

STANDARDS OF CONDUCT EXIT FORM FOR MILITARY PERSONNEL

NAME _____ NAVAIR CODE _____

NAVAIR JOB TITLE _____ GRADE _____

NEW EMPLOYER _____

NEW JOB TITLE _____

RULES

PROCUREMENT INTEGRITY ACT

1. The Procurement Integrity Act includes the following limitations on accepting compensation from particular defense contractors:

a. If, after 31 December 1996, and at the time of the selection of contractor or award of the contract, you served as the contracting officer, as the source selection authority, on the source selection evaluation board, or as the chief of a technical cost evaluation team for a contract valued at more than \$10M, you may not accept compensation from the contractor who was awarded that contract for **one year** from the date the contractor was selected (if you were no longer serving in that capacity at the time the contract was awarded) or the date the contract was awarded (if you were still serving in that capacity on the date the contract was awarded).

41 U.S.C. § 423(d)(1)(A) & FAR 3.104-8(a)&(b).

b. If, after 31 December 1996, you served as the program manager, deputy program manager, or administrative contracting officer for a contract in excess of \$10M, you may not accept compensation from the contractor holding that contract for **one year** from the date of your last service in a covered position. 41 U.S.C. § 423(d)(1)(B) & FAR 3.104-8(c).

c. If, after 31 December 1996, you personally made a decision to award a contract, subcontract, modification of a contract or subcontract, or a task order or delivery order in excess of \$10M, you may not accept compensation from the contractor holding that contract **for one year** from the date of that decision. 41 U.S.C. § 423(d)(1)(C)(i) & FAR 3.104-8(d).

d. If, after 31 December 1996, you personally made a decision to establish overhead or other rates applicable to a contract or contracts valued at more than \$10M, you may not accept compensation from the contractor holding that contract for **one year** from the date of that decision. 41 U.S.C. § 423(d)(1)(C)(ii) & FAR 3.104-8(d).

e. If, after 31 December 1996, you personally made a decision to approve issuance of a contract payment or payments in excess of \$10M, you may not accept compensation from the contractor holding that contract for **one year** from the date of that decision. 41 U.S.C. § 423(d)(1)(C)(iii) & FAR 3.104-8(d).

f. If, after 31 December 1996, you personally made a decision to pay or settle a claim in excess of \$10M, you may not accept compensation from the contractor holding that contract for **one year** from the date of that decision. 41 U.S.C. § 423(d)(1)(C)(iv) & FAR 3.104-8(d).

NOTE: Under the Act, a former Federal official may accept compensation from a division or affiliate of the prohibited contractor **if** the division or affiliate does not produce the same products or services as the entity of the contractor that is responsible for the contract at issue.

NOTE: Violations of these compensation provisions may result in civil penalties up to \$50K plus twice the compensation received or offered.

2. The Procurement Integrity Act also provides that any agency official who is personally and substantially participating in an agency procurement (except if under the simplified procurement threshold) and who contacts or is contacted by a bidder or offeror in that procurement, regarding possible non-Federal employment for that official, must:

a. Promptly report the contact in writing to the official's supervisor and to the agency DAEO (or designee); and

b. Either reject the possibility of non-Federal employment or disqualify himself or herself from further participation. Officials who fail to so report face civil penalties up to \$50K plus twice the compensation received or offered.

3. The Procurement Integrity Act further provides that present and former Government officials may not disclose contract bid, proposal, or source selection information, and others may not obtain such information, before the award of a procurement contract. Penalties include individual fines up to \$50K, organization fines up to \$500K (plus double the compensation offered or paid), imprisonment up to 5 years, cancellation or rescission of the contract, and/or the suspension or debarment of the contractor.

“SWITCHING SIDES”

4. You are **forever prohibited** from knowingly making, with intent to influence, any communication to or appearance before, any Government official on behalf of any other person in connection with a particular matter in which the United States is a party or has a direct interest in which you personally and substantially participated while in Government service. 18 U.S.C. § 207(a)(1).

5. You are **prohibited for two years** from the date of you leave Government service from knowingly making, with intent to influence, any communication to or appearance before, any Government official on behalf of any other person in connection with a particular matter in which the United States is a party or has a direct interest which was pending under your official responsibility during your final year of Government service. You must have had actual or constructive knowledge of the matter pending under your official responsibility. 18 U.S.C. § 207(a)(2).

NON-PUBLIC INFORMATION

6. The Joint Ethics Regulation **prohibits Federal employees from using nonpublic information** to further their own private interests or those of another, whether through action, advice, or recommendation. Nonpublic information includes information the employee knows or reasonably

should know has not been made available to the general public, e.g., that which is exempt from disclosure under the Freedom of Information Act or otherwise protected from disclosure by law or regulation. Therefore, while you can capitalize on your professional skills and knowledge, you can not use nonpublic information to do so.

TRADE OF TREATY NEGOTIATIONS

7. If you were involved in trade or treaty negotiations on behalf of the United States during your final year of Government service, you are **prohibited for one year** after you leave Government service from using information gained as a result of such involvement from representing, aiding, or advising any other person with respect to such ongoing negotiations. 18 U.S.C. § 207(b).

FLAG

8. As a Flag Officer, you are barred for one year after you leave Government service from making any communication intended to influence the Government before any officer or employee of the Department of the Navy or other department or agency in which you served during your last year of Government service. 18 U.S.C. § 207(c).

TERMINAL LEAVE

9. If there is no bar to your employment, you may normally begin working for, and receiving compensation from, a defense contractor while you are on terminal leave. However, because you are still technically in the military while on terminal leave, several limitations apply.

EMPLOYMENT WITH DOD

10. To avoid appearances of favoritism or preferential treatment, 5 U.S.C. § 3326 prohibits the appointment of a retired member of the Armed Forces to a civil service position (including a nonappropriated fund activity) in DOD or a component thereof for 180 days after retirement absent unusual and specifically delineated circumstances.

ACCEPTING EMPLOYMENT FOR A FOREIGN GOVERNMENT OR ENTITY

11. Accepting employment as an agent for a foreign government, while in a terminal leave or retired status, requires Secretary of the Navy and Secretary of State consent. Failure to obtain this consent may result in the withholding of your retired pay. The term "foreign government" includes foreign corporations, businesses, universities, or other entities owned, operated, or controlled by a foreign government. Additionally, a former member desiring employment with a foreign business interest may also be required to file with the Attorney General as an agent of a foreign principal.

SOURCES OF ANSWERS:

If you have any questions regarding any of these rules, contact LCDR Pete Schmid, NAVAIR Staff Judge Advocate, (AIR-09J) at 757-0586.

ACKNOWLEDGEMENT: I certify that I have read this document in its entirety and have had the opportunity to discuss its contents and to ask questions about it. I also certify that I have been briefed concerning post-Government employment service restrictions and requirements. I have received a copy of this Standards of Conduct Exit Form.

EMPLOYEE

DATE

ETHICS COUNSELOR

DATE