

[preview](#) | [edit](#) | [metatags](#) | [publish](#)**OFFICE OF  
MANAGEMENT AND BUDGET****Meeting Record Regarding: Solicitation for Combined Federal Campaign****Date:** 10/18/2006

<b>Name</b>	<b>Affiliation</b>	<b>Client (if applicable)</b>
John Morrall	OMB	
Michael Werner	The Werner Group - CHC	Community Health Charities
Sue Nelson	AHA	
Nikesh Jindal	OMB	
Roger Wolfe	Community Health Charities	
Thomas Bognanno	Community Health Charities	
Laura Whitton	Juvenile Diabetes Research Foundation	
Julie Butler	St. Jude Children's Research Hospital	
Kevin Cain	American Diabetes Association	
Hal Daub	Community Health Charities	

Executive Order No. 12866 Meeting Record

Date: 10-10-06

Rule Title: Solicitation for CFC RIN: 3206-A205

Stage: Final Lead Agency: OPM \*

PLEASE PRINT CLEARLY

Name	Affiliation	Client (if applicable)
John Mirra	OMB	
Michael Werner	The <sup>Werner</sup> <del>Werner</del> Group - CHC	Common. Health Charities
Sue Nelson	AHA	
Nikesh Sindal	OMB	
ROGER WOLFE	CHC	
THOMAS BOGNANO	CHC	
Laura Whitton	Juvenile Diabetes Research Foundation	
Julie Butler	St. Jude Children's Research Hospital	
Kevin Cain	American Diabetes Assoc.	
Hal Dab	CHC	

\*If agency does not attend, check box if invited by OIRA:



Official comments submitted to Office of Personal Management by Community Health Charities

Letter from Senator Susan Collins to OPM

Freedom of Information Act Request

Letters to Congressional offices

Current Regulations

Proposed Regulations

Documentation about original EIN issue

Comments from other Federations



WORKING FOR A HEALTHY AMERICA

August 14, 2006

Ms. Mara Paternmaster  
Office of CFC Operations  
U.S. Officer of Personnel Management  
Room 5450  
1900 E Street, NW  
Washington, DC 20415

Subject: Comments on Proposed Changes to 5 CFR Part 950, RIN 3206-AL05.

Dear Ms. Paternmaster:

Notwithstanding our preceding meetings and exchange of letters, we believe there are still significant issues regarding our federation's participation in the Combined Federal Campaign. Therefore, we wish to comment officially regarding some of the proposed changes to the CFC regulations.

While we laud your efforts to improve the overall efficiency of the campaign, we still feel compelled to register our serious concerns regarding several of the proposed changes. If enacted, these proposed changes will not only fail to streamline the campaign, but will in fact further weaken donor confidence and participation in this time-honored symbol of American philanthropic spirit.

Many of the organizations that are members of our federation have participated in the Combined Federal Campaign since its inception. There is little question that the funds raised in the campaign are extremely important to our federation and our member charities. We rely on the Federal workforce's support to our charities and communities across the nation by providing both their personal time to volunteer and their financial resources to fund the important work of our charities' missions.

We comment officially on the following items:

a. Tax-Exempt Status and Local Listing of Local Affiliates and Chapters:

We want to ensure that the regulations clearly allow for both a national listing and a local listing for agencies organized as single corporations. Federal donors should continue to have the choice to donate to the national organization, generally intending that their contribution be used for research or to the local affiliate, generally intending to provide services in their local community.

2006 National Member Agencies

AIDS Research Foundation (amfAR)  
ALS Association.  
Alzheimer's Association  
AMC Cancer Research Center  
American Cancer Society  
American Diabetes Association  
American Hearing Research Fdn.  
American Heart Association  
American Kidney Fund  
American Liver Foundation  
American Lung Association  
American Parkinson Disease Assoc., Inc.  
Arthritis Foundation, Inc.  
Cancer Research Institute, Inc.  
Children's Tumor Foundation  
Cooley's Anemia Foundation, Inc.  
Crohn's & Colitis Foundation of America  
Cystic Fibrosis Foundation  
Depression and Bipolar Support Alliance  
Easter Seals  
Endometriosis Association  
Epilepsy Foundation of America  
Huntington's Disease Society of America  
Juvenile Diabetes Research Fdn. Int'l  
Leukemia & Lymphoma Society, The  
Lupus Foundation of America, Inc.  
March of Dimes Birth Defects Fdn.  
Muscular Dystrophy Association  
Myasthenia Gravis Foundation, Inc.  
NAMI  
National Headache Foundation  
National Hemophilia Foundation  
National Hospice and Palliative Care Org.  
National Kidney Foundation, Inc.  
National Mental Health Association  
National Multiple Sclerosis Society  
National Parkinson Foundation  
National Spinal Cord Injury Assoc.  
National Stroke Association  
Parkinson's Disease Foundation  
Prevent Blindness America  
Research to Prevent Blindness, Inc.  
Sickle Cell Disease Assoc. of America  
SILS Alliance First Candle  
Spina Bifida Association of America  
St. Jude Children's Research Hospital  
Tourette Syndrome Association, Inc.  
United Cerebral Palsy Associations

*Local Listings:*

The current regulation, 950.401 (i), clearly states: “Dual listing. Listing of a national organization, as well as its local affiliate organization is permitted.” This regulation remains unchanged in the regulations proposed on June 29, 2006 in the Federal Register, RIN 3206-AL05.

Historically, local federal employee leaders have acknowledged the responsibility to support the communities in which they live. Many donors, federal donors being no different, feel strongly about the right to be able to designate their gifts locally in support of those communities. This is especially true with donors of health charities, as many of the more tangible benefits and services are delivered at the community level. The value of the dual listing approach is that it enables the federal donor to contribute to the charities of choice at either the national level or the community level. A charity should not be penalized because they have chosen a single corporation structure, nor should the donor be denied the opportunity to designate their gift the way they desire.

*Tax Exempts Status:*

Unfortunately, over the course of the past few years, it appears that OPM staff members have begun to re-interpret CFC regulations for the clear purpose of restricting local listing efforts, something that runs counter to the original intent.

The current regulation, 959.401 (j), on the subject of a second listing, states: “Multiple listing. Each national or local organization must individually meet all of the eligibility criteria and submit independent documentation as required in 950.202, 950.203, or 950.204”. Based on this passage, OPM has begun to take the position that local organizations are also required to submit the same documentation, but with stipulations that go beyond the intent of the original language. Specifically, this creates challenges regarding the submission of the requested IRS 501c3 letter.

Current OPM interpretations require the IRS letter to state “exactly” the name of the applicant agency and be unique to the applicant even if it is a subordinate organization to a major organization. The staff, and the proposed regulations, also suggests that the local organization must be “separately incorporated” (when, to our knowledge, no other “corporation” requirement exists for any other applicant in the CFC regulation). Also, they allow that the only senior/subordinate organizational relationship to be allowed into the campaign at either level will be a “group” 501c3 ruling.

This approach substantially contradicts and ignores trends in the non-profit industry that have been encouraged and praised by other areas of government. While OPM is suggesting local incorporation and allowing only group filings and group tax exemption arrangements, the IRS and GAO are, as general policy, suggesting better control and reporting comes from centralized reporting and processing centers. In addition, various business groups and legal and accounting counsel support approaches in the non-profit sector that provide better accounting controls to ensure proper use of donated dollars. While most major non-profits are moving toward more standardized business practices, OPM is concurrently mandating eligibility rules that would only reward the least centralized and least efficient organizations in the campaign. It would seem more logical if OPM regulatory changes rewarded charities seeking to use donor dollars the most efficiently when carrying out their missions.

Tax-exempt requirements do not require absolute, specific language and wording in the 501c3 letter. Furthermore, current CFC Regulations do not require exact wording. Current 950.202(b)

requires that an applicant agency at either the local or national level accomplish the following: *Certify that it is recognized by the Internal Revenue Service as tax-exempt under 26 U.S.C. 501(c)(3) and to which contributions are tax-deductible pursuant to 26 U.S.C. 170. A copy of the letter from the Internal Revenue Service granting tax-exempt status under the Internal Revenue Code, 26 U.S.C. 501(c)(3), must be included with the application.*

On a single corporation IRS 501c3 letter, only the national organization is listed by name. But, typically, the national-level can and will certify to the organization's chapters that are included in the ruling and in the organization's reporting to IRS. A carefully governed and audited national central authority is much more capable of ensuring true tax exemption and appropriate reporting than a less centralized and less standardized group of affiliate agencies.

The proposed changes may also result in de facto implementation of dual listing exclusion which was prohibited by decision of the U. S. District Court for the District of Columbia in *Planned Parenthood of Metropolitan Washington, DC and National Abortion Rights League v Constance Horner, OPM Director, United State Office of Personnel Management.*

At the local level, our research and study shows that some donors are absolutely adamant about giving to the local chapter. They may not give otherwise. Alternatively, an equal number are adamant that they won't give locally as they want their contributions to go to national-level research programs, which almost always are coordinated and conducted at an organization's national level.

The need for a more effective and efficient processing and distribution process is a valid and worthwhile goal. We stand ready to assist OPM in this process as many of our agencies have already successfully traveled this path. However, to further erode donor satisfaction and confidence in the campaign in the pursuit of implied efficiency measures indicates little understanding or appreciation for the real "customer" in this business - the federal donor. We see very little in the proposed changes that will do more than restrict donor choice and jeopardize millions of dollars of vital support to some of America's largest, oldest, and most valued health charities at a time when their services are needed more than ever.

The new regulations should clearly affirm inclusion of local chapters of national corporations on the basis of the parent organization's certification as well as the listing for the headquarter office in the national list. It is worth noting that this sort of certification is exactly what is accomplished in a group exemption, where the organization CFO typically conducts a similar certification annually to the IRS as to the organization's members that are to be included in its IRS 990.

Therefore, we strongly recommend that all references to separately incorporated local bona fide chapter of affiliate be deleted from the proposed regulation. Alternative and unambiguous language should be added that clearly states recognition that a listing of a national organization, as well as its local affiliate organizations, is permitted for organizations that are structured with a single 501c3 letter.

**b. Accountability: 25% Ratio.**

Proposals to eliminate the criterion that requires fund-raising/management to revenue ratio reflected in the IRS 990 to remain below 25 percent will severely weaken the accountability that has long been a benchmark among donors separating the CFC from other campaigns.

If this change is implemented as proposed, the size of the campaign could grow exponentially, bringing in thousands of charities that are currently ineligible because of their excessive overhead expense ratios. Under the proposed rules, virtually every 501c3 in America will become eligible, and that would mean every spurious, "look-alike" organization in the United States would be competing for donor attention.

Perhaps most importantly, donor confidence in the campaign and in its administration would be further undermined. All surveys show that donors feel strongly that the current screening process allows only the most qualified and efficient charities to participate. We can only imagine the reaction of the federal donor to a campaign brochure that now will resemble more closely a telephone directory, and that the vast majority of the charities listed have expense ratios that will offend and confound any thinking donor.

Unity against this proposal is broad, from agencies, PCFO's, LFCC's, and donors who know about the proposal. It is unclear why OPM would proceed with this proposal when it has opposition from virtually every campaign participant, at every level. We understand a past court case addresses this issue; but, there is a reasonable and defensible compromise solution which is more stringent than total abandonment of the principle. Undoubtedly, a better, more useful measure is the one established by the Better Business Bureau Wise Giving Alliance (65% of expenses must go to Program and only 35% to Management and Fundraising). We strongly recommend that OPM join us in coordinating with the Better Business Bureau Wise Giving Alliance to consider adoption of its policy.

We believe much more study needs to be done on this issue. OPM needs to recognize the wholesale opposition to elimination of the 25% standard. If eliminated and thousands of new charities are allowed to participate in the CFC, it will be impossible for OPM to reinstitute any standard in the future. Any efforts to do so would leave the door wide open for lawsuits from charities approved and then later restricted from participation following new implementation of a standard on fundraising and administration ratios.

c. Privacy Issues: Use of Donor Names

Proposals to do away with the certification from charities regarding use and sale of names will eliminate assurances to potential contributors that their name and personal data will not be shared. We recognize that such certification is hard to enforce; however, CFC should not lower this threshold. It is an important confidence builder for donors. Again, if monitoring and enforcement are the primary reasons for proposing this change, OPM would be better served inviting the federations to an open discussion of this issue rather than throwing in the towel, so to speak, and abdicating responsibility to protect the privacy of the federal donor. CHC, for one, will pledge to work with OPM to develop responsible measures that will encourage federations to adhere to existing policies.

We also believe that federations, such as United Way, Community Health Charities, and others, should specifically be restricted from the sale of donor names, something that the proposed revisions would now allow.

We strongly recommend that this provision be continued as required by current regulation.

d. Local Presence Issues:

This proposed change, which eliminates the Adjacent and Statewide eligibility criteria, is potentially devastating to our federation and other health agencies. In effect, an agency will be eligible only in the campaign area where it has an office. The new rules suggest that an agency office in a CFC area will be eligible only in that single campaign area and will no longer be eligible for the CFC campaign in an immediately adjacent CFC area or in other CFC areas on a statewide basis.

An example of the impact of this change is as follows: An agency presently located in Norfolk, Virginia, provides services in the Norfolk CFC area and also in the Hampton and Newport News CFC area. Presently, the agency is authorized to participate in both campaigns. Under the proposed system the agency would be listed only in the Norfolk area CFC brochure. This approach is not only unfair to the agency and to the federal donors, it is inconsistent with the federal government's policies that recognize normal commuting areas. The federal government recognizes that the two areas are virtually one in the same and that it is common for a donor to live in one area and work in another.

Similarly, we have many agencies that cover an entire state from a central administration office. For example, one health agency covers a rare disease but it supports and provides services to virtually every person who has the disease in the entire state. Presently, the organization qualifies in every CFC area in the state. In the future, however, that would not be the case. The agency would qualify in only one CFC area and, in this particular case that would be the smallest CFC area in the state.

Many of our member agencies, following national business trends, over the past few years have closed offices and work from centralized offices. It has allowed agencies to provide the same, if not improved and more reliable, services to the communities they serve. Agency efficiency should not be rewarded (by OPM) with campaign exclusion. The adjacent and statewide categories should be retained to support donors and charities. This rule, if approved, could reduce our chapters to only one entry per state.

Some campaign administrators say this change will happen only when the campaign is fully automated. That might be so. And, full automation, if ever approved, is a long way away. In the meantime, a prudent approach would be to specify that the adjacent and statewide criteria will be continued so long as a local brochure is published for the local campaign. Otherwise, the impact is totally unfair and devastating to a participating charity and makes no sense when considered from a donor perspective or even from the government commuter policy perspective, wherein a donor lives in one area and works in another. It should be easier, not harder, for a donor to find his favorite in-state charity.

Another irony of this proposal, if implemented, is that a national agency would be listed in a local brochure, even if that national agency did not perform a single service within the particular campaign area. But, an adjacent organization that performs many, many services, maybe the bulk of its services, within the particular campaign area, might not be eligible because its main office is in an adjacent metropolitan area.

Finally, another unintended consequence of this rule could be the elimination of most local federations, other than United Way. Most Community Health Charities local federations would not be able to maintain the required fifteen members in a given area, if this rule takes effect. We



believe it is undesirable for the campaign to allow itself to return to the condition of roughly ten years ago, when UW was the only federation at the table, locally. This condition removes a source of sound advice for the LFCC and creates an uneven playing field.

As long as a local hard-copy brochure exists, agencies listed in that brochure will have a profound advantage. Regardless of publicity to the contrary, donors, for the most part, will see only the local agencies published in the local brochure.

CHC recommends that this change should be eliminated in its entirety and should be revisited only when there are absolutely no local hard copy brochures.

e. Payout Schedule

OPM is proposing that local campaign administrators (PCFO) will be allowed to pay out quarterly versus the current practice of disbursing monthly for campaigns of \$500,000 or more, greatly lengthening the time it takes for funds to get to the receiving agency. The effect of the change could be significant. A donor dollar collected from the mid-January payroll, in some cases, would not reach the participating agency for until mid-summer, or later.

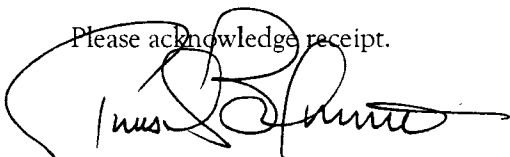
Even under current regulations, some PCFOs do not pay out on a regular, dependable schedule and follow up is sometimes necessary to make sure that complete payouts are made. We would suggest that more oversight is needed in this area, rather than less. Loosening the requirements is the wrong move.

Recommend that the current threshold of campaign raising over \$500,000 make monthly disbursements be retained.

This is a summary of our comments. Please accept them in the spirit intended. As noted in all our previous meetings and in previous correspondence, we are willing to meet with OPM staff and/or help with arranging meetings with representative members of our federation to come to solutions that will further the campaign and enhance the confidence and experience of the federal donor.

Submitted in the spirit of cooperation and resolve for a better campaign.

Please acknowledge receipt.



Thomas G. Bognanno  
President & CEO  
Community Health Charities



Hal Daub  
Chairman of the Board  
Community Health Charities

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MICHAEL L. ALEXANDER, MINORITY STAFF DIRECTOR

# United States Senate

COMMITTEE ON  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

September 29, 2006

The Honorable Linda M. Springer  
Director  
U.S. Office of Personnel Management  
1900 E Street, NW  
Washington, DC 20415

Dear Director Springer:

I am writing to express my concerns with regard to possible changes regarding local eligibility and program eligibility in the Combined Federal Campaign (CFC). These changes are being considered as part of OPM's proposed regulations to reform CFC policies and procedures.

Many charitable health care organizations are currently listed in CFC brochures and other materials as both national and local organizations. It is my understanding that the Office of Personnel Management may eliminate this practice. Specifically, national charitable organizations without separately incorporated local affiliates will no longer be listed in both national and local sections of the brochure.

While I support efforts to improve program efficiency, I am concerned that this proposal could harm the CFC. This proposal could deprive some of the national health charities of needed donations, which could be particularly troublesome as our society needs the work of charitable organizations to help meet the needs of individuals and communities across our country.


Further, this policy could also take away donor choices. Federal employees should be allowed to donate to a national organization that uses the contribution for research or the local affiliate that provides services in their community. Reducing donors of the choices they have come to expect could diminish participation in the CFC. Therefore, I urge you to continue to allow national and local listings for a charity regardless of the organization's corporate structure.

In addition, the proposed regulation also would eliminate the current requirement that a charity's fundraising and management expense ratio must fall below 25% of overall revenue for the organization to participate in the CFC. This requirement is a distinguishing feature of the CFC and gives federal donors the confidence that their gifts will be used for services. Removing this important measure of accountability could weaken the integrity of the program.

Instead of removing the accountability requirement in the CFC, OPM should consider adoption of a standard created by the Better Business Bureau's Wise Giving Alliance that would require a participating charity spend no more than 35 percent of its budget on management and fundraising.

The CFC has administered the charitable giving of billions of dollars to organizations that help Americans across our nation. I look forward to working with you to ensure that the CFC continues to effectively facilitate these gifts and retains the confidence of donors.

Sincerely,

A handwritten signature in black ink that reads "Susan M. Collins". The signature is written in a cursive, flowing style.

Susan M. Collins  
Chairman

THE FULL DOCUMENT IS AVAILABLE IN THE OIRA DOCKET LIBRARY

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