

Personnel—General

**Standards of
Conduct for
Department of the
Army Personnel**

**Headquarters
Department of the Army
Washington, DC
28 January 1988**

SUMMARY of CHANGE

AR 600-50
Standards of Conduct for
Department of the Army Personnel

This revision--

- o Incorporates guidance from revised DOD Directive 5500.7 (Standards of Conduct) throughout the regulation.
- o Adds a prohibition to paragraph 2-1e concerning use of "inside information" after termination of Government employment.
- o Adds a prohibition to paragraph 2-1g concerning the release of acquisition information through briefings or other presentations provided to former DA personnel.
- o Adds paragraph 2-1p providing guidance concerning participation in fund-raising activities of charitable or nonprofit organizations.
- o Adds paragraph 2-1q prohibiting use of DA's relationship with defense contractors to obtain favors or actions not authorized by contract or law.
- o Adds paragraph 2-2a(2)(1) concerning the acceptance of benefits resulting from the business activities of a spouse.
- o Adds paragraph 2-2a(2)(m) concerning the acceptance of food and refreshments during the ordinary course of mealtime gatherings attended for official purposes.
- o Revises paragraph 2-2c(8) providing specific guidance concerning the receipt of benefits incident to official travel, including participation in airline frequent flyer programs.
- o Adds paragraph 2-2c(9) concerning attendance and acceptance of gifts related to vehicle rollouts and similar ceremonies.
- o Revises paragraph 2-3a regarding gifts to DOD personnel, providing a maximum limit of \$180 with respect to such gifts.
- o Revises figure 2-1 (Sample Disqualification Statement) to clearly define situations where an official action would create a conflict or the appearance of a conflict of interest.

- o Adds a requirement to paragraph 2-10b to report all standards of conduct violations involving procurement activities to HQDA (DAJA-PF).
- o Adds figure 2-2 (Sample memorandum of notification of a conflict or appearance of a conflict).
- o Adds a requirement to paragraph 3-2b for military personnel who are required to file the DD Form 1555 to note that responsibility on their DA Form 67-8-1 (OER Support Form).
- o Adds a requirement to paragraph 3-12 for MACOM and ARSTAF Ethics Counselors to include in the DD Form 1555 Status Report, a breakdown, by installation or activity, concerning the annual filing of DD Forms 1555.
- o Adds paragraph 5-3c providing guidance concerning employment restrictions on certain former DOD officials implemented by 10 USC 2397b.
- o Revises paragraph 5-5a to incorporate changes to 18 USC 281 (reduces the lifetime bar on sales through former Services to a 2-year prohibition).
- o Adds paragraph 5-8 providing specific guidance concerning the filing of DD Form 1787 (Report of DOD and Defense Related Employment).
- o Adds definitions of "Compensation," "Contractor operated facility," "Defense contractor," "Major defense contractor," "Major defense system," "Majority of working days," "Negotiation and settlement," "Primary Government representative," and "Separation of a member of the Armed Forces" to the glossary.

Effective 29 February 1988

Personnel—General

Standards of Conduct for Department of the Army Personnel

This UPDATE printing publishes a revision that is effective 29 February 1988. Because the structure of the entire revised text has been reorganized, no attempt has been made to highlight changes from the earlier regulation dated 20 November 1984.

By Order of the Secretary of the Army:

CARL E. VUONO
General, United States Army
Chief of Staff

Official:

R. L. DILWORTH
Brigadier General, United States Army
The Adjutant General

Summary. This regulation prescribes standards of conduct required of all Department of the Army (DA) personnel, regardless of assignment, and establishes criteria and procedures for reports required of certain former and retired military officers and former civilian officers and employees of the Department of the Army presently employed by defense contractors and former officers and employees of defense contractors presently employed by the Department of the Army. It is intended to regulate the individual conduct of DA personnel and to define only the minimum standards of conduct required of DA personnel. These standards are designed to provide notice of conduct required of DA personnel and to enable them to avoid conflicts of interest and the appearance of conflicts of interest between their private interests and their official duties.

Applicability.

a. This regulation applies to all DA personnel, military and civilian (including those employed by nonappropriated fund instrumentalities (NAFIs)). Chapters 4 and 5 and portions of chapter 2 apply also to former DA personnel. The reporting procedures on DOD and defense related employment also apply to certain former officers and employees as indicated in this paragraph.

b. Chapters 1 and 2 of this regulation also apply to all officers and enlisted personnel of the U.S. Army Reserve and of the Army National Guard of the United States when they are performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function. Chapters 3 and 4, where appropriate, are also applicable to U.S. Army Reserve and Army National Guard personnel.

c. Penalties for violations of these standards apply to military and civilian personnel and include the full range of statutory and regulatory sanctions, both criminal and administrative.

Impact on New Manning System. This regulation does not contain information that affects the New Manning System.

Internal control systems. This regulation is subject to the requirements of AR 11-2. It contains internal control provisions but does not contain checklists for conducting internal control reviews. These checklists are being developed and will be published at a later date.

Supplementation. Local supplementation of this regulation and establishment of command and local forms are prohibited without prior approval from HQDA (DAJA-ALG), WASH DC 20310-2212.

Interim changes. Interim changes to this regulation are not official unless they are authenticated by The Adjutant General. Users will destroy interim changes on their expiration dates unless sooner superseded or rescinded.

Suggested improvements. The proponent agency of this regulation is the Office of The Judge Advocate General. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to HQDA (DAJA-ALG), WASH DC 20310-2212.

Distribution. Distribution of this publication is made in accordance with DA Form 12-9A-R requirements for 600-series publications. The number of copies distributed to a given subscriber is the number of copies requested in Block, 382 of the subscriber's DA Form 12-9A-R. AR 600-50 distribution is A for the Active Army, ARNG, and USAR. Existing account quantities will be adjusted and new account quantities will be established upon receipt of a signed DA Form 12-9U-R (Subscription for Army UPDATE Publications Requirements) from the publications account holder.

Distribution Information. This regulation supersedes AR 600-50, 20 November 1984.

Contents (Listed by paragraph number)

Chapter 1

Standards of Conduct

- Purpose • 1-1
- References • 1-2
- Explanation of abbreviations and terms • 1-3
- General policy on proper conduct of official activities • 1-4
- Governing directives • 1-5
- Information to personnel • 1-6

- Display of the Code of Ethics for Government Service • 1-7
- Report forms • 1-8

Chapter 2

Conflicts of Interest and General Prohibitions

- Conflicts of interest • 2-1
- Gratuities, reimbursements, and other benefits from outside sources • 2-2
- Prohibitions concerning gifts and donations • 2-3

- Use of Government facilities, property, and personnel • 2-4

- Use of civilian and military titles in connection with a commercial enterprise • 2-5

- Outside employment and other activities of DA personnel • 2-6

- Gambling, betting, and lotteries • 2-7

- Indebtedness • 2-8

- Ethics Counselors • 2-9

- Reporting suspected violations • 2-10

*This regulation supersedes AR 600-50, 20 November 1988

Contents—Continued

- Resolution of a conflict or appearance of conflict of interest • 2-11
- Restrictions on enlisted personnel • 2-12

Chapter 3

Statement of Affiliations and Financial Interests (DD Form 1555)

- DA personnel required to file statements • 3-1
- Review of positions • 3-2
- Statements required • 3-3
- Submission, review, and filing • 3-4
- Excusable delay • 3-5
- Special Government employees • 3-6
- Interests of relatives of DA personnel • 3-7
- Information not known by DA personnel • 3-8
- Information not required to be submitted • 3-9
- Confidentiality of statements of DA personnel • 3-10
- Effect of statements on other requirements • 3-11
- DD Form 1555 Status Report (RCS JAG-74) • 3-12

Chapter 4

Financial Disclosure Reports (SF 278)

- DA personnel required to file SF 278 (covered positions) • 4-1
- Reporting responsibility • 4-2
- Reports required • 4-3
- Contents of reports • 4-4
- Submitting assumption, annual, and termination reports • 4-5
- Preliminary review • 4-6
- Review at Headquarters, Department of the Army • 4-7
- Public disclosure • 4-8
- Penalties • 4-9

Chapter 5

Laws Governing Former Government Employees

- Former officers or employees • 5-1
- Enforcement responsibilities • 5-2
- Postemployment restrictions • 5-3
- Administrative enforcement proceedings • 5-4
- Retired officers • 5-5
- Foreign government gifts or employment • 5-6
- Employment in DOD • 5-7
- Report of DOD and defense-related employment (DD Form 1787) (RCS DD FM&P(A)1051) • 5-8

Appendixes

- A. Related Publications
- B. Digest of Conflict of Interest Laws
- C. Executive Order No. 11222, May 8, 1965
- D. Code of Ethics for Government Service
- E. Examples of Conflicts of Interest Situations

Glossary

Chapter 1 Standards of Conduct

1-1. Purpose

This regulation prescribes standards of conduct required of all DA personnel, regardless of assignment, to avoid conflicts and the appearance of conflicts between private interests and official duties. Personnel subject to the Uniform Code of Military Justice (UCMJ) who fail to comply with the requirements of this regulation are subject to punishment under the UCMJ, as well as to adverse administrative action and other adverse action authorized by applicable United States code sections or Federal regulations. Personnel not subject to the UCMJ who fail to comply with the provisions of this regulation are subject to adverse administrative action or criminal prosecution as authorized by applicable sections of the United States Code or Federal regulation.

1-2. References

Related publications are listed in appendix A.

1-3. Explanation of abbreviations and terms

Abbreviations and special terms used in this regulation are explained in the glossary.

1-4. General policy on proper conduct of official activities

a. DA personnel will become familiar with the scope, authority for, and the limitations of the activities for which they are responsible. Further, DA personnel will gain a working knowledge of appropriate statutory prohibitions on standards of conduct. A digest of these provisions is at appendix B.

b. Government service or employment, as a public trust, requires soldiers and Army civilians to act with integrity and abide by the values of the Professional Army Ethic (FM 100-1). This ethic conveys the sense of purpose necessary to preserve the Nation. It prescribes that all employees and soldiers in the Department of the Army live and work using loyalty, duty, selfless service, and integrity to serve the Nation and other people—before personal interest.

c. DA personnel place loyalty to country, ethical principles, and law above private gain and other interests. DA personnel will not make or recommend any expenditure of funds or take or recommend any action known or believed to be in violation of U.S. laws, Executive orders, or applicable directives, instructions, or regulations.

d. If the propriety of a proposed action or decision in terms of the regulation or law is doubtful, DA personnel will consult legal counsel or, if appropriate, the appropriate Ethics Counselor for guidance. This will ensure the proper and lawful conduct of DA programs.

e. DA personnel will strictly adhere to the DA program of equal opportunity regardless of race, color, religion, sex, age,

marital status, physical handicap, or national or ethnic origin, in accordance with AR 600-20 and CPR 713.

f. DA personnel will avoid any action, whether or not specifically prohibited by this regulation, that might result in or reasonably be expected to create the appearance of—

(1) Using public office for private gain.

(2) Giving preferential treatment to any person or entity.

(3) Impeding Government efficiency or economy.

(4) Losing 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.

1-5. Governing directives

a. Executive Order 11222, 8 May 1965. This directive, which prescribes standards of ethical conduct for Government officers and employees is at appendix C.

b. DODD 5500.7.

c. Federal Personnel Manual, chapter 734, Financial Disclosure Requirements, chapter 735, Employee Responsibilities and Conduct, and chapter 737, Post Employment Conflicts of Interests, supplemented by AR 690-700, chapter 735, subchapters 1, 2, and 3.

d. The Ethics in Government Act of 1978 (as amended), Pub.L. No. 95-521 (1978).

e. Parts 734, 735, and 737, title 5, Code of Federal Regulations.

1-6. Information to personnel

a. *Initial orientation.* All new DA personnel, except enlisted personnel not required to file a DD Form 1555, will be given an opportunity to review this regulation and will be given an oral standards of conduct briefing not later than 60 days after initial employment, assumption of duties, or entry on active duty. Enlisted personnel not required to file the statement will be given standards of conduct briefings. These briefings may be given at the same time as the explanations required by 10 USC 937 and other statutes or regulations.

(1) The U.S. Army Training and Doctrine Command (TRADOC) or the appropriate service school will conduct initial briefings for military personnel. The employing management/supervisory official will brief new civilian personnel. An entry will be made on personnel records to show military personnel have received the initial briefing. For civilian personnel, an entry will be made on the civilian personnel orientation checklist after the initial briefing. This requirement is not retroactive.

(2) These briefings will be conducted in such a way as to make DA personnel aware of the standards of conduct that apply to their prospective duties. Appropriate methods may include—

(a) An orientation packet directed to all pertinent standards of conduct documents.

(b) An explanation of sections of the Standards of Conduct regulation rather than simple notice of their existence.

(c) An information summary of the standards designed to alert personnel to potential conflicts and areas in which they should seek advice.

(d) Use of videotapes or training films.

b. *Semiannual reminder.* Commanders in conjunction with Ethics Counselors will evaluate command ethics training programs on a regular basis to ensure that appropriate emphasis is being given to identified problem areas and that the topic as a whole is adequately covered. All DA personnel will be reminded at least semiannually of their duty to comply with required standards of conduct. This may be accomplished through notices printed in command bulletins, letters, or similar publications of wide dissemination, or through live presentations, videotapes, training films, or other media. Copies of this regulation will be provided upon request and may be circulated in reading files. Commanders or supervisors must be able to show by some written method (e.g., training schedule, memorandum) that the semiannual requirement has been met.

c. *Departing personnel.* Commanders will establish procedures to ensure that—

(1) Officers and civilian employees who have indicated that they will be separating from service will be counseled concerning negotiating for employment (para 2-10) and postemployment restrictions (paras 5-3, 5-5, 5-6, and 5-7) 4 to 6 months (or as soon as possible thereafter) before their proposed separation date.

(2) All officers and civilian employees ending service with the Army will be given a copy of the summary of Post Employment Restrictions (fig 1-1). They also will be provided a copy of this regulation for review during their outprocessing. Those who request additional information will be referred to the local Ethics Counselor or legal office as appropriate.

1-7. Display of the Code of Ethics for Government Service

Pub.L. No. 96-303 (1980) requires the Army to display copies of the Code of Ethics for Government Service (app D) in appropriate areas of Federally owned or leased office space. Army activities must display the Code at all military installations and other facilities where at least 20 persons are regularly employed as civilian employees. The Code may be displayed in lobbies, conference rooms, reception areas, auditoriums, cafeterias, and other high traffic areas. (Code of Ethics posters are self-service supply items and may be procured under National Stock Number 7690-01-099-8167.)

1-8. Report forms

The following forms, which may be obtained from the sources cited, will be used in complying with this regulation:

a. DD Form 1357, Statement of Employment (Regular Retired Officers), is stocked

and issued by the Cdr, U.S. Army Finance and Accounting Center (USAFAC), ATTN: FINCM-T, Indianapolis, IN 46249-1501. See figure 1-2 for a sample of a completed DD Form 1357.

b. DD Form 1555, Confidential Statement of Affiliations and Financial Interests, is available through normal publications supply channels. See figure 1-3 for a sample of a completed DD Form 1555.

c. Standard Form 278, Financial Disclosure Report, is available through publication supply channels from the US Army AG Publications Center, Baltimore, MD 21220-2896. See figure 1-4 for a sample of a completed SF 278.

d. DA Form 4971-R, Certificate of Preliminary Review of SF 278, is located at the back of this regulation. It may be reproduced locally on 8½- by 11-inch paper, printed head to head.

e. DD Form 1787, Report of DOD and Defense Related Employment as Required by 10 USC 2397, is available through normal publication supply channels. See figure 1-5 for a sample of a completed DD Form 1787.

Chapter 2 Conflicts of Interest and General Prohibitions

2-1. Conflicts of interest

a. *General.* DA personnel should place loyalty to country, ethical principles, and law above private gain and other interests. The performance of their duties should be in keeping with the highest tradition of the military service and civilian service to the US Government.

b. *Affiliations and financial interests.* In performing their duties and responsibilities, DA personnel will not engage in any personal business or professional activity, or have or retain any direct or indirect financial interest, that places them in a position in which there is a conflict or the appearance of a conflict between their private interests or affiliations and the public interests of the United States as it relates to their duties and responsibilities as DA personnel. For the purpose of this prohibition, the private financial interests of a spouse, dependent child, and any household members are treated as private financial interests of DA personnel. Therefore, if such a family member is receiving anything of value from any organization, the Government employee will have a financial interest in that entity.

c. *Avoiding actual or apparent conflicts of interest.* Direct or indirect financial interest in a defense-related contractor, in any amount and in any form (e.g., common or preferred stock, bonds, options), may give rise to an impermissible actual or apparent conflict of interest. Examples of circumstances or situations that may result in actual or apparent conflicts of interest because of financial interests or outside activities are provided in appendix E. These examples are

not inclusive; they merely illustrate a few situations in which conflicts arise. These examples demonstrate that conflicts of interest arise more often in situations that are more indirect than when a contracting officer administers a contract held by a company in which he holds stock. DA personnel (military and civilian) with holdings in defense related contractors that could lead to an actual or apparent conflict of interest should seek guidance from their Ethics Counselor.

d. *Conflicts of interest resulting from outside employment.* Outside employment or other outside activity, either with or without compensation, may also create a conflict or the appearance of a conflict of interest. Before any negotiations for employment, DA personnel (military and civilian) are encouraged to consult with their Ethics Counselor to determine whether a disqualification is required. This applies to all negotiations for employment conducted while the individual is on active duty or currently employed with the Government.

e. *Using "inside information."* DA personnel will not engage in any personal business or professional activity, or enter into any financial transaction, that involves or appears to involve the direct or indirect use of "inside information" to further a private gain for themselves or others. This prohibition regarding "inside information" obtained while at the Department of the Army continues even after the individual terminates Government service or employment.

f. *Using official positions.* DA personnel are prohibited from using their official positions to induce, coerce, or in any way influence any person, including subordinates, to provide any unauthorized benefits, financial or otherwise, to themselves or others.

g. *Unauthorized release of acquisition information.* Except as provided herein, DA personnel are prohibited from releasing to an individual or to a business concern or its representatives any information concerning future DA requirements or a proposed acquisition or purchase by any contracting activity of DA. Such information will be released to all potential contractors as nearly simultaneously as possible. These releases will be made only through duly designated agencies, so that one potential source may not be given an advantage over another. Such information will be provided in accordance with existing authorized procedures and only in connection with the necessary and proper discharge of official duties. It will not be included in briefings or other presentations to former officers or employees of DA or DOD based solely on their status as such.

h. *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 DA in the position of not acting in good faith. Unauthorized personnel are prohibited from making any

commitment or promise relating to award of contract and will make no representation that would be construed as such a commitment. DA personnel will never advise a business representative that an attempt will be made to influence another person or agency to give preferential treatment to his or her concern in the award of future contracts. Persons requesting preferential treatment will be informed by official letter that DA contracts are awarded only in accordance with established contracting procedures.

i. *Membership in associations.* DA personnel who are members or officers of non-Government associations or organizations must not engage in activities on behalf of the association or organization that are incompatible with their official Government positions. (See AR 1-210 and AR 1-211.) (See also app E, para f.)

j. *Commercial dealings and other solicitation.* To eliminate the appearance of coercion, intimidation, or pressure from rank, grade, or position, DA personnel, except special Government employees, will not make personal commercial solicitations or sales to DOD personnel who are junior in rank, grade, or position at any time, on or off duty. "Personal commercial solicitation" refers to those situations where DA personnel are employed as sales agent on commission or salary, or conduct business, and have contact with prospective purchasers concerning the commodity, real or intangible, that is being offered for sale.

(1) This prohibition includes, but is not limited to, the solicitation and sale of insurance, stocks, mutual funds, real estate, and any other commodities, goods, or services. (See also AR 210-7 and AR 210-10.)

(2) This prohibition does not apply to the sale or lease, by a person, of a privately owned former residence; nor does it apply to the sale of personal property not held for commercial or business purposes. It also does not apply to the off-duty employment of DA personnel or their spouses as employees in retail stores or other situations not involving personal commercial solicitation.

(3) *Personal commercial solicitation (or other commercial dealings)* between military personnel and the spouses of their military superiors at any level (e.g., spouses of commanders, supervisors, instructors, etc.) may also give rise to the appearance of preferential treatment or the improper use of rank or position for personal gain and may undermine discipline, morale, or authority. Such activities generally are to be avoided. Commanders and supervisors of such military personnel will counsel those involved or take other action, as appropriate, if the commercial activities—

(a) Cause actual or perceived partiality or unfairness;

(b) Involve the actual or apparent use of rank or position for personal gain; or

(c) Can otherwise be expected to undermine discipline, morale, or authority.

k. *Assignment of Reserves for training.* DA personnel who assign Reserves for

training will not assign them to duties in which they will obtain information that they or their private sector employers could use to gain unfair advantage over civilian competitors. Reservists must disclose to superiors or assignment personnel information necessary to ensure that no conflict exists between their duty assignment and their private interests. Reservists on promotion boards will not participate in promotion decisions that may directly or predictably affect their private financial interests.

l. Prohibited selling by retired military officers. Legal limitations on sales by retired Regular military officers to any component of the DOD, Coast Guard, National Oceanic and Atmospheric Administration, or Public Health Service are listed in appendix B.

m. Dealing with present or former military or civilian personnel. DA personnel will not knowingly deal, on behalf of the Government, with present or former military or civilian personnel of the Government whose participation in the transaction violates a statute described in chapter 5 or any provision or policy set forth in this regulation. Contracting officers, as well as other DA personnel who deal frequently with contractor representatives, will establish a system to determine whether the contractor representatives with whom they deal are former Government employees or military personnel and, if so, whether they are subject to a restriction on selling or were officially involved in the same matter on behalf of the Government.

n. Honoraria. DA personnel may not accept honoraria or other salary supplementation for performance of official duties. (See 18 USC 209.) They may not suggest charitable contributions in place of honoraria. Even when acting in a personal rather than official capacity, there are the following restrictions.

(1) DA personnel may not accept an honorarium or more than \$2,000 (excluding expenses for travel and subsistence, agents, fees, or commissions) for any appearance, speech, or article. (See 2 USC 441i.)

(2) Under no circumstances will DA personnel accept honoraria from DOD contractors. Neither will DA personnel accept honoraria from others whose interests are reasonably likely to be affected by official DA actions. Before accepting any honorarium DA personnel should consult their Ethics Counselor. This will enable the Ethics Counselor to examine the relationship between the group, the person, or the organization offering the honorarium and the potential recipient's official duties within DA. (See paras 2-6d and e.)

(3) Personnel required to file an SF 278 must report honoraria received. (See para 4-3.)

o. Negotiating for employment.

(1) DA officers and civilian employees may not participate on behalf of the Government personally and substantially in any particular matter in which, to their knowledge, an organization with which they are

negotiating for employment or have any arrangement concerning prospective employment, has a financial interest. (See 18 U.S.C. 208) "Negotiating" includes any action by DA personnel that reasonably could be construed as an indication of interest in future employment, including sending letters or resumes, making telephone inquiries, or failing to clearly reject a personally directed proposal from the entity's representative regarding future employment. It is not necessary that there be any firm offer of employment.

(2) DA personnel who have any contacts regarding future employment with an entity which has a financial interest which may be affected by the performance of their official duties will not participate in any manner whatsoever in any official action involving that entity until such time as the possibility of future employment with that entity has been rejected. Formal disqualification normally will be required. (See para 2-11g.)

(3) DA personnel in grades GS-11 or O-4 and above who have participated in a procurement function in connection with a particular DOD contract for \$25,000 or more, and who either contact or are contacted by the contractor regarding future employment opportunities, will—

(a) Disqualify himself or herself, as provided in paragraph 2-11g, from participating in any procurement functions involving that contractor until such time as the possibility of future employment with that contractor has been rejected by either the procurement official or the contractor; and

(b) Submit a written report of every such contact to his or her supervisor and Ethics Counselor within 7 days. The report will include the date of each contact covered by the report, a brief description of the substance of the contact, and a copy of the related disqualification statement, if any, submitted under (a) above. This reporting requirement does not apply to the first contact initiated by the contractor, provided the DA procurement official terminates that contact immediately. However, if any additional contacts regarding employment opportunities are made by or with the same contractor, the DA procurement official must then also report the first contact if it occurred during the preceding 90 days.

(4) Failure to comply with either the disqualification or reporting requirements described in (3) above may result in an administrative fine of up to \$10,000 and a 10 year bar on employment with the particular defense contractor effective upon separation from Government service. (10 USC 2397a)

p. Fund-raising by charitable or nonprofit organizations. The high visibility of DA officials generates requests from charitable and nonprofit organizations to use an official's name and title in conjunction with fund-raising activities. The use of names and titles of DA officials, even regarding fund-raising activities of charitable organizations,

may give an improper impression that DA endorses the activities of a particular organization, thereby resulting in unauthorized assistance for the organization or sponsors of the activities. The presence of DA officials may be sought, under the guise of bestowing awards upon the official, to promote attendance at programs. DA officials will not allow the use of their names or titles in connection with charitable or nonprofit organizations, subject to the following:

(1) The Department of the Army may assist only those charitable programs administered by the Office of Personnel Management under its delegation from the President and those other programs authorized by DA regulations. See DOD Directive 5053.1 and AR 600-29.

(2) This prohibition does not preclude speeches before such organizations by DA officials if the speech is designed to express an official position in a public forum. See AR 360-61.

(3) This prohibition does not preclude volunteer efforts on behalf of charitable or nonprofit organizations by individuals who do not use their official titles in relation to solicitations and who do not solicit from individuals or entities with whom they do business in their official capacity. However, civilian Presidential appointees and general officers above O-8 may not lend their names in any capacity to such fund-raising activities.

q. Relationship with Defense Contractor. DA personnel will not use the Department's relationship with defense contractors or potential defense contractors to induce, coerce, or seek any favors or actions other than those authorized by the contract, or by law.

2-2. Gratuities, reimbursements, and other benefits from outside sources

a. General policy on gratuities. The acceptance of gratuities by DA personnel or members of their families, from those who have or seek business with DOD and from those whose business interests are affected by DOD functions, cannot be condoned. Such acceptance, no matter how innocently tendered or received may be a source of embarrassment to DA, may affect the objective judgment of the DOD personnel involved, and may impair public confidence in the integrity of the Government.

(1) *General prohibition.* Except as provided in (2) below, DA personnel and their families will not solicit, accept, or agree to accept any gratuity for themselves, members of their families, or others, either directly or indirectly from, or on behalf of, any defense contractor or any source that—

(a) Is engaged in or seeks business or financial relations of any sort with any DOD component.

(b) Conducts operations or activities that are either regulated by a DOD component or significantly affected directly by DOD decision, or

(c) Has interests that may be substantially affected by the performance or nonperformance of the official duties of DOD personnel, or

(d) Is a foreign government or representative of a foreign government that is engaged in selling to DOD, where the gratuity is tendered in the context of the foreign government's commercial activities.

(e) Offers or appears to offer the gratuity primarily because of the recipient's position as a DA officer or employee.

(f) Is an association or organization a substantial majority of whose members fall within the description in (a) or (b).

(2) *Limited exceptions.* The general prohibition in (1) above does not apply to the following:

(a) The acceptance of unsolicited advertising or promotional items that are less than \$10 in retail value.

(b) Benefits available to the public (such as university scholarships covered by AR 621-7) and free exhibitions by Defense contractors at public trade fairs.

(c) Discounts or concessions generally available to all DA military or civilian personnel, provided that such concessions are not used to obtain any item for the purpose of resale at a profit.

(d) Participation by DA personnel in civic and community activities when any relationship with Defense contractors is remote (for example, participation in a Little League or Combined Federal Campaign luncheon that is subsidized by a Defense contractor).

(e) Activities engaged in by officials of the Army and officers in command, or their representatives, with local civic or military leaders as part of authorized Army community relations programs in the United States and overseas. (See AR 360-61.)

(f) Situations in which participation by DA personnel at public ceremonial activities of mutual interest to industry, local communities, and the Army serves the interests of the Government and acceptance of the invitation is approved by the DA Staff agency head, or MACOM, corps, division, or installation commander with the advice of the appropriate Ethics Counselor. (See also para 2-9 and AR 360-61.)

(g) When on official Government business and when the DA employee reports the circumstances in writing to the superior or supervisor and to the Ethics Counselor as soon as possible:

1. Space available use of previously scheduled ground transportation to or from the contractor's place of business provided by the contractor for its own employees, and

2. Contractor-provided transportation, meals, or overnight accommodations when arrangements for Government or commercial transportation, meals, or accommodations are clearly impracticable.

(h) Attendance at vendor training sessions when the vendor's products or systems are provided under contract to DOD and the training is to make the use of those

products or systems by DOD personnel easier.

(i) Situations in which, in the sound judgment of both the persons concerned and their superior, the Government's interest will be served by taking part in activities otherwise prohibited. In any such cases, the persons will first consult with their superior and Ethics Counselor. A written report of the circumstances will be made in advance or, when an advance report is not possible, within 48 hours after such activities, by the individual or his or her supervisor to the supervisor's Ethics Counselor.

(j) Customary exchanges of gratuities between DA personnel and their friends and relatives and the friends and relatives of their spouses, minor children, and members of their household. The circumstances must clearly indicate that the relationship, rather than the business of the person concerned, is the motivating factor for the gratuity and that the gratuity is not paid for by the United States Government or any DOD contractor.

(k) Coffee, donuts, and similar refreshments of nominal value offered as a normal courtesy incidental to the performance of duty.

(l) Acceptance of benefits resulting from the business activities of a spouse, where it is clear that such benefits are accorded the spouse in the normal course of the spouse's employment or business, and have not been proffered or made more attractive because of the DA personnel's status.

(m) Food and refreshments of nominal value on infrequent occasions in the ordinary course of a mealtime gathering at which DA personnel are in attendance for official purposes; in the course of a working meeting at which food is brought in to permit the work to continue uninterrupted and where the meal itself is not a primary purpose for the meeting; or, in the course of an inspection tour.

b. *Reimbursement for official travel.* DA personnel may not accept from any source, other than the U.S. Government, either personal reimbursement for expenses incident to official travel or in kind accommodations, subsistence, transportation, or service, except as indicated below. Where acceptance is authorized, DA personnel will not accept benefits that are extravagant or excessive in nature. When accommodations, subsistence, or services in kind are furnished to DA personnel by non-U.S. Government sources as authorized by this paragraph, appropriate deductions will be reported and made in the travel, per diem, or other allowances payable.

(1) DA personnel who are to be speakers, panelists, project officers, or other bona fide participants in the activity attended may accept accommodations, subsistence, transportation, or services in kind furnished in connection with official travel, but only from those tax exempt organizations listed in 26 USC 501(c)(3) or as otherwise authorized by statute, and only when acceptance is approved by the supervisor or superior,

consistent with guidance from the latter's ethics counselor. (See 5 USC 4111 and 5 CFR 410.702.) Monetary reimbursement for expenses incurred under these circumstances may be made to the U.S. Government by check payable to the Treasurer of the United States.

(2) Persons may accept travel, or reimbursement for travel expenses, from a foreign government as provided in AR 672-5-1.

(3) Other cash reimbursements, or accommodations, subsistence, transportation, or other services in kind, may be accepted only in accordance with applicable statutory gift acceptance authority. (See, e.g., 10 USC 2601) In such cases, any monetary reimbursement must be to the Government, rather than the individual, by check payable to the Treasurer of the United States.

c. *Other benefits from outside sources.*

(1) *Benefits made available to ROTC staff members.* Procedures for ROTC staff members receiving payments or other benefits offered by educational institutions are in AR 145-1 and AR 145-2.

(2) *Government contractor training.* Guidance in (a) through (e) below applies when Government contractors provide training, orientation, and refresher courses to Government personnel. These 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 lectures given free of charge.

(a) 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, if such services (or entertainment or the like) are provided when not required by the contract and without charge to the individual, they constitute a gratuity. 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 reduced according to applicable regulations.

(b) 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 best interest of the Government, and provided the contractor waives all claims against the Government for such training. In these cases the training or instruction itself will not be regarded as a reportable gratuity as required in d below.

(c) Selection of personnel to attend such courses will be made by the Government and not by the contractor. Invitations to persons to attend courses at the expense of the contractor may not be accepted.

(d) Authorized attendance at such courses will be considered official business, with payment of 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 meals, lodging, and entertainment not required by contracts, as may be furnished in connection with the course.

(e) The guidance in (a) through (d) above amplifies the guidance in a and b above; the provisions of a and b remain fully applicable to the conduct of those attending courses of any kind.

(3) *Employee welfare or benefit plans.* DA personnel may continue to participate in employee welfare or benefit plans of a former employer when permitted by law and approved by the appropriate supervisor with the advice of the Senior Ethics Counselor or appropriate Ethics Counselor.

(4) *Trophies or awards.* DA personnel may retain trophies and awards for public service or achievement in an individual, unofficial capacity, or given in games or contests that do not relate to official duties and are clearly open to a broad segment of the public generally or that are officially approved for DOD personnel participation.

(5) *Events sponsored by professional associations.* DA personnel may participate in widely attended gatherings of mutual interest to Government and industry, sponsored or hosted by industrial, technical, and professional associations (other than those described in a(1)(f)) provided that they have been approved in accordance with DOD 5410.20.

(6) *Events hosted by foreign governments or international organizations.* DA personnel may attend or participate in gatherings (including social events such as receptions) that are hosted by foreign governments or international organizations. Acceptance of the invitation must be approved by the DA Staff agency head, MACOM, corps, division, or installation commander, with the advice of the Ethics Counselor. (See para 2-9.) Approval authority may be delegated to a general officer. This approval is not required if—

(a) Attendance or participation is authorized by other exceptions, as in a(2)(e) and (i), above, or

(b) The social event involves a routine or customary social exchange with officials of foreign governments (including military forces) in pursuance of official duties.

(7) *Travel expenses for job interviews.* DA personnel may accept transportation and related travel expenses from a potential employer in connection with a job interview, provided that the recipient notifies his or her immediate superior of these travel arrangements and, when appropriate, that he or she files a disqualification statement concerning any possible official actions involving the potential employer. Notification to the immediate superior should include some evidence that the potential employer offers the same benefits to all similarly situated applicants, not only those employed within DA.

(8) *Benefits received incident to official travel.* Travel coupons, tickets, promotional

items, and other benefits received by DA personnel from private sources (e.g., airlines, rental car companies, hotels) wholly or partly as a result of official travel generally belong to the Government and will be turned over to the appropriate official. Certain exceptions are indicated below. See Joint Federal Travel Regulation, Volume 1, Chapter 2, part A (military personnel) and Joint Travel Regulation, and 41 C.F.R. 101-25.103.

(a) DA personnel may accept promotional items (e.g., pens and calendars) or items offered for customer relations purposes (e.g., free wine on delayed flights) having a retail value of less than \$10 and offered to other similarly situated travelers.

(b) DA personnel may keep payments or free tickets received from a carrier for voluntarily giving up a seat on an overbooked flight so long as the resulting delay in taking a later flight does not interfere with the performance of duty or increase the cost to the Government. Any additional travel expenses incurred are not the responsibility of the Government. (This exception does not apply if the person is involuntarily "bumped.")

(c) DA personnel may accept a travel upgrade (e.g., airline seat upgrade, rental car upgrade, hotel room upgrade) under circumstances in which such upgrades are generally available to the public. For example, an upgrade may be initiated by a private source as a result of overbooking or overcrowding or for customer relations purposes. Care will be exercised by DA personnel to ensure that any such upgrade offer is truly unsolicited and does not constitute preferential treatment, improper influence, or favoritism. To avoid any public perception of extravagant use of official funds, field grade officers and above will not accept an upgrade while in uniform.

(d) Bonus mileage earned in traveler incentive programs (e.g., airline frequent flyer programs) as a result of official travel becomes the property of the Government. DA personnel may accept a travel upgrade only where such use does not result in a loss of credits toward discounts or free tickets that could be used by the Government. This prohibition applies even if the benefit is nontransferable.

(9) *Vehicle rollouts and similar ceremonies.* The following guidance applies to ceremonies and gifts associated with the rollout of a vehicle, aircraft, or vessel, and all similar events:

(a) *Attendance at ceremonies.* Acceptance of an invitation to attend a ceremony will be approved by the commanding officer or head of the activity in which the invitee serves or is employed. Attendance is permitted at appropriate functions incident to the ceremony, such as dinner preceding the ceremony and the reception following it, as long as the function is not lavish, excessive, or extravagant.

(b) *Acceptance of gifts.* DA personnel, their spouses, and their dependent children,

who are official participants may accept a tangible thing of value as a gift or memento in connection with the ceremony as long as its retail value does not exceed \$100 per family and the cost is not borne by the Government. Questions in this regard should be referred to the serving Ethics counselor.

d. *Reporting gratuities.* DA personnel who are offered or receive gratuities, reimbursements, or other benefits from outside sources, or have such items received for them in circumstances that do not conform to the standards of this paragraph will promptly report the circumstances to their immediate superior for review and to the Ethics Counselor. If the source is a DOD contractor, the Ethics Counselor will ensure that the offer or gratuity is promptly reported to the appropriate commander as required by section 3.203, AFARS.

2-3. Prohibitions concerning gifts and donations

a. DA personnel will not solicit a contribution from other DOD personnel for a gift to an official superior, make a donation or a gift to an official superior, or accept a gift or donation from DOD subordinate personnel. For purposes of this prohibition, gifts to immediate family members of the official superior are regarded as gifts to the official superior. This paragraph does not prohibit truly voluntary gifts or contributions of minimal value (or acceptance thereof) on special occasions such as marriage, transfer out of the command, illness, or retirement, if any gift acquired with such contributions is primarily of a sentimental nature. In no case will the retail value (i.e., commercial replacement cost) of such a gift exceed the equivalent limitation, currently \$180, with respect to the receipt of gifts or mementos from foreign governments.

b. As a general rule, the presentation to or acceptance by official DA visitors of mementos during visits to U.S. installations or units should be discouraged. On appropriate occasions, however, military organizations may wish to demonstrate their unit pride and esprit de corps by presenting distinctive mementos to such official visitors. Accordingly, appropriate mementos may be presented on such occasions provided the memento is of nominal value and the other conditions of this paragraph are observed (i.e., voluntariness of contributions, minimal value of contributions).

c. DA personnel will not act as a conduit to give any foreign recipient any gift that has been provided by a private U.S. citizen or business firm.

d. Guidance on the acceptance by DA personnel of gifts and mementos from foreign governments is in AR 672-5-1, chapter 7, section III.

e. The presentation of mementos to distinguished foreign visitors is governed by AR 37-47.

2-4. Use of Government facilities, property, and personnel

Government facilities, property, and work assistance will be used only for official Government business. This includes but is not limited to stationery, stenographic services, typing assistance, duplication and chauffeur services, and computer facilities. 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 official purposes. This prohibition applies where the individual either knew or should have known that the property or service in question belonged to the Government.

2-5. Use of civilian and military titles in connection with a commercial enterprise

a. DA personnel, other than special Government employees, may not use their titles or positions in connection with any commercial enterprise or to endorse any commercial product. The foregoing does not prevent such personnel from publishing books or articles which identify them as authors by reference to their title or position, provided that publication of such material has been cleared under DOD procedures prescribed in AR 360-5.

b. Retired military personnel and members of Reserve Components, not on active duty, may use their military titles in connection with commercial enterprises, provided they indicate their Reserve or retired status. However, the use of military titles is prohibited if it in any way casts discredit on the Army or the Department of Defense or gives the appearance of sponsorship, sanction, endorsement, or approval by the Army or DOD. In addition, oversea commanders may further restrict the use of titles, including use by retired military personnel and members of Reserve Components not on active duty, in an oversea area.

2-6. Outside employment and other activities of DA personnel

a. DA personnel will not engage in outside employment, affiliations, or other outside activity, with or without compensation, that—

(1) Interferes, or is not compatible, with the performance of their Government duties.

(2) May reasonably be expected to bring discredit upon the Government or DA.

(3) Is otherwise inconsistent with the requirements of this regulation. This includes the requirement to avoid actions that reasonably can be expected to create a conflict or the appearance of a conflict of interest.

b. Outside employment activities and other business relationships present special problems for personnel who occupy sensitive positions involving classified information or significant decision-making authority. Commanders should consider requiring such personnel to obtain approval prior to accepting any outside employment or engaging in other business relationships

having the potential for creating a conflict of interest or related problem (e.g., DA personnel who file Financial Disclosure Reports should report outside employment of self, spouse, or child by a DOD contractor).

c. No enlisted members of the armed forces on active duty may be ordered or permitted to leave their post to engage in a civilian pursuit or business, or a professional activity in civil life, for emolument, hire, or otherwise if the pursuit, business, or professional activity interferes with the customary or regular employment of local civilians in their art, trade, or profession. (See 10 USC 974.) This provision will not normally preclude off-duty employment by enlisted members of the armed forces. When questions arise, advice should be sought from the Ethics Counselor concerning impact, if any, in the local area.

d. Off-duty employment of military personnel by an entity involved in a strike is permissible if the person was on the payroll of the entity before the strike began and if the employment is otherwise in conformance with the provisions of this regulation. After a strike begins and while it continues, no military personnel may accept employment with the involved entity at the strike location.

e. DA personnel are encouraged to engage in teaching, lecturing, and writing, subject to the standards set out in this regulation (See paragraph 2-1m.). However, DA personnel will not, either with or without compensation, engage in activities that are dependent on information obtained as a result of their Government employment, except when the information does not focus specifically on the agency's responsibilities, policies, and programs, and—

(1) The information has been published or is generally available to the public; or

(2) The information would be made available to the public under the Freedom of Information Act, 5 USC 552, or

(3) It will be made generally available to the public and the appropriate commander gives written authorization for the use of nonpublic information on the basis that the use is in the public interest. (See AR 360-5.)

f. Civilian presidential appointees will not receive compensation or anything of monetary value for any consultation, lecture, discussion, writing, or appearance, when the subject matter—

(1) Is devoted substantially to DA responsibilities, programs, or operations; or

(2) Draws substantially on official material that has not become part of the body of public information.

g. Government contracting officers are prohibited from awarding a contract to a Government employee or to an organization substantially owned or controlled by one or more Government employees unless Government needs cannot otherwise be met or there is some other compelling reason. (See FAR, subpart 3.6.)

2-7. Gambling, betting, and lotteries

DA personnel will not participate in any gambling activity, while on Government-owned, controlled, or leased property or otherwise while on duty for the Government. This includes lotteries, pools, games for money or property, or the sale or purchase of number slips or tickets. However, this paragraph does not prevent activities—

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

b. Specifically approved by HQDA as an exception to policy. (See AR 600-29, AR 210-1, AR 215-1, and AR 215-2 for instances where HQDA has granted certain exceptions.)

c. Otherwise authorized by law. For example, the Randolph-Sheppard Act and implementing regulations (Health and Human Services publication "Vending Facility Program for the Blind on Federal and Other Property") authorize the sale of State lottery tickets at vending stands operated by the blind.

2-8. Indebtedness

DA personnel will pay their just financial obligations in a proper and timely manner, particularly those imposed by law (such as Federal, State, or local taxes) so that their indebtedness does not adversely affect the Government as their employer. If there is a dispute between DA personnel and alleged creditors, AR 600-15 and AR 690-700, chapter 735, apply.

2-9. Ethics Counselors

a. *Designation.* DA personnel will be advised on how to obtain additional clarification of the standards of conduct and conflicts of interest set forth in this regulation, related statutes, and other regulations. For this purpose, the Army General Counsel is designated as the Senior Ethics Counselor for DA. He or she is responsible for proper coordination and final disposition of all matters relating to standards of conduct and conflicts of interest covered by this regulation. All ARSTAF agencies, field operating agencies, separate activities, installations, and commands authorized a commander in the pay grade of O-7 or above must designate, in writing, one or more officers or civilian employees (not necessarily attorneys) to be Ethics Counselors for their organization.

b. *Direct communication.* Ethics Counselors may communicate directly with other Ethics Counselors in the performance of their duties.

c. *Responsibilities.*

(1) Advise and assist the organization and provide information and assistance to its personnel. Except for simple repetitious cases, assistance will be documented by means of written memorandums, telephone logs, etc., for future reference.

(2) Properly review, including auditing, all standards of conduct problems.

(3) Review DD Forms 1555 and SFs 278.

(4) Maintain lists of military personnel and assist the servicing civilian personnel office in maintaining lists of civilian personnel (See FPM 734, para 2-3.) who are required to file either a DD Form 1555 or an SF 278.

(5) Ensure that the annual review to determine which military and civilian positions must file DD Form 1555 is conducted and assist the supervisor in conducting it.

(6) Monitor and periodically evaluate the financial disclosure reporting system to ensure the prompt filing and review of all reports.

(7) Maintain an adequate counseling, education, and training program concerning all ethics and standards of conduct matters. (See para 1-6.)

(8) Report to the Ethics Counselor of the next higher command, to HQDA (DAJA-ALG), or to the Senior Ethics Counselor any apparent standards of conduct violation which they are unable to resolve promptly and effectively.

d. Relationship of Ethics Counselors. Ethics Counselors must advise DA personnel they counsel, that—

(1) A counselor may not act as an attorney on behalf of that person, because he or she is the Government's representative.

(2) Information provided to the counselor is not confidential.

(3) The counselor can only provide information and assistance and cannot establish an attorney-client relationship.

2-10. Reporting suspected violations

a. DA personnel who have information that causes them to believe that other DOD personnel, or other persons in dealing with DOD, have committed a standards of conduct violation will promptly notify an Ethics Counselor. In addition, suspected violations may be reported to The Inspector General in accordance with AR 20-1.

b. The Ethics Counselor will take the following action:

(1) Report suspected violations of any of the criminal statutes listed in paragraphs B-2 through B-6 immediately to the U.S. Army Criminal Investigation Command and HQDA (DAJA-ALG). (See para 5-4c for reporting violations of 18 USC 207, and 10 USC 2397, 2397a, and 2397c.)

(2) Report suspected violations of paragraphs 2-1e through g, 2-4 (if the loss to the Government is \$1,000 or more), and 2-12 of this regulation to the U.S. Army Criminal Investigation Command. Report other suspected violations of the standards of conduct imposed by this and other regulations promptly to the supervisor and HQDA (DAJA-ALG). The Inspector General or the Criminal Investigation Command may also be notified, as appropriate.

(3) Report suspected violations of 10 USC 2397b to the Army or DOD IG in accordance with appendix 10, DOD Directive 5500.7. HQDA (DAJA-ALG) will also be notified.

(4) Report all suspected violations involving procurement activities to HQDA

(DAJA-PF), WASH DC 20310-2210. (See also para 2-2d.)

c. The responsible Ethics Counselor will ensure that the following are reported immediately to the Army General Counsel: Every case—

(1) In which a possible violation by current or former DA personnel of any of the statutes listed in paragraphs B-2 through B-7 is being investigated by the Federal Bureau of Investigation.

(2) In which a U.S. Attorney is considering or has brought an indictment.

(3) In which the suspected violator is a general officer, civilian Presidential appointee, or member of the SES.

2-11. Resolution of a conflict or appearance of conflict of interest

a. When a real or apparent conflict of interest arises and is not a suspected violation of criminal statutes as set out in paragraph 2-10 above, the superior, in consultation with the Ethics Counselor, will discuss the situation with the person concerned. If the conflict or appearance of conflict of interest persists and is not resolved as a result of discussion, the superior will consult the Ethics Counselor. The superior will prepare and give to the person concerned written notice that a conflict or apparent conflict exists and point out the reasons for the conflict. The person will indorse the notice, explaining the conflict or appearance of conflict.

b. On receiving the person's indorsement, the superior, if he or she concludes that the conflict or appearance of conflict is resolved, will forward the entire file with his or her indorsement to the Ethics Counselor. The Ethics Counselor will file all the correspondence if the superior's conclusion is accepted.

c. If either the superior or Ethics Counselor, after review of the employee's explanation, concludes that the conflict or appearance of conflict is not resolved, the superior at the next level will review the entire matter. If a conflict or appearance of conflict does exist, he or she will attempt to resolve it.

d. In any case arising at any echelon below HQDA level in which there is a conflict or appearance of conflict of interest that is not resolved, the commander will forward the entire file with detailed information and recommendations through command channels to The Judge Advocate General (TJAG), HQDA (DAJA-ALG), for resolution. Intermediate commands will attempt to resolve each case without forwarding it to HQDA. In any case arising at HQDA, the head of the ARSTAF agency will take the necessary action to resolve the conflict or appearance of conflict of interest. Unresolved cases will be forwarded to TJAG for resolution.

e. TJAG will forward to the Army General Counsel, any case involving a conflict or appearance of a conflict that is not resolved by him or her or at a lower level.

f. A conflict or apparent conflict of interest, either on review at the local level or after referral to HQDA, will be resolved promptly so that the conflict or appearance of conflict is ended. It will be resolved in accordance with applicable laws, executive orders, and regulations. Resolution will be accomplished within 90 days after the written notice described in paragraph *a* above is issued or a shorter period as prescribed by appropriate authorities. One or more of the following steps will be used as appropriate:

(1) Exemption under 18 USC 208(b).

(2) Disqualification in accordance with *g* below.

(3) Limitation of duties.

(4) Divestiture.

(5) Establishing a "qualified blind trust" within the meaning of the Ethics in Government Act of 1978.

(6) Transfer or reassignment.

(7) Resignation.

(8) Other appropriate action as provided by statute or administrative procedure.

g. Disqualification procedures are stated below.

(1) Unless otherwise expressly authorized by action taken under 18 USC 208, all DA personnel who have affiliations or financial interests that create conflicts or appearance of conflicts of interest with their official duties must disqualify themselves from any official activities that are related to those affiliations or interests or the entities involved. (See *j* below concerning nondisqualifying financial interests.) A formal disqualification must be sent to a person's superior and immediate subordinates whenever it appears reasonably possible that the person's official functions will affect the affiliations, interests, or entities involved. If such persons cannot adequately perform their official duties after such disqualification, they must divest or be removed from their position. The effectiveness of any disqualification will be evaluated periodically by an individual's superior. (A sample disqualification statement is at fig 2-1).

(2) For the purpose of this paragraph, the "Government official responsible for appointment to his or her position," under 18 USC 208b(1), for purposes of granting exemptions, will be a supervisor of the person concerned. This supervisor must be serving in the grade of colonel or above or GS/GM-15 or above or be an installation commander. All cases involving determinations under 18 USC 208b(1) will be coordinated with the Ethics Counselor.

(3) When a superior thinks a subordinate may have a disqualifying interest, the superior will discuss the problem with the subordinate. If such an interest does exist, the superior will disqualify the subordinate for duty and responsibility in that particular matter.

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

h. The order to divest will be in writing, indicate the specific interests and why they create a problem, and specify the time allowed for divestiture.

i. The immediate superior of the individual and other authorities as appropriate will be informed in writing by the person involved when the necessary actions have been taken to resolve an identified conflict.

j. A conflict does not exist when DA personnel hold shares of a widely held, diversified mutual fund or regulated investment company. In accordance with the provisions of 18 USC 208b(2), such holdings are exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

k. A conflict of interest arises whenever DA personnel have an affiliation or financial interest which may be affected by performance of their official duties. It is not necessary that such an interest be in a defense contractor; it may be in some other entity (e.g., a subcontractor) as long as there is a reasonable anticipation of some advantage to that entity from the official matter in which the DA personnel participate.

2-12. Restrictions on enlisted personnel

a. Enlisted members of DA who occupy a position of trust and responsibility, as designated below, will not—

(1) Except as otherwise authorized by law, act as attorney or agent for anyone, with or without compensation, before any court, Government agency, or officer in connection with any contract, claim, controversy, or other matter in which the United States is a party or has an interest.

(2) Except as otherwise provided by law, accept or agree to accept any compensation for any services rendered by anyone as an attorney or agent before any court, Government agency, or officer in connection with any contract, claim, controversy, or other matter in which the United States is a party or has an interest.

(3) Participate in his or her official capacity through decision, approval, disapproval, recommendation, advice, or otherwise in any contract, claim, controversy, or any other matter in which he or she, or his or her spouse, minor child, partner, organization in which he or she is serving as officer, director, trustee, partner or employee, or any person or organization with whom he or she is negotiating or has an arrangement concerning prospective employment, has a financial interest.

(4) Receive any salary, or supplementation of his or her Government salary, from a private source as a compensation for his or her services to the Government.

b. The following positions are designated as positions of trust and responsibility for the purposes of this paragraph:

- (1) Contracting officers.
- (2) Contracting officers' representatives.
- (3) Ordering officers.
- (4) Purchasing agents.

(5) Persons otherwise involved in procurement and related functions for appropriated and nonappropriated fund activities.

c. The application of these specifically enumerated restrictions does not relieve enlisted members of DA from the applicability of the other prohibitions contained in this regulation.

Chapter 3 Statement of Affiliations and Financial Interests (DD Form 1555)

3-1. DA personnel required to file statements

a. If not required to file a Financial Disclosure Report (SF 278) under chapter 4, the following DA personnel must submit initial and annual Confidential Statements of Affiliations and Financial Interests (DD Form 1555) unless they are expressly exempted:

(1) Commanders and deputy commanders of major installations and activities (except general officers). For this purpose, major installations and activities are those authorized a commander in the grade of colonel or higher.

(2) DA personnel classified at GS-15 or below under 5 USC 5332 (or at a comparable pay level under other authority) and members of the military below the pay grade of O-7, when the official responsibilities of such personnel require them to exercise judgment in making a Government decision or in taking Government action in regard to contracting or procurement, regulating or auditing private or other non-Federal enterprise, or other activities in which the final decision or action may have an economic impact on the interests of any non-Federal entity. This includes DA personnel whose duties require them to make a finding or recommendation or to provide other advice involving the exercise of judgment, that usually is adopted or followed in making the decision or taking the action. The following examples may be used as a guide for deciding whether particular DA personnel must file DD Forms 1555:

(a) *Example 1.* A is a voting member of a committee that exerts substantial influence on the Army materiel acquisition process. A should be required to file DD Form 1555.

(b) *Example 2.* Although having no dealings with Government contractors and not involved in the acquisition process, B recommends the level of supply items which must be obtained from contractors. B's recommendations normally are followed. B should be required to file DD Form 1555.

(c) *Example 3.* C performs technical tests on equipment received from XYZ Corporation to determine whether it meets contract specifications. C's findings almost always are adopted by his or her superior in deciding whether to accept the equipment. If C's findings involve the exercise of judgment, C should be required to file a DD Form 1555.

However, if C's findings are made up entirely of objective mechanical or scientific observations, not involving the exercise of judgment on his or her part, C need not file the form.

(d) *Example 4.* D assembles predetermined data and prepares preliminary position papers for R, D's superior, on matters that have an economic impact on an Army contractor. However, R always makes a completely independent review of the data and forms his or her own conclusion that, as often as not, differs from D's. D need not be required to file DD Form 1555.

(e) *Example 5.* E is a procurement analyst who conducts random reviews of completed acquisition actions for quality and timeliness of accomplishment. E's analyses and recommendations focus on the local procurement office system and operation, but they are not likely to have a direct effect on any Government contractors. E need not be required to file DD Form 1555.

(f) *Example 6.* F is editor of an Army magazine who specifies the printing methods and processes needed and who performs technical coordination with the commercial printers and art firms engaged in printing the magazine. F provides advice as to the technical quality of the contractor's work, but F otherwise does not make effective recommendations or decisions that could influence the award of the printing contract. F need not be required to file DD Form 1555.

(g) *Example 7.* Dr. G, while not directly involved in the procurement process, makes recommendations regarding what kind of medical supplies/equipment should be used in certain Army medical activities. Dr. G's recommendations normally are followed and, in at least some cases, adoption of his recommendations means that the supplies/equipment must be obtained from a particular supplier/manufacturer. Dr. G. should be required to file DD Form 1555.

(h) *Example 8.* H is a NAFI employee and is responsible for purchasing all food stocks for the installation club facilities. In addition, H makes recommendations with respect to both equipment purchases and maintenance contracts. His recommendations are normally followed. H should be required to file a DD Form 1555.

(3) Special Government employees (as defined in the glossary), except as stated in paragraph 3-6.

(4) DA personnel serving in positions in which the supervisor, in coordination with the Ethics Counselor, determines that the duties and responsibilities of the position require the officer or employee to file such a report to avoid a conflict of interest or the appearance of a conflict of interest and to carry out the purpose of any statute, Executive Order, or regulation applicable to or administered by that officer or employee.

b. The Secretary of the Army (SA) or his or her designee may determine that the submission of statements is not necessary for certain positions because of the remoteness of any impairment of the integrity of the Government and the degree of supervision

and review of the incumbent's work. For purposes of this subparagraph, the SA delegates authority for such a determination (except in the case of the positions identified in para 3-1a(1)) to MACOM commanders and heads of ARSTAF agencies. Authority may not be further delegated.

3-2. Review of positions

a. Civilian personnel.

(1) Whenever a new position is created, or the duties of an existing position are materially changed, the supervisor, in coordination with the appropriate personnel officer and Ethics Counselor, will review the duties of that position to determine whether, under the standard described in paragraph 3-1a(2), the incumbent should be required to file DD Form 1555. The result of this determination will be noted in the official Job Description (DA Form 374) for the position.

(2) In addition, other positions may be reviewed annually at the discretion of the Ethics Counselor, appropriate supervisor, or personnel officer. If, as the result of this review, a decision is made to reverse the prior filing determination, the official Job Description (DA Form 374) will be changed accordingly.

(3) A decision that a civilian position filled by an employee in a grade below GS-13 under 5 USC 5332 (or a comparable grade under other authority) necessitates the filing of a DD Form 1555 must be made by a general officer, or a member of the senior executive service, who is in the individual's chain of supervision.

b. *Military personnel.* In conjunction with the formal officer evaluation process, rating officials will determine whether the rated officer's duties require the submission of a DD Form 1555. This determination will be made under the standard described in paragraph 3-1a(2) above and, as necessary, in consultation with the Ethics Counselor. It will be made in conjunction with the face-to-face discussion of duties and objectives upon the rated officer's assumption of duties and thereafter at the beginning of each rating period (AR 623-105, paras 2-2 and 4-4b). If a DD Form 1555 should be filed, that will be noted on the OER Support Form (DA Form 67-8-1) as a responsibility of the rated officer. Rating officials will ensure that the appropriate Ethics Counselor is provided with the names of all officers determined to have to file DD Form 1555.

c. A person who disagrees with the determination regarding his or her position may request a review of the decision through established grievance procedures of the Army. Grievances initiated by civilian employees will be processed under the procedures prescribed by FPM Chapter 771 and AR 690-700.771.

3-3. Statements required

DD Forms 1555 will be submitted through the channels described in paragraph 3-4 under the following circumstances:

a. *Initial statements.* If at all possible, individuals should file DD Forms 1555 before assuming the duties of a position that requires the filing of the form. If not filed then, the first DD Form 1555 should be filed as soon as possible thereafter.

b. *Annual statements.* DD Forms 1555 will be filed by 31 October of each year reporting all affiliations and financial interests as of 30 of September of that year. Even though no changes occur, a complete statement is required. Notwithstanding the filing of annual statements, DA personnel will at all times avoid acquiring a financial interest or affiliation, or taking an official action, that could result in a violation or apparent violation of the conflicts of interest provisions of 18 USC 208 or this regulation.

3-4. Submission, review, and filing

a. Except as provided in b below, each person required to file a DD Form 1555 will submit the completed statement to his or her immediate supervisor for review and approval. Conflicts and apparent conflicts will be resolved in accordance with paragraph 2-11. Not later than 15 days after submission, the supervisor will forward the DD Form 1555 to his or her Ethics Counselor for final review and approval. If no appearance of a conflict of interest is present, the statement will be filed by that Ethics Counselor. Statements will be maintained in accordance with AR 25-400-2, for 6 years from the date of filing.

b. Persons assigned to agencies other than DA will submit their statements as follows:

(1) Army personnel assigned to the Office of the Secretary of Defense (OSD) or the Organization of the Joint Chiefs of Staff (OJCS) will submit DD Forms 1555 in accordance with instructions issued by the agency to which assigned.

(2) Army personnel assigned to a unified command will submit the DD Forms 1555 through their supervisors to the Ethics Counselor of the unified command. Commanders who have a dual responsibility as commanders of both joint commands and Army components will submit their statements through Army channels.

(3) Army personnel assigned to Army elements (excluding Army components listed in AR 10-5, chap 3) of joint commands or activities outside primary staff agencies of DA will submit DD Forms 1555 in accordance with instructions issued by the agency or command to which assigned.

3-5. Excusable delay

The supervisor's Ethics Counselor may grant an extension of time to file a DD Form 1555 in the unique case where the extension is necessitated by either duty assignment or infirmity. An extension in excess of 30 days will not be given without the approval of the Army General Counsel.

3-6. Special Government employees

a. Except as provided in b below, each special Government employee and each

non-Federal member of any DOD or DA advisory committee who is not required to file an SF 278 will, prior to appointment, file a DD Form 1555 statement with the officer designated in paragraph 2-9.

b. Categories of special Government employees who are not required to file DD Forms 1555 unless specifically requested to do so are as follows:

(1) Physicians, dentists, and allied medical specialists engaged only in providing service to patients.

(2) Veterinarians providing only veterinary service.

(3) Lecturers participating in educational activities.

(4) Chaplains or clergymen performing only religious service.

(5) Individuals in the motion picture and television fields who are used only as narrators or actors in DOD productions.

(6) An employee who is not a "consultant" or "expert" as defined in chapter 304 of the FPM.

(7) Reservists on active duty for less than 30 consecutive days during the calendar year.

3-7. Interests of relatives of DA personnel.

The interest of a spouse, minor child, or any member of one's household will be reported in the same manner as an interest of the individual.

3-8. Information not known by DA personnel

DA personnel will request submission on their behalf of required information known only to other persons. The submission may be made with a request for confidentiality that will be honored even if it includes a limitation on disclosure to the DA personnel concerned.

3-9. Information not required to be submitted

DA personnel are not required to submit on a statement any information relating to their connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or similar organization not conducted as a business for profit. 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 will be included in a person's statement.

3-10. Confidentiality of statements of DA personnel

Each DD Form 1555 will be held in confidence. DA may not disclose information from a statement except for good cause, as determined by the Army General Counsel on behalf of the SA or by the Office of Government Ethics. "Good cause" includes a determination that the record or any part of the record must be released under the Freedom of Information Act (FOIA). Persons

designated to review or process statements are responsible for maintaining the statements in confidence. They will not allow access to or disclosure from the statements except to carry out the purpose of this regulation. Inspections by government officials charged with the responsibility for determining the proper operation of the financial disclosure reporting system fall within this exception.

3-11. Effect of statements on other requirements

Submission of DD Form 1555 does to permit DA personnel to participate in matters in which their participation is prohibited by law, order, or regulation.

3-12. DD Form 1555 Status Report (RCS JAG 74)

a. Each year MACOM and ARSTAF Ethics Counselor will prepare reports concerning the annual filing of DD Forms 1555. These reports will be dispatched to HQDA (DAJA-ALG), WASH DC 20310-2212, not later than 20 November. The MACOM and Army Staff report will be a consolidated report from all subordinate elements. This report will also include a breakdown, by installation or activity and will reflect the following data:

- (1) The number of individuals required to file DD Forms 1555.
- (2) The names of individuals who have not filed as of 15 November.
- (3) The reason why individuals listed in (2) above have not filed.
- (4) The anticipated date of filing for individuals listed in (2) above.

b. Biweekly reports will be filed for those organizations that have not received reports from all individuals required to file, until all DD Forms 1555 have been received.

Chapter 4 Financial Disclosure Reports (SF 278)

4-1. DA personnel required to file SF 278 (covered positions)

a. The DA personnel listed below are required under the circumstances shown in paragraph 4-3 to submit an SF 278 (fig 1-4). This requirement is in accordance with the provisions of Title II, Ethics in Government Act of 1978, Pub. L. No. 95-521, as amended (5 USC app. I, sec. 201 et seq.)

- (1) General officers.
- (2) Members of the Senior Executive Service (SES).
- (3) General Schedule (GC) employees, whose position is classified grade 16 and above.
- (4) Personnel (including special Government employees) for whose position the rate of basic pay is fixed, other than under the GS, at a rate equal to or greater than the minimum rate of pay fixed for GS-16. (GS/GM 15s are not required to file SFs 278

even though their pay is higher than that of a GS/GM 16).

(5) Employees in the excepted service in positions that are of a confidential or policy-making character (Schedule C employees). This requirement does not apply to positions that have been excluded by the Director of the Office of Government Ethics.

b. Individuals required to file an SF 278 are not required to file a DD Form 1555.

4-2. Reporting responsibility

a. It is the responsibility of individuals occupying covered positions to file the required SF 278. In certain cases (see para 4-3a), HQDA will notify individuals of filing requirements. The requirement for filing SF 278 for covered civilian positions will be specified in the job description or other document that describes the duties and responsibilities assigned to the position.

b. SF 278 may be obtained through normal publications channels from The Adjutant General Publications Center, 2800 Eastern Blvd., Baltimore, MD 21220-2896. The servicing Staff Judge Advocate (SJA), Civilian Personnel Officer (CPO), or Ethics Counselor should ensure that the forms are available in sufficient time to allow the reporting individual to meet the required suspense dates.

4-3. Reports required

SF 278 will be submitted in accordance with paragraph 4-5 under the circumstances shown below. Local submission dates may be adjusted by immediate supervisors as long as suspense dates to HQDA (DAPC-JA) are met. The reviewing official (table 4-1) may, for good cause shown, grant an extension of up to 45 days.

Table 4-1 Reviewing officials

Assignment of reporting individual: Office, Secretary of Defense (OSD)
Reviewing official: Director for Personnel and Security, Washington Headquarters Services

Assignment of reporting individual: Defense Nuclear Agency (DNA)
Reviewing official: General Counsel, DNA

Assignment of reporting individual: Defense Communications Agency (DCA)
Reviewing official: General Counsel, DCA

Assignment of reporting individual: Defense Mapping Agency (DMA)
Reviewing official: General Counsel, DMA

Assignment of reporting individual: Defense Logistics Agency (DLA)
Reviewing official: General Counsel, DLA

Assignment of reporting individual: Defense Intelligence Agency (DIA)
Reviewing official: General Counsel, DIA

Assignment of reporting individual: National Security Agency (NSA)
Reviewing official: General Counsel, NSA

Assignment of reporting individual: Organization, Joint Chiefs of Staff (OJCS)

Reviewing official: Through OJCS Legal Adviser to Director for Personnel and Security, Washington Headquarters, Service OSD

Assignment of reporting individual: Combined commands and agencies
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: Unified and specified commands
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: National Security Council
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: Central Intelligence Agency (CIA)
Reviewing official: General Counsel, CIA

Assignment of reporting individual: National Aeronautics and Space Administration (NASA)
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: American Battle Monuments Commission
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: US Arms Control and Disarmament Agency
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: Federal Emergency Management Agency
Reviewing official: Director for Personnel and Security, Washington Headquarters Services OSD

Assignment of reporting individual: Army Secretariat
Reviewing official: Army General Counsel

Assignment of reporting individual: Chief of Staff, US Army
Reviewing official: Army General Counsel

Assignment of reporting individual: Vice Chief of Staff, US Army
Reviewing official: Army General Counsel

Assignment of reporting individual: Director of the Army Staff
Reviewing official: Army General Counsel

Assignment of reporting individual: The Judge Advocate General, US Army
Reviewing official: Army General Counsel

Assignment of reporting individual: All other Army general officers and civilian employees
Reviewing official: The Judge Advocate General, US Army

a. *Nomination reports.* Except as indicated in e below, a civilian nominated by the President to a position requiring Senate confirmation will submit an SF 278. The Army

General Counsel will notify such persons when to submit the report and of any additional information required by the report. That office will attach a position description, review the report, and forward a copy of it to the Office of Government Ethics (OGE), to arrive no later than 5 days after transmittal of the nomination to the Senate. Brigadier general designees and general officers are not required to file a nomination report with respect to their nomination for promotion to pay grade O-7 and above. However, brigadier generals will file assumption reports after promotion to pay grade O-7 and assumption of duties commensurate with their new grade in accordance with *b* below.

b. Assumption report. Except as indicated in *e* below, an individual will submit an SF 278 before assuming a covered position. This requirement does not apply if the individual has left another covered position within 30 days prior to assuming a new position, or already has filed with respect to nomination for the new position.

(1) A civilian position is assumed on the effective date of the civilian personnel action involved. A civilian temporarily occupying a covered position (i.e., without a formal civilian personnel action) will not be considered to have assumed the position for purposes of this filing requirement.

(2) A military officer below the grade of O-7 will not be considered to have assumed a general officer position unless frocked as a general officer.

(3) A newly appointed (or frocked) brigadier general will submit an assumption report within 30 days after assuming the duties of a general officer position.

(4) When an individual assumes duties in a covered position but is not required to submit a new report, the individual will review his or her financial interests with that organization's Ethics Counselor to ensure that the change of duties will not affect continued compliance with applicable conflict of interest laws and regulations. Such a review will also be conducted if the individual acquires additional duties or assumes a new covered position during the period before the annual report is required to be filed. This review will include the most recent report filed by the individual plus information supplied informally by the individual as to any additional interests subsequently acquired or other significant changes.

c. Annual reports.

(1) An SF 278 will be submitted by each person, including special Government employees who perform the duties of a covered position (para 4-1a) for more than 60 days during a calendar year. The report covering that calendar year will be submitted to the immediate supervisor in accordance with paragraph 4-5 by 15 April of the next calendar year. The report will be reviewed and forwarded by the immediate supervisor to HQDA (DAPC-JA), by 15 May. (RCS exempt, AR 335-15, para 5-2e(4))

(2) When an individual has filed an annual report, and subsequently either

acquires additional duties or assumes a new covered position, a new SF 278 does not need to be filed. The individual, however, will review his or her financial interests with that organization's Ethics Counselor to ensure that the change of duties will not affect continued compliance with applicable conflict of interest laws and regulations. This review will include the most recent report filed by the individual plus information supplied informally by the individual as to any additional interests subsequently acquired or other significant changes.

d. Termination reports. Except as indicated in *e* below, an SF 278 will be submitted in accordance with paragraph 4-5. The SF 278 will be submitted 15 days before the effective date of termination of employment unless the person has accepted employment in another covered position. The termination report will cover the portion of the present calendar year up to the date of termination and, if the annual report has not yet been filed, the preceding calendar year. Such reports must reach HQDA (DAPC-JA) no later than 30 days after the last day of Federal employment.

e. Not more than 60 days in covered position.

(1) A person who is nominated to or assumes a covered position is not required to file a report if the appropriate appointing official (for civilian employees) or HQDA (DAPE-GO) (for USAR and ARNG general officers) determines after consultation with the organization's Ethics Counselor that such a person is not reasonably expected to perform the duties of the position for more than 60 days in the calendar year. However, if the person performs the duties of the office or position for more than 60 days in the calendar year, an assumption or nomination report will be filed within 15 days after the 61st day of duty.

(2) A person who does not actually perform the duties of a covered position for more than 60 days in the calendar year is not required to file an annual report or a termination report.

4-4. Contents of reports

Instructions for completing SF 278 are included as part of the report forms. Additional guidance for personnel in covered positions is available from local Ethics Counselor, SJAs, CPOs or command counsel.

4-5. Submitting assumption, annual, and termination reports

a. DA personnel required to file will submit their SF 278 through their Ethics Counselor (or persons fulfilling similar responsibilities in the agency to which assigned) to their immediate supervisor. Forms will not be submitted through command channels.

(1) DA personnel assigned to agencies and offices outside DOD will submit their SF 278 to HQDA, U.S. Total Army Personnel Agency, ATTN: DAPC-JA, 200 Stovall

St., Alexandria, VA 22332-0402, in compliance with the suspenses listed in paragraph 4-3. A copy of the official position description and a completed DA Form 4971-R (Certificate of Preliminary Review of SF 278) must be included.

(2) DA personnel of the unified commands will submit their reports through their Ethics Counselor to their immediate superior and then to the Ethics Counselor (or persons fulfilling similar responsibilities) of the unified command for submission to HQDA (DAPC-JA).

b. Agreements with any other DOD component or Government agency involving a loan of DA personnel in covered positions (para 4-1a will contain a requirement that the other DOD component or Government agency will review any SF 278 submitted by the loaned individual, attach a copy of the official position description, complete a DA Form 4971-R, and forward the reports with all attachments to HQDA (DAPC-JA) in compliance with the filing dates prescribed in paragraph 4-3. A statement will be included concerning the resolution of any conflict or apparent conflict of interest.

4-6. Preliminary review

a. Ethics Counselor of reporting person. The reporting individual's Ethics Counselor will—

(1) Thoroughly review the SF 278.

(2) Attach a copy of the official position description.

(3) Complete the applicable portions of the DA Form 4971-R to include listing (at item 2c and/or 2d) those business entities in which an interest or affiliation has been reported that are doing business or attempting to do business with the reporting person's organization or activity.

(4) Forward the SF 278, with all attachments, to the reporting individual's supervisor.

b. Immediate supervisor of reporting person. The reporting person's immediate supervisor will thoroughly review the reported financial interests as they relate to the person's duties. Conflicts or the appearance of conflicts will be resolved in accordance with paragraph 2-11 of this regulation and item 2d of the DA Form 4971-R. If the immediate supervisor is aware of any information that relates to a possible conflict of interest, the information will be included. The immediate supervisor will complete the applicable portions of the DA Form 4971-R and forward the report, with all attachments, to his or her Ethics Counselor.

c. Ethics Counselor of immediate supervisor. The Ethics Counselor for the immediate supervisor of the reporting person will—

(1) Conduct a thorough preliminary review of the reported financial interests and positions disclosed on the form.

(2) Clarify and resolve discrepancies, conflicts, or apparent conflicts with the immediate supervisor in accordance with paragraph 2-11 of this regulation and item 2d of the DA Form 4971-R.

(3) Complete the DA Form 4971-R.

(4) Forward the SF 278, with attachments (e.g., position description and completed DA Form 4971-R), to HQDA, U.S. Total Army Personnel Agency, ATTN: DAPC-JA, 200 Stovall St., Alexandria, VA 22332-0402, in compliance with the suspenses listed in paragraph 4-3.

4-7. Review at Headquarters, Department of the Army

a. Filing Authority. The official filing authority for all individuals occupying covered positions within the Department of the Army is HQDA (DAPC-JA). The date of receipt by HQDA (DAPC-JA) will be noted on the SF 278 as required by law. Upon dating the report, HQDA (DAPC-JA) will forward the SF 278 to the appropriate reviewing official for final review.

b. Reviewing official. Reviewing officials are shown in table 4-1. When TJAG is the reviewing official, he or she will provide the General Counsel a copy of all correspondence referred to in *e* and *f* below. Review of an SF 278 is completed when the reviewing official has signed the SF 278, indicating that each item is completed and that the report discloses no unresolved conflict or appearance of a conflict of interest under applicable laws and regulations. (Circumstances or situations that have resulted in or may result in noncompliance with applicable laws and regulations are listed at app E.)

c. Permanent filing. After signing the SF 278, the reviewing official will return it for permanent filing to HQDA (DAPC-JA).

d. Additional information. If the reviewing official, after reviewing an SF 278, believes additional information is required, the reporting individual will be notified of the additional information required and the date by which it must be submitted. The reporting individual will submit the required information directly to the reviewing official.

e. Preliminary determination. If the reviewing official, after reviewing the SF 278, is of the opinion, on the basis of information submitted, that the reporting person is not in compliance with applicable laws and regulations, the following steps will be taken:

(1) The person will be notified in writing of the preliminary determination.

(2) The person will be afforded a reasonable opportunity for a written or oral response. Written responses will be forwarded directly to the reviewing official by the suspense date specified in the notice.

f. Compliance or referral. After considering the response provided by the reporting person, the reviewing official will determine whether the person is in compliance with applicable laws and regulations.

(1) If the person is in compliance, the reviewing official will sign the SF 278. He or she will also send written notification of the determination to the person, including the addition of any comments written or attached to the SF 278.

(2) If the person is determined not to be in compliance, he or she will be notified in

writing of that determination. After an opportunity for personal consultation, if practicable, the reviewing official will notify the person in writing of the remedial measures outlined in paragraph 2-11 that should be taken to bring the person into compliance. The notification will specify a date by which such measures must be taken.

(a) When the reviewing official determines that a reporting person has fully complied with the remedial measures, a notation to that effect will be made in the comment section of the SF 278. The reviewing official will then sign and date the SF 278 and send written notice of that action to the person.

(b) If steps assuring compliance with applicable laws and regulations are not taken by the date established, the reviewing official will report the matter to the SA for action. The OGE will also be notified.

4-8. Public disclosure

By law, SFs 278 must be made available for public examination upon request, 15 days after the report is filed. Receipt of the report by HQDA (DAPC-JA) constitutes official filing and establishes the date from which the 15 days will run. In most cases, this means the reports are available to the public before review at HQDA is completed. Reporting persons are personally responsible for ensuring that their reports are accurate, complete, and timely.

4-9. Penalties

Compliance with the financial disclosure provisions will be enforced by administrative, civil, or criminal remedies, as appropriate.

a. Action within Department of the Army. The SA may take appropriate action, including a change in assigned duties or adverse action, in accordance with applicable law or regulation, against any person who is reported under paragraph 4-7f(2)(b), who fails to file an SF 278, or who falsifies or fails to report information required to be reported.

b. Action by the Attorney General. The SA is required by the Ethics in Government Act of 1978 to refer to the Attorney General the name of any person whom the SA has reasonable cause to believe has willfully failed to file an SF 278 on time or has willfully falsified or failed to file information required to be reported. Such referral does not bar additional administrative or judicial enforcement. The Attorney General may bring a civil action in the US District Court against any person who knowingly and willfully falsifies or fails to file or report any required information. The court may assess a civil penalty not to exceed \$5,000. Knowing or willful falsification of information required to be filed may also result in criminal prosecution under 18 USC 1001 leading to a fine of not more than \$10,000, or imprisonment for not more than 5 years, or both.

c. Misuse of reports.

(1) The Attorney General may bring a civil action against a person who obtains or

uses an SF 278 filed pursuant to the Ethics in Government Act for the reasons shown below.

(a) Any unlawful purpose.

(b) Any commercial purpose, other than by news and communications media for dissemination to the general public.

(c) Determining or establishing the credit rating of any individual.

(d) Use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) The court in which such action is brought may assess against such person a penalty in any amount not to exceed \$5,000. This is in addition to any other legal remedy available.

Chapter 5 Laws Governing Former Government Employees

5-1. Former officers or employees

a. The term "former officer or employee" includes the following personnel:

(1) Full-time civilian officers or employees who have left Government service.

(2) Special Government employees who have left Government service.

(3) Retired officers released from active duty.

(4) Reserve officers released from active duty.

(5) Officers discharged or dismissed from active duty.

b. The term does not include enlisted personnel.

5-2. Enforcement responsibility

a. Each officer and employee, upon ending service with the US Army, is obligated to review the postemployment restrictions imposed by law and regulation and determine those that apply to future employment and dealings with the agencies of the Federal Government. This chapter and appendix B summarize the laws and regulations that apply to persons who have already left the Government or will do so in the future.

b. Persons ending service with the US Army will be furnished a copy of this regulation for review during their outprocessing. Personnel who request additional advice will be referred to the local Ethics Counselor or legal office as applicable. Such advice may be provided before or during the outprocessing.

c. Administrative enforcement procedures are set forth in paragraph 5-4.

5-3. Postemployment restrictions

a. Employment of former DA personnel. Except as described in *c*, below, no Federal law or regulation precludes retired or former civilian or military personnel from being employed by a domestic corporation or concern doing business with the Government. General professional knowledge acquired while in Government service generally may be used in connection with

the employment. However, the use of "inside information," as well as other activities that reasonably give the appearance of making unfair use of prior Government employment and affiliations, is prohibited. With few exceptions, the statutory postemployment restrictions are not intended to discourage the movement of employees to and from positions in industry, research institutions, and universities. Only certain acts that are detrimental to public confidence in the Government are prohibited. See appendix B for a digest of laws relating to conflict of interest.

b. Ethics in Government Act. This statute makes it a criminal offense for a former officer or employee who participated in or had official responsibility for a particular matter while employed by the Government to "switch sides" by representing another person or organization in the same matter at a later time. The representational activities specifically restricted include all personal appearances before the Government, as well as oral or written communications with the Government made with the intent to influence a governmental decision. The term "Government" includes any department or agency of the United States or the District of Columbia, as well as any officer or employee thereof. (See 5 CFR 737 for examples of both permissible and prohibited conduct.)

(1) *Restrictions on former officers and employees.*

(a) *Permanent bar.* All former officers and employees are permanently prohibited from representing anyone else in an appearance before or communication with the Government in connection with any particular matter involving specific parties in which the United States is a party or has a direct and substantial interest and in which the individual participated personally and substantially for the Government (18 USC 207(a)).

(b) *Two-year bar.* For 2 years after the termination of official responsibility (see below), former officers and employees are prohibited from representing anyone else in an appearance before or communication with the Government in connection with any particular matter involving specific parties in which the United States is a party or has a direct and substantial interest and which was pending under the former employee's official responsibility during the last year of Government service (18 USC 207 (b)(i)). "Official responsibility" includes the authority, whether intermediate or final, exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions.

(2) *Additional restrictions on former senior employees.* "Senior employee" refers to all civilian employees at the executive level (5 USC 5312 - 5317), generals, or lieutenant generals. It also refers to any other persons holding general officer or SES positions that

have been designated as senior employee positions by the Director, Office of Government Ethics. (See 5 CFR 737.33, reproduced annually in bulletins under chapter 737, FPM.)

(a) *Two-year bar on representation by personal presence.* For 2 years after ceasing to be a senior employee, a former senior employee is prohibited from assisting in the representation of anyone else by personal presence at any appearance before the Government in connection with any particular matter involving specific parties in which the United States is a party or has a direct and substantial interest and in which the former senior employee participated personally and substantially for the Government (18 USC 207(b)(ii)). While former senior employees could, for example, work on a contract with which they were involved while in Government service, they may not render assistance by attendance at any meeting, negotiations, or proceedings with the Government.

(b) *One-year bar on attempts to influence former agency.* For 1 year after ceasing to be a senior employee, a former senior employee is prohibited from representing anyone, including himself, in any appearance before or communication with his former agency in connection with any particular matter which is pending before such agency or in which such agency has a direct and substantial interest (18 USC 207(c)). This provision does not require the former senior employee to have had any prior involvement in the particular matter, nor that the matter involve specific parties. The provision does not apply, however, to communications made by a former senior employee who is an elected official or employee of a State or local government acting on behalf of such government, or to communications by a former senior employee who is principally employed by a degree-granting institution of higher learning, or a nonprofit hospital or medical institution, and who is acting on behalf of such institution. It also does not apply to purely social or informational communications, contacts regarding matters of a personal and individual nature, such as retirement benefits, or expressions on his or her behalf of the personal views of a former senior employee who has no pecuniary interests at stake. This provision creates a one-year "cooling off" period to prevent the use of personal influence based on past Government affiliations to facilitate the transaction of business.

(3) *Consultation exception postemployment restrictions.* The postemployment restrictions outlined above do not apply to communications made solely for the purpose of furnishing scientific or technological information in accordance with the following procedures:

(a) The office receiving the contact or communication will be advised by the former officer or employee, or by the organization represented by that individual, of the prior employment status of that individual

and the general subject matter to be communicated. Notice will be given in advance of any communication, if possible, to the Ethics Counselor for the office to which the communication is to be directed (See para 2-9.)

(b) The subject matter of the communication must be limited to scientific and technological exchanges. These may include discussions of feasibility, risk, cost, and speed of implementation.

(c) The office receiving the communication or participating in the discussions must maintain copies of the written communications and written summaries of any discussions for a period of 5 years.

(4) *Exemption for persons with special qualifications in a technical discipline.* Upon application by the person concerned, the SA, in consultation with the Under Secretary of Defense for Research and Development and with the Director, OGE, may grant an exception to the postemployment restrictions outlined above if the conditions below are met.

(a) Written applications for an exception will be submitted directly to HQDA (SARDA), WASH DC 20310-0600. Justification submitted with the application will include evidence that the person has outstanding qualifications in a scientific, technological, or other technical discipline and the person is acting with respect to a particular matter that requires such qualifications, and that the national interests will be served by participation of the former officer or employee. The Assistant Secretary of the Army (Research, Development, and Acquisition) will forward the application through the Army General Counsel to the SA, together with a recommendation on whether to approve the application and the basis for that recommendation. If the application for an exception is approved, the SA will publish appropriate certification in the Federal Register.

(b) The use of this exception will be limited to instances in which the former Government employee's involvement is needed on so continuous and comprehensive a basis that compliance with the procedures adopted for the communication of technical information (para 5-3b(3)) or other actions to isolate the former Government employee from other aspects of the matter would be burdensome and impractical.

c. Employment restrictions on certain former DOD officials. Pursuant to 10 USC 2397b, certain former DOD officers and employees will not receive compensation from a major defense contractor for a 2-year period, beginning on the date the former officer or employee separated from DOD. (See section II of the Glossary for definitions of specific terms used in this paragraph.)

(1) *Applicability.* Individuals subject to these restrictions are those who served in a position for which the rate of pay is equal to the minimum rate of pay payable for a GS-13 or higher, and individuals who served in the Armed Forces in pay grades of O-4 or higher, if such individuals—

(a) Spent the majority of their working days during the last 2 years of DOD service performing a procurement function relating to a DOD contract, at a site or plant that was owned or operated by a contractor, and which was the principal location of their performance of that procurement function; or

(b) Performed, in a majority of their working days during the last 2 years of DOD service, a procurement function relating to a major defense system and, in the performance of such a function, participated on any occasion personally and substantially in a manner involving decision-making responsibilities with respect to a contract for that system through contact with the contractor.

(2) *Senior employees.* The restrictions also apply to individuals who served in Senior Executive positions or higher, and individuals who served as members of the Armed Forces in the pay grade of 0-7 or higher, if such individuals, during the last 2 years of DOD service—

(a) Acted as one of the primary representatives of the United States in the negotiation with a defense contractor of a defense contract in an amount in excess of \$10 million (the actual contractual action taken by the individual must have been in an amount in excess of \$10 million), or

(b) Acted as a primary representative of the United States in the negotiation of a settlement of an unresolved claim of such a defense contractor in an amount in excess of \$10 million. An unresolved claim will be, for the purposes of this regulation, valued by the greater of the amount of the claim or the amount of the settlement.

(3) *Advice from the designated Ethics Counselor.*

(a) Any person may, before accepting compensation, request that the designated Ethics Counselor (See (d), below) provide advice on the applicability of 10 USC 2397b and this regulation to the acceptance of such compensation.

(b) The designated Ethics Counselor for an individual who is still employed by DA is the Ethics Counselor of the MACOM to which the individual's current organization is assigned or attached. If the organization is not assigned or attached to a MACOM, requests for advice should be submitted to HQDA (DAJA-ALG), WASH DC 22310-2212. Former DA personnel should submit requests to the same Ethics Counselor as though they were still in their last duty assignment. Such requests will be in writing and will contain all relevant information.

(c) Upon receiving a request for advice, the designated Ethics Counselor will issue a written opinion in response thereto not later than 30 days of receipt of all relevant information pertaining to the request.

(d) If the designated Ethics Counselor advises that the law and this regulation are inapplicable, and that the individual may accept compensation from the contractor, then there shall be a conclusive presumption

that the acceptance of the compensation is not a violation of 10 USC 2397b.

(4) *Remedial action.* DA personnel who become aware of an apparent violation of these prohibitions will promptly notify an Ethics Counselor. The Ethics Counselor will report suspected violations in accordance with paragraph 2-10b(3).

(5) *Penalties.* Pursuant to 10 USC 2397b(1). Individuals who knowingly violate the prohibitions of this section are subject to a civil fine of up to \$250,000.

(6) *Effective date.* The effective date of 10 USC 2397b was April 16, 1987. The statute does not preclude the continuation of contractor employment begun before the effective date, nor does it prohibit the acceptance of compensation for such employment. The statute does not apply if DOD service terminated prior to the effective date of 10 USC 2397b.

5-4. Administrative enforcement proceedings

a. *Applicability and scope.* These procedures are adopted pursuant to 18 USC 207 and 10 USC 2397, 2397a, and which require the Department of Defense to develop such administrative procedures. They provide for the review and disposition of reported violations of postemployment restrictions by former DA personnel and of reporting requirements by present DA personnel and by former DA personnel and their defense contractor employers. They are specifically substituted for the procedures set out in appendix 11, DOD Directive 5500.7.

b. *Delegation.* The Army General Counsel will have authority to administer these provisions within the DA. TJAG is delegated general authority to conduct the administrative enforcement functions described in this paragraph. However, the Army General Counsel may reserve authority to act in any case by so notifying TJAG in writing.

c. *Receipt of information concerning possible violations.* If an officer or employee of DA has reason to believe, or receives information indicating that any of the statutes referred to in a above, or implementing regulations may have been violated, he or she will promptly report the information to the Ethics Counselor. The Ethics Counselor will review the information and, if it appears that a violation of such statutes or regulations may have occurred, forward a written report to the IG, HQDA (DAIG-ZB), WASH DC 20310-1700. The report will not be forwarded through command channels. Other persons outside DA having information of such violations may make a report to any DA personnel. The privacy of an alleged violator (hereinafter referred to as a respondent) will be protected by adequately safeguarding information concerning allegations made prior to a determination of sufficient cause to initiate an administrative disciplinary hearing.

d. *Actions by The Inspector General (TIG).* Upon receipt of a report alleging violations of any of the statutes referred to in a above, or implementing regulations, TIG

will immediately provide a copy of the allegations to the TJAG and the Army General Counsel. The IG will have a preliminary investigation conducted into the basis of the allegations. A memorandum will be prepared and forwarded to TJAG and, upon request, to the Army General Counsel.

e. *Report to the Office of Government Ethics (OGE) and the Department of Justice (DOJ).* On receipt of information regarding a possible violation of 18 USC 207(a), (b), or (c) or implementing regulations, and after determining that the information appears substantiated, TJAG (except in those cases in which the Army General Counsel has reserved authority to act) will provide such information the Army General Counsel with appropriate comments. The Army General Counsel will evaluate the information and forward it, along with any comments and applicable agency regulations, to the Director, OGE, and to the Criminal Division, DOJ. In cases where TJAG determines that such information does not appear substantiated, he or she will notify TIG and the Army General Counsel in writing of this determination. Until DOJ has formally declined to take action in a particular case, the Army General Counsel will coordinate any DA Investigation or administrative action with DOJ. If, during the course of a criminal investigation, allegations of violations of 18 USC 207(a), (b), or (c) or implementing regulations are identified, an immediate report of these allegations will be made by the USACIDC to the TJAG and the Army General Counsel. The USACIDC shall conduct an expeditious investigation into the allegations and provide a report of the results thereof to the TJAG and, upon request, to the Army General Counsel.

f. *Initiation of administrative disciplinary hearing.* Whenever TJAG (or the Army General Counsel in cases in which he or she has reserved authority to act) has determined that the information appears substantiated, he or she may initiate an administrative disciplinary proceeding.

g. *Notice of hearing.*

(1) TJAG (or the Army General Counsel in those cases in which he or she has reserved authority to act) will provide a respondent with notice of not less than 20 calendar days of an intention to institute a proceeding and an opportunity for a hearing.

(2) Notice must include—

(a) A statement of allegations and the basis thereof, sufficiently detailed to enable the respondent to prepare an adequate defense.

(b) Notice of the right to a hearing.

(c) Procedure for requesting a hearing.

(d) Notice of the right to waive the right to appear at the hearing and the procedure to do so. (See h below.)

(e) Notice that the failure to appear at the hearing will constitute a constructive waiver of the right to appear.

(f) Notice of the potential administrative sanctions that the SA could impose should

the hearing result in a decision adverse to the respondent.

h. Waiver procedure. A hearing under this precedent to the imposition of administrative sanctions by the SA. However, the required hearing may be conducted in the absence of the respondent if there has been a waiver of the individual's respondent's right to appear. The right to appear may be waived in either of the following ways:

(1) The respondent may affirmatively waive the right to appear at the hearing by executing a written waiver. Waiver statements should accompany the notice of the hearing. The format of a waiver statement may vary provided the statement clearly informs the respondent that signing the document constitutes a waiver of the right to appear at the hearing and notifies the respondent of the potential administrative sanctions should the hearing result in an adverse decision.

(2) The respondent's failure to appear at a scheduled hearing, after due notice, will constitute a constructive waiver of the right to appear.

i. Hearing examiner. The presiding official will be a person to whom TJAG (or the Army General Counsel in those cases in which he or she has reserved authority to act) has delegated authority in writing to make an initial decision. (This person will hereafter be referred to as "examiner.")

(1) An examiner will be an attorney with not less than 3 years of experience subsequent to admission to the bar.

(2) An examiner will be impartial. (An individual who has participated in any manner in the decision to initiate the proceedings may not serve as examiner in those proceedings.)

j. Time, date, and place of hearing:

(1) The hearing will be held at a reasonable time, date, and place.

(2) The date of the hearing will be specified by the examiner with due regard to the respondent's need for adequate time to prepare a defense properly and a need to resolve expeditiously allegations that may be damaging to the respondent's reputation.

k. Hearing rights. The respondent will have the following rights:

(1) The right to represent himself or herself or be represented by counsel.

(2) The right to introduce and examine witnesses and submit evidence.

(3) The right to confront and cross-examine adverse witnesses.

(4) The right to stipulate as to facts not in issue.

(5) The right to present oral argument.

(6) The right to receive a transcript or a recording of the proceedings upon request.

l. Burden of proof. DA has the burden of proof. A violation is established only by substantial evidence.

m. Decision.

(1) The examiner will—

(a) Make a determination that is based exclusively on matters of record in the proceedings.

(b) Set forth in a written decision all findings of fact and conclusions of law relevant to the matters at issue.

(c) Provide the SA (ATTN: Army General Counsel), TJAG, and the respondent a copy of the written decision.

(2) Within 20 days following receipt of a decision, either party may appeal the decision to the SA. The SA will base his or her decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues.

(3) If the SA modifies or reverses the initial decision, such findings of fact and conclusions of law as are different from those of the hearing examiner will be specified in writing.

(4) The decision will inform any person found in violation of any of the statutes referred to above or implementing regulations of the right to seek judicial review of the administrative determination.

n. Administrative sanctions.

(1) The SA will take appropriate action in the case of a respondent found in violation of 18 USC 207(a), (b), or (c), or implementing regulations. This action may be taken based upon a final administrative decision or a failure to request a hearing after receiving adequate notice. This action may include—

(a) Prohibiting the respondent from making, on behalf of any other person except the United States, any formal or informal appearance before, or, with the intent to influence, any oral or written communication to, the DA on any matter of business for a period not to exceed 5 years. This may be enforced by directing officers and employees of the DA to refuse to participate in any such appearance or to accept any such communication.

(b) Taking other appropriate disciplinary action.

(2) The SA will take appropriate action in the case of a violation of 10 USC 2397, 2397a, or 2397c, or implementing regulations. This action may be taken based upon a final administrative decision or a failure of the respondent to request a hearing after receiving adequate notice. This action may include—

(a) Imposing an administrative penalty, not to exceed \$10,000.

(b) With respect to a violation of 2397a, imposing an additional administrative penalty of a particular amount if the respondent is determined to have accepted or continued employment with a defense contractor during the 10-year period beginning with the date of separation from Government service.

o. Judicial review. Any person against whom the SA imposes an administrative sanction may seek judicial review of the administrative determination.

5-5. Retired officers

a. Prohibitions. Appendix B contains a digest of laws relating to conflicts of interest. Many of these are applicable to retired officers. For example, he or she may not—

(1) Engage in the prohibited activities listed in paragraph 5-3 (18 USC 207).

(2) Within 2 years, assist in prosecuting a claim against the United States involving any subject matter with which he or she was directly connected while on active duty (18 USC 281).

(3) Within 2 years after retirement, assist in prosecuting a claim, or represent anyone else in the sale of anything to the Department in whose service he or she holds a retired status (18 USC 281). This permanent restriction extends to sales to NAF activities that are under the joint control of the Army and some other agency. An example of such activity is the Army and Air Force Exchange Service.

(4) Within 3 years after retirement (if a retired Regular Army (RA) officer), sell supplies or war materials to any agency of DOD (including NAF activities), the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service. (See 37 USC 801(b), as amended 9 October 1962; Pub. L. No. 87-777.)

b. Required statement of employment.

Each retired RA officer will file a DD Form 1357 (Statement of Employment) (fig 1-2) with the Cdr. USAFAC, ATTN: FINCM-DB, Retired Pay Operations, Indianapolis, IN 46249-1536 within 60 days after retirement. DD Form 1357 will be revised within 30 days after the information in the previous statement has ceased to be accurate. If the retiree is employed by the Federal Government, a copy of the SF 50, Notification of Personnel Action, will be submitted with DD Form 1357. If the DD Form 1357 discloses that the retiree is employed by a DOD contractor, it will be reviewed by an Ethics Counselor on the staff of the Commanding General, USAFAC, to ensure compliance with applicable laws and regulations. The Cdr. USAFAC will acknowledge receipt of each DD Form 1357 and, within 90 days of such receipt, provide a reply reflecting the results of his or her review.

5-6. Foreign government gifts or employment

Retired regular military personnel may not accept any present, emolument, office, title, or employment from any foreign government without the consent of the Congress. (See Art 1, sec 9, cl 8 of the US Constitution.) Requests for approval of employment by a foreign government should be processed under AR 600-291. The penalty for a violation is loss of retired pay. This prohibition does not apply to employment by international agencies such as the United Nations.

5-7. Employment in DOD

The Dual Compensation Act of 1964 prohibits the employment of any retired member of the Armed Forces in the DOD (including NAF instrumentalities (NAFIs)) within 180 days following retirement (5 USC 3326) unless—

a. The appointment is authorized by the Secretary of a military department or his designee and, if appropriate, by the OPM;

b. The minimum rate of basic pay for the position has been increased under 5 USC 5303; or,

c. A State of national emergency exists.

5-8. Report of DOD and defense-related employment (DD Form 1787) (RCS DD FM&P(A)1051)

a. *Personnel required to file.* Personnel required to file a Report of DOD and Defense Related Employment (DD Form 1787) are as follows:

(1) Each person who has left service or employment with a DA component, who—

(a) Is a retired or former military officer who served on active duty at least 10 years and who held, for any period during that service, the pay grade of O-4 or above, or a former civilian or employee whose pay rate at any time during the 3 year period prior to the end of DA service or employment was equal to or greater than the minimum GS-13 rate at that time;

(b) Within the 2 year period immediately following the termination of service or employment with DA, is employed by a defense contractor who, during the year preceding employment, was awarded \$10 million or more in defense contracts; and

(c) Is employed by or performs service for the defense contractor and at any time during a year directly receives compensation of or is salaried at a rate of \$25,000 per year or more from the defense contractor ("compensation" is received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by that person).

(2) Each civilian officer and employee of DA who—

(a) Is employed at a pay rate equal to or greater than the minimum rate for GS-13,

(b) Within the 2 year period prior to the effective date of service or employment with DA, was employed by a defense contractor who, during a year, was awarded \$10 million or more in defense contracts; and

(c) Was employed by or performed services for the defense contractor and at any time during such a year received compensation of or was salaried at a rate of \$25,000 per year or more ("compensation" is considered received by a person if it is paid to a business entity with which the person is affiliated in exchange for services rendered by the person);

b. *Content of report.* Instructions for completing DD Forms 1787 are included as part of the form (see fig 1-5). Additional guidance for personnel required to file may be obtained from the servicing Ethics Counselor.

c. *Submission and review of reports.*

(1) *Time of filing.*

(a) Current DA officers and employees will file a report within 30 days after entering employment or service with any DA component.

(b) Former DA officers and employees will file an initial report within 90 days after the date on which the individual began employment with the defense contractor.

(c) Former DA officers and employees will file subsequent reports each time, during the 2-year period after service or employment with DA ended, that the person's duties with the defense contractor significantly change or the person begins employment with another defense contractor. Such reports must be filed within 30 days after the date of the change.

(2) *Submission.* Current officers and employees should file DD Form 1787 with the Ethics Counselor for their present duty station; former officers and employees should file DD Form 1787 with the Ethics Counselor for their last duty station.

(3) *Review.* The DD Form 1787 will be reviewed by the Ethics Counselor as it is received to ensure compliance with applicable laws and regulations. If the reviewing official concludes that the filing individual is not in compliance with applicable laws or regulations, the reviewing official will follow the procedures set forth above in paragraph 5-4.

(4) *Submission of data to Defense Manpower Data Center.* Ethics Counselors are responsible for input of data concerning submission of DD Form 1787 to the Defense Manpower Data Center (DMDC). One submission is required each year, and must be received by DMDC no later than 31 January. The submission should reflect all reports received prior to 1 January for individuals who began the employment which triggered the reporting requirement prior to 1 October of the previous year. Data should be mailed to Defense Manpower Data Center, ATTN: Tape Librarian, Defense Related Employment Program, 550 El Estero #200, Monterey, CA 93940. Information concerning the procedures for data submission may be obtained from DMDC at AUTOVON 878-2951 or commercial (408) 375-4131.

(5) *Filing of reports.* No later than 15 February, the original of each report included in the submission required by (4) above will be forwarded to DOD, Office of the General Counsel, Standards of Conduct Office, WASH DC 20301. A copy of the DD Form 1787 will be retained locally by the Ethics Counselor for 2 years after filing.

d. *Public availability of reports.* DD Forms 1787 must be made available for public examination upon request 15 days after the report is filed unless otherwise exempted pursuant to law. Receipt of the report by the Ethics Counselor for final review constitutes official filing and establishes the date from which the 15 days will run. This means that the report may become available to the public before final review is completed. Reporting persons are personally responsible for ensuring that their reports are accurate, complete, and timely.

e. *Retention of reports.* DD Forms 1787 will be retained for 6 years from the date of filing (per AR 25-400-2).

f. *Penalties.*

(1) *Administrative penalties.* Any individual failing to file a report or falsifying or failing to file required information, may be subject to any appropriate personnel or other action in accordance with applicable law or regulation, including adverse action. Administrative penalty of up to \$10,000 may be imposed.

(2) *Criminal liability.* Any individual who knowingly or willfully falsifies information on a report required to be filed under this subpart may also be subject to criminal prosecution under 18 USC 1001.

g. *Other reporting requirements.* These reporting requirements are in addition to—

(1) The DD Form 1357 required from retired RA officers (see para 5-5b).

(2) The DD Form 1555 required of certain DA personnel by chapter 3 of this regulation.

(3) The SF 278 required of certain DA personnel by chapter 4 of this regulation.

Appendix A Related Publications

A related publication is merely a source of additional information. The user does not have to read it to understand this regulation.

AR 1-210

Participation in Activities of Private Associations

AR 1-211

Attendance of Military Personnel at Private Organizations Meetings

AR 10-5

Department of the Army

AR 20-1

Inspector General Activities and Procedures

AR 25-400-2

The Modern Army Recordkeeping System (MARKS)

AR 37-47

Contingency Funds of the Secretary of the Army

AR 145-1

Senior ROTC Program: Organization, Administration, and Training

AR 145-2

Junior Program and National Defense Cadet Corps: Organization, Administration, Operation, and Support

AR 210-1

Private Organization Department of the Army Installations

AR 210-7

Commercial Solicitation on Army Installations

AR 210-10

Administration

AR 215-1

The Administration of Army Morale, Welfare, and Recreation Activities and Nonappropriated Fund Instrumentalities

AR 215-2

The Management and Operation of Army Morale, Welfare, and Recreation Programs and Nonappropriated Fund Instrumentalities

AR 215-3

Nonappropriated Funds and Related Activities Personnel Policies and Procedures

AR 360-5

Public Information

AR 360-61

Community Relations

AR 600-15

Indebtedness of Military Personnel

AR 600-21

Equal Opportunity Program in the Army

AR 600-29

Fund-Raising Within the Department of the Army

AR 600-291

Foreign Government Employment

AR 621-7

Acceptance of Fellowship, Scholarships, or Grants

AR 623-105

Officer Evaluation Program

AR 624-100

Promotion of Officers on Active Duty

AR 672-5-1

Military Awards

AR 690-700

Personnel Relations and Services (General)

AR 690-700.771

Civilian Personnel

DODI 5410.20

Public Affairs Relations with Business and Nongovernmental Organizations Representing Business

DODD 5500.2

Policies Governing Participation of Department of Defense Components and Personnel in Activities of Private Associations

DODD 5500.7

Standards of Conduct

5 CFR 734

Executive Personnel Financial Disclosure Requirements

5 CFR 735

Employee Responsibilities and Conduct

CPR 713

Civilian Personnel Regulation, Equal Employment Opportunity

CPR 771

Civilian Personnel Regulation, Grievance System

FPM 734

Financial Disclosure Requirements

FPM 771

Agency Administrative Grievance System

Chapter 304, FPM

JFTR

Joint Federal Travel Regulation Volume 1

Appendix B Digest of Conflict of Interest Laws

B-1. Conflict of Interest Laws

The statutes digested in this appendix are subject to changing administrative and judicial interpretation. Before acting or failing to act because of these statutes, DA personnel are encouraged to consult legal counsel.

B-2. 18 USC 203

a. Subsection (a) prohibits officers or Government employees from directly or indirectly receiving, agreeing to receive, or seeking any compensation for services rendered or to be rendered before any department or agency in connection with any contract, claim, controversy or particular matter in which the United States is a party or has a direct and substantial interest. The purpose of this section is to reach any situation, including those where there is no intent to be corrupted or to provide preferential treatment, in which the judgment or efficiency of a Government agent might be influenced because of payments or gifts made by reason of the position occupied to that official in a manner otherwise than provided by law.

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

B-3. 18 USC 205

a. This Section prohibits Government personnel 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.

b. The following exemptions are allowed:

(1) Section 205 does not prevent Government personnel from giving testimony under oath or making statements required to be made under penalty or perjury or contempt or from representing another person, without compensation, in a disciplinary, loyalty, or other personnel administration proceeding.

(2) 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 only if approved by the official making appointments to the 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.

(3) Finally, section 205 gives the head of a department or agency the authority to waive its restrictions, and those of section 203, to allow a special Government employee to represent his or her regular employer or other outside organization in the performance of work under a Government grant or contract if the department or agency head certifies and publishes in the Federal Register that the national interest requires such representation.

B-4. 18 USC 208

a. Subsection (a) requires executive branch personnel to refrain from personal and substantial participation as Government personnel through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any particular matter in which, to their knowledge, they, their spouses, minor children, or partners have financial interest or in which business or nonprofit organizations with which such personnel are affiliated or are seeking employment have financial interests. The test of what constitutes a particular matter is whether the individual might reasonably anticipate that his or her Government action, or the decision in which he or she participates or with respect to which he or she advises, will have a direct and predictable effect upon such financial interests. A particular matter in the context of this section may include rulemaking and general policy matters.

b. Subsection (b) permits agencies to grant an ad hoc exemption in writing from subsection (a) if the outside financial interest is deemed in advance not substantial enough to affect the integrity of Government services. Categories of financial interests may also be made nondisqualifying by a general regulation published in the Federal Register. Shares of a widely held, diversified mutual fund or regulated investment company have been exempted as being too remote or inconsequential to affect the integrity of the services of Government personnel.

B-5. 18 USC 209

Subsection (a) prevents executive branch personnel from receiving, and anyone from paying them, any salary or supplementation of salary from a private source as compensation for their Government service. Subsection (b) permits participation in a bona fide pension plan or other employee welfare or benefit plan maintained by a former employer. Subsection (c) exempts special Government employees and anyone serving the Government without compensation. Subsection (d) exempts contributions, awards, or other expenses under the Governmental Employees Training Act (5 USC 2301-2319).

B-6. Summary of laws particularly applicable to retired officers

Prohibited activities are shown below.

a. *Claims.* A retired officer of the Armed Forces may not, within 2 years of retirement, act as agent or attorney for prosecuting any claim against the Government, or assist in the prosecution of such a claim, if such claim involves the Military Department in whose service he holds a retired status or if such claim involves any subject matter with which he or she was directly connected while on active duty (see 18 USC 281).

b. Selling.

(1) Within 2 years following retirement, a retired officer is prohibited from representing any person in the sale of anything to the Government through the Military Department in whose service he or she holds a retired status (see 18 USC 281).

(2) Payment may not be made from any appropriation, for a period of 3 years after his name is placed on that list, to an officer on a retired list of the Regular Army, the Regular Navy, the Regular Air Force, the Regular Marine Corps, the Regular Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, who is engaged for himself or others in selling, or contracting or negotiating to sell, supplies or war materials to an agency of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service. (See 37 USC 801(b) as amended, October 9, 1962, Pub.L.NO. 87-777, formerly 5 USC 59(c).)

(3) For the purpose of these statutes, "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 to obtain or negotiate contracts; negotiate or discuss changes in specifications, price, cost allowances, or other terms of contract; or settle 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.

B-7. 18 USC 207

Section 207 applies to former DOD personnel. The prohibitions contained in 18 USC 207 are set forth in chapter 5.

B-8. Two-year post-government service limitation on acceptance of compensation (10 USC 2397b)

a. DA personnel above 0-3 or GS-12 may not accept compensation from a contractor for two years after separation from DOD if, for a majority of their work days in the 2 years before separation, they performed a "procurement function"—

(1) At a site owned or operated by that contractor, or

(2) By participating personally and substantially in decision making relating to a major system through contact with that contractor.

b. General officers, Senior Executive Service employees, and Presidential appointees may not accept compensation from a contractor for two years after separation from DOD if, at any time in the 2 years before separation, they were one of the primary U.S. representatives in negotiation of—

(1) A DOD contract over \$10 million with that contractor, or

(2) A settlement of that contractor's unresolved claim over \$10 million.

c. Violation of these provisions may result in the following penalties:

(1) A former DOD official who accepts compensation in violation of these restrictions is subject to a civil fine of up to \$250,000.

(2) Any person who offers or provides compensation and who knows or should know that its acceptance would result in a violation of these restrictions is subject to a civil fine of up to \$500,000.

B-9. Other laws applicable to DOD personnel

There are legal prohibitions concerning the following activities that may subject present and former DOD personnel to criminal or other penalties:

a. Aiding, abetting, counseling, commanding, inducing, or procuring another to commit a crime under any criminal statute (see 18 USC 201).

b. Concealing or failing to report to proper authorities the commission of a felony under any criminal statute if such personnel know of the actual commission of the crime (see 18 USC 4).

c. Conspiring with one or more persons to commit a crime under any criminal statute or to defend the United States, if any party to the conspiracy does any act to effect the object of the conspiracy (see 18 USC 371).

d. Lobbying with appropriated funds (see 18 USC 1913).

e. Disloyalty and striking (see 5 USC 7311, 18 USC 1918).

f. Disclosure of classified information (see 18 USC 798, 50 USC 783); and disclosure of confidential information (see 18 USC 1905).

g. Habitual use of intoxicants to excess (see 5 USC 7352).

h. Misuse of a Government vehicle (see 31 USC 638a(c)(2)).

i. Misuse of mailing privilege (see 18 USC 1719).

j. Deceit in an examination or personnel action in connection with Government employment (see 18 USC 1917).

k. Committing fraud or making false statements in a Government matter (see 18 USC 1001).

l. Mutilating or destroying a public record (see 18 USC 2071).

m. Counterfeiting and forging transportation requests (see 18 USC 508).

n. Embezzlement of Government money or property (see 18 USC 641); failing to account for public money (see 18 USC 643); and embezzlement of the money or property

of another person in the possession of an employeé by reason of his Government employment (see 18 USC 654).

o. Unauthorized use of documents relating to claims from or by the Government (see 18 USC 285).

p. Certain political activities (see 5 USC 7321-7327 and 18 USC 602, 603, 607, and 608). These statutes apply to civilian employees; regulations govern military personnel.

q. Any person who is required to register under the Foreign Agents Registration Act of 1938 (see 18 USC 219) may not serve the Government as an officer or employee. The section does not apply to—

(1) Reserves who are not on active duty or who are on active duty for training or

(2) A special Government employee in any case in which the department head certifies to the Attorney General that his or her employment by the United States Government is in the national interest.

r. Soliciting contributions for gifts or giving gifts to superiors, or accepting gifts from subordinates (see 5 USC 7351). (This prohibition applies to civilian employees.)

s. Acceptance of excessive honoraria (see 2 USC 441 (i)).

t. Acceptance, without Congressional authority, of any present, emolument, office or title, or employment of any kind whatever, from any king, prince, or foreign state by any person holding any office of profit in or trust of the Federal Government, including all retired military officers and Regular enlisted personnel. (U.S. Constitution, Art. I, Sec. 9., C1 8.)

Appendix C

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 advisor 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 subordinate 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, adviser, 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 the 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 an 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, 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

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 USC 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. 10930 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 to 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 issued 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 D Code of Ethics for Government Service

Any person in Government service should—

a. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

b. Uphold the Constitution, laws, and regulations of the United States and of all governments therein and never be a party to their evasion.

c. Give a full day's labor for a full day's pay; giving earnest effort and best thought to the performance of duties.

d. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

e. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or herself or for family members, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of governmental duties.

f. 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.

g. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of Government duties.

h. Never use any information gained confidentially in the performance of governmental duties as a means of making private profit.

i. Expose corruption wherever discovered.

j. Uphold these principles, ever conscious that public office is a public trust.

Appendix E Examples of Conflicts of Interest Situations

The situations discussed below are merely examples of the types of activities or relationships which may result in conflicts or the appearance of conflicts of interest. They are by no means the only ways that conflicts arise.

a. A person is responsible for major policy issues that significantly affect the operations of the Army, DOD, or the executive branch and has a financial interest in a defense contractor who may be affected by such operations. (Example: An officer is a member of the Select Committee (SELCOM), General Staff Council, or Army Staff Council, and owns stock in corporation X, a possible subcontractor for a new weapon system.)

b. A person occupies a key sensitive position in the Army, is involved routinely and extensively with official decisions involving or affecting Army contractors, and has a financial interest in a contractor who may be affected by such decisions. (Example: An officer is a member of an in-process review group, preliminary review group, Army System Acquisition Review Council, or other council that exerts substantial influence on the Army materiel acquisition process and owns corporate bonds in corporation Y, a DOD contractor specializing in target acquisition systems.)

c. A person commands an organization and has a direct or indirect financial interest in an entity doing business with the organization; or a person is a staff officer who is required to deal with or make recommendations that may affect entities in which he or she has a direct or indirect financial interest. (Example 1: An installation or unit commander owns stock in corporation Y whose subsidiary, corporation Z, provides spare parts to the installation or unit through a local dealer under a basic ordering agreement. Even though the commander does not participate in the ordering of spare parts, subordinates acting under his or her authority are taking actions that appear to benefit his or her financial interests. Example 2: An officer with primary staff responsibility for a subject area other than procurement (e.g., Director of Readiness) who owns stock in DOD contractors is required by job description to maintain liaison with defense-related contractors who may be affected by decisions reached within the command. Example 3: An individual occupies a position as Head of Contracting Activity or functions as a principal staff assistant for procurement activities and owns stock in corporation X or its subsidiary that does or attempts to do business with that organization or its subordinate organizations.)

d. A person is involved through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in official matters in which the person, a spouse, a dependent child, or member of

the household has a direct or indirect financial interest. (Example: An officer recommends level of supply for item X. His or her spouse owns stock in a subcontractor known to be involved in manufacture of item X.)

e. A person occupies a senior position having substantial responsibility and influence and has financial interests in entities involved in his or her area of expertise. (Example: An officer who functions as the Army expert and point of contact for matters in a particular subject area (e.g., CG, US Army Information Systems Command (USAISC), has holdings in a DOD contractor that specializes in contracts on that particular subject (e.g., communications and electronics material). Although the contractor may not be doing business with the Army, an appearance of conflicting interests exists by virtue of the potential for personal and substantial participation by recommendation, advice, investigation, or otherwise in matters that may affect the contractor and benefit the financial holdings of the person.)

f. A person appears to have divided loyalties between the duties of an official position and outside activities on behalf of a corporation (Example: An officer who approves or is otherwise involved in DA recommendations concerning Servicemen's Group Life Insurance (SGLI) serves on the board of directors for a tax exempt association that provides life insurance for its members.)

g. A person working in the research and development area has frequent contacts with either current or potential defense contractors. He or she decides that he or she should leave Government service (by either retirement or resignation). The individual contacts the representatives of the companies with which he or she has officially dealt to explore the possibility of future employment. If the employee then participates in an official matter that affects the company with which he or she is discussing future employment, he or she has a conflict of interest under 18 USC 208. Any contact relating to future employment in which an individual voluntarily participates is considered negotiating for employment. This is the case even when the contact is initiated by the prospective employer.

SUMMARY OF POSTEMPLOYMENT RESTRICTIONS

1. Restrictions on Particular Activities:

a. Applicable to all officers and civilian employees.

If you were a Government officer or employee (including a special Government employee), you may not—

ever—	represent another in any formal or informal appearance before or, with intent to influence, make any oral or written communication on behalf of another to—	any Government entity, officer, or employee regarding—	any particular matter involving specific parties in which you ever participated personally and substantially for the Government (18 USC 207 (a)).
within 2 years after termination of official responsibility—	represent another in any formal or informal appearance before or, with intent to influence, make any oral or written communication on behalf of another to—	any Government entity, officer, or employee regarding—	any particular matter involving specific parties which was pending under your official responsibility in the last year of Government employment (18 USC 207 (b) (i)).

b. Applicable only to "senior employees".

If you held an Executive Level position or a military grade above 0-8, or if your 0-7, 0-8, GS-17, GS-18, or SES position was specifically designated by the Office of Government Ethics (in 5 CFR § 737.33) as having significant decision-making or supervisory responsibility, you may not—

within 2 years after ceasing to be a "senior employee"—	represent, aid, or assist in representing another by your personal presence at any formal or informal appearance before—	any Government entity, officer, or employee regarding—	any particular matter involving specific parties in which you participated personally and substantially for the Government (18 USC 207 (b) (ii)).
within 1 year after ceasing to be a "senior employee"—	represent anyone, even yourself, in any formal or informal appearance before or, with intent to influence, make any oral or written communication to—	the Army or any Army officer or employee regarding—	any particular matter pending before the Army or in which the Army has a direct and substantial interest (18 USC 207 (c)).

c. Applicable only to retired Army officers.

If you are a Retired Army Officer, you may not—

within 2 years after retirement—	prosecute or assist in prosecuting any claim against the U.S. Government before—	any Government entity, officer, or employee regarding—	any matter with which you were directly connected while on active duty (18 USC 281).
within 2 years after retirement—	prosecute or assist in prosecuting any claim against the U.S. Government involving the Army before—	any Government entity, officer, or employee regarding—	any matter whatsoever (18 USC 281).
within 2 years after retirement—	represent another in connection with selling to—	the Army or an Army non-appropriated fund activity—	anything, either goods or services (18 USC 281).
within 3 years after retirement—	engage in selling, or contracting or negotiating in connection with the sale, to—	any Department of Defense agency, including the military departments and all DoD non-appropriated fund activities—	any tangible property (but not personal or professional services) (37 USC 801 (b)).

d. Penalties for violations.

- (1) For the restrictions described in items a and b above, a \$10,000 fine, 2 years in prison, or both.
- (2) For the first two restrictions described in item c above, a fine, 1 year in prison, or both.
- (3) For the third restriction described in item c above, a fine, 2 years in prison, or both.
- (4) For the fourth restriction described in item c above, forfeiture of retired pay for the period of the violation or the duration of any resulting contract (but not more than 3 years after retirement).

2. Restrictions on Particular Employers:

a. Applicable to Officers and Civilian Employees in Grades Above 0-3 or GS-12.

If during the 2 years prior to separation you performed a procurement function on a majority of your working days:

- (1) At a site owned or operated by a particular DOD contractor, or
- (2) Relating to a major defense system supplied by a particular DOD contractor with regard to which you participated personally and substantially in decision-making responsibilities through personal contact with that contractor,

THEN you may not accept compensation from that contractor for 2 years after separation.

Figure 1-1. Postemployment restriction

SUMMARY OF POSTEMPLOYMENT RESTRICTIONS—Continued

b. Applicable to Officers and Civilian Employees in Grades Above 0–6 and GS–15.

If, at any time during the 2 years prior to separation, you ever acted as one of the primary representatives of the United States in the negotiation of:

- (1) Any DOD contract over \$10 million, or
- (2) Any settlement of a contract claim for over \$10 million,

THEN you may not accept compensation from the particular DOD contractor involved for 2 years after separation.

c. Exceptions.

These restrictions do not apply if—

- (1) The employer was not a DOD contractor on the date of your separation from DOD,
 - (2) If the employer was not a contractor during the fiscal year prior to the fiscal year in which you accept compensation, or
 - (3) If the employer's DOD contracts totaled less than \$10 million during the fiscal year prior to the fiscal year in which you accept compensation.
-

d. Penalties for violations.

A knowing violation of the restrictions described in items a and b above, is punishable by a civil fine, in an amount not to exceed \$250,000, in a civil action brought by the United States.

Postemployment reporting requirements

3. Report of DOD and Defense Related Employment (DD Form 1787).

- (1) You must file DD Form 1787 if at any time during the 2 years after separation from DOD you are employed at an annual pay rate of at least \$25,000 by a defense contractor that was awarded at least \$10 million in DOD contracts in the year preceding the year when you are so employed, provided you are—
 - (a) A former or retired military officer with at least 10 years of active service and at any time held a grade of 0–4 or above.
 - (b) A former DOD civilian official or employee (including a consultant or part-time employee) whose pay rate at any time during the last 3 years of DOD employment was at least equal to the minimum rate for GS–13.
 - (2) DD Form 1787 should be submitted to the Ethics Counselor for your last duty station. It must be filed not later than 90 days after beginning the employment relationship with the contractor. Another report must be filed each time, during the 2-year period, that your job with the contractor significantly changes or you commence new employment with another affected contractor. These additional reports must be filed within 30 days of the change in employment.
 - (3) Failure to file may result in an adverse personnel action as well as the imposition of an administrative penalty up to \$10,000.
-

B. Statement of Employment (DD Form 1357).

- (1) If you are a retired RA officer, you must file DD Form 1357 within 60 days after retirement, and must file again within 30 days of any change in employment status.
 - (2) DD Form 1357 should be submitted to Cdr, USAFAC, ATTN: FINCM–DB, Retired Pay Operations, Indianapolis, IN 46249–1536. See AR 600–50, paragraph 5–5b, for further information.
-

Figure 1–1. Postemployment restriction—Continued

STATEMENT OF EMPLOYMENT - REGULAR RETIRED OFFICERS

(Before completing this form, please read Instructions on reverse.
If additional space is required use blank sheets referencing applicable item numbers.)

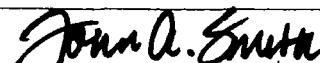
Privacy Act Statement

AUTHORITY: 37 U.S.C. §801 (b), 5 U.S.C. §5532 and E.O. 9397 dated November 22, 1943 (SSN).

PRINCIPAL PURPOSE: To enable DoD personnel to determine if retired regular officers are engaged in activities prohibited by law or regulation, including those that could result in the loss or reduction in retired pay due to other Federal employment.

ROUTINE USE: Information is forwarded to the Military Department from which the individual retired, and is appropriately reviewed to assure compliance with applicable statutes and regulations.

DISCLOSURE: Voluntary in the sense that no criminal penalties will follow from refusal to file; however, refusal to provide requested information may result in further investigation which may lead to the withholding of retired pay and the referral of the matter to the Comptroller General of the United States or other Federal agencies.

1. RETIREMENT DATA		2. ARE YOU PRESENTLY EMPLOYED? (x one)	
a. I AM A REGULAR RETIRED OFFICER OF (x one)		<input checked="" type="checkbox"/> YES (Complete all items of this form.) <input type="checkbox"/> NO (Skip to item 11.)	
<input checked="" type="checkbox"/> (1) ARMY <input type="checkbox"/> (2) NAVY <input type="checkbox"/> (3) MARINES <input type="checkbox"/> (4) AIR FORCE <input type="checkbox"/> (5) OTHER (list)		3. NAME OF EMPLOYER FORD AEROSPACE	
b. RETIREMENT DATE (YYMMDD)		4. DATE OF EMPLOYMENT (YYMMDD) 87/10/05	
6. Does your employer sell, or offer for sale goods or services to DoD Components, the Coast Guard, Public Health Service, or National Oceanic And Atmospheric Administration?		5. ADDRESS OF EMPLOYER	
<input checked="" type="checkbox"/> YES (Complete all items of this form.) <input type="checkbox"/> NO (Skip to item 11.)		a. STREET 2700 SKYLINE BOULEVARD	
		b. CITY PALO ALTO	
		c. STATE CA	
		d. ZIP CODE 93640-0001	
		e. TELEPHONE NUMBER OF EMPLOYER (Include area code) 804-555-4321	
7. DESCRIPTION OF GOODS OR SERVICES WEAPONS SYSTEMS			
8. POSITION TITLE CONSULTANT			
9. DESCRIPTION OF DUTIES TO DETERMINE WEAPONS SYSTEMS NEEDED BY THE ARMY IN THE FUTURE.			
10. DO YOUR DUTIES INCLUDE ONE OR MORE OF THE FOLLOWING ACTIVITIES IN REGARD TO AN ORGANIZATION SPECIFIED IN ITEM 6?			
a. Signing a bid, proposal, or contract;		c. Negotiating a contract; or	
b. Contacting an officer or employee of the agency for the purpose of:		d. Any other liaison activity toward the ultimate consummation of a sale even though the actual contract is later negotiated by another.	
(1) obtaining or negotiating contracts,			
(2) negotiating or discussing changes in specifications, price, cost allowances, or other contract terms,			
(3) settling disputes concerning performance of a contract;		<input type="checkbox"/> YES (Attach explanatory details.) <input checked="" type="checkbox"/> NO	
11. CERTIFICATION			
I certify that the above information is true, complete, and correct to the best of my knowledge. I also certify that I will file a new Statement of Employment within 30 days after the information in this Statement ceases to be accurate. I understand that if I have been retired for less than three years and have been employed by a defense contractor, I might also be subject to the requirement to file a DD Form 1787, "Report of DoD and Defense Related Employment," pursuant to 10 U.S.C. §2397 and DoD Directive 5500.7.			
a. NAME (typed or printed) JOHN A. SMITH		b. SOCIAL SECURITY NUMBER 234-56-7890	
c. SIGNATURE 		d. DATE SIGNED 12 Oct 87	

DD Form 1357, MAR 87

Previous editions are obsolete.

715075

Figure 1-2. Sample of a completed DD Form 1357

DD FORM 1357
STATEMENT OF EMPLOYMENT - REGULAR RETIRED OFFICERS

INSTRUCTIONS FOR COMPLETION

1. Mark the branch of service from which you retired. If "other," write in the name of the service. Include date of retirement. YOU MUST FILE YOUR FIRST DD FORM 1357, "STATEMENT OF EMPLOYMENT," WITHIN 30 DAYS OF YOUR RETIREMENT DATE.
2. If you are presently employed, complete all items of this form. If you are not presently employed, proceed to item 11. YOU MUST SUBMIT A NEW DD FORM 1357, "STATEMENT OF EMPLOYMENT," WITHIN 30 DAYS AFTER THE INFORMATION IN THIS FORM HAS CEASED TO BE ACCURATE. THE REQUIREMENT TO FILE CONTINUES FOR THREE YEARS AFTER RETIREMENT. IF YOU BECOME EMPLOYED, CHANGE JOBS, OR TAKE ON NEW DUTIES, YOU MUST FILE A NEW DD FORM 1357 WITHIN 30 DAYS AFTER THE CHANGE UNLESS MORE THAN THREE YEARS HAVE PASSED SINCE YOUR RETIREMENT DATE.
3. through 5. Self explanatory.
6. If your present employer sells, or offers for sale, any goods or services to any of the named organizations, mark "yes" and complete all following items. If not, proceed to item 11.
7. Describe the goods or services that your employer sells, or offers for sale, to any of the organizations named in item 6.
8. and 9. Self explanatory.
10. If your duties include any of the listed activities in regard to the organizations named in item 6, mark "yes" and attach a sheet with explanatory details.
11. Self explanatory. Social security number must be included.

DD Form 1357 Reverse, MAR 87

Figure 1-2. Sample of a completed DD Form 1357—Continued

CONFIDENTIAL STATEMENT OF AFFILIATIONS AND FINANCIAL INTERESTS
DEPARTMENT OF DEFENSE PERSONNEL
(Including Special Government Employees)

(If additional space is required use separate sheets referencing item numbers below.)

Privacy Act Statement

AUTHORITY: E.O. 11222 dated May 8, 1965 and E.O. 9397 dated November 22, 1943 (SSN).

PRINCIPAL PURPOSE: Information is required from categories of DoD personnel specified in DoD Directive 5500.7 Section F.3.a and Enclosure 5, or implementing regulations, to enable supervisors and other responsible DoD officials to determine whether there are actual or apparent conflicts of interest between the individual's present and prospective official duties and the individual's non-federal affiliations and financial interests.

ROUTINE USE: This information shall be treated as confidential except as determined by the component head concerned or the Office of Government Ethics.

DISCLOSURE: Filing is voluntary in the sense that no criminal penalties will follow from refusal to file. However, the refusal to provide requested information may result in such measures as suspension of consideration for appointment, reassignment of duties, disciplinary action, or termination of employment.

(Please read Instructions before completing this form.)

1. NAME <i>(Last, First, MI)</i> SMITH, JOHN A.	2. SOCIAL SECURITY NUMBER 234-56-7890
3. TITLE OR POSITION CHIEF, TROOP SUPPORT DIVISION	4. WORK TELEPHONE NO. <i>(Include Area Code)</i> 202-555-0000
5. DOD COMPONENT ADDRESS <i>(Include office symbol code letters)</i> HQDA, ATTN: DALO-TST, WASH DC 20310-2212	6. GRADE OR RANK COL

PART I

To be completed by DoD personnel indicated in section F.3.a. and Enclosure 5 of DoD directive 5500.7, or implementing regulations.

7. NON-FEDERAL AFFILIATIONS AND FINANCIAL INTERESTS <i>(See instructions. If none, write "none.")</i>			
a. NAME OF ORGANIZATION	b. ADDRESS OF ORGANIZATION	c. YOUR AFFILIATION	d. NATURE OF FINANCIAL INTEREST <i>(Stock, pension, etc.)</i>
AT&T	New York, New York	Stock Owner	Stock

8. CREDITORS <i>(List all creditors other than conventional loans on customary terms. If none, write "none.")</i>		
a. NAME	b. ADDRESS	c. NATURE OF DEBT
DAVID B. SMTH	110 MAIN STREET SPRINGFIELD, VA 22152	PERSONAL LOAN

9. INTERESTS IN REAL PROPERTY <i>(List all creditors other than personal residence you occupy. Note any DoD contractor relationships, present or future. If none, write "none.")</i>		
a. ADDRESS OF PROPERTY	b. NATURE OF INTEREST <i>(Owner, mortgagee, etc.)</i>	c. TYPE OF PROPERTY <i>(Apts, farm, etc.)</i>
None		

Figure 1-3. Sample of a completed DD Form 1555

PART II

To be completed only by "Special Government Employees." See Instructions.

10. NUMBER OF DAYS YOU EXPECT TO PERFORM GOVERNMENT SERVICE

a. FOR DOD COMPONENT		d. DAYS WORKED FOR PRESENT DOD COMPONENT DURING 365 DAYS PRIOR TO PRESENT APPOINTMENT		e. DAYS WORKED FOR ANY DOD COMPONENT DURING 365 DAYS PRIOR TO PRESENT APPOINTMENT	
b. FOR OTHER AGENCIES					
c. TOTAL (10.a. + b.)					

11. FEDERAL GOVERNMENT EMPLOYMENT (List all other agencies with whom you are presently employed.)

a. AGENCY NAME	b. AGENCY ADDRESS	c. TITLE OR POSITION	d. NO. OF DAYS	e. DATE (YYMMDD)	
				(1) FROM	(2) TO

PART III - CERTIFICATION
To be completed by all filers.

12. I certify that the statements I have made are true, complete, and correct to the best of my knowledge and that none of the reported affiliations/financial interests are in conflict with my official duties. I have read and understand DoD Directive 5500.7 "Standards of Conduct" or implementing regulations.

a. SIGNATURE <i>John A. Smith</i>	b. DATE SIGNED <i>12 Oct 87</i>
--------------------------------------	------------------------------------

PART IV - EVALUATION AND REVIEW

To be completed by supervisor or superior and Designated Agency Ethics Official or designee. See Instructions.

13. I have reviewed the above statement in light of the present and prospective duties of the individual to ensure that both actual and apparent conflicts of interest are avoided. My evaluation is (x as applicable)

<input type="checkbox"/>	a. No affiliation/financial interests reported.
<input type="checkbox"/>	b. Reported affiliations/financial interests are unrelated to assigned or prospective duties, and no conflicts appear to exist.
<input checked="" type="checkbox"/>	c. Assigned duties require participation in matters involving or which may involve the highlighted affiliations/financial interests. This conflict will be resolved by (x as applicable)
<input type="checkbox"/>	(1) Change of assigned duties.
<input type="checkbox"/>	(2) Divestiture of the interests and relief of incumbent from all related duties pending divestiture.
<input type="checkbox"/>	(3) Disqualification.
<input type="checkbox"/>	(4) Other. Detailed advice attached. Notice of corrective action will follow.
<input type="checkbox"/>	d. The highlighted reported affiliations/financial interests are related to assigned or prospective duties, but have been determined by the appropriate appointing official to be not so substantial as to affect the integrity of the individual's services. A copy of the formal determination and rationale is attached.
<input type="checkbox"/>	e. The prospective employee's duties will require participation in matters involving the highlighted reported affiliations/financial interests and the appointment cannot be consummated until divestiture of these affiliations/financial interests is completed.

f. SIGNATURE	h. OFFICE ADDRESS	i. DATE SIGNED
g. PRINTED NAME		

14. As a Designated Agency Ethics Official or designee, I have examined the foregoing Statement and Evaluation. (x a. or b.)

<input type="checkbox"/>	a. I concur with the supervisor's evaluation	
<input checked="" type="checkbox"/>	b. I do not concur with the supervisor's evaluation. Advice attached	
c. SIGNATURE	e. OFFICE ADDRESS	f. DATE SIGNED
d. PRINTED NAME		

Figure 1-3. Sample of a completed DD Form 1555—Continued

**DD FORM 1555, CONFIDENTIAL STATEMENT OF AFFILIATIONS AND
FINANCIAL INTERESTS - DEPARTMENT OF DEFENSE PERSONNEL**

A DD Form 1555 shall be filed with the new superior or supervisor, or with the Designated Agency Ethics Official or designee before the assumption of duties in a position that requires its filing. A new DD Form 1555 shall be filed by October 31 of each year and shall include all affiliations and financial interests as of September 30 of that year. A new DD Form 1555 shall be filed each year even though no changes in affiliations or financial interests occur.

Extensions may be granted for good cause by a Designated Agency Ethics Official or designee. For required information not known by you but known by another person, you are required to request the submission of the information on your behalf. Personnel who are required to file SF 278, "Financial Disclosure Report," are exempted from filing this DD Form 1555. Personnel required to file SF 278 are listed in DoD Directive 5500.7, Enclosure 6.

INSTRUCTIONS FOR COMPLETION

ITEM 1-6. Provide the appropriate information.

PART I

This part must be completed by the following personnel:

a. Commanders and deputy commanders of major installations, activities, and operations (as determined by the Heads of the DoD Components), and DoD personnel classified at GS/GM-15 or below under 5 U.S.C. §5332, or a comparable pay level under other authority, and members of the military below the rank of O-7, when the official responsibilities of such personnel require them to exercise judgment in making government decisions or in taking government action for contracting or procuring, regulating or auditing private or other non-Federal enterprise, or other activities in which the final decision or action may have economic impact on the interests of any non-Federal activity.

b. Special government employees, except for the following categories of personnel unless specifically required to file by the Designated Agency Ethics Official: physicians, dentists, and allied medical specialists engaged only in providing service to patients; veterinarians providing only veterinary services; lecturers participating only in educational activities; chaplains performing only religious services; individuals in the motion picture and television fields who are utilized only as narrators or actors in DoD productions; reservists on active duty for less than 30 consecutive days during the calendar year; others from whom the Designated Agency Ethics Official determines DD Form 1555 is not necessary.

The interests of a spouse, minor child, and any member of your household shall be reported in the same manner as if they were your own interests.

Item 7. List the names of all corporations, firms, partnerships, and other business enterprises, nonprofit or educational organizations, or other institutions in which you: (a) are (or were since your last filing of a DD Form 1555) affiliated as an employee, officer, owner, director, member, trustee, partner, advisor, agent, representative, or consultant, or as a person on leave from such affiliation, or as a person with an understanding or with plans for affiliation in the future; (b) have any continuing financial interests, such as through a pension or retirement plan, shared income, continuing termination payments, or other arrangement as a result of any current or prior employment or business or professional association; or (c) have any financial interest through the legal or beneficial ownership of stock, stock options, bonds, securities, or other arrangements including trusts. If none, write "none."

Identify with an asterisk any affiliations or financial interests which you have acquired since last filing DD Form 1555.

Associations with, or interests in, nonprofit professional, charitable, religious, social, fraternal, recreational, public service, civic, or political organizations, need not be reported if the association or interest is not one of ownership nor maintained to conduct business for profit.

Association with, or interests in, educational or other institutions doing research or development related work involving grants from or contracts with the government must be reported on this form.

The amount of financial interests need not be reported unless specifically required by the Designated Agency Ethics Official or designee.

DD Form 1555 Instructions, MAR 87

Figure 1-3. Sample of a completed DD Form 1555—Continued

INSTRUCTIONS FOR COMPLETION OF DD FORM 1555 (Continued)

PART I (Continued)

Item 8. List all creditors other than those who have given you conventional loans on customary commercial terms. If none, write "none."

Item 9. List your interests in real property other than the personal residence you occupy. Note any relationships with DoD contractors; present or prospective, related to interests in real estate. If none, write "none".

PART III

All filers must certify by signature and date.

PART II

This part must be completed only by special government employees with the exception of those listed as exempted in Part I. b., above.

Item 10. Fill in the:

a. Number of days you expect to work for the DoD Component to which you will submit this DD Form 1555.

b. Total number of days you expect to work for other Federal agencies.

c. Total of Item 10.a. and 10.b.

d. Number of days you worked for the DoD Component to which you will submit this DD Form 1555 during the 365 days prior to the beginning date of your present appointment.

e. Number of days you worked for any DoD Component during the 365 days prior to the beginning date of your present appointment.

Item 11. List all other Federal agencies with whom you are presently employed.

PART IV

All DD Forms 1555 must be submitted to supervisors or superiors for evaluation and must be reviewed by the Designated Agency Ethics Official or designee.

Figure 1-3. Sample of a completed DD Form 1555—Continued

Executive Personnel Financial Disclosure Report

Instructions for Completing SF 278

Privacy Act Statement

The Ethics in Government Act of 1978, as amended, 5 U.S.C. App. §201 et seq, requires the reporting of this information. This information will be reviewed by Government officials to determine compliance with applicable Federal laws and regulations, and the report may be disclosed upon request to any requesting person pursuant to section 205 of the Act or as otherwise authorized by law. You may inspect applications for review of your own form upon request. Knowing or willful failure to file or report information required to be reported by section 202 of the Act (or falsification) may subject you to a civil penalty of not more than \$5,000 and to disciplinary action by your employing agency or other appropriate authority. Knowing or willful falsification of information required to be filed by section 202 of the Act may also subject you to criminal prosecution under 18 U.S.C. § 1001, leading to a fine of not more than \$10,000 or imprisonment for not more than five years or both.

I. Introduction

Scope of Disclosure

The extent of the reporting requirement is noted in each schedule. The applicable reporting periods and a description of who must complete each schedule and part are described on page 1 of the form. In addition to your separate financial information, you are required to report information concerning your spouse and dependent children in several schedules of the form. However, no report is required with respect to your spouse if he or she is living separate and apart from you with the intention of terminating the marriage or providing for permanent separation. In addition, no report is required with respect to any income or obligations of an individual arising from the dissolution of a marriage or the permanent separation from a spouse. There are other exceptions to the reporting of assets and income, transactions, and liabilities of a spouse or dependent child which are discussed in the instructions applicable to those subjects.

II. Who Must File

- Candidates for nomination or election to the office of President or Vice President.
- Presidential nominees to positions requiring the advice and consent of the Senate, other than those nominated for judicial office or for appointment to a rank in the uniformed services at a pay grade of O-6 or below.
- The following newly elected or appointed officials:
 - The President;
 - The Vice President;
 - Officers and employees (including special Government employees, as defined in 18 U.S.C. §202) whose positions are classified at GS-16 or above of the General Schedule, or whose basic rate of pay (excluding "step" increases) under other pay schedules is equal to or greater than the rate for GS-16 (step 1) (a group which includes all members of the Senior Executive Service);
 - Members of the uniformed services whose pay grade is O-7 or above;
 - Officers or employees in any other position determined by the Director of the Office of Government Ethics to be of equal classification to GS-16;
 - Administrative law judges;
 - Employees in the exempted service in positions which are of a confidential or policy-making character, unless their positions have been excluded by the Director of the Office of Government Ethics;
 - The Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service and officers or employees of the U.S. Postal Service or Postal Rate Commission whose basic rate of pay is equal to or greater than the minimum rate of basic pay fixed for GS-16 (step 1); and
 - The Director of the Office of Government Ethics and each designated agency ethics official.
- Incumbent officials holding positions referred to in section II(c) of these instructions if they have served 61 days or more in the position during the preceding calendar year.
- Certain individuals who perform staff functions in support of an advisory committee composed in whole or in part of special Government employees (see 5 C.F.R. §734.202(h)).

III. When to File

- Within 30 days after becoming a candidate for nomination or election to the office of President

or Vice President or by May 15 of that calendar year, whichever is later, and on or before May 15 of each succeeding year that such an individual continues to be a candidate on such date.

- Within 5 days after the transmittal by the President to the Senate of the nomination of an individual referred to in section II(b) of these instructions or, prior to that time, at any time after the President or President-elect has publicly announced his or her intention to nominate the individual.
- Within 30 days after assuming a position described in section II(c) unless such an individual has left another position described in section II(c) within 30 days prior to assuming the new position, or has already filed a report with respect to nomination for the new position (section II(b)) or as a candidate for the position (section II(a)).
- No later than May 15 annually, in the case of those in a position described in section II(c), in the event such an individual terminates employment, and does not accept another position described in section II(c), the report must be filed no later than the 30th day after termination.

IV. Where to File

- Candidates for President and Vice President, with the Federal Election Commission.
- The President and Vice President, with the Office of Government Ethics.
- Members of a uniformed service, with the Service Secretary concerned.
- All others, with the designated agency ethics official at the agency in which the individual is employed or in which he or she will serve.
- In the case of individuals appointed by or to be nominated by the President to positions requiring confirmation of the Senate, see 5 CFR §734.604(c) for expedited procedure.

V. General Instructions

- This form consists of the front page and four Schedules. You must complete each Part of all Schedules. If you have no information to report in any Part of a Schedule, you should indicate "None". A report is considered incomplete if any Part of any Schedule is left blank. Schedule A combines a report of income items (other than from current employment by the United States Government) with the disclosure of property interests (generally referred to here as assets). Schedule B deals with transactions in real prop-

A basic premise of the statutory financial disclosure requirements is that those having responsibility for review of reports filed pursuant to the Act or permitted public access to reports, must be given sufficient notice by reporting individuals in their reports concerning the nature of their outside interests and activities so that an informed judgment can be made with respect to the individuals' compliance with applicable conflict of interest laws and standards of conduct regulations. Therefore it is important that you carefully complete the attached form. This report is a safeguard for you as well as the Government in that it provides a mechanism for determining actual or potential conflicts between your public responsibilities and your private interests and activities and allows you and your agency to fashion appropriate protections against such conflicts when they first appear.

Definitions and Terms

Category of Amount

Reportable financial interests are disclosed either by exact amount or by category of amount, depending on the interest as shown in the form. You may, but you are not required to, indicate an exact amount where the form provides for a category of amount or value.

Dependent Child

The term "dependent child" means your son, daughter, stepson, or stepdaughter if such person is either: (i) unmarried, under age 21, and living in your household, or (ii) a "dependent" of yours within the meaning of section 152 of the Internal Revenue Code of 1954.

Value

The term "value" generally means a good faith estimate of the dollar value if the exact value is neither known nor easily obtainable by you. When valuing assets, you may use a number of methods in addition to a good faith estimate. These are specifically set forth in the instructions under Schedule A.

Relative

The term "relative" means an individual who is your father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, your spouse's grandfather or grandmother or your fiancé or fiancée.

Figure 1-4. Sample of completed SF 278

erty or certain other assets, as well as gifts and reimbursements. Schedules C and D relate to liabilities and employment relationships. After completing the first page and each part of the Schedules (including extra sheets of any Schedule where continuation pages are required for any part), consecutively number all pages.

b. The information to be disclosed is only that which the Ethics in Government Act of 1978, as amended, and 5 CFR Part 734 specifically require. You may, however, include in any section of the form such additional information, beyond the Act's requirements, as you may wish to disclose for purposes of clarification.

c. Combine on one form the information applicable to yourself, your spouse and dependent children; or if more convenient, use separate schedules to report the required information applicable to family members. You may, if you desire, distinguish any entry for a family member by preceding the entry with an (S) if it is for a spouse or a (DC) if it pertains to a dependent child.

d. Definitions of the various terms used in these instructions and detailed information as to what is required to be disclosed are contained in 5 CFR Part 734.

e. In the case of references to entities which do not have listed securities or are not described in standard reference materials (such as Moody's Manuals)—whether such entities are operating trades or businesses, or private investment pools or other vehicles (such as IRAs) which are themselves the media for indirect financial interests in trades or businesses attributable to you—for purposes of the application of Federal law—you must provide sufficient information about these private entities to give reviewers of disclosure reports an adequate basis for the conflicts analysis required by the Act. Thus, except in the case of private investment vehicles (for which full disclosure of holdings is required), you must disclose the primary trade or business of private entities, as well as attributed interests and activities not solely incidental to such a primary trade or business. For instance, if your family swimming pool services corporation incurs a liability to purchase an apartment house for investment in addition to its pool services business, you will have to report your indirectly allocable share of the corporation's liability, the apartment house investment, and its purchase, in addition to the items you are required to report about your interest in the family corporation. You would not, of course,

have to report the day-to-day transactions of the pool and services business nor such things as the normal and customary temporary liabilities it incurs with its suppliers.

f. If you need assistance in completing this form, contact the designated agency ethics official of the agency in which you serve, will serve or have served.

Schedule A

I. General Instructions

Two of the general disclosure requirements of the Act concern certain interests in property (generally referred to here as assets) and items of income. Schedule A is designed to enable you to meet both of these reporting requirements. Generally a description of your, your spouse's or dependent child's assets and sources of income is required to be listed in BLOCK A of the Schedule. Reading from left to right across the page from each description of the asset or income source, you will be able to report in BLOCK B the value of each asset, and in BLOCK C the type and amount of income generated by that asset or received from the non-asset source. BLOCK D is a question designed to lead incumbents and termination filers to Schedule B for certain of the items they have listed in BLOCK A.

On Schedule A are two examples which are representative of the reporting scheme of this Schedule. The first example represents the proper method of reporting a stock of the XYZ Company held by the reporting individual at the end of the reporting period which then had a value of \$40,000. The individual had also received dividends of \$1,500 and had purchased the stock during the reporting period. The second example represents the proper method of reporting the source of \$50,000 of earned income from private law practice as well as the \$12,500 from the reporting individual maintained in the capital account in the law firm at the end of the reporting period. If, in the first example, the XYZ stock had been sold rather than purchased, there would be no entry in BLOCK B because the individual no longer owned the stock at the end of the reporting period, but there would be an entry for capital gains as well as dividends in BLOCK C if they were realized during the period.

Normally you will have to list an item only once in BLOCK A with all other value and income information associated with that item shown on the same

line to the right. However, when you have a number of different kinds of financial arrangements and transactions involving one entity, a full disclosure of all the required information for that entity may require more than one line. You may always use more than one line for clarification if you choose.

Note: Specific regulations for the reporting of interests in property and income are found in 5 CFR 734.30(a) and (d).

II. Property Interests and Assets (BLOCKS A and B)

A. Items to Report

Report the identity and category of valuation of any interest in property (real or personal) held by you, your spouse or a dependent child, in a trade or business, or for investment or the production of income which has a fair market value which exceeds \$1,000 as of the close of the reporting period. These interests include, but are not limited to, stocks, bonds, pension interests and annuities, futures contracts, mutual funds, IRA assets, tax shelters, beneficial interests in trusts, income-producing bank accounts, real estate, commercial animals, crops and collectibles held for the production of income. **Exceptions:** Exclude your personal residence and any personal liability owed to you, your spouse or dependent child by a relative. Exclude also any deposits aggregating \$5,000 or less in a personal savings account in a single financial institution. A personal savings account includes a certificate of deposit or any other form of deposit in a bank, savings and loan association, credit union or similar institution. With respect to assets of a spouse or a dependent child, do not report items:

- (i) which represents your spouse's or dependent child's sole financial interest or responsibility and of which you have no knowledge;
- (ii) which are not in any way, past or present, derived from your income, assets, or activities; and
- (iii) from which you neither derive, nor expect to derive, any financial or economic benefit.

Note: It is very difficult for most individuals to meet all three parts of this test, especially (iii). For instance, if you file a joint tax return with your spouse, you derive a financial or economic benefit from the items involved and you are charged with knowledge of those items. Therefore, those asset and income items do not fit the test.

A personal residence from which no income is derived should not be reported as a property interest because it is not held for investment or production of income. However, if you hold residential property which is used for investment or income purposes, such as a summer home rented during parts of the year, you must report that interest.

In the case of personal property such as antique collections and related holdings, the Office of Government Ethics deems intermittent sales from such a collection or holdings to demonstrate that they are held for investment or the production of income.

Valuation Method

The statute provides several methods you may use for determining valuation:

- Option 1—any good faith estimate of the value of the property if the exact value is unknown or not easily obtainable;
- Option 2—value based upon a recent appraisal of the property interest;
- Option 3—the date of purchase and the purchase price of your interest;
- Option 4—the assessed value of the property for tax purposes adjusted to reflect current market value if the tax assessment is computed at less than 100% of current value (if Option 4 is used, describe the assessed value);
- Option 5—the year-end book value of non-publicly traded stock, or the year-end exchange value of corporate stocks, or the face value of corporate bonds, or comparable securities;
- Option 6—the net worth of your interest (as in a business partnership or other jointly held business interest);
- Option 7—the equity value of your interest (as in a solely owned business or commercial enterprise); and
- Option 8—actual value (e.g., savings accounts) or any recognized indication of value (such as last sale on a stock exchange).

You need not disclose which methods you chose unless you wish. This is a change from prior forms.

B. What to Show on the Form

Enter the identity of the asset in BLOCK A and then show the applicable value in BLOCK B. Only

the category of value, rather than the actual value of the property interest or asset, must be shown.

For assets such as stocks, bonds, and securities, report any holdings by you, your spouse or dependent child from one source totaling more than \$1,000 in value. Identify the holding and show the category of value. When identifying shares of publicly traded stocks, the common abbreviation of the name of the corporation may be used. If you have stock interests through an investment trust or mutual fund, and the holdings of the trust or fund are a matter of public record, you may—instead of identifying the fund's share holdings—identify your interest by simply giving the name of the trust or mutual fund. If you hold different types of securities of the same corporation (e.g., bonds and stocks of "X" Corporation), these holdings should be considered as being from the same source for purposes of determining whether the aggregate value of the interest is below or above the \$1,000 value.

To report interests in a business, a partnership, or joint venture, or the ownership of property held for investment or the production of income, identify the character of your ownership interest, and, unless a publicly traded security, the nature and location of the business or interest. Thus, in the case of non-publicly traded securities, show the nature and address of the business (in addition to its name). For example, the entry for a holding of farm land might show, under BLOCK A, "sole ownership of 100 acres of unimproved dairy farm land on Rural Route # 1 at Pine Bluff, Madison County, Wisconsin".

In the case of holdings that are essentially non-public such as private trades or businesses, investment pools or other private investment vehicles, sufficient disclosure must be made to give reviewers an adequate basis for the conflicts analysis required by the Act. Therefore, you must disclose the primary trade or business of private entities, as well as interests and activities not solely incidental to such a trade or business. For example, if your family is involved in a private real estate investment business but as a side interest buys stock through the business in a bank, you must disclose in addition to real estate, (by type and general location), that the family business holds an interest in a bank. In addition, while under the general rules of Schedule A an individual who directly holds an IRA (Individual Retirement Account) would have to indicate its value and the income derived from it (even though non-taxable for Federal income tax purposes), with-

out further disclosure of what financial interests are attributable to the individual by virtue of the IRA, it is not possible to evaluate the individual's compliance with applicable laws and regulations. If the IRA were invested solely in a mutual fund such as "Templeton World Fund, Inc." and the investment was disclosed in Schedule A, that would be sufficient, as that fund's portfolio is detailed in Moody's Bank and Finance Manual and could be evaluated. If, however, the IRA was privately invested, detailed disclosure of the investment would be required on Schedule A in the same amount of detail as if the investment were directly held.

b. Trusts

With respect to trusts in which a beneficial interest in principal or income is held, report trust interests and trust assets which had a value in excess of \$1,000. You need not report the identity of assets of a trust of which you are the beneficiary if the interest is:

- i. a "qualified blind trust" or "qualified diversified trust", which has been certified by the Office of Government Ethics, or
- ii. an "excepted trust", that is, one which—
 - A. was not created by you, or your spouse or dependent children, and
 - B. the holding or sources of income of which you, your spouse and dependent children have had no knowledge.

In such cases, in lieu of disclosing the source and assets of the trust, you should show in BLOCK A the identity of the trust including the date the trust was created, and the classification of the trust interest as a "qualified blind trust", a "qualified diversified trust", or an "excepted trust". Although you need not report the identity of the assets of a qualified or excepted trust, the category of amount of the trust income, if it exceeded \$100, must be reported in BLOCK C.

Note: You are not permitted by the statute to "create" an excepted trust by avoiding previous sources of knowledge upon entering Government service. See subpart D of 5 CFR Part 734.

It is not necessary to identify those assets of a trust of which a spouse or dependent child is a beneficiary if the trust meets the same three part test set forth in the first paragraph under II.A. above. However, in applying the test, if the trust is one set up for the education of your minor children, you do receive a financial benefit from such a trust and must

disclose the assets unless it is an "excepted trust" discussed immediately above.

Except for one of the three trusts described above, you must identify each individual investment holding of a trust which had a value in excess of \$1,000. For example, in BLOCK A an entry such as "trust held by First National Bank (Boston, MA) consisting of 100 shares of U.S. Treasury certificates, and Dallas Municipal Bonds" might be made. In BLOCK B the applicable value of each trust asset would be entered. (And, as described under IV B 5. Trust Income, below, the income from each asset would be entered in BLOCK C as well as income from assets of the trust sold during the reporting period.)

III. Earned and Other Non-Investment Income (BLOCKS A and C)

A. Items to Report

For yourself, report the identity of the source in BLOCK A and amount in BLOCK C of non-investment income exceeding \$100, from any one source, other than income from the United States Government for current Government services. Such income includes fees, salaries, commissions, compensation for personal services, pension payments, honoraria, etc. Report these items on the same line as any related interest in property (if any).

For your spouse, report the source, but not the amount, of your spouse's non-investment income exceeding \$1,000 from any one source. No report of the earned or non-investment income of your dependent children is required.

B. What to Show on the Form

1. HONORARIA—Means payment of money or anything of value to you or your spouse, for an appearance, speech, or article. (See 2 U.S.C. §444 for full definition.) For each honorarium you received in excess of \$100 show the identity of the source in BLOCK A, the date and net amount in BLOCK C. For your spouse, you must show only the source of any honorarium over \$1,000 and the date of the event for which it was received. List each honorarium separately. For example, if you received \$1,400 for a speech before the Chicago Civic Club on March 19, 1984, of which \$200 was actually spent for round-trip travel, and \$200 went to the agent who made the speaking arrangement, enter in BLOCK A, "Chicago Civic Club, 18 Lakeshore Dr., Chicago, IL"; in BLOCK C under OTHER specify...

"Honoraria", under ACTUAL AMOUNT "\$1,000", and under DATE "3/19/84". If the same item of income was received under the same circumstances by your spouse, who is self-employed as a marketing consultant, you would enter in BLOCK A, "S", "Chicago Civic Club, 18 Lakeshore Dr., Chicago, IL"; in BLOCK C under OTHER specify "Honoraria"; under ACTUAL AMOUNT leave a blank or fill in N/A; and under date "3/19/84". Honoraria received and donated to charity must be reported, but a notation explaining that fact may be included in reporting such items.

2. OTHER INCOME—Means all income, exclusive of honoraria, received from non-investment sources including fees, commissions, salaries, income from personal services, pensions, etc. Report the identity of the source and give the actual amount of such income. For example, if you earned \$450 teaching at a law school, enter in BLOCK A, "John Jones Law School, Rockville, MD"; in BLOCK C, under OTHER, "\$450". Exclude income totaling less than \$100 from any one source. For example, if you earned \$75 for teaching in one law school and \$150 from teaching at another school, report only the \$150 amount.

If your spouse has earned income in excess of \$1,000 from any one source identify the source but show nothing under amount. If your spouse is self-employed in a business or profession, for example as a practicing psychologist who earned \$10,500 during the year, you need only show under BLOCK A, "...practicing psychologist".

3. UPDATE—A Presidential nominee to a position requiring the advice and consent of the Senate shall file with the Senate committee considering his or her nomination a report which shall update all items of his or her earned income and honoraria through the period ending no earlier than 5 days before the scheduled date of the Senate committee hearing on the nomination. This update shall be provided in the manner requested by the Senate committee considering the nomination.

IV. Investment Income (BLOCK C)

Report items of investment income on the same line of Schedule A as the related property interest or other asset from which such income is derived. Note that some property interests or other assets

Figure 1-4. Sample of completed SF 278—Continued

will not have a related item of realized income. In such a case, check "None (or less than \$10)" in BLOCK C under category of amount.

A. Items to Report

Report the identity in BLOCK A and category of value in BLOCK C of any investment income over \$100 from any one source received by you, your spouse or dependent child, or which accrued to the benefit of any one of you during the reporting period. For purposes of determining whether you meet the over \$100 threshold from any one source, you must aggregate all types of investment income from that same source.

Investment income includes, but is not limited to: income derived from dealings in property, interest, rents, royalties, dividends, annuities, income from endowment contracts, income from discharge (forgiveness) of debts owed to you, your distributive share of partnership or joint venture income, and income from an interest in an estate or trust. You need not show the exact dollar amount of dividends, rents and royalties, interest, capital gains, and certain trust income. For these specific types of income you need only check the category of amount of the item reported. For all "other investment income" as described in item 6 below, you will have to report the exact dollar amount of income from each source.

B. What to Show on the Form

1. **DIVIDENDS**—Show in BLOCK C the category of the amount you, your spouse or dependent child received as dividends from investment sources including: common and preferred securities, endowment contracts, and pension and annuity funds. Identify the source of such income and check the category of amount. When identifying the source of a corporate stock dividend, you may abbreviate the corporate name. For example, if cash dividends of \$950 were received for shares of common stock of International Business Machines, enter in BLOCK A, "IBM common", and in BLOCK C check that dividend income was received and check the appropriate category of amount.

2. **RENTS AND ROYALTIES**—Show income received by you, your spouse or dependent child as rental or lease payments for occupancy or use of personal or real property in which any one of you have an interest. In addition, show payments received from such interests as copyrights, royalties, inventions, patents, and mineral leases or other interests. Identify the source of such income and check the category of amount. For

example, if you received \$2,000 as rental income from an apartment building in Miami, Florida, enter in BLOCK A, "apartment building, at 5802 Biscayne Blvd., Miami, FL", and in BLOCK C check that rental income was received and check the appropriate category of amount.

3. **INTEREST**—Identify the source and the category of amount of any interest earned or received by you, your spouse or dependent child as income from investment holdings including: bills and notes, loans, promissory notes, annuity funds, bonds, and other securities. For example, if you earned \$300 in interest during the calendar year on a Savings Certificate with Federal Savings and Loan, enter in BLOCK A, "Federal Savings and Loan (Baltimore, MD)—Savings Certificate", and in BLOCK C check that interest income was received and check the appropriate category of amount.

4. **CAPITAL GAINS**—Report income from capital gains received or realized by you, your spouse or dependent child from sales or exchanges of property, business interests, partnership interests or shared ownership investment interests. Identify the source and check the category of amount of the gain. An example of an entry in BLOCK A might be: "Sale of one-third interest in 100-acre farm in Hamilton County, Iowa", and in BLOCK C check that capital gains were received and check the appropriate category of amount.

5. **TRUST INCOME**—Report the category of amount and the type of any income of \$100 or more received from any trust. You need not identify the source from which the trust received the income when the trust is: (i) a "qualified blind trust" or "qualified diversified trust", which has been certified by the Office of Government Ethics; or (ii) an "excepted trust", one which was not created directly by, and about which no knowledge of holdings or source of income of the trust is possessed by you, your spouse or dependent child. Note, you are not permitted by the statute to "create" an excepted trust by avoiding previous sources of knowledge upon entering Government service. See subpart D of 5 CFR Part 734.

Whenever you are required to identify the source of trust income, either for yourself or for a spouse or child, it is not enough simply to say "John Jones Trust". Generally, the investment holdings of the trust, discussed above under "Property, Interests and Assets", and the income derived from each holding must be identified to the same extent as if held directly. However, if

the trust is a qualified trust or an excepted trust, in BLOCK A show only the identity of the trust, including the date the trust was created, and in BLOCK C check the classification of the trust interest as a "qualified blind trust", "qualified diversified trust", or "excepted trust", and check category of amount of the income realized.

6. **OTHER INVESTMENT INCOME**—Report any items of investment income exceeding \$100 which are not described above, such as income from business interests, property dealings, annuities, an estate, or a distributive share of a partnership or joint business venture's income. To identify the sources of other investment income, either for yourself, your spouse, or a dependent child, briefly characterize, in BLOCK A, the nature of the business or investment interest, and when applicable, the location: for example, "one-third ownership in a retail furniture store at 1010 Grand Ave., Chicago, IL." In BLOCK C, under OTHER specify the applicable type of income, for example: "distributive share" from a partnership or "gross income" from a proprietorship, and under ACTUAL AMOUNT the actual amount of such income which was realized during the reporting period.

V. Transactions Test

(BLOCK D)

BLOCK D is to be completed by incumbent and termination filers only. It is designed to assist you in determining which assets in BLOCK A will also have to be reported in Part I of Schedule B as being purchased, sold or exchanged during the reporting period. You will need to check "YES" or "NO" in BLOCK D for any real property or stocks, bonds, commodities futures, and other forms of securities listed in BLOCK A. You need not answer the questions for any other kinds of items listed in BLOCK A. If you answer "Yes" for any such item, you must also report the details of the purchase, sale or exchange in Part I of Schedule B.

Schedule B

I. Part I—Transactions

A. General Instructions and Items to Report

This part is to be completed by incumbents and termination filers only. Give a description, the date, and the category of amount of any purchase, sale,

or exchange of any real property, stocks, bonds, commodities futures and other securities by you, your spouse or dependent child when the amount involved in the transaction exceeded \$1,000. This will include the transaction for any asset for which you answered "Yes" in BLOCK D of Schedule A. It also includes reporting any sale or exchange of an asset involving an amount exceeding \$1,000 when the sold or exchanged asset did not yield income of more than \$100 (and therefore was not reported on Schedule A), or reporting the purchase of an asset involving an amount exceeding \$1,000 but at the end of the reporting period having a value less than \$1,000 and earning income of \$100 or less during the reporting period (and therefore not appearing on Schedule A). The example on the form shows the proper way to disclose the XYZ common stock the reporting individual purchased for \$35,000 on 2/1/83. Note on Schedule A, that there is an entry for the stock as well since it was still held at the end of the reporting period, and that the reporting individual property noted "Yes" in BLOCK D.

You need not report a transaction involving (1) your personal residence(s); (2) a money market mutual fund or personal bank account; (3) an asset of your spouse or dependent child if the asset meets the three-part test set forth under the instructions for Schedule A, at I.A., and (4) a holding of a "qualified blind trust", a "qualified diversified trust" or an "excepted trust". You will need to report any transactions of a business or commercial enterprise in which you, your spouse or dependent child have a direct proprietary or general partnership interest.

You are required to report any covered transaction of any company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, if (i) the entity is not described in standard reference materials, or (ii) the transaction is not incidental to the primary trade or business of the entity as indicated by you on Schedule A. (See also section V(e) of the General Instructions preceding those for Schedule A.)

B. What to Show on the Form

Under identification of assets, identify the property or securities involved in the purchase, sale or exchange, and give the date of the transaction. For example, under IDENTIFICATION OF ASSETS, "GMC common stock"; under TYPE OF TRANSACTION, "check type"; under DATE, "enter date transaction occurred; under AMOUNT OF TRANS-ACTION, check the category of value of the sale price, purchase price, or exchange value of the property involved in the transaction.

Figure 1-4. Sample of completed SF 278—Continued

II. Part II—Gifts and Reimbursements

A. General Instructions

This Part is to be completed by incumbents and termination filers only. The Act requires you to disclose the receipt of gifts, in-kind travel expenses, and cash reimbursements by you or your spouse from any one source other than the U.S. Government. Generally, these are (1) gifts of in-kind services of transportation, lodging, food or entertainment aggregating \$250 or more from any one source, (2) cash reimbursements aggregating \$250 or more from any one source for any kind of expense, and (3) other gifts, whether tangible or intangible, aggregating \$100 or more from any one source. This reporting requirement applies to gifts and reimbursements received by your spouse to the extent the gift was not given to him or her **totally independent** of his or her relationship to you.

B. Items to Report

Report gifts received by you, your spouse or dependent child during the reporting period. A "gift" means any payment, forbearance, advance, rendering or deposit of money, or anything of value, unless consideration of equal or greater value is received by the donor. In determining which gifts and reimbursements must be reported or aggregated for purposes of meeting the threshold disclosure amounts, **exclude** these items:

- i. Gifts having a value less than \$35;
- ii. Gifts received from "relatives" (see definition in Introduction);
- iii. Bequests and other forms of inheritance;
- iv. Suitable mementos of a function honoring the reporting individual;
- v. Food, lodging, transportation, and entertainment provided by a foreign government without in a foreign country or by the United States Government;
- vi. Food and beverages consumed at banquets, receptions or similar events;
- vii. Gifts in-kind of food, lodging, transportation and entertainment aggregating less than \$250 in value received from any one source during the preceding calendar year (for purposes of the \$250 aggregation in this exclusion, items with a fair market value of \$35 or less need not be counted);
- viii. Gifts (other than transportation, lodging, food or entertainment) aggregating less than \$100

in value received from any one source (for purposes of the \$100 aggregation in this exclusion, you need not count any items with a fair market value of \$35 or less, nor any item for which, in an unusual case, a publicly available request for waiver was granted);

- ix. Gifts given to a spouse totally independent of his or her relationship to you;
- x. Gift items in the nature of communications to your office, such as subscriptions to newspapers and periodicals;
- xi. Gifts of hospitality on the donor's personal or family premises, as defined in 5 CFR §734.105(f);
- xii. Gifts and reimbursements received during non-Federal employment periods; and
- xiii. Reimbursements you received for political trips which were required to be reported under section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434).

C. What to Show on the Form

1. **TRANSPORTATION, LODGING, FOOD, ENTERTAINMENT**—Report the identity of the source, a brief description, and the approximate value of in-kind gifts of transportation, lodging, food or entertainment aggregating \$250 or more from any one source which were received by you or your spouse and which do not fall within any of the categories of exclusions enumerated above. To reach a \$250 aggregation, you determine whether any one or combination of the components within this gift category received from one source (transportation, lodging, food and entertainment) amounts to \$250 or more in value. For example, if you spent a weekend at a hunting lodge owned by AmCoal Corporation, and you received lodging fairly valued at \$150, food valued at \$100, and entertainment valued at \$125, the aggregate value of the gift is \$375. A gift of this nature—hospitality at a lodge owned by a corporation rather than an individual—would not qualify as a "personal hospitality" exclusion. To report this gift you would show, under SOURCE . . . "AmCoal Corp., 1210 North St., Chicago, IL"; and under BRIEF DESCRIPTION . . . "lodging, food, and entertainment as a guest at hunting lodge owned by AmCoal"; and under VALUE . . . "\$375".

2. **OTHER GIFTS**—Report the identity of the source, a brief description, and the value of gifts other than transportation, lodging, food or entertainment aggregating \$100 or more in val-

ue from any one source, other than excluded gifts which you or your spouse received during the calendar year. Thus, if you and your spouse each receive a \$60 figurine from the same donor, the gift has a value of more than \$100, and it must be reported. To report the gift, identify the source, briefly describe the items, and show the value. In the case of the figurines, report on the form under SOURCE . . . "Artifac Co., 153 Utah St., Omaha, NE"; and under BRIEF DESCRIPTION . . . "two porcelain figurines"; Under VALUE . . . "\$120" would be shown.

3. **REIMBURSEMENTS**—Report the source and the approximate value of any cash reimbursements (except those from the United States Government) aggregating \$250 or more which you or your spouse received from any one source. For example, if you were reimbursed \$400 for travel and lodging expenses in connection with a speech you made for the State Realtors Association, you would report this item on the form by showing under SOURCE . . . "State Realtors Assoc., 45 Bridge St., Denver, CO"; under BRIEF DESCRIPTION . . . "travel expenses for speech made in Denver"; and under VALUE . . . "\$400" would be shown. If your spouse made this speech and received the reimbursement totally independent of his or her relationship to you, no information for this item need be reported.

Note: If you receive in-kind services of transportation, lodging, food and entertainment or a reimbursement of official travel expenses from a non-profit tax-exempt institution categorized by the IRS as one falling within the terms of 26 U.S.C. 501(c)(3), you must report the name of the organization, a brief description of the in-kind services or the reimbursement and the value. If known, you may also wish to note the date you received the required written approval from your agency to accept such items.

Schedule C

I. Part I—Liabilities

A. General Instructions

The Act requires you to disclose certain of your financial liabilities. The examples on the form show how to report a mortgage on real estate the reporting individual held for the production of income and a promissory note made to an individual. Note that you will need to disclose the date, interest rate and term (if applicable) of each liability. Also note you

must disclose the highest amount owed on any liability held during the reporting period, not just at the end of the period. If the liability was completely paid during the period, you may also note that on the form if you wish.

B. Items to Report

Identify and give the category of amount of the liabilities which you, your spouse or dependent child owed to any creditor, other than a relative, which exceeded \$10,000 at any time during the reportable period, except:

- i. a mortgage secured by real property which is the personal residence (or a second residence not used for producing income) of you or your spouse;
- ii. a loan secured by a personal motor vehicle, household furniture, or appliances, where the loan does not exceed the purchase price of the item;
- iii. a revolving charge account where the outstanding liability did not exceed \$10,000 as of the close of the preceding calendar year, and any liability of your spouse or dependent child which represents the sole financial interest or responsibility of the spouse or child, and about which you have no knowledge, and which is not related to your income, assets, or activities, and concerning which you neither derive nor expect to derive any financial or economic benefit.

You are required to report any liability of any company, investment pool, or other entity, in which you, your spouse or dependent child have an interest, if (i) the entity is not described in standard reference materials, or (ii) the liability is not incidental to the primary trade or business of the entity as indicated by you on Schedule A. (See also section V(e) of the General Instructions preceding those for Schedule A).

C. What to Show on the Form

Under NAME AND ADDRESS OF CREDITOR . . . the name and address of the actual creditor must be shown unless the reporting individual is only able to identify a fiduciary and certifies in the report that he has made a good faith effort to determine who the actual creditor is and was unable to do so, or upon his certification that such determination is otherwise impracticable. Under TYPE OF LIABILITY . . . briefly indicate the nature of the liability. Under DATE . . . enter date loan incurred; under INTEREST RATE . . . note the set rate or, if a variable one, the formula used to vary the rate, i.e. prime

Figure 1-4. Sample of completed SF 278—Continued

+2%; and under TERM... the duration of the loan. Check the category of value.

II. Part II—Agreements or Arrangements

A. General Instructions and Items to Report

Provide information regarding any agreements or arrangements you have concerning (i) future employment; (ii) a leave of absence during your period of Government service; (iii) continuation of payments by a former employer other than the United States Government; and (iv) continuing participation in an employee welfare or benefit plan maintained by a former employer. This includes any arrangements or negotiations with a future employer entered into by a termination filer. For purposes of public disclosure only, you must disclose any negotiations for future employment from the point you and a potential private sector employer have agreed to your future employment by that employer, whether or not you have settled all of the terms, such as salary, title, benefits, and date employment is to begin. Your agency may require internal disclosure of negotiations much earlier and you should seek guidance before conducting any negotiations with persons with whom you do business. A criminal statute, 18 U.S.C. §208, applies to actions you may take while negotiating future private sector employment.

The example on the form shows the severance agreement under which the reporting individual ex-

pects to receive a lump sum payment from the law firm he has left in order to enter the Government.

B. What to Show on the Form

Under DESCRIPTION OF TERMS... describe the agreement or arrangement with appropriate specificity. Under PARTIES... show the name of the organization, or entity, and (if applicable) the name and title of the official, corporate officer, or principal person responsible for carrying out the terms of the agreement or arrangement. Under DATE... show the date of any such arrangement. **No report is required regarding any agreement or arrangement entered into by a spouse or dependent child.**

Schedule D

I. Part I—Positions Held

A. Items to Report

Report all positions held at any time during the reporting period, as well as those positions you currently hold as an officer, director, trustee, partner, proprietor, representative, employee or consultant of (i) any corporation, company, firm, partnership, trust, or other business enterprise; (ii) any non-profit organization; (iii) any labor organization; (iv) any educational institution; or (v) other institution other than the United States Government. Exclude positions held in any religious, social, fraternal, or political entity, and any positions solely of an honorary

nature. **No report is required regarding any positions held by your spouse or a dependent child.** Be sure to report on Schedule A any income you received from acting in any of these positions.

B. What to Show on the Form

Give the name, address and brief description of the organization, the title or other brief functional description of the position, and the dates you held the position. If you currently hold the position, in the entry block under TO note "Present".

II. Part II—Compensation in Excess of \$5,000 Paid by One Source

A. General Instructions

This Part is to be completed by nominees and new entrants only. This Act requires that you disclose your sources of compensation in excess of \$5,000 and the nature of the duties you provided. This includes not only the source of your salary or other fees, but the disclosure of clients for whom you personally provided \$5,000 in services even though the clients' payment was made to your employer, firm or other business affiliation. The example on the form shows the proper way to disclose the business affiliation which paid the reporting individual's compensation, in this case a law firm, and a client of the firm for whom the reporting individual personally provided over \$5,000 worth of services. This Part does not require you to disclose the value of the compensation for these services; it does require a

brief description of the services you provided. When a source has paid you directly, you should have a corresponding entry on Schedule A. A client who paid your business affiliation \$5,000 or more for your services will appear only in this Part.

B. Items to Report

Report the nature of the duties performed or services rendered for any person (other than the United States Government) from which compensation in excess of \$5,000 in any of the two preceding calendar years, or the present calendar year was received by you or an entity which billed for your services (business affiliation). Exclude: (i) information to the extent that it is considered confidential as a result of a privileged relationship established by law, or (ii) information about persons for whom services were provided by a business affiliation of which you were a member, partner or employee unless you were directly involved in the provision of the services. The name of a client of a law firm is not generally considered confidential. **No report is required regarding compensation paid to your spouse or a dependent child.**

C. What to Show on the Form

Under SOURCE... give the name and address of the person to whom services were provided, for example, "Newark Real Estate Co. (Newark, NJ)" and under BRIEF DESCRIPTION... the title or other brief functional description of the services rendered, for example, "tax matters researched for above firm while an associate with Quinn and Ouspensky".

Figure 1-4. Sample of completed SF 278—Continued

Financial Disclosure Report

Reporting Status (Check Appropriate Box)		Agency Use Only		OGE Use Only	
<input checked="" type="checkbox"/> Incumbent		New Entrant, Nominee, or Candidate		Termination Filer	
Reporting Individual's Name		First Name and Middle Initial		Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)	
Position for Which Filing		JOHN A. SMITH		January 1, 1984	
Location of Present Office		ASST. TO DCSRDA Address (Number, Street, City, State and ZIP Code)		Telephone No. (Include Area Code)	
Position(s) Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)		PENTAGON, WASH DC 20310		(202) 795-4000	
Presidential Nominee Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination		Do You Intend to Create a Qualified Diversified Trust?	
				Yes <input type="checkbox"/> No <input type="checkbox"/>	
Certification		Signature of Reporting Individual		Date (Month, Day, Year)	
I CERTIFY that the statements I have made on this report and the schedules are true, complete and correct to the best of my knowledge and belief.				January 15, 1986	
Other Review (if desired by agency)		Signature of Other Reviewer		Date (Month, Day, Year)	
Agency Ethics Official's Opinion		Signature of Designated Agency Ethics Official/Reviewing Official		Date (Month, Day, Year)	
The information contained in this report discloses no conflict of interest under applicable laws and regulations.		SIGNED/THE JUDGE ADVOCATE GENERAL		January 23, 1986	
Office of Government Ethics Use Only		Signature		Date (Month, Day, Year)	
Comments of Reviewing Officials (If additional space is required, use the reverse side of this sheet)					

Reporting Periods

Incumbents: Complete Schedules A, B, C, and Part I of D. The reporting period is the preceding calendar year except for Part II of Schedule C and Part I of Schedule D where you must also include any positions held or agreements or arrangements made from the beginning of the filing year until the date you file.

Termination Filers: Complete Schedules A, B, C, and Part I of D. The reporting period begins at the end of the period covered by your previous filing and ends at the date of termination.

Nominees, New Entrants and Candidates for President and Vice President: Complete Schedules A, C, and D. (Candidates do not file Part II of Schedule D.)

- **Schedule A**—The reporting period for income (BLOCK C) and Transactions Test (BLOCK D) is the preceding calendar year and the current calendar year up to the date of filing. Value assets in BLOCK B as of any date you choose that is within 31 days of the date of filing.

- **Schedule C, Part I (Liabilities)**—The reporting period is the preceding calendar year and the current calendar year up to any date you choose that is within 31 days of the date of filing.

- **Schedule C, Part II (Agreements and Arrangements)**—Show any agreements or arrangements as of the date of filing.

- **Schedule D**—The reporting period is the preceding two calendar years and the current calendar year up to the date of filing.

(Check box if comments are continued on the reverse side)

NSN 7540-01-070-3444

278-108

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Figure 1-4. Sample of completed SF 278—Continued

Reporting Individual's Name
SMITH, JOHN A.

Page Number **3**

Schedule **B**

Part I Transactions
 Incumbents and Termination Filers only: Report any purchase, sale or exchange by you, your spouse or dependent child during the reporting period of any real property, stocks, bonds, commodities futures, and other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not report a transaction involving property used solely as your personal residence, or a transaction between you, your spouse or your dependent child.

S or DC	Exemplification	Identification of Assets	Type of Transaction (X)			Date (Mo., Day, Yr.)	Amount of Transaction (X)								
			Purchase	Sale	Exchange		\$1,001 - \$5,000	\$5,001 - \$15,000	\$15,001 - \$50,000	\$50,001 - \$100,000	\$100,001 - \$250,000	\$250,001 - \$500,000	Over \$500,000		
1	Example: X Y Z Common		X			2/1/83		X							
2	S IBM Common			X		10/1/85			X						
3															
4															
5															
6															

Part II Gifts, Reimbursements and Travel Expenses
 Incumbents and Termination Filers only: Report the source, a brief description and the value of: (1) in-kind gifts of transportation, lodging, food or entertainment received from one source totaling \$250 or more unless received as personal hospitality at the donor's personal or family residence; (2) other gifts received from one source totaling \$100 or more in value; and (3) cash reimbursements of \$250 or more received from one source. Exclude gifts and reimbursements received by your spouse that were given to tally independent of their relationship to you. Exclude transportation, lodging, food and reimbursements from the U.S. Government. For (1) and (2), exclude gifts from relatives and exclude gifts of \$35 or less when aggregating them for the total from one source. See instructions for further exclusions.

S or DC	Source (Name and Address)	Brief Description	Value
1	Nat'l Assn. of Rock Collectors, NY, NY Nat'l Assn. of Rock Collectors, NY, NY	Airline ticket, hotel room & meals incident to national conference 6/15/83 Leather briefcase for retiring president	\$500 \$125
2	Moose Lodge, Muscogee, OK	Airline ticket and lodging incident to speech 10 Dec 85	\$750
3	Moose Lodge, Muscogee, OK	Airline ticket and lodging incident to my speech 10 Dec 85	\$750
4			
5			
6			

Figure 1-4. Sample of completed SF 278—Continued

Reporting Individual's Name
SMITH, JOHN A.

Page Number **4** Schedule **C**

Part I

Liabilities

All Filers: Report liabilities over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse or dependent child. Check the highest amount owed during the reporting period. Exclude a mortgage on your personal residence unless it is rented out; loans secured by automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts.

None NONE

S or DC	Examples	Creditor (Name and Address)	Type of Liability	Date Incurred	Interest Rate	Term if applicable	Category of Amount or Value (X)						
							\$10,001 to \$15,000	\$15,001 to \$50,000	\$50,001 to \$100,000	\$100,001 to \$250,000	Over \$250,000		
1		First District Bank, Washington, DC John Jones, 123 J St., Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware Promissory note	1981 1979	12% 10%	25 yrs. on demand	X		X				
2		1st Federal Savings and Loan (Pinehurst, N.C.)	Mortgage on rental house	1982	13	30			X				
3													
4													
5													
6													

Part II

Agreements Or Arrangements

All Filers: Report your agreements or arrangements for future employment, leaves of absence, continuation of payment by a former employer (including severance payments), or continuing participation in an employee benefit plan. See instructions regarding the reporting of negotiations for any of these arrangements or benefits.

None NONE

Example:	Status and Terms of any Agreement or Arrangement	Parties	Date (Mo., Yr.)
	Pursuant to partnership agreement, will receive capital account & partnership share calculated on service performed through 11/83	Doe Jones & Smith, Home town, USA	7/75 partnership agmt.

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278-108

Figure 1-4. Sample of completed SF 278—Continued

**REPORT OF DOD AND DEFENSE RELATED EMPLOYMENT
AS REQUIRED BY 10 U.S.C. §2397**

Form Approved
OMB No. 0704-0047
Expires Oct 31, 1989

(If additional space is required, use blank sheets of paper referencing item numbers below.)

Privacy Act Statement

AUTHORITY: 10 U.S.C. §2397; 10 U.S.C. §2397b; Executive Order 9397 (Social Security Number (SSN)).

PRINCIPAL PURPOSES: Each report will be reviewed by Department of Defense officials to determine compliance with the intent of the Act. The purpose of requesting the SSN is for positive identification and retrieving the record.

ROUTINE USE: Information derived from the reports, including names of reporting individuals and their current and former employers, shall be provided annually to the Congress. The reports themselves shall be available for review by members of the public and may otherwise be made available as authorized by law.

DISCLOSURE: Mandatory. Knowing or willful failure to file or report information required to be reported by this law, or falsification of information, may subject you to administrative penalty of up to \$10,000 pursuant to regulations promulgated by the Secretary of Defense. Knowing or willful falsification of information required to be filed may also subject you to criminal prosecution under 18 U.S.C. §1001, leading to a fine of not more than \$10,000 or imprisonment for not more than five years or both.

(Please read instructions before completing this form.)

1. NAME (Last, First, Middle Initial) SMITH, JOHN A.	2. SOCIAL SECURITY NO. 2 3 4 - 5 6 - 7 8 9 0 8 0 4 - 5 1 2 - 0 0 0 9	3. HOME TELEPHONE NO.
--	--	------------------------------

4. HOME ADDRESS			
a. STREET 110 MAIN STREET	b. CITY LOS GATOS	c. STATE CA	d. ZIP CODE 9 3 6 2 1 -
5. IS THIS AN INITIAL REPORT? (X a. or b.)		6.a. STATUS (X as many as applicable)	
<input checked="" type="checkbox"/> a. YES (If "Yes," go to Item 6.) <input type="checkbox"/> b. NO (If "No," go to Item 5.c.) c. If this is NOT an initial report, reason for subsequent report is: (X one) <input type="checkbox"/> (1) change in employer <input type="checkbox"/> (2) change in duties		<input checked="" type="checkbox"/> (1) RETIRED MILITARY - O4 OR ABOVE <input type="checkbox"/> (2) FORMER MILITARY - O4 OR ABOVE <input type="checkbox"/> (3) RETIRED CIVILIAN - PAID EQUAL TO GS-13 OR ABOVE <input type="checkbox"/> (4) FORMER CIVILIAN - PAID EQUAL TO GS-13 OR ABOVE <input type="checkbox"/> (5) PRESENT DOD EMPLOYEE	
		6.b. Rank/Grade	6.c. Most Recently Acquired Status (X one)
		(1) MG	(1) X
		(2)	(2)
		(3)	(3)
		(4)	(4)
		(5)	(5)

PART I

To be completed only by former officers or employees of DoD who are now employed by contractor. (Category I)

7.a. DATE OF TERMINATION OF MOST RECENT DOD SERVICE OR EMPLOYMENT (YYMMDD) 87/10/01	7.b. NAME OF MOST RECENT MILITARY DEPARTMENT OR DOD AGENCY DEPARTMENT OF THE ARMY
---	---

8. DATE OF EMPLOYMENT WITH DEFENSE CONTRACTOR (YYMMDD) 87/10/05	9. IS YOUR ANNUAL COMPENSATION FROM OR SALARY RATE WITH THE DEFENSE CONTRACTOR \$25,000 OR MORE? <input checked="" type="checkbox"/> a. YES <input type="checkbox"/> b. NO
--	---

10. NAME OF DEFENSE CONTRACTOR EMPLOYER FORD AEROSPACE	11. WORK TELEPHONE NO. 8 0 4 - 5 5 5 - 4 3 2 1
--	--

12. WORK ADDRESS			
a. STREET 2700 SKYLINE BOULEVARD	b. CITY PALO ALTO	c. STATE CA	d. ZIP CODE 9 3 6 4 0 - 0 0 0 1

13. YOUR POSITION WITH CONTRACTOR	
a. (X one that best describes position.)	b. SPECIFIC TITLE(S)
<input type="checkbox"/> (1) Administrator <input type="checkbox"/> (2) Researcher <input type="checkbox"/> (3) Contract Officer <input type="checkbox"/> (4) Manager <input checked="" type="checkbox"/> (5) Consultant <input type="checkbox"/> (6) Other	VICE PRESIDENT, WEAPONS SYSTEMS DEVELOPMENT DIVISION
c. YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET. Include specifics on contracts or actions related to duties held in ALL former DoD positions that are reported in Item 14 below. See instructions.	

14. YOUR FORMER DOD POSITION	
a. (X one that best describes position.)	b. SPECIFIC TITLE AND SPECIFIC DOD ORGANIZATION
<input type="checkbox"/> (1) Administrator <input type="checkbox"/> (2) Researcher <input type="checkbox"/> (3) Contract Officer <input type="checkbox"/> (4) Manager <input checked="" type="checkbox"/> (5) Consultant <input type="checkbox"/> (6) Other	COMMANDER, 3D INFANTRY DIVISION, DEPARTMENT OF THE ARMY
c. YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET. Report information requested in 14 a., b., and c. for each former DoD position held within 2 years prior to contractor position. See instructions.	

15. DOD DISQUALIFICATION ACTIONS (IF ANY) <i>(Within two years prior to contractor employment.)</i>	c. DESCRIBE DISQUALIFICATION ACTIONS
<input type="checkbox"/> a. YES (If "Yes," go to Item 15.c.) <input type="checkbox"/> b. NO (If "No," go to Item 16.)	

DD Form 1787, MAR 87

Previous editions are obsolete

1615-C75

Figure 1-5. Sample of a completed DD Form 1787

PART II

To be completed only by former employees of contractors who are now DoD officers or employees. (Category II)

16.a. DATE OF TERMINATION WITH DEFENSE CONTRACTOR (YYMMDD)	16.b. NAME OF FORMER DEFENSE CONTRACTOR EMPLOYER (Most recent)		
17. DATE OF EMPLOYMENT OR SERVICE WITH DOD (YYMMDD)	18. IS YOUR ANNUAL SALARY WITH DOD AT A RATE EQUAL TO OR ABOVE GS-13?	<input type="checkbox"/> a. YES <input type="checkbox"/> b. NO	c. SPECIFY AMOUNT \$
19. NAME OF SPECIFIC DOD ORGANIZATION(S) BY WHICH EMPLOYED (Within the last 2 years)		20. WORK TELEPHONE NO.	

21. WORK ADDRESS			
a. STREET	b. CITY	c. STATE	d. ZIP CODE

22. CURRENT DOD POSITION	
a. (X one that best describes position.) <input type="checkbox"/> (1) Administrator <input type="checkbox"/> (4) Manager <input type="checkbox"/> (2) Researcher <input type="checkbox"/> (5) Consultant <input type="checkbox"/> (3) Contract Officer <input type="checkbox"/> (6) Other	b. SPECIFIC TITLE(S)

c. YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET. Include specifics on contracts or actions related to duties held in ALL contractor positions that are reported in Item 23 below. See Instructions.

23. CONTRACTOR POSITION	
a. (X one that best describes position.) <input type="checkbox"/> (1) Administrator <input type="checkbox"/> (4) Manager <input type="checkbox"/> (2) Researcher <input type="checkbox"/> (5) Consultant <input type="checkbox"/> (3) Contract Officer <input type="checkbox"/> (6) Other	b. SPECIFIC TITLE AND SPECIFIC DEFENSE CONTRACTOR NAME AND BRANCH

c. YOU MUST PROVIDE A DETAILED DESCRIPTION OF YOUR DUTIES ON A SEPARATE SHEET. Report information requested in 23 a., b., and c. for each contractor position held within two years prior to current position. See Instructions.

CERTIFICATION
To be completed by all filers.

24. I certify that the above information is true, complete, and correct to the best of my knowledge. I understand that I must file a new report of DoD and defense related employment within 30 days if, within the two years immediately following the termination of my most recent DoD service or employment, the information in this report ceases to be accurate. I understand subsequent reports are not required after such two year period.

a. SIGNATURE 	b. DATE SIGNED 12 Oct 07
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REVIEW
To be completed by reviewing official.

25. I certify that I have reviewed this Report of DoD and Defense Related Employment (DD Form 1787) in accordance with the guidance set out in DoD Directive 5500.7, enclosure 8.

a. SIGNATURE	b. OFFICE	c. DATE SIGNED
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Figure 1-5. Sample of a completed DD Form 1787—Continued

CONTINUATION SHEET

- Item 13c. -
1. Plans and identifies program development objectives, goals and actions, and coordinates with engineering and other company organizations involved.
 2. Participates in-house in the preparation of proposals, studies, presentations, meetings and symposiums to provide market related inputs and acquire maximum exposure to corporate experience and capabilities.
 3. Coordinates in-house, field office and inter-division activities in order to enhance new business pursuits.
 4. Evaluates, recommends and implements teaming arrangements to strengthen our capabilities to bid and perform.
 5. Participates in the formulation of Long Range Plans, Operating Plans, and Sales Forecasts.

I have no duties which relate in any way to contracts or actions related to duties held in my former DOD position.

- Item 14c. - [Recommend insertion of description of significant duties and responsibilities from Part IVa, DA Form 67-8-1 (OER Support Form)]

Figure 1-5. Sample of a completed DD Form 1787—Continued

DD FORM 1787
REPORT OF DOD AND DEFENSE - RELATED EMPLOYMENT
AS REQUIRED BY 10 U.S.C. §2397

WHO MUST FILE

CATEGORY I (Complete Part I)

a. Each person who has left service or employment with a DoD Component, who:

(1) is a retired military officer or former military officer who served on active duty at least 10 years and who held, for any period during that service, the grade of O-4 or above, or is a former civilian officer or employee whose pay at any time during the three year period prior to the end of DoD service or employment was equal to or greater than the minimum rate for a GS-13 at that time;

(2) within the two-year period immediately following the termination of service or employment with a DoD Component, is employed by a defense contractor who, during the year preceding employment, was awarded \$10,000,000 or more in DoD contracts; and

(3) is employed by the defense contractor and at any time during a year directly receives compensation of or is salaried at a rate of \$25,000 per year or more from the defense contractor. "Employed" includes the rendering of services as a consultant, lawyer, agent or other kind of assistant.

b. For a two year period following the termination of your last position with a DoD Component, you are required to file a new DD Form 1787 each time your duties with the defense contractor change significantly and each time you become employed with a new defense contractor.

CATEGORY II (Complete Part II)

Each civilian officer and employee (whether or not full-time) of a DoD Component, who:

(1) is employed at a pay rate equal to or greater than the minimum rate for GS-13;

(2) within the two-year period prior to the beginning of service or employment with the DoD Component, was employed by a defense contractor who, during a year, was awarded \$10,000,000 or more in DoD contracts;

(3) was employed by the defense contractor and at any time during that year received compensation of or was salaried at a rate of \$25,000 per year or more from the defense contractor. "Employed" includes the rendering of services as a consultant, lawyer, agent or other kind of assistant.

WHEN AND WHERE TO FILE

a. Civilians shall submit their reports to the Designated Agency Ethics Official of the individual's present or former DoD Component in accordance with DoD Component procedures. Retired or former military officers shall submit their reports to the Designated Agency Ethics Official of their Military Department:

b. Current DoD officers and employees shall file a report within 30 days after entering employment or service with any DoD Component.

c. Former DoD officers and employees shall file an initial report within 90 days after the date on which the individual began employment with the defense contractor.

d. Former DoD officers and employees shall file subsequent reports each time, during the two-year period after service or employment with the DoD Component ended, that the person's duties with the defense contractor significantly change or the person begins employment with another defense contractor. Such reports shall be filed within 30 days after the date of the change.

INSTRUCTIONS FOR COMPLETION

Items 1 through 6 apply to all individuals completing this form.

Items 1 through 4. Provide the appropriate information.

Item 5. Mark "Yes" if this is the first DD Form 1787 you have ever filed and go to Item 6. Mark "No" if you have filed a DD Form 1787 in the past and answer 5.c.

Item 6. Mark the box(es) which indicates your status and include the highest grade or rank that you held prior to leaving that DoD position. If you hold more than one status, mark one box to show which status was most recently acquired. Keep in mind that the requirement to file DD Form 1787 is imposed on former and retired civilian employees who have been paid at a rate equal to or greater than the minimum rate at the time for a GS-13 at any time during the three year period prior to termination from the last DoD position.

PART I

This part only applies to individuals in Category I.

Item 7. Provide the requested date and name your most recent Military Department or DoD agency.

Item 8. Provide the date your employment with the defense contractor began. If you are no longer employed by the defense contractor, provide the date of termination on a separate sheet referencing this item number. Provide the information requested in the following items for your most recent defense contractor employer even if no longer employed.

INSTRUCTIONS FOR COMPLETION OF DD FORM 1787 (Continued)

PART I (Continued)

Item 9. Indicate whether your annual compensation from or salary rate with the defense contractor is above \$25,000 by marking "Yes" or "No."

Items 10 through 12. Provide the appropriate information for your present or most recent defense contractor employer.

Item 13. Indicate your position with the defense contractor by marking the box(es) next to the title that best describes your position. Also provide your specific title(s). You are required to provide a detailed description of your specific duties on a separate sheet of paper referencing this item number. You must provide the names of all contracts and details of all duties you have performed on behalf of the defense contractor that relate in any way to your duties in all former DoD positions held within the two years prior to the beginning of your employment with the defense contractor. You must also identify each major defense system on which you have performed work on behalf of the defense contractor, regardless of whether that work relates to your former DoD position. All these former DoD positions must be reported in Item 14.

"Major Defense System" means: A combination of elements that will function together to produce the capability required to fulfill a mission need. Elements may include hardware, equipment, software, or any combination thereof, but excludes construction or other improvements to real property. A system shall be considered a major system if (a) DoD is responsible for the system and the total expenditures, and research, development, test, and evaluation for the system are estimated to be more than \$75,000,000 (based on fiscal year 1980 constant dollars) or the eventual total expenditure for procurement of more than \$300,000,000 (based on fiscal year 1980 constant dollars); (b) a civilian agency is responsible for the system and total expenditures of the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a "major system" established by the agency pursuant to OMB circular A-109, entitled "Major Systems Acquisitions," whichever is greater; or (c) the system is designated a "major system" by the head of the agency responsible for the system.

Item 14. Indicate your former DoD position by marking the box(es) next to the title that best describes your position. Also provide your specific title(s) and include your organization code letters. You are required to provide a detailed description of your specific duties on a separate sheet of paper referencing this item number. You must provide the names of all contracts and details of all duties you performed while in your former DoD position that relate in any way to your position with the defense contractor reported in Item 13. You must also identify each major defense system you performed any work on while in your former DoD position, regardless of whether that work relates to your position with the defense contractor reported in Item 13. If you held more than one DoD position during the two years prior to the beginning of your employment with the defense contractor, provide all the information requested in Item 14.a., b., and c. for each DoD position on a separate sheet of paper referencing this item number.

Item 15. Indicate whether there were any DoD disqualification actions related to you during the two years prior to your defense contractor employment. If there were, describe the actions in detail. A "disqualification action" is a formal exclusion of a person from taking part in a particular matter, usually to prevent a conflict of interest.

PART II

This part only applies to individuals in Category II.

Item 16. Provide the requested date and name your most recent former defense contractor employer.

Item 17. Provide the requested date.

Item 18. Indicate whether your annual salary with the DoD Component is equal to or above the minimum rate for a GS-13 by marking "Yes" or "No." Various pay schedules, levels and steps can be confusing. Provision of your annual salary will ensure your compliance with applicable law and is required to process your report.

Items 19 through 21. Provide the appropriate information for your DoD Component organization.

Item 22. Indicate your DoD position by marking the box(es) next to the title that best describes your position. Also provide your specific title(s) and include your organization code letters. You are required to provide a detailed description of your specific duties on a separate sheet of paper referencing this item number. You must provide the names and details for all contracts and actions that relate in any way to your duties in all former defense contractor positions held within the two years prior to the beginning of your service or employment with the DoD Component. All these former defense contractor positions must be reported in Item 23.

Item 23. Indicate your former position with the defense contractor by marking the box(es) next to the title that best describes your position. Also provide your specific title(s). You are required to provide a detailed description of your specific duties on a separate sheet of paper referencing this item number. You must include names and details for all contracts and actions that relate in any way to your position with your DoD Component reported in Item 22. If you have been employed by more than one defense contractor during the two years prior to the beginning of your service or employment with the DoD Component, provide all information requested in Item 23.a., b., and c. for each defense contractor position on a separate sheet of paper referencing this item number.

CERTIFICATION

All filers must certify this report by signing and dating.

Item 24. You must sign and date this report.

REVIEW

Item 25. Reviewing official must sign and date after reviewing the report in accordance with DoD Directive 5500.7, enclosure 8.

MEMORANDUM FOR: (Immediate superior)
(Immediate subordinates)

SUBJECT: Disqualification Statement

1. This is to notify you that I have financial interests in the following organizations and, pursuant to the provisions of AR 600-50, I am required to disqualify myself from official actions related to them:

(list applicable organizations)

2. Accordingly, I may not participate personally and substantially in any official actions affecting these organizations if that would create a conflict, or even the appearance of a conflict, with my official duties. My participation would be "personal" whether I act directly or through others. My participation would be "substantial" in any case in which my decision, approval, disapproval, recommendation, investigation, advice, or any other activity may contribute to or influence the official action. My participation in any official action would create a conflict, or at least the appearance of one, whenever it appears reasonably possible that such official action, whether on a particular matter affecting these organizations or involving policies, standards, objectives, or other matters of general application, will have a direct and predictable effect on my financial interest in one or more of these organizations.

3. Any such matters in our office should be handled without my knowledge or participation.

(Signature Block)

Figure 2-1. Format for disqualification statement

MEMORANDUM FOR: (Name of Individual)

SUBJECT: Notification of (Conflict) or (Appearance of a Conflict) of Interest

1. This is to notify you that following our discussion pursuant to paragraph 2-11 of AR 600-50, I have determined that the (conflict) or (appearance of a conflict) of interest has not been resolved.

2. (Describe the actions, conduct, or situation creating the conflict or appearance of a conflict of interest to include applicable citations to AR 600-50 or federal statutory law.)

3. Pursuant to paragraph 2-11, AR 600-50, you are required to endorse this notice and explain in writing why this is not a (conflict) or (appearance of a conflict) of interest or how you plan to resolve the matter in accordance with AR 600-50.

4. After receiving and reviewing your endorsement, I will again review the matter. If I determine that the (conflict) or (appearance of a conflict) of interest is resolved, I will close the file by forwarding the file to the Ethics Counselor for review and filing upon concurrence. If I determine that the (conflict) or (appearance of a conflict) of interest is not resolved, I will forward the file to (next higher superior) for resolution.

(Signature Block of Superior)

Figure 2-2. Format for memorandum of notification of a conflict or appearance of a conflict

Glossary

Section I Abbreviations

AFARS

Army Federal Acquisition Regulation Supplement

ARNG

Army National Guard

ARNGUS

Army National Guard of the United States

ARSTAF

Army Staff

CFR

Code of Federal Regulations

CPO

civilian personnel office

CPR

civilian personnel regulation

DA

Department of the Army

DAEO

designated agency ethics official

DCA

Defense Communications Agency

DIA

Defense Intelligence Agency

dir

directive

DNA

Defense Nuclear Agency

DOD

Department of Defense

DOJ

Department of Justice

FAR

Federal Acquisition Regulations

FOIA

Freedom of Information Act

FPM

Federal Personnel Manual

GS

general schedule

HHS

Health and Human Services

HQDA

Headquarters, Department of the Army

IG

inspector general

JTR

Joint Travel Regulation

MACOM

Major Army Command

NAFI

nonappropriated fund instrumentality

OGE

Office of Government Ethics

OJCS

Organization of The Joint Chiefs of Staff

OPM

Office of Personnel Management

OSD

Office of the Secretary of Defense

PL

public law

RA

Regular Army

SA

Secretary of the Army

SES

Senior Executive Service

SGLI

Servicemen's Group Life Insurance

SJA

staff judge advocate

TIG

The Inspector General

TJAG

The Judge Advocate General

TRADOC

Training and Doctrine Command

UCMJ

Uniform Code of Military Justice

USAFAC

US Army Finance and Accounting Center

USAISC

US Army Information Systems Command

USAR

United States Army Reserve

USC

United States Code

Section II Terms

Affiliation

A relationship as an employee, officer, owner, director, member, trustee, partner, adviser, agent, representative, or consultant, or as a person on leave from or having any understanding, plans, or pending contacts regarding such a relationship in the future.

Compensation

Includes any payment, gift, benefit, reward, favor, or gratuity which is provided directly or indirectly for services rendered by the person accepting such payment and which has a fair market value in excess of \$250. Compensation will be deemed indirectly received if it is paid to an entity other than the individual, in exchange for services performed by the individual.

Contractor operated facility

Includes any facility leased or loaned by written agreement. It does not include facilities located on a military installation where contractor personnel may work, but which is not either leased or loaned by the United States to the contractor by written agreement.

DA personnel

All civilian officials and employees of DA, including special Government employees and employees of NAFIs; all active duty officers (commissioned and warrant); professors and cadets at the US Military Academy; and enlisted members of the Army. The term also includes all officers and enlisted personnel of the Army Reserve and Army National Guard of the United States on inactive duty for training or when they are otherwise performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

Defense contractor

A person, corporation, or other entity that—

a. Contracts directly with the Department of Defense to supply DOD with goods or services (e.g., NAFI contractors); or

b. Controls or is controlled by such an entity described in a. above. The term does not include an affiliate or subsidiary of an entity described in a. if clearly not engaged in the performance of a defense contract, nor does it include a State or local government.

Designated agency ethics official

The official (i.e., Army General Counsel) designated by the Secretary of the Army to administer the Standards of Conduct or the delegate (i.e., The Judge Advocate General) of such an official.

DOD personnel

All civilian officials and employees, including special Government employees, of all

the offices, agencies, and departments in DOD (including NAFIs), all active duty officers (commissioned and warrant), and enlisted members of the Army, Navy, Air Force, and Marine Corps.

Employment

A relationship under which an individual furnishes services in return for any payment or other compensation paid directly or indirectly to the individual for the services.

Former officers or employees

This term includes full-time civilian officers or employees who have left Government service, special Government employees who have left Government service, retired officers released from active duty, and Reserve officers released from active duty. The term does not include enlisted personnel.

Frocked

This term is generally limited to officers in the grades of O-6 and higher and refers to the act of officially wearing the rank insignia of a higher grade for prestige or other necessary purposes but without receiving the pay and allowances of the higher grade nor possessing the authority to perform functions of the higher grade that are required by law or regulation. (See AR 624-100, para 2-12.)

Gratuity

Any gift, favor, entertainment, hospitality, meal, transportation, loan, or other tangible item, and any intangible benefits (for example discounts, passes, and promotional vendor training), given or extended to or on behalf of DOD personnel, their immediate families, or households for which fair market value is not paid by the recipient or the US Government.

Honorarium

A payment of money or anything of value to DA personnel as consideration for an appearance, speech, or article.

Inside information

Information—

a. That is gained by DA personnel and former officers and employees while they are or were employed by their agency;

b. That is of a privileged nature (i.e., any information that is received by the individual which they know or reasonably should know is not intended for public dissemination); and

c. The use of which would give the individual or third party an unfair advantage in a commercial or some other activity.

MACOM commanders and major commanders

Those commanders listed in AR 10-5; the Superintendent, U.S. Military Academy; and the Commanding General, US Army Recruiting Command.

Major defense contractor

Any business entity which, during the fiscal year preceding the fiscal year in which compensation was received, was a defense contractor that received defense contracts in a total amount equal to or greater than \$10 million.

Major defense system

A combination of elements that will function together to produce the capability required to fulfill a mission need. Elements may include hardware, equipment, software, or any combination thereof, but exclude construction or other improvements to real property. A system will be considered a major defense system if—

a. The Department of Defense is responsible for the system, and the total expenditures, for research, development, test, and evaluation for the system are estimated to exceed \$75 million (based on fiscal year 1980 constant dollars), or the eventual total expenditure for procurement exceeds \$300 million (based on fiscal year 1980 constant dollars);

b. A civilian agency is responsible for the system and total expenditures for the system are estimated to exceed \$750,000 (based on fiscal year 1980 constant dollars) or the dollar threshold for a "major system" established by the agency pursuant to OMB Circular A-109, entitled "Major Systems Acquisitions," whichever is greater; or,

c. The system is designated a "major system" by the head of the agency responsible for the system.

Majority of working days

The majority of days actually worked during the period, excluding weekends, holidays, days of leave and sick days when the employee did not actually work. A workday on which an individual performed a procurement function includes any day on which the individual worked on that procurement function for any amount of time during that day.

Military personnel

All officers (commissioned and warrant), professors, and cadets at the US Military Academy, and enlisted personnel of the Army on active duty. The term also includes all officers and enlisted personnel of the Army Reserve and Army National Guard of the United States on inactive duty for training or when they are otherwise performing Federal duties or engaging in any activity directly related to the performance of a Federal duty or function.

Negotiation and settlement

Exchange of views between representatives of the Government and a contractor regarding respective liabilities and responsibilities of the parties on a particular contract or claim. It includes deliberations regarding contract specifications, terms of delivery, allowability of costs, pricing of change orders, etc.

Nominal value

An item that is of a sentimental nature and that has little or no intrinsic value to one other than the recipient.

Primary Government representative

If more than one Government representative is involved in any particular transaction, it is the officer supervising the Government's effort in that matter. To act as a "representative" requires personal and substantial participation in the transaction, by personal presence, telephone conversation, or similar involvement with representatives of a contractor.

Procurement function

Any function relating to—

a. The negotiation, award, administration, or approval of a contract;

b. The selection of a contractor;

c. The negotiation or approval of changes in a contract;

d. Quality assurance, operation and developmental testing, the approval of payment or auditing of a procurement program.

e. The management of a procurement program.

Reserve officer

Includes both officers of the ARNGUS and the USAR.

Senior employees and designated positions

A civilian employee at the executive level, or a three- or four-star general. It also means other persons holding positions that have been designated as senior employee positions by the Director, Office of Government Ethics.

Senior Ethics Counselor or Ethics Counselor

Those personnel designated to serve in the capacities described in paragraph 2-9. This term includes those persons performing similar duties in agencies outside DOD.

Separation of a member of the Armed Forces

A person who is a retired or former member of the Armed Forces will be considered to have been separated from service in the Department of Defense on the date of the person's discharge or release from active duty.

Special Government employee

A person who is retained, designated, appointed, or employed to perform, with or without compensation, not to exceed 130 days during any period of 365 consecutive days, temporary duties either on a full-time or intermittent basis. The term also includes a Reserve officer while on active duty solely for training for any length of time, or who is serving voluntarily on extended active duty for 130 days or less. It does not include enlisted personnel.

CERTIFICATE OF PRELIMINARY REVIEW OF SF 278

For use of this form, see AR 600-50; the proponent agency is TJAG

EACH REVIEWER CHECK APPROPRIATE BLOCKS	REPORTING INDIVIDUAL'S DSCC	REPORTING INDIVIDUAL'S SUPERVISOR	SUPERVISOR'S DSCC
<p>1. I have thoroughly reviewed the attached Financial Disclosure Report (SF 278), dated _____, with any attachments, submitted by: _____</p> <p>the reporting individual. My review considered the reported financial interests/affiliations in light of the reporting individual's duties (<i>past, present, or prospective, as applicable</i>) to determine the presence of both actual and apparent conflicts of interests.</p>	1)		
<p>2. On the basis of my review, I have determined that:</p> <p>a. The form is administratively correct.</p>	2a)		
<p>(1) All information related to official matters (<i>e.g., title of position, date of appointment or termination, etc.</i>) is correct;</p>	(1)		
<p>(2) All items appear complete (<i>i.e., there is an entry or the word "None" in every section</i>);</p>	(2)		
<p>(3) All required schedules are completed (<i>i.e., schedules A, B, C, and D are completed for annual and termination Reports, schedules A and D are completed for nomination and assumption Reports</i>); and</p>	(3)		
<p>(4) The reported information is consistent (<i>e.g., an investment asset reported in schedule B as having been purchased or sold during the reporting period normally should be listed in schedule A as well</i>).</p>	(4)		
<p>b. A position description, in sufficient detail to accomplish a meaningful review, and other pertinent documents are attached to the Financial Disclosure Report.</p>	2b)		
<p>c. No conflict or appearance of conflict exists. This determination is based on the fact that: (<i>NOTE: Items (1), (2) and (3) are mutually exclusive, therefore check only one.</i>)</p>	2c)		
<p>(1) No financial interests/affiliations have been reported;</p>	(1)		
<p>(2) No entities in which a financial interest/affiliation has been reported do or attempt to do business, in their own name or through wholly owned or controlled subsidiaries, with any organization/activity within which the reporting individual performs duties or exercises official influence; or</p>	(2)		
<p>(3) Although the following entities in which a financial interest/affiliation has been reported do or attempt to do business with an organization/activity within which the reporting individual performs duties or exercises official influence, the duties of the reporting individual are completely unrelated to matters involving these entities (<i>list these entities here</i>):</p>	(3)		
<p>*The reporting individual's DSCC will determine which, if any, of the entities are doing business with the reporting individual's organization/activity and list those entities here and/or in para 2d in the space provided. If the reporting individual's supervisor or the supervisor's DSCC is aware of the additional entities, he or she should also list them.</p>			

(EACH REVIEWER CHECK APPROPRIATE BLOCKS)	REPORTING INDIVIDUAL'S DSCC	REPORTING INDIVIDUAL'S SUPERVISOR	SUPERVISOR'S DSCC
<p>d. A conflict or appearance of conflict exists because duties require the reporting individual's participation in matters involving, or which reasonably appear to involve, the following reported financial interests/affiliations (<i>list these entities here</i>):</p>	2d)		
<p>This conflict or appearance of conflict (<i>has been</i>) (<i>will be</i>) resolved by:</p> <p>(1) Formal disqualification (<i>copy attached</i>).</p>	(1)		
<p>(2) Change or limitation of duties without reassignment.</p>	(2)		
<p>(3) Divestiture of the interest (<i>or termination of the affiliation</i>) and disqualification, if necessary, pending such divestiture (<i>or termination of the affiliation</i>).</p>	(3)		
<p>(4) Transfer, reassignment, or resignation.</p>	(4)		
<p>(5) Exemption under 18 U.S.C. 208(b). Reported interests have properly been determined by the reporting individual's immediate supervisor (<i>paragraph 2-11g, AR 600-50</i>) not to be so substantial as to affect the integrity of the individual's service. A comprehensive determination and finding is attached.</p>	(5)		
<p>(6) Establishment of a qualified blind trust IAW the Ethics in Government Act. (<i>Because this does not resolve the conflict or appearance of conflict for some time. One or more of the alternatives above must be used in the interim.</i>)</p>	(6)		
<p>3. Additional comments to expedite final review at Headquarters, Department of the Army, are attached. (<i>If none, do not check this block.</i>)</p>	3)		

4. Based on the results of my review (*and corrective action taken, if necessary*), I have determined that: except as noted above, the information contained in this Financial Disclosure Report discloses no conflict of interest under applicable laws and regulations.

<p>a.</p> <p><i>Deputy Standards of Conduct Counselor of Reporting Individual</i></p>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE	DATE	
<p>b.</p> <p><i>Supervisor of Reporting Individual</i></p>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE	DATE	
<p>c.</p> <p><i>Deputy Standards of Conduct Counselor of Immediate Supervisor</i></p>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE	DATE	