



Ethics Guide for General Officer Aides

*and Other Personnel
Supporting Senior Officials*

January 2002



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Office of the Staff Judge Advocate
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PREFACE

This handbook was prepared by the Administrative and Civil Law Division, Office of the Staff Judge Advocate,* for use by general officer aides and other senior officials and their support personnel. It highlights common standards of conduct issues faced by general officers and other senior officials. It provides broad guidance on a variety of matters, but is not a substitute for advice from an ethics counselor.

Ethics is the foundation for federal service. The public expects and deserves its officials to be fair and impartial and not to use their official position for personal gain. We fulfill this mandate by avoiding conflicts of interest and improper influence, and by being good stewards of government resources.

Executive Order 12674 sets the standards for our conduct as government employees and is the broad outline for the Army's ethics program. The attached Presidential and Secretary of Army memorandums reinforce these principles:

- 1. Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles, above private gain.**
- 2. Employees shall not hold financial interests that conflict with the conscientious performance of duty.**
- 3. Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.**
- 4. An employee shall not solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.**
- 5. Employees shall put forth honest effort in the performance of their duties.**
- 6. Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the government.**
- 7. Employees shall not use public office for private gain.**
- 8. Employees shall act impartially and not give preferential treatment to any private organization or individual.**
- 9. Employees shall protect and conserve federal property and shall not use it for other than authorized activities.**

* It is based on a handbook prepared by the Army Standards of Conduct Office, Office of The Judge Advocate General and the Administrative and Civil Law Division, Office of the Staff Judge Advocate, III Corps and Fort Hood.

10. Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official government duties and responsibilities.

11. Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

12. Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as federal, state, or local taxes -- that are imposed by law.

13. Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap;

14. Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.

Each command has a designated Ethics Counselor who may be reached at the phone numbers listed below. The Ethics Counselor is responsible for ensuring the command has an effective ethics program, that all training and reporting requirements are in place, and that the command has the information it needs to ensure that it operates in an ethical environment. The Ethics Counselor is also available for soldiers and employees who need ethics counseling and advice. The AMEDDC&S and FSH Ethics Counselor (221-2373/0485) is located with the Staff Judge Advocate, AMEDDC&S and Fort Sam Houston, BLDG. 134, 1306 Stanley Road, STE. 19, Fort Sam Houston, Texas.

Other Command Ethics Counselors are available at these numbers:

MEDCOM Ethics Counselor – (210) 221-8400

Brooke Army Medical Center Ethics Counselor – (210) 916-2031

Fifth Army Ethics Counselor – (210) 221-1515

Fifth Recruiting Brigade Ethics Counselor – (210) 221-0150/0138

Additional Information Papers on other subjects can be found on the AMEDDC&S and FSH Staff Judge Advocate's website at <http://www.cs.amedd.army.mil/sja/Ethics.asp>.

See the following Secretary of the Army and Presidential memorandums which reinforce the importance and command support of these broad ethical standards.



DEPARTMENT OF THE ARMY
WASHINGTON, D.C. 20310



5 February 2001

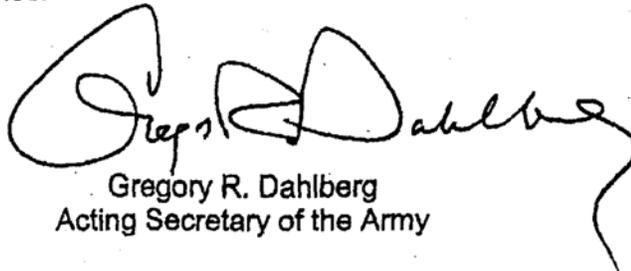
MEMORANDUM FOR SENIOR ARMY LEADERS

SUBJECT: The Army Ethics Program

I expect all Army leaders to personally adhere to and promote the letter and spirit of applicable ethics laws and regulations. Integrity is the basis for the trust and confidence that exist among members of the Army. Further, Army employees hold their positions as a public trust and American citizens have a right to expect all employees to place loyalty to the Constitution, laws, and ethical principles above private gain.

As a leader, you must be a good ethical role model; develop subordinates ethically and avoid placing yourself and your subordinates in ethical dilemmas. Ethics rules are specific and detailed, common sense and good judgment alone are insufficient to ensure compliance. You must be familiar with the *Standards of Ethical Conduct for Employees of the Executive Branch (Standards)* as the primary source of guidance for ethics, and with the Department of Defense *Joint Ethics Regulation* which supplements the Standards with specific topics.

It is the responsibility of those in leadership positions to demonstrate their commitment to the highest standards of integrity by formulating policies that support and sustain ethical values, and by ensuring that procedures developed at lower levels maintain ethical policies and values. I have attached President George W. Bush's recent memorandum on ethical conduct that includes a specific reiteration of the 14 general principles of ethical conduct from the Standards. These principles broadly define the obligations of public service and form the basis of the Army Ethics Program, a program I fully endorse. Whenever you encounter specific situations and you are uncertain whether the issues are clearly covered by these rules, you must contact your organization's Ethics Counselor for assistance.



Gregory R. Dahlberg
Acting Secretary of the Army

Attachment

THE WHITE HOUSE
WASHINGTON

January 20, 2001

MEMORANDUM FOR THE HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

SUBJECT: Standards of Official Conduct

Everyone who enters into public service for the United States has a duty to the American people to maintain the highest standards of integrity in Government. I ask you to ensure that all personnel within your departments and agencies are familiar with, and faithfully observe, applicable ethics laws and regulations, including the following general principles from the Standards of Ethical Conduct for Employees of the Executive Branch:

- (1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.
- (2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.
- (3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.
- (4) An employee shall not, except as permitted by applicable law or regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.
- (5) Employees shall put forth honest effort in the performance of their duties.
- (6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the Government.
- (7) Employees shall not use public office for private gain.
- (8) Employees shall act impartially and not give preferential treatment to any private organization or individual.
- (9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those -- such as Federal, State, or local taxes -- that are imposed by law.

(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating applicable law or the ethical standards in applicable regulations.

Executive branch employees should also be fully aware that their post-employment activities with respect to lobbying and other forms of representation will be bound by the restrictions of 18 U.S.C. 207.

Please thank the personnel of your departments and agencies for their commitment to maintain the highest standards of integrity in Government as we serve the American people.

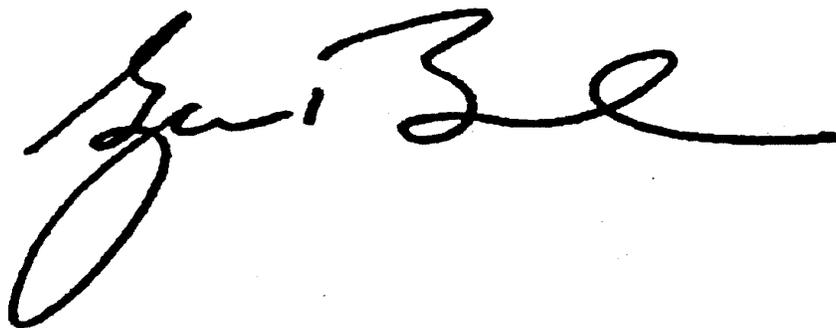
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CHAPTER ONE

GIFTS

I. REFERENCES

- A. DOD 5500.7-R, *Joint Ethics Regulation* (JER) (30 Aug 93), through Change 4 (6 Aug 98).
- B. Office of Government Ethics (OGE), *Standards of Conduct for Employees of the Executive Branch*, Title 5, Code of Federal Regulations (C.F.R.), § 2635, Subpart B.
- C. Title 5, United States Code (U.S.C.), § 7342.
- D. AR 1-100, Gifts and Donations (15 Nov 83) and MEDCOM Supplement 1 to AR 1-100 (8 Oct 97) (under revision).

II. GENERAL GUIDANCE

- A. The OGE *Standards of Ethical Conduct for Employees of the Executive Branch* became effective on February 3, 1993, and the DOD *Joint Ethics Regulation* (JER), DOD 5500.7-R, on August 30, 1993. As a result, the ethics rules applicable to Army personnel are very detailed, specific, and complex.
- B. Because general officers are frequently offered gifts by individuals who are unfamiliar with the JER and its restrictive rules, they and their staff must constantly be on the alert for gift problems. For example, a new pair of cowboy boots, a western hat, or even a free round of golf might be a violation of the JER and could result in sanctions.

III. GIFTS TO INDIVIDUALS FROM OUTSIDE SOURCES

A. **Basic Rule.** DA personnel may **not** solicit or accept a gift:

1. From a “prohibited source”; or
2. Given because of the employee’s official position.
3. A “prohibited source” means any person or entity:
 - a. seeking official action by the employee’s agency;
 - b. doing or seeking to do business with the employee’s agency;
 - c. regulated by the employee’s agency;
 - d. substantially affected by the employee’s official duties; or

e. a majority of whose members fit into one or more of these categories.

4. The test for “official position” is whether the gift would have been solicited, offered, or given had the employee not held the status, authority, or duties associated with his Federal position.

B. Practical approach to determine acceptability of an item or service. Three questions:

1. Is the item a gift? A gift is any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It can include services as well as training, transportation, local travel, lodging, and meals. There are categories of “nongifts,” such as, coffee and donuts or greeting cards. Generally, if an item has no resale value, it is a “nongift.” Other examples of nongifts include:

a. Coffee, donuts, and similar modest items of food and refreshments when offered other than as part of a meal;

b. Greeting cards and items with little intrinsic value, such as most plaques, certificates, and trophies which are intended solely for presentation;

c. Rewards and prizes in contests open to the general public or to all Government or military personnel;

d. Commercial discounts available to the general public or to all Government or military personnel;

e. Commercial loans, pensions, and similar benefits;

f. Anything paid for by the Government, secured by the Government under Government contract, or accepted by the Government in accordance with a statute; and

g. Anything for which the employee pays market value.

2. If the item is a gift, does an exception apply? Common exceptions where an employee may accept a gift from an outside source are:

a. Unsolicited gifts with a market value of \$20 or less per source per occasion, as long as the total value of all gifts received from the same source during a year does not exceed \$50.

b. Gifts based on an outside relationship, such as a family relationship or personal friendship.

c. Discounts and similar benefits offered to groups in which membership is not related to government employment (or “government discounts” where the same offer is broadly available to the public through similar groups), and certain benefits offered by professional associations or by persons who are not prohibited sources.

d. Legitimate awards that are part of a regular and established program of recognition for meritorious public service; honorary degrees from institutions of higher learning.

e. Gifts resulting from the outside business activities of employees and their spouses.

f. Free attendance (not travel or lodging) provided by the sponsor of a widely-attended gathering, speaking engagement, or other event where the government agency has determined it has an interest in the event (*e.g.*, Dallas Military Ball) (*See information paper, Free Attendance at Seminars and Similar Functions, Appendix, p. A-1.*)

g. Food, refreshment, and entertainment at certain social events extended by persons who are not prohibited sources, where no one is charged a fee to attend the event.

h. Meals, refreshments, and entertainment in foreign areas.

i. Gifts accepted under specific statutory authority.

j. Unsolicited gifts of free attendance for Army employees (and spouses) at events sponsored by state or local governments or non-profit, tax exempt civic organizations, where the Army has identified a community relations interest in the event.

k. Certain educational scholarships or grants for Army employees and dependents.

l. Certain gifts at ship launch and similar ceremonies.

3. Would accepting a gift undermine government integrity? Even if a gift is allowed by one of the exceptions, do not accept it if it will undermine government integrity by creating an appearance of a conflict of interests.

a. Official position cannot be used to solicit a gift or force someone to give a gift.

b. A gift is illegal if it is in exchange for an official action (that's a bribe).

c. Some gifts may be prohibited by other statutes (*i.e.*, Foreign Gifts Act or Procurement Integrity Statute).

d. Finally, gifts may not be accepted so frequently that anyone would question whether influence is being bought.

C. Handling improper gifts. When an employee cannot accept a gift:

1. If possible, the employee should diplomatically refuse the offer of an improper gift; or

2. The employee should return the gift; or

3. The employee may elect to pay the donor the market value of the gift.

4. Subject to Ethics Counselor approval, perishable items may be donated to a charity, shared within the office, or destroyed.

5. Consider whether the gift may be accepted on behalf of the Army and placed on an appropriated fund or non-appropriated fund property book (AR 1-100 or AR 215-1).

IV. GIFTS BETWEEN EMPLOYEES

A. General Rules. An employee shall not:

1. Give a gift or solicit a contribution for a gift for a superior (*i.e.*, supervisor or those in supervisory chain); or

2. Accept a gift from a lower paid employee, unless the donor and recipient are personal friends who are not in a superior-subordinate relationship.

B. Exceptions to the Gift Prohibition:

1. Employees may give or receive gifts on an occasional basis, including traditional gift-giving occasions, such as birthdays and holidays. This includes:

a. Minor contributions of food that will be consumed at the office, meals at someone's home (of a type and value typically given to personal friends), and customary gifts, such as a bottle of wine, brought when invited to another's home.

b. Infrequent gifts (other than cash) having a value of \$10 or less on appropriate occasions, such as Christmas or birthdays, or upon return from a vacation or TDY. Such gifts may not become "routine."

2. A subordinate may voluntarily give or donate toward a gift for a superior on a special infrequent occasion, such as marriage, PCS, or retirement.

a. Gifts on special infrequent occasions should be appropriate to the occasion. The limit per gift per donating group is \$300.

(1) A donating group is comprised of all the contributors to that group gift. For a departing CG, each brigade can be a donating group; for a brigade commander, each battalion; and so on.

(2) If a contributor gives to two donating groups, then the value of the gifts from the two groups is aggregated as if it were from a single donating group -- the \$300 limit applies to the total value (JER 2-203a(2)).

(3) While donating groups may each give a gift up to \$300 in value, donating groups may not pool their resources to purchase parts of a larger gift such as, but not limited to, the

following: individual place settings for a china set, individual golf clubs to make a complete set, or having one group purchase a picture while another group purchases the frame.

(4) A gift to an employee's spouse or children is considered a gift between employees subject to the rules above, unless there is an independent basis for the gift. The value of the gift to a spouse is added to the value of the gift to the employee in determining the \$300 limitation per donating group.

b. An employee cannot solicit more than \$10 from another employee for a group gift for a superior (JER 2-203b); however, an employee may contribute more than \$10 if he or she so chooses.

c. Solicitations for gifts to a superior must be completely voluntary. Solicited individuals may decline to contribute.

d. To avoid improper pressure, no one should keep a list of contributors, and preferably, the collection should be handled by someone junior in the organization.

V. GIFTS TO A UNIT

Whenever a proffer is made, there should be an initial determination as to whether the gift is to an individual or to a unit. Gifts to a unit or to the Army may be accepted under the conditions specified in the following authorities.

A. AR 1-100, Gifts and Donations.

1. An installation commander has local authority to accept unconditional gifts up to \$1,000 in value when their acceptance and maintenance entail negligible costs. Proffers for conditional and unconditional gifts exceeding \$1,000 in value must be forwarded to the MEDCOM.

2. When consistent with the intent of the donor, unconditional gifts of money or tangible personal property made directly to Army units will be treated as gifts to the unit welfare fund or other nonappropriated fund.

B. MEDCOM Supplement 1 to AR 1-100.

1. The MEDCOM Commander has the authority to accept both conditional and unconditional gifts up to \$20,000 in value. The Secretary of the Army accepts gifts exceeding \$20,000.

2. The regulation imposes the requirement on the local commander to prepare a seven paragraph memorandum answering questions designed to help determine whether the acceptance of the gift is in the best interests of the Army.

C. AR 215-1, para. 7-39.

1. The installation commander may accept gifts to a NAFI up to \$25,000, except for contributions by the local United Way which may be accepted in any amount.
2. The MEDCOM Commander may accept gifts to a NAFI up to \$50,000 in value. USACFSC may accept gifts up to \$150,000 in value. The Secretary of the Army accepts all gifts exceeding \$150,000.

D. Gifts to the Army for distribution to individuals. AR 1-101, Gifts for Distribution to Individuals (1 May 1981).

1. Accept only those gifts that promote health, comfort, convenience, and morale. Examples include reading materials and writing paper.
2. Do not accept alcoholic beverages.
3. The donor must pay all transportation charges from point of origin.
4. The approval authority is the MACOM Commander who may delegate it to a subordinate commander.
5. See AR 1-101, para. 7, for additional restrictions on acceptance.

VI. GIFTS FROM FOREIGN GOVERNMENTS

- A.** Individuals (including retired members) may retain foreign gifts with a value of \$260 or less. Value is based upon U.S. retail market value at the time of receipt. It is the recipient's burden to establish value.
- B.** Gifts under the \$260 limit need not be reported. A memorandum for record concerning the criteria in paragraph C1 should be made.
- C.** Gifts over the \$260 threshold should be refused; however, when refusal would likely cause embarrassment, offend, or otherwise adversely affect U.S. foreign relations, the gift may be accepted.
 1. If accepted under these circumstances, the recipient must make a record of the event, including: the circumstances surrounding the gift; the date and place of presentation; the identity of the foreign government and name and title of the donor; the name, grade and official capacity of the recipient; and, a brief description of the gift including its estimated U.S. retail value.
 2. Ordinarily, this information, along with the gift, must be forwarded to the Commander, PERSCOM, ATTN: TAPC-PDU-IP, Alexandria, VA 22332-0474, within 60 days of receipt of the gift. The gift is then forwarded to the General Services Agency for proper disposition. A request to retain the gift locally and use it in an official capacity, (*e.g.*, on display at the unit) can

be forwarded to PERSCOM with the other information, and the gift may be held at the unit pending approval of the request.

D. Aggregate the value of gifts from different officials during the same presentation. If gifts are from different governmental levels (city, state, national), aggregate the levels separately.

E. Gifts from spouses of foreign officials are deemed gifts from the foreign official.

F. Gifts to the employee's spouse are deemed gifts to the employee.

G. Gifts received at separate presentations are separate gifts – their values are not aggregated.

H. In some circumstances, the recipient may purchase the gift for its full U.S. retail value.

VII. PRACTICE TIP FOR AIDES: Keep a log on all gifts received under any of the circumstances outlined in this chapter, and record the disposition of each gift. Provide the log to the Ethics Counselor for periodic review.

CHAPTER TWO

PRIVATE ORGANIZATIONS

I. REFERENCES

- A. JER, Chapter 3.
- B. 5 U.S.C. § 5703.
- C. AR 210-22, *Private Organizations on Department of the Army Installations* (22 Oct 01).
- D. AR 600-20, *Army Command Policy* (15 Jul 00).
- E. MEDCOM/OTSG Regulation 600-5, *Informal Funds* (1 Nov 01).
- F. AR 608-1, *Army Community Service Program* (1 Oct 99).
- G. AR 215-1, *Nonappropriated Fund Instrumentalities and Morale, Welfare, and Recreation Activities* (25 Oct 98).
- H. DA Pamphlet 608-47, *A Guide to Establishing Family Support Groups* (16 Aug 93).

II. RELATIONSHIPS WITH PRIVATE ORGANIZATIONS

Private organizations (POs) are allowed to operate on post for the benefit of soldiers, civilian employees, and family members. Generally, they do not conduct official business for the Army. Thus, they are authorized only limited official support, *e.g.*, a place on post to meet and authorization for soldiers to participate in their activities. If you have a question about a particular PO or Family Support Group, you may contact the Community Activities Business Center at 221-2705. The first step in dealing with and resolving any PO issue is to determine whether a relationship with the PO is either personal or official. The nature of the relationship guides the analysis and generates the answer.

A. **Personal Participation – DOD employees may:**

1. Join and participate in PO activities in their personal capacity.
2. Use their rank and component designation in connection with their PO activities (e.g. General, U.S. Army), but may not refer to their official position or use the authority associated with that position.
3. Become officers and directors of POs provided that the positions are not offered because of their Federal position. In this case, the employee is prohibited from acting in any official matter involving the PO. If the employee files an SF 278 or OGE 450 financial disclosure report, the position as a PO officer must be reported.

4. Engage in fundraising on behalf of POs provided that no DOD endorsement is implied, and as long as they do not personally solicit prohibited sources or their subordinates.

5. Make presentations and publish papers as part of PO activities. If the presentation or paper deals with DOD operations or policies, there must be a disclaimer that the views presented are personal and do not represent DOD.

6. Represent a PO that is composed of DOD employees and their dependents in discussions with the Government except when the matter involves an administrative or judicial proceeding or the disbursement of funds.

7. Under some circumstances, be given time off and may use Government resources in their personal participation with POs, when they meet specific criteria and have approval as set out in JER, para. 3-300b (writing papers for professional associations and learned societies), and JER, para. 3-300c (certain community support activities).

8. If the "agency designee" determines that it is in the Army's interest, accept free attendance at a "widely attended gathering" sponsored by a PO, on their own time or during an excused absence (5 C.F.R. § 2635.204(g)(2)) (if the value of the free attendance exceeds \$250, the Army employee must report this gift on his or her Financial Disclosure Report). For example, after consulting with his or her EC, a supervisor might conclude that it is in the Army's interest for a subordinate to attend a free technical symposium, including a cocktail party and dinner, attended by industry and government representatives and sponsored by a professional or technical association. (*See information paper, Free Attendance at Seminars and Similar Functions, Appendix, p. A-1.*)

B. Personal Participation – DOD employees may not:

1. Accept positions as officers, directors, or similar positions in a PO offered because of their official duty position.

2. Use their office, title, or position in connection with personal participation in POs (*e.g.*, name, rank and duty position shown on PO's letterhead listing organization officers).

3. Personally solicit subordinates or prohibited sources (generally, DOD contractors), or permit the use of their names in a solicitation that targets subordinates or prohibited sources, in PO membership drives or fundraising campaigns.

4. Coerce subordinates to join or participate in PO activities.

5. Use their official position to state or imply official endorsement of a PO, its activities or fundraising efforts.

6. May not participate in official federal actions that affect the interests of a PO in which they are officers or directors.

7. Represent ordinary POs (as opposed to POs composed of DOD members) in discussions with the Government.

C. Official Relationships - Permitted Activities

1. Attendance. Consistent with sound fiscal principles governing training expenses, DOD employees may attend meetings, conferences, seminars and similar events sponsored by POs, and may participate as panelists and speakers. DOD employees may not attend such events at government expense solely to acquire or maintain professional credentials that are minimum requirements to hold a DOD position.

2. Liaison. DOD employees may serve as liaisons to POs when appointed by the appropriate commander. Liaisons may represent DOD in discussions, but cannot bind their DOD organization to any action. A liaison may not participate in the management of the PO. The Army may appoint official liaisons to POs where there is a significant and continuing Army interest to be served. However, they are only liaisons; when they participate they do so as Army employees and their loyalty is to the Army. If they are officers, directors, or even active participants in the PO in their personal capacities, they may not be Army liaisons because of the conflict of loyalties. Liaisons participate in matters of mutual interest to the PO and the Army, and vote on those issues that relate to liaison activities.

3. Information Distribution. In accordance with public affairs regulations, official channels may be used to inform DOD employees of professional development events; scientific and technical events; and morale, welfare, and recreation events sponsored by POs.

4. Logistic Support to PO Events. On a limited basis, DOD facilities and equipment (and the personnel necessary for proper use of the equipment) may be provided when the head of the DOD command or organization determines:

a. The support does not interfere with the performance of official duties and does not detract from readiness;

b. The support promotes legitimate DOD community relations, public relations or recruiting interests, or military training objectives can be met by providing the support;

c. The event is appropriate for DOD support;

d. The command is able and willing to provide the same support to comparable events sponsored by similar organizations;

e. No admission fee beyond the reasonable cost of the event itself will be charged, or no fee will be charged for that portion of the event supported by DOD; and

f. The support is not restricted by other statutes.

5. Co-Sponsorship. A DOD component command is a co-sponsor of an event when that DOD component command or organization is one of the organizations that develops the substantive aspects of the event or provides substantial logistical support for the event. Co-sponsorship of events with a PO is prohibited except as follows:

a. DOD may co-sponsor a civic or community activity, except for fundraising or membership drives, where the head of the DOD component command or organization determines that the activity is unrelated to the purpose or business of the co-sponsoring PO or the purpose or business of any of its members.

b. A DOD component command may co-sponsor a conference, seminar or similar event with a PO when all of the following requirements are met:

(1) The head of the DOD component command or organization finds that the subject matter of the event (or co-sponsored discrete portion) is scientific, technical, or professional issues that are relevant to the mission of the DOD component command or organization.

(2) The head of the DOD component command or organization finds that the purpose of co-sponsorship is to transfer Federally developed technology or to stimulate wider interest and inquiry into the scientific, technical, or professional issues identified above, and that the event is open to interested parties;

(3) The PO is a recognized scientific, technical, educational, or professional organization approved for this purpose by the Army DAEO (i.e., a PO which qualifies as a tax-exempt, nonprofit organization under 26 U.S.C. §501(c)3), giving due consideration to the prohibition against giving preferential treatment to POs in 5 C.F.R. §2635.101(b)(8).

(4) The co-sponsorship is accomplished through a written agreement that includes the nature and purpose of the event; the undertakings and liabilities of the parties; funding responsibilities and costs (including admission fees); a disclaimer or Government liability if DOD reduces the level of its participation or completely withdraws; and a statement that the PO will not use the fact of co-sponsorship of the event to imply DOD endorsement of the PO or its other events.

(5) No admission fee (beyond what will cover the reasonable costs of sponsoring the event) may be charged for a co-sponsored event, or no admission fee (beyond what will cover the reasonable costs of sponsoring the event) may be charged for the discrete portions of the event cosponsored by the DOD component.

6. Support to Fundraising. DOD may provide limited logistical support to a charitable fundraising event, if the PO is not affiliated with the Combined Federal Campaign (CFC), and the six factors in C.4, above, are met. If the PO is affiliated with the CFC, see Chapter Three, Section II, *infra*.

D. Official Relationships - Prohibited Activities

1. Management. Unless approved by the Secretary of the Army and the DOD General Counsel, Army employees acting in their official capacity may not participate in the management of POs. See para. IV below for more detailed information.

2. Fundraising/Membership Drives. Except for certain authorized organizations, including organizations composed primarily of DOD employees or their dependents when fund-raising within the DOD community, a DOD employee may not officially endorse a PO's fundraising or membership drive.

3. Logistical Support. DOD will not provide support to PO activities unless there is a valid agency interest. There must be some benefit to the agency before extending even minimal support, such as providing a liaison. Then the commander must follow the six step analysis contained in para. C.4 above.

III. FAMILY SUPPORT GROUPS (FSGs)

A. Family Support Groups are primarily volunteer organizations. They should be supported primarily by volunteer effort. At the same time, family support groups can be affiliated with military units. Family Support Groups normally function at the company and battalion level as authorized by DA Pam 608-47, *A Guide to Establishing Family Support Groups*. This pamphlet was published prior to the JER and is subject to that regulation. Army Community Service assists with unit and FSG outreach efforts as requested (AR 608-1, para. 11-3). To the extent FSGs further the unit's mission, they may receive official support and funding. Thus, they are treated differently from POs in most cases. Commanders, acting in their official capacity, may use official communication channels and briefings to encourage soldiers and their families to volunteer for FSG activities.

B. Family Support Group volunteers may generally use government facilities, mail, copying equipment, telephones, computers, and administrative supplies and equipment when performing official functions. Official functions would not include mailing recipes and other nonofficial stuff. Government vehicles can be used in support of the FSG mission, including transportation of volunteers performing official FSG business. Vehicle support must be provided by existing unit resources, cannot degrade the organization's mission, and cannot generate requirements for additional Army owned, leased, or rented vehicles. Statutory limitations on home-to-work (domicile-to-duty) transportation apply to transportation support of FSGs. For example, official vehicles may not pick up FSG volunteers at their homes to transport them to the FSG office or meeting location.

C. Invitational travel orders may be authorized for volunteers in their capacities as FSG members. Pursuant to AR 215-1, para. 4-6j, nonappropriated funds (NAFs) and available appropriated funds (APFs) may be used to pay enrollment expenses, travel, and per diem costs for volunteers who are traveling to receive training or who are participating in workshops, as authorized by installation commanders. Title 5 U.S.C. § 5703, as implemented by the Joint Travel Regulations, authorizes ITOs for persons performing a direct service for the government,

such as experts, consultants, and other advisors. Such persons can include volunteers in the FSG program.

D. Under AR 215-1, para 4-6j, commanders may authorize use of NAFs and available APFs to reimburse incidental expenses of FSG volunteers. This includes a portion of telephone bills attributable to official volunteer duties and POV mileage, if government transportation is not available.

E. In applying the above guidance, commanders must examine every proposed expenditure to determine if there is an adequate relationship between the proposed expenditure and the mission of the unit. The appropriateness of the expenditure will depend on factors such as the location of the unit, the needs and problems facing the unit, and the upcoming unit calendar. Inappropriate expenditures are: those of a social nature without a direct relationship to the unit's mission; those that benefit individuals rather than families; those that are based on rank or status; and, those that duplicate existing morale, welfare, and recreation programs.

F. When FSGs engage in fundraising on-post, such as bake sales that are designed to raise funds among members of the Army community, the Installation Commander may authorize official support and encourage soldiers and their families to support the event. If authorized by the Installation Commander, soldiers may be released to support the event and Army equipment may be used so long as it does not interfere with mission requirements. Commanders may only authorize fundraising activities on-post that occur outside the federal workplace, such as public entrances, in community support facilities, and in personal quarters.

G. When FSGs engage in fundraising outside of the Army community, they are treated the same as other private organizations. The Army cannot officially support or endorse FSG fundraising outside of the Army community. Soldiers and their families must be careful to avoid implying that the Army officially supports or endorses external fundraising.

IV. PARTICIPATION IN THE MANAGEMENT OF PRIVATE ORGANIZATIONS

A. The Deputy Secretary of Defense has directed that officers in the grades O-7 through O-10 may not receive compensation for serving as an officer or member of the board of any non-federal entity other than professional associations and closely-held family entities. General officers wishing to serve on a compensated basis in the management of family entities or professional associations must first seek approval from the Secretary of the Army, who may approve such compensated service only where it is consistent with the principles stated here, as well as applicable standards of conduct.

B. In addition to the above, Change 4 to the JER, para. 3-202, now provides for official participation in the management of certain designated entities, such as the Army Emergency Relief (AER).

1. Before an Army employee can participate in his or her official capacity in the management of a non-federal entity, he or she must submit a written request and receive authorization from the Secretary of the Army, with the concurrence of the DOD General

Counsel. Secretarial authorization must be in writing, identify the individual employee, the entity in which the employee will participate, and specify the capacity in which the employee will participate. Such requests for official participation in the management of non-Federal entities are rarely approved.

2. The authorization may be made only for the purpose of providing oversight and advice to, and coordination with, the designated entity. Such authorization may not extend to participation in the day-to-day operations of the entity.

3. Participation and management of the non-federal entity may not constitute the employee's primary duty and the employee may not receive compensation from the PO.

4. Appropriated funds may not be used to pay for the employee's participation in the PO to include travel expenses.

C. "Designated" Organizations. Under 10 U.S.C. §1033, the DOD General Counsel designates eligible organizations. Change 4 designates the Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, and Coast Guard Mutual Assistance as eligible organizations. The DOD General Counsel may also designate:

1. Entities that regulate and support the athletic programs of the service academies (including athletic conferences);

2. Entities that regulate international athletic competitions (such as the U.S. Olympic Committee);

3. Entities that accredit service academies and other DOD schools; and,

4. Entities that regulate the performance, standards, and policies of military health care (including health care associations and professional societies).

V. RULES ON INFORMAL FUNDS AND THEIR RESALE ACTIVITIES

A. Installation commanders may authorize informal funds to operate on DA installations without first being organized as POs under the JER. These funds are limited in scope, activities, membership, and net worth (\$1,500 average). Authorized examples of such funds include unit social funds, office coffee or popcorn funds, cup and flower funds, and family support groups. MEDCOM Regulation 600-5, *Informal Funds*.

B. Informal funds must comply with the following requirements:

1. There must be a fund custodian, who will administer fund business during off-duty time. Custodians will report annually to their military rater or civilian supervisor concerning the fund's existence, purpose, and financial status. They will also promptly report any actual or suspected irregularities associated with the fund. Informal funds are not entitled to military banking privileges; and,

2. Informal funds may be used only for expenses consistent with the purpose and function of the fund. They may not be expended in any way that is, or appears to be, improper or contrary to Army interests. Individuals must comply with applicable ethical rules in expending the funds and in participating in the activities of the fund.

3. An informal fund must have the continuing approval of the supervisor of the organizational level at which it operates. If a fund's assets total \$300.00 or less, approval may be oral or in writing. If a fund's assets are greater than \$300.00, approval will be in writing.

4. The monetary assets of an informal fund in excess of \$300.00 must be placed in an account with a financial institution.

5. The assets of an informal fund must not exceed a total value of \$1,500.00 with the exception of a fund for one or more events such as dinners, luncheons, seasonal parties, or similar events, which may contain funds sufficient to pay for the cost of the planned event(s).

6. Only one individual, the permanent custodian, may be responsible for an informal fund's assets, accounting, and documentation, but a temporary custodian may be responsible if the permanent custodian is absent on leave or temporary duty.

7. The informal fund must obtain the prior permission of AAFES and the Commissary before engaging in resale activities. Because the money involved is neither appropriated nor nonappropriated funds, but instead is private, there are no requirements that the money be spent at any particular place, such as the commissary or AAFES.

CHAPTER THREE

FUNDRAISING

I. REFERENCES

A. JER, Chapter 3.

B. 5 C.F.R. § 2635.

II. OFFICIAL SUPPORT FOR PRIVATE ORGANIZATION FUNDRAISING ACTIVITIES

A. Department of the Army officials may officially endorse only the Combined Federal Campaign (CFC), emergency or disaster relief fundraising specifically approved by the Director of the Office of Personnel Management (OPM), the Army Emergency Relief (AER) campaign, and organizations composed of soldiers, Army civilian employees, and family members fundraising on-post for the benefit of welfare funds for their own members or morale, welfare, and recreation (MWR) programs. Endorsements may include support for the fundraising effort by public appearances at campaign kickoffs, or by the use of name, title and position to promote the fundraising in memoranda, employee newsletters, or other routine communications. Department of the Army employees may not, in their official capacities, support, endorse, or participate in other local fundraising on behalf of private organizations (POs). But see Chapter Two, Section II, para. C.6., for instances of permissible logistical support.

B. Within DA, only the CFC and AER campaign may solicit in the federal workplace for a monetary contribution or a pledge of a monetary contribution. Provided no on-the-job fundraising is involved, and if there is no conflict with the annual CFC and AER campaigns, the following fundraising activities may be locally authorized:

1. Fundraising in support of installation MWR activities. For example, bake sales and car washes may be authorized in public areas to raise funds for MWR activities.

2. Occasional fundraising in support of on-post POs pursuant to para 3-210a(6) of the JER. This is fundraising by organizations composed of members from the DOD community that can include dependents and retirees. The chain of command determines whether a group qualifies as an organization pursuant to this rule. Official support for such fundraising may only be given when the effort is limited to the DOD community. For example, an on-post Rod & Gun Club may be given use of a washing point to conduct a car wash.

3. Other limited activities to assist the unfortunate, authorized by local commanders and heads of activities, including the placing of collection boxes in public use areas of DOD buildings or installations for the voluntary donation of foods or goods (but not cash) for charitable causes.

C. Any fundraising campaign must observe the principle of true, voluntary giving. Each DA employee has the right to give or not give as the individual so chooses. Employees must have the option of disclosing their contributions or keeping them confidential. Any campaign practice involving compulsion or coercion is prohibited. The following practices are specifically prohibited:

1. Solicitation of employees by their commander, supervisor, or any individual in their supervisory chain;
2. Inquiries by a supervisor about an employee's contribution;
3. Noting an individual's participation or nonparticipation in that individual's performance appraisal or evaluation report;
4. Developing and using lists of non-contributors;
5. Providing and using contributor lists for purposes other than the routine collection and administration of contributions; and,
6. Granting of special favors, privileges, or entitlements, such as special passes or leave privileges, as an inducement to contribute.

D. Purely personal, unofficial, volunteer efforts by DA employees to support fundraising for POs are allowed where the efforts do not imply DOD endorsement. The JER permits employees to engage in such fundraising subject to the following restrictions:

1. No fundraising activities are allowed on duty time.
2. No fundraising activities are allowed in the Federal workplace.
3. No government resources are used.
4. Employees may not personally solicit or allow someone to use their name or position to solicit funds or support from a subordinate;
5. Employees may not personally solicit, or allow someone to use their name or position to solicit funds or support from a prohibited source. A prohibited source includes any person who: is seeking official action by the Army; does or seeks to do business with the Army; conducts activities regulated by the Army; has interests that may be substantially affected by performance or nonperformance of the employee's duties; or is an organization, the majority of whose members are prohibited sources.

III. EXAMPLES OF SUPPORT TO PRIVATE ORGANIZATION FUNDRAISING

A. If a PO is affiliated with the CFC, an Installation Commander may provide logistical support to that PO's fundraising activities on his installation only if he has obtained permission,

in advance, from the Office of Personnel Management (OPM). The reason for this rule is that most POs are affiliated with the Combined Federal Campaign (CFC), and as such, all fundraising by the organization should be within the context of the CFC. This rule also applies to local chapters that are affiliated with the CFC. [Note: OPM has indicated that, generally, it will not approve exceptions for fundraising outside of the CFC.]

Example: *The local Amvets chapter, a CFC affiliate, wants to host a fundraising 10K race on-post and asks for logistical support. Without OPM approval, the Installation Commander cannot approve either the race or the support.*

B. The exception to this general rule is when the PO fundraising event is in direct response to an OPM-approved emergency or disaster relief appeal.

Example: *A branch of the local river has flooded in a nearby community. The President has designated the area eligible for federal disaster relief, and OPM has announced that federal agencies may allow employees to collect food, blankets and funds to assist victims of the flood. The Post Commander may authorize soldiers and employees to use official time and resources to collect donations to be given to the Red Cross for relief in this disaster.*

C. OPM permission is not required if the event raises gifts-in-kind such as food, clothing or toys, rather than funds.

Example: *The United Way sponsors a Food Bank for needy families. They have asked for access to the post housing area to conduct the collection. The Post Commander can approve the request.*

D. OPM approval is not required if the fundraising does not occur in the federal workplace. The federal workplace includes, by definition, the entire DOD installation. The installation commander may, however, designate limited areas as public places on the installation where similarly situated groups may solicit funds.

Example: *The Red Cross has asked whether it can set up a card table and a “Cross Your Heart” display soliciting donations outside of the PX on Valentine’s Day weekend. In the past the Post Commander designated this area as a public area. He has authorized both the Girl Scouts to sell cookies and the Disabled American Veterans to sell poppies in this area. The Commander has the authority to authorize the Red Cross appeal in the same place because it is a designated public area, and similar organizations have been granted access in the past.*

E. After obtaining OPM approval for an on-post NFE fundraising event, a commander may provide logistical support. On a limited basis, DOD facilities and equipment (and the personnel necessary for proper use of the equipment) may be provided when the post commander determines:

1. The support does not interfere with the performance of official duties and does not detract from readiness.

2. The support promotes legitimate DOD community relations, public relations or recruiting interests, or military training objectives can be met by providing the support.

3. The event is appropriate for DOD support.

4. The command is able and willing to provide the same support to comparable events sponsored by similar organizations.

5. No admission fee beyond the reasonable cost of the event itself will be charged, or no fee will be charged for **that portion** of the event supported by DOD. (That is, DOD support to an event must be incidental to the fundraising purpose, and cannot be the basis of the fundraising.)

6. The support is not restricted by other statutes.

***Example:** The USO has obtained OPM approval to conduct a fundraising concert in conjunction with the CFC. Local celebrities and entertainers have offered their services. The USO has asked if the post theater may be used for the concert. Use of the post theater can be authorized. (This scenario is a good example of how DOD may support a fundraising event without directly contributing assets to the fundraising itself.)*

F. While DOD may not officially endorse any other fundraising events, DOD may provide limited logistical support to a charitable fundraising event, if the PO is not affiliated with the CFC and the six factors in para. E, above, are met.

CHAPTER FOUR

RECEPTIONS AND CONTINGENCY FUNDS

I. REFERENCES

- A. AR 37-47, *Representation Funds of the Secretary of the Army* (31 May 96).
- B. AR 215-1, *Nonappropriated Fund Instrumentalities and Morale, Welfare, and Recreation Activities* (25 Oct 98).
- C. AR 1-101, *Gifts for Distribution to Individuals* (1 May 81).

II. COMMANDER RECEPTIONS AND USE OF CONTINGENCY FUNDS

A. Expenditures of appropriated or unit funds for food and beverages for change of command receptions are prohibited unless approved by the Administrative Assistant to the Army. Commanders desiring to have a change of command reception with food and beverages will do so at their personal expense.

B. A reception for a newly assigned commander may be held to meet with dignitaries, local government officials, and distinguished local citizens, within the following constraints.

1. New commander receptions are not change of command receptions. They are intended to be official functions, not personal or social. They should be conducted as separate events from changes of command, but may be conducted immediately following the change of command. They may not, however, be held simultaneously with a change of command reception.

2. DA 43.0012 representational funds may be used to extend official courtesies to authorized guests, for entertainment required to maintain community relations, and for receptions for new commanders or senior officials for the purpose of meeting with authorized guests.

3. Additional criteria for the use of .0012 funds is contained in AR 37-47 (*e.g.*, specific guest-to-employee ratio requirements and funding request requirements).

C. Mementos and gifts purchased with .0012 funds and maintained by protocol are for specific uses and persons, and generally cannot be given to DOD or DA personnel.

D. Contact your resource management office or legal office for additional guidance on the use of contingency funds.

CHAPTER FIVE

FINANCIAL DISCLOSURE REPORTS

I. REFERENCES

A. *Public Financial Disclosure: Reviewer's Reference*, Office of Government Ethics, (1994), a copy of which may be obtained at <http://www.usoge.gov>. Keep clicking on "Publications" until the webpage listing this resource opens.

B. 5 C.F.R. § 2634.

C. JER, Chapter 7.

II. FILING REQUIREMENTS

A. Annual Public Financial Disclosure Reports (SF 278) are due no later than May 15 of each calendar year. This statutory filing requirement applies to all general officers and SES employees. There is a \$200 fee for reports filed more than 30 days late.

B. A new entrant report must be filed within 30 days of promotion to General Officer. Upon retirement, a termination report must be filed within 30 days of retirement.

C. The purpose of the SF 278 is to assist the Army in identifying potential conflicts of interest between official duties and outside financial interests.

III. FILING TIPS

A. Each section of the report should have an entry or a "None" block checked.

B. All required schedules (A, B, C, and D) must be completed and attached.

C. The value of each asset on Schedule A must be reported, as well as the type and amount of income it generates.

D. Mutual funds must be identified by specific fund name, not just fund family (*i.e.*, "Fidelity Magellan" rather than "Fidelity").

E. Underlying assets of trusts and investment and brokers' funds must be identified.

F. Accrued income from IRA accounts should be reported in the income block (even if the income is not withdrawn).

G. A position description, or OER support form, must be attached to the report.

H. Account numbers, social security numbers, and home addresses should be redacted from

broker statements (a copy of broker account statements may be attached instead of listing those assets on Schedule A and the purchases and sales on Schedule B).

IV. CONFLICTS OF INTEREST The purpose of financial disclosure reports is to identify and avoid potential conflicts of interest. When potential conflicts are identified, action must be taken to avoid a conflict from arising. Typically, the filer's duties will be adjusted so that official actions that may trigger a conflict will be avoided. This adjustment is recorded in a disqualification statement.

V. PRACTICE TIP FOR AIDES: Retain a copy of the report. When the filer has a significant change of duties or change of position, the SJA at the gaining command should review the report for potential conflicts in the new position. The old report may be also used for next year's annual filing. If nothing has changed, a photocopy of the old report may be submitted with a new first page and current signature. A photocopy of the old report may also be used when minor changes are made. Pen and ink changes are acceptable.

Information on the filing of OGE Form 450, Confidential Financial Disclosure Report, is found in Appendix A-8. Only DOD employees classified at GS/GM-15 or below and soldiers below the pay grade of O-7, who occupy "covered positions," are required to file an OGE Form 450.

CHAPTER SIX

POST-GOVERNMENT EMPLOYMENT RESTRICTIONS

I. REFERENCES

A. U.S. Const. Art. I, § 9, cl. 8.

B. 10 U.S.C. § 973.

C. 18 U.S.C. §§ 205; 207; 208.

D. 41 U.S.C. § 423.

II. PRE-SEPARATION MATTERS (18 USC § 208)

A. Negotiating for employment is the same as buying stock in a company. Any discussion, even if tentative, is negotiating for employment. Something as simple as going to lunch to discuss future prospects could be the basis for a conflict of interest.

B. If a federal employee could own stock in a company without creating a conflict with his official duties, then he can negotiate for employment with that company. No special action is required.

C. A conflict of interest arises when a government employee has the opportunity to influence his personal, financial interests through the execution of his official duties. Since the conflict of interest statute identifies negotiation for employment as an accountable personal financial interest, action must be taken to resolve potential conflicts.

D. If negotiating for employment creates a conflict, there are two ways to resolve it:

1. Disqualification. With the approval of his supervisor, the employee may change duties so that he has no contact with official actions affecting that company. This means the employee is completely divorced from any action affecting the company. He cannot have knowledge or input to those matters. The employee must submit a Letter of Disqualification to his supervisor.

2. Termination of Discussion. If disqualification is not an option, then the employee must immediately terminate all employment discussions. "Leaving the door open" for the possibility of employment at a later time does not resolve the conflict.

E. Travel, Meals & Reimbursements. Government employees may accept travel expenses to attend job interviews, if such expenses are customarily paid to all similarly situated job applicants. These payments must be reported on Schedule B of the SF 278.

F. Terminal Leave. Military officers on terminal leave are still on active duty. While they may begin a job with another employer during this time, their exclusive loyalty must remain with the

government until their retirement pay date. Two restrictions apply to non-government employment during terminal leave:

1. All officers and employees are prohibited from representing anyone in any matter before a U.S. employee, in a U.S. forum, or in any claim against the U.S. (18 USC § 205).

2. Commissioned officers are prohibited from holding a federal, state or local government office, or otherwise exercising sovereign authority. This does not prohibit all employment by a state or local government, just the exercise of governmental authority. For example, a police officer or judge exercises governmental authority, but a motor pool chief does not.

III. "SWITCHING SIDES" (18 USC § 207)

A. This statute applies to all former federal employees, whether or not retired, but does not apply to enlisted personnel. In very simple terms, this rule prohibits former federal employees from representing someone on the same matter on which they worked for the government. This restriction does not apply to "behind the scenes" assistance. Thus, a former employee may prepare an internal negotiation or capture strategy on a covered matter, but may not present that material in discussions with federal employees.

B. Former officers and employees are *forever* prohibited from trying to influence a federal employee on any particular matter involving non-federal parties in which they participated personally and substantially while working for the government.

C. Former federal employees are prohibited for a period of two years from trying to influence a federal employee on a matter involving non-federal parties that was under the former employee's official supervision during his last year of active duty.

IV. ONE YEAR "COOLING OFF" PERIOD (18 U.S.C. §207)

A. This prohibition applies to all retired general officers, and former senior civilian employees (SES level V and above).

B. These former employees are prohibited from attempting to influence official actions in their former department (Army) for one year after their departure. If the last assignment was a joint or OSD entity, the restriction applies to the joint entity and the service from which retired.

C. Also, for a period of one year, retired general officers and SES employees may not aid, advise, or represent any foreign entity to help influence any U.S. government entity or employee.

V. PROCUREMENT INTEGRITY (41 USC § 423)

A. The concept of "procurement official" by implication no longer exists. Involvement in, or support to, acquisition activities does not trigger this statute. The former federal employee must be in one of the following explicit categories, performing the identified function:

1. Procuring contracting officer, source selection authority, member of source selection evaluation board, or chief of financial or technical evaluation team on a contract award of \$10,000,000 or more;
 2. Program manager, deputy program manager, or administrative contracting officer on a contract of \$10,000,000 or more;
 3. Personally made a decision to award a contract, subcontract, modification, task order or delivery order of \$10,000,000 or more; or
 4. Approved a claim or made another personal decision to make a payment of \$10,000,000 or more.
- B.** Former officials who fall into any of the above-listed categories may not accept compensation from the contractor or party who received the payment, for a period of one year from the date when the action occurred, or the date when they last served as an approval authority. This restriction does not apply to another division or affiliate of a contractor that does not produce the same product or services.

VI. FOREIGN GOVERNMENT EMPLOYMENT

A. Retired military members must obtain a waiver to work for a foreign government.

1. Title 37 USC § 908 allows foreign government employment with approval of the Secretary of the Army. (AR 600-291). Retired officers should send their requests for approval thru CDR, USAR PERSCOM, ATTN: ARPC-SFS-I, 9700 Page Blvd., St. Louis, MO 63132-5200. Note that these waivers often take 3 or 4 months to be approved, so plan accordingly.
2. This Constitutional requirement applies to employment by corporations owned or controlled by foreign governments, but does not apply to independent foreign companies. It does not preclude retired officers from working as an independent consultant to a foreign government, as long as they are careful to maintain their independence.
3. When seeking employment outside of the DOD contractor community, a military retiree should always ask, "Is this company owned or controlled by a foreign government?"

B. Retired officers who represent a foreign government or foreign entity may be required to register as a foreign agent. (22 USC § 611 and 28 CFR 5.2). The Registration Unit, Criminal Division, Department of Justice, Washington, DC 20530, 202-514-1219, can provide further information.

VII. MISCELLANEOUS PROVISIONS

A. Use of Title. Retirees may use military rank in private commercial or political activities as long as their retired status is clearly indicated, no appearance of DOD endorsement is created, and DOD is not otherwise discredited by the use. (JER, para. 2-304)

B. Wearing the uniform. Retirees may only wear their uniform for funerals, weddings, military events (such as parades or balls), and national or state holidays. They may wear medals on civilian clothing on patriotic, social, or ceremonial occasions. (AR 670-1, para. 29-4)

C. SF 278s. Termination Public Financial Disclosure Reports must be filed within 30 days of retirement.

D. Inside Information. All former officers and employees must protect "inside information" (trade secrets, classified information, and procurement sensitive information) after leaving federal service. (18 USC §§ 794 and 1905)

CHAPTER SEVEN

CONTACT WITH DOD CONTRACTORS

I. REFERENCES

A. DOD 5500.7-R, *Joint Ethics Regulation (JER)* (August 1993).

B. MEDCOM Regulation No. 715-3, Contractor/Contractor's Employees And MEDCOM Personnel Relationships (14 Jun 99).

II. GENERAL GUIDANCE. Preserve competitiveness; maintain a level playing field. Be sensitive to whether a specific meeting, an action, or release of information would give a competitive advantage to a contractor. All similarly situated contractors should receive equal treatment. When you meet with a contractor, assume that you are speaking to the entire DOD contractor community.

***PRACTICE TIP:** If there has been a significant exchange of information in a meeting with a contractor, you may wish to distribute publicly available information to the community of interested DOD contractors.*

III. SPECIFIC GUIDANCE.

A. **Setting an Agenda.** After agreeing to meet with a contractor, the contractor should submit a letter stating the name of the firm, the topic for discussion, and identifying any current contracts, competitions, or active proposals that the company has pending with the Army.

B. **Primary Purpose of Meetings is to Receive Information.** While it is all right to ask informational and clarifying questions during a briefing, you should avoid asking contractors to send follow-up information. The meeting should not be the basis for further action, and should not unintentionally solicit formal proposals.

C. **Unauthorized commitments.** Do not make unauthorized commitments, promises purporting to bind the government, or representations that would compromise the government's position. For the same reason, do not offer assistance or advice. Contractors may interpret suggestions as requests to take action, resulting in a claim against the Army.

D. **Impartiality.** Do not give preferential treatment to any private party. Accordingly, do not give VIP visitor treatment to contractor representatives who visit in that capacity or who intend to discuss contractor business; *i.e.*, no government vehicle rides from the airport, no all-day escort, no officially-hosted free dining.

E. **"Inside" Information.** Do not release "inside" information that is not otherwise available to the public (or to a relevant community of DOD contractors). This includes:

1. Information not available to the public under the Freedom of Information Act;

2. Information protected under the Privacy Act, Trade Secrets, and classified material;
3. Selective release of advance procurement information, Army requirements, or premature release of contract award decisions; and,
4. Acquisition information, such as, unopened bids, proposed costs, the Army's estimate of costs, source selection plans, price evaluations, competitive range determinations, ranking of bids, proprietary information (such as labor rates), reports of Source Selection Evaluation Boards, and other information marked: "SOURCE SELECTION INFORMATION."

PRACTICE TIP: Avoid private discussions about the contractor's business and its relationship with the Army. Conduct meetings in your office--not at the contractor's office. Your staff members should sit in on discussions.

F. Gifts. Small gifts are occasionally offered in meetings with contractors. Food and refreshments that are not a meal (e.g., coffee and donuts) may be accepted. You may also accept presentation items, such as commemorative coins, or items worth less than \$20. Consult your legal advisor when something other than a nominal gift is offered. Gifts that may not be retained personally will usually become Army property.

G. Restricted Contacts with Former DOD Officials and Retired Military Officers.

1. Former senior DOD civilian employees (SES level V and above) and retired general officers are prohibited from attempting to influence official actions in their former department or agency for one year after their departure. (This is the one-year "cooling off" restriction.) *18 USC 207(c)*

2. Former officers and employees are forever prohibited from representing someone in a particular matter that involved non-federal parties, and in which they were personally and substantially involved while working for the government. *18 USC 207(a)(1)*

3. Federal officials who had authority to award contracts, make payments, set overhead rates, and settle claims of more than \$10 million are prohibited for a period of one year after the official action, from working for the contractor who received the payment. *41 USC 423*

PRACTICE TIP: Decline meetings with competing contractors once a solicitation has been released, and avoid discussing or responding to questions on matters that are being litigated. In these situations, there is a very real danger of inadvertently making improper disclosures.

IV. CONCLUSION. Within the limits of these restrictions, you may discuss matters of mutual interest with DOD contractors. They may present capability briefings and discuss technological developments. Do not hesitate to request the assistance of your local Ethics Counselor.

CHAPTER EIGHT

POLICY FOR TRAVEL FOR THE DEPARTMENT OF THE ARMY WITH SUPPLEMENTAL GUIDANCE FOR ARMY PERSONNEL LOCATED IN THE NATIONAL CAPITAL REGION

Department of Defense (DOD) and Department of the Army (DA) transportation resources are to be vigorously managed to prevent both the misuse and the perception of misuse. Travel must be directly and clearly related to mission achievement.

This document supersedes the Secretary of the Army memorandum subject: Policy for Travel by Department of the Army Officials, dated 8 January 2001. It implements specified policies and procedures provided by DOD Directive 4500.56, DOD Policy on the Use of Government Aircraft and Air Travel (1997). It also serves to reduce the cost of travel and prevent the inappropriate and perceived inappropriate use of DA travel resources by the implementation of these policies and procedures.

Those sections shown in bold text are intended for Army personnel located within the National Capital Region (NCR) and may not apply outside of that area.

I. GENERAL POLICY

A. In accordance with DOD 4500.56, within the Department of the Army, the Secretary of the Army (SA) and the Chief of Staff of the Army (CSA) are required to use military aircraft (MILAIR) for all air travel when in a duty status. In addition, the Secretary of the Army has exercised his authority to further designate all active four-star general officers as “required users.”

“Required Users”, as designated above, will use military aircraft while on official duty status. Required users will, in accordance with DOD 4500.56, request each mission by providing, at a minimum, the names and titles/grades/rank of all travelers; the purpose of travel; an itinerary including departure and arrival times; and, any other special travel requirements, such as secure communications, et cetera, to the DOD component that schedules and/or operates the aircraft.

All users of military aircraft, to include those officials designated as “required users”, are reminded that DOD 4500.56 requires that every effort will be made to minimize the cost and size of aircraft necessary to satisfy the mission requirement. Further, the Secretary of the Army retains the authority from DOD to make his policy on required use more stringent, if considered necessary, to ensure full compliance with DOD policies.

B. This policy memorandum primarily applies to the administrative use of fixed-wing and rotary-wing aircraft by Army officials not discussed in paragraph 1.A. above. Administrative travel, also called “other official travel,” generally includes travel to give speeches, attend conferences, meetings, or training courses, make routine site visits, and other similar uses. Justification for the use of fixed-wing MILAIR for administrative travel usually requires a showing that MILAIR is essential vis-à-vis commercial air. Justification for the use of rotary-

wing aircraft for administrative travel usually involves a showing that MILAIR is essential vis-à-vis ground transportation, unless commercial air transportation is also available between the general departure and destination locations.

C. All travel requiring HQDA coordination must arrive at HQDA for review NLT 10 working days prior to travel or the request may be returned without action. A letter of explanation will accompany any late submission. Requestors for military air support are encouraged to submit earlier than the 10 working day window to ensure aircraft availability and scheduling.

D. The SA is the approval authority for all official travel out of the National Capital Region by the following Secretariat officials: the Under Secretary; the Assistant Secretaries; the General Counsel; the Administrative Assistant; the Chief of Legislative Liaison; the Chief of Public Affairs; the Director of Information Systems for Command, Control, Communications and Computers; the Inspector General; the Auditor General; the Deputy Under Secretaries; the Director, Small and Disadvantaged Business Utilization; and the Chairman, Army Reserve Forces Policy Committee.

1. Requests for travel for the above officials will be submitted through the Administrative Assistant (AA) who will coordinate travel requests to assure that sufficient key personnel are in the NCR to conduct Departmental business. Dual absences of the above listed officials and their principal deputies, when authorized, must be approved by the SA.

2. The AA is responsible for developing, for approval by the Secretary, detailed policies and procedures relating to travel of members of the Secretariat and its field operating agencies.

E. The Chief of Staff of the Army has incorporated, in this document, implementing procedures to properly control official travel within the Army Staff (ARSTAF) and for Army commanders. Approval authority for the administrative use of MILAIR, fixed and rotary-wing, may not be delegated below the Major Command (MACOM) chief of staff, or equivalent level, for travel by senior officials, in accordance with DOD direction.

F. The Chief, National Guard Bureau (NGB) is responsible for establishing implementing procedures to properly control official travel within the NGB and for State and Territorial Adjutants General.

G. Special emphasis must be given to controlling and monitoring overseas travel (including overseas travel by students of service schools), reducing the number of personnel traveling to the same site, and reducing the number of days of travel per trip.

H. Control of travel will continue to be an item of special interest during all Inspector General and Army Audit Agency inspections, audits, and reviews.

I. U.S. Air Force Air Mobility Command (AMC) or AMC-contracted airlift will be used for overseas travel when it is available and meets the mission requirements for Permanent Change of Station or Temporary Duty travel.

J. Current "Required Use" joint or "dual hatted" Army commanders of Unified & Specified Commands being reassigned to positions within the Department of the Army must document a mission necessity to use MILAIR for permanent change of station travel and must obtain prior authorization from the SA.

K. All military and civilian members of any rank or grade of the Department of the Army are to be considered "officials" of the Department. For purposes of this policy, "Senior Official" is defined as General or Flag officers, and civilian employees of the Senior Executive Service, or equivalent, and higher level employees.

II. OCONUS TRAVEL

A. Travel from the continental United States (CONUS) to locations outside the continental United States (OCONUS), and from OCONUS to CONUS should be undertaken only when the need is absolutely clear, and then only by the smallest groups possible, consistent with mission requirements. Back-to-back trips by different officials to the same location(s) are strongly discouraged. Trips should be actively coordinated to prevent this situation.

B. All OCONUS travel by DA personnel where the traveler will meet with officials of foreign governments must be coordinated with the Office of the Deputy Secretary of Defense (DSD) through the Office of the Secretary of the Army. Travel requests for Secretariat officials will be submitted through the AA to the SA for review and initial approval prior to submission to the DSD. The CSA is delegated authority for initial review and approval of travel by ARSTAF and MACOM officials and may redelegate this authority. Travel requests reviewed and given initial approval by the CSA or his designee will then be forwarded to the SA through the AA prior to submission to the DSD. All requests for foreign travel should be submitted prior to discussing travel plans with the foreign government concerned.

C. In addition, DA personnel must follow the guidance provided in chapter eight and the country pages of the DOD Foreign Clearance Guide (DoD 4500.54G) to obtain country clearance for all foreign travel. The lead-time for requesting personnel clearances is approximately 35-45 days. Late submissions must include a justification for tardiness.

D. Any Army mission (to include troop visits) involving OCONUS travel, except to U.S. territories and possessions, by the SA, Under Secretary of the Army, Chief of Staff of the Army, or Vice Chief of Staff of the Army must be coordinated with the Under Secretary of Defense for Policy. Within five working days upon completion of such travel, a trip report must be submitted to the Assistant to the President for National Security Affairs through the Executive Secretary.

E. International Conferences. Any DA official traveling to an OCONUS international conference (defined for this purpose as any meeting held under the auspices of an international organization or foreign government, at which representatives of more than two foreign governments are expected to be in attendance, and to which U.S. Executive agencies will send a total of ten or more representatives) must submit a preliminary report of travel to the Department of State's Office of International Conferences in the Bureau of International Organization Affairs (IO/OIC) through the Office of the Secretary of the Army. A final report with respect to this

foreign travel must then be submitted to the IO/OIC through the Office of the Secretary of the Army within 30 days after conclusion of travel. (See samples at enclosure 1). DA personnel need not report travel undertaken to carry out an intelligence or intelligence-related activity, a protective function, or a sensitive diplomatic mission.

1. Preliminary and final reports for Secretariat officials will be submitted through the AA to the SA for review and initial approval prior to submission to the IO/OIC.

2. The CSA has delegated his authority to the Director of the Army Staff (DAS) for initial review and approval of OCONUS international conference travel by ARSTAF and MACOM officials. Preliminary and final reports reviewed and given initial approval by the DAS will then be forwarded to the SA through the AA prior to submission to the IO/OIC.

F. Force protection planning must be an integral part of travel planning, particularly for OCONUS travel. The following guidelines will be followed for all senior leader travel:

1. The senior U.S. Army general officer or civilian equivalent on-board an aircraft is responsible for the planning and approval of all itineraries when traveling **OCONUS**.

2. All itineraries, to include enroute refueling stops, will be reviewed personally by the senior individual.

3. Deliberate decisions will be taken by the senior individual to ensure adequate security arrangements are in place at refueling locations or layovers prior to arrival.

4. If refueling at a civilian/non-U.S. military facility is scheduled, it requires the approval of the senior U.S. Army GO/civilian aboard the transport. No stops at civilian activities where the Threat Condition (THREATCON) exceeds ALPHA will be permitted unless accepted by the senior U.S. Army GO/civilian on board the flight.

5. The U.S. Army Criminal Investigations Command (USACIDC) is available to assist in planning and coordinating travel security for all high risk personnel (HRP). Personal security vulnerability assessments (PSVA) conducted by CID can be a valuable tool in gauging the thoroughness of HRP travel security planning procedures. A limited scope PSVA focused on travel security planning can help identify weaknesses and those measures to correct noted weaknesses, assist in determining levels of protection appropriate to the threat, and facilitate coordination of security resources while in a travel status.

III. COMMERCIAL AIR TRAVEL

A. Coach class. The primary mode of transportation used for official air travel will be commercial coach class.

B. Premium-class (less than First-class). There is no longer any blanket authorization to use premium-class (less than first-class) air travel for overseas travel for any DOD officials, military or civilian. All official travelers, regardless of rank or grade, must provide a written justification for each request for the use of premium-class (less than first-class) travel. The normal travel

orders approving authority may authorize use of premium-class (less than first-class) commercial travel in accordance with the Joint Travel Regulations (JTR) or Joint Federal Travel Regulations (JFTR) when:

1. Regularly scheduled flights along the route provide only premium-class seats;
2. No space is available in coach, and travel is so urgent it cannot be postponed;
3. Necessary to accommodate a member's disability or other physical impairment substantiated in writing by a competent medical authority;
4. Travel on a foreign flag carrier has been approved by the normal orders approving official in accordance with the JTR/JFTR and the sanitation or health standards in coach are inadequate, as determined by Department of State or the Department of Defense;
5. Overall savings to the Government result by avoiding additional subsistence costs, overtime, or lost productive time that would be incurred while waiting for available coach seats;
6. Travel costs are paid by a non-federal source;
7. Obtained through the redemption of frequent traveler benefits (See section 4, Frequent Flyer Miles); or
8. Travel is direct between authorized origin and destination points (one of which is OCONUS), which are separated by several time zones, and the scheduled flight time is in excess of 14 hours (including stopovers between flights). When this authority is exercised, an employee is not authorized a rest period upon arrival at the duty station. The traveler is, however, permitted a short, reasonable time to check into a hotel and freshen up if necessary. This justification shall not be used in lieu of scheduling coach-class accommodations that allow for authorized rest stops en route or at the destination. When returning from TDY, premium-class (less than first-class) travel will not be authorized simply because the total flight time (including stopover) is in excess of 14 hours.
9. Security concerns or exceptional circumstances exist that make such travel essential to the successful performance of the mission (e.g., unavoidably severe scheduling demands)

Example: During the workweek, a senior official's schedule requires him to attend official meetings on consecutive days, the later at an OCONUS destination. Due to the inflexible nature of the official's schedule, the official is required to travel overnight and will not receive adequate rest prior to conducting business the following day. Absent adequate rest, the official will be unable to effectively represent the U.S. Army. Accordingly, premium-class (less than first-class) travel may be authorized to allow for the successful performance of the mission.

NOTE: When an airline flight only has two classes of accommodations, the higher class, regardless of the term used for that class, is considered to be first-class.

C. The SA and the CSA, or their designees, are the approving authorities for requests for premium-class (less than first-class) travel for those officials within the Secretariat and

ARSTAF, respectively. Requests by members of the Secretariat must be submitted through the AA to the SA for approval. All other requests to use premium-class (less than first-class) travel by senior Army officials will be processed through the individual's normal orders approving chain.

D. For the ARSTAF, the CSA has delegated the approval authority for business class, less than first class, to the Vice Chief of Staff, the Director of the Army Staff, and the Deputy Chiefs of Staff. Approval of business class travel must comply with the JTR/JFTR.

E. First-class. Within the DA, the SA is the sole approval authority for first-class travel paid by government funds or by a non-Federal source pursuant to 31 U.S.C. § 1353. All requests for the use of first-class travel in these instances must be fully justified under the appropriate provision of the JTR/J FTR and submitted through the AA to the SA.

F. The senior traveler must sign all requests for premium-class travel. Signature authority may not be delegated. Each request must reflect the difference in cost between coach class and premium-class and that alternative travel plans—to include an earlier departure to allow for a rest period—have been considered. Approved requests must be maintained for one year for audit purposes.

IV. FREQUENT FLYER MILES

[This section of the Secretary of Army travel policy has been superseded by the National Defense Authorization Act for Fiscal Year 2002. Until the policy is reissued, the following is substituted]

A. Frequent flyer miles received in the past as a result of official travel belonged to the Government. Recently, the National Defense Authorization Act for FY02 was enacted and it changes the old rule in some respects. Now under Section 1116, a traveler (defined as a civilian employee, soldier, and those traveling on invitational travel orders) on official business traveling on Army funds may keep most promotional benefits (including frequent traveler benefits such as points or miles, upgrades, or access to carrier clubs or facilities) subject to the following limitations. The promotional benefits must be obtained under the same terms as those offered to the general public and must be at no additional Government cost. Acceptance of the promotional benefits must also conform to Army policy and the Joint Ethics Regulation (DOD 5500.7-R). For example, you may not accept promotional benefits if they are offered because of your rank or official position. Even though you may use your personal frequent flyer miles to upgrade your seat to first class, you still may not fly in first class in uniform.

B. Promotional benefits received for relinquishing a seat (bumping) still follow the old rule which looks at whether the “bumping” was voluntary or involuntary. A traveler may keep payments from a carrier for voluntarily vacating a seat, as long as the Government pays no additional expenses (per diem or miscellaneous reimbursable) as a result of the traveler's delay and there is no detriment to the mission. Additional travel expenses incurred as a result of voluntarily giving up a seat are the traveler's financial responsibility. If a traveler is involuntarily denied a seat, the traveler enters “Awaiting Transportation” travel status for per

diem and miscellaneous expense reimbursement. Any monetary compensation (including travel coupons, meals and/or lodging vouchers) for the denied seat belongs to the Government.

C. A traveler may keep any promotional benefits that result from travel accepted pursuant to 31 U.S.C. §1353 (official travel paid by a non-Federal entity) as long as the donor does not object.

D. A traveler may keep any payments from a commercial carrier for accompanied baggage that is lost or delayed by the carrier. If the traveler intends to make a claim against the Government, the traveler should see the Claims Officer at the AMEDDC&S and Fort Sam Houston Staff Judge Advocate's Office (Bldg. 153, 221-2161/1973) prior to accepting a carrier's compensation. By accepting the carrier's compensation, the traveler may be accepting that amount as payment in full.

E. Pending an Internal Revenue Service determination, it is possible that any promotional benefits received may be considered to be additional compensation, and taxed accordingly.

V. GENERAL MILITARY AIRCRAFT TRAVEL

A. Official air travel is normally accomplished using commercial air transportation. Generally, when commercial air transportation is available to effectively fulfill the mission requirement and meet the traveler's departure and/or arrival requirements within a 24-hour period, military aircraft (MILAIR) shall not be used. Nonetheless, MILAIR may be authorized when:

1. The actual cost of using MILAIR is less than the cost of using commercial air service. Cost analysis for use of MILAIR will be based on the formula approved by the Army Audit Agency; or:

2. Commercial air service is unacceptable because

(a) highly unusual circumstances present a clear and present danger to the official traveler(s), or

(b) an emergency exists, or

(c) other compelling operational considerations make commercial transportation unacceptable; or

3. The aircraft was previously scheduled to perform a bona fide training mission, the minimum mission requirements are not exceeded, and there is no additional cost to the government. MILAIR will not be scheduled for training missions for the primary purpose of accommodating the travel of DA personnel, either military or civilian.

B. When scheduling MILAIR, every effort will be made to avoid:

1. Trips between major U.S. cities. It may be difficult to justify the use of MILAIR for travel along high-density travel routes (e.g., Washington, D.C. to New York City, Atlanta, Los

Angeles or Chicago):

- (a) commercial travel is generally less expensive to major hub cities
- (b) high density traffic may make it difficult to obtain desired arrival/departure times
- (c) travelers must be cognizant of the public's perception of the use of military air resources

2. Trips where the aircraft appears to be filled with personal staff members to make the trip cost effective.

3. Trips requested because of the need to accommodate competing requirements, especially when either of the requirements are events of a social nature. Maximum advance planning should be employed to avoid scheduling conflicts dictating the use of MILAIR.

C. The particular aircraft used must be the least costly one capable of satisfying the transportation requirements. Larger aircraft will be used only for reasons of safety, security, or economic feasibility. At no time will a larger aircraft be scheduled in order to accommodate individuals traveling in a "non-interference" or unofficial status.

D. The OCONUS use of CONUS based military aircraft must be approved by the SA for all Secretariat officials. The CSA has designated the DAS as the approval authority for all members of the ARSTAF and MACOM commanders.

E. MACOM commanders are delegated approval authority for the OCONUS use of CONUS based MILAIR for individuals under their supervision. CONUS based MILAIR may only be used for OCONUS travel if the one of the criteria in paragraph 5.A. is satisfied.

F. The use of commercial airlift to OCONUS destinations does not preclude the use of MILAIR in an OCONUS theater of operation when:

1. MILAIR is reasonably available and does not require long deadhead flights to begin or end the mission, or

2. U.S. commercial carriers are not available and significant security concerns preclude the use of foreign flag carriers.

G. All requests for the administrative use of fixed-wing and rotary-wing MILAIR must be in writing. Requests for travel by other than DOD senior officials are processed for approval through existing standard procedures. Travel approval authorities may establish the specific format for requests and documentation of MILAIR travel. At a minimum, however, this documentation must meet the requirements of DoDD 4500.56.

1. Requesters must determine and document that the requirements of this section and/or section 6 have been met for each individual use.

2. The senior traveler must sign all requests for MILAIR travel. Signature authority may not be delegated.

VI. ROTARY-WING MILITARY AIR TRAVEL

A. Rotary wing MILAIR may be used for official travel only when it is cost favorable as compared to ground transportation, or when the use of ground transportation would have a significant adverse impact on the ability of the senior official to effectively accomplish the purpose of the travel.

B. This policy does not apply to "operational mission" use of rotary wing aircraft as defined in AR 95-1, Flight Regulations, or to mission required use such as: transport of troops and/or equipment; training; evacuation (including medical evacuation); intelligence and counter-narcotics activities; search and rescue, transportation of prisoners; use of defense attaché-controlled aircraft; aeronautical research and space and science applications; exercising command/supervisory authority at adjacent/local installations; and other such activities.

C. If commercial aircraft service is available between the general departure and destination locations, the criteria of paragraph 5.A. must also be satisfied.

D. Helicopter travel to events that can be accomplished by video teleconference, or combined with other events/activities, should not be approved.

E. Helicopter assets shall not be used for transportation between installations within the NCR except in unusual circumstances. The existence of unusual circumstances shall be determined by the SA or his designee for members of the Secretariat, and by the CSA or his designee for Army officials not assigned to the Secretariat.

F. The following guidance applies to the use of the Pentagon Helipad:

1. Eligibility for use of the Pentagon Helipad is restricted to Code 6 civilians, Brigadier Generals, and above.

2. The Pentagon Helipad is normally available Monday through Friday from 0730 to 1730 hours. The CSA has designated the DAS as the approval authority to grant exceptions for weekend and/or alternate travel times for Code 2 and 3 civilians and General Officers (four-star). Exceptions may be granted only under the most extraordinary circumstances for travel originating within the NCR.

G. Within the NCR, all approved requests for helicopter support are forwarded from the respective organizational airlift validator to the Operational Support Airlift Command. Normally, the use of this mode of transportation will be limited to those NCR intra-city trips that are within a 125 Nautical Mile (NM) radius and/or more than a 90-minute motor vehicle trip from the Pentagon. A chart providing comparison mileage and time is included for reference at Enclosure 4.

1. Intra-city travel is travel that departs from and arrives at any location within the

Greater Washington-Baltimore Metropolitan area.

2. Intra-city travel is limited to Code 1, 2, and 3 civilians and Code 2 and 3 General Officers.

3. Requests for exceptions must be approved by the AA for Secretariat officials, and by the DAS as designated by the CSA for the ARSTAF. Requests for exceptions to use of U.S. Army assets by officials other than Army officials will be coordinated with the Executive Secretary of the Department of Defense.

VII. SPECIAL AIR MISSION (SAM) AIRCRAFT

A. Special Air Mission (SAM) aircraft are specially configured aircraft assigned to the United States Air Force 89th Airlift Wing used to support only the most important U.S. interest missions and DOD missions where other airlift do not provide the timeliness, security, or communications capability required. The costs associated with operating this limited inventory of aircraft range from approximately \$2,300/hour to nearly \$4,300/hour depending on the type of aircraft, thereby necessitating judicious use of this limited resource. All requests for SAM support require a cost analysis as a part of the justification.

B. Within the DA, only the following officials are eligible to use SAM aircraft. If one of these officials is not aboard, the SAM aircraft cannot be used for the mission:

Secretary of the Army
Chief of Staff
Under Secretary of the Army
Vice Chief of Staff
Assistant Secretaries of the Army
General Counsel
Four-star General Officers

C. SAM aircraft may be authorized in the following instances:

1. Travel is plainly in the national interest for official purposes;
 2. Commercial transportation is clearly incapable of meeting the requirement for security;
- or
3. Other significant reasons as approved by the appropriate travel orders approving authority.

D. Approval Process

1. Requirements for both domestic and foreign SAM flights for personnel in the Secretariat will be submitted through the AA to the SA.

2. Requirements for both domestic and foreign SAM flights for personnel in the

ARSTAF and MACOM Commanders including foreign counterpart visits will be submitted to the DAS.

E. All non-DOD requests for SAM aircraft, exclusive of Congressional travel, will be submitted through the AA for processing to OSD.

F. Congressional use will be coordinated by the Chief of Legislative Liaison in accordance with established procedures. The use of SAM aircraft is especially appropriate for Army sponsored trips by members of Congress or DOD officials when the trip has significant DOD interest.

G. The SAM Airlift validator in the Office of the Chief of Staff, Air Force, provides periodic reports on utilization of SAM aircraft through the AA for review by the SA and the CSA.

VIII. OPERATIONAL SUPPORT AIRLIFT (OSA)

A. The use of Operational Support Airlift (OSA), both fixed and rotary wing, assigned to DA should be restricted to flights where commercial transportation is inconsistent with security or other significant mission requirements. Requests for use of OSA will be processed in accordance with current directives and procedures.

1. Every effort will be made to pool requirements for maximum aircraft utilization. Minor differences of only a few hours in travel schedules seldom warrant the use of separate aircraft. (Flexibility in scheduling and passenger loads to accommodate the pooling of missions is encouraged.) All requests should include a comparison of the costs of travel by military air and commercial modes of transportation.

2. The United States Army Priority Air Transport Detachment can support longer missions, but its use must be fully justified through OSA policies and procedures and approved by AA for members of the Secretariat and by the DAS as designated by the CSA for members of the ARSTAF.

3. For Headquarters, Department of the Army (HQDA) and its Field Operating Agencies (FOAs) and Staff Support Agencies (SSAs), the officials listed below are designated as Authorizing Officials for operational support airlift (OSA) requests from senior officials within their commands or organizations.

- (1) Director of the Army Staff
- (2) Deputy Chiefs of Staff
- (3) Assistant Chief of Staff for Installation Management
- (4) Chief of Engineers
- (5) Surgeon General
- (6) Chief, National Guard Bureau
- (7) Chief, Army Reserve
- (8) The Judge Advocate General

- (9) Chief of Chaplains
- (10) Commanding General, U.S. Army Military District of Washington (MDW)
- (11) Heads of FOAs and SSAs (major general or equivalent and higher)

The Authorizing Official for those senior officials listed above is the Director of the Army Staff (DAS). The Vice Chief of Staff, Army is the authorizing official for the DAS. MilAir requests will be processed through the Aviation Staff Officer, Office of the Chief of Staff, Army (ATTN: DACS-DMC-A).

4. Major Army Command (MACOM) Commanders (major general or higher) and heads of FOAs and SSAs (major general or higher) are designated as Authorizing Officials for OSA requests from senior officials within their commands. MACOM Commanders may delegate this authority in writing, without further delegation to the Chief of Staff (no lower than Major General level). Except for four-star generals, and the three-star Commander of USARPAC, senior officials may not authorize their own MilAir travel.

5. The DAS is the Authorizing Official for MACOM commanders who are not 4-star general officers. Process MilAir requests for MACOM commanders, other than 4-star generals, through the Aviation Staff Officer, Office of the Chief of Staff, Army (ATTN: DACS-DMC-A).

6. MilAir requests for personnel (0-6 or equivalent and below) will be processed for approval as outlined in Chapter 3, AR 95-1, Flight Regulations, 1 September 1997 and the DoD Directive 4500.43, Operational Support Airlift, 28 October 1996.

B. The Commander, Operational Support Airlift Command, will provide a semi-annual report of the use of Operational Support Airlift by senior DA officials through the Director of the Army Staff and the AA for review prior to submission to the SA.

C. All MACOM commanders will ensure that they are kept informed of their command's OSA usage.

IX. ACCOMPANYING SPOUSE TRAVEL

A. As a general rule, spouses or other family members may not accompany DA personnel, either military or civilian, on official business at government expense. Accompanying spouse travel on either military or commercial aircraft is accomplished as an exception to policy, pursuant to Appendix E, part I, paragraph A13 of the JTR. Exceptions are normally limited to the spouses of senior officials. Other family members or dependents are not permitted to travel at government expense. (See Section 12, Non-interference (reimbursable) travel). (The Joint Travel Regulations can be accessed at <http://www.perdiem.osd.mil>)

1. Accompanying spouses traveling on commercial aircraft at government expense will fly coach-class, unless otherwise authorized in accordance with section 3, Commercial Air Travel.

2. Accompanying spouses traveling on MILAIR will travel in a noninterference (non-reimbursable) status. MILAIR must be independently authorized in accordance with section 5.

B. As an exception to policy, spouses may accompany their sponsors on military or commercial aircraft at government expense when at least one of the following conditions are met:

1. The spouse will actually **participate in an official capacity** at an unquestionably official function. A spouse's itinerary that details the specific official events of sufficient duration in which the spouse will participate (i.e. a conference or installation visit) may justify the spouse's travel on MilAir or ComAir at government expense. A spouse agenda/itinerary is required when using this provision as the basis for approval of the spouse's travel. A substantially complete draft itinerary is sufficient for long lead-time requests. An example of a substantive agenda is provided at enclosure 2. **Or**,

2. The spouse's presence at an official function is deemed to be in the national interest because of a **diplomatic benefit** to the United States. Simply stated, when the spouse and sponsor are meeting with high-level foreign dignitaries and their spouses, the spouse's travel may be justified on MilAir or ComAir at government expense. Documentation of foreign dignitary presence is required when using this provision as the basis for approval of the spouse's travel. **Or**,

3. The spouse's presence at an official function is deemed to be in the national interest because of a **public relations benefit** to the United States. Simply stated, when the spouse and sponsor are meeting with persons and their spouses from outside the Department of Defense, the spouse's travel may be justified on MilAir or ComAir at government expense. Under this provision, a statement from the requesting official, deeming the spouse's presence provides a public relations benefit to the United States, is sufficient when using this provision as the basis for approval of the spouse's travel.

C. Spouses may travel unaccompanied to an official function, provided **any or all of the above conditions** are met, **and** unusual circumstances exist on the part of the sponsor that may necessitate an exception to the general requirement that the spouse and sponsor travel together. Such unusual circumstances may include unplanned or unanticipated schedule changes or compelling mission requirements on the part of the sponsor. Under those unusual circumstances the spouse shall travel in the most cost-effective manner available, which may include an already scheduled MilAir flight.

D. Once all supporting documentation is attained, the requestor must obtain a policy/fiscal review from the resource manager prior to submission to the approval authority. Each occurrence will be approved individually and documented by an MFR signed by the approval official. Blanket travel orders for spouses are not permitted.

E. Spouses traveling in an accompanying spouse status are not permitted per diem.

F. Approval Authorities.

1. Each occurrence of spouse travel is to be approved on a case-by-case basis. Blanket travel orders for spouses are not permitted. When the requesting official is not assigned to HQDA, the request for approval for spouse travel will also be reviewed by the requesting

official's MACOM Chief of Staff, or equivalent, prior to submission. Each request will include the following supporting documentation and will be retained by the requesting organization for two years:

- a. Request signed by the sponsor;
- b. Name, grade, and position/title of sponsor;
- c. Purpose of spouse's travel;
- d. Travel date and destination;
- e. Type of conveyance, to include cost if commercial flight;
- f. Policy and/or fiscal determination by appropriate MACOM official;
- g. Agenda or itinerary for spouse that indicates either actual participation or a diplomatic or public relations benefit to the United States.

2. The SA is the approval authority for all accompanying spouse travel of Secretariat officials at government expense on commercial or MILAIR.

a. All requests for spouse travel that are to be approved by the SA will be forwarded to the AA for processing.

b. Requests should be submitted at least 15 working days prior to the travel.

3. The CSA is delegated the approval authority for all travel of spouses of DA officials not assigned to the Secretariat by military or commercial aircraft. For the ARSTAF, the CSA has delegated approval authority to the DAS for all spouse travel requests. Approval authority for accompanying spouse travel via commercial or military aircraft is delegated to four-star MACOM Commanders for their spouse and the spouses of individuals within their organizations. Further delegation is authorized in writing but may not be delegated below the two-star general officer Chief of Staff for a four-star commanded MACOM, or equivalent level.

4. All four-star general officers and the three-star commander of USARPAC are delegated the authority to approve accompanying travel of their own spouses, and spouses of those in their command on military and commercial air.

a. Each occurrence will be approved individually and documented by a Memorandum for Record that has been reviewed by policy and/or fiscal officials and signed by the principal. Blanket travel orders for the spouses are not permitted.

5. Joint or "dual hatted" DA commanders of Unified & Specified Commands follow their joint command approval process concerning accompanying spouse travel when traveling on behalf of their joint command. When traveling on DA business, the provisions of this policy memorandum will be followed (example: Army Four-Star Commanders Conference).

6. The Chief, National Guard Bureau is delegated, without further delegation, the authority to approve the travel of accompanying spouses of the 54 State and Territory Adjutants General by MILAIR when they are traveling for purposes of National Guard Bureau business. However, when the State and Territory Adjutants General are traveling on state or territory business, the state or territory guidance governing accompanying spouse travel will be used. In either case, the tests of unquestionable official function with actual participation, and/or significant diplomatic or public relations benefits must be met.

X. REQUIRED REPORTING FOR ACCOMPANYING SPOUSE TRAVEL

A. The CSA has designated the DAS to maintain a record of approved accompanying spouse travel (as authorized by section 9 above) on MILAIR and commercial aircraft. This documentation shall be subject to review by the Secretary of the Army, or the AA acting as his designee, when appropriate. The documentation will include spouse travel trips via MILAIR or commercial air for the spouses of all DA officials (not assigned to the Secretariat), including the following:

1. Commands delegated approval authority for spouse travel by the Chief of Staff of the Army;
2. Four-Star General Officers and the Three-Star Commander of USARPAC;
3. Joint or "Dual Hatted" commanders when travel was on behalf of the DA; and
4. State and Territory Adjutants General of the National Guard when travel was on National Guard Bureau business.

B. Documentation of individual spouse travel trips will include:

1. Name of sponsor and spouse,
2. Justification (i.e., participation in an official capacity at an unquestionably official function, or diplomatic or public relations benefit),
3. Destination,
4. Duration, and
5. Any per diem or incidental expenses allowed to the spouse.

C. Documentation of each trip approved by the CSA or his designee will be maintained for at least two years from the date of travel to comply with audit and/or inspection requirements.

XI. OTHER SPOUSE TRAVEL

A. Travel by spouses is usually accomplished in an accompanying status as provided in section 9 above. However, spouses may also travel independent of their sponsors when travel is

authorized in accordance with the JTR/JFTR (other than Appendix E, Part I, paragraph A13 of the JTR). When traveling pursuant to an independent basis, spouses are authorized per diem. For example, travel and per diem for spouses is authorized when:

1. the spouse will attend a service-endorsed training course or briefing and provide subsequent volunteer service incident to such training, (e.g., Pre-Command Course, Brigadier General Training Course, anti-terrorist training course) as specified by HQDA.

- (a) Course Approval Procedures. Certain courses, such as the Pre-Command Course, have already been considered and approved as service-endorsed. For other Courses, the JTR requires approval through "the Secretarial Process." Consequently, requests should process through command channels and the Deputy Chief of Staff for Operations (DCSOPS) Training Division to the Office of the Administrative Assistant to the Secretary of the Army for staffing within the Secretariat and approval. Requests should include, as a minimum, a detailed program of instruction and a memorandum explaining the primary and direct mission-related benefit that the Army will receive as a result of funding this training for family members.

- (b) Travel Approval. Once a course is approved, selected spouses may attend the training at government expense and receive the same travel allowances as a service member or employee who is on temporary duty (TDY). The normal order-issuing official for ITOs approves the travel on a case-by-case basis, ensuring that there is a primary and direct mission-related benefit to the Army by that particular family member attending the training.

2. the spouse will confer with DOD officials on DOD matters as a subject matter expert. In this instance, being a spouse is incidental to being a subject matter expert, and the circumstances of travel are not to be confused with accompanying spouse travel. Under this authority, the spouse may be issued invitational travel orders through normal procedures without obtaining special approval for spouse travel. It is generally DA policy that spouses traveling to participate in discussions on Army Family Programs and/or Quality of Life issues shall travel in an accompanying spouse status (per diem not authorized) in accordance with section 9, unless travel is for an excepted program in accordance with B. below.

B. Notwithstanding the restriction in paragraph 10.A.2 above, when the spouse or other qualified individual has been selected to serve as a member of the delegation to an official conference concerning Army Family Programs or Quality of Life issues, then the activity that is sponsoring the conference may authorize the sending command to issue an ITO (per diem authorized) for that spouse's travel if the following conditions apply:

1. The activity that is sponsoring the conference is commanded by an official in the rank of major general or above;

2. The conference has a substantive agenda aimed at affording the Army Secretariat or Army leaders guidance, advice, and testimony that is essential to the process of developing effective policies pertaining to family, education, health care, retention, and other issues related to the well-being of our soldiers and their families;

3. The conference's established objective is to render a discernable substantive product, such as a set of policies, a strategic plan, or an action plan;

4. The agenda requires full-time participation by each delegate to ensure that it completes its agenda and accomplishes its established objective;

5. The process for selecting delegates conforms to Army regulatory guidance and the slate of delegates has been approved, in writing, by the sponsoring commander.

In no case, however, will the spouse of a soldier or DA employee be entitled to separate reimbursement for the lodging portion of per diem if the soldier or employee is on TDY to the same conference, is concurrently on TDY in the same commuting area of the conference, or resides within commuting distance to the conference site.

C. Commanders of Major Commands will submit an annual report through the Director of the Army Staff to the Administrative Assistant to the Secretary of the Army no later than 15 October summarizing Army Family Program conference participation and delegate travel, along with a summary of cost to the Army for that travel.

XII. UNOFFICIAL TRAVEL — NON-INTERFERENCE (REIMBURSABLE) TRAVEL

A. Non-interference (reimbursable) travel is travel by a spouse, dependent, or other non-Federal traveler not on official business in the company of a senior DOD official (normally Code 1, 2 and 3 civilians, and Code 2 and 3 General Officers) traveling on official business on MILAIR. This is not space available travel.

B. Non-interference travel is only authorized if the following conditions are met:

1. MILAIR is already scheduled for an official purpose;

2. The non-interference use does not require a larger aircraft than is needed for the official purpose;

3. Official travelers are not displaced;

4. The travel results in negligible additional cost to the government; and

5. The government is reimbursed at the full commercial coach- class fare rate or equivalent. The full coach-class fare is defined as any coach fare that is available to the general public between the day that the travel was planned and the day the travel occurred, including restricted fares, provided the traveler would otherwise be able to satisfy the restrictions associated with the particular fare if traveling via commercial air.

C. This travel will be approved in advance in writing. The senior DOD official will attach to his/her travel voucher a personal check made payable to the Treasurer of the United States and include a travel office printout that reflects the full commercial fare.

D. Approval will be through the senior traveler's normal approval chain.

XIII. MOTOR VEHICLE TRANSPORTATION

A. AR 58-1 governs the use of motor vehicle transportation to include the procurement and use of sport utility vehicles. This section highlights guidance found in that regulation pertaining to non-tactical vehicles and provides additional guidance where necessary.

B. Section 1344 of Title 31 of the United States Code specifies those officials who are authorized home-to-work transportation. Within the DA, only the SA and the CSA are authorized home-to-work transportation.

1. With certain limited exceptions prescribed by statute, home-to-work transportation is not transportation for an official purpose, and is prohibited. Normally, such transportation is a personal responsibility. Section 1344 establishes criteria for exceptions to this policy, and for reporting those exceptions to Congress. However, within the DA only the SA can approve those exceptions.

2. Individuals who are authorized home-to-work transportation may incur personal tax liability in connection with this government-furnished service regardless of the circumstances. The law provides that an individual who willfully violates Section 1344 may be suspended without pay for a minimum of 30 days, and when circumstances warrant, for a longer period, or may be summarily removed from office. Military personnel who willfully use or authorize the use of government vehicles for other than official purposes, can be disciplined under provisions of the UCMJ or other administrative procedures as appropriate.

C. Transportation to official after-hours functions will be treated as an exception to policy for which prior approval from the installation commander or his/her delegated authorizing official is required. All transportation to after-hours functions will begin and end at the individual's normal place of duty.

D. Official motor vehicle transportation requirements do not include: transportation to private social functions; personal errands or side trips for unofficial purposes; transportation of dependents or visitors without an accompanying official; or in support of non-DOD activities unless specifically approved under the provisions of Army Regulation(s).

E. The use of Army motor vehicles is restricted to official purposes only.

1. Military and civilian personnel of the DA may use DA motor vehicles when attending official ceremonies (e.g., changes of command, parades, promotions, retirements, unit activations/deactivations, field demonstrations, funerals, or other similar events) when attendance is in their official capacity. For purposes of these functions, the most senior military and civilian DA official designated to represent the DA organization concerned, as well as those DA officials who are actively participating, are attending in their official capacity. Mere attendance at an event does not justify the use of government vehicles except in those rare

occasions where the event achieves a significant public affairs objective to justify the official use of group transportation (e.g., buses).

Example 1: It would be appropriate for a corps commander who is presiding over a subordinate division change of command ceremony to use a DA motor vehicle for transportation to the ceremony.

Example 2: It would be appropriate for a National Guard division commander who is attending a subordinate battalion change of command as an invited guest and senior representative in the chain of command to use a DA motor vehicle for transportation to the ceremony

2. Army motor vehicle transportation is not authorized for officials attending such ceremonies or events only in a personal capacity. All DA officials attending simply as invited guests (other than the senior DA official in attendance) are deemed to be traveling in their personal capacity. This includes attendance based solely on friendship, family ties, or prior professional relationship with the honoree.

Example 1: Normally, it would be inappropriate for a general officer to use a DA motor vehicle to attend or preside over a promotion ceremony for a former subordinate who is no longer in the general officer's chain of command

Example 2: It would be inappropriate for the former commander of a unit to use a DA motor vehicle to travel to that unit's change of command as an invited guest.

3. Commanders or their principal staff officers will determine whether attendance at such ceremonies or events is in an official or personal capacity. When official travel is authorized for general attendance the mode of travel provided will normally be via mass transportation rather than via individual vehicles.

F. Spouses of DA officials may be authorized transportation in government vehicles only when:

1. Accompanying their DA sponsor, the use of the vehicle has already been authorized to accomplish official business, and there is space available. Such transportation must be provided at no additional cost to the government, and the spouse's presence may not require a larger vehicle than that already authorized to accomplish official business;

2. Proceeding independently to or from an official function when the spouse's presence at the function is in the best interest of the government and circumstances have made it impractical or impossible for the official to accompany the spouse en route; however, this authority applies only to the spouse of a DA employee who is authorized to receive home-to-work transportation.

G. Transportation support to other U. S. Government agencies, or non-U.S. Government entities, may be provided only under strict guidelines. Reimbursement by the requesting activity is normally required for transportation support to non-DOD activities. DA officials shall review

established guidelines and obtain required approvals prior to inviting travel or committing Army support.

H. Sport utility vehicles (SUVs) are a relatively new class of vehicle with four-wheel drive and an off-road capability that make the vehicle ideal for police, range support, and other off-road duties that require physical abilities exceeding those of a sedan or truck. SUVs are also necessary to more safely handle certain types of road conditions in inclement weather. However, SUVs cost more to buy or lease. As a class, the SUVs have a poor miles per gallon rating, and the vehicles currently are not designed to use an alternative fuel. In addition, SUVs are generally considered a status symbol.

1. SUV's will not be acquired by purchase or lease to enhance the comfort or prestige of any individual, regardless of grade or rank.

2. Army activities are required to use the smallest, most fuel efficient vehicle capable of meeting agency needs. Specifically, where a Class II sedan or light duty pickup truck will meet mission requirements, a larger and more prestigious SUV will not be acquired, leased, or used.

3. Commanders of MACOMs are responsible for approving SUV requests by installations and activities for high-end SUVs or any SUV that has a maximum gross vehicle weight that is greater than or equal to 5,000 pounds. MACOMs and commanders should seek to limit the use of such high-end and costly SUVs. Criteria are found in the Federal Vehicle Standards 20XX at: <http://pub.fss.gsa.gov/pub/vehicle-standards.html>.

a. Exceptions to the MACOM approval requirement include

(1) SUVs that are available as alternative fueled vehicles.

(2) SUVs that are used directly and specifically for police, fire, rescue, criminal, investigative, and intelligence activities.

(3) Recruiting and military entrance processing activities in areas where snow, sleet, and freezing rain would terminate the mission for lengthy periods.

b. Except for special requirements such as inclement weather conditions and off-road use, SUVs will not be used exclusively as passenger-carrying vehicles when a sedan, van, carryall, bus, taxi, privately owned vehicle (reimbursable), or public transportation would meet mission requirements.

XIV. ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR OFFICIAL TRAVEL EXPENSES

A. Title 31 U.S.C. § 1353 is the primary authority for the acceptance of gifts of travel and related expenses. When that statute applies, it shall be used to the exclusion of other authorities. The definition of terms and policies under this statute is at 41 C.F.R. § 304.

B. Heads of component commands or organizations may delegate approval authority, in writing, to accept travel payments from a non-Federal source to a division chief under their supervision serving in the grade of colonel or the civilian equivalent. Prior to authorizing acceptance of an outside payment of official travel and related expenses, travel-approving authorities must consult with their own, or the traveler's, ethics counselor and obtain a written determination from that ethics counselor that acceptance is appropriate.

C. In addition to the criteria at 41 C.F.R. § 304, payment from a non-federal source for official travel expenses may be accepted when the following conditions are met:

1. The offer of travel expenses must be unsolicited and completely voluntary.
2. The gift may only be used for official travel.
3. The gift may only be used for conferences or similar functions. An offer of travel expenses to perform functions essential to an Army mission (such as inspections or oversight visits) or to attend sales presentations will not be accepted.
4. The gift of travel may not create a conflict of interest. The approval authority must determine that acceptance would not cause a reasonable person in possession of the relevant facts to question the integrity of Army programs or operations.

D. An offer of free travel for an accompanying spouse will be processed and approved in accordance with section 9 of this memorandum. Such requests will be evaluated on the basis of whether it is in the Army's interests to accept the offer.

E. The SA retains the authority to approve all first-class travel. Requests for first-class air travel, including those paid by a non-Federal source, must be fully justified under the applicable provisions of the JTR/JFTR. This requirement applies to the traveling official and accompanying spouse.

F. The following reporting requirements apply to the acceptance of travel payments from a non-Federal source.

1. In order to simplify the travel voucher process, travelers are encouraged to accept "in-kind" travel expenses (that is, prepaid tickets and hotels), rather than cash reimbursement. If reimbursement is in the form of a check, it will be made out to "Department of the Army" and deposited with the servicing travel office.

2. Travelers must report to their ethics counselors the acceptance of travel and related expenses exceeding \$250.00. The report must contain the traveler's certification that "the statements in this report are true, complete, and correct to the best of my knowledge and belief." The report must be submitted to the ethics counselor for review and signature within thirty days of completion of the travel. A suggested format for this report appears at enclosure 3.

3. Ethics counselors will use Standard Form 326, Semiannual Report of Payments Accepted From a Non-Federal Source, to consolidate reports from travelers in their jurisdiction. Standard

Form 326 will be electronically submitted to the Office of the Judge Advocate General (OTJAG), Standards of Conduct Branch at soco@hqda.army.mil. Reports for gifts received during the period 1 April to 30 September must be received at OTJAG by 15 November. Reports of gifts received between 1 October and 31 March are due by 15 May. Ethics counselors will maintain the reports submitted by travelers for one year after submission. Standard Form 326 is available on the General Services Administration website at www.gsa.gov/forms.

XV. USE OF EXECUTIVE CAR SERVICES

The use of executive car services, i.e. privately contracted limousines and non-government leased executive sedans is reimbursable only at the fair market rate of taxicabs and airport transportation services during periods of official temporary duty travel. Costs in excess of fair market rates for the services mentioned above are borne by the official and will not be reimbursed. Additional charges, such as “waiting time” fees associated with the use of executive car services are not authorized. Officials are encouraged to utilize local public transportation resources for travel to and from TDY locations. Reimbursement for commercial transportation from residence to permanent duty locations is not authorized.

Encl. 1

FOREIGN TRAVEL DATA SHEET

(SUBMIT TO THE OFFICE OF INTERNATIONAL CONFERENCES, DEPARTMENT OF
STATE, ROOM 1517,
FAX 202-647-1301 OR 202-647-5996; Phone 202-647-5875)

PRELIMINARY REPORT

(to be completed before foreign travel to an international conference)

NAME OF TRAVELER (last, first):

EMPLOYING DEPARTMENT OR AGENCY:

TITLE HOST OF INTERNATIONAL CONFERENCE ATTENDED:

WILL MORE THAN TWO FOREIGN GOVERNMENTS ATTEND? YES NO

NAME OF OFFICIAL AUTHORIZING TRAVEL:

PURPOSE OF TRAVEL: **(Select code: (1) member of delegation;
(2) technical/administrative support to delegation (3) meetings with foreign
officials outside the conference; (4) other (specify)**

DATE TRAVEL BEGINS:

DATE TRAVEL ENDS:

CONTACT TELEPHONE NUMBER

FINAL REPORT

(to be completed within 30 days of the conclusion of travel)

NAME OF TRAVELER (last, first)

CONFERENCE ATTENDED/HOST:

DATE TRAVEL BEGAN:

END DATE OF TRAVEL:

ACTUAL COST OF TRAVEL:

Complete the following only if there have been changes since the preliminary report:

EMPLOYING DEPARTMENT OR AGENCY:

NAME OF OFFICIAL WHO AUTHORIZED TRAVEL:

PURPOSE OF TRAVEL:

Encl. 2

SAMPLE OF SPOUSE AGENDA

YOUR LETTERHEAD

SUBJECT: Itinerary for Visit of Mrs. John Doe, Spouse of LTG John
D. Doe, Commander, U.S. Army Pacific
IN PARTY: TBD
PURPOSE: Orientation Visit

Monday, 8 February 1999

0900 Arrive New Toyko International Airport; met by Protocol
0900-1030 Airport procedures
1030-1100 En route Distinguished Visitors Quarters (DVQ);
Activities as desired
1100-1130 Orientation Briefing
1130-1230 Lunch hosted by Mrs. Smith with roundtable discussion
on quality of life issues having highest community
interest (Cathy Rogers, Spouse, CS; Robin White,
Spouse, DC; Dods Brown, Spouse, of Commander, 17TH
ASG; Barbara Carter, Spouse, Commander, USARPAC)
1230-1240 En route Army Community Services (ACS)
1240-1315 ACS Brief/open discussions with ACS staff -regarding
program needs and unique concerns, and tour of facility
1315-1320 En route Community Activities Center (CAC)
1320-1400 Sensing session with New Parent Support Program
Group to include active duty and spouse participants
1400-1405 En route Child Development Center (CDC)
1405-1445 Visit CDC/discussions with care givers, CDC staff
regarding needs and services provided
1445-1450 En route Youth Activities
1450-1530 Visit Youth Center/discussions with Youth Activities Staff
on Youth Programs
1530-1540 En route Library
1540-1615 Visit Library/check current available resources and
response times on ordered materials
1615-1630 En route DVQ
1630-1750 Activities as desired and prepare for reception
1750-1800 Walk to Community Club
1800-TBD Reception and Dinner

Tuesday, 9 February 1999

0755-0800 En route Quarters 1000
0800-0900 Breakfast hosted by Mrs. Smith
0900-0905 En route Elementary School
0905-1000 Visit Elementary School/discussions with the Principal

on standards for DODDS and where the school falls in the large overall picture compared to the Elementary Schools in the U.S. 1000-1005

En route Community Support Facilities

1005-1115

Tour and discussions with personnel of the Community Support Facilities

1115-1120

En route Community Club

1120-1300

AFTB/Family Support Meeting/Working Luncheon and discussions on quality of life issues with a cross-section of Battalion spouses with opening and closing remarks by Mrs. Smith

Encl. 3

REPORT OF PAYMENT OF TRAVEL & RELATED EXPENSES
ACCEPTED FROM NON-FEDERAL SOURCES
(31 U.S.C. 1353)

Employee's Name:
Command Organization:
Employee's Position:
Spouse's Name (If applicable):

EVENT

(for which more than \$250 in travel and related expenses were donated)

Nature /Title of Event:
Sponsor:
Location:
Dates: From: To:

TYPE OF DONATION

Donating Organization:

Total Amount:

Amount of Payments In-Kind: For Employee: For Spouse:

(pre-paid conference fees, hotel costs, airline tickets, pre-paid meals, etc.)

Amount of Payments by Check For Employee: _____ For Spouse:.

(Check must be made to "Department of the Army". Submit to your travel office.)

Itemized Expense:

Hotel:
Airline:
Meals:
Other

"I certify that the statements on this report are true, complete, and correct to the best of my knowledge."

Signature of Traveler

Date of Signature

SUBMIT REPORT TO YOUR ETHICS COUNSELOR WITHIN 30 DAYS

Ethics Counselor Printed Name and Signature Date of Signature
(paid by non-Federal source)

Comparison Chart
Estimated Times and Distances

Location	Ground	Ground Times		Air	
	Statute Miles	Non-Rush (Hours)	Rush (Hours)	Nautical Miles	Time (Hours)
Aberdeen Proving Ground	75	1.50	3.00	55	.80
Andrews AFB	15	0.25	0.83	9	.40
Antietam National Battleground	80	2.00	3.00	36	.40
Baltimore City/vicinity	45	1.00	1.50	30	.40
Carlisle Barracks	115	3.00	4.00	80	1.00
Charlottesville	120	3.00	4.00	78	1.10
Chancellorsville National Battlefield	60	1.33	2.20	45	.65
Fredricksburg National Battlefield	60	1.33	2.20	40	.60
Ft AP Hill	70	2.00	3.00	49	.65
Ft Detrick	55	1.00	2.00	36	.50
Ft Lee	125	3.00	4.00	97	1.20
Ft Meade	30	.75	1.25	20	.40
Gettysburg National Battlefield	85	2.00	3.00	55	.80
Patuxent Naval Air Station	78	2.00	2.50	46	.65
Quantico Marine Base	35	1.00	1.50	24	.40
Xerox Training Center	35	1.00	1.50	26	.40

APPENDICES

Free Attendance at Seminars and Similar Functions	A-1
Guidelines for Acceptance of Travel from Non-Federal Entities	A-3
OGE 450 – Confidential Financial Disclosure Report	A-8

INFORMATION PAPER

SUBJECT: Free Attendance at Seminars and Similar Functions

1. PURPOSE: To summarize when employees may accept free attendance at a seminar, conference, or similar function.

2. FACTS:

a. Participation in an Official Capacity. **(5 C.F.R. § 2635.204(g)(1))**

(1) Speaking and Similar Engagements. An employee may accept free attendance at a conference or other event where the employee will participate in an official capacity, as a speaker or panel participant, to present information on behalf of his agency, provided the offer is from the event's sponsor. This is limited to free attendance on the day of the official presentation, and permits the employee to accept conference fees, food, refreshments, entertainment, instruction and materials furnished to all attendees as an integral part of the event. It does not permit acceptance of travel expenses.

(2) Under certain circumstances, employees in an official travel status may accept travel and related expenses to attend conferences and similar functions, in addition to free attendance at the event, under 31 U.S.C. § 1353. See the Information Paper on the Guidelines for Acceptance of Travel Expenses From Non-Federal Sources at page A-3.

(3) Acceptance of free travel benefits (airline tickets, meals, lodging) must be noted on the employee's travel voucher in order to prevent overpayment.

b. Participation in a Personal Capacity. **(5 C.F.R. § 2635.204(g)(2))** An employee attending an event in his personal capacity may accept a gift of free attendance if the event is "widely attended." The principle elements of a "widely attended gathering" are size and diversity. Free attendance is further justified by a finding of agency interest.

(1) For the "size" element, there must be at least 20 or more individuals in attendance.

(2) For the "diversity" element, the event must be open to members from throughout a given industry or profession, or to all parties who may have an interest in the subject of the event.

(3) The employee's supervisor must determine (verbally or in writing) that attendance is in the agency's interest because it will further agency programs and operations. The agency's interests may include promoting community relations or providing the opportunity to exchange views or technical information with members of a specific profession. If the person who invited the employee has interests that may be affected by execution of the employee's official duties,

the supervisor must make a further written determination that the agency's interest outweighs the appearance of improper influence. Supervisors should make this determination in consultation with their Ethics Counselor.

(4) Cost of Attendance. Under this exception, there is no limit on the cost of free attendance. However, acceptance of free attendance only applies to activities that are integral to the event. Generally, social and sports activities, such as golf outings, will not be integral to a widely attended gathering, and may not be accepted. There are also some restrictions on how the costs are paid:

(a) The event's sponsor must bear the cost of free attendance or, if someone other than the sponsor bears the cost, the sponsor must decide who to invite and where to seat him or her.

(b) If someone other than the sponsor pays for attendance, the offer of free attendance may not be accepted unless more than 100 persons are expected to attend, and the value of free attendance (including the value of free attendance for an invited spouse or guest) does not exceed \$250.

(c) Attendance of Spouses. An employee may accept free attendance for his spouse if spouses will generally accompany others in attendance, and the offer to the spouse is from the same source as the offer to the employee.

(5) Blanket Determinations of Agency Interest. A supervisor may issue a blanket determination that attendance by all or a specific category of subordinate employees is in the agency's interest. This determination does not, however, eliminate the need for the written finding for individuals whose duties may present a conflict.

INFORMATION PAPER

SUBJECT: Guidelines for Acceptance of Travel Expenses from Non-Federal Sources

1. PURPOSE. To provide information to personnel assigned to AMEDDC&S and Fort Sam Houston on the guidelines and proper procedures for accepting an offer from a non-Federal source to pay travel costs to attend a conference, seminar, meeting, symposium, or similar function.

2. FACTS. Universities, professional associations, or private companies often offer to pay travel and related expenses for personnel to attend a conference, meeting, or similar function on a subject that relates to their official duties. Although such payment is a gift for performing official duties, Congress allows the Government to accept such gifts under 31 U.S.C. §1353 under strict conditions and procedures. Potential travelers must know these rules or risk paying all the costs of attendance at their own expense. Travel Approval Authorities (persons with the authority to approve travel) must also know what they must consider in making a determination that the Government may accept the offered gift. Note that the Commander, AMEDDC&S and FSH is his own travel approving authority and can approve the acceptance of free travel benefits for himself under the following guidelines.

3. GUIDELINES.

- a. The offer may not be solicited; it must be completely voluntary.
- b. Approval of the Travel Approving Authority must be obtained before the offer is accepted.
- c. Approval cannot be obtained after the travel has occurred.
- d. The meeting or similar function must relate to the traveler's official duties and be of greater benefit to the Army than the traveler.
- e. The meeting or similar function must take place away from the employee's official duty station.
- f. The meeting or similar function must be sponsored or co-sponsored by a private organization.
- g. It is not appropriate to accept travel which exceeds three weeks in duration.
- h. Do not accept travel benefits from a private organization which is not sponsoring the meeting or similar function, unless the travel benefits are provided in-kind and consist of the type of services which the non-Federal source generally provides (e.g. a hotel which is not sponsoring the event offers to provide free lodging).
- i. Do not accept travel benefits to attend a meeting or similar function that is required to carry out the agency's statutory or regulatory functions (that is, a function that is essential to an

agency's mission) such as investigations, inspections, audits, site visits, negotiations, or litigation.

j. Do not accept travel benefits to attend a meeting or similar function which amounts to promotional vendor training or is held for the primary purpose of marketing the non-Federal source's products or services.

k. Do not accept travel benefits in connection with an event for which permissive TDY is authorized.

l. First-class air travel is not authorized.

m. Invitations for spousal travel must be approved by the Army Chief of Staff. The accompanying spouse's presence must support the mission of the Army or substantially assist the employee in carrying out his official duties.

4. PROCEDURES. Processing an offer requires the following:

a. The individual being invited to travel must submit the offer of travel benefits, a DD Form 1610 (Travel Authorization/Orders), and a memorandum to his or her Travel Approval Authority. The individual's memorandum must explain how the travel relates to the individual's official duties, is in the best interests of the United States, and how attendance does not undermine the integrity of Army programs or operations. The Travel Approving Authority has the authority to approve acceptance of the offered gift.

b. The Travel Approving Authority must do a "conflict of interest analysis" to determine that acceptance under the circumstances would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of Army programs or operations. Enclosure 1 is a sample Memorandum for Record (MFR) which this official should use as a guide in recording his or her decision. This analysis must consider such matters as:

- the identity of the non-Federal source;
- the nature and purpose of the meeting, conference, event, etc.;
- the identity of the other participants;
- the nature and sensitivity of any matters pending in the Army which could affect the interests of the non-Federal source;
- the significance of the traveler's role in such matters; and
- the monetary value and character of the travel benefits.

c. The Travel Approval Authority must forward the MFR, the individual's memorandum, and the DD Form 1610, together with any additional information that explains the event, to the Ethics Counselor.

d. The Ethics Counselor must concur in the decision.

e. Once authorized, the individual may accept either payment "in-kind" (that is, prepaid tickets, lodging, airline tickets, meals, etc.) or a check. The traveler may never accept cash. Checks must be made payable to the Department of the Army. Acceptance of a check is on behalf of the Army, not the traveler.

f. If travel benefits are accepted totaling \$250 or more, the traveler must submit a report within 30 days of the travel through the Travel Approval Authority to the Ethics Counselor. Enclosure 2 shows the required format. The report is forwarded to HQDA, Standards of Conduct Office, and is ultimately filed in the Office of Government Ethics, where it is available for public inspection.

5. PUBLIC AND CONFIDENTIAL DISCLOSURE REPORTING REQUIREMENTS.

a. The Joint Ethics Regulation (JER), DOD 5500.7-R, para. 4-102(d) mandates that individuals who are required to file financial disclosure statements (either a Public Financial Disclosure Report, SF 278, or a Confidential Financial Disclosure Report, OGE 450) report the acceptance of travel benefits on their financial disclosure statements if the fair market value of the benefits from one source total \$250 or more. Individual expenses valued at \$100 or less need not be included in determining the \$250 reporting threshold for the SF 278/OGE 450.

b. If the travel benefits are reportable, the individual must report the identity of the source, give a brief description (including travel itinerary, dates, and the nature of the expense provided), and state the value of the travel benefits.

MEMORANDUM FOR RECORD

SUBJECT: Approval of the Acceptance of Travel Benefits Under 31 U.S.C. §1353

1. Travel benefits have been offered by [identify the non-Federal source(s)] to accommodate the participation of _____ [identify Army employee by name, rank and position] in _____ [identify the title and nature of the meeting or similar event] on [date of meeting or event] in [place where meeting or _____ similar event is held].

2. The Army employee will be traveling, attending, and participating in an official capacity and [the non-Federal source] has offered to pay for the following travel and related expenses which will be provided either in-kind or by check payable to the Department of the Army.

- _____ Round-trip air transportation
- _____ Other transportation (describe)
- _____ Overnight accommodations
- _____ Meals
- _____ Free attendance at event
- _____ Other (describe)

3. I have done a conflict of interest analysis taking into account such factors as the source of the gift, to whom it is offered, any matters that I know of before the Army concerning the source, and the nature of the employee's involvement, if any, in the matter. I hereby determine that acceptance of these travel benefits would not cause a reasonable person with knowledge of all the relevant facts to question the integrity of the Army's programs or operations and approve [employee's name] accepting the above-described gift on behalf of the Army.

4. I have reminded the employee that he/she is required to file a travel report [see enclosure 2] with the Ethics Counselor, Office of the Staff Judge Advocate, if the travel benefits received (consisting of food, lodging, transportation, or entertainment) total \$250 or more.

5. This approval has been coordinated with the Ethics Counselor, AMEDDC&S and Fort Sam Houston.

Travel Approval Authority Date

(Print)
Travel Approval Authority

Coordination: OSJA, AMEDDC&S and FSH

Concur _____ Nonconcur _____

**REPORT OF PAYMENT OF TRAVEL & RELATED EXPENSES
ACCEPTED FROM NON-FEDERAL ENTITIES**

Employee's Name & Rank/Grade: _____

Command/Organization: _____

Employee's Position: _____

Spouse's Name (if applicable): _____

EVENT

Nature/Title of Event: _____

Sponsor: _____

Location: _____

Dates: From _____ To _____

TYPE OF DONATION

Donating Organization: _____

Total Amount: _____

Amount of Payments In-Kind: (Pre-paid conference fees, lodging, airline tickets, meals, etc.)

For Employee: _____ For Spouse: _____

Amount of Payments by Check: _____

Itemized Expenses: Hotel: _____ Airline: _____ Meals: _____

Other: _____

I certify that the statements on this report are true, complete, and correct to the best of my knowledge.

Signature of Traveler Date

Signature of Travel Authority Date Signature of Ethics Counselor Date

SUBMIT REPORT TO YOUR ETHICS COUNSELOR WITHIN 30 DAYS OF TRAVEL.

INFORMATION PAPER

SUBJECT: OGE FORM 450 – Confidential Financial Disclosure Report

1. DOD 5500.7-R, the Joint Ethics Regulation (JER), para. 703b, requires certain soldiers and civilian employees to file an annual Confidential Financial Disclosure Report (OGE Form 450) current as of 30 September. A complete report is required even though no changes have occurred since the last submission. In most years, you may file an OGE Form 450-A (Certificate of No New Interests) if there have been no new changes to report for the last 12 months.
2. It is the responsibility of all superiors/supervisors to determine which employees within their organization are required to file an OGE Form 450 (DOD 5500.7-R, para. 7-301).
3. Only DOD employees classified at GS/GM-15 or below under 5 U.S.C. §5332 (or a comparable pay level under other authority), and soldiers below the pay grade of O-7, who occupy "covered positions" on 30 September, are required to file. The definition of a "covered position" is explained in Enclosure 1. Even if the position is currently vacant, a person detailed to that position must file an OGE Form 450.
4. The Secretary of the Army has determined that more Army officers, employees, and enlisted personnel are filing an OGE Form 450 than is necessary for the integrity of Army programs. Supervisors are reminded that, when subordinates are unlikely to be involved in a real or apparent conflict of interest; when they are subject to a substantial degree of supervision; or when they exercise control over matters which would be inconsequential to Army integrity, they should not be required to file this report.
5. For each civilian position requiring a filing, the employee's Job Description (DA Form 374) should reflect the requirement to file the Confidential Financial Disclosure Report. For each military position identified, the incumbent must indicate the requirement to file the report on his/her Officer Evaluation Report (OER) Support Form (DA Form 67-9-1) or NCO Counseling Checklist/Record (DA Form 2166-7-1).
6. As positions may be modified, combined, deleted, or added, each position must be continually reviewed against the standards for filing, so that a new individual may file the required "New Entrant" report within the mandatory 30 days of occupying an identified position (DOD 5500.7-R, para. 7-303a). A "new entrant" is a person (military or civilian) who has just filled (or been detailed to) a position requiring the filing of an OGE Form 450, Confidential Financial Disclosure Report.
7. New IMPAC credit card holders and new (IMPAC) approving officials are not required to file a New Entrant OGE Form 450. IMPAC credit card holders and approving officials are not required to file an OGE Form 450 until they have spent \$100,000.00 or more in the course of the twelve months preceding 30 September.
8. An electronic fillable copy of the OGE Form 450 is provided under the Local Menu Option on the AMEDD Automated Electronic Form Support System (AEFSS). A copy of the OGE

Form 450 is also provided on the AMEDDC&S and FSH Staff Judge Advocate Website at <http://www.cs.amedd.army.mil/sja/Ethics.asp>.

9. After completion of the OGE Form 450 by the soldier or employee, it is submitted to his or her immediate superior or supervisor for review and signature. The superior/supervisor will review the form for completeness and for a possible conflict of interests between the soldier's/employee's outside financial interests (e.g. off-duty employment) and their official duties. The superior/supervisor will then sign the OGE Form 450.

12. The superior/supervisor's signature represents a certification that there is no conflict of interests between the filer's financial interests and their official duties. The superior/supervisor's signature also indicates that the filer's form is complete and properly filled out. If after review, the superior/supervisor can not make the required certification or has any questions, he/she should contact an Ethics Counselor at the AMEDDC&S and FSH Staff Judge Advocate's office (Bldg. 134) at 221-2373/0485.

WHO MUST FILE AN OGE 450 (COVERED POSITIONS)

An O-6 and GS/GM-15 (or equal), or below, who occupies, or is detailed to, a position as follows:

1. Commanding officers, heads and deputy heads, and executive officers of Army installations or activities.
2. When the official responsibilities require the employee to participate personally and substantially through decision or exercise of significant judgment in taking an official action regarding:
 - a. Contracting or procurement; or
 - b. Administering or monitoring grants, subsidies, licenses, or other Federally conferred financial or operational benefits; or
 - c. Regulating or auditing any non-Federal entity; or
 - d. Other activities in which the final decision or action may have a direct and substantial economic impact on the interests of any non-Federal entity.
3. Any DOD employee serving in a position in which his/her supervisor determines that the duties and responsibilities of the position require the employee to file a report to avoid an actual or apparent conflict of interest and to carry out the purpose of any statute, Executive Order, or regulation applicable to or administered by that reporting individual.
4. Any IMPAC credit card holder (and approval authority) who in the last twelve months (ending 30 September) has spent \$100,000 or more cumulatively during the year.
5. Special Government employees, except those excluded under DOD 5500.7-R, para. 7-300a(2). The term "special Government employee" is defined in para. 1-232 of DOD 5500.7-R.
6. Questions may be referred to the Ethics Counselor at 221-0485/2373.