

## ETHICS ADVISORY -- Conflicts of Interests

What's a "conflict of interest?" Simply put, a "conflict of interest" is a situation where an Army employee has a financial stake in the outcome of an official Army matter. But, it can be a daunting task to know and recognize when such a financial stake exists.

Most of what USAMC does affects contractors, those trying to become contractors, and the alphabet soup of various professional, technical and scientific organizations that bring together various segments of the Federal and non-Federal communities (e.g., AUSA, AAAA, FBA, AFCEA, NDIA, IEEE, ASMC, etc.). There are a whole host of ways in which USAMC employees can end up with a financial stake in the official matters that affect these companies and organizations. Some of these are:

If you own stock in a company, you are a part-owner and you have a financial interest in whether your company gets a USAMC contract, or how some dispute might be resolved. However, if the amount of stock that you own (including any owned by your spouse and minor children) in this company does not exceed \$5,000, you are exempt from this conflict by Office of Government Ethics regulation. If more than one company is interested in the official matter (e.g., a statement of work or a request for proposals), the exemption applies only if the total amount of your financial interest in all the offerors does not exceed \$5,000.

If you own shares in a mutual fund, you are also part-owner in the companies that the mutual fund invests in and you have a financial interest in Army matters that affect these companies. However, if the mutual fund is "diversified," the OGE regulation exempts this conflict. But, this exemption does not apply to stock ownership in "sector" funds (a "sector" fund concentrates its investments in an industry, business, single country (other than the United States), or a single state). However, if the value of the sector fund shares does not exceed \$5,000, the exemption mentioned above applies.

If you are an officer or director of a professional organization, the law imputes the financial interests of the organization to you -- even if you are serving without pay. This means that you have a financial interest in whether USAMC provides a speaker or other support to an event sponsored by the organization, or whether USAMC intends to send employees to the event. There is no regulatory exemption for this conflict.

If your spouse or your minor child is employed by a contractor, you have a financial interest in their continued employment because the law imputes their financial interests to you. Therefore, if your spouse is affected by a

USAMC contract (*e.g.*, he or she works on it), then you have a financial interest in the issues involving this contract. There is no regulatory exemption for this conflict.

If you are job-hunting, law and regulation impute the financial interests of the prospective employer to you. Again, that means that you may not participate in official matters that affect that company, and there is no regulatory exemption for this conflict.

How do we find out about these potential conflicts and what do we do about it? Through training and advisories such as these, employees should become sensitive to the issues. This means that they seek the advice of their supervisor and Ethics Counselors before participating in any official matter affecting any non-Federal entity where there might be an issue. In addition, this is one of the purposes of financial disclosure reports. The reports provide a vehicle to identify and resolve potential conflicts. The resolution might be as simple as just not participating in the official matters affecting the financial interest and issuing a written notice of the potential conflict. If, however, the potential conflict will significantly affect your official duties, you might have to divest or your duties might have to be changed.

However, it is not a good idea to wait for the required time to file a financial disclosure report to deal with these issues. When an employee's duties change (*e.g.*, assigned to participate in the evaluation of proposals), whether or not the employee filed an annual report for last year, now is the time for the employee to examine his or her situation for a potential conflict. If unsure, the employee should seek the advice of his or her supervisor and Ethics Counselor.

If an employee is inclined to buy and sell stocks, options and other investment vehicles during the year, the employee would be wise to consider the potential conflicts of each purchase. For example, if the employee would really like to purchase Boeing, but the employee is currently involved in a matter involving Boeing, the employee probably should refrain from the purchase, or at least limit it to less than \$5,000. If an employee marries during the year, he or she should examine the financial interests that are now imputed to the employee from the new spouse and discuss any potential conflicts with the supervisor and Ethics Counselor.

Don't wait on these issues! You don't want to wait until you have already participated in a matter where you were disqualified by the law, a federal criminal law. In the recent past, an Army employee pleaded guilty to violating this law (he participated in the administration of a contract and he owned stock in the contractor) and received a one year probation and a \$1,000 fine. This employee even filed a financial disclosure report (OGE Form 450), but he neglected to list this particular stock.

All of this can be complicated. This is why you and your supervisors have an Ethics Counselor to help you deal with these issues. Let me know if I can help.

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