

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

competing contractor, any future employment or business opportunity [end of General Order]. See 48 CFR 3.104-6.

(2) This prohibition does not apply to a procurement official:

(i) After he leaves Federal Government service;

(ii) Who is employed by a contractor, subcontractor, consultant, expert, or advisor after he ceases to act on behalf of, or provide advice to, the procuring agency concerning the procurement;

(iii) Who has been granted recusal, in writing, in accordance with the provisions of 48 CFR 3.104-6 and paragraph (a)(4) of this action and who has in fact discontinued participation in the procurement;

(iv) Whose only communication with a competing contractor is to reject an unsolicited offer of employment or business opportunity or advise the competing contractor that he must seek recusal prior to any discussion regarding the unsolicited offer;

(v) Who has made inquiry in good faith of the potential contractor and been advised that the contractor is not or will not become a competing contractor on a procurement on which the individual is a procurement official; or

(vi) Where the procurement official engages in conduct in good faith reliance upon a written ethics advisory opinion;

(vii) After the procurement has been concluded by the award or modification of a contract or the cancellation of the procurement.

(3) A procurement official may discuss employment or business opportunities with a competing contractor only if a written recusal request was submitted and approved in accordance with the policy and procedures contained in 48 CFR 3.104-6 (c) through (h). The head of the contracting activity has the authority to approve or disapprove a request for recusal; however, he may not approve recusal for a procurement official who has participated personally and substantially in certain evaluation functions listed in 48 CFR 3.104-6(c).

(4) Any DoD procurement official or former DoD procurement official may, by written request, seek advice from his DoD component DAEO or designee regarding whether he may be precluded

by the procurement integrity rules from engaging in a specified activity. See 48 CFR 3.104-8.

(i) The request must provide the DoD component DAEO or designee with sufficient information to make a determination.

(ii) The DoD component DAEO shall make his determination, in writing, within 30 days, or as soon thereafter as practicable.

(iii) A copy of the request and the ethics advisory opinion shall be retained for six years, in accordance with DoD component procedures.

(b) *Penalties.* Violation of the provisions of 41 U.S.C. 423 is punishable by the full range of sanctions, including the following:

(1) *Civil penalties.* Individual violators may be subject to a civil fine not to exceed \$100,000. Violators, other than individuals, may be subject to a civil fine not to exceed \$1 million.

(2) *Administrative sanctions.* See § 84.39.

#### **§ 84.27 Reporting employment contacts (10 U.S.C. 2397a).**

(a) *Individuals required to file.* The following DoD employees are required by this part and by 10 U.S.C. 2397a to report, in writing, their employment contacts to their supervisor and DoD component DAEO or designee:

(1) Any military officer in grade O-4 or above, or any civilian DoD employee serving in a position for which the rate of pay is equal to or greater than the minimum rate of pay for GS/GM-11 who;

(2) At any time during his DoD service, performed a "procurement function" involving a defense contractor which received at least \$25,000 a year in DoD business; and

(3) Who contacts or is contacted by that defense contractor regarding future employment.

(b) *Content of report.* Reports of employment contacts shall include:

(1) The name, title, agency address, and telephone number of the reporting individual;

(2) The name of the defense contractor concerned;

(3) The date of each contact covered by the report; and

(4) A brief description of the substance of each contact.