

(k) *Penalties*—(1) *Administrative penalties*. Anyone failing to file a report, or falsifying or failing to file required information, may be subject to disciplinary action by the employing organization, including such measures as suspension of consideration for appointment, reassignment of duties and termination of employment.

(2) *Criminal liability*. Anyone who knowingly or willfully falsifies information on a report may be subject to criminal prosecution under 18 U.S.C. 1001.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, Apr. 24, 1995]

§ 84.23 Report of DoD and defense related employment (DD form 1787).

(a) *Individuals required to file*. Each civilian DoD employee of a DoD component who meets the statutory criteria is required by 10 U.S.C. 2397 to file a DD Form 1787,²¹ "Report of DoD and Defense Related Employment," with his Ethics Counselor. A DoD employee meets the criteria if he:

(1) Is employed at a pay rate equal to or greater than the minimum rate for a GS/GM-13;

(2) Within the two-year period prior to the effective date of service or employment with the DoD component, was employed by a defense contractor who, during the preceding one-year period, was awarded \$10 million or more in defense contracts; and

(3) Was employed by or performed services for the defense contractor and at any time during that year received compensation of or was salaried at a rate of \$25,000 per year or more at any time during employment.

(i) Compensation is received by an individual if it is paid to a business entity with which the person is affiliated in exchange for services rendered by that individual.

(ii) A rate of \$25,000 per year equates to \$12 per hour.

(b) *Time of filing*. DoD employees shall file a DD Form 1787 with their local Ethics Counselors within 30 days

of entering on duty with the DoD component.

(c) *Review*. (1) When a report is filed, the Ethics Counselor shall review the DD Form 1787 to determine whether:

(i) Each item is completed and sufficient information is provided; and

(ii) Whether the information indicates any violation or apparent violation of any of the conflicts of interest, standards of conduct, procurement integrity, or related laws and regulations.

(2) The Ethics Counselor need not audit the report. Disclosures are to be taken at "face value" unless there is a patent omission or ambiguity or the official has independent knowledge of matters outside the report. However, it is expected that the Ethics Counselor will resolve any apparent violations to ensure there are no actual violations.

(3) If the Ethics Counselor believes that additional information is required, the reporting individual shall be notified of the additional information required and the date by which it must be submitted. The reporting individual shall submit the required information directly to the Ethics counselor.

(4) When the Ethics Counselor has completed the review and accomplished any necessary remedial action, the Ethics Counselor shall sign and date the report and dispose of it in accordance with § 84.23(d).

(5) If the Ethics Counselor concludes that the reporting individual is not in compliance with applicable laws or regulations, the Ethics Counselor shall:

(i) Notify the reporting individual, in writing, of the preliminary determination;

(ii) Afford the reporting individual an opportunity for personal consultation, if practicable;

(iii) Determine what remedial action should be taken to bring the reporting individual into compliance; and

(iv) Notify the reporting individual of the remedial action required, indicating a date by which that action must be taken, normally within 90 days.

(6) When the Ethics Counselor determines that a reporting individual has complied fully with the remedial measures, a notation to that effect shall be

²¹ Copies are available for DoD Standards of Conduct Office, Office of General Counsel, 1600 Defense Pentagon, Washington, DC 20301-1600.

made in the comment section of the report. The Ethics Counselor shall sign and date the report as the reviewing official and dispose of it in accordance with paragraph (d) of this section.

(d) *Disposition.* (1) After the Ethics Counselor signs and dates the report, the Ethics Counselor shall send the original to the entire DoD Component DAEO or designee, who shall forward it, together with all other such reports that were received during the previous calendar year, to SOCO not later than March 15.

(2) The DoD Component DAEO or designee shall ensure that appropriate data from each DD Form 1787 is extracted and sent, together with all other such data from other such reports that were received during the previous calendar year for the entire DoD Component, by March 15, to the Defense Manpower Data Center (DMDC) where a consolidated report to Congress is compiled. DMDC will accept data only on computer disk using any common word processing software or ASCII.

(3) If steps ensuring compliance with applicable laws and regulations are not taken by the date established, the Ethics Counselor shall report the matter to the DoD component DAEO and take whatever other action might be required in accordance with subpart J of this part.

(4) DD Forms 1787 shall be retained by SOCO for six years from the date of filing with SOCO.

(e) *Public availability of reports.* DD Forms 1787 must be available for public examination upon request after the report is filed with SOCO, unless exempted pursuant to law. Reporting individuals are personally responsible for ensuring that their reports are accurate, complete, and timely.

(f) *Penalties*—(1) *Administrative penalties.* Anyone failing to file a report, or falsifying or failing to file required information, may be subject to any applicable personnel or other action in accordance with applicable law or regulation, including adverse action. An administrative penalty of up to \$10,000 may be imposed in accordance with 10 U.S.C. 2397.

(2) *Criminal liability.* Any individual who knowingly or willfully falsifies in-

formation on a report may be subject to criminal prosecution under 18 U.S.C. 1001.

[59 FR 13214, Mar. 21, 1994, as amended at 60 FR 20030, 20031, Apr. 24, 1995]

Subpart H—Seeking Other Employment

§ 84.24 General rules.

Office of Government Ethics Regulation. 5 CFR part 2635, subpart F provides rules on seeking other employment that apply to all DoD employees.

§ 84.25 Conflict of interest (18 U.S.C. 208).

(a) *Negotiating for employment.* See 5 CFR 2635.603 for provisions on conflicts of interest in employment negotiations under 18 U.S.C. 208. The provisions of 18 U.S.C. 208 and related provisions of OGE regulations do not apply to enlisted members. However, provisions similar to 18 U.S.C. 208 do apply to enlisted members as follows: [The following is a General Order] except as approved by the DoD component DAEO or designee, an enlisted member, including an enlisted special Government employee, shall not participate personally and substantially as part of his official DoD duties, in any particular matter in which he, his spouse, minor child, partner, entity in which he is serving as officer, director, trustee, partner or employee or any entity with which he is negotiating or has an arrangement concerning prospective employment, has a financial interest [end of General Order]. See 18 U.S.C. 208, § 84.3(a)(2)(i)(A) and § 84.15(b), and 5 CFR 2635.603.

(b) *Penalties.* Violation of 18 U.S.C. 208 is punishable by a fine and imprisonment. The full range of administrative sanctions may also be imposed.

§ 84.26 Procurement integrity (41 U.S.C. 423(b)).

(a) *Soliciting, accepting, or discussing employment.* (1) [The following is a General Order] During the conduct of a procurement, a procurement official may not knowingly, directly or indirectly, solicit or accept from, or discuss with, any officer, employee, representative, agent, or consultant of a