

Proposed CFC rules call for big changes in how charities can participate and how the CFC will be run

An Analysis by Charitable Choices

On April 8, the Office of Personnel Management released proposed rules for the Combined Federal Campaign. The rules call for some major changes, changes that could force many charities out of the CFC and cause giving through the CFC to plummet.

Charities have until Friday, June 7, to comment on these rules.

Some of the proposed changes are very positive for charities. They will only need to apply once every three years, not every year, simply submitting a “verification application” (and their most recent 990 report) during the other two years. Charities with budgets under \$250,000 will no longer have to have annual audits.

But mixed in with these positive changes and administrative changes are some profound changes that will impact every CFC charity. The new rules would change many aspects of how the CFC functions:

- The rules would change **how the CFC’s costs are paid**, requiring charities to pay an up-front fee that would probably be thousands of dollars (see page 2).
- The rules will change **how the CFC is organized and run**. For example, the role of the local organizations that have run local CFC campaigns (Principal Combined Fund Organizations) will be eliminated. The responsibilities of the local bodies of federal and military employees who oversee the campaign will be reduced (see page 6).
- The rules will change **how the campaign is actually conducted**, such as changing the solicitation period (it would start later and extend longer), requiring that all donations be made electronically, and *eliminating* the printed CFC catalogs (see page 6).
- The rules would change the **CFC’s eligibility criteria and process**. OPM doesn’t highlight these changes in its news release. It states that the changes in the rules simply “codify” two “guidance memos” issued in 2006 and 2008. But these memos include some very important interpretations of the previous eligibility rules, such as whether charities that help people primarily by doing public education and advocacy should be eligible (see page 9).

In other words, for CFC charities, there is a lot to absorb in these new rules.

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We think the most profound change is how the CFC’s costs will be paid. Currently these costs are deducted from the amount each charity receives in CFC donations. If your charity receives more money, you pay more of the costs.

The new rules would turn this system on its head, requiring all charities to pay an *up-front* fee to participate in the Campaign, a fee that will cover all the CFC’s costs, not just the cost of reviewing a charity’s application. A “charity poll tax,” if you will.

The rules say virtually nothing about how large this fee will be. They say nothing about whether it will be based on how much money a charity raises in the CFC. *In other words, a large national charity receiving \$1 million a year could pay the same fee as a small charity raising \$5,000 a year.*

It appears this fee will also have to include the federations’ costs, not just the CFC’s costs. Currently, federations deduct a percentage of their members’ CFC donations to pay their costs. However, the new rules would prohibit federations from deducting their costs from their members’ donations. Thus federations would apparently have to impose a fee on all their members as well.

How much would this fee be? Our back-of-the-envelope calculations suggest that a national charity might have to pay more than \$6,500 to cover the CFC’s costs. *(We divided the CFC’s costs – about \$27.3 million -- by the percentage of CFC donations received by national charities – about 62%. We then divided this figure by the number of national/international charities.)*

To this you would need to add your federation’s costs – probably at least several thousand dollars more.

Where did this idea come from?

The idea of charities paying the CFC’s costs was proposed last year by the CFC-50 Commission, a group of CFC federation officials, government employees and employee associations, former members of Congress, three CFC charities and “accountability organizations,” such as Charity Navigator. The Commission was created by OPM on the CFC’s 50th anniversary to make recommendations for its future.

The Commission’s report stated that this fee could be tiered, so that local and smaller charities would pay less. However, the report did not recommend this, and the proposed rules say nothing about a tiered payment structure. The rules simply say that the CFC Director will determine the fee structure each year based on the “estimated costs of administering the campaign.”

Incredibly, if a charity pays the CFC application fee and gets turned down, it receives no refund, according to the proposed rules. It helps pay for a campaign it can’t participate in.

The CFC-50 Commission did not call for a non-refundable fee. It also did not recommend that this fee be paid entirely up-front, when a charity applies to be part of the CFC.

For many charities, paying an up-front fee like this will be no problem. Indeed, for some large charities, paying a set fee (vs. a percentage) will be a boon.

For many other charities, coming up with this kind of money *nearly a year and a half before they will actually receive any CFC donations connected to the fee* will be impossible. (If you pay the fee in the late fall of **2013** when you apply, the fee pays for your participation in the following year's CFC -- **2014**. That campaign takes place in the fall and early winter of 2014. You begin to receive these donations in **2015**.)

What will the impact of this fee be?

Unless this fee is tiered, unless there is some way for small charities to pay it over time, we think this rule change will fundamentally change the CFC. In some ways it could take the CFC part of the way back to what it used to be – a way for some very large and well-established charities to raise a lot of money.

In 1980, just 30 national and international charities could participate in the CFC (vs. more than 2,500 now). A long advocacy campaign led to a complete revamping of the CFC's eligibility rules. This change helped thousands of smaller and newer charities raise money. Some of these charities are using new approaches to social problems, or dealing with very specific issues (such as a rare disease) or controversial issues (such as LGBT discrimination), issues that may not affect a lot of people and thus don't attract a lot of support.

Forcing charities like these to pay a large up-front fee will effectively disenfranchise them from raising money through the federal government's charity drive.

In other words, this change raises fundamental questions about what the CFC should be and even what the role of charities should be.

Why make this change?

For the CFC, charging a fee up-front is a way to insure that "one hundred percent of an employee's donations go to the charity they choose." This "focuses energy on the CFC's core purpose." It also increases the CFC's "transparency."

CFC officials believe that declines in the amount being raised and the percentage of people who give are mainly caused by employees not wanting any of their donations to pay the costs of running and marketing the campaign.

Is this true? One federation official told us that donors tell him all the time that they don't give for this reason. The CFC-50 Commission report called for this change because its members "believe" that many potential donors don't give because part of their donations helps pay for the CFC.

But the CFC doesn't appear to have any evidence that the participation problem is mainly the result of the way the CFC's costs are paid. The most basic steps in answering a question like this apparently haven't been taken. While the CFC-50 Commission called

for surveys and focus groups with donors and non-donors, this does not appear to have been done. *In other words, a change with profound implications for charities is being taken on a hunch about what the problem is.*

For what it's worth, our hunch is that recent declines have much more to do with the freeze on federal employee cost-of-living raises and the pending furloughs. A recent online article about the decline in the 2012 CFC elicited 15 responses from federal employees – 11 cited the pay and benefits issues. No one talked about the cost of the CFC.

One comment was typical: *"Wow! Freeze our pay, raise our taxes [the payroll tax], raise the out-of-pocket cost for benefits, reduce our income with furlough days and then wonder why employees aren't in a giving mood?"*

A way to get rid of small charities?

We suspect that a second reason for this change is an interest by OPM and perhaps by some federations to have fewer charities in the CFC.

The CFC-50 Commission report noted that many charities may drop out because of the up-front fee, but it said that this would be a problem not because it could hurt these charities, but because "the system would collect less money to pay CFC costs." The report also worried that employees who supported these charities that drop out may stop giving through the CFC altogether. On the other hand, the report noted that fewer charities "would translate into less admissions work and possibly a smaller charity directory."

The reality is that there *are* a lot of charities in the CFC, with a lot of this growth happening since 2006, when the limits on a charity's overhead percentage were eliminated. (The number of national charities went up 39% between 2006 and 2011.)

For federations and OPM, charities that get few donations still cost money. Getting rid of small charities saves money (and means less competition).

It's true that some CFC charities get very few donations. But while a couple thousand dollars in donations may seem like chump change to many large charities, for small charities, this can be significant money.

Plus, a small charity being able to say that it has met the CFC's accountability standards is an important way for that charity to communicate its trustworthiness. *Does the government really want to say that only charities of a certain size are appropriate for receiving donations from federal and military employees?*

There are other ways of reducing the numbers of charities in the CFC, such as going back to flexible limits on overhead percentage or requiring charities to get a certain number of donations after their initial three years in the CFC.

Will an up-front fee really mean that donors aren't paying the CFC's costs?

There is also the question of whether having charities pay the costs in an up-front fee really means that charities, not their donors, are paying the CFC's costs. OPM says it is making these changes in part to increase "transparency." Is it increasing transparency?

The reality is that CFC charities and their donors pay the costs of the campaign now and they will pay the campaign's costs in the future. Now charities pay by not receiving all of the money that donors give them. They will pay in the future by writing a check up front. This will increase their fund-raising costs. Who pays a charity's fund-raising costs? Its donors.

Just as there are no free lunches, there are no free ways to raise money. The only real way to insure donors that they are not paying the CFC's costs is for the government itself to pay these costs, or for some outside entity or individual to pay them. Otherwise, it's all about accounting.

How can you make an up-front fee fair?

Let's give OPM and the Commission the benefit of the doubt – being able to tell potential donors that *all* their money goes to the charities could be a powerful marketing tool. Can you make this tool fairer to all charities, especially smaller, newer, less well-known charities? We think you can, by tiering it in two ways:

- **Tier it by how much a charity raises in the CFC.** It's not right to try to charge charities that raise \$1 million through the CFC the same as charities that raise \$5,000. The fee must be based on what a charity raises. And these guidelines need to be spelled out in the regulations.
- **Tier it by when the costs are incurred.** It also makes no sense to charge charities the costs of raising money *more than a year before they will actually see any of that money*. And it makes no sense to charge charities the full costs of the CFC if they don't even get accepted. So...
 - Charge an **application fee** that covers just the cost of reviewing an application. This could be non-refundable. It cannot be set so high that it functions as a barrier to entry to the government's fund-raising drive.
 - Charge a **campaign fee** when the campaign is actually incurring costs.
 - Charge a **processing fee** to cover the costs of collecting, accounting for and distributing the money.

Yes, charging one up-front fee is a lot easier for OPM and the federations. But it is unfair for charities that don't have a lot of money sitting in a bank.

Is there a fundraiser in OPM's house?

OPM proposes radical changes in how CFC campaigns will be run

Some of the biggest changes in the proposed rules concern how the local campaigns will be conducted. OPM's news release says the rules will "save money" and have been "designed to increase the CFC's accessibility, accountability, transparency and affordability."

Do you notice what's missing in this list? How about increasing how much money the CFC actually raises? This seems particularly important today after the total has declined the past two years.

When you spend a little time studying the changes OPM proposes in how the CFC is run, you realize very quickly that OPM doesn't seem to understand the most basic principles about how to raise money. In our view, OPM is putting the entire CFC at risk, along with the charities that depend on CFC donations.

Fortunately the CFC federations are also alarmed by these proposed changes and are preparing a collective response. We'll tell you more about that response as soon as we learn more.

Charities have until Friday, June 7, to comment on these proposed rules. Given that this year's CFC is already in motion, presumably most of these new rules would impact the 2014 campaign, not this year's campaign.

Changes in how local CFC campaigns would be run

Currently there are 184 separate CFC campaigns, down from more than 300 many years ago.

Each campaign has been run by a Principal Combined Fund Organization, which is a local federation, often local United Ways.

Each local campaign is overseen by a group of federal and military employees called the Local Federal Coordinating Committee, or LFCC. This group makes local eligibility decisions, appoints and oversees a PCFO, and approves campaign expenses.

OPM proposes to make major changes in this structure. The role of the PCFOs – *the local organizations that have experience running workplace giving campaigns* -- will be eliminated.

The job of collecting and distributing donations would be done instead by a new "Central Campaign Administrator." The CCA could perform these functions itself or set up regional "receipt and disbursement centers." The idea is that consolidating these accounting functions will save money.

The role of the LFCCs will be reduced. They will be replaced by "Regional Coordinating Committees," or RCCs. In essence, there will be fewer campaigns covering larger regions. OPM says that this will make it easier to find federal and military people to be on these oversight committees.

Who will actually run the fund-raising campaign? OPM says that these RCCs “may engage a marketing firm” to reach out to CFC donors.

Losing that person-to-person feeling

This is one part of these new rules that concerned many CFC federations when the rules were leaked in January. Not having local committees will diminish the “person-to-person feeling of the campaign, which is very, very important,” said Kal Stein, head of EarthShare, a federation of environmental charities. Stein told The Washington Post that he worries that the CFC “will decline precipitously” if these local committees are eliminated.

“Our history shows that more consolidation leads to fewer donations.”

The other big concern expressed by the federations is that all donations would have to be made electronically. Paper pledge cards would be eliminated. So too would gifts of cash or check.

Currently, despite the fact that employees have had an electronic giving option *for years*, only a little more than 10% of CFC donors give electronically.

“So, a move to electronic-only donations would seem to put the CFC at risk of losing a majority of its donors,” wrote the Post’s Federal Diary columnist Joe Davidson.

Steve Delfin, head of America’s Charities, said that he was “highly concerned” about going to all electronic donations. “You have to be careful. Technology is not a panacea.”

Marshall Strauss of the Workplace Giving Alliance says that relying on electronic donations “may dramatically reduce the number of people giving and the overall receipts of the campaign. Many thousands of people prefer to give by check or even cash, and we would hope the government would preserve these options.”

Not only would OPM eliminate checks and paper pledge cards, it would also ***eliminate the CFC catalogs*** that describe all the charities that CFC donors can support. Donors would have to get information about charities by going online.

Now since Charitable Choices produces and distributes our own guides to CFC charities, you would think that we would love this idea – we’ll be the only game in town. But we don’t. We think that eliminating the paper catalogs will hurt giving. For us, that’s what counts.

We know these catalogs are expensive, and we think there are ways that their cost could be significantly reduced. But eliminating them will hurt giving. When charities such as the Alzheimer’s Association surveyed their CFC donors many years ago, they found that more than four of every 10 of these donors (42/8%) found the Association by using the CFC catalogs (34.8% found the Association by using our guides).

Don't reduce the act of giving to an act of clicking

The problem we see with all of these changes in how people make CFC donations is that they make it harder, not easier, to give. Yes, electronic giving is the wave of the future. But lots of CFC donors don't work on computers all day. Think of postal workers. Think of meat inspectors. Think of military mechanics. We could go on and on.

The other big problem with these proposed changes is that they reflect a lack of understanding of how the fund-raising process works. People give when other people ask them to give. They give when they hear about a charity that is making a difference for people in need. They give when they hear a story that touches them emotionally. They give when they are reminded to give, often by a piece of paper in front of them (a pledge card) or a paper catalog full of all kinds of charities that need their help.

Reducing the giving process to an efficient, computerized transaction misses all of this.

The idea that OPM would make all of these radical changes at one time with no evidence about their impact (other than evidence that suggests doing away with the paper catalogs actually hurt giving when it was tried several years ago) makes no sense. Try a more regional approach in one part of the country. Try doing all electronic giving in a few campaigns. Try eliminating the paper catalog in a few campaigns. See what happens.

In other words, use another basic principle of fund raising – ***test your ideas.***

Finally...some ideas that make sense

- OPM proposes starting the campaigns later (Oct. 1 rather than Sept. 1) and running them longer, until Jan. 15. Ending the campaigns in mid-December, during the holidays, at a time when many employees are taking use-it-or-lose-it leave, had been a problem for a long time. A ton of money is given at the very end of the campaign.
- The rules would create a new Disaster Relief Program that will allow employees to contribute almost immediately in response to a disaster.
- Federations will be required to disburse funds to their members on a specified cycle and will get more OPM oversight.

Which types of charities should be part of the Combined Federal Campaign?

OPM proposes to “codify” some important changes in eligibility

Recently we sent you an email about the proposed regulations for the Combined Federal Campaign. In that email we focused on the change concerning how the CFC’s costs will be paid – in an upfront fee paid by charities.

This email focuses on proposed changes in eligibility rules. In relation to eligibility, OPM says that it “remains committed to ensuring the broad participation of a multitude of charities in the CFC.”

However, some of the changes in the proposed rules could pull the CFC right back towards where it was 30 years ago, when a long advocacy campaign ultimately forced the CFC to allow employees to give to a broad range of charities, not just long-established organizations doing traditional charitable activities.

OPM has so far said very little about these important changes.

Two changes nearly all charities will applaud

First, the changes OPM does mention:

- **Charities only have to submit a full application every three years.** In the other two years, charities need only submit a “verification” application and its 990 report. The verification application in essence just requires charities to certify that they still meet all the eligibility criteria.
- **Small charities with budgets of less than \$250,000 will no longer be required to undergo an audit.** Instead they simply must certify that their financial statements are reviewed by an independent certified public accountant. A charity with a budget under \$100,000 simply must certify that it has “controls in place to ensure that funds are properly accounted for and that it can provide accurate and timely financial information....”

We think these are very positive changes. The application process is not easy. Doing it every year requires a lot of resources by both the charities and federations or OPM itself (which have to review the applications).

Similarly, audits are expensive. Small charities shouldn’t have to spend their scarce resources on an audit.

The eligibility changes OPM doesn’t highlight

The proposed rules include some other very important changes that aren’t mentioned in OPM’s news release. These changes go to the core of the issue about what types of charitable work are legitimate.

This question was the subject of an intense, multi-year struggle during the 1980s that ultimately opened up the CFC to almost every charity that is now part of it.

We're not suggesting that OPM is trying to hide these important changes. From OPM's perspective, all it is doing is "codifying" changes that were made in 2006 and 2008 in two "guidance memos."

However, these memos never had to be subjected to a public-vetting process. Now they do.

In the 1980s, the eligibility question turned on the issue of whether charities that work to help people in less traditional ways should be part of the CFC. It also came down to the question of who should decide what is the best way for a charity to make a difference – the government or individual donors.

Before these changes were made in the mid-1980s, a charity that fed hungry families like a food bank or a soup kitchen was seen as legitimate and thus eligible. A charity that documented the problem of hunger in America and that pushed for policies that dealt with this problem (no cuts in Food Stamps for example) was not eligible.

Those who argued for a broad definition of charity ultimately won this fight. Congress mandated that the basic eligibility standard for a charity be relatively broad: a public charity that "provides or conducts real services, benefits, assistance, or program activities...."

A creeping bias towards charities that provide direct services

The key word there is "program activities." In other words, you don't have to be a service-providing charity. The new rules still start with this standard.

However, in many places, the new rules drop "program activities" and just use "services" or "services and benefits." For example, national organizations must describe "the services" they provide in each state, as well as the "number of beneficiaries of each such service." We counted more than 20 times that the rules refer only to services or services and benefits, not "program activities."

In relation to certain program activities, such as public education, media work and advocacy, the rules are very clear about this bias towards service provision. This section says that "providing information to the media" is not "a real service for CFC purposes."

Similarly, the rules say that doing research and publishing reports or position papers about issues such as hunger or homelessness do not in themselves "demonstrate an eligible service." Strangely, the rules add that if a "beneficiary" requested or used a report or position paper, then it may qualify. In other words, if you advocate around homelessness, make sure homeless people read your reports and write you notes of appreciation!

It seems to us that the standard needs to be whether someone actually benefits from a charity's media work, public education activities and advocacy. Has the charity made a real difference for people?

And this should be a question donors decide, not the government. This issue – who should decide the appropriate way for a charity to make a difference for people in need -- was at the core of the struggle to open up the CFC in the 1980s. The decision was to allow donors themselves to decide what they think is the right way to make a

difference – it is their money and their decision to give. The CFC should set basic accountability standards for charities, so that donors know that charities in the CFC have all met a set of standards. But it's not the CFC's role – the government's role – to decide what these charities should and should not do.

By emphasizing “services and benefits” and stating that advocacy and public education do not constitute a service, we think these rules are going in the wrong direction.

Other eligibility issues

These are the big issues we see around eligibility. The rules also address a several other issues. Again, most of what's in the proposed rules has already been put into OPM's “guidance memos.”

One change concerns “**web-based service organizations.**” In essence, these charities must document that people have actually used the charity's web-based service over the previous three years. This documentation must go beyond stats about the number of visits to the website.

These charities must also document two of three things: 1. People have registered to use the website. 2. Users have provided feedback through surveys or other mechanisms; and/or 3. They have paid for the service.

The proposed rules also address “verification requirements for local affiliates, churches and Family Support and Youth Activities/Family Support and Youth Programs.” (FSYA/FSYP organizations provide services on military bases.) There are also rules concerning charities that provide scholarships.

Another section goes into depth about how national charities can demonstrate that they provide services or activities in at least 15 states.

What do you think about this?

So far there has been very little attention given to these proposed rules, which were leaked nearly three months ago. We are giving you our understanding and perspective about these rules, which comes from more than 30 years of involvement with the CFC.

As a charity that has been part of the CFC, we want to know what you think about all this. Depending on what we hear, we may suggest next steps. Please contact Tim@CharityChoices.com.

Here's the link to new regulations so you can read them yourself: [Proposed CFC Rules](#).

<https://www.federalregister.gov/articles/2013/04/08/2013-08017/solicitation-of-federal-civilian-and-uniformed-service-personnel-for-contributions-to-private>

What is Charitable Choices?

This summary and analysis of OPM's proposed rules was written by Tim Saasta, a founder of Charitable Choices, which grew directly out of the effort to open up the CFC to a much greater range of charities.

In the 1980s, Saasta was the Communications Director for the coalition that worked to open up the CFC. He helped frame this issue and generate media interest in it. The issue received significant media attention, with OPM Director Donald Devine writing that his office received more than 1,000 media inquiries about the CFC, more than on nearly any other issue during his somewhat controversial tenure as OPM's director.

Ultimately, in 1985, Congress directed OPM to open up the campaign to a much broader range of charities.

When this occurred, the coalition that had worked to open up the CFC switched its focus to helping the newly admitted charities promote their work in the CFC. It created the Fair Share Committee. Saasta and another Charitable Choices' founder, Melissa Hippler, helped organize a joint ad by these charities.

When the Fair Share Committee disbanded the next year, Saasta and Hippler began Charitable Choices to carry on the Committee's work. Charitable Choices has been providing ways for charities to promote their work among federal workers and military personnel ever since, publishing and distributing guides to charities that are part of the CFC.

For more information about Charitable Choices' guides, website and joint ads, go to www.CharityChoices.com/clients.