force activities may purchase pertinent literature, specialized lesson plans, bumper stickers, informational stickers (for tools, telephones, notebooks, and so on), visual aids for training and to secure compliance with mission-related objectives, to the extent permitted under functional instructions.⁵⁸ Air Force guidance provides some relief from these limitations to various AF activities.

These include the Air Force Voter Assistance Program, the Air Force Mishap Prevention Program, the Air Force Sexual Assault Prevention and Response Program, and the Airman and Family Readiness Centers (previously known as Family Support Centers),⁵⁹. Each of them are grounded in one or more specific AF statutory missions. Given that, the “[p]rocurement of low value items, such as pens, pencils, magnets, key chains, etc. is authorized for the express intent of awareness and education of eligible customers.”⁶⁰ While acknowledging the necessity to engage in outreach efforts to promote the program, this would not exempt Airman and Family Readiness Centers from needing to meet the requirements of the NER with regard to the specific items they want to procure.

In short, published Air Force financial management guidance takes a restrictive view on the availability of APF to purchase even “lower-value ‘merchandise-type’” items. Because they are utilitarian in nature and have intrinsic value, they are more likened to personal gifts that are not necessary to carry out the agency’s mission. However, the Air Force recognizes the need to engage in promotional and awareness campaigns for *some* services arising out of statutory mandates, including Airman and Family Readiness Centers. Therefore, the Air Force authorizes the use of APF for low value items, even those with some intrinsic value, for the express intent

⁵⁸ AFI 65-601 V1, Incorporating Change 1, 29 July 2015, *Budget Guidance and Procedures*, para. 4.31.3.1.

⁵⁹ See, *id.*, para. 4.31.3.2 (citing AFI 36-3009; see para. 3.14.2). The reference to “Family Support Centers” is not in the sentence identifying excepted programs, it is in the sentence identifying guidance to be followed for the excepted programs. Regardless of where it appears in the paragraph, the intention was to except Family Support Center programs from the general rule. This paragraph of AFI 65-601 V1 should be redrafted when the AFI is next reviewed and modified.

⁶⁰ AFI 36-3009, *Airmen and Family Readiness Centers*, para. 3.14.2.

of promoting awareness and education of program participants. This agency guidance is consistent with the GAO cases cited above.

V. ANALYSIS OF SPECIFIC ITEMS

With the aforementioned background, we can now assess whether APF can be used for the purchase of various items in relation to the KSP.

A. Low-Value Promotional Items (e.g., pens, pencils, magnets, key chains,⁶¹ etc.)

As set forth above, the language of the Air Force's O&M appropriation is broad and non-specific. Given that, the use of that appropriation in any instance must be shown to have a direct connection to furthering an Air Force statutory mission.

As also set forth above, the KSP ties directly to the statutory missions of ensuring military readiness and quality of life for U.S. military personnel and their families, as set forth in 10 USC §§ 136 and 153, and as more specifically articulated by DoDD 5124.02, CJCSI 3405.02, and AFI 90-506. Because communication with military families is central to the success of the KSP, low-value promotional items such as pens, pencils, magnets and key chains, **so long as they communicate useful information about the KSP** (e.g., contact information, office locations, telephone numbers, services provided, etc., and not simply a logo, title, or the words "Key Spouse Program"), can be considered directly connected to furthering the accomplishment of those statutory missions. In this regard, they are much like the VA matchbooks and jar openers, and the Army Chaplain's and ACS wall calendars approved in the GAO opinions. However, without communicating information necessary to carry out the program, they lose that connection and become impermissible personal gifts just like the SBA ashtrays, Forest Service key chains, or EPA plastic trashcans.

Other low-value items with intrinsic value, **if imprinted with useful KSP information**, could also qualify for APF expenditure under the NER. In this regard, notepads and coffee mugs are little different than matchbooks, jar openers, and wall calendars in their ability to further the statutory mission. Each is a low value common item with intrinsic value and use, yet – when imprinted with useful KSP information – also designed to communicate information and establish awareness about the KSP.

When considering a particular item for purchase, it is important to consider how the item will be used versus the intended programmatic communication purpose. As GAO found with the Army calendars: "wall calendars ... are readily visible in emergency situations, are not easily

⁶¹ There has been prior discussion of the term "key fob," but the definition is imprecise. A key fob can refer to a mechanical device used for keyless entry into a car. Others use the term to refer to small, plastic tags that attach to a key chain and contain information about programs or retail establishments. While a keyless entry system for a vehicle would have significantly high intrinsic value, a small plastic tag with information about the KSP, would not. For clarity, it would not be appropriate to use APF to purchase gifts of keyless entry systems for vehicles, but it would be appropriate to use APF to purchase plastic tags imprinted with KSP information as a method of advertising program services and facilitating contact between the program and eligible participants, as more further explained below.

lost, available to all family members at home and used throughout the year.” In other words, wall calendars, based on how they are used, were well suited to communicating information about the schedule of services and contact information to the intended audience. On the other hand, tote bags and water bottles, even if low cost, strike us as less well suited to conveying information about the KSP as their usage tends to be more random than items like pens or notepads or coffee mugs. This is not to say that water bottles and tote bags are impermissible, just that they are less defensible as necessary expenses of the program and more susceptible to public scrutiny and criticism.

It is important to mention as well that this memo addresses items conveying information about the KSP. Even though a primary purpose of the KSP is to communicate information about the wide gamut of available programs and services on base, the promotional items purchased for the KSP should be limited to conveying information about just that program. Other programs likely have their own promotional items, and there is nothing objectionable in Key Spouses distributing those other items. But the KSP promotional items should communicate information specific to the KSP.

Finally, it is virtually impossible to justify expending taxpayer dollars on promotional items that have anything greater than a low value. A slippery slope is presented when using the NER to purchase items of increasingly higher value. For instance, a \$1.00 notebook is qualitatively different than a \$15.00 parchment paper sketchbook, even if imprinted with program information; a \$1.00 magnet is qualitatively different than a \$15.00 acrylic paperweight conveying the same information. The fact that an item is imprinted with program information is not a blank check to use APF under the NER. To borrow from GAO, where is the line between an ashtray and an automobile?⁶² The answer, based upon our review of the GAO cases and for the purposes presented here, appears to be drawn at items with low value and that meet the NER by directly advancing the statutory mission of the agency. In many cases, such as here, the mission requires communicating information necessary to the success of the program in question.

B. Key Spouse Lapel Pins and Name Tags

We understand that some may favor using APF to purchase of KSP lapel pins. While the justification offered may be to help identify Key Spouses to their constituents, a small non-descript object worn on a lapel would not carry any program information such as telephone numbers, office locations, even the name of the Key Spouse member wearing the pin. Nor would it serve the same purpose as a distinct KSP T-shirt, addressed further below, which would clearly enable the identification of Key Spouse volunteers. However, the expenditure of taxpayer money on an object that would go unnoticed or require inquiry into its meaning and purpose does not meet the NER.⁶³

⁶² GAO, Principles of Federal Appropriations Law, 3d ed., Vol I at 4-156.

⁶³ For purposes of this analysis, we note that—as of now—a well-defined, consistent, well-defined KSP logo or symbol does not seem to exist. We assume each installation would be developing its own KSP symbology, which by definition, would not be understood across installations. Having multiple, perhaps even non-descript, lapel pins would not further the identification of Key Spouses by those in need of services. We reserve an opinion based on an Air Force-wide KSP logo or symbol that is well publicized so that it is recognized by members and their families.

Others may assert a lapel pin is desired to promote camaraderie among Key Spouse volunteers. While that may be true, it is not a justification for spending APF. GAO opinions have established that increasing *esprit de corps*, motivation, morale, favorable feelings, and cooperation do not meet the NER, but render the items impermissible personal gifts.⁶⁴ In this regard, a lapel pin is like other items deemed “personal accessories,” such as cuff links or bracelets, which GAO has already determined “were more in the nature of personal gifts than promotional material” and “did not constitute a necessary and proper use” of APF.⁶⁵

In addition to not complying with the NER, lapel pins appear to have historically been treated differently by Congress. There are numerous examples of legislation that has been introduced to provide for the use of APF on lapel pins for various persons, including a continuing unsuccessful effort to get legislation to provide lapel pins for the spouses and children of combat veterans.⁶⁶ If lapel pins for identification purposes met the NER, these examples of special legislation would not have been contemplated or necessary.

While lapel pins are not proper expenditures of APF under the NER, other items that legitimately serve the intended functions of identifying Key Spouse volunteers and facilitating communication with service members and their families at Airman and Family Readiness Centers or other base gatherings may pass scrutiny. For instance, low-cost name tags imprinted with the volunteer’s name and designation as a Key Spouse would have no intrinsic value to the recipient and, thus, not likely considered a gift. Their sole purpose and design is to help identify a volunteer as a Key Spouse which facilitates communication with those eligible to receive program services. Key Spouse name tags differ from lapel pins in that they do not require inquiry or further explanation as to their meaning, and uniformity and publicity is not required to understand its meaning or purpose.

Finally, as discussed below in relation to recognition coins, 10 U.S.C. § 2261(a) authorizes the expenditure of APF to procure recognition items of nominal value (under \$50) for service members, their family members, and other individuals recognized as providing support that substantially facilitates service in the armed forces. The statute is not limited to coins. We know of nothing that would prohibit using this authority to procure lapel pins recognizing Key Spouses for providing support that substantially facilitates service in the AF. If this is desired, AF/A1 should amend AFI 36-3009. It should be borne in mind, however, that any lapel pin issued for a Key Spouse completing training and providing volunteer services would have to take the place of the coin that has also been proposed. Two awards cannot be given. (NOTE: A

would not further the identification of Key Spouses by those in need of services. We reserve an opinion based on an Air Force-wide KSP logo or symbol that is well publicized so that it is recognized by members and their families.

⁶⁴ B-201488 (1981) (citing B-195247 (1979), B-182629 (1975); B-184306 (1975)).

⁶⁵ B-151668 (1963).

⁶⁶ See, e.g. H.R. 991, 114th Cong. 1st Sess., 13 Feb 2015; H.R. 1960, 113rd Cong. 1st Sess. (8 Jul 2013); H.R. 1889, 113rd Cong. 1st Sess. (8 May 2013); H.R. 1014, 112 Cong. 1st Sess. (10 Mar 2011); H.R. 5333, 111th Cong. 2d Sess. (18 May 2010); H.R. 5233, 111th Cong. 2d Sess. (6 May 2010); H.R. 5136, 111 Cong. 2d Sess., 26 Apr 2010); H.R. 4043, 111 Cong. 1st Sess. (6 Nov 2009). All of these citations relate to efforts to provide lapel pins to spouses and children of combat veterans. In addition, see S. 2720, 107th Cong., 2d Sess. (11 Jul 2002) and H.R. 5121, 107th Cong. 2d Sess. (15 Jul 2002) seeking authority for the Senate to spend APF on lapel pins for Senate Pages.

potential path forward would be to award a Key Spouse lapel pin to those volunteers who complete the required Key Spouse training requirements. A Key Spouse coin could then be reserved to award special acts of service during the performance of Key Spouse duties.)

C. Key Spouse Informal Uniform or Moral Shirts

We've also considered whether APF may be used to purchase KSP shirts. Clothing is considered a personal item, and is therefore considered something the cost of which should be borne by the person wearing it. Because of this, GAO imposes a particularly high bar against clothing as a necessary program expense.

Fortunately, we do not need to consider whether the Air Force can overcome the bar against using APF for clothing because there is a specific statute permitting the Air Force to reimburse volunteers their incidental expenses, which could include the cost of a shirt. As previously mentioned, 10 U.S.C. § 1588(e), authorizes the use of APF and NAF to reimburse volunteers for incidental expenses outlined by the agency. However, because the Air Force has not yet complied with this requirement as articulated in the DoDI, we recommend AF/A1⁶⁷ promulgate written guidance outlining authorized reimbursable expenses for KSP volunteers, and the methods by which volunteers may make claims for reimbursement and how such claims will be paid.^{68,69} Although this guidance may be created independently, it is recommended that it be issued via an amendment to an existing AFI. Note again that the authority extends only to reimbursing the Key Spouse; it does not permit purchasing a shirt to provide to the Key Spouse nor does it permit advancing funds to the Key Spouse to purchase a shirt.

Importantly, 10 U.S.C. § 1588(e) authorizes the use of APF and NAF to reimburse incidental volunteer expenses. While the Air Force has not outlined specific items that would enable use of APF, it has already promulgated regulations pertaining to the use of NAF. Existing Air Force regulations allow NAF use for "Family Services programs, including...uniforms."⁷⁰ Accordingly, NAF may presently be used to reimburse volunteers for KSP shirts under 10 U.S.C. § 1588(e) because the Air Force has already outlined Family Service program "uniforms" as a

⁶⁷ AF/A1S could perform this function on behalf of AF/A1 because its role in HAF MD 1-32, para. A2.2.11 covers specific programs and policies, including airmen and family readiness. As will be noted later, A1S's program functions also cover "Air Force ... recognition programs."

⁶⁸ In this guidance, AF/A1 should consider clarifying a number of key policy considerations, including: the number of times the Air Force will reimburse a Key Spouse for a particular expense, whether reimbursable items are developed and acquired on a local basis or are Air Force-wide, the source and level of funds from which the Air Force will provide reimbursement, whether other sources of funds should be explored for reimbursement before resorting to AFP. For example, AFI 36-3009 indicated NAF may be used to pay for "volunteer uniforms."

⁶⁹ We specifically request that GCA and JAA be afforded the opportunity to provide a legal review of the policy prior to publication to ensure the items listed meet applicable legal requirements, including the necessary expense rule.

⁷⁰ AFI 34-201, *Use of Nonappropriated Funds* (17 June 2002), at para. 4.3.10; See also, AFI 36-3009, *Airmen and Family Readiness Centers* (7 May 2013, incorporating through Change 2, 16 July 2014), at para. 3.14.1, ("Expenditure of NAFs is only authorized for Family Services/Loan Locker requirements (e.g., ...volunteer uniforms) per AFI 34-201.")

NAF-eligible reimbursable expense. The ability to use APF is dependent upon the promulgation of an outline of reimbursable expenses by A1 (or A1S).

D. Personalized Business Cards

Business cards are usually considered a personal expense for which APF may not be used. However, agencies that frequently work with outside organizations and the public are permitted to use APF in some circumstances to provide business cards to employees at public expense.⁷¹ The Air Force specifically limits the use of APF to purchase commercially printed business cards to five categories of persons.⁷² The KSP does not fall within any of the five categories; therefore, commercially printed business cards may not be purchased for Key Spouses using APF.

We have identified a legally sufficient alternative approach to achieve the same objective. Formally sanctioned volunteer programs such as the KSP are authorized use of “equipment, supplies, computers and telephones as needed to accomplish assigned duties.”⁷³ Business cards may be printed “...using personal computers, existing software and agency-purchased card-stock” acquired with appropriated funds.⁷⁴

Because the Key Spouse's main responsibility is to communicate with other spouses, a reasonable determination could be that Key Spouses need business cards to accomplish their assigned duties. As a result, Key Spouses may be allowed to use resources procured with APF (government computers, card stock and printers) to print appropriate numbers of business cards for their use in their Key Spouse capacity to facilitate communication with their intended constituency. This would be subject to the availability of local funds and other resources.

E. Key Spouse Coins

As already noted, Air Force budget guidance and procedures state, “there is no authority which allows the use of appropriated funds to procure mementos, i.e., coins or medallions, for Air Force individual military or civilian personnel or units if the reason for the presentation is not specifically addressed as a mission accomplishment award published in the Command or Base supplements to AFI 36-XXXX (sic).”⁷⁵ This same guidance not only states that coins may only be purchased and presented as a mission accomplishment award, but also clearly states:

⁷¹ See Office of Legal Counsel, U.S. Department of Justice, *Use of General Agency Appropriation s to Purchase Employee Business Cards*, 21 Op. O.L.C. 150 (August 11, 1997); GAO, *Comments on the Use of Army Operation and Maintenance Funds To Purchase Business Cards*, B-280759 (November 5, 1998).

⁷² AFI 65-601, Vol 1, at para. 4.44.1. The five categories are: Air Force Recruiting Service recruiting personnel, Air Force Academy Liaison Officers, civilian employees engaged in professional recruiting programs, United States Air Force Reserve military recruiters, and Air National Guard military recruiters.

⁷³ DoDI 1100.21, *Voluntary Services in the Department of Defense*, 5.2. 1. A draft revised version DoDI 1100.21 contains similar language at 1J 3.2.a, which authorizes the "use of government ... office space, supplies, computer and network access as authorized, and other equipment needed to accomplish assigned duties."

⁷⁴ AFI 65-601 V1, at para. 4.44.1.

⁷⁵ AFI 65-601 V1, Incorporating Change 1, 29 July 2015, *Budget Guidance and Procedures*, para. 4.31.3.1.

“Appropriated funds are not legally available to procure ‘commemorative’ coins.”⁷⁶

Moreover, because they convey no meaningfully informative message, coins cannot be a permissible promotional item such as those discussed above.

Consistent with the requirements of the AFI, the use of APF to purchase coins historically has been limited to the mission accomplishment awards for Air Force personnel that are provided for in a 36 series AFI. No current 36 series AFI provides for a KSP award. As a result, APF may not currently be used to purchase coins to present to Key Spouses.⁷⁷ Also, as already noted, volunteers are not considered employees for purposes of civilian employee awards programs.⁷⁸

We understand that AF/A1 is amending AFI 36-3009 to provide for a KSP coin. In that event, 10 U.S.C. § 2261 would permit APF to be spent “to procure recognition items of nominal or modest value for recruitment or retention purposes” for presentation to service member family members “recognized as providing support that substantially facilitates service in the armed forces” (subject to regulations issued by the Secretary of Defense). The cost of the item must be less than \$50, and the item must be “designed to recognize or commemorate service in the Armed Forces.”⁷⁹

We recommend that the KSP coin be added to AFI 36-3009 in the same way as the Heart Link Program coin was incorporated there. After the change is made to AFI 36-3009, AFI 65-601 V1 can then be amended to incorporate the KSP coin in the same manner as it incorporates the Heart Link Program coin.

IV. CONCLUSION

By providing a key link between installation and families, the KSP is an integral element of the mission to ensure Air Force military readiness and resiliency. To carry out the program successfully, it is necessary to provide the Key Spouses with the means to publicize and promote the KSP. Low-cost items with little intrinsic value may be purchased with APF as necessary expenses of the program so long as the items are well suited for use as communication devices; at a minimum they must be imprinted with relevant, useful KSP information. Higher value items, however, would be considered impermissible personal gifts on which APF may not be expended.

⁷⁶ *Id.*, para. 4.31.2. (Emphasis in original.)

⁷⁷ Nor may official representation funds (ORF) be used to purchase such coins. AFI 65-603 governs the use of such funds and identifies the persons to whom ORF-funded mementoes such as coins may be given. The categories are: foreign personnel, U.S. government leaders, prominent U.S. Citizens and select senior DoD personnel while on official visits to the field. Key Spouses do not fit into any of these categories.

⁷⁸ See, FN 25, *supra*.

⁷⁹ AFI 65-601 V1., at para. 4.31.2.1. Note, however, that even this authority is not bullet-proof, as Key Spouses do not serve in the Armed Forces.

A fine line exists between items reasonably necessary to carry out the KSP and a package of items that GAO may misconstrue as an *esprit de corps* swag bag. To help facilitate drawing this line, we have included a table at Attachment 1 summarizing the legal sources for our analysis as to whether APF may be used to purchase items related to the KSP, as well as any limitations that commanders should bear in mind as they contemplate purchasing these items. This Attachment is not intended as a decision matrix; it is provided solely for the purpose of summarizing the legal authorities underlying the conclusions herein. If there are items that the KSP wishes to purchase that are not discussed in this memo, an analysis of whether the expenditure of appropriated funds on those items should be requested from SAF/GCA. Each item presents a unique situation and the authorities listed in Attachment 1 may not apply in the same way. Case-specific analysis is required.

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Atch:
Table of Items and Legal Authorities

Atch 1—Table of Items and Legal Authorities Underlying Conclusions in Memo
(Note: Table is not a decision matrix)

ITEM	USE APF	AUTHORITY	LIMITATIONS
Awards	No	5 USC § 4501(2); 5 USC § 2105(a)	Volunteers are not “employees” under employee award programs
Personal Gifts	No	Necessary Expense Rule (NER)	
Matchbooks	Yes	NER; B-247563.2	Must be low-cost item with little intrinsic value; Must be imprinted with program information (e.g., telephone numbers, office locations, services provided) and communicate a message or information necessary to carry out the program
Jar grip openers	Yes	NER; B-247563.2	
Wall calendars	Yes	NER; B-211477	
Pens	Yes	NER; AFI 36-3009, ¶3.14.2	
Pencils	Yes	NER; AFI 36-3009, ¶3.14.2	
Magnets	Yes	NER; AFI 36-3009, ¶3.14.2	
Key chains/tags	Yes	NER; AFI 36-3009, ¶3.14.2	
Name tags	Yes	NER	
Mugs	Yes	NER	
Note Pads	Yes	NER	
Water Bottles	Maybe	NER	
Tote bags	Maybe	NER	
Buttons	Maybe	NER; B-257488	Same as above, or must be a management tool – cost-effective way of displaying program mission or information
Shirts	Yes/ Maybe	10 USC § 1588(e); DoDI 1100-21, ¶E3.8	For APF use, AF/A1 must first outline reimbursable incidental expenses and determine a shirt is necessary for program participation
Coins (Informational)	No	AFI 65-601, V1, ¶¶4.31.3.1, 4.31.2; AFI 65-603	
Coins (Recognition)	Maybe	10 USC § 2261(a)	AF/A1 could potentially amend AFI 36-3009 to permit.
Lapel pin (Informational)	No	NER; B-201488 (citing B-195247, B-182629, B-184306); B-151668	
Lapel pin (Recognition)	Maybe	10 USC § 2261(a)	AF/A1 could potentially amend AFI 36-3009 to permit.
Ashtrays	No	Necessary Expense Rule; B-175434	