

6 FAM 530 OPERATING POLICIES

*(TL:GS-154 03-09-2007)
(Office of Origin: A/OPR/CR)*

6 FAM 531 FINANCIAL MANAGEMENT REQUIREMENTS

*(CT:GS-154 03-09-2007)
(Uniform State/USAID/Commerce/Agriculture)*

- a. *Boards of Directors must exercise great care and discretion in the financial management and operation of association activities to prevent embarrassment to the U.S. Government and the employee association. The U.S. Government assumes no liability for the obligations of employee associations.*
- b. When U.S. Government personnel act as authorized representatives of an employee association, they may not use their official title or position. They *must* act within their authority as association representatives and should not personally assume responsibility for the obligations of the association or imply that they are acting on behalf of the U.S. Government.
- c. *Associations must maintain financial records in accordance with U.S. generally accepted accounting principals (USGAAP). Financial statements must be prepared using either U.S. not-for-profit standardized formats or A/OPR/CR's standardized formats.*

6 FAM 531.1 Post Budget and Fiscal Assistance

*(CT:GS-154 03-09-2007)
(Uniform State/USAID/Commerce/Agriculture)*

Budget and fiscal officers, upon authorization of the principal officer or his/her designee, may review the financial records of employee associations for accuracy and propriety. Assistance may also be provided under extraordinary circumstances in the preparation of financial statements.

6 FAM 531.2 Banking and Investment Accounts

*(CT:GS-154 03-09-2007)
(Uniform State/USAID/Commerce/Agriculture)*

Boards of Directors must ensure that controls are in place to ensure the adequate protection of association assets. Boards of Directors will authorize necessary bank accounts and oversee the monitoring of funds through the review of periodic bank reconciliations prepared by association staff. Funds should be maintained in U.S. financial institutions that are federally insured. Local currency bank accounts may be maintained for current expenditures. Under no circumstances should excess money be deposited or invested in speculative enterprises or institutions, offshore banks, or currency speculation.

6 FAM 531.3 Severance Pay and Retirement

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

If required by local law, each employee association, or subsidiary organization (commissary, club, etc.) must provide for severance pay, retirement, etc., for employees by designating cash or liquid assets (i.e., assets that can be converted to cash quickly) in a fund clearly designated as such for payment of the liability. This fund should match this liability 100 percent, where required by local law. In lieu of establishing such funds, the employee association may purchase endowment policies, subscribe to a host government provident fund, or provide some other practical and safe means to provide for these liabilities.

6 FAM 531.4 Use of Profits and Pricing

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

Profits from employee associations are not limited but must not be excessive. Employee association net profits should be reinvested into the organization to maintain current operations, improve services, establish new activities and provide for capital improvements. Employee associations must operate utilizing sound business practices while providing goods and services to its members at a fair price. Pricing must allow for a profit margin that enables the organization to maintain solvency and ensure that its activities exist for future members. Employee associations with excessive amounts of retained earnings may be required to provide A/OPR/CR with a management plan for the use of such funds. A/OPR/CR will provide financial policies based on industry standards and will review employee association financial results to ensure adherence to use of profits and pricing requirements stated above.

6 FAM 531.5 Subsidization of Cost Centers

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

Employee associations operating more than one cost center (e.g., commissary or equivalent, recreation center, child care, food service operation, video club, etc.) must ensure that each revenue-generating cost center is financially self-sustaining to ensure that the profits of one cost center are not unduly subsidizing another cost center, as determined by the Office of Commissary and Recreation Affairs. Therefore, all administrative overhead (including administrative salaries, audit expense, utilities, depreciation, etc.) must be allocated across all cost centers using a predetermined allocation method. Acceptable methods for the allocation of overhead include percentage of gross revenue, square footage/meters of space occupied and percentage of salaries. Allocations methods must be applied systematically and consistently from year to year. Alternative allocation methods must be approved in advance of implementation by the Office of Commissary and Recreation Affairs.

6 FAM 532 INSURANCE

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

- a. Boards of Directors must obtain sufficient general liability insurance from a licensed insurance carrier. The minimum level of required coverage is one million U.S. dollars. Employee associations operating high risk activities to include, but not limited to transportation services, child care services, commissaries, fitness centers, swimming pools and recreation clubs are recommended to obtain coverage in excess of the minimum coverage (generally in increments of one million U.S. dollars). The U.S. Government will not indemnify associations, their boards, or officers in cases where law suits are filed.*
- b. Boards of Directors must obtain sufficient property insurance from a licensed insurance carrier. Property coverage must be based on the replacement value of the association's assets.*
- c. Boards of Directors must review insurance policies on an annual basis to ensure their adequacy in protecting the association.*
- d. Under extraordinary circumstances, boards may request a waiver of coverage from A/OPR/CR. The waiver of coverage must be signed by all members of the elected Board of Directors and renewed annually by the deadline established by the Office of Commissary and Recreation Affairs. The association, its board and members are accountable for all losses that would have been covered by adequate liability and property insurance.*

6 FAM 533 BONDING

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

Boards of Directors must obtain blanket or individual bond (crime) coverage from a licensed insurance carrier. Bonding coverage must be adequate to cover all potential losses resulting from actions by association employees and other individuals who handle cash or readily convertible assets of the association, or who have authority to bind the association contractually. If the association has determined that the cost for bond coverage is prohibitively expensive relative to the activities and services provided to its members, the association may request a waiver of coverage from A/OPR/CR. The waiver of coverage must be signed by all members of the elected Board of Directors and renewed annually by the deadline established by the Office of Commissary and Recreation Affairs. The association, its board and members are accountable for all losses that would have been covered by adequate liability and property insurance.

6 FAM 534 PRIVATE CLUBS

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

Support given to private American clubs or other private clubs by posts and/or associations is not authorized by statute or regulation and is therefore improper. Support of such private clubs may result in claims and other liabilities asserted against the post and/or association for the debts or other obligations of such private clubs, and accordingly such support is prohibited.

6 FAM 535 EQUITABLE PRICE

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

- a. Section 31(d) of the State Department Basic Authorities Act of 1956, as amended and codified at 22 U.S.C. 2703 (d), precludes surcharges by providing:

“(d) Charges at any post abroad for a service or facility provided, authorized, or assisted under this section shall be at the same rate for all civilian personnel of the government serviced thereby...”

- b. Therefore, charges will be at the same rates for all U.S. personnel (including TDY employees at post) and their *eligible family members*

serviced by the association's facilities. In the case of TDY employees, instead of surcharges, a flat fee may be imposed for temporary membership or commissary enrollment. This would substitute more directly for the regular members' dues. Any such fee should be reasonable in amount and applied uniformly to all TDY employees.

- c. This section applies to all U.S. personnel including direct hire government employees, personal services contractors (PSCs), institutional contractors and all military personnel.

6 FAM 536 PERSONNEL BENEFITS

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

- a. *Employee associations are required to adhere to local labor law requirements for all employees to include, but not limited to salary, benefit, termination and severance requirements, where applicable by law. Association employees, while not U.S. Government employees, may be extended comparable personnel benefits but associations are prohibited from utilizing U.S. Government pay scales, standard forms or otherwise giving the appearance that association employees are employees of the United States Government.*
- b. *If not otherwise eligible, the association's general manager or commissary manager may be extended access to the purchase of packaged duty-free goods in the association's facilities upon recommendation of the board of directors and with approval from the principal officer provided there are no objections from the host government. The board of directors may limit such access by instituting rations or purchase restrictions as deemed appropriate.*

6 FAM 537 SUITABILITY INVESTIGATIONS

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

Association employees are subject to pre-employment suitability investigations. The extent of the pre-employment investigation of U.S. citizens will be determined by the post's *management* officer after consultation with the regional security officer. U.S. citizen *eligible family members* of security cleared U.S. citizen employees will not normally require any type of suitability or security investigation. Host or third-country applicants for these positions are subject to the same pre-employment inquiries as those required for Foreign Service National employees who are directly employed by a diplomatic or consular post.

6 FAM 538 VIDEO CLUBS AND USE OF COPYRIGHT PROTECTED MATERIALS

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

- a. Video clubs, operated as a service to members of the employee association, may make videotaped movies, which the club has purchased through an authorized distributor, available on a rental or gratuitous basis for private home viewing only. This practice is permitted under the "first sale doctrine" codified in the U.S. copyright laws (17 U.S.C. 109). The "first sale doctrine" does not, however, permit the video club of the association or members to conduct "public performances" of *copyright protected* material without prior permission of the copyright owner.
- b. Video clubs or association members *are prohibited from* copying or duplicating any *copyright protected* material for the purpose of resale, rental, or providing public performances to association members, or to other personnel at a constituent post or other missions in a different country. *Violators can be prosecuted pursuant to 18 U.S.C. 2319.*
- c. Television programs in the United States, whether aired on commercial, public, or cable television, are generally *copyright protected*. *Associations are prohibited from renting, reselling, or authorizing public performances of, or providing on a gratuitous basis, any videotapes of such programs unless obtained through authorized, licensed sources.*
- d. Cable casting or closed circuit presentation of videotaped movies that have been purchased from an authorized distributor may, depending upon the particular movie title, constitute a violation of U.S. copyright laws. Associations which have established closed circuit cable broadcasting facilities or capabilities for the official U.S. Government community (i.e., services to apartments, residences, community centers, transient quarters, American club, etc.) and which own the copy of the videotaped movies to be broadcast, do not normally have the right to engage in public performances of *copyright protected* material. To lawfully cable cast videotaped movies, associations must usually obtain a license to commence or continue this service. For assistance in obtaining appropriate licenses, contact A/OPR/CR.
- e. *Employee associations are prohibited from duplicating* other copyright protected material (e.g., computer software, programs, and games) without authorization from the copyright owner or licensee.

6 FAM 539 VOTING RIGHTS AND CONTROL OF EMPLOYEE ASSOCIATIONS

(CT:GS-154 03-09-2007)

(Uniform State/USAID/Commerce/Agriculture)

- a. Voting rights in employee organizations *are* limited to U.S. Government employees (*including personal services contractors recruited from outside the host country*) who are U.S. citizen's resident at post and their *eligible family members* over the age of 16, but a majority of the voting membership must be U.S. Government employees. The board of directors of any employee *association* must be limited to this same group with the further proviso that a majority of the board of directors must be direct-hire, U.S. citizen, U.S. Government employees. *Board meetings will be conducted in accordance with Robert's Rules of Order on Parliamentary Procedures.*
- b. *Boards of Directors must expeditiously report instances of fraud, suspicion of fraud, malfeasance or misfeasance to the Office of the Inspector General, Office of Investigations and the Office of Commissary and Recreation Affairs.*
- c. *In order to preclude potential conflicts of interest in its board capacity, board members must not be related to any member of the association staff serving in a management role or whose duties carry significant financial reporting (except under extraordinary circumstances as determined by the Office of Commissary and Recreation Affairs). This regulation extends to members of household.*