

## **6 FAM 550 REPORTING REQUIREMENTS**

*(CT:GS-168; 05-17-2012)*  
*(Office of Origin: A/OPR/CR)*

### **6 FAM 551 CHARTER**

*(CT:GS-168; 05-17-2012)*  
*(Uniform State/USAID/Commerce/Agriculture)*

- a. All employee associations must operate under a charter signed by the principal officer or designee thereof and two board members, reviewed by the Office of Commissary and Recreation Affairs (A/OPR/CR), and approved by the Assistant Secretary for Administration. The charter must clearly describe all services *the association will provide*. *Submit any* proposed changes in the services provided under an approved charter to A/OPR/CR for review and signature by the Assistant Secretary for Administration prior to their initiation. The charter *must* follow the *A/OPR/CR* format.
- b. In the absence of an approved charter, no association *is* authorized to operate on U.S. Government-owned or -leased property and/or under U.S. Government auspices. Without a charter, associations may not import duty-free products under the name of the principal officer, operate as a U.S. Government instrumentality for Federal tax purposes, receive loans or grants from the Central Commissary and Recreation Fund, receive assistance from the Office of Commissary and Recreation Affairs, or receive support (space, utilities, properties, etc.) from the post.

#### **6 FAM 551.1 Charter Revocation**

*(CT:GS-160; 09-24-2009)*  
*(Uniform State/USAID/Commerce/Agriculture)*

If an employee association is determined by post management or the Office of Commissary and Recreation Affairs (A/OPR/CR) to have been continuously mismanaged; not in compliance with the charter and these regulations; or has created a significant embarrassment to the mission or U.S. Government; upon the recommendation of the Office of Commissary and Recreation Affairs, the Assistant Secretary for Administration has the authority to revoke the charter and terminate the association.

## **6 FAM 551.2 Charter Suspension**

*(CT:GS-160; 09-24-2009)*

*(Uniform State/USAID/Commerce/Agriculture)*

If an employee association is not adequately insured in accordance with 6 FAM 530 or is not compliant with financial reporting, upon recommendation of the Office of Commissary and Recreation Affairs, the Assistant Secretary for Administration has the authority to suspend the association's charter until the association takes actions required by the Assistant Secretary for Administration to remedy such noncompliance.

## **6 FAM 552 BYLAWS**

*(CT:GS-168; 05-17-2012)*

*(Uniform State/USAID/Commerce/Agriculture)*

On the establishment of an employee association abroad, bylaws must be drafted in a format provided by the Office of Commissary and Recreation Affairs (A/OPR/CR) and in accordance with Robert's Rules of Order. The original document must be sent to the Department (A/OPR/CR) for review and approval *by the A/OPR/CR Director*. In addition, revised bylaws of existing employee associations must be provided to A/OPR/CR for review and approval.

## **6 FAM 553 POST PROFILE**

*(CT:GS-160; 09-24-2009)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. Data on employee association operations must be maintained in the employee association section of Post Profiles on the Department's OpenNet.
- b. Employee associations must update data fields to all tables in the post profile in full by the due date established by the Office of Commissary and Recreation Affairs (A/OPR/CR) in the format provided and must also provide periodic updates as changes occur.

## **6 FAM 554 ANNUAL CERTIFICATION**

*(CT:GS-168; 05-17-2012)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. An annual certification statement signed by the principal officer, or designee, is to be sent to the Office of Commissary and Recreation Affairs (A/OPR/CR) *by June 1 each year* in the format provided by A/OPR/CR. *A sample format for this certification is at 6 FAM Exhibit 554.* The certification statement must:

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- (1) Certify that the operations of the association are managed prudently and in accordance with provisions of the Foreign Affairs Manual and the laws of the host government, to the extent that they do not contravene U.S. Federal law; or
  - (2) Identify in detail where the operations are not in conformance with the Foreign Affairs Manual or local laws and provide a plan and schedule for remedying the nonconformance.
- b. The Assistant Secretary for Administration *must* promptly refer repeated or serious instances of noncompliance or failure to take remedial action to the Director General (DGHR) for appropriate disciplinary action.
- c. *All known or suspected waste, fraud, abuse, false certifications, and corruption should be reported on a timely basis to the Office of Inspector General, Office of Investigations as well as A/OPR/CR. See 1 FAM 053.2-5.*

## 6 FAM 555 ASSESSMENT

*(CT:GS-168; 05-17-2012)*  
*(Uniform State/USAID/Commerce/Agriculture)*

Employee associations *must* remit an annual assessment payment to the Central Commissary and Recreation Fund as authorized by 6 FAM 515. The assessment is a percentage of gross revenues as determined by the Central Commissary and Recreation Fund Board. Employee associations will be notified *via cable from A/OPR/CR* annually as to the amount to be remitted.

## 6 FAM 556 FEDERAL TAXES

*(CT:GS-168; 05-17-2012)*  
*(Uniform State/USAID/Commerce/Agriculture)*

- a. Employee associations are U.S. Government instrumentalities for Federal tax purposes. These requirements apply to all U.S. citizen employees of the association and to U.S. resident alien employees temporarily located outside the United States performing work for the employee association. Therefore, the employee association is subject to employer taxes under 26 U.S.C. 3121, and to withholding requirements under 26 U.S.C. 3404. These requirements do not apply to nonresident alien employees because such personnel are not within the United States' taxing jurisdiction for income tax, withholding purposes. As long as the association is chartered by, and operates under, the regulations of the Department of State, the association is not subject to direct taxes on its own income, nor is it required to pay Federal unemployment taxes (26 U.S.C. 3306). Associations should contact A/OPR/CR to apply for employer identification numbers and for assistance in meeting filing requirements, correcting errors and liaising with the IRS. *IRS Form 941 for withholding is*

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*available* from the Internal Revenue Service publications Web site or from regional IRS offices.

- b. Employees may not claim the foreign earned income exemption for any part of their wages earned in the course of employment with the employee association.

## **6 FAM 557 FINANCIAL STATEMENTS AND AUDIT REPORT**

*(CT:GS-168; 05-17-2012)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. Association management must submit a balance sheet and income statement to the employee association board of directors on a monthly basis. The association must also submit a balance sheet and income statement to the Department (the Office of Commissary and Recreation Affairs (A/OPR/CR) by August 15 (for the period January 1 through June 30) and by May 1 (for the period July 1 through December 31). The financial statements must conform to the A/OPR/CR statement format utilizing U.S. generally accepted accounting principles (USGAAP) or International Accounting Standards (IAS).
- b. An audit, including a physical inventory of stock and equipment, must be conducted at least annually by a firm of chartered, certified, or otherwise qualified accountants or by two disinterested, qualified individuals (approved by A/OPR/CR) if no firm is available. The audit report must also be submitted to the Department (A/OPR/CR) by May 1 (for the period January 1-December 31). The audit report must be conducted in accordance with U.S. generally accepted auditing standards (USGAAS) and *A/OPR/CR* guidelines.
- c. These submissions must be stated in English and in U.S. dollars.
- d. The independent audit report package must include:*
  - (1) The auditor's opinion letter;*
  - (2) A management letter on internal controls as prepared by the auditor;*
  - (3) Audited financial statements to include a consolidated balance sheet, income statement and statement of cash flow;*
  - (4) The Board of Director's statement of auditor independence.*

## **6 FAM 558 TRUSTEESHIP AND TERMINATION OF OPERATIONS**

### **6 FAM 558.1 Trusteeship**

*(CT:GS-168; 05-17-2012)*

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- a. If *the Office of Commissary and Recreation Affairs (A/OPR/CR) determines* an employee association to have been mismanaged, upon A/OPR/CR *recommendation*, the Central Fund Board Chairperson will approve trusteeship status for an association. The association board may be disbanded, if necessary, and the association monitored and guided by the principal officer (trustee) or designee (trustee's representative). The association trustee will develop a management plan and submit it to A/OPR/CR to resolve management deficiencies. *Report all known or suspected waste, fraud, abuse, false certifications, and corruption on a timely basis to the Office of Inspector General, Office of Investigations as well as A/OPR/CR. See 1 FAM 053.2-5.*
- b. In order to ensure orderly management of assets and obligations in the event of dissolution or temporary closing of an employee association due to reduction or closing of post operations, or if for other reasons personnel are not available at the post to act on behalf of the members as authorized pursuant to association charters or bylaws, the principal officer is thereby delegated authority to act as trustee on behalf of the employee association subject to these regulations. In the event the principal officer cannot act at the post as otherwise authorized by the regulations stated in this paragraph, the executive director of the regional bureau is thereby authorized to act as trustee on behalf of the employee association, in coordination with A/OPR/CR.

## 6 FAM 558.2 Termination of Operations

*(CT:GS-168; 05-17-2012)*

*(Uniform State/USAID/Commerce/Agriculture)*

- a. In order to ensure the timely and thorough liquidation of operations, employee associations that are terminating operations must *use an A/OPR/CR provided checklist*. The checklist must indicate that all financial obligations of the association have been met and must accurately reflect the sales of association inventories and assets, and the close-out of all association banking and investment accounts. The checklist must be submitted to A/OPR/CR along with a final independent audit report and a check (made payable to the Central Commissary and Recreation Fund) representing any residual association funds. Funds will be held on deposit for a period of 10 years for the reestablishment of an employee association at post. After that time, the funds will be absorbed into the Central Fund.
- b. Association board officers or post personnel responsible for the formal termination of operations, who fail to adequately document the financial management of the close-out, may be held personally liable for lost/unaccountable funds.

## 6 FAM 559 UNASSIGNED

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*(CT:GS-160; 09-24-2009)*

*(Uniform State/USAID/Commerce/Agriculture)*

**6 FAM EXHIBIT 554  
ANNUAL CERTIFICATION FORMAT**

*(CT:GS-168; 05-17-2012)*

*(Uniform State/USAID/Commerce/Agriculture)*

*You may copy the following text and paste it into a new document. Modify the text as the situation warrants.*

**Chief of Mission  
Employee Association Compliance Certification**

*As Chief of Mission/Principal Officer (or his or her designee) of the United States Embassy/Consulate in (Post), I have taken the necessary measures to ensure that our employee association is managed prudently and is in full compliance with its charter and bylaws, 6 FAM 500 regulations, applicable U.S. law, and all legal requirements of the Government of (Country). I also assure you that an adequate system of internal controls is in place to protect the assets of the association and the interests of the U.S. Government and that all reporting requirements, to include financial statements, the annual audit report/financial review, the board certification of auditor's independence, and Post Profile updates have been submitted to A/OPR/CR on time. I also certify that post does not procure services from the employee association as prohibited by FAR 3.601 OR that a post specific waiver has been granted by the Office of the Procurement Executive dated (specify date waiver granted).*

*This statement is true and correct to the best of my knowledge, and the language of 18 U.S.C. 1001 as follows:*

*(a)Except as otherwise provided in this section, whoever, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, knowingly and willfully—*

*Falsifies, conceals, or covers up by any trick, scheme, or device of a material fact;*

*Makes any materially false, fictitious, or fraudulent statement or representation; or*

*Makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry;*

*shall be fined under this title, imprisoned not more than 5 years or, if the offence involves international or domestic terrorism, (as defined in section 2331), imprisoned not more than 8 years, or both. If the matter relates to an offense under chapter 109A, 109B, 110, or 117, or section 1591, then the term of imprisonment imposed under this section shall be not more than 8 years.*

*Signed*

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*Name*

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*Date*

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*Printed Name*