INFORMATION PAPER

MCJA 27 September 2006

SUBJECT: Gifts to Organizations and Individuals within the US Army Medical Command

1. Purpose. To explain the rules for the accepting gifts to the Army, for distribution to individuals, and to Soldiers who have incurred illness or injuries as a result of armed combat or other covered activities.

2. Discussion. The Surgeon General may accept gifts to US Medical Command organizations in accordance with AR 1-100, Gifts and Donations. Additionally, The Surgeon General and Commanders of Regional Medical Commands may accept gifts for distribution to individuals within their commands in accordance with AR 1-101, Gifts for Distribution to Individuals. Further, a recent amendment to The Joint Ethics Regulation (JER), DoD 5500.7-R, allows Soldiers who have incurred illnesses or injuries as a result of armed combat or other covered activities, to accept more gifts than previously allowed.

a. Gifts to the Army. Under AR 1-100, Gifts and Donations the Secretary of the Army accepts conditional and unconditional gifts to Army schools, hospitals, libraries, etc. The Secretary of the Army has delegated authority to The Surgeon General to accept conditional and unconditional gifts of a value of $20,000 or less. The Surgeon General must forward to the Secretary of the Army any offer of a gift of a value greater than $20,000.

(1) Treat unconditional gifts to the unit valued under $1,000 as gifts to the unit welfare fund in accordance with paragraph 6b of AR 1-100.

(2) Forward all other offers of gifts to US Army Medical Command organizations thru the Staff Judge Advocate (MCJA) to The Surgeon General. Documentation accompanying the offer should identify the donor, describe the gift, and estimate the value of the gift. Additionally, the commander or head of the organization should determine whether the gift is appropriate for the activity, whether there are any advantages to accepting the gift, and whether the organization desires the gift. Acceptance of the gift cannot result in any special privileges, concessions, or preferential treatment to the donor. Finally, acceptance of the gift cannot adversely affect the public's confidence in the integrity of the Army.

b. Gifts for Distribution to Individuals. Under the provisions of AR 1-101, The Surgeon General may accept gifts for distribution to individuals within the US Army Medical Command. Pursuant to paragraph 6b of AR 101-1, he has delegated to the Commanding Generals of each Regional Medical Command the authority to accept gifts in the amount of $20,000 or less for the personal use of individuals. Gifts for distribution to individuals must promote health, comfort, convenience, and morale (e.g. reading materials and writing paper). The command and not the donor will decide the category of personnel to receive the gifts. If two or more corporations or agencies donate similar items or collection of similar items, distribute them equally, as far as possible. Army commanders may not accept alcoholic beverages and the donor must agree to pay transportation costs. Paragraph 7 of AR 1-101 imposes the following additional restrictions:

(1) Advertising marked on articles must not discredit the military service;

(2) Soldiers may not serve as the medium for redistributing the material to others;

(3) The donor may not restrict public release of information regarding the gift;

(4) The Army will make no public announcement or acknowledgement of gifts received;

(5) Donors may not receive special concessions or privileges.

c. Gifts to Ill or Injured Soldiers. Pursuant to Section 8127 of Public Law 109-148, the Fiscal Year 2006 Defense Appropriations Act, Section 3-400 of the JER was recently amended to allow active duty service members who have incurred illnesses or injuries as a result of armed conflict or other circumstance as defined in Section 3-401, while on active duty on or after 11 September 2001, and their family members, to accept unsolicited gifts from non-federal entities provided the gifts meet the following criteria: the gifts are not from foreign governments or their agents, the gifts are not solicited or coerced, the gifts are not accepted in violation of any other statute including Title 18 of the US Code, Sections 201(b) and 209 (reference (i)), and the gifts were not offered to influence the performance of official acts. If the value of a gift exceeds the minimal value, as determined by the General Services Administration under Title 41 of the Code of Federal Regulation, Section 102-42.10, which is currently $305.00, per source per occasion, or with an aggregate value exceeding $1,000 received from any one source in a calendar year, an agency ethics official must determine in writing the following:

(1) The gift is not offered in a manner that specifically discriminates among injured active duty members on the basis of official responsibility or favors those of higher rank or rate of pay;

(2) The donor does not have interests that may be affected substantially by the performance or nonperformance of the covered DoD employee's official duties; and

(3) Acceptance would not cause a reasonable person with knowledge of the relevant facts to question the integrity of DoD's programs or operations.

3. For additional information, contact your servicing Judge Advocate or CPT Jeffrey Bizon, Office of the Staff Judge Advocate, US Army Medical Command (MCJA), at (210) 221-8359.