

CIA-34

AUTHORITY FOR THE DIRECTOR OF THE CENTRAL INTELLIGENCE AGENCY TO SOLICIT GIFTS

PROPOSED TEXT:

Section 12 (a) of the CIA Act of 1949 (50 U.S.C. §4031) is amended—

- (1) by striking “Subject” and inserting “Notwithstanding section 7353 of title 5, United States Code, but subject”; and
- (2) by inserting “solicit from any party” between “may” and “accept,”; and
- (3) by striking “general” before “welfare”; and
- (4) striking “or dependents of employees of the Agency” and adding “, their dependents, or the survivors of deceased employees who have died in the line of duty as described in Section 11 of this Act,”

SECTIONAL ANALYSIS:

Section XXX. Authority for the Director of the Central Intelligence Agency to solicit gifts

This provision amends Section 12 of the CIA Act to authorize the Director of the Central Intelligence Agency (D/CIA) to solicit, accept, hold, administer, and use gifts for “purposes relating to the welfare, education, or recreation of employees, their dependents, or the survivors of deceased employees who have died in the line of duty as described in Section 11 of this Act.” Gifts accepted via Section 12 could be transferred to outside organizations so long as the purpose of that transfer is related to the welfare, education, or recreation of employees, their dependents, or the survivors of employees killed in the line of duty. Because employees (and their dependents in some cases) remain subject to certain restrictions on the acceptance of gifts from outside sources, this implicit authority will only be used in circumstances that would permit employees, their dependents, or the survivors of employees killed in the line of duty to benefit.

The addition of the words, “notwithstanding any statute or regulation,” affirms that D/CIA’s authority to solicit, accept, hold, administer, and use gifts is restricted only by the language of Section 12, and not by any other statute or regulation.

The addition of the words “solicit from any party” is intended to grant the D/CIA (and those to whom this authority is delegated) express authority to solicit any individual or outside source, including both CIA employees and contractors.

Striking the word “general” from the statute reflects that these gifts may be administered for the benefit of a single employee, dependent, or survivor of an employee who died in the line of duty, rather than for the benefit of the CIA population in general.

For purposes of this statute, “employees” are staff employees of the CIA, and not contractors.

As Section 12 currently authorizes the D/CIA to use gifts for purposes relating to the general welfare, education, or recreation of dependents of employees, the addition of the words, “their dependents,” is a draftsmanship edit to account for the proposed language in the statute.

The addition of the phrase, “survivors of deceased employees,” allows for the use of gifts accepted under Section 12 to benefit the survivors of those specified employees. The reference to the killed in action criteria contained in Section 11 of the CIA Act of 1949, 50 U.S.C. § 403k (Section 11), is included so that the same criteria followed for awarding the CIA-unique death benefit under Section 11 is used in this section.

This section’s prohibition on the use of money, securities, or other property for operational purposes is not affected by this proposed amendment.

Justification: (for explanatory purposes):

Upon review of the benefits available to the survivors of CIA employees killed in the line of duty – a review necessitated by the December 2009 attack on CIA personnel in Khowst, Pakistan – one conclusion was that D/CIA lacked the authority to solicit and use gifts for purposes relating to the welfare, education, and recreation of those survivors. Section 12, as amended by this proposal, authorizes the D/CIA (and those to whom this authority is delegated) to engage in such activities for these purposes. Likewise, given that several individual employees were wounded in the attack at Khowst, striking the word “general” allows the D/CIA to solicit and use gifts accepted under Section 12 to benefit the welfare of each individual employee without legal concern whether those actions are for the general welfare of the CIA-employee population. Finally, because Section 12 as amended authorizes the D/CIA to solicit and use gifts for purposes relating to the welfare, education, and recreation of employees, their dependents, or the survivors of those killed in the line of duty, the breadth of this standard allows the D/CIA to solicit gifts in an official capacity for such purposes – akin to the annual solicitation of service members by the chiefs of the respective military departments to benefit the individual service relief societies.

Redline:

SEC. 12. [50 U.S.C. § 4031]

(a) USE FOR OPERATIONAL PURPOSES PROHIBITED – Notwithstanding section 7353 of title 5, United States Code, but sSubject to the provisions of this section, the Director may solicit from any party, accept, hold, administer, and use gifts of money, securities, or other property whenever the Director determines it would be in the interest of the United States to do so. Any gift accepted under this section (and any income produced by such gift) may be used only for artistic display or for purposes relating to the ~~general~~ welfare, education, or recreation of employees, their dependents, or the survivors of deceased employees who have died in the line of duty as described in Section 11 of this Act, ~~or dependents of employees of the Agency~~ or for similar purposes