



DEPARTMENT OF THE ARMY
OFFICE OF THE STAFF JUDGE ADVOCATE
21ST THEATER SUSTAINMENT COMMAND
STUTTGART LAW CENTER
APO, AE 09107-0401

AETS-JAS

16 April 2020

MEMORANDUM FOR USAG Stuttgart Garrison Commander, USAG-Stuttgart, Unit
30401, APO, AE 09107-0401

SUBJECT: Legal Guidance – Commercial Solicitation and Home Based Businesses

1. References.

- a. DoD 5500.07-R (The Joint Ethics Regulation (JER)), 17 November 2011.
- b. Army Regulation 210-7 (Personal Commercial Solicitation on Army Installations), 18 October 2007.
- c. Army in Europe Regulation (AER) 210-70 (On-Post Commercial Solicitation), 21 January 2016.
- d. AER 600-17 (Retail Sales of Motor Fuel to Individuals in Germany), 22 August 2012.
- e. AER 550-175 (U.S. Forces Customs Controls in Germany), 15 July 2011.
- f. AER 190-1 (Driver and Vehicle Requirements and the Installation Traffic Code for the U.S. Forces in Germany), 13 August 2010.

2. Definition of Key Terms:

a. *Vendor* is “[a]n individual, whether an employee or self-employed, who offers goods or services for sale, whether at a designated location (for example, a massage therapist offering services at a gym, an insurance agent offering information at a location designated by the garrison commander) or by appointment (for example, an encyclopedia sales representative, securities broker).” AER 210-70, Glossary, Section II, Terms.

b. *Commercial Solicitation* is the “[c]onducting [of] any private business, including the offering and sale of insurance, goods, services, and commodities, on a military installation. Solicitation includes all transactions, whether initiated by the seller or the buyer, as well as the mere attempt to conduct business. This includes but is not limited to advertising, telephoning, or initiating a conversation to arrange an appointment; distributing business cards; asking personnel whether they are interested in reviewing their personal finances or their military benefits; explaining investments or insurance in general terms with the intent of generating a request for an appointment; or delivering a

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contract or investment documents.” AER 210-70, Glossary, Section II, Terms. Commercial solicitation does not include the “[i]nfrequent, nonrecurring sales of personal goods (for example, a spring sale, a permanent change of station sale, the sale of one’s privately owned vehicle),” nor informal “[s]ervices performed by minors (for example, babysitting, pet-sitting).” AER 210-70, Glossary, Section II, Terms.

c. *Home-Based Business* (HBB) is “[a]ny private business conducted out of the home for profit. HBBs includes businesses where the services are performed or goods are sold outside of the home (for example, an artist who paints at home but sells paintings, by appointment, at the customer’s home). An HBB also includes any business that arranges personal demonstrations of goods, advises potential customers on the use of those goods, and solicits individual orders at social gatherings, even if orders are mailed directly from a wholesaler to the customers. An HBB also includes activities normally performed as a hobby if an individual, on a frequent and recurring basis, sells the goods produced or performs services for profit.” AER 210-70, Glossary, Section II, Terms.

3. Policy:

a. “A vendor [any person offering goods or services for sale] may not engage in commercial solicitation [the conducting of any private business on a military installation] until granted written approval to do so.” AER 210-70, para. 17a. Commercial solicitation intended to be conducted theater-wide (for example, at USAG Stuttgart and Kaiserslautern Military Community) requires approval from the IMCOM-Europe Installation Commercial Affairs Officer (ICAO). AER 210-70, para. 4d. Local commercial solicitation (intended for just USAG Stuttgart) requires the approval of the Garrison Commander or the local ICAO. AER 210-70, para. 4c.

b. Likewise, a individual residing in “Government-owned or -leased quarters [must] request permission to operate an HBB [any private business conducted out of the home for profit]” before engaging in commercial solicitation. AER 210-70, para. 18a. Individuals who wish to operate an HBB in private quarters that are not Government-leased must comply with the terms of their lease and all HN laws, including local ordinances. HBBs operating off-post must “apply for commercial solicitation privileges before conducting any solicitation on Army installations.” AER 210-70, para. 18d. The Garrison Commander or local ICAO is the approval authority for HBBs. AER 210-70, para. 19.

c. Vendors and HBBs must follow the procedures for applying for the privilege to conduct commercial solicitation on-post. These requirements are found at AER 210-70, para. 17 & 19, respectfully.

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4. Rules:

a. All businesses, whether vendor or HBB, engaging in commercial solicitation on-post shall be familiar with all requirements and prohibited practices imposed upon them by the references contained in this memorandum. These general requirements are set out in AER 210-70, section II.

b. All businesses engaging in on-post solicitation shall only meet with potential customers by appointment and in locations designated in the letter of authorization. Businesses shall not solicit individuals during the individual's duty hours. Appointments shall be made utilizing AE Form 210-70F and a local letter of authorization. Appointments in Government owned or leased quarters are permitted.

c. During appointments on-post:

(1) All businesses shall possess their local letter of authorization. Operators shall not display desk signs or other material indicating their business during appointments.

(2) All businesses will provide a DD 2885 to each solicited individual or Family during the initial appointment. They shall not request, accept or offer to deliver the DD 2885 to the local Installation Commercial Affairs Officer. Discouraging individuals to return the DD 2885 is prohibited. Failure to provide a DD 2885 may result in suspension or revocation of privileges.

d. All retail and installment contracts must contain the cancellation clause in Reference c. para. 19f. The clause must also state that free legal advice is available from the garrison law center located on Kelley Barracks, and that unit financial counseling is required for personnel E1 – E4. The clause must be prominently displayed in bold on the contract.

e. All businesses shall not state or imply that the DoD or Department or the Army endorse the business. Additionally, businesses shall not conduct cold-calling or door-to-door solicitation.

f. Government-owned or leased quarters shall not be used as business showroom, warehouse, or storage facility. Moreover, exterior parts of Government-owned or -leased quarters shall not be used to advertise products or services.

g. Use of the Military Postal system for business purposes is strictly prohibited. Vehicles registered with the U.S. Forces may not be used for commercial enterprises. AAFES, commissary, value-added tax forms, and tax and duty-free fuel entitlements shall not be used for commercial purposes.

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h. All businesses shall not use Government property such as computers, fax machines, telephones, supplies or cell phones to conduct business operations.

i. All businesses shall not use MWR facilities, such as craft shops or recreation centers to support their business.

j. All businesses shall not employ service members or Federal employees as agents, brokers, or salespersons. Businesses shall not give the appearance that they are part of the DOD or US Government, or that the DOD or US Government endorse the businesses services.

k. Normally, only the sale of goods and services not available from AAFES-Eur, FMWR, or NAFI activities will be authorized. However permission to operate an business may be granted even though the products or services offered are similar to those sold by AAFES-Eur, FMWR, or NAFI activities.

4. Special Considerations During Response to 2020 COVID-19 Pandemic:

a. All businesses engaging in commercial solicitation will follow all guidelines established by the HN and Garrison authorities concerning social distancing, group sizes, wear of protective masks, hours of operation, and any other restrictions placed on conduct, on or off-post.

b. It is the responsibility of all businesses to keep informed about all health protection measures in place. Any failure to strictly observe all guidance established by the Garrison or HN authorities for health protection could result in the suspension or revocation of authorization to engage in commercial solicitation. AER 210-70, para. 22.

5. The point of contact for this memorandum is the CPT Robert Duffie at DSN 591-3564 or robert.w.duffie.mil@mail.mil.

ROBERT W. DUFFIE
CPT, JA
Administrative Law Attorney