

## INITIAL ETHICS ORIENTATION

On behalf of the Staff Judge Advocate Office, who provides ethics counselor services, welcome to the Army on Okinawa.

The following material is provided to you to meet a requirement that you have an orientation to the Army ethics program. **You are allowed at least one (1) hour of your official duty time to review these materials.** 5 C.F.R. § 2638.703(a)(3). Additional time may be allowed at your supervisor's discretion. Upon completion of your review of this material please follow the steps in the last paragraph to notify our office.

### 1. General Ethics Policy

As a new employee with the Army, you should know that proper ethical conduct is considered essential by all levels of the organization, from the Commander on down. Army personnel are required to adhere to the highest standards of ethical conduct and ensure that no activity is carried out that will discredit or cast doubt on the integrity of the operations or mission of the Army, the Department of Defense, or the Federal Government. The ethics program in the Department of Defense is covered under the Joint Ethics Regulation (JER) DOD 5500.7-R. The JER supplements regulations issued by the U.S. Office of Government Ethics (OGE), which can be found at 5 C.F.R. § 2635. We urge you to review the complete text of the Joint Ethics Regulation at [http://www.defenselink.mil/dodgc/defense\\_ethics/index.html](http://www.defenselink.mil/dodgc/defense_ethics/index.html).

The Federal Standards of Conduct, 5 C.F.R. § 2635, is available at this site as well. You are also urged to review DOD's supplement to the Standards of Conduct, found at 5 C.F.R. § 3601 et. seq. See also JER, Chapter 2, Section 2; and DOD Employee's Guide to Standards of Conduct.

### 2. The Designated Agency Ethics Official for the Army and Army Ethics Counselors for Okinawa

a. The Army General Counsel is the Designated Agency Ethics Official (DAEO); The Judge Advocate General (TJAG) of the Army is the Alternate DAEO. The Chief, Army Standards of Conduct Office (DA SOCO), the Command Counsel, US Army Materiel Command (AMC), and the Chief Counsel, US Army Corps of Engineers (USACE) have been appointed as Deputy DAEOs.

b. The Office of the General Counsel oversees the Army's ethics program and its Ethics Counselors in general, and provides ethics support to Headquarters, Department of the Army in particular. In DoD, Ethics Counselors are attorneys unless there are exceptional circumstances. Every Army command, installation, and organization is expected to have an assigned Ethics Counselor.

c. The following are examples of issues on which Ethics Counselors advise and assist:

- (1) gifts from non-Federal sources;
- (2) gifts in the workplace;
- (3) initial ethics orientation for all new employees, and annual ethics training;
- (4) official relationships with, official support to, and personal participation in, non-Federal professional, scientific, technical and other associations (e.g. AUSA, ABA, FBA, AAAA, SAME, ASME, *etc.*);
- (5) public (SF 278) and confidential (OGE 450) financial disclosure reports;
- (6) conflicts of interest issues;
- (7) job-hunting and post-Government employment restrictions; and
- (8) use of Government resources and time;
- (9) handling of inside information;
- (10) use of official position and improper endorsement of non-Federal activities;
- (11) Outside employment and speaking, teaching or writing.

d. When Ethics Counselors advise and counsel individual employees and Soldiers, they act as the Army's lawyers. Their role is to provide information to members of the command, and to implement practical solutions for common standards of conduct problems. Unlike legal assistance attorneys, no attorney-client relationship or privilege of confidentiality exists between ethics counselors and individual members of the command.

e. The Ethic Counselor and advisors for the Army on Okinawa are located in Office of the Staff Judge Advocate, 10<sup>th</sup> Support Group, Building 218, Second Floor, Torii Station. Please call 644-4783 for assistance.

### **3. Summary of the Standards of Conduct and Executive Orders**

Here is a quick review of some of the key rules from the JER. These rules apply to civilians, military officers and enlisted personnel unless otherwise indicated.

## GIFTS FROM OUTSIDE SOURCES

a. Generally, DoD employees are prohibited from accepting gifts from a prohibited source or a gift that is offered because of the recipient's official position. There are four steps to determining whether a gift may be accepted. (5 C.F.R. 2635.204)

(1) First, is it a "gift?". Items with little intrinsic value intended solely for presentation (such as plaques and certificates), benefits available to all military personnel in a particular geographic area, and coffee and donuts offered during a meeting are examples of "non-gifts."

(2) Second, if it is a "gift," is it a gift from prohibited source?

(a) A prohibited source is someone who does business with the employee's agency (such as a contractor), seeks to do business with the agency, conducts activities regulated by the agency; or is an organization, a majority of whose members are prohibited sources.

(b) An individual is prohibited from accepting a gift given because of the recipient's official position.

(3) Third, if it is a "prohibited source gift," does an exception apply? The exceptions are:

(a) A gift with a market value of \$20 or less per source, per occasion so long as the total value of all gifts received is less than \$50 per calendar year from any one source. (note: Cash in any amount can never be accepted!)

(b) A gift to a group of Federal employees or class of individuals (such as to all military or federal employees), but based on other than official position or rank.

(c) Awards for meritorious public service or achievement if pursuant to an established program of recognition (might require an Ethics Counselor written determination).

(d) Social invitations from other than prohibited sources, but based on the employee's official position, if no fee is charged to anyone attending.

(e) Gifts based on a personal relationship (must be clearly motivated by family or other personal relationship)

(f) Gifts based on outside business or employment relationships (for example, gifts that arise from the spouse's business activities).

(g) Free attendance at widely attended gatherings, typically conferences or seminars, when the supervisor determines it to be in the agency interest for the employee to attend. Supervisor should consult ethics counselor.

(h) Gifts permitted by other statute, such as gifts from foreign governments accepted under the authority of 5 U.S.C. 7342 (retail value in United States may not exceed \$335 [subject to change]).

(i) Gifts to wounded Soldiers - FY05 DOD Appropriations Act, Sec 8127, JER 3-400.

(4) Fourth, if an exception applies, should it be used?

(a) If the intent behind a gift is to buy influence, it is a bribe, and no exception applies.

(b) A gift may never be solicited or coerced.

(c) If the frequency of gifts would lead a reasonable person to believe that the employee is using public office for private gain, acceptance would be improper.

b. Disposal of improper gifts. An Ethics Counselor may authorize any one of the following dispositions. (5 C.F.R. 2635.205).

(1) The gift may be converted to a gift to the agency, or to an appropriate morale, welfare and recreation activity.

(2) If perishable, the gift may be consumed in the office where received.

(3) The recipient may keep the gift, and pay the donor its cost.

(4) The gift may be returned to the donor.

c. If the value of gifts from a single source is more than \$335 during a calendar year, they must be reported on the public (SF 278) or confidential (OGE 450) financial disclosure report.

### GIFTS FROM FOREIGN GOVERNMENTS

a. DoD employees (including members of the uniformed services) are prohibited from soliciting gifts from foreign governments.

b. DoD employees **MAY** accept:

(1) Gifts of "minimal value " (not in excess of \$335 retail value in the United States at time of acceptance).

(a) If more than one gift is given at one presentation from the same donor to an employee they constitute one gift; values must be aggregated.

(b) Gifts from different officials of the same foreign government at the same presentation must be aggregated. If gifts are from different governmental levels (e.g., national, state, local and municipal), aggregate the levels separately.

(c) Gifts received at separate presentations, even on the same day and/or from the same foreign official, are separate gifts.

(d) Gifts to a DoD employee's spouse are deemed gifts to the DoD employee, and gifts from a foreign official's spouse are deemed gifts from the foreign official.

(2) Gifts of travel (or expenses for travel) occurring entirely outside the United States, even if in excess of "minimal value".

c. Gifts of more than "minimal value" may be accepted **on behalf of the United States** if refusing the gift would offend or embarrass the donor or adversely affect foreign relations. Gifts become government property.

GIFTS BETWEEN EMPLOYEES

a. General Rule. (5 C.F.R. Sec. 2635.300) Employees are prohibited from:

(1) giving, or soliciting contributions for, gifts to someone in their subordinate-official superior chain;

(2) accepting gifts from employees who receive less pay, unless there is no subordinate-official superior relationship and there is a personal relationship justifying a gift.

b. Exceptions:

(1) On an occasional basis gifts may be given when:

(a) \$10 or less per occasion (e.g. a birthday gift or a souvenir gift upon return from a vacation) (no cash).

(b) Refreshments shared in the office.

(c) Personal hospitality at an employee's home.

(d) Customary gifts given in connection with the receipt of hospitality.

(2) On special, infrequent occasions, subordinates may give a gift to a superior "appropriate to the occasion."

(a) Infrequently occurring occasions of personal significance such as marriage, illness, or birth of a child (does not include a promotion unless the employee is also being transferred out of the chain of command).

(b) Occasions that terminate subordinate-official superior relationship, such as retirement, resignation or transfer.

(c) Value of gift normally should not exceed \$300 from a "donating group" whose definition depends on the circumstances.

(d) If an employee contributes as part of more than one donating group, the different groups become one donating group for purposes of the \$300 limitation.

c. Voluntary contributions of a nominal amount may be solicited only for the following:

(1) The occasional sharing of food and refreshments in the office;

(2) The gift for a special, infrequent occasion.

(3) DoD rule: the nominal amount is defined as \$10. This limitation applies to solicited donations only; however, an individual may offer to contribute more.

d. Gifts from an employee's spouse to another employee's spouse will be considered a gift between employees subject to the above rules, unless there is an independent basis for the gift to the spouse.

e. A finding that gifts are based on a personal relationship (5 C.F.R. 2635.204(b)), may be appropriate, especially among members of the USAR and NG who live and work together in civilian life.

#### □ NON-FEDERAL ORGANIZATIONS

You may not use your title, position or authority to **endorse** any non-federal product, service or enterprise. 5 C.F.R. § 2635.702(c). You may not officially endorse (or appear to endorse) membership drives or fundraising events for any non-federal organization (with certain exceptions, such as CFC). JER 3-210. Commanders may, under certain conditions, allow the use of DOD facilities, equipment and personnel in support of an event by a non-Federal organization. JER 3-211.

Generally, you may not participate in your official capacity in the management of a non-Federal organization (e.g., as an officer, director, or trustee) without

approval by the DOD General Counsel. JER 3-202. There is some allowance for the operations of standards-setting organizations. Senior military officers (O-7 and above) cannot accept compensation from non-Federal organizations for service as an officer or member of a board of directors. DEPSECDEF Memo, 23 Jul 96. You may serve in your official capacity as a "DOD Liaison" to a non-Federal organization with the written approval of your commander. JER 3-201a.

#### CONFLICTS OF INTEREST

You may not participate in any government matter if it would have a direct and predictable effect on any of your financial interests (such as stock holdings).

The prohibition also applies to the financial interests of your spouse, minor children, general partners, or an organization in which you serve as an officer, director, trustee, general partner or employee, or any entity with which you are negotiating for employment or have an arrangement concerning prospective employment. 5 C.F.R. § 2635.402.

#### REPRESENTATION

Officers (including officers on terminal leave) and civilians may not represent anyone (other than the U.S.) before any Federal agency. However, this rule does not apply to enlisted personnel. 18 U.S.C. § 205. There are also post-employment representational bans for employees, including a permanent ban on representational activity, depending on the depth of an employee's involvement in a particular matter. 18 U.S.C. § 207(a).

#### USE OF GOVERNMENT RESOURCES

a. **General Rule. Employees must protect and conserve government property and use it (or allow its use) only for authorized purposes.**

b. Communications systems. Federal communications; equipment including governmental owned telephones, facsimile machines, electronic mail, Internet systems, and Personal Digital Assistants (PDA) (i.e., blackberries), are available only for official use and authorized purposes.

(1) "Official use" includes emergency communications, communications that are necessary in the interest of the government; and "morale and welfare" communications by DoD personnel on extended deployments.

(2) "Authorized purposes" include brief calls home while TDY to notify family of official transportation or schedule changes.

(3) Personal communications from the workplace are also authorized, if the supervisor determines that communication (a) presents no adverse affect on

official duty performance; (b) is of reasonable duration and frequency and made during personal time whenever possible; (c) serves a legitimate public interest; (d) presents no adverse reflection on DoD; and (e) creates no overburden of the communication system or creates no significant additional cost to DoD. Personal calls incurring a toll charge (long distance) to the Government are unauthorized. Note: Check your unit's computer resources acceptable use policy for any restrictions on personal use of government computer resources. Some units are more restrictive, such as prohibiting any personal use of the internet and email.

c. Vehicles. Government vehicles may be used for official purposes only.

d. Use of other governmental resources. Government resources (other than personnel, communications equipment, and vehicles) may be authorized for personal use if supervisor determines that the use creates no adverse affect on official duty performance; is of reasonable duration and frequency and occurs only during the employee's personal time; serves a legitimate public purpose; creates no adverse reflection on DoD; and creates no significant additional cost to DoD.

e. Support to non-federal entities. Commanders may authorize **limited** use of DoD facilities and equipment (and DoD services necessary to properly use the equipment) in support of an event sponsored by a non-federal entity (except for fundraising and membership drives) only if:

(1) Support creates no interference with official duty performance or detraction from readiness;

(2) Support serves DoD community relations, public affairs or military training interest;

(3) It is appropriate to associate DoD with the event;

(4) The event is of interest and benefit to the local civilian community or DoD;

(5) The command is able and willing to provide the same support to comparable events sponsored by other similar non-federal entities;

(6) No restriction by other statutes or regulations of such use;

(7) No admission fee (beyond that required to cover reasonable sponsorship costs) is charged for the event.

### FREQUENT FLYER MILES

Federal employees (military and civilian) who receive promotional items (including frequent flyer miles, upgrades, or access to carrier club or facilities) as

a result of using travel or transportation services obtained at Federal Government expense or accepted under 31 U.S.C. § 1353 may retain the promotional items for personal use provided that the promotional items are obtained under the same terms as those offered to the general public and at no additional cost to the Federal Government. P.L. 107-107, Section 1116, Dec. 28, 2001.

#### □ OFF-DUTY EMPLOYMENT

Off-duty or private employment and commercial activities (such as home businesses) by Soldiers, civilian employees, and family members is subject to many restrictions imposed by the Status of Forces Agreement (SOFA) between the Governments of the United States and Japan and also by US Forces Japan and US Army Japan Regulations.

Soldiers are prohibited from engaging in private employment or commercial activities unless they have received written approval from the 10<sup>th</sup> SG Commander or designee.

Family members and civilian employees can engage in private employment/commercial activities 3 days after submitting written notification to the 10<sup>th</sup> SG Commander (or Garrison Commander for Garrison employees) thru their (or sponsor's) chain of command, unless otherwise notified by the approving authority.

Command approval is not required for language instruction and employment with Army activities.

Approval period is for three years from date signed by approval authority or until DEROS whichever comes first. If employment/commercial activity is to continue past this date, a new application will have to be submitted and approved on an annual basis.

The following is a partial list of the restrictions on private employment and commercial activities:

- Military quarters cannot be used to sell commercial products or services unless and until approval is obtained from the housing manager for those quarters and from the installation commander where the quarters are located (Air Force Family Housing is approval authority for military family housing on Okinawa).
- Sales from commercial activities can only be made to SOFA status individuals.
- Military post office services cannot be used to conduct commercial activities.

- DoD employees cannot solicit business from other DoD employees who are junior in rank, grade, or position, or from the family members of such personnel, on or off duty or at any federal workplace.
- Certain types of employment are strictly prohibited: employment which interferes with, or is not compatible with, the performance of duties; employment in an establishment that features the sale of alcohol to the Japanese public (bars); lewd entertainment, or any other activity which might bring discredit upon the United States.

Request for permission or notice to engage in off duty employment or commercial activities has to be forwarded through your (or your sponsor's) chain-of-command to Office of Staff Judge Advocate prior to 10<sup>th</sup> SG Commander's action. The application form, HQ 10<sup>TH</sup> SG FORM 3-6-E, is available on shared drive in PureEdge.

### ETHICS TRAINING

Contracting officers and people who are required to file a financial disclosure form (SF 278 or OGE Form 450) must receive ethics training each year. JER 11-302. The Army primarily uses on-line WEB-based interactive ethics training to meet this requirement.

#### **4. FINANCIAL DISCLOSURES**

Some new employees are required to file public or confidential financial disclosures as part of their position. **If you are required to file a public or confidential financial disclosure report, you must do so within 30 days of assuming your duties.** If you do not know whether you must file a confidential financial disclosure report, **ask your supervisor** immediately to obtain direction. If your supervisor is unsure whether you must file a financial disclosure report, your supervisor should contact an ethics counselor and receive guidance.

#### **5. FINAL STEP - COMPLETION OF TRAINING**

Please notify the Office of the Staff Judge Advocate and your supervisor that you have completed reviewing this material by sending an email to the below address. Include in your email your name, grade, job title, organization, and duty phone number **AND STATE THAT YOU COMPLETED THE INITIAL ETHICS TRAINING.**