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Army Regulation 600-50

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Personnel—General

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

S/S by  
600-50  
28 JAN 88

Headquarters  
Department of the Army  
Washington, DC  
25 September 1986

# SUMMARY of CHANGE

AR 600-50

Standards of Conduct for  
Department of the Army Personnel

This change--

- o Substitutes "Senior Ethics Counselor" and "Ethics Counselor" for "Standards of Conduct Counselor" and "Deputy Standards of Conduct Counselor" throughout the regulation.
- o Consolidates punitive language into paragraph 1-1, Purpose.
- o Adds a requirement in paragraph 1-6 to regularly evaluate ethics training programs; requires counseling on negotiating for employment and postemployment restrictions for departing employees.
- o Restructures paragraph 2-1 to clearly set out guidance regarding conflicts resulting from outside employment.
- o Adds the requirement to paragraph 2-1j for Reservists to disclose information necessary to ensure that no conflict exists between their duty assignment and private interests.
- o Revises paragraph 2-1n, Negotiating for employment, consistent with changes to 10 USC 2397.
- o Restructures paragraph 2-2 into three topic areas: gratuities, reimbursements, and other benefits from outside sources.
- o Raises the value for acceptance of unsolicited advertising or promotional items from \$5 to \$10 in paragraph 2-2a(2)(a).
- o Adds as paragraph 2-2a(2)(k) an exception to allow the receipt of coffee, donuts, and similar refreshments.
- o Adds paragraph 2-2c(8) providing specific guidance concerning the receipt of benefits incident to official travel, including participation in airline frequent traveler programs.
- o Adds guidance to paragraph 2-3a extending the prohibitions concerning gifts and donations to solicitations on behalf of immediate family members.
- o Restructures paragraph 2-6 to include language advising commanders to consider requiring personnel in sensitive positions to obtain approval prior to engaging in outside employment.

- o Revises procedures in paragraph 2-10 for reporting suspected violations of the standards of conduct.
- o Adds a summary of the 2-year post-Government-service employment limitation on Presidential appointees to appendix B.
- o Adds definitions of "Affiliation," "DOD Contractor," "Employment," "Nominal value," "Procurement official," and "Procurement function" to the Glossary.

Personnel—General

Standards of Conduct for Department of the Army Personnel

The original form of this regulation was first published on 20 November 1984.

This UPDATE printing publishes a new change 1 which is effective 24 October 1986. The portions of the text that are revised by Change 1 are highlighted in this printing.

By Order of the Secretary of the Army:

JOHN A. WICKHAM, JR.  
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. 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 enable personnel 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 to retired DA personnel.

b. Chapters 1 and 2 of this regulation also apply to all officers and enlisted personnel of the US 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.

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 is 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.** ~~Active Army, USAR, ARNG, A.~~ Distribution of this issue has been made in accordance with DA Form 12-9A-R requirements for 600-series publications or by subscription card for users that have submitted a subscription card for this regulation. AR 600-50 distribution is A for Active Army, ARNG, and USAR.

**Changes.** Changes to the basic publication are shown using the strikethrough and underscore method (when material that is being deleted or changed is crossed out, and new material that is being entered is underscored) and the tint method (when new or greatly reorganized material appears tinted gray).

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### **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 that 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 US laws, Executive Orders, or applicable directives, instructions, or regulations. Soldiers and Army civilians to act with integrity and abide by the values of the Professional Army Ethic (FM 100-1). These values of loyalty to the Nation, Army, and unit; personal responsibility; and selfless service lead one to serve the Nation and other people—before personal interest.

b.1. 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.

c. 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 Standards of

Conduct Counselor or the Deputy Standards of Conduct Counselor (DSCC) appropriate Ethics Counselor for guidance. This will ensure the proper and lawful conduct of DA programs.

d. 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 origin, in accordance with AR 600-21 and CPR 713.

e. 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.

f. ~~Failure to comply with this regulation may subject the offender to administrative action or punishment under the Uniform Code of Military Justice (UCMJ). This punishment is in addition to any punishment under title 18, United States Code (18 USC). Rescinded.~~

### 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, chapters 734, 735, and 737; 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 (PL 95-521, as amended) (as amended), Pub.L. No. 95-521 (1978).

e. Parts 734 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 offered a copy of given an opportunity to review this regulation and will be given an oral standards of conduct briefing not later than 760 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 US 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. Training films may be used as part of the initial briefing or the semiannual review. 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 2-1n) and postemployment restrictions (paras 5-3, 5-4, and 5-8) 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

PL 96-303 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, US Army Finance and Accounting Center (USAFAC), ATTN: FINCM-T, Indianapolis, IN 46249-1501. See figure 1-42 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 1-23 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 1-34 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-× 11-inch paper, printed head to head.

e. DD Form 1787, Report of DOD and Defense Related Employment as Required by Public Law 91-121 10 USC 2397, is available as prescribed in AR 600-47. See figure 1-45 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 must will avoid engaging in any personal business or professional activity, or having or retaining 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 interests of a spouse, dependent child, and any household members are treated as private 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. Outside employment or other outside activity, either with or without compensation, or seeking future employment 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 DSCC 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. 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.

c.1. 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.

d. *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.

e. *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. (See 18 USC 1905)

f. Unauthorized release of acquisition information. ~~All DA personnel will refrain~~ Except as provided herein, DA personnel are prohibited from releasing to an individual

or business concern or its representatives any knowledge such persons may possess or have acquired in any way concerning proposed acquisition or purchases 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 of supply 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.

g. *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 will refrain 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. Army 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.

h. *Membership in associations.* DA personnel who are members or officers of non-Government associations or organizations must avoid 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.)

i. *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 including involving personal commercial solicitation.

(3) For civilian personnel this prohibition applies only with regard to personnel under their supervision at any level.

(4) 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.

j. *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.

k. *Prohibited selling by retired Regular 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.

l. *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.

m. *Honoraria.* DA personnel may not accept honoraria for official activities. They may not suggest charitable contributions in place of honoraria. (See 18 USC 209.) Even when acting in a personal rather than official capacity, there are restrictions.

(1) DA personnel are prohibited by the Federal Election Campaign Act Amendments of 1976 (FEPL. No. 94-283) from

accepting an honorarium of more than \$2,000 (excluding expenses for travel and subsistence, agents' fees, or commissions) for any appearance, speech, or article.

(2) The acceptance of honoraria by DA personnel from groups doing business with or whose interests are reasonably likely to be affected by an agency presents the potential for a conflict of interest. Under no circumstances will DA personnel accept honoraria from DOD contractors. The acceptance of honoraria from others whose interests are reasonably likely to be affected by official DA actions also presents the potential for a conflict of interest or the appearance of a conflict of interest. Before accepting any honorarium DA personnel should consult their DSCCEthics Counselor. This will enable the DSCCEthics 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.)

n. *Negotiating for employment.* DA personnel may not participate on behalf of the Government personally or substantially in any particular matter in which, to their knowledge, an organization with which they are negotiating for employment, or have any arrangement concerning future employment, has a financial interest. (18 USC 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 unsolicited proposals from the entity's representative regarding future employment. It is not necessary that there be any firm offer of employment. In addition to this statutory prohibition, DA personnel will comply with the following related requirements:

(1) DA personnel who are considering 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. Formal disqualification normally will be required. (See para 2-11g.)

(2) DA personnel required to file either a DD Form 1555 or an SF 278 must file a notice with their DSCC of any negotiation (including unsolicited proposals) for prospective employment with any entity doing business with their organization. The immediate initial notice may be oral, followed within 7 days of such contacts by a written notification. Notifications will be provided directly to the individual's DSCC and will contain a description of the contacts and the nature of the individual's official duties which may affect that entity. The individual has the burden of determining whether a prospective employer does business with his or her organization.

(1) DA officers and civilian employees may not participate on behalf of the Government personally or 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) A DA procurement official (see the Glossary) who has participated in a procurement function in connection with a particular DOD contract for \$25,000 or more, and who either contacts or is contacted by the contractor regarding future employment opportunities, shall—

(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 contract 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)

## 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 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.

(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.

(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, division, or installation commander with the advice of the appropriate Ethics Counselor. (See para 2-9 and AR 360-61.) This includes rollout ceremonies for new vehicles and aircraft; however, DA personnel and their family members will not accept items totaling more than \$10 in value at such ceremonies.

(g) Contractor-provided transportation, meals or overnight accommodations in connection with official business when arrangements for Government or commercial

transportation, meals, or accommodations are clearly impracticable. In such cases, the person will report the circumstances in writing to his or her superior as soon as possible.

(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 spouse, minor children, and members of their household. The circumstances must clearly indicate that it is the relationship, rather than the business of the person concerned, that is the motivating factor for the gratuity.

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

b. *Reimbursements.* DA personnel may not accept from any private source 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, either in kind or for cash reimbursement, 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 and are authorized by this paragraph, appropriate deductions will be reported and made in the travel, per diem, or other allowances payable.

(1) Persons who are to be speakers, panelists, project officers, or other bona fide participants in the activity attended may accept accommodations, subsistence, transportation, or services furnished in kind in connection with official travel, but only from sources other than those enumerated in a(1) above. Such attendance must be authorized by the order-issuing authority as being in the best interest of the Government. The entity sponsoring the event must verify that it customarily provides such services to all similarly situated participants. Payment for travel expenses on behalf of family members is considered a form of honorarium which DA personnel under these circumstances may not accept. (See para 2-1m).

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

(3) Persons may accept reimbursement if it is specifically authorized by 5 USC 4111 (certain tax exempt organizations) or other statutory authority, and approved by their superior, consistent with guidance from the Ethics Counselor (See 5 CFR 410.702). Any such reimbursement must be made to the Government by check payable to the Treasurer of the United States. Personnel will be reimbursed by the Government in accordance with applicable regulations.

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 change 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 (not by individual contractors) 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, 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 Travel Regulation, Volume I, Chapter 1, part E (military personnel) and Volume II, Chapter 1, Part D (civilian personnel) for additional details.

(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. (This exception does not apply if the person is involuntarily "bumped.") Any additional travel expenses incurred are not the responsibility of the Government.

(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. Such an upgrade may be the result of benefits accrued in a frequent traveler program. They may also be initiated by the private source as a result of overbooking or overcrowding or for customer relations purposes. Care will be exercised by DA personnel concerned 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. *Coordination with Ethics Counselor.* DA personnel who 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.

## 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. This prohibition also applies to solicitations on behalf of the immediate family members of 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, illness, or retirement, if any gift acquired with such contributions will not exceed a nominal value. Gifts of nominal value are those of a sentimental nature, with little or no intrinsic value to one other than the recipient.

b. As a general rule, the presentation to or acceptance by official DA visitors of mementos during visits to US 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 other conditions of this paragraph are observed (i.e., voluntariness of contributions, minimal value of contributions, and nominal value of mementos).

c. DA personnel will not act as a conduit to give any foreign recipient any gift that has been provided by a private US 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. These provisions do not prevent the limited use of Government facilities for approved activities to further authorized DOD community relations; however, the activities must not interfere with military missions or Government business.

## 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.

a.1. 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 by self, spouse, or child with a DOD contractor).

b. 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.

c. 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.

d. DA personnel are encouraged to engage in teaching, lecturing, and writing. However, they 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—

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

(2) It will be made generally available to the public and the Assistant Secretaries of the Army, heads of Army Staff (ARSTAF) agencies, or MACOM commanders give written authorization for the use of nonpublic information on the basis that the use is in the public interest. (See AR 360-5.)

e. 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.

f. 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 appendix E of AR 690-700, chapter 735, apply.

## 2-9. Standards of conduct 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 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 chap 734, para 2-3, FPM) 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 attorney.

(2) Information provided to him or her is not confidential.

(3) He or she 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-5 and B-7 immediately to the Criminal Investigation Command. HQDA (DAJA-ALG) also will be notified.

(See para 5-7e for reporting violations of 18 USC 207.)

(2) Report suspected violations of paragraphs 2-1d through f, 2-4 (if the loss to the Government is \$1,000 or more), or 2-12 of this regulation to the 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.

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) Which the U.S. Attorney is considering or in which the U.S. Attorney has brought an indictment.

**Table 2-1**  
**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

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 affecting an organization in which I have an interest. My participation would create a conflict, or at least the appearance of one, whenever it appears reasonably possible that my official functions will affect the organization, whether by action on a particular matter affecting the specific organizations or by actions involving policies, standards, objectives or other matters of general application that may substantially affect the organization.

3. Any such matters in our office should be handled without my knowledge or participation.

**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

**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 Standards of Conduct Counselor or DSCCEthics 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 Standards of Conduct Counselor or the DSCCEthics 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 Standards of Conduct

Figure 2-1. Sample disqualification statement

~~Counselor or DSCCEthics Counselor.~~ The Counselor or DSCC will file all the correspondence if the superior's conclusion is accepted.

c. If either the superior or ~~DSCCEthics 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 ~~207~~ or 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 Standards of Conduct Counselor or DSCCEthics 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 any matter in which the United States is a party or has an interest.

(2) 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.

(3) 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 (subject to b, below) and members of the military below the rankpay 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 judgement, that usually is adopted or followed in making the decision or taking the action. Following are examples of filing decisions:

(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 of 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/manufacture. Dr. G. should be required to file DD Form 1555.

(3) Special Government employees (as defined in the glossary), except as stated in paragraph 3-5.

b. 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. Position descriptions for all civilian positions determined to require DD Form 1555 filing will reflect that requirement.

### 3-2. Review of positions

a. All positions in the categories indicated in paragraph 3-1a will be reviewed annually by the appropriate supervisors/supervisor in coordination with the appropriate personnel officer and the Ethics Counselor.

(1) If, as a result of this review, a determination is made that the incumbent of the position must file a DD Form 1555, he or she will be so informed and the requirement for such filing will be included in the appropriate document describing the duties and responsibilities of the position. The review may be accomplished at the time that performance, efficiency, or effectiveness ratings are given or incident to other currently prescribed annual reviews.

(2) A person who believes that he or she has been improperly required to file (or deleted from a filing requirement) 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 771 and CPR 771 Chapter 771 and AR 690-700.771.

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.

### 3-3. Submission and review

a. Personnel in MACOMs or ARSTAF agencies required to file will submit their statements in accordance with instructions issued by the agency or command to which assigned.

b. Statements required pursuant to reviews by MACOM commanders or heads of ARSTAF agencies under paragraph 3-2a will be submitted to and filed with the DSCCEthics Counselor of the MACOM or ARSTAF agency.

c. Army personnel assigned to the Office of the Secretary of Defense (OSD) or the Organization of the Joint Chiefs of Staff

(OJCS) will submit their statements in accordance with instructions issued by the agency to which assigned.

d. Personnel of the unified commands will submit their statements through their supervisors to the DSCCEthics 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.

e. Army officers 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 their statements in accordance with instructions issued by the agency or command to which assigned.

f. Prior to the commencement of service or assumption of duties and annually thereafter, as prescribed in paragraph 3-7, all statements will be reviewed and approved by the Standards of Conduct Counselor or DSCCEthics Counselor and the immediate superior.

### 3-4. Excusable delay

An individual's DSCCEthics 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.

### 3-5. Special Government employees

a. Except as provided in c 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.

### 3-6. Exemptions to specific appointees

The SA may grant an appointee an exemption from the requirement of filing a statement upon a determination that such

information is not relevant in view of the duties the appointee is to perform.

### 3-7. Statements required

DD Forms 1555 will be submitted in accordance with paragraph 3-3 under the circumstances described below.

a. *Initial statements.* Before the assumption of duties in a position that requires the filing of the DD Form 1555, the reporting individual must file the required disclosure statement with either his or her new supervisor or the ~~DSECE~~ Ethics Counselor affiliated with this new position. (See para 3-3f.)

b. *Annual statements.* DD Forms 1555 will be filed by 31 October of each year for all affiliations and financial interests as of 30 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 action that could result in a violation or apparent violation of the conflicts of interest provisions of 18 USC 208 or this regulation.

### 3-8. 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.

### 3-9. 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.

### 3-10. Information not required to be submitted

DA personnel are not required to submit on a statement any information relating to the employee's connection with or interest in a professional society or a charitable, religious, social, fraternal, recreational, public service, civic, or political organization or 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.

### 3-11. 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.

### 3-12. Effect of statements on other requirements

Submission of statements does not permit DA personnel to participate in matters in which their participation is prohibited by law, order, or regulation.

### 3-13. Processing DD Forms 1555

a. Each person required to file a DD Form 1555 will forward 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. Statements will then be forwarded to the ~~Standards of Conduct Counselor or DSECE~~ Ethics Counselor for review and approval. If no appearance of a conflict of interest is present, the statement will be filed at that level.

b. Statements will be maintained in accordance with AR 340-18, appendix E, for 6 years from the date of filing.

### 3-14. DD Form 1555 Status Report (RCS JAG 74)

a. Each year MACOM and ARSTAF ~~DSECE~~ 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 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 1-3 4). This requirement is in accordance with

the provisions of Title II, Ethics in Government Act of 1978, ~~PL~~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 (GS) employees, grade 16 and above.

(4) Personnel (including special Government employees) whose rate of pay is fixed, other than under the GS, at a rate equal to or greater than the minimum rate of pay for GS-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 ~~DSECE~~ 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(DAAG-ZX) are met. The reviewing official (table 2-1) may, for good cause shown, grant an extension of up to 45 days.

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 O-7 and above. However, brigadier generals will file assumption reports after promotion to 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 DSCE 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(DAAG-ZX) 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, the individual's new SF 278 does not need to be filed. The individual, however, will review his or her financial interests with that organization's DSCE 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(DAAG-ZX) 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 DSCE 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 DSCE 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 DSCE 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(DAAG-ZX), WASH DC 20310-2101, 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 DSCE Ethics Counselor to their immediate superior and then to the DSCE Ethics Counselor (or persons fulfilling similar responsibilities) of the unified command for submission to HQDA (DAAG-ZX).

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 (DAAG-ZX) 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. DSCE Ethics Counselor of reporting person. The reporting individual's DSCE 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 DSCE Ethics Counselor.

c. DSCE Ethics Counselor of immediate supervisor. The DSCE 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 (DAAG-ZX), WASH DC 20310-2101 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 The Adjutant General (DAAG-ZX). The date of receipt by HQDA (DAAG-ZX) will be noted on the



SF 278 as required by law. Upon dating the report, HQDA(DAAG-ZX) will forward the SF 278 to the appropriate reviewing official for final review.

b. *Reviewing official.* Reviewing officials are shown in table 2-1. 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(DAAG-ZX).

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(DAAG-ZX) 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 DSCC or legal office as applicable. Such advice may be provided before or during the outprocessing.

c. Administrative enforcement procedures are set forth in paragraph 5-7.

### 5-3. Postemployment restrictions

a. *Employment of retired DA personnel.* No Except for former Presidential appointees in Federal employment, 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 the use of other activities are prohibited that reasonably give the appearance of making unfair use of prior Government employment and affiliations is prohibited. The statutory postemployment restrictions are not intended to discourage the movement of employees to and from positions in industry, research institutions, and universities. Instead, 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. **Permanent bar.** The target of these restrictions is the former officer or employee who participates in a particular matter while employed by the Government and later "switches sides" by representing another person on the same matter. The restrictions are directed at regulating representational activities, whether or not such activities include personal appearances by physical presence before the Government, and communications made with intent to influence. This includes promotional and contract representations, whether by personal appearance or by oral or written communication.

(1) All former officers or employees are permanently prohibited from knowingly representing anyone other than the United States in connection with a particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which the individual participated personally and substantially for the Government (18 USC 207(a)).

(2) In addition to the restriction in paragraph (1) above, former officers or employees who terminate Government service after 1 July 1979 are prohibited from making oral or written communications on behalf of persons other than the United States with an intent to influence particular matters in which both conditions shown below occur.

(a) The United States is a party or has a direct and substantial interest.

(b) The individual participated personally and substantially for the Government (18 USC 207(b)(i) as amended).

c. **Two-year bar on representing.**

(1) Former officers or employees who terminate Government service on or after 1 July 1979 are subject to a restriction which lasts for 2 years after termination of service. Such persons may not act as agent or attorney or otherwise represent others in formal or informal appearances before the Government in connection with particular matters that were pending under the former employee's official responsibility during the final year of service. This restriction includes oral or written communications as described in b(2) above.

(2) "Official responsibility" includes the direct administrative or operating authority, whether intermediate or final, either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct Government actions (18 USC 202(b)). Ordinarily, the scope of an employee's official responsibility is determined by reference to the pertinent statute, regulation, executive order, job description, or delegation of authority.

#### **5-4. Additional restrictions pertaining to senior employees**

a. **Senior employees and designated positions.** A senior employee means 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. To be eligible to be designated, a position must involve significant decision-making or supervisory responsibility and be at a basic rate of pay of GS-17 or above or within the SES. In the case of military members, the position must be held by active duty officers at grades O-7 or O-8.

b. **Two-year bar on assisting in representing by personal presence.** For 2 years after leaving Government service, a former senior employee may not assist in the representation of another person by personal presence at an appearance before the Government on any particular matter in which he or she personally and substantially participated while in Government service. While such employees could, for example, work on a contract with which they were involved while in Government service, they may not render assistance while in attendance at any meeting, negotiations, or proceedings with the Government. (See 18 USC 207(b)(ii), as amended.)

c. **One-year bar on attempts to influence former agency.** For 1 year after leaving Government service, a former senior employee may not represent another person or himself or herself in attempting to influence his or her former agency in any matter pending before, or of substantial interest to, such agency. This provision does not require that the former employee have had any prior involvement in the particular matter. The prohibition does not apply 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 on behalf of a degree-granting institution of higher learning, or nonprofit hospitals or medical institutions by a former senior employee who is principally employed by such institutions or medical organizations. It also does not apply to purely social or informational communications, responses to requests from the former agency, or to expressions of personal views when the former senior employee has no pecuniary interest. The provision results in a 1 year "cooling off" period to prevent the possible use of personal influence based on past Government affiliations to facilitate the transaction of business. (See 18 USC 207(c), as amended.)

#### **5-5. Consultation exception to postemployment restrictions**

The postemployment restrictions outlined in paragraph 5-3 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

DSCE 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.

#### **5-6. 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 in paragraphs 5-3 and 5-4 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 5-5) or other actions to isolate the former Government employee from other aspects of the matter would be burdensome and impractical.

#### **5-7. Postemployment violations and administrative enforcement proceedings**

a. **Basic procedures.** The administrative enforcement of restrictions on postemployment activities will be accomplished in accordance with DOD 5500.7, 5 CFR 737.27 (OPM Regulation, "Post-employment Conflict of Interest"), and chapter 5 of this regulation.

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 former DA personnel.* If an officer or employee of DA has reason to believe, or receives information that, a former officer or employee has violated 18 USC 207(a), (b), or (c), or implementing regulations, 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 18 USC 207 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 former officers or employees 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 18 USC 207(a), (b), or (c), 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 to 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 sections 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 former officer or employee 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 former officer or employee 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 former officer or employee.

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

(1) The former officer or employee may affirmatively waive his or her 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 former officer or employee that his or her signature on the document constitutes a waiver of his or her right to appear at the hearing and notifies this individual of the potential administrative sanctions should the hearing result in a decision adverse to the interests of the former officer or employee.

(2) The former officer's or employee'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 an 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 former officer's or employee's need for adequate time to prepare a defense properly and a need to resolve expeditiously allegations that may be damaging to his or her reputation.

*k. Hearing rights.* The subject of the hearing 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 subject of the hearing 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 18 USC 207 (a), (b), or (c), or implementing regulations of his or her right to seek judicial review of the administrative determination.

*n. Administrative sanctions.* The SA will take appropriate action in the case of an individual 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—

(1) Prohibiting the individual 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.

(2) Taking other appropriate disciplinary action.

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

#### **5-8. Retired Regular Army officers**

*a. Prohibitions.* Appendix B contains a digest of laws relating to conflicts of interest. Many of these are applicable to retired Regular Army (RA) officers. In other words, as an officer whose employment has ceased, he or she may not—

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

(2) At any time, 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 283).

(3) Within 2 years after retirement, assist in prosecuting a claim which involves the Department in whose service he holds a retired status (18 USC 283).

(4) At any time, sell anything other than his or her own services 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 an activity is the Army and Air Force Exchange Service.

(5) Within 3 years after retirement, 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; PLPub.L. No. 87-777.)

(6) 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.

*b. Required statement of employment.* Each retired RA officer will file a DD Form 1357 (Statement of Employment) (fig 1-12) with the Cdr, USAFAC, ATTN: ~~FIN-CM~~, ~~FINCM-DB~~, Retired Pay Operations, Indianapolis, IN 46249-1056 ~~within 30~~ 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.

#### **5-9. 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 5305; or,

*c.* A state of national emergency exists.

#### **5-10. Report of DOD and defense-related employment**

*a.* Requirements for reporting defense-related employment are specified in AR 600-47. The report (DD Form 1787 (Report of DOD and Defense Related Employment as Required by ~~PL-91-121~~ 10 USC 2397)) is required by certain former and retired military officers, former civilian officers, and employees of DOD presently employed by defense contractors, and former civilian officers and employees of Defense contractors presently employed by DOD. Failure to file DD Form 1787 is punishable by a maximum of 6 months imprisonment, or a fine of not more than \$1,000, or both. DD Form 1787 should be filed with HQDA (DACF-ISRVA), ALEX VA 22331-0522.

*b.* These reporting requirements are in addition to—

(1) The DD Form 1357 required from retired RA officers (see para 5-8b).

(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.

## SUMMARY OF POSTEMPLOYMENT RESTRICTIONS

### Applicable to all officers and civilian employees:

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

Duration	Activities prohibited	Government representative	Subject matter
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)(f)).

### Applicable only to "senior employees":

If you held an Executive Level position or a military grade above O-8, or if your O-7, O-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)).

PENALTY FOR VIOLATION of any of these four restrictions is a \$10,000 fine, 2 years in prison, or both

#### Exceptions:

1. These restrictions do not apply to communications solely for the purpose of furnishing scientific or technological information, or when the Secretary of the Army certifies that the former officer or employee has outstanding scientific or technological qualifications and that the national interest would be served by his or her participation in a particular matter.

2. The final (1 year) restriction does not apply to official contacts by an elected State or local official or by certain employees of State or local governments, universities, and hospitals.

### Additional restriction on Presidential appointees:

If, while a Presidential appointee, you participate as "a primary Government representative" in the negotiation or settlement of a Government contract, then for the next 2 years, you may not accept employment with the contractor you dealt with (Pub. L. 99-145, 921).

PENALTY FOR VIOLATION of this restriction is a \$5,000 fine, 1 year in prison, or both.

### Report of DOD and Defense-related employment (DD Form 1787):

1. Any former or retired military officer who had at least 10 years of active service, held a grade of O-4 or above, and who, within 2 years after leaving active duty, is 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 fiscal year in which employed, must file DD Form 1787 with HQDA (DDAG-LRA), Washington, D. C. 20310 (10 USC 2397).

2. Any 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 and who, within 2 years after performing civilian service for DOD, is 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 fiscal year in which employed, must file DD Form 1787 with his last servicing civilian personnel office (10 USC 2397).

3. DD Form 1787 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 the person's job with the contractor significantly changes or he or she commences new employment with another affected contractor. These additional reports must be filed within 30 days of the change of employment. Failure to file is punishable by a \$1,000 fine, 6 months in prison, or both.

**Figure 1-1. Summary of postemployment restrictions**

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**SUMMARY OF POSTEMPLOYMENT RESTRICTIONS—(Continued)**

**Additional restrictions applicable to Retired Regular Army officers:**

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

<i>Duration</i>	<i>Activities prohibited</i>	<i>Government representative</i>	<i>Subject matter</i>
Ever—	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 283).
Within 2 years—	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 283).
Ever—	Represent another in connection with selling to—	the Army or an Army nonappropriated 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 nonappropriated fund activities—	any tangible property (but not personal or professional services) (37 USC 801(b)).

*Penalty for violation* of the first three restrictions above is a \$10,000 fine, 2 years in prison, or both. Penalty for violation of the last restriction is forfeiture of retirement pay for the period of the violation or the duration of any resulting contract (but not more than 3 years after retirement).

**Additional report required of all retired officers:**

All retired Army officers are required to file DD Form 1357 (Statement of Employment) with CDR, USAFAC, ATTN: FINCM-DB, Indianapolis, IN 46249-1536 within 60 days of retirement. See AR 600-50, para 5-8b for procedures.

**Figure 1-1. Summary of postemployment restrictions—Continued**

**STATEMENT OF EMPLOYMENT**  
(Regular Retired Officers)

**DATA REQUIRED BY THE PRIVACY ACT**

**AUTHORITY:** 37 U.S.C. 801 (c) and 5 U.S.C. 5532

**PRINCIPAL PURPOSES:** Information is required from retired regular officers to enable Department of Defense personnel to determine whether such officers are engaged in activities prohibited by law or regulation, including those that could result in the loss of retired pay or a reduction in retired pay due to other Federal employment.

**ROUTINE USES:** The information supplied on this form is forwarded to the Military Department in which the individual holds a retired status and is appropriately reviewed to assure compliance with applicable statutes and regulations.

**DISCLOSURE:** Disclosure of the requested information is voluntary in the sense that no criminal penalties will follow from failure to file. However, the information requested by this form is required to enable the Department of Defense to implement 37 U.S.C. 801 (c) and 5 U.S.C. 5532. If the information is not provided, further investigation will ensue 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. I am a regular retired officer of the US ARMY, and was retired on 2 MAY 1984  
(Department) (Date)

2. I  am  am not employed. (If employed, or self employed, complete the rest of this item; if more than one employer, list complete information for each employer on a separate sheet)

a. My employer's name and address is  
**FORD AEROSPACE, 2700 SKYLINE BLVD  
PALO ALTO, CA 80010**

b. My employer sells, or offers for sale, to agencies (including nonappropriated fund activities) of the Department of Defense, the Coast Guard, the National Oceanic and Atmospheric Administration, or the Public Health Service, the following types of products or services:

**WEAPONS SYSTEMS**

3. If item 2.b is answered in the affirmative, complete this item:

a. My position title is **CONSULTANT**

b. My duties are, briefly (a complete description of your job, a copy of your employment contract, or any other pertinent information, may be attached):

**TO DETERMINE THE WEAPONS SYSTEMS NEEDED BY THE ARMY IN THE FUTURE.**

c. My duties include one or more of the following activities in regard to an agency specified in item 2.b:

(1) signing a bid, proposal, or contract, (2) negotiating a contract, (3) contacting an officer or employee of the agency for the purpose of (i) obtaining or negotiating contracts, (ii) negotiating or discussing changes in specifications, price, cost allowances, or other terms of a contract, or (iii) settling disputes concerning performance of a contract, or (4) any other liaison activity with a view toward the ultimate consummation of a sale even though the actual contract therefor is subsequently negotiated by another person.

No  Yes (If answered in the affirmative, attach explanatory details)

4. I have received a copy of DoD Directive 5500.7 or the regulation issued by my department implementing that Directive.

5. I will file a new Statement of Employment within 30 days after the information in this Statement has ceased 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 Report of DoD and Defense Related Employment (DD Form 1787) pursuant to 50 USC 1436 and DoD Directive 7700.15.

SIGNATURE <i>Paul Q. Jones</i>	DATE <b>4 MAY 1984</b>
NAME (Typed or printed) <b>PAUL Q. JONES</b>	FILE/SSN <b>345-67-8920</b>

**DD FORM 1357** 1 JAN 77 REPLACES DD FORM 1357, 1 MAY 63 AND DD FORM 1357(PAS), 26 SEP 75, WHICH ARE OBSOLETE.

Figure 1-12. Sample of a completed DD Form 1357





<b>7. INTERESTS IN REAL PROPERTY.</b> List your interests in real property other than personal residence you occupy. Note any DoD contractor relationship, present or prospective, regarding acquisition or present status. If none, write "NONE."			
<b>NATURE OF INTEREST</b> (Ownership, mortgage, life, investment trust, etc.)		<b>TYPE OF PROPERTY</b> (Residence, hotel, apartments, farm, undeveloped land, etc.)	<b>ADDRESS</b>
OWNER		APARTMENT BUILDING	432 Coyote Ave, Killeen Texas
<b>8. INFORMATION REQUESTED FROM OTHER PERSONS.</b> If any information is to be supplied by other persons (e.g., trustee, attorney, accountant, relative), indicate name and address of such person, date on which you requested information, and subject matter involved. If none, write "NONE."			
<b>NAME AND ADDRESS</b>		<b>DATE OF REQUEST</b>	<b>SUBJECT MATTER</b>
NONE			
<b>PART II - ADDITIONAL INFORMATION TO BE FURNISHED ONLY BY "SPECIAL GOVERNMENT EMPLOYEES"</b> (Temporary or part-time "advisers or consultants" as prescribed in Section III C of DoD Dir 5500.7 or implementing regulation)			
<b>9. ESTIMATE THE NUMBER OF DAYS ON WHICH SERVICES ARE EXPECTED TO BE PERFORMED.</b>			
<b>a. WITH EMPLOYING DOD COMPONENT</b>		<b>b. WITH OTHER FEDERAL AGENCIES</b>	<b>c. SUM OF a. AND b.</b>
<b>4. NUMBER OF DAYS WORKED FOR DOD DURING THE 365 DAYS PRECEDING DATE OF CURRENT APPOINTMENT</b>		<b>5. NUMBER OF DAYS WORKED FOR EMPLOYING DOD COMPONENT DURING THE 365 DAYS PRECEDING DATE OF CURRENT APPOINTMENT</b>	
<b>10. FEDERAL GOVERNMENT EMPLOYMENT.</b> List all other DoD Components and Federal agencies in which you are presently employed. If none write "NONE."			
<b>COMPONENT OR AGENCY AND LOCATION</b>		<b>TITLE OR KIND OF POSITION</b>	
I certify that the statements I have made are true, complete, and correct to the best of my knowledge and belief, and that I have read and understand the contents of DoD Directive 5500.7 as implemented by my employing DoD Component's regulation.			
<b>SIGNATURE</b> JOHN K ANDERSON <i>John K. Anderson</i>		<b>DATE</b> 3 OCTOBER 1984	
<b>SUPERVISOR'S EVALUATION</b> (See enclosure 3 or DoD Dir 5500.7 or implementing regulation)			
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:			
<input type="checkbox"/> No affiliation/financial interests reported.			
<input type="checkbox"/> Reported affiliation/financial interests are unrelated to assigned or prospective duties, and no conflicts appear to exist.			
<input checked="" type="checkbox"/> Assigned duties require participation in matters involving or which may involve the following reported affiliation/financial interests. This conflict or apparent conflict will be resolved by:			
<input type="checkbox"/> Change in assigned duties; <input checked="" type="checkbox"/> Divestiture of the interests and relief of incumbent from all related duties pending divestiture;			
<input type="checkbox"/> Disqualification; <input type="checkbox"/> Other (explain). A copy of my advice is attached. Notice of completed corrective action will follow.			
<input type="checkbox"/> The following reported affiliation/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 that formal determination and rationale is attached.			
<input type="checkbox"/> The prospective employee's duties will require participation in matters involving the following reported affiliation/financial interests, and the appointment cannot be consummated until divestiture of these interests is completed.			
<b>SIGNATURE OF SUPERVISOR</b> <i>George B Smith</i>		<b>PRINT OR TYPE NAME AND TITLE</b> GEORGE B SMITH, BG, Chief of Staff	<b>DATE</b> 5 OCTOBER 1984
<b>STANDARDS OF CONDUCT COUNSELLOR/DEPUTY COUNSELLOR REVIEW</b> (See enclosure 3 of DoD Dir. 5500.7 or implementing regulation)			
As a duly designated counsellor (or Deputy Counsellor), I have examined the foregoing Statement and Evaluation.			
<input checked="" type="checkbox"/> I concur with the supervisor's evaluation.			
<input type="checkbox"/> I do not concur with the supervisor's evaluation and recommend the following action:			
<b>SIGNATURE</b> B. G. ORTA, COL, JAGC <i>B.G. Orta</i>		<b>DATE</b> 6 OCTOBER 1984	

Figure 1-23. 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.

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.

## 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 an 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 1(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 1(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 1(c) unless such an individual has left another position described in section 1(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 1(b)) or as a candidate for the position (section 1(a)).
- No later than May 15 annually, in the case of those in a position described in section 1(c). In the event such an individual terminates employment, and does not accept another position described in section 1(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 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-

OFFICE OF PERSONNEL MANAGEMENT

Figure 1-34. 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 private 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 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 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 734.301(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 manner in which you adjusted 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

Figure 1-34. Sample of completed SF 278—Continued

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 individuals' 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 794.

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 you do

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 ITT stock, 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 OTH, "\$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 1-34. Sample of completed SF 278—Continued

will not have a related item of realized income. In such a case, check "None (or less than \$101)" 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 (for- giveness) 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 EXCEEDING \$100**—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 properly 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 II.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 TRANSACTION... check the category of value of the sale price, purchase price, or exchange value of the property involved in the transaction.

Figure 1-34. 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 within 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 report 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(i);
- 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 report this gift you would show, under SOURCE "AmCoal Corp., 1210 North St., Chicago, IL," 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 "Artifact 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
- iv. 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 this 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 enter the set rate or, if a variable one, the formula used to vary the rate, i.e. prime

Figure 1-34. 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 and

### A. General Instructions

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 1-34. Sample of completed SF 278—Continued

# Financial Disclosure Report

Reporting Status (Check Appropriate Box)		Date of Appointment, Candidacy, Election or Nomination (Mo., Day, Yr.)		Termination Date (If Applicable) (Month, Day, Year)	
<input checked="" type="checkbox"/> Incumbent	<input type="checkbox"/> New Entrant, Nominee, or Candidate	Agency Use Only		CGE Use Only	
Reporting Individual's Name		First Name and Middle Initial			
Position for Which Filing		Department or Agency (If Applicable)			
Location of Present Office		Telephone No. (Include Area Code)			
Positions Held With the Federal Government During the Preceding 12 Months (If Not Same as Above)		Title of Position(s) and Date(s) Held			
Presidential Nominee Subject to Senate Confirmation		Name of Congressional Committee Considering Nomination		Do You Intend to Create a Qualified Diversified Trust?	
Certification		Signature of Reporting Individual		Date (Month, Day, Year)	
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)	
Office of Government Ethics Use Only		Signature of THE JUDGE ADVOCATE GENERAL		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)

Figure 1-34. Sample of completed SF 278—Continued  
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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 trans-

actions 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. NONE

Identification of Assets

S or DC	Exam- ple: XYZ Common	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- \$100,001	\$100,001- \$250,000	\$250,001- \$500,000	Over \$500,000			
1	IBM Common	X	2/1/83					X								
2	IBM Common		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. NONE

S or DC	Exam- ples: Nat'l Assn. of Rock Collectors, NY, NY	Source (Name and Address)	Brief Description	Value	
				Gift	Reimbursement
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	Moose Lodge, Muscogee, OK	Airline ticket and lodging incident to speech 10 Dec 85	\$750	
3	Moose Lodge, Muscogee, OK	Moose Lodge, Muscogee, OK	Airline ticket and lodging incident to my speech 10 Dec 85	\$750	
4					
5					
6					

PREVIOUS EDITION USABLE

Figure 1-34. Sample of completed SF 278—Continued

Reporting Individual's Name  
**SMITH, JOHN A.**

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

**Part I**  
**Liabilities** 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 revolving charge accounts:  
 automobiles, household furniture or appliances, and liabilities owed to relatives. See instructions for revolving charge accounts: **NONE**

S or DC	Examp- les:	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
1	First District Bank, Washington, DC John Jones, 123 J St., Washington, DC	Mortgage on rental property, Rehoboth Beach, Delaware Promissory note		1981 1979	13% 10%	26 yrs. on demand	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**

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 1-34. Sample of completed SF 278—Continued

Reporting Individual's Name  
**SMITH, JOHN A.**

Page Number **5** Schedule **D**

**Part I**  
**Positions Held Outside U.S. Government**

All Filers: Report any positions held during the applicable reporting period. Positions include but are not limited to those of an officer, director, trustee, general partner, proprietor, representative, employee or consultant of any corporation, firm, partnership, or other business enterprise or any non-profit organization or educational institution. Exclude positions with religious, social, fraternal, or political entities or those solely of an honorary nature.

NONE

Examples:	Organization (Name and Address)	Type of Organization	Position Held	From (Mo., Yr.)	To (Mo., Yr.)
	Nat'l Assn. of Rock Collectors, NY, NY Doe Jones & Smith, Hometown, USA	Non-profit education Law firm	President Partner	6/82 7/75	6/83 11/83
	Boy Scouts of America	Service	Member, Executive Council	7/84	Present

**Part II**  
**Compensation in Excess Of \$5000 Paid by One Source**

Nominees and New Entrants only: Report sources of such compensation received by you or your business affiliation for services directly provided by you during the reporting period. This includes the names of clients and customers of any corporation, firm, partnership or other business enterprise, or any nonprofit organization, when you directly provided the services generating a fee or payment of more than \$5,000. You need not report the U.S. Government as a source.

NONE

Examples:	Source (Name and Address)	Brief Description of Duties
	Doe Jones & Smith, Hometown, USA Metro University (client of Doe Jones & Smith) Hometown, USA	Legal services Legal services in connection with university construction

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Figure 1-34. Sample of completed SF 278—Continued

REPORT OF DOD AND DEFENSE RELATED EMPLOYMENT AS REQUIRED BY PUBLIC LAW 91-121		OMB Approval No. 22-R0268
1. NAME (Last - First - Middle)  JONES, PAUL Q	2. CURRENT HOME ADDRESS (Street - City - State - Zip)  2400 GLEBE ROAD, ARLINGTON VA 22857	3. SOCIAL SECURITY NO.  345-67-8920
4. REPORTING CATEGORY (Check appropriate box and enter in space provided the military grade, civilian grade or annual DoD salary) A. <input checked="" type="checkbox"/> RETIRED MILITARY OFFICER - MAJ/LT. CMDR OR ABOVE <u>MG</u> B. <input type="checkbox"/> FORMER MILITARY OFFICER - MAJ/LT. CMDR OR ABOVE _____ C. <input type="checkbox"/> FORMER CIVILIAN EMPLOYEE WHOSE SALARY WAS EQUAL TO OR ABOVE MINIMUM GS-13 DURING THREE YEARS PRECEDING TERMINATION OF SERVICE WITH DOD. _____ D. <input type="checkbox"/> FORMER EMPLOYEE OF, OR CONSULTANT TO, DEFENSE CONTRACTOR WHO DURING LAST FISCAL YEAR WAS EMPLOYED BY DOD AT SALARY EQUAL TO OR ABOVE MINIMUM GS-13 SALARY _____ <i>Items 5 thru 10 apply to reporting categories A, B and C ONLY</i>		
5. NAME AND ADDRESS OF DEFENSE CONTRACTOR EMPLOYER(S)  FORD AEROSPACE, 2700 Skyline Blvd, Palo Alto, CA 80010		
6. DATE(S) OF ACCEPTANCE OF EMPLOYMENT WITH DEFENSE CONTRACTOR EMPLOYER(S) (If no longer employed by a defense contractor employer give inclusive date of all such employment) <u>3 MAY 1984</u>		
7. DATE OF SEPARATION FROM ACTIVE DUTY OR TERMINATION OF DOD EMPLOYMENT <u>2 MAY 1984</u>		
8. NAME, IN DETAIL, OF LAST AGENCY OF DOD BY WHICH EMPLOYED  US ARMY		
9. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF WORK PERFORMED DURING LAST THREE YEARS OF YOUR SERVICE WITH DOD.  ASST TO THE DEPUTY CHIEF OF STAFF FOR RESEARCH, DEVELOPMENT, AND ACQUISITION		
10. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF WORK PERFORMED FOR DEFENSE CONTRACTOR EMPLOYER(S).  CONSULTANT ON DEFENSE CONTRACTS  <i>Items 11 thru 16 apply to reporting category D ONLY</i>		
11. NAME IN DETAIL, OF DEPARTMENT OF DEFENSE AGENCY BY WHICH EMPLOYED AT ANY TIME DURING THE LAST FISCAL YEAR.		
12. DATE ACCEPTED DOD EMPLOYMENT		
13. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF DUTIES WITH DEPARTMENT OF DEFENSE EMPLOYER DURING LAST FISCAL YEAR.		
14. NAME(S) OF DEFENSE CONTRACTOR(S) BY WHOM YOU WERE EMPLOYED OR WHOM YOU SERVED AS A CONSULTANT OR OTHERWISE.		
15. INCLUSIVE DATES OF EMPLOYMENT BY, OR SERVICE WITH, DEFENSE CONTRACTOR EMPLOYER(S).		
16. POSITION TITLE(S) AND BRIEF DESCRIPTION(S) OF WORK PERFORMED FOR DEFENSE CONTRACTOR(S).		
17. I CERTIFY THE ABOVE INFORMATION IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.  <u>Paul L. Jones</u> SIGNATURE		
<i>(If additional space is required, attach a continuation sheet.)</i>		

DD FORM 1787  
AN 71

Figure 1-45. Sample of a completed DD Form 1787

## 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 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 340-18**  
The Army Functional Files System

**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 600-47**  
Reporting Procedures on Defense Related Employment

**AR 600-291**  
Foreign Government Employment

**AR 621-7**  
Acceptance of Fellowship, Scholarships, or Grants

**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**

**FPM 734**  
Financial Disclosure Requirements

**FPM 771**  
Agency Administrative Grievance System

**Chapter 304, FPM**

**JTR**  
Joint Travel Regulation Volume 2, chapter 6

## 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 or 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 of 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 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 connected 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.

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 Government Employees Training Act (5 USC 2301-2319).

### B-6. 18 USC 207

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

### B-7. Summary of laws particularly applicable to retired Regular officers

*Prohibited activities are shown below.*

a. *Claims.* A retired Regular 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, or receive any gratuity or any share of or interest in such a claim in consideration for having assisted 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 283).

b. *Selling.*

(1) A retired Regular officer is prohibited, at all times from representing any person in the sale of anything to the Government through the Military Department in whose service he 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, PLEPub.L.No. 87-777, formerly 5 USC 59(c).)

(3) For the purpose of this statute, "selling" means—

(a) Signing a bid, proposal, or contract;

(b) Negotiating a contract;

(c) Contacting an officer or employee of any of the foregoing departments or agencies 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-8. Employment

Neither these statutes nor this regulation preclude a retired Regular officer from accepting employment with a domestic private industry solely because his employer is a contractor with the Government.

#### B-8.1 Two-year post-government-service employment limitation on Presidential appointees

a. For the period defined in (b) below, no Presidential appointee employed by or serving in any component of the Department of Defense may accept post-Government employment—

(1) With any defense contractor he or she has dealt with.

(2) As a primary Government representative.

(3) In the negotiation or settlement of a Government contract.

b. This bar on employment extends for 2 years from the date the Presidential appointee last acted in such capacity with that contractor.

c. The knowing violation of these provisions may result in the following penalties:

(1) Upon conviction, the appointee may be fined up to \$5,000 or imprisoned for a period up to 1 year;

(2) The employing contractor shall forfeit up to \$50,000 in liquidated damages pursuant to contractual requirements.

### **B-9. 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 defraud 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 employee 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. (US 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 Authority Vested in the President by Section 1753 of the Revised Statutes

Sec. 601. The Civil Service Commission is designated and empowered to perform, without the approval, ratification, or other action of the President, so much of the authority vested in the President by Section 1753 of the Revised Statutes of the United States (5 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), Program Guidance and Review Committee, 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 the Budget Review Committee, in-process review groups, preliminary review groups, 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.

## Glossary

### Section I Abbreviations

**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

**DSCC**  
Deputy Standards of Conduct Counselor

**FAR**  
Federal Acquisition Regulations

**FOIA**  
Freedom of Information Act

**FPM**  
Federal Personnel Manual

**GS**  
general schedule

**HHS**  
Health and Human Services

**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.

### DA personnel

All civilian officials and employees of DA, including special Government employees and employees of NAIs; all active duty officers (commissioned and warrant); professors and cadets at the US Military Academy; and enlisted members of the Army. In chapters 1 and 2, the term also includes all officers and enlisted personnel of the Army Reserve and 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.

### 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 contractor

A person, corporation or other entity that provides services or supplies, or both, to DOD under a contract directly with DOD (e.g., NAFI contractors).

### DOD personnel

All civilian officials and employees, including special Government employees, of all the offices, agencies, and departments in DOD (including NAIs), 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., received by the individual in the course of his or her official duties and not intended for public dissemination)(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, US Military Academy; and the Commanding General, US Army Recruiting Command.

#### **Military personnel**

All officers (commissioned and warrant), professors, and cadets at the US Military Academy, and enlisted personnel of the Army on active duty.

#### **Nominal value**

An item that is of a sentimental nature and that has little or no intrinsic value to one other than the recipient.

#### **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.

#### **Procurement official**

DA personnel who have participated in the performance of any procurement function in connection with a contract for \$25,000 or more awarded by DOD.

#### **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.

#### **~~Standards of conduct counselor or deputy standards of conduct counselor~~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.

#### **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> <p>(1) All information related to official matters (<i>e.g., title of position, date of appointment or termination, etc.</i>) is correct;</p> <p>(2) All items appear complete (<i>i.e., there is an entry or the word "None" in every section</i>);</p> <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> <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> <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> <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> <p>(1) No financial interests/affiliations have been reported;</p> <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> <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>	2a)		
	(1)		
	(2)		
	(3)		
	(4)		
	2b)		
	2c)		
	(1)		
	(2)		
	(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

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 (list these entities here):

2d)		
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This conflict or appearance of conflict (has been) (will be) resolved by:

(1) Formal disqualification (copy attached).

(1)		
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(2) Change or limitation of duties without reassignment.

(2)		
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(3) Divestiture of the interest (or termination of the affiliation) and disqualification, if necessary, pending such divestiture (or termination of the affiliation).

(3)		
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(4) Transfer, reassignment, or resignation.

(4)		
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(5) Exemption under 18 U.S.C. 208(b). Reported interests have properly been determined by the reporting individual's immediate supervisor (paragraph 2-11g, AR 600-50) not to be so substantial as to affect the integrity of the individual's service. A comprehensive determination and finding is attached.

(5)		
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(6) Establishment of a qualified blind trust IAW the Ethics in Government Act. (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.)

(6)		
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3. Additional comments to expedite final review at Headquarters, Department of the Army, are attached. (If none, do not check this block.)

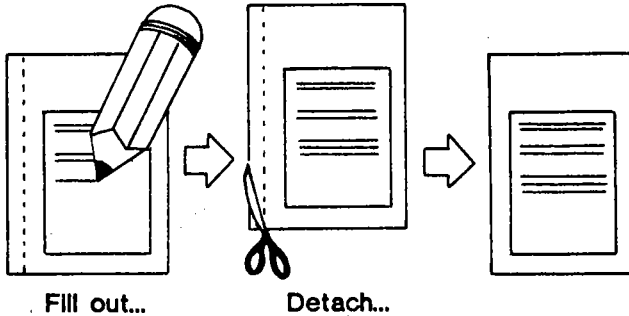
3)		
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4. Based on the results of my review (and corrective action taken, if necessary), I have determined that: except as noted above, the information contained in this Financial Disclosure Report discloses no conflict of interest under applicable laws and regulations.

a.  <i>Deputy Standards of Conduct Counselor of Reporting Individual</i>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE		DATE
b.  <i>Supervisor of Reporting Individual</i>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE		DATE
c.  <i>Deputy Standards of Conduct Counselor of Immediate Supervisor</i>	NAME	RANK	TELEPHONE NUMBER
	TITLE	ORGANIZATION	
	SIGNATURE		DATE



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