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Changes in force: C 1 and C 2

AR 600-50
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CHANGE
No. 2

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 31 March 1965

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF THE ARMY PERSONNEL

AR 600-50, 3 April 1964, is changed as follows:

8. Gratuities

d. Attendance at training courses offered by contractors. (Added) The principles in (1) through (5) below will serve as appropriate guidelines when Government contractors provide training, orientation, and refresher courses to Government personnel. These training courses range from "executive orientation" courses in which all expenses are borne by the contractor to annual seminars devoted to technical developments in which the only "gratuity" may be the giving of lectures free of charge.

- (1) When a course is given pursuant to a contractual undertaking with the Government, the course itself is not a gratuity. The furnishing of meals, lodging, and transportation to the extent required by the contract is likewise not a gratuity. However, the furnishing of same, or of entertainment and the like, if not required by the contract, does constitute a gratuity, if appropriate charge therefor is not made to the individual. If lodging, meals, transportation, and the like are furnished as a part of a contract, travel and other expenses otherwise chargeable to the Government will be appropriately reduced in accordance with applicable regulations.
- (2) Attendance at tuition-free nonacademic training or refresher courses, seminars, and the like offered by contractors (although not required to do so by the contract) may be authorized when attendance is clearly in the interest of the Government. Under such circumstances the training or instruction itself will not be regarded as a reportable gratuity as required in a(3) above.
- (3) Selection of personnel to attend such courses will be made by the Government and not by the contractor. Invitations to individuals to attend courses at the expense of the contractor may not be accepted.
- (4) Authorized attendance at such courses will be considered official business, with payment of applicable transportation and per diem as well as reimbursement for any tuition or other training expenses paid. Attendance will not be authorized if there is any doubt of the contractor's intention to impose appropriate charges for such meals, lodging, and entertainment as may be furnished in connection with the course.

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AR 600-50

C 2

- (5) The foregoing principles are in amplification of *a* through *c* above and the provisions thereof remain fully applicable to the conduct of those attending courses of any kind.

[DCSPER]

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

Official:

J. C. LAMBERT,
Major General, United States Army,
The Adjutant General.

Distribution:

Active Army, NG, and USAR: To be distributed in accordance with DA Form 12-9 requirements for Military Personnel, General—A and DA Form 12-4 requirements for Army Procurement Procedures Publications.

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June
S/S 1966

AR 600-50
*C 1

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT
OF THE ARMY PERSONNEL

No. 1

CHANGE

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 4 January 1965

AR 600-50, 3 April 1964, is changed as follows:

✓ So much of paragraph I A, appendix III-C, as reads "the prohibitions discussed in paragraph 17 and appendix III-A apply to him" is amended to read "the prohibitions discussed in paragraph 17 and appendix III-B apply to him."

So much of paragraph A, Appendix III-D, as reads ("Sec 18 U.S.C. 201") is amended to read ("Sec 18 U.S.C. 2)."

✓ 8. Gratuities. (Superseded) a. DA personnel will not accept any favor, gratuity, or entertainment directly or indirectly, from any person, firm, corporation, or other entity which is engaged, or is endeavoring to engage, in procurement activities or business transactions of any sort with any agency of the Department of Defense except as provided for in (1), (2), and (3) below. Favors, gratuities, or entertainment bestowed upon members of the immediate families of DA personnel are viewed in the same light as those bestowed upon DA personnel. Acceptance of entertainment, gifts, or favors (no matter how innocently tendered or received) from those who have or seek business dealings with the Department of Defense may be a source of embarrassment to the Department and to the personnel involved, may affect the objective judgment of the recipient and impair public confidence in the integrity of business relations between the Department and industry.

(1) In some circumstances the interests of the Government may be served by participation of DA personnel in widely attended lunches, dinners, and similar gatherings sponsored by industrial, technical, and professional associations for the discussion of matters of mutual interest to Government and industry. Participation by DA personnel is appropriate where the

host is the association and not an individual contractor. However, acceptance of entertainment or hospitality from private companies in connection with such association activities is prohibited.

(2) In some circumstances the interests of the Government may be served by participation of DA personnel in activities at the expense of individual Defense contractors. These activities include public ceremonies of mutual interest to industry, local communities, and the Department of Defense, such as the launching of ships or the unveiling of new weapons systems; industrial activities which are sponsored by or encouraged by the United States Government as a matter of United States Defense or economic policy, such as sales meetings to promote offshore sales involving foreign industrial groups or governments; and luncheons or dinners at a contractor's plant, on an infrequent basis, where the conduct of official business within the plant will be facilitated and where no provision can be made for individual payment.

(3) There may be a limited number of additional situations where, in the judgment of the individual concerned, the Government's interest would be served by participation by DA personnel in activities comparable to those enumerated in (1) and (2) above. In any such cases referred to in this subparagraph in which DA personnel accept any favor, gratuity, or entertainment directly or indirectly from any person, firm, corporation, or other entity which is engaged or is en-

⊙ This change supersedes DA message 935053, 28 November 1964, and DA message 996908, 15 December 1964.

deavoring to engage in business transactions of any sort with the Department of Defense, a written report will be prepared and forwarded within 48 hours. This report will be transmitted through the chain of command to the first command position occupied by an Army general officer superior to the person making the report. It will identify the favor, gratuity, or entertainment, when, where and from whom received and state the justification for acceptance.

b. A report pursuant to a(3) above is not required in connection with—

- (1) The receipt of calendars and other specialty advertising items of trivial intrinsic value.
- (2) Any gratuity furnished impersonally and without reference to DA status, for example, a free exhibition by a Defense contractor at a World's Fair, a trophy won in an athletic or similar competition, or a prize in a sales promotion contest.
- (3) Transactions between and among relatives which are personal, noncommercial, and consistent with the relationship.
- (4) Customary social amenities involving personal friends, when motivated by such friendship and extended on a personal, reciprocal basis, or engaged in by installa-

tion commanders and their staffs with local civilian leaders as part of the community relations program.

- (5) Acceptance of contractor-provided local transportation while on official business and when alternative arrangements are clearly impractical. (Any use of contractor-provided transportation when not on official business must be reported.)
- (6) Civic and community relations activities of DA personnel where the relationship with a Defense contractor can reasonably be characterized as remote, for example, participation in a Little League subsidized by a concern doing business with a nearby military post, or attendance at a Community Chest report luncheon paid for by a public utility.
- (7) Acceptance of trophies, entertainment, or other common rewards and prizes in any authorized competition confined to service personnel, for example, selection of the "Soldier of the Month", "NCO of the Year."
- (8) Meals, accommodations, instruction, and facilities furnished by any educational institution to its students or faculty members or to participants in a conference or seminar.

c. Procedures with respect to gifts from foreign governments are set forth in AR 672-5-1.

By Order of the Secretary of the Army:

Official:

J. C. LAMBERT,
Major General, United States Army,
The Adjutant General.

HAROLD K. JOHNSON,
General, United States Army,
Chief of Staff.

Distribution:

Active Army, NG, and USAR: To be distributed in accordance with DA Form 12-9 requirements for Military Personnel General—A plus DA Form 12-4 requirements for Army Procurement Procedures Publications.

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ARMY REGULATION
No. 600-50

Ch 1, 2,

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 3 April, 1964

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF THE ARMY PERSONNEL

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*This regulation supersedes AR 600-50, 18 April 1962, including C 1, 13 December 1962.

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Section I. GENERAL

1. Purpose and objectives. *a.* This regulation prescribes the standards of conduct, relating to possible conflict between private interests and official duties, required of all Department of Defense personnel, regardless of assignment. Close adherence to these principles will insure compliance with the high ethical standards demanded of all public servants. All military personnel will familiarize themselves thoroughly with this regulation. All civilian employees will familiarize themselves with the provisions set forth in CPR C2. Also all civilian employees in the Procurement field will familiarize themselves with the applicable provisions of this regulation pertaining to such activities.

b. This regulation is in consonance with the President's memorandum concerning Special Government Employees (app. II) and the Code of Ethics for Government Service contained in House Concurrent Resolution 175, 85th Congress, which applies to all Government personnel (app. IV).

c. This regulation includes standards of conduct based on the revisions of the conflict of interest laws enacted in 1962 (P.L. 87-777 and P.L. 87-849) (app. III).

2. Explanation of terms. *a.* "DOD personnel" as used in this regulation, unless the context indicates otherwise, means all civilian officers and employees of all the offices, agencies, and departments in the Department of Defense (including nonappropriated fund activities) and all officers and enlisted members of the Army, Navy, Air Force, and Marine Corps.

b. The term "DA personnel" as used in this regulation, unless the context indicates otherwise, means all civilian officers and employees in the Department of the Army (including nonappropriated fund activities) and all officers and enlisted members of the Army.

c. The term "military personnel" as used in this regulation, unless the context indicates otherwise, means all officers, warrant officers, and enlisted members of the Army on active duty.

d. The term "officer" as used in this regulation includes commissioned and warrant officers.

3. Ethical standards of conduct. *a. General.* DA personnel are bound to refrain from any private business or professional activity which would place them in a position where there is a conflict

between their private interests and the public interests of the United States. Even though a technical conflict, as set forth in the statutes cited in this regulation, may not exist, DA personnel must avoid the appearance of such a conflict, from a public confidence point of view. DA personnel will not engage in any private activity which involves the use of, or the appearance of the use of, inside information gained through a DA position for private gain for themselves, their families, or business associates. DA personnel must not use their DA positions in any way to induce, or give the appearance of inducing, another person to provide any financial benefit to themselves, or persons with whom they have family, business, or financial ties.

b. Dealing with present and former military and civilian personnel. DA personnel will not knowingly deal with military or civilian personnel, or former military or civilian personnel, of the Government, if such action will result in a violation of a statute or policy set forth in this regulation.

c. Presidential appointees. Executive Order 10939 of 5 May 1961, prescribing special standards for Presidential appointees and others, is self-explanatory (app. I).

4. Bribery and graft. In general, DA personnel may be subject to criminal penalties if they solicit, accept, or agree to accept anything of value in return for being influenced in performing or in refraining from performing an official act. (See 18 U.S.C. 201.)

5. Unauthorized release of procurement information. It is the individual responsibility of all personnel, both military and civilian, of the Department of the Army to refrain from releasing to any individual or any individual business concern or its representatives any preknowledge such personnel may possess or have acquired in any way concerning proposed procurements or purchases of supplies by any procuring activity of the Department of the Army. Such information will be released to all potential contractors as nearly simultaneously as possible and only through duly designated agencies, so that one potential source of supply may not be given an advantage over another. All dissemination of such information will be in accordance with existing authorized procedures and only in connection

with the necessary and proper discharge of official duties.

6. Selection and instruction of personnel assigned to procurement and related activities. *a.* The importance of the procurement function to the Department of the Army makes selection and instruction of procurement personnel a matter of major importance to appointing officials. Selected personnel are not only responsible for protecting the Government's interest but also for maintaining the reputation of the Department of the Army for honesty, courtesy, and fair dealings in all relations with contractors. All procurement and related activities personnel, military or civilian, must comply with the provisions of Title 10, United States Code, Chapter 137, the Armed Services Procurement Regulation (ASPR), the Army Procurement Procedure (APP), and the Department of the Army circulars, directives, and other publications pertinent thereto. Every person engaged upon procurement and related activities must at all times protect the interests of the Government.

b. A copy of this regulation will be furnished to individuals assigned to procurement and related activities in accordance with the distribution prescribed for the Army Procurement Procedures.

7. Unauthorized statements or commitments with respect to award of contracts. Only contracting officers and their duly authorized representatives acting within their authority are authorized to commit the Government with respect to award of contracts. Unauthorized discussion and commitments may place the Department of the Army in the position of not acting in good faith. Unauthorized personnel will refrain from making any commitment or promise relating to award of contracts and will make no representation which would be construed as such a commitment. Army personnel will not under any circumstances advise a business representative that an attempt will be made to influence another person or agency to give preferential treatment to his concern in the award of future contracts. Any person requesting preferential treatment will be informed by official letter that Department of Army contracts are awarded only in accordance with established contracting procedures.

8. Gratuities. *a.* DA personnel will not accept any favor, gratuity, or entertainment directly or indirectly, from any person, firm, corporation,

or other entity which has engaged, is engaged, or is endeavoring to engage in procurement activities or business transactions of any sort with any agency of the Department of Defense, where such favor, gratuity, or entertainment might affect, or might reasonably be interpreted as affecting, or give the appearance of affecting the objectivity and impartiality of such personnel in serving the Government. Favors, gratuities, or entertainment bestowed upon members of the immediate families of DA personnel are viewed in the same light as those bestowed upon DA personnel. Acceptance of entertainment, gifts, or favors (no matter how innocently tendered or received) from those who have or seek business dealings with the Department of Defense may be a source of embarrassment to the Department and to the personnel involved, may affect the objective judgment of the recipient, may impair public confidence in the integrity of business relations between the Department and industry, and must be discouraged.

b. The above is not intended to preclude the offer or acceptance, by the persons cited herein, of articles of nominal value conveyed as tokens or mementos of membership, as insignia of office, and as prizes and awards of competitive endeavors, incident to mutual participation of such military personnel and employees of the Government as voluntary members of private associations organized for purely social, recreational, professional, and/or fraternal purposes.

c. Procedures with respect to gifts from foreign governments are set forth in AR 672-5-1.

9. Prohibition of contributions or presents to superiors. No officer or employee in the U.S. Government employ shall at any time solicit contributions from other officers or employees in the Government service for a gift or present to those in a superior official position; nor shall any such officials or superiors receive any gift or present offered or presented to them as a contribution from persons in Government employ receiving a salary in an amount smaller than their own; nor shall any officer or employee make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ (R.S. 1784; 5 U.S.C. 113).

10. Use of Government facilities, property, and manpower. *a. General.* Government facilities,

property, and manpower, such as stenographic and typing assistance, mimeograph services, and chauffeur services, shall be used only for official Government business. This restriction is not intended to preclude the use of Government facilities for activities which would further military-community relations provided they do not interfere with the military missions.

b. Special mission aircraft. Special mission aircraft will be used only for official purposes in the implementation of projects or missions involving their use, approved by the Secretary of the Army or the Chief of Staff. See AR 96-20.

c. Use of motor vehicles.

(1) Full-time assignment of official vehicles to officials of the Department of the Army at the seat of Government will be subject to the approval of the Secretary of Defense or the Deputy Secretary of Defense. Full-time assignments at Department of Army field installations will be subject to the approval of the Secretary of the Army.

(2) DA personnel authorized full-time use of official vehicles will not use such vehicles for other than the actual performance of official duties.

11. Use of civilian and military titles in connection with commercial enterprises. *a.* All civilian personnel, and military personnel on active duty, are prohibited from using their civilian and military titles or positions in connection with any commercial enterprise or in endorsing any commercial product. For the purpose of this paragraph, the term "commercial enterprise" includes any organization other than a nonprofit or charitable organization which is exempt from Federal income taxation because it comes within subsection (1), (3), (4), (6), (7), (8), (9), (10), (11), (13), or (14) of section 501(c) of the Internal Revenue Code of 1954, as amended (26 U.S.C. 501). No civilian person and no military person on extended active duty will use his civilian or military title or position in connection with any organization unless he first determines from the organization involved that it is exempt from taxation under one of the above subsections of the Internal Revenue Code. The foregoing shall not be deemed to preclude publication by such personnel of books or articles which identify them as author by reference to their military or civilian

title or position, provided that publication of such material has been cleared under existing DOD procedures. See AR 360-5.

b. All retired military personnel and all members of Reserve Components, not on active duty, are permitted to use their military titles in connection with commercial enterprises. Such use of military titles shall in no way cast discredit on the military services or the Department of Defense. Such use is prohibited in connection with commercial enterprises when such use with or without the intent to mislead, gives rise to any appearance of sponsorship, sanction, endorsement, or approval by the Department of the Army or the Department of Defense. The Department of the Army may restrict retired personnel and members of Reserve Components, not on active duty, from using their military titles in connection with public appearances in overseas areas.

12. Outside employment of DA personnel.

a. DA personnel shall not engage in private outside employment, with or without compensation, which:

- (1) Interferes with the performance of their Government duties.
- (2) May reasonably be expected to bring discredit upon the government or the agency concerned.
- (3) Is inconsistent with paragraph 3a.

b. No enlisted member of the armed forces on active duty may be ordered or permitted to leave his post to engage in a civilian pursuit or business, or a performance in civil life, for emolument, hire, or otherwise, if the pursuit, business, or performance interferes with the customary or regular employment of local civilians in their art, trade, or profession.

c. Active duty military personnel who are engaged in outside employment as agents for the sale of any commodity are governed by the provisions of paragraph 51, AR 210-10.

d. No officer or enlisted person on the active list of the Army, or civilian employee of the Department of the Army, will act as a consultant for a private commercial enterprise with regard to any matter in which the Government is interested, with the following exceptions:

- (1) Literary activities as provided in AR 360-5.
- (2) Service without remuneration in an advisory capacity, e.g., member of a board

of directors, officer of an association, etc., to a publication which is or may be issued by or for any branch or organization of the Army or military association. Other service on the staff of such a publication which accepts paid advertising is prohibited.

e. Installation commanders will prohibit the use of military personnel or civilian employees of the Army, during normal working hours, in conducting cooperatives which operate in competition with civilian enterprises. This provision does not preclude the use of personnel where authorized for those nonappropriated funds and activities prescribed by AR 230-5. The provisions of this paragraph are not applicable to members of the Reserve Components who are not on active duty and who are not employees of the Army.

f. For regulations applicable to the outside employment of civilian personnel, see paragraph 2-2, CPR C 2.

13. Information to personnel. *a.* Appropriate action will be taken to insure that new DA personnel are informed of the standards of conduct specified in this regulation and CPR C 2 upon employment, or entry on duty. Appropriate action also will be taken to bring these standards

of conduct to the attention of all personnel at least semiannually.

b. Major commanders will provide for the designation of an official or office in each command or installation from whom military or civilian personnel may obtain additional clarification of standards of conduct and related laws, rules, and regulations. All personnel will be advised of such designation.

c. Questions which cannot be resolved by a legal office will be referred, with recommendations, through channels to higher authority. The General Counsel of the Department of the Army, Office of the Secretary of the Army, is responsible for proper coordination and final disposition of all problems relating to conflict of interest.

14. Reporting suspected violations. DA personnel who have information which causes them to believe that there has been a violation of a statute or policy set forth in this regulation will promptly report such incidents to their immediate superiors. If the superior believes there has been a violation, he will report the matter for further action in accordance with existing procedures. Any question or doubt on the part of the immediate superior will be resolved in favor of reporting the matter.

Section II. CONFLICT OF INTEREST LAWS

15. Full-time officers and employees. *a.* The term "full-time officer or employee" includes all civilian officers and employees, and all military officers on active duty, except those who are "special Government employees" (par. 16). It does not include enlisted personnel.

b. Prohibitions. Appendix III-A contains a discussion of these criminal laws and the exemptions therefrom. In general, a full-time officer or employee is subject to the following major prohibitions:

- (1) He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter in which the United States is a party or has an interest. This prohibition applies both to paid and unpaid representation of another. (See 18 U.S.C. 203 and 205.)

- (2) He may not receive any salary, or supplementation of his Government salary, from a private source as compensation for his services to the Government. (See 18 U.S.C. 209.)

- (3) He may not participate in his Governmental capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment, has a financial interest. (See 18 U.S.C. 208.) Instead of participating in such a matter he must promptly disqualify himself in accordance with *d* below, except as provided in *c* below.

c. Nondisqualifying financial interest. A full-time officer or employee need not disqualify himself under *b*(3) above, if his financial holdings are in shares of a widely held diversified mutual fund or regulated investment company.

Note. The indirect interests in business entities which the holder of shares in a widely held diversified mutual fund or regulated investment company derives from ownership by the fund or investment company of stocks in business entities have been exempted from the provisions of 18 U.S.C. 208a, in accordance with the provisions of 18 U.S.C. 208b(2) as being too remote or inconsequential to affect the integrity of the Government officers' or employees' services.

d. Disqualification procedures.

- (1) In any case where a full-time officer or employee must disqualify himself under b(3) above, he will promptly notify his immediate superior thereof and make a full disclosure of the financial interest. The superior will thereupon relieve him from his duty and responsibility in the matter, unless the Government official responsible for his appointment makes a written advance determination that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from the officer or employee. The original copy of such written determination will be made a matter of permanent record and will become a part of the Official Civilian Personnel Folder or the military officer's Personnel Records Jacket.
- (2) In the case of a military officer or a civilian employee, the "official responsible for his appointment" shall, for the purpose of this paragraph, be his superior, or such other person as the installation commander may designate, who is a full-time officer or employee serving in the grade of major, or GS-12 or higher. The designation, authorized to be made by installation commanders in the previous sentence, may be made by directors or heads of comparable offices in the Office of the Secretary of the Army and in Headquarters, Department of the Army, for personnel assigned to their respective offices.
- (3) In addition, where a superior thinks anyone responsible to him may have a disqualifying interest, he will discuss the matter with that person and, if he finds such an interest does exist, he will

relieve the person of duty and responsibility in the particular matter.

- (4) In cases of disqualification under this paragraph, the matter will be reassigned for decision and action to someone else who is not subordinate to the disqualified person.

16. Special Government employees. *a.* The term "special Government employee" includes an officer or employee who is retained, designated, appointed, or employed to perform with or without compensation, for not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. (See 18 U.S.C. 202.) The term also includes a Reserve officer while on active duty solely for training for any length of time, one who is serving on active duty involuntarily for any length of time, and one who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

b. Prohibitions. Appendix II contains a detailed discussion of these criminal laws. In general, a special Government employee is subject to the following major prohibitions:

- (1) He may not, except in the discharge of his official duties represent anyone else:
 - (a) Before a court or Government agency in a matter in which the United States is a party or has an interest and in which he has at any time participated personally and substantially for the Government. (See 18 U.S.C. 203 and 205.)
 - (b) In a matter pending before the agency he serves unless he has served there no more than 60 days during the past 365. (See 18 U.S.C. 203 and 205.) He is bound by this restraint despite the fact that the matter is not one in which he has ever participated personally and substantially.
- Note.* The restrictions described in (a) and (b) above apply to both paid and unpaid representation of another.
- (2) He may not participate in his Government capacity in any matter in which he, his spouse, minor child, outside business associate or person with whom he is negotiating for employment, has a financial interest. (See 18 U.S.C.

208.) Instead of participating in such a matter, he must promptly disqualify himself in accordance with paragraph 15*d*, except as provided in paragraph 15*c*.

- (3) After his Government employment has ended, he is subject to the prohibitions in paragraph 17*b* as a "former employee." (See 18 U.S.C. 207.)

17. Former officers or employees. *a.* The term "former officer or employee" includes those full-time civilian officers or employees who have left Government service, special Government employees who have left Government service, retired Regular officers and Reserve officers released from active duty. It does not include enlisted personnel.

b. Prohibited activities. Appendix III-B contains a more detailed discussion of the criminal law. In general, a former officer or employee is subject to the following major prohibitions:

- (1) He may not, at any time after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and in which he participated personally and substantially for the Government. (See 18 U.S.C. 207(a).)
- (2) He may not, for 1 year after his Government employment has ended, represent anyone other than the United States in connection with a matter in which the United States is a party or has an interest and which was within the boundaries of his official responsibility during the last year of his Government service. (See 18 U.S.C. 202(b) and 207(b).) This temporary restraint, of course, gives way to the permanent restriction described in (1) above if the matter is one in which he participated personally and substantially.

18. Retired Regular officers. *a. Prohibitions.* Appendix III-C contains a summary of the laws applicable to retired Regular officers. In general, a retired Regular Army officer is subject to the following major prohibitions:

- (1) As an officer whose "employment has ceased," he may not engage in the prohibited activities listed in paragraph 17. (See 18 U.S.C. 207.)

(2) He may not, at any time, assist in prosecuting a claim against the United States if he worked on that claim while on active duty. (See 18 U.S.C. 283.)

(3) He may not, within 2 years after his retirement, assist in prosecuting a claim which involves the Department in whose service he holds a retired status. (See 18 U.S.C. 283.)

(4) He may not, at any time, sell anything to the Department in whose service he holds a retired status. (See 18 U.S.C. 281.)

(5) He may not, within 3 years after retirement, sell supplies or war materials to any agency of the DOD, the Coast Guard, the Coast and Geodetic Survey, or the Public Health Service. (See 37 U.S.C. 801(c), as amended 9 October 1962, P.L. 87-777, formerly 5 U.S.C. 59(c).) (See definition of "Selling," app. III-C.)

b. Required statement of employment. Each Regular retired Army officer will file a "Statement of Employment," DD Form 1357. Each Regular officer retiring hereafter will file this Statement within 30 days after retirement. When the information in the Statement is no longer accurate, each such officer shall file a new Form 1357. Statements of Employment (DD Form 1357) or inquiries relative thereto should be forwarded to The Adjutant General, ATTN: AGPO-ER, Department of the Army, Washington, D.C., 20310. These Statements will be reviewed to assure compliance with applicable statutes and regulations.

19. Officers of the Reserve Components. *a.* A Reserve officer who is voluntarily serving a period of extended active duty in excess of 130 days is a full-time Government officer and paragraph 15 applies to him.

Exception. Any Reserve who, before being ordered to active duty, was receiving compensation from any person may, while he is on that duty, receive compensation from that person. (See 10 U.S.C. 1033.)

b. A Reserve officer who is serving on active duty involuntarily for any length of time, and a Reserve officer who is voluntarily serving on extended active duty for 130 days or less, is a "special Government employee," and paragraph 16 applies to him.

c. A Reserve officer (unless otherwise a full-time officer or employee of the United States) who is on active duty solely for training for any length of time is a "special Government employee," and paragraph 16 applies to him.

d. When he is released from active duty, a Reserve officer described in *a*, *b*, or *c* above is a "former officer" and paragraph 17 applies to him.

e. Membership in a Reserve Component of the Armed Forces or in the National Guard does not, in itself, prevent a person from practicing his civilian profession or occupation before or in connection with any department. (See 5 U.S.C. 30r (c), (d).)

f. An officer of a Reserve Component, whether in a Ready, Standby, or Retired Reserve, who is not on active duty is not, solely because of his status as a Reserve, considered to be an officer or employee of the United States for the purpose of bringing him within the prohibitions summarized in paragraphs 15, 16, or 17. (See 5 U.S.C. 30r (c), (d).)

g. Receipt of retired pay by a Reserve or a former Reserve does not, in itself, make him an officer or employee or a former officer or employee for the purpose of bringing him within the prohibitions summarized in paragraphs 15, 16, or 17. Paragraph 18 does not apply to a Retired Reserve.

IMMEDIATE RELEASE

APPENDIX I

May 5, 1961

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER

10939

TO PROVIDE A GUIDE ON ETHICAL STANDARDS TO GOVERNMENT OFFICIALS

WHEREAS the maintenance of high ethical and moral standards in the conduct of the functions of the Federal Government is a matter of continuing concern; and

WHEREAS it is incumbent upon those who occupy positions of the highest responsibility and authority to set an impeccable example:

NOW, THEREFORE, by virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

1. This Order shall apply to all heads and assistant heads of departments and agencies, full-time members of boards and commissions appointed by the President, and members of the White House Staff.

2. No such official shall engage in any outside employment or other outside activity not compatible with the full and proper discharge of the responsibilities of his office or position. It shall be deemed incompatible with such discharge of responsibilities for any such official to accept any fee, compensation, gift, payment of expenses, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of, resulting in:

- (a) Use of public office for private gain;
- (b) An undertaking to give preferential treatment to any person;
- (c) Impeding government efficiency or economy;
- (d) Any loss of complete independence or impartiality;
- (e) The making of a Government decision outside official channels; or
- (f) Any adverse effect on the confidence of the public in the integrity of the Government.

3. No such official shall receive compensation or anything of monetary value, other than that to which he is duly entitled from the Government, for the performance of any activity during his services as such official and within the scope of his official responsibilities.

4. No such official shall receive compensation or anything of monetary value for any consultation, lecture, discussion, writing or appearance the subject matter of which (a) is devoted substantially to the responsibilities, programs or operations of the official's department or agency, or (b) draws substantially upon official data or ideas which have not become part of the body of public information.

5. Paragraphs 3 and 4 of this Order shall not preclude

- (a) Receipt of bona fide reimbursement, to the extent permitted by law, for actual expenses for travel and such other necessary subsistence as is compatible with this directive and in which no government payment or reimbursement is made; provided, however, that there shall be no reimbursement or payment on behalf of the official for entertainment, gifts, excessive personal living expenses, or other personal benefits;

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- (b) Participation in the affairs of charitable, religious, non-profit educational, public service or civic organizations, or the activities of national or state political parties not proscribed by law;
- (c) Awards for meritorious public contribution given by public service or civic organizations.

6. Each department and agency head shall review or issue internal directives appropriate to his department or agency to assure the maintenance of high ethical and moral standards therein.

7. Nothing in this Order shall be construed to supersede, alter, or interpret any existing law or regulation.

JOHN F. KENNEDY

THE WHITE HOUSE

May 5, 1961.

APPENDIX II

Presidential Documents

Title 3—THE PRESIDENT

Memorandum of May 2, 1963

[PREVENTING CONFLICTS OF INTEREST ON THE PART OF SPECIAL GOVERNMENT EMPLOYEES]

Memorandum to the Heads of Executive Departments and Agencies

INTRODUCTION

Over the past twenty or more years departments and agencies of the Government have made increasing use of temporary or intermittent consultants and advisers who serve individually or on advisory bodies. The employment of highly skilled persons on a temporary or intermittent basis is in the interest of the Government and provides it with an indispensable source of expert advice and knowledge. However, since such persons have their principal employment outside the Government, conflict of interest problems arise from time to time.

More particularly, many persons serving the Government temporarily or intermittently are individuals with specialized scientific knowledge and skills whose regular work is in industry, research institutes or educational institutions. An individual employed by a university may act as an intermittent consultant not only for the Government but for a private firm and either his university or the firm or both may be engaged in work for or supported by the Government. A consultant to the Government may have other financial connections with firms doing business with the Government in the general area of his expertise and, therefore, his consultancy. The many possible interrelationships between a consultant's service to the Government and his own and his employer's or client's financial interests demonstrate that conflicts problems may often arise.

The temporary or intermittent adviser or consultant and the department or agency which employs him both must be alert to the possibility of conflicts. It is, of course, incumbent upon the adviser or consultant to familiarize himself with the laws and regulations which are applicable to him. The responsibility of the department or agency is equally great. It is important that it oversee his activities in order to insure that the public interest is protected from improper conduct on his part and that he will not, through ignorance or inadvertence, embarrass the Government or himself. It must assist him to understand the pertinent laws and regulations. It must obtain from him such information concerning his financial interests as is necessary to disclose possible conflicts. It must take measures to avoid the use of his services in any situation in which a violation of law or regulation is likely to occur. And it must take prompt and proper disciplinary or remedial action when a violation, whether intentional or innocent, is detected.

Prior to January 21, 1963, the date on which P.L. 87-849 (76 Stat. 1119) came into force, the restraints imposed by the conflict of interest laws on temporary or intermittent employees of the United States were largely the same as those imposed on persons regularly employed by the Government. However, in enacting P.L. 87-849, Congress recognized that these restraints were unduly restrictive, as applied to temporary and intermittent employees, and hindered the Government in obtaining expert services for special needs. Congress dealt with these difficulties in the new statute by establishing a category of persons designated "special Government employees," and by making the restrictions imposed upon their private activities considerably less extensive than those applied to regular employees.

The term "special Government employee" is defined in new section 202 of Title 18, United States Code, which was enacted as a part of P.L. 87-849. The term includes, among others, officers and employees of the departments and agencies, including the District of Columbia, who are retained, des-

ignated, appointed or employed to serve, with or without compensation, for not more than 130 days during any period of 365 consecutive days, either on a full-time or intermittent basis, under any type of appointment of whatever duration.

The enactment of P.L. 87-849 has made it necessary for the departments and agencies utilizing temporary or intermittent personnel to revise their conflict of interest regulations with regard to such personnel. While the problems arising from the employment of such personnel will undoubtedly vary from one Government organization to another, and different regulations may in some instances be appropriate or necessary, I believe it is desirable to achieve the maximum uniformity possible in order to insure general standards of common application throughout the Government. This memorandum is designed to achieve that purpose. It supersedes my Memorandum of February 9, 1962 to the Heads of Executive Departments and Agencies, entitled "Preventing Conflicts of Interest on the Part of Advisers and Consultants to the Government" (27 F.R. 1341), which is hereby rescinded.

CONFLICT OF INTEREST STATUTES

P.L. 87-849 repealed the six basic conflict of interest laws which were discussed in my Memorandum of February 9, 1962, and replaced them with six new sections of Title 18 numbered 202, 203, 205, 207, 208 and 209. Sections 203 and 205 contain prohibitions affecting the activities of Government employees in their private capacities. As already noted, the prohibitions applicable to special Government employees are less stringent than those which affect regular employees—*i.e.*, those who are appointed to serve more than 130 days a year. Section 207 contains prohibitions affecting the activities of persons who leave the service of the Government. It applies with the same force to former special Government employees as to former regular employees. Section 208 sets forth a restriction on the activities of a Government employee in performing his functions as such. This section also applies with the same force to both categories of employees. Section 209, which prohibits a regular employee's receipt of compensation from private sources in certain circumstances, specifically excludes special Government employees from its coverage.

The new sections are set forth in full in the appendix to this memorandum. It will be noted that all but 18 U.S.C. 202, which is devoted to the definition of terms, carry criminal penalties. The restraints imposed by the four criminal sections which are applicable to temporary and intermittent advisers or consultants, and to other persons falling within the definition of a special Government employee, are considered below.

18 U.S.C. 203 and 205. These two sections in general operate to preclude a regular Government employee, except in the discharge of his official duties, from representing another person before a department, agency or court, whether with or without compensation, in a matter in which the United States is a party or has a direct and substantial interest. However, the two sections impose only the following major restrictions upon a special Government employee:

1. He may not, except in the discharge of his official duties, represent anyone else before a court or Government agency in a matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he has at any time participated personally and substantially in the course of his Government employment.

2. He may not, except in the discharge of his official duties, represent anyone else in a matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and which is pending before the agency he serves. However, this restraint is not applicable if he has served the agency no more than 60 days during the past 365. He is bound by the restraint, if applicable, regardless of whether the matter is one in which he has ever participated personally and substantially.

These restrictions prohibit both paid and unpaid representation and apply to a special Government employee on the days when he does not serve the Government as well as on the days when he does.

Each department and agency should observe the following rules in obtaining and utilizing the services of a consultant, adviser or other temporary or intermittent employee:

(a) At the time of his original appointment and the time of each appointment thereafter, the department or agency should make its best estimate of the number of days during the following 365 on which it will require the services of the appointee. A part of a day should be counted as a full day for the purposes of this estimate, and a Saturday, Sunday or holiday on which duty is to be performed should be counted equally with a regular work day.

(b) Unless otherwise provided by law, an appointment should not extend for more than 365 days. In cases where an appointment extends beyond that period, an estimate as required by paragraph (a) should be made at the inception of the appointment and a new estimate at the expiration of each 365 days thereafter.

(c) If a department or agency estimates, pursuant to paragraph (a) or (b), that an appointee will serve more than 130 days during the ensuing 365, the appointee should not be carried on the rolls as a special Government employee and the department or agency should instruct him that he is regarded as subject to the prohibitions of sections 203 and 205 to the same extent as if he were to serve as a full-time employee. If the estimate is that he will serve no more than 130 days during the following 365 days, he should be carried on the rolls of the department or agency as a special Government employee and instructed that he is regarded as subject only to the restrictions of sections 203 and 205 described in paragraphs 1 and 2 above. Even if it becomes apparent, prior to the end of a period of 365 days for which a department or agency has made an estimate with regard to an appointee, that he has not been accurately classified, he should nevertheless continue to be deemed a special Government employee or not, as the case may be, for the remainder of that 365-day period.

(d) An employee who undertakes service with two departments or agencies shall inform each of his arrangements with the other. If both his appointments are made on the same date, the aggregate of the estimates made by the departments or agencies under paragraph (a) or (b) shall be deemed determinative of his classification by each. Notwithstanding anything to the contrary in paragraphs (a), (b) or (c), if after being employed by one department or agency, a special Government employee is appointed by a second to serve it in the same capacity, each department or agency should make an estimate of the amount of his service to it for the remaining portion of the 365-day period covered by the original estimate of the first. The sum of the two estimates and of the actual number of days of his service to the first department or agency during the prior portion of such 365-day period shall be deemed determinative of the classification of the appointee by each during the remaining portion. If an employee undertakes to serve more than two departments or agencies, they shall classify him in a manner similar to that prescribed in this paragraph in the case of two agencies. Each agency which employs special Government employees who serve other agencies shall designate an officer to coordinate the classification of such employees with such other agencies.

(e) In the case of a person who is serving as a member of an advisory committee, board or other group, and who is by virtue of his membership thereon an officer or employee of the United States, the requirements of paragraphs (a), (b), (c) and (d) should be carried out to the same extent as if he were serving the sponsoring department or agency separately and individually.

(f) The 60-day standard affecting a special Government employee's private activities before his department or agency is a standard of actual past service, as contrasted with the 130-day standard of estimated future service discussed above. As appears from paragraph 2 above, a special Government employee is barred from representing another person before his department or agency at times when he has served it for an aggregate of more than 60 days during the past 365. Thus, although once having been in effect, the statutory bar may be lifted later by reason of an intervening period of non-service. In other words, as a matter of law the bar may fluctuate in its effect during the course of a special Government employee's relationship with his department or agency.

(g) A part of a day should be counted as a full day in connection with the 60-day standard discussed in paragraph (f), above, and a Saturday, Sunday or holiday on which duty has been performed should be counted equally with a regular work day. Service performed by a special Government employee in one department or agency should not be counted by another in connection with the 60-day standard.

To a considerable extent the prohibitions of sections 203 and 205 are aimed at the sale of influence to gain special favors for private businesses and other organizations and at the misuse of governmental position or information. In accordance with these aims, it is desirable that a consultant or adviser or other individual who is a special Government employee, even when not compelled to do so by sections 203 and 205, should make every effort in his private work to avoid any personal contact with respect to negotiations for contracts or grants with the department or agency which he is serving if the subject matter is related to the subject matter of his consultancy or other service. I recognize that this will not always be possible to achieve where, for example, a consultant or adviser has an executive position and responsibility with his regular employer which requires him to participate personally in contract negotiations with the department or agency he is advising. Whenever this is the case the consultant or adviser should participate in the negotiations for his employer only with the knowledge of a responsible government official. In other instances an occasional consultant or adviser may have technical knowledge which is indispensable to his regular employer in his efforts to formulate a research and development contract or a research grant and, for the same reason, it is in the interest of the Government that he should take part in negotiations for his private employer. Again, he should participate only with the knowledge of a responsible Government official.

Section 205 contains an exemptive provision dealing with a similar situation which may arise *after* a Government grant or contract has been negotiated. This provision in certain cases permits both the Government and the private employer of a special Government employee to benefit from his performance of work under a grant or contract for which he would otherwise be disqualified because he had participated in the matter for the Government or it is pending in an agency he has served more than 60 days in the past year. More particularly, the provision gives the head of a department or agency the power, notwithstanding any prohibition in either section 203 or 205, to allow a special Government employee to represent before such department or agency either his regular employer or another person or organization in the performance of work under a grant or contract. As a basis for this action, the department or agency head must first make a certification in writing, published in the FEDERAL REGISTER, that it is required by the national interest.

Section 205 contains three other exemptive provisions, all of which apply to both special and regular Government employees. The first permits one Government employee to represent another, without compensation, in a disciplinary, loyalty or other personnel matter. The second permits a Government employee to represent, with or without compensation, a parent, spouse, child, or person or estate he serves as a fiduciary, but only if he has the approval of the official responsible for appointments to his position and the matter involved is neither one in which he has participated personally or substantially nor one under his official responsibility. The term "official responsibility" is defined in 18 U.S.C. 202 to mean, in substance, the direct administrative or operating authority to control Government action. The third provision removes any obstacle in section 205 to a Government employee's giving testimony under oath or making statements required to be made under penalty for perjury or contempt.

18 U.S.C. 207. Section 207 applies to individuals who have left Government service, including former special government employees. It prevents a former employee from representing another person in connection with certain matters in which he participated personally and substantially on behalf of the Government. The matters are those involving a specific party or parties in which the United States is also a party or has a direct and substantial interest. In addition, section 207 prevents a former employee, for a period of one year after his employment has ceased, from appearing personally for another person in such matters before a court, department or agency if the matters were within the area of his official responsibility at any time during the last year of his Government service. It should be noted that a consultant or adviser usually does not have "official responsibility."

For the purposes of section 207, the employment of a special Government employee ceases on the day his appointment expires or is otherwise terminated, as distinguished from the day on which he last performs service.

18 U.S.C. 208. This section bears on the activities of Government personnel, including special Government employees, in the course of their official duties. In general, it prevents a Government

employee from participating as such in a particular matter in which, to his knowledge, he, his spouse, minor child, partner, or a profit or non-profit enterprise with which he is connected has a financial interest. However, the section permits an employee's agency to grant him an *ad hoc* exemption if the interest is not so substantial as to affect the integrity of his services. Insignificant interests may also be waived by a general rule or regulation. Whether an agency should issue a general rule or regulation and, if it does so, what standards it should set are questions which should be resolved by each agency in the context of its particular responsibilities and activities.

The matters in which special Government employees are disqualified by section 208 are not limited to those involving a specific party or parties in which the United States is a party or has an interest, as in the case of sections 203, 205 and 207. Section 208 therefore undoubtedly extends to matters in addition to contracts, grants, judicial and quasi-judicial proceedings, and other matters of an adversary nature. Accordingly, a special Government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by the section. However, the power of exemption may be exercised in this situation if the special Government employee renders advice of a general nature from which no preference or advantage over others might be gained by any particular person or organization. The power of exemption may of course be exercised also where the financial interests involved are minimal in value.

ETHICAL STANDARDS OF CONDUCT

Aside from the conflict of interest laws, there are elementary rules of ethics in the conduct of the public business by which all those who serve the Government are bound. That an individual may serve the Government only occasionally and for brief periods does not relieve him from the obligation to abide by those rules. That he may be needed to bring rare or specialized talents and skills to the Government does not mean that he should be considered for a waiver. The people of the nation are entitled to ethical behavior of the highest order in the conduct of their Government's affairs, from the occasional employee no less than from career personnel.

Although any discussion of standards of ethics is of course applicable to all special Government employees, it is especially important in connection with the work of advisers and consultants. The following remarks are therefore concerned with them in particular.

Inside Information. The first principle of ethical behavior for the temporary or intermittent consultant or adviser is that he must refrain from any use of his public office which is motivated by, or gives the appearance of being motivated by, the desire for private gain for himself or other persons, including particularly those with whom he has family, business or financial ties. The fact that the desired gain, if it materializes, will not take place at the expense of the Government makes his action no less improper.

An adviser or consultant must conduct himself in a manner devoid of the slightest suggestion that he is exploiting his Government employment for private advantage. Thus, a consultant or adviser must not, on the basis of any inside information, enter into speculation, or recommend speculation to members of his family or business associates, in commodities, land or the securities of any private company. He must obey this injunction even though his duties have no connection whatever with the Government programs or activities which may affect the value of such commodities, land or securities. And he should be careful in his personal financial activities to avoid any appearance of acting on the basis of information obtained in the course of his Government work.

It is important for consultants and advisers to have access to Government data pertinent to their duties and to maintain familiarity with the Government's plans and programs and the requirements thereof, within the area of their competence. Since it is frequently in the Government's interest that information of this nature be made generally available to an affected industry, there is generally no impropriety in a consultant's or adviser's utilizing such information in the course of his non-Government employment after it has become so available. However, a consultant or adviser may, in addition, acquire information which is not generally available to those outside the Government. In that event,

he may not use such information for the special benefit of a business or other entity by which he is employed or retained or in which he has a financial interest.

In order to avoid any actual or potential abuse of information by a consultant or adviser, departments and agencies should, through information programs, make every effort to insure to the maximum extent possible that all firms within an industry have access to the same information that is available to a consultant or adviser who is employed by any of them. In addition, regular Government employees should avoid divulging confidential information to him unnecessary to the performance of his governmental responsibility, or information which directly involves the financial interests of his employer. Consultants and advisers should be instructed that information not generally available to private industry must remain confidential in their hands, and must not be divulged to their private employers or clients. In cases of doubt they should be encouraged to confer with the chief legal officer or other designated agency official who can assist in the identification of information not generally available and in the resolution of any actual or potential conflict between duties to the Government and to private employers or clients.

Occasionally an individual who becomes a Government consultant or adviser is, subsequent to his designation as such, requested by a private enterprise to act in a similar capacity. In some cases the request may give the appearance of being motivated by the desire of the private employer to secure inside information. Where the consultant or adviser has reason to believe that the request for his services is so motivated, he should make a choice between acceptance of the tendered private employment and continuation of his Government consultancy. In such circumstances he may not engage in both. Furthermore, he should discuss any such offer of private employment with the chief legal officer of his Government agency whether or not he accepts it.

At times a private enterprise or other organization urges the appointment of one of its employees or members to a particular Government consultancy. The departments and agencies should discourage this practice. Any initiative in connection with the appointment of consultants, or in securing the names of qualified persons, should come from the Government.

Abuse of Office. An adviser or consultant shall not use his position in any way to coerce, or give the appearance of coercing, another person to provide any financial benefit to him or persons with whom he has family, business or financial ties.

Gifts. An adviser or consultant shall not receive or solicit any thing of value as a gift, gratuity, or favor for himself or persons with whom he has family, business or financial ties if the acceptance thereof would result in, or give the appearance of resulting in, his loss of complete independence or impartiality in serving the Government.

INDUSTRY, LABOR, AGRICULTURAL OR OTHER REPRESENTATIVES

It is occasionally necessary to distinguish between consultants and advisers who are special Government employees and persons who are invited to appear at a department or agency in a representative capacity to speak for firms or an industry, or for labor or agriculture, or for any other recognizable group of persons, including on occasion the public at large. A consultant or adviser whose advice is obtained by a department or agency from time to time because of his individual qualifications and who serves in an independent capacity is an officer or employee of the Government. On the other hand, one who is requested to appear before a Government department or agency to present the views of a non-governmental organization or group which he represents, or for which he is in a position to speak, does not act as a servant of the Government and is not its officer or employee. He is therefore not subject to the conflict of interest laws and is not within the scope of this memorandum. However, the section of this memorandum headed "Ethical Standards of Conduct" sets forth rules of ethics by which he should be guided even though not in the status of a Government official, and the agency before which he appears should call that section to his attention.

The following principles are useful in arriving at a determination whether an individual is acting before an agency in a representative capacity:

(1) A person who receives compensation from the Government for his services as an adviser or consultant is its employee and not a representative of an outside group. However, the Government's payment of travel expenses and a *per diem* allowance does not by itself make the recipient an employee.

(2) It is rare that a consultant or adviser who serves alone is acting in a representative capacity. Those who have representative roles are for the most part persons serving as members of an advisory committee or similar body utilized by a Government agency. It does not follow however that the members of every such body are acting as representatives and are therefore outside the range of the conflict of interest laws. This result is limited to the members of committees utilized to obtain the views of non-governmental groups or organizations.

(3) The fact that an individual is appointed by an agency to an advisory committee upon the recommendation of an outside group or organization tends to support the conclusion that he has a representative function.

(4) Although members of a governmental advisory body who are expected to bind outside organizations are no doubt serving in a representative capacity, the absence of authority to bind outside groups does not require the conclusion that the members are Government employees. What is important is whether they function as spokesmen for non-governmental groups or organizations and not whether they can formally commit them.

(5) Where an adviser or consultant is in a position to act as a spokesman for the United States or a government agency—as, for example, in an international conference—he is obviously acting as an officer or employee of the Government.

ADMINISTRATIVE STEPS

All departments and agencies of the Government shall

(1) bring this memorandum to the attention of all special Government employees who serve them as advisers or consultants, of such other special Government employees as they may determine and of all regular employees who supervise such advisers, consultants and others;

(2) review their existing rules and regulations and make appropriate revisions or issue new rules and regulations to promote the policies set forth in this memorandum; and

(3) take such other measures as may be appropriate to impress upon the consultants, advisers and other special Government employees referred to in subdivision (1), and upon Government officials with whom they work, that they have a responsibility to avoid situations in which a potential conflict of interest may exist. These individuals should also be cautioned to avoid situations in which a special Government employee might be thought to be influencing governmental action in matters with regard to which he has a financial or other personal interest, or to be using inside information for private gain.

While it would be highly desirable, in order to minimize the occurrence of conflicts of interest, for departments and agencies of the Government to avoid appointing to advisory positions individuals who are employed or consulted by contractors or others having a substantial amount of business with that department or agency, I recognize that the Government has, of necessity, become increasingly concerned with highly technical areas of specialization and that the number of individuals expert in those areas is frequently very small. Therefore, in many instances it will not be possible for a department or agency to obtain the services of a competent adviser or consultant who is not in fact employed or consulted by such contractors. In addition, an advisory group may of necessity be composed largely or wholly of persons of a common class or group whose employers may benefit from the advice given. An example would be a group of university scientists advising on research grants to universities. Only in such a group can the necessary expertise be found. In all these circumstances, particular care should be exercised to exclude his employer's or clients' contracts or other transactions with the Government from the range of the consultant's or adviser's duties.

DISCLOSURE OF FINANCIAL INTERESTS

In order to carry out its responsibility to avoid the use of the services of consultants or advisers in situations where violations of the conflict of interest laws or of these regulations may occur, each department or agency of the Government shall, at the time of employment of a consultant or adviser, require him to supply it with a statement of all other employment. The statement shall list the names of all the companies, firms, State or local governmental organizations, research organizations and educational or other institutions which he is serving as employee, officer, member, director, adviser or consultant. In addition, it shall list such other financial information as the appointing department or agency shall decide is relevant in the light of the duties the appointee is to perform. The appointee may but need not be required to reveal precise amounts of investments. Each statement of private employment and financial interests should be forwarded to the chief legal officer of the department or agency concerned, for information and for advice as to possible conflicts of interest. In addition, each statement should be reviewed by those persons responsible for the employment of consultants and advisers to assist them in applying the criteria for disqualification which are set forth in this memorandum. Such statements should be kept current throughout the period during which the consultant is on the Government rolls.

LEGAL INTERPRETATION

Whenever the chief legal officer of a department or agency or his designee, believes that a substantial legal question is raised by the employment of a particular consultant or adviser he should advise the Department of Justice, through the Office of Legal Counsel, in order to insure a consistent and authoritative interpretation of the law.

This memorandum shall be published in the FEDERAL REGISTER.

JOHN F. KENNEDY

THE WHITE HOUSE,
May 2, 1963.

APPENDIX

18 U.S.C. 202. *Definitions.*

(a) For the purpose of sections 203, 205, 207, 208 and 209 of this title the term "special Government employee" shall mean an officer or employee of the executive or legislative branch of the United States Government, of any independent agency of the United States or of the District of Columbia, who is retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis, or a part-time United States Commissioner. Notwithstanding the next preceding sentence, every person serving as a part-time local representative of a Member of Congress in the Member's home district or State shall be classified as a special Government employee. Notwithstanding section 29 (c) and (d) of the Act of August 10, 1956 (70A Stat. 632; 5 U.S.C. 30r (c) and (d)), a Reserve officer of the Armed Forces, or an officer of the National Guard of the United States, unless otherwise an officer or employee of the United States, shall be classified as a special Government employee while on active duty solely for training. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is voluntarily serving a period of extended active duty in excess of one hundred and thirty days shall be classified as an officer of the United States within the meaning of section 203 and sections 205 through 209 and 218. A Reserve officer of the Armed Forces or an officer of the National Guard of the United States who is serving involuntarily shall be classified as a special Government employee. The terms "officer or employee" and "special Government employee" as used in sections 203, 205, 207 through 209, and 218, shall not include enlisted members of the Armed Forces.

(b) For the purposes of sections 205 and 207 of this title, the term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government action.

18 U.S.C. 203. *Compensation to members of Congress, officers, and others in matters affecting the Government.*

(a) Whoever, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receives or agrees to receive, or asks, demands, solicits, or seeks, any compensation for any services rendered or to be rendered either by himself or another—

(1) at a time when he is a Member of Congress, Member of Congress Elect, Resident Commissioner, or Resident Commissioner Elect; or

(2) at a time when he is an officer or employee of the United States in the executive, legislative, or judicial branch of the Government, or in any agency of the United States, including the District of Columbia,

in relation to any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge,

accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, court-martial, officer, or any civil, military, or naval commission, or

(b) Whoever, knowingly, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly gives, promises, or offers any compensation for any such services rendered or to be rendered at a time when the person to whom the compensation is given, promised, or offered, is or was such a Member, Commissioner, officer, or employee—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; and shall be incapable of holding any office of honor, trust, or profit under the United States.

(c) A special Government employee shall be subject to subsection (a) only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

18 U.S.C. 205. *Activities of officers and employees in claims against and other matters affecting the Government.*

Whoever, being an officer or employee of the United States in the executive, legislative, or judicial branch of the Government or in any agency of the United States, including the District of Columbia, otherwise than in the proper discharge of his official duties—

(1) acts as agent or attorney for prosecuting any claim against the United States, or receives any gratuity, or any share of or interest in any such claim in consideration of assistance in the prosecution of such claim, or

(2) acts as agent or attorney for anyone before any department, agency, court, court-martial, officer, or any civil, military, or naval commission in connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both.

A special Government employee shall be subject to the preceding paragraphs only in relation to a particular matter involving a specific party or parties (1) in which he has at any time participated personally and substantially as a Government employee or as a special Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or (2) which is pending in the department or agency of the Government in which he is serving: *Provided*, That clause (2) shall not apply in the case of a special Government employee who has served in such department or agency no more than sixty days during the immediately preceding period of three hundred and sixty-five consecutive days.

Nothing herein prevents an officer or employee, if not inconsistent with the faithful performance of his duties, from acting without compensation as agent or attorney for any person who is the subject of disciplinary, loyalty, or other personnel administration proceedings in connection with those proceedings.

Nothing herein or in section 203 prevents an officer or employee, including a special Government employee, from acting, with or without compensation, as agent or attorney for his parents, spouse, child, or any person for whom, or for any estate for which, he is serving as guardian, executor, administrator, trustee, or other personal fiduciary except in those matters in which he has participated personally and substantially as a Government employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which are the subject of his official responsibility, provided that the Government official responsible for appointment to his position approves.

Nothing herein or in section 203 prevents a special Government employee from acting as agent or attorney for another person in the performance of work under a grant by, or a contract with or for the benefit of, the United States provided that the head of the department or agency concerned with the grant or contract shall certify in writing that the national interest so requires.

Such certification shall be published in the **FEDERAL REGISTER**.

Nothing herein prevents an officer or employee from giving testimony under oath or from making statements required to be made under penalty for perjury or contempt.

18 U.S.C. 207. *Disqualification of former officers and employees in matters connected with former duties or official responsibilities; disqualification of partners.*

(a) Whoever, having been an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, after his employment has ceased, knowingly acts as agent or attorney for anyone other than the United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially as an officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, while so employed, or

(b) Whoever, having been so employed, within one year after his employment has ceased, appears personally before any court or department or agency of the Government as agent, or attorney for, anyone other than the United States in

connection with any proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter involving a specific party or parties in which the United States is a party or directly and substantially interested, and which was under his official responsibility as an officer or employee of the Government at any time within a period of one year prior to the termination of such responsibility—

Shall be fined not more than \$10,000 or imprisoned for not more than two years, or both: *Provided*, That nothing in subsection (a) or (b) prevents a former officer or employee, including a former special Government employee, with outstanding scientific or technological qualifications from acting as attorney or agent or appearing personally in connection with a particular matter in a scientific or technological field if the head of the department or agency concerned with the matter shall make a certification in writing, published in the FEDERAL REGISTER, that the national interest would be served by such action or appearance by the former officer or employee.

(c) Whoever, being a partner of an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, acts as agent or attorney for anyone other than the United States, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which the United States is a party or has a direct and substantial interest and in which such officer or employee of the Government or special Government employee participates or has participated personally and substantially as a Government employee through decision, approval, disapproval, recommendation, the rendering of advice, investigation or otherwise, or which is the subject of his official responsibility—

Shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

A partner of a present or former officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia or of a present or former special Government employee shall as such be subject to the provisions of sections 203, 205, and 207 of this title only as expressly provided in subsection (c) of this section.

18 U.S.C. 208. *Acts affecting a personal financial interest.*

(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

Shall be fined not more than \$10,000, or imprisoned not more than two years, or both.

(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the FEDERAL REGISTER, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services.

18 U.S.C. 209. *Salary of Government officials and employees payable only by United States.*

(a) Whoever receives any salary, or any contribution to or supplementation of salary, as compensation for his services as an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, from any source other than the Government of the United States, except as may be contributed out of the treasury of any State, county, or municipality; or

Whoever, whether an individual, partnership, association, corporation, or other organization pays, or makes any contribution to, or in any way supplements the salary of, any such officer or employee under circumstances which would make its receipt a violation of this subsection—

Shall be fined not more than \$5,000 or imprisoned not more than one year, or both.

(b) Nothing herein prevents an officer or employee of the executive branch of the United States Government, or of any independent agency of the United States, or of the District of Columbia, from continuing to participate in a bona fide pension, retirement, group life, health or accident insurance, profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer.

(c) This section does not apply to a special Government employee or to an officer or employee of the Government serving without compensation, whether or not he is a special Government employee, or to any person paying, contributing to, or supplementing his salary as such.

(d) This section does not prohibit payment or acceptance of contributions, awards, or other expenses under the terms of the Government Employees Training Act (Public Law 85-507, 72 Stat. 327; 5 U.S.C. 2301-2319, July 7, 1958).

[F.R. Doc. 63-4917; Filed, May 3, 1963; 1:00 p.m.]

APPENDIX III-A

DIGEST OF CONFLICT OF INTEREST LAWS
NEW LAWS APPLICABLE TO FULL-TIME OFFICERS AND EMPLOYEES

I. 18 U.S.C. 203

Subsection (a) of this section in general prohibits an officer or employee of the United States in any branch or agency of the Government from soliciting or receiving compensation for services rendered on behalf of another person before a Government department or agency in relation to any particular matter in which the United States is a party or has a direct and substantial interest. The subsection does not preclude compensation for services rendered on behalf of another in court.

Subsection (b) makes it unlawful for anyone to offer or pay compensation, the solicitation or receipt of which is barred by subsection (a).

II. 18 U.S.C. 205

This section contains two major prohibitions. The first prevents an officer or employee of the United States in any branch or agency of the Government from acting as agent or attorney for prosecuting any claim against the United States, including a claim in court, whether for compensation or not. It also prevents him from receiving a gratuity, or a share or interest in any such claim, for assistance in the prosecution thereof.

The second main prohibition of section 205 is concerned with more than claims. It precludes an officer or employee of the Government from acting as agent or attorney for anyone else before a department, agency or court in connection with any particular matter in which the United States is a party or has a direct and substantial interest.

18 U.S.C. 203 and 205 overlap. The following are the few important differences between sections 203 and 205 as they apply to officers and employees of the Government:

1. Section 203 bars services rendered for compensation solicited or received, but not those rendered without such compensation; section 205 bars both kinds of services.
2. Section 203 bars services rendered before the departments and agencies but not services rendered in court; section 205 bars both.

It should be noted, however, that for all practical purposes section 205 completely overshadows section 203.

Exemptions:

Section 205 permits a Government officer or employee to represent another person, without compensation, in a disciplinary, loyalty or other personnel matter. Another provision declares that the section does not prevent an officer or employee from giving testimony under oath or making statements required to be made under penalty for perjury or contempt.

Section 205 also authorizes a limited waiver of its restrictions and those of section 203 for the benefit of an officer or employee, including a special Government employee, who represents his own parents, spouse or child, or a person or estate he serves as a fiduciary. The waiver is available to the officer or employee, whether acting for any such person with or without compensation, but only if approved by the official making appointments to his position. In no event does the waiver extend to his representation of any such person in matters in which he has participated personally and substantially or which, even in the absence of such participation, are the subject of his official responsibility.

Finally, section 205 gives the head of a department or agency the power, notwithstanding any applicable restrictions in its provisions or those of section 203, to allow a special Government employee to represent his regular employer or other outside organization in the performance of work under a Government grant or contract. However, this action is open to the department or agency head only upon his certification, published in the FEDERAL REGISTER, that the national interest requires it.

III. 18 U.S.C. 208

This section forbids certain actions by an officer or employee of the Government in his role as a servant or representative of the Government. Its thrust is therefore to be distinguished from that of 18 U.S.C. 203 and 205 which forbid certain actions in his capacity as a representative of persons outside the Government.

Subsection (a) in substance requires an officer or employee of the executive branch, including a special Government employee, to refrain from participating as such in any matter in which, to his knowledge, he, his spouse, minor child or partner has a financial interest. He must also remove himself from a matter in which a business or nonprofit organization with which he is connected or is seeking employment has a financial interest. Under this section, a "particular matter" may be a matter less concrete than an actual contract, because the concept of a "particular matter involving a specific party or parties" is not used here as in other sections. However, a "particular matter" is something more specific than rule making or abstract scientific principles. The test for determining whether the action of the individual involves a particular matter in which he (or the other enumerated parties) has a financial interest is whether he might reasonably anticipate that his action or the decision in which he participates or with respect to which he advises, will have a direct and predictable effect upon a financial interest of himself, his spouse, minor child, partner or organization with which he is connected or seeking employment.

Subsection (b) permits the agency of an officer or employee to grant him an ad hoc exemption from subsection (a) if the outside financial interest in a matter is deemed not substantial enough to have an effect on the integrity of his services. Financial interests of this kind may also be made non-disqualifying by a general regulation published in the FEDERAL REGISTER.

IV. 18 U.S.C. 209

Subsection (a) prevents an officer or employee of the executive branch, an independent agency or the District of Columbia from receiving, and anyone from paying him, any salary or supplementation of salary from a private source as compensation for his services to the Government.

Subsection (b) specifically authorizes an officer or employee covered by subsection (a) to continue his participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer.

Subsection (c) provides that section 209 does not apply to a special Government employee or to anyone serving the Government without compensation, whether or not he is a special Government employee.

Subsection (d) provides that the section does not prohibit the payment or acceptance of contributions, awards or other expenses under the terms of the Government Employees Training Act.

V. APPLICABLE TO REGULAR NAVY AND MARINE OFFICERS, 37 U.S.C. 801 (a)
Formerly 10 U.S.C. 6112 (a)

An officer of the Regular Navy or the Regular Marine Corps, other than a retired officer, may not be employed by any person furnishing Naval supplies or war materials to the United States. If such an officer is so employed, he is not entitled to any payment from the United States during that employment.

APPENDIX III-B

NEW LAW APPLICABLE TO FORMER OFFICERS AND EMPLOYEESI. 18 U.S.C. 207

Subsections (a) and (b) of this section contain post-employment prohibitions applicable to persons who have ended service as officers or employees of the executive branch. The prohibitions for persons who have served as special Government employees are the same as for persons who have performed regular duties.

The restraint of subsection (a) is against a former officer or employee's acting as agent or attorney for anyone other than the United States in connection with certain matters, whether pending in the courts or elsewhere. The matters are those involving a specific party or parties in which the United States is one of the parties or has a direct and substantial interest and in which the former officer or employee participated personally and substantially while holding a Government position.

Subsection (b) sets forth a one-year post-employment prohibition in respect of those matters which were within the area of official responsibility of a former officer or employee at any time during the last year of his service but which do not come within subsection (a) because he did not participate in them personally and substantially. More particularly, the prohibition of subsection (b) prevents his personal appearance in such matters before a court or a department or agency of the Government as agent or attorney for anyone other than the United States. Where, in the year prior to the end of his service, a former officer or employee has changed areas of responsibility by transferring from one agency to another, the period of his post-employment ineligibility as to matters in a particular area ends one year after his responsibility for that area ends. For example, if an individual transfers from a supervisory position in the Internal Revenue Service to a supervisory position in the DoD and leaves DoD for private employment nine months later, he will be free of the restriction of subsection (b) in three months insofar as Internal Revenue matters are concerned. He will of course be bound by it for a year in respect of DoD matters.

The proviso following subsections (a) and (b) authorizes a department head, notwithstanding anything to the contrary in their provisions, to permit a former officer or employee with outstanding scientific qualifications to act as attorney or agent or appear personally before the department for another in a matter in a scientific field. This authority may be exercised by the department head upon a "national interest" certification published in the FEDERAL REGISTER.

Subsections (a) describes the activities it forbids as being in connection with "particular matters involving a specific party or parties" in which the former officer or employee had participated. Subsection (b) relates to matters which were under his official responsibility. The language of both does not include general rulemaking, the formulation of general policy or standards, or other similar matters. Thus, past participation in or official responsibility for a matter of this kind on behalf of the Government does not disqualify a former employee from representing another person in a proceeding which is governed by the rule or other result of such matter. Similarly, in the scientific field past participation in discussion of scientific or engineering concepts, the feasibility of scientific or technical accomplishments or proposed Government programs in early stages prior to the formulation of contract or a contract proposal where specific parties become involved in a matter, does not disqualify the former employee from representing his company with respect to a contract entered into at a later time even though the same general scientific matters may be involved in such a contract.

Subsection (a) bars permanently a greater variety of actions than subsection (b) bars temporarily. The conduct made unlawful by the former is any action as agent or attorney, while that made unlawful by the latter is a personal appearance as agent or attorney. However, neither subsection precludes post-employment activities which may fairly be characterized as no more than aiding or assisting another. *An individual who has left the department to accept private employment may, for example, immediately perform technical work in his company's plant in relation to a contract for which he had official responsibility—or, for that matter, in relation to one he helped the agency negotiate. On the other hand, he is forbidden for a year, in the first case, to appear personally before the department as the agent or attorney of his company in connection with a dispute over the terms of the contract. He may at no time appear personally before the department or otherwise act as agent or attorney for his company in such dispute if he helped negotiate the contract. Under both sections the disability is personal, and neither section would prevent the former officer or employee from becoming the president or other officer of a corporation which has contracts with the Government, so long as such former officer or employee does not personally act as the agent or attorney of the company in dealing with the matters covered under Sections a and b.*

APPENDIX III-C

SUMMARY OF LAWS APPLICABLE TO RETIRED REGULAR OFFICERS NOT ON ACTIVE DUTYI. PROHIBITED ACTIVITIES.

- A. Matters Connected With Former Duties or Official Responsibilities. A retired regular officer not on active duty is considered to be a "former officer" for the purposes of 18 U.S.C. 207 and therefore, the prohibitions discussed in paragraph 17 and appendix III-A apply to him.
- B. Claims. A retired regular officer of the armed forces may not, within two years of his retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim or receive any gratuity or any share of or interest in such claim in consideration for having assisted in the prosecution of such a claim, if such claim involves the department in whose service he holds a retired status. Nor may a regular retired officer at any time act as an agent or attorney for prosecuting any claim against the Government or assist in prosecution of such claim, or receive any gratuity or any share of or interest in such a claim in consideration for having assisted in the prosecution of such claim, if such claim involves any subject matter with which he was directly connected while on active duty (See 18 U.S.C. 283).
- C. Selling.

1. A retired regular officer is prohibited, at all times, from receiving or agreeing to receive any compensation for representing any person in the sale of anything to the Government through the department in whose service he holds a retired status (See 18 U.S.C. 281).
2. 37 U.S.C. 801(c) as amended October 9, 1962, P.L. 87-777, formerly 5 U.S.C. 59(c) provides:

"No payment shall be made from appropriations in any Act to any officer on the retired lists of the Regular Army, Regular Navy, Regular Marine Corps, Regular Air Force, Regular Coast Guard, Coast and Geodetic Survey, and Public Health Service for a period of *three* years after retirement who for himself or for others, is engaged in the selling of or contracting for the sale of or negotiating for the sale of to any agency of the Department of Defense, the Coast Guard, the Coast and Geodetic Survey, and the Public Health Service any supplies or war materials."

For the purpose of this statute, "selling" means:

- a. Signing a bid, proposal, or contract;
- b. Negotiating a contract;
- c. Contacting an officer or employee of any of the foregoing departments or agencies for the purpose of:
 - (1) Obtaining or negotiating contracts,
 - (2) Negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or
 - (3) Settling disputes concerning performance of a contract, or
- d. Any other liaison activity with a view toward the ultimate consummation of a sale although the actual contract therefor is subsequently negotiated by another person.

However, it is not the intent of this Directive to preclude a retired regular officer from accepting employment with private industry solely because his employer is a contractor with the Government.

II. EXEMPTIONS FROM LAW APPLYING TO OFFICERS ON ACTIVE DUTY

A regular officer who has been retired continues to be an "officer" of the United States for purposes of many statutes. However, the laws applying to officers on active duty listed in Section II of this regulation do not normally apply to retired regular officers not on active duty. The law specifically provides that 18 U.S.C. 203 and 205 do not apply to a retired officer while not on active duty who is not otherwise an officer or employee of the United States (See 18 U.S.C. 206). In addition, as a practical matter, 18 U.S.C. 208 and 209 do not apply to a retired officer not on active duty who is not performing services for the Government, solely because of his status as a retired regular officer.

APPENDIX III-D**OTHER RELATED CRIMINAL LAWS APPLICABLE TO ALL DEPARTMENT OF DEFENSE
PERSONNEL**

The following activities may subject present and former DoD personnel to criminal penalties:

- A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (See 18 U.S.C. 201).
- B. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel knew of the actual commission of the crime (See 18 U.S.C. 4).
- C. Conspiring with one or more other persons to commit a crime under any criminal statute or to defraud the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (See 18 U.S.C. 371).

APPENDIX IV

HOUSE CONCURRENT RESOLUTION 175, 85TH CONGRESS, 2D SESSION

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.
2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.
3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.
4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.
5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.
6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.
7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.
8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.
9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.



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[DCSPER]

By Order of the Secretary of the Army:

EARLE G. WHEELER,
*General, United States Army,
Chief of Staff.*

Official:

J. C. LAMBERT,
*Major General, United States Army,
The Adjutant General.*

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