



DEPARTMENT OF THE NAVY
VICE CHIEF OF NAVAL OPERATIONS
2000 NAVY PENTAGON
WASHINGTON DC 20350-2000

IN REPLY REFER TO:

5370
Ser N09/ 15U100509
17 Mar 15

MEMORANDUM FOR ALL FLAG OFFICERS

Subj: ANNUAL STANDARDS OF CONDUCT GUIDANCE

Ref: (a) VCNO Ltr 5370 Ser N09/14U100501 of 6 Jan 14

Encl: (1) Principles of Ethical Conduct
(2) Travel Guidance
(3) Gifts
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(6) Flag Aides
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(8) Use of Government Vehicles
(9) Post-Government Employment
(10) Best Practice Flag Travel Worksheet
(11) Best Practice Gift Disposition Form
(12) Best Practice Protocol Event Review Form
(13) Best Practice Schedule Review Form
(14) Best Practice Gifts in Foreign Area Form
(15) Annual Ethics Audit Checklist

1. Compliance with the standards of conduct begins with a common understanding of permissions and restraints as well as consistent employment of processes to identify and resolve issues. Over the years, this guidance has underwritten compliance by sharing knowledge and best practices.

2. This guidance supersedes reference (a); however, I am specifically continuing the following directives:

a. Each flag staff shall conduct an internal Annual Ethics Audit. These have proved extremely useful in correcting deficiencies in staff processes. Enclosure (1) may be modified as necessary to address your staff's unique circumstances.

b. Flag officer travel shall include a documented legal review prior to travel. Enclosure (2) has proven valuable for this purpose. Flag Officers should seek assistance from their assigned ethics counselor.

Subj: ANNUAL STANDARDS OF CONDUCT GUIDANCE

c. Each flag staff shall conduct in-person annual ethics training. Flag Officers should attend this training and use this opportunity to reinforce their expectations and set the tone for ethics among the staff. I strongly encourage spouses to participate, particularly when Enlisted Aides are assigned.

3. The enclosures may look familiar, but they have been modified to incorporate new policy direction from the past year, to include best practices and lessons learned, and to provide clarity.

4. I daily observe the heroism, achievements and sacrifices of the men and women, active and reserve, officers and enlisted, and the civil servants who compose our great Navy. Our accomplishments are rooted in our Navy Ethos. As leaders and role models we must demonstrate more than mere compliance with a body of regulations, but our personal commitment to the principle that public service is a public trust.


MICHELLE J. HOWARD

Principles of Ethical Conduct

Key References: Executive Order 12731; 5 C.F.R. Part 2635; 5 C.F.R. Part 3601

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, except as provided for by 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 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.

TRAVEL GUIDANCE

Key References: JTR Ch. 2-4; DoDD 4500.56; SECNAV M-5210.1;
SECNAVINST 5720.44C

Guidance for all travel.

- No area of standards of conduct is more closely scrutinized and complex than travel. Official travel plans shall be reviewed by your assigned ethics counselor. This review is not required when you are on PCS orders, or if you are a reserve component flag officer traveling to commence or end a period of active duty assignment.
- The restrictions and requirements of the DoD and DON budget guidance memos for the execution of FY13 and FY14 funds are no longer applicable; however, local budget guidance remains in effect as applicable.
 - Unless required by local budget guidance, you are no longer required to prepare a written mission-critical travel determination. Even so, you shall ensure funds are spent judiciously by viewing every expense through the lens of efficacy, efficiency, and its contribution to mission. In the language of the Joint Travel Regulations, your obligation is to ensure travel is limited to "essential official business in the Government's interest" and that internal controls are in place "to ensure that only travel essential to the Government's needs is authorized."
 - Government-funded travel should be undertaken only when the objective for the travel cannot be achieved through less costly means such as phone or video-teleconference.
 - A traveler must exercise the same care and regard in incurring expenses as would a prudent person traveling at personal expense.
 - Specific consideration should be given to the size of travel parties and the size of Navy delegations at specific events. The number of travelers should be no greater, and the duration of travel no longer, than required to fulfill the mission.
 - The best practice enclosures are tailored to ensure a documented review by ethics counselors as well as your determination that participation is essential official business in the Government's interest.
- Outreach and representational events that demonstratively help achieve the Navy's mission may qualify as "official."
 - For outreach and representational events, conduct deliberate planning and coordinate with CHINFO to avoid saturating a geographic area with flag officers. Provide CHINFO with post-travel trip reports to support CHINFO's strategic planning.
 - Outreach and representational events are a risk area because they may give the appearance that a flag officer is gaining a personal benefit through the travel. Indicators of a personal benefit include travel to one's alma mater, travel combined with leave, travel for social or ceremonial events absent a speaking role, travel to one's home of record, and travel that coincides with family or friend activities.

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- DoDD 4500.56 requires commands to retain documentation on government aircraft travel for two years. The SECNAV M-5210.01 (SSIC) requires retention of travel and accommodation arrangement records for two years to six years and three months depending on the documents.

Commercial Air

Key References: 41 C.F.R. Part 301-10; DODD 4500.09E; Defense Transportation Regulation (DTR) 4500.9-R; JTR 3500; JTR Ch. 3; OPNAVINST 4650.15B

- The guidance below addresses common issues and is not intended to replace the source guidance.
- For official business, travel in coach class accommodations on commercial airlines using contract city-pair airfares is the general rule.
- Contract city-pair airfares and other airfares limited to official government business may not be used for personal travel.
- Premium class accommodations (business/first class) are authorized only as noted below and should be approved in advance, absent extenuating circumstances or emergencies.
 - o Business class:
 - Only business class is offered between origin/destination (traveler must certify this in travel voucher).
 - Business class costs less than the least expensive unrestricted economy/coach airfare.
 - The travel is so urgent it may not be postponed, and there is no space in coach on a flight in time to accomplish the mission.
 - Competent medical authority validates medical necessity of business class travel to accommodate member's disability/physical impairment.
 - Upgrade necessary for exceptional security circumstances making it essential to successful performance of the mission.
 - Accommodations on foreign carriers do not provide adequate sanitation/health standards and use of foreign flag air carrier service is approved.
 - Overall Government savings (avoiding extra subsistence costs, overtime, lost productive time, etc.).
 - Frequent flyer miles used to obtain flight.
 - Non-Federal entity (to include multi-national organizations) funds as official gift of travel; or
 - Lengthy Flight. This **does not** automatically qualify for premium class travel; the following factors must be present:
 - Either the origin or destination point is OCONUS;
 - Traveler has to begin work immediately after arrival;
 - TDY purpose/mission is so urgent it cannot be delayed or postponed;

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- Only applies to outbound flight unless return flight is not critical and traveler can rest before reporting back to work; and
- The scheduled flight time (including stopovers) is in excess of 14 hours.
 - Passenger cannot schedule a rest period en route or at TDY site before commencing work.¹
 - Scheduled flight time is the time between the scheduled airline departure from the PDS/TDY point until the scheduled airline arrival at the TDY point/PDS.
- o First class:
 - Lower class accommodations are not reasonably available;
 - First class costs less than the least expensive economy/coach class airfare.
 - Exceptional security requirements exist;
 - Competent medical authority validates medical necessity of first class travel;
 - First class is the only accommodation provided between origin and destination (traveler must certify this in travel voucher); or,
 - Frequent flyer miles used to obtain flight.
 - Additionally, first class is authorized when paid for by a non-Federal entity (including multi-national organizations) and when one of the other factors above is present.

Military Air Travel (MILAIR)

Key References: DoD 4515.13-R; DoDD 4500.56 (incorporating Change 3); OMB Circular A-126; SECNAV memo of 7 Dec 12; CNO memo Ser N00/100082 of 17 Sep 09; CNO memo Ser N00/100083 of 17 Sep 09

Required Use Travel.

- **Tier 1:** Required use travelers for official and unofficial travel: SECDEF; DEPSECDEF; Chairman of the Joint Chiefs of Staff (CJCS); Vice CJCS, when acting as CJCS.
- **Tier 2:** Required use travelers for official use only: Includes Secretaries of the Military Departments; Chiefs of the Military Services; Vice Chiefs of the Military Services (when acting as Service Chief); Commander, International Security Assistance Force Afghanistan (U.S. Only); Commander, United States Forces Korea; Commanders of the Combatant Commands; Deputy Commanders of Combatant Commands, when designated in writing as Combatant Commander by SECDEF.
- **Tiers 3 and 4:** Officials are not "required use" travelers, but they

¹ The traveler must make every effort to schedule a rest period prior to starting work. Premium class travel should be the exception, not the rule, for flights over 14 hours.

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may use MILAIR for official travel only, and only when the exigencies of their travel needs prevent the use of commercial aircraft.

- o Exigencies may include the need to maintain secure communications and the need to maintain a specific schedule.
- o Tier 3 and 4 travelers include Commander, Fleet Forces Command; Commander, U.S. Naval Forces Europe/Africa; Commander, U.S. Pacific Fleet; Director, Naval Nuclear Propulsion; Vice Chiefs of the Military Services; Deputy Commanders of Combatant Commands.
- o Travelers must sign their own requests.
- o Must submit requests to VCNO or the appropriate Combatant Commander.

Other Official Travel.

- Individuals outside Tiers 1-4 may only use MILAIR for official travel when:
 - o Neither COMAIR nor airlift service offers reasonably available flights. Reasonably available means the flight effectively fulfills mission requirements and meets the traveler's departure and arrival requirements within 24 hours.
 - o Highly unusual circumstances present a clear and present danger.
 - o An emergency exists.
 - o MILAIR is more cost-effective than COMAIR or chartered air.
 - o Other compelling operational considerations make COMAIR unacceptable.
- Requesters must document:
 - o Whether commercial service is reasonably available.
 - o The valid official reason for use of MILAIR, other than personal convenience.
 - o Other appropriate factors, i.e.:
 - Specific scheduling requirements and why schedule cannot be changed.
 - Whether secure communications are required.
 - If cost effectiveness is the rationale, the traveler must provide a cost comparison between MILAIR and COMAIR. The cost of rental cars, lodging, lost time, and per diem required may be factored in the cost comparison.
 - o The senior traveler must sign the request for use of MILAIR, and signature authority may not be delegated.
 - o Requests must be submitted to VCNO; Commander, U.S. Fleet Forces Command; Commander, U.S. Pacific Fleet; Commander, U.S. Naval Forces Europe/Africa; or Director, Navy Staff.

Unofficial Travel.

- All unofficial travel requires full reimbursement of full coach fare.
- Aircraft must already be scheduled for an official purpose.
- Includes travel by a family member, non-DOD civilian, or non-Federal

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traveler accompanying a senior officer traveler on official business on an aircraft already scheduled for an official purpose.

- Unofficial travel must occur on a non-interference basis, does not require a larger or additional aircraft, and has only negligible additional costs to the Government.
- Official travelers must not be displaced.
- Unofficial travelers must have an invitational travel authorization (ITA) and must reimburse the Government full coach fare for the flight. The ITA must be approved in writing by the senior officer traveler.

Spouse Travel

Key References: JTR Appendix E; DoDD 4500.56 (through change 3)

Key Concepts.

- Invitational travel is the term applied to travel when the person is acting in a capacity that is related directly to official DoD activities.
- This guidance addresses only spouse travel approved under paragraph 2.m of Appendix E to the JTR, and does not cover other JTR invitational travel scenarios.
- As a general rule, the spouse of an authorized traveler (the DoD sponsor) may not travel on government aircraft without reimbursing the government.
- When the spouse's presence is in the DoD, Navy or command's interest, nonreimbursable travel may be authorized. Nonreimbursable travel shall be at no additional cost to the government. Unusual circumstances, such as unplanned schedule changes or compelling mission requirements for the DoD sponsor, may support the spouse traveling independently in the most cost-effective manner subject to the written approval of the approval authority.
- Nonreimbursable spouse travel on MILAIR cannot result in assignment of a larger military aircraft solely to accommodate the spouse travel.

Invitational Travel Authorizations (ITAs).

- ITAs may be issued by an authorizing official to a spouse traveling with his/her sponsor when the spouse's presence would further the interest of the DoD, military service or command when the spouse travels to:
 - (1) attend a function in which the DoD sponsor is participating in their official capacity and in which the spouse is to address those assembled or otherwise play an active role and visible part; or,
 - (2) attend a function with or without the DoD sponsor, attended by spouses of community leaders, government officials, foreign dignitaries, or foreign military officers with whom the DoD sponsor is meeting in their official capacity; or,

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- (3) attend a function, with or without the DoD sponsor, where a substantial portion of those present are military families or where the focus is on matters of particular concern to military families.
- Ordinarily the ITA should authorize reimbursement of only transportation costs. Per diem and/or other actual expense allowances may be authorized if the spouse or dependent travel is unquestionably mission essential and there is a benefit to DoD beyond fulfilling a representational role.
 - Authorization of spouse travel for official purposes requires good judgment in application to avoid the appearance that spouse travel is being abused.
 - Good judgment would counsel against authorizing travel if the official function that the spouse is to attend is merely incidental to the trip and the spouse will be primarily occupied with personal activities or the travel is immediately preceded or followed by personal leave in the same area.
 - An established best practice is to ensure the execution of a "spouse agenda" and to prepare after-action reports upon the completion of spouse travel to record that the travel was executed as planned and to promulgate recommendations, observations, or other information that resulted from the spouse travel.

Per Diem and Other Expenses:

- The approving official may authorize per diem and/or other actual expense allowances beyond transportation costs if the dependent's travel is "unquestionably mission essential" and there is a benefit for DoD beyond fulfilling a representational role.
- "Unquestionably mission essential" is a fact-dependent standard that requires a heavy burden to satisfy. While no formal definition exists for "unquestionably mission essential", as it pertains to spouse per diem ITA determinations, it generally can be described as a situation where the mission cannot be accomplished without the spouse's presence.
- Examples of unquestionably mission essential travel include, but are not limited to:
 - Where a spouse's unique expertise in the subject matter under discussion serves a mission critical function that would otherwise go unfilled absent the spouse's attendance.
 - Where a spouse's unique relationship with a member or members of a group to be influenced or engaged upon during the trip will significantly increase the likelihood of mission success (typically applicable only to foreign diplomatic/military trips where the commander is attempting to win support for his or her position on behalf of the U.S.).
 - Where the spouse's presence is required to ensure future readiness as the husband or wife of a senior official (e.g. Navy Flag Officer Spouse Training, NFLEX, NFOSES).
 - Where a spouse is explicitly invited to a gender specific event that would exclude his or her spouse from attending, but has

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great importance to the United States or the Navy (e.g. a female only event hosted by royal families or by spouses of other high level dignitaries in the Middle East, including, but not limited to, wedding side-events and women's majlis meetings).

Approval Authority:

- CNO has delegated approval authority for ITAs for spouses to Vice Chief of Naval Operations; Commander, U.S. Fleet Forces Command; Commander, U.S. Pacific Fleet; Commander, U.S. Naval Forces Europe/Africa; and Director, Navy Staff.
- The authority to approve ITAs for spouses of DoD senior officials may not be delegated below the Chief of Staff or equivalent level.

Gifts

Key References: 5 U.S.C. §§ 7342, 7351, 7353; 10 U.S.C. §§ 2601, 2608; 31 U.S.C. § 1353; 5 C.F.R. Part 3601; 5 C.F.R. Part 2635; DoD 5500.07-R; DoDD 1005.13; SECNAVINST 1650.1H; SECNAVINST 4001.2J; OPNAVINST 4001.1F; ALNAV 077/14

Key Concepts.

- Gifts present many ethical and legal issues. It is critical to seek the advice of your designated ethics counselor on these issues.
- The basic rule: An employee shall not solicit or accept, directly or indirectly, a gift from a prohibited source or given because of the employee's official position.
- Prohibited source: Any person or entity that: is seeking official action by the employee's agency; does or seeks to do business with the employee's agency; is regulated by the employee's agency; has interests that may be substantially affected by the employee's official duties; or is an organization a majority of whose members fit into one or more of these categories. Employees of a prohibited source are prohibited sources.
- Official position: The test is whether the gift would have been given had the employee not held the status, authority, or duties associated with the employee's Federal position.
- Indirect gifts: Includes gifts to a spouse, child, parent, sibling or dependent relative or any other person including a charity on the basis of designation, recommendation, or other specification by the employee.
- Use Judgment: Even though acceptance of a gift may be permitted by one of the exceptions, it is frequently prudent to return gifts, or to pay for them, rather than to accept them. The potential embarrassment from declining or returning a gift is outweighed by the imperative of maintaining the public's confidence in all our actions.
- Solicitation: Solicitation of gifts is prohibited. Solicited gifts may not be accepted even though an exception would otherwise permit acceptance of the gift.
- The Gift Disposition Form at Enclosure (11) should be used to document all gifts.
- SECNAV M-5210.1 requires that standards of conduct memorandum pertaining to the acceptance of most gifts be retained at the unit for three years. Gifts accepted under 10 U.S.C. §2601 must be permanently retained and retired to the National Records Center when four years-old.

Gift Definition.

The term "gift" is broadly defined and includes any gratuity, service, discount, entertainment, hospitality, or other item having monetary value. It includes meals, lodging, transportation, and training. The term "gift" does not include:

- Coffee, donuts, or other modest refreshments not intended to be a meal.
- A "presento" of little intrinsic value (card, plaque, certificate).

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- Commercial benefits available to the general public or to either all Government employees or to all military personnel.
- Anything for which the employee pays fair market value.
- Anything accepted by the Government in accordance with agency gift acceptance statutes (e.g., acceptance of steaks for deployed forces, gifts of travel).
- Anything paid for by the Government or secured by the Government under Government contract.

Common Exceptions to Prohibition against Accepting Gifts from Outside Sources.

- Gifts of \$20 or less: Unsolicited gifts (NOT cash) with a market value of \$20 or less per source and per occasion are permissible so long as the total value of all gifts received from a single source during a calendar year does not exceed \$50. Gifts received from a single source include not only gifts directly from an entity, such as a contractor, but gifts from any officer, employee or agent of the entity.
- Gifts based on a personal relationship: Factors that are considered include: history of the relationship; whether the family member or friend pays for the gift from personal funds (not paid for by their employer/business); occasion for gift - holiday, birthday, family event or when official action is pending that might impact donor.
- Gifts from foreign governments: Employees may accept a gift (or combination of gifts) of "minimal value" (retail value in the U.S. of \$375 or less) if given and received as a courtesy from a foreign government. Gifts exceeding \$375 may be accepted on behalf of the U.S., but special rules and procedures apply. Ethics counselors should review all foreign gifts.
- Gifts while on travel in foreign areas: Acceptance of meals, refreshments and entertainment at an event in a foreign area under the gift exception at 5 C.F.R. part 2635.204(i) requires that (1) market value of the gift as converted to U.S. dollars does not exceed the per diem rate for that area; 2) there is participation in the event by non-U.S. citizens, representatives of foreign governments or other foreign entities; 3) attendance is part of the employee's official duties; and 4) the gift is from a person other than a foreign government. ALNAV 077/14 additionally requires a prior, written determination by a GO/FO/SES Supervisor, in consultation with the Ethics Counselor, that attendance at the event is official. Only O-10s and PAS officials can make the determination for themselves after consulting with an ethics counselor. See Enclosure (14).
- Awards: Employees may accept gifts that are a bona fide award (or incident to such an award) from a person who does not have interests that may be substantially affected by the performance (or non-performance) of the employee's official duties. An ethics counselor must approve any gifts of cash or gifts in excess of \$200.

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- Widely Attended Gatherings: Employees may accept a gift of "free attendance" from the sponsor of a "widely attended" gathering if the employee's agency determines that employee's attendance is in the interest of the agency (i.e., attendance will further agency mission). A gathering is "widely attended" if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present. Other special rules and procedures apply to this exception.

Gifts between Employees.

- General Rule: Employees cannot accept a gift from a lower paid employee, unless they have a personal relationship and they are not in a superior-subordinate relationship. Employees cannot give a gift to an official superior.
- Exceptions: On occasional basis, including traditional gift-giving occasions, such as birthdays and holidays, the following may be given by a subordinate and accepted by a superior:
 - o Items (NOT cash) with value of \$10.00 or less per occasion (e.g., card).
 - o Food and refreshments to be shared in office.
 - o Personal hospitality at subordinate's home of a type and value customarily given by the subordinate to personal friends.
 - o Item given by a subordinate in connection with the receipt of personal hospitality from a superior if of a type and value customarily given on such occasions (e.g., a hostess gift of a \$15 bottle of wine).
 - o Note: Gifts exceeding \$10.00 given to superiors during command/site visits generally do not fall within any of these exceptions and should not be accepted from subordinates.
- Special, Infrequent Occasions.
 - o Subordinates may give a gift or donate toward a group gift for superior, and superior may accept gift on special, infrequent occasions such as marriage, illness, birth of child, or upon termination of superior-subordinate relationship, such as transfer, resignation, or retirement. Promotion does not qualify for this exception.
 - o Solicitations for group gifts may not exceed \$10 per person, but the employee is free to donate more. All donations must be voluntary. Group gift(s) given on special, infrequent occasions are limited to \$300.

Communications with Industry

Key References: 18 U.S.C. §207(c); 18 U.S.C. §208; DoD 5500.07-R (JER); DEPSECDEF Memo of 21 Jun 10; UNSECNAV Memo of 4 May 11; 5 CFR 2641.204(c)

Key Concepts.

- The Navy's ability to meet the challenges of the future is enhanced by frequent, fair, even, and transparent communication with members of the industrial base.
- There is no *per se* legal or ethical prohibition on Navy officials communicating with industry members. Nevertheless, such communication must be done in a manner that gives no preferential treatment and protects classified, sensitive and non-public information from unauthorized release. Individual flag officers must also be mindful of potential conflicts of interest.
- Navy officials are encouraged to communicate with industry on matters of mutual interest, as necessary to conduct official business, while being mindful of the limitations.
- It is important to consult legal counsel early when planning to communicate with industry. Counsel can help ensure the fairness and integrity of current or future acquisitions are protected and ensure that individual flag officers avoid unintended conflicts of interest.

General Rules.

- Impartiality: DoD officials must act impartially and not give preferential treatment to any private organization. Exercise caution to ensure that your actions do not give a competitive advantage to a particular company.
- Information: Do not release or discuss any non-public information.
- Commitments: Do not make any commitments or promises that could bind the government. Only a warranted contracting officer or real estate contracting officer is authorized to bind the government by entering into, or changing, a contractual agreement or real property interest. Although you may ask informational and clarifying questions during a meeting, or ask contractors to send follow-up information, you must always preface these requests with a specific disclaimer that you are not authorizing award of any new contract or agreement, or authorizing changes to an existing contract/agreement scope of work.
- Conflicts of interest: DoD officials must not participate personally and substantially in an official capacity in any particular matter that has a direct and predictable effect on their financial interests or those imputed to them by virtue of family or business relationships. DoD officials must also avoid the appearance of conflicts of interest.

"Best Practices" for Communicating with Industry.

- Group Setting: The applicable ethical and legal rules require fair and even treatment of industry representatives. Although large industry forums that are open to the public are preferable settings

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to inform industry of Navy needs and priorities, smaller groups and even one-on-one sessions may be appropriate in particular cases. If you engage in smaller group or one-on-one sessions, fairness requires that you must be able and willing to grant similar requests that you receive from other industry members.

- o One-on-one meetings concerning emerging capabilities requirements not currently under contract should generally be avoided if not preceded by a broader announcement to industry that Navy is seeking information in this area.
- Process: Route industry requests for meetings through your legal counsel for review and advice. In addition, your PAO, and other senior staff members may also advise on particular factors that should be considered in deciding whether to meet with particular industry representatives.
 - o Contracts: Prior to agreeing to a meeting or commencing communications, request legal counsel or the supporting contracting office identify all relevant upcoming or ongoing competitive procurements involving the specific contractor and any contractor litigation pending with DON. This will ensure that you do not inadvertently jeopardize the integrity of an upcoming or ongoing competitive procurements or ongoing litigation. Consider having your legal counsel or contracting officer attend meetings that may touch on contract issues or action.
 - o Read-Aheads: If the meeting or communication is at the request of industry, request that the industry member provide a copy of any read-ahead that may be available. This provides you additional advance details or information to assist you and your senior staff, or subject matter experts in preparing for the meeting.
 - o Agenda: Determine an agenda in advance that will clearly identify the topics/issues that are open for discussion and those that are off-limits for discussion.
 - o Subject Matter Experts: Include appropriate subject matter experts in the discussion. They will prepare you beforehand and respond to inquiries after the meeting. Their participation enhances their ability to assist in communicating Navy positions.
 - o Meeting Logs: Maintaining a log or other organized written record of all meetings with industry representatives. This can be helpful documentation of minimum details if there are any later questions about fairness or propriety of the meeting. Meeting logs of this nature are regarded as a standard of conduct memoranda and should be retained for three years.
- Appearance Concerns: Do not participate in a matter that presents an actual or apparent conflict between your official duties and your personal interests. Counsel, PAO, and senior staff will assist you in identifying conflict of interest issues or appearance concerns that should be considered in your decision-making process.
- Personal Conduct: Be sure to follow the applicable gift rules and post government employment rules. For example, a member of industry coming for a meeting may bring a small gift that they wish to give

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you. Be sure to consult with your counsel prior to accepting any gifts from members of industry. Additionally, post government employment rules are very specific regarding when someone is "seeking employment." Consult with counsel to ensure you know and understand these rules and their impact on your official duties.

- Engagement Strategy: Develop a comprehensive industry engagement strategy that aligns your mission responsibilities with DoN and DoD strategy and position. Leverage the knowledge and expertise on your staffs in creating strategy and utilize it in your decision-making process.

Command Coins

Key References: 31 U.S.C. §1301; 10 U.S.C. §1125; 5 U.S.C. §4503; DoDI 7250.13; SECNAVINST 3590.4 (was cancelled, but updated version is forthcoming); SECNAVINST 7042.7K; 5 C.F.R. Part 2635.203(b)(2); NAVADMIN 184-14.

Key Concepts.

- NAVADMIN 184-14 reinstated authority to use appropriated funds to purchase command coins and other items for presentation such as plaques, ball caps, etc.
 - NAVADMIN 184-14 restricts authority to purchase and present command coins to the following personnel: CNO, VCNO, DNS, CNP, MCPON, and officers serving in command.
 - NAVADMIN 184-14's restrictions do not apply to items purchased with official representation funds (following appropriate review and approval) or personal funds.
- Appropriated funds (APF) may only be used for authorized purposes. Absent specific authority, an expenditure using appropriated funds is prohibited. Consequently, a command may expend O&MN to purchase command coins as a means to recognize outstanding performance and use ORF to purchase coins as an extension of the command's provision of official courtesies. Command coins may not be presented solely as mementos, to improve morale, as tokens of appreciation, or to recognize expected service.
- Commanders must balance the need to formally recognize excellence in performance of duty with the continuing responsibility to conserve scarce resources.

Awards.

- 10 U.S.C. §1125 and 5 U.S.C. §4503 authorize DoD to award medals, trophies, badges, and similar devices for excellence in accomplishments. Presentation of a coin qualifies as an award when given for outstanding performance, specific achievement, or a unique achievement that contributes to command effectiveness (SECNAVINST 3590.4 (series)). Command coins provided in this context should bear the characteristics of other command awards.
- Command coins provided as awards or other presentation item must be properly accounted for in a written record that includes the name of the individual to whom the coin was presented, the date of presentation and the specific performance or achievement warranting the award.
- Only officers serving in command and those officials listed by title in NAVADMIN 184-14 are authorized to use appropriated funds to purchase command coins. Exceptions to this limitation may be approved on a case-by-case basis by the Director, Navy Staff.

Official Representation Funds (ORF).

- SECNAVINST 7042.7K (ORF Guidelines) provides that ORF may be used to purchase mementos that have a command or official theme. Coins having a command or official theme qualify as appropriate mementos.

Command Coins

- Consistent with SECNAVINST 7042.7K, ORF may be used for advance (non-event specific) bulk purchase of command coins or other mementos, provided the coins or other mementos purchased are reasonably expected to be presented to ORF eligible recipients by the requesting Navy leader within the fiscal year.
- ORF mementos are to be purchased with ORF funds, and not purchased with non-ORF funds or with personal funds, even if the leader expects to have ORF available later that same fiscal year to "reimburse" the improper funding source. Items purchased with ORF shall be strictly accounted for and should not be co-mingled with other inventories.
- Generally, a command may offer mementos not exceeding \$375 to foreign dignitaries or other prominent citizens (non-DoD personnel).¹ A command also may offer mementos not exceeding \$40 to prominent visiting DoD officials.² All Flag Officers on official visits to a foreign country are authorized to present command coins to non-DoD individuals who would not normally qualify for ORF courtesies, and yet provide essential support such as interpreters, drivers, or hotel staff.

Private Funds: Coins given as gifts, tokens of appreciation, recognition of routine performance of duty, or to instill unit pride are not awards. Coins used this way cannot be purchased with APF, but rather should be purchased using private funds. Coins purchased with private funds may be personalized with the donor's name and there are no restrictions on the use of such coins. In using these funds, a commander is not bound by the restrictions discussed above (other than that of good taste).

¹ See paragraph 8b, SECNAVINST 7042.7K. See paragraph 6 and enclosure (1) for a description of foreign dignitaries and other prominent citizens authorized to receive official courtesies under the instruction.

² See paragraph 8b(7), SECNAVINST 7042.7K. See paragraph 6a(5) and enclosure (1) for a list of prominent DoD officials authorized to receive official courtesies under the instruction.

Flag Aides

Key References: 5 C.F.R. Part 2635; DoD 5500.07-R (Joint Ethics Regulation [JER])

Key Concepts.

- Flag Aides can be used for official or authorized government purposes only. "Flag Aides" refers to personnel who work in direct support of Flag Officers such as Executive Assistants, Flag Lieutenants, Flag Secretaries, Protocol Officers, Flag Writers, and other enlisted personnel assigned to a Flag Officer's personal staff, with the exception of Enlisted Aides.
- Flag Aides are assigned to enable Flag Officers to perform their official duties more effectively. A Flag Aide may perform duties on behalf of a Flag Officer that the Flag Officer would otherwise be required to perform in the execution of his or her official duties. As a general rule, Flag Aides may not plan or coordinate unofficial personal events, or perform unofficial personal tasks, even if doing so would give the Flag Officer more time to focus on official business.
- The standard for use of Flag Aides is based on principles contained in the JER that federal employees may not use their public offices for private gain, may not accept gifts (including gifts of time or services) from subordinates except in limited circumstances, and may not misuse government resources.
- The standard for use of Flag Aides is more stringent than the standard governing use of Enlisted Aides. (See enclosure (7) for a detailed discussion on Enlisted Aides)

Examples: The following examples illustrate some permissible and impermissible Flag Aide duties. This list is not all-inclusive. Flag Officers and their Aides should seek advice from their Staff Judge Advocate or General Counsel in cases of uncertainty. Ultimately, Flag Officers are responsible for the proper employment of their Flag Aides.

• Permissible duties.

- Schedule official appointments.
- Schedule unofficial appointments if necessary to ensure coordination with, and execution of, the official schedule.
- Coordinate with family members to obtain information necessary to avoid conflicts between personal and official travel of Flag Officer.
- Schedule medical appointments for Flag Officer.
- Act as escort for spouse or family member when that spouse or family member accompanies Flag Officer in an official representational capacity or performs official duties.
- Assist guests as necessary to facilitate their attendance at official ceremonies honoring the Flag Officer (e.g., retirement

Flag Aides

- or promotion ceremonies). Assistance may include escorting to provide access to military facilities.
- o Maintain and write checks from a checking account, funded by the Flag Officer, for expenses incurred by the Flag Officer that arise from official duties (e.g., paying a restaurant bill while on official travel or purchasing mementos for official presentations). Aides may not deposit their own money in such accounts even if subsequently reimbursed by the Flag Officer.
 - o Supervise Enlisted Aides in performance of their duties.
 - o Pick up meals from an official mess.
 - o If it is determined to be an appropriate use of a Government Vehicle (GOV), Flag Aide may pick up Flag Officer in GOV at airport upon return from official travel for transportation to official place of duty or residence. Note: Special rules apply to use of GOVs at public airports in the National Capitol Region.
 - o While on temporary duty outside the area of the permanent duty station, a Flag Aide may perform certain tasks that would not be permissible at the permanent duty station. Such tasks should relate to the duties, health, or subsistence of the Flag Officer, and take into account the Flag Officer's schedule. For example, the Aide may drive the Flag Officer from quarters to work, or to a gym, laundry facility, or restaurant. The Aide may also assist the Flag Officer with emergent needs such as going to the exchange to purchase uniform items needed by the Flag Officer prior to an official event. All assigned tasks must also comply with applicable regulations governing the use of GOVs and rental cars (See enclosure (8) for a detailed discussion on the use of government vehicles and rental cars).
- **Impermissible duties:** Flag Aides may not provide personal services to Flag Officers or their families, except as provided below under the paragraph "Minor Voluntary Services," which identifies limited occasions when performance of such services is acceptable. Generally, personal services are unofficial and therefore beyond the scope of the Flag Aide's duties. Examples of impermissible personal services include:
 - o Pick up or drop off Flag Officer at home while Flag Officer's car is being repaired.
 - o Provide local transportation for Flag Officer in Aide's POV (e.g., drive Flag Officer home from office at end of workday).
 - o Repair Flag Officer's POV or other personal property.
 - o Pick Flag Officer up at airport upon return from unofficial travel.
 - o Draft Flag Officer's personal correspondence.
 - o Prepare Flag Officer's income taxes (Note: May assist in preparing required financial disclosure forms).
 - o Run personal errands for the Flag Officer while in area of permanent duty station, such as picking up dry cleaning, taking car to service station, bringing his or her lunch from a commercial establishment to the office.

Flag Aides

- o Participate in packing or unpacking the Flag Officer's personal property, moving furniture, or supervising movers, pursuant to the Flag Officer's PCS move (Enlisted Aide may permissibly perform some of these functions.)
- o Schedule and/or coordinate personal events for family members, including medical appointments. Assist Flag Officer's family members with personal business (e.g., pet care, private lessons, childcare, etc.).
- o Plan an unofficial/personal party for or on behalf of spouse or family member.
- o Transport Flag Officer's unofficial visitors.
- o Do personal shopping for Flag Officer or family.

Minor Voluntary Services: Flag Aides may perform personal services for the Flag Officer if such services are:

- Rare - provided on a one-time-only or very infrequent basis;
- Minor - of short duration and minimal value. (Note: With limited exceptions, the Joint Ethics Regulation forbids seniors from accepting any gift from a subordinate with a fair market value over \$10.00. If an Aide voluntarily performs a service that could reasonably be said to have a fair market value greater than \$10.00, the Aide may perform the service if compensated at fair market value by the Flag Officer. An Aide may not be compensated for voluntary service that takes place during normal duty hours.); and
- Truly voluntary - whether a service is "truly voluntary" depends on the surrounding facts and circumstances. Factors include, but are not limited to: originator of the idea for the service (Flag Officer or Aide); extent to which the service causes Aide to modify ordinary routine or plans; whether the service is provided incidental to an activity the Aide will perform anyway; and the Aide's perception and description of the service as well as freedom to decline to perform the service.

Acceptable examples of uncompensated services could include, but are not limited to: Flag Officer's car is in the shop, and Aide offers Flag Officer a ride home, which is on the way to, or very near, the Aide's home or Aide goes to the store for herself and offers to get an item for the Flag Officer. To be permissible, each of these examples, and all other similar services, must satisfy the three-part test of rare, minor, and truly voluntary.

Caution: While an offer may meet the criteria of rare, minor, and voluntary, often it is in the Flag Officer's best interest to reject the offer as the criteria are difficult to show after the fact and because the assistance may create the appearance of favoritism or fraternization or may create the appearance of using public office for private gain. For Flag Officers with Enlisted Aides for assigned quarters, cross-reference the Enlisted Aides guidance.

Enlisted Aides

Key References: DoDI 1315.09 (effective date of 5 May 2015); SECNAVINST 1306.2 series; OPNAVINST 1306.3 series; 5 C.F.R. part 2635; 10 U.S.C. §7579

Key Concepts.

- Enlisted Aides are authorized for the purpose of relieving Flag Officers of those minor tasks and details that, if performed by the flag officers, would be at the expense of their primary military and official duties. The duties of these enlisted personnel shall relate to the military and official responsibilities of the officers, to include assisting Flag Officers in discharging representational responsibilities of their assigned positions.
- Enlisted Aides are not to be confused with other types of personal staff Aides (Executive Assistant, Flag Writer, Flag Secretary, Flag Aide, etc.).
- No flag officer may use an enlisted aide for duties that contribute only to the personal benefit of the flag officer or his or her family.
- Flag Officer alone is responsible for determining whether duties assigned to Enlisted Aides are substantively connected to the officer's official duties and responsibilities. This is non-delegable. Due diligence must be exercised to ensure the line of authority remains clear and solely between the flag officer and their assigned enlisted aide(s).
- Billet-by-billet justification for continued assignment of enlisted aides is now the subject of annual reporting requirements to Congress. Flag officers should ensure that the duties performed by enlisted aides are accounted for.

Voluntary Paid Services: Flag Officers may employ Enlisted Aides during their off-duty hours on a voluntary, paid basis to perform duties that are not authorized to be performed by the Enlisted Aides in a duty status. Pay should be at a rate commensurate with, or above, the fair market value of the work performed in accordance with the Bureau of Labor and Statistics web site at www.bls.gov/oes/current. A memorandum documenting the terms of agreement signed by all parties is an established best practice.

Qualifying Representational Events.

- A Flag Officer may use Enlisted Aides to support qualifying representational events. Qualifying representational events are those that are substantively related to the performance of the flag officer's military and other official duties and responsibilities. These include events that provide opportunities for personal interactions beyond routine day-to-day work interactions.¹
- DoDI 1315.09 provides a detailed list of the types of events enlisted aides can and cannot support.

¹The fact that the use of an Enlisted Aide is permitted does not necessarily mean that the use of appropriated funds is authorized for these events.

Enlisted Aides

- The following factors may be considered in determining whether an event is a qualifying representational event. Not all factors need to be present; nor should any single factor alone be conclusive.
 - The primary focus of the event is the transaction of official business or hosting a foreign dignitary or prominent official.
 - The event is intended to improve morale, promote esprit de corps, and develop inter-personal relationships among command members and their families.
 - Dignitaries, civic/community leaders, or senior military personnel attend as official invitees.
 - The event is one that flag officers customarily or traditionally host as part of their duties.
 - The event is held at the Flag Officer's public quarters or other government location.

Sharing/Loaning Enlisted Aides.

- While a Flag Officer retains sole responsibility for use, supervision, direction, and performance of Enlisted Aides, it is appropriate to share/loan enlisted aides as follows:
 - *To another flag or general officer who is also assigned enlisted aides.* Enlisted aides may be loaned for the purpose of supporting qualifying representational events. Duty hours may be adjusted to support the qualifying representational event.
 - *To another flag or general officer who is not assigned enlisted aides.* Enlisted aides may be loaned to a general or flag officer who is representing the flag officer to whom the enlisted aides are assigned at qualifying representational events. Enlisted aides must be authorized for each specific event in writing prior to the event. The flag officer assigned the enlisted aides maintains the responsibility to determine the event is a qualifying representational event.

Role of the Spouse: It is appropriate for a Flag Officer's spouse to collaborate closely with Enlisted Aides during planning and execution of official social functions authorized by the Flag Officer, should the spouse so desire. In most cases, a Flag Officer must be present at a function to justify use of Enlisted Aides. An exception to this rule is when the Flag Officer's spouse hosts a qualifying representational event in the absence of the Flag Officer, and the Flag Officer determines that the spouse's role in executing the function has a direct connection to the Flag Officer's official duties and responsibilities. Ethics Counselors shall offer to Flag Officer spouses annual ethics training specific to Enlisted Aides.

Authorized Duties: The following list of authorized duties was revised by the 2015 DoDI on enlisted aides.

- Clean and maintain only those areas of assigned quarters used for qualifying representational events, to include the common areas that

Enlisted Aides

provide access to these spaces or areas of assigned quarters that are used by enlisted aides in support of these events.

- Minor grounds keeping, mowing, raking, watering, and yard policing.
- Minor tasks/errands that aid the flag officer in the performance of his or her military and other official duties and responsibilities such as picking up Flag Officer's uniform dry cleaning, prescription drugs, etc. - the task or errand must not be prohibited by DoD or DON regulations.
- Plan, prepare, arrange and conduct qualifying representational events.
- When Flag Officer is present, may purchase, prepare, and serve food & beverages in quarters for the Flag Officer and family members who are part of the Flag Officer's household. An enlisted aide's normal work schedule may not be adjusted for the sole purpose of providing three meals per day.
- Clean/press Flag's uniform or civilian attire for qualified representational events.
- Answer phone, take messages, and receive official visitors.
- Setting up and taking down seasonal decorations in public areas of assigned quarters for official events and/or events which are reasonably connected to the Flag Officer's official duties.
- Assisting with PCS moves, which may include packing/unpacking of official books, military uniforms and government issued equipment. Assistance does not include packing/unpacking personal items.

Unauthorized Duties: Flag Officers may not use an Enlisted Aide for duties which have no substantive connection with the Flag Officer's military or other official duties and responsibilities or which contribute solely to the personal benefit of the officer and their families. Examples include:

- Making beds, cleaning the bedrooms occupied by the flag officer or family, organizing personal property, or cleaning up after personal events held in the quarters.
- Landscaping or grounds-keeping other than mowing, watering and general yard policing (such as trimming or planting flowers).
- Skilled trade services such as personal computing, electrical, or plumbing other than routine upkeep and maintenance.
- Assisting in planning or conducting personal social events (e.g., spouse's birthday party, family reunion).
- Packing for a family trip and shopping for a personal gift.
- Operation, care, or cleaning of any privately-owned vehicle.
- Personal services solely for the benefit of or at the direction of dependents or unofficial guests, including any driving, shopping, private errands, or laundry services.
- Any form of caregiving for family members or personal guests.
- Any form of pet care including grooming, feeding, exercising, feces removal and veterinary visits.

Use of Government Passenger Motor Vehicles

Key References: 31 U.S.C. §1344; 10 U.S.C. §2637; 41 C.F.R. part 102-5; 41 C.F.R. part 102-34, subpart D; DoDD 4500.36; DoD 4500.36-R; JTR 3300, 3400 et. seq.

Key Concepts.

- Government passenger motor vehicles (GOVs) are for official use only. Whether a particular use is "official" is a matter of administrative discretion. All factors must be considered including whether the use is essential to the successful completion of a DoD function, activity, or operation, as well as consistent with the purpose for which the motor vehicle was acquired.
- When questions arise about the official use of a motor vehicle, the questions shall be resolved in favor of strict compliance with statutory and regulatory provisions.
- A guest of an employee authorized use of a GOV may accompany the employee on a space-available, no-increased-cost basis (Note: special rules apply to contractors).
- TDY: GOVs may be used between lodging and duty sites if public/commercial transportation is inadequate. Additionally, if public transportation is not available or impractical, GOVs may be used for subsistence, comfort, and health. This authority does not include entertainment or recreation.
- Rental vehicles are considered "special conveyances" under the JFTR. As such, the current rules allow use only for official purposes, to include those for subsistence, comfort, and health while TDY.
- Home-to-Work (HTW): Use of a GOV for HTW travel is prohibited unless specifically authorized. Within DON, SECNAV, CNO, and CMC are authorized HTW. Additionally, SECNAV¹ may authorize employees HTW when (1) essential due to highly unusual circumstances presenting a clear and present danger; (2) an emergency exists; (3) other compelling operational considerations make HTW essential to conduct business; (4) essential for safe/efficient performance of intelligence, protective services, or law enforcement; or (5) required to perform field work. Authorization must be in writing.
- Home-to-Airport: When in a TAD status, use of GOV from home to airport to home may be authorized. The activity or installation head must make the determination that it would be impractical or more costly to have the member obtain the vehicle from the normal duty station before leaving on the directed TDY., pursuant to DoD 4500.36-R, Chapter 2.

Note: In the National Capital Region, authority is further restricted.

- Overseas. Outside the United States, unified combatant commanders may provide Government transportation, including HTW, for employees and their dependents when public/private transportation is unsafe or

¹ This authority is not delegable and is limited to an initial period of 15 days, renewable for up to 90-day increments for as long as required by the circumstances.

Use of Government Passenger Motor Vehicles

is unavailable.

- **Examples of Permissible Uses.**

- Official business (e.g., making rounds of area work sites, attending a meeting, officially speaking or participating in a ceremony or event).
- Traveling from place of duty to after-hours official functions. GOV must return to place of duty.
- Transporting the employee's guest with the employee, at no increased cost, to an official function.
- Going to the dry cleaners, barber, drugstore, local restaurant, exercise activity (gym or run), or other places required for the traveler's subsistence, health or comfort while TDY.
- While on TDY, for events that incorporate both a meal and entertainment, a GOV may be used if the primary purpose of the event is the meal and the distance traveled is not further than what would be required to gain subsistence at a local restaurant.

- **Examples of Impermissible Uses.**

- Going to a private social function (e.g., unofficial birthday ball, hail and farewell, private dinner party).
- Attending a widely attended gathering, which one does in a personal capacity.
- Transporting employees not authorized HTW from home to an official function, or from the official function to home (impermissible even when the travel distance is less than from work to the official function).
- Doing personal errands/business (such as, going to the bank).
- Going to entertainment/recreational facilities (other than gyms and other exercise facilities) is prohibited while on TDY. Examples of such prohibited facilities include movie theaters, sporting events, and other similar facilities.

- When in doubt regarding a permissible/impermissible use of government vehicles, to include government provided rental cars, consult counsel.

Post-Government Employment

Key References: 18 U.S.C. §§ 203, 205, 207, 208; 41 U.S.C. § 2103; 5 C.F.R. Part 2635; 5 C.F.R. Part 2641.201 et seq.; FY08 NDAA § 807; DoD 5500.07-R Ch. 8-9

Consult your Ethics Counselor: This enclosure is a general summary of the statutes and regulations that restrict or otherwise affect activities of DoD personnel after they leave Government service.

Searching for a Job While on Active Duty.

- If "negotiating" or "seeking employment," you must disqualify yourself from taking official action which affects financial interests of a potential employer
- The STOCK Act of 2012 requires notification of all negotiations and that agreements of employment must be filed with an Ethics Counselor within 3 days (as well as recusal, if necessary)
- If you are personally and substantially involved in procurement >\$150K, you must promptly report all contacts from bidders regarding potential employment
- Gifts of Travel/Transportation may be accept if customarily offered to all prospective employees

Working On Terminal Leave.

- As an OGE 278 filer, you must obtain written permission if working for a "prohibited source" while on terminal leave.
- You may not engage in representational activity back to the U.S. Government or accept compensation attributable to such activities. As a practical matter, this means you may not work for a government contractor in the federal workplace, since this is inherently representation. You may work for the contractor outside the federal workplace in a behind-the-scenes role.
- There is a prohibition on holding state or local civil office while still on active duty

Post-Government Employment Restrictions.

- Lifetime Restriction: You may not represent back to the federal government (any agency or employee) on behalf of new employer on any "particular matter" you participated in "personally and substantially" while in gov't service. This restriction lasts for lifetime of the matter.
- 2-Year Restriction: For 2 years after retiring or leaving government service, you may not represent back to Fed government (any agency or employee) on any particular matter that, although you did not participate in personally and substantially, was nonetheless "pending under your official responsibility" during the last year of your government service
 - o For Reserve Component Flag Officers: A new 2-year period begins each time you complete a period of AD/AT for those matters under your official responsibility in the preceding year.

- 1-Year "Cooling Off Period": For 1 year after retiring or leaving government service, you may not represent back, on behalf of your new employer, on any matter, to the agency you served with during your last year of gov't service.
 - For Reserve Component Flag Officers: A 1-year cooling off period begins every time you complete a period of AD/AT (even if only 1 day), but only if you served 60 or more days total AD/AT in the 365 days prior to the date your AD/AT terminated. The 60 days need not have been consecutive to trigger the cooling-off period. Therefore, each time you complete AD/AT, you should count the number of AD/AT days you served during the past 365 days and consult with your Ethics Counselor. This particular statutory prohibition illustrates the importance of record keeping by reserve component flag officers, particularly those whose employer is a non-government entity that seeks official actions from the Department of the Navy.

- Procurement Integrity Act
 - There is a one-year ban on accepting compensation for those who served in a defined position within last year of Federal service on contracts in excess of \$10 million
 - There is also a two-year advisory letter requirement

- Foreign Entities
 - There is a one-Year representation and aid Restriction (no representation or behind the scenes assistance)
 - Employment by or payments from Foreign Governments require advance consent of SECNAV & SECSTATE through CNP

Flag Officer Travel Worksheet

Date Submitted: _____

- Traveler:

- TDY Information:
 - Dates:
 - Destination:
 - Purpose (explain why alternative means such as teleconferencing or VTC are not adequate):
 - Hosting Organization:
 - Additional Official Business:
 - Funding Source:
 - If travel benefits are offered from a non-federal source, they must be accepted as a gift of travel prior to travel. See Ethics Counselor for details.

- Transportation:
 - If MILAIR is requested complete DD Form 2768.
 - Cost of commercial travel:
 - Is city-pair fare used for travel:
 - If city-pair fare available and not used, provide justification:
 - Will government vehicle be used for travel:

- Lodging:
 - Is government lodging to be used:
 - If not, is planned lodging within per diem rate:
 - If commercial lodging in excess of per diem, provide justification:

- Rental Car:
 - Is rental car authorized:
 - If other than compact car authorized, provide justification:

- Is there any attendance at an Event or Conference Hosted by a Non-Federal Entity:
 - If so, has attendance at the event been approved IAW conference approval procedures:

- Conference or Registration Fee:
 - Expense:
 - Does it cover any meals:

- Will Senior Traveler Be Accompanied By Support Staff:
 - Who:
 - Will Travel Deviate from Senior:

Flag Officer Travel Worksheet

- Justification for Support Staff:

- Will leave be taken in conjunction with the TDY:
 - Dates of Leave:
 - Has leave documentation been submitted:

- Additional travelers (spouse or others):
 - If spouse (others) will travel under Invitational Travel Authorization (ITA), attach copy of approved ITA.
 - If spouse (others) will travel on MILAIR as an unofficial traveler, attach documentation of full coach fare on or after date trip was planned:

- As applicable, attach the following:
 - Flight Itinerary
 - Lodging Reservation
 - Trip Itinerary
 - Invitation or Request from Host
 - Request to Accept Offered Travel Benefits from Non-Federal Entity
 - List of Gifts anticipated to be given or received during trip
 - Evaluation of meals in foreign areas (document "official" determinations")
 - Outreach events coordinated with CHINFO
 - Documentation of full coach fare as required
 - Approved ITAs, as required

- Point of Contact Information:

Legal Review

Date of Review: _____

- (Ethics Counselor) No legal objection
- (Ethics Counselor) No legal objection, see attached memo
- (Ethics Counselor) Legal objection, see attached memo

Signed: _____

GIFT DISPOSITION FORM

<PICTURE HERE>

Gift:

Presented to:

Presented by:

Date:

Occasion:

Value (attach proof of value):

Ethics Counselor Recommended Disposition:

_____ May accept in a personal capacity because _____
exception/exclusion applies. If accepted in personal capacity this gift IS / IS NOT
required to be reported on the OGE Form 278 in accordance with 5 C.F.R. §2634. OGE
Form 278 reportable value is _____.

_____ Recommend accept as a Gift to the Navy.
Value exceeds _____.

_____ Recommend return gift or pay fair market value of _____.

Disposition:

- _____ a. Accept as a Personal Gift, Send Home
- _____ b. Accept as a Personal Gift, Display in Office
- _____ c. Accept as a Gift to the Navy, Display in Office
- _____ d. Accept as a Gift to the Navy, Store in Gift Locker
- _____ e. Return
- _____ f. Pay Fair Market Value
- _____ g. PSM

Note:

1. If gift is from foreign government and exceeds minimum value (\$375), ensure appropriate coordination with DNS-35.
2. If paying fair market value, include copy of cancelled check or other proof of purchase with this form for records.
3. If intend to accept as gift to Navy, ensure coordination with appropriate gift acceptance authority. Once gift is officially accepted, ensure gift is appropriately added to and accounted for in command property control system.
4. Attach photograph of gift to this form.

PROTOCOL EVENT REVIEW FORM

Event:

Date/Time:

Location:

Host:

Purpose:

Funding Source:

Support Personnel:

1. Enlisted Aide Support:

Enlisted Aide: Official____Un-Off/Rel. to Official Duties____Volunteer/Paid____ None____

Other: Official____Volunteer/Paid____ None____

2. Music Support:

Official____ Volunteer/Paid____ None____

3. Protocol Support:

Official____ Volunteer/Paid____ None____

4. Photographer:

Official____ Volunteer/Paid____ None____

5. ORF Gift: (List recipient(s) of gift and cost of gift)

6. Guest List: (Specify if any ORF- eligible guests)

- (Ethics Counselor) No legal objection
- (Ethics Counselor) No legal objection, see attached memo
- (Ethics Counselor) Legal objection, see attached memo

Decision

Flag Officer: Approve _____ Deny _____ Other _____

FLAG OFFICER SCHEDULE REVIEW FORM

CREATED:

MEETING/SUBJECT:

REQUESTED BY:

DATE/TIME:

LOCATION:

ATTIRE:

OTHER SENIOR NAVY / DOD ATTENDEES:

POC:

RSVP by:

EVENT INFO:

CONFLICTS:

RECOMMENDATION / COMMENTS :

Ethics
Counsel

<input type="checkbox"/> Legal objection	<input type="checkbox"/> Official capacity
<input type="checkbox"/> No legal objection	<input type="checkbox"/> Personal capacity

Protocol

<input type="checkbox"/> Yes	<input type="checkbox"/> No
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Aide

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

PAO

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

EA

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

Flag/SES

<input type="checkbox"/> Yes	<input type="checkbox"/> No
------------------------------	-----------------------------

Pass To: _____

RSVP Complete = Accept / Regret (POC/Date/Time)

**Request for Legal Review of Foreign Country Event under 5 C.F.R. §2635.204(i)
Gift Exception for Meals, Refreshments & Entertainment in Foreign Areas
(as required by ALNAV 077/14)**

Date Submitted: _____

Requestor(s) (name, rank, position):

Name/Description of Event:

Date of Event:

Location of Event:

Donor (include full name, business title and company, and country):

Names (if available) and nationality of others in attendance (and identity of foreign government or foreign entity being represented, if any):

Subject matter of the event (attach agenda or brochure if available):

Anticipated market value of meals, refreshments, and entertainment (good faith estimate of fair market value converted to U.S. dollars):

Per Diem Rate in foreign area where the gift is being given:

Are any gifts other than meals, refreshments and entertainment being offered?

Nature of the event where the gift will be offered (e.g., dinner, reception, during a business meeting):

Describe the official purpose for the event. (e.g., How will this event further the programs or operations of the Department of Defense?):

Describe Requestor's Role in Event:

Explain any circumstances that may bring discredit/embarrassment to the DoD:

Any additional facts:

Ethics Counselor Foreign Area Gift Acceptance Review Guidelines

1. Is the source of the gift a *foreign government* as defined in 5 U.S.C. § 7342(a)(2)? If yes, then cannot be accepted under 5 C.F.R. 2635.204(i) and the procedural requirements in paragraph 7 of ALNAV 077/14 do not apply. Consider the possibility of acceptance under other gift exceptions.

2. Can *another gift exception* be used to accept the gift? (Some examples are modest items of food and refreshments such as soft drinks, coffee, etc. that are not gifts per 5 C.F.R. § 2635.203(b)(1); gifts of \$20 or less (5 C.F.R. § 2635.204(a)); or social invitations from persons other than prohibited sources (5 C.F.R. § 2635.204(h))). If so, a GO/FO/SES review and approval is not required.

3. Will *non-U.S. citizens and/or representatives of foreign countries or other foreign entities* be present at the event? If not, then 5 C.F.R. § 2635.204(i) does not provide acceptance authority and the requirements of ALNAV 077/14 do not apply. Consider the possibility of acceptance under other gift exceptions.

4. Is the *anticipated value* of the gift of meals, refreshments, and entertainment *less than the per diem rate* including lodging, meals and incidental expenses for that foreign area? If not, then 5 C.F.R. § 2635.204(i) does not provide acceptance authority and the requirements of ALNAV 077/14 do not apply.

5. Are there *gifts other than meals, refreshments and entertainment* anticipated? If so, these should be analyzed for possible acceptance under other gift exceptions.

6. Has the employee explained why *attendance* at the meeting or event is *part of the employee's official duties* to obtain information, disseminate information, promote the export of U.S. goods and services, represent the United States or otherwise further programs or operations of the agency or the U.S. mission in the foreign area?

7. Who has authority to make an ALNAV 077/14 “official” determination? GO/FO/SES have authority to make this determination for their subordinates. GO/FO/SES subordinate to Fleet, Region, or other Commanders exercising ADCON, OPCON, TACON for force protection or other similar senior/subordinate authority over military personnel TDY to foreign areas within their geographic AOR may also make this determination.

ETHICS COUNSELOR MEMO

Requestor(s):

Name/Description of event:

Date of event:

Donor:

Anticipated market value of gift:

Per diem rate in foreign area where the gift is being given:

Official purpose of the event:

Any additional facts:

- Analysis of the foreign area gift based upon the information provided in the Request for Legal Review.
- Statement as to who the proper approval authority is for making the determination as to whether the event in the foreign area is official.
- Ethics Counselor's recommendation to the Approval Authority.
- Note for EC to add for the Requestor: If the Requestor receives additional gifts in relation to the foreign area event, then the Requestor should consult the Ethics Counselor following the event for additional analysis and approval.

ACTION BY APPROVAL AUTHORITY

Presidentially Appointed Senate Confirmed (PAS) Officials, Flag/General Officers, and Senior Executive Service (SES) Members' Determination (Initial and Date Determination):

_____ a. Participation in foreign area event determined to be official

_____ b. Participation in foreign area event determined not to be official

Annual Ethics Audit Review Checklist

The following items should be reviewed on an annual basis. Following the review, the ethics counselor should discuss the results of the review with the Flag Officer.

- Official Representation Funds (ORF).
 - Review of all ORF events for compliance with applicable instructions
 - Legal review of the ORF event conducted prior to execution
 - Event held to honor an ORF eligible individual(s)
 - Appropriate ratios for the event
 - Records maintained of exception to policy requests and approvals
 - Review of gifts given utilizing ORF.
 - Gifts given were under \$375.00 for non-DoD ORF eligible individuals
 - Gifts given to DoD individuals identified in SECNAVINST 7042.7K were under \$40.00
 - Accounting of command coins purchased and presented using ORF

- Official Travel.
 - Travel is for an official purpose
 - Flag Travel checklist reviewed by an Ethics Counselor prior to execution
 - Appropriate reimbursement for unique travel situations such as multiple location TDY trips or actual expense allowance authorized
 - MILAIR properly requested and approved, if applicable
 - Spouse travel properly requested and approved, if applicable
 - Travel is no longer than required to accomplish the purpose of the official travel
 - Accompanying administrative personnel no more than required to execute the mission
 - If leave taken in conjunction with official travel, leave is properly recorded and no excessive reimbursement for personal travel or expenses
 - Participation in outreach events coordinated with CHINFO
 - Checks written to the U.S. Treasury for unofficial travelers have cleared with file copies maintained. Similarly, documentation supporting the full-coach fare on the dates of travel is retained on file.

- Leave.
 - Leave properly requested and charged following the leave period

- Use of Government Vehicles.
 - Review use of government vehicles to ensure use only for official purpose

Annual Ethics Audit Checklist

- Use of Personnel (does not include enlisted aides).
 - Review use of personal staff to ensure use only for official purposes
- Use of Enlisted Aides.
 - Review use of Enlisted Aides to ensure use is consistent with law and policy
 - Legal review of the use of the Enlisted Aides to support an event done prior to the event
 - Enlisted Aide has clear line of communication to the Flag Officer for any issues or concerns
 - Enlisted aides supporting other flag officers properly documented
- Command Coins.
 - Properly maintained coin log to document purchase and inventory of coins; category of coins (ORF, Personal or O&M funds); information regarding to whom it was presented; reason for presentation; and the date of presentation.
- Gifts.
 - All gifts received, regardless of type and source, recorded and reviewed in accordance with Best Practice Gift Acceptance Form. Retain documentation of fair market value on file
 - All gifts received reviewed by the ethics counselor
 - Gifts that cannot be accepted in a personal capacity or on behalf of the Navy returned to the source expeditiously
 - Foreign gifts received that exceed the minimal value routed to Director, Navy Staff (DNS 35) or other appropriate office in accordance with existing guidance
 - Ensure checks for foreign gifts that exceed the minimal value and are purchased by the Flag Officer are cashed by the U.S. Government
 - Process in place to review all social engagements and meals for possible gift issues - use of the Best Practice Protocol Event Review Form
 - Meals/entertainment in foreign areas accepted in writing prior to the event
- Training.
 - Flag Officer completed annual ethics training
 - Personal staff received in-person training with the ethics counselor in the last year
 - If an Enlisted Aide is assigned, spouse received an annual brief specific to the Enlisted Aide
- Financial Disclosure.
 - Required financial disclosure forms filed on time to include STOCK Act transaction reports (OGE Form 278T)
 - Conflict letters issued, if necessary

Annual Ethics Audit Checklist

- Speaking Engagements/Support to Non-Federal Entities (NFE).
 - o Requests for Flag Officer to speak or participate at NFE events reviewed prior to participation
 - o Coordination with CHINFO on outreach events

- Records Retention.
 - o Travel, gift acceptance, and standards of conduct memorandum retained by command for requisite periods.