



COMDTINST 5760.12A  
21 October 2011

COMMANDANT INSTRUCTION 5760.12A

Subj: RELATIONS WITH THE COAST GUARD FOUNDATION

1. PURPOSE. This Instruction provides guidance regarding acceptance of Coast Guard Foundation (CGF) gifts offered to the Coast Guard and guidance to Coast Guard personnel who participate in CGF meetings or activities in either their official or private capacities.
2. ACTION. Unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply with the provisions of this Instruction. Internet release is authorized.
3. DIRECTIVES AFFECTED. Relations with the Coast Guard Foundation, COMDTINST 5760.12, is cancelled.
4. DISCUSSION.
  - a. CGF is a non-profit organization that seeks to enhance the quality of life of Coast Guard people and their families. Its generous support makes possible many programs that contribute to the morale and well-being of the Coast Guard Family. Accordingly, an appropriate and productive relationship with the CGF is in the Coast Guard's best interest. Careful attention to that relationship, however, is important.
  - b. Unlike the other branches of the armed forces, the Coast Guard is also a federal law enforcement agency and federal regulatory agency. The Coast Guard may take actions or make decisions that could impact maritime companies and officials. Additionally, major procurement decisions affecting maritime industry companies may be pending with the Coast Guard. Although, in the public's eye, CGF is a private, non-profit organization, it is closely affiliated with the Coast Guard. Some maritime companies donate gifts to CGF and some maritime officials participate in the management of CGF. This uniqueness requires all Coast Guard personnel to be sensitive to potential adverse perception and publicity that could result from the Coast Guard accepting gifts from CGF that originated

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NON-STANDARD DISTRIBUTION: ALL FLAG-OFFICERS AND SENIOR EXECUTIVE SERVICE PERSONNEL

personnel must be aware that federal ethics rules regulate their participation in CGF meetings or activities even if their participation is in a personal, private capacity.

5. DEFINITIONS.

- a. Coast Guard Personnel. The term “Coast Guard Personnel” includes: all members of the Regular Component; all members of the Reserve Component while performing inactive duty training and while on voluntary or involuntary active duty; all retired uniformed members recalled to active duty; all appropriated and non-appropriated fund civilian employees; all Special Government Employees; all Public Health Service (PHS) and Department of Defense (DOD) personnel while assigned to the Coast Guard for more than 30 (thirty) days; and all Coast Guard Academy (Academy) cadets. The term does not include Coast Guard Auxiliary members, support contractor employees, volunteers, or interns.
- b. Gift. The term “gift” includes, but is not limited to: cash, checks, securities or other negotiable instruments; services; transportation, lodging, berthing, meals, refreshments; meeting facilities; art work; personal property; and real property. A gift transaction ordinarily envisions the voluntary transfer of ownership of a gift-item without charge or consideration, or the voluntary provision of a service without consideration, compensation, or reimbursement. The short-term or long-term complimentary loan of personal property constitutes a gift transaction if the Coast Guard would ordinarily be required to use its funds to obtain the loaned item. A gift is essentially anything that is voluntarily provided by a person or non-federal entity to the Coast Guard or a Coast Guard element, that has some value, and that the Coast Guard does not purchase or otherwise pay for or obtain using appropriated or non-appropriated funds. A gift transaction can occur by operation in terms of a will or trust.
- c. Restricted Gift. Any gift that the original donor explicitly specifies must go to the Coast Guard. An original donor is the person or entity who offers or makes a gift to the Coast Guard through CGF.
- d. Unrestricted Gift. Any gift that is not a restricted gift.
- e. Prohibited Source.
  - (1) General Rule. For purposes of this Instruction, the term “prohibited source” means any person or non-federal entity that: is doing business with the Coast Guard; is seeking business with the Coast Guard; is conducting activities that are regulated by the Coast Guard; is involved in any significant issue that is pending with the U.S. that is Coast Guard-related (e.g. company that is under federal investigation or that is being prosecuted by the U.S. for a Coast Guard-related matter); has interests that might be substantially affected by Coast Guard personnel performing or not performing their duty; or, is an organization or association having a majority of members who meet one or more of the above prohibited source criteria.
  - (2) Special Exclusion Rule for Recreational Boaters. All recreational boaters, as a class, although technically regulated by the Coast Guard, are excluded from the definition of the term “prohibited source.”
  - (3) Special Exclusion Rule for Maritime Industry Attorneys. All attorneys who devote less than a majority of their professional time to representing the maritime industry, and who also derive

less than a majority of their professional income from representing the maritime industry are also excluded, as class, from the definition of the term “prohibited source.”

- (4) If the salaried Chief Executive Officer or volunteer Chief Executive Officer, or equivalent, in CGF is a prohibited source, or is an officer, employee, or representative of a prohibited source, CGF is a prohibited source. Moreover, if a majority of the CGF’s Board of Directors or Board of Trustees are officers, employees, or representatives of prohibited sources, CGF is a prohibited source.

## 6. POLICY AND PROCEDURES.

- a. Delegation of Gift Acceptance Authority. The Vice-Commandant (VCG) is hereby delegated the authority to accept all gifts offered to the Coast Guard by CGF regardless of value. Except for gifts of official foreign travel, the Coast Guard Academy Superintendent (Superintendent) is hereby delegated authority to accept all CGF gifts offered to the Academy that have a value of \$100,000 or less. Commandant (CG-8) shall act as the Coast Guard’s primary gift acceptance authority. Accordingly, every CGF gift offered to the Academy having a value exceeding \$100,000 must be forwarded to Commandant (CG-8) for an acceptance decision. This delegated gift acceptance authority cannot be re-delegated without the express, written approval of the Commandant. No other Coast Guard official has any authority to accept any CGF gift offer for the Coast Guard. All gift acceptance decisions must be in writing and personally signed by VCG, Commandant (CG-8), or the Superintendent as appropriate.
- b. Coast Guard Needs Lists. Each year, the Vice-Commandant (VCG) will approve general Coast Guard needs lists. These lists (such as the one generated by the Coast Guard Foundation Shipmate Fund program) will identify items that projects that will benefit the Coast Guard. Although all Coast Guard personnel are prohibited from soliciting gifts from CGF, if CGF makes a written or verbal offer to provide gift support to the Coast Guard, or if CGF asks for needs lists information, the VCG or VCG’s designees are authorized to respond to CGF by providing the needs lists, or needs list information. The Superintendent (or designees) will provide Academy needs list information directly to VCG for consideration and inclusion on general Coast Guard needs lists.
- c. Annual CGF Gift Offers. CGF may make an annual, written, omnibus gift offer to VCG or Commandant (CG-8). Such annual gift offers may contain items listed on a general Coast Guard needs list and other individual gift items, and may include construction projects. Such gift offers may be conditioned on CGF’s financial capabilities and accordingly, some specific gift offer items may be funded in subsequent calendar years.
- d. Separate CGF Gift Offers. CGF may also offer gifts throughout the calendar year to the Coast Guard or Academy that are separate from and in addition to the gift items listed on the CGF’s annual omnibus gift offer.
- e. Special Scrutiny of Certain Restricted Gifts. CGF has agreed to provide Commandant (CG-8) or the Superintendent, where appropriate, with the identity of any donor who contributes more than \$100,000 to CGF in any one restricted gift transaction, or who donates a total of more than \$100,000 to CGF for multiple restricted gifts during the calendar year. Commandant (CG-8) or the Superintendent, where appropriate, shall conduct a prohibited source review as discussed in paragraph 6.f, prior to accepting a restricted gift that exceeds those thresholds. A paragraph 6.f review is not required, but can be applied at the acceptance authority’s discretion, if the restricted gift value thresholds are not exceeded. It is understood that CGF may offer a gift item to the Coast

Guard but may not be able to identify a donor or donors at that time, because CGF intends to solicit donations for the gift items later during the gift year. In such cases, Commandant (CG-8), or the Superintendent where appropriate, may accept a CGF gift item subject to later scrutiny of the donor or donors as necessary. Additionally, it is understood that CGF, in identifying a donor or donors willing to make donations in excess of \$100,000 for restricted gifts, would want assurances prior to soliciting donations that such gifts would be accepted by the Coast Guard. In these cases, CGF may request that Commandant (CG-8) or the Superintendent, where appropriate, conduct a prohibited source review. Such review can be conducted and results provided to CGF, with the understanding that the donor will be subject to later review if and when an actual gift offer is made.

- f. Prohibited Source Review. Commandant (CG-8) or the Superintendent can accept a gift only after determining that it is in the Coast Guard's best interest to do so. If the original donor is not a prohibited source, the restricted gift may be accepted without the special scrutiny described in this paragraph. If the donor is a prohibited source, the following must be considered prior to accepting the gift: the positive impact on the Coast Guard in accepting the gift; the business or regulatory relationship between the prohibited source donor and the Coast Guard; the nature and sensitivity of any matter pending between the prohibited source donor and the Coast Guard; the likelihood of adverse publicity should the gift be accepted; and whether a reasonable person, knowing all the facts, would lose confidence in Coast Guard programs or operations by concluding that there is an impropriety in accepting the gift. Whenever special scrutiny of a restricted gift is required, Commandant (CG-8) and the Superintendent must obtain and consider an opinion and recommendation from their servicing Coast Guard legal office before accepting the gift.
- g. Processing of CGF Gifts.
  - (1) Gifts of Cash, Checks, Securities and Negotiable Instruments. The gift acceptance statute (10 U.S.C. 2601) requires that all gifts of monies to the Coast Guard be deposited in the Coast Guard General Gift Fund (Gift Fund) held in the U.S. Treasury. Procedures for transmittal of monies to the Coast Guard Finance Center (FINCEN) are contained in the FINCEN SOP (FINCENSTFINST M7000.1). When funds are transmitted to FINCEN for deposit in the Gift Fund, the following documentation and information must be provided: a copy of the gift offer letter, a copy of the written gift acceptance (a thank-you letter meets this requirement if the letter is from the gift acceptance authority), and disposition instructions (e.g., disbursement of funds to a unit MWR account, budget entry to a Gift Fund program element).
  - (2) Gifts of Personal Property. Gifts of personal property other than cash, checks, negotiable instruments or securities must be immediately recorded in applicable property records in accordance with the U.S. Coast Guard Personal Property Management Manual, COMDTINST M4500.5 (series).
  - (3) Gifts of Real Property. In accepting a gift of real property from CGF, USCG will follow the same procedures as when purchasing real property using appropriated funds. The policies and procedures for acquiring and recording real property in applicable property records are contained in the Real Property Management Manual, COMDTINST M11011.9 (series). Additionally, the gift acceptance authority shall consult with Coast Guard legal counsel to determine whether or not USCG acceptance of the proposed gift is a federal action that triggers requirements of applicable laws or regulations, such as the National Environmental Policy Act (NEPA) and/or the National Historic Preservation Act (NHPA). If the gift offer meets the

requirements for compliance, USCG is responsible for accomplishing these prior to acceptance of the gift.

7. PARTICIPATION IN CGF MEETINGS AND ACTIVITIES. Coast Guard personnel participate in CGF meetings and activities in either an official (Coast Guard) or personal (private citizen) capacity.
  - a. Participation in an Official Capacity.
    - (1) All flag officers and SES employees are hereby designated as official Coast Guard liaisons to CGF. No other Coast Guard personnel are designated as liaisons to CGF. VCG is the senior Foundation liaison and shall make or approve policy regarding the Coast Guard's and the Academy's relations with CGF. As liaisons, when it is in the best interest of the Coast Guard, flag officers and SES employees can, as described below, participate in CGF meetings and activities. Such participation is official, shall be in uniform, unless it would be inappropriate for the event, and is at government expense. Liaisons should contact their servicing legal office for ethics advice prior to participating in any Foundation meeting or activity especially if the activity is a Foundation fundraising event. Liaisons are permitted to use Coast Guard time, assets, and funds to prepare for or participate in CGF meetings and activities. CGF liaisons represent only the Coast Guard's interests – never CGF interests. Liaisons are prohibited from soliciting gifts from CGF for the Coast Guard, Academy, or themselves. If CGF offers to pay some or all of the expenses associated with a liaison participating in a Foundation meeting or activity, or if CGF offers any gift to a liaison, the liaison shall contact the servicing legal office for advice.
    - (2) It may be in the Coast Guard's interest that other Coast Guard personnel attend Foundation meetings and activities in an official capacity. Such personnel must first contact their servicing legal office for guidance.
  - b. Participation in a Private Capacity. Within certain restrictions, Coast Guard personnel can participate in CGF meetings and activities in their private, personal capacities. In so doing, they are acting as private citizens. They do not represent the Coast Guard and cannot wear the uniform. Coast Guard time, assets, or funds cannot be used to prepare for or participate in CGF meetings or activities in a private, personal capacity. Prior to participating in a CGF meeting or activity in a private, personal capacity, Coast Guard personnel should contact their servicing legal office for ethics advice. Even when acting in a private, personal capacity, Coast Guard personnel cannot solicit gifts from CGF for the Coast Guard, Academy, themselves, or a third party. If CGF offers to pay some or all of the expenses associated with participation in a CGF meeting or activity in a private, personal capacity, or offers any gift, Coast Guard personnel must contact their servicing legal office for advice.
8. PROGRAM MANAGEMENT.
  - a. VCG is CGF Program Director with overall program authority and responsibility.
  - b. Commandant (CG-8) is CGF Program Manager with the responsibility for day-to-day management of the program. Commandant (CG-8) shall:
    - (1) On an annual basis, after the CGF has made its board membership assignments following October member elections, determine whether CGF is deemed to be a prohibited source as defined in paragraph 5.e (4),

- (2) Serve as primary point of contact for acceptance of CGF gifts for the Coast Guard in general and maintain records for all gifts accepted by Headquarters,
  - (3) Prepare and submit to VCG an annual report of all CGF gifts accepted by the Coast Guard during the gift year, and
  - (4) Establish mechanisms and protocols for documentation and recordkeeping in accordance with Commandant Instruction Manual 5212.12A guidance.
- c. The Academy shall provide Commandant (CG-8) with a detailed list of all CGF gifts accepted by the Superintendent during the gift year for inclusion in the annual report to VCG.
9. DISCLAIMER. This document is intended to provide operational requirements for Coast Guard personnel and is not intended to nor does it impose legally-binding requirements on any party outside the Coast Guard.
10. RECORDS MANAGEMENT CONSIDERATIONS. This Instruction has been thoroughly reviewed during the directives clearance process, and it has been determined there are records scheduling requirements in accordance with Federal Records Act, 44 U.S.C. 30101 et seq.; NARA requirements, and Information and Life Cycle Management Manual, COMDTINST M5212.12 (series).
11. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS. Environmental considerations were examined in the development of this Instruction and have been determined to be not applicable.
12. FORMS/REPORTS. None.

Sally Brice-O'Hara /s/  
Vice Commandant