

## SECTION 14

### STANDARDS OF CONDUCT

#### 14-1. Introduction.

Numerous public laws and executive orders set forth standards of conduct and define conflicts of interest for Government employees. Subject areas included are as follows:

- a. Criminal bribery and graft
- b. Receipt of gratuities by Government employees
- c. Financial and other conflicts of interest
- d. Certain outside activities of Government employees
- e. Prosecution of claims against the Government
- f. Former employees of the Government dealing with matters that are before their agencies at the time of employment
- g. Retired regular military officers selling to DOD
- h. Contracting with Government employees

#### 14-2. Basic Principles.

The following quote from FAR 3.101-1 illustrates the basic principle underlying all the various statutes and regulations relating to standards of conduct.

"Government business shall be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none. Transactions relating to the expenditure of public funds require the highest degree of public trust and an impeccable standard of conduct. The general rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in Government-contractor relationships. While many Federal laws and regulations place restrictions on the actions of Government personnel, their official conduct must be such that they would have no reluctance to make a full public disclosure of their actions." Knowing these basic principles is not enough. The challenge is to apply these principles in everyday situations.

14-3. Standards of Conduct Regulations.

a. It is the policy of the Government to place loyalty to country, ethical principles, and law above private gain and other interests. All USACE employees must avoid engaging in any personal business or professional activity, or having any direct or indirect financial interest that creates a conflict or appearance of conflict between private interest and public duty. An understanding of the laws and regulations relating to Standards of Conduct and Conflicts of Interest are mandatory requirements for DA personnel in order to avoid conflicts of interest or other criminal and ethical violations.

b. The FAR Part 3, DFARS Part 203, Department of Defense Directive (DoDD) 5500.7, AFARS Part 3 and AR 600-50 prescribe policy and procedures relating to Standards of Conduct. AR 600-50 specifically prescribes Standards of Conduct for all DA personnel, regardless of assignment, and is applicable to all USACE personnel. The following major topics are covered in the regulation:

(1) Be familiar with all provisions relating to Standards of Conduct

(2) Avoid any action that is actually or may reasonably be expected to give the appearance of:

(a) Using public office for private gain;

(b) Giving preferential treatment to any person or entity;

(c) Impeding Government efficiency or economy;

(d) Losing independence or impartiality;

(e) Making a Government decision outside official channels;

(f) Adversely affecting public confidence in the integrity of the Government;

(3) Conflicts of Interest and General Prohibitions: Avoid actual or apparent conflicts between personal interests and public duty. Private /personal interest includes the interest of the spouse, dependent child, and other household members.

(4) Using inside information:

(a) Do not engage in personal business or professional activity or enter into financial transactions that involve direct or indirect use of "inside information."

(b) Do not release acquisition information to an individual or business concerning proposed procurements.

(5) Using official positions:

(a) Do not use your official position to influence any person, including subordinates, from providing unauthorized benefits to themselves or others.

(b) Prohibition against commercial dealings and other solicitations to other DoD personnel junior in position. Personal commercial dealings between military personnel and their spouses generally are to be avoided.

(c) The failure to comply with these regulations may subject offenders to administrative action or criminal punishment pursuant to Title 18 of the United States code.

c. Gratuities. DA personnel and their families must not solicit or accept any gratuity from any source that is engaged in or seeks DoD business or conducts activities regulated by DoD. This includes interest that may be substantially affected by the performance or nonperformance of official duties of DA personnel. Some limited exceptions are:

(1) Acceptance of unsolicited advertising or promotional items that are less than \$10.00 in retail value.

(2) Benefits available to the public and free exhibitions DoD contractors at public trade fairs.

(3) Discounts or concessions extended Army-wide and realistically available to all DA personnel.

(4) Participation by DA Personnel in civil and/or community activities when any relationship with defense contractors is remote.

(5) Contractor-provided transportation, meals, or overnight accommodations in connection with official business, when arrangements for Government or commercial accommodations are clearly impracticable. Individuals must report such circumstances in writing to their supervisor.

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(6) Attendance at tuition-free nonacademic training sessions or seminars when attendance is in the interests of the Government and the contractors waive all claims against the Government.

NOTE: Tangible and intangible gifts/prizes/incentives acquired incident to official travel should be turned over to an appropriate official when participating on behalf of the Government.

d. Use of Government Property. Government facilities and property will be used only for official purposes. The use of Government vehicles are prohibited for personal use or nonofficial purposes, especially home to work travel.  
(31 U.S.C.1344)

e. Off-Duty Employment. DA employees may not enter into outside activities that: (i) interfere with official duties, (ii) discredits the DA, and (iii) is inconsistent with AR 600-50.

f. Appearances of Conflict. DA personnel should avoid the appearance of favoritism on any matters relating to competitive procurement, release of information, or any unauthorized discussions.

#### 14-4. **Fraud, Waste and Abuse.**

Fraud is a crime while waste and abuse are mismanagement. Some indicators of fraud that DA employees should be cognizant of, are described below. However, they do not in themselves constitute conclusive evidence of fraud.

a. Solicitations restricting procurement to exclude or hamper any qualified source.

b. Limiting time for submission of offers so only those with advance information have adequate time to prepare bids/proposals.

c. Revealing information about a procurement to one contractor which is not revealed to all.

d. Providing special assistance to any contractor in preparing his bid or proposal.

e. Falsification of documents or receipts to get a late bid accepted.

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- f. Collusion or bid rigging between bidders.
- g. Falsification of required certificates.
- h. Acceptance of nonresponsive bids from preferred offerors.
- i. Using biased evaluation criteria or using biased individuals in the evaluation panel.
- j. Improper disqualification of any qualified bidder.
- k. Award of the contract:
  - (1) To other than the lowest, responsive responsible bidder in sealed bid procurements.
  - (2) Without documentation of all preaward and postaward actions.

FOR THE COMMANDER:



ALBERT J. GENETTI JR.  
Colonel, Corps of Engineers  
Chief of Staff

- 3 Appendixes
- APP A - References
- APP B - Preconstruction Conference Guidance
- APP C - Safety Checklist
- APP D - Glossary