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GAO

United States General Accounting Office  
Washington DC 20548

Office of  
General Counsel

In Reply  
Refer to: B-199922

*[Application of Army Regulations to Army and Air Force Exchange System Procurement Policy]*  
JUL 17 1980

Mr. Rollin T. Steinmetz  
R.T. Steinmetz and Associates, Inc.  
P.O. Box 5037  
603 W. Gowe Street  
Kent, WA 98031

Do not make available to public reading

DIG 05645

Dear Mr. Steinmetz:

Your letter to the Director of our International Division has been referred to me. You ask whether your marketing company can offer a free case of Augsburg beer to the Army and Air Force Exchange System, Dallas, Texas (AAFES) for the purpose of having AAFES conduct a blind taste test, with a jury of their own selection, against any other brands in the market, without this being construed as an "unethical gratuity and an attempt to buy influence."

Since AAFES is a non-appropriated fund instrumentality, the requirements of the Armed Services Procurement Act (10 U.S.C. § 2301 et seq. (1976)) and the implementing provisions of the Defense Acquisition Regulation (DAR) are not applicable to its procurements. 58 Comp Gen. 94 (1978). However, the general policies governing the operation of AAFES are set forth in Army Regulation (AR) 60-20 and AR-60-10. With regard to procurement and alcoholic beverages, see especially paragraphs 3-38 and 3-39 of AR 60-20 and paragraph 3-3 of AR 60-10. Furthermore, both Army users and Air Force users, under certain conditions, may issue local supplements to the general policies for AAFES. AR 60-10 at p.1. Obviously, we cannot express any opinion on whether any local regulations which may have been issued would cover the situation you describe.

In general, while this Office has no jurisdiction over either criminal matters or questions of ethical conduct by AAFES employees, we cannot see why the offer of a product to AAFES for testing purposes (as opposed to a gift to an individual in a position to affect procurement decisions) would be construed either as unethical or an attempt to buy influence.



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Accordingly, as far as we are aware, the only barrier to what you propose is whether it is consistent with AAFES' own procurement policies. That question should be addressed to AAFES. We understand from our audit staff in Dallas, that AAFES intended to write directly to you to explain its reasons for not wishing to buy Augsburger beer for export, which is basically what AAFES in Dallas is concerned with.

Sincerely yours,

ROBERT H HUNTER

Robert H. Hunter  
Assistant General Counsel

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