

AR 600-50

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ARMY REGULATION

AR 600-50

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Para 18.1 S/S by
AR 600-32, Sep 70

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF THE ARMY PERSONNEL



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HEADQUARTERS, DEPARTMENT OF THE ARMY

JUNE 1966

CHANGE }
No. 4 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 18 August 1969

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF
THE ARMY PERSONNEL

Effective 1 October 1969

This change adds paragraph 12j which sets forth policy contained in Department of Defense Instruction 1000.12 on active duty personnel serving as a director of a bank or banking office operating on a military installation; updates paragraphs 18.1a (2) and (3) to reflect the authority of the Attorney General of the United States, based on Reorganization Plan No. 1 of 1968 issued by the President, in designating a substance as habit forming or having a potential for abuse, and to reflect the 1968 amendment to 21 U.S.C. 321 (PL 90-639, 24 Oct 68) which specifically mentions LSD (lysergic acid diethylamide).

AR 600-50, 29 June 1966, is changed as follows:

✓ Page 10, paragraph 12. Subparagraph *j* is added as follows:

j. Active duty military personnel will not be authorized to serve as a director of a bank operating a banking office on an Army installations, unless the Secretary of the Army approves the appointment based upon a justified requirement for direct liaison between the banking office and the installation commander. Under such circumstances, not more than one individual on active military duty will be authorized to serve as a director of a banking office located on an Army installation at any one time.

✓ Page 1, Change 2. Paragraphs 18.1a (2) and (3) are superseded as follows:

(2) Any quantity of amphetamine or any of its optical isomers; any salt of amphetamine or any salt of an optical isomer of amphetamine; or any substance which the Secretary of Health, Education, and Welfare or the Attorney General of the United States or their designees, after investigation, have found to be, and by regulation designated as, habit-forming because of its stimulant effect on the central nervous system.

(3) Any quantity of lysergic acid diethylamide, or any other substance which the Secretary of Health, Education, and Welfare, or the Attorney General of the United States, or their designees, have found to have, and by regulation designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) to Deputy Chief of Staff for Personnel, ATTN: DCSPER-SARD, Department of the Army, Washington, DC 20310.

C 4, AR 600-50

By Order of the Secretary of the Army:

W. C. WESTMORELAND,
General, United States Army,
Chief of Staff.

Official:

KENNETH G. WICKHAM,
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 AR, Personnel General—A (quantity block No. 434) plus DA Form 12-4 requirements for Army Procurement Procedures.

TAGO 147A

CHANGE }
No. 3 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 9 December 1968

PERSONNEL—GENERAL
**STANDARDS OF CONDUCT FOR DEPARTMENT OF THE
ARMY PERSONNEL**

AR 600-50, 29 June 1966, is changed as follows:

✓ Page 9, paragraph 12f. In line 5, after the word "writing," add the following:
"including teaching, lecturing, or writing for the purpose of the special
preparation of a person or class of persons for an examination of the Civil
Service Commission or Board of Examiners for the Foreign Service."

✓ Page 10, paragraph 12. Subparagraph g is rescinded.

Page 3, Change 2. The following sentence is added at the end of paragraph
23g: "Designees to positions requiring the approval of the Secretary of the
Army shall execute the statement in advance of nomination so that it may be
reviewed prior to appointment."

The proponent agency of this regulation is the Office of the Deputy Chief
of Staff for Personnel. Users are invited to send comments and suggested
improvements to Deputy Chief of Staff for Personnel, ATTN: DCS
PER-SARD, Department of the Army, Washington, D.C. 20310.

By Order of the Secretary of the Army:

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The Adjutant General.

W. C. WESTMORELAND,
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CHANGE }
No. 2 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, D.C., 15 May 1968

PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF THE ARMY
PERSONNEL

AR 600-50, 29 June 1966, is changed as follows:

✓ Page 7. Paragraph 8b(14) is superseded as follows:

(14) Receipt of bona fide reimbursement, not prohibited by law, from other than defense contractors, for actual expenses of travel and other necessary subsistence for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, nor may payment be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits, nor may an employee be reimbursed from a private source for travel on official business under agency orders except pursuant to 5 U.S.C. 4111 or other applicable statutory authority.

✓ Page 8. Paragraph 9 is superseded as follows:

9. Prohibitions of contributions or presents to superiors. DA personnel shall not solicit a contribution from other officers or employees for a gift to an official superior, make a donation as a gift to an official superior, or accept a gift from an officer or employee receiving less pay than themselves (5 U.S.C. 7351). However, this regulation does not prohibit a voluntary gift of nominal value or donation in nominal amount made on a special occasion such as marriage, illness, or retirement.

✓ Page 11. Paragraph 18.1 was added by C 1, 8 January 1968.

18.1. Depressant, stimulant, and hallucinogenic drugs. a. Except for official governmental or authorized medical purposes, military personnel shall not possess, use, sell or transfer depressant, stimulant, or hallucinogenic drugs nor shall they introduce such drugs onto any Army installation or other Government property under Army jurisdiction. The term "depressant, stimulant, or hallucinogenic drug" means any drug which contains—

(1) Any quantity of barbituric acid or any of the salts of barbituric acid; or any derivative of barbituric acid which has been designated under section 502(d) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 352(d)), as habit-forming.

~~(2) Any quantity of amphetamine or any of its optical isomers; any salt of amphetamine or any salt of an optical isomer of amphetamine; or any substance which the Secretary of Health, Education, and Welfare, after investigation, has found to be, and by regulation designated as, habit-forming because of its stimulant effect on the central nervous system.~~

Supsd
C4

~~(3) Any quantity of a substance which the Secretary of Health, Education, and Welfare, after investigation, has found to have, and by regulation designates as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.~~

Supsd
C4

b. In any instance in which a service member obtains a drug defined in a above for medical purposes from a physician in the course of his professional practice, or on a valid prescription, the service member must keep the drug in the original container in which such drug was delivered to him.

✓ Page 12. Paragraph 21 is superseded as follows:

21. Statements of employment and financial interests. a. The following DA personnel are required to submit statements of employment and financial interests:

(1) DA personnel paid at a level of the Executive Schedule in subchapter II of chapter 53 of title 5, United States Code (Secretary of the

*This change supersedes C 1, 8 January 1968; DA message 819893, 19 June 1967; and DA message 836035, 12 October 1967.

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Army, Under Secretary of the Army, Assistant Secretaries of the Army, Director of Civil Defense, and General Counsel).

(2) DA personnel classified at GS-13 or above under section 5332 of title 5, United States Code, or at a comparable pay level under another authority including Public Law 80-313, or commissioned officers in the rank of lieutenant colonel or above, whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to administering or monitoring grants or subsidies.

(3) DA personnel classified at GS-13 or above under section 5332 of title 5, United States Code, or at a comparable pay level under another authority including Public Law 80-313, or commissioned officers in the rank of lieutenant colonel or above, whose basic duties and responsibilities require the incumbent to exercise judgment in making a Government decision or in taking Government action in regard to—

(a) *Contracting or procurement.* For the purpose of this regulation "contracting or procurement" is defined as executing or approving the award of contracts.

(b) *Auditing.* Auditing private or other non-Federal enterprise including the supervision of auditors engaged in audit activities or participating in the development of policies and procedures for performing such audits, including the authorization and monitoring of grants to institutions or other non-Federal enterprise.

(c) *Other.* Activities in which the final decision or action has a significant economic impact on the interests of any non-Federal enterprise.

(4) Major commanders and heads of DA staff agencies.

b. The following DA personnel will not be required to submit statements of employment and financial interests pursuant to this paragraph:

(1) Individuals below the rank of lieutenant colonel, or below the grade of GS-13 or comparable pay level.

(2) Except as provided in a(1) and (4) above, individuals whose positions do not include any of the basic duties and responsibilities described in a(2) or (3) above.

✓ Page 12. Paragraph 22a is superseded as follows:

a. All positions in the categories indicated in paragraph 21a(2) and (3), both military and civilian, will be reviewed and a statement as to whether the incumbent of the position must file a statement of employment and financial interests as required by this regulation will be included in each military and civilian position description or similar document describing the duties and responsibilities of the position. This determination will be reviewed at least annually. Such review will be performed by major commanders and heads of DA staff agencies for the general officers and civilian personnel in grades GS-16, 17, and 18 or comparable pay levels within their command or office. The review may be accomplished at the time performance, efficiency, or effectiveness ratings are given, or incident to other currently prescribed annual reviews. Incumbents of positions identified as involving any of the functions described in paragraph 21a(2) and (3) will be required to comply with the filing requirements of this regulation. Any individual who believes that his position has been improperly included in the functions described in paragraph 21a(2) or (3) may request a review of the decision requiring him to file a statement through established grievance procedures. Grievances initiated by civilian employees are properly considered as type I grievances and will be processed under the procedures prescribed by section 2, CPR E2.

✓ Page 13. Paragraph 23 is superseded as follows:

23. Manner of submission—statements of employment. a. The Secretary of the Army, the Under Secretary of the Army, the Assistant Secretaries of the Army, the Director of Civil Defense, and the General Counsel, OSA, will submit statements of employment and financial interests to the General Counsel of the Department of Defense.

b. The Chief of Staff, Vice Chief of Staff, and Assistant Vice Chief of Staff will submit statements to the Secretary of the Army.

c. Statements required pursuant to review by major commanders or heads of DA staff agencies under paragraph 22a will be filed with the reviewing official.

d. Major commanders and heads of DA staff agencies will submit their statements to the Deputy Chief of Staff for Personnel, ATTN: General

Officer Branch, Department of the Army, Washington, D.C. 20310.

e. Army general officers assigned to the Office of the Secretary of Defense, Office of the Joint Chiefs of Staff, or United States Army Elements (excluding Army components listed in section III, AR 10-5) of joint or unified commands will submit statements in accordance with instructions issued by the agency or command to which assigned.

f. DA personnel not included in a through e above will submit statements of employment and financial interests to the officer designated under paragraph 19b, except that personnel of the Office of the Secretary of the Army will submit such statements to the General Counsel, OSA.

g. Statements of employment and financial interests shall be submitted by each officer or employee required by this regulation to file a statement, not later than 15 August 1966 (as of a date no earlier than 30 June 1966) and periodically thereafter as prescribed in paragraph 27. Employees who enter Government service after 30 June 1966, who are required to file a statement of employment and financial interests, shall file such statements within 30 days from the date of commencement of such service. *Added -C3*

✓ Page 14. Paragraph 27 is superseded as follows:

27. Supplementary statements. Changes in or additions to the information contained in an em-

ployee's statement of employment and financial interests shall be reported in a supplementary statement as of 30 June of each year. Even though no changes or additions occur a negative report is required. The supplementary statement, negative or otherwise, will be submitted by 31 July of each year. Notwithstanding the filing of the annual report, DA personnel shall at all times avoid acquiring a financial interest that could result, or taking action that would result, in a violation of the conflict-of-interest provisions of 18 United States Code 208 or this regulation.

✓ Page 14. Paragraph 31 is superseded as follows:

31. Confidentiality of employees' statements. Each statement of employment and financial interests, and each supplementary statement, will be held in confidence. The Department of the Army may not disclose information from a statement except as the Secretary of the Army or the Civil Service Commission may determine for good cause. Persons designated to review the statements are responsible for maintaining the statements in confidence and shall not allow access to, or allow information to be disclosed from the statement except to carry out the purpose of this regulation.

✓ Pages 31 and 32. Appendix III-D is superseded.

✓ Page 41. Appendix VII is rescinded.

✓ Page 42. Appendix VIII is rescinded.

APPENDIX III-D

OTHER RELATED LAWS APPLICABLE TO ALL DEPARTMENT OF DEFENSE PERSONNEL

The following activities may subject present and former DOD personnel to 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).
- D. The prohibition against lobbying with appropriated funds (see 18 U.S.C. 1913).
- E. The prohibitions against disloyalty and striking (see 5 U.S.C. 7311, 18 U.S.C. 1918).
- F. The prohibition against the employment of a member of a Communist organization (see 50 U.S.C. 784).
- G. The prohibition against (1) the disclosure of classified information (see 18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (see 18 U.S.C. 1905).
- H. The provision relating to the habitual use of intoxicants to excess (see 5 U.S.C. 7352).

- I. The prohibition against the misuse of a Government vehicle (see 31 U.S.C. 638a(c)).
- J. The prohibition against the misuse of the franking privilege (see 18 U.S.C. 1719).
- K. The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (see 18 U.S.C. 1917).
- L. The prohibition against fraud or false statements in a Government matter (see 18 U.S.C. 1001).
- M. The prohibition against mutilating or destroying a public record (see 18 U.S.C. 2071).
- N. The prohibition against counterfeiting and forging transportation requests (see 18 U.S.C. 508).
- O. The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).
- P. The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).
- Q. The prohibitions against political activities in subchapter III of chapter 73 of title 5, United States Code (5 U.S.C. 7321-7327) and 18 U.S.C. 602, 603, 607 and 608. (Civilian employees.)
- R. The prohibitions against an employee (including a special Government employee) who is required to register under the Foreign Agents Registration Act of 1938 (18 U.S.C. 219) serving the Government. The criminal penalties of this section do not apply to a special Government employee in any case in which the department head sends a certificate to the Attorney General that his employment by the United States Government is in the national interest. The section does not apply to retired regular officers or to reserves who are not on active duty or who are on active duty for training.

The proponent agency of this regulation is the Office of the Deputy Chief of Staff for Personnel. Users are invited to send comments and suggested improvements to Deputy Chief of Staff for Personnel, ATTN: DCSPER-PSD, Department of the Army, Washington, D.C. 20310

By Order of the Secretary of the Army:

HAROLD K. JOHNSON,
General, United States Army,
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PERSONNEL—GENERAL

STANDARDS OF CONDUCT FOR DEPARTMENT OF THE ARMY
PERSONNEL

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*This regulation supersedes AR 600-50, 3 April 1964, including C 1, 4 January 1965 and C 2, 31 March 1965.

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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. Violations of this regulation may be cause for appropriate disciplinary action which may be in addition to any penalty provided by law. All military personnel and civilian employees will familiarize themselves thoroughly with the provisions of this regulation.

b. This regulation is in implementation of (1) Executive Order 11222 of 8 May 1965, prescribing standards of ethical conduct for Government officers and employees (app I), (2) Department of Defense Directive 5500.7, 22 March 1966, and (3) the Civil Service Commission Regulation of 1 October 1965. It is in consonance with the Code of Ethics for Government Service contained in House Concurrent Resolution 175, 85th Congress, which applies to all Government personnel (app II).

c. This regulation includes standards of conduct based on the revisions of the conflict of interest laws enacted in 1962 (Public Law 87-777 and Public Law 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, including special Government employees, of all the offices, agencies, and departments in the Department of Defense (including nonappropriated fund activities) and all active duty 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, including special Government employees, of the Department of the Army (including nonappropriated fund

activities) and all active duty 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 personnel 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 or from having any direct or indirect financial interest which would place them in a position where there is a conflict between their private interests and the public interests of the United States, particularly those related to their duties and responsibilities as DA personnel. 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 business or professional activity or enter into any financial transaction which involves the direct or indirect use, or the appearance of use, of inside information gained through a DA position to further a private interest or for private gain for themselves or another person or entity, particularly one with whom they have family, business, or financial ties. DA personnel must not use their DA positions in any way to induce or coerce, or give the appearance of inducing or coercing, any person (including subordinates) or entity to provide any financial benefit to themselves or another person or entity, particularly one with whom they have family, business, or financial ties. For the purpose of this paragraph "inside information" means information obtained under Government authority which has not become part of the body of public information. This paragraph does not preclude DA personnel from teaching, lecturing, and writing as authorized by paragraph 12, nor does it preclude DA personnel

from having financial interests or engaging in financial transactions to the same extent as private citizens not employed by the Government so long as they are not prohibited by law or regulations.

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. Membership in associations. All DA personnel who are members or officers of nongovernmental associations or organizations must avoid activities on behalf of the association or organization that are incompatible with their official Government positions.

d. Solicitation.

- (1) *Military personnel.* Military personnel on active duty are prohibited from personal commercial solicitation and sale to military personnel who are junior in grade or rank. This prohibition is applicable to activities on or off an installation, in or out of uniform, while on or off duty, and includes but is not limited to the personal solicitation and sale of life and automobile insurance, stock, mutual funds, real estate, or any other commodities, goods, or services. As used herein, "personal commercial solicitation" refers to those situations where a military member is employed as a sales agent on commission or salary, and contacts prospective purchasers suggesting they buy the commodity, real or intangible, that he is offering for sale. This prohibition is not applicable to the one-time sale by an individual of his own personal property or privately owned dwelling. It is not the intent of this subparagraph to discourage the off-duty employment of military personnel, but it is the intent to eliminate any and all instances where it would appear that coercion, intimidation, or pressure was used based on rank, grade, or position. See also paragraph 51, AR 210-10.

(2) *Civilian employees.* Civilian employees are not permitted to engage in canvassing, soliciting, or peddling on Department of the Army premises.

(a) This prohibition includes, but is not limited to the following activities:

1. Canvassing, soliciting, or selling for personal monetary gain.
2. Promoting group buying when such action could reasonably be interpreted as involving the improper use of Federal facilities and manpower.
3. Canvassing or soliciting membership, except as authorized in FPM, Chapter 711, and CPR 700, Chapter 711, in connection with organized employee groups.

(b) This prohibition is not applicable to the following activities:

1. Those activities which have been specifically authorized by the activity commander (para 51, AR 210-10).
2. Soliciting contributions for charitable, health, welfare, and similar organizations as authorized in AR 600-29.
3. Accepting voluntary contributions from other employees in case of death, illness, marriage, retirement, or similar occurrence involving a fellow employee.
4. Collecting contributions for group immunization programs conducted for the benefit of employees.
5. Those activities of voluntary organizations of Federal employees which are of the type commonly accepted as normal functions of employee organizations sponsored or permitted by private employers.

e. Assignment of reserves for training. DA personnel who are responsible for assigning Reserves for training should make every effort to assign them when they are on active duty for training to duties in which they will not obtain information that could be used by them or their employers to give them an unfair advantage over their civilian competitors.

f. Conduct prejudicial to the Government. DA personnel shall not engage in criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government. Moreover, DA personnel shall avoid any action whether or not specifically prohibited by this regulation, which might result in, or create the appearance of—

- (1) Using public office for private gain.
- (2) Giving preferential treatment to any person.
- (3) Impeding Government efficiency or economy.
- (4) Losing complete independence or impartiality.
- (5) Making a Government decision outside official channels.
- (6) Affecting adversely the confidence of the public in the integrity of the Government.

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 performing or 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 knowledge 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 Regulations (ASPR), the Army Procurement Procedures (APP), and the Department of the Army circulars, directives, and other publications pertinent thereto. Every person engaged in 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. Except as provided in *b* below, DA personnel will not solicit or accept any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value either directly or indirectly from any person, firm, corporation, or other entity which—

- (1) Is engaged or is endeavoring to engage in procurement activities or business or financial transactions of any sort with

any agency of the Department of Defense;

- (2) Conducts operations or activities that are regulated by any agency of the Department of Defense; or
- (3) Has interests that may be substantially affected by the performance or nonperformance of the official duty of the Department of Defense personnel concerned.

Gifts, gratuities, favors, entertainment, etc., bestowed upon members of the immediate families of DA personnel are viewed in the same light as those bestowed upon DA personnel. Acceptance of gifts, gratuities, favors, entertainment, etc., no matter how innocently tendered and received, from those who have or seek business with the Department of Defense may be a source of embarrassment to the department and the personnel involved, may affect the objective judgment of the recipient, and may impair public confidence in the integrity of the business relations between the department and industry.

b. For the purpose of this paragraph, a gift, gratuity, favor, entertainment, etc., includes any tangible item, intangible benefits, discounts, tickets, passes, transportation, and accommodations or hospitality given or extended to or on behalf of the recipient. However, the restrictions in a above, do not apply to the following:

- (1) Instances in which the interests of the Government are served by participation of DA personnel in widely attended luncheons, 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 when the host is the association and not an individual contractor. Acceptance of gratuities, or hospitality from private companies in connection with such association's activities is prohibited.
- (2) Situations in which the interests of the Government are served by participation of DA personnel in activities at the expense of individual defense contractors when the invitation is addressed to and

approved by the employing agency of DOD. 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 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.

- (3) Luncheons or dinners at a contractor's plant on an infrequent basis, when the conduct of official business within the plant will be facilitated and when no provision can be made for individual payment.
- (4) Situations in which, in the judgment of the individual concerned, the Government's interest will be served by participation by DA personnel in activities at the expense of a defense contractor. In any such case in which DA personnel accepts any gratuity, favor, entertainment, etc., either directly or indirectly from any person, firm, corporation, or any other entity which is engaged in or is endeavoring to engage in business transactions of any sort with the Department of Defense, a written report of the circumstances 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. Personnel of the Office of the Secretary of the Army will forward such reports to the General Counsel, Department of the Army.
- (5) Specialty advertising items of trivial intrinsic value.
- (6) Customary exchange of social amenities between personal friends and relatives

- when motivated by such relationship and extended on a personal basis.
- (7) Things available impersonally to the general public or classes of the general public such as a free exhibition by a defense contractor at a world's fair.
 - (8) Trophies, entertainment, rewards, or prizes given to competitors in contests which are open to the public generally or which are officially approved for participation in by DOD personnel.
 - (9) Transactions between and among relatives which are personal and consistent with the relationship.
 - (10) The acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees such as home mortgage loans.
 - (11) Social activities engaged in by officials of the Department of Defense and officers in command or their representatives with civilian leaders as part of community relations programs.
 - (12) Contractor-provided local transportation while on official business and when alternative arrangements are clearly impracticable.
 - (13) Participation in civic and community activities by DA personnel when the relationship with the defense contractor can reasonably be characterized as remote; for example, participation in a little league or Combined Federal Campaign luncheon which is subsidized by a concern doing business with a defense activity.
 - (14) ~~Receipt of bona fide reimbursement, not prohibited by law, from other than defense contractors for actual expenses for travel and other necessary subsistence for which no Government payment or reimbursement is made. However, an employee may not be reimbursed, and payment may not be made on his behalf, for excessive personal living expenses, gifts, entertainment, or other personal benefits.~~

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c. Except as provided in b(12) above, personnel on official business may not accept contractor-provided transportation, meals, or overnight accommodations in connection with such official business so long as Government or commercial transportation or quarters are reasonably available. However, where the overall Government interest would be served by acceptance by DA personnel of such transportation or accommodations in specific cases, authorization therefor may be granted by order issuing authorities.

d. 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 b(4) 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.
- (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.

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

f. Procedures with respect to ROTC staff members of payments or other benefits offered by educational institutions are set forth in paragraph 27, AR 145-5.

~~9. Prohibitions of contributions or presents to superiors.~~ No officer or employee in the United States 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 provision shall be discharged from the Government employ (R.S. 1784, 5 U.S.C. 113).

10. Use of Government facilities, property, and manpower. *a. General.* DA personnel will not directly or indirectly use, or allow the use of, Government property of any kind, including property leased to the Government, for other than officially approved activities. Government facilities, property, and manpower, such as stenographic and typing assistance and mimeograph and chauffeur

services, may be used only for official Government business. DA personnel have a positive duty to protect and conserve Government property, including equipment, supplies, and other property entrusted to them. 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 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 the 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 enterprise. *a.* All civilian personnel, and military personnel on active duty, are prohibited from using their civilian and military title 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 authors 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 oversea areas.

12. Outside employment of DA personnel.

a. DA personnel shall not engage in outside employment or other outside activity, with or without compensation, which—

- (1) Interferes with, or is not compatible with, the performance of their Government duties.
- (2) May reasonably be expected to bring discredit upon the Government or the Department of the Army.
- (3) Is inconsistent with paragraph 3*a*, including such inconsistent acts as the acceptance of a fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which that acceptance may result in or create the appearance of, conflicts of interest.

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, and paragraph 3*d* of this regulation.

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 (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. DA personnel are encouraged to engage in teaching, lecturing, and writing. However, an employee shall not, either for or without compensation, engage in teaching, lecturing, or writing that is dependent on information obtained as a result of his Government employment except when that information has been published or is available to the general public or will be made available on request, or when the Secretary of the Army gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. In addition, an employee who is a civilian Presidential appointee shall not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, the subject matter of which is devoted substantially to the responsibilities, programs, or operations of the Department

of the Army or which draws substantially on official data or ideas which have not become part of the body of public information.

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~~g. No civilian employee may engage in outside employment under a State or local government except in accordance with Part 734 of the Civil Service regulations (5 CFR Part 734).~~

h. The standards prescribed in *a* above, apply also to foreign employment and interests. In addition, Executive Order 5221, 11 November 1929, prohibits Federal employees from accepting employment with any foreign government or foreign corporation, partnership, or individual that is in competition with American industry.

i. This paragraph does not preclude DA personnel from—

- (1) Participation in the activities of national or State political parties not proscribed by law or regulation.
- (2) Participation in the affairs or acceptance of an award for a meritorious public contribution or achievement given by a charitable, religious, professional, social, fraternal, nonprofit educational, nonprofit recreational, public service, or civic organization.

J. 13. Political activities. *a.* For political activities of civilian personnel, see Chapter 733, Federal Personnel Manual.

b. For political activities of military personnel, see paragraph 42, AR 600-20.

14. Letters and petitions to Congress. The right of civilian employees, either individually or collectively, to petition Congress, or any member thereof, or to furnish information to any committee or member of Congress, is provided by law (5 U.S.C. 652d). Letters to Congress, as well as petitions and other communications, are covered by this provision. While the Department of the Army desires that employees seek to resolve any problem or grievance locally, any employee exercising his right to correspond with a Congressman shall be free from restraint or coercion. However, the use of appropriated funds to influence the consideration of legislation is prohibited by statute (18 U.S.C. 1913). Accordingly, employees may not use duty time or Department of the Army materials or equipment to make their desires known to Congress. For information

relating to Congressional activities of military personnel, see paragraph 41, AR 600-20.

15. Defamatory or irresponsible statements. Civilian employees are free to utilize the grievance procedure to express dissatisfaction with working conditions and relationships (CPR E2. 1-1); to petition Congress; and to present full and complete information as a defense against a proposed adverse personnel action (CPR S1. 2-2 and 2-4). While these policies encourage freedom of expression, employees are accountable for the statements they make or the views they express. Specifically, employees are not permitted to make irresponsible, false, or defamatory statements for the express purpose of injuring others or which attack, without foundation, the integrity of an organization or that of other individuals. The Supreme Court has ruled that officers of the Federal Government have an "absolute privilege" for defamatory statements issued in the course of their official duties. Although this privilege is referred to as an "absolute privilege," it applies *only* to statements made in the course of performance of official duties and is to be exercised with care and restraint. This privilege does not apply to defamatory statements unrelated to official duties.

16. Borrowing and lending money. Civilian employees may not borrow money from either their subordinates or their supervisors or have such persons act as indorser or comaker of a note given as security for a personal loan. Neither may an employee loan money to fellow employees for the purpose of monetary profit or other gain. Anyone failing to observe these rules of conduct will be subject to disciplinary action. These prohibitions do not apply to the operations of recognized credit unions or to employee welfare plans.

17. Gambling, betting, and lotteries. DA personnel shall not participate, while on Government-owned or leased property or while on duty for the Government, in any gambling activity including the operation of a gambling device, in conducting a lottery or pool, in a game for money or property, or in selling or purchasing a numbers slip or ticket. However, this paragraph does not preclude activities—

a. Necessitated by an employee's law enforcement duties; or

b. Under Section 3 of Executive Order 10927 (app I, AR 600-29) and similar activities approved by Headquarters, DA. See paragraph 10, AR 28-125.

18. Indebtedness. DA personnel shall pay each just financial obligation in a proper and timely manner, especially one imposed by law such as Federal, State, or local taxes. For the purpose of this paragraph, a "just financial obligation" means one acknowledged by the employee or reduced to judgment by a court, and "in a proper and timely manner" means in a manner which the agency determines does not, under the circumstances, reflect adversely on the Government as his employer. In the event of dispute between DA personnel and alleged creditors, this paragraph does not require the Department of the Army to determine the validity or amount of the disputed debt (para 36, AR 600-20, and CPR 700, Chapter 735).

19. Information to personnel. *18.1 ADDED-C2* a. Appropriate action will be taken to insure that new DA personnel are informed of the standards of conduct specified in this regulation 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. The attention of DA personnel is directed to each statute relating to ethical and other conduct that is referred to in this regulation and in appendix III. DA personnel will be advised how to obtain additional clarification of the standards of conduct set forth in this regulation and in related statutes, rules, and regulations. For this purpose, heads of DA agencies and major commanders will provide for the designation in each DA agency, command, or installation of one or more legal officers as deputy counselors who shall be responsible for providing advice and assistance on all matters relating to conduct and conflicts of interest and for reviewing statements of employment and financial interests covered by this regulation.

c. Questions which cannot be resolved by a legal office will be referred, with recommendations, through channels to higher authority. The General Counsel, Office of the Secretary of the Army, is designated as the counselor for the Department of the Army and is responsible for proper coordina-

tion and final disposition of all problems relating to conflicts of interest and statements of employment and financial interests in accordance with this regulation.

d. Procedures established governing the review of statements of employment and financial interests shall provide that—

- (1) Whenever such review discloses a conflict or apparent conflict of interests, the individual concerned is entitled to an opportunity to explain the conflict or appearance of conflict.
- (2) If the conflict or appearance of conflict is not resolved on review by the explanation made by the individual concerned, the information pertaining to the matter will be submitted through channels to the Under Secretary of the Army, as the designee of the Secretary of the Army, after review by the General Counsel, Office of the Secretary of the Army.
- (3) The resolution of a conflict or apparent conflict of interest either on review or after referral to the Under Secretary of the Army will be effected promptly so that the conflict or appearance of conflict is ended. The resolution of the conflict or appearance of conflict may be accomplished by one or more means, such as changes in assigned duties, divestment of the conflicting interest, disqualification for a particular assignment, or disciplinary action. The resolution, whether by disciplinary action or otherwise, will be effected in accordance with applicable laws, Executive Orders, and regulations.

20. 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. STATEMENTS OF EMPLOYMENT AND FINANCIAL INTERESTS

~~21. Statements of employment and financial interests.~~ The following DA personnel are required to submit statements of employment and financial interests:

a. DA personnel paid at a level of the Federal Executive Salary Schedule established by the Federal Executive Salary Act of 1964, as amended (Secretary of the Army, Under Secretary of the Army, Assistant Secretaries of the Army, Director of Civil Defense, and General Counsel)

b. DA personnel in Grade GS-16 or above, of the General Schedule established by the Classification Act of 1949, as amended, or in comparable or higher positions not subject to that Act including Public Law 313 and commissioned officers in the pay grade of 07 or above.

c. DA personnel in Grades GS-13 through GS-15 or commissioned officers in the rank of Lieutenant Colonel and Colonel whose basic duties and responsibilities require the incumbent to exercise judgment in making or recommending a Government decision or in taking or recommending Government action in regard to—

- (1) *Contracting or procurement.* For the purpose of this regulation "contracting or procurement" includes all functions that pertain to the authorization, award, and administration of contracts or grants with non-Governmental entities. This includes agreements, supplemental agreements, subcontracts, leases, service orders, task orders, purchase orders, delivery orders, change orders, property disposal contracts, communication service authorizations, and other instruments or agreements which obligate the United States. It includes pre-award surveys; the evaluation, appraisal, selection, or approval of contractors and subcontractors, contractor and subcontractor facilities, and the location, transfer, or closing of, work sites. It also includes purchasing, renting, leasing, or otherwise obtaining supplies or services from, and disposing or selling supplies to non-Governmental entities and all functions that relate to

~~obtaining or disposing of supplies and services, description and determination of requirements, preparation of specifications including the determination of technical requirements, selection and solicitation of sources, preparation and award of contracts or grants, and all phases of contract and grant administration and monitoring, including all aspects of quality control and quality assurance, inspection, and acceptance.~~

- (2) *Auditing.* Auditing private or other non-Federal enterprise including the supervision of auditors engaged in audit activities or the participation in the development of policies and procedures for performing such audits, including the authorization and monitoring of grants to institutions or other non-Federal enterprise

- (3) *Other.* Activities in which the decision or action has an economic impact on the ~~interests of any non-Federal enterprise.~~

~~22. Review of positions. a. All positions in the category indicated in paragraph 21c, both military and civilian, will be reviewed and a statement as to whether the incumbent of the position must file a statement of employment and financial interest as required by this regulation will be included in each military and civilian position description or similar document describing the duties and responsibilities of the position. This determination will be reviewed at least annually. The review may be accomplished at the time performance, efficiency, or effectiveness ratings are given, or incident to other currently prescribed annual reviews. Incumbents of positions identified as involving any of the functions described in paragraph 21c will be required to described in paragraph 21c will be required to comply with the filing requirements of this regulation.~~

b. Positions in the above categories may be excluded when it is determined by the Secretary of the Army, or his designee, that the duties are at such a level of responsibility that the submission of a statement of employment and financial interests is not necessary because of the

degree of supervision and review of the incumbent and the remote and inconsequential effect on the integrity of the Government.

c. The Secretary of the Army, or his designee, may relieve personnel serving in an area designated as a hostile fire area from the requirement for the submission of statements of employment and financial interests.

d. The statements of employment and financial interests will be submitted on DD forms as indicated below. DD Form 1555 (Confidential Statement of Employment and Financial Interests—DOD Personnel) (app IV), is for use by all DA personnel except special Government employees. DD Form 1555-1 (Confidential Statement of Employment and Financial Interests) (app V) is for use by special Government employees. Information pertaining to deposits in savings accounts such as banks, credit unions etc., will not be included as financial interests on these forms.

~~23. Manner of submission—statements of employment.~~ a. The Secretary of the Army, the Under Secretary of the Army, the Assistant Secretaries of the Army, the Director of Civil Defense, the Deputy Under Secretary of the Army (Manpower), the Administrative Assistant to the Secretary of the Army, and the General Counsel, OSA, will submit statements of employment and financial interests to the General Counsel of the Department of Defense.

b. General officers will submit statements of employment and financial interests as prescribed in appendix VII.

c. Personnel in Grade GS-16 or above of the General Schedule established by the Classification Act of 1949, or in comparable or higher positions not subject to that Act, and not included in a above, will submit statements of employment and financial interests as prescribed in appendix VIII.

d. DA personnel not included in a through c above will submit statements of employment and financial interests to the officer designated under paragraph 19b, except that personnel of the Office

~~of the Secretary of the Army will submit such statements to the General Counsel, OSA.~~

~~e. Statements of employment and financial interests shall be submitted by each officer or employee required by this regulation to file a statement, not later than 15 August 1966 (as of a date no earlier than 30 June 1966) and periodically thereafter as prescribed in paragraph 27. Employees who enter Government service after 30 June 1966, who are required to file a statement of employment and financial interests, shall file such statements within 30 days from the date of commencement of such service.~~

24. Excusable delay. If by reason of his duty assignment it is impracticable for an individual to submit a statement within the period required by this regulation, his immediate superior may grant an extension of time therefor. Any extension in excess of 30 days requires the concurrence of the Secretary of the Army. Statements submitted pursuant to an extension of time granted will include appropriate notation to that effect.

25. Special Government employees—statement of employment and financial interests. a. For the purpose of this paragraph, "special Government employee" has the meaning given that term by paragraph 34.

b. Each special Government employee who is an adviser or consultant shall, prior to appointment, file with the officer designated under paragraph 19b a statement (app V) setting forth his Government employment, his private employment, and his financial interests; except individuals assigned to the Office of the Secretary of the Army, such statements will be filed with the General Counsel, OSA. An appointee must list all of his investments and other financial interests such as a pension; retirement; group life, health, or accident insurance; and profit-sharing, stock bonus, or other employee welfare or benefit plan maintained by a former employer. He is not required to list precise amounts of investments.

c. The following categories of special Government employees are not considered advisers or

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consultants within the meaning of this paragraph when performing the specific services listed below and are not required to file the statement of employment and financial interests:

- (1) Physicians, dentists, and allied medical specialists performing care and service to patients.
- (2) Veterinarians providing veterinary service to animals.
- (3) Lecturers participating in educational activities.
- (4) Chaplains performing religious services.
- (5) Individuals of national prominence in the motion picture and television fields who are utilized as narrators or actors in motion picture or television productions produced by the Department of Defense.
- (6) A special Government employee who is not a "consultant" or "expert" as those terms are defined in Chapter 304 of the Federal Personnel Manual.

26. Exceptions to specific appointees. The Secretary of the Army may grant an exception to a specific appointee from completing that part of the statement of employment and financial interests relating to his investments and other financial interests referred to in paragraph 25b, upon the making of a determination that this information is not relevant in the light of the duties the appointee is to perform.

~~**27. Supplementary statements.** Changes in or additions to the information contained in an employee's statement shall be reported in a supplementary statement in the month following the end of the quarter in which the changes occur. Quarters end 31 March, 30 June, 30 September, and 31 December. If there are no changes or additions in a quarter, a negative report is not required. However, for the purpose of annual review, a supplementary statement (as of 30 June), negative or otherwise, is required by 31 July of each year.~~

28. Interests of employee's relatives. The interest of a spouse, minor child, or other member of an employee's immediate household is considered to be an interest of the employee. For the purpose

of this regulation, "member of an employee's immediate household" means those blood relations who are residents of the employee's household.

29. Information not known by employees. If any information required to be included on a statement of employment and financial interests or supplementary statement, including holdings placed in trust, is not known to the employee but is known to another person, the employee shall request that other person to submit the information in his behalf.

30. Information not required to be submitted. An employee is not required to submit on a statement of employment and financial interests or supplementary statement any information relating to the employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or a similar organization not conducted as a business enterprise. For the purpose of this regulation, educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed "business enterprises" and are required to be included in an employee's statement of employment and financial interests.

~~**31. Confidentiality of employees' statements.** Each statement of employment and financial interests, and each supplementary statement, will be held in confidence. The Department of the Army may not disclose information from a statement except as the Secretary of the Army or the Civil Service Commission may determine for good cause shown.~~

32. Effect of employees' statements on other requirements. The statements of employment and financial interests and supplementary statements required of employees are in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, order, or regulation. The submission of a statement or supplementary statement by an employee does not permit him or any other person to participate in a matter in which his or the other person's participation is prohibited by law, order, or regulation.

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Section III. CONFLICT OF INTEREST LAWS

33. Full-time officers and employees. *a. Full-time officer or employee.* 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" (para 34). It does not include enlisted personnel.

b. Prohibitions. Appendix III-A contains a discussion of criminal laws relating to conflict of interest and 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 (18 U.S.C. 203, 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 (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 (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 has 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 procedure.

- (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 of 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 as stated above, 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.

34. 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 (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. Appendix III contains a detailed discussion of criminal laws relating to conflict of interest. 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 (18 U.S.C. 203, 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 (18 U.S.C. 203, 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 (18 U.S.C. 208). Instead of participating in such a matter, he must promptly disqualify himself in accordance with paragraph 33*d*, except as provided in paragraph 33*c*.

- (3) After his Government employment has ended, he is subject to the prohibitions in paragraph 35*b* as a "former employee" (18 U.S.C. 207).

35. 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. 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 (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 (18 U.S.C. 202(b), 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.

36. 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 35 (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 (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 (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 (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; Public Law 87-777, formerly 5 U.S.C. 59(c). See also definition of "selling," in appendix III-C.

b. Required statement of employment. Each retired Regular 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 DD Form 1357. Statements of Employment (DD Form 1357) or inquiries relative thereto should be forwarded to The Adjutant General, ATTN: AGPO-AA, Department of the Army, Washington, D.C. 20310. These Statements will be reviewed to assure compliance with applicable statutes and regulations.

37. 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 33 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 (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 34 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 34 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 35 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 (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 33, 34, or 35 (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 33, 34, or 35. Paragraph 36 does not apply to a Retired Reserve.

APPENDIX I

FOR RELEASE TO MONDAY A.M. PAPERS, MAY 10, 1965

Office of the White House Press Secretary

THE WHITE HOUSE

EXECUTIVE ORDER 11222

PRESCRIBING STANDARDS OF ETHICAL CONDUCT FOR GOVERNMENT OFFICERS AND EMPLOYEES

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Part I—Policy

Sec. 101. Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of his government. Each individual officer, employee, or adviser of government must help to earn and must honor that trust by his own integrity and conduct in all official actions.

Part II—Standards of Conduct

Sec. 201. (a) Except in accordance with regulations issued pursuant to subsection (b) of this section, no employee shall solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan, or any other thing of monetary value, from any person, corporation, or group which—

- (1) has, or is seeking to obtain, contractual or other business or financial relationships with his agency;
- (2) conducts operations or activities which are regulated by his agency; or
- (3) has interests which may be substantially affected by the performance or non-performance of his official duty.

(b) Agency heads are authorized to issue regulations, coordinated and approved by the Civil Service Commission, implementing the provisions of subsection (a) of this section and to provide for such exceptions therein as may be necessary and appropriate in view of the nature of their agency's work and the duties and responsibilities of their employees. For example, it may be appropriate to provide exceptions (1) governing obvious family or personal relationships where the circumstances make it clear that it is those relationships rather than the business of the persons concerned which are the motivating factors—the clearest illustration being the parents, children or spouses of federal employees; (2) permitting acceptance of food and refreshments available in the ordinary course of a luncheon or dinner or other meeting or on inspection tours where an employee may properly be in attendance; or (3) permitting acceptance of loans from banks or other financial institutions on customary terms to finance proper and usual activities of employees, such as home mortgage loans. This section shall be effective upon issuance of such regulations.

(c) It is the intent of this section that employees avoid any action, whether or not specifically prohibited by subsection (a), which might result in, or create the appearance of—

- (1) using public office for private gain;
- (2) giving preferential treatment to any organization or person;
- (3) impeding government efficiency or economy;
- (4) losing complete independence or impartiality of action;
- (5) making a government decision outside official channels; or
- (6) affecting adversely the confidence of the public in the integrity of the Government.

Sec. 202. An employee shall not engage in any outside employment, including teaching, lecturing, or writing, which might result in a conflict, or an apparent conflict, between the private interests of the employee and his official government duties and responsibilities, although such teaching, lecturing, and writing by employees are generally to be encouraged so long as the laws, the provisions of this order, and Civil Service Commission and agency regulations covering *conflict of interest and outside employment* are observed.

Sec. 203. Employees may not (a) have direct or indirect financial interests that conflict substantially, or appear to conflict substantially, with their responsibilities and duties as Federal employees, or (b) engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment. Aside from these restrictions, employees are free to engage in lawful financial transactions to the same extent as private citizens. Agencies may, however, further restrict such transactions in the light of the special circumstances of their individual missions.

Sec. 204. An employee shall not use Federal property of any kind for other than officially approved activities. He must protect and conserve all Federal property, including equipment and supplies, entrusted or issued to him.

Sec. 205. An employee shall not directly or indirectly make use of, or permit others to make use of, for the purpose of furthering a private interest, official information not made available to the general public.

Sec. 206. An employee is expected to meet all just financial obligations, especially those—such as Federal, State, or local taxes—which are imposed by law.

Part III—Standards of Ethical Conduct for Special Government Employees

Sec. 301. This part applies to all "special Government employees" as defined in Section 202 of Title 18 of the United States Code, who are employed in the Executive Branch.

Sec. 302. A consultant, adviser or other special Government employee 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.

Sec. 303. A consultant, adviser, or other special Government employee shall not use any inside information obtained as a result of his government service for private personal gain, either by direct action on his part or by counsel, recommendations or suggestions to others, including particularly those with whom he has family, business, or financial ties.

Sec. 304. An adviser, consultant, or other special Government employee 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.

Sec. 305. An adviser, consultant, or other special Government employee shall not receive or solicit from persons having business with his agency anything of value as a gift, gratuity, loan or favor for himself or persons with whom he has family, business, or financial ties while employed by the government or in connection with his work with the government.

Sec. 306. Each agency shall, at the time of employment of a consultant, adviser, or other special Government employee require him to supply it with a *statement of all other employment*. The statement shall list the names of all the corporations, companies, firms, State or local government organizations, research organizations and educational or other institutions in which he is serving as employee, officer, member, owner, director, trustee, 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. The statement shall be kept current throughout the period during which the employee is on the Government rolls.

Part IV—Reporting of Financial Interests

Sec. 401. (a) Not later than ninety days after the date of this order, the head of each agency, each Presidential appointee in the Executive Office of the President who is not sub-

ordinate to the head of an agency in that Office, and each full time member of a committee, board, or commission appointed by the President, shall submit to the Chairman of the Civil Service Commission a statement containing the following:

- (1) A list of the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational or other institutions—
 - (A) with which he is connected as an employee, officer, owner, director, trustee, partner, advisor, or consultant; or
 - (B) in which he has any continuing financial interests, through a pension or retirement plan, shared income, or otherwise, as a result of any current or prior employment or business or professional association; or
 - (C) in which he has any financial interest through the ownership of stocks, bonds, or other securities.
- (2) A list of the names of his creditors, other than those to whom he may be indebted by reason of a mortgage on property which he occupies as a personal residence or to whom he may be indebted for current and ordinary household and living expenses.
- (3) A list of his interests in real property or rights in lands, other than property which he occupies as a personal residence.

(b) Each person who enters upon duty after the date of this order in an office or position as to which a statement is required by this section shall submit such statement not later than thirty days after the date of his entrance on duty.

(c) Each statement required by this section shall be kept up to date by submission of amended statements of any changes in, or additions to, the information required to be included in the original statement, on a quarterly basis.

Sec. 402. The Civil Service Commission shall prescribe regulations, not inconsistent with this part, to require the submission of statements of financial interests by such employees, subordinate to the heads of agencies, as the Commission may designate. The Commission shall prescribe the form and content of such statements and the time or times and places for such submission.

Sec. 403. (a) The interest of a spouse, minor child, or other member of his immediate household shall be considered to be an interest of a person required to submit a statement by or pursuant to this part.

(b) In the event any information required to be included in a statement required by or pursuant to this part is not known to the person required to submit such statement but is known to other persons, the person concerned shall request such other persons to submit the required information on his behalf.

(c) This part shall not be construed to require the submission of any information relating to any person's connection with, or interest in, any professional society or any charitable, religious, social, fraternal, educational, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise.

Sec. 404. The Chairman of the Civil Service Commission shall report to the President information contained in statements required by Section 401 of this part which may indicate a conflict between the financial interests of the official concerned and the performance of his services for the Government. The Commission shall report, or by regulation require reporting, to the head of the agency concerned any information contained in statements submitted pursuant to regulations issued under Section 402 of this part which may indicate a conflict between the financial interests of the officer or employee concerned and the performance of his services for the Government.

Sec. 405. The statements and amended statements required by or pursuant to this part shall be held in confidence, and no information as to the contents thereof shall be disclosed

except as the Chairman of the Civil Service Commission or the head of the agency concerned may determine for good cause shown.

Sec. 406. The statements and amended statements required by or pursuant to this part shall be in addition to, and not in substitution for, or in derogation of, any similar requirement imposed by law, regulation, or order. The submission of a statement or amended statements required by or pursuant to this part shall not be deemed to permit any person to participate in any matter in which his participation is prohibited by law, regulation, or order.

Part V—Delegating Authority of the President Under Sections 205 and 208 of Title 18 of the United States Code Relating to Conflicts of Interest

Sec. 501. As used in this part, "department" means an executive department, "agency" means an independent agency or establishment or a Government corporation, and "head of an agency" means, in the case of an agency headed by more than one person, the chairman or comparable member of such agency.

Sec. 502. There is delegated, in accordance with and to the extent prescribed in Sections 503 and 504 of this part, the authority of the President under Sections 205 and 208(b) of Title 18, United States Code, to permit certain actions by an officer or employee of the Government, including a special Government employee, for appointment to whose position the President is responsible.

Sec. 503. Insofar as the authority of the President referred to in Section 502 extends to any appointee of the President subordinate to or subject to the chairmanship of the head of a department or agency, it is delegated to such department or agency head.

Sec. 504. Insofar as the authority of the President referred to in Section 502 extends to an appointee of the President who is within or attached to a department or agency for purposes of administration, it is delegated to the head of such department or agency.

Sec. 505. Notwithstanding any provision of the preceding sections of this part to the contrary, this part does not include a delegation of the authority of the President referred to in Section 502 insofar as it extends to:

- (a) The head of any department or agency in the Executive Branch;
- (b) Presidential appointees in the Executive Office of the President who are not subordinate to the head of an agency in that Office; and
- (c) Presidential appointees to committees, boards, commissions, or similar groups established by the President.

Part VI—Providing for the Performance by the Civil Service Commission of Certain Authority Vested in the President by Section 1753 of the Revised Statutes

Sec. 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) as relates to establishing regulations for the conduct of persons in the civil service.

Sec. 602. Regulations issued under the authority of Section 601 shall be consistent with the standards of ethical conduct provided elsewhere in this order.

Part VII—General Provisions

Sec. 701. The Civil Service Commission is authorized and directed, in addition to responsibilities assigned elsewhere in this order:

- (a) To issue appropriate regulations and instructions implementing Parts II, III, and IV of this order;
- (b) To review agency regulations from time to time for conformance with this order; and
- (c) To recommend to the President from time to time such revisions in this order as may appear necessary to ensure the maintenance of high ethical standards within the Executive Branch.

Sec. 702. Each agency head is hereby directed to supplement the standards provided by law, by this order, and by regulations of the Civil Service Commission with regulations of special applicability to the particular functions and activities of his agency. Each agency head is also directed to assure (1) the widest possible distribution of regulations issued pursuant to this section, and (2) the availability of counseling for those employees who request advice or interpretation.

Sec. 703. The following are hereby revoked:

- (a) Executive Order No. 10939 of May 5, 1961.
- (b) Executive Order No. 11125 of October 29, 1963.
- (c) Section 2(a) of Executive Order No. 10530 of May 10, 1954.
- (d) White House memorandum of July 20, 1961, on "Standards of Conduct for Civilian Employees."
- (e) The President's Memorandum of May 2, 1963, "Preventing Conflicts of Interest on the Part of Special Government Employees." The effective date of this revocation shall be the date of issuance by the Civil Service Commission of regulations under Section 701(a) of this order.

Sec. 704. All actions heretofore taken by the President or by his delegates in respect of the matters affected by this order and in force at the time of the issuance of this order, including any regulations prescribed or approved by the President or by his delegates in respect to such matters, shall, except as they may be inconsistent with the provisions of this order or terminate by operation of law, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this order.

Sec. 705. As used in this order, and except as otherwise specifically provided herein, the term "agency" means any executive department, or any independent agency or any Government corporation; and the term "employee" means any officer or employee of an agency.

LYNDON B. JOHNSON

THE WHITE HOUSE,
May 8, 1965.

APPENDIX II**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.

APPENDIX III-A

DIGEST OF CONFLICT OF INTEREST LAWS

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 nondisqualifying 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

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.

- I. Subsection (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 employer 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 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 DUTY

I. PROHIBITED ACTIVITIES.

A. Matters Connected With Former Duties of 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 32 and appendix III-B 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 paragraph XVI A of this Directive 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.

Suppd C2

APPENDIX III-D

OTHER RELATED LAWS APPLICABLE TO ALL DEPARTMENT OF DEFENSE PERSONNEL

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

- A. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (See 18 U.S.C. 2).
- 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).
- D. The prohibition against lobbying with appropriated funds (See 18 U.S.C. 1913).
- E. The prohibition against disloyalty and striking (See 5 U.S.C. 118p, 118r).
- F. The prohibition against the employment of a member of a Communist organization (See 50 U.S.C. 784).
- G. The prohibition against (1) the disclosure of classified information (See 18 U.S.C. 798, 50 U.S.C. 783); and (2) the disclosure of confidential information (See 18 U.S.C. 1905).
- H. The provision relating to the habitual use of intoxicants to excess (See 5 U.S.C. 640).
- I. The prohibition against the misuse of a Government vehicle (See 5 U.S.C. 78c).
- J. The prohibition against the misuse of the franking privilege (See 18 U.S.C. 1719).
- K. The prohibition against the use of deceit in an examination or personnel action in connection with Government employment (See 5 U.S.C. 637).
- L. The prohibition against fraud or false statements in a Government matter (See 18 U.S.C. 1001).
- M. The prohibition against mutilating or destroying a public record (See 18 U.S.C. 2071).
- N. The prohibition against counterfeiting and forging transportation requests (See 18 U.S.C. 508).

- O. The prohibitions against (1) embezzlement of Government money or property (18 U.S.C. 641); (2) failing to account for public money (18 U.S.C. 643); and (3) embezzlement of the money or property of another person in the possession of an employee by reason of his employment (18 U.S.C. 654).
- P. The prohibition against unauthorized use of documents relating to claims from or by the Government (18 U.S.C. 285).
- Q. The prohibition against proscribed political activities—The Hatch Act (5 U.S.C. 118i), and 18 U.S.C. 602, 603, 607, and 608. (Civilian employees).

| CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS - DEPARTMENT OF DEFENSE PERSONNEL <i>(Special Department of Defense Employees Use DD Form 1555-1)</i> | | | |
|---|---|--|--|
| 1. NAME (Last, first, middle initial) | | 2. TITLE OF POSITION | |
| 3. DATE OF APPOINTMENT IN PRESENT POSITION | | 4. AGENCY AND MAJOR ORGANIZATIONAL SEGMENT | |
| PART I. EMPLOYMENT AND FINANCIAL INTERESTS. List the names of all corporations, companies, firms, or other business enterprises, partnerships, nonprofit organizations, and educational, or other institutions: (a) with which you are connected as an employee, officer, owner, director, member, trustee, partner, adviser, or consultant; or (b) in which you have any continuing financial interests, through a pension or retirement plan, shared income, or other arrangement as a result of any current or prior employment or business or professional association; or (c) in which you have any financial interest through the ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write NONE. | | | |
| NAME AND KIND OF ORGANIZATION (Use Part I designations where applicable) | ADDRESS | POSITION IN ORGANIZATION (Use Part I(a) designations, if applicable) | NATURE OF FINANCIAL INTEREST, e.g., STOCK, PRIOR BUSINESS INCOME (Use Part I(b) and (c) designations, if applicable) |
| | | | |
| | | | |
| | | | |
| PART II. CREDITORS. List the names of your creditors other than those to whom you may be indebted by reason of a mortgage on property which you occupy as a personal residence or to whom you may be indebted for current and ordinary household and living expenses such as household furnishings, automobile, education, vacation, and similar expenses. If none, write NONE. | | | |
| NAME AND ADDRESS OF CREDITOR | | CHARACTER OF INDEBTNESS, e.g., PERSONAL LOAN, NOTE, SECURITY | |
| | | | |
| | | | |
| PART III. INTERESTS IN REAL PROPERTY. List your interest in real property or rights in lands, other than property which you occupy as a personal residence. If none, write NONE. | | | |
| NATURE OF INTEREST, e.g., OWNERSHIP, MORTGAGE, LIEN, INVESTMENT TRUST | TYPE OF PROPERTY, e.g., RESIDENCE, HOTEL, APARTMENT, FARM, UNDEVELOPED LAND | ADDRESS (If rural, give RFD, or county, state, and Zip Code) | |
| | | | |
| | | | |
| | | | |
| PART IV. INFORMATION REQUESTED OF OTHER PERSONS. If any information is to be supplied by other persons, e.g., trustee, attorney, accountant, relative, please indicate the name and address of such persons, the date upon which you requested that the information be supplied, and the nature of subject matter involved. If none, write NONE. | | | |
| NAME AND ADDRESS | DATE OF REQUEST | NATURE OF SUBJECT MATTER | |
| | | | |
| | | | |
| REMARKS | | | |
| | | | |
| | | | |
| I CERTIFY THAT THE STATEMENTS I HAVE MADE ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. | | | |
| DATE | SIGNATURE | | |
| | | | |

APPENDIX IV—Continued

INSTRUCTIONS

The information to be furnished in this statement is required by DoD Directive 5500.7, Section XV.B. and may not be disclosed except as the agency head or the Civil Service Commission may determine for good cause shown.

The submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise is not required. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

The information to be listed does not require a showing of the amount of financial interest, indebtedness, or the value of real property.

In the event any of the required information, including holdings placed in trust, is not known to you but is known to another person, you should request that other person to submit the information on your behalf and should report such request in Part IV of your statement.

The interest, if any, of a spouse, minor child, or other member of your immediate household shall be reported in this statement as your interest. If that information is to be supplied by others, it should be so indicated in Part IV. "Member of your immediate household" includes only those blood relations who are full-time residents of your household.

| CONFIDENTIAL STATEMENT OF EMPLOYMENT AND FINANCIAL INTERESTS <i>(For Use By Special Department of Defense Employees)</i> | | | | |
|---|---|--|--|--------------------------|
| PART I. TO BE COMPLETED BY AGENCY | | | | |
| 1. NAME <i>(Last, first, middle initial)</i> | | 2. AGENCY AND MAJOR ORGANIZATIONAL SEGMENT | | |
| 3. BIRTH DATE <i>(Month, day, year)</i> | | 4. PERIOD OF APPOINTMENT, THIS AGENCY FROM: _____ TO: _____ | | |
| 5. ESTIMATED NUMBER OF DAYS ON WHICH SERVICES ARE EXPECTED TO BE PERFORMED | | | | |
| a. WITH THIS AGENCY | b. WITH OTHER FEDERAL AGENCIES | c. SUM OF a AND b | | |
| d. NUMBER OF DAYS ALREADY WORKED FOR THIS AND OTHER FEDERAL AGENCIES DURING APPLICABLE 365-DAY PERIOD | | | e. TOTAL NUMBER OF DAYS <i>(Sum of a, b, c, and d)</i> | |
| PART II. TO BE COMPLETED BY APPOINTEE | | | | |
| 6. FEDERAL GOVERNMENT EMPLOYMENT - List all other Federal agencies and other organizational segments of this Agency in which you are presently employed. If none, write NONE. | | | | |
| AGENCY AND LOCATION | TITLE OR KIND OF POSITION | APPOINTMENT PERIOD | | ESTIMATED NUMBER OF DAYS |
| | | FROM | TO | |
| | | | | |
| | | | | |
| | | | | |
| 7. NON-FEDERAL EMPLOYMENT - Name all corporations, companies, firms, State or local Governmental organizations, research organizations, and educational or other institutions in which you are serving as employee, officer, member, owner, trustee, director, expert, adviser, or consultant, with or without compensation. If none, write NONE. | | | | |
| NAME AND KIND OF ORGANIZATION <i>(e.g., manufacturing, research, insurance)</i> | LOCATION <i>(City, State)</i> | TITLE OR KIND OF POSITION | | |
| | | | | |
| | | | | |
| | | | | |
| 8. FINANCIAL INTERESTS. <i>(See DoD Directive 5500.7 Sec XV G)</i> | | | | |
| NAME OF ORGANIZATION | KIND OF ORGANIZATION <i>(manufacturing, storage, public utilities, etc.)</i> | NATURE OF INTEREST AND IN WHOSE NAME HELD | | |
| | | | | |
| | | | | |
| I CERTIFY THAT THE STATEMENTS I HAVE MADE ARE TRUE, COMPLETE, AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT IF, DURING THE PERIOD OF MY APPOINTMENT, I UNDERTAKE A NEW EMPLOYMENT, I MUST PROMPTLY FILE AN AMENDED STATEMENT, AND I MUST ALSO REPORT ANY NEW FINANCIAL INTERESTS ACQUIRED DURING THIS PERIOD IF REQUIRED BY THE AGENCY. | | | | |
| DATE | SIGNATURE | | | |

APPENDIX V—Continued

INSTRUCTIONS

The information to be furnished in this statement is required by DoD Directive 5500.7, Section XV.B. and may not be disclosed except as the agency head or the Civil Service Commission may determine for good cause shown.

The submission of any information relating to an employee's connection with, or interest in, a professional society or a charitable, religious, social, fraternal, recreation-

al, public service, civic, or political organization or any similar organization not conducted as a business enterprise and which is not engaged in the ownership or conduct of a business enterprise is not required. Educational and other institutions doing research and development or related work involving grants of money from or contracts with the Government are deemed to be "business enterprises" for purposes of this report and should be included.

APPENDIX VI**EXTRACT FROM APPENDIX C OF CIVIL SERVICE FEDERAL PERSONNEL MANUAL SYSTEM ON SPECIAL GOVERNMENT EMPLOYEES (INCLUDING GUIDELINES FOR OBTAINING AND UTILIZING THE SERVICES OF SPECIAL GOVERNMENT EMPLOYEES)**

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 days 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. When 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 days, 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 18 U.S.C. 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 18 U.S.C. 203 and 205. 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 on an appointee, that he has not been accurately classified, he should nevertheless continue to be considered 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 considered 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 considered 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 for 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) When a person is serving as a member of an advisory committee, board or other group, and 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. 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 days. Thus, although once having been in effect, the statutory bar may be lifted later by reason of an intervening period of nonservice. 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 18 U.S.C. 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 18 U.S.C. 203 and 205, should make every effort in his private work to avoid any personal contact in 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. It is recognized that this will not always be possible to achieve; for example, in a situation in which 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. When this situation occurs, 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 of title 18 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 otherwise would be disqualified because he had participated in the matter for the Government or it is pending in an agency he has served for 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 18 U.S.C. 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.

It is necessary occasionally 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 nongovernmental 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 chapter.

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. The Government's payment of travel expenses and a *per diem* allowance, however, 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 nongovernmental 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 nongovernmental groups or organizations and not whether they can formally commit them.

(5) When 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.

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, it is recognized 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.

Rescinded c2

APPENDIX VII

DISPOSITION OF DD FORM 1555 COMPLETED BY GENERAL OFFICERS

| <i>Officer</i> | <i>Submitted to</i> |
|---|--|
| 1. Chief of Staff, United States Army..... | Secretary of the Army. |
| 2. Vice Chief of Staff, United States Army..... | Secretary of the Army. |
| 3. General Officers in Office, Secretary of the Army. | General Counsel, OSA. |
| ✓4. General Officers assigned to Army Staff agencies. | DCSPER—ATTN: GOB.* |
| 5. Commanding Generals or Commanders and Deputies of Major Army Field Commands specified in section III of AR 10-5. | DCSPER—ATTN: GOB.* |
| 6. General Officers (other than those in item 5 above) assigned to Major Army Field Commands. | Commanding General or Commander of the Major Army Field Command as appropriate.* |
| 7. General Officers assigned to installations and activities under Army Staff agencies. | Head of Army Staff Agency concerned.* |
| 8. General Officers assigned to DOD and Joint Activities. | DCSPER—ATTN: GOB.* |
| 9. General Officers not specified above..... | DCSPER—ATTN: GOB.* |

*For attention of person designated as deputy counselor to review statements of employment and financial interests.

Rescinded C2

APPENDIX VIII

DISPOSITION OF DD FORM 1555

COMPLETED BY CIVILIAN PERSONNEL REFERRED TO IN PARAGRAPH 23c

| <i>Employing Agency</i> | <i>Submitted to</i> |
|---|---------------------------------------|
| 1. OSA | General Counsel, DA. |
| 2. Army Staff | Head of Army Staff agency concerned.* |
| 3. Installations and Activities under Army Staff agencies. | Head of Army Staff agency concerned.* |
| 4. Major Army Field Commands specified in Section III of AR 10-5. | Commander of major command.* |
| 5. Others | General Counsel, DA. |

*For attention of person designated as deputy counselor to review statements of employment and financial interests.

[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:

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